



PROTECT the PUBLIC'S TRUST

VIA ELECTRONIC MAIL

April 19, 2022

The Honorable Dana A. Remus
Counsel to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Emery A. Rounds, III
Director
U.S. Office of Government Ethics
1201 New York Avenue, N.W., Suite 500
Washington, DC 20005

Corey Amundson
Chief, Public Integrity Section
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: Ethical Obligations of White House Press Secretary Jen Psaki

Dear Ms. Remus,

It has been widely reported in the press that Assistant to the President and White House Press Secretary Jen Psaki has been in negotiations to leave federal service and take a job with a major media outlet.¹

We wish Ms. Psaki all the best in her new line of work. However, we think it is imperative that high level officials such as Ms. Psaki comply fully with their ethical obligations while seeking non-federal employment, and that the Administration live up to its promise, as stated by Ms. Psaki herself, to set “an example of engagement and transparency.”²

¹ See, e.g., Sara Fischer, *Scoop: Jen Psaki Planning to Leave White House this Spring for MSNBC Gig*, Axios (Apr. 1, 2022), <https://www.axios.com/jen-psaki-leaving-white-house-msnbc-a75bdbc6-4c6b-43f9-b406-e104ea3b88e9.html>.

² *Press Briefing by Press Secretary Jen Psaki*, The White House (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/press-briefings/2021/01/20/press-briefing-by-press-secretary-jen-psaki-january-20-2021/>.



PROTECT the PUBLIC'S TRUST

Recent events have given reason to doubt that this is happening. For example, on April 14, 2022, Ms. Psaki engaged in an apparent misuse of her official position when she publicly disparaged Fox News, a competitor of her reported future employer.³ Moreover, Ms. Psaki has continued to brief reporters from the White House podium, including reporters from networks she has reportedly been negotiating with, without any apparent restrictions, creating a potential conflict of interest.

The appearance of a conflict of interest risks further damaging the already low level of public trust in government. In order to restore public trust and live up to Ms. Psaki's own commitment to transparency and engagement, we are calling upon you to investigate whether Ms. Psaki violated her ethical duties, either in her remarks regarding Fox News or in her conduct while negotiating non-federal employment more generally.

In addition, we are calling upon you to release ethics records relating to Ms. Psaki's quest to find a new employer including, but not limited to, records of any formal recusals, Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act) notifications, and records of advice the White House Counsel's Office has provided to Ms. Psaki to aid compliance during her job search.

These types of records, particularly records of formal recusals, Stock Act notifications, and final guidance, are frequently released by federal agencies under the Freedom of Information Act (FOIA). While the White House Office is generally not subject to FOIA, we believe that the least the White House can do to help bring "truth and transparency back" is to hold itself to the same standards as the rest of the federal government.⁴

I. Who We Are

Protect the Public's Trust is a group of retired and former public servants dedicated to the idea that public service is a public trust. Too often, we have seen high level public servants play fast and loose with the rules that other government officials have to live with, creating the perception of a two-tiered system and resulting in an unprecedented dip in trust in our elected officials. We believe that the American people deserve a

³ See Pod Save America, *America's Next Top Press Secretary* (Apr. 14, 2022), <https://podcasts.google.com/feed/aHR0cHM6Ly9mZWVkcyc5tZWdhdGhvbmUuZm0vcG9kLXNhdmUtYW1lcmljYQ/episode/YTUxMTY2MjltM2RhZS0xMWVjLWI4MWQtMjdmM2QwMGZmZTlm?hl=en&ved=2ahUKewjih6LVo5b3AhVPj4kEHSYxDCwQieUEegQIAxAF&ep=6>; see also Nikki Schwab, *Fox News Defends 'Terrific' Peter Doocy After Psaki Said He 'Sounds like a Son of a B****': Network Says His Job is 'to Elicit Truth from Power' After Biden's Press Secretary's Jab*, Daily Mail (Apr. 15, 2022), <https://www.dailymail.co.uk/news/article-10721853/Psaki-says-Doocy-sounds-like-stupid-son-b-h-questions-Fox-gives-him.html>.

⁴ *Id.*



PROTECT the PUBLIC'S TRUST

government that is impartial, free from conflicts of interest, and operates without political interference or favoritism. Our goal is to ensure our nation fulfills that promise.

II. Background

In early April, it was reported that Assistant to the President and White House Press Secretary Jen Psaki was in “exclusive talks” to leave the White House and join MSNBC in May. It was further reported that these “exclusive talks” developed after Ms. Psaki was “feverously courted by CNN and MSNBC, among others.”⁵

In her role as White House Press Secretary, Ms. Psaki frequently interacts with members of the news media and supervises others on the White House Press team who interact with members of the media. This can include activities like giving public briefings from the White House briefing room, providing exclusive information to reporters, and facilitating interviews with senior White House and Administration officials.

MSNBC, NBC News, CNN, and Fox News all cover the White House, and all have seats in the White House briefing room.⁶ Access to White House Officials, exclusive information, or even just the ability to ask questions at televised press briefings are all hot (and valuable) commodities for news networks. Accordingly, Ms. Psaki’s apparent negotiation for non-federal employment while still serving as Press Secretary raises serious conflict of interest concerns.

In addition, on April 14, 2022, Ms. Psaki appeared on an episode of the podcast series “Pod Save America.” Ms. Psaki was introduced by her title as “White House Press Secretary” and answered questions relating to President Biden and other aspects of her official duties. During this podcast, Ms. Psaki was asked about Fox News White House correspondent Peter Doocy. In response, Ms. Psaki said, “He works for a network that provides people with questions that, nothing personal to any individual including Peter Doocy, but might make anyone sound like a stupid son of a b***h.”⁷

Fox News is a direct competitor of MSNBC and CNN, two networks with whom Ms. Psaki has reportedly been seeking non-federal employment.

⁵ Dylan Byers, *Is Jen Psaki the Next Rachel Maddow?* Puck (Feb. 23, 2022), <https://puck.news/is-jen-psaki-the-next-rachel-maddow/>.

⁶ See generally, Paul Farhi, *The White House’s New Press Briefing Seat Chart Says a Lot About Where Each Reporter Stands*, Wash. Post (Feb. 2, 2022), https://www.washingtonpost.com/lifestyle/media/whca-seating-chart-2022/2022/02/01/77820ba2-807b-11ec-bf02-f9e24ccef149_story.html. MSNBC appears to share a seat with CNBC and Telemundo, all of which are owned by the same parent company, NBCUniversal.

⁷ *Supra* n. 3.



PROTECT the PUBLIC'S TRUST

III. The Law

Concerns about conflicts of interest when seeking new employment are not new, and the federal government has strict laws and regulations governing how employees conduct themselves.

Under federal law, it is a criminal offense punishable by up to five years in prison to willfully participate in any “particular matter” in which an organization an employee is negotiating or has an arrangement regarding future employment has a financial interest.⁸

Under federal regulations, “negotiating” future employment is defined incredibly broadly, and “means discussion or communication with another person, or such person’s agent or intermediary, mutually conducted with a view toward reaching an agreement regarding possible employment with that person. The term is not limited to discussions of specific terms and conditions of employment in a specific position.”⁹

Moreover, senior officials, such as Ms. Psaki, who filed a public Office of Government Ethics Form 278e have an affirmative duty to notify their supervising ethics official once they begin negotiating for future employment.¹⁰

Even if a federal employee’s job search has not progressed into “negotiations,” federal regulations still impose broad recusal obligations when seeking non-federal employment.¹¹

In addition, federal regulations prohibit employees from using their official position for personal gain. For example, 5 C.F.R. § 2635.702 states:

An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations.

⁸ 18 U.S.C. § 208; *see also* 18 U.S.C. § 216(a)(2).

⁹ 5 C.F.R. § 2635.603(b)(1)(i).

¹⁰ Stock Act at § 17, Pub. L. 112-115, 126 Stat. 291 (Apr. 4, 2021).

¹¹ *See* 5 C.F.R. §§ 2635.601-607.



PROTECT the PUBLIC'S TRUST

IV. Analysis

Based on public reporting, Ms. Psaki is clearly “negotiating” with at least one or more news organizations for non-federal employment. Moreover, she has likely been “seeking” non-federal employment for at least the past few months. Both negotiating and seeking non-federal employment trigger specific recusal obligations, while negotiating triggers affirmative reporting obligations.

While we necessarily do not know what goes on behind the scenes at the White House, Ms. Psaki has continued to address reporters from the podium in the James S. Brady Press Briefing Room.¹² There have been no obvious steps to implement any recusals or mitigate any conflicts of interest.

Furthermore, Ms. Psaki’s statements regarding Fox News appear to be a misuse of her official position that calls for further investigation. Ms. Psaki appeared on the “Pod Save America” podcast in her official capacity as White House Press Secretary. While there, she made statements that reflect negatively on Fox News. Fox News is a direct competitor of MSNBC and CNN, two companies with whom Ms. Psaki is or has been reportedly negotiating for future employment. Accordingly, Ms. Psaki’s statements regarding Fox News may be regarded as the use of her official positions for the private gain of Fox News’ competitors, such as MSNBC, with whom she is affiliated in her nongovernmental capacity.

At minimum, Ms. Psaki’s statements and broader behavior present the appearance of a conflict of interest. If the Administration seeks to serve as an example of engagement and transparency, it can begin by investigating Ms. Psaki’s conduct and releasing the records of how its own public face has complied with the federal ethics rules.

V. Conclusion

For the foregoing reasons, we call upon you to investigate whether Ms. Psaki misused her position and created the appearance of an impermissible conflict of interest. We also call upon you to release records relating to Ms. Psaki’s recusals and negotiations for non-federal employment. Similar records relating to other government officials are routinely released under FOIA. There should not be a two-tiered system of government ethics that

¹² See, e.g., *Press Briefing by Press Secretary Jen Psaki*, The White House (Apr. 11, 2022), <https://www.whitehouse.gov/briefing-room/press-briefings/2022/04/11/press-briefing-by-press-secretary-jen-psaki-april-11-2022-2/>.



PROTECT the PUBLIC'S TRUST

subjects prominent White House Officials to a lower standard of scrutiny than other average public servants.

Sincerely,

Michael Chamberlain
Director
Protect the People's Trust