



Getting Your Representative to the Table: An Accountability Role Play

The Form of the Role Play

This role play exercise models a variety of scenarios that a community group may face when asking congressional candidates and representatives to meet with them about restoring constitutional liberties. In each scenario, one person plays the congressional official and one person plays a representative of the community coalition.

Role plays will take place in small groups and last 10-15 minutes or until the group member and the candidate/representative have reached an agreement. If one of the role play participants gets stuck, small group members who are observing the role play can step in to take over the role. After completing the role play, have a 5-10 minute debrief on the exercise. During this debrief, discuss the pros and cons of strategies used and how the issues that came up in the role-play could inform the local campaign.

Group Member's and Candidate/Representative's Goals

In each exercise, the group member presses the goals of the coalition that s/he represents. In the immediate term, this involves getting a meeting to discuss the candidate/representative's...

- ...record on constitutional issues and civil liberties (if available) and how that record might be improved in the future
- ...position on the most important current civil liberties issues;
- ...willingness to take a lead in the body or the party caucus on given issues,
- ...interest in maintaining communications with the group as a member of the House or Senate.

In each scenario, the candidate/representative puts a variety of roadblocks in the way of the group member, testing the group member's strategies for getting him/her to agree to a meeting and an agenda. The candidate/representative uses a variety of pretexts for avoiding a meeting based on her/his goals, which include avoiding situations in which they may look bad and maintaining the political loyalty of the majority of the voting public. The group member focuses on countering the official's excuse not to meet and justifying her/his case for why a meeting should be granted.

Making an Invitation

In each scenario, the group member will need to initiate contact with the official. For each exercise, write out a version of the following as it best reflects the group you have or that you hope to form.

Dear [Name of Rep],

We are members of the [Name of Coalition] and have worked hard to safeguard the core liberties guaranteed by the Constitution, which include (but are not limited to) freedom of speech and association; freedom from unreasonable searches and seizures; other privacy rights such as the right to be free from warrantless electronic surveillance, reproductive rights, and the right to individual lifestyle choices; the right to counsel when accused of wrongdoing by the government; and the right of habeas corpus—the ancient and hallowed right to demand immediate freedom from unlawful detention.

We would like to meet with you at your convenience to discuss actions we would like to you take to support and defend these constitutional rights.

Seven Scenarios:

Each of the seven following scenarios gives some basic information about that particular role play:

- **Candidate/Representative Character Background:** The situation of your target official
- **Official's response:** The initial reply of the official to your invitation
- **Group Member's Challenges:** Problems that you as a coalition face in relation to this response
- **Possible Strategies:** Some ideas to consider in how you make your next move

Split up the group into up to small groups with 3-4 people per group. Ideally there will be seven groups, so that each group can focus on just one role play, but if there aren't enough people for seven groups, have some groups take on more than one role play or select just a few of the possible scenarios based on which are most relevant to your coalition's situation. After explaining the activity, provide each group with the one-page sheet(s) below describing the scenario(s) that they will act out.

Scenario 1: “I’m the best you’ve got.”

Candidate/Representative Character Background:

This congressional incumbent has often supported your group’s positions, including voting against the PATRIOT Act Re-Authorization in 2005 and the FISA Amendments act, which provided legal immunity for telecom companies that broke the law by aiding the government’s warrantless wiretapping program. For the last six elections, he has regularly been re-elected by large margins.

Official’s response:

“My voting record on these issues is clear, and you know I’m among the strongest civil liberties voices in Washington. If you find any reason to doubt this in the future, I’d be glad to meet with you then and discuss the questions you have in mind.”

Group Member’s Challenges:

The leadership of your coalition consists of people who are known as supporters of the incumbent representative and they are unlikely to support the challenger candidate, who vocally supports the administration’s so-called “war on terror” policies. As a result, your representative may see little cost in politely declining to meet with your coalition.

Despite his relatively good record, your coalition still has significant differences with the representative. Delaying a meeting until after the election means missing an opportunity to put the candidate on record when it counts the most.

The incumbent’s claim to being the best in the Congress (even if true) lowers expectations by focusing on Washington’s norms, thus preventing a good discussion about the official taking further leadership in restoring civil liberties.

Possible Strategies:

Stress that your record as a group is clear. Though your group is nonpartisan and will remain so, it is no secret that its members have supported congress people with positive civil liberties records. Stress that opposition to civil liberties positions, especially stands on issues that can be used rhetorically by the opposition in discussing security and terrorism, have grown steadily since 2001. A meeting would help to strengthen communication with the civil liberties community in the upcoming Congress. The amount of work and support the group can provide the candidate and the Congress will depend on maintaining good communications. A meeting is a good way for the candidate to invest his time.

Scenario 2: “I’m busy, but come to one of my pre-scheduled events.”

Candidate/Representative Character Background:

This popular challenger candidate supported your group’s positions in a prior role as vocal opponent of Real ID in the state senate. She has not yet taken on a broad civil liberties agenda, but has shown herself open to questioning the status quo, especially on privacy issues.

Official’s response:

“You’ve raised some really important issues, and you can rely on my responding to them at the campaign events and call-in shows that I have scheduled around the state. I hope that you will participate in these upcoming forums.”

Group Member’s Challenges:

These forums and call-ins do not allow for devoting much time to any one topic. Such forums are important but insufficient for reviewing a candidate’s record or obtaining any kind of commitments for the future.

Possible Strategies:

Promise to attend forums and to call in during radio shows. But add that a meeting with your group will allow the candidate to deliver a more nuanced response to difficult and complex issues and will allow members of your group to express concerns they might have—yes, including criticisms—outside of the auditorium and away from the radio microphone.

Scenario 3: “Let me be clear: the Constitution is no ‘suicide pact.’”

Candidate/Representative Character Background:

This challenger candidate is hostile to most of what your group stands for and is in a very close race with a middle-of-the-road candidate who accepts the same presuppositions that the “war on terror” must continue. This candidate had a chance to prove his allegiances in his prior public roles and now boasts about this record in his campaign.

Official’s response:

“I’m proud of my record in protecting Americans both at home and abroad from those who hate us and would like to bring down the only true democracy on the planet. The most important part of the Constitution is my oath to uphold it and to support the brave men and women who defend it. It is no time to get hyper-technical and legalistic—people are dying out there.”

Group Member’s Challenges:

Your group knows that the chances of getting this candidate to honor civil liberties if elected are not great because of his implied statement that security is more important than civil liberties, the tone of the rhetoric, and the failure to mention any specific civil liberties issue on which he would take a positive stand.

This kind of statement’s basic frame of reference is so far from where you want it to be, that it makes it hard to pin down this non-incumbent candidate, because he has not otherwise voiced any specific thoughts about civil liberties or taken any votes on them.

Possible Strategies:

If the goal is to win over the candidate to your side, there is no short term answer. But there are people drawn to this kind of rhetoric that might also be sympathetic or even responsive to Libertarians who are fiscally conservative, but who reject intrusive government bureaucracy and assert the right to be left alone, which is based in the Bill of Rights.

You may want to recall Russ Feingold’s Progressive Patriots Corps, which makes strange (but logical) bedfellows of progressives and conservatives who vote with progressives on some civil liberties issues. Ask for a smaller meeting to search for ways this candidate and the civil liberties community can look for common ground along these lines.

Scenario 4: “It could be much worse; at least I can win concessions.”

Candidate/Representative Character Background:

This incumbent congresswoman has spoken critically about the administration many times, but frequently votes with the administration (for example, voting in favor of the FISA Amendments Act of 2008, which granted immunity for the telecom companies that provided private information to the government without warrants). You know from past interactions with this official that whenever she hears a criticism of one of her positions, she changes the subject to parts of her record where she shares common ground with the group she’s talking to—in your group’s case, banning the use of torture.

Official’s response:

“My role in the house has been to deflect the most radical right-wing attacks on the Constitution. I have been the member to suggest or support compromise alternatives that can garner a majority of the body and stave off proposals that take dead aim at the Bill of Rights. Naturally some members of groups such as BORDC and the ACLU are impatient with me because they may not fully understand my role. Let’s meet after the election to talk about guarding against right-wing attacks in the next Congress.”

Group Member’s Challenges:

This candidate wants a permanent out-of-jail-free card on civil liberties issues, providing she remains a 50% supporter. Acknowledge that every effective interest group knows when to hold ‘em and when to fold ‘em—i.e., when to support a compromise. But there is no institutional middle of the road, and there can be no effective strategy that assumes that compromise is always the best answer. Civil liberties guarantees often protect minority points of view and interests against an unfair or unconstitutional majority position.

Possible Strategies:

This is a time to comb through the representative’s voting record with special care. Thank the candidate for votes that were principled without reference to whether the vote was on a compromise measure. Make clear that a meeting would be very useful to clear up the nomenclature of “compromise” and to get beyond any potential miscommunication. The term “compromise” is inherently shaky. Every bill is marked up, and sometimes the markup product is a strike-all that guts the original. Should we call such a bill a compromise? Who is to say? Those who “hug the middle” especially need meetings in order to clarify their positions for the public.

Scenario 5: “Don’t spread me too thin!”

Candidate/Representative Character Background:

This incumbent senator is running for re-election in a state with a large population. Your group has big issues with many of his positions on constitutional rights, and you are aware that other political forces that oppose you—including the administration, the telecom industry, and military contractors—all have considerable sway with the senator.

Official’s response:

“Senate races are statewide, and we have a large state. My goal is to be fair and inclusive—to go everywhere I can and give all voters an equal chance to hear my views on the issues and to offer theirs. This is the most democratic way to run a campaign but, unfortunately, it leaves little time to meet with particular interest groups.”

Group Member’s Challenges:

His point is not without merit. Senate candidates in particular have ridiculous schedules if their managers are doing their jobs well. The problem is that politics at the national level have slid toward packaged and manicured campaign events. The information flow in most public events except for debates (if there are any in the campaign) is one way.

Possible Strategies:

Acknowledge the problem but let the candidate know that civil liberties issues don’t lend themselves to 30-second TV or YouTube spots. Stress the economy inherent in meeting with your group rather than fielding maybe hundreds of similar questions from an activist civil liberties community in your state. Make an effort to provide an umbrella for like-minded groups in your region or state, calling on the candidate to meet fewer times than would otherwise be the case. This might require some fence-mending within the civil liberties community. (By comparison, the peace movement has this problem all the time.)

Scenario 6: “I work on other issues—I don’t have time for the Constitution.”

Candidate/Representative Character Background:

This longtime incumbent congresswoman is active on the issues most important to her—the economy, education, and environmental policy—but avoids making public statements on key constitutional questions related to “war on terror” policies.

Official’s response:

“I’ve been in the House for 15 years. The issues I have focused on and the committees on which I serve are important to our district and include the economy, education, and the environment. You can imagine how much work this entails. I can’t do everything and do it well. Our party caucus has great positions on civil liberties, and I have never voted against a caucus position in this area. That will be my plan in the next Congress. I think your time and energy would be better spent on races in which you don’t have this assurance.”

Group Member’s Challenges:

This candidate is saying that she is not focused on civil liberties. She should be rallying the caucus, not voting in lock step with it, but if she is effective on her critical issues, you have to be careful to pose civil liberties as issues that are equal to but not trumping her own.

Possible Strategies:

Thank her for her work on the economy, education, and the environment. Some specific thanks, if warranted, will show that you are knowledgeable about the work she is most proud of (and therefore features in her constituent newsletter and other materials).

Urge a meeting in which you can help make her more effective on civil liberties issues, even though her primary issues would remain unchanged. A communications-enhancing meeting might be enough as a starter. From that basis, your group might get into more substance in the future.

Scenario 7: “Everything is fine now; let’s talk when there’s a crisis.”

Candidate/Representative Character Background:

This incumbent Congressman is polling very strongly and has regularly opposed your group’s positions. He has been quoted in the newspaper as strongly supporting the “global war on terror” and criticizing people for suggesting that we de-fund the war in Iraq.

Official’s response:

“I have generally supported strong protections for civil liberties, and if elected, I will continue to do so. But it is impossible to say exactly how specific issues will come up or what the surrounding circumstances will be when a vote comes up, and it would be irresponsible to take options off the table. If this country comes under attack again by terrorists, we may need to look at even more FISA legislation and to take positions based on realities of the time. My job is to represent all the people of my district, and I will listen carefully whenever a civil liberties issue is before the body. That moment will be the time for a meeting with your group. Count on it.”

Group Member’s Challenges:

This person takes an ambulatory view of the Bill of Rights—one that depends on the moment. He says he supports civil liberties, but his reply to your invitation makes clear that he doesn’t want to face the dilemma of fighting for basic liberties in times of great national stress—the very times when courage is needed in Congress. (Take Dante’s words, for example: “The darkest places in hell are reserved for those who maintain their neutrality in times of moral crisis.”) In short, he has promised nothing, and the time to talk is before the election, not after it.

Possible Strategies:

This is the one hypothetical in which it may be hard to avoid being pushy. Let him know you know he is not promising to defend the Constitution—or promising anything, for that matter. You may cause him to stay in the bunker and not meet with you, but unfortunately there are limited alternatives.

If you can remind him that people in the district or state who care about these issues are significant in number, which, if true, he already knows, and the result could be different. You may still have to contend with imposition of certain conditions, such as no note-taking at the meeting. You need to discern whether it’s worth it to meet under those terms.

If you get that far with the candidate or his staff, and he is an incumbent, review his voting record on civil liberties issues such as warrantless surveillance, FISA, and the Military Commissions Act of 2006 and ask if you can meet to discuss these votes, based on the “realities of the time.” Though a risky approach, you might say you want to discuss recent “realities” like the Supreme Court’s decision in June 2008, *Boumediene v. Bush* (Detainees held at Guantánamo Bay have the constitutional privilege of habeas corpus, despite being designated as enemy combatants.) and whether he thinks any further action by Congress is needed and, if so, what kind.

One goal of a meeting with this representative would be to let him know that in your district or state rolling with the “realities” on civil liberties will not meet high approval, despite conventional wisdom to the contrary in some national polls.