



Murdered by Newt
Gingrich: Should We
Tell the Children?

It often occurs in teaching law school classes that opportunities present themselves for discussing current issues. And that presents a problem: how can a teacher do it without engaging in ideological indoctrination? The easiest way is to avoid the issue entirely. But is that also avoiding the responsibility to actually address important topics?

I ran into this dilemma the other day when discussing the classic case of [*Moore v. Regents of the University of California*](#), the famous 1993 California Supreme Court ruling that a person has no property right in his excised spleen. While there are, of course, lots of controversial things about the case, the Court's opinion turned on its belief that allowing a property right would create so much litigation that it could chill critical medical research. And the Court supported this belief by citing a report from the [Office of Technology Assessment](#), which advocated decreasing uncertainty over liability.

Quite often in class, I try to press students on the sources of judges' empirical beliefs concerning how the world works. I tell them that the three most misleading words in the English language are "studies have shown." So normally I might press them on this, asking "so, what is this Office of Technology Assessment? Why is it credible?"

We could go down that road, and then I would have to decide whether to tell them that 1) OTA does not exist anymore; and 2) it does not exist anymore because Newt Gingrich decided to abolish it. [As Bruce Bartlett explained a few weeks ago](#), Gingrich's move represented a particularly egregious and destructive abuse of power:

[Gingrich] has always considered himself to be the smartest guy in the room and long chaffed at being corrected by experts when he cooked up some new plan, over which he may have expended 30 seconds of thought, to completely upend and remake the health, tax or education systems.

Because Mr. Gingrich does know more than most politicians, the main obstacles to his grandiose schemes have always been Congress's professional staff members, many among the leading authorities anywhere in their areas of expertise.

To remove this obstacle, Mr. Gingrich did everything in his power to dismantle Congressional institutions that employed people with the knowledge, training and experience to know a harebrained idea when they saw it. When he became speaker in 1995, Mr. Gingrich moved quickly to slash the budgets and staff of the House committees, which employed thousands of professionals with long and deep institutional memories....

Mr. Gingrich sold his committee-neutering as a money-saving measure. How could Congress cut the budgets of federal agencies if it wasn't willing to cut its own budget, he asked. In the heady days of the first Republican House since 1954, Mr. Gingrich pretty much got whatever he asked for.

In addition to decimating committee budgets, he also abolished two really useful Congressional agencies, the [Office of Technology Assessment](#) and the [Advisory Commission on Intergovernmental Relations](#). The former brought high-level scientific expertise to bear on legislative issues and the latter gave state and local governments an important voice in Congressional deliberations.

The amount of money involved was trivial even in terms of Congress's budget. Mr. Gingrich's real purpose was to centralize power in the speaker's office, which was staffed with young right-wing zealots who followed his orders without question. Lacking the staff resources to challenge Mr. Gingrich, the committees could offer no resistance and his agenda was simply rubber-stamped...

We could really use the Office of Technology Assessment at a time when Congress desperately needs scientific expertise on a variety of issues in involving health, energy, [climate change](#), homeland security and many others....

So here's the question: do I tell the students this? Do I even go into what the OTA represented? If I do it, then I am no longer "fair and balanced." But it is also a teachable moment: at some point, professors have the obligation not only to teach students to care about the sources of evidence, but to let them know about the destructive impulses of major

politicians and their political movements. That's not about taking an ideological cheap shot: it's about standing up for expertise and professionalism, which theoretically law schools should favor.

In the end, I wimped out. I didn't go into it, just muttering something about how the OTA provided scientific expertise to Congress "until Newt Gingrich destroyed it." That was probably the worst of all possible worlds: it just seemed petty and partisan. (It also meant that I didn't mention that the Democrats failed to resuscitate the agency when they had the chance, although many tried to do so.)

So what is the best action to take in these circumstances? How should a teacher approach it?