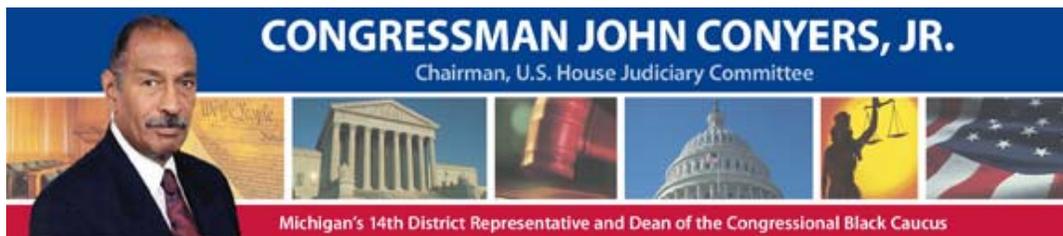


For Immediate Release

7/13/2007

House Judiciary Committee Issues Subpoena for RNC Documents



For Immediate Release
July 13, 2007

Contact: Jonathan Godfrey
Melanie Roussel

(Washington, DC) - Today, House Judiciary Committee Chairman John Conyers, Jr. (D-MI), issued a subpoena for documents from the Republican National Committee (RNC) as part of ongoing congressional investigations into the targeted purge of US Attorneys and related matters. The Subcommittee on Commercial and Administrative Law authorized Conyers to issue the subpoena yesterday.

"The White House has been stonewalling this investigation at every turn," Conyers said. "We attempted to negotiate terms with the RNC as well as the White House to secure these documents. Yet again, the White House has stepped in to prevent the RNC from turning them over. So, we hope that the RNC - unlike Ms. Miers yesterday - will choose to comply with the legal obligation set out in this subpoena, as opposed to the opinion of the White House."

Also today, Chairman Conyers wrote a follow up letter to Harriet Miers' attorney informing him that her claims of immunity and privilege had been rejected. "This letter is to formally notify you that we must insist on compliance with the subpoena, and that your client's continued failure to promptly remedy her noncompliance could subject her to contempt proceedings, including but not limited to proceedings under 2 U.S.C. 194 and under the inherent contempt authority of the House of Representatives," he wrote.

Included below and attached are relevant documents, including:

- Text of the cover letter sent to Robert Duncan, RNC Chairman (below);
- RNC Subpoena with signed proof of service (attached, no text version available).
- Text of the relevant subpoena attachment (below and attached);
- Related letters from Robert Kelner, the RNC's attorney, explaining that the White House will not allow them to turn over documents (attached, no text version available).
- Text of Conyers' letter to George Manning, Harriet Miers' attorney (below and attached);

July 13, 2007

BY FAX AND U.S. MAIL

Mr. Robert M. Duncan,
Chairman, Republican National Committee
c/o Mr. Robert Kelner

Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Mr. Duncan:

Enclosed is a subpoena for e-mail documents to be produced to the House Judiciary Committee by Tuesday, July 17, at 10:00 a.m. These are the e-mails, written by White House officials on their RNC e-mail accounts, pertaining to the Committee's investigation into the circumstances surrounding the termination of at least nine U.S. Attorneys in 2006, possible related violations of federal law, and other related matters. The subpoena is being issued pursuant to authority granted by the Subcommittee on Commercial and Administrative Law on July 12, 2007.

As you know, I first requested these e-mail documents in a letter to you from myself and Subcommittee Chair Linda Sánchez on April 12, 2007. Following that letter, your outside counsel Mr. Robert Kelner and my staff have engaged in productive and cooperative negotiations to identify documents responsive to the request that could be obtained and produced without undue burden. Through that process, the RNC has identified, collected, and processed what I understand to be a substantial number of e-mail documents relevant to our investigation.

This subpoena is tailored accordingly, calling for you to produce only documents that the RNC has already identified through our cooperative process as responsive to the Committee's letter, and which have already been collected and reviewed by both your outside counsel and the Office of the White House Counsel.¹ As I understand the circumstances, these documents are ready and available for production, and it is for this reason that I am comfortable issuing a subpoena with this relatively prompt return date.

Your counsel has previously informed us that the White House has directed you to withhold many of these documents from the Committee. That direction, however, was made before the RNC was formally under subpoena, and before our Subcommittee hearing yesterday at which Chairwoman Sánchez quite correctly rejected the White House's overreaching privilege claims as asserted on behalf of another private party (in that case Harriet Miers), and in particular the White House's asserted right to direct a private party to violate a duly issued Congressional subpoena.

Please address any questions to the Judiciary Committee office at 2138 Rayburn House Office Building, Washington, D.C. 20515 (tel: 202- 225-3951, fax: 202-225-7680). I look forward to your compliance with the subpoena next week.

Sincerely,

John Conyers, Jr.
Chairman

Enclosure

cc: The Honorable Lamar S. Smith

The Honorable Linda T. Sánchez

The Honorable Chris Cannon

Schedule for Documents Sought in Subpoena

For Robert M. Duncan

Or Appropriate Custodian of Records, Republican National Committee

Subcommittee on Commercial and Administrative Law

House Committee on the Judiciary

July 13, 2007

Items Requested

Complete and unredacted versions of any and all documents consisting of any e-mail communication or related meta-data stored on Republican National Committee servers or otherwise in your possession, custody, or control, that the Republican National Committee has identified as responsive to the letter request dated April 12, 2007 sent by Chairman Conyers and Chairwoman Sánchez to Republican National Committee Chairman Robert Duncan, and that the Republican National Committee is withholding from the Subcommittee –

(1) based on White House direction, as described in the letter dated July 11, 2007 from Robert K. Kelner, Counsel to the Republican National Committee, to Chairman Conyers, or

(2) for any other reason.

Definitions and Instructions

- (1) The terms "including," "includes," and "related to" are used in the broadest sense of the term and specification of a particular matter included in a request is not meant to exclude any other documents that might be responsive to the request.
- (2) Use of either the singular or plural should not be deemed a limitation and the use of the singular should be construed, where applicable, the plural and vice versa, so as to give the most inclusive reading of what is to be produced.
- (3) In complying with this Subpoena, you are required to produce all responsive documents in your possession, custody, or control, whether held by you or by past or present agents or representatives, including documents you have placed in the temporary possession, custody, or control of a third party. No documents requested herein shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
- (4) In complying with this subpoena, you are to include a copy of the original, as well as any copy that differs in any respect, such as one with marginalia or other notations. You are also to include any markings, post-it notes, or other documents attached thereto, as well as any attachment relating to or incorporated by the document.
- (5) With respect to any and all documents requested herein that are being withheld on the ground of privilege, furnish a list specifying the following information:

- the nature, source and date of the document;
- a description of the document's subject matter;
- the name and address of each recipient of the original or a copy of the document, together with the date or approximate date when each recipient received the document;
- the names and addresses of all other persons to whom the contents of the document have been disclosed, the date such disclosure took place, and the means of such disclosure; and
- the nature of the privilege or rule of law relied upon, including the identity of the person or persons asserting the privilege or rule as well as the legal basis for asserting that privilege or rule, or other reason for non-production.

- (6) All electronic documents shall be provided in full on CD, DVD, or USB external hard drive, as well as in hard copy.
- (7) The obligations created by this document request are continuing and you shall supplement your production if you locate additional responsive documents in your possession, custody, or control.
- (8) Two separate sets of the documents shall be brought to 2141 Rayburn at the time of the hearing, one set for the Majority and one set for the Minority. Documents discovered after the hearing shall be promptly delivered to the Majority at 2138 Rayburn and to the Minority at 2142 Rayburn.

July 13, 2007

BY FAX AND U.S. MAIL

Mr. George T. Manning
 Jones Day
 1420 Peachtree Street N.E. Suite 800
 Atlanta, GA 30309-3053

Dear Mr. Manning:

We were very disappointed that your client Harriet Miers disobeyed the subpoena served on her and did not even appear—much less testify or produce documents as required—before the Subcommittee on Commercial and Administrative Law at 10 a.m. yesterday, July 12, 2007. Enclosed with this letter is a copy of the text of the ruling by Chairwoman Sánchez at yesterday's hearing, rejecting the claims of immunity and privilege as legally invalid, and stating that Ms. Miers is required pursuant to the subpoena to appear in order to testify and produce documents. As the ruling explains, as a private party, Ms. Miers could not legally be compelled by the White House to disregard the subpoena, but instead made her own decision to disregard it and to cite Mr. Fielding's letter.

Federal law makes it very clear that recipients of a congressional subpoena must appear— regardless of whether or not they intend to assert privilege once they arrive. 2 U.S.C. § 192 provides: "Every person who having been summoned as a witness by the authority of either House of Congress . . . willfully makes default, or who, having appeared, refuses to answer any question . . . shall be guilty of a misdemeanor . . ." 2 U.S.C. § 194 further states that a witness may be held in contempt and prosecuted for three distinct acts: 1) failing "to appear to testify" in response to a subpoena; 2) failing to produce documents pursuant to the subpoena; and 3) failing to answer questions pursuant to the subpoena.

The D.C. Circuit has ruled that "[a] reasonable interpretation of the statute . . . is that a witness is in default if he fails not only to appear but fails to attend, following appearance, so long as the committee requires his attendance." *Townsend v. United States*, 95 F.2d 352, 357 (D.C. Cir. 1938). The Second Circuit has similarly stated: "The statute, 2 U.S.C.A. § 192, embraces two offenses. . . . The first consists of the willfull default of one who has been summoned as a witness. This offense, obviously, may be committed by willfully refraining, without adequate excuse, from appearing in response to a lawful summons and it may also be committed by appearing and then willfully terminating attendance before being excused." *United States v. Josephson*, 165 F.2d 82, 85 (2d Cir. 1947) (citing *Townsend*, 95 F.2d 352). See also *United States v. Groves*, 18 F.Supp. 3 (W.D. Penn. 1937); *United States v. Hintz*, 193 F.Supp. 325 (N.D. Ill. 1961).

This letter is to formally notify you that we must insist on compliance with the subpoena, and that your client's failure to promptly mitigate her noncompliance could subject her to contempt proceedings, including but not limited to proceedings under 2 U.S.C. §§ 192, 194 and under the inherent contempt authority of the House of Representatives. In light of Chairwoman Sánchez's ruling, we strongly urge Ms. Miers to appear before the Subcommittee pursuant to her subpoena. Please let me know in writing by 5 p.m. this Tuesday, July 17, whether Ms. Miers will comply with the subpoena. If I do not hear from you in the affirmative by then, the Committee will have no choice but to consider appropriate recourse.

With respect to the subpoena's directive that Ms. Miers produce documents, we realize it is possible that Ms. Miers in fact does not possess documents responsive to the subpoena. If that is the case, please notify us of that as well by July 17, in which event that issue can hopefully be resolved.

Sincerely,

John Conyers, Jr.

Chairman

Enclosure

cc: The Honorable Lamar S. Smith

The Honorable Linda T. Sánchez

The Honorable Chris Cannon

##110-JUD-020807##