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ONE HUNDRED TENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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November 5, 2007

Mr. Fred Fielding
Counsel to the President
Office of Counsel to the President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20530

Dear Mr. Fielding:

As you know, the Judiciary Committee has been seeking for more than six months to obtain information from the White House concerning the forced resignations of nine United States Attorneys in 2006 and related matters. This has included the Committee finding in July that White House Chief of Staff Joshua Bolten and former White House Counsel Harriet Miers were in contempt for refusing to comply with subpoenas issued to them for documents and testimony. Unfortunately, I have received no response to my July 25 letter to you, which again sought to resolve this issue. In fact, I have written to you on eight previous occasions attempting to reach agreement on this matter.[1] As we submit the Committee's contempt report to the full House, I am writing one more time to seek to resolve this issue on a cooperative basis.

In a number of my previous letters, I have offered several constructive paths in an effort to reach agreement. Let me now suggest another specific proposal based on these letters and previous offers, including your previous letter to us, and based specifically on previous agreements that this Administration has already reached with Congressional committees during this Congress.

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[1] These eight letters, some of which were written with Senate Judiciary Committee Chair Patrick Leahy and Commercial and Administrative Law Subcommittee Chair Linda Sanchez, were written on March 9, March 22, March 28, May 21, June 29, July 17, July 19, and July 25.

I propose that initially, the White House would provide the Committee with copies of documents reflecting communications between White House staff and persons outside the White House relating to the U.S. Attorney terminations and related matters. This was part of your conditional offer in March, and the White House agreed without such conditions to provide such documents to the House Committee on Oversight and Government Reform as part of its investigation into the death of Corporal Patrick Tillman. Second, the White House would make available for confidential staff review the remaining, internal White House documents relating to the same subjects, after which the Committee would identify what would most probably be a smaller number of such documents for production. This is precisely the procedure that the White House agreed to follow in the Tillman investigation, in which approximately 450 pages of internal White House documents were confidentially reviewed by Congressional staff and a smaller number were then requested by the Committee and produced by the White House, and that was followed with respect to documents initially withheld by the Justice Department in the U.S. Attorney investigation.

Finally, we would mutually identify relevant present and former White House staffers for on-the-record interviews, following the procedure agreed to by the Justice Department and successfully utilized in a dozen such interviews this year in the U.S. Attorney investigation. The area of questioning would be limited to the US Attorney terminations and related matters. These staff members would initially include those specified in your March 20 letter, and we are prepared to consider conducting these interviews without requiring that the witnesses be under oath, as occurred in the Justice Department interviews.

As the Congressional Research Service has reported, there are at least 74 instances since World War II where even sitting White House advisers, including White House counsel, have testified before Congress, and previous Administrations, even after initially asserting executive privilege, have reconsidered and agreed to "full or substantial compliance" with Congressional committee requests once there was a committee contempt vote. I very much hope that we can similarly avoid a constitutional confrontation in this case. This is not, and should not be treated as, a partisan or ideological issue, but instead a question of good government. As Republican former Attorney General Richard Thornburgh recently testified before our Committee, "citizens of the United States must have confidence" that the Department of Justice "is conducting itself in a fair and impartial" manner, "without actual political influence or the appearance of political influence."

I hope you will consider this offer in earnest and based upon the good faith with which it is delivered. Please respond at your earliest convenience, and in no event later than the end of this week, November 9. As always, responses and questions should be directed to the Judiciary

Committee office, 2138 Rayburn House Office Building, Washington, D.C. 20515 (tel.: 202-225-3951; fax: 202-225-7680).

Sincerely,

John Conyers, Jr.
Chairman

cc: Hon. Lamar S. Smith
Hon. Linda T. Sánchez
Hon. Chris Cannon
Chris Freck