

Congress of the United States
Washington, DC 20510

November 24, 2008

The Honorable Michael B. Mukasey
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Mukasey:

We write to follow up on reports that the Department will be covering legal expenses for former Attorney General Alberto Gonzales in connection with findings of politicized hiring for the Department of Justice Honor Program and Summer Law Intern Program. Department of Justice Inspector General Glenn Fine released a report this past June which concluded that hiring was improperly politicized, including in 2006 when, the report concluded, several Department officials engaged in hiring practices that “constituted misconduct and also violated the Department’s policies and civil service law that prohibit discrimination in hiring based on political or ideological affiliations.”

Following the publication of the Inspector General’s report, several individuals whose applications for employment through these programs were turned down during the period that the hiring process was improperly politicized have filed suit against Mr. Gonzales and others who held senior positions at the Department at the time. Recent press accounts indicated that the Department of Justice has decided to pay up to \$24,000 a month for a private attorney to represent Mr. Gonzales in connection with this lawsuit. As far as we can tell, the Department has thus far failed to confirm or publicly account for any aspect of this arrangement.

Under section 50.16 of title 28 of the Code of Federal Regulations, the Department may provide for a private attorney for a current or former employee sued individually for conduct within the scope of his employment, but the Government should not pay for private representation if the Attorney General or his designee “determines that the employee’s actions do not reasonably appear to have been performed within the scope of his employment” or that “representation is not in the interest of the United States.”

There is precedent for disclosure of information to Congress about this type of arrangement. In May 2003, for example, U.S. District Court Judge Royce Lamberth ordered the release of similar information regarding fees paid by the Department of the Interior to private attorneys to defend its employees in a class action lawsuit. Judge Lamberth wrote that “the Court believes that Congress should have all available information at its disposal” in order to inform the process of appropriating funds for court-appointed officials and attorneys’ fees in the case.

The Honorable Michael Mukasey
November 24, 2008
Page 2 of 2

We would appreciate your responses to these questions on this issue:

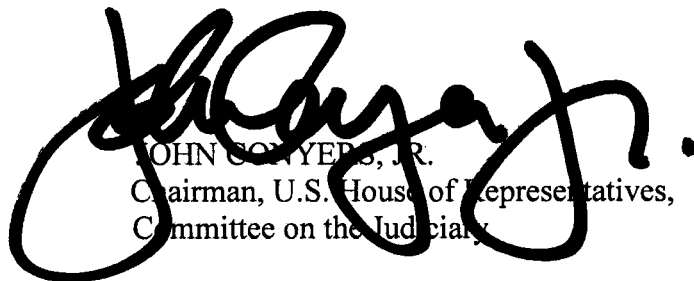
1. What is the arrangement the Department has reached with Mr. Gonzales in connection with representation in this matter, and why has that arrangement not been made public?
2. Who made the decision to pay for Mr. Gonzales's private legal expenses in connection with the politicization of hiring at the Justice Department, and how, when, and on what basis was the decision made? Please include with your response any standing guidelines governing the procedures for retention and payment for private counsel for individual employees or former employees.
3. For what other current or former Department officials has the Department decided to pay legal expenses in connection with these matters?
4. Given the Inspector General's findings of violations of Department policy and Federal law in connection with the politicization of Department hiring, on what basis did the Department determine that the conduct at issue in this lawsuit was within the scope of Mr. Gonzales's employment and that his representation is in the interest of the United States?

We look forward to your responses to these questions. Thank you for your time and consideration.

Sincerely,



PATRICK LEAHY
Chairman, U.S. Senate,
Committee on the Judiciary



JOHN CONYERS, JR.
Chairman, U.S. House of Representatives,
Committee on the Judiciary