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ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

March 1, 2010

David S. Ferriero
Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue, NW
Washington, DC 20408-0001

Dear Mr. Ferriero:

I write seeking email records from the Administration of President George W. Bush related to the Justice Department's drafting of legal memoranda on interrogation practices, which do not appear to be available from any other source.¹

On Friday, February 19, 2010, the Justice Department provided Congress with a report by the Department's Office of Professional Responsibility concerning legal memoranda authorizing certain Bush Administration interrogation practices.² This report provides the most detailed account currently available regarding the drafting of these memoranda, a subject of Congressional and public interest. OPR reports, however, that its efforts were "hampered" by the apparent loss of emails of two key Justice Department lawyers – John Yoo and Patrick Philbin of the Department's Office of Legal Counsel. According to OPR, "most of Yoo's email records had

¹This request is made pursuant to 44 U.S.C. § 2205(2)(c), which states that, subject to privilege or comparable claims, presidential records "shall be made available" to "either House of Congress, or, to the extent of matter within its jurisdiction, to any committee or subcommittee thereof if such records contain information that is needed for the conduct of its business and that is not otherwise available." Records of the Bush Administration are now in your custody and control pursuant to 44 U.S.C. § 2203(f)(1). The requested materials are needed for the Judiciary Committee's ongoing investigation into the role of the Justice Department in approving interrogation practices of the former Administration and the operation of the Department's Office of Legal Counsel, a subject that was the subject of multiple Committee hearings during the 110th Congress and part of a report entitled "Reining in the Imperial Presidency" released by Chairman Conyers at the beginning of the 111th Congress.

²See Report of the Department of Justice Office of Professional Responsibility, *Investigation Into the Office of Legal Counsel's Memoranda Concerning Issues Relating to the Central Intelligence Agency's Use of 'Enhanced Interrogation Techniques' on Suspected Terrorists*, July 29, 2009 (OPR Report).

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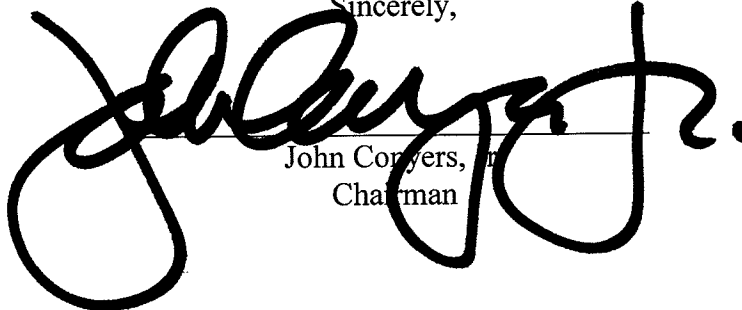
been deleted and were not recoverable. Philbin's email records from July 2002 through August 5, 2002 . . . had also been deleted and were reportedly not recoverable."³

Any of these missing emails that included White House personnel should have been preserved as Presidential Records and be maintained in your archives. Therefore, I request that you search the relevant records (including both classified and unclassified materials) and provide the Committee with:

- Any emails including John Yoo sent or received between March 1, 2002, and May 31, 2003.
- Any emails including Patrick Philbin sent or received between July 1, 2002, and August 5, 2002.

Please make every effort to expedite this request. At a minimum, please provide at preliminary report on the results of your records search as soon as possible, and in any event no later than Monday, March 15, 2010. Please direct your response and any questions to the Judiciary Committee office at (202) 225-3951, fax (202) 226-7680.

Sincerely,

A large, stylized handwritten signature in black ink, which appears to be "John Conyers". The signature is written over a horizontal line.

John Conyers,
Chairman

cc: Hon. Lamar Smith
Mr. Gary Stern

³OPR Report at 5 n.3.