

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Tenth Congress

April 13, 2007

The Honorable Alberto R. Gonzales
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

Dear Mr. Attorney General:

I am in receipt of the letter from Assistant Attorney General Hertling on the Department's behalf, dated today, regarding the Committee's subpoena for documents needed in our ongoing investigation into the circumstances surrounding the recent termination of U.S. Attorneys and related matters. While I appreciate that the Department has produced some of the requested documents, including some that were initially withheld or redacted, I want to make sure there is no misunderstanding about the Department's continuing obligations under the subpoena.

The fact that we have had to resort to subpoena to obtain the documents we need for meaningful oversight means that we are beyond the point of being able to accept the Department's unilateral judgment about which documents to produce and which to redact or withhold, as your letter proposes. While we have offered from the beginning to accommodate any legitimate Department interest in protecting the reputations of U.S. Attorneys who were considered for termination but then retained, including by withholding from making public certain information subject to approval by vote of the Committee, we simply cannot perform our responsibilities under the strictures you have imposed thus far. You have insisted without justification that the Committee staff must view certain documents only in the Department's offices, and may not make copies of pertinent documents or even take notes. We remain willing to accommodate your concerns to the extent we can, when the information is not relevant to our investigation into possible improper politicization of the Department's chief law enforcers. Where the information is relevant to our investigation, however, we must be able to obtain it in a useful form, and be able to use it as appropriate.

For example, if the currently withheld documents were to shed important light on reports of U.S. Attorneys who were initially considered for termination, using their offices to bring prosecutions to benefit Republican political objectives in order to retain their posts, I am sure you can understand that that would outweigh the Department's professed generalized concerns that the reputations of Presidentially appointed prosecutors might be "unnecessarily maligned."

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As to the types of documents we have requested, while we are happy to receive any new information from you about how you have gathered documents in preparation for formulating your response to our request, we are now asking in the subpoena for the documents in their full electronic formats, in order to enable us to be sure we have the full picture of who sent and received them, and when, and how they may have been altered, information that is generally hidden from view in hard copies or in electronic copies made from them. I believe our subpoena is clear in that regard.

To the extent there are any documents that the Department believes it has any basis in law for withholding, the subpoena also specifies the appropriate means for describing those documents in an itemized list.

I hope this helps further clarify any remaining issues you may have about the subpoena. As our Nation's chief law enforcer and chief advocate for the rule of law, we hope you will take appropriate steps to assure that the Department complies fully with its obligations under the subpoena.

Sincerely,



John Conyers, Jr.
Chairman

cc. Honorable Lamar Smith
Honorable Linda Sánchez
Honorable Chris Cannon