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**House of Representatives**

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

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

May 9, 2008

The Honorable Michael Mukasey  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530

Dear Mr. Attorney General:

We are very disappointed that we have not received any response from you to the April 17 letter asking that you provide to the Committee by May 5 copies of documents concerning the troubling issue of selective or politically motivated federal prosecutions that we are investigating. That letter followed a letter last September requesting such documents that have been withheld by the Department despite our initial request in July. Similarly, there have been nine other letters and requests from the Committee over the past year asking for documents on a range of important subjects, such as deferred prosecution agreements, secret OLC opinions, and Civil Rights Division activities, that the Department has failed to provide and, in some cases, even to answer. We ask that you instruct your staff to agree with Committee staff by May 16 on a specific schedule for production of these materials, or we will have little choice but to consider compulsory process.


Enclosed with this letter is a chart listing the date of each pending request, the materials asked for, and the documents still not provided to the Committee according to our records. We have not included in this list any materials as to which discussions about arranging access are under way, and we very much hope that the pending requests can be resolved voluntarily, as has occurred with other Committee requests. However, some of these requests are more than a year old, and the Committee's oversight responsibilities require that we receive these materials. We are also concerned about the many unanswered questions that have been submitted to the Department, and will address this subject in a separate letter. We appreciate in advance your

The Honorable Michael Mukasey  
Page Two  
May 9, 2008

cooperation with this request. Please address any questions and responses to the Judiciary Committee office, 2138 Rayburn House Office Building, Washington, DC 20515 (tel:202-225-3951; fax: 202-225-7680).

Sincerely,

  
\_\_\_\_\_  
John Conyers, Jr.  
Chairman

  
\_\_\_\_\_  
Linda T. Sánchez  
Chairwoman, Subcommittee on Commercial  
and Administrative Law

cc: Hon. Lamar S. Smith  
Hon. Chris Cannon  
Hon. Brian A. Benczkowski

<b>Original Request</b>	<b>Items Requested</b>	<b>Items Not Received</b>
To Attorney General Mukasey, 4/29/08	Copies of non-classified, non-public OLC opinions “(whether contained in a formal memorandum, letter, or email) addressing issues related in any way to national security, war, terrorism, interrogations, civil or constitutional rights of U.S. citizens, or presidential, congressional, or judicial power that the Office of Legal Counsel has issued since January 20, 2001, that have not been released to the public.”	All items requested; no response received
To Attorney General Mukasey, 4/17/08	<p>Repeating and emphasizing requests of 7/17/07 and 9/10/07 for documents and information related to selective prosecution, specifically including:</p> <ol style="list-style-type: none"> <li>1. “Any memoranda, analysis, communications, or documents discussing whether and to what extent criminal charges should be or were pursued against Governor Siegelman or Dr. Wecht.</li> <li>2. Any memoranda, analysis, or any other documents from, reflecting, or referencing any communication involving White House staff, members of Congress or their staff, any state or local political party officials or their staff, or any private person, regarding Governor Siegelman or Dr. Wecht.</li> <li>3. Case impression, prosecution or declination memoranda, including drafts, and notes or emails discussing or referencing the Siegelman or Wecht matters.</li> <li>4. Any memoranda, analysis, communication or other documents regarding whether or not any federal prosecutor, investigator, or judge should recuse from either the Wecht or Siegelman matters, including the 514 pages of documents related to the recusal of U.S. Attorney Leura Canary in the Siegelman matter reportedly being withheld in response to a public FOIA request.</li> <li>5. Indictment review files/memoranda, and notes or emails discussing or referencing the Siegelman or Wecht matters.</li> <li>6. Discovery correspondence regarding the Siegelman or Wecht matters.</li> <li>7. FBI 302s and other witness interview records or memoranda relating to or referencing the Siegelman or Wecht matters.</li> <li>8. Witness immunity agreements, <u>Giglio</u> materials, or <u>Brady</u> materials regarding the Siegelman or Wecht matters including any notes, draft testimony, or witness preparation materials created by or for any witnesses in the Siegelman or Wecht matters.</li> <li>9. Any document regarding any contact of any kind between any juror in either the Siegelman or Wecht matter and any member of the prosecution or investigative team.</li> <li>10. Any other emails or documents discussing the strengths, weaknesses, merits, wisdom, or political implications of the Siegelman or Wecht prosecutions, including whether to bring any particular charges or types of charges in either case such as RICO charges and whether or not to impanel, re-impanel, or continue any grand jury in either matter.”</li> </ol>	All items requested; no response received.
To Attorney General Mukasey, 4/3/08	10/23/01 OLC memo previously requested in letters of February 12 and February 20, 2008	10/23/01 OLC memo; letter sent 4/10/08 but no document produced.

Original Request	Items Requested	Items Not Received
To Attorney General Mukasey, 2/29/08 (question for the record)	All documents relating to the 26 earmarks for religious institutions questioned by Americans United for Separation of Church and State, "including but not limited to any correspondence concerning the earmarks (including both internal correspondence/memoranda and correspondence with the entities to be funded, and including both internal correspondence), grant applications relating to the earmarks, grant agreements or contracts relating to the earmarks, payment records relating to the earmarks, and all other documents in each department's files concerning each earmark."	All items requested; no response received.
To Attorney General Mukasey and Deputy Secretary of Defense Gordon England, 1/23/08	Written information on how many Iraq MEJA cases have been referred to the Department, how many are still open, and how many concern sexual assault.	All items requested; no response received.
To Attorney General Mukasey, 1/10/08	All information relating to deferred prosecution agreements dating back to January 20, 2003, including the specific nature of the crime, length of the agreement, the amount of fines levied, terms of the compliance agreement and any details relating to individuals selected to serve as federal monitors and the agreements reached between these monitors and corporations under these agreements.	All items requested; no response received.
To Attorney General Mukasey 12/20/07	All documents regarding approval, scope and timing of investigation and indictments in the New Hampshire phone jamming investigation.	All items requested; letters sent 1/22/08 and 2/11/08 but no documents produced.
To Acting Attorney General Paul Keisler, 9/20/07	All relevant communications between the Minnesota U.S. Attorney staff and the Department of Justice, and all relevant documents possessed by the Department, including but not limited to the Executive Office of United States Attorneys, since the beginning of President Bush's second term, on the replacement of Tom Heffelfinger with Rachel Paulose in the position of U.S. Attorney for the District of Minnesota.	All items requested; no response received.
To Attorney General Gonzales, 7/30/07	Opinions, memoranda and background materials on database program disclosed in the Washington Post and New York Times on 7/29/07.	All items requested; no response received.

Original Request	Items Requested	Items Not Received
<p>To Wan Kim, Assistant Attorney General, Civil Rights Division, 5/1/07</p>	<p>Documents requested in questions for the record of the 3/22/07 Constitution Subcommittee oversight hearing on the Civil Rights Division.</p>	<ol style="list-style-type: none"> <li>1. All investigation and justification memoranda submitted from 2001 - 2007 to the Assistant Attorney General's Office from the Employment and Voting Sections of CRT.</li> <li>2. All documents relating to communications between anyone in the Office of the Assistant Attorney General (AAG) of CRT and the Voting Section regarding the 2001-2002 Mississippi redistricting submission, 2003 Texas redistricting submission, and 2005 Georgia photo identification submission.</li> <li>3. All documents relating to communications from the Justice Department to Members of Congress (including congressional staff) concerning the 2001-2002 Mississippi redistricting submission, 2003 Texas redistricting submission, and 2005 Georgia photo identification submission.</li> <li>4. All documents relating to communications between the Justice Department and anyone outside of the Department (excluding the White House and Members of Congress) concerning the 2001-2002 Mississippi redistricting submission, 2003 Texas redistricting submission, and 2005 Georgia photo identification submission.</li> <li>5. All section 5 recommendation memoranda (drafts and final), telephone memoranda, and any dissenting view documents (drafts and final) prepared when the Voting Section reviewed the following submissions: 2001-2002 Mississippi redistricting, 2003 Texas redistricting, 1981 Georgia identification requirements for voter registration, 1994 Louisiana photo identification requirement for voting, 1997 Georgia identification, 1997 Texas voter registration cards, and 2005 Georgia photo identification.</li> <li>6. All investigation and justification memoranda submitted from 2001 - 2007 to the Office of the Assistant Attorney General for CRT for review from the Employment and Voting Sections.</li> <li>7. All documents describing the substance of the meeting including Michael Elston on 12/5/06 concerning hiring.</li> <li>8. All documents regarding performance evaluation between the Office of the Assistant Attorney General CRT and the Voting Section from 2003 - 2007.</li> </ol>