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# United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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July 16, 2008

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

Dear Attorney General Mukasey:

I am writing regarding your request to the President that he claim executive privilege so that you would not have to comply with a subpoena from the House Government Reform and Oversight Committee for documents related to the illegal leak of undercover CIA agent Valerie Plame's identity. The subpoenaed documents apparently include materials from the investigation related to the leak, including reports from the FBI's interview with Vice President Dick Cheney, whose former chief of staff I. Lewis "Scooter" Libby has been charged, convicted and had his sentence commuted by President Bush for lying to a grand jury and the FBI during the course of that investigation.

Apparently you wrote a letter to the President both requesting that he assert executive privilege and offering him the legal analysis you believe supports such an assertion. It appears you are wearing two hats, one as the person to whom the subpoena was directed, and now facing a criminal contempt citation for noncompliance, and a second as the Attorney General purporting to offer objective legal advice.

I have a few questions:

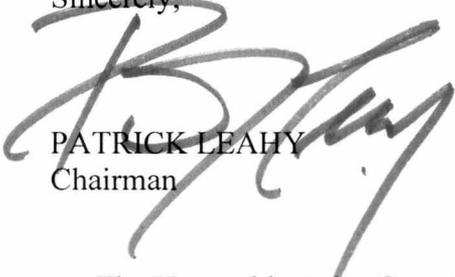
Would you please provide this Committee with the legal analysis that justifies this claim of executive privilege?

Did you consider recusing yourself from offering a legal opinion to the President on the validity of an executive privilege claim excusing you from complying with a congressional subpoena? If not, why not?

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This executive privilege claim, and your justification for it, appears to turn the privilege on its head. The purpose of executive privilege is to encourage candid advice to the President, not to cover up what the Vice President and White House staff say to investigating authorities when that information is requested in the course of congressional oversight.

Sincerely,



PATRICK LEAHY  
Chairman

cc: The Honorable Arlen Specter