

THE WHITE HOUSE

WASHINGTON

August 7, 2008

Dear Chairman Leahy:

I write in response to your letter of July 31, 2008, following the July 31 decision of the U.S. District Court in *Committee on the Judiciary, U.S. House of Representatives v. Miers*, Civ. No. 08-0409 (JDB), concerning the immunity of close Presidential advisors from appearance in response to Congressional subpoenas. You request that I advise you (1) of a date on which White House Chief of Staff Joshua Bolten will comply with the Senate Judiciary Committee's subpoena in this matter and (2) the time at which I will "rescind[]" the August 1, 2007 letter advising Karl Rove of the Administration's position on the immunity of close Presidential advisors.

As I know you appreciate, this litigation is very important in determining the constitutional contours governing certain relations between the Executive and Legislative branches in the Congressional oversight setting. Accordingly, the Department of Justice has now filed a notice of appeal in this matter and is seeking a stay of the decision pending review by the U.S. Court of Appeals for the D.C. Circuit. Therefore, absent a mutually agreeable resolution of the litigation between the parties, or reaching a satisfactory accommodation between the Executive Branch and the Legislative Branch as a whole, we believe that entertaining any requests for Mr. Bolten's compliance with the Senate Judiciary Committee subpoena should await a final resolution by the courts. In regard to my August 1, 2007 letter to Mr. Rove, please be advised that, consistent with the above, the view stated therein remains the position of the Administration on the question of immunity for close Presidential advisors.

I should note in closing that, even pending future court decisions, we remain available to you to continue exploring ways to reach an accommodation between the branches that would bring resolution of our respective differences.

Sincerely,



Fred F. Fielding  
Counsel to the President

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

cc: The Honorable Arlen Specter  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510