

The US attorneys “showdown”—Democrats seek to evade a confrontation

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The supposed constitutional “showdown” between the Democratic-led Congress and George Bush’s White House over the firing of eight federal prosecutors has served primarily to shift the focus of media attention and official public debate away from the war in Iraq.

The Senate Judiciary Committee Thursday followed the lead given by a House Judiciary subcommittee the day before, voting to authorize the issuance of subpoenas to compel Bush’s chief political advisor Karl Rove, former White House counsel Harriet Miers and other officials to testify under oath on the firing of the US attorneys.

The votes followed a televised statement by President Bush on Tuesday preemptively rejecting any such testimony and accusing the Democrats in Congress of “demanding show trials” and engaging in a “partisan witch-hunt.” Bush said that he would “oppose any attempts to subpoena White House officials.” Instead of sworn testimony, Bush said he would make officials available for “interviews.”

In a letter to the chairmen of the House and Senate judiciary committees, White House counsel Fred Fielding, a veteran of the Nixon White House during the Watergate crisis, spelled out the restrictive terms offered by the administration. “Such interviews would be private and conducted without the need for an oath, transcript, subsequent testimony, or the subsequent issuance of subpoenas,” Fielding wrote.

White House spokesman Tony Snow clarified on Wednesday that if subpoenas are issued, the offer of closed-door interviews, without oaths or transcripts, will be “withdrawn.”

The actions by the two Congressional panels, combined with the intransigence of the White House, have led to widespread media reports of a “confrontation” and “impasse” between the legislative and executive branches of the government, with increasing comparisons between the present controversy and the Watergate battle over White House tapes 33 years ago.

The present controversy does involve significant substantive issues related to the general criminality and corruption that pervades the Bush administration, which carried out an unprecedented mass firing of US attorneys in the middle of a presidency.

First, there is the concern that such an action serves to diminish any independence on the part of officials who are supposedly entrusted with the impartial enforcement of the law, turning them into direct political pawns of the White House.

Second, there is substantial evidence that those fired were singled out for failing to toe the Republican administration’s political line, and, at least in some cases, in ways that could be illegal.

There are suspicions, for example, that Carol Lam was fired from her job as US attorney for California’s southern district because she had successfully prosecuted Republican Representative Randy “Duke” Cunningham for taking millions in bribes from military contractors, and was expanding her investigation to cover another Republican congressman.

In the case of New Mexico US attorney David Iglesias, there is evidence that the firing came in retaliation for his refusal to “play ball” with the state’s Republican senator, Peter Domenici, and other local party officials by expediting a politically motivated prosecution of local Democrats in advance of the 2006 election.

Finally, there is ample evidence suggesting that Attorney General Alberto Gonzales and others deliberately misled Congress about the firings, apparently in an attempt to cover up the role of the president and his advisors.

Despite these issues, and notwithstanding the heated rhetoric of both the president and some Capitol Hill Democrats, there is little indication that the vote to authorize the House and Senate judiciary panel chairmen to issue subpoenas will lead to some kind of historic constitutional clash.

Both White House spokesmen and leading congressional Democrats stressed the difference between authorizing and issuing subpoenas, the former viewed largely as a negotiating ploy.

“We’re authorizing that ability but we’re not issuing them,” Senator Charles Schumer, Democrat of New York, said in relation to the subpoenas. “It’ll only strengthen our hand in getting to the bottom of this.”

“Trust me. We are not going to move in a reckless or angry or temperamental way at all,” Michigan Democratic Representative John Conyers, chairman of the House Judiciary Committee, declared Wednesday.

On the same day, Snow stressed at a White House press briefing, “There is an important distinction between authorizing subpoenas and issuing them.”

If the House and Senate panels were to go forward and issue the subpoenas, and the White House were to carry through with its vow to ignore them, the only means of pursuing the matter would be for the Congress as a whole to issue citations finding the White House officials in contempt.

Enforcement would then fall to another US attorney—one of those deemed loyal to Bush. In this particular case, it would go to the US attorney for the District of Columbia, Jeffrey Taylor, a former counselor to Gonzales and to his predecessor as attorney general, John Ashcroft. Before joining the Justice Department, Taylor worked as an aide to Senator Orrin Hatch, (Republican of Utah), where he participated in the writing of the Patriot Act.

The likelihood that such a figure would expedite the convening of a grand jury and the indictment of top administration officials is nil. Most legal experts caution that the matter would be tied up in procedural questions until well after Bush left the White House.

Given the Democrats' track record, it is safe to predict that a compromise will be reached largely on the terms dictated by the White House. Despite the appearance of misconduct and cover-up surrounding the case, the president enjoys the courage of his criminal convictions.

In this, as with every political question, the overriding characteristic of the Democratic response is an extraordinary level of political cowardice. One only has to ask, what would the Republicans be doing under analogous circumstances?

To answer the question, one only has to look back less than a decade to the ferocious drive for what amounted to a political coup against the Democratic administration of Bill Clinton. Not only administration officials, but the president's lawyers, his personal Secret Service bodyguards, friends and associates were subpoenaed to appear before the grand inquisition convened by Independent Counsel Kenneth Starr, and Clinton's claims of executive privilege were simply tossed aside. Those who refused to testify against the president—like Susan McDougal—were paraded before the television cameras in chains and thrown into prison. All of this in connection with an investigation into a second-rate real estate deal that morphed into a witch-hunt over a sexual act in the White House, culminating in the impeachment of the president.

The Democrats are incapable of proceeding with anything approaching the ruthlessness of their Republican opponents. They stand in awe of the president and are terrified that their actions could set in motion social forces that cannot be controlled and that could cut across the corporate and financial interests which they defend, no less than the Republicans.

However this controversy is ultimately resolved, the question remains: why have the Congressional Democrats chosen the firing of eight federal prosecutors—all of them political appointees of the Republican administration—as the issue upon which to launch their rebellion, even if it is a rebellion on their knees?

These same Democratic leaders, in their overwhelming majority, supported the USA Patriot Act, granting the administration quasi-police state powers to carry out domestic spying and repression.

Since then, it has emerged that the FBI has exceeded even the sweeping powers granted the agency under the Patriot Act, issuing so-called national security letters—instant administrative subpoenas—to collect detailed personal information on thousands of people in the US, without any indication that they are even connected to an ongoing terror investigation.

Yet, not only did the Democratic leadership fail to mount the kind of challenge to the White House over these ominous abuses

as it has in the attorneys case, it explicitly ruled out any attempt to repeal the relevant sections of the Patriot Act. Moreover, it accepted the FBI's incredible claim that the problem was largely a matter of sloppy bookkeeping.

Similarly, Congressional Democrats have not sought to hold Gonzales, White House officials or top officials in the National Security Agency (NSA) to account for the decision to violate the Foreign Intelligence Surveillance Act (FISA) and carry out massive secret spying on Americans. Instead, they voted overwhelmingly confirm the NSA chief who oversaw the illegal program as the new director of the CIA.

Nor have they subpoenaed White House, Pentagon or CIA officials to testify on the "extraordinary rendition" of innocent individuals to be tortured in overseas secret prisons. Nor have they challenged the kangaroo military courts that are being used to railroad alleged terrorist "enemy combatants." Rather, the Democrats have made themselves junior partners in these loathsome practices.

The Democratic leadership in Congress has mounted no such challenge to the White House over how it lied to the American people and the world in order to drag the country into the Iraq war.

The focus on the eight fired prosecutors serves one essential function. The story of the war of words between Capitol Hill and the White House has largely supplanted media coverage of the real war in Iraq, which both the administration and the Democratic Congressional leadership continue to support, despite the overwhelming opposition of the American people.

There is ample motive for changing the subject. The House Democrats are badly divided over their proposed supplemental funding bill to authorize another \$100 billion to pay for the slaughter in Iraq and Afghanistan, while tacking on toothless language suggesting a deadline for withdrawing "combat troops"—a carefully-selected term that refers to barely half the number of US military personnel currently occupying Iraq.

In the end, taking a stand over the fired prosecutors has the advantage of committing the Democratic Party to nothing in terms of a challenge to the domestic and foreign policies being pursued by the Bush administration.



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