

Standoff between White House and Congress over US attorney purge, domestic spying intensifies

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Two developments on Thursday escalated the confrontation between the Democratic-controlled Congress and the Bush White House over the firing of nine US attorneys and an administration domestic spying program.

Senator Patrick Leahy, the Democratic chairman of the Senate Judiciary Committee, issued a subpoena for the testimony of Bush's top political aide, Karl Rove, in connection with the ongoing congressional probe into the 2006 firing of nine US attorneys. The subpoena also named a deputy to Rove, J. Scott Jennings.

The White House has already refused to allow other current and former aides to testify and rejected demands for documents stipulated in subpoenas issued by the Senate and House judiciary committees, asserting a concept of executive privilege that amounts to a repudiation of the constitutional principle of congressional oversight of the president and the executive branch.

In response, the House Judiciary Committee this week approved contempt of Congress citations against former White House Counsel Harriet Miers and current White House Chief of Staff Joshua Bolten. But the White House has taken the position that no US attorney can act on such a congressional action once the president has asserted executive privilege.

Also on Thursday, FBI Director Robert Mueller testified before the House Judiciary Committee and contradicted sworn testimony before the Senate committee given on Tuesday by Attorney General Alberto Gonzales concerning the National Security Agency (NSA) program of domestic spying without judicial warrants that was leaked to the press and acknowledged by Bush in December of 2005.

Shortly before Mueller's testimony in front of the House committee, four Democrats on the Senate Judiciary committee called for the appointment of a special counsel to investigate whether Gonzales committed perjury in his testimony before their body.

A letter calling for a special counsel was sent to Solicitor General Paul Clement and signed by senators Charles Schumer, Dianne Feinstein, Russell Feingold and Sheldon Whitehouse. Reflecting divisions among the Democrats, Chairman Leahy did not sign the letter. The ranking Republican on the committee, Arlen Specter, who has joined with Democrats in calling for Gonzales to resign, denounced the call for a special counsel,

calling it "precipitous."

These latest moves have intensified a direct clash with the White House which the Democrats sought for months to avoid. They began their investigation into the firing of the US attorneys last January, holding numerous hearings and obtaining Justice Department documents which provided ample evidence that the purge of US attorneys was directed from the White House. The evidence further shows that the purge was part of an effort to stack the ranks of federal prosecutors with Bush acolytes prepared to use the criminal justice system to promote the policies of the administration and manipulate elections in favor of Republican candidates.

It has been established that the White House replaced purged US attorneys with Republican operatives who filed trumped-up voter fraud charges against Democratic candidates in tightly contested races, filed criminal charges against voter registration groups allied to the Democratic Party and pressured state governments to remove minority voters from their voter registration lists. In addition, US attorneys who prosecuted Republican office-holders on corruption charges were removed from office.

Attorney General Gonzales and other top Justice Department officials have been caught in repeated lies concerning their involvement in the US attorney purge. Despite all of this, the Democrats held off issuing any subpoenas on White House officials until last month. Instead, they limited their demands to calls for the resignation of Gonzales.

Only after Bush refused to oust Gonzales—and the credibility of the Democrats with the American public declined sharply as a result of their refusal to use their control of Congress to end the war in Iraq—did the Democrats make the decision to issue subpoenas on the White House.

The White House responded belligerently to the subpoena on Rove and the calls for a special counsel. White House spokesman Tony Fratto said on Thursday, "Every day, this Congress gets a little more out of control."

Mueller's extraordinary testimony, directly contradicting the testimony of the attorney general and thereby implying that he had lied to Congress, reflects internal disputes within the administration that go back to the initial years of domestic spying programs instituted by Bush, via executive order, following the 9/11 terrorist attacks.

Gonzales testified as early as February 2006 that there was no “serious disagreement” within the administration about the NSA program, a position that he and the White House have continued to maintain.

In his appearance before the House Judiciary Committee on Thursday, Mueller was asked whether he had “some serious reservations about the warrantless wire-tapping program” in 2004, and he replied that he had. Asked whether the reservations concerned the so-called Terrorist Surveillance Program—the name given by the Bush administration to the NSA program it acknowledged in 2005—Mueller replied, “The discussion was on a national—an NSA program that has been much discussed, yes.”

Mueller also backed the May 2007 testimony of former Deputy Attorney General James Comey, who gave an account of a 2004 encounter involving himself, then-White House Counsel Gonzales, White House Chief of Staff Andrew Card and a hospitalized John Ashcroft, who was then the attorney general.

Comey was serving as acting attorney general because Ashcroft was recovering from a serious operation and was incapacitated. Comey testified in May that he and Ashcroft had refused to reauthorize the NSA program in question because lawyers in the Justice Department had determined that it was “without a legal basis.” In response, Gonzales and Card sought to bypass Comey and appeal to Ashcroft to reauthorize the program while Ashcroft was lying semi-conscious in his hospital bed. Comey raced to the hospital to head them off.

Mueller for the first time confirmed on Thursday that Comey had asked him to order FBI agents in Ashcroft’s hospital room not to follow any request from Card and Gonzales to have Comey removed from the hospital room. Mueller said he granted the request. He also verified Comey’s assertion that Comey, Ashcroft, and Mueller had threatened to resign if changes were not made to the spying program.

To avoid charges of perjury for his 2006 testimony, Gonzales has insisted that the program in dispute in 2004 was different from that described by Bush in December 2005. Bush said at the time that the NSA had conducted warrantless wiretapping on communications into or out of the United States (but not entirely within the United States), and that this surveillance involved only Al Qaeda members and associates.

In his testimony Tuesday before the Senate Judiciary Committee, Gonzales said that the dispute involved “other intelligence activities,” not the so-called Terrorist Surveillance Program.

Attempting to back up Gonzales, Justice Department spokesman Brian Roehrkasse made a revealing statement: “The disagreement that occurred in March 2004 concerned the legal basis for intelligence activities that have not been publicly disclosed and that remain highly classified.” He pointed out that Mueller himself never used the words “Terrorist Surveillance Program” in his testimony, though Mueller clearly implied he was talking about that program.

Echoing the same line, White House Press Secretary Tony Snow said on Friday that “there has never been at any juncture along the line any disagreement about the propriety or legality” of the TSP program. He then added, “There are many intelligence activities in the American government. We’re talking about a very thin slice.”

In other words, there are many ongoing spying programs, including some that may be more expansive than the TSP, about which the American people have not been informed.

The larger question, far more important than whether Gonzales lied, is one that no one—least of all the Democrats—is asking. What is the nature of these spying programs? How expansive was the program Bush initially implemented following the 9/11 attacks? Did it include strictly domestic communications?

As the *World Socialist Web Site* noted after Comey’s testimony in May, “One reason to suppose that purely domestic spying was involved was the close involvement of Mueller, the head of the FBI, in the dispute between Comey and the White House. The FBI is involved primarily in domestic spying, while the NSA and CIA spy internationally. According to Comey, Bush met personally with Mueller to help work out a compromise. The NSA was apparently not involved at all in these discussions. Why was Mueller involved? Was he upset about the encroachment of the NSA into the FBI’s traditional field of operations?” (See “How extensive is police state spying in the US?”)

Whatever the nature of the undisclosed spying operations, it is virtually certain that leading Democrats have known about them for years. In March 2004, the Bush administration met with four Republican and four Democratic legislators (the majority and minority leaders of both houses, and the chairman and ranking minority member in the intelligence committees of both houses). At this meeting, the NSA program to which Comey objected was discussed.

According to a statement issued this week by Democratic Speaker of the House Nancy Pelosi, who was present at the meeting, a majority of those present (which means at least one Democrat) supported the continuation of the program.

Even as they find themselves embroiled in a confrontation with the Bush White House, the Democrats continue to conceal the more fundamental questions of democratic rights underlying both the US attorney purge and the domestic spying programs, and seek to divert attention from their own complicity in the administration’s police state measures.



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