

House Republicans back contempt charges against US Attorney General

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By a straight party-line vote Wednesday, the Republican majority of the House Oversight and Government Reform Committee approved contempt of Congress charges against Attorney General Eric Holder.

Following the 23-17 vote at the conclusion of a rancorous day-long hearing, Republican leaders said they would schedule a vote by the full House of Representatives next week, unless the Obama administration agrees to hand over documents detailing internal Justice Department discussions on the so-called “Fast and Furious” program.

The actual legal consequences of the House vote are nil, since any contempt charge would then be referred for prosecution to the US attorney for the District of Columbia, a direct subordinate of the attorney general. In the two previous instances over the past 30 years where the House has voted such a contempt citation, the US attorney has declined to prosecute, the House has filed suit, and court proceedings dragged on for years, with an eventual out-of-court settlement.

In an effort to forestall the contempt citation, the Obama White House asserted executive privilege over the documents, which included thousands of emails in which Justice Department officials discussed how to respond to congressional demands for information on the abortive program for monitoring the sale of guns along the US-Mexican border.

The program, initiated under the Bush administration and then revived and renamed “Fast and Furious” under the Obama administration, was known as “gun-walking.” It involved permitting agents of Mexican drug cartels to buy guns in the US and take them into Mexico, with the stated aim of tracing the further use of the guns to gain information about the drug gangs’ operations.

The Phoenix office of the Bureau of Alcohol, Tobacco, Firearms and Explosives, which ran the operation, reportedly lost track of more than 2,000 weapons, several of which were later linked to the killings of two federal agents—Brian Terry of the Border Patrol and Jaime Zapata of the Drug Enforcement Administration.

Many questions are raised by the “Fast and Furious” program. According to some reports, the program routed guns to the Sinaloa Cartel to the disadvantage of other Mexican gangs, in return for the cartel’s depositing billions in drug proceeds with American banks, and increasing its deposits during the 2008-2009 Wall Street crisis.

The House oversight committee has avoided any serious investigation, however, in favor of escalating demands for document production in an effort to substantiate allegations that Justice Department officials, and Holder personally, lied to the committee about what they knew about “Fast and Furious” and when they knew it.

Instead of calling officials from the Phoenix BATF as witnesses, and putting the spotlight on what is still an extremely murky covert operation, Chairman Darrell Issa, a Republican from San Diego, California, has sought to use the probe as a means of undermining Holder, who claims not to have known about “Fast and Furious” until after the Phoenix unit shut it down.

There are staggering contradictions in the positions of both big business parties. Holder is one of the highest-profile defenders of the Obama administration’s attacks on democratic rights. Under his leadership, the Department of Justice has asserted that there is a legal basis for the president to designate American citizens for assassination by remote-controlled drones. In a major speech earlier this year, Holder defended the

“right” of the president to order the killing or indefinite detention of an American citizen as a suspected terrorist, on his own authority, without any judicial proceeding or oversight.

These sweeping assertions of dictatorial powers are not the target of the Republican investigation, however. On the contrary, they supported police-state powers for the president during the Bush administration and still do so now that Obama is in the White House. They are pressing the “Fast and Furious” investigation merely as a means of undermining the Obama administration and replacing Obama with a Republican “commander-in-chief.”

For its part, the Obama administration has responded to the politically motivated attack on Holder by reaching for a typically reactionary counterstroke, the assertion of executive privilege, the legal claim first brought to public notoriety in the response of President Richard Nixon to the Watergate scandal.

Executive privilege, like the “state secrets” doctrine now routinely asserted by US administrations in court cases involving illegal spying and torture by US intelligence agencies, appears nowhere in the US constitution or in any law passed by Congress. Both are doctrines invented as protection for the increasingly unrestrained assertion of executive power, first during the Cold War and now during the so-called “war on terror.”

The Bush administration asserted executive privilege six times, most notably to protect Bush and his top political aide, Karl Rove, from charges that they had conspired to remove federal prosecutors from office because they had declined to bring bogus vote fraud cases against prominent Democrats or groups aligned with the Democratic Party.

The last contempt citation for a US attorney general arose out of that conflict, when a House committee charged Bush appointee Michael Mukasey in June 2008. The Democratic House leadership decided not to press the issue, however, given the proximity to the presidential election, and did not bring the citation to a vote by the full House. The Republican House leadership this year seems likely to go forward with such a vote, however.

The invocation of executive privilege by Obama produced a strident reaction from Republican senators and congressmen. Senator Charles Grassley exclaimed

that the intervention of the White House raised “monumental questions.” He continued, “How can the President assert executive privilege if there was no White House involvement? How can the President exert executive privilege over documents he’s supposedly never seen? Is something very big being hidden to go to this extreme?”

Similar comments could be quoted, identical in nearly every respect, from Democratic senators and congressmen responding to claims of executive privilege by George W. Bush. The two parties are consistent only in their complete support for attacks on democratic rights and assertions of dictatorial power when they are in control of the White House.

The hypocrisy notwithstanding, Obama’s assertion of executive privilege raises serious questions about what the administration is seeking to hide. While as yet no evidence has surfaced implicating the White House in the discussions on how to respond to inquiries about “Fast and Furious,” undoubtedly the Obama administration—together with the security and intelligence apparatus—is determined to maintain strict limits on what can be disclosed to Congress about US covert operations, whatever the motivations or political allegiances of the senators and congressmen involved.



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