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ONE HUNDRED TENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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WASHINGTON, DC 20515-6143

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BILL SALLI, IDAHO

July 25, 2007

The Honorable Alberto Gonzales  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530

Dear Mr. Attorney General:

Since March, the Committee has been examining why White House officials used e-mail accounts operated and controlled by the Republican National Committee for official government business, apparently in violation of the Presidential Records Act. I am writing to request information about your knowledge of this practice while you served as White House Counsel.

On June 18, 2007, I released an interim report prepared by the majority staff on the status of the Committee's investigation.<sup>1</sup> This report found that at least 88 White House officials had RNC e-mail accounts, more than the White House had previously acknowledged. It also found that although the RNC has preserved 674,367 e-mails to or from White House officials on RNC accounts, there was extensive destruction by the RNC of White House e-mails. Of the 88 White House officials who received RNC e-mail accounts, the RNC preserved no e-mails for 51 officials. In general, the RNC appears to have destroyed most of the e-mails sent or received by White House officials prior to 2006.

The interim report described evidence that as early as 2001, the Office of White House Counsel, which you ran, may have known that White House officials were using RNC e-mail accounts for official business, but took no action to preserve these presidential records. In a deposition before the Committee on May 10, 2007, Susan Ralston, Karl Rove's former executive assistant, testified that she and Mr. Rove searched for e-mails on his political accounts in response to requests from two different investigations. Ms. Ralston stated that in 2001, Mr. Rove was asked to search his political computer in response to a request relating to an investigation involving Enron. She testified that your office would have known about these

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<sup>1</sup> Majority Staff, House Committee on Oversight and Government Reform, *Interim Report: Investigation of Possible Presidential Records Act Violations* (June 18, 2007) (online at <http://oversight.house.gov/story.asp?ID=1362>).

searches “because all of the documents that we collected were then turned over to the White House Counsel’s office.”<sup>2</sup> According to Ms. Ralston, this investigation was related to the Vice President’s energy task force and contacts with Enron.<sup>3</sup>

In addition, Ms. Ralston testified that Mr. Rove searched his RNC e-mail account in response to several subpoenas from Patrick Fitzgerald during the investigation of the leak of the identity of CIA officer Valerie Plame Wilson. She testified that your office also knew about these searches and received copies of the search results.<sup>4</sup>

It would be a matter of serious concern if you or other attorneys in the Office of White House Counsel were aware that White House officials were using RNC e-mail accounts to conduct official White House business, but ignored these apparent violations of the Presidential Records Act. To assist the Committee in investigating this issue, I ask that you respond to the following questions from the Committee:

- (1) During the time that you served as White House Counsel, were you aware that White House officials used nongovernmental email accounts to conduct official business? If so, how did you first become aware of this practice?
- (2) Did the White House Counsel’s office instruct White House officials regarding appropriate searches of nongovernmental computers and e-mail accounts in response to investigative requests for documents? If so, what were the instructions?
- (3) Did the White House Counsel’s office receive copies of e-mails sent to or from nongovernmental e-mail accounts by White House officials in connection with investigations related to Enron or the Vice President’s energy task force, the leak of Ms. Wilson’s identity, or any other investigation? If so, for what investigations did your office receive such e-mails?
- (4) What steps did the White House Counsel’s office take to ensure the preservation of official e-mails sent to or from nongovernmental accounts?
- (5) Did you learn at any time that White House officials continued to use these nongovernmental e-mail accounts for official business after they were instructed not to?

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<sup>2</sup> Deposition of Susan Ralston by the House Committee on Oversight and Government Reform (May 10, 2007) (online at <http://oversight.house.gov/story.asp?ID=1362>).

<sup>3</sup> Phone call between Staff, House Committee on Oversight and Government Reform, and Susan Ralston (May 18, 2007).

<sup>4</sup> Deposition of Susan Ralston by the House Committee on Oversight and Government Reform (May 10, 2007) (online at <http://oversight.house.gov/story.asp?ID=1362>).

The Honorable Alberto Gonzales  
July 25, 2007  
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Please provide responses to these questions by August 17, 2007.

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. If you have any questions about this request, please contact David Rapallo or Anna Laitin with the Committee staff at (202) 225-5420.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive, slightly slanted style.

Henry A. Waxman  
Chairman

cc: Tom Davis  
Ranking Minority Member

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BILL SALI, IDAHO

### Responding to Oversight Committee Document Requests

In responding to the document request from the Committee on Oversight and Government Reform, please apply the instructions and definitions set forth below.

#### Instructions

1. In complying with the request, you should produce all responsive documents in your possession, custody, or control.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in the request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
4. Each document produced should be produced in a form that renders the document capable of being copied.
5. When you produce documents, you should identify the paragraph or clause in the Committee's request to which the documents respond.
6. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production.
7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph or clause of the request to which the documents are responsive, should be provided in an accompanying index.
8. It is not a proper basis to refuse to produce a document that any other person or entity also possesses a nonidentical or identical copy of the same document.

9. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above. Documents produced in an electronic format should also be produced in a searchable format.
10. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
12. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. This request is continuing in nature and applies to any newly discovered document. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
14. All documents should be bates-stamped sequentially and produced sequentially.
15. Two sets of documents should be delivered, one set to the majority staff and one set to the minority staff. The majority set should be delivered to the majority staff in Room 2157 of the Rayburn House Office Building, and the minority set should be delivered to the minority staff in Room B350A in the Rayburn House Office Building. You should consult with Committee staff regarding the method of delivery prior to sending any materials.
16. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee or identified in a privilege log provided to the Committee.

## Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto). The term also means any graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “documents in your possession, custody, or control” means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that you have placed in the temporary possession, custody, or control of any third party.
3. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
4. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of the request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The terms “person” or “persons” means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures,

proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms “referring” or “relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.