

From: Smith, Brad (ODAG)
To: Simpson, Tammi (OLA)
Sent: 5/25/2011 10:21:50 PM
Subject: FW: Read-out of my meeting with Chambliss and Grassley staffs re Cole / doc requests:
Attachments: 2011-05-16 CEG to DOJ.PDF

I just threw up and killed a rainforest somewhere with the printing we've completed. Gulp.

From: Weich, Ron (SMO)
Sent: Wednesday, May 25, 2011 5:47 PM
To: Grindler, Gary (OAG); Richardson, Margaret (SMO); Goldberg, Stuart (ODAG); Delery, Stuart F. (OAG); O'Neil, David (ODAG); Burton, Faith (SMO); Axelrod, Matthew (ODAG); Smith, Brad (ODAG)
Subject: Read-out of my meeting with Chambliss and Grassley staffs re Cole / doc requests:

I met with Kolan Davis (Grassley) and Martha Scott Poindexter (Chambliss) this afternoon. It was a mixed bag. On the one hand they were both in a pragmatic, constructive mode -- we all agreed this is a dispute that can be solved with good faith on all sides. On the other hand, there are remaining asks on both fronts, some of which represent steps backwards from what we thought were each member's position.

(I'm including Faith, Matt A and Brad here because the discussion implicates their ongoing efforts regarding Gunrunner oversight and the Gitmo worksheets, respectively.)

On the Chambliss front, the backward steps are: (1) contrary to my tentative understanding with Martha Scott, in addition to the recommendation sections on the first and last page of the worksheets, they want us to un-redact the prior recommendations section that may appear in some of the documents; and (2) they want the Matt Olsen briefing in advance of any agreement to make sure it is sufficient.

I pushed back hard on both of these demands. With respect to prior recommendations, I said this was a deeper level of deliberation - recommendations in advance of recommendations - and we would not be able to get interagency approval to provide those. Martha Scott said that Chambliss told the AG on the phone this morning that he needs all recommendations. So this is a serious sticking point.

With respect to the Olsen briefing, I said we could not provide this very sensitive briefing for nothing; it needs to be part of the resolution. Martha Scott asked whether there is any ambiguity about whether Matt would be briefing about the memo itself and would be prepared to answer questions about the memo itself. I confirmed that Matt will be prepared to talk about the memo itself, and reiterated the Attorney General's willingness (earlier expressed to Sen. Chambliss) to meet with members eventually if needed. She then seemed to back off the new demand re: the timing of the briefing, but says she will need to discuss this aspect with Chambliss.

On the Grassley front, the good news is that Kolan is no longer asking us to satisfy the laundry list of demands in Grassley's May 16 letter (attached here:)

But he is asking for something more than the letter Leahy offered Grassley. He was vague about what more might be needed - I think he doesn't know what Grassley would settle for, and it is clear that Grassley's price may go down if Chambliss is truly solved and Grassley becomes an obstacle to Chambliss getting his documents. As I have suggested to Matt,

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Kolan also raised other points,

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n They want the Leahy letter to apply to witness interviews as well as documents (no surprise).

- n If they accept the Leahy letter, they want assurances that we won't treat Leahy as a gatekeeper for each document review or witness interview. In other words Grassley staff could accompany Issa staff to DOJ to review documents or to a witness interview, whether or not Leahy staff decides to attend any particular session.

- n They object to our insistence (recently conveyed by Faith and Matt to Issa staff) that DOJ lawyers be present during congressional interviews. Based on what Faith told me, I said the witnesses in question are ATF managers/officials who are not volunteering to be interviewed and therefore they may want agency lawyers present. He said that may be true for some but not all, and asked whether we would consider a protocol that gives the witness a say in whether agency lawyers will be present. He argued that if the witness wants to be a whistleblower, the presence of agency lawyers is intimidating.

- n Kolan asked the question: If Issa eventually gets documents pursuant to subpoena, will we provide them to Grassley as well even though he doesn't have subpoena power?

I agreed to take these issues/questions back to the Department.

Obviously there are still many moving parts.

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