

**Statement of Rep. Henry Waxman  
Hearing on Justice Department Subpoena Compliance  
December 13, 2001**

I am pleased that we are holding this important hearing today. It addresses a fundamental issue in our democracy: the accountability of the executive branch to Congress and the American people.

Let me begin by saying that I have often disagreed with Chairman Burton when it comes to this Committee's investigations and its criticisms of the Justice Department. In fact, I and other Democrats on this Committee strongly opposed his efforts to hold Attorney General Reno in contempt for refusing to turn over the Freeh and La Bella memos more than three years ago. I remember hearing both Mr. Freeh and Mr. La Bella testify how release of those memos would devastate the Justice Department's ongoing campaign finance investigation. For that reason, I thought it would be unwise for our Committee to enforce the subpoena.

But today, I find myself in an unusual position. I agree with Chairman Burton. The Justice Department's new policy not to turn over any deliberative documents to Congress that relate in any way to criminal cases -- even closed criminal cases -- goes too far.

Over the past five years, Chairman Burton often complained of stonewalling by the Clinton Administration. I don't want to re-live those battles, but I have to say that compared to this Administration, the Clinton Administration was an open book. The sheer volume of information provided to this Committee -- over 1.2 million pages -- dwarfs what the Bush Administration has supplied. Moreover, we received details of discussions between President Clinton and his closest advisors, internal e-mails from the Office of the Vice President, documents describing contacts between the Administration and campaign contributors, and confidential communications from the White House Counsel's office. In the pardon controversy after he left office, President Clinton allowed his lawyers and most senior advisors to testify before our Committee, and he allowed the Committee staff to review raw notes of his conversations with a foreign head of state.

My staff has prepared a report detailing the extent of the information produced by the Clinton Administration. I ask unanimous consent that it be introduced into the record of this hearing.

The Bush Administration is taking a completely different approach. The Bush Administration appears to believe it is entitled to operate outside the public eye and outside the view of its elected representatives in Congress. For example --

- President Bush unilaterally issued an Executive Order that changed the disclosure requirements in the Presidential Records Act of 1987. His Order drastically restricts public access to important Presidential records.

- Congressman Dingell and I -- along with the General Accounting Office -- have been trying since April to find out how Vice President Cheney's energy task force operated. There have been news reports that the task force met privately with major campaign contributors to discuss energy policy, while environmental and consumer organizations were denied similar access. One of those contributors, of course, is Kenneth Lay, the CEO of Enron. But the White House has refused to turn over the relevant information to us or the General Accounting Office.
- The Bush Administration has adopted positions in the international negotiations over the Framework Convention on Tobacco Control that would weaken the treaty and benefit tobacco companies that have been major contributors to the Bush campaign. In fact, I obtained information that indicates that U.S. negotiators supported 10 of the 11 weakening changes sought by Philip Morris. I have written to the President and other executive branch agencies to learn the basis for these positions, but the Administration has refused to provide most of the relevant information.

This hearing today focuses on another troubling example of an Administration loath to face scrutiny. There have been well publicized allegations that FBI agents in the Boston office of the FBI willfully ignored crimes committed by confidential informants and cooperating witnesses who gave them information on organized crime in New England. These allegations have been substantiated. Judge Mark Wolf, a United States District Judge in Boston, conducted extensive evidentiary hearings in 1998. He found instances of extensive misconduct and criminal conduct in that office. A former special agent, John Connelly, is now under indictment.

Yet despite this record, the Attorney General is refusing to turn over key materials relating to these allegations. These materials include documents that relate to closed cases that this Committee is clearly entitled to receive.

I believe the Administration needs to be more forthcoming with this Committee and the Congress. An Imperial Presidency -- or an Imperial Justice Department -- conflicts with the fundamental democratic principles of our nation.