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ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

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MAJORITY (202) 225-5074
MINORITY (202) 225-5051
TTY (202) 225-6852

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April 3, 1998

The Honorable Dan Burton
Chairman
Committee on Government Reform and Oversight
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to reiterate my objections to the procedures that were employed on April 1 to compel the testimony of Marsha Scott, the deputy director of the White House Office of Personnel, at a hearing of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs. These procedures were an affront to fairness, bipartisanship, and our rules and precedents. They were also extraordinarily discourteous to a witness who had already been forced to testify for 36 hours in seven days of depositions.

First, I object to the fact that Marsha Scott was issued a subpoena on the afternoon of April 1 to testify at a hearing scheduled for 8:00 p.m. that night. This subpoena was issued in violation of the Document Protocol that the Committee adopted on April 10, 1997. Under section A(2) of the Document Protocol, the Chairman is required to "notify the ranking minority member of the proposed subpoenas at least twenty-four hours before the Chairman issues the subpoenas." In this case, no such notice was provided. The exception that allows you to issue subpoenas if "delay in issuance could hinder or compromise the Committee's ability to obtain ... testimony" is obviously inapplicable. There was no threat that Ms. Scott would be unavailable to answer questions at a later date.

Second, I object to the fact that the hearing was scheduled with only four hours notice to the minority. The rules of the House (rule XI clause 2(g)(3)) and the Committee (rule 12) provide that the minority should receive seven days notice. Although there is an exception in the rules for shorter notice if the Committee determines there is "good cause," this provision has never been used before in our Committee without the consent of the minority. Moreover, to the best of my knowledge, no Democratic chairmen of any committee ever used this authority over the objections of the minority. While it is true that the majority has the power under the rules to deny the minority seven days notice, this does not make your exercise of the power right.

The rationale for these regrettable actions was that immediate action was necessary

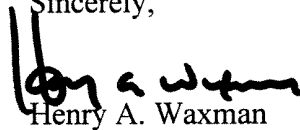
The Honorable Dan Burton
April 3, 1998
Page 2

because the witness had walked out of a deposition in defiance of a subpoena. While I do not condone defiance of congressional subpoenas, the reckless and frivolous use of that power creates a different perspective. I find it hard to blame Ms. Scott for her actions since she has few options short of defiance when the subpoena and deposition power is grossly abused.

This was certainly the case in this instance. As I wrote to you on April 1, Ms. Scott's treatment by you and your staff has been unreasonable and harassing. Although she has not been charged with any wrongdoing and has little relevant information, she has been forced to testify for 36 hours in seven days of depositions before Senate and House investigators, including 18 hours of depositions over four days before our Committee.

While I am glad that we reached an accommodation at the last minute that avoided the need to proceed with the April 1 hearing, surely there must be a point when this kind of abusive treatment of witnesses will cease.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry A. Waxman".

Henry A. Waxman
Ranking Minority Member

cc: Members of the Committee on Government Reform and Oversight