



UNITED STATES DEPARTMENT OF JUSTICE

Press Conference

THE HONORABLE JANET RENO, ATTORNEY GENERAL

Tuesday, August 4, 1998

2:30 p.m.

P R O C E E D I N G S

(2:30 p.m.)

ATTORNEY GENERAL RENO: Good afternoon.

I asked today to appear before the House Government Reform and Oversight Committee, because I bear ultimate responsibility for the Department of Justice's decision, and the buck stops with me. Chairman Burton refused my request to appear.

I greatly respect the system of checks and balances that our Founding Fathers established. It is a pretty remarkable system. They wisely assigned each branch of government a distinct and a limited role. One of Congress' important roles is to oversee the work of the executive branch in order to better carry out Congress' legislative duties. Among the executive's most important function is the prosecution of criminals, making sure innocent people are not charged, and punishing wrongdoing.

When there is disagreement between the branches, our task as public servants is to find solutions, to work together to find solutions, that permit both branches to do their jobs.

As you know, the Department of Justice is conducting an investigation into allegations of criminal activity surrounding the financing of the 1996 presidential election. In that investigation, we have charged 11 persons to date, and the

investigation is still very much ongoing.

More than 120 dedicated prosecutors, agents and staff are working across the country. And many targets, suspects and defense lawyers are watching our every move, hoping for clues that will help tip them off and help them escape the law's reach.

The Committee has demanded that I provide two memos to the Committee. We have reviewed the request and the demand carefully. Director Freeh and I agree that we cannot hand over these memos.

Indeed, no Attorney General has turned over documents like this under such circumstances.

This past Friday, Director Freeh and I also visited the Chairman and ranking member in order to seek an accommodation that would enable us all to perform our duties without confrontation. We explained that the LaBella memo contained an extensive analysis on campaign finance and on the investigation, that we need to review it carefully and very thoroughly, and that when I finish my review, I may or may not ask for the Independent Counsel Act to be triggered.

We offered to provide a confidential briefing to the Chairman and ranking member at the conclusion of my review on any matter that was not 6(b) material and that would not adversely impact the pending criminal investigation. We advised that the review should be complete within about 3 weeks.

Chairman Burton rejected this offer, and said that the Committee would cite me for contempt if I did not turn over the memos.

I am reviewing both memos with an open mind. If I do decide to trigger the appointment of an independent counsel, he or she would certainly not want this memo to be public. If I do not trigger the Act, the criminal investigation would nonetheless continue.

The reasonable course of action is for us to complete the review in a professional and orderly manner, and then to determine what steps need to be taken. No Attorney General has ever turned over such documents under such circumstances. Let me explain why.

According to Director Freeh and Mr. LaBella, both memos offer a road map to confidential, ongoing criminal investigations. Even excluding the grand jury information, which the Committee is not seeking, such documents lay out the

thinking, theories and strategies of our prosecutors and investigators, and the strengths and weaknesses of our cases. They talk about leads that need further investigation.

Even when conducting vigorous oversight, Congress has historically respected this position, in part, because of a bipartisan understanding that law enforcement must be free from even the appearance of partisan political tampering. And the Justice Department has adhered to this position throughout this century.

Consider the words of Attorney General Robert H. Jackson, who later served on the Supreme Court: It is the position of the Department that all investigative reports are confidential documents of the executive department of the government, to aid in the duty laid upon the President by the Constitution, to take care that the laws be faithfully executed and that congressional or public access to them would not be in the public interest.

Twelve years ago, the head of the Justice Department's Office of Legal Counsel, during President Reagan's administration, Charles J. Cooper, added other concerns, including well-founded fears that the perception of the integrity, impartiality and fairness of the law enforcement process as a whole will be damaged if sensitive material is distributed beyond those person's necessarily involved in the investigation and prosecution process.

Now, the Chairman has cited several examples that he claims contradict these longstanding opinions. We have analyzed these examples. And none of them deal with the demand the Committee made to turn over law enforcement sensitive documents during a pending criminal investigation.

To give in to the Committee's demands creates a precedent for Congress, demanding the prosecution's most sensitive strategy memos and making them public to everyone, including the defendant's legal team. Chairman Burton told me Friday that if I triggered the appointment of an independent counsel, I would not have to produce the memos.

If I give in to that suggestion, then I risk Congress turning all decisions to prosecute into a political football. That is simply wrong. And I will not willingly allow that to happen. Politics does not belong in prosecution.

If future Attorneys General know that the innermost thinking behind their toughest law enforcement decisions will become fodder for partisan debate, then we risk creating a Justice Department and an FBI that tack to political winds instead of following the facts and the law wherever they lead.

If future law enforcement officials cannot provide advice that is candid and confidential, we will have a government of "yes persons," who advocate what is popular instead of what is right.

And if future Congresses can poll the Attorney General's advisors or line attorneys in order to ferret out and promote opinions they approve of, then every controversial law enforcement decision will be tainted in the public's eye.

All of these concerns are most acute when Congress demands information and seeks to pressure me on a sensitive law enforcement decision that I have not yet made. For as long as I am Attorney General, I am going to try to do my level best to uphold my oath to the Constitution and to make the right decisions.

I will try to respond to the Committee's request as best I can. But my oath to the Constitution will mean nothing if I threaten pending cases and future Attorneys General by handing over documents that must remain confidential if law enforcement is to be free of political tampering and investigators are able to follow every lead to see that justice is done.

QUESTION: (Off microphone) --

ATTORNEY GENERAL RENO: I have had no discussions on that with anyone involved in that process. I will say that he has been an absolutely wonderful Assistant United States Attorney and an excellent, excellent Acting United States Attorney.

QUESTION: (Off microphone) -- you recommend that he -- (off microphone) --

ATTORNEY GENERAL RENO: I did not have any discussions. I do not usually.

QUESTION: Ms. Reno, you mean no one asked you -- (off microphone) -- U.S. Attorney -- (off microphone) --

ATTORNEY GENERAL RENO: No, they did not.

QUESTION: On the release of these documents, the Chairman said repeatedly today that you would not have to hand them over if executive privilege were invoked. Does that strike you as a possibility?

ATTORNEY GENERAL RENO: I have made my position clear. I have an obligation to protect the integrity of the ongoing investigation. I cannot provide the

Committee with confidential information. I also have an obligation to my employees, and I am going to make sure that I do everything I can to work out these issues with the Committee.

QUESTION: To follow up on Jerry's question, Ms. Reno, you have cited the Chuck Cooper opinion several times in your -- (off microphone) -- back and forth with the Chairman. But the Cooper opinion stated that once the Attorney General has received a subpoena, if the investigation on the Hill is appropriate, then the only response you would have is executive privilege to withhold subpoenaed documents.

ATTORNEY GENERAL RENO: I think in this instance we have the longstanding position of the Department of Justice that pending law enforcement investigations should be confidential.

QUESTION: But do you agree with the Cooper conclusion that the only way to withhold it from Congress, in the face of the subpoena, is executive privilege?

ATTORNEY GENERAL RENO: Again, what we are trying to do is to focus on the longstanding position of the Department of Justice, and do everything we can to make sure that the integrity of investigations and prosecutions are maintained.

QUESTION: Have you considered asking the White House to invoke executive privilege to preserve that integrity?

ATTORNEY GENERAL RENO: I have not been in touch with the White House on this matter.

QUESTION: Ms. Reno, are we safe in assuming that these memos are sealed off from the White House -- (off microphone)?

ATTORNEY GENERAL RENO: Yes.

QUESTION: Ms. Reno, part of the wrangling and Mr. Burton has complained that he received no notice from you of your -- (off microphone) -- this morning, and that the notice came through Mr. Waxman, and that your letter was read by Mr. -- (off microphone) -- and it seemed very partisan that your particular point of view was very partisanly carried by the Democrats on the Committee.

ATTORNEY GENERAL RENO: What I did was, on Friday, I went to visit with Chairman Burton and Mr. Waxman. He rejected my request. Then, over the weekend, I had the opportunity to talk with Senator Hatch, and then on Monday

with Congressman Hyde. And I think we reached an accommodation.

I had hoped -- and through phone calls with various members, we were trying to see whether we could effect an accommodation. As it became apparent throughout the night and then this morning, I wanted very much for the Committee to know straight from me just what my position was. And for that reason I asked what the appropriate protocol was. It was suggested that I should call the Congressman, and I did so.

QUESTION: Is Harold Ickes a covered person under the law?

ATTORNEY GENERAL RENO: I am not discussing any of the issues that might or might not be raised.

QUESTION: Can you talk about what you will do and what the Justice Department can do if they vote a contempt of Congress citation against you?

ATTORNEY GENERAL RENO: What I will continue to do is do everything I can -- which I think is incumbent upon us all -- to work out an accommodation that permits Congress to exercise its oversight function and yet maintains the integrity of the pending investigation. We have been able to do that with Congressman Hyde and Senator Hatch's request for the report, and we have an understanding, and I trust that we can work it out with all concerned.

QUESTION: Ms. Reno, it is by no means certain that this will be carried out. But if it is, aren't you required to -- if it is referred to the U.S. Attorney's Office here in town -- (off microphone) -- you have to recuse yourself; it would then devolve upon the Deputy Attorney General as to whether this contempt citation -- (off microphone) --

ATTORNEY GENERAL RENO: Yes, it would.

It would not devolve upon him; it would probably devolve upon him to make any decision with respect to the Independent Counsel Act. And then, that being triggered, either the United States Attorney or whomever the Special Division appointed would be the deciding --

QUESTION: Ms. Reno, you said it would be 3 weeks, about, before you made up your mind on the LaBella recommendations. Can you give us some idea of the process in the 3 weeks, and do you meet with a number of people, do you meet with one advisor?

ATTORNEY GENERAL RENO: What I did when I got the report was to read it myself, but also to set up a process such as we utilize when we try to reach decisions on all matters, making sure that everybody who had participated in these decisions had an opportunity to read the memorandums, read the extensive exhibits, and make appropriate comments through prepared memoranda.

My hope is then -- and I have talked with Mr. LaBella about the fact that after the memoranda are there, people have the opportunity to read them and carefully consider them -- that we will then have an extensive discussion.

QUESTION: Will that include him as well?

ATTORNEY GENERAL RENO: It will.

QUESTION: He said today that the evidence is confidential and it is not expected -- according to what you told him -- until after you have completed your review.

ATTORNEY GENERAL RENO: I talked to him Sunday night when he came in to let him know what I anticipated. But it does not make any sense until people have had a chance to read everybody's memorandum and we can have a full and complete discussion.

QUESTION: Are you going to consult with him before you make your final decision?

ATTORNEY GENERAL RENO: Yes.

QUESTION: Mr. Mica made a point that what was of interest really wasn't true. It is not a confrontation, not a conflict, not a constitutional crisis, but the truth. And there has been so much that has been published about both memos, and apparently most of it accurate -- though the gentlemen wouldn't comment on that -- and they simply want to know what is true and what is not.

Could there be some way that Justice could accommodate them about learning what -- the Chairman and the other Republicans -- essentially knowing what is true in those memos?

ATTORNEY GENERAL RENO: What we have proposed and what Senator Hatch and Congressman Hyde have accepted, as a response to their request for the report, is that when I complete the review, depending on what my decisions are,

that I brief them as, again, I may, depending on what happens, trigger the Independent Counsel Act; I may not. I do not know. I am trying to keep an open mind and explore all the issues.

And if it is appropriate, if I have not triggered the Act, then what I would propose to do is to continue the investigation, and brief the Chairman and the ranking member, in a confidential briefing, on all aspects of the investigation that did not -- and the parts of the report -- that did not impact on the pending investigation or contain 6(e) material.

QUESTION: Yes, ma'am, but with regard to the 3 weeks. Those 3 weeks now are for your people to -- (off microphone) -- the LaBella report; are you up to speed, ready to make your -- have your input into this at this time?

ATTORNEY GENERAL RENO: What I explained just a moment ago was that we have a process that we usually try to follow. For example, the Solicitor General, when he makes a decision as to what position the government will take, will hear from the various components who have had an interest in the particular issue or who want to offer their opinions. They will prepare memoranda and cite cases. And often then, if there is not a consensus reached, there will be further discussions. And that is what I would anticipate.

QUESTION: It is the process that needs 3 more weeks; is that correct?

ATTORNEY GENERAL RENO: That would be a good way to describe it.

QUESTION: (Off microphone) -- explain at all in public why you are not seeking an independent counsel -- (off microphone)? And with such a drumbeat and -- (off microphone) -- on the Hill, don't you think that this is really debilitating --

ATTORNEY GENERAL RENO: Are you being a drumbeat?

(Laughter.)

QUESTION: But don't you think this is really debilitating to the public's perception of the Department of Justice?

ATTORNEY GENERAL RENO: I think the public understands what we are trying to do. And I am going to continue to do everything I can to make sure that I call it like I see it, that I do not give in to the drumbeat, whether it be from the press or from the Hill, that I do it the right way. And sometimes it is hard, but you wake up the next morning feeling better about yourself.



QUESTION: You said that you spoke to Congressman Hyde and Senator Hatch, and that you had reached some kind of accommodation with them. Did they give you their reaction to Congressman Burton levelling a threat to give you a contempt citation -- (off microphone) -- or do you think you might get some support from them?

ATTORNEY GENERAL RENO: I did not want to do anything. I think they would have their own conversations.

QUESTION: Did you personally speak with Mr. Burton this morning? And if you did, what was his excuse for refusing to let you come and talk to him?

ATTORNEY GENERAL RENO: He said no, he would not, and that he would be happy to let me come at some other time.

QUESTION: (Off microphone) -- there are situations where you have to -- (off microphone) -- appointment of an independent counsel where the law does not require you to do so?

ATTORNEY GENERAL RENO: The statute provides for it.

Thank you very much.

(Whereupon, at 2:50 p.m., the press conference concluded.)