[Letter from Fred F. Fielding, Counsel to the President, to George T. Manning, Esq., Jones Day (Jul. 10, 2007), *reprinted in reprinted in Continuing Investigation Into the U.S. Attorneys Controversy and Related Matters (Part III): Hearing before the Subcomm. on Commercial and Administrative Law of the H. Comm. on the Judiciary*, 100th Cong. 21 (Jun. 28, 2007).]

**THE WHITE HOUSE**

WASHINGTON

July 10, 2007

Dear Mr. Manning:

On behalf of your client, former Counsel to the President Harriet E. Miers, you have asked us whether, in view of the President's assertion of Executive Privilege over Ms. Miers' testimony relating to the U.S. Attorneys matter, she must appear at the House Judiciary Committee meeting scheduled for Thursday, July 12, 2007.

We have been advised by the Department of Justice that Ms. Miers has absolute immunity from compelled Congressional testimony as to matters occurring while she was a senior advisor to the President. *See* [Attachment A](https://docs.google.com/document/d/11JfFyrNRIixvamsymV9D9syCleG7LQ5K-wVpT-tP78U/edit) (*Memorandum for the Counsel to the President re: Immunity of Former Counsel to the President from Compelled Congressional Testimony*, dated July 10, 2007). As the Department's opinion points out, “[t]he President and his immediate advisors are absolutely immune from testimonial compulsion by a Congressional committee.” Assertion of Executive Privilege with Respect to Clemency Decision, 23 Op. O.L.C. 1,4 (1999) (opinion of Attorney General Janet Reno). That immunity arises from the President's position as head of the Executive Branch and from Ms. Miers' former position as a senior advisor to the President. Ms. Miers cannot be compelled to appear before Congress because "[s]ubjecting a senior presidential advisor to the congressional subpoena power would be akin to requiring the President himself to appear before Congress on matters relating to his constitutionally assigned functions.” 23 Op. O.L.C. at 5. As Congress is aware, this constitutional immunity exists to protect the institution of the Presidency and, as the Department's opinion illustrates, this position has been shared by numerous Administrations, Republican and Democratic, for more than 60 years.

Therefore, in view of this constitutional immunity, I respectfully request that you inform Ms. Miers that the President has directed her not to appear at the House Judiciary Committee hearing on Thursday, July 12, 2007.

Please contact me if you have any questions or would like to discuss these issues.

Sincerely,

/s/Fred F. Fielding

Fred F. Fielding

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