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Memorandum on the Congressional Subpoena for Executive Branch Documents

December 12, 2001

Memorandum for the Attorney General

Subject: Congressional Subpoena for Executive Branch Documents

I have been advised that the Committee on Government Reform of the House of Representatives has subpoenaed confidential Department of Justice documents. The documents consist of memoranda from the Chief of the Campaign Financing Task Force to former Attorney General Janet Reno recommending that a Special Counsel be appointed to investigate a matter under review by the Task Force, memoranda written in response to those memoranda, and deliberative memoranda from other investigations containing advice and recommendations concerning whether particular criminal prosecutions should be brought. I understand that, among other accommodations the Department has provided the Committee concerning the matters that are the subject of these documents, the Department has provided briefings with explanations of the reasons for the prosecutorial decisions, and is willing to provide further briefings. I also understand that you believe it would be inconsistent with the constitutional doctrine of separation of powers and the Department's law enforcement responsibilities to release these documents to the Committee or to make them available for review by Committee representatives.

It is my decision that you should not release these documents or otherwise make them available to the Committee. Disclosure to Congress of confidential advice to the Attorney General regarding the appointment of a Special Counsel and confidential recommendations to Department of Justice officials regarding whether to bring criminal charges would inhibit the candor necessary to the effectiveness of the deliberative processes by which the Department makes prosecutorial decisions. Moreover, I am concerned that congressional access to prosecutorial decisionmaking documents of this kind threatens to politicize the criminal justice process. The Founders' fundamental purpose in establishing the separation of powers in the Constitution was to protect individual liberty. Congressional pressure on executive branch prosecutorial decisionmaking is inconsistent with separation of powers and threatens individual liberty. Because I believe that congressional access to these documents would be contrary to the national interest, I have decided to assert executive privilege with respect to the documents and to instruct you not to release them or otherwise make them available to the Committee.

I request that you advise the Committee of my decision. I also request that the Department remain willing to work informally with the Committee to provide such information as it can, consistent with these instructions and without violating the constitutional doctrine of separation of powers.

George W. Bush

NOTE: This memorandum was released by the Office of the Press Secretary on December 13. An original was not available for verification of the content of this memorandum.

Remarks Announcing the United States Withdrawal From the Anti-Ballistic Missile Treaty

December 13, 2001

Good morning. I've just concluded a meeting of my National Security Council. We reviewed what I discussed with my friend, President Vladimir Putin, over the course of many meetings, many months. And that is the need for America to move beyond the 1972 Anti-Ballistic Missile Treaty.

Today I have given formal notice to Russia, in accordance with the treaty, that the United States of America is withdrawing from this almost 30-year-old treaty. I have concluded the ABM Treaty hinders our Government's ability to develop ways to protect our people from future terrorist or rogue state missile attacks.

The 1972 ABM Treaty was signed by the United States and the Soviet Union at a much different time, in a vastly different world. One of the signatories, the Soviet Union, no longer exists, and neither does the