

THEY'VE COMPARTMENTALIZED MUKASEY FROM THE CORRUPTION

I know, I know, a lot of you want me to talk about Rove in Ohio. But I've been distracted with something else so I haven't had a chance to assess it yet, and anyway, I've been pondering this assessment from Scott Horton:

The ultimate problem here is that Mukasey is not paying attention to the matter. Instead he is relying on political flaks at the Justice Department to prepare answers on his behalf, trodding down the same path that destroyed the careers of Alberto Gonzales and Paul McNulty. He has allowed himself to be roped into a series of incorrect statements about specific aspects of the Siegelman investigation. Michael Mukasey needs to recognize that he has brought his tenure at the Justice Department to the edge of a precipice.

Horton is talking, specifically, about the Siegelman investigation in general, but I suspect Horton is right on the money, and not just as it pertains to Siegelman (heck! maybe it pertains to the Ohio allegation as well...).

To support that argument, I point to two exchanges in Mukasey's testimony before the House Judiciary the other day which suggest he's not being informed of key issues that Congress regards as critical. First, there was his admission that he only recently realized—presumably between his testimony before the Senate Judiciary Committee, when he refused to guarantee that Congress would learn the results, and that before HJC, when he said

Congress would "absolutely" learn the results—that Congress itself requested the OPR investigation of the Siegelman affair.

Davis: Can we see OPR report?

MM: Absolutely. Congress was the complainant. Complainant always informed. If finding of misconduct, then you'll get the report.

It is inconceivable to me that Mukasey didn't go into the SJC hearing expecting a question about the Siegelman affair, if for no other reason than all the chatter pertaining to his Siegelman-related subpoena from HJC at the time. But no one thought to inform the Attorney General two key facts: that Congress had requested the investigation and that, therefore, Congress would be guaranteed to learn of its results. Now, to some degree, this was just bad staff work on the part of DOJ, a failure to prepare for an obvious question. But the effect was to put Mukasey into an antagonistic relationship with Congress, defending something (hiding the results of the OPR investigation) that put the AG into an unnecessarily confrontational position.

Then there's Mukasey's claim that the President invoked "Executive Privilege" with regards to Rove's testimony.

Mukasey: As I understand it, Mr. Rove acted at the request of the President in response to the invocation of Executive Privilege. He has offered to meet with staff, he has offered to discuss the matter—

Now, granted, this is a more ambiguous case of apparent sheer ignorance about a topic bound to come up in a hearing. Perhaps Mukasey was referring to executive privilege more generally, the general concept that the executive branch gets certain privileges which may or may not include the authority to blow off Congress

altogether. Or maybe Bush did invoke traditional Executive Privilege without telling Congress. Still, Mukasey's statement risked mis-stating the actual facts of the case—and you'd think he would have been better prepared for this question. Unless, of course, he was unprepared by design.

Which is why I think Horton's assessment may well be right on the money—Mukasey's political subordinates are deliberately keeping him compartmentalized from some of this information. If true, it would be a pretty remarkable tactic, huh? Keep the Attorney General out of the loop with regards to evidence that Karl Rove had (and presumably still) had politicized DOJ. And by doing so, prevent him from actually realizing the extent of the politicization?