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June 13, 2006

The Honorable Tom Davis
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Over the past several years, I have made five separate requests for a Committee investigation of the White House leak of former CIA agent Valerie Plame Wilson's identity.[1] From the outset, I expressed my view that the criminal investigation by Special Counsel Patrick Fitzgerald criminal inquiry could not be a substitute for a congressional inquiry because of the "narrow focus" of the criminal investigation and the possibility that the criminal investigation could be closed without any "public accounting" of what transpired.[2]

Your consistent response was that you did not want to open a congressional investigation while the Special Counsel was conducting his investigation, but that "if a need for a separate congressional investigation becomes evident" you would "not hesitate to act."[3]

In light of today's reports that Special Counsel Fitzgerald will not pursue criminal charges against Karl Rove — and does not appear likely to file a report or make other public statements about his findings — I renew my request for congressional hearings and a public accounting of Mr. Rove's actions.

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[1] *See* Letter from Rep. Henry A. Waxman to Rep. Tom Davis (Nov. 16, 2005); Letter from Rep. Henry A. Waxman to Rep. Tom Davis (Oct. 28, 2005); Letter from Rep. Henry A. Waxman to Rep. Tom Davis (July 11, 2005); Letter from Rep. Henry A. Waxman to Rep. Tom Davis (Dec. 11, 2003); Letter from Rep. Henry A. Waxman to Rep. Tom Davis (Sept. 29, 2003).

[2] *E.g.*, Letter from Rep. Henry A. Waxman to Rep. Tom Davis (Dec. 11, 2003).

[3] *E.g.*, Letter from Rep. Tom Davis to Rep. Henry A. Waxman (Nov. 1, 2005).

By all accounts, Mr. Fitzgerald has conducted a thorough investigation into whether Mr. Rove committed a crime by leaking Ms. Wilson's identity or lying to federal investigators. But these are not the only questions that need to be answered about Mr. Rove's conduct.

As I have recounted in my previous correspondence, there are important regulatory requirements for safeguarding classified information that applied to Mr. Rove. Like other officials with security clearances, Mr. Rove was prohibited from making both intentional and negligent disclosures of classified information,[4] confirming classified information obtained by a reporter,[5] or repeating classified information he heard from a reporter.[6] Violations of these rules would not necessarily be criminal actions, but they would be reprehensible and should be a matter of great public and congressional concern.

Moreover, there remain questions (1) whether Mr. Rove was part of a coordinated White House effort to discredit and retaliate against Ms. Wilson's husband, former Ambassador Joe Wilson, (2) whether Mr. Rove was part of an effort to mislead the public about White House involvement in the leak, and (3) whether reforms are needed in White House procedures to prevent future leaks of classified information.

I am mindful that there is an on-going criminal trial involving I. Lewis (Scooter) Libby, the Vice President's former chief of staff, and I would not want efforts by our Committee to interfere with that prosecution. But given that Mr. Fitzgerald appears to have completed his inquiry of Mr. Rove, it should be possible for the Committee to initiate an effort to examine Mr. Rove's actions without jeopardizing Mr. Libby's trial. A good first step would be to schedule a meeting with Mr. Fitzgerald in which he can brief us about his findings regarding Mr. Rove and we can discuss with him the best way to proceed.

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[4] The executive order governing the award of security clearances to federal employees prohibits "knowing, willful or negligent" disclosures of classified information. Executive Order 12958, as amended by Executive Order 13292, sec. 5.5(b) (Mar. 25, 2003) (emphasis added).

[5] The briefing booklet that new security clearance recipients receive states "Before … confirming the accuracy of what appears in the public source," the security clearance holder must "confirm through an authorized official that the information has, in fact, been declassified. If it has not, … confirmation of its accuracy is also an unauthorized disclosure." Information Security Oversight Office, National Archives and Records Administration, *Briefing Booklet: Classified Information Nondisclosure Agreement (Standard Form 213)*, at 73 (online at www.archives.gov/isoo/training/standard_form_312.pdf).

[6] The briefing booklet states, "before disseminating the [classified] information elsewhere," a security clearance holder must "confirm through an authorized official that the information has, in fact, been declassified." *Id.*

As I have written in my previous correspondence, Congress has a constitutional obligation to provide a check and balance on the executive branch. Providing a public accounting of the actions of Mr. Rove is an important part of fulfilling this obligation.

Sincerely,

Henry A. Waxman
Ranking Minority Member