



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

July 30, 2012

Kerry W. Kircher
Office of General Counsel
U.S. House of Representatives
219 Cannon House Office Building
Washington, D.C. 20515-6532

Dear Mr. Kircher:

This responds to your letter of July 26, 2012 regarding House Resolution 711, 112th Cong. (2012) (enacted). Your letter attaches correspondence dated July 16, 2012 from Deputy Attorney General James M. Cole to Senator Charles E. Grassley. In that correspondence, the Deputy Attorney General conveys my concurrence with the position articulated in that correspondence and in the Deputy Attorney General's letter to Speaker John A. Boehner dated June 28, 2012. For your convenience, copies of both these letters are attached. As the Deputy Attorney General has noted, I concur with the longstanding position of the Department of Justice most fully explained during the Reagan Administration by Assistant Attorney General for the Office of Legal Counsel Theodore Olson: "The President, through a United States Attorney, need not, indeed may not, prosecute criminally a subordinate for asserting on his behalf a claim of executive privilege." *Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege*, 8 Op. O.L.C. 101, 141 (1984).

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald C. Machen Jr.", written over a horizontal line.

Ronald C. Machen Jr.
United States Attorney