TO RECEIVE THE TESTIMONY OF MARSHA SCOTT REGARDING THE WHITE HOUSE DATABASE INVESTIGATION

HEARINGS

BEFORE THE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES, AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

APRIL 1, 1998

Serial No. 105–190

Printed for the use of the Committee on Government Reform and Oversight

U.S. GOVERNMENT PRINTING OFFICE

52–886 CC WASHINGTON : 1998

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-057928-7

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

DAN BURTON, Indiana, *Chairman*

BENJAMIN A. GILMAN, New York
J. DENNIS HASTERT, Illinois
CONSTANCE A. MORELLA, Maryland
CHRISTOPHER SHAYS, Connecticut
CHRISTOPHER COX, California
ILEANA ROS-LEHTINEN, Florida
JOHN M. McHUGH, New York
STEPHEN HORN, California
JOHN L. MICA, Florida
THOMAS M. DAVIS, Virginia
DAVID M. McINTOSH, Indiana
MARK E. SOUDER, Indiana
JOE SCARBOROUGH, Florida
JOHN B SHADEGG, Arizona
STEVEN C. LATOURETTE, Ohio
MARSHALL "MARK" SANFORD, South Carolina
JOHN E. SUNUNU, New Hampshire
PETE SESSIONS, Texas
MICHAEL PAPPAS, New Jersey
VINCE SNOWBARGER, Kansas
BOB BARR, Georgia
DAN MILLER, Florida

HENRY A. WAXMAN, California
TOM LANTOS, California
ROBERT E. WISE, JR., West Virginia
MAJOR R. OWENS, New York
EDOLPHUS TOWNS, New York
PAUL E. KANJORSKI, Pennsylvania
GARY A. CONDIT, California
CAROLYN B. MALONEY, New York
THOMAS M. BARRETT, Wisconsin
ELEANOR HOLMES NORTON, Washington, DC
CHAKA FATTAH, Pennsylvania
ELIJAH E. CUMMINGS, Maryland
DENNIS J. KUCINICH, Ohio
ROD R. BLAGOJEVICH, Illinois
DANNY K. DAVIS, Illinois
JOHN F. TIERNEY, Massachusetts
JIM TURNER, Texas
THOMAS H. ALLEN, Maine
HAROLD E. FORD, JR., Tennessee

BERNARD SANDERS, Vermont (Independent)

KEVIN BINGER, *Staff Director*
DANIEL R. MOLL, *Deputy Staff Director*
WILLIAM MOSCHELLA, *Deputy Counsel and Parliamentarian*
JUDITH MCCOY, *Chief Clerk*
PHIL SCHILIRO, *Minority Staff Director*

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES, AND REGULATORY AFFAIRS

DAVID MCINTOSH, Indiana, *Chairman*

JOHN E. SUNUNU, New Hampshire
J. DENNIS HASTERT, Illinois
JOE SCARBOROUGH, Florida
JOHN B. SHADEGG, Arizona
STEVEN C. LATOURETTE, Ohio
VINCE SNOWBARGER, Kansas
BOB BARR, Georgia
PETE SESSIONS, Texas

JOHN F. TIERNEY, Massachusetts
BERNARD SANDERS, Vermont
HAROLD E. FORD, JR., Tennessee
PAUL E. KANJORSKI, Pennsylvania
GARY A. CONDIT, California
CHAKA FATTAH, Pennsylvania
DENNIS J. KUCINICH, Ohio

EX OFFICIO

DAN BURTON, Indiana
HENRY A. WAXMAN, California

MILDRED J. WEBBER, *Staff Director*
BARBARA KAHLOW, *Professional Staff Member*
ANDREW WILDER, *Clerk*
KRISTIN AMERLING, *Minority Counsel*

CONTENTS

	Page
Hearing held on:	
April 1, 1998	1
Executive Session, April 1, 1998	13

TO RECEIVE THE TESTIMONY OF MARSHA SCOTT REGARDING THE WHITE HOUSE DATABASE INVESTIGATION

WEDNESDAY, APRIL 1, 1998

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 8 p.m., in room 2154, Rayburn House Office Building, Hon. David M. McIntosh (chairman of the subcommittee) presiding.

Present: Representatives McIntosh, Sununu, Hastert, Scarborough, Shadegg, LaTourette, Snowbarger, Barr, Sessions, Burton, Tierney, Sanders, Kanjorski, Condit, Kucinich, and Waxman.

Staff present: Mildred J. Webber, staff director; J. Keith Ausbrook and Larisa Dobriansky, senior counsels, Jay Apperson, special counsel; Andrew Wilder, clerk; Steve Silbiger, counsel, Barbara Kahlow, professional staff member; Phil Schiliro, minority staff director; Phil Barnett, minority chief counsel; Kristin Amerling, Christopher Lu, Elizabeth Mundiger, David Sadkin, and Michael Yang, minority counsels; Ellen Rayner, minority chief clerk; Sheridan Pauker, minority research assistant; and Amy Wendt, minority staff assistant.

Also present: Marsha Scott and Stuart F. Pierson.

Mr. MCINTOSH. The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs will come to order.

We are here tonight to take testimony from Marsha Scott, principal developer of the White House data base. Before we can discuss the matter and the issue, we must first vote to consider this hearing in executive session. I have a motion at the desk and request that the clerk please read that motion.

Mr. WAXMAN. Point of order, Mr. Chairman.

Mr. MCINTOSH. You are recognized.

Mr. WAXMAN. In order to hold a hearing, we have to be given 7 days notice. I would like to know under what rules we would take a vote to go forward with a hearing without 7 days notice. In fact, we haven't even had 7 hours notice.

Mr. MCINTOSH. Counsel will proceed to read the motion, which will limit the rules applicable and answer the gentleman's question.

The CLERK. Questioning in the matter under consideration proceed under clause 2(j)(2) of House Rule XI and committee rule 14 in which the chairman and ranking minority member allocate time to committee staff as they deem appropriate for extended questioning not to exceed 60 minutes per panel, equally divided between the majority and minority; questioning in the matter under consideration proceed under clause 2(j)(2) of House Rule XI and committee rule 14 in which the chairman and ranking minority member allocate time to members of the committee as they deem appropriate for extended questioning not to exceed 60 minutes per panel equally divided between the majority and minority.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the amendment be considered read, and I reserve a point of order on the amendment—on the motion.

Mr. MCINTOSH. Seeing no objection——

Mr. WAXMAN. Mr. Chairman, I reserve a point of order.

Mr. MCINTOSH. I understand the gentleman is reserving a point of order. The Chair—shall we proceed to debate the motion?

Mr. WAXMAN. No. Let's deal with the point of order, and I would like to state my point of order.

Mr. MCINTOSH. Please state your point of order.

Mr. WAXMAN. Under the rules, a meeting of the committee may not be called without 7 days notice and therefore, we are not constituted officially to meet to even consider the motion of the chairman on how we are going to proceed to questions.

Mr. MCINTOSH. The rules of the committee allow the subcommittee to proceed upon a vote of the full committee without notice, or a vote of the subcommittee without notice.

Mr. WAXMAN. I would like the chairman to produce the rules that say that.

Mr. MCINTOSH. That is the ruling of the Chair.

Mr. WAXMAN. Wait a second, Mr. Chairman. You can't just make—do you have the rules, Mr. Chairman?

Mr. MCINTOSH. Yes.

Mr. WAXMAN. Could you read to us the rule that would allow you to call a hearing of the subcommittee without notice to the Members? We got, at best, 3 or 4 hours notice. The rules require that there be 7 days notice for a hearing.

Mr. MCINTOSH. Rule 12 states, the chairman of the full committee will announce the date, place and subject matter of all hearings at least 1 week before the commencement of any hearing unless he determines that, with the concurrence of the ranking minority member or the committee determines by vote, that there is good cause to begin such hearing sooner. Based on that rule, I rule that the point of order is out of order.

Mr. WAXMAN. Well, Mr. Chairman, you were going to ask us, I presume, to allow the committee to meet notwithstanding the 7-day notice. I would like to know what the reason is that we are being rushed into a committee hearing without even having notice of more than 3 or 4 hours. There has to be, as I understand it, extraordinary circumstances for us to be forced to come into a hearing for any purpose. Why is it we have to meet tonight and not in another week or another 2 weeks? For what extraordinary reason

is it that we should waive the required notice to all members of the committee?

Mr. MCINTOSH. The point of order being ruled out of order, we will proceed to debate the motion and answer the gentleman's question.

Mr. TIERNEY. Mr. Chairman, I would like to reserve a point of order.

Mr. MCINTOSH. The gentleman will state it.

Mr. TIERNEY. My understanding is, Mr. Chairman, that this committee requires that appropriate notice be given before a subpoena can issue demanding somebody's appearance, and that has not been done in this particular instance. There has not been sufficient notice for the issuance of the subpoena. Based on that, I would request that we just put this entire proceeding off to another appropriate time to give people ample notice to prepare and proceed. I don't think that any of the other exceptions that would otherwise allow the chairperson to give us short notice or no notice of a subpoena at all are applicable in this instance.

Mr. MCINTOSH. The point of order isn't relevant to the motion before the committee. It will be at the point where we take testimony.

Mr. WAXMAN. What is the motion before the committee, Mr. Chairman?

Mr. MCINTOSH. As counsel was reading, would you like me to have counsel read the motion again?

Mr. WAXMAN. Mr. Chairman, you have to move to hold this committee notwithstanding the notice before you can then have a duly constituted meeting, and then if you have a duly constituted meeting, you can then put forward the motion to say how you want to conduct the questions.

Mr. MCINTOSH. Paragraph C of the motion says, the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs hold a hearing immediately after passage of this resolution to adduce testimony from Marsha Scott.

Mr. TIERNEY. We will deny the question, Mr. Chairman, because that——

Mr. WAXMAN. No, no, no, point of order. You can't have a meeting to vote on a motion that says when we have a meeting, we will immediately vote on a motion. So let's take things one at a time. I will help you if you want to waive the 7-day notice.

Mr. SCARBOROUGH. Mr. Chairman, regular order.

Mr. MCINTOSH. I am going to proceed to debate the motion to have the meeting, which is what we need to do under rule 12, and then we can discuss it.

Mr. WAXMAN. I would like to know——

Mr. MCINTOSH. Earlier today, Ms. Scott, on instructions from her lawyers walked out of a deposition and refused to answer questions about the President's and the First Lady's knowledge of an involvement in the development of the White House data base and Marsha Scott's efforts to develop similar data bases outside of the White House while she was on the government payroll.

The purpose of this meeting is to continue having testimony from Ms. Scott, since she walked out of the deposition. And the resolution before the subcommittee is the one read by the clerk that al-

lows us to have a meeting pursuant to rule 12. In addition, it allocates the time and moves into executive session.

Mr. TIERNEY. Mr. Chairman, point of order. Wouldn't, or don't you first want to have some proceeding here to allow this to be a proper and appropriate meeting before you start putting resolutions before the body? I mean we are not properly constituted as we sit here now, because we——

Mr. MCINTOSH. Would the gentleman prefer to divide the motion and have a vote on section C first, and then proceed to the other sections?

Mr. TIERNEY. Well, you should take section C out and put it in an appropriate motion so that it can be properly constituted and then proceed, Mr. Chairman. That would be the proper way of going.

Mr. MCINTOSH. These are all motions incident to the conduct of the hearing and are not appropriate in one motion. The gentleman can move to divide, and we can vote on them separately, if the gentleman wishes.

Mr. TIERNEY. Well, I am objecting to the proceeding. You can proceed how you wish, Mr. Chairman, but I am telling you that you need to at first have this body properly constituted before you can do resolutions, whether they are divided or not, regardless of what your clerk may be whispering.

Mr. SCARBOROUGH. Mr. Chairman, I move the previous question.

Mr. WAXMAN. Mr. Chairman, I——

Mr. SCARBOROUGH. Mr. Chairman, I move the previous question.

Mr. WAXMAN. Mr. Chairman, if the gentleman would——

Mr. SCARBOROUGH. Mr. Chairman, I move the previous question.

Mr. WAXMAN. Mr. Chairman——

Mr. SCARBOROUGH. Mr. Chairman, I move the previous question.

Mr. WAXMAN. Regular order.

Mr. MCINTOSH. Regular order. The previous question was——

Mr. SCARBOROUGH. Mr. Chairman, I move the previous question.

Mr. WAXMAN. One minute. We want to be able to say something. You don't even give us notice for a hearing and now you won't let us speak on the motion. Is that what democracy is?

Mr. SCARBOROUGH. The way the Democrats did it for 40 years, yes.

Mr. WAXMAN. If we can vote this motion so that I may speak, but you ought to at least hear an argument.

Mr. MCINTOSH. Let me ask, will there be unanimous consent to allow 2 additional minutes of debate on this and then move to a vote on the motion?

Mr. WAXMAN. I don't know how many Members want to speak, but I want to speak on the motion, and I would like to be able to—and I would like to speak to the majority members because you have the majority. You could work your will, but you ought to know the arguments, and let me make my case.

Mr. MCINTOSH. The previous question is pending. I would ask Mr. Scarborough to withdraw it for one moment to let Mr. Waxman make his point.

Mr. SCARBOROUGH. I will be glad to withdraw it if we are not hearing the same point for the next 30 minutes, yes, and on the majority side I have no problems listening to reasoned arguments,

but if I have every Member, and I have seen how it has worked in the past, every time we have tried to get information, whether it was Craig Livingstone's information on seizing 900 FBI files illegally and we were accused of the same type of witch-hunt tactics, that is fine. If you want to teach us a lesson, go ahead and teach away, but I don't want obstructionist tactics that we have seen on this committee for the past 3½ years. So yes, I gladly will open my ears and take a lesson on procedure in this subcommittee.

Mr. MCINTOSH. OK. Mr. Waxman is recognized for 5 minutes.

Mr. WAXMAN. Mr. Chairman, I just want to make this case to all of you, and I say it with all due respect. This witness is here for the fourth time. She has been to three separate depositions of our committee staff. She has testified before our committee for over 17 hours. Prior to that, she testified at three separate depositions before the Senate committee. She and her lawyer came today with the expectation that the depositions would be on a narrow issue, and they objected to having the scope beyond that issue which was unresolved at the previous deposition. That is what prompted them to leave today. It is not like she is being a recalcitrant witness. She has been here 17 hours.

Now, I think that she probably feels at this point she wants to get this over with. Let's find an end to it. You know, at some point it is harassment to make people have to come for seven depositions. This is really her eighth time now, if you count two for today.

The reason why I think it is unfair to call a meeting with 4 hours notice is that there are rules, and the rules are there for a reason. They are going to be there to protect you when you are in the minority and they ought to be there to protect all Members. Seven days is a noticed period in which a chairman may call a meeting, and that can be waived by a majority vote. But there ought to be extraordinary reasons for it. The only reason I have heard is that she didn't respond to the questions today.

Well, if there is going to be a hearing to make her answer questions, and force her with so little notice to come without being able to prepare for whatever questions might be asked her tonight, then I think there ought to be 7 days.

Now, if you think it is so extraordinary that we have to do it on 4 hours notice, that is the first issue, OK? The second issue is this witness has been subpoenaed improperly, and I don't think that subpoena would require her to stay here, because there is a requirement under the rules that there be at least 24 hours' notice before a subpoena is issued. She hasn't been issued a subpoena within 24 hours; she has been issued a subpoena within 4 or 5 hours.

The third question is if we hold a hearing now, how do we proceed? Now, ordinarily, committees have what is called the 5-minute rule, 5 minutes on your side, 5 minutes on our side, we go back and forth. What the chairman is asking is that the staff proceed with the questioning.

Now, when the deposition was taken this afternoon I was there, and the attorney for the majority said he was asking questions beyond the scope because Chairman McIntosh wanted him to ask certain questions. Well, if he wants certain questions asked, then we ought to ask them, then he ought to ask them, and if he wants

more than 5 minutes, well, we can work that out. But I just think it is unfair to call a meeting on 4 hours notice, require this witness to come, under oath, testify under an invalid subpoena without giving her a chance to know what she is going to be asked and to harass her to the point where she is now here for the fourth time.

Twenty-four hours notice for the subpoena is not something that can be waived. There are some rules that even a majority can't vote to throw out. You can vote by majority to hold this hearing. I think it is wrong for you to do it, and I hope you wouldn't, because it is the kind of thing you don't want as a precedent. I would think in the future when you are in the minority, there are certain things you just don't do and were never done, even by the Democrats. Even when we were in power, we didn't do things like that. It is fundamentally wrong.

So that is my argument to all of you, why first of all not to vote for this motion, and I hope you would not.

Mr. TIERNEY. Will the gentleman yield?

Mr. WAXMAN. I yield to you.

Mr. TIERNEY. I just want to add a couple of comments to that on a somewhat personal level on this. I don't think any of us can see why this was so devastatingly important that we had to come down here on a few hours' notice tonight to have the continuation of this hearing.

I also have the same questions on the subpoena that Mr. Waxman raised, but beyond that, I see a part of this is to go into a closed session, and you know, that is totally against what I believe our rules are, and I believe that these have to be open hearings, and just reading from the rule, each hearing conducted by each committee or subcommittee thereof shall be open to the public, including radio, television and still photography coverage, except when the committee or subcommittee in open session and with a majority present determined by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure for testimony, evidence or other matters to be considered would endanger the national security, would compromise sensitive law enforcement information, or would violate any order or rule of the House of Representatives.

Mr. WAXMAN. If I could just reclaim my time, because that light is about to go out. Let me make a suggestion. The witness is willing to come and answer the questions. She just wants to end this. Let us schedule a time for her to go back into a deposition and complete answering questions on the promise that it will be completed in a reasonable, fair manner within an hour or two of the deposition, do it at a time that is convenient.

Mr. MCINTOSH. The time of the gentleman has expired. We need to proceed with this hearing tonight. I will repeat that the reason we are here is because the witness, Ms. Scott, on the instructions of her lawyers, walked out of a deposition that was pursuant to a lawful subpoena of this Committee on Government Reform and Oversight, and House Resolution 167 indicates that it is possible to have a subpoena in order to bring the witness here and that it is possible to move forward in executive session for depositions. This committee hearing is a continuation of that deposition, and we will proceed on the motion.

Mr. WAXMAN. Point of order, Mr. Chairman. Point of order, Mr. Chairman. You can't make that decision. This is not a continuation of a deposition. You are asking for a hearing.

Mr. MCINTOSH. This is a committee hearing, and under House Resolution 167 we have the ability to have it be held in executive session.

Mr. TIERNEY. Mr. Chairman, point of order. The subpoena hasn't been ruled on yet. It is that there has been insufficient notice on the subpoena that is part of the proceeding here, and I would like you to make a ruling on that.

Mr. MCINTOSH. The Chair rules that pursuant to House Resolution 167 and the rules of the committee, the witness is here pursuant to a valid subpoena issued by Chairman Burton.

Mr. WAXMAN. Mr. Chairman, we have a lot of issues. Could we just sort of separate them one at a time? The first question is whether you want to——

Mr. MCINTOSH. The gentleman is not recognized. Regular order. I would recognize Mr. Scarborough, if he wants to make his motion.

Mr. SCARBOROUGH. Mr. Chairman, I yield to Mr. Shadegg.

Mr. SHADEGG. Mr. Chairman, it appears we are in the midst of a debate about whether or not this hearing should go forward tonight and whether or not it is outrageously unfair for us to have been called together on short notice for this extraordinary session and this meeting. Mr. Waxman has just argued that it is extraordinarily unfair, as has his colleague, the ranking member. I simply want to speak to that issue. Perhaps I will get a chance to do so.

Let me first begin by saying that the witness appeared today, and it is at least my understanding from our staff that she was not told that the scope of the deposition would be limited. She was told that there would be an effort to limit the amount of time for the deposition, and that at one point in the deposition her attorney called a stop to the proceedings, because they objected to the question that was asked. The scope of the deposition is normally unlimited. In this particular instance—the deposition was called to a halt only 45 minutes into the deposition when they were going to attempt to try to limit it to an hour and a half and the minority had taken more than a third of the 45 minutes that had already been taken.

I also would like to respond quickly to the point by my colleague, the ranking member, who says why is it important to be here tonight. Let me just tell you, you weren't here 2 years ago. We have been trying to get to the bottom of the White House data base for over 2 years. You weren't even in Congress when we started this fight, and it is incredible to me, and I will tell you incredible to my constituents, that we cannot in more than 2 years time find out what in the world went on in the White House data base, find out what the President knew, find out how many laws were broken, find out what kind of data was put into that data base. We are still getting documents.

So I think it is outrageous that we should be here on short notice? I think it is outrageous that it has taken us over 2 years to solve what should be a simple question that the American people have a right to know the answer to.

Mr. WAXMAN. Will the gentleman yield?

Mr. SHADEGG. I will not yield. I move the previous question.

Mr. MCINTOSH. The previous question has been moved.

Mr. WAXMAN. The previous question on the motion before us that was handed out?

Mr. MCINTOSH. The motion has been available and handed out, I understand.

Mr. TIERNEY. I have a point of information also, Mr. Chairman. With respect to the previous speaker's assertion of whether the limitation was on scope or on time of the deposition, I might just refer him to the February 19th deposition, page 131, line 1.

Mr. MCINTOSH. The question is on the motion. There is no debating the question. All those in favor of moving the previous question signify by saying aye. All those opposed, nay.

In the opinion of the Chair, the ayes have it. The question is now on the resolution introduced by Chairman McIntosh. All of those in favor say aye.

SEVERAL VOICES. Aye.

Mr. MCINTOSH. All those opposed say nay.

SEVERAL VOICES. No.

Mr. MCINTOSH. In the opinion of the Chair the ayes have it. The ayes have it. We shall now proceed to the——

Mr. WAXMAN. Point of order, Mr. Chairman.

Mr. MCINTOSH. The committee now moves into executive session. I would ask anybody to clear the room who is not a member of the committee, staff or the witnesses.

Mr. WAXMAN. Point of order, Mr. Chairman.

Mr. MCINTOSH. Yes, Mr. Waxman. State your point of order.

Mr. WAXMAN. I do not believe that this hearing can move into executive session under the rules. It can't be done by your decree, and it cannot be done by a majority vote of this committee, because there has not been sufficient notice that we are going to have a hearing in executive session, and I would like——

Mr. MCINTOSH. Mr. Waxman, the rules allow this committee to vote into executive session, it has done so, and the point of order is not germane.

Mr. WAXMAN. Only after sufficient notice.

Mr. TIERNEY. I would like to challenge the Chair on that, Mr. Chairman.

Mr. MCINTOSH. The ruling of the Chair has been challenged. We will call the question. The question is whether the Chair's ruling that this is a valid committee hearing in executive session will be sustained.

All those in favor signify by saying aye, all those opposed, nay. In the opinion of the Chair the ayes have it.

Mr. TIERNEY. I request a roll call vote, Mr. Chairman.

Mr. MCINTOSH. A roll call vote has been requested. The clerk will read the roll.

The CLERK. Mr. McIntosh.

Mr. MCINTOSH. Aye.

The CLERK. Mr. McIntosh votes aye.

Mr. Sununu.

Mr. SUNUNU. Aye.

The CLERK. Mr. Sununu votes aye.

Mr. Hastert.

Mr. HASTERT. Aye.
The CLERK. Mr. Hastert votes aye.
Mr. Scarborough.
Mr. SCARBOROUGH. It is my understanding that the rules are the same for moving into executive session as calling this hearing, and I vote aye.
The CLERK. Mr. Scarborough votes aye.
Mr. Shadegg.
Mr. SHADEGG. Aye.
The CLERK. Mr. Shadegg votes aye.
Mr. LaTourette.
[No response.]
The CLERK. Mr. Snowbarger.
Mr. SNOWBARGER. Aye.
The CLERK. Mr. Snowbarger votes aye.
Mr. Barr.
Mr. BARR. Aye.
The CLERK. Mr. Barr votes aye.
Mr. Sessions.
Mr. SESSIONS. Aye.
The CLERK. Mr. Sessions votes aye.
Mr. Burton.
Mr. BURTON. Aye.
The CLERK. Mr. Burton votes aye.
Mr. Tierney.
Mr. TIERNEY. Nay.
The CLERK. Mr. Tierney votes nay.
Mr. Sanders.
Mr. SANDERS. No.
The CLERK. Mr. Sanders votes no.
Mr. Ford.
[No response.]
The CLERK. Mr. Kanjorski.
Mr. KANJORSKI. No.
The CLERK. Mr. Kanjorski votes no.
Mr. Condit.
Mr. CONDIT. No.
The CLERK. Mr. Condit votes no.
Mr. Fattah.
[No response.]
The CLERK. Mr. Kucinich.
Mr. KUCINICH. No.
The CLERK. Mr. Kucinich votes no.
Mr. Waxman.
Mr. WAXMAN. No.
The CLERK. Mr. Waxman votes no.
Mr. LaTourette.
Mr. LATOURETTE. I vote aye.
The CLERK. Mr. LaTourette votes aye.
Mr. Ford.
[No response.]
The CLERK. Mr. Fattah.
[No response.]
Mr. MCINTOSH. The clerk will report the vote.

The CLERK. Mr. Chairman, there are 10 ayes and 6 nays.

Mr. MCINTOSH. The chair's ruling is sustained.

Mr. SCARBOROUGH. Mr. Chairman, I move for a roll call vote on the motion.

Mr. MCINTOSH. A roll call vote on the motion has been requested.

Mr. TIERNEY. Which motion is that, Mr. Chairman?

Mr. MCINTOSH. The motion of the Chair, the pending motion to move into executive session. My understanding is there was an intervening point of order questioned the validity of that. I wanted to establish for the record the committee's vote on that motion.

The chairman calls a vote on the motion by the chairman as stated previously by the clerk. The clerk will call the roll.

The CLERK. Mr. McIntosh.

Mr. MCINTOSH. Aye.

The CLERK. Mr. McIntosh votes aye.

Mr. Sununu.

Mr. SUNUNU. Aye.

The CLERK. Mr. Sununu votes aye.

Mr. Hastert.

Mr. HASTERT. Aye.

The CLERK. Mr. Hastert votes aye.

Mr. Scarborough.

Mr. SCARBOROUGH. Aye.

The CLERK. Mr. Scarborough votes aye.

Mr. Shadegg.

Mr. SHADEGG. Aye.

The CLERK. Mr. Shadegg votes aye.

Mr. LaTourette.

Mr. LATOURETTE. Aye.

The CLERK. Mr. LaTourette votes aye.

Mr. Snowbarger.

Mr. SNOWBARGER. Aye.

The CLERK. Mr. Snowbarger votes aye.

Mr. Barr.

Mr. BARR. Aye.

The CLERK. Mr. Barr votes aye.

Mr. Sessions.

Mr. SESSIONS. Aye.

The CLERK. Mr. Sessions votes aye.

Mr. Burton.

Mr. BURTON. Aye.

The CLERK. Mr. Burton votes aye.

Mr. Tierney.

Mr. TIERNEY. No.

The CLERK. Mr. Tierney votes no.

Mr. Sanders.

Mr. SANDERS. No.

The CLERK. Mr. Sanders votes no.

Mr. Ford.

[No response.]

The CLERK. Mr. Kanjorski.

Mr. KANJORSKI. No.

The CLERK. Mr. Kanjorski votes no.

Mr. Condit.

Mr. CONDIT. No.
The CLERK. Mr. Condit votes no.
Mr. Fattah.
[No response.]
The CLERK. Mr. Kucinich.
Mr. KUCINICH. No.
The CLERK. Mr. Kucinich votes no.
Mr. Waxman.
Mr. WAXMAN. No.
The CLERK. Mr. Waxman votes no.
Mr. Ford.
[No response.]
The CLERK. Mr. Fattah.
[No response.]
Mr. MCINTOSH. The clerk will report the vote.
The CLERK. Mr. Chairman, there are 10 ayes and 6 nays.
Mr. MCINTOSH. The motion passes, and the committee will now proceed to regular order pursuant to the motion in executive session, and I would request that the staff clear the room of all individuals other than those authorized to be here, Members, committee staff, the witness, her attorney, and two attorneys from the White House.
[Whereupon, at 8:30 p.m., the subcommittee proceeded to executive session.]

TO RECEIVE THE TESTIMONY OF MARSHA SCOTT REGARDING THE WHITE HOUSE DATABASE INVESTIGATION

EXECUTIVE SESSION

WEDNESDAY, APRIL 1, 1998

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 8:40 p.m., in room 2154, Rayburn House Office Building, Hon. David M. McIntosh (chairman of the subcommittee) presiding.

Present: Representatives McIntosh, Sununu, Hastert, Scarborough, Shadegg, LaTourette, Snowbarger, Barr, Sessions, Burton, Tierney, Sanders, Kanjorski, Condit, Kucinich, and Waxman.

Staff present: Mildred J. Webber, staff director; J. Keith Ausbrook and Larisa Dobriansky, senior counsels; Jay Apperson, special counsel; Andrew Wilder, clerk; Steve Silbiger, counsel; Barbara Kahlow, professional staff member; Phil Schiliro, minority staff director; Phil Barnett, minority chief counsel; Kristin Amerling, Christopher Lu, Elizabeth Mundinger, David Sadkin, and Michael Yang, minority counsels; Ellen Rayner, minority chief clerk; Sheridan Pauker, minority research assistant; and Amy Wendt, minority staff assistant.

Also present: Marsha Scott and Stuart F. Pierson.

Mr. WAXMAN. Mr. Chairman, I have a further point of order that I wish to make.

Mr. MCINTOSH. Yes, Mr. Waxman.

Mr. WAXMAN. I would like to read the following rule. The chairman of the full committee shall advise the appropriate ranking minority member of his intention to issue subpoenas for documents or witnesses, and shall provide the ranking minority member an opportunity to suggest how the scope or substance of the proposed subpoenas might be modified or improved.

The chairman shall notify the ranking minority member of the proposed subpoena at least 24 hours before the chairman issues the subpoenas, unless the provisions of section (A)(2)(b) apply. The ranking minority member shall advise the chairman whether the minority agrees with the proposed subpoenas.

This rule explicitly says that the chairman, before issuing a subpoena, was to have talked—was to have notified me as the ranking

minority member 24 hours in advance. He has not done that. This is not a procedure that can be waived, and therefore, I make a point of order that the subpoena is not valid, and the witness need not respond to that subpoena.

Mr. MCINTOSH. The Chair will rule that the point of order is out of order pursuant to section B, which says in accordance with the long-standing rules of the committee, the chairman may cause a subpoena to be issued without prior notice to members of the committee, including the ranking minority member, if, in the chairman's judgment, delay in issuance could hinder or compromise the committee's ability to obtain documents or testimony in furtherance of the committee's investigation.

Mr. TIERNEY. Mr. Chairman, point of order. Would you share with the committee then how it is that you arrived at the decision that those standards were met?

Mr. MCINTOSH. The point of order is out of order, and I will share with the gentleman that I do understand that the witness is going to go out of the country tomorrow.

Mr. TIERNEY. For a week. So you think that that is going to endanger all of us?

Mr. MCINTOSH. The gentleman's point of order is out of order.

Mr. WAXMAN. Mr. Chairman, we have just consulted with the Parliamentarian and we would like to ask you to do so as well. The Parliamentarian has ruled, has given us a ruling that this subpoena is not valid, that we have a valid point of order, that our point of order is valid.

Mr. MCINTOSH. This Chair has ruled that the——

Mr. WAXMAN. The chairman can't rule outside of what the Parliamentarian advises.

Mr. MCINTOSH. Perhaps the Parliamentarian is not aware of the information that the chairman has, which is that the chairman of the full committee, Mr. Burton, did act pursuant to section B of the protocol.

Mr. WAXMAN. I appeal the decision of the Chair.

Mr. TIERNEY. Perhaps the chairman will consult the Parliamentarian to see if he has that information.

Mr. SCARBOROUGH. Could I have a clarification to what Mr. Waxman was asking, because he said two different things, because I heard your staff talking to you, and some things seemed to change.

Mr. MCINTOSH. The gentleman is requesting a clarification.

Mr. SCARBOROUGH. And he is being told now, if we can wait 1 second.

Mr. MCINTOSH. The motion before the subcommittee is a motion to question the ruling of the chairman, but I will wait 1 minute for clarification.

Mr. WAXMAN. We are trying to find out what the Parliamentarian said.

Mr. SCARBOROUGH. Right.

Mr. WAXMAN. Mr. Chairman, could I inform you what the Parliamentarian has informed our staff. The Parliamentarian has informed us that you, under the ruling—under the point of order, would have to make a finding that rule B would apply, that unless this witness were compelled to come in at this time without 24 hours notice, that it would hinder or compromise the committee's

ability to obtain documents or testimony in furtherance of the committee's investigation. You would have to make that ruling. If you make that ruling, and if that is your ruling, then I have the right to appeal that decision, and then it will be up to the committee to decide. If the committee then votes by a majority to uphold your conclusion that not giving her longer than a week——

Mr. MCINTOSH. First of all, the full committee has already voted to sustain that opinion. I did state that it was pursuant to subsection B and that the criteria had been met by the full committee chairman, Mr. Burton.

Mr. WAXMAN. Then I appeal that decision, and then we can vote on that.

Mr. MCINTOSH. This is not a timely points of order.

Mr. WAXMAN. No, you had just overruled my point of order and your ruling is that part B is satisfied. I am appealing your decision.

Mr. MCINTOSH. Upon clarification of the gentleman's point of order, which you just asked me to allow you to give, it is now apparent that it is not a timely point of order and the committee will proceed.

Mr. WAXMAN. I appeal the decision that it is not a timely point of order.

Mr. MCINTOSH. I am not aware of any rule that allows you to appeal that decision.

Mr. WAXMAN. If I might cite the rule for you, Mr. Chairman, under the rules it says under House Rule 1, Clause 4, rulings of the Chair on points of order are subject to appeal by any Member. An appeal of the ruling of the Chair is debatable under the 5-minute rule, House procedure appeals section 4. A quorum must be present to decide the appeal. So I made an appeal. I would like to proceed to a vote on the appeal. If your colleagues want to uphold you, then your arbitrary ruling will be upheld. But I am entitled to that vote.

Mr. MCINTOSH. All right. All those in favor of sustaining the ruling of the Chair signify by saying aye.

SEVERAL VOICES. Aye.

Mr. MCINTOSH. All those opposed, say no. The ayes have it.

Mr. WAXMAN. I request a roll call vote.

Mr. MCINTOSH. A roll call vote is requested. The clerk will read the roll.

The CLERK. Mr. McIntosh.

Mr. MCINTOSH. Aye.

The CLERK. Mr. McIntosh votes aye.

Mr. Sununu.

Mr. SUNUNU. Aye.

The CLERK. Mr. Sununu votes aye.

Mr. Hastert.

Mr. HASTERT. Aye.

The CLERK. Mr. Hastert votes aye.

Mr. Scarborough.

Mr. SCARBOROUGH. Aye.

The CLERK. Mr. Scarborough votes aye.

Mr. Shadegg.

Mr. SHADEGG. Aye.

The CLERK. Mr. Shadegg votes aye.

Mr. LaTourette.
Mr. LATOURETTE. Aye.
The CLERK. Mr. LaTourette votes aye.
Mr. Snowbarger.
Mr. SNOWBARGER. Aye.
The CLERK. Mr. Snowbarger votes aye.
Mr. Barr.
Mr. BARR. Aye.
The CLERK. Mr. Barr votes aye.
Mr. Sessions.
Mr. SESSIONS. Aye.
The CLERK. Mr. Sessions votes aye.
Mr. Burton.
Mr. BURTON. Aye.
The CLERK. Mr. Burton votes aye.
Mr. Tierney.
Mr. TIERNEY. Pass.
The CLERK. Mr. Tierney passes.
Mr. Sanders.
Mr. SANDERS. No.
The CLERK. Mr. Sanders votes no.
Mr. Ford.
[No response.]
The CLERK. Mr. Kanjorski.
Mr. KANJORSKI. No.
The CLERK. Mr. Kanjorski votes no.
Mr. Condit.
Mr. CONDIT. No.
The CLERK. Mr. Condit votes no.
Mr. Fattah.
[No response.]
The CLERK. Mr. Kucinich.
Mr. KUCINICH. No.
The CLERK. Mr. Kucinich votes no.
Mr. Waxman.
Mr. WAXMAN. No.
The CLERK. Mr. Waxman votes no.
Mr. Ford.
[No response.]
The CLERK. Mr. Fattah.
[No response.]
Mr. MCINTOSH. The clerk will report the tally.
The CLERK. Mr. Chairman, there are 10 ayes and 6 nays.
Mr. MCINTOSH. The ruling of the Chair is sustained. The motion passes. We shall now proceed to proceedings pursuant to that motion.
Mr. SCARBOROUGH. Mr. Chairman, I have a parliamentary inquiry just to sort of clarify the back and forth here. Is it the ruling of the Chair that we have moved into executive session at this point?
Mr. MCINTOSH. It is indeed. We are now in executive session.
Mr. SCARBOROUGH. OK. If that is the case, Mr. Chairman, I believe there are still people here that are not supposed to be here, and we would ask that at least by the time we come back from the

vote, that if it is a ruling that we are in executive session that we have everybody removed from this room that isn't supposed to be here.

Mr. MCINTOSH. They should be out now, and I would ask again the staff to clear the room of any unauthorized persons. We shall proceed pursuant to the motion.

Mr. WAXMAN. Point of order. Let's get the vote on the floor and then come back.

Mr. MCINTOSH. The time will be 30 minutes to each side. The majority side will begin with questions from majority counsel. Mr. Tierney will allocate 30 minutes on his side and then we will return to 30 minutes on our side to be allocated by the Chair, and then 30 minutes to be allocated by Mr. Tierney. I understand pursuant to the full committee we have been in that second hour flipping back and forth at 10-minute blocks. If Mr. Tierney would prefer to do it that way, the Chair is willing to allocate the time accordingly.

We will stand in recess until after the last series of recorded votes.

[Recess.]

Mr. MCINTOSH. The committee shall come to order, and I would like to recognize Mr. Waxman.

Mr. WAXMAN. Mr. Chairman, I would like to propose a resolution of our dilemma. I understand that Ms. Scott is willing to come back for a deposition and to complete that deposition and to answer the questions that counsel may pose to her. I would hope and expect that at any such deposition, since this will be her fifth time back to our committee, that the questions would not go on and on and on, but there would be a good faith attempt to ask the questions and complete them in around 2 hours. I can't imagine that there is much more to ask, but I am not asking for a time limit, but a good faith effort by everybody to conclude that deposition in a 2-hour period.

Mr. MCINTOSH. Thank you, Mr. Waxman. I think the committee can entertain that. Let me ascertain if Ms. Scott or Mr. Pierson, you can speak for your client or however you would prefer. Is that agreeable to you, Ms. Scott, or Mr. Pierson, your client?

Mr. PIERSON. Yes. I would like to add a couple of specifics to it, if I may, Mr. Chairman. Ms. Scott is about to embark on a vacation abroad with her mother. She expects to be back in 10 days to 2 weeks. After that period of time when she is rested she would be pleased to return to the deposition and to answer the questions. I take it that counsel will ask them in a direct and appropriate way. I understand that under this proposal, there is no limitation on the topics, we understand that. We would only ask that the questioning not be repetitive and that it be done as expeditiously as possible.

Mr. MCINTOSH. Let me say that, there can be no limit on the questions as long as they are within the scope of the committee. I had understood that Ms. Scott would be back on or around the 11th and wanted to try to secure a date within a couple of days, business days, of that so that we would know definitely that the deposition would take place. Is that possible?

Mr. PIERSON. I am sure we can set a date. My only problem is that I have a conflict on the 14th and the 15th. If we can do it later in that week, I am sure it will be fine.

Mr. MCINTOSH. OK. On that understanding that it will be that week and that counsel and his client agree that there is no limit on the scope, I think that would be an acceptable arrangement for us to have them continue that deposition. And I do want to say for the record I think that counsel will be able to make a good faith effort to keep it in a reasonable amount of time and not go over the same questions multiple times, assuming the deponent will be able to be responsive to the answers. I think that is critical as well in determining that, and we will make every effort in a good faith way to do that. But it is important that the questions be answered and be part of the record of this investigation.

Let me also say that the reason we are here tonight is the importance of congressional subpoenas, and that it was extremely disturbing to me when it was reported that Ms. Scott, on advice of counsel, left the deposition today. Hopefully, this won't happen again and we will be able to finish the deposition in this and other cases successfully.

With that, the committee will stand in recess until we return after the April recess and be able to be adjourned assuming the deposition is successfully completed.

[Whereupon, at 9:42 p.m., the subcommittee was adjourned.]

○