



Written by [Raven Clabough](#) on October 31, 2014

Holder's Only Regret: Subpoena of Fox News Reporter's E-mails

Attorney General Eric Holder's retirement was formally announced on September 25, to the delight of his critics and without much opposition from President Obama. And though Holder has been disgraced on numerous occasions during his tenure with the Justice Department, he stated at the October 29 "Washington Ideas Forum" that his only regret was his court order for Fox News reporter James Rosen's e-mails.



But for Holder's critics, the notion that he could whittle down six years of controversy and monumental scandal into one regret is ludicrous.

At the Washington Ideas Forum, a reporter with *Atlantic* magazine asked him about his one do-over wish, to which Holder gave a rather surprising response, given the White House's long-standing animosity towards Fox News: "I think about the subpoena to the Fox reporter, Rosen," Holder replied. "I think that I could have been a little more careful looking at the language that was contained in the filing that we made with the court — that he was labeled as a co-conspirator."

Holder was referring to a 2010 warrant application that sought Rosen's e-mails during the Justice Department's investigation into leaked information pertaining to North Korea's nuclear weapons program.

Fox News writes, "In the course of seeking Rosen's emails, an FBI agent submitted an affidavit claiming there was evidence that Rosen broke the law, 'at the very least, either as an aider, abettor and /or co-conspirator.' The affidavit went so far as to invoke the Espionage Act — pertaining to the authorized gathering and transmitting of defense information."

Four years later, Holder admits that the situation could have been handled very differently.

Though Rosen was never charged, revelations about the affidavit and the Justice Department's investigation into his communications provoked outrage from a number of organizations.

The entire ordeal compelled President Obama to call for a review of how the Justice Department interacted with the media that ultimately led to the introduction of new guidelines in July 2013 stating that members of the media would "not be subject to prosecution based solely on newsgathering activities." The new protocols add that the DOJ will exercise the right to use unspecified "tools" to gather evidence "only as a last resort."

But the guidelines have done little to protect the rights of journalists. In August 2013, the Department of Homeland Security illegally seized notes from *Washington Times* reporter Audrey Hudson while searching for information about her husband's guns.

Meanwhile, James Rosen, who currently serves as chief Washington correspondent for Fox News, issued a response to Holder's Wednesday remarks asserting that they "scarcely address" his role in the case.



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“Throughout this ordeal for my family and me, I have tried to keep my head down and continue covering — and breaking — the news. I consider myself blessed to have an employer in Fox News, and a boss in Roger Ailes, who have stood by me and enabled me to remain focused on what matters most to me in professional terms: first-rate journalism,” Rosen said in a statement. “At some later point, I may have more to say about this entire controversy, which — as commentators from across the ideological spectrum have noted — does indeed raise serious concerns about the state of press freedoms under the present administration. Suffice to say for now that the attorney general’s latest comments about my case, like his previous remarks, scarcely address the relevant facts of his conduct.”

And while Rosen’s ordeal is certainly worthy of Holder’s regret, it is assuredly not the only incident that warrants his remorse.

Holder’s failure to comply fully with the investigation into the disastrous Operation Fast and Furious — characterized by *The New American’s* Alex Newman as “a federal program that put thousands of high-powered weapons into the hands of deadly criminals in Mexico” and which was responsible for the deaths of both Mexicans and Americans, including law enforcement officers — eventually led the U.S. House to hold him in contempt in June of 2012. According to the *New York Post*, “Holder provided just 7,600 documents while the [House Government and Oversight] Committee [had] issued subpoenas asking for tens of thousands more over the botched federal program.”

Holder had defended his refusal to hand over documents for the congressional investigation by asserting that it would violate the “separation of powers.”

Congress did receive thousands of documents from the Department of Justice, but many of them were irrelevant to the investigation, and others were heavily redacted. As noted by *The New American*, the DOJ supplied less than 10 percent of the documents that were requested for the investigation.

Additionally, there have been a number of accusations over the years against Holder and the Justice Department concerning alleged racism in executing cases. Holder finally admitted that race for him was a determining factor on March 1, 2011, when he confessed that the Department was lax in the voter-intimidation case against members of the New Black Panther Party because they are African American.

[Politico](#) reported at the time:

Holder’s frustration over the criticism became evident during a House Appropriations subcommittee hearing as Rep. John Culberson (R-Texas) accused the Justice Department of failing to cooperate with a Civil Rights Commission investigation into the handling of the 2008 incident in which Black Panthers in intimidating outfits and wielding a club stood outside a polling place in Philadelphia.

Allegations that the Justice Department failed to cooperate with the Civil Rights Commission investigation were [leveled](#) by Christopher Coates, the former voting chief for the Civil Rights Division of the Department of Justice. In 2010, Coates gave testimony before the same commission indicating that the Justice Department had a different attitude toward civil rights violations against black Americans than it did toward violations against white Americans.

According to Coates, the Justice Department bowed to pressures to dismiss the voter intimidation case from the National Association for the Advancement of Colored People (NAACP) as well as from individuals within the Justice Department.

Prior to the accusations of Coates, [J. Christian Adams](#) testified in July 2010 against the Justice



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Department, asserting that the agency bore hostility toward taking cases in which the perpetrators were black and the victims were white.

Those scandals are just a few of the many that tainted Holder's tenure at the Department of Justice.

His critics assert that his resignation should not serve simply as a free pass. Law Enforcement Officers Advocates Council (LEOAC) president Andy Ramirez has called on Congress to bring in an independent prosecutor to ensure that Holder and his "co-conspirators" are brought to justice for all the scandals that characterized his reign, including Fast and Furious; the deaths of federal agents Terry, Zapata, Nick Ivey, and others; Benghazi; NSA/DOJ surveillance; the IRS scandals; "and everything else that would be under DOJ's prosecutorial authority."

Photo of Attorney General Eric Holder: AP Images



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