

CHARLES COOPER'S LETTER ABOUT PRE- PUBLICATION REVIEW DISCOUNTS ANY EXECUTIVE PRIVILEGE CLAIMS

In the wake of yesterday's NYT story revealing damning details about John Bolton's book manuscript, his lawyer, Charles Cooper, released the letter sent on December 30 laying out what they expected from the pre-publication review.

In it, Cooper (who while he was at the Office of Legal Counsel wrote at least one opinion laying the foundation for the unitary executive, one that helped cover up Iran-Contra) suggests there is only one basis on which the White House can object to the content of his client's manuscript: classification.

I appreciate your assurance that the sole purpose of prepublication security review is to ensure that SCI or other classified information is not publicly disclosed. In keeping with that purpose, it is our understanding that the process of reviewing submitted materials is restricted to those career government officials and employees regularly charged with responsibility for such reviews.

Cooper leaves unstated his assertion that the White House cannot object to material in the book on Executive Privilege grounds, or any Absolute Immunity grounds that Pat Cipollone might dream up.

Such an assertion is wholly inconsistent with Cooper's previous assertion (made for his other client, Charles Kupperman but which Bolton

adopted by association) that the White House has any say over whether Bolton must respond to a dually authorized Congressional subpoena. Normally, a subpoena can overcome Executive Branch demands that the subpoenaed person not testify, if they want to testify. Here, Cooper is suggesting that the only restriction that the White House can impose on Bolton's non-subpoenaed speech is classification review.

I get why he said it. He was trying to lay the groundwork for the statement he released last night, in which he suggested the White House had circulated Bolton's manuscript outside those career civil servants who are entitled to review it.

But it will make it far harder to ignore future subpoenas, whether from the Senate, the House, or SDNY (in a Rudy Giuliani investigation).