

# Rove Exhibit

1

THE WHITE HOUSE  
WASHINGTON

March 4, 2009

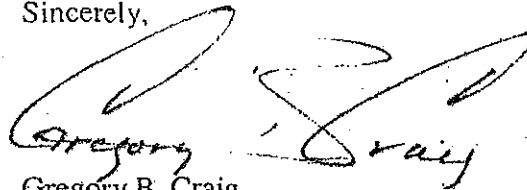
Dear Chairman Conyers and Mr. Flood:

I have enclosed with this letter an Agreement Concerning Accommodation (the "Agreement") that outlines a plan to resolve a dispute that arose during President Bush's Administration concerning the enforcement of Committee subpoenas. Both the Bush Administration and the House Judiciary Committee have confirmed to me orally and in writing that they have accepted the terms of the enclosed Agreement. Both the Bush Administration and the Committee also have committed to work in good faith to resolve any issues or questions that may arise during the execution of the Agreement. My Office will continue to work with both parties to implement the Agreement.

President Obama is pleased that the parties have agreed to resolve this matter amicably, and he appreciates the work of the Committee, its staff, and the former Bush Administration.

Please contact me with any questions.

Sincerely,



Gregory B. Craig  
Counsel to the President

Enclosure

Hon. John Conyers Jr.  
Chairman, Committee on the Judiciary  
U.S. House of Representatives

Emmet T. Flood, Esq.  
Counsel for President George W. Bush

## Agreement Concerning Accommodation

*Committee on the Judiciary, US House of Representatives v. Harriet Miers et al.*  
Civil Action No. 08-0409 (JDB)

This document describes the terms of an accommodation agreement between the Bush Administration and the House Judiciary Committee to resolve the U.S. Attorneys matter finally. The parties agree in good faith to resolve any outstanding questions with a view toward ending the entire matter between the parties. The Obama Administration and the House Judiciary Committee will execute a separate agreement concerning the final disposition of the ongoing litigation.

### Interviews

- The House Judiciary Committee (the "Committee") will interview Karl Rove and Harriet Miers, but there will be no additional interviewees / witnesses (subject to the one exception below). The interviews will be conducted as soon as possible, consistent with needed preparation time and the availability of the witnesses and their counsel. After the conclusion of the interviews, the Committee reserves its right to seek public testimony from Mr. Rove and Ms. Miers.
  - The Committee has no current intention to seek interviews of any additional former Bush White House personnel. However, if information comes to light necessitating an interview from former Bush White House official William Kelley, the interview will be conducted pursuant to the terms of this agreement.
- Transcripts of interviews will be created and promptly provided to all involved parties.
- The scope of the interviews will be limited to: (1) facts relating to the evaluation of, decision to dismiss, or decision to replace the former U.S. Attorneys in question; the alleged decisions to retain certain U.S. Attorneys; and any allegations of selective prosecution related thereto; and (2) testimony or representations made by Department of Justice officials to Congress on the U.S. Attorneys matter. For the period beginning on March 9, 2007 (the date of the Committee's first written demand for information from the White House), interviews will not include the content of conversations involving: (i) Mr. Rove and members of the White House Counsel's office; or (ii) Ms. Miers and members of the White House Counsel's office. In the case of Mr. Rove, the interview also will include facts relating to the prosecution of Alabama governor Don Siegelman.
- As to official privileges, counsel will direct witnesses not to respond to questions only when questions relate to communications to or from the President or when questions are outside the scope of questioning set forth above.
- The following counsel may attend the interviews: counsel for the interviewee, Committee majority, Committee minority, the President, and the former President.
- Interviewees will be allowed a reasonable period of time to review relevant documents in advance of the interview.

- Reasonable logistical details (e.g., venue, time limitation, etc.) will be set in advance.

### Documents

- With the exception of 4 pages of particularly sensitive privileged material (which will be described for Committee staff by a representative of the former President), Committee staff (majority and minority) will be allowed to review the documents for the period December 2004 through March 8, 2007. Documents subpoenaed by the Committee from Harriet Miers will be treated in the same manner.
- The foregoing documents will be provided to Committee staff (majority and minority) at a reasonable time in advance of the interviews.
- As to documents post-dating March 8, 2007, the following will be made available for Committee review only and a copy will not be produced to the Committee:
  - The final draft of the Scudder Memorandum;
  - Any factual chronology prepared by the Department of Justice Office of Legal Counsel in the possession of the White House; and
  - Any documents showing White House inputs or edits to Congressional testimony of Department of Justice officials on the subject of the U.S. Attorneys matter.

Copies of the aforementioned documents will be made available for the Committee's use during interviews conducted pursuant to this agreement. The Committee will return and will not retain any such copies at the conclusion of the respective interviews.

- In addition, the former Administration will conduct a timely review to identify: (1) any documents sent to/from White House personnel to/from third parties other than Department of Justice personnel; and (2) any documents referenced in the aforementioned Scudder Memorandum or OLC chronologies shown to the Committee. The former Administration will consider making some or all of the above material available to the Committee (in the same manner as the other post-March 8, 2007 documents described above). This process will be completed and the issue resolved prior to the interviews described in this agreement.
- Documents and their contents will remain confidential through the time of completion of the last interview. At that time, copies of documents provided to the Committee and/or contents of documents reviewed by the Committee may be made public. The transcripts discussed above may be made public after the completion of the last interview and after counsel has had a reasonable opportunity to review them for accuracy. No document or part of any document and no description or partial description of any document shall be disclosed to any other person until after the completion of the last interview.

### Litigation

- The existing litigation will be stayed or the briefing schedule extended in such a way as to serve as the equivalent of a stay until at least the completion of the interviews.
- The Committee retains its rights to challenge any assertion of privilege over questions and documents for the period December 2004 through March 8, 2007.
- The Committee will not argue that this accommodation operates as a bar or waiver of the current or former Administration's existing rights, including but not limited to the right to argue jurisdictional objections, claims of immunity, or claims of executive privilege

2

[Login](#) | [Register](#)

June 17, 2009

Legal Affairs

## Documents Show Justice Ranking U.S. Attorneys

by Ari Shapiro

[Listen Now \[18 sec\]](#) | [add to playlist](#) | [download](#)

All Things Considered, April 13, 2007 · The Justice Department sent Congress a new batch of documents about the dismissals of eight U.S. attorneys. The documents show Justice Department and White House staffers planning the firings and trying to control the subsequent fallout.

Some of the newly released documents are repeats, like the letter in which Attorney General Alberto Gonzales' chief of staff, Kyle Sampson, responds to a suggestion from White House counsel Harriet Miers that all 93 U.S. attorneys be fired.

NPR now has new information about that plan. According to someone who's had conversations with White House officials, the plan to fire all 93 U.S. attorneys originated with political adviser Karl Rove. It was seen as a way to get political cover for firing the small number of U.S. attorneys the White House actually wanted to get rid of. Documents show the plan was eventually dismissed as impractical.

The Justice Department documents released today include a spreadsheet ranking all 93 prosecutors. The chart ranks them on whether they have Hill experience, campaign experience, and — in the last column — whether they're members of the Federalist Society, a conservative legal group.

By eventually dismissing the eight prosecutors, the White House started down a path that has led to a clash with Congress over executive privilege. The current question is whether, and how, White House officials will testify about their role in the dismissals.

In a letter Thursday, White House Counsel Fred Fielding told Congress he won't budge from his original offer — to let Congress interview White House staffers privately, with no oath or transcript.

Sources tell NPR that Fielding actually wants to negotiate with Congress about how the interviews will take place. But Fielding has not been able to persuade President Bush to go along.

Congress still wants to know more about the months leading up to the firings and who was involved in the decision-making. A House committee has subpoenaed some of that information. Other details are likely to come out when Gonzales testifies before Congress about the firings Tuesday.

### Related NPR Stories

- April 12, 2007  
[Senate Panel Seeks Full Versions of Documents](#)
- April 6, 2007  
[Gonzales Adviser Goodling Gives Up Her Post](#)
- March 30, 2007  
[Gonzales Remains, Despite Resignation Rumors](#)
- March 29, 2007  
[Former Gonzales Deputy Contradicts Boss's Story](#)
- March 27, 2007  
[Will Alberto Gonzales Withstand the Political Siege?](#)



3

Sampson, Kyle

From: Sampson, Kyle  
Sent: Sunday, January 09, 2005 7:34 PM  
To: 'David\_G\_Leitch@who.eop.gov'  
Subject: RE: Question from Karl Rove

Judge and I discussed briefly a couple of weeks ago. My thoughts are:

1. As a legal matter, U.S. Attorneys serve a 4-year term and may holdover indefinitely thereafter (all at the pleasure of the President, of course). None of the President's U.S. Attorney appointees have served a full term yet -- the first were confirmed in September 2001, and many were confirmed during the 12 months thereafter. Although they serve at the pleasure of the President, it would be weird to ask them to leave before completing at least a 4-year term.
2. As an historical matter, U.S. Attorneys served at least until the expiration of their 4-year term, even where an election changed the party in power -- until President Clinton fired the Bush41-appointed U.S. attorneys in 1993, nearly all of whom were in the midst of their 4-year terms. In 2001, President Bush43 fired the Clinton-appointed U.S. Attorneys, some of whom were in the midst of a 4-year term, but many of whom had completed their 4-year terms and were serving in holdover status.
3. As an operational matter, we would like to replace 15-20 percent of the current U.S. Attorneys -- the underperforming ones. (This is a rough guess; we might want to consider doing performance evaluations after Judge comes on board.) The vast majority of U.S. Attorneys, 80-85 percent, I would guess, are doing a great job, are loyal Bushies, etc., etc. Due to the history, it would certainly send ripples through the U.S. Attorney community if we told folks they got one term only (as a general matter, the Reagan U.S. Attorneys appointed in 1981 stayed on through the entire Reagan Administration; Bush41 even had to establish that Reagan-appointed U.S. Attorneys would not be permitted to continue on through the Bush41 Administration) -- indeed, even performance evaluations likely would create ripples, though this wouldn't necessarily be a bad thing.
4. As a political matter, each of our U.S. Attorneys has been recommended by one or more political leaders in their home State. I suspect that when push comes to shove, home-State Senators likely would resist wholesale (or even piecemeal) replacement of U.S. Attorneys they recommended (see Senator Hatch and the Utah U.S. Attorney). That said, if Karl thinks there would be political will to do it, then so do I.

-----Original Message-----

From: David\_G\_Leitch@who.eop.gov [mailto:David\_G\_Leitch@who.eop.gov]  
Sent: Thursday, January 06, 2005 12:34 PM  
To: Sampson, Kyle  
Subject: Fw: Question from Karl Rove

Let's discuss

-----Original Message-----

From: Newman, Colin <Colin\_Newman@who.eop.gov>  
To: Leitch, David G. <David\_G\_Leitch@who.eop.gov>  
Sent: Thu Jan 06 12:30:17 2005  
Subject: Question from Karl Rove

David -- Karl Rove stopped by to ask you (roughly quoting) "how we planned to proceed regarding US Attorneys, whether we were going to allow all to stay, request resignations from all and accept only some of them, or selectively replace them, etc." I told him that you would be on the hill all day for the Judge's hearing, and he said the matter was not urgent. Please let me know if you have any questions. Thanks, -Colin

Colin M. Newman  
Office of Counsel to the President  
(202) 456-5887

4

1 of 75 DOCUMENTS

>KNIGHT RIDDER<  
**WASHINGTON BUREAU**  
Knight Ridder Washington Bureau

March 12, 2007 Monday

## **White House says Rove relayed complaints about prosecutors**

**BYLINE:** Ron Hutcheson, Marisa Taylor and Margaret Talev, McClatchy Newspapers

**SECTION:** W

**LENGTH:** 989 words

WASHINGTON - The White House acknowledged on Sunday that presidential adviser Karl Rove served as a conduit for complaints to the Justice Department about federal prosecutors who were later fired for what critics charge were partisan political reasons.

House investigators on Sunday declared their intention to question Rove about any role he may have played in the firings.

White House spokeswoman Dana Perino said Rove had relayed complaints from Republican officials and others to the Justice Department and the White House counsel's office. She said Rove, the chief White House political operative, specifically recalled passing along complaints about former U.S. Attorney David Iglesias and may have mentioned the grumblings about Iglesias to Attorney General Alberto Gonzales.

Iglesias says he believes he lost his job as the top federal prosecutor in New Mexico after rebuffing Republican pressure to speed his investigation of a Democratic state official.

Perino said Rove might have mentioned the complaints about Iglesias "in passing" to Gonzales.

"He doesn't exactly recall, but he may have had a casual conversation with the A.G. to say he had passed those complaints to Harriet Miers," Perino said, relaying Rove's hazy recollection.

Perino said such a conversation would be fairly routine at the White House.

"Lots of people at the White House gets lots of complaints about lots of different people on a multitude of subjects," she said. "The procedure is to listen and take the appropriate action to notify the relevant agency."

Perino said Rove told her that he did not suggest any of the eight U.S. attorneys be forced to resign.

The new details about Rove's involvement emerged as the top Democrats on the House Judiciary Committee declared their interest in talking to him.

The committee is trying to determine whether the firings were part of an effort to exert political control over federal prosecutors. Democrats consider Rove the key source for any political interference at the Justice Department because of his role at the center of politics and policy in the White House.

Judiciary Committee Chairman John Conyers, D-Mich., and Linda Sanchez, D-Calif., confirmed their plans after McClatchy Newspapers reported Saturday that New Mexico's Republican Party chairman, Allen Weh, had complained to Rove and one of Rove's deputies about Iglesias.

"Mr. Conyers and Ms. Sanchez intend to talk with Karl Rove about any role he may have had in the firing of the U.S. attorneys," Sanchez spokesman James Dau said. "The revelations from Mr. Weh certainly give us something else relevant and salient to talk about."

Conyers and Sanchez last week told the **White House** they intended to interview several unnamed **White House** officials. But they had not previously specified **Rove**. It was unclear whether they would seek his public testimony or simply have the committee staff interview him.

The **White House's** explanation of **Rove's** role is the latest attempt to explain the firings of Republican appointees in the middle of an administration and in the absence of allegations of misconduct. After initially citing "performance-related" reasons, the Justice Department later acknowledged that policy differences played a role but denied acting at the request of the **White House**. **Rove's** statement Sunday indicates a bigger **White House** role than was previously known.

In another development, two leading Democrats said Gonzales should resign. Sen. Chuck Schumer, D-N.Y., and Sen. Joseph Biden, D-Del., said Gonzales has lost credibility with his handling of the firings, his failure to catch privacy infringements by federal investigators operating under the Patriot Act and other controversies at the Justice Department.

Perino offered **Rove's** account of his dealings with the Justice Department after talking with him by telephone. She said **Rove** routinely passed along complaints about various U.S. attorneys to the Justice Department and then-**White House** counsel Miers.

Among the complaints that **Rove** relayed were concerns among Republican Party officials in various jurisdictions that the Justice Department was not being aggressive in pursuing allegations of election fraud by Democrats. Such allegations by Republicans were a particular concern in New Mexico and Washington.

**Rove** acknowledged that he personally complained to Miers that "voter fraud cases were not being treated as a priority" by the Justice Department, Perino said. He also passed along complaints about Iglesias that he had heard going back as far as 2004.

In addition to the voter fraud issue, some New Mexico Republicans were angry that Iglesias refused to speed up his corruption investigation of several Democratic state officials. At the time, party leaders were looking for any advantage they could get that might help them retain control of Congress.

Neither **Rove** nor his deputy, Scott Jennings, recalled talking to Weh, the New Mexico Republican Party chairman, about Iglesias, but they did not dispute Weh's account of the conversation, Perino said.

In an interview Saturday with McClatchy Newspapers, Weh said he complained in 2005 about Iglesias to a **White House** liaison who worked for **Rove** and asked that he be removed. Weh said he followed up with **Rove** personally in late 2006 during a visit to the **White House**, but **Rove** told him Iglesias had already been fired.

"He's gone," **Rove** said, according to Weh. While **Rove** didn't remember the conversation, Perino said that it most likely occurred during a **White House** Christmas party on Dec. 14 - a week after Iglesias was told that he should step down.

Sunday, Weh said he wanted to be clear he didn't think **Rove** had the power to fire Iglesias.

"Folks, this isn't about the **White House** political office, this is about an incompetent attorney," he told McClatchy Newspapers. "Clearly I'm smart enough to know Karl **Rove** can't terminate anybody. It was a request."

**LOAD-DATE:** March 12, 2007

**LANGUAGE:** ENGLISH

**PUBLICATION-TYPE:** Newspaper

5

10 of 1000 DOCUMENTS

**The Washington Post**  
**washingtonpost.com**

The Washington Post

May 14, 2007 Monday  
Suburban Edition

## Voter-Fraud Complaints by GOP Drove Dismissals

**BYLINE:** Dan Eggen and Amy Goldstein; Washington Post Staff Writers

**SECTION:** A-SECTION; Pg. A04

**LENGTH:** 1198 words

Nearly half the U.S. attorneys slated for removal by the administration last year were targets of **Republican complaints** that they were lax on voter fraud, including efforts by presidential adviser Karl Rove to encourage more prosecutions of election-law violations, according to new documents and interviews.

Of the 12 U.S. attorneys known to have been dismissed or considered for removal last year, five were identified by Rove or other administration officials as working in districts that were trouble spots for voter fraud -- Kansas City, Mo.; Milwaukee; New Mexico; Nevada; and Washington state. Four of the five prosecutors in those districts were dismissed.

It has been clear for months that the administration's eagerness to launch voter-fraud prosecutions played a role in some of the firings, but recent testimony, documents and interviews show the issue was more central than previously known. The new details include the names of additional prosecutors who were targeted and other districts that were of concern, as well as previously unknown information about the White House's role.

The Justice Department demanded that one U.S. attorney, Todd P. Graves of Kansas City, resign in January 2006, several months after he refused to sign off on a Justice lawsuit involving the state's voter rolls, Graves said last week. U.S. Attorney Steven M. Biskupic of Milwaukee also was targeted last fall after **complaints** from Rove that he was not doing enough about voter fraud. But he was spared because Justice officials feared that removing him might cause political problems on Capitol Hill, according to interviews of Justice aides conducted by congressional staff members.

"There is reason for worry and suspicion at this point as to whether voting fraud played an inappropriate role in personnel decisions by the department," said Daniel P. Tokaji, an election law specialist at Ohio State University's Moritz College of Law.

The behind-the-scenes maneuvering to replace U.S. attorneys viewed as weak on voter fraud, from state **Republican parties** to the White House, is one element of a nationwide partisan brawl over voting rights in recent years. Ever since the contested 2000 presidential election, which ended in a Florida recount and intervention by the U.S. Supreme Court, both political parties have attempted to use election law to tip close contests to their advantage.

Through legislation and litigation, **Republicans** have pressed for voter-identification requirements and other rules to clamp down on what they assert is widespread fraud by ineligible voters. Starting early in the Bush administration, the Justice Department has emphasized increasing prosecutions of fraudulent voting.

Democrats counter that such fraud is rare and that **GOP efforts** are designed to suppress legitimate votes by minorities, the elderly and recent immigrants, who are likely to support Democratic candidates. A draft report last year by the Election Assistance Commission, a bipartisan government panel that conducts election research, said that "there

is widespread but not unanimous agreement that there is little polling place fraud."

That conclusion was played down in the panel's final report, which said only that the seriousness of the problem was debatable.

Attorney General Alberto R. Gonzales reflected the prevailing **GOP** view when he testified last week before the House Judiciary Committee, saying that the Justice Department has "an obligation" to prosecute voter fraud.

"[T]his notion that somehow voter fraud is a dirty word, I don't understand it, because you're talking about people stealing votes, canceling out legitimate votes," Gonzales said.

The new links between **GOP** voter-fraud complaints and the firings of the U.S. attorneys follow earlier disclosures that the White House, including President Bush, passed along complaints to Gonzales about alleged voting irregularities in Milwaukee, Philadelphia and New Mexico, where prosecutor David C. Iglesias was fired.

White House officials also criticized John McKay, then the U.S. attorney in Seattle, for not pursuing an investigation after the disputed 2004 gubernatorial election in Washington state. McKay, who was fired, has said that claim was baseless.

However, it was not clear until last week that Biskupic came close to being fired, that Graves had been asked to resign or that Justice officials had highlighted Nevada as a problem area for voter fraud. New information also emerged showing the extent to which the White House encouraged investigations of election fraud within weeks of November balloting.

Rove, in particular, was preoccupied with pressing Gonzales and his aides about alleged voting problems in a handful of battleground states, according to testimony and documents.

Last October, just weeks before the midterm elections, Rove's office sent a 26-page packet to Gonzales's office containing precinct-level voting data about Milwaukee. A Justice aide told congressional investigators that he quickly put the package aside, concerned that taking action would violate strict rules against investigations shortly before elections, according to statements disclosed this week.

That aide, senior counselor Matthew Friedrich, turned over notes to Congress that detailed a telephone conversation about voter fraud with another Justice official, Benton Campbell, chief of staff for the Criminal Division. Friedrich had asked Campbell for his assessment of Rove's complaints about problems in New Mexico, Milwaukee and Philadelphia, according to a congressional aide familiar with Friedrich's remarks.

The notes show that Campbell also identified Nevada as a problem district. Daniel G. Bogden of Las Vegas was among the nine U.S. attorneys known to have been removed from their jobs last year.

Rick Hasen, a professor at Loyola Law School who runs an election law blog, said that "there's no question that Karl Rove and other political operatives" urged Justice officials to apply pressure on U.S. attorneys to pursue voter-fraud allegations in parts of the country that were critical to the **GOP**.

Hasen said it remains unclear, however, "whether they believed there was a lot of fraud and U.S. attorneys would ferret it out, or whether they believed there wasn't a lot of fraud but the allegations would serve political purposes."

According to Lorraine Minnite, a political scientist at Barnard College who co-wrote a recent study of federal prosecution of election fraud, the states in which U.S. attorneys were dismissed, or put on a tentative firing list, include five of nearly a dozen states that Rove and other **Republicans** last year identified as election battlegrounds.

In some cases, Justice officials have cited conflicts with the chief prosecutors in those places that were unrelated to election fraud.

Minnesota's longtime federal prosecutor, Thomas Heffelfinger, resigned early in 2006 and has said his departure was voluntary, but sources say his name was included on a January 2006 firing list. Rep. Keith Ellison (D-Minn.) sent Gonzales a letter last week seeking documents about Heffelfinger's relationship with department officials, including efforts to enforce election laws in that state.

**LOAD-DATE:** May 14, 2007



6

FOCUS™ Terms  Search Within   Advanced...

Source: [News & Business](#) > [Combined Sources](#) > [Transcripts](#)

Terms: **You obviously haven't been outside, otherwise you wouldn't be clapping like that** ([Edit Search](#) | [Suggest Terms for My Search](#) | [Feedback on Your Search](#))

Select for FOCUS™ or Delivery

*KARL ROVE DELIVERS REMARKS TO THE NATIONAL REPUBLICAN LAWYERS ASSOCIATIONS CQ Transcriptions "All materials herein are protected by United States copyright law and may not be reproduced, distributed, transmitted, displayed, published or broadcast without the prior written permission of CQ Transcriptions. You may not alter or remove any trademark, copyright or other notice from copies of the content." April 7, 2006 Friday*

Copyright 2006 Congressional Quarterly, Inc. All Rights Reserved. CQ Transcriptions  
"All materials herein are protected by United States copyright law and may not be reproduced, distributed, transmitted, displayed, published or broadcast without the prior written permission of CQ Transcriptions. You may not alter or remove any trademark, copyright or other notice from copies of the content."

April 7, 2006 Friday

**TYPE:** NEWS EVENT

**LENGTH:** 7459 words

**HEADLINE:** KARL ROVE DELIVERS REMARKS TO THE NATIONAL REPUBLICAN LAWYERS ASSOCIATIONS

**SPEAKER:**

KARL ROVE, DEPUTY WHITE HOUSE CHIEF OF STAFF

**BODY:**

KARL ROVE DELIVERS REMARKS TO THE NATIONAL REPUBLICAN LAWYERS ASSOCIATION

APRIL 7, 2006.

SPEAKERS: KARL ROVE, DEPUTY WHITE HOUSE CHIEF OF STAFF

ROVE: Thank you. Enough.

**You obviously haven't been outside, otherwise you wouldn't be clapping like that, you'd be saying let's get this over quick so we can get outside and enjoy the nice day.**

Thank you.

Harvey and I have known each other a long time. Harvey used to strike the fear of god into me, because Harvey was inevitably the treasurer or the counsel for every campaign in Missouri for 20 years that I did business with -- all the Kit Bond races, all the John Ashcroft races, the state Republican Party. And there at the bottom of every one of those contracts would be Harvey's name. So we worked together on many campaigns in Missouri. And it's great to be here and be introduced by him tonight.

I see that you've got a couple other people. I ran into Thor Hern (ph). As I was coming in, he was leaving. He was smart. He was leaving to go out and enjoy the day.

I understand Phil Klein (ph) is here, General Klein is around, or maybe he is smart as well.

I do see Dick Wylie (ph) and Charles Cooper (ph) -- at least I see Dick.

I appreciate your leadership of Bush/Cheney lawyers in '04. I understand that -- in fact, I'm not a lawyer, but I understand that my personal law firm helped underwrite today's expenses, that's the firm of Nasty, British and Short.

(LAUGHTER)

(UNKNOWN): Hey, I haven't seen you. Congratulations.

ROVE: Well, thank you very much. Thank you very much.

(UNKNOWN): He obviously found a woman with very poor judgment.

(LAUGHTER)

ROVE: Well, I learned all I needed to know about election integrity from the college Republicans.

(LAUGHTER)

(UNKNOWN): There you go. He was for me in the election. The other guys tried to steal it. That's right. The other guys tried to steal it.

(LAUGHTER)

The question I have: The Democrats seem to want to make this year an election about integrity, and we know that their party rests on the base of election fraud. And we know that, in some states, some of our folks are pushing for election measures like voter ID.

But have you thought about using the bully pulpit of the White House to talk about election reform and an election integrity agenda that would put the Democrats back on the defensive?

ROVE: Yes, it's an interesting idea. We've got a few more things to do before the political silly season gets going, really hot and heavy. But yes, this is a real problem. What is it -- five wards in the city of Milwaukee have more voters than adults?

With all due respect to the City of Brotherly Love, Norcross Roanblank's (ph) home turf, I do not believe that 100 percent of the living adults in this city of Philadelphia are registered, which is what election statistics would lead you to believe.

I mean, there are parts of Texas where we haven't been able to pull that thing off.

(LAUGHTER)

And we've been after it for a great many years.

So I mean, this is a growing problem.

The spectacle in Washington state; the attempts, in the aftermath of the 2000 election to disqualify military voters in Florida, or to, in one instance, disqualify every absentee voter in Seminole county -- I mean, these are pretty extraordinary measures that should give us all pause.

The efforts in St. Louis to keep the polls opened -- open in selected precincts -- I mean, I would love to have that happen as long, as I could pick the precincts.

ROVE: This is a real problem. And it is not going away.

I mean, Bernalillo County, New Mexico will have a problem after the next election, just like it has had after the last two elections.

I mean, I remember election night, 2000, when they said, oops, we just made a little mistake; we failed to count 55,000 ballots in Bernalillo; we'll be back to you tomorrow.

(LAUGHTER)

That is a problem. And I don't care whether you're a Republican or a Democrat, a vegetarian or a beef-eater, this is an issue that ought to concern you because, at the heart of it, our democracy depends upon the integrity of the ballot place. And if you cannot...

(APPLAUSE)

I have to admit, too -- look, I'm not a lawyer. So all I've got to rely on is common sense. But what is the matter? I go to the grocery store and I want to cash a check to pay for my groceries, I've got to show a little bit of ID.

Why should it not be reasonable and responsible to say that when people show up at the voting place, they ought to be able to prove who they are by showing some form of ID?

We can make arrangements for those who don't have driver's licenses. We can have provisional ballots, so that if there is a question that arises, we have a way to check that ballot. But it is fundamentally fair and appropriate to say, if you're going to show up and claim to be somebody, you better be able to prove it, when it comes to the most sacred thing we have been a democracy, which is our right of expression at the ballot.

And if not, let's just not kid ourselves, that elections will not be about the true expression of the people in electing their government, it will be a question of who can stuff it the best and most. And that is not healthy.

QUESTION: I've been reading some articles about different states, notably in the west, going to mail-in ballots and maybe even toying with the idea of online ballots. Are you concerned about this, in the sense of a mass potential, obviously, for voter fraud that this might have in the West?

ROVE: Yes. And I'm really worried about online voting, because we do not know all the ways that one can jimmy the system. All we know is that there are many ways to jimmy the system.

I'm also concerned about the increasing problems with mail-in ballots. Having last night cast my mail-in ballot for the April 11 run-off in Texas, in which there was one race left in Kerr County to settle -- but I am worried about it because the mail-in ballots, particularly in the Northwest, strike me as problematic.

I remember in 2000, that we had reports of people -- you know, the practice in Oregon is everybody gets their ballot mailed to them and then you fill it out.

And one of the practices is that people will go to political rallies and turn in their ballots. And we received reports in the 2000 election -- which, remember we lost Oregon by 5000 votes -- we got reports of people showing up at Republican rallies and passing around the holder to get your ballot, and then people not being able to recognize who those people were and not certain that all those ballots got turned in.

On Election Day, I remember, in the city of Portland, Multnomah County -- I'm going to mispronounce the name -- but there were four of voting places in the city, for those of you who don't get the ballots, well, we had to put out 100 lawyers that day in Portland, because we had people showing up with library cards, voting at multiple places.

I mean, why was it that those young people showed up at all four places, showing their library card from one library in the Portland area? I mean, there's a problem with this.

And I know we need to make arrangements for those people who don't live in the community in which they are registered to vote or for people who are going to be away for Election Day or who are ill or for whom it's a real difficulty to get to the polls. But we need to have procedures in place that allow us to monitor it.

ROVE: And in the city of Portland, we could not monitor. If somebody showed up at one of those four voting locations, we couldn't monitor whether they had already cast their mail-in ballot or not. And we lost the state by 5,000 votes.

I mean, come on. What kind of confidence can you have in that system? So yes, we've got to do more about it.

QUESTION: There are still quite a few pending judicial nominations in the Senate Judiciary Committee, that the White House has submitted. And some have been there many, many months, even years.

(CROSSTALK)

QUESTION: Should the Senate Judiciary Committee turn its attention, now, to processing those nominees?

ROVE: Yes, they should. As you say, a number of those, particularly the circuits, have been there for a long, long time: Brett Kavanaugh, a colleague of mine at the White House, who would be superb; Jim Haynes. There are several of them that are there and ready to be considered.

We also have about -- I think there are 25 that are before the Congress and there are 23 that are in background. And there are, I think, 17 vacancies that we are awaiting names from home state senators or that have just become vacant.

And then I think there are roughly the same number that are literally in the process of being interviewed and recommendations being framed.

So my point is that they've got 25 now. They're about ready to get 20-some odd more. And they're about ready to get a bunch more shortly after that. So it would be useful if we could turn up the pressure there to encourage them to start paying attention to some of those.

7



March 29, 2007

## E-Mail Shows Rove's Role in Fate of Prosecutors

By **DAVID D. KIRKPATRICK** and **JIM RUTENBERG**

WASHINGTON, March 28 — Almost every Wednesday afternoon, advisers to President Bush gather to strategize about putting his stamp on the federal courts and the United States attorneys offices.

The group meets in the Roosevelt Room and includes aides to the White House counsel, the chief of staff, the attorney general and Karl Rove, who also sometimes attends himself. Each of them signs off on every nomination.

Mr. Rove, a top adviser to the president, takes charge of the politics. As caretaker to the administration's conservative allies, Mr. Rove relays their concerns, according to several participants in the Wednesday meetings. And especially for appointments of United States attorneys, he manages the horse trading.

"What Karl would say is, 'Look, if this senator who has been working with the president on the following things really wants this person and we think they are acceptable, why don't we give the senator what he wants?'" said one former administration official. "You know, we stiffed him on that bill back there."

Mr. Rove's role has put him in the center of a Senate inquiry into the dismissal of eight United States attorneys. Democrats and a few Republicans have raised questions about whether the prosecutors were being replaced to impede or jump-start investigations for partisan goals.

Political advisers have had a hand in picking judges and prosecutors for decades, but Mr. Rove exercises unusually broad influence over political, policy and personnel decisions because of his closeness to the president, tenure in the administration and longstanding interest in turning the judiciary to the right.

In Illinois, Mr. Rove once reprimanded a Republican senator for recommending the appointment of Patrick J. Fitzgerald, a star prosecutor from outside the state, to investigate the state's then-governor, a Republican. In New Jersey, Mr. Rove helped arrange the nomination of a major Bush campaign fund-raiser who had little prosecutorial experience. In Louisiana, he first supported and then helped scuttle a similar appointment.

In the months before the United States attorneys in New Mexico and Washington State were ousted, Mr. Rove joined a chorus of complaints from state Republicans that the federal prosecutors had failed to press charges in Democratic voter fraud cases. While planning a June 21, 2006, White House session to discuss the prosecutors, for example, a Rove deputy arranged for top Justice Department officials to meet with an important Bush supporter who was critical of New Mexico's federal prosecutor about voter fraud.

And in Arkansas, newly released Justice Department e-mail messages show, Mr. Rove's staff repeatedly prodded the department's staff to install one of his protégés as a United States attorney by ousting a

previous Bush appointee who was in good standing.

Senate Democrats and a few Republicans have called for Mr. Rove to testify publicly about the dismissals.

"There is an issue of intrigue, and for better or worse, that surrounds Karl Rove," said Senator Arlen Specter of Pennsylvania, the ranking Republican on the Senate Judiciary Committee. "It is in the president's interest and the country's interest to have it dispelled or verified, but let's hear it from him."

The White House, however, is offering only a private interview without a sworn oath.

Congressional Democrats said they were focusing on Mr. Rove in part because the administration appeared to have tried to hide his fingerprints. In a February 23 letter to Senate Democratic leaders that was approved by the White House counsel's office, for example, the Justice Department said that no one in the White House had "lobbied" for any of the eight dismissals, and specifically denied that Mr. Rove had "any role" in the appointment of the protégé, J. Timothy Griffin, a former Bush campaign operative.

But the Justice Department officials who drafted the letter had corresponded with Mr. Rove's staff just weeks earlier about how to get the nomination done. On Wednesday night, a department official apologized for inaccuracies in the letter.

White House officials said Mr. Rove was just one voice in the approval of federal prosecutors, whose selection is traditionally guided by the recommendations of senior members of the president's party in their states.

"Our job is to find qualified nominees who can win confirmation and be good public servants," said Dana Perino, a White House spokeswoman. After the United States attorneys are confirmed, she said, Mr. Rove and others at the White House show "wide deference" to the Justice Department about specific cases.

Some Republicans say they always understood that Mr. Rove had a say in prosecutor appointments. "I basically felt when I was talking to Karl I was talking to the president," said former Senator Peter G. Fitzgerald, an Illinois Republican.

Early in the Bush administration, Mr. Fitzgerald said, he sought to recruit a prosecutor who could investigate Gov. George Ryan of Illinois without fear of influence by the state's political powers. But Governor Ryan and his political ally Speaker J. Dennis Hastert argued to the White House that they should have a voice in the decision and insisted that someone from Illinois get the post. Mr. Fitzgerald, who had hired Mr. Rove as a consultant, called him to settle the question.

"Peter, it is your pick," Mr. Rove told Mr. Fitzgerald, the former senator recalled. "But we don't want you to pick anybody from out of state. For your Chicago guy, it has to be from Chicago."

Undeterred, Mr. Fitzgerald sidestepped the White House. He made only one recommendation — Patrick J. Fitzgerald, a New York prosecutor — announced it publicly, and drew public acclaim that made it unstoppable. Some time after the appointment, the former Senator Fitzgerald said, Mr. Rove "kind of yelled at me," telling him, "The appointment got great headlines for you but it ticked off the base" — a phrase that the senator took to refer to the state's Republican establishment.

Tony Fratto, a White House spokesman, said Mr. Rove was simply pushing a general administration goal to appoint home-state prosecutors.

Democrats have seized on a connection to Mr. Rove to attack a prosecutor's credibility. In New Jersey, William Palatucci, a Republican political consultant and Bush supporter, boasted of selecting a United States attorney by forwarding Mr. Rove the résumé of his partner, Christopher J. Christie, a corporate lawyer and Bush fund-raiser with little prosecutorial experience.

Mr. Christie has brought public corruption charges against prominent members of both parties, but his most notable investigations have stung two Democrats, former Gov. James E. McGreevey and Senator Robert Menendez. When word of the latter inquiry leaked to the press during the 2006 campaign, Mr. Menendez sought to dismiss it by tying Mr. Christie to Mr. Rove, calling the investigation "straight out of the Bush-Rove playbook." (Mr. McGreevey resigned after admitting to having an affair with a male aide and the Menendez investigation has not been resolved.)

Mr. Rove initially supported the 2002 nomination of Fred Heebe, a lawyer turned developer and a major Bush donor, for United States attorney in Louisiana. But after former romantic partners of Mr. Heebe raised accusations of abuse, which he denied, the White House backed off. Gov. Mike Foster publicly blamed Mr. Rove for the reversal. Local Republican women sent Mr. Rove's fax machine letters supporting Mr. Heebe, to no avail.

Mr. Rove acts as a conduit to the White House for complaints from Republican officials around the country, including gripes about federal prosecutors. During the tight 2004 governor's race in Washington State, for example, Chris Vance, then chairman of the state's Republican party, complained to a member of Mr. Rove's staff about what he considered Democratic voter fraud.

"When you are a state party chairman, the White House regional political director is just part of your life," Mr. Vance recalled. Mr. Vance said he never complained specifically about the United States attorney John McKay, who has been dismissed. Mr. Vance said he did not know if Mr. McKay had started an investigation.

But in New Mexico, Mr. Vance's counterpart as well as the state's senior Republican, Senator Pete V. Domenici, both complained to Mr. Rove that the United States attorney David C. Iglesias was not prosecuting Democratic voter fraud.

Mr. Rove readily took up their alarms. In an April 2006 speech to the Republican National Lawyers Association, he detailed accusations about Democratic abuses in several locations, including New Mexico and "the spectacle of Washington State." He also relayed the complaints to Attorney General Alberto R. Gonzales and the White House counsel, Harriet E. Miers, and possibly Mr. Bush, the administration has recently acknowledged. The prosecutors in those two states, who have said they could not prove accusations of voter fraud, were among those ousted last year.

In Arkansas, Representative John Boozman, the state's highest ranking Republican in Congress, said he recommended Mr. Rove's protégé, Mr. Griffin, for a United States attorney vacancy in 2004, in part because of his ties to Mr. Rove.

A prosecutor in the Army Reserves, Mr. Griffin worked for Mr. Rove as an opposition researcher attacking



Democratic presidential candidates in 2000. In between, for six months, the Justice Department had dispatched him to Arkansas to get experience as a prosecutor.

"I have been in situations through the years where Tim and Karl were at," Mr. Boozman recalled. "I could tell that Karl thought highly of him." -

Mr. Griffin dropped out of the running in 2004 when he accepted a campaign job for Mr. Rove, then became his deputy in the White House. But last summer, the department asked United States Attorney H. E. Cummins III to resign to make room and Mr. Rove's staff began talking with department officials about how to install Mr. Griffin despite Senate opposition, internal e-mail shows.

Republican defenders of the Griffin appointment said it is hardly unheard of for a prominent official like Mr. Rove to call in such a favor.

Ultimately, United States attorneys know they are political appointees, said Senator John Cornyn, Republican of Texas, who is close to Mr. Rove.

"To suggest that these folks do not know or understand the process by which they are appointed, confirmed and retained," Mr. Cornyn said, "is to suggest that they are naïve."

Copyright 2007 The New York Times Company

[Privacy Policy](#) | [Search](#) | [Corrections](#) | [RSS](#) | [First Look](#) | [Help](#) | [Contact Us](#) | [Work for Us](#) | [Site Map](#)

8



U.S. Department of Justice  
Office of Legislative Affairs

---

Office of the Assistant Attorney General

Washington, D.C. 20530

June 14, 2007

The Honorable Henry A. Waxman  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your letter, dated April 26, 2007, which requested information and supporting documents in connection with the Committee's oversight inquiry regarding political briefings pertaining to elections or candidates provided to Department of Justice employees by officials in the White House between January 20, 2001, and April 26, 2007. We are sending copies of this letter to the Chairman and Ranking Minority Member of the Senate Judiciary Committee, who requested information regarding this matter in a letter, dated April 26, 2007.

In response to your request, Departmental components were asked to determine whether any of their political appointees attended, or were aware of any employee within the component having attended, a briefing with White House officials as described in your request. Components were asked to have the appointees review their calendars and, if an appointee attended or was aware of any such briefing, they were to collect and preserve any communications or documents about the briefing, and the name of the individual was to be provided to the Justice Management Division for further inquiry. The Department's Office of Information and Privacy and the Executive Secretariat also conducted searches of the electronic and paper files, when available, of David Higbee, Jan Williams, Susan Richmond, and Monica Goodling, all of whom served in the position of White House Liaison during the relevant time period, and Kyle Sampson (former Chief of Staff to the Attorney General). Although we were able to search Ms. Williams' electronic files, we were unable to find paper records from her tenure with the Department.

These search efforts did not reveal information indicating that briefings of the type described in your letter were held at the Department of Justice. Our information indicates that Department employees attended the following briefings at the White House's Eisenhower Executive Office Building (EEOB) and, in one instance, at the U.S. Department of Agriculture (USDA). Our records do not indicate whether all of the meetings described in this letter or the supporting documents actually included a political briefing regarding elections or candidates; however, where we were uncertain, we included the meeting in our response, which may be over-inclusive as a result.

- **3/12/01:** A luncheon for agency White House liaisons. According to the invitation, the agenda included Karl Rove providing a "political update"; Ken Mehlman discussing "how we can work together to advance the President's agenda"; and Matt Schlapp providing an "update on personnel and hiring processes." Our records indicate that David Higbee, then the Department's White House Liaison, attended this luncheon.
- **4/6/01:** A meeting between Karl Rove, agency White House Liaisons, the White House Office of Public Liaison, and the White House Office of Political Affairs. According to the invitation, the agenda included a "briefing on the status of White House political and coalition activities/organization." Our records indicate that David Higbee, then the Department's White House Liaison, attended this briefing.
- **5/18/01:** A meeting for agency White House liaisons hosted by the White House Office of Political Affairs and Office of Presidential Personnel. According to the invitation, the agenda included a "political update" presented by Ken Mehlman. Our records indicate that David Higbee, then the Department's White House Liaison, attended this briefing.
- **7/12/01:** A meeting for agency Chiefs of Staff and White House liaisons. According to the invitation, Ken Mehlman would "deliver a political briefing and update." Our records indicate that David Higbee, then the White House Liaison, and Susan Richmond, then the Deputy White House Liaison, attended this meeting.
- **12/14/01:** A meeting for agency White House liaisons and Chiefs of Staff hosted at the USDA. According to the invitation from the White House, the agenda included a "political update" to be presented by either Ken Mehlman or Matt Schlapp from the White House Office of Political Affairs. Our records indicate that Susan Richmond, then the Department's Deputy White House Liaison, attended this meeting.
- **3/04/02:** A meeting for agency Chiefs of Staff and White House liaisons hosted by Brett Kavanaugh (White House Counsel's Office) and Ken Mehlman. According to the invitation, the agenda included providing "advice and counsel with regard to the do's and don'ts regarding your participation in politically-related activities." Our records indicate that David Higbee, then the Department's White House Liaison, and Susan Richmond, then the Deputy White House Liaison, attended this meeting.
- **5/21/02:** A briefing hosted by the White House Office of Public Liaison regarding "outreach," which included presentations by Karl Rove, Senior Advisor to the President, Lezlee Westine, Director of the Office of Public Liaison, Ken Mehlman, Director of Political Affairs, and Albert Hawkins, Cabinet Secretary. Although this meeting appeared on a calendar for David Higbee, then the White House Liaison, we found no records confirming his attendance.

- **3/2/03:** An agency White House liaisons meeting hosted by the White House Office of Presidential Personnel, Office of Political Affairs, and Cabinet Affairs, which included presentations by Dina Powell, Assistant to the President for Presidential Personnel, Matt Schlapp, Deputy Director of Political Affairs, Brian Montgomery, Deputy Assistant to the President and Cabinet Secretary, Karl Rove, Senior Advisor to the President, and Andrew Card, Chief of Staff. Our records indicate that David Higbee, then the Department's White House Liaison, attended this briefing.
- **3/14/06:** A Political Briefing for agency White House liaisons, senior legislative affairs staff, and senior intergovernmental affairs staff hosted by Sara Taylor, White House Political Director, which included the following speakers from the White House, in addition to Ms. Taylor: Heidi Smith, Director of Cabinet Liaison; Ruben Barrales, Director of Intergovernmental Affairs; Candi Wolff, Director of Legislative Affairs; and Liza Wright, Director of Presidential Personnel. Our records indicate that Jan Williams, then the Department's White House Liaison, Crystal Jezierski (then the Director of the Office of Intergovernmental and Public Liaison), and Rebecca Seidel (Deputy Assistant Attorney General, Office of Legislative Affairs) attended this briefing.
- **8/8/06:** A briefing for political appointees in agencies' public liaison and intergovernmental affairs offices hosted by the White House Office of Public Liaison and Office of Intergovernmental Affairs, which included a political briefing and presentation of information about the midterm elections from the White House Office of Political Affairs. Our records indicate that Crystal Jezierski, then the Director of the Department's Office of Intergovernmental and Public Liaison, Katherine Green, then the Research Assistant to the Director, Office of Intergovernmental and Public Liaison, and Brian Cohen, Associate Director, Office of Intergovernmental and Public Liaison, attended this briefing.
- **8/11/06:** On this date, a regularly scheduled briefing for Hispanic political appointees from federal agencies included, among the agenda items, a presentation of information about midterm election trends. Our records indicate that the following Department of Justice representatives attended this particular briefing: Eric Holland (Acting Director, Office of Intergovernmental and Public Liaison), and Arthur Schwartz (Office of Public Affairs). Mr. Holland attended the meeting to give a presentation about what the Department of Justice is doing for Hispanic-American citizens.
- **9/5/06:** A briefing by the White House Office of Political Affairs for agency Chiefs of Staff and White House Liaisons hosted by the Office of Cabinet Liaison. According to the invitation, the briefing would be led by Karl Rove. Our records show that Monica Goodling, then the Department's White House Liaison, requested that the briefing be noted on her calendar and Kyle Sampson, then the Chief of Staff to the Attorney General, responded that he would attend. However, our records do not indicate whether Ms. Goodling or Mr. Sampson, who are no longer Department employees, actually attended this briefing.

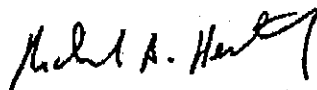
The Honorable Henry A. Waxman  
Page Four

- **9/8/06:** The White House hosted an "Agency Legislative Affairs Meeting," at which Sara Taylor, Director of Political Affairs, gave a "brief political affairs update." Our records indicate that William Moschella (then the Assistant Attorney General, Office of Legislative Affairs) attended this meeting.

Enclosed are 160 pages of supporting documents responsive to your request. In the enclosed documents, we have redacted information that would implicate the privacy interests of Department of Justice employees, including dates of birth and social security numbers.

We hope that this information is helpful. Please do not hesitate to contact this office if we may be of further assistance on this or any other matter.

Sincerely,



Richard A. Hertling  
Principal Deputy Assistant Attorney General

Enclosures

cc: The Honorable Tom Davis  
Ranking Minority Member

The Honorable Patrick J. Leahy  
Chairman, Senate Judiciary Committee

The Honorable Arlen Specter  
Ranking Minority Member, Senate Judiciary Committee

9

## Sampson, Kyle

---

**From:** Sampson, Kyle  
**Sent:** Wednesday, November 15, 2006 10:55 AM  
**To:** 'Harriet\_Miers@who.eop.gov'; 'William\_K\_Kelley@who.eop.gov'  
**Cc:** McNulty, Paul J  
**Subject:** USA replacement plan

**Importance:** High

**Attachments:** USA replacement plan.doc

Harriet/Bill, please see the attached. Please note (1) the plan, by its terms, would commence this week; (2) I have consulted with the DAG, but not yet informed others who would need to be brought into the loop, including Acting Associate AG Bill Mercer, EOUSA Director Mike Battle, and AGAC Chair Johnny Sutton (nor have I informed anyone in Karl's shop, another pre-execution necessity I would recommend); and (3) I am concerned that to execute this plan properly we must all be on the same page and be steeled to withstand any political upheaval that might result (see Step 3); if we start caving to complaining U.S. Attorneys or Senators then we shouldn't do it -- it'll be more trouble than it is worth.

We'll stand by for a green light from you. Upon the green light, we'll (1) circulate the below plan to the list of folks in Step 3 (and ask that you circulate it to Karl's shop), (2) confirm that Kelley is making the Senator/Bush political lead calls, and (3) get Battle making the calls to the USAs. Let us know.



USA replacement  
plan.doc (40 K...

Kyle Sampson  
Chief of Staff  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
(202) 514-2001 wk.  
(202) 305-5289 cell  
kyle.sampson@usdoj.gov



**PLAN FOR REPLACING CERTAIN  
UNITED STATES ATTORNEYS**

November 15, 2006

**STEP 1**

U.S. Attorney calls: On or about November 15-17, Mike Battle contacts the following U.S. Attorneys:

- Paul Charlton (D. Ariz.)
- Carol Lam (S.D. Cal.)
- Margaret Chiara (W.D. Mich.)
- Dan Bogden (D. Nev.)
- John McKay (W.D. Wash.)
- David Iglesias (D.N.M.)

Battle informs the U.S. Attorneys as follows:

- What are your plans with regard to continued service as U.S. Attorney?
- The Administration is grateful for your service as U.S. Attorney, but has determined to give someone else the opportunity to serve as U.S. Attorney in your district for the final two years of the Administration.
- We will work with you to make sure that there is a smooth transition, but intend to have a new Acting or Interim U.S. Attorney in place by the end of the year.

**STEP 2**

Senator calls: On or about November 15-17 (very important that Senator calls and U.S. Attorney calls happen simultaneously), Bill Kelley or appropriate Associate Counsel contacts the following Republican home-state Senators or, where there is no Republican home-state Senator, the home-state "Bush political lead":

- Jon Kyl (re Charlton)
- John Ensign (re Bogden)
- Pete Domenici (re Iglesias)
- California political lead (re Lam)
- Michigan political lead (re Chiara)
- Washington political lead (re McKay)

OAG00000041

Kelley informs the Senators/Bush political leads as follows:

- The Administration has determined to give someone else the opportunity to serve as U.S. Attorney in [relevant district] for the final two years of the Administration.
- [Relevant U.S. Attorney] has been informed of this determination and knows that we intend to have a new Acting or Interim U.S. Attorney in place by the end of the year.
- We will look to you, Senator/Bush political lead, to recommend candidates that we should consider for appointment as the new U.S. Attorney. As always, we ask that you recommend at least three candidates for the President's consideration. Importantly, we ask that you make recommendations as soon as possible.

### STEP 3

Prepare to Withstand Political Upheaval: U.S. Attorneys desiring to save their jobs (aided by their allies in the political arena as well as the Justice Department community), likely will make efforts to preserve themselves in office. We should expect these efforts to be strenuous. Direct and indirect appeals of the Administration's determination to seek these resignations likely will be directed at: various White House offices, including the Office of the Counsel to the President and the Office of Political Affairs; Attorney General Gonzales and DOJ Chief of Staff Sampson; Deputy Attorney General McNulty and ODAG staffers Moschella and Elston; Acting Associate AG Bill Mercer; EOUSA Director Mike Battle; and AGAC Chair Johnny Sutton. Recipients of such "appeals" must respond identically:

- What? U.S. Attorneys serve at the pleasure of the President (there is no right, nor should there be any expectation, that U.S. Attorneys would be entitled to serve beyond their four-year term).
- Who decided? The Administration made the determination to seek the resignations (not any specific person at the White House or the Department of Justice).
- Why me? The Administration is grateful for your service, but wants to give someone else the chance to serve in your district.
- I need more time! The decision is to have a new Acting or Interim U.S. Attorney in place by the end of the year (granting "extensions" will hinder the process of getting a new U.S. Attorney in place and giving that person the opportunity to serve for a full two years).

### STEP 4

Evaluation and Selection of "Interim" Candidates: During November-December 2006, the Department of Justice, in consultation with the Office of the Counsel to the President, evaluates and selects candidates for Attorney General-appointment (or candidates who may become Acting U.S. Attorney by operation of law) to serve upon the resignation of above-listed U.S. Attorneys.

## **STEP 5**

Selection, Nomination, and Appointment of New U.S. Attorneys: Beginning as soon as possible in November 2006, Office of the Counsel to the President and Department of Justice carry out (on an expedited basis) the regular U.S. Attorney appointment process: obtain recommendations from Senators/Bush political leads and other sources; evaluate candidates; make recommendations to the President; conduct background investigations; have President make nominations and work to secure confirmations of U.S. Attorney nominees.

10

---

**From:** Jennings, Jeffery S.  
**Sent:** Monday, December 04, 2006 4:46 PM  
**To:** Kelley, William K.  
**Subject:** RE: US Atty Plan

Yes - I think we are fine to move ahead.

-----Original Message-----

**From:** Kelley, William K.  
**Sent:** Friday, December 01, 2006 2:28 PM  
**To:** Jennings, Jeffery S.  
**Subject:** Fw: US Atty Plan

Scott--Did you get this? DOJ very much wants to pull this trigger, and they are waiting onus. Many thanks.

-----Original Message-----

**From:** Kelley, William K.  
**To:** Jennings, Jeffery S.; Fiddelke, Debbie S.; Martin, Catherine  
**Sent:** Thu Nov 30 11:40:20 2006  
**Subject:** US Atty Plan

DOJ would like to go forward with the plan to replace certain US Attorneys. We don't have any reason to believe that the US Attorneys in question in Nevada and Arizona are close or important to the home state Senators, and DOJ is prepared to deal with the public affairs issues that were raised. Before proceeding, however, DOJ asked us to reconfirm that we're ready to stand strong in the face of political pressure on this issue. So -- are we? Also, Scott, can I take your sign-off as Karl's, or should I raise this separately with him?

11

---

**From:** Scott Jennings  
**Sent:** 11/25/2006 10:02:54 PM  
**To:** Karl Rove /O=REPUBLICAN NATIONAL COMMITTEE/OU=RNC/CN=RECIPIENTS/CN=KR;  
**Subject:** Re: Give me a report on what US Attorney slots are vacant

Yes sir. It will be lengthy- there are several.

-----Original Message-----

**From:** Karl Rove  
**To:** Scott Jennings  
**Sent:** Sat Nov 25 20:38:52 2006  
**Subject:** Give me a report on what US Attorney slots are vacant

Or expected to be open soon.

HJC 00438

12



**From:** Tim Griffin [tg@gwb43.com]  
**Sent:** Monday, May 02, 2005 1:43 PM  
**To:** Fahrenkopf, Leslie  
**Subject:** FW: NM US ATTORNEY  
**Importance:** High

Fyi as discussed

---

**From:** Scott Jennings  
**Sent:** Monday, May 02, 2005 12:29 PM  
**To:** Tim Griffin  
**Subject:** NM US ATTORNEY  
**Importance:** High

IG—here is the info you wanted on David Iglesias, the NM US Attorney. Please let me know what else I can do to move this process forward. Is it too early to formulate a list of extremely capable replacements? There are several I know personally and can recommend—jsj

In the fall of 2004, Bernalillo County Sheriff Darren White turned over suspected fraudulent voter registration forms, including one for a 13 year old boy and his 15 year old neighbor. Additionally, the Bernalillo County Clerk turned over hundreds of additional forms suspected of being forgeries. Republican attorneys Pat Rogers and Mickey Barnett later turned over scores more.

Most of these suspicious forms bore the names of the registrars. Moreover, the group responsible for some of the more egregious forgeries, ACORN, admitted in the press to submitting them.

In a discussion with GOP attorneys, U.S. Attorney David Iglesias claimed he was told by "DC leadership" not to prosecute. Against the urging of Republicans, Iglesias formed a task force and named Secretary of State Rebecca Vigil-Giron to it. Vigil-Giron, a partisan Democrat, had repeatedly stated to the press that voter fraud only exists in the imaginations of Republicans. The creation of a bogus task force took much of the steam out of the movement to get to the bottom of the voter fraud issue. Unsurprisingly, the task force announced it would take no action until after the election and gave a green light for the 527 groups to continue their unscrupulous activities.

During the provisional vote qualifying process post-election, hundreds of incidents involving double-voting, voting in the place of another, and other voter fraud incidents were documented and turned over to the task force. The task force also publicly stated that it received hundreds of additional complaints directly from the public.

Unfortunately, even after the election, Iglesias announced that the task force was being disbanded and there would be no prosecutions.

It continues to be the opinions of the County Sheriff and GOP lawyers that numerous cases of voter fraud can be made and are highly prosecutable. The director of the Bernalillo County Clerk's office has also privately conveyed his dismay with the lack of interest from the US Attorney's office in pursuing these cases.

13

**From:** Miers, Harriet  
**Sent:** Thursday, June 09, 2005 4:19 PM  
**To:** Fahrenkopf, Leslie  
**Subject:** RE:

I believe the decision is to let his 4 years run and then appoint someone else if this is the right case.

---

**From:** Fahrenkopf, Leslie  
**Sent:** Thursday, June 09, 2005 3:44 PM  
**To:** Miers, Harriet  
**Subject:** FW:

Harriet:

Just wanted to follow up on this item to see if you wanted to take any action. You'll recall that this is the individual who is ruff some feathers in NM.

Thanks -  
Leslie

~~-----Original Message-----~~

**From:** Fahrenkopf, Leslie  
**Sent:** Thursday, May 12, 2005 11:30 AM  
**To:** Miers, Harriet  
**Subject:**

Harriet:

Per our conversation last week regarding the U.S. Attorney for New Mexico, David Iglesias, I double-checked the dates of Igl confirmation and appointment. He was confirmed October 11, 2001 and appointed by the President on October 16, 2001. I also asked me to remind you to check the "chart" grading U.S. attorneys on their performance.

Thanks -  
LAF

14

---

. rom: Tim Griffin [tg@gwb43.com]  
Sent: Tuesday, June 28, 2005 11:47 AM  
To: Fahrenkopf, Leslie  
Subject: RE: Nm us atty

That is fine. Thank you leslie. I appreciate it. TG

-----Original Message-----

From: Fahrenkopf, Leslie [mailto:Leslie\_Fahrenkopf@who.eop.gov]  
Sent: Tuesday, June 28, 2005 11:46 AM  
To: Tim Griffin  
Subject: RE: Nm us atty

He is on my radar screen. I raised it with Harriet a few weeks ago and she would like to wait until his term is up in October 2005. If you think it merits another conversation with her, let me know.

-----Original Message-----

From: Tim Griffin [mailto:tg@gwb43.com]  
Sent: Tuesday, June 28, 2005 11:36 AM  
To: Fahrenkopf, Leslie  
Subject: FW: Nm us atty

the NM US Attorney even on your radar screen? I think we discussed performance at some point. See below. Thanks, TG

-----Original Message-----

From: Tim Griffin  
Sent: Tuesday, June 28, 2005 11:39 AM  
To: Scott Jennings  
Subject: RE: Nm us atty

I hear you. It may not be that easy though. The president has to want to get rid of him. I will ask counsel's office to see if it is even in contemplation.

-----Original Message-----

From: Scott Jennings  
Sent: Tuesday, June 28, 2005 11:34 AM  
To: Tim Griffin  
Subject: Nm us atty

I would really like to move forward with getting rid of NM USATTY. I was with CODEL this morning and they are really angry over his lack of action on voter fraud stuff. Iglesias has done nothing. We are getting killed out there.

-----  
J. Scott Jennings  
Associate Director  
White House Office of Political Affairs  
sjennings@gwb43.com

15

---

From: Karl Rove  
Sent: Tuesday, August 09, 2005 5:10 PM  
To: Tim Griffin  
Subject: Re: US Atty - NM

Great

-----Original Message-----

---

From: Tim Griffin <tg@gwb43.com>  
To: Karl Rove <KR@georgewbush.com>  
Sent: Tue Aug 09 17:07:08 2005  
Subject: RE: US Atty - NM

Done

Also, just got off the phone with Michael hook. Setting up meeting with him and rep Kelly

-----Original Message-----

From: Karl Rove  
Sent: Tuesday, August 09, 2005 5:05 PM  
To: Tim Griffin  
Subject: Re: US Atty - NM

Talk to the counsel's office.

-----Original Message-----

From: Tim Griffin <tg@gwb43.com>  
To: Karl Rove <KR@georgewbush.com>; Sara Taylor <st@gwb43.com>  
CC: Scott Jennings <SJennings@gwb43.com>  
Sent: Tue Aug 09 16:49:24 2005  
Subject: RE: US Atty - NM

I have discussed this issue with the counsel's office. I will raise with them again. Last time I spoke with them they were aware of the issue and they were seemed to be considering a change on their own. I will mention again unless I am instructed otherwise. Thanks, TG

---

From: Allen Weh  
Sent: Tuesday, August 09, 2005 4:46 PM  
To: Scott Jennings  
Cc: Karl Rove; Sara Taylor; Tim Griffin; Bell, Steve (Domenici)  
Subject: US Atty - NM

We discussed the need to replace the US Atty in NM several months ago. The brief on Voter Fraud at the RNC meeting last week reminded me of how important this post is to this issue, and prompted this follow up. As you are aware the incumbent, David Iglesias, has failed miserably in his duty to prosecute voter fraud. To be perfectly candid, he was "missing in action" during the last election, just as he was in the 2002 election cycle.

I am advised his term expires, or is renewed, in October. It is respectfully requested that strong consideration be given to replacing him at this point.

We are only one of two states thus far to create a HAVA director on the state GOP staff, and winning the Secretary of State and AG offices next year are at the top of our priorities. If we can get a new US Atty that takes voter fraud seriously, combined with these other initiatives we'll make some real progress in cleaning up a state notorious for crooked elections.

Allen



16

---

From: Karl Rove [KR@georgewbush.com]  
Sent: Monday, October 02, 2006 8:51 PM  
To: Miers, Harriet  
Subject: Fw: Possible corruption in building of jail, courts is new focus

Domenici is calling me about the USA for New Mexico

-----Original Message-----

From: Mickey Barnett  
To: Karl Rove  
CC: pjrc ; Scott Jennings; Steve Bell

Sent: Mon Oct 02 20:45:36 2006  
Subject: Possible corruption in building of jail, courts is new focus

Karl

This article confirms what I mentioned Saturday. An FBI agent told me more than six months ago that their investigation was done and been turned over to the U.S. Attorney a long time ago. He said agents were totally frustrated with some even trying to get out of New Mexico. I can put you or anyone you designate with lawyers knowledgeable about the US Atty office--including lawyers in the office--that will show how poorly it is being run.

Scott Jennings was kind enough to set up an appointment at the Justice Department several months ago where Pat Rogers and I laid all this out. I hope Justice can now be persuaded send out some cracker jack prosecutor and perhaps promote Iglesias to a Justice Department position.

We still await the results of the task force Iglesias convened about this time two years ago on the clear Acorn fraudulent voter registrations. We were told it would look to "political" to indict anyone that close to the election. Then we never heard anything else.

Mickey

With Vigil case over, investigators move on

Possible corruption in building of jail, courts is new focus

By <<http://www.abqtrib.com/staff/kate-nash/>> Kate Nash ( <<http://www.abqtrib.com/staff/kate-nash/contact/>> Contact) Originally published 08:27 a.m., October 2, 2006 Updated 01:11 p.m., October 2, 2006

With the trial of former state Treasurer Robert Vigil complete, the U.S. Attorney's Office now has time to devote to a corruption case that could exceed Vigil's in prominence, complexity and profile.

The FBI said Sunday it has forwarded the office a "white collar, public corruption-type" case.

"It's basically with them," said FBI spokesman Bill Elwell. "As far as I know, we've completed our investigation."

What's "it"?

Prominent officials are mum, though insiders have indicated the case may be a doozy in a state already well-acquainted with corruption allegations against public officials.

Here's what's publicly known about the case, one that surfaced earlier this year:

The FBI has asked state or other officials for information about construction of the Metro Court in Albuquerque.

The state Auditor's Office, meanwhile, has asked for documents from Bernalillo County as part of its inquiry into "procurement issues" in building the Metropolitan Detention Center. The office has turned those documents over to the FBI.

The Auditor's Office also asked the county for information about construction costs of the state District Courthouse.

And, the FBI has questioned at least one former Bernalillo County official about allegations that someone gave former state Sen. Manny Aragon, an Albuquerque Democrat, money to ensure a certain contractor got work at the Metropolitan Detention Center.

"The insinuation was that because he was president pro tem of the Senate, we would cave in order to get a favorable result from him," former County Manager Juan Vigil said in July.

Vigil said that was not the case.

Aragon, from 2004 until July, was the president of New Mexico Highlands University in Las Vegas. A member of the state Senate for 29 years, and president from 1988 to 2000, he accepted a \$200,000 contract buyout for leaving the Highlands post. Highlands officials cited unhappiness with his job performance as the reason for his departure.

Aragon, when reached at home Sunday, declined to comment.

With the case at the U.S. Attorney's Office, another pressing question is when the office will take action.

The office is coming off months of work on the latest of two Robert Vigil trials, the second of which ended Saturday with the jury acquitting him on 23 counts and finding him guilty on one, attempted extortion. The first trial ended with a hung jury in May.

"They have been busy," Elwell said. "I know they have not been able to address it."

A spokesman for the office could not be reached for comment Sunday.

Political insiders say that if the main suspects are Democrats, the shoe could drop before the Nov. 7 election.

If there are Republicans in the mix, the office might want to avoid an "October surprise" and seek indictments later, political observers say.

Gov. Bill Richardson, when asked Friday how concerned he is about possible upcoming indictments in the jail and courthouse projects, said, "I really regret it. I don't know when they are happening."

Richardson said the FBI has not asked him anything about the investigation.

But he said he's made an effort to get state laws changed to better deal with corruption, ones that lawmakers will consider in session next year.

Allegations of corruption on the state District Court project emerged in a lawsuit filed

02 between business partners Harvey Peel and Raul Parra.

Peel sued his associates in four companies, including P2RS Group, Inc., and Technologies West Limited, claiming they were involved in racketeering activities, including illegal kickbacks.

In testimony for the case, Peel said Technologies West was paid \$160,000 for work on the Courthouse. His lawsuit alleges the company submitted invoices for services or goods not provided, or "for amounts far in excess of the reasonable value of such services and goods, with the intent to deceive or cheat the state of New Mexico."

Out of the \$160,000, two checks - totaling \$50,000 - were made out for cash. That was the same amount as a puzzling entry - "Manny - 50,000" in Technologies West's books, Peel testified.

Aragon has denied accepting any bribe from Technologies West, Parra or Peel.

In a Nov. 19, 2002 deposition in the Peel case, Aragon said he had never heard of Tech West.

Aragon said in a Nov. 19, 2002 deposition that he provided legal services to P2RS. Peel testified Aragon got a \$20,000 annual retainer, according to court documents.

In other documents from the 2002 lawsuit, a contractor named Glen Perkal tells how he took precautions to protect his company, Integrity Networking Systems, when he was told by a court official to hire Technologies West as a subcontractor for telecommunications work at the state District Courthouse.

Before he struck the deal, Perkal said he wanted the court's request in writing to protect his company "from somebody coming in and saying that the money didn't need to be spent or that work didn't need to be done or whatever. Basically, it alleviated us of the responsibility for, you know, adding that cost into the contract or worrying about what it was really being used for."

Sept. 25, 2000, Perkal apparently got what he wanted. A letter signed by Court Administrator Bennina Armijo-Sisneros specified that Technologies West should be awarded the work.

Perkal's part of the courthouse contract was \$400,000, plus \$160,000 for Technologies West, according to court documents.

In his testimony, Perkal said he didn't work on the Metro Court project because Court Administrator Toby Martinez wouldn't put a similar arrangement with Technologies West in writing.

Perkal said he called Parra and "told him we couldn't do the project the way he wanted us to do it, with all of this extra money involved, because we were concerned that somebody would find out, that we would get in trouble."

Perkal also said "somewhere in the neighborhood of a million and a half dollars" was the difference between the two proposals he had prepared, then withdrew, for work on Metro Court.

Mickey D. Barnett  
1005 Wyoming NE  
Albuquerque, NM 87112  
505.3200  
505.338. Direct

www.thebarnettlawfirm.com <<http://www.thebarnettlawfirm.com/>>

CONFIDENTIALITY NOTICE

The information contained in this electronic mail transmission and its attachments may be privileged and confidential and protected from disclosure. If the reader of this message is not the intended recipient (or an individual responsible for delivery of the message to such person), you are strictly prohibited from copying, disseminating or distributing this communication. If you have received this communication in error, please notify the sender immediately and destroy all electronic, paper or other versions. No representation is made by the sender that this communication is virus-free and it is used at the intended recipient's sole risk. Thank you.

17

---

**From:** Karl Rove [KR@georgewbush.com]  
**Sent:** Tuesday, October 10, 2006 11:10 PM  
**To:** Hughes, Taylor A.  
**Subject:** Fw: Domenici/USATTY

-----Original Message-----

**From:** Scott Jennings  
**To:** Karl Rove  
**CC:** Sara Taylor  
**Sent:** Tue Oct 10 19:57:39 2006  
**Subject:** Domenici/USATTY

I received a call from Steve Bell tonight and need to update you on the USATTY situation in New Mexico.

Last week, Senator Domenici reached the Chief of Staff and asked that we remove the USATTY. Steve wanted to make sure we all understood that they couldn't be more serious about this request, which was first made to the Attorney General last year by Domenici.

You are aware of the issues, I believe—voter fraud in 2004, and more recently mishandling of the Vigil trial.

HJC 00334

18



**From:** Scott Jennings  
**Sent:** Sunday, October 15, 2006 2:05 PM  
**To:** Karl Rove; Sara Taylor  
**Subject:** FW: FBI Story

Steve Bell sent this email to Candi and me - essentially saying that the US Attorney in PA has no trouble going after Weldon, so why should the US Attorney in New Mexico be shy about doing his job on Madrid.

**From:** Bell, Steve (Domenici)  
**Sent:** Sunday, October 15, 2006 12:22 PM  
**To:** Scott Jennings; Wolff, Candida P.  
**Subject:** FW: FBI Story

Seems like other US Attorneys can do their work even in election season...

And FBI has already admitted they have turned over their evidence to the USA in NM and are merely awaiting his action...

Bell

**From:** HAWilson  
**Sent:** Sunday, October 15, 2006 9:42 AM  
**To:** BryceDustman; ecknell@heatherforcongress.com; stvensonfrist; Bell, Steve (Domenici)  
**Subject:** FBI Story

FBI or those close to them are talking about public corruption cases ongoing in other states.

Weldon faces probe on daughter's deals

By KIMBERLY HEFLING and LARA JAKES JORDAN, Associated Press Writers 2 hours, 42 minutes ago

WASHINGTON - The

FBI is investigating whether Rep. Curt Weldon ([news](#), [bio](#), [voting record](#)), R-Pa., used his influence to secure lobbying and consulting contracts for his daughter, two people familiar with the inquiry said Saturday.

The inquiry focuses on lobbying contracts worth \$1 million that Weldon's daughter, Karan Weldon, obtained from foreign clients and whether they were assisted by the congressman, they said. They spoke on condition of anonymity because of the confidentiality of the criminal investigation.

Weldon, a 10-term Republican from the Philadelphia suburbs, long has denied any wrongdoing, and his top aide said Saturday no one had notified him of an investigation.

"I think if there was an investigation, somebody would have contacted us," said Russ Caso, Weldon's chief of staff.

Caso said Weldon and his staff were "100 percent caught off guard" when they learned of the investigation, first

reported late Friday by McClatchy Newspapers. This account cited two individuals with specific knowledge of the existence of the investigation; they declined to be identified because of the confidentiality of criminal investigations.

Caso, whose boss is in a tight race for re-election on Nov. 7 against Democrat Joe Sestak, tried to cast doubt on reports of the investigation. "Unidentified sources mean nothing," Caso said. "There's no substance in that story. It's a flimsy story."

Two people familiar with the investigation told the AP on Saturday that the inquiry was being handled by agents from the FBI's field offices in Washington and Philadelphia and was being coordinated by the Justice Department's Public Integrity Section. Spokesmen for the Justice Department and the FBI declined comment Saturday.

Those two people familiar with the investigation confirmed that federal agents were examining Weldon's work between 2002 and 2004 to help two Russian companies and two Serbian brothers connected to former Yugoslav President.

**Slobodan Milosevic.** They had hired Solutions North America Inc., a company operated by Karen Weldon and Charles Sexton, a Republican ally of the congressman.

Weldon, vice chairman of the House Armed Services committee, is a Russian speaker regarded by some as a foreign policy expert who has clashed at times with the Bush administration.

Over the last few days, the Democratic Congressional Campaign Committee has mailed fliers to voters in Weldon's district accusing Karen Weldon of getting help from her father on lobbying projects.

Michael Puppio, Weldon's campaign manager, questioned the timing of the mailing and published reports about the investigation. He accused Democrats of "attempting to smear the congressman and his entire family" in the final weeks of the campaign.

Jen Peaki, a spokeswoman for the DCCC, said it's "bizarre, paranoid and absurd" for the Weldon campaign to imply there's a link in the timing of the mailing and the published reports.

The Weldon investigation comes at a critical time for Republicans who are fighting to maintain a majority in the House of Representatives in a midst of scandals.

Today, Rep. Bob Ney ([news](#), [bio](#), [voting record](#)), R-Ohio, pleaded guilty in the Jack Abramoff lobbying scandal, which has touched on federal lawmakers, former aides and members of the Bush administration.

At the same time, an inquiry is under way on Capitol Hill into whether Republican House leaders or their top aides covered up questionable behavior of former Rep. Mark Foley ([news](#), [bio](#), [voting record](#)) toward teenage males who worked as House pages.

19

---

From: Karl Rove  
Sent: 11/7/2006 1:34:50 PM  
To: Steve Bell  
Cc:  
Bcc:  
Subject: Re:

I'd have the Senator call the Attorney General about this.

On 11/7/06 1:03 PM, "Bell, Steve (Domenici)"

wrote:

Apparently no provisional ballots were offered in the NE Heights precincts which ran out of ballots. Poll workers said they had been given no provisional ballots by county clerk. County clerks office said that they had no rationale for how many ballots were provided to the precincts involved, but officials admitted that it had been a decision by the county clerk.

Both situations could involve a HAVA violation and, therefore, a federal offense.

We worry still about the US Attorney here.

Bell

HJC 00092-A

20

[back to story page](#)  
Albuquerque Journal

Printed from ABQjournal.com, a service of the

URL: <http://www.abqjournal.com/news/special/554986nm04-15-07.htm>

Sunday, April 15, 2007

## Domenici Sought Iglesias Ouster

By Mike Gallagher

*Copyright © 2007 Albuquerque Journal; Journal Investigative Reporter*

Former U.S. Attorney David Iglesias was fired after Sen. Pete Domenici, who had been unhappy with Iglesias for some time, made a personal appeal to the White House, the Journal has learned.

Domenici had complained about Iglesias before, at one point going to Attorney General Alberto Gonzales before taking his request to the president as a last resort.

The senior senator from New Mexico had listened to criticism of Iglesias going back to 2003 from sources ranging from law enforcement officials to Republican Party activists.

Domenici, who submitted Iglesias' name for the job and guided him through the confirmation process in 2001, had tried at various times to get more white-collar crime help for the U.S. Attorney's Office— even if Iglesias didn't want it.

At one point, the six-term Republican senator tried to get Iglesias moved to a Justice Department post in Washington, D.C., but Iglesias told Justice officials he wasn't interested.

In the spring of 2006, Domenici told Gonzales he wanted Iglesias out.

Gonzales refused. He told Domenici he would fire Iglesias only on orders from the president.

At some point after the election last Nov. 6, Domenici called Bush's senior political adviser, Karl Rove, and told him he wanted Iglesias out and asked Rove to take his request directly to the president.

Domenici and Bush subsequently had a telephone conversation about the issue.

R

The conversation between Bush and Domenici occurred sometime after the election but before the firings of Iglesias and six other U.S. attorneys were announced on Dec. 7.

Iglesias' name first showed up on a Nov. 15 list of federal prosecutors who would be asked to resign. It was not on a similar list prepared in October.

The Journal confirmed the sequence of events through a variety of sources familiar with the firing of Iglesias, including sources close to Domenici. The senator's office declined comment.

The House and Senate Judiciary committees are investigating Iglesias' firing as well as the dismissals of six other U.S. attorneys.

Gonzales, the embattled attorney general whose job is likely in the balance, is scheduled to testify Tuesday before the Senate Judiciary Committee.

Senate and House Democrats have focused on a telephone call Domenici made to Iglesias in October.

Iglesias testified before the congressional committees that Domenici called him at home and asked if indictments were imminent in a public corruption investigation of Albuquerque's Metropolitan Courthouse construction. Iglesias told him indictments were not expected anytime soon.

Iglesias testified that Domenici said, "I'm very sorry to hear that." And then hung up.

Iglesias said he felt "pressured" and "violated" by the telephone call but did not report it to Justice Department headquarters as required.

Domenici has admitted and apologized for making the call, but he denied pressuring Iglesias. He has also said he didn't mention the election.

Democrats have accused Domenici of attempting to influence the outcome of a tight congressional race between incumbent Republican Heather Wilson and former state Attorney General Patricia Madrid. Wilson won the election by

fewer than 900 votes.

Iglesias could not be reached for comment. He was reportedly out of the country on Navy duty.

A spokesman for Domenici's office said they were not prepared to comment at this time.

### **Looking for a paper trail**

Exactly how Iglesias' name came to be included on a Nov. 15 list of U.S. attorneys to be fired has been a mystery House and Senate Democrats have been trying to unravel.

There are gaps in documents provided to Congress by the Justice Department about the firings and other records are severely redacted.

Gonzales' former chief of staff, Kyle Sampson, said he couldn't give a reason for Iglesias' firing during his testimony before Congress last month. He did say that if a U.S. attorney wasn't succeeding politically, he wasn't succeeding.

Documentation that has been turned over to Congress doesn't indicate problems with Iglesias' performance from the Department Justice point of view.

The documents reveal Domenici called Gonzales and his deputies on several occasions in 2005 and 2006.

In one undated memo, a Gonzales aide wrote, "Domenici says he doesn't move cases," in reference to Iglesias.

New Mexicans who complained directly to the Justice Department about Iglesias said they learned he was held in high regard by Gonzales and his staff.

At least one memo shows Iglesias was offered a job heading the Executive Office of U.S. Attorneys in Washington, D.C.

Iglesias turned the job down.

That job offer, according to several sources, was made at the prodding of Domenici.

According to sources, Iglesias was also considered for U.S. attorney for Washington, D.C., and other administrative posts at department headquarters.



Iglesias was apparently unaware that Domenici was unhappy with his job performance when he turned those jobs down.

### White-collar crime

In September 2005, Iglesias announced the arrests of state Treasurer Robert Vigil and his predecessor, Michael Montoya, on extortion charges. Both are Democrats in a state where Democrats control the Legislature and most statewide offices.

Republicans who had complained about political corruption in the state for years saw an opportunity to do more than complain. And this was an issue with political traction.

The point man would be Iglesias.

During one of his few news conferences while U.S. attorney, Iglesias called political corruption "endemic" in New Mexico.

The FBI also put a high priority on public corruption, naming it its top priority behind terrorism.

According to Justice Department memos turned over to congressional investigators, Domenici approached Iglesias in late 2005 and asked if he needed additional prosecutors for corruption cases.

Iglesias, according to the memo, told Domenici he didn't need white-collar crime prosecutors. He needed prosecutors for immigration cases.

Domenici was disappointed in the response. After that conversation, Domenici decided he would try to get Iglesias help, whether Iglesias wanted it or not.

In 2006, Domenici asked Gonzales if he could find additional experienced white-collar crime prosecutors to send to New Mexico. Gonzales had a number of prosecutors who were finishing the ENRON prosecutions and were quite experienced at complex white-collar crime cases.

None was sent here.

Within Iglesias' own office, prosecutors suggested moving more attorneys into the White Collar Crime-Public Corruption section in 2005 because the FBI was developing more cases and

leads than the section could handle in a timely fashion.

Iglesias was initially enthusiastic about the idea but didn't follow through after consulting senior staff.

### **Treasurer's Office scandal**

Montoya and others pleaded guilty in the Treasurer's Office scandal. Vigil went to trial in April 2006. After more than five weeks, a mistrial was declared. Several jurors said one holdout prevented conviction on at least some charges.

The second trial in September ended in one conviction on attempted extortion and acquittal on 23 counts. Vigil has been sentenced to 37 months in prison.

After the first trial, then-Attorney General Madrid indicted key prosecution witnesses in the federal case based on their testimony. She said Iglesias hadn't been tough enough in cutting plea deals and hadn't worked out an agreement with her office.

As a result, one key witness refused to testify in the second trial.

During this time, the much-publicized courthouse investigation was essentially put on the shelf. The lead prosecutor in the U.S. Attorney's Office was handling both the Vigil trials and the courthouse investigation.

Delays in the courthouse case led to frustration among Republicans who had tried to make Madrid's track record on ethics and corruption cases an issue in the Madrid-Wilson race.

Indictments in the courthouse case were announced last month.

All content copyright © ABQJournal.com and Albuquerque Journal and may not be republished without permission. Requests for permission to republish, or to copy and distribute must be obtained at the the Albuquerque Publishing Co. Library, 505-823-3492.

[Back to story page](#)

21

---

**From:** Miers, Harriet  
**Sent:** Wednesday, December 21, 2005 10:59 AM  
**To:** Klingler, Richard D.  
**Subject:** RE: CA8

I would leave it in your hands in consultation with Matt until and if you feel I should speak with the Senator.

---

**From:** Klingler, Richard D.  
**Sent:** Wednesday, December 21, 2005 10:23 AM  
**To:** Miers, Harriet  
**Subject:** CA8

For our Eighth Circuit seat issue, I believe the pieces are in place to go back to Sen. Bond's office.

We can indicate that we have heard and will work to satisfy Sen. Bond's request regarding a replacement for the U.S. Attorney in the W.D. Missouri. Scott Jennings indicates that Karl is fine with the replacement. Kyle Sampson indicates that DOJ is willing to accede to the replacement. The process there would be a gradual easing out of the incumbent through the EOUSA (I can discuss the precise process separately), with Sen. Bond's office to be told that he will be invited to suggest names for a replacement in the relatively near future.

As you indicated, we can also acknowledge that Missouri is underserved at the appellate level and indicate that the bill addressing the CA9 would be an appropriate occasion to seek to add a Missouri CA8 seat.

But we would also indicate that we cannot see the basis for taking a seat from Arkansas in light of the broad proportionality between the Arkansas caseload and the Arkansas representation on the CA8.

Please let me know if there is more that is needed and whether this message is one that I should communicate to staff or is one that you would wish to communicate to Sen. Bond.

22

[Login](#) | [Register](#)

June 9, 2009

Legal Affairs

## Attorneys Scandal May Be Tied to Missouri Voting

by Frank Morris

[Listen Now](#) | [add to playlist](#) | [download](#)

All Things Considered, May 3, 2007 · The Justice Department's push to remove U.S. attorneys in 2006 might have been larger than the eight cases that have been discussed in Congress. Other U.S. attorneys' names were on a list the agency compiled in January 2006 — the prosecutor who replaced one of them was the first to be named under the Patriot Act.

One of the federal prosecutors on the list was U.S. Attorney for Western Missouri Todd Graves. Graves resigned last year, before the forced dismissals took place. He left several months after refusing to sign off on a voter-registration lawsuit that was filed against the state of Missouri by an acting assistant attorney general, Bradley Schlozman.

Less than two weeks later, Schlozman was installed to replace Graves under a Patriot Act provision allowing President Bush to place Schlozman in the job without Senate confirmation.

Schlozman went on to bring voter-fraud charges against members of the liberal group ACORN, less than a week before the hotly contested Missouri Senate election.

In the ACORN case, workers there had been accused of submitting blatantly false registration forms. But by the time of Schlozman's filing, ACORN had fired the workers weeks earlier and turned them over to law enforcement officials.

Schlozman has now returned to Justice Department headquarters in Washington. He left Kansas City last month, just a couple of days before a federal judge threw out the lawsuit he brought against the state of Missouri.

U.S. Sen. Claire McCaskill (D-MO) says she'd like to hear more from Schlozman.

"What this all indicates," McCaskill says, "is that more questions need to be asked, and more answers under oath need to be given."

### Related NPR Stories

- May 3, 2007  
[Ex-U.S. Official: Fired Prosecutors Were 'Smeared'](#)
- May 2, 2007  
[Fired U.S. Prosecutors Slam Former Bosses](#)
- April 25, 2007  
[House Judiciary Panel Gives Goodling Immunity](#)
- April 23, 2007  
[The Gonzales Affair: Blowing Up or Blowing Over?](#)

23

**QUESTIONS FROM SUBCOMMITTEE CHAIR LINDA SANCHEZ  
FOR DANIEL BOGDEN**

1. Please describe any conversations you had with officials at the Department of Justice relating to your termination as U.S. Attorney that occurred after the notification you received on December 7, 2006. Your description of each conversation should include, but is not limited to, who initiated each call, who participated, and what was said by whom. In addition, if you discussed any of these calls with any of the other former U.S. Attorneys who testified at the hearing, please describe any of these conversations.

I received a telephone call from EOUSA Director Michael Battle on Thursday morning, December 7, 2006. The call from Director Battle was fairly brief and in that telephone call Director Battle informed me that I served as a Presidential appointee and that it was time for me to step down. The only participant in the telephone call was Director Battle. He had few other details about the reason for the call other than to note that we all serve at the pleasure of the President. When pressed on the decision, he alluded to the fact that the decision had been made by "higher ups" and that he had not been privy to the reason for the request. When I pressed him on the decision, he stated that they wanted my office to move in another direction but could give few details as to what that direction was, who or why. I asked him who I could talk to about the request and to learn more about why the decision had been made concerning me and he stated, he had thought about who he would speak to if he had received such a call and told me he would try calling the Deputy Attorney General (DAG), Paul McNulty.

I attempted to contact the DAG's office but was unable to reach DAG McNulty that day but left a message that I would like to speak with him. Later that day (December 7, 2006), I reached out to and attempted to contact acting Associate Attorney General (AAG) William Mercer. AAG Mercer, like DAG McNulty and I, had all served as United States Attorneys under Attorney General John Ashcroft and had been part of the group of United States Attorneys sworn in as USAs in 2001. I called acting Associate Attorney General Mercer and had a lengthy conversation with him. The only participant in the telephone call was AAG Mercer. I told him that I did not know any reason for the decision, why it had occurred to me and felt it was a disappointing and bad decision. I told him that our office had made great strides from where we were when I took over the office as United States Attorney and where, due to our management and leadership, our office now was in terms of work, case productivity, effectiveness, office morale and many of the topics that were necessary in considering a well-run, effective and efficient office. I told him that I, and my management staff, had "righted the ship" after the previous administration's management concerns and issues that I had inherited and was moving the office forward effectively and in a positive manner despite severe budget and manning shortages. I detailed for him a number of major problems in our office that I had inherited and was able to successfully work through. AAG Mercer explained to me words to the effect that the administration had a short two-year window of opportunity to put an individual into my United States Attorney's position in order to have the experience of serving as United States Attorney, have that title and experience on his or her resume so the Republican party would have more future candidates for the Federal bench and future political positions. Serving as a Presidential appointee, I knew the prospects that I could be replaced and that replacement could be done for



no reason whatsoever or for such a reason. I had come to accept that and could accept the fact that after 5 ½ years of outstanding service I was being replaced solely to open up my position for another individual without any cause for my removal. I was very disappointed by the decision though and did not understand why I had been chosen. At that point, I did not know there were others who had received the same telephone call and initially thought I was the only person that had received such a call to step down. In speaking further with AAG Mercer, he seemed to distance himself from the decision process and stated that he had been outside the loop in the decision process and reasons for it. AAG Mercer asked if I had reached out to and spoken with DAG McNulty about what had occurred. I told AAG Mercer I had called DAG McNulty's office but had not yet spoken with him. He recommended that I do so.

I ended up speaking with Deputy Attorney General Paul McNulty concerning this matter. I am uncertain as to who initiated that particular telephone call, although I had attempted previously to contact DAG McNulty about this matter. The only participant in the telephone call was DAG McNulty. Our telephone conversation was relatively short as DAG McNulty had to attend a recital or some family event that evening with one of his children. In the telephone conversation, he alluded to the fact that the decision had come from "higher up" and he made reference to the fact that although he had some input as DAG in the decision process, it seemed to me from his comments that the ultimate decision did not come from him. He stated words to the effect that although he was present during the decision process, he only had "limited input" in the final decision process. I did specifically ask DAG McNulty during that telephone conversation if the call requesting me to step down had "... anything to do with my performance or the performance of my office." His response to me was — "... that did not enter into the equation." I was given no more specifics, details or information from DAG McNulty as to the reasons for the decision. Due to his having to be somewhere that evening, we ended the conversation. It was a cordial conversation and he stated that he had no problem with me calling him back to discuss the matter further. I have had no further conversations with DAG McNulty on this matter but did speak further with his chief of staff, Michael Elston, EOUSA Director Michael Battle and acting Associate Attorney General William Mercer about this matter.

I had a couple more conversations with EOUSA Director Battle following our initial conversation. I initially spoke with him about the January 31, 2007 resignation date as we had a number of pressing matters coming up in the office such as our 2007 EARS evaluation and I requested additional time before stepping down so I could attempt to smoothly transition our office. In addition to the upcoming EARS evaluation, we had a number of important cases, trials, personnel and budget issues pending that needed management decisions and attention. I requested additional time and consideration before stepping down to address these critical issues. I attempted to address these issues in telephone conversations with Director Battle, AAG Mercer and later with Michael Elston. I remember calling on one occasion and making inquiry of Director Battle as to whether my performance, any issues involving my office or anything my USAO was doing caused any problems or concerns at EOUSA or with the Department. Director Battle informed me that he — often hears issues about various districts or offices — but that he had not received any negative comments, complaints or concerns about me, my performance or my office and had only heard positive information about my office. I remember being called by Director Battle on another occasion and him making inquiry of me of my interest in taking a

position as an Immigration Law Judge. That telephone call was from Director Battle and he was the only participant in the telephone call. After a short discussion with Director Battle, I informed him that I was not interested in such a position.

I had further conversations with AAG Mercer about the January 31, 2007 resignation date as we had a number of matters coming up in the office such as our 2007 EARS evaluation and I requested additional time so I could attempt a smooth transition of our office. AAG Mercer addressed the possibility of other positions for me in the Department of Justice and also addressed the prospects and potential of my being an Immigration Law Judge. Since we were moving toward the Christmas holiday, ultimately AAG Mercer recommended that I consider my future plans over the Christmas holiday and then discuss the matter further with him after the first of the year. I spoke again with AAG Mercer after the Christmas holiday about an extension of the initially requested resignation date of January 31, 2007, our office's upcoming EARS evaluation and future employment prospects. At that point, I was referred to the DAG's chief of staff, Michael Elston, for any further conversations. From that point on, my contacts with the Department of Justice concerning this matter went through, almost exclusively, Mr. Elston. I had a number of telephone conversations with Mr. Elston. They consisted mostly of my attempts to get an extension of the date to announce my resignation and when that date would become effective, i.e. getting an extension beyond the original January 31, 2007 date. We also had conversations addressing public disclosures concerning my resignation, press articles and responses and my frustration with release of information concerning my departure which prompted me to prematurely announce and submit my resignation on January 17, 2007.

As to the above conversations, I recall having limited conversations with some of the other United States Attorneys who testified at the hearing concerning the above information.

2. Outside of the Evaluation and Review Staff reports, please describe any awards, commendations, or other performance-related assessments that you received during your tenure as United States Attorney for the District of Nevada.

The major performance-related assessment for the United States Attorney for the District of Nevada is the Evaluation and Review Staff (EARS) report. During my tenure as United States Attorney, our initial EARS evaluation was conducted March 3-7, 2003 with the on-site legal management and administrative evaluation of the United States Attorney's Office for the District of Nevada. The completion of the evaluation process is noted in a August 4, 2004 correspondence from EOUSA Assistant Director Christopher K. Barnes. That correspondence included the Final Report of the Evaluation of our United States Attorney's Office and incorporates the United States Attorney's response to the draft evaluation reports and all actions taken by our office through the time of the follow-up visit, which occurred on October 28, 2003. It should be noted that the USAO, District of Nevada had been set for its next EARS evaluation on March 12-March 16, 2007. We had already begun putting together our written submissions and reviews and making preparations for that upcoming EARS evaluation. Due to the resignation request on December 7, 2006, I sought a continuation of the dates of that EARS evaluation. Since it appeared likely after that telephone call that a new management team/staff

would be put in my place, the continuance of the EARS evaluation would allow whoever was named as my replacement an opportunity to review matters prior to the EARS evaluation. During my tenure as United States Attorney, we had numerous reporting requirements concerning a number of priorities and programs. During the administration of AG John Ashcroft for instance, we had a specific performance report that we had to complete and submit to EOUSA concerning the work accomplished and priorities addressed in the previous calendar year. As I recall, that yearly office performance report process ceased and was not a requirement of the USAOs after calendar year 2004. Unfortunately, I currently do not have access to all letters, awards and commendations received by my office during my tenure as United States Attorney. I would note I did receive and have retained other correspondence from EOUSA concerning performance-related assessments of my office. On June 6, 2005, I received a 2-page letter dated and signed June 3, 2005, from then EOUSA Director Mary Beth Buchanan concerning the performance of my office. The letter is quite favorable and indicates, among other favorable comments, that “. . . the District of Nevada has effectively dedicated its resources to advocate and implement the Department’s National Priorities.” The letter pretty much speaks for itself about our efforts, high quality of work from our personnel, dedication and outstanding accomplishments. On February 9, 2007, I also received a 1-page letter dated and signed February 6, 2007, from EOUSA Director Michael Battle, in appreciation for my efforts and devotion to duty in applauding those offices who implemented cost savings measures despite the acute “. . . hardships that these reductions imposed on you and your staff given how difficult things were last year.”

3. An e-mail exchange from Brent Ward, Director of the Department of Justice Obscenity Prosecution Task Force, to Kyle Sampson, Attorney General Chief of Staff, on September 20, 2006 references your “unwillingness” to prosecute obscenity cases. Please respond to this.

That simply was not the case. I was never unwilling to prosecute obscenity cases or unwilling to implement any Department of Justice priorities. Rather, we simply did not have available attorney resources at that time to drop other priorities and pending cases to pursue a single, seemingly non-significant target in a matter that was still in the early investigatory stages, had not been fully investigated and still needed substantial work. As for our “willingness” to prosecute obscenity cases, on July 8, 2005, our office submitted its Child Exploitation and Obscenity Initiative for the United States Attorney’s Office for the District of Nevada to EOUSA. That eleven page submission addressed in detail our Child Exploitation and Obscenity Initiative and gave specific details concerning our implementation of the initiative, case prosecution numbers, significant prosecutions, current USAO case numbers, previous historical obscenity prosecutions in the District of Nevada, challenges facing the district in investigating and prosecuting obscenity and steps taken to overcome those challenges. Despite manning and budget shortages, our prosecution statistics showed a substantial increase in the prosecution of child exploitation/obscenity cases from 3 cases in calendar year 2000 to 31 prosecutions in 2003, 35 prosecutions in 2004 and 33 prosecutions in 2005.

As to Mr. Ward's e-mails, it is interesting to note the timing and language in those particular e-mails. Concerning this issue, I would direct your attention to a good investigative report concerning the adult obscenity issue, the released Ward e-mails and the prosecution of such cases in the Districts of Arizona and Nevada. That article can be found at:  
[http://www.salon.com/news/feature/2007/04/19/DOJ\\_obscurity/](http://www.salon.com/news/feature/2007/04/19/DOJ_obscurity/)

The facts show that Brent Ward made an appointment with me to discuss the first and only adult obscenity case in my district that he wanted us to consider for possible prosecution. It should be noted that this was the only investigation of adult obscenity being worked in my district. The case involved a single, seemingly non-significant target. That meeting was scheduled for September 6, 2006. On August 28, 2006, prior to that meeting and even before I had met Mr. Ward or been presented his case, it appears from the e-mails that he had sent an e-mail to DOJ complaining that I would be "providing lame excuses" for not doing the case and was a "defiant USA . ." (bate stamp DAG 000507-000509). The e-mails released by DOJ include an e-mail from me to Mr. Ward dated August 29, 2006 (bate stamp DAG 000508) which notes the time for the meeting and addresses our office manning concerns. The meeting occurred on September 6, 2006 and included a number of individuals in attendance as noted in the e-mails. Prior to the meeting, I briefed Mr. Ward on our difficult manning situation – being down 8 criminal AUSAs and our noteworthy upcoming trials, i.e. Hells Angels I, II, III, IV, V and possibly VI; USA v. Lance Malone; Doctors/Lawyers case and our 2 upcoming, statewide initiative conferences – our Statewide Terrorism conference and our Statewide Gang Summit/PSN conference, all 3 DOJ priorities, as well as the take-down of criminal cases from our Katrina Task Force, another DOJ priority. We then met with members of the task force concerning the adult obscenity case that was being investigated by Ward's obscenity prosecution task force. It was obvious from the presentation that the case still needed much work. It was not by any means -- "a good, adult obscenity case" at that point. We agreed after the September 6, 2006 meeting to discuss the matter further. I did not decline to prosecute the case at that point. Since I had a prosecutor scheduled to attend the national obscenity conference at the NAC, I agreed to address the matter further with Mr. Ward following that conference and my discussions with my attorney who would be attending the conference. Mr. Ward agreed. I felt that additional time would give me an opportunity to attempt to further juggle our resources and attempt to find some resources to assign to the case. The obscenity conference was set for early October, 2006. It appears, however, that despite assurances from Mr. Ward to discuss the matter further, on September 20, 2006, he sent the e-mail to Kyle Sampson. I was not aware that such an e-mail had been sent. The first I saw and became aware of the e-mail or any of the alleged concerns of Mr. Ward was when I reviewed the e-mail as part of the DOJ document release pursuant to the request for documents by this House Judiciary committee.

I did end up discussing the adult obscenity matter further with Mr. Ward following the national obscenity conference. I had been briefed on that conference by my Reno Deputy Chief who had attended the conference as our Nevada representative. In October, 2006, Mr. Ward contacted me about the one adult obscenity case that we had discussed at the September 6, 2006 meeting. Since we still had a number of critical manning issues in our office, I addressed a number of alternatives with Mr. Ward concerning the prosecution of that obscenity case. I offered him and any of his obscenity task force attorneys space in my office, grand jury time and our assistance so

that his task force prosecutors could bring the case in my district. Mr. Ward rejected that alternative as well as my suggestion to seek another location for the prosecution of the case. Ultimately, Mr. Ward agreed to allow me until after the first of the year to address the case. Our office had hired two new AUSAs - Jeffrey Tao and Michael Chu - who we hoped to have both cleared and on-board in our Las Vegas office after the first of the year. With the hiring of those two individuals, the return of one AUSA who was on an overseas detail and the resolution of a matter involving another of our criminal AUSAs, it was my hope that I would have more resources available to attempt to address the matter after the first of the year. Mr. Ward agreed to that as a good resolution of this matter. As the above illustrates, I was not "unwilling" to prosecute obscenity cases. I attempted to work with Mr. Ward and his obscenity prosecution task force to address the one obscenity case that they were working in my district. Our resources were way down in that September - October time frame and we had an extraordinary number of major prosecutions, projects and DOJ priority initiatives being worked at that time. I was neither defiant nor offering lousy excuses, just managing my office as best as possible through some very challenging times due to our recurrent budget and manning shortfalls.

4. Are you aware of any efforts to politicize the Department of Justice with respect to its personnel decisions? If so, please explain.

To my personal knowledge, I was not made aware of any efforts to politicize the Department of Justice with respect to its personnel decisions. However, as events unfold, as testimony is given and more documentation and information is released concerning the firing of the eight United States Attorneys, I am at a loss as to why I, as well as several of the others, were asked to resign our positions as United States Attorney. In reviewing the information, I am unable to determine any clear justification or reason for the request that I step down as United States Attorney. Further, the testimony of Attorney General Alberto Gonzales and some of the disclosed information from the interviews of several Justice Department officials, including the testimony of Kyle Sampson before the Senate Judiciary committee, have offered no reasonable, believable explanation for the request and only offered a number of contradictions. As such, I am unable to rule out the possibility that the telephone call I received on December 7, 2006 asking for my resignation may have been due, in part, to an effort to politicize the Department of Justice.

5. Do you know if any representative of any target of your office's investigations or prosecutions complained to either main Justice or the White House?

Not that I have any direct knowledge of, have been told about or have been so informed. Personally, I know of no such complaints nor have I been informed of any such complaints being made to either main Justice or the White House. In the past few months, however, as this investigation has unfolded, there has been growing speculation in that regard. My review of DOJ e-mails, correspondence and other information as well as viewing the testimony of Attorney General Alberto Gonzales and Kyle Sampson before the Senate Judiciary committee has not afforded me any plausible explanation or justification for the telephone call I received on December 7, 2006 seeking my resignation. There have been a number of articles, theories and

speculation advanced in the media concerning the USA firings. One of the noteworthy articles of interest pertaining to my situation was an article that recently appeared in the Las Vegas Review Journal on April 1, 2007 written by political analyst Erin Neff. The article is entitled "ERIN NEFF: For it's one, two, three strikes you're out at the Rove ball game". Without any comment on the accuracy of the article and solely for purposes of completeness, I have included the entirety of that article below.

---

ERIN NEFF: For It's One, Two, Three Strikes You're Out At The Rove Ball Game".  
Las Vegas Review Journal, April 1, 2007

Most of the eight U.S. attorneys fired by the Bush administration had a history of either not doing what the GOP wanted or going after a Republican too hard. So far, the only evidence to emerge from Justice Department e-mails is the suggestion that Nevada's Daniel Bogden didn't take a porn case seriously enough. Not only do the e-mails suggest a frantic attempt to justify his firing, they open the door for speculation that Bogden was in the cross hairs for political reasons.

Three cases Bogden's office handled in 2006 -- during the heart of the election cycle -- likely landed on Karl Rove's desk in the White House as the administration closely followed any potential swing in congressional races. And Bogden's firing wouldn't just serve as a vengeful postscript. It would also set the stage for what we have already seen to be Rove's next mission -- securing the presidency and protecting targeted Republican House members in 2008.

Nevada's Jon Porter is one of those targets. That's why he received a seat on the budget-writing Ways and Means Committee, and that's why Rove has already put him on the "priority defense" list. In 2006, Porter had the toughest of his three successful 3rd Congressional District campaigns, narrowly defeating Democrat Tessa Hafen. In late October, just days before the general election, Nevada Democratic Party Chairman Tom Collins wrote to Bogden, asking him to open an investigation into Porter's alleged use of office phones to make campaign fundraising calls. Bogden could have sat on it until after the election. Instead, the Bush appointee promptly forwarded the letter to the FBI to investigate the claims. Local media focused on the case as voters were already casting early ballots. It wasn't until after the election that the FBI decided not to proceed with the investigation.

Call this case strike one against Bogden.

In February 2006, Bogden's office indicted a Reno radio talk show host on charges he conspired with his son to grow and distribute thousands of pounds of marijuana and launder the sales money through his business. The case against Walter "Eddie" Floyd had an unusual political connection. One of the cars seized in the case belonged to Nevada Secretary of State Dean Heller, a Republican who was running for the state's open 2nd Congressional District seat. Heller had appeared frequently on Floyd's show, "Nevada and America Matters," and considered him a friend. It didn't help matters that Floyd was a convicted sex offender, who -- it later turned out -- had failed to register in Nevada.

When news of Floyd's indictment reached Washington, the Democratic Congressional Campaign Committee seized upon it as a chance for Nevada Regent Jill Derby to make up ground on Heller in the heavily Republican district. "The company you keep says a lot about a person, and Heller's ties to a convicted sex offender and drug trafficker speaks volumes," DCCC spokesman Bill Burton said at the time. Derby really had no business thinking she could win the 2nd District because registered Republicans outnumbered Democrats by 49,000. But she still came within spitting range -- Heller won by 5 percentage points -- and won some Republican strongholds in the process. It should be noted that both Heller's and Porter's campaigns were run by November Inc., a firm founded by consultant Mike Slanker, who chaired Bush's 2004 re-election campaign in Nevada. Slanker also earned "Pioneer" status, raising at least \$100,000 for the campaign. He is now political director of the National Republican Senate Committee, which is chaired by Nevada Sen. John Ensign. On Friday, Floyd was sentenced to four years in prison and three years of supervised release.

Call the Floyd case strike two.

In September 2006, Bogden's office indicted a Reno doctor on charges that he distributed smuggled and unapproved human growth hormone from Israel to an undercover agent who claimed he wanted to look younger. The details of the case are pretty juicy in the medical community, because Dr. James Forsythe was called "one of the five most serious physician offenders known in the state of Nevada" by a state medical board investigator. But the political details are even juicier as they apply to Bogden's firing. Forsythe is the husband of Earlene Forsythe, who chaired the Nevada Republican Party during Bush's 2004 election. He is also the father of Lisa Marie Wark, wife of Republican political consultant Steve Wark.

Earlene Forsythe was well-known to Rove. Back in May 2005 when Sen. Harry Reid called Bush a "loser," she went on the offensive, saying Reid's comments had "stirred the anger of Republicans across the country and here in Nevada." But the anti-Reid bona fides don't end there. Steve Wark managed Richard Ziser's campaign against Reid in 2004, when the White House had hoped a top-tier Republican candidate could "Daschle" Reid's career. Wark also has Bush credentials. In 2004, he established Choices for America, which solicited cash from Republicans to help third-party candidate Ralph Nader qualify for the ballot in states nationwide. His e-mail solicitations suggested he needed to raise \$30,000 to qualify Nader for Nevada's ballot. Wark had said in previous interviews that he thought Nader would make the difference for Bush in Nevada. "I didn't do it for my own health," Wark said at the time.

The Forsythe case, scheduled for an April trial, just might have been strike three.

Bogden is searching his mind to figure out what did him in. He thinks being asked to step down for no reason so Bush could install a new Nevada prosecutor is "political." "I'm not going to speculate," Bogden said of the Floyd, Forsythe and Porter cases. "There's lots of different things mulling through my mind. I really can't venture a guess." When I asked him about Floyd and Forsythe, Bogden mentioned the Collins letter about Porter. "I've got some others, too, but I'm not going to speculate," Bogden said. Ensign believes the obscenity case, which Bogden said he didn't have the resources to pursue, is the reason for Bogden's firing. And while the senator has

been critical of the Justice Department, he hasn't called for Attorney General Alberto Gonzales to resign. Ensign has met with Gonzales and Bush about the Bogden firing and said that while he had hoped Bogden could be reinstated, he is pleased the administration is working to find Bogden a new job. Additionally, Ensign said he's been promised more resources for the Nevada office and said Justice officials have pledged to change the system used to evaluate U.S. attorneys. Ensign doesn't buy my three-strikes theory. "It's just a conspiracy, that's all it is -- a fantasy," he said. "I'm in the high 90s that this was just gross incompetence." Stranger fantasies have occurred in this political league. Although Ensign is using an approval rating barometer, Bogden may well have been sunk by his political batting average.

6. During your tenure, were you ever contacted by the Administration, a member of Congress, or congressional staff about any of your office's investigations or prosecutions? If so, please describe those contacts.

None that I am currently aware of or have been made aware of by others. Personally, I was not contacted by the Administration, a member of Congress, or congressional staff about any of my office's investigations or prosecutions.

7. Why should United States Attorneys be able to exercise some degree of independent judgment with regard to particular prosecutions or priorities?

Realistically, each district has its own set of priorities, issues and challenges. One size definitely does not fit all when it comes to priorities and effectively managing a United States Attorneys Office in addressing all the critical law enforcement issues confronting any specific district and that particular United States Attorneys Office. The United States Attorney in each district is the one individual who is most aware of what is going on in his or her district, what needs to be done in that district, best knows his or her district, all available resources and what it takes to be effective in that particular district -- be it prosecutions or priorities. Independent judgment is essential to ensure that the United States Attorney and his or her office is best able to do its job and do that job most effectively. That is due to the fact that of all individuals, the United States Attorney in a district knows that district best. Available resources and manning are definitely limited while crime and hot button community issues are not limited. What may be the most important issue in Washington D.C. may not be the most important issue in the district. Therefore, although each United States Attorney has a set of national priorities that need to be followed, in order to maximize effectiveness, needs independence to establish the priorities for that particular district based upon his or her knowledge of that district, the office, its law enforcement partners and all other issues confronting the district. That independent judgment and ability to set appropriate priorities is critical. No one knows better what is going on in a district than the United States Attorney, the needs of that district and its priorities. As to independent judgment with regards to particular prosecutions, although United States Attorneys are political appointees, as are federal judges, once in office they must have an overriding responsibility to justice in individual cases and need to pursue justice without fear of retribution



from political operatives of any administration. Such independent judgment is a necessity to the ultimate working and fairness of our justice system.

8. When a highly respected United States Attorney is abruptly and without explanation removed, what impact does that have on other United States Attorneys and the Assistant U.S. Attorneys in that office?

I think the impact on the offices should be obvious. However, right now I would think the investigation of this matter would be the best vehicle to address the impact of such abrupt and unjustified removals. Other United States Attorneys and Assistant United States Attorneys could best address the impact these removals have had on their offices. I am not sure if senior officials at the Department of Justice would have an accurate feel or be able to give an accurate assessment of what is occurring in the USAOs in such locations as Arizona, Southern District of California, Northern District of California, Western District of Washington, Nevada, New Mexico, Arkansas and Western District of Michigan. Such an abrupt removal without explanation can have a chilling effect on prosecutions and the work of other United States Attorneys. If each believe their positions may be at risk due solely to the types of cases they are pursuing or the perceived results, the removals may have a chilling effect on cases being emphasized and prosecuted in any district. As for the Assistant U.S. Attorneys in such an office, it undoubtedly has to have an impact on the morale in the office and quite possibly the productivity of such an office. When I was an AUSA, our district went through four consecutive acting United States Attorneys before we finally had a full-time, confirmed United States Attorney serving our district. I know first-hand from that lengthy experience the major effect and negative impact that not having a confirmed USA in our district had on our office. The impact and effects were extremely negative and long-term.

9. Did you ever receive a warning from the Justice Department that your office's priorities would result in you being asked to resign?

No. I never received any such warning nor was I ever given any indication whatsoever that I was not following all Department of Justice priorities. In fact, I thought I had effectively addressed all stated Department of Justice priorities and still believe that I was following all Department of Justice priorities in our programs and office work. That is why the December 7, 2006 telephone call came as such a shock to me. I, as well as my office, were following all of the Department of Justice's priorities and excelled at doing so. As noted below, our terrorism, violent crime, PSN, PSC, gang and drug programs were outstanding, highly regarded and effective initiatives in our district and throughout our district communities. Despite the manning and budget shortages, we still were able to find a way to follow all the many Department priorities and effectively get the job done in our office on behalf of the Department of Justice.

This was best illustrated in a letter that I sent out to my office as well as all of our Nevada law enforcement partners. The letter was sent after I announced my resignation and points out some

significant cases and numbers concerning our national and district priorities. The letter was sent out February 26, 2007 and states the following:

I wanted to take a moment to thank you and your agency for all the assistance, cooperation and the partnership we have enjoyed over the last 5 1/2 years. It has been my honor to serve as United States Attorney and my pleasure to have had the opportunity to work with you and your agency in keeping our citizens safe and making a difference in our communities and throughout the state. I have always felt that we work best when we all work together and you and your agency have exemplified that spirit of cooperation and teamwork. For that, the employees of my office and I will always be grateful.

We have achieved much and I owe a great deal of gratitude to you and your agency for all the things that have been done to allow us to achieve. During the past 5 1/2 years, your agency and our office have much to be proud of. Despite a rapidly growing population, budget cuts and manning shortages — what we have done together and been able to achieve together is truly remarkable and a tribute to all for everyone's commitment, dedication and work ethic. First and foremost, we have kept our nation, state and communities safe from terrorist attack — # 1 on the list of national and district priorities. As for guns, violent crime and gangs, our PSN program has consistently been deemed one of the very best in the nation as we have arrested and prosecuted a record number of defendants for gun crimes and gun-related offenses. We have taken firearms out of the hands of felons and put those recidivist offenders behind bars. Our dogged pursuit, investigation and prosecution of violent gang members has made our streets safer. In the area of drug offenses, in that 5+ year period, our office has prosecuted more drug offenders and cases than ever before. Likewise for child exploitation cases/sexual predators — more sexual predators have been prosecuted and imprisoned by our office than in any previous 5-year period. The prosecution of crimes in Indian Country as well as our prosecution of identity theft crimes has also reached a high during that 5-year period. The list of crimes goes on that we have successfully targeted with investigations and prosecutions concerning crime problems and challenges facing our communities.

Our pursuit of public corruption has been extremely effective, had a lasting impact, and best of all — is ongoing. We have effectively, efficiently and successfully covered all of our national and district priorities despite being understaffed and under-budgeted. More notable highlights include our successful prosecutions of several Clark County Commissioners, Rolling 60's and other gang members, several of the Hells Angels, the owner and employees of the Crazy Horse Too, Armstrong, et.al., Wilkie et al., Harley Harmon, Irwin Schiff, Eddie Floyd, Michael Kranovich, Michael Burns, David Whittemore, Heather Tallchief, Gary Wexler, Dr. Nick Nguyen, Greg Carter, Reverend Willie Davis and many more defendants and criminal organizations. We prosecuted and convicted over 50 defendants for identity theft in Operation Speed Trap, and our OCDEF and HIDTA programs have resulted in the successful prosecution of hundreds of individuals for drug offenses. Most importantly, we have numerous significant prosecutions in the works. A visit to the U.S. Attorney's website [www.usdoj.gov/usao/nv/](http://www.usdoj.gov/usao/nv/) demonstrates the many high-level cases and defendants we have successfully prosecuted over the past 5 1/2 years.

Since our mission is multi-faceted, our work does not just include cases successfully prosecuted by our Criminal Division. Consider the outstanding work of our Civil Division, Appellate Division, Asset Forfeiture Sections and Financial Litigation Unit. The AUSAs in the Civil Division have successfully defended the United States and its agencies in hundreds of cases, to include DOT's efforts to widen U.S. Highway 95, defense verdicts in a multi-million dollar malpractice actions, successful defense of several Title 7 employment litigation cases and the successful resolution of the Elko County/Jarbidge dispute. The Civil Division has increased its filing of affirmative civil cases recovering substantial sums of money. The Civil Division's health care fraud enforcement unit is in the final stage of negotiating multi-million dollar settlements. As for the Asset Forfeiture Unit, from 2002 thru 2006, the unit forfeited and collected more than \$35 million. Similarly, the FLU collected more than \$ 22 million and opened more than 4,600 debts in the past 5 years. In 2006 alone, our office brought over 200 appellate cases to conclusion with a success rate of 84%. All numbers that we, as an office, have worked hard to achieve and are very proud of. I know as United States Attorney I was, am and always will be extremely proud of the many successes and achievements throughout our office.

As a law enforcement partner, you and your agency share in and are a major part of this success. It has been a wonderful ride and with you and your agency's assistance, it has been an extremely successful one. It has been my honor and pleasure to serve as United States Attorney and the time spent has given me a lasting list of memories, friends and colleagues. I wish you and your agency continued success and the very best in the future.

10. When you were notified by EOUSA Director Michael Battle that you were being asked to resign, did he give you any explanation why this was being done?

I received the telephone call from EOUSA Director Michael Battle on Thursday morning, December 7, 2006. The telephone conversation was fairly brief and in that telephone call, Director Battle informed me that I served as a Presidential appointee and that it was time for me to step down. He had few details about the reason for the call other than to note that we all serve at the pleasure of the President. When pressed on the decision, he stated that the decision had been made by others and that he had not been part of the decision-making process. When I pressed him further on the decision, he stated that they wanted my office to "move in another direction" but could not give details as to what that direction was or why. I asked him who I could talk to about the decision to learn more about why the decision had been made concerning me and he stated, he had thought about who he would speak to if he had received such a call and he would try calling the Deputy Attorney General Paul McNulty.

11. What effect, if any, did the Administration's annual budget cuts have on your office?

The annual budget cuts had a major negative impact and effect on our office. The budget cuts were a constant concern in the office and a major management challenge to our office being able to effectively do our mission. Despite an increasing office caseload and workload, the annual

budget cuts forced us to not fill personnel vacancies in order to make budget. Less manning in the office forces the staff to constantly and consistently attempt to do more with less. There is a limit to always functioning at that do more with less level. That may be a do-able task in the short term, however, attempting to continue to do more with less year after year has an impact and takes its toll not only on what the office is able to accomplish but also on morale, longevity and the ability to retain top performing employees. Also, as the case complexity level and prominence of prosecution targets increases, the cost of doing complex litigation also increases substantially. These are all issues that had to be constantly considered and addressed due to budget/manning challenges and annual budget cuts which had a negative impact and effect upon not only our office and staff but also on our law enforcement partners.

12. Did these budget cuts have a disproportionate effect on your office? If so, please explain why.

Yes, especially in Nevada. The population growth and statistics concerning the District of Nevada are astounding and ever increasing. For reference see the state demographer's website at [http://www.nsbdc.org/what/data\\_statistics/demographer/](http://www.nsbdc.org/what/data_statistics/demographer/). That is where official demographic statistics for the State of Nevada can be located. Further, some of the below statistics also come from the Las Vegas Convention and Visitor's Bureau site located at: <http://www.lvcva.com/press/statistics-facts/index.jsp>.

Some of these factors include the fact that Nevada is the fastest growing state or 2nd fastest growing state in the United States for the last 20 years. The current population is 2.6 million (as of end of calendar year 2006) - and is expected to grow to 4.4 million in next 20 years. Approximately 43 million tourists visit the State of Nevada per year including approximately 38 million tourists per year in Las Vegas, including 6 million convention delegates. Approximately 70 percent of the population of the state resides in the Clark County/Las Vegas area. The city of North Las Vegas is the second fastest growing city in the nation while the cities of Henderson, Las Vegas, and Reno are in top 50 fastest growing cities in the country. From a land mass perspective, Nevada is the 7th largest geographically sized state in the United States with 87% of the state being federally-managed which creates a number of land management and other enforcement issues to be addressed by the United States Attorneys Office. There also are 31 Indian tribes/reservations/colonies located in the state which creates a great number of Indian Country issues and enforcement challenges. Further, Nevada's Hispanic population grew by 44 percent from 2000 to 2005 and now makes up nearly a quarter of the state populace. These are just some of the unique issues faced by our United States Attorneys Office in the State of Nevada. All these factors and other factors considered, our district was budget short and down approximately 15 % of our staff due to being forced to maintain vacancies due to budget shortfalls and constraints. We were supposed to have 45 AUSA Full Time Equivalent (FTE) and only had about 39 AUSAs thereby being forced to keep 6 positions vacant to continue operating our budget in the black. Due to the size and workload of the district, we maintained and fully staffed two offices – one in Las Vegas and one in Reno – in order to cover all our federal courts in Las Vegas and Reno and to effectively address the criminal, civil, administrative and appellate workload throughout the State of Nevada.

13. What effect did these budget cuts and lack of personnel have on the ability of your office to meet the Justice Department's myriad priorities?

It continually created management challenges for an understaffed and undermanned office attempting to address increasing crime problems and issues throughout a very large district with an exploding population growth. As noted above (question 9), we felt we were meeting the Justice Department's myriad priorities but it was with great difficulty, capable management and much work effort.

14. Did your office request additional resources from the Attorney General? If yes, were your requests granted or denied? If denied, were you told why?

Yes, we consistently requested additional resources from EOUSA and the Attorney General. Due, however, to the budget difficulties experienced throughout the Department of Justice, we were well aware of the limitations on our receiving any additional manning, budget or resources. We were denied increases and additional resources due to the budget predicament being confronted throughout the Department of Justice and United States Attorneys community. We knew in FY 2005 and FY 2006, that we were going to have to "beg, borrow and steal" just to be able to make budget. When vacancies occurred, due to budget shortages and constraints, we were not able to fill positions. On March 31, 2006, when Attorney General Gonzales personally visited our Las Vegas office, he was specifically asked about our allotted FTE manning, vacancies and actual filled positions and our prospects of filling our vacancies. AG Gonzales let me know that due to our budget concerns, we would not be getting any additional resources or be given additional budget to fill our vacant FTE positions.

15. Did your office experience any hiring freezes during your tenure?

Not per se hiring freezes. Basically we did not have the appropriate budget to fill the needed positions so we were unable to hire. In the USAO, in order to hire a position, an office needs FTE (Full Time Equivalent) plus the necessary budget availability before a position can be hired and filled. In the case of the USAO, District of Nevada, we had justified and earned the FTE for our district but we did not have available budget in order to fill positions. Therefore, in calendar years 2005 and 2006, we were forced to maintain vacancies in order to make budget. For instance, for those calendar years, our FTE allowed us approximately 45 attorneys, however, due to the budget crisis, for most of that time period, we could only fill 39 attorney positions. In February 2007, our organizational chart for the USAO for the District of Nevada showed we had a total of 38 Assistant United States Attorneys in the office while our Full-Time Equivalent (FTE) should have been 45 Assistant United States Attorneys in the office.

16. How many Assistant United States Attorneys did your office have when you started and completed your tenure as United States Attorney?

In December 2001, our organizational chart for the USAO for the District of Nevada, showed we had 34 Assistant United States Attorneys in the office. In February 2007, our organizational chart for the USAO for the District of Nevada showed we had a total of 38 Assistant United States Attorneys in the office while our Full-Time Equivalent (FTE) should have been 45 Assistant United States Attorneys in the office. To be exact, our official FTE in February 2007 showed our district FTE allotment was 44.8 FTE plus 1 USA for a total of 45.8 FTE attorneys (rounded up to 46 FTE attorneys) and 43.72 FTE support staff (rounded up to 44 FTE support staff).

**Questions for Daniel Bogden, Esq.**

1. When you were a U.S. Attorney, did you understand that you served at the will of the President?

Yes.

2. Did you serve out the full, four year term of your appointment?

Yes.

24

Sampson, Kyle

From: Sampson, Kyle  
Sent: Friday, December 08, 2006 7:04 PM  
To: William\_K\_Kelley@who.eop.gov  
c: ~~Harriet\_Harper@who.eop.gov~~; Debbie\_S\_Fiddelke@who.eop.gov  
Subject: Re: Nevada US Atty

Thx for the heads up.

-----  
Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Kelley, William K. <William\_K\_Kelley@who.eop.gov>  
To: Sampson, Kyle  
CC: ~~Harriet\_Harper@who.eop.gov~~; Fiddelke, Debbie S. <Debbie\_S\_Fiddelke@who.eop.gov>  
Sent: Fri Dec 08 18:33:17 2006  
Subject: Nevada US Atty

Heads up about disgruntlement in Nevada. Sen. Ensign's COS informs me that the Senator is very unhappy about the decision to let Bogden go, very unhappy about its timing, and doesn't understand the urgency. They say that they have confirmed about 6 judges, 5 marshals, and 1 US Attorney, and it hasn't taken less than 9 months for a single one of those confirmations to be accomplished in a Republican-controlled Congress. Why, they ask, leave the office in the hands of an interim person during that period when it could have been Bogden?

I explained to him our thinking at some length. But they are unsatisfied, and the COS said that Ensign would be calling the AG to make sure that Bogden, who they say has done a great job for Nevada, gets a fair shake.



25

REP. JOHN CONYERS JR. HOLDS A HEARING ON OVERSIGHT OF THE DEPARTMENT  
OF JUSTICE - COMMITTEE HEARING

43,613 words

10 May 2007

Political Transcripts by CQ Transcriptions

English

(C) 2007 CQ Transcriptions, Inc. All Rights Reserved.

HOUSE JUDICIARY COMMITTEE HOLDS A HEARING ON OVERSIGHT OF THE  
DEPARTMENT OF JUSTICE

MAY 10, 2007

SPEAKERS: REP. JOHN CONYERS JR., D-MICH. CHAIRMAN REP. HOWARD L.  
BERMAN, D-CALIF. REP. RICK BOUCHER, D-VA. REP. JERROLD NADLER, D-N.Y.  
REP. ROBERT C. SCOTT, D-VA. REP. MELVIN WATT, D-N.C. REP. ZOE LOFGREN,  
D-CALIF. REP. SHEILA JACKSON-LEE, D-TEXAS REP. MAXINE WATERS, D-CALIF.  
REP. MARTIN T. MEEHAN, D-MASS. REP. BILL DELAHUNT, D-MASS. REP. ROBERT  
WEXLER, D-FLA. REP. LINDA T. SANCHEZ, D-CALIF. REP. STEPHEN I. COHEN,  
D-TENN. REP. HANK JOHNSON, D-GA. REP. LUIS V. GUTIERREZ, D-ILL. REP. BRAD  
SHERMAN, D-CALIF. REP. ANTHONY WEINER, D-N.Y. REP. ADAM B. SCHIFF,  
D-CALIF. REP. ARTUR DAVIS, D-ALA. REP. DEBBIE WASSERMAN-SCHULTZ, D-FLA.  
REP. KEITH ELLISON, D-MINN.

REP. LAMAR SMITH, R-TEXAS RANKING MEMBER REP. F. JAMES SENSENBRENNER  
JR., R-WIS. REP. HOWARD COBLE, R-N.C. REP. ELTON GALLEGLY, R-CALIF. REP.  
ROBERT W. GOODLATTE, R-VA. REP. STEVE CHABOT, R-OHIO REP. DAN LUNGREN,  
R-CALIF. REP. CHRIS CANNON, R-UTAH REP. RIC KELLER, R-FLA. REP. DARRELL  
ISSA, R-CALIF. REP. MIKE PENCE, R-IND. REP. J. RANDY FORBES, R-VA. REP. STEVE  
KING, R-IOWA REP. TOM FEENEY, R-FLA. REP. TRENT FRANKS, R-ARIZ. REP. LOUIE  
GOHMERT, R-TEXAS REP. JIM JORDAN, R-OHIO

WITNESSES: ATTORNEY GENERAL ALBERTO R. GONZALES

[\*] CONYERS: Good morning. The committee will come to order. Welcome, everyone.

Mr. Attorney General, I want to thank you for appearing before us today. It's my hope that the members will focus on -- their questions today on the United States attorney investigation and related matters, and that in the near future you will come back so that we may exercise our oversight responsibility, considering the many important issues that involve the Department of

So at one point the White House wanted to replace all 93. So when they wanted to replace all 93, why do you think they wouldn't want to replace eight?

GONZALES: What I've testified also is that I don't know whether or not Ms. Miers thought this was a good idea, whether or not this was even Ms. Miers' idea. She raised this as an idea. We quickly said no...

COHEN: Did you ever talk to Ms. Miers, to Mr. Rove or to anyone else, or communicate to Ms. Miers or Mr. Rove or anyone else as to why they wanted to remove all 93 U.S. prosecutors?

GONZALES: I have no recollection of having that kind of conversation with Ms. Miers or Mr. Rove.

COHEN: And do you have any recollection of a letter to or from them?

GONZALES: I don't. But going back and looking at the documents, there was some e-mail traffic I think in late December of '04, early January of '05 about a conversation involving Mr. Rove stepping into the Counsel's Office about: What are we going to do about U.S. attorneys?

GONZALES: And then there was a subsequent e-mail back from Mr. Sampson. It's all in the record and I don't recall a conversation with Mr. Sampson during that period of time. This would have been during Christmas week, just 10 days or two weeks before my confirmation hearing and so I have no recollection of that.

But I do remember, as I've gone back and looking at the documents, there was some e-mail traffic about U.S. attorneys even before -- just before I became attorney general.

COHEN: These eight individuals who were fired, one of them was Mr. Cummins. Did you inquire into why Mr. Cummins was fired?

GONZALES: Congressman, I don't -- when you asked did I inquire when, I mean, Mr. Cummins was asked...

COHEN: Why? Why? Not when, why?

GONZALES: Mr. Cummins was asked to leave in June, June 14, not December 7. He was not part of that group and he was asked to -- a change was desired by the White House because they had identified a well-qualified individual that they wanted to have as a United States attorney.

COHEN: Who was the well-qualified individual? His name hasn't surfaced yet.

GONZALES: Tim Griffin was the person...

COHEN: Oh, he was well-qualified?

GONZALES: Well, I -- he certainly had more -- well I don't want to disparage Mr. Cummins,

but, yes, if you look at...

COHEN: You're not disparaging Mr. Cummins.

GONZALES: Again, if you look at his qualifications in terms of having prosecution experience, being in the JAG Corps, serving in Iraq, yes, I think he was a well-qualified individual.

In fact, Mr. Cummins...

COHEN: But why was Mr. Cummins asked to leave? Because they wanted to put somebody else in?

GONZALES: Yes. It's my understanding -- I think that's a fair characterization. I might also add that...

COHEN: Then let me ask...

GONZALES: ... can I finish my answer, Congressman -- that in December, there was a newspaper article; I think The Arkansas Times, which indicated that Mr. Cummins was quoted as saying, you know, "I've got four kids, I have to pay for their college. They'll be surprised if I don't"...

COHEN: Thank you -- Mr. We've been through that.

COHEN: And Mr. Cummins said he didn't intend to resign.

You at one point said, as did your deputy, that all of these resignations are firings, were performance-related.

Now, obviously Mr. Cummins was not performance-related. So what you said at that point was wrong.

GONZALES: And I've clarified that in my -- I think I clarified that in my last Senate Judiciary Committee meeting.

In fact, that was the reason for my anger in an e-mail that was on February 7, following the DAG's -- the deputy attorney general's testimony -- is because I had confused in my mind Mr. Cummins being asked to leave on June 14 with the others being asked to leave on December 7.

And what I was thinking about in my testimony was those individuals asked to leave on December 7 related to performance -- and did not in my mind think about Mr. Cummins, who was asked to leave...

COHEN: Did you inquire as to why each of these eight individuals were asked to leave?

GONZALES: I do not recall, Congressman, the conversation that occurred when the

26

5 of 14 DOCUMENTS

Copyright 2007 Federal News Service, Inc.  
All Rights Reserved  
Federal News Service

March 29, 2007 Thursday

**SECTION: CAPITOL HILL HEARING**

**LENGTH: 18634 words**

**HEADLINE: MORNING SESSION OF A HEARING OF THE SENATE JUDICIARY COMMITTEE;  
SUBJECT: "PRESERVING PROSECUTORIAL INDEPENDENCE: IS THE DEPARTMENT OF JUSTICE  
POLITICIZING THE HIRING AND FIRING OF U.S. ATTORNEYS? -- PART III";  
CHAIR BY: SENATOR PATRICK LEAHY (D-VT);  
WITNESS: D. KYLE SAMPSON, FORMER CHIEF OF STAFF TO THE U.S. ATTORNEY GENERAL;  
LOCATION: 216 HART SENATE OFFICE BUILDING, WASHINGTON, D.C.**

**BODY:**

MORNING SESSION OF A HEARING OF THE SENATE JUDICIARY COMMITTEE SUBJECT:  
"PRESERVING PROSECUTORIAL INDEPENDENCE: IS THE DEPARTMENT OF JUSTICE POLITICIZING THE  
HIRING AND FIRING OF U.S. ATTORNEYS? -- PART III" CHAIRED BY: SENATOR PATRICK LEAHY (D-VT)  
WITNESS: D. KYLE SAMPSON, FORMER CHIEF OF STAFF TO THE U.S. ATTORNEY GENERAL  
LOCATION: 216 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. TIME: 10:08 A.M. EDT DATE:  
THURSDAY, MARCH 29, 2007

SEN. LEAHY: (Sounds gavel.) Good morning. I would note we're starting just a couple of moments late here. There's a series of roll call votes on the floor. And what I'm going to do is try to start as quickly as possible with statements by myself and the ranking member. If we have further votes this morning, we're going to try to do it in a way that we go back and forth on the votes and keep the hearing going. This is too important a hearing. I know senators have a number of other things they're doing. But we'll go forward.

Today the committee proceeds with another hearing into the mass replacement of U.S. attorneys. And this morning we hear testimony from D. Kyle Sampson, the former chief of staff to Attorney General Gonzales. He is represented by another attorney who served in the White House Counsel's Office for the White House, Bradford Berenson. Mr. Sampson could have been subpoenaed, but we thank him for appearing voluntarily and testifying.

I hope this hearing will provide us with an opportunity to learn additional facts and help us get beyond the shifting stories to the truth. Our goal is to get to the bottom of what happened, but also why it happened, and who was involved in devising and implementing this plan to replace so many United States attorneys around the country.

At his press conference two weeks ago, and actually again this week in an interview, Attorney General Gonzales seemed to heap much of the responsibility for this matter on Mr. Sampson. The attorney general admits that mistakes were made, but he seems, according to him, to say, however, those mistakes were mostly by Mr. Sampson.

He was one of the people in charge of assembling the list of U.S. attorneys to be fired. The attorney general indicated he's also one of the people who concealed information from others at the Department of Justice so that there

## MORNING SESSION OF A HEARING OF THE SENATE JUDICIARY COMMITTEE; SUBJECT:

The purpose is not "gotcha." The purpose is, as they said in "Dragnet," just the facts, ma'am.

I hope we learn more about the involvement of the attorney general in all this. Based on the facts we already know, his situation is grave. Whether he was intimately involved in this debacle or just presided over a department that allowed it to happen and didn't know a thing, that's a pretty severe indictment.

Finally, whatever happens at this hearing -- and, for that matter, whatever happens to Attorney General Gonzales -- we have a duty to continue to ask questions and investigate until we're satisfied that all of the facts have been found. If we do anything less, we're abdicating our responsibility to the citizens who elected us and who wanted to trust once again that the Department of Justice enforces the law equally and without fear or favor.

HECKLER: End the war now! Fund redeployment! Do not fund the war any longer! Three thousand two hundred Iraqis -- 3,200 U.S. soldiers -- 3,200 --

SEN. SCHUMER: (Confers off mike.)

Ladies and gentlemen, we are waiting for other senators to return. There is one final vote, and then we won't be interrupted the rest of the day, thanks to Senator Reid and the way he scheduled this. So we're going to take a brief recess.

(Recess.)

SEN. LEAHY: (Sounds gavel.) Only because I'd like to see the witness, I'm happy to cooperate with the photographers, but I'd kind of like to see who I'm talking with.

It's -- I'm not sure what's happening on the floor. We're having a lot of votes that we weren't supposed to have. I would hope that that's simply because people are exercising their constitutional rights and not because they're all coming from the other side, whether these votes are -- those who wish we weren't going to have the hearing.

What I'm going to do is I'm going to swear in Mr. Sampson. When Senator Specter -- and begin his statement. When Senator Specter gets here, of course he'll have a chance to give his statement. He'll take priority over everybody else.

Mr. Sampson, please stand and raise your right hand.

(Witness is sworn.)

Thank you.

As I said earlier, Mr. Sampson, I appreciate you and your attorney cooperating to have you here. And I'd note again you appeared without us having to issue the subpoena, which I had signed.

Please go ahead.

MR. SAMPSON: Thank you, Mr. Chairman. As you know, I've come here voluntarily to answer your questions. I've been a public servant for the past eight years. During the past several years, I have served Attorney General Gonzales in a staff position, culminating in my service to him as his chief of staff. In that role, I was responsible for organizing and managing the process by which certain U.S. attorneys were asked to resign.

From that vantage point, I believe I was well positioned to observe and understand what happened in this matter. I can't pretend to know or remember every fact that may be of relevance, but I'm pleased to share with the committee today those that I do know and those that I do remember.

## MORNING SESSION OF A HEARING OF THE SENATE JUDICIARY COMMITTEE; SUBJECT:

After the 2004 election, the White House inquired about the prospect of replacing all 93 U.S. attorneys with new appointees. I believed, as did others, that less sweeping changes were more appropriate. The Department of Justice then began to look at replacing a limited number of U.S. attorneys in districts where, for a variety of reasons, the department thought change would be beneficial.

Reasonable and honest people can differ -- and in fact did at various stages of the process -- on whether particular individuals should have been asked to resign. But the decision to ask them to do so was the result of an internal process that aggregated the considered collective judgment of a number of senior Justice Department officials.

I would be the first to concede that this process was not scientific, nor was it extensively documented. That is the nature of presidential personnel decisions. But neither was the process random or arbitrary. Instead, it was a consensus-based process based on input from Justice Department officials who were in the best position to develop informed opinions about U.S. attorney performance.

When I speak about U.S. attorney performance, it is critical to understand that performance for a Senate-confirmed presidential appointee is very different than -- it's a very different thing than performance for a civil servant or a private-sector employee. Presidential appointees are judged not only on their professional skills but also their management abilities, their relationships with law enforcement and other governmental leaders, and their support for the priorities of the president and the attorney general. A United States attorney may be a highly skilled lawyer and a wonderful person -- as I believe all of the individuals who were asked to resign are -- but if he or she is judged to be lacking in any of these respects, then he or she may be considered for replacement.

The distinction between political and performance-related reasons for removing a U.S. attorney is, in my view, largely artificial. A U.S. attorney who is unsuccessful from a political perspective, either because he or she has alienated the leadership of the department in Washington or cannot work constructively with law enforcement or other governmental constituencies in the district, is unsuccessful.

With these standards for evaluating U.S. attorneys in mind, I coordinated the process of identifying U.S. attorneys that might be considered for replacement. I received input from a number of officials at the Department of Justice who were in a position to form considered judgments about the U.S. attorneys.

These included not only senior political appointees such as the deputy attorney general but also senior career lawyers such as David Margolis, a man who has served justice for more than forty years under presidents of both parties and who probably knows more about United States attorneys than any person alive.

I developed and maintained a list that reflected the aggregation of views of these Department officials over a period of almost two years. I provided that information to the White House when requested, and reviewed it with and circulated it to others at the Department of Justice for comment. By and large, the process operated by consensus: When any official I consulted felt that an individual name should be removed from the list, it generally was.

Although consideration of possible changes had begun in early 2005, the process of actually finalizing a list of U.S. attorneys who might be asked to resign, and acting on that list, did not begin until last fall. In the end, eight total U.S. attorneys were selected for replacement -- Bud Cummins in mid-2006 and the other seven in a group in early December of 2006.

With the exception of Bud Cummins, none of the U.S. attorneys was asked to resign in favor of a particular individual who had already been identified to take the vacant spot. Nor, to my knowledge, was any U.S. attorney asked to resign for an improper reason. U.S. attorneys serve at the pleasure of the president and may be asked to resign for almost any reason with no public or private explanation.

The limited category of improper reasons includes an effort to interfere with or influence the investigation or prosecution of a particular case for political or partisan advantage. To my knowledge, nothing of the sort occurred here.



*27*

**From:** Miers, Harriet (Harriet.Miers@who.eop.gov)  
**Sent:** Tuesday, December 19, 2006 7:09 PM  
**To:** Karl Rove  
**Subject:** FW: Another Griffin article

FYI. This does not seem to be developing as we thought.

-----Original Message-----

**From:** Oprison, Christopher G.  
**Sent:** Tuesday, December 19, 2006 6:39 PM  
**To:** Miers, Harriet; Kelley, William K.  
**Subject:** FW: Another Griffin article

Fyi - see below

Also, Richard Klingler confirmed with Paul Perkins earlier today that Tim had been approved by the President as a nominee in June 2006 but, after Senator Pryor indicated he would oppose Tim's nomination, the plan turned to putting Tim up as an AG appointment.

-----Original Message-----

**From:** Sampson, Kyle (mailto:Kyle.Sampson@usdoj.gov)  
**Sent:** Tuesday, December 19, 2006 6:27 PM  
**To:** Oprison, Christopher G.  
**Subject:** RE: Another Griffin article

My thoughts:

1. I think we should gum this to death: ask the Senators to give Tim a chance, meet with him, give him some time in office to see how he performs, etc. If they ultimately say, "no never" (and the longer we can forestall that, the better), then we can tell them we'll look for other candidates, ask them for recommendations, evaluate the recommendations, interview their candidates, and otherwise run out the clock. All of this should be done in "good faith," of course.

2. Officially, Tim is the U.S. Attorney, and will identify himself as such on pleadings and other official documents. I think it's fine for us to refer to him as an "interim U.S. Attorney" in talking points, with the understanding that by "interim U.S. Attorney" we mean AG-appointed (as opposed to Presidentially-appointed and Senate-confirmed) U.S. Attorney.

3. Overall, I think we should take the temperature way down -- our guy is in there so the status quo is good for us. Ask for them to consider him; note that he is qualified and doing a good job whenever asked; pledge to desire a Senate-confirmed U.S. Attorney; and otherwise hunker down.

4. The only thing really at risk here is a repeal of the AG's appointment authority. We intend to have DOJ leg affairs people on notice to work hard to preserve this (House members won't care about this; all we really need is for one Senator to object to language being added to legislative vehicles that are moving through). There is some risk that we'll lose the authority, but if we don't ever exercise it then what's the point of having it? (I'm not 100 percent sure that Tim was the guy on which to test drive this authority, but know that getting him appointed was important to Harriet, Karl, etc.)

-----Original Message-----

**From:** Oprison, Christopher G. (mailto:Christopher\_G.\_Oprison@who.eop.gov)  
**Sent:** Tuesday, December 19, 2006 6:16 PM  
**To:** Sampson, Kyle  
**Subject:** RE: Another Griffin article

Thanks. I raised that issue with Harriet earlier. Seems to me that (1) Pryor and Lincoln are taking steps to back DOJ/WH into a corner on Tim Griffin and commit to not commit on him as a nominee; and (2) "interim" may be a source of confusion or, worse, a term that Pryor's and Lincoln's office can springboard from to press for their own nominee rather than rallying behind Tim. What are your thoughts? If this is a Section 546 AG

appointment for unlimited duration, Tim can call himself "US Attorney" rather than "interim" or "acting" and our talkers should avoid referring to him as "interim." What are your thoughts?

-----Original Message-----  
From: Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
Sent: Tuesday, December 19, 2006 5:36 PM  
To: Oprison, Christopher G.  
Subject: FW: Another Griffin article

fyi

-----Original Message-----  
From: Scolinos, Tasia  
Sent: Tuesday, December 19, 2006 5:34 PM  
To: Sampson, Kyle; Goodling, Monica  
Cc: Reehrkasse, Brian  
Subject: RE: Another Griffin article

I agree - those are stronger talkers.

BR- who in our office took this call? Let's make sure they have these new points if we get another call. Thanks.

-----Original Message-----  
From: Sampson, Kyle  
Sent: Tuesday, December 19, 2006 5:30 PM  
To: Goodling, Monica; Scolinos, Tasia  
Subject: RE: Another Griffin article

Monica/Tasia, I'm a little concerned about this:

A Justice Department spokesman has said officials will work with the Arkansas congressional delegation "in the near future" to make a nomination, and that Griffin was nominated on an interim basis because of the timing of Cummins' resignation."

I think would prefer:

- \* When a U.S. Attorney vacancy arises, someone needs to be appointed -- even if on an interim basis -- to fill the vacancy and do the work of the U.S. Attorney.
- \* Griffin was appointed on an interim basis because of the timing of Cummins' resignation.
- \* It is our hope that, in every federal district, we'll be able to have a U.S. Attorney who was nominated by the President and confirmed by the Senate.

-----Original Message-----  
From: Goodling, Monica  
Sent: Tuesday, December 19, 2006 12:22 PM  
To: 'Oprison, Christopher G.'; Sampson, Kyle  
Subject: Another Griffin article

FYI

-----Original Message-----  
From: griffin  
Sent: Tuesday, December 19, 2006 10:49 AM  
To: Goodling, Monica  
Subject: Another one

Lincoln calls appointment of Rove assistant 'unfortunate'

By ANDREW DeMILLO Associated Press Writer

LITTLE ROCK (AP) Arkansas Sen. Blanche Lincoln called President Bush's decision to appoint political adviser Karl Rove's former assistant as interim U.S. attorney for northern Arkansas "unfortunate" because she believes it bypasses the normal approval process.

HJC 10024

"I think it's very unfortunate that the president would choose not to go down the normal route," Lincoln, D-Ark., told The Associated Press in an interview on Monday.

The Justice Department announced Friday that Tim Griffin would replace Bud Cummins, who plans to resign Dec. 20. There is no maximum amount of time someone can serve as an interim U.S. attorney.

"This is a person who's going to be implementing the law of the land, and I have concerns from what I read in terms of his political nature," Lincoln said. "People need to know that and the way you know that is by going through the processes. The reason we have processes and committees and hearings is so there will be a transparency in the people that are going to serve, and that won't exist in this case."

Arkansas' lone Republican in Congress, Rep. John Boozman, last week said Griffin was highly qualified for the position. But Griffin, who worked on President Bush's re-election campaign in 2004, likely wouldn't have faced a fair hearing in the soon-to-be Democratically controlled Senate, Boozman said.

A native of Magnolia, Griffin now serves as special assistant U.S. attorney for the eastern district of Arkansas. Griffin has previously served as special assistant to President Bush and deputy director of political affairs at the White House, as well as deputy communications director for the Republican National Committee.

He recently finished a year of active duty in Iraq and is an Army Reserve major, serving in the Judge Advocate General's Corps.

A spokesman for Sen. Mark Pryor, D-Ark., on Friday criticized the appointment for avoiding the normal appointment process.

"The senator is concerned that, by announcing an interim (appointment) and not making a nomination, they're determining who the nominee is," Pryor spokesman Michael Teague said Friday. "They're basically circumventing the constitutional process."

A Justice Department spokesman has said officials will work with the Arkansas congressional delegation "in the near future" to make a nomination, and that Griffin was nominated on an interim basis because of the timing of Cummins' resignation.

Lincoln said the White House had contacted her earlier in the year and said they were interested in appointing him to Bud Cummins' position. She said her office had expressed concern about his appointment.

"I don't know that much more about him than you could find if you Googled him," Lincoln said. "That's what we did."

28

---

**From:** Scott Jennings [SJennings@gwb43.com]  
**Sent:** Monday, October 02, 2006 4:31 PM  
**To:** Hughes, Taylor A.  
**Subject:** Re: Call from Sen. Domenici

Not sure if-when, but I did get that heads up

-----Original Message-----

**From:** Hughes, Taylor A. <Taylor\_A.\_Hughes@who.eop.gov>  
**To:** Scott Jennings  
**Sent:** Mon Oct 02 16:30:18 2006  
**Subject:** RE: Call from Sen. Domenici

Thanks, have not yet rc'd a call

-----Original Message-----

**From:** Scott Jennings [mailto:SJennings@gwb43.com]  
**Sent:** Monday, October 02, 2006 4:30 PM  
**To:** Hughes, Taylor A.  
**Subject:** Fw: Call from Sen. Domenici

Meant to send to you as well

-----Original Message-----

**From:** Scott Jennings  
**To:** Karl Rove  
**CC:** Sara Taylor; Raul Damas  
**Sent:** Mon Oct 02 16:23:50 2006  
**Subject:** Call from Sen. Domenici

Karl - a heads up that you may get a call from Senator Domenici again complaining about USATTY Iglesias. This is in the wake of the Vigil trial verdict he just finished, in which vigil was acquitted on 23 of 24 counts. Domenici will say this shows extreme incompetence and again ask us to remove. He has broached this subject with the Attorney General before, who told him we were not inclined to do so. As you might recall, this is the USATTY who refused to act on the election fraud that took place in NM in 2004.

Also, he could bring up following topics:

- \* Woodward book. He is very troubled by what he is reading.
- \* Section 181. He wants the President to reaffirm that we are committed to getting something done in the lame duck.

I was given a heads up on this possible call by Steve Bell.

HJC 00323

Let me know if you need more info on any of this -

---

HJC 00324

29



February 16, 2007

## White House Is Reported to Be Linked to a Dismissal

By DAVID JOHNSTON

WASHINGTON, Feb. 15 — A United States attorney in Arkansas who was dismissed from his job last year by the Justice Department was ousted after Harriet E. Miers, the former White House counsel, intervened on behalf of the man who replaced him, according to Congressional aides briefed on the matter.

Ms. Miers, the aides said, phoned an aide to Attorney General Alberto R. Gonzales suggesting the appointment of J. Timothy Griffin, a former military and civilian prosecutor who was a political director for the Republican National Committee and a deputy to Karl Rove, the White House political adviser.

Later, the incumbent United States attorney, H. E. Cummins III, was removed without explanation and replaced on an interim basis by Mr. Griffin. Officials at the White House and Justice Department declined to comment on Ms. Miers's role in the matter.

Paul J. McNulty, the deputy attorney general, said at a hearing last week that Mr. Cummins had done nothing wrong but was removed to make room for Mr. Griffin. It was not known at the time Mr. McNulty testified that Ms. Miers had intervened on Mr. Griffin's behalf.

Her involvement was disclosed on Wednesday by Justice Department officials led by Mr. McNulty, who held a closed-door briefing for senators on the Judiciary Committee after Democrats criticized the dismissals of 7 to 10 United States attorneys as politically motivated.

Ms. Miers, whose resignation as White House counsel was effective Jan. 31, could not be reached for comment Thursday.

At the briefing, Justice Department officials denied that the White House had been involved in any of the other dismissals, suggesting that the department had acted on its own after advising the White House of its intention to remove incumbents.

Democrats have said the removals represented an effort to make room for rising political favorites of the Bush administration and to be rid of independent-minded prosecutors, all of whom had been appointed by President Bush.

Senator Charles E. Schumer, Democrat of New York, said that he was not satisfied by the Justice Department's explanations at the briefing.

"Yesterday's briefing by the deputy attorney general did little to alleviate our concerns that politics was involved and, in fact, raised those concerns," Mr. Schumer said. "Some may have been fired for political reasons because they may have not done what Justice Department wanted them to do."

Justice Department officials have said that because United States attorneys are presidential appointees they

may be replaced at any time without a specific reason, although they have said that none were removed for pursuing politically sensitive cases.

Another United States attorney asked to resign was Carol C. Lam of San Diego, who departed on Thursday at the request of the Justice Department. Two days earlier, Ms. Lam announced two indictments, including one against a former high-ranking Central Intelligence Agency official, in a corruption inquiry that began with last year's guilty plea by a former Republican representative, Randy Cunningham, who was sentenced to more than eight years in prison.

Karen P. Hewitt, an assistant in Ms. Lam's office, was named Thursday to serve as the interim United States attorney in the Southern District, while Scott N. Schools, a general counsel in the Justice Department, will fill the interim role in the Northern District, in San Francisco.

Senator Dianne Feinstein, Democrat of California, said in a statement on the Senate floor Thursday that Ms. Lam had been dismissed despite a strong record of prosecutions.

"Ms. Lam has had a distinguished career, and she served the southern district of San Diego well and everyone in that district knows that," Ms. Feinstein said. "I regret that main Justice does not. I am quite disappointed that main Justice chose to remove her, especially given the ongoing work in which the office is involved."

Copyright 2007 The New York Times Company

[Privacy Policy](#) | [Search](#) | [Corrections](#) | [RSS](#) | [First Look](#) | [Help](#) | [Contact Us](#) | [Work for Us](#) | [Site Map](#)

30

**From:** Brosnahan, Jennifer R.

**Sent:** Friday, June 23, 2006 5:48 PM

**To:** Fahrenkopf, Leslie; Dixon, Grant; Klingler, Richard D.; Rao, Neomi J.; Hoyt, Robert F.; Gerry, Brett C.; Smith, John M.

**Cc:** Kelley, William K.; Courtwright, Susan M.

**Subject:** POTUS decisions

Here is the run down of what happened in today's meeting between Harriet and the President:

CA1 - Smith approved.

Status - HM informed Sen. Chaffee, who asked for time to speak with Flanders about a district position. HM to follow up with Sen. Chaffee on Monday. Hold off on notification calls until checking with HM on Monday.

CA2 - Livingston approved.

Status - BF also cleared, but still need to receive Judge Walker's letter, and Bill will speak with Livingston. Hold off on any other notifications.

CA4 - O'Neill approved.

Status - HM to speak with Mike about timing/approach with Senator Specter. Hold off on notifications.

DC Cir. - Keisler approved.

Status - Hold off on any action until Livingston situation resolved.

MD NC - Osteen approved (vice Osteen), and Schroeder approved (vice Bullock).

Status - OK to proceed with standard process.

WD NC - Reidinger approved.

Status - OK to proceed with standard process.

SD MS - Ozerden approved.

Status - OK to proceed with standard process.

Also, Tim Griffin was approved for US Atty in ED Ark. Ok to proceed with standard process.

Please call me with any questions. Thanks!  
Jenny

---

From: Sara Taylor  
inf: Thursday, June 15, 2006 2:39 PM  
cc: Karl Rove  
Subject: RE: Tim Griffin

I believe POTUS signed the paperwork last night or today.

-----Original Message-----

From: Karl Rove  
Sent: Thursday, June 15, 2006 10:51 AM  
To: Sara Taylor  
Subject: Tim Griffin

Check on his status for the US Atty slot. He's home in September. Nice to be a seamless move.

HJC0021

31

---

**From:** Sara Taylor  
**Sent:** 3/2/2007 5:13:04 PM  
**To:** Karl Rove /O=REPUBLICAN NATIONAL COMMITTEE/OU=RNC/CN=RECIPIENTS/CN=KR;  
'Dana\_M\_Perino' 'Jeffery\_S\_Jennings@who.eop.gov'  
Jeffery\_S\_Jennings@who.eop.gov;  
**Cc:** 'Dan\_Bartlett@who.eop.gov' Dan\_Bartlett@who.eop.gov ; 'William\_K\_Kelley@who.eop.gov'  
William\_K\_Kelley@who.eop.gov ; Scott Jennings /O=REPUBLICAN NATIONAL  
COMMITTEE/OU=RNC/CN=RECIPIENTS/CN=SJennings ;  
**Bcc:**  
**Subject:** RE: SOLOMON

I have no recollection of any such list of US attorneys. Could be any number of lists we produce, but we've never had a "US attorney wish list" -- the way we do for a boards and commissions. I seriously doubt what he claims to have - exists.

Most US attorneys come via the R Senators. We check the folks out with others in the states - make sure Bush leadership concurs. Maybe come up with names via that process if the candidates the R's produce don't pan out with counsel. And, as Karl pointed out, in the case of a commission, we end up appointing their picks.

**From:** Karl Rove  
**Sent:** Friday, March 02, 2007 4:07 PM  
**To:** 'Dana M. Perino' Sara Taylor; 'Jeffery\_S\_Jennings@who.eop.gov'  
**Cc:** 'Dan\_Bartlett@who.eop.gov'; 'William\_K\_Kelley@who.eop.gov'  
**Subject:** Re: SOLOMON

After the fact and to counsels and not for the slots which are commission recommendations and not for all. He has been told the wrong thing.

-----Original Message-----

**From:** Perino, Dana M.  
**To:** Sara Taylor; Jennings, Jeffery S. <Jeffery\_S\_Jennings@who.eop.gov>; Karl Rove  
**CC:** Bartlett, Dan <Dan\_Bartlett@who.eop.gov>; Kelley, William K. <William\_K\_Kelley@who.eop.gov>  
**Sent:** Fri Mar 02 15:59:02 2007  
**Subject:** SOLOMON

Reporter's been told that Sara/her office sent a list of names for replacements of the US Attys.

He says this is a SENIOR admin official.

Please advise.

32



---

**From:** griffin  
**Sent:** 1/9/2007 5:48:44 PM  
**To:** Karl Rove kr@georgewbush.com;  
**Cc:**  
**Bcc:**  
**Subject:** Re: Update

Will do. Thank you. Btw my wife is pregnant. We are thinking about naming him karl. Lol

-----Original Message-----

**From:** Karl Rove <KR@georgewbush.com>  
**Date:** Tue, 09 Jan 2007 17:54:41  
**To:** <griffin>  
**Subject:** Re: Update

We will — you stay strong!

On 1/9/07 5:24 PM, "griffin"

wrote:

I think both lincoln and pryor went better than I expected, Pryor asked me about the bogus 2004 greg palast bbc voter supression article. I told him it was untrue. Clearly the dems will bring it up when I am submitted to the senate. Pryor suggested I withdraw my name if I get stuck in the senate. I told him I couldn't promise to do that. I hope yall hang in there with me. Thank you tg

-----Original Message-----

**From:** "Karl Rove" <KR@georgewbush.com>  
**Date:** Tue, 9 Jan 2007 11:20:03  
**To:** <griffin>  
**Subject:** Re: Update

I know that. And be cool in your meetings. Don't let them rattle you.

-----Original Message-----

**From:** griffin  
**To:** Karl Rove  
**Sent:** Tue Jan 09 11:15:32 2007  
**Subject:** Re: Update

No worries! I will make you proud.

-----Original Message-----

**From:** Karl Rove <KR@georgewbush.com>  
**Date:** Tue, 09 Jan 2007 10:30:30  
**To:** <griffin>  
**Subject:** Re: Update

Then do them!

On 1/9/07 8:00 AM, "griffin"

wrote:

Just a fyi:

I am en route to DC this a.m. to meet with Senators Pryor and Lincoln regarding potential confirmation. I am not optimistic but will shall see.

Of course, I will keep yall updated.

Thank you Tim

PS Things at the US Attorney's Office are going fabulous. Couldn't be better. I see lots of opportunity to do things better.

33

**From:** griffin  
**nt:** 1/15/2007 8:56:07 PM  
**To:** Karl Rove <kr@georgewbush.com>; Sara Taylor <st@gwb43.com>;  
**Cc:**  
**Bcc:**  
**Subject:** Re: NY Times Editorial: Politicizing Prosecutors

Ok. Thank you very much.

-----Original Message-----

**From:** Karl Rove <kr@georgewbush.com>  
**Date:** Mon, 15 Jan 2007 20:47:58  
**To:** <griffin> Sara Taylor <st@gwb43.com>  
**Subject:** Re: NY Times Editorial: Politicizing Prosecutors

Let me raise to the leg shop and counsel's office.

-----  
**From:** <griffin>  
**Reply-To:** <griffin>  
**Date:** Mon, 15 Jan 2007 20:37:58 -0500  
**To:** Karl Rove <kr@georgewbush.com>, Sara Taylor <st@gwb43.com>  
**Conversation:** NY Times Editorial: Politicizing Prosecutors  
**Subject:** Re: NY Times Editorial: Politicizing Prosecutors

Ok. Here's the update I just had a long, long (almost an hour) conversation with Sen. Thompson. He said to tell whomever that he is very supportive. He suggested that I get comyn and sessions or someone on judiciary briefed up on my situation and he volunteered to talk with them and or set those meetings up.

Sen thompson is happy to help but wondered whether (1) our concern is my image in the press or (2) is our concern to get me through the senate. He thinks a letter to the editor or oped is fine but will do nothing in terms of influencing pryor

He said the hidta designation issue or putting me through the senate with the us marsjal nominee that pryor is so happy about could be ways or influencing him.

Again, he is ready and willing to help. He was awesome on the phone.

Any suggestions? The last thing I want is to step on any leg affairs toes. Thank you tg

-----Original Message-----

**From:** Karl Rove <KR@georgewbush.com>  
**Date:** Mon, 15 Jan 2007 12:48:07  
**To:** <griffin> Sara Taylor <st@gwb43.com>, Tim Griffin  
**Subject:** Re: NY Times Editorial: Politicizing Prosecutors

I believe you should call Fred. Who is Jeri?

On 1/15/07 12:38 PM, "griffin" wrote:

Who should reach out to fred? I can call jeri today if you like?

THE FACTS about my "thin" legal record

1. Federal prosecutor and spec asst to chertoff in criminal division 2001-2002

2. Army jag for 10 years including year of active duty and service in Iraq; served as Army prosecutor

3. Served as federal prosecutor from 1995-1997 (associate independent counsel in Cisneros case)

4. Senior counsel, house govt reform committee 1997-1999

5. Been at DOJ since September 2006

6. Cum laude at Tulane Law School. Cum laude undergrad at Hendrix College here in Ark. Grad school at Oxford Univ in Modern European History.

7. Members of Arkansas bar since 1995 and Louisiana bar since 1994

8. 1995-1996 private practice at largest law firm in Louisiana

Contrast Bud as a fyi--Bud was a lobbyist for NFIB, law clerk for judge, counsel to Huckabee and ran for Congress. Had never prosecuted.

-----Original Message-----

From: Karl Rove <KR@georgewbush.com>

Date: Mon, 15 Jan 2007 12:29:58

To: <griffin>, Sara Taylor <st@gwb43.com>, Tim Griffin

Subject: Re: NY Times Editorial: Politicizing Prosecutors

Fred Thompson would be great!

On 1/15/07 12:18 PM, "griffin"

wrote:

Bud might but he admitted in a front page story on Saturday that he was asked to leave. He puts foot in mouth a lot.

There is a Democrat prosecuting attorney I have worked with a lot who could be very helpful but I am not sure he wants to stick his neck out. I talked with him this a.m. He will probably help. He is in a difficult position as a Democrat. A few days ago he said he would speak on my behalf to the NYT but never got called. He would probably write an op-ed etc. If we can get someone to write, he will say great things.

Bud seems sort of cozy with the Pryor folks to be honest.

Maybe Fred Thompson who is a friend of mine?

I have a great friend, Kevin Crass, who is the partner at the largest firm down here. He is highly respected and is on a presidential board. He might

-----Original Message-----

From: Karl Rove <KR@georgewbush.com>

Date: Mon, 15 Jan 2007 12:11:39

To: Sara Taylor <st@gwb43.com>, Tim Griffin

Tim Griffin

Subject: Re: NY Times Editorial: Politicizing Prosecutors

What about Bud Cummins?

On 1/15/07 10:46 AM, "Sara Taylor" <st@gwb43.com> wrote:

Pryor is going after Griffin. He's made this his cause. We need to find some folks to defend Tim and his credentials, not to mention our policy.

Your thoughts? Rich Lowry offered to help Tim.

Anyone better?

From: Brad Smith  
Sent: Monday, January 15, 2007 10:39 AM  
To: Sara Taylor  
Subject: NY Times Editorial: Politicizing Prosecutors

NY Times Editorial: Politicizing Prosecutors  
January 15, 2007

The Bush administration has appointed an extreme political partisan as the new United States attorney for Arkansas. Normally, the Senate would have vetted him, and quite possibly blocked his appointment. But the White House took advantage of a little-noticed provision of the Patriot Act, which allows it to do an end run around the Senate.

It is particularly dangerous to put United States attorneys' offices in the hands of political operatives because federal prosecutors have extraordinary power to issue subpoenas and bring criminal charges. The Senate should fix the law and investigate whether such offices in Arkansas and elsewhere are being politicized.

H. E. Bud Cummins, the respected United States attorney in Little Rock, recently left office. He has been replaced on an interim basis by J. Timothy Griffin, who has a thin legal record but a resumé that includes working for Karl Rove and heading up opposition research for the Republican National Committee. Senator Mark Pryor, Democrat of Arkansas, wanted to raise concerns about Mr. Griffin's appointment as part of the confirmation process. But he couldn't because there was no confirmation process.

Mr. Pryor, Senator Dianne Feinstein, Democrat of California, and Senator Patrick Leahy, Democrat of Vermont, have accused the Bush administration of "pushing out U.S. attorneys from across the country under the cloak of secrecy and then appointing indefinite replacements without Senate confirmation." The San Diego Union-Tribune has reported that San Diego's United States attorney was asked to resign, and that even some of her opponents "said the supposed reasons she is being forced out are perplexing."

There could be unsavory political reasons for putting a party operative in charge of federal criminal investigations in Little Rock, which has been home to two possible presidential candidates, Hillary Clinton and former Gov. Mike Huckabee. But it is not necessary to leap to extravagant conclusions. United States attorneys are so powerful that their impartiality must be beyond question. One way to ensure that is to require them to submit to questions from the Senate, and face a confirmation vote.

Senators Feinstein, Leahy and Pryor have a bill to change the method for selecting interim United States attorneys back to what it once was: the federal district court in the jurisdiction would make the appointment. Congress should pass that bill, and take a hard look at how vacancies are being filled. There might not be fire where the senators see smoke. But Congress should not take any chances.

34

From: "Karl Rove" <kr@georgewbush.com>  
Date: Wednesday, January 24, 2007, 1:07:15 AM  
To: "Tim Griffin" <griffinjag@comcast.net>  
Subject: Re:

---

I'm doing fine and have no jeopardy. Thanks for thinking of me.

On 1/23/07 7:57 PM, "Tim Griffin" <griffinjag@comcast.net> wrote:

> Hang in there. You are in my thoughts and prayers. Peace, TG  
>

35



From: "Karl Rove" <kr@georgewbush.com>  
Date: Wednesday, February 14, 2007, 10:18:41 PM  
To: "Taylor A. Hughes" <taylor\_a\_hughes@who.eop.gov>  
To: "Taylor A. Hughes" <taylor\_a\_hughes@who.eop.gov>  
Subject: FW: McNulty Testimony 2-6-07

---

----- Forwarded Message

From: Scott Jennings <SJennings@gwb43.com>  
Date: Wed, 14 Feb 2007 16:34:51 -0500  
To: Karl Rove <KR@georgewbush.com>  
Cc: <Taylor A. Hughes@who.eop.gov>  
Conversation: McNulty Testimony 2-6-07  
Subject: McNulty Testimony 2-6-07

Ok - here is the PREPARED testimony from McNulty from Feb. 6. I am waiting on a transcript of the Q and A, where the comments you noted were made. The Judiciary Committee won't offer a full transcript until next week, but DoJ may have a draft transcript I can see tonight. He makes the case here, but got tripped up during the Q and A. I will send you the Q and A transcript as soon as I have it.

Testimony of Paul J. McNulty (Deputy Attorney General, U.S. Department of Justice) to the Committee on the Judiciary, United States Senate  
"Is the Department of Justice Politicizing the Hiring and Firing of U.S. Attorneys?"  
February 6, 2007  
Chairman Leahy, Senator Specter, and Members of the Committee, thank you for the invitation to discuss the importance of the Justice Department's United States Attorneys. As a former United States Attorney, I particularly appreciate this opportunity to address the critical role U.S. Attorneys play in enforcing our Nation's laws and carrying out the priorities of the Department of Justice.

I have often said that being a United States Attorney is one of the greatest jobs you can ever have. It is a privilege and a challenge—one that carries a great responsibility. As former Attorney General Griffin Bell said, U.S. Attorneys are "the front-line troops charged with carrying out the Executive's constitutional mandate to execute faithfully the laws in every

federal judicial district.<sup>2</sup> As the chief federal law-enforcement officers in their districts, U.S. Attorneys represent the Attorney General before Americans who may not otherwise have contact with the Department of Justice. They lead our efforts to protect America from terrorist attacks and fight violent crime, combat illegal drug trafficking, ensure the integrity of government and the marketplace, enforce our immigration laws, and prosecute crimes that endanger children and families (including child pornography, obscenity, and human trafficking).

U.S. Attorneys are not only prosecutors; they are government officials charged with managing and implementing the policies and priorities of the Executive Branch. United States Attorneys serve at the pleasure of the President. Like any other high-ranking officials in the Executive Branch, they may be removed for any reason or no reason. The Department of Justice (including the office of United States Attorney) was created precisely so that the government's legal business could be effectively managed and carried out through a coherent program under the supervision of the Attorney General. And unlike judges, who are supposed to act independently of those who nominate them, U.S. Attorneys are accountable to the Attorney General, and through him, to the President (the head of the Executive Branch). For these reasons, the Department is committed to having the best person possible discharging the responsibilities of that office at all times and in every district.

The Attorney General and I are responsible for evaluating the performance of the United States Attorneys and ensuring that they are leading their offices effectively. It should come as no surprise to anyone that, in an organization as large as the Justice Department, U.S. Attorneys are removed or asked or encouraged to resign from time to time. However, in this Administration U.S. Attorneys are never (repeat, never) removed, or asked or encouraged to resign, in an effort to retaliate against them, or interfere with, or inappropriately influence a particular investigation, criminal prosecution, or civil case. Any suggestion to the contrary is unfounded, and it irresponsibly undermines the reputation for impartiality the Department has earned over many years and on which it depends.

Turnover in the position of U.S. Attorney is not uncommon. When a presidential election results in a change of administration, every U.S.

Attorney leaves and the new President nominates a successor for confirmation by the Senate. Moreover, U.S. Attorneys do not necessarily stay in place even during an administration. For example, approximately half of the U.S. Attorneys appointed at the beginning of the Bush Administration had left office by the end of 2006. Given this reality, career investigators and prosecutors exercise direct responsibility for nearly all investigations and cases handled by a U.S. Attorney's Office. While a new U.S. Attorney may articulate new priorities or emphasize different types of cases, the effect of a U.S. Attorney's departure on an existing investigation is, in fact, minimal, and that is as it should be. The career civil servants who prosecute federal criminal cases are dedicated professionals, and an effective U.S. Attorney relies on the professional judgment of those prosecutors.

The leadership of an office is more than the direction of individual cases. It involves managing limited resources, maintaining high morale in the office, and building relationships with federal, state and local law enforcement partners. When a U.S. Attorney submits his or her resignation, the Department must first determine who will serve temporarily as interim U.S. Attorney. The Department has an obligation to ensure that someone is able to carry out the important function of leading a U.S. Attorney's Office during the period when there is not a presidentially-appointed, Senate-confirmed United States Attorney. Often, the Department looks to the First Assistant U.S. Attorney or another senior manager in the office to serve as U.S. Attorney on an interim basis. When neither the First Assistant nor another senior manager in the office is able or willing to serve as interim U.S. Attorney, or when the appointment of either would not be appropriate in the circumstances, the Department has looked to other, qualified Department employees.

At no time, however, has the Administration sought to avoid the Senate confirmation process by appointing an interim U.S. Attorney and then refusing to move forward, in consultation with home-State Senators, on the selection, nomination, confirmation and appointment of a new U.S. Attorney. The appointment of U.S. Attorneys by and with the advice and consent of the Senate is unquestionably the appointment method preferred by both the Senate and the Administration.

In every single case where a vacancy occurs, the Bush Administration is committed to having a United States Attorney who is confirmed by the Senate.

And the Administration's actions bear this out. Every time a vacancy has arisen, the President has either made a nomination, or the Administration is working in consultation with home-state Senators to select candidates for nomination. Let me be perfectly clear at no time has the Administration sought to avoid the Senate confirmation process by appointing an interim United States Attorney and then refusing to move forward, in consultation with home-State Senators, on the selection, nomination and confirmation of a new United States Attorney. Not once.

Since January 20, 2001, 125 new U.S. Attorneys have been nominated by the President and confirmed by the Senate. On March 9, 2006, the Congress amended the Attorney General's authority to appoint interim U.S. Attorneys, and 13 vacancies have occurred since that date. This amendment has not changed our commitment to nominating candidates for Senate confirmation. In fact, the Administration has nominated a total of 15 individuals for Senate consideration since the appointment authority was amended, with 12 of those nominees having been confirmed to date. Of the 13 vacancies that have occurred since the time that the law was amended, the Administration has nominated candidates to fill five of these positions, has interviewed candidates for nomination for seven more positions, and is waiting to receive names to set up interviews for the final position all in consultation with home-state Senators.

However, while that nomination process continues, the Department must have a leader in place to carry out the important work of these offices. To ensure an effective and smooth transition during U.S. Attorney vacancies, the office of the U.S. Attorney must be filled on an interim basis. To do so, the Department relies on the Vacancy Reform Act (<sup>3</sup>VRA<sup>2</sup>), 5 U.S.C. § 3345(a)(1), when the First Assistant is selected to lead the office, or the Attorney General's appointment authority in 28 U.S.C. § 546 when another Department employee is chosen. Under the VRA, the First Assistant may serve in an acting capacity for only 210 days, unless a nomination is made during that period. Under an Attorney General appointment, the interim U.S.

Attorney serves until a nominee is confirmed the Senate. There is no other statutory authority for filling such a vacancy, and thus the use of the Attorney General's appointment authority, as amended last year, signals nothing other than a decision to have an interim U.S. Attorney who is not the First Assistant. It does not indicate an intention to avoid the confirmation process, as some have suggested.

No change in these statutory appointment authorities is necessary, and thus the Department of Justice strongly opposes S. 214, which would radically change the way in which U.S. Attorney vacancies are temporarily filled. S. 214 would deprive the Attorney General of the authority to appoint his chief law enforcement officials in the field when a vacancy occurs, assigning it instead to another branch of government.

As you know, before last year's amendment of 28 U.S.C. § 546, the Attorney General could appoint an interim U.S. Attorney for the first 120 days after a vacancy arose; thereafter, the district court was authorized to appoint an interim U.S. Attorney. In cases where a Senate-confirmed U.S. Attorney could not be appointed within 120 days, the limitation on the Attorney General's appointment authority resulted in recurring problems. Some district courts recognized the conflicts inherent in the appointment of an interim U.S. Attorney who would then have matters before the court (not to mention the oddity of one branch of government appointing officers of another) and simply refused to exercise the appointment authority. In those cases, the Attorney General was consequently required to make multiple successive 120-day interim appointments. Other district courts ignored the inherent conflicts and sought to appoint as interim U.S. Attorneys wholly unacceptable candidates who lacked the required clearances or appropriate qualifications.

In most cases, of course, the district court simply appointed the Attorney General's choice as interim U.S. Attorney, revealing the fact that most judges recognized the importance of appointing an interim U.S. Attorney who enjoys the confidence of the Attorney General. In other words, the most important factor in the selection of past court-appointed interim U.S. Attorneys was the Attorney General's recommendation. By foreclosing the possibility of judicial appointment of interim U.S. Attorneys unacceptable

to the Administration, last year's amendment to Section 546 appropriately eliminated a procedure that created unnecessary problems without any apparent benefit.

S. 214 would not merely reverse the 2006 amendment; it would exacerbate the problems experienced under the prior version of the statute by making judicial appointment the only means of temporarily filling a vacancy—a step inconsistent with sound separation-of-powers principles. We are aware of no other agency where federal judges—members of a separate branch of government—appoint the interim staff of an agency. Such a judicial appointee would have authority for litigating the entire federal criminal and civil docket before the very district court to whom he or she was beholden for the appointment. This arrangement, at a minimum, gives rise to an appearance of potential conflict that undermines the performance or perceived performance of both the Executive and Judicial Branches. A judge may be inclined to select a U.S. Attorney who shares the judge's ideological or prosecutorial philosophy. Or a judge may select a prosecutor apt to settle cases and enter plea bargains, so as to preserve judicial resources. See Wiener, Inter-Branch Appointments After the Independent Counsel: Court Appointment of United States Attorneys, 86 Minn. L. Rev. 363, 428 (2001) (concluding that court appointment of interim U.S. Attorneys is unconstitutional).

Prosecutorial authority should be exercised by the Executive Branch in a unified manner, consistent with the application of criminal enforcement policy under the Attorney General. S. 214 would undermine the effort to achieve a unified and consistent approach to prosecutions and federal law enforcement. Court-appointed U.S. Attorneys would be at least as accountable to the chief judge of the district court as to the Attorney General, which could, in some circumstances become untenable. In no context is accountability more important to our society than on the front lines of law enforcement and the exercise of prosecutorial discretion, and the Department contends that the chief prosecutor should be accountable to the Attorney General, the President, and ultimately the people.

Finally, S. 214 seems to be aimed at solving a problem that does not exist.

As noted, when a vacancy in the office of U.S. Attorney occurs, the

Department typically looks first to the First Assistant or another senior manager in the office to serve as an Acting or interim U.S. Attorney. Where neither the First Assistant nor another senior manager is able or willing to serve as an Acting or interim U.S. Attorney, or where their service would not be appropriate under the circumstances, the Administration has looked to other Department employees to serve temporarily. No matter which way a U.S. Attorney is temporarily appointed, the Administration has consistently sought, and will continue to seek, to fill the vacancy in consultation with home-State Senators with a presidentially-nominated and Senate-confirmed nominee.

Thank you again for the opportunity to testify, and I look forward to answering the Committee's questions.

----- End of Forwarded Message

36



---

**From:** Scott Jennings  
**Sent:** 2/14/2007 6:34:46 PM  
Karl Rove kr@georgewbush.com;  
taylor\_a.\_hughes@who.eop.gov taylor\_a.\_hughes@who.eop.gov ;  
**Bcc:**  
**Subject:** 02-06-07 McNulty Transcript re US Attorneys  
**Attachments:** 02-06-07 McNulty Transcript re US Attorneys.doc;

I have obtained this DRAFT transcript of the McNulty Q and A.

The q and a begins on page 13. I have highlighted and underlined the passage (pages 19-20) that appears to have prompted the news reports -- where McNulty says we did not replace Cummins for performance reasons. the media seized on this as an admission that we terminated him for political patronage reasons. I have also highlighted a relevant passage on page 32.

there is quite alot of interesting back and forth in this q and a. I do think the media has failed to adequately report that these positions "serve at the pleasure of the president."

SEN. SCHUMER: Especially those of us who've been assistant district attorneys.

SEN. SPECTER: That's the standard, Mr. McNulty. So your qualifications are being challenged here. You haven't been an assistant U.S. attorney. (Laughter.)

SEN. SCHUMER: The senator from Rhode Island.

SEN. SHELDON WHITEHOUSE (D-RI): Thank you, Mr. Chairman.

Mr. McNulty, welcome. You're clearly a very wonderful and impressive man. But it strikes me that your suggestion that there is a clear factual record about what happened and that this was just turnover are both just plain wrong.

I start on the clear factual record part with the suggestion that has been made to The Washington Post, that the attorney general also made to us, and I'm quoting from the Post article on Sunday: "Each of the recently dismissed prosecutors had performance problems," which does not jibe with the statement of Mr. Cummins from Arkansas that he was told there was nothing wrong with his performance, but that officials in Washington wanted to give the job to another GOP loyalist. So right from the very get-go we start with something that is clearly not a clear factual record of what took place; in fact, there's -- on the very basic question of what the motivation was for these, we're getting two very distinct and irreconcilable stories.

MR. MCNULTY: Senator --

SEN. WHITEHOUSE: And I don't think that, if it's true, that as The Washington Post reported, six of the prosecutors received calls notifying them of their firings on a single day. The suggestion that this is just ordinary turnover doesn't seem to pass the last test, really. Could you respond to those two observations?

MR. MCNULTY: Yes, sir. Thank you.

Senator, first of all, with regard to Arkansas and what happened there and any other efforts to seek the resignation of U.S. attorneys, these have been lumped together, but they really ought not to be. And we'll talk about the Arkansas situation, as Senator Pryor has laid it out.

And the fact is that there was a change made there that was not connected to, as was said, the performance of the incumbent, but more related to the opportunity to provide a fresh start with a new person in that position.

With regard to the other positions, however --

SEN. WHITEHOUSE: But why would you need a fresh start if the first person was doing a perfectly good job?

MR. McNULTY: Well, again, in the discretion of the department, individuals in the position of U.S. attorneys serve at the pleasure of the president. And because turnover -- and that's the only way of going to your second question I was referring to turnover -- because turnover is a common thing in U.S. attorneys offices --

SEN. WHITEHOUSE: I know. I turned over myself as a U.S. attorney.

MR. McNULTY: -- bringing in someone does not create a disruption that is going to be hazardous to the office. And it does, again, provide some benefits.

In the case of Arkansas, which this is really what we're talking about, the individual who was brought in had a significant prosecution experience -- he actually had more experience than Mr. Cummins did when he started the job -- and so there was every reason to believe that he could be a good interim until his nomination or someone else's nomination for that position went forward and there was a confirmed person in the job.

SEN. WHITEHOUSE: Mr. McNulty, what value does it bring to the U.S. attorneys office in Arkansas to have the incoming U.S. attorney have served as an aide to Karl Rove and to have served on the Republican National Committee?

MR. McNULTY: With all --

SEN. WHITEHOUSE: Do you find anything useful there to be an U.S. attorney?

MR. McNULTY: Well, I don't know. All I know is that a lot of U.S. attorneys have political backgrounds. Mr. Cummins ran for Congress as a Republican candidate. Mr. Cummins served in the Bush-Cheney campaign. I don't know if those experiences were useful for him to be a successful U.S. attorney, because he was.

I think a lot of U.S. attorneys bring political experience to the job. It might help them in some intangible way. But in the case of Mr. Griffin, he actually was in that district for a period of time serving as an assistant United States attorney, started their gun enforcement program, did many cases as a JAG prosecutor, went to Iraq, served his country there and came back. So there are a lot of things about him that make him a credible and well-qualified person to be a U.S. attorney.

SEN. WHITEHOUSE: Having run public corruption cases, and having firsthand experience of how difficult it is to get people to be willing to testify and come forward, it is not an easy thing to do. You put your career,

37

From: "Karl Rove" <kcrmail@georgewbush.com>  
Date: Friday, February 16, 2007, 11:30:00 AM  
To: christon\_r\_tanner@who.eop.gov  
Subject: Fw: Fyi from today's Arkansas paper

---

Run off asap

-----Original Message-----

From: Tim Griffin <griffinjag@comcast.net>  
To: Karl Rove; Sara Taylor; Scott Jennings; Jane Cherry; 'Oprison, Christopher G.' <Christopher\_G\_Oprison@who.eop.gov>  
Sent: Fri Feb 16 03:27:41 2007  
Subject: Fyi from today's Arkansas paper

Fyi. I am glad I did this especially because Pryor says in the article that Gonzales told him he wouldn't send me through the process and Pryor says he was asking Gonzales for my name to be submitted. Crazy. The swipe at Pryor at the very bottom is in response to a question about whether the White House did me a disservice. I said that Pryor did me a disservice, etc. I am going to go back to focusing on my job until I am told otherwise. Thanks, TG

Prosecutor Griffin now rejects post  
Interim appointee blames Senate flak  
DEMOCRAT-GAZETTE STAFF AND WIRE REPORTS

Tim Griffin, whose December appointment as U.S. attorney for the Eastern District of Arkansas sparked a national outcry about surreptitious changes made to a law affecting federal prosecutors, says he no longer wants the job permanently.

"I have made the decision not to let my name go forward to the Senate," Griffin said Thursday evening. He was referring to the U.S. Department of Justice's stated intention, amid heavy criticism, to subject Griffin and others recently appointed to interim federal-prosecutor posts to the standard process of being nominated by the president, scrutinized by the U.S. Senate Judiciary Committee and then voted on by the Senate.

Griffin, 38, a former military prosecutor, was appointed Dec. 20 by U.S. Attorney General Alberto Gonzales under a little-noticed provision tacked onto the 2006 reauthorization of the USAPATRIOT Act that allows the attorney general to fill prosecutorial vacancies on an interim basis without Senate approval. Griffin's predecessor, Bud Cummins, later acknowledged that he was asked to step aside from the job he got five years earlier after going through the Senate confirmation process, not because of performance issues but to make way for Griffin, who worked briefly in the White House under presidential adviser Karl Rove and was a political director for the Republican National Committee.

The new language concerning appointments, which even the Republican sponsor of the 2006 legislation now says he didn't notice at the time, replaced a provision that limited the interim appointments to 120 days. It had the effect of allowing appointees to serve indefinitely for the rest of the current administration, which in this case ends in early 2009, without the usual scrutiny.

Griffin on Thursday blamed "the partisanship that has been exhibited by Sen. [Mark] Pryor [D-Ark.] and other senators on the Senate Judiciary Committee in the recent hearing" for his decision to bow out.

He referred to a hearing last week on Capitol Hill on legislation proposed by Sen. Dianne Feinstein, D-Calif., and supported by Pryor, as well as Sen. Blanche Lincoln, D-Ark., and others, to reinstate the original language governing such appointments.

The legislation was proposed after at least seven U.S. attorneys across the country were ousted to make room for Republican political allies. Deputy Attorney General Paul McNulty acknowledged in the hearing that in Arkansas, Cummins was forced out simply to make room for Griffin.

Griffin said Thursday that if he were to go through the confirmation process, "I don't think there is any way I could get fair treatment by Sen. Pryor or others on the judiciary committee."

He said he will continue to serve in the top law enforcement position in the state's eastern district as long as the White House keeps him there under the interim title or "gets someone else that I can help transition into this job."

"But to submit my name to the Senate would be like volunteering to stand in front of a firing squad in the middle of a three-ring circus."

Meanwhile, The New York Times reported Thursday that Cummins was ousted after Harriet E. Miers, the former White House Counsel, intervened on Griffin's behalf.

Miers' role was disclosed Wednesday by Justice Department officials during a private briefing for senators on the Judiciary Committee, the Times reported. The officials denied that the White House played a part in any of the other dismissals, the newspaper said.

Officials at the White House and Justice Department declined to comment on Miers' role in the matter, and Miers, whose resignation took effect Jan. 31, could not be reached for comment Thursday, according to the Times.

Pryor's spokesman, Michael Teague, told the Arkansas Democrat-Gazette on Thursday, after Griffin said he was withdrawing his name from consideration, that Gonzales himself had called Pryor earlier Thursday "and told the senator he was not going to submit Tim Griffin's name."

Teague said Gonzales "didn't give a reason," but said he would confer with Rep. John Boozman, the state's only Republican in the delegation, to find someone else to nominate.

During that conversation, "the senator told the attorney general, 'It's my preference that you send him through the confirmation hearing.'" Teague said.

He said Pryor made that statement despite his complaints about the way Griffin got the job "because that's the process. That's the way the founding fathers set it up."

Griffin said that neither Gonzales nor anyone else told him or suggested to him that he bow out.

"I made up my mind two weeks ago not to allow my name to go forward," he said. "I have informed people both at the Department of Justice and the White House that I do not desire to have my name submitted. .... I don't want to be part of that partisan circus."

Teague called Griffin's remarks about partisanship "baseless." He said Pryor is well-known and has even been criticized by fellow Democrats for being "fair and open" about President Bush's judicial nominees, of whom he has supported more than 100 and opposed fewer than a dozen.

Teague pointed out that Pryor even testified that "the way the White House has handled this has been a disservice to Tim Griffin."

Teague said Pryor has encouraged Griffin to go through the confirmation process, to clear up any questions about his background and his experience. The spokesman emphasized that Pryor's concerns were "not about a nomination" but "about the administration circumventing the process."

Griffin later responded, "It's unfortunate that Sen. Pryor is blaming the administration for using a law that he voted for to appoint me, apparently with the excuse that he didn't know what he was voting for when he voted. I think it's been a disservice to me the way my home-state senator has treated a fellow Arkansan, and an Arkansan who grew up in south Arkansas, 30 miles from his dad's hometown of Camden."

Griffin also said, "I spoke to Sen. Pryor when I was serving in Iraq [in 2006], and later spoke to him in his office in Washington, and on both occasions the senator directly questioned my credentials and indicated it was 'mighty presumptuous' of the White House and me that I could do the U.S. attorney job."

Teague insisted that Pryor's diligence in pursuing the matter is neither partisan nor personal.

38

---

**From:** Karl Rove  
**Sent:** Friday, February 11, 2005 4:42 PM  
**To:** Sara Taylor  
**Subject:** Re: Thank You

Give him options. Keep pushing for Justice and let him decide. I want him on the team.

---

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

**From:** Sara Taylor <st@gwb43.com>  
**To:** Karl Rove <KR@georgewbush.com>  
**Sent:** Fri Feb 11 15:08:39 2005  
**Subject:** FW: Thank You

True? Want me to call off the dogs with Justice?

-----Original Message-----

**From:** Tim Griffin  
**Sent:** Friday, February 11, 2005 2:41 PM  
**To:** Sara Taylor  
**Subject:** Fw: Thank You

Fyi. See below. Can we talk?

-----Original Message-----

**From:** "Devenish, Nicolle" <Nicolle\_Devenish@who.eop.gov>  
**Date:** Fri, 11 Feb 2005 14:36:20  
**To:** <griffin>  
**Subject:** RE: Thank You

Karl is on board big time for omb press job.

-----Original Message-----

**From:** Tim Griffin  
**Sent:** Friday, February 11, 2005 2:13 PM  
**To:** Devenish, Nicolle  
**Subject:** Thank You

Thank you for your call and offer today. I appreciate it. I will discuss it with Elizabeth today and talk to you tomorrow. Again, I appreciate you thinking of me. TG



39

RPTS CALHOUN

DCMN MAGMER

---

EXECUTIVE SESSION  
COMMITTEE ON THE JUDICIARY,  
U.S. HOUSE OF REPRESENTATIVES,  
WASHINGTON, D.C.

INTERVIEW OF: PAUL J. McNULTY

Friday, April 27, 2007

Washington, D.C.

The interview in the above matter was held in Room  
2138, Rayburn House Office Building, commencing at 9:32 a.m.

Appearances:

---

FOR U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON THE  
JUDICIARY:

IRV NATHAN, MAJORITY COUNSEL

DANIEL FLORES, CHIEF MINORITY COUNSEL

FOR U.S. SENATE COMMITTEE ON THE JUDICIARY:

PREET BHARA, MAJORITY COUNSEL

MATT MINER, MINORITY COUNSEL

FOR THE U.S. DEPARTMENT OF JUSTICE:

JOSEPH H. HUNT, DIRECTOR, FEDERAL PROGRAMS BRANCH, CIVIL  
DIVISION

M. FAITH BURTON, SPECIAL COUNSEL, OFFICE OF LEGISLATIVE  
AFFAIRS

as a result, the clear impression which was going to come up much more the next day, because of the U.S. attorneys themselves testifying, was that it was for other reasons that were not proper. And therefore, the concern was, make sure that you lay out what your justifications were.

And so that was the -- and we also discussed, as I recall, the position we would take on the legislation that was going to be discussed by the House.

Q Who instructed you at the White House to provide the reasons for the termination?

A There wasn't any one person who made that, alone, clear. There were a number of folks there, and it was sort of a consensus of the group that we needed to be clear on that point.

Q Was Mr. Rove present for this meeting?

A As I recall, he came in after the meeting started, didn't stay very long, and left early or --

Q And what do you recall him saying?

A I don't have any clear recollection of whether or not he spoke. I can picture where he was sitting, but I just can't recall whether he actually -- if I -- you know, pushing my memory at its limit, I think he said something, but I just can't remember what it was he said; and I just think it was lumped into the general point of, you all need to explain what it was that you did and why you did it.

40

**From:** Karl Rove <kr@georgewbush.com>  
**Sent:** Tuesday, April 6, 2004 2:27 PM  
**To:** MSchlapp@gwb43.com; Susan Ralston <sralston@georgewbush.com>  
**Subject:** Fw: (no subject)  
**Attach:** SPR626.doc

---

-----Original Message-----

**From:** Hwymanspr@aol.com <Hwymanspr@aol.com>

**To:** Hwymanspr@aol.com <Hwymanspr@aol.com>

**Sent:** Tue Apr 06 13:13:19 2004

**Subject:** (no subject)

D <<SPR626.doc>> ear Subscriber:

Attached please find SPR #626, which looks at current speculation about 2006 races, as well as recent developments in Alabama and Georgia.

Hastings Wyman

Note: This issue is several days early to accommodate personal travel.

# SOUTHERN POLITICAL REPORT

Covering the Politics and Politicians of Alabama,  
Arkansas, Florida, Georgia, Kentucky, Louisiana,  
Mississippi, North Carolina, Oklahoma,  
South Carolina, Tennessee, Texas and Virginia



Number 626, April 12, 2004

## Looking to 2006

Not all the political focus is on this fall. In two years, Southern voters will be choosing seven governors and five US Senators and a lot of politicians plan ahead. Here is what we're hearing about the outlook for 2006.

### Alabama: Democrats Line Up

With Gov. **Bob Riley** (R) having low approval ratings following his major defeat last year on a tax restructuring proposal, lots of Democrats are sending signals they might run for governor in two years. Ex-Gov. **Don Siegelman** (D), who barely lost to Riley in 2002 (48.9% to 49.1%) has made no secret of his ambition to serve as governor again. Lt. Gov. **Lucy Baxley** (D) is also a strong possibility for the race. House Speaker **Seth Hammett** has stated publicly that he's considering the race. And ex-Gov. **Jim Folsom, Jr.**, 54, who served two years following the impeachment of Gov. **Guy Hunt** (R) then lost to **Fob James** (R), is also hinting that he might run.

There are even rumblings on the GOP side. "I would fully expect him to have a primary opponent," says one knowledgeable insider (R). The big name getting attention is ex-state Supreme Court Justice **Roy Moore**. Other names bandied about include state Sen. **Bill**

**Armistead**, who lost (47%-51%) a bid for lieutenant governor in 2002, and **Tim James**, son of ex-Gov. **Fob James** (R) and an unsuccessful (9% in the primary) 2002 gubernatorial contender. Another key player says the governor is "doing all the right things" to bring his party and the public back to his side and adds, "2006 is still an eternity away."

### Arkansas: Open Governor's Race

After serving 10½ years as the Razorback State's CEO, Gov. **Mike Huckabee** (R) is term-limited. So in 2006, for the first time since 1978 Arkansas will not have an incumbent governor seeking re-election.

This rare opportunity has not gone unnoticed by the state's politicians. On the GOP side, Lt. Gov. **Win Rockefeller**, who doubles as chairman of the state GOP, has made clear he intends to try to step up to the top spot. Given his name, his money and his record of public service, he's probably the favorite on the Republican side, but that doesn't mean he might not have a primary opponent. Former Congressman **Asa Hutchinson**, currently number two to **Tom Ridge** in the Homeland Security department, might come home to run for governor, especially if he doesn't get his



wish to succeed **John Ashcroft** as US Attorney General in a second Bush term.

There is also no lack of potential gubernatorial candidates among Democrats. The biggest name could be that of **Wesley Clark**, who still resides in Little Rock following his failed presidential bid. More locally wired is state Attorney General **Mike Beebe**, a long-time state senator, who has made clear he intends to run for governor. US Rep. **Mike Ross** – who has no opponent this year – “has put out feelers,” says a Little Rock insider. And so has US Rep. **Marion Berry**. In any case, look for lively 2006 contests in both party primaries and in November.

### Florida: Two Major Races

First Brother Gov. **Jeb Bush** (R) will be term-limited in 2006 so there's already talk about candidates to succeed him. On the Republican side, **Tom Gallagher** (R), the state's chief financial officer, is the name most often mentioned. Gallagher and the governor have been appearing together around the state in a campaign to block the high-cost bullet train. This has led some to speculate that Gov. Bush might end up supporting Gallagher.

Another GOP name, however, is also close to Gov. Bush, that of Lt. Gov. **Toni Jennings**, who was personally tapped for the job by the governor. Indeed, there was speculation that Bush picked Jennings in 2000 to head off Gallagher. A third GOPer who might run is Attorney General **Charlie Crist**, who defeated a strong Democratic foe by 53%-47% in 2002.

On the Democratic side, freshman US Sen. **Bill Nelson** is frequently mentioned. In addition, US Reps. **Jim Davis** and **Alan Boyd** are the subjects of gubernatorial speculation. Miami-Dade Mayor **Alex Penelas** – if he runs well but loses his current US Senate race –

might run. Nelson's US Senate seat will also be up in 2006. Even if Nelson seeks re-election, US Reps. **Kathryn Harris** and **Mark Foley** could end up competing in a primary for the Republican nomination. (They also get mentioned for governor, but not as often.)

### Georgia: Two Major Democrats

Gov. **Sonny Perdue** (R) has a mixed record as governor. He didn't get all he wanted in the state flag brouhaha, but the issue did get settled. He got his way on a child endangerment law, but not what he wanted on the state HOPE scholarship program. He got only a portion of his revenue proposals passed last year. But 51% of voters still approve of Perdue's performance in office to 33% who disapprove, according to a late February poll taken by InsiderAdvantage/Marketing Workshop for a group of media clients.

While Democrats have had a tough time finding a first-team candidate for this year's US Senate race, the opposite is true for the 2006 gubernatorial contest. Two major vote-getters, wealthy Lt. Gov. **Mark Taylor** (D) and popular Secretary of State **Cathy Cox** (D), are expected to fight it out in the primary for the nomination to challenge Perdue.

Taylor comes from a wealthy family and has a history of big campaign spending. In 1987, for example, he spent \$236,000 in a successful bid for the state senate – an unheard of amount for that office at that time. He also benefits from 11 years in the state senate, including a stint as floor leader for Gov. **Zell Miller**. And he has a strong anti-crime record.

Cox may have less money, but should gain from her strong support from women, who made up 57% of Democratic primary voters in 2002. Moreover, since incumbent Perdue isn't likely to have opposition for the GOP





nomination, there may be few important contests on the Republican primary ballot, which might encourage Republican and independent women to vote in the Democratic primary for Cox. Now in her second term as Secretary of State, she has made a name for herself in consumer protection.

How strong Perdue will be next year may depend in part on the legislature elected this fall. If the GOP holds the Senate as expected and gets control of the House, or comes close, then Perdue might have a better record to take to Georgia voters. In any case, look for a hard-fought contest.

### Mississippi: Will Lott Stay Put?

US Sen. **Trent Lott** (R), whose fall from power as Senate Majority Leader left him with considerably less clout, hasn't decided whether he wants to run for re-election. "Every few weeks I change my mind" about whether he'll run again, says a Capitol Hill insider. "My personal opinion is that he won't run again," says a journalist. If he does run, he's a shoo-in. If he doesn't, look for a battle royal to succeed him. Attorney General **Mike Moore** (D) is a likely Democratic candidate; he chairs the tobacco-settlement-funded "Partnership for a Healthy Mississippi" that has an office in each county. There's also talk that ex-Gov. **Ronnie Musgrove** (D), who is still popular among African-Americans, might run. For the GOP, four-term US Rep. **Chip Pickering** (R) has achieved extra prominence as a result of **President Bush's** recess appointment of Pickering Senior to the federal appellate court, much to the chagrin of US Sen. **Ted Kennedy** (D-MA) and **Charles Schumer** (D-NY).

### Oklahoma: GOP vs. Henry

In 2002 Sooner State governor's race, **Brad Henry** (D) benefited from a well-financed

independent candidacy that took votes away from the GOP. Moreover, Henry touted a state lottery, which the GOP's **Steve Largent**, the early favorite, opposed. It also didn't help that during the campaign conservative Christian **Largent** publicly uttered an expletive in anger at a reporter. In any case, Henry won with 43% of the vote. In office, he's had a good run, working with legislative leaders in both parties. His lottery proposal is on the ballot this fall and faces some religious-based opposition. For now, however, Henry is enjoying a good approval rating – 68%.

Nevertheless, Henry's lack of a majority in 2002 is spurring GOP opposition. The most likely challenger is Lt. Gov. **Mary Fallin**, a good vote-getter in her third term in the number two spot. Fallin pushes her economic development record and the interests of working women. Ex-US Rep. **J. C. Watts** also gets mentioned – he would be very strong.

### South Carolina: Sanford in Primary?

Gov. **Mark Sanford** (R), the first Republican governor since Reconstruction to preside over a GOP-controlled legislature, has a schizophrenic record so far. On the one hand, he's very popular, with approval ratings of 70%. On the other, lawmakers, including those in his own party, are seriously disaffected by what they regard as his grand-standing tactics. He recently vetoed a major economic development bill over "bobtailing," i.e., the attachment of local spending projects. His veto was promptly over-ridden by 41 to 5 in the Senate and 98 to 24 in the House. Then he threatened to sue the legislature. In a recent radio interview, he urged voters to defeat incumbent legislators – including Republicans – who voted to override his veto. As a result, "there's a lot of speculation that he might be challenged" in the 2006 Republican primary, says **Lee Bandy**, *The State* newspaper's long-



time political columnist. Those mentioned include state Rep. **Bobby Harrell (R)** of Charleston, who chairs the House Ways and Means Committee, and House Speaker **David Wilkins (R)** of Greenville. Wilkins recently met with the governor and the two agreed to cooperate on Sanford's agenda. Whether that truce will hold remains to be seen. In the meantime, Sanford is "raising a lot of money and will have a big war chest" in 2006, says Bandy. (Note: One lawmaker [R] says that there's talk that Sanford won't run again, so he can prepare for a 2008 presidential bid.)

On the Democratic side, state Rep. **Doug Jennings**, a former House Minority Leader, has publicly indicated that he's considering the race. Also getting mentioned is state Sen. **Tommy Moore**. And should state Superintendent of Education **Inez Tenenbaum** run a good but losing race for the US Senate, she could seek the governorship.

### Tennessee: Open Senate Seat?

With not a lot of hot contests on the ballot this fall, Volunteer State politicians are starting to focus on the election two years hence. Not, however, on the governor's race. Gov. **Phil Bredesen (D)** is so popular – "in the 70s," says a journalist – that there's not much talk about who will oppose him. But there is a widespread assumption that US Senate Majority Leader **Bill Frist (R)** will step down in 2006 – to run for president in 2008 – leaving a much-fought over vacancy.

On the Democratic side, the focus is on US Rep. **Harold Ford, Jr.**, the 33-year-old son of ex-US Rep. **Harold Ford, Sr.** Young Ford is a black politician who is also popular with many white voters. "He's a good campaigner," notes a journalist, who believes that Ford's race "will be a wash," helping him with black turnout, but hurting with some whites. Other

Democrats getting mentioned include US Rep. **Bob Clement**, ex-National Transportation Safety Board chair **Jim Hall** and Nashville Mayor **Bill Purcell**.

For the GOP, prospective US Senate candidates include ex-US Rep. **Ed Bryant**, who lost the 2002 primary to **Lamar Alexander** (43% to 54%); five-term US Rep. **Zach Wamp**, who's been talking about the race; ex-US Rep. **Van Hilleary**, who lost (48% to 51%) to Bredesen in 2002; Chattanooga Mayor **Bob Corker**, who lost the primary to Frist (32% to 44%) in '94; state Rep. **Beth Harwell**, chair of the Tennessee GOP; and freshman US Rep. **Marsha Blackburn**, one of the *National Journal's* ten most conservative members of the House.

### Texas: Hot GOP Primary Likely

Gov. **Rick Perry (R)** is up for re-election next year and he'll get opposition, but it's likely to be more formidable in the primary than in the General Election. Two Republicans, Comptroller **Carol Strayhorn** and US Sen. **Kay Bailey Hutchison**, are both potential challengers to Perry.

Strayhorn, a longtime rival of the governor, "has been marking territory on a daily basis," in anticipation of a gubernatorial bid, says Quorum Report publisher **Harvey Kronberg**. Just last week, Strayhorn told the Texas Association of Counties that Perry had failed the state by – among other sins – taking health insurance from children. When the governor led a successful effort to strip Strayhorn's office of some of its key powers, "it only made her fiercer," says Kronberg. She's already put together a substantial campaign kitty.

Hutchison is also a strong bet to run for governor. She has been focusing on federal, not state issues, in her current job, which may



help her by leaving her unscathed from recent state political wars, or may hurt her, because she'll be unprepared for local concerns.

Whether both Strayhorn and Hutchison would run for Perry's job, making it a three-way primary, is unclear. Some think that if Hutchison runs, Strayhorn won't.

On the Democratic side, ex-US Rep. **Jim Turner (D)**, who lost his congressional seat in the recent redistricting, may run. While the GOP looks strong today, a bloody Republican primary could enhance Democratic chances.

If Sen. Hutchison decides to seek re-election, she'll be a strong favorite. However, a number of politicians in both parties are getting mentioned for the US Senate if Hutchison steps down to run for governor. On the GOP side, the names of Lt. Gov. **David Dewhurst** and Attorney General **Greg Abbot** are getting attention. Among Democrats, ex-mayor of Dallas **Ron Kirk**, who ran a respectable (43%) senatorial race in 2002, might run again. Another possibility is wealthy Houston attorney **Barbara Radnofsky**, a partner in the prominent Vinson and Elkins law firm.

## Alabama: Moore Allies Run

When the filing deadline passed on April 2, a number of candidates filed who are closely associated with former state Supreme Court Chief Justice **Roy Moore**. In the 6th District (Birmingham, etc.), **Phillip Jauregui**, the attorney who represented Moore, filed in the Republican primary against six-term US Rep. **Spencer Bachus (R)**. Moore promptly endorsed Jauregui, who has tied himself to Moore and his advocacy of religion in public life. Bachus, however, has supported legislation in Congress that would prevent federal courts from hearing cases involving government acknowledgement of God. With about \$1 million on hand after the 1<sup>st</sup> quarter,

he won't be a push-over in the June 1 primary, but the challenge will be serious.

In addition, **Tom Parker**, a spokesman for Moore, has filed in the Republican primary to challenge state Supreme Court Justice **Jean Brown**, one of the justices who voted to remove Moore's two-and-a-half ton Ten Commandments monument from the state Supreme Court lobby. And **Win Johnson**, another Moore attorney, has filed as a Republican to challenge Civil Appeals Judge **Sharon Yates (D)**. If Jauregui, et al., are able to co-opt Moore's popularity among Christian conservatives and win their races, Moore's influence in Alabama politics – and perhaps nationally as well – is sure to grow.

Bachus is not the only Alabama congressman to get a major foe. In the 3<sup>rd</sup> District (Auburn, etc.), freshman US Rep. **Mike Rogers (R)** drew opposition on the last day of filing from ex-state Rep. **Bill Fuller (D)**. Fuller served five terms in the legislature, where he chaired the influential state House Ways and Means Committee, and later was the state's Department of Human Resources Commissioner. Fuller's entry into the race against a freshman GOPer in a marginal district fills a gaping hole in the Democrats' efforts to gain seats this fall. Rogers, however, has been preparing: As of the 1<sup>st</sup> Quarter, he had some \$910,000 cash on hand.

**7th District (Birmingham, etc.)** Freshman US Rep. **Artur Davis (D)**, who defeated controversial US Rep. **Earl Hilliard (D)** in the primary in 2002, will have a primary battle of his own. **Albert Turner Jr.**, a county commissioner and son of a prominent civil rights figure, filed against Davis. A survey taken for Davis last December, by Anzalone-Liszt, showed Davis would defeat Turner by 70% to 9%. At the end of 2003, Davis had \$241,000 in his war chest. Davis, whose



manner – if not his politics – is moderate, could lose votes for not having the “in your face” style that many black voters liked in Hilliard. Both candidates are African-Americans, as is a majority of the district.

## Grits

**Court to Settle Texas 28 Race.** The Texas Democratic Executive Committee declined to order a second recount, meaning that challenger **Henry Cuellar**, a former Texas secretary of state, defeated three-term US Rep. **Ciro Rodriguez** (D) for the party’s congressional nomination. The recount changed Rodriguez’s 145 victory in the March 9 primary to a 203 vote victory for Cuellar, mainly as a result of additional ballots found in two Cuellar strongholds. Rodriguez will challenge the recount findings in court. A GOPer will run in November, but the district is heavily Democratic. ....In the 10<sup>th</sup> District (Austin to Houston), a Public Opinion Strategies poll taken Mar. 14-15 for **Ben Streusand** gives him 47% to **Mike McCaul**’s 29% in the April 13 GOP runoff. No Democrat is running in this solid Republican district.

**Peach Basket Turnover.** A number of political careers are changing in the wake of US Rep. **Denise Majette**’s (D) surprise decision to run for the US Senate (which SPR cued you to ahead of time in our last issue). While Majette, a liberal African American, isn’t likely to be strong in November, her support among black voters should help her in the primary, where she may face stiff competition from millionaire **Cliff Oxford**. In the 4<sup>th</sup> District (DeKalb, etc.), local politicians are not ceding the seat to ex-US Rep. **Cynthia McKinney**, who lost to Majette in 2002 and is running again. The first to announce was Atlanta City Council President **Cathy Woolard** (SPR forecast this one, too). State Sen. **Nadine Thomas**, a former ally of McKinney who had been running for the US Senate, has entered the congressional race instead. State Sen. **Liane Levetan** and state Labor Commissioner **Michael Thurmond** have not yet decided whether they will run. Potential contenders who announced they will not run include **Vernon Jones**, chief executive officer of the DeKalb County Council, and state Rep. **Teresa Greene-**

**Johnson.** The filing deadline is April 30. The district is heavily Democratic. ....Since legislative redistricting, one state representative has switched from D to R; two more Democrats are expected to follow suit when the current session ends.

**Isakson Ahead in Georgia.** According to a poll taken Mar. 8-10 by American Viewpoint for **Johnny Isakson**, he leads among likely primary voters, with 50% to 13% for **Mac Collins** and 10% for **Herman Cain**. Collins, a more socially conservative congressman than Isakson, has tried to use the abortion issue against Isakson. However, Isakson’s strong stand against partial-birth abortions has stood him in good stead with the state’s large number of Christian conservatives. Moreover, Cain, an African-American conservative with Club for Growth backing, has been on TV and begun to cut into Collins’ support among the GOP right. Isakson also had high name ID – 87% to Collins’ 62% and Cain’s 46%.

**Tenenbaum Leads in South Carolina.** Democrat **Inez Tenenbaum**, the state superintendent of education, leads the top three GOP contenders in the race to succeed US Sen. **Fritz Hollings** (D), according to a survey taken for her March 14-18 by Harrison Hickman. Tenenbaum led ex-Gov. **David Beasley** 46% to 41%, ex-state Attorney General **Charlie Condon** 47% to 40% and US Rep. **Jim DeMint** 48% to 33%. The poll also found that Tenenbaum was better known than any of the Republicans except Beasley. Tenenbaum got more good news when **Marcus Belk**, an openly gay retailer, decided not to file in the Democratic primary, removing a nuisance for the frontrunner.

**Bunning Hit for Joke.** US Sen. **Jim Bunning** (R), frontrunner in his bid for a second term this fall, got in hot water last week for quipping that his opponent, state Sen. **Daniel Mongiardo** (D), looks like one of **Saddam Hussein**’s sons. The Mongiardo campaign slammed back that Bunning was guilty of making an ethnic slur. In his 2002 state senate campaign, Mongiardo accused his Republican opponent of running an ad that compared Mongiardo’s looks to those of **Mohammed Atta**, one of the 9-11 hijackers.

41

**From:** Karl Rove  
**Sent:** Friday, January 14, 2005 10:40 AM  
**To:** 'Barbara\_J\_Goergen@who.eop.gov'  
**Subject:** Fw: Southern Political Report #644  
**Attach:** SPR644.doc

---

Am at Peter O'Donnell's office - please fax

-----  
Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Hwymanspr@aol.com <Hwymanspr@aol.com>

To: Hwymanspr@aol.com <Hwymanspr@aol.com>

Sent: Fri Jan 14 09:23:53 2005

Subject: Southern Political Report #644

Dear Subscriber:

In this issue, SPR looks at the large number of Southerners considering a run for the White House in 2008, as well as 2006 governor's races in TN, AL & SC.

Hastings Wyman

# SOUTHERN POLITICAL REPORT

Covering the Politics and Politicians of Alabama,  
Arkansas, Florida, Georgia, Kentucky, Louisiana,  
Mississippi, North Carolina, Oklahoma,  
South Carolina, Tennessee, Texas and Virginia



Number 644, January 17, 2005

## Southerners Line Up for 2008

For more than a century after the Civil War, no Southerner was elected president unless he got there first by being vice-president. The reason was simple. Southerners – mostly Democrats until the mid-20<sup>th</sup> Century – were segregationists and the rest of the nation would not elevate a defender of the South's second peculiar institution to its highest office.

In 1976, however, Georgian **Jimmy Carter** broke that jinx. In the early 1970s, about 15 years after the 1954 Supreme Court decision outlawing segregation in public schools, official discrimination finally crumbled. Moreover, the Voting Rights Act took effect and Southern blacks were registering and voting in record numbers. Such developments allowed racial moderates such as Carter to win elections in even the Deep South. It also allowed Southern politicians to participate in national politics as unblemished partners in American democracy. Tellingly, Carter's success was due in no small part to the stamp of approval given him by black Georgians, such as **Andrew Young**, the state's first black congressman since Reconstruction.

After Carter's victory, Arkansan **Bill Clinton** followed suit and Tennessean **Al Gore** almost did. And in 1988 and 2000, the Texas **George**

**Bushes** first and second became the first Southern Republicans elected president. (Arguably, **George W. Bush** was the first; his father, though a resident of Texas, still had the patina of his Connecticut Yankee roots. But "Dubya," raised in the Lone Star State, walks and talks like the real thing.)

Today, the political system gives Southerners a more or less equal shot at the nation's top job. Inspired by the recent successes of Southerners in national politics, a record number of Dixie politicians – at least nine – are either gearing up to run for president in 2008, or getting talked up by others as presidential contenders.

For the Democrats, the defeat of another Massachusetts liberal is reminding some Democratic movers and shakers that their last two presidents – Carter (GA) and Clinton (AR) – have been Southerners. At least that's what three Southern Democrats are hoping. North Carolina's **John Edwards** is the best known of the Southern contenders. His inability, as **John Kerry's** running mate, to carry a single state below the Mason-Dixon Line is likely to hurt his 2008 prospects. Moreover, his populist line – the "two Americas" theme – compromises one of the reasons Democrats nominate Southerners: A more conservative image that



appeals to middle-of-the-road voters, in Dixie and elsewhere. However, if a poor economy on the GOP's watch is the issue in 2008, Edwards' skills articulating economic concerns could stand him in good stead.

Virginia's Gov. **Mark Warner** is another top Southern Democratic prospect for the presidency. He's young (50), photogenic, wealthy (an estimated \$200 million), politically experienced (a stint on the staff of the Democratic National Committee [DNC]), and has an impressive record dealing with a Republican legislature – something probably useful to any Democrat elected president in 2008. *The Washington Post* regularly devotes front-page articles to Warner's presidential prospects. *Post* columnist **Harold Meyerson** noted that the need for the Democrats to nominate a Southerner is why "**Hillary Clinton**'s stock has been falling since Election Day and why that of Virginia Gov. Mark Warner and other red-state Democrats has been rising." Warner is getting exposure as chairman of the National Governors' Association, a post once held by Bill Clinton. Recently, the *Post* reported that Warner has been in touch with candidates for DNC chair. Warner's term is up at the end of this year and he's term-limited. For credibility as a presidential candidate, he'll need to make sure the Democratic candidate, Lt. Gov. **Timothy Kaine**, wins the governorship this fall. The DNC, perhaps in recognition of Warner's national importance, has just donated \$5 million to Kaine's campaign, a record for the DNC in a governor's race.

Another Southern Democrat getting presidential mention is Tennessee's Gov. **Phil Bredesen**. Bredesen was included in *The New Republic's* second-tier list of prospects for 2008 (as was Virginia's Warner). Bredesen, like Warner – and Edwards, for that matter – is rich. He has a matter-of-fact manner devoid of

rhetoric or other flourishes, which could be a plus or a minus. Like Warner, Bredesen has an impressive record as governor of a potentially winnable Southern state. Bredesen took office facing a nearly intractable budget crisis – declining revenues, increasing expenses and massive popular opposition to higher taxes. He came up with an acceptable formula that passed the legislature and has given him popular acclaim. If Bredesen is able to solve the Medicaid problem his state now faces – with a Democratic House and a Republican Senate – he will add to a record worth taking on the road in 2008. (SPR was probably the first publication to tout Warner and Bredesen as national ticket prospects, suggesting them as running mates for Kerry in SPR #625.)

On the Republican side, with **President Bush** ineligible to seek re-election, a number of Southern GOPers are moving toward a White House bid. US Sen. **Bill Frist** (TN) has already announced he won't seek re-election in 2006, presumably to devote full time to a presidential bid. His political action committee has made contributions to GOPers in Iowa and South Carolina, home to two early delegate contests. Frist brings both a background as a heart surgeon and a stint as US Senate Majority Leader to the race, as well as personal wealth. Though moderate in demeanor, his conservative voting record, combined with his early advocacy of the constitutional amendment to limit marriage to one man and one woman, should stand him in good stead with the party's right wing.

The latest trial balloon comes from former House Speaker **Newt Gingrich** (GA), who Shogun-like, led the GOP to a majority in the US House of Representatives. Though bright and articulate, as House Speaker Gingrich was unable to shed his aggressive manner. His new book, "Winning the Future, A 21<sup>st</sup> Century Contract with America," criticizes **George W.**





Bush's policy on Iraq and may not gain a wide GOP audience, but the persuasive Gingrich is pushing it in Iowa and New Hampshire.

US Sen. **George Allen** (VA), fresh off a very successful tenure as chairman of the National Republican Senatorial Committee (NRSC), is also rumored to be interested in the presidential race. He's a former governor and is quick on his feet, though overly blunt at times. As the son of former Redskins coach **George Allen**, he would have an automatic appeal to the GOP's base: White males. He has to win re-election in 2006, but – unless Gov. Warner (D) decides to challenge him, which isn't likely – he will be a strong favorite. (If Allen becomes the Republican presidential nominee and Warner the Democratic, Virginia would host a battle royal between two of its own. The last time that happened in a state was in 1944, when New York Gov. **Thomas E. Dewey** [R] faced President – and ex-New York Gov. – **Franklin D. Roosevelt** [D].)

Arkansas Gov. **Mike Huckabee**, who is term-limited, is rumored – both in Little Rock and Washington – to have White House ambitions. Huckabee has indicated such stories are a “distraction” to his current legislative session, but he hasn't denied them. He is a former Baptist minister with conservative views, but is neither self-righteous nor stuffy: He occasionally shows off his skills on the bass guitar by sitting in with rock bands.

And in South Carolina, ex-**John McCain** backer Gov. **Mark Sanford**, who is very popular and a good re-election bet, is rumored to want to take his fiscal conservatism and governmental reform message nationwide. Whether he can get enough of his budget reforms passed in the Palmetto State to give him a presidential platform remains to be seen.

Finally, a very dark horse worth keeping in mind is Alabama's ex-state Supreme Court Justice **Roy Moore**. If Moore, who gained national attention for his support of religious expressions in government arenas, should run for and win the Alabama governorship next year, he might well use that – and his nationwide support among religious righters – as a springboard to national office, in the Republican primaries and/or as an independent. Remember **George Wallace**? (See SPR #624 for Moore's attention to the Constitution Party in 2004.)

### More Governors' Races

In 2006, eight Southern states will hold gubernatorial elections. In SPR #643, we looked at Texas, Florida and Georgia. In this issue, we focus on Tennessee, Alabama and South Carolina.

### Tennessee: Bredesen Looking Good

Gov. **Phil Bredesen** (D) is finishing his first term as the Volunteer State's chief executive with a great deal of public support. Recent polls, including some taken during last fall's campaign, show him with approval ratings from the high 60s to the low 70s. Bredesen is popular mainly because he managed to solve the seemingly intractable problem of the state's finances. Without raising taxes, Bredesen cobbled together a plan that both cut state spending and reduced state financial commitments to local governments. The plan passed after years of budget stalemate prior to Bredesen taking office.

Bredesen does face some serious legislative problems. TennCare, the state's Medicaid program, “could fall apart and fly up in his face,” says an insider (D). It needs some \$650 million and neither Bredesen nor the legislature is willing to raise taxes. But the



governor's fiscal and political history suggests that he will find a solution that the legislature and the public can live with. Moreover, Tennessee has a history of reelecting its governors without serious opposition; the last major challenge to an incumbent was in 1982, when Knoxville Mayor **Randy Tyree (D)** ended up with a 40%-60% loss to Gov. **Lamar Alexander (R)**.

Some Republicans would like to change this, but Bredesen's popularity is so far scaring off potential challengers. The name of ex-US Rep. **Van Hilleary**, who lost the governorship (48% to 51%) to Bredesen in 2002, comes up, but he's unlikely to run. Unless a major issue develops, Bredesen would be a heavy favorite and a second loss to him would seriously damage Hilleary's political future. Another name that crops up is that of **Jim Henry**, an ex-state House GOP leader who lost (30%) in the 2002 gubernatorial primary.

What a journalist calls "the wildest rumor" is that ex-US Sen. **Fred Thompson** might run for governor. If Republicans want to mount a major challenge to Bredesen – to tarnish his national ticket prospects, if nothing else – Thompson would be the ideal candidate. He is wealthy but folksy and has tempered his lawyer image with a successful movie and television ("Law and Order") career. But it is unlikely that Thompson, who didn't seek reelection to the Senate because he was tired of the job, will turn around and run for governor. In pushing Thompson, the GOPers, says the journalist, "are just sort of fantasizing."

#### Alabama: Riley Foes in both Parties?

Gov. **Bob Riley (R)** eked out a narrow (3,120 votes) victory over Gov. **Don Siegelman (D)** in 2002. After he took office, Riley proposed a major revamping of the state's tax structure, which favors landowners over other taxpayers.

The \$1.2 billion measure was poorly received – even the state Republican committee opposed it. Despite a coalition of backers that included much of the business community, as well as prominent African-Americans, Riley's proposal went down to defeat by 68% to 32% in a 2003 statewide referendum.

Since then, Riley has steadily mended fences and has to some extent recovered from the reform debacle. He has picked up his speaking and photo-op schedule and has worked to stay on the good side of GOP legislators. He even seems slated to win over the state Republican executive committee. While out-going chair **Marty Connors** opposed Riley's plan, Riley's former deputy chief of staff, **Twinkle Address**, is expected to win the state chair position when the committee meets next month. (If elected, Address will be the first woman to head either major party in Alabama.) Riley has not said that he will seek reelection, but "everybody believes he will run," says a journalist.

The governor, however, is not out of the woods, even among GOPers. Ousted Supreme Court Justice **Roy Moore** has said publicly that he's considering a run for governor next year and if he runs, will probably run as a Republican. That would set up an Armageddon between the state's economic conservatives, represented by Riley – despite his tax hike proposal – and religious conservatives, exemplified by Moore, whose placement of a two-ton granite monument to the Ten Commandments in the state Supreme Court lobby led to his dismissal. Moore has not tried to move to the center, but is currently backing a county judge who wears a copy of the Ten Commandments on his judicial robe.

No one is taking bets on the winner of a Riley-Moore contest. "Moore would be a tough opponent," says the journalist; "he plays really



well here,” and notes that the ex-judge is “speaking all over.” Moore would be “a very strong candidate,” says a Democratic operative; “he knows how to run a campaign,” and noted Moore’s significant role in state judicial races in the 2004 primaries. Should Moore win the nomination, economic conservatives would be in a quandary. “It’s hard to see them getting on the Moore bandwagon,” says the newsman. Despite lack of support among the state’s upper-crust, Moore won’t lack for funds; he gets substantial contributions from across the nation, where he has become a hero to Christian conservatives. If Riley should beat Moore in the primary, Moore’s backers might or might not rally around the governor in the General Election.

Businessman **Tim James** managed only an anemic 9% in the 2002 GOP primary, but has said he may run again. The son of ex-Gov. **Fob James (R)**, James’s appeal was mainly in rural areas, where Riley was also strong.

Alabama Democrats believe Riley’s problems have given them a good shot at reclaiming the governor’s office. Two potential contenders are dominating the Democratic scene. Lt. Gov. **Lucy Baxley (D)** has said publicly that she wants “a promotion” next year and has been maintaining a heavy schedule of appearances across the state. She has good name ID, both from her former marriage to ex-Attorney General and ex-Lt. Gov. **Bill Baxley (D)** and from her own tenure as lieutenant governor and state treasurer. In addition, she has the best campaign slogan since 1952’s “I Like Ike:” “I Love Lucy” bumper stickers are beginning to show up across the state. Her problem is that several years ago, when a Republican was elected lieutenant governor, the Democratic senate stripped the post of most of its powers, so Baxley’s duties are almost exclusively ceremonial. This gives her a weak record to take to the voters.

The other Democrat who might run is ex-Gov. **Don Siegelman (D)**. Siegelman’s big strength is that he’s a superb politician, losing to challenger Riley in 2002 by a mere 48.9% to 49.1%, despite being dogged by several ethical clouds. This year could be different. Federal prosecutors in Birmingham had to drop their case against Siegelman when the judge threw out the major charge against him. Siegelman has attacked the prosecution as politically motivated. Although there’s still a federal grand jury in Montgomery looking into his activities as governor, Siegelman is moving about the state. This month in Huntsville, he’s holding the first of a series of “Governor’s Listening Post” to keep in the public eye and to stay in contact with Democratic activists. “You can never count him out,” says an insider (D). If the Montgomery grand jury declines to indict Siegelman, he would be a strong contender both in the primary and possibly in the General Election. His continued strength in Democratic circles was shown when, in the wake of the party’s 2004 loss, Baxley and other officeholders asked state chair **Redding Pitt**— a Siegelman partisan — to resign. Pitt quickly got support from US Rep. **Artur Davis** and other black leaders and has held on to the job.

#### **South Carolina: Sanford Solid for Now**

Gov. **Mark Sanford (R)** has been on a rocky road with his GOP-controlled legislature during much of his first term, but that has endeared him to voters and he’s looking like a good bet for re-election next year. For starters, earlier talk that he might face primary opposition has faded. If he does draw a primary foe, the likelihood is that it will be a “nuisance” candidate, says one observer. Secondly, although a number of Democrats are getting mentioned as possible challengers to Sanford, “Nobody’s organizing. Nobody’s raising any money,” says *The State*



newspaper's **Lee Bandy**. The election is still some 21 months away, but challenging a popular incumbent requires an early start.

Those names (D) that are getting talked about do not include state Superintendent of Education **Inez Tenenbaum**, who has already said she will not seek the governorship next year. The names that are circulating include state Democratic chair **Joe Erwin** of populous Greenville County, a GOP stronghold; state Sen. **Tommy Moore** of Aiken, another Republican county; and state Sen. **Brad Hutto** of Orangeburg. State Rep. **Gilda Cobb-Hunter**, an influential lawmaker and prominent African-American politico, says Moore is the favorite, citing his ability to "articulate a message that resonates with a variety of audiences." However, any of the three would have an uphill battle.

If Sanford does face a major contest in 2006, he'll have to make a serious error within the next year or so. "A lot can happen in that time, notes Cobb-Hunter. But for now, says Bandy, "I think he's going to get a free ride."

### Grits

• **Florida Polls: Governor.** A Strategic Vision (R) poll taken Dec. 2-6 showed that in the Republican primary for the 2006 gubernatorial contest, Attorney General **Charlie Crist** led with 33%, Chief Financial Officer **Tom Gallagher** was second with 27% and Lt. Gov. **Toni Jennings** third with 19%; 21% were undecided. In a Democratic primary, US Rep. **Jim Davis** had 21%, state Sen. **Rod Smith** had 20%, state Sen. **Walter "Skip" Campbell** had 18% and state Democratic chair **Scott Maddox** had 15%; 26% were undecided. In General Election runoffs, GOP frontrunner Crist had 44% to Democratic leader Davis's 31%. Republicans led in all other pairings.

• **Florida Polls: Senator.** In the same poll, in a Republican US Senate primary to pick a challenger to US Sen. **Bill Nelson**, US Rep. **Katherine Harris** led with 28%, followed by 25% for **Crist**, 15% for **Gallagher**, 11% for **Jennings** and 5% for US Rep. **Mark Foley**. (Foley, who withdrew from the 2004 Senate race, citing his parents' health, is telling associates that he's considering another Senate bid.) In General Election match ups, Nelson defeated all comers, but often had less than 50%. He beat Harris 58% to 37%, his biggest margin. His closest race would be against **Gallagher**, who had 42% to Nelson's 46%. In a Quinipiac Poll, taken Nov. 30-Dec. 5, when GOPers were asked "which, if any, of the following Republicans you would like to see run for senator in 2006?" 45% said Harris should run, 70% said Gov. **Jeb Bush** should.

• **Alabama: Combination Defeats Racial Amendment.** An amendment that would have eliminated segregationist language from the Alabama constitution was initially expected to win routinely, but a vigorous campaign against it produced a narrow defeat - 1,850 votes out of 1.38 million, after a recount. Opponents of the amendment argued that certain provisions would open the state to higher taxes. Whether a majority of voters were responding to fears of higher taxes or expressing racist sentiment has been a subject of debate in Alabama and elsewhere. **Jerome Gray** of the influential black Alabama Democratic Conference, which backed the amendment, says that a combination of racial and financial motives led to the outcome. "The other side used taxes to make people think that if the amendment passed, property taxes would be in play. I even had some blacks call me to ask about their taxes." A journalist agrees: "One-third or so were thumbing their noses (at racial integration). For the others, it was a knee-jerk anti-tax vote." He adds, however, "The two are not mutually exclusive."

42

**From:** Sara Taylor  
**Sent:** Thursday, February 10, 2005 1:52 PM  
**To:** Karl Rove <KR@georgewbush.com>  
**Subject:** FW: Hey

---

We asked Kitty to do some digging. No word for sure, but sounds like Riley probably will run.

-----Original Message-----

**From:** Kelley McCullough - Chairman's Office  
**Sent:** Thursday, February 10, 2005 1:25 PM  
**To:** Scott Jennings  
**Cc:** Staylor@georgewbush.com; mduhaime@georgewbush.com  
**Subject:** Fw: Hey

From riley's Cos

-----Original Message-----

**From:** Roth, Toby <TRoth@governor.state.al.us>  
**To:** Kelley McCullough - Chairman's Office <KMcCullough@rnchq.org>  
**Sent:** Thu Feb 10 12:54:54 2005  
**Subject:** RE: Hey

Going well. The Gov's budget has been a big hit with the hard-line GOP crowd. Hubbert hates it. Let the games begin.

Looks like Twinkle has smooth sailing at Saturday's party mtg. She has done a good job working the cmte and discouraging possible opposition. She's got a little issue that Marty left her that she needs to clean up and may try to enlist your help. For the GOP fundraising event later this year, Marty and Sheryl Jennings had lined up Zell Miller. Twinkle, Edgar and Bettye Fine discussed this and agreed this was a bad fit for Alabama since he was Siegelman's mentor and swore him in back in Jan 99. Also, the party is going after conservative Dems to either switch parties or take them out, so Zell seemed to be a mixed a signal. Any thought on a big name she could bring in for the dinner?

No official decision on re-elect -- he says he'll announce something in May after the session is over. I think he's a go, though he won't say. We just did a statewide tabloid that was inserted in every newspaper in the state detailing the accomplishments of the first two years. Since the campaign paid for it the tag line was "Paid for by Riley for Governor." That was obviously viewed as the strongest indication yet. Call me when you get a chance -- I'd like to know your thoughts on some prospects for campaign/strategy talent. Good to hear from you.

---

Toby Roth  
Chief of Staff  
Office of Gov. Bob Riley  
Phone 334.242.4738  
Fax 334.242.2766

-----Original Message-----

**From:** Kelley McCullough - Chairman's Office [mailto:KMcCullough@rnchq.org]  
**Sent:** Thursday, February 10, 2005 10:35 AM  
**To:** TRoth@governor.state.al.us

Subject: Hey  
How are things going there? Any decision from the boss?

---

43



**From:** Sara Taylor <st@gwb43.com>  
**Sent:** Thursday, June 29, 2006 5:52 PM  
**To:** Karl Rove <KR@georgewbush.com>; Hughes, Taylor A.  
<Taylor\_A.\_Hughes@who.eop.gov>  
**Subject:** FW: Alabama NEWS ALERT

---

**From:** Jason Huntsberry  
**Sent:** Thursday, June 29, 2006 4:54 PM  
**To:** Sara Taylor; Scott Jennings  
**Subject:** Alabama NEWS ALERT

Just spoke with Toby and word is that Former Governor Siegelman (10 counts) and Richard Scrushy (every account) were just convicted. Details to follow...

44

2 of 2 DOCUMENTS

Birmingham News (Alabama)

February 27, 2008 Wednesday

## Rove denies lawyer's Siegelman assertion Says he didn't discuss case with Justice officials

**BYLINE:** BRETT J. BLACKLEDGE and KIM CHANDLER News staff writers

**SECTION:** LOCAL NEWS; Pg. 1B Vol. 120 No. 351

**LENGTH:** 717 words

### THE SIEGELMAN CASE

Former White House adviser Karl Rove said Tuesday he never asked a Rainsville lawyer to take compromising photographs of Don Siegelman, and he said he never discussed the former Democratic governor's prosecution with Justice Department officials.

"It never happened," Rove said in a telephone interview. "Seeing where I was working at the time, a reasonable person could ask why I would even take an interest in that case."

Rove responded to allegations of involvement in Siegelman's prosecution that first surfaced last spring. Most recently Simpson told CBS's 60 Minutes in an interview aired Sunday that Rove asked her during a meeting in 2001, while he was working in the White House, to take photographs that could be used against Siegelman in the 2002 gubernatorial race.

Siegelman is serving a seven-year sentence after being convicted in 2006 on bribery and obstruction charges. His lawyers are seeking his release while his case is being appealed and said this week they will seek appointment of a special prosecutor to investigate claims made on "60 Minutes."

Critics of Siegelman's prosecution have pointed to Simpson's contentions as evidence that his case was politically motivated, initiated by Rove and other partisans intent on destroying Siegelman's political career. The Montgomery federal prosecutors who handled the case have denied the charges, and Rove said Tuesday that Simpson's comments are not believable because he never worked with her.

"I have no recollection of ever meeting the woman or talking to her," Rove said. "She was not an operative on any campaign that I was involved in."

A lawyer for Simpson said Tuesday that Simpson and Rove had telephone conversations, although those calls could be difficult to prove because campaigns often use "throw-away" cell phones.

"In her telephone records, there are calls to Rove and calls to Twinkle Andress," said Priscilla Duncan, Simpson's attorney. Twinkle Andress Cavanaugh is the former Alabama Republican Party chairwoman and now an adviser to Republican Gov. Bob Riley.

Cavanaugh said she does not recall Simpson being active in Republican circles. She said that, even as party chairwoman, she couldn't pick up the phone and reach Rove.

Duncan declined to elaborate Tuesday on Simpson's contact with Rove, saying it is Rove's turn to testify before Congress. "She has already provided material about four inches thick to Congress," Duncan said.

Simpson first linked Rove to the Siegelman prosecution in an affidavit last spring, saying she heard Rove's name mentioned during a 2002 telephone call in which Alabama Republicans discussed an ongoing criminal investigation of the former governor.

Later, when meeting with lawyers from the U.S. House Judiciary Committee, Simpson said she heard someone on the 2002 telephone call say that Rove had visited the Justice Department to discuss Siegelman's prosecution.

Simpson's latest allegation that she met with Rove is one she had not made publicly before the "60 Minutes" interview, either in published reports, her affidavit or testimony before congressional lawyers.

Rove said he is frustrated that the national media accounts have not pressed Simpson for proof or details of when she says she met with him and where, or what work she might have produced as a result.

Alabama Republican leaders said this week that they can find no evidence Simpson served as an operative or in any other major role in a campaign. They did not dispute that she may have been among hundreds of volunteers who offer help to GOP campaigns.

Rove, in the telephone interview Tuesday, denied Simpson's claims made last year that she heard Alabama Republicans discuss how he had taken an interest in the Siegelman prosecution in 2002.

"There is absolutely no evidence for that at all," Rove said. "I did not pressure the Justice Department on anything."

He said he didn't discuss the Siegelman case with anyone at the Justice Department. "What I saw and knew about the Siegelman case, I saw on the evening news," he said.

Rove has a history of work in Alabama, including in some of the state's most hotly contested and nasty judicial campaigns. From 1994 to 2000, Rove's consulting helped put a Republican stamp on the Alabama Supreme Court.

EMAIL: [bblackledge@bhamnews.com](mailto:bblackledge@bhamnews.com)

**LOAD-DATE:** February 28, 2008

**LANGUAGE:** ENGLISH

**PUBLICATION-TYPE:** Newspaper

Copyright 2008 The Birmingham News  
All Rights Reserved

45



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 23, 2007

The Honorable Charles E. Schumer  
United States Senate  
Washington, D.C. 20510

Dear Senator Schumer:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

As an initial matter, the Department agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle. Your letter, however, contains assumptions and assertions that are simply erroneous.

First, your letter truncates the actual quote of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007, and consequently, mischaracterizes the statement. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added). The Department of Justice rejects any suggestion that U.S. Attorneys were asked or encouraged to resign for the inappropriate "political reason" of interfering with any public corruption case or retaliating against a U.S. Attorney who oversaw such a case.

Second, your letter mischaracterizes the testimony of the Deputy Attorney General given at the hearing held on February 6, 2007. The Deputy Attorney General simply stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not an inappropriate "political reason." This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway."

OAG000000998

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of that office's successful gun-crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Those who know Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term."). Finally, the Deputy Attorney General did not state or imply that Mr. Griffin would be appointed as the U.S. Attorney without Senate confirmation. Such a statement would be inconsistent with the Department's stated position that we are committed to having a Senate-confirmed U.S. Attorney in all 94 federal districts.

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." Mr. Cummins was confirmed to serve a four-year term, which expired on January 9, 2006. He served his entire term, plus an additional year. United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

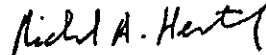
- Although the decision to have Mr. Griffin replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the Attorney General had spoken with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying for Mr. Griffin's appointment. Consistent with longstanding Administration practice, the decision regarding whether Mr. Griffin (who then was on active military duty) might be considered for appointment as U.S. Attorney upon his return from Iraq was discussed and made jointly by the Department of Justice and the White House.

The Honorable Charles E. Schumer  
Page Three

- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

We appreciate the opportunity to respond to your inquiry.

Sincerely,



Richard A. Hertling  
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell  
The Honorable Arlen Specter

OAG000001000