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

UNOFFICIAL TRANSCRIPT

INTERVIEW OF: KARL C. ROVE

Tuesday, July 7, 2009

Washington, D.C.

The interview in the above matter was held at 2138 Conference Room, Rayburn House Office Building, commencing at 9:00 a.m.

Appearances:

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Mr. Schiff. We are here this morning for a transcribed interview of former White House official Karl Rove, pursuant to the March 4th, 2009 Agreement of Accommodation between the House Judiciary Committee and the former Bush administration.

Mr. Rove, please state your full name and address for the record.

Mr. Rove. Karl C. Rove, 4925 Weaver Terrace Northwest, Washington, D.C. 20016.

Mr. Schiff. My name is Adam Schiff. I am a member of the Judiciary Committee. I will be questioning you today along with the Committee's Chief Oversight Counsel, Elliott Minberg. Representative Forbes and Mr. Flores of the Committee Republicans will also have the opportunity to ask questions.

I would like you to open the notebook that is in front of you, which has been marked as Exhibit 1, and turn to Document 1, the March 4th, 2009, letter from White House Counsel Greg Craig to Chairman Conyers and counsel for former President Bush, along with the agreement concerning accommodation between the Committee and the former Bush administration.

Mr. Flood. Mr. Schiff, I am sorry to break in. Could we put appearances on the record?

Mr. Schiff. Yeah, I am going to do that in just a minute.

Am I correct that you or your counsel have seen this agreement?

Mr. Rove. Yes.

Mr. Schiff. For the record, today's interview will be conducted in accord with the terms of that agreement. A few preliminary matters before we begin.

First, if we could go around the room and introduce everyone at the table. And why don't we start with you.

Mr. Luskin. I am Robert Luskin. I am an attorney for Mr. Rove.

Ms. Biber. Katie Biber. I am here with Mr. Luskin.

Mr. Flood. Emmet Flood. I am here for former President Bush in his official capacity.

Mr. Forbes. I am Randy Forbes for the Judiciary Committee minority.

Mr. Flores. Daniel Flores, Judiciary Committee minority.

Mr. Weideman. Chris Weideman with the White House Counsel's Office.

Mr. Mincberg. Elliot Mincberg with the Judiciary Committee.

Mr. Schiff. Adam Schiff.

Mr. Tamarkin. Eric Tamarkin with the Judiciary Committee majority staff.

Mr. Sokol. Sam Sokol with the Committee majority staff.

Mr. Tahtakran. Phil Tahtakran with Congressman Schiff.

Mr. Tyler. John Tyler, Justice Department.

Mr. Green. Jason Green, White House Counsel.

Mr. Hertling. Richard Hertling, Committee minority.

Ms. Jeziarski. Crystal Jeziarski, Committee minority.

Mr. Somers. Zach Somers, Committee minority.

Mr. Hupman. I missed my turn. Will Hupman with Mr. Forbes' office.

Mr. Schiff. First of all, if I or anyone questioning you today, Mr. Rove, ask you any questions that you don't understand, please let us know. Otherwise, we will assume that you understand the questions. Correct?

Mr. Rove. You bet.

Mr. Schiff. If you would like to take a short break for any reason, just let whoever is questioning you know, and we will try to get to the end of that line of questions and be happy to accommodate. All right?

Mr. Rove. Yes. Thank you.

Mr. Schiff. Finally, this interview is taking place as part of an authorized investigation under the jurisdiction of the Judiciary Committee of the U.S. House of Representatives. Do you understand any knowing and willful misstatement that you provide in answering questions today, including any omission of material information that renders any statement misleading, would be a violation of section 1001 of Title 18 of the United States Code, which would be a felony and could be prosecuted in Federal court?

Mr. Rove. Yes.

EXAMINATION

BY MR. SCHIFF:

Q Mr. Rove, is it correct, as the biography on your Web site states, that you served as a Senior Adviser to President Bush from 2001 to 2007?

A Yes.

Q Is it also correct you served as Deputy Chief of Staff to President Bush from 2004 to 2007?

A Yes.

Q When did you start in that position and when did you complete your service?

A I began as Senior Adviser or began as Deputy Chief of Staff?

Q As Deputy Chief.

A Late in 2004. And I finished on -- my last day at the White House was the last day of August, 2007. My official termination date is I believe the 16th of September.

Q What is your current occupation?

A Commentator. Writer.

Q Did your responsibilities in the White House include supervision of the Office of Political Affairs?

A Yes.

Q And can you describe generally those responsibilities at the White House?

A Which, supervising the Office of Political Affairs or more broadly?

Q Yes. Well, let's start with the Office of Political

Affairs.

A It was a direct report to me. The director of the office reported to me, and I supervised their activity.

Q Can you talk a little bit about the focus of the Office of Political Affairs?

A Office of Political Affairs exists to handle whatever political tasks of the President, to -- in this particular White House, also to keep in touch with the President's supporters around the country, to do advance on any of the President's political travel, to prepare political briefings on any of the President's political travel, and basically to handle any of the political activities or political information that flowed into the White House.

Q And the head of OPA reported to you during your tenure in the White House?

A Yes.

Q And who was the head of OPA, or did it change?

A It changed. The first head of the office was Ken Mehlman, roughly 2001 to 2003; Matt Schlapp, 2003 to 2000 -- early 2005; Sara Taylor from 2005 to 2006. And I think towards the end there might have been another, Jonathan Felts.

Q And can you describe your responsibilities at the White House outside of supervising OPA?

A I was a general adviser to the President on subjects that he deemed to be within my area. And as Deputy Chief of

Staff, I saw, oversaw the policy process between 2000 -- late 2004 and March or April of 2006.

Q What do you mean by overseeing the policy process?

A It is most analogous to say a traffic cop. My job was to make certain that I reviewed every domestic policy document that went to the President and made certain it was worthy of him seeing it, made certain that all the arguments represented in the policy discussions were reflected in the document, and if not, encourage people to sharpen the document up. I was in charge of the policy time on the President's calendar, which meant that I had to apportion out who got what time on what issue, what issue was ripe to take to the President at a particular time and what was not ripe. And then just basically to make certain that the policy players, the Domestic Policy Council and National Economic Council in particular, were going through the process with everybody having a seat at the table and arriving at conclusions in a timely fashion.

Q Can you tell us generally your responsibilities while at the White House concerning the selection, appointment, removal, and replacement of U.S. Attorneys?

A In 2001, the original tranche of them, it was to make certain through OPA that we cast as wide a net to find qualified possibilities, and that those names were then put into the hopper and then be considered by a group called the joint -- or the Judicial Selection Committee. There was also the

Intergovernmental Affairs Office, which solicited some of those -- some of that input, namely from governors, attorney generals, and elected officials. And then I sat in on the Committee, the meetings that discussed the range of qualified applicants, and gave counsel and advice as to who they ought to be.

Q When you say through OPA, what was the value that OPA's input added?

A They were -- we had a wide range of lawyers around the country who had been involved in the campaign and were supporters of the President, and it was possible for them to do outreach to those people. Many had been active in their bar associations and State legal activities. Some of them were themselves elected officials. Some of them had been previously U.S. Attorneys or involved as prosecutors or law enforcement officials. And so it was a useful way to gain, again, as wide a group of prospects as possible. And also to be able to check out potential applicants to find out what their professional qualifications and professional reputations were.

Q Did you have any other responsibilities that brought you into contact with the Department of Justice or White House Counsel's Office?

A Justice Department I was occasionally in contact with. Counsel's Office in touch with on a more frequent basis. I mean it is on selection of judicial candidates and issues that -- a wide range of issues that the Counsel's Office might have a seat

at the table.

Q In terms of the Department of Justice, beyond the selection of U.S. Attorneys, what other responsibilities brought you in contact with DOJ?

A The policy process, if there were issues that were being discussed at the White House during the time that I was director of the policy process that I had to make certain that Justice had a seat at the table for issues that touched them, for example immigration, where Justice Department's input on the drafting of immigration proposals was vital.

Q What other policy issues other than immigration brought you into contact with DOJ?

A You know, I couldn't recall a specific list. I mean Justice had a seat at the table on a lot of issues.

Back for a second, my comments about the appointments process with regard to U.S. Attorneys were also involved with judicial selection. I sat in on and attended the meetings of the Judicial Selection Committee that considered the vacancies for the district and appellate benches. In addition, I was a member of a five-person committee that reviewed the prospects for Presidential appointments to the Supreme Court. That committee existed for a number of years, 5 or 6 years.

Q And the scope of the issues that you dealt with at the White House Counsel's Office, was it more broad than DOJ?

A Oh, absolutely.

Q And give us a sense --

A And the Justice Department, the principal conduit of information back and forth between Justice was through the Counsel's Office. So if you, you know, if there was a policy issue, immigration, I might make certain that somebody from Justice was at the meetings. But if there was an issue with the Justice Department, by and large most of that communication was handled by the Counsel's Office.

Q When you dealt directly with Justice, who did you generally deal with?

A You know, I would -- my contact was not significant. And when I did do it, it would generally be in informal conversations with either Alberto Gonzales or his predecessor when they were attending meetings at the White House.

Q Were there other staff members at the DOJ that you had routinely had contact with?

A Judicial Selection Committee members who came from the Justice Department I would attend meetings with and have conversations with, yes.

Q And who on the Judicial Selection Committee did you interact with on U.S. Attorney appointment issues?

A The entire committee.

Q Who from the Department of Justice?

A Kyle Sampson was a member of the Judicial Selection Committee. There were a number of other people. I can't recall

their names.

Q Was Monica Goodling also one of the people that you dealt with in terms of U.S. Attorney issues?

A I don't believe so, no. She was not, I believe, a member of the Judicial Selection Committee. I believe my staff talked to her through OPA, but I didn't have direct communications with her that I recall.

Q Did you or OPA staff have contact with folks in the Criminal Division of Justice?

A Not that I am aware of.

Q How about the Public Integrity Section?

A Not that I am aware of.

Q Did you have contact with folks in the Deputy Attorney General's Office?

A Who would that be?

Q Might be Mr. McNulty or others.

A I knew Mr. McNulty from his visits to the White House, but I don't recall any specific contact with him. I did know -- Mr. Margolis was part of a review of some people like Tim Griffin that I was aware of, but I wouldn't recognize him if he walked in the room.

Q Any other members of the Department of Justice staff that you recall interacting with on the U.S. Attorney issue?

A Not that I recall. I am sure there were some, but I just don't recall who they are.

Q Who did you interact primarily with at the White House Counsel's Office?

A The White House Counsel, Ms. Miers. Before her Judge Gonzales, and after Harriet Miers, Mr. Fielding.

Q Were there any other?

A David Leitch, Bill Kelley. You know, my office on the second floor was next door to them, so I saw a lot of them in the hallways back and forth. Leslie Fahrenkopf. You know, I don't recall the rest of the names, but I had contact with a number of members of the Counsel's Office.

Q Now Mr. Rove, you don't have a background as a prosecutor, right?

A No. Not a lawyer.

Q So your interaction with the Department of Justice was both on a policy basis and a political basis?

A Yeah. Right. Never attempted directly or indirectly to influence any particular case that was before the Justice Department.

Q And the primary value that you could add, though, to interactions with the Justice Department was analyzing the political impact of the policy decisions that were being made?

A No, it was to discuss the policy implications of the policy decisions in which the Justice Department might be participating in a White House policy process. For example, immigration.

Q And how about as the person that the head of OPA reported to?

A Uh-huh.

Q In your role as supervisor of OPA --

A Uh-huh.

Q -- how did you interact with the Justice Department?

A I am not certain I understand that question.

Q Well, what was OPA's role with -- what was OPA's role with respect to the Justice Department?

A It was to provide input as to help build a list of qualified appointees, potential appointees as judges, U.S. Attorneys, marshals, and then provide input as to what people out in the States would say about prospective -- about names on that list.

Q So in your position supervising that office, you could add value to the decision to hire or replace U.S. Attorneys by bringing your background in terms of the political impact of those decisions?

A Yeah. I am relying upon people to give me their -- who are collecting that intelligence and then analyzing it, yes.

Q I was looking at the --

A I am not certain I understand your question.

Q My question is there are a whole universe of issues that the Department of Justice focused on. Correct?

A I assume so. Didn't work there, but I assume so.

Q You weren't involved in all of those issues, right?

A No.

Q You weren't involved in the day-to-day prosecution of cases, right?

A Correct.

Q You were involved where you could add value to decisions that Justice was making, right?

A Again, I am not certain of the point of your question. I am not certain I understand it.

Q And part of what you did was supervise OPA and their interaction with the Justice Department, right?

A No. I supervised OPA -- to the greatest degree possible, we attempted to have our communications through the Counsel's Office or through the workings of the Joint -- of the Judicial Selection Committee, which might cause people inside the White House to be talking directly to people at the Justice Department.

Q In your role as supervising OPA, did you help advise Justice Department on U.S. Attorney hiring or firings?

A Hirings, yes. In 2001, we were part of the process that cobbled together recommendations to the President to fill 93 vacancies. My advice with regard to firing of U.S. Attorneys occurred in late 2004, when someone within the White House I believe it was, I don't believe it was Justice, but someone within the White House began talking about replacing all U.S. Attorneys.

And my advice was not to do it. And that happened in late 2004. The issue came up I believe again in early 2005. And my advice was this was a task that we need not take on.

Q One of the reasons why OPA, and through OPA you might be involved in the decision to hire a particular U.S. Attorney, was the impact that would have on local elected officials or local party leaders. Am I right?

A No. It would be whether or not that person was qualified and able to do the job, and what kind of response would people have to that person. Would they see him as a qualified person, a quality appointment by the President of the United States?

Q And among --

A The idea of a specific impact on elected officials implies that you are trying to have somebody who has a particular attitude towards a particular individual. And that is not what you ought to be appointing a U.S. Attorney. At least that was our view.

Q But among the universe of qualified people, both you and OPA would provide input as to how local elected officials might view that choice, wouldn't you?

A From a qualitative perspective. I may have been mistaken, but I thought your implication was how they would be perceived as having an effect on local individuals.

Q So you might be providing advice about how the choice of

a particular qualified candidate might be viewed by that State's Republican delegation, wouldn't you?

A Absolutely, since they have to generally get confirmed.

Q And picking a good candidate obviously would inure to the White House benefit, wouldn't it?

A Yes.

Q And picking conversely, a bad candidate, unliked by the State Republican delegation, would have an adverse impact?

A Well, except there is one implication there. With all due respect to Members of Congress, sometimes they don't have -- their view of who the best qualified individual is may not exactly gee-haw with the view of either the Justice Department, which interviewed all these candidates, or the Judicial Selection Committee. And that is oftentimes what we had to do, was negotiate between Members of Congress who had a strong opinion about a candidate who in the minds of the Justice Department reviewing panel and in terms of the Judicial Selection Committee was thought to be less qualified than other applicants.

Q But you were mindful of how local elected officials, and particularly local Republican officials, felt about particular candidates, right?

A Their quality and their ability to do the job.

Q And that was part of your responsibility as supervising OPA to -- please let me finish the question.

A Yeah, I am just breathing, if that is okay.

Q No, that is fine. You have a habit of jumping in at the end of my questions. But as the head of OPA or supervising the head of OPA, it was part of your responsibility to know how the local delegation would view the choices you ultimately made on U.S. Attorney hiring, right?

A By local delegation you mean the congressional delegation?

Q Local senators, House members, Republican Party leaders. You would want to know how they would view your selections, wouldn't you?

A By senators and representatives do you mean United States Senators and United States Congressmen?

Q Let's refer to U.S. Senators, Republican House Members, Republican State party officials, Republican State legislators. Part of your responsibility, supervising OPA, providing political input at the White House, was to know who those local party leaders thought highly of and, conversely, who they didn't think highly of as it affected the decision of who to appoint for U.S. Attorney. Isn't that correct?

A Just to be correct about this, to be precise about this, you imply that there was an interest in knowing where State legislators were on this. The only State legislators who might have been contacted on this were people who might be able to -- whose judgment we trusted and who might have the ability, through either geography or area expertise, to give us a reasoned judgment

on somebody. For example, the Speaker of a State house who came from the same area as a prospective nominee whose judgment was valued by the President. That might be an individual who as a State legislator we would ask an opinion of. But our principal focus was on people who had geographic or area expertise. We know this person because he or she is from our area, or we know this person because professionally we have dealt with them.

Q And part of your interest also in terms of your political portfolio was the fact that the U.S. Attorney's office was a good launching pad for a political career, wasn't it?

A Yes, you do want to be able to credential people who have a level of public service, yes.

Q So putting someone in the job of U.S. Attorney who was otherwise qualified might also help launch their political career?

A Yes, or kill it. It depends upon how well they do in the office.

Q But that would be part of your portfolio also, wouldn't it, to look out for potential GOP office holders in the future and give them their start in the U.S. Attorney position?

A That is a secondary or tertiary. The real interest is to have somebody who is well qualified, who can perform the job, and reflect well thereby on both the Justice Department and on the administration.

Q But if it also gave them a launching pad to run for office, that was an additional benefit, right?

A You say but if an additional. I would agree with that, yes, meaning it was not the central point.

Q As best you can recall, how and when did the idea first come up of replacing some or all of the U.S. Attorneys who had been appointed by President Bush?

A As I said earlier, it came up late in 2004. I have no recollection who it came up from. My general belief is it came from the Counsel's Office. It may have come elsewhere. And I remember it being briefly discussed, and I believe I had a conversation with Harriet Miers in which I expressed my concern about such an approach. And I thought the issue was dead. And then at a later point, I have a recollection of hearing that it was being reconsidered.

Q Did Ms. Miers raise the issue with you or did you raise it with her?

A I can't recall. I think she raised it with me, but I can't recall.

Q Do you know whether she originated the idea?

A I have no idea, as I said before twice.

Q Take a look at Document 2 in the notebook. It is an April 13th, 2007, NPR report entitled Documents Show Justice Ranking U.S. Attorneys. If you look at the second sentence of the third paragraph of the story, it states, according to someone who has 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 smaller number of U.S. Attorneys the White House actually wanted to get rid of. Is that an accurate statement?

A No.

Q So the idea to fire all U.S. Attorneys did not originate with you?

A No.

Q Was it correct that the firing of all U.S. Attorneys was seen by others as an opportunity to give political cover for the firing of a smaller number of U.S. Attorneys the White House wanted to get rid of?

A I have never heard that idea, and it is ludicrous on the face of it. Don't fire a few, fire them all?

Q So in your conversations with Harriet Miers, the idea of getting rid of all the U.S. Attorneys to provide cover for getting rid of certain U.S. Attorneys never came up?

A No.

Q Did that issue or that suggestion ever come up in a conversation that you were present for?

A Not that I recall.

Q Did you ever receive any written correspondence proposing that idea?

A Not that I recall.

Q Were there a number of U.S. Attorneys that you or anyone at the White House wanted to replace after the President's

reelection?

A Say that again.

Q Were there a number of U.S. Attorneys that you or anyone at the White House wanted to replace after the President's election?

A I am sure there were people at the White House who wanted to replace attorneys.

Q Were there U.S. Attorneys that you wanted to replace after the President's reelection?

A In the aftermath of the 2004 election, no. Here is my view. My view was this is a decision that had to be made at the Justice Department. They had the tools to analyze whether or not these individual prosecutors were doing the appropriate job. This was a task better left to the Justice Department. That is why the White House shouldn't involve itself in a wholesale replacement of the U.S. Attorneys. And that was taking on a very large task. And it should not involve itself in making individual determinations. That was up to the Justice Department. They had the tools, the staff, the career people in place, and the structure and the authority to do that.

Q Getting back to my question, though, after the President's reelection there was no specific U.S. Attorney that you wanted replaced at that point?

A Not at that point. Later on I developed an opinion about one or two, but not at that point.

Q And who were the one or two that you later developed an opinion about?

A Mr. Iglesias.

Q Were there others as well?

A Not that I recall.

Q Were there other U.S. Attorneys that others at the White House wanted to replace following the President's reelection that you are aware of?

A Oh, I am certain there were. I don't recall them.

Q You don't recall having any conversations with others at the White House following the election about getting rid of particular U.S. Attorneys?

A No. We did have in December of 2004 an article appearing about Bud Cummins of Arkansas saying that he anticipated leaving. This followed earlier conversations, rumors, that he was interested in leaving. So I was interested in who was going to replace him when he left, if he did leave. But I don't remember any other conversations by anybody else in the White House about specific names. There may have been such conversations. I just don't recall them. I wasn't, frankly, paying much attention to it because again, I think right from the start of the discussions about this if we did go down the avenue of selective replacement, I believe everybody sort of recognized that was a task for the Justice Department to develop their feelings about.

Q Do you remember an article in December of 2004 about Bud

Cummins in particular, that he was intending to leave office?

A Right.

Q And did you remember reading that article in December of 2004 or reading it sometime after the fact?

A I remember seeing it at the time. I couldn't place it until -- you know, it was one of those things that popped up. It followed on earlier discussions about Cummins leaving, so it reinforced in a public vein what had been heard privately. And I had an interest in it because one of me deputies was from the Eastern District of Arkansas and had an interest in going back there.

Q And so you had heard that Cummins was going to leave even before the election?

A No, after the election. Oh, yes, before the election I heard rumors of it, but didn't put any stock in it. I may have heard it before the election. I don't remember exactly when I heard the rumors. But I suspect before the election. But I saw it then at the end of December.

Q And do you recall who, before the election, would have raised these rumors with you?

A Somebody in OPA, I suspect.

Q Did Mr. Griffin raise it with you?

A I don't believe he did. I do remember talking to him about it after I heard the rumors, but I can't tell you whether that was before the election, after the election, or before the

story or after the story.

Q But your best recollection is that someone at OPA, before the election in 2004, raised with you the possibility that Mr. Cummins might be retiring?

A Yes. There was a -- the rumor was that after the U.S. Attorney for the Western District of Arkansas left the post in early 2004 and got a lucrative position in the private sector, that Mr. Cummins was reflecting on the possibility of doing the same.

Q Do you remember who at OPA raised this with you?

A I don't.

Q Did you once say over the phone, when Tim Griffin was in the room with you, I need eight U.S. Attorneys fired or words to that effect?

A I don't.

Q You don't what?

A I don't recall saying that, no.

Q Is it possible you said that?

A I doubt it.

Q Did you feel that you needed eight attorneys -- eight U.S. Attorneys to be fired after the 2004 election?

A No. Why? I don't see any reason for it.

Q Did you need eight vacancies to fill with people you wanted to appoint?

A No.

Q Did you have a conversation with someone in the White House Counsel's Office in early 2005 in which you asked whether the administration would allow all U.S. Attorneys to stay, request resignations from all, and accept only some, or selectively replace them?

A I believe this refers to an e-mail that was written after I stopped by the Counsel's Office. This is a period in which I think the -- I had heard that the idea might be bubbling back up that we would try and replace all U.S. Attorneys. So I stopped by the Counsel's Office to talk to Leitch or -- I can't remember, yeah, I think it was Harriet, about whether or not this was bubbling back up.

Q Let's take a look at that. It is Document 3. The e-mail at the bottom is from Colin Newman to David Leitch. The subject, question from Karl Rove. David, Karl Rove stopped by to ask you, roughly quoting, how we planned to proceed regarding U.S. Attorneys, whether we are going to allow all to stay, request resignations from all and accept only some of them, or selectively replace them, et cetera. Is that the e-mail you are referring to?

A I don't recall, but I assume that is what I said or something closely to that.

Q And what made you stop by Mr. Leitch's office to raise that question?

A I assume I heard rumors that we might be going down the path of trying to get -- replace all 93.

Q Did someone get back to you following up on this e-mail?

A I assume they did, because I remember being told at some point that the idea was dead, and they weren't going to be pursuing it. I don't know whether that happened immediately after this or somewhat later.

Q So you don't remember speaking to Mr. Leitch about that?

A No, I don't. I don't know whether it was Mr. Leitch or Ms. Miers that conveyed that they were not going to replace all 93.

Q The e-mail on the top of this same page is from Kyle Sampson to David Leitch, subject matter regarding question from Karl Rove. Kyle Sampson was one of the people at DOJ you indicated earlier that you sometimes had contact with on the U.S. Attorney replacement issue?

A Yes, primarily through his participation in the Judicial Selection Committee.

Q In this e-mail he suggests we would like to replace 15 to 20 percent of the current U.S. Attorneys, the underperforming ones. This is a rough guess. We might want to consider doing performance evaluation after Judge comes on board. The vast majority of U.S. Attorneys, 80 to 85 percent I would guess, are doing a great job, are loyal Bushies, et cetera, et cetera.

Was that the proposal that you were in favor of, replacing 15 to 20 percent of U.S. Attorneys?

A No. What I was in favor of was Justice Department

making an evaluation of the U.S. Attorneys and recommending who they felt to the President ought to be replaced. I had no knowledge of the workings of the individual offices sufficient enough to give me a basis on which to make any judgment about whether anybody should be replaced or how many should be replaced.

Q Because you weren't really in a position to evaluate their performance?

A Look, I can develop an opinion about somebody, and like for example with Iglesias I did over a 2-year period develop an opinion. But having said that, it was not my role. It was the role of the Justice Department. The White House didn't have the tools, I certainly didn't have the tools to make a proper evaluation. Was what I was hearing about, for example in this instance, Mr. Iglesias, accurate? You know, it was convincing to me, but on the other hand, I also knew that it was not my role, it was Justice's role to look into this. It was also -- you know, I knew what I knew and I knew what I didn't know. And what I didn't know was whether or not these things that were being said were accurate. They could make the dispositive decision or recommendation about it.

Q Because you weren't in a position actually to investigate whether claims that were made against U.S. Attorneys were accurate or not?

A Sure. I could develop, you know, I could look at the information that was being given to me, consider the source, and

make a judgment. But I knew all along at the end of the day this information -- that is why this information had to be passed on to the Counsel's Office and then to the Justice Department, so they could evaluate it and make a decision whether it was worth evaluating, and they had the tools and the ability to make a judgment about it.

Q So you didn't accept Mr. Sampson's suggestion then of replacing 15 to 20 percent of the current U.S. Attorneys?

A It was not a suggestion to me, and I never heard it that I am aware of.

Q So to your knowledge no one ever passed on this idea of replacing 15 to 20 percent of the U.S. Attorneys to you?

A I have never heard of the specific percentage. At the end of the day, there was a decision made that they would evaluate the individual U.S. Attorneys and make a decision about who they would recommend to the President to be replaced.

Q Did you ever discuss with Mr. Sampson his idea of replacing 15 to 20 percent?

A No.

Q Did Mr. Sampson ever indicate to you what he meant by loyal Bushies?

A No. Not that I recall. I didn't see this e-mail. The implication that somehow this was addressed to me and I somehow received it is inaccurate.

Q But you did discuss with Kyle Sampson the replacement of

U.S. Attorneys during the course of the second term of the Bush administration?

A He was a participant in the Judicial Selection Committee in which this was discussed as a general topic.

Q And at those JSC meetings, Judicial Selection Committee meetings, did Mr. Sampson raise the idea of replacing 15 to 20 percent of the U.S. Attorneys?

A Not that I recall.

Q Did he ever raise the suggestion that the JSC try to identify who was a loyal Bushie and who was not?

A Not that I recall. This was rarely addressed at the JSC meetings. Once the initial discussions were -- the action moved to the Justice Department.

Q At the end of Mr. Sampson's e-mail, he states that 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, parentheses, see Senator Hatch and the Utah U.S. Attorney, end of parentheses. That said, if Karl thinks there would be political will to do it, then so do I.

This e-mail was sent in January of 2005. At some time thereafter did someone ask you whether you thought there was the political will to get rid of all the U.S. Attorneys?

A Not that I recall. And remember, at this point I am on record as opposing the idea of replacing all U.S. Attorneys. I doubt that anyone would believe it would be worth raising the

question with me. I knew what kind of work was involved with the hundreds and hundreds of phone calls and contacts that were necessary to acquire the names and go through the -- to go through the background investigations and the interview process and the decision-making process to do this even once. Why do it again?

Q So you never had a conversation with Mr. Sampson about whether you thought there was the political will to do it?

A Not that I recall, as I have said before.

Q And you don't recall having the conversation with anyone else either?

A Not that I recall.

Mr. Luskin. Other than obviously the individuals to whom he has already testified.

Mr. Schiff. I am going to let Mr. Rove clarify if he needs to clarify.

BY MR. SCHIFF:

Q Let me turn to another issue.

A Let me go back for a minute. You have now said something that concerns me. I have made it clear, I think, that I objected to a process of 93 U.S. Attorneys being replaced, and I felt the proper policy was for the Justice Department to make a determination as to whether or not it believed that it should recommend to the President the replacement of any specific U.S. Attorneys based upon performance. This was an opinion I shared with a number of people at the White House. I cannot recall

specifically who I shared it with, the exact list, the date, the time. But it was I think a well-known opinion by people who were interested in the question.

Q And you don't recall any conversation with Mr. Sampson regarding his proposal of replacing 15 to 20 percent?

A I do not.

Q And you don't recall that conversation coming up at a JSC meeting at which you were present?

A I don't believe it did. And by that are you specifically referring to Mr. Sampson's specific proposal recommended here of replacing 15 to 20? I don't remember a specific number being talked about.

Q Well, let me ask you whether it was raised by Mr. Sampson or anyone else. Were you present at a JSC meeting in which the suggestion was made that 15 to 20 percent of the U.S. Attorneys be identified for removal and be replaced?

A Not that I recall.

Q Were you present at a JSC meeting where it was suggested that a particular percentage of U.S. Attorneys be replaced, whether it was 15 or 20 or some other number?

A No.

Q Let me ask you about some of the policy issues or priorities of the Justice Department that you were involved in. You mentioned that immigration was one of the issues that you were involved in. Correct?

A Yes.

Q Voter fraud was another issue that you were involved in.

Am I right?

A It was an issue about which I felt keenly.

Q And this was one of those issues that not only had a policy impact, if a crime was being committed, but also had a political impact, am I right?

A Yes. It had a huge policy implication for the country, yes.

Q And it had a huge political impact, too, didn't it?

A If by that you mean undermining people's confidence in the sanctity of the ballot, yes.

Q Let me ask you about a different political impact. In campaigns sometimes people raise accusations, whether true or untrue, that have an impact on the election. Isn't that right?

A Yes.

Q And raising the issue of voter fraud itself could have an impact on a political election. Right?

A Yes.

Q And you could have an impact on an election by raising that issue whether voter fraud was present or it wasn't. Am I right?

A I think the issue of voter fraud as a -- as something that has an impact on the outcome of the election by affecting public opinion is minor at best. I am worried more about the

effect of the act of fraudulent registration or fraudulent voting itself.

Q But I want to ask you about the impact of raising the issue itself. Raising the issue itself could have an impact on an election, couldn't it?

A As I just said, of de minimis impact, very small impact.

Q And if you raise an issue that one party is engaged in voter fraud, that might encourage people to vote for the other party. Isn't that right?

Mr. Forbes. Well, Adam, the question I have, I don't want to delay this, but I thought this was an investigation, as I looked at the agreement, about facts as opposed to opinions. It looks like to me we are starting to go down this line of asking for hypothetical opinions as opposed to actual facts that took place.

I just put that on the record. And Mr. Rove obviously can answer whatever questions he wants to answer with him and his attorney.

Mr. Schiff. I appreciate your comments, but motivation is a fact. And I am trying to get at motivation.

BY MR. SCHIFF:

Q So let me ask you again, Mr. Rove, raising the issue of voter fraud, suggesting that one party, Democrats, were engaged in voter fraud, that could have an effect on an election whether the allegation was true or not. Isn't that right?

Mr. Luskin. Mr. Schiff, I am going to intercede now. With

all due respect, he has now answered that question twice. This is the third time you have posed it. I am going to try my damndest not to interfere with your line of questioning or interfere with Mr. Rove's full responses, but this will go much more smoothly and much more expeditiously if we can answer the questions, ask them once and have them answered once.

Mr. Schiff. I agree. So let's have it answered.

Mr. Luskin. It has been answered twice already, sir.

Mr. Schiff. I am not sure I have had a clear answer. And this is a very easy question to answer, so let me ask it again.

BY MR. SCHIFF:

Q Suggesting that one party was engaged in voter fraud, whether it was true or not, could have a political impact on an election, couldn't it?

A As I have said twice before, a de minimis impact. And it also you are -- implicit in your question is that only one party is engaged in voter fraud. That has not been my experience.

Q Now, if you went to New Mexico, for example, and made an allegation of voter fraud, by virtue of your position as a political adviser to the President, that would tend to be discredited by some voters. Am I right?

A Every argument in politics generates a counter argument, yes.

Q And the fact of your position, though, would have an effect on how voters would perceive your raising the issue.

A Yes.

Q That issue would have more impact if the accusation came from a neutral party. Am I right?

A Like the Albuquerque Tribune, yes.

Q Or like a U.S. Attorney. Am I right?

A I am not certain that -- you may have the view that U.S. Attorneys ought to be used as people making political accusations in political campaigns. That is not my view.

Q But a U.S. Attorney making an allegation of voter fraud would carry much more weight than if Karl Rove, political adviser to the President, made that allegation. Am I right?

A Again, implicit in your question is the view that a U.S. Attorney of whatever party ought to be making political statements during a political campaign. It strikes me that if I were a U.S. Attorney and there were issues involved with voter fraud, that the best way to deal with them is to deal with them in the immediate -- take whatever steps are necessary to guarantee the sanctity of the ballot before the election and then do the prosecutions after the election. That has generally been, I think, the practice in previous instances that I am aware of.

Q Let me try one more time, because I am not sure you are answering my question. My question is, raised by a party who is considered to be apolitical, a U.S. Attorney, the issue of voter fraud would have even greater salience than if you raised it. Am I right?

A This is a hypothetical question. And to the degree that the Pope would raise it or a U.S. Attorney would raise it or a prominent pastor would raise it or somebody who was deemed to be an apolitical person, yes. But again, I am not certain where you are going with this.

Q It was a priority of the Bush administration and the Bush White House to have U.S. Attorneys aggressively raising the issue of voter fraud, wasn't it?

A No, it was not. In fact, my issue with the Justice Department was was there a policy regarding how to deal with these? And it was a question that I raised. It was up to them to determine what the policy ought to be. It wasn't to clear me as a nonlawyer what the Federal interest was in it. But it was up to Justice Department whether or not to determine whether there was a Federal policy. When I was Deputy Chief of Staff for Policy, for example, we never had a White House policy process designed to script out or design a policy for the government on voter fraud. This was something that was best left at the Justice Department.

Q Didn't you raise the potency of the voter fraud issue in your discussions at Republican Party conventions and among Republican Party officials?

A Did I raise it as a concern when people are illicitly registered and people are fraudulently casting ballots? Yes, I am concerned about our democracy, and consider that a real problem.

Q Didn't you and other Republican officials view this as a

great wedge issue?

Mr. Flood. I would like to have Mr. Rove, before you respond, Mr. Schiff, our agreement; that is to say, the agreement with the committee and former President Bush, with President Obama's administration kind of in the middle, says we are here to talk about facts, and not just any facts, facts relating to the evaluation of decision to dismiss or decision to replace the former U.S. Attorneys in question. And it seems to me that is the only font of agreed jurisdiction that I think is remotely applicable here. And it seems to me the question whether Mr. Rove or any political consultant or man on the street thinks that voter fraud is a nice wedge issue for elections has got nothing to do with that. And on that basis, sir, I ask you to withdraw the question.

Mr. Schiff. I appreciate your comments. I won't withdraw the question. I think it is very pertinent to the motive in both pushing the issue and replacing certain U.S. Attorneys. So I am going to ask the question again.

BY MR. SCHIFF:

Q Didn't you, Mr. Rove, and other Republican Party officials view the voter fraud issue itself as a great wedge issue in political campaigns?

A Mr. Schiff, four times before I have indicated that I think that the issue of voter fraud in an election has a minor impact on the outcome of the election with regard to public

opinion. This is not -- people are more concerned about their jobs, they are more concerned about the state of the economy, and they are more concerned about their security, their kids' education, their health care, the quality of the environment, about two dozen issues well ahead of this issue. And as I said before four times and I will say for a fifth time, if you suggest by using the phrase "wedge issue" that this is akin to a major issue that can determine the outcome of an election through its effect on public opinion, I disagree. Could it affect the outcome of an election by people stealing votes? Yes, in a close election it could.

Q Take a look at page 161 and 162 of the OIG report. That is the other binder in front of you. Do you know a Republican from New Mexico named Pat Rogers, who is now a member of the executive committee of the Republican National Committee?

A Yeah, I know of him, yes.

Q And how do you know of him?

A He is a long-time Republican activist in the State.

Q The OIG report quotes an e-mail Mr. Rogers sent to a number of people associated with the New Mexico Republican Party as follows. I believe the voter ID issue should be used now at all levels, Federal, State, legislative races, and Heather Wilson's race. You are not going to find a better wedge issue. I have got to believe the voter ID issue would do Heather more good than another ad talking about how much Federal taxpayer money she

has put into the State education system and Social Security. This is the single best wedge issue ever in new New Mexico. He then goes on to talk about a lawsuit they plan to file concerning voter registrations by ACORN.

Isn't it correct, Mr. Rove, that some Republicans active in the Republican National Committee believed that this was a great wedge issue?

A Mr. Rogers obviously did. I don't.

Q Did you ever pass on complaints about voter fraud by groups affiliated or leaning towards Republicans?

A I don't recall.

Mr. Luskin. Pass on to whom, sir?

Mr. Schiff. Passed on to the Justice Department or anyone else.

Mr. Rove. You know, the issue is are there fraudulent registrations. Is there a process in place that will identify people involved in fraudulent registration efforts, regardless of party, and deal with it? Is there a policy?

BY MR. SCHIFF:

Q Would you agree that it would be improper for investigators or prosecutors to focus on activity only by allegedly Democratic leaning groups or to exclude activity by Republican leaning groups?

A To exclude activity, absolutely should not.

Q If you could turn to Document 4.

A Are we finished with this?

Q Yes. This is a Knight Ridder article entitled White House says Rove Relayed Complaints About Prosecutors. If you take a look at page 2, the fifth and sixth paragraphs, where it states that after talking with you by phone, White House spokesperson Dana Perino said that you routinely passed along complaints about various attorneys to DOJ and the White House Counsel, including complaints about U.S. Attorneys not being aggressive concerning alleged vote fraud, which were of particular concern in New Mexico and Washington. Was that an accurate statement?

A I did pass -- I do recall passing on information and complaints regarding New Mexico. I don't recall Washington State.

Q Did anyone else in OPA pass on complaints concerning Washington State?

A I can't say. I don't know.

Q Did anyone else at OPA pass on complaints concerning New Mexico to your knowledge?

A I would suspect so, because that is where -- you know, in 2004 I was aware of the public attention being paid in New Mexico to this, including the editorial in the newspaper and the television reports about the problems with voter registration, voter fraud. And people in OPA were actually involved in that campaign.

Q Were you involved in passing on complaints regarding U.S. Attorneys not sufficiently raising the issue of voter fraud

in any other jurisdictions?

A I remember having a conversation about Ohio, why local officials in Ohio prosecuted a voter registration fraud case in Geauga County outside of Cleveland, and why there was no Federal action. I was concerned about -- generally about what was the policy. We had instances -- other instances in other cities, Milwaukee, Philadelphia, and other places that involved questionable election practices.

Q And did you pass on complaints regarding Milwaukee and Philadelphia as well?

A I raised it more broadly in the concern of should there be a policy? Should this be a priority at the Justice Department to deal with these?

Q And in what context did you raise these complaints? At the JSC meetings?

A No, no. I discussed these with Harriet Miers, and before that Alberto Gonzales. And after he became Attorney General, I jogged him a couple times in informal gatherings at the White House about whether or not they were looking into this.

Q And what was the context in which you raised it with Harriet Miers?

A That I was concerned about it, and that I had mentioned to Alberto Gonzales or was going to mention to Alberto Gonzales that I thought this was something that required a Justice Department policy. Why was it that local prosecutors in Geauga

County were dealing with this, but not Federal prosecutors? Was there not a Federal interest in ensuring the sanctity of the ballot?

Q And did Harriet Miers ever get back to you when you raised this issue?

A No. You know, she promised she would pass it on. And that was what was appropriate to do, pass it on. Again, this was a Justice Department policy. They had to decide what their policy was going to be on it.

Q At what point did you raise this issue with Harriet Miers?

A I have no recollection. Sometime after the 2004 election.

Q Why after the 2004 election? Why not before?

A Because there were just a lot of instances, particularly on election day, that caused me to be concerned. We had the New Mexico instance, we had the Clark County, Nevada, instances, but there were a number of other ones that were involved around election day. And was this a priority for Justice Department to review?

Q And how soon after the elections did you raise it with the Attorney General?

A It would be after he became Attorney General, so sometime in February, March, April, the next spring.

Q Do you recall where it was when you first raised this

issue with Attorney General Gonzales?

A I don't.

Q Was it in person or over the phone?

A In person.

Q At his office?

A Oh, no. I don't think I was ever at the Justice Department except for his swearing in and his predecessor's swearing in.

Q And when you raised the issue, what was his response?

A He would look into it.

Q Did you raise it with him more than once?

A I think I raised it with him a couple of times.

Q And when you followed up the second time, what was the context in which you raised it?

A He would look into it.

Q How did you raise it with him the second time?

A I said have you done anything on the voter fraud? He said we are looking at it.

Q Did you raise it with him again?

A I don't know how many times I raised it with him. It could have been two times, three times, four times, I don't know, but over the course of several years.

Q Did you ever get more of a response than we are looking into it?

A No.

Q Take a look at Document 5, if you would. This is a May 14th, 2007, Washington Post article entitled Voter Fraud Complaints By GOP Drove Dismissals. Looking at the first couple paragraphs, the article states that five U.S. Attorneys were considered for dismissal, of whom four were actually dismissed, including Kansas City, Missouri, Milwaukee, New Mexico, Nevada, and Washington State were identified by you or other administration officials as working districts that were trouble spots for voter fraud. We talked about New Mexico and Washington already. We will get into the specifics later. But did you or other White House officials raise concerns about voter fraud in Kansas City, Missouri, Milwaukee, and Nevada?

A I don't remember any concern about Kansas City. There might have been concerns that people had about it. Milwaukee was a concern in both 2002 and 2004. My recollection was that the U.S. Attorney, though, and the local law enforcement actually took action. There used to be a special unit in the Milwaukee Police Department in fact geared towards this. And Nevada has been a consistent, persistent problem in Clark County with voter registration.

Q When you raised this issue with Harriet Miers or with the Attorney General, did you raise it in the context of specific U.S. Attorneys and what they were doing or not doing on the issue?

A No, except perhaps in the case of Iglesias, who I was well aware of the turmoil that there had been in the State in

2004. But otherwise I don't recall any reference to Graves or Kansas City or Biskupic in Milwaukee or any other attorney.

Q Turning to the second to last paragraph on the first page of that same exhibit, the article states that 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. Was that accurate?

A Yes.

Q In fact, the White House itself admitted that President Bush passed on complaints to the Attorney General about alleged vote fraud problems in Milwaukee, Philadelphia, New Mexico.

A Uh-huh.

Q Is that right?

A Yes.

RPTS WALKER

DCMN HOFSTAD

[10:00 a.m.]

BY MR. SCHIFF:

Q Do you know whether the Attorney General met with the President to raise the issue of voter fraud? Or the President met with the Attorney General to raise that issue?

A I'm not aware of it. I believe there was -- there is some document that I've seen that would imply that the Attorney General and the President visited about it in the Oval Office. I'm not -- I don't recall.

Q Was this a result of your raising the issue?

A I think this was a result of the President attending a Republican Senate luncheon at which the issue was raised, in 2006, I believe. I don't remember the exact date, but we went up to the Senate Republican luncheon, and this issue was raised to the President by members of the Senate caucus.

Q You were present for that caucus?

A I believe I was, yes.

Q And as a result of that issue being raised in the Senate caucus, the President met with the Attorney General?

A No. I believe that he was meeting with him on other purposes. Again, I was not in the meeting, but my recollection is, from the document that I saw, that it was a meeting on something else and the President brought it up to him. I believe

it was close in time to the meeting that he had had on the Hill.

Q Do you know whether the Attorney General took any action as a result of his meeting with the President on the issue?

A Not that I'm aware of. I wouldn't know.

Q When you spoke to the National Republican Lawyers Association in April of 2006, did you again raise the issue of voter fraud?

A Yes, I did.

Q And in that speech you raised concern about Milwaukee, Philadelphia, New Mexico, and Washington, correct?

A I don't remember Washington. I could have, because this was in the aftermath of the controversy over the recount in Washington State. But I do remember the others.

Q Other than complaints about voter fraud, did you pass on any other complaints about U.S. Attorneys before the removal of a number of U.S. Attorneys towards the end of 2006?

A I'm sorry, could you repeat that?

Q Other than the complaints about voter fraud, the issue of voter fraud, did you pass on any other complaints about U.S. Attorneys before the removal of several of them in late 2006?

A Yes. I passed on a complaint that Mr. Iglesias, it was purported, had mishandled a public corruption case, had not deferred to the career prosecutors, had been a little bit of a hot dog on it, had stepped in in both the indictment phase and in the trial phase trying to gain attention for himself, and didn't let

the career prosecutors -- and it resulted in a mistrial.

And then I passed on the complaint that he was appearing to, or was being accused of, sitting on an indictment for political reasons; that, in the winter of 2005 or 2006, no later than March, I believe it was, of 2006, that an indictment had been prepared or the case had been prepared for an indictment involving public corruption in the building of the courthouse in Bernalillo County, New Mexico, and that he had decided to sit on it for 9 months until after the election because he was afraid of the political ramifications.

Now, I was not in a position to determine whether or not these charges were actually correct, which is why I passed them on to the counsel's office, so they could be shared with Justice, and Justice could determine whether or not they were accurate. But there were persistent complaints about his performance.

And there were other U.S. Attorneys about whom I heard complaints. I was aware of Dianne -- Senator Feinstein's letter regarding the refusal of the U.S. Attorney in San Diego to file immigration cases. And I had been on the receiving end of complaints about the management and performance of the U.S. Attorney in San Francisco.

Q Let me go back to the Iglesias situation that you mentioned. You mentioned there were two other complaints you had passed on other than voter fraud: one that dealt with his handling of a corruption investigation; and one that dealt with a

courthouse construction case.

A Both of them public corruption cases.

Q Both public corruption cases. And tell me about the first one.

A To the best of my recollection, it involved the State treasurer of the State of New Mexico, both the then-serving treasurer and his predecessor. His predecessor pled guilty and cooperated, and charges were filed against the sitting treasurer for, in essence, a pay-for-play scam.

Q And the complaint you heard was that he didn't bring charges against this same person?

A No. The complaint was that he had interfered in the case, that he had mishandled the case, that they -- and, again, I'm not a lawyer, and this was some time ago, but my recollection is that the complaint was that, for example, rather than making a simple, easy case, he made it very complicated; rather than leaving it in the hands of the career prosecutors to carry the case forward, including making the arguments, that he insisted at critical moments in the trial that he make the arguments; that he basically interfered with the prosecution of the case, and, as a result, a mistrial was declared in the first instance.

It was then brought back to trial, and rather than -- I think they had several dozen counts. They got the State treasurer on several counts and 37 months or 30 months in prison. But, again, that he interfered with the case in order to gain publicity for

himself.

Q Do you know, were the targets of that prosecution Democrats?

A The State treasurer was a Democrat, and his predecessor was a Democrat.

Q The other case you mentioned where Mr. Iglesias reportedly held off on the charging decision, was the target in that case also a Democrat?

A I know one of them was a Democrat, but I don't know who all the targets were, no.

Q And the complaint you passed on was that he didn't act on it before an election?

A No, that he deliberately made a decision that, in a case that was ripe for indictment in the winter of '05 or early '06, that he would wait 9 months until after the election.

Q So the complaint was made that he didn't act on it before the election?

A The complaint was that he handled it in a political manner.

Q And the targets there were Democrats, also?

A As I said, one of them was. I don't know about the others.

Q All right. Had Mr. Iglesias brought those charges before that election, could that have had an impact on that election?

A I don't believe the Democrat in question was on the ballot, no.

Q The -- I'm sorry, what?

A I'm not certain that the Democrat in question -- I think he was now then a former legislator, not a current city legislator.

Q But corruption and indictment on corruption charges against a Democrat would have some impact on a close race, even if that particular party wasn't on the ballot, wouldn't it?

A Well, it strikes me that the question there is one of timing. I could see, for example, being critical of Judge Walsh filing an indictment against Cap Weinberger 3 weeks before the 1992 election. On the other hand, it strikes me that a prosecutor really ought to be thinking carefully about whether, 9 months, 12 months, 14 months before an election, he refuses to file an indictment that's ready to be filed because he's concerned about an election 9 months, 12 months, 14 months off is probably a bigger judgment call. You can almost always suggest that you're that close to an election.

Q Were you aware that some of the Republican elected officials in New Mexico called Mr. Iglesias to ask about the timing of indictments vis-a-vis an election?

A I was not aware until after it became public. But I was aware of their concerns because they were among the people calling me about it.

Q So they were -- these complaints that you passed on, these two other complaints other than voter fraud, were those complaints made by Republican elected officials in New Mexico?

A Senator Domenici and Congresswoman Wilson.

Q And did both of them raise these issues with you directly?

A Yes.

Q I'm going to ask you about that later, but you also mentioned that you passed on -- well, let me make sure I understood. You mentioned Carol Lam and the concern that Senator Feinstein had. Was that a complaint you passed on, or you're just familiar with Senator Feinstein's letter?

A I'm familiar with the letter.

Q Were there any other complaints that you passed on about specific U.S. Attorneys other than the ones you've related concerning voter fraud and these two other issues concerning Mr. Iglesias?

A I'm sorry, your question is confusing. Are you asking did I pass on to Harriet Miers or somebody at Justice Department complaints about other U.S. Attorneys besides Iglesias and Lam?

Q Besides Iglesias, Lam, and Ryan, as you mentioned, were there other --

A Ryan out in San Francisco, yeah.

Q -- were there other U.S. Attorneys to whom you passed on complaints to Justice or the White House Counsel's Office?

A Not that I recall.

Q How often did you participate in the Judicial Selection Committee meetings?

A I was not at every meeting. I attempted to be at a lot of meetings, but I would generally have a deputy sitting in unless there was a problem nomination being discussed.

Q And, again, Mr. Rove, anytime you want to take a break --

A Let's keep going.

Q Okay. How often --

A Appreciate your courtesy, though.

Q How often at the JSC meetings did the U.S. Attorney issue come up?

A Rarely.

May I ask a question? By "U.S. Attorney issue," do you mean the issue of replacing selected members of the U.S. Attorneys?

Q Yes.

A Rarely.

Q And I should clarify, I mean either the issue of wholesale removals or specific removals.

A I don't remember that the issue of wholesale removals was discussed much at all in the context of the JSC. By the time the JSC turned to it, it was an issue of the Justice Department reviewing it, and it took them some 2 years.

I mean, we discussed U.S. Attorneys during those 2 years, but

the ones we discussed were the ones who had resigned or, you know -- the ones who resigned or left under their own power that then had to be replaced. This was not an item that was routinely reported at the JSC meetings that I attended.

Q Who attended for you when you were not able to attend?

A Either Scott Jennings or Sara Taylor. I assume that you're talking about the period of 2005, 2006, and 2007.

Q Yes.

A And Tim Griffin, as well.

Q How often was Mr. Sampson at these meetings?

A I can't say because I wasn't at all the meetings. But I would say that he was generally there.

Q So, at the meetings that you attended, he was generally there?

A Generally, but I can't -- I can't be precise. It was a large group, and -- I would say most of them, yes.

Q Department of Justice records indicate that Mr. Sampson and Monica Goodling were scheduled to attend a political briefing that you led on September 5th of 2006. Do you recall that meeting?

A Nope.

Q Take a look at Document 8, if you would.

Mr. Luskin. I'm sorry, 8?

Mr. Schiff. Yes.

Mr. Luskin. Thank you.

BY MR. SCHIFF:

Q And if you turn to the third page, the last paragraph refers to September 5th, 2006, 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 will 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. 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 and Mr. Sampson, who are no longer Department employees, actually attended the briefing.

Do you recall what this briefing was about?

A This would be one of the periodic gatherings of several dozens of people hosted by their Office of Cabinet Affairs. And I suspect I would've given brief remarks to them and answered questions about the upcoming 2006 elections.

Q Can you be any more specific about what took place at this meeting?

A I can't. I don't recall it specifically.

Q Do you recall any of the briefings that you gave that were hosted by the Office of Cabinet Liaison in which Ms. Goodling was present?

A I don't recall. I'm sure she was present at some of them, but I don't recall. I don't -- I don't know.

Q So you can't recall whether you discussed removal or replacement of U.S. Attorneys at that meeting?

A I would doubt that I did. I don't recall, but I doubt that I did.

Q Do you recall being asked for approval of a U.S. Attorney removal plan at any point?

A Yes. At the tail end of this process, there was a -- when the list had been prepared by Justice Department, there was a plan which I believe I saw and which was run by my deputy.

Q Let's take a look at Document 9. This is dated November 15th, 2006. Subject of the e-mail from Mr. Sampson to Ms. Miers is "U.S. Attorney replacement plan," and the plan is an attachment.

Do you recall, is this the plan -- did you ever see this plan? Not necessarily the e-mail, but the plan that's attached?

In the e-mail, the second paragraph asks that the plan be circulated to Karl's shop. Do you recall this being circulated to you?

A I assume that it was. I don't recall seeing this document specifically, but I recall the general thrust of it.

Q Did you receive the e-mail that's the cover?

A Not that I recall.

Q Who asked you for your approval of the plan?

A Probably Sara Taylor.

Q And Sara Taylor worked in OPA?

A Yes.

Q She was the head of the OPA at that time?

A Yes. Well, I may be wrong about whether she was there -- this would be -- oh, she would be there in 2006.

Q Do you recall the conversation you had with her on this issue?

A No.

Q Do you recall any communications with Scott Jennings in your office concerning approval of the overall replacement plan in this same period, November-December 2006?

A No, but I'm sure we had a conversation about it. I do recall the general attitude of calls would be made, Senators would be called, we need to be thinking about what would happen if there were was pushback about them, and then we'd have to be prepared to do whatever is necessary, whatever we were called upon to do, OPA was called upon to do, to help identify prospects for replacement.

Q Who raised the issue of a potential pushback?

A I don't recall. Probably whoever -- Sara or Scott.

Q And who were they anticipating they might get pushback from?

A I have no recollection.

Q If you look at Document 10, the bottom e-mail was sent by William Kelley. He was the Deputy White House Counsel, is that right?

A Yes.

Q And it's sent, among others, to Jeffrey Jennings. Is that also Scott Jennings?

A Yes, it is.

Q And he worked for you in OPA?

A Yes.

Q In that bottom e-mail, it says, "DOJ is prepared to deal with public affairs issues that were raised." What public affairs issues were those?

A I have no idea.

Q It says, "Also, Scott, can I take your sign-off as Karl's, or should I raise with him separately?" Do you know whether Mr. Kelley raised this issue with you?

A I don't recall. He might have, but I -- you know, I would believe that Scott was more likely to have raised it to me, if he raised it.

Q But this wasn't something that Scott could sign off on on his own.

A No. In all likelihood, he talked to me about it. It's a reconfirmation of the earlier plan is what I read.

Q Is it possible the public affairs issues that were raised concerned the Charlton and Lam situations because of the Renzi investigation and Cunningham investigations that they were both handling?

A No.

Q Were those issues raised with you?

A Is it -- was Lam handling Cunningham, or was that being handled by the U.S. Attorney for Los Angeles, not San Diego?

Q Lam was handling that investigation.

A No.

Q Did anyone raise with you the political impact of removing U.S. Attorneys who were involved in investigations of Republican officeholders?

A No. And weren't those investigations complete at that point?

Q Did anyone raise with you the concern about removing Lam and its impact on the Cunningham investigation?

A No. I thought he was in prison by that time.

Q Did anyone raise with you the impact of removing Charlton and its impact on the Renzi investigation?

A No.

Q Did anyone raise with you the public appearance problems that might be created by removing two U.S. Attorneys who had been involved in high-profile investigations of Republicans?

A No.

Q There's also reference in this bottom e-mail -- it says, "We don't have any reason to believe that the U.S. Attorneys in question in Nevada and Arizona are close or important to their home State Senators." Do you know who that's referring to?

A No.

Q Mr. Kelley then asks whether we, apparently referring to the White House, are ready to stand strong in the face of political pressure, on the issue of replacing U.S. Attorneys. Do you know who he's referring to there?

A Well, I assume that when you replace a U.S. Attorney, there's somebody who's in favor of them.

Q And in the case of these specific U.S. Attorneys, do you know what he was referring to?

A No. I think it was a general question, not a specific one.

Q So you never had a conversation with anybody at OPA or White House Counsel about what the political pressure might be with respect to these U.S. Attorneys?

A Those specific two U.S. Attorneys?

Q Yes.

A No.

Q How about with respect to others who were on the list to be replaced?

A I believe we had general discussion about was there going to be pushback, and the answer was, yes, there was going to be pushback, which is why, were you recommending these people -- was it necessary to replace these people.

Q In which cases, which dismissals, were you anticipating pushback?

A Every one of them. Everybody's got friends.

Q Well, were there any in particular where the concern about pushback was the greatest?

A No, not that I recall.

Q Do you recall discussing with Mr. Jennings actual or expected vacant U.S. Attorney slots around this time? That would be around the end of 2006.

A Whenever the plan is finalized and there is a list, yes, I'm confident we had discussions. I don't recall specifically, but I'm confident we did.

Q Take a look at Document 11. The bottom is an e-mail from you to Scott Jennings. Subject: "Give me a report on what U.S. Attorney slots are vacant or expected to be open soon." What prompted you to send him that question, or that inquiry?

A Well, it's -- I can't recall.

Q Was there somebody in particular you were trying to find a spot for at that time?

A No.

My view on U.S. Attorneys, incidentally, just for your information because you've alluded to this several times before, I believe that U.S. Attorneys, to the greatest degree possible, ought to be drawn from the geographical area.

So when you talk about -- you've several times alluded to "find a place for," this assumes that the policy is that you take somebody from anyplace in the country and put them into some other slot in the country. And my view is -- and I think it was the

President's view -- was that it was best if the U.S. Attorneys came from the geographical region that they then served.

Q Although, under some circumstances, it would be advantageous, wouldn't it, to get someone from outside who is not seen as being affected by the political pressures within a State?

A That happened several times, yes. It was not the norm.

Q Mr. Jennings states that the request to report to you would be lengthy. Was that report provided to you in writing or orally?

A I suspect it was orally.

Q Even though it was a lengthy report?

A Probably. If it was in writing, it would be in here.

Q You don't recall getting a written --

A I don't.

Q -- list of either vacant slots or those that might be vacant?

A I do recall that, over this period of 2005-2006, that I learned not to pay any attention to any discussion about lists that were coming out of Justice until the list was the list. This is 10 days after the list has been provided.

Q I'm sorry, what list are you referring to?

A November 25th, 2006, is 10 days after the Justice Department list has been provided to the White House.

Q And how do you know that?

A Because there's an earlier e-mail of transmittal.

Q If you are -- did you receive that list of --

A No. I just -- this is the November 15th e-mail that you referred to, which is Tab 9. Obviously, by the 25th, 10 days later, I still haven't been shown the list that is in Tab 9 that you asked about earlier.

Q Now, the list that you're referring to, is that a list of -- which list are you referring to when you say --

Mr. Luskin. Mr. Schiff, I think he's referring to Exhibit 9 that you showed him a few minutes ago, dated November 15th, 2006, which contains the names of certain U.S. Attorneys who were intended to be replaced. I think that's what he's referring to.

BY MR. SCHIFF:

Q Now, I thought you stated that you had seen the plan for replacing certain U.S. Attorneys, Mr. Rove. Did you say that?

A No. I said that I had been informed of the plan. I have no recollection of seeing that memo. But I have a -- I said I had a recollection of the points being discussed here in the memo.

Q So you don't recall ever seeing this plan for replacing certain U.S. Attorneys?

A As I said earlier, no, I don't remember seeing Tab 9.

Q And I'm not referring to the e-mail that's the cover of Tab 9, but the actual plan itself.

A That's what you asked about earlier, and I said I had not seen the attachment.

Q So when you approved the plan, you approved what people had represented to you orally about the plan?

A Yes.

Mr. Luskin. I don't want to interrupt your flow, sir, but perhaps at some convenient point we can take a break.

Mr. Schiff. Sure.

Mr. Luskin. Finish your line of questioning. I don't want to interrupt.

BY MR. SCHIFF:

Q And when you were given the oral report about this plan around November 15th, 2006, didn't that include a report on who might be replaced?

A Again, in my mindset, it's important for you to understand here. As I said earlier, my view is these were determinations to be made by Justice. The White House didn't have the tools to make these decisions. This was up to Justice Department to determine who they would recommend to the President be replaced.

It was our job, once that decision was made, to do two things: help defend the decision and then help in the process to find appropriate replacements for them.

Q Still, that doesn't answer my question. When the oral report was made to you around November 15th of 2006, weren't you told who was on the list of people to be replaced?

A I don't recall if I was. I might have been, but, again,

obviously by the 25th of November, if I had been informed, I'm asking who it is. I think my recollection is that it generally was they were coming over with a list, here's what we're going to need to be prepared to do, they want us to be prepared to help defend these, they will let us know where they're going to be, and we need to be prepared to help find new recommendations, and we will be well-organized to do that. I would suspect that was the nature of the report I received.

Q Is it possible, Mr. Rove, that you would've approved the plan for replacing certain U.S. Attorneys without knowing who they were?

A Absolutely. Again, that's why I said it was important to know my mindset. This was Justice Department's recommendation to make. Again, we showed great deference to the Justice Department in these matters. We also showed deference to agencies and departments about should we replace the Deputy Assistant Secretary or whatever.

But we particularly showed deference to the Justice Department when it came to replacing the U.S. Attorneys. That's why the process had been conducted by them over the course of 2 years. That was their pace, that was their process.

Q So, Mr. Rove, it's your testimony that when you gave the approval for the replacement of certain U.S. Attorneys, you did so not knowing who they were?

A My -- my -- the question to me was not did I give

approval to the U.S. Attorneys. That was the decision for the Justice Department to recommend to the President, with the Counsel's Office serving as the principal source of advice to the President to accept or reject that.

My role was a more limited role, which was: what do we need to do to in order to organize ourselves to withstand any kind of political pressure that might come back from the Hill or out in the hinterlands and, more importantly, to make certain we could move expeditiously to make all the kinds of phone calls and put all the kinds of lines in the water and do all the kind of legwork that needed to be done in order to make certain there were a broad pool of qualified people from whom the Judicial Selection Committee could pull recommendations for the President.

Q Well, let me just go back to Document 9. This is, again, the e-mail from Kyle Sampson to Harriet Miers and Mr. Kelley. Subject matter: "U.S. A. replacement plan." The second paragraph says, "We'll stand by for a green light from you. Upon the green light, we'll, number one, circulate the below plan to the list of folks in step three (and ask that you circulate it to Karl's shop)."

This is the list of folks who are planned to be replaced. And I think you testified earlier, did you not, that you approved the plan; am I right?

A Yeah. Well, let me draw attention to the paragraph above, if I could. "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."

In the paragraph you drew attention to, it says, upon the green light, "We'll stand by a green light for you," he's saying to Harriet Miers. "We'll circulate the plan to the list of people, a list of folks in step three, and ask that you circulate it to Karl's shop." He's not saying circulate it that day. He's saying, we will stand by for a green light from you.

I don't know when the green light was given. All I know is that, by the 25th of November, I'm saying to Scott, who do we have to replace or who's coming up to be replaced?

Q What I'm trying to ask, Mr. Rove, then, is, between November 15th when this plan is circulated and November 25th, had you signed off on the plan to replace U.S. Attorneys?

A If -- do you mean by that sign off on the individual names? Made a determination as to whether or not I thought those individuals should be replaced?

Q Yes.

A No. That wasn't my role.

Q Looking again at that same e-mail, point 3, it says, "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 three. 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."

Doesn't that indicate that the plan was very individual-specific? How could you approve the plan without knowing who's in it?

A Congressman, with all due respect, I take that as a general question; are we willing to withstand the political pressure? And, again, as I said several times before, my attitude was if they said that they ought to be replaced for good reason, we ought to withstand it.

As you can see, I don't give a -- you know, sometime between the 1st of December and the 4th of December, if I would draw your attention to Tab 10, Bill Kelley sends to Scott Jennings and others saying, are we ready to move ahead? That's on the 1st -- excuse me, the 30th of November. On the 1st of December, he says to Scott, "Scott, did you get this?" leaving the impression that he's not heard from him. By the 4th of December, Scott replies to him, saying, "Yes, I think we're fine to move ahead." So sometime between the 1st of December and the 4th of December, he obviously talks to me, and I say we're ready to go.

I don't think, however, that that involved a specific review of the individual names. Again, I did not consider that my role. That was Justice Department's role. Frankly, this was a very small part of a very busy schedule. I wasn't involved with making

decisions about individual U.S. Attorneys.

Q So you don't recall prior to the actual terminations ever giving your sign-off to the specific list of U.S. Attorneys to be replaced?

A Correct. It was not mine to approve or disapprove.

Q Weren't you interested to know whether the complaints that you had passed on were given effect by their inclusion on the list of U.S. Attorneys to be removed?

A It was up to Justice to -- again, my mindset was I received the information, I could form an opinion about it, but the conclusive and dispositive judgment belonged to Justice Department, who had the tools to analyze whether or not these complaints were real. I didn't. They had the ability to check and see were the things that were being said about the Bernalillo Courthouse case accurate. They had the ability to check in ways I didn't and did not want to have to see if Mr. Iglesias had mismanaged the State treasurer public corruption case. I didn't.

Q As the supervisor of the Office of Political Affairs, as the President's chief political advisor, who would know better than you what political impact, what pushback you could expect to receive from the specific list of U.S. Attorney firings?

A That assumes that you're going to make a decision based on political pushback and not on what you think is the right thing to do from a performance standard. And we were geared toward the latter, not the former, Congressman.

Q Why, then, was the plan being circulated to you? What impact --

Mr. Luskin. Will all respect, asked and answered now three times, Mr. Schiff. He said three different times why he thought that he was involved and what he proposed to do, and asking it a fourth time really only goes --

BY MR. SCHIFF:

Q Why were you being asked to sign off on it?

A As I said three times before, in order to be prepared to help handle the political pushback and, second of all, to help when there were vacancies to help cast a broad net for qualified people to serve as replacements.

Mr. Luskin. Would this be a good time to break, sir?

Mr. Schiff. Sure.

[Recess.]

Mr. Rove. Before you start, let me make certain -- I want to clarify one thing. I don't want to leave the appearance that I was indifferent to who was on the list. I wasn't. It just wasn't mine to approve the list. It was mine to make sure we were ready to execute whatever the plan called for us to execute, in terms of supporting the decision and helping identify the replacements.

But, you know, I don't know when I was told who was on the list, but I wasn't indifferent to who was on the list. Obviously, I had passed on complaints about Iglesias which I had come to believe over time were justified. If they were accurate, it would

seem to me to be worthy of the -- worthy of replacing that particular U.S. Attorney.

So I'm interested, but I'm also -- you know, recognize it's not my list to present, not my list to approve. But I'm not indifferent to who's on the list.

BY MR. SCHIFF:

Q Let's talk about Mr. Iglesias. When do you first recall hearing or communicating complaints about him?

A There was some concern about 2004, which it was primarily surfaced after the 2004 election. I was aware of the controversy regarding election problems -- registration and Election Day problems in 2004, but I think the complaints about how he handled it surfaced mostly after the election, particularly when there was no steps taken after the election to deal with the complaints that emerged during the election.

Q And who raised the complaints with you before the election?

A I was aware generally of the media coverage. This was provoked by a vice cop holding a news conference displaying the registration card received in the name of his 15-year-old son and, like, the 13-year-old neighbor -- I may be off on the ages of the children, but clearly pre-18-year-old offspring had been registered illicitly.

And this kicked off a flurry of activity in July and August, I recall, of 2004. I believe it was July and August. It

culminated in a pretty tough editorial by the afternoon newspaper, the Tribune, and a lot of media coverage about illicit registrations that had been -- and then this resurfaced in October when the same vice cop went on a drug raid and arrested a drug dealer who was in possession of registration cards and absentee ballots and absentee ballots requests.

Q Well, what you're describing are instances of voter fraud that came to public attention before the election, right?

A Uh-huh.

Q They weren't necessarily complaints about Mr. Iglesias, were they?

A No. That's why I said the complaints surfaced after the election. What I recall is that, after the election, people were complaining that his attitude was he had -- there was nothing that he could do about it, nothing in retrospect that he could do to make an example of even the drug dealer in possession of illicit registration cards and absentee ballots and absentee ballot requests, who turned out to be a Cuban national.

Q Do you recall any complaints about Mr. Iglesias before the election?

A I don't. But, look, you know, again, realize there were 93 of these, and over the course of 7 1/2 years I think I got complaints -- I recall complaints about him, a handful.

Q Well, I was impressed earlier that you remembered a potential vacancy, in one of the 93, in Arkansas.

A That was because I had a deputy who was -- who was from the Eastern District of Arkansas, whom I thought would be superb for that job.

Q When did you first hear complaints about Iglesias after the election then?

A After the election. I can't be any more precise than that.

Q Well, who first raised with you complaints about Mr. Iglesias?

A I can't recall that either. I assume somebody involved in either the campaign or in the State politics. It may have been Senator Domenici or his staff. I just simply don't recall.

Q Did you speak with Senator Domenici about Mr. Iglesias shortly after the election?

A I don't recall. I did speak with him over the years about him. I had a cordial relationship with Senator Domenici, and he frequently called me on a wide variety of issues. I do recall talking to him explicitly in 2006 about Iglesias's handling of the treasurer's contest, the treasurer's case, and the courthouse indictment.

Q But you don't know whether he was the first one to raise this issue with you?

A I don't. I doubt that he was.

Q What's your best recollection of who the first complaints came from?

A Congressman, that would be wild speculation on my part. I just simply don't recall.

Q Well, who, at any point, among the Republican Party officials in New Mexico, excluding the elected officials for the moment, who among the Republican Party officials raised complaints to you about Iglesias?

Mr. Luskin. At any point in time, sir?

BY MR. SCHIFF:

Q At any point after the 2004 elections.

A Over the next 3 years, Allen Weh, the State party chairman; Mickey Barnett, a lawyer in Albuquerque; Senator Domenici; Congresswoman Wilson; Senator Domenici's chief of staff, Steve Bell; Scott Jennings, who had been in the State as, I believe, the executive director of the Bush campaign in the State in '04. And then when I was out there I would hear scattered complaints from, sort of, party activists or from people at events.

Q Any other specific folks other than those six that you just mentioned?

A I'm sure there are others, but I don't recall. Perhaps the executive director of the party who, in 2004, was Greg Graves. But I don't recall who else.

Q Do you know whether OPA received -- others at OPA received complaints about Mr. Iglesias from additional parties?

A I wouldn't know, but I wouldn't be surprised since,

again, Scott Jennings was in the Office of Political Affairs and had been the executive director of the campaign in the State in '04 and was well-connected with a wide variety of people out there.

Q In 2005, based on these complaints from New Mexico Republicans, did your office -- did you or your office consult with White House Counsel to recommend Mr. Iglesias's removal?

A No, but it's clear I'm suspicious of the guy. And, again, I do pass on the complaints with the hope and the expectation that they will be looked at by Justice and a determination made whether there was an appropriate Federal interest in these cases that was ignored or not.

I assumed from the fact that they did not take any action that they at that time thought there was no Federal interest. Or at least that's what I thought at the time.

Q I'm sorry, that who thought there was no Federal interest?

A Justice.

Q Did you reach a decision in 2005 with White House Counsel that Mr. Iglesias would be removed after his 4-year term expired?

A Not that I recall. 2005? No.

Q Let's turn to Document 12. This is an e-mail from May 2nd to Tim Griffin to Leslie Fahrenkopf.

A It begins, however, in an e-mail that -- is this the one

that Scott Jennings to Tim Griffin is the beginning document at the bottom?

Q Yes. Yes. And then Mr. Griffin's -- I'm sorry, Mr. Jennings's e-mail to Mr. Griffin, it begins: "Here's the info you wanted on David Iglesias, the New Mexico U.S. Attorney. Please let me know what else can I 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." He then goes on to outline complaints from Republican attorneys Pat Rogers and Mickey Barnett, relates a discussion with GOP attorneys.

This was in May of '05. Did you receive this e-mail?

A I didn't. Obviously, Scott had strong feelings about this, having been involved out there. And, from the review of the documents, he was freelancing a little bit here, apparently. And you will notice the response from Griffin is to send it to Leslie Fahrenkopf as an FYI.

But it's clear Scott, from reading this, "please let me know what else I can do to move this process forward," he's clearly trying to get Iglesias out.

Q And why is this being sent to Tim Griffin?

A That was his boss inside OPA. Griffin was the deputy director of the office. His job -- Sara Taylor was his superior, then there was Tim Griffin, and then Scott Jennings was underneath that. And then when Tim Griffin was sent to Iraq as the JAG

officer in Mosul, Scott Jennings took his place.

Q Why was this an issue of interest to OPA?

A I think it was more of an interest to Scott Jennings. Having been the executive director of the campaign there in '04, he had strong feelings about Mr. Iglesias.

Q What was Mr. Griffin's job at this point?

A As I just said, he was the number two in the office, Deputy Director of the Office of Political Affairs. Sara Taylor was ahead of him. Tim Griffin was number two. Scott Jennings was beneath him.

Q Do you know why Mr. Griffin wanted the information on Mr. Iglesias?

A Again, I don't think that he wanted it. I think it was that Scott Jennings would raise the issue with him and then -- and then probably -- again, I don't know, but I suspect Tim said, give me the information, whatever you think I need to look at.

Q Well, the beginning begins with --

A "Here's the information you wanted --

Q -- "Here's the information you wanted on David Iglesias."

A Again, I was not privy to the conversation, but just in general tone and knowing what I know about Scott feeling strongly about this, I would suspect -- and also by the conveyance to Leslie Fahrenkopf, just FYI, that this was something that being provoked by Griffin -- not being provoked by Griffin but being

provoked by Jennings below him.

Q And this information, which consists largely of complaints by Republicans about Mr. Iglesias not raising voter fraud cases, not pursuing them, do you know whether you had heard complaints about Mr. Iglesias prior to this?

A As I said, I began to hear concern about his lack of activity after the 2004 election. I would remind you this was not merely Republicans. The afternoon newspaper, the Albuquerque Tribune, opined on this, and the local media gave a lot of coverage to the illicit registrations that were found in the period of July and August.

Q But the press articles weren't complaining about Mr. Iglesias, were they?

A My recollection is the editorial called for tough action, yes.

Q But these were specific complaints about the U.S. Attorney, right?

A I believe they called for tough action by the U.S. Attorney, yes. I could be wrong on that.

Q They weren't calling for the U.S. Attorney to be replaced, were they?

A No. They were calling on him to take action.

Q Mr. Jennings's e-mail also indicates that he wants to move this process forward and asks about possible replacements. Does that indicate that, as of May of '05, the process was in

motion to replace Iglesias?

A I think that's reading a little bit too much into it. You left out an important phrase. He said, "Is it too early to formulate a list?" Even in Scott's own mind, where he's enthusiastically trying to get Iglesias removed, even he is unclear. He's trying to press the issue.

Again, I'm not aware of this at the time. I'm just looking back at this and seeing the flow of memos here, and it's clear, you know, that Scott had strong feelings and he's trying to press the issue inside OPA.

Q Did you have any knowledge of whether, in May of '05, there was a process moving forward to replace Iglesias?

A No.

Q Do you know whether Iglesias was, in fact, at this time, viewed as a star performer by the Justice Department?

A I have no idea. I had no idea at the time.

Q He wasn't --

A There was no -- if I could finish my answer. There was no -- I'm not aware of Iglesias -- I am not aware of any specific name being on any specific list at the Justice Department at this time about replacement. There's a process under way. When it's going to conclude is unclear to me.

Q Well, I'm not asking about a specific list at this point.

A Pardon me, sir, you did ask me about whether or not I

knew if Iglesias was being scheduled for replacement. I'm giving you a specific answer to that: No.

Q Well, Mr. Rove, I asked you not whether he was on a list; I asked you whether there was a process moving forward to replace him.

A And I said, no, not that I was aware of.

Q So, at this point in May of '05, neither Mr. Griffin nor Mr. Jennings communicated with you the idea of seeking to replace Mr. Iglesias?

A Not that I'm aware of. But, again, let me be clear about this. Over the course of time -- and I can't tell you the moment that it happened -- but over the course of '05 and '06, I have personally become convinced that, if the things I am being told are accurate, he's worthy of being replaced. Not one single thing, but a cumulative of lack of action on the U.S. Attorneys, potential mishandling of the public corruption case involving the State treasurer, and treating an indictment in a very political manner that should have been treated outside of politics.

Q Well, those other two issues you mentioned, apart from the voter fraud, when did you become aware of them?

A 2006.

Q So, in May of 2005, you weren't aware of those other issues?

A Correct.

Q So, if a process was moving forward to replace Mr.

Iglesias, it didn't have anything to do with those other issues, as far as you knew?

Mr. Luskin. He's now said three times -- Mr. Rove has now said three times that he was not aware of any such process, Mr. Schiff.

Mr. Schiff. I know. That wasn't my question.

BY MR. SCHIFF:

Q If there was a process moving forward to replace Mr. Iglesias in mid-2005, it couldn't have been based on these other allegations that didn't come to your attention until 2006, right?

A Congressman, I'm not aware of any such process under way in 2005, nor am I aware of -- well, let me just leave it at that. I mean, otherwise it's a hypothetical. I am not aware of any process in 2005.

Q Did Mr. Jennings or Mr. Griffin have the authority on their own, without consulting or notifying you, to seek to replace a U.S. Attorney and communicate with the White House Counsel's Office about it?

A They had the authority to communicate with the White House Counsel's Office, yes. I didn't need to have every piece of information that they received pass through me in order to go to the Counsel's Office.

Particularly, remember, these are involved in dozens and dozens of judicial nominations that go through the Judicial

Selection Committee. So, literally, they are giving input back from Members of Congress, governors, elected officials, local lawyers who know potential nominees to the judiciary. They're passing these back on a regular basis to the Counsel's Office. I didn't need to know about each and every of those. I would be periodically briefed about the summation of their research.

Q So the answer is yes?

A Yes, they would be able to talk to members of the White House Counsel's Office.

Q Would they be able to put in process an effort to get rid of a U.S. Attorney without bringing you in the loop?

A They couldn't. And that's why there was no process.

Q The e-mail from Mr. Griffin to Leslie Fahrenkopf states, "FYI, as discussed." Do you have any information about that discussion Mr. Griffin had with Leslie Fahrenkopf?

A No, not that I recall.

Q Let's turn to Document 13. The bottom e-mail is from Leslie Fahrenkopf to Harriet Miers. This is May 12th, 2005, roughly 10 days after the last e-mail we discussed.

In Ms. Fahrenkopf's e-mail, at the bottom, it says, "Harriet, per our conversation last week regarding the U.S. Attorney for New Mexico, David Iglesias, I double-checked the dates of Iglesias's confirmation and appointment. He was confirmed October 11, 2001, and appointed by the President October 16, 2001. You also asked me to remind you to check the chart grading U.S. Attorneys on

their performance. Thanks."

The e-mail just above that, dated June 9th, again from Fahrenkopf to Miers, says, "Harriet, I just wanted to follow up on this item to see if you wanted to take any action. You will recall that this is the individual who is ruffling some feathers in New Mexico."

And the top e-mail on that page, from Harriet Miers to Leslie Fahrenkopf, she replies later that afternoon, roughly an hour -- well, less than an hour later, "I believe the decision is to let his 4 years run and then appoint someone else, if this is the right case."

Did you talk to Ms. Miers or anyone else in the White House Counsel's Office at that time about Mr. Iglesias?

RPTS JOHNSON

DCMN MAYER

[11:02 a.m.]

A I have no recollection.

Q Do you have any information on this decision to appoint someone else in Mr. Iglesias's place?

A First of all, I would read that as, "and then appoint someone else if this is the right case."

This seems to me to have two dependent clauses here. So I don't read this as saying that a decision has been made to replace him. It is -- I think the decision is to let his 4 years run and then appoint someone else if this is the right case.

So I don't read this as a decision being made. I certainly was not aware that a decision had been made in June of '05 to replace David Iglesias.

Q Are you aware of any other case in June of '05 where a decision had already been made to let someone's term run and then replace them?

A Not that I am aware of. It could have been that the Cummins was being thought that way. But again, these are decisions that are not routinely decisions that I am part of making. I mean, you know, no one comes to me and says before we make a decision about an individual U.S. Attorney we want your judgment, do we have permission to do this. That is not the way

the system worked.

Q Would the decision normally be made in the White House Counsel's Office to replace a U.S. Attorney?

A No. My suspicion is that it is a conversation between the Counsel's Office and the Justice Department, and then a joint recommendation framed to the President.

Q Do you have any personal knowledge of whether in June of 2005, at the time Ms. Miers states, I believe, the decision is to let his 4 years run and then appoint someone else -- if this is the right case -- whether anyone at the Department of Justice was recommending that Mr. Iglesias be removed?

A I have no personal knowledge of that.

Q And do you recall having any conversation with Harriet Miers at this time or prior to this time about whether Mr. Iglesias should be removed?

A As I said earlier, I do have concerns after the 2004 election. Exactly when I expressed those to Harriet, I am not clear. I don't know whether it was June 9th. I don't know whether it was March.

I think it was probably earlier than June, my concerns about his inaction on the voter registration, voter fraud questions, yes.

Q So your best recollection is that you probably did discuss this with Ms. Miers before this e-mail?

A I would be hard pressed to give you a specific, but my

sense is it would be before this, yes.

Q Did you tell Harriet Miers that you wanted him gone?

A No. I had doubts about why he was -- why was he refusing to do this. But again, as I have said before, I got information which allowed me to form a personal opinion. But I knew there was a big difference between my personal opinion and what might actually be the case, and that I did not have the tools to identify in this case whether there was a Federal interest, whether he acted appropriately, whether there were things he should have done.

Those were questions that were more accurately answered at the Justice Department. And, you know, I didn't have the ability to answer those questions and didn't want the ability to, nor did I ever directly or indirectly attempt to influence a case at the Justice Department.

So the question was, was this appropriate behavior on his part? The answer had to come from within Justice.

Q And prior to this e-mail of June 9th, did you discuss with the Justice Department your desire to remove Mr. Iglesias?

A No. And again, I am not certain you are characterizing it accurately.

As I said earlier, I don't know exactly when my opinion went from being, Hey, I am worried about this guy not following up on this to, I think this guy has done enough, failed enough, to be replaced. I suspect it is somewhat later than June of 2005. I

think it is more likely after I began to hear these other additional complaints.

And again I repeat, I am hearing things, they are enough to allow me to form an opinion based upon who I am hearing them from and the information I am being given, but I readily recognize I don't know everything, and that it is Justice that has the tools to identify whether or not these allegations are accurate or not.

Q But at some point you reached the decision yourself that you thought he should be replaced?

A A decision implies, you know, an ability to act. At some point I developed an opinion that he ought to go. But that was my opinion, and I recognize the difference between my opinion and a decision.

Q And who did you communicate your opinion that he ought to go with?

A I don't even know, probably Harriet at some point. But you know, 2006, 2007 -- 2006. I don't know.

Q Now, I think you said or you made no attempt to verify the validity of the complaints with the Justice Department in terms of the voter fraud issue.

A I am sorry, I don't -- I am not certain --

Q You made no effort to verify the validity of the complaints against Mr. Iglesias with the Justice Department, did you?

A Meaning, did I reach out to the Justice Department and

ask them whether or not this was accurate?

Q Yes.

A I did not.

Q Do you know whether anyone at the White House made any effort to verify the validity of the complaints regarding his lack of priority on voter fraud cases?

A I assume it was passed on and a review, whatever kind of appropriate review, was done at Justice.

Q But you don't know whether the White House Counsel ever did that?

A I have confidence in my former colleagues that I suspect they did follow up on it, but I can't tell you for certain. You would have to ask them.

I did raise it with Judge Gonzales, as I said earlier.

Q Your decision, though, your opinion that you expressed that he should be removed was based on the complaints that you heard from Republicans in New Mexico?

A That I heard from Senator Domenici, Congresswoman Wilson, and a variety of people in New Mexico, yes. And by reading the information available in the public sources, including the editorial, 2004 editorial.

Q Let's look at Document 14. This is an e-mail chain. If we start at the bottom, we have an e-mail from Scott Jennings to Tim Griffin, dated June 28, 2005, subject matter, New Mexico U.S. Attorney:

"I would really like to move forward with getting rid of New Mexico U.S. Attorney. 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."

Do you know what codel he was referring to?

A I assume codel means congressional delegation? I assume he is meaning the New Mexico delegation, but I don't know specifically. I am just making that assumption from reading it on the surface here.

Q Do you know what he was referring to by saying, "We are getting killed out there"?

A No. I assume that he is referring to -- I don't know what it is. Reading it again, I assume what that means is, people are complaining.

Q Does it mean people are complaining or does it mean that there is an excess of Democratic registrations?

A I have no idea. In my mind, we are getting killed out there means he is not doing a good job and people are complaining. The codel, they are really angry over his lack of action.

Q The e-mail from Mr. Griffin replying to that a few minutes later says, "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."

Is that accurate? Was it ultimately the President's decision whether to get rid of a U.S. Attorney?

A Sure.

Q And, in particular, Mr. Iglesias?

A This power resides with the President.

I see this as a brushback. I see Tim Griffin telling a subordinate, I understand, not that easy, this is the President, not you, who is in charge, and I will check on this.

I see this as a brushback pass.

Q But was this true not only figuratively but literally, that the President would have to approve the removal of Iglesias?

Mr. Flood. I object with respect, so the record is clear, to the figurative-literal distinction. There isn't anything figurative about Presidential powers. And there isn't anything figurative about specific facts about who makes decisions or who gives concrete approvals. And I think it is potentially very misleading. It can't fail to be misleading.

BY MR. SCHIFF:

Q Let me ask you again, Mr. Rove. Was this correct, that the President would have to personally want to get rid of Mr. Iglesias for him to be removed?

A The President would have to approve any recommendation given to him.

Q So the President would have to review a list of who wanted to be -- who was proposed to be removed for them to be removed?

A The President would have to make a decision about any recommendation given to him by the Justice Department, or the Justice Department and the Counsel's Office in this case.

Q So he would need a review the specific list --

Mr. Luskin. Asked and answered now three times.

Mr. Schiff. Well, it wasn't answered, with all due respect.

Mr. Luskin. It was answered twice, sir.

Mr. Schiff. The fact that Mr. Rove speaks doesn't mean he is being responsive.

Mr. Rove. Sir, with all due respect, I have said it would be up to the President to make that decision. I can't be any clearer than that.

Mr. Schiff. I just want to make sure we are saying the same thing?

Mr. Rove. I am not certain we are, sir, because you keep repeating the same question.

BY MR. SCHIFF:

Q That is why I am repeating. Would the President have to review the specific list of U.S. Attorneys proposed to be removed in order for them to be removed?

A The President would have to make a decision about recommendations made to him. He would have to say either, I accept the recommendations or do not accept the recommendations.

Q So your answer is yes?

A My answer is as I stated it.

Q Did the President review a list of U.S. Attorneys who were proposed to be removed?

Mr. Flood. Mr. Rove, I ask you not to answer that for a moment while I consider the question. If you have an awareness -- if you know the answer to that, yes or no.

We need to go slow here. We are getting into a privileged area.

Mr. Rove. I don't know.

BY MR. SCHIFF:

Q Would it be necessary for the President to review that list in order for them to be fired?

Mr. Luskin. Asked and answered.

Please, Mr. Schiff, he has now given --

Mr. Schiff. If Mr. Rove can just answer yes or no, we will be done with this question.

Mr. Luskin. No -- he answered -- is his answer, sir. And your request for a yes or no --

Mr. Schiff. His answer hasn't been completely responsive.

Mr. Luskin. His answer has been entirely responsive. And you simply do not have the right or any expectation that he will deliver a yes or no to any question that you ask.

You asked the question. He gives you his answer, sir.

Mr. Schiff. I am happy to do that, but if you want to move quickly, the more direct --

Mr. Forbes. I think it is more --

Mr. Schiff. Excuse me, the more direct the answer, the quicker we can move through this. I have let Mr. Rove go on at length whenever he chooses to, and I will continue to do that. It is just we will take a longer time.

Mr. Forbes. Let me go on the record now saying, too, let's take as long as we want to, because he has answered your question. You just don't like the answer that he has given.

And we will take all day long, but he is not going to give you the answer that you want him to answer. He is giving you the correct answer. And I think we need to take as long as we need to take.

But I think you need to answer the truth, and not just what Mr. Schiff wants you to answer.

Mr. Schiff. I just want you to be responsive to the question, Mr. Rove.

Mr. Rove. I am being responsive to the question, sir.

Mr. Schiff. Okay. Let me ask you one more time and see if you can answer it as precisely as possible.

BY MR. SCHIFF:

Q In order for U.S. Attorneys to be removed, would a list of U.S. Attorneys have to be put in front of the President?

A The President would have to make a decision about the recommendations made to him by the Justice Department and the Counsel's Office.

Q Looking at the e-mail just above that in the chain from Tim Griffin to Leslie Fahrenkopf, "the New Mexico U.S. Attorney" --

Mr. Luskin. Just one second. Mr. Rove is getting some more water. I want to make sure he hears your question, sir.

Thank you.

BY MR. SCHIFF:

Q "Is the New Mexico U.S. Attorney even on your radar screen? I think we discussed" -- and I assume that is "his performance" -- I have got a hole in the paper there -- "at some point. See below. Thanks, Tim Griffin, TG."

And the reply from Leslie Fahrenkopf to Tim Griffin is, "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."

Did Harriet Miers tell you that she wanted to wait until his, Mr. Iglesias's, term was up in 2005 before replacing him?

A I don't recall. That would have been normal for her to say that we should wait until the terms are up before we make a decision, but I don't recall any specific conversation.

Q Did Mr. Griffin ever communicate to you that Harriet Miers had made the decision that she wanted to wait until his term was up in October of 2005 before removing him?

A The answer to the question Mr. Mincberg gave to you is, "I don't recall." I assume that he probably did at some point, but again I don't recall.

Q Did anyone else raise that with you?

A Not that I recall.

Q Let's turn to Document 15. This is an e-mail, string of e-mails, at the bottom beginning with one from Allen Weh to Scott Jennings that you were CC'd on, along with among others, Steve Bell in Senator Domenici's office.

Mr. Weh writes, "We discussed the need to replace the U.S. Attorney in New Mexico 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."

Can you tell us what you know about Mr. Weh?

A Allen Weh is a career military officer who, following his retirement, established an aircraft leasing business in Albuquerque, New Mexico, where he lives, and was subsequently elected Republican State chairman for two terms. He is now a candidate for governor.

Q Is he a friend of yours?

A He is a good friend of mine.

Q You have known him for a long time?

A I have known him for 6 years -- 8 years.

Q The e-mail just above that from Mr. Griffin to you, this

is dated August 9th, the same date as the e-mail below, subject, U.S. Attorney New Mexico:

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

Did you talk with Mr. Griffin about this at the time of these e-mails?

A Not that I recall, but I do give him direction to talk to the Counsel's Office, which I read as, pass on Allen Weh's complaint.

Q And that is an e-mail just above, where you write to Tim Griffin to talk to Counsel's Office, correct?

A Uh-huh. Yes.

Q And he replies that that is done. And you reply to that, "Great." Correct?

A I may be replying actually to the Michael Hook. That was a separate issue, setting up a meeting with he and Representative Kelley. This was, I believe -- I could be wrong on this, but I believe this is a question of a White House staffer who needed to get -- smooth out something with a Member of Congress.

Q This is the Michael Hook issue?

A Yes.

Q Do you know whether this was the first communication you had heard from Mr. Weh or other New Mexico Republicans complaining about Mr. Iglesias, or had you received other complaints before this?

A Well, as I have said several times, I received complaints during the -- in the aftermath of the 2004 election; and this is August of 2005. I am confident I have talked to Mr. Weh, Colonel Weh, before this.

Q Do you recall your first conversation with Mr. Weh on the subject?

A No, I don't.

Q Can you tell us about any of the conversations that you had with Mr. Weh about it?

A I don't recall any specific conversations, but I know we talked about it.

Q Were you in New Mexico at the time or did you talk about it over the phone?

A I have no specific recollection. I suspect it was before -- it was while I was in Washington. But it could have been while he was here in Washington, or it could have been -- I was in New Mexico in 2006, but I don't recall if I was there in 2005.

Q I notice the e-mail, as I mentioned, went to one of Senator Domenici's staff members, Steve Bell. Did you or your office hear from Mr. Bell, Senator Domenici, or anyone else in his

office about Mr. Iglesias during 2005?

A I don't recall specifically, but I wouldn't be surprised if there were communications because, again, we were hearing from people about the lack of action. And I had a good, cordial relationship with both Steve Bell and Senator Domenici.

I couldn't tell you specifically.

Q Tell me about the --

Mr. Luskin. One moment.

Mr. Rove. Yeah, in July I received a series of phone calls from Domenici, July 6th, July 14th, and July 14th again. I don't know what the subject matter of those were.

BY MR. SCHIFF:

Q Tell me about the conversations you do recall with Senator Domenici about Mr. Iglesias.

Mr. Luskin. At what particular time, sir? Or any time?

Mr. Schiff. Any particular time. I think we have established that we can't be specific on times, so tell me about any of the conversations you had with the Senator.

Mr. Rove. I do have a recollection of, either with Steve Bell or Senator Domenici or both, discussing the lack of action on voter registration and voter fraud questions, which likely places it in 2005.

I did talk with him in 2006 regarding his concerns about the mishandling of the treasurers case, public corruption case. And I also remember having conversations with him about his concerns

about the failure to file an indictment in a timely fashion and holding it for political purposes.

He also complained at the end of the 2006 election; there was a request by local officials for Federal monitors, and Mr. Iglesias refused to join in the -- to give his approval to the request for Federal monitors. And I remember Senator Domenici or Steve Bell or both were a little wound up about that.

BY MR. SCHIFF:

Q What can you tell us specifically about what he raised, Senator Domenici raised, on the voter fraud issue itself?

A I can't remember specifically except the general theory, the general theme, was, you know, that there had been a variety of publicly disclosed questions about fraudulent practices, and that Iglesias had taken no action in the aftermath of the election, nor had State or local officials either, which was to be expected, in Senator Domenici's view.

Q And what was your response to Senator Domenici when he raised the voter fraud issue?

A I don't remember specifically, but I was generally in agreement with him on it.

There were enormous problems in 2004 and -- including ballot boxes in the Indian counties. I had to call Senator Domenici to get him out of bed on election night because the ballot boxes in Indian country were being held out past the time that the State law required them all to be turned into the courthouse. And he

had to call them and remind them that they were under a legal obligation to turn their ballot boxes in.

So I was aware of the problems.

Q Did Senator Domenici, in his conversations with you, tell you that he wanted Mr. Iglesias removed?

A Sure.

Q And what did you tell him that you would do to follow up on this conversation?

A Pass on his complaints. Sympathetic to him, but pass on his complaints.

Q And pass them on to whom?

A Counsel's Office.

Q Did you tell Senator -- did Senator Domenici ask you to raise the issue with the President?

A At one point I think he wanted to raise the issue particularly with the President personally, and I discouraged him and said that if he felt that strongly, he ought to call the Attorney General and make his complaints there. This was something that need not come to the President.

Q And why didn't you think it should be raised with the President?

A The President has a lot on his schedule and a lot on his agenda and, you know, you don't need to have, with all due respect to Members of Congress, every Member of Congress pinging on him about their own personal concerns about this Federal employee or

that Federal policy.

Q And did Senator Domenici tell you whether he was going to follow your advice or whether he was going to raise it with the President anyway?

A My general recollection was that he sort of heard that. I think he later complained to others. I don't know whether he complained to Harriet or he complained to Josh Bolten, the chief of staff. But I don't think it he raised it to the President. I think he got that message.

Mr. Luskin. It might be helpful to clarify the time frame here, because I think we are sliding between 2005 and 2006.

Mr. Rove. Yeah, all that I have talked about is 2006. The voter registration, voter fraud stuff is 2005 sometime. The State treasurer's thing, I think, could be late 2005, but I think it is more likely to be in 2006. And the courthouse filing is definitely 2006.

Q And when would you place your conversations with the Senator?

A I would have to look at -- I would have to look at my logs, some of which specify the issues and some of which do not.

But I mean, again I am giving you the best I can: 2005 voter registration; 2005-2006 public corruption case against the treasurer; 2006 clearly was the failure to file the indictment in a timely fashion.

Q Have your logs been provided?

Mr. Luskin. I am quite sure they have, although not by us. We don't have possession of them, and it is my understanding that the call logs would have been produced by the White House.

You will know whether or not you have them or not.

Mr. Mincberg. We should probably talk about that off the record.

BY MR. SCHIFF:

Q Do you know whether the Senator Domenici followed up by speaking to the Attorney General about Mr. Iglesias?

A I don't.

Q He never discussed whether he had conversations with the AG on the subject?

A I don't recall.

Q Is there anything else you can tell us about your conversations with Senator Domenici?

A On this subject or all subjects?

Q Just on the subject of voter fraud for the moment.

A No.

Q When, as best you can recall, did he raise the issue of the timing of charges being brought by Mr. Iglesias?

A Again, as I said several times before, 2006, early in 2006. I don't know exactly when.

Q But prior to the midterm elections in 2006?

A Yes.

Q And what exactly did he tell you? What was his

complaint about Mr. Iglesias?

A That the case had been, according to sources in the FBI and in the -- I assume the U.S. Attorney's Office, that the case had ripened; and that rather than filing it when it was ripe, that he had made a deliberate decision to hold the case, the filing of the case, until after the election -- 9 months, 12 months, 14 months after, supposedly, it was ripe -- for political reasons.

Q Did Senator Domenici tell you why he was in discussions with the FBI about a pending criminal investigation?

A No, he didn't.

Q Did Senator Domenici tell you how he would know whether the FBI was prepared to go forward with the prosecution or not?

A No.

Q Did you ask him?

A No.

Q But he related to you that he understood from the FBI that they were ready to go and the U.S. Attorney wouldn't bring the case?

A Well, it was, you know -- rumors are, information is, everybody says, courthouse this. So, you know, he didn't say I talked to this, you know, Special Agent in charge of the Albuquerque office who told me the following, no.

Q It wouldn't be appropriate for the FBI Special Agent in Charge to have that kind of a conversation with a member of the Senate, would it?

A I am not a lawyer. I don't know.

Q What was your response when he raised the timing of indictments in New Mexico with you?

A You know, I am sympathetic to the idea that somebody takes an indictment and handles it in a political fashion. And I passed the information along to the Counsel's Office so that the validity of it could be judged by the Justice Department.

Q Did he tell you anything else about that particular allegation that Mr. Iglesias didn't bring charges when he could have?

A Not that I recall.

Q And you passed on those specific complaints to Harriet Miers?

A I believe Harriet Miers or her deputy, whoever that was at that time.

Q Was she present, ever, when you talked to Senator Domenici?

A Not that I recall.

Q Tell us about the discussions you had with Senator Domenici concerning the third issue, the prosecution of -- was it a courthouse case?

A The third issue we have just been talking about, which is the failure to file the indictment in a timely fashion out of political considerations.

Are you referring to the second item, which was the public

corruption case?

Q Yes.

A I can't remember much specifically except, the general allegation was that Iglesias -- and I don't know whether it was from Senator Domenici or Steve Bell, but the general implication was he mishandled a case, again had boggled the prosecution.

Mr. Luskin. One second, sir, if I may.

Mr. Rove. This would probably be sometime after October 2nd of 2006. I am notified then that I am likely to get a phone call from Domenici on this issue.

BY MR. SCHIFF:

Q And can you tell us anything further about the phone call you had with Senator Domenici on this issue?

A No.

Q And these complaints, like the others, you passed on to Harriet Miers?

A Counsel's Office. I prefer to say Counsel's Office, because it leaves the impression that I would go up and tell Harriet. And I felt comfortable telling her deputy if she was unavailable.

Q Who was her deputy at that time?

A You know, Bill Kelley or David Leitch. I would think it is Bill Kelley by that point.

Q Did Senator Domenici tell you whether he had directly confronted Mr. Iglesias about the timing of indictments in the

criminal case?

A Not that I recall.

Q Did he tell you whether he had had any conversations with Iglesias on the subject?

A Not that I recall.

Q Did you also have discussions about Mr. Iglesias with Representative Heather Wilson?

A Yes, I did.

Q When did those conversations take place?

A You know, again, 2006. And my recollection is she is focused more on the third issue than the second issue. I am not certain we talked about the second issue.

Q And just for the sake of clarity, which is the third issue that you are referring to?

A Third issue is the timing of the courthouse construction indictment.

Q And what concern did she raise with you over the timing?

A Again, that Iglesias had a case that ripened and that, rather than filing it when it was ready, he was making a politically charged decision to not move the indictment until after the election, which was again, 9 months, 10 months, 12 months, 11 months after -- 14 months after it supposedly ripened.

Q Did she say she had heard this from the FBI as well?

A I can't remember where she said she heard it from.

Q Did she tell you that she had raised this issue with Mr. Iglesias directly?

A I don't recall that.

Q Mr. Iglesias was not replaced in October of 2005, but more than a year later with other U.S. Attorneys in November of 2006. Do you know or have any information or recollection as to why Mr. Iglesias was not removed earlier?

A I don't.

Q Do you know whether there was any opposition to his removal at the Justice Department?

A I don't.

Q I am sorry, were you indicating you wanted a break?

Mr. Luskin. You had mentioned that he was removed in November of 2006, and I just wanted to clarify for the record the removals were in December of 2006.

Mr. Schiff. All right.

BY MR. SCHIFF:

Q Now, let's take a look at Document 28. There is an email at the bottom from Scott Jennings to you, subject, call from Senator Domenici. "Karl, a heads up that you may get a call from Senator Domenici again complaining about U.S. Attorney Iglesias."

Does that indicate to you that you had a prior conversation with Senator Domenici, this was a repeat conversation?

A Yes, remember the case goes to -- is declared a mistrial, I believe in '05 -- I could be wrong on the date, but

sometime like either late '05 or '06 it is declared a mistrial; and I believe that is where I first received the complaints about the mishandling, about Iglesias mishandling the case.

Q Later in that same e-mail to you Mr. Jennings reports, "Domenici will say this shows extreme incompetence and again asked us to remove. He has broached this subject with the Attorney General before, who told him we were not inclined to do so."

Does this refresh your recollection at all as to whether Senator Domenici discussed with you any conversation he had with the Attorney General?

A No.

Q When Mr. Jennings reports to you that the Attorney General told Senator Domenici that "we were not inclined to do so," who is the "we" he is referring to?

A I assume Justice or the administration generally.

Q Do you know why Justice was opposed to his removal?

A I don't.

Q The chart that was referred to in the earlier Harriet Miers e-mail of U.S. Attorney performance, did you ever look at that chart to see how he was rated?

A No.

Q Did anyone ever tell you he was rated as a star performer?

A No. May have been evidence. I was not part of the approval process -- interested, but not determinative.

Q Do you have any other information as to whether the Attorney General objected to Mr. Iglesias's removal?

A I have no further evidence, information.

Q I think you mentioned earlier that some of the Republican Party officials -- Mickey Barnett, Pat Rogers among them -- had contacted you to raise their concerns about Mr. Iglesias, right?

A I believe Mickey Barnett contacted me. I don't remember Mr. Rogers contacting me.

Mr. Flood. And I don't believe he said Mr. Rogers in his previous statements.

BY MR. SCHIFF:

Q Were you aware that Mr. Jennings set up a meeting for Mr. Barnett and Mr. Rogers with the Department of Justice to raise their concerns about Iglesias?

A Not in advance of it, no.

Q Did you become aware of it afterwards?

A I believe the first I knew of it was when I saw it in the documents.

Q Let's take a look at Document 16.

A Well, I stand corrected.

I don't recall this.

Q You stand corrected about what, Mr. Rove?

A "Scott Jennings was kind enough to set up an appointment with the Justice Department several months ago, where Pat Rogers

and I laid all this out."

I obviously received this, and I don't recall it.

Q And this was an e-mail from Mickey Barnett to you, right?

A Right.

Q Dated October of 2006, subject, Possible corruption in building of jail, courts is new focus.

A Uh-huh.

Q The beginning of that e-mail says, "Karl, this article confirms what I mentioned Saturday."

Had you been in New Mexico on Saturday or had you discussed it with him by phone?

A I was in New Mexico.

Q And what brought you to New Mexico?

A I was in Arizona for a fundraiser and flew to New Mexico for a fundraiser at Allen Weh's house. And Mickey Barnett drove me to the airport.

Q What did Mickey Barnett tell you during your trip to New Mexico about Mr. Iglesias?

A My recollection is, he said that the outcome of the rerun of the public corruption case was 50-50, and that Iglesias had been hot-dogging it again in it, and as a result he felt the State -- or the government was not as likely to prevail as it should. And he may have touched on the continuing concerns about voter fraud.

Q Was it fair to say Mr. Barnett didn't think too highly of Mr. Iglesias?

A No, he didn't, which was unusual, because he had been one of his big advocates when -- for the original appointment.

Q In his e-mail to you he writes, after informing you about the appointment at Justice, "I hope Justice can now be persuaded to send out some crackerjack prosecutor and perhaps promote Iglesias to a Justice Department position."

Why was he suggesting promoting Iglesias?

A You would have to ask him.

Q In his e-mail he also reports, "An FBI agent told me more than 6 months ago that their investigation was done and had 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."

Do you know who at FBI was making these claims?

A No.

Q The top e-mail you indicate, you send -- your e-mail to Harriet Miers dated October 2nd, 2006, forwarding this chain, "Domenici is calling me about the USA for New Mexico."

Did your e-mail to Harriet Miers prompt a conversation between the two of you about Mr. Iglesias at that time?

A Not that I recall.

Q Did she ever reply to this e-mail?

A I don't recall. I generally receive hundreds of e-mails

a day, and asking me to remember replies is like asking me to remember a raindrop in a thunderstorm.

Q Was the meeting that was set up by OPA for these two Republican Party leaders part of an effort by OPA or your office to persuade DOJ to replace Mr. Iglesias?

A Not by my office and not by me.

I suspect it is clearly an effort by Scott Jennings to hurry the process along.

Q And again the process you are referring to is the process of removing Mr. Iglesias?

A His personal view that he ought to be replaced, yes.

Q Was that a view you shared at this time?

A I suspect I did at this point, but this was inappropriate. He should not have set this up without -- this should have been set up by Counsel's Office, if at all, and it should not have been set up surreptitiously.

Q And what makes you say it was set up surreptitiously?

A Because I didn't know about it until after the fact.

Q Now, earlier you testified that people in OPA could raise the issue of potentially removing a U.S. Attorney with the White House Counsel's Office without your being in the loop.

A Uh-huh.

Q But now you are saying that they couldn't raise it with Justice?

A Yeah.

Q And why is that?

A Because, again, our contact with Justice was limited. It was -- it took place through the Counsel's Office or through the Judicial Selection committee. This is not the kind of thing that would be appropriate.

I would have considered this suspect. This would have been -- okay, fine, set the meeting up at Justice, but only if Counsel's Office says, yes, we agree with that and we, Counsel's Office, will set up the meeting for you.

This is not -- this was not an appropriate thing to be done.

Q Okay. And why was this done in this surreptitious way?

A Because Scott Jennings feels obviously very strongly about replacing Iglesias. He was on the ground in 2004, and had strong feelings about it. There is a reason why he didn't come to me and say, Could I set up this meeting?

Q Did he have any reason to expect that those sentiments were shared by the White House Counsel's Office?

A What sentiments?

Q That Mr. Iglesias should be removed?

A I couldn't speak to Mr. Jennings's view of what the White House Counsel's Office felt at that point. Obviously, he felt strongly enough about this that he didn't -- he talked to neither me nor the Counsel's Office about setting up this meeting.

Q Did you ever tell Mr. Barnett that the White House was fine with replacing Mr. Iglesias, but that the Department of

Justice needed to be persuaded?

A Not that I recall.

Q Did you ever tell any other New Mexico Republican officials that?

A I demonstrated my sympathy to them on the question, but I made it clear this was something that Justice needed to make a decision about, and that this was not something that the White House was going to make a decision about.

Q When you are saying "demonstrated my sympathy," can you tell us what you said?

A I can't recall specifically, but said, Look, I agree with you, he should have done something on the voter fraud; and if these things that are being said about him sitting on the indictment or hot-dogging it in the corruption case for his own personal benefit -- pushing the career people aside and hot-dogging it -- are true, then that is a real problem.

Again, though, let me be clear. I have an opinion, but I also recognize the limits of my ability to verify whether these claims are true, which is why this information had to go to the Justice Department and the decision was the Justice Department's.

Q Mr. Barnett told the DOJ inspector general that when he saw you in New Mexico he mentioned the voter fraud issue and alleged delays in the courthouse public corruption case, and you indicated that you were aware of the complaints already. Is that correct?

A I don't recall, but I know I was aware of one, and I could have been aware of the other, yes.

Q Do you recall how you became aware of the -- first became aware of the courthouse public corruption case?

A I don't.

Q Did you call Harriet Miers about Mr. Iglesias during your New Mexico trip?

A I don't recall if I did. I may have even talked to her when I returned.

Q Did you talk to her over the phone when you returned?

A May have.

I may have talked to her on the trip, because it was several stops. I can't remember where I went from -- I remember I went from Arizona to New Mexico, and I think I went one other place before returning home.

Most of the information I received about Iglesias was in the car riding to the Albuquerque airport at the end of the New Mexico stop. So I suspect if I did talk to her by phone before I returned to Washington, it was from either the Albuquerque airport or, more likely, my next stop.

Q And while on this trip, or soon thereafter, in your conversation with Harriet Miers were you agitated about what you were hearing regarding voter fraud, public corruption, case prosecutions by Mr. Iglesias?

A I am not certain the appropriate and direct and precise

meaning of the word "agitated." Most people claim I am agitated about a lot of things. But did I share with her the concerns that I had heard out there? Yes.

Q Did you tell her that you wanted Mr. Iglesias removed or use words to that effect?

A I don't recall, but by this point I probably have developed the opinion that he ought to go if these things are accurate. If they are accurate.

Q And is your best recollection you would have communicated your opinion that he ought to go to Ms. Miers?

A At some point I do. I don't know, as I said earlier, I don't remember when and can't place it for you specifically.

Q Let's turn to Document -- actually, let me ask you about something, if I could. In this article that Mr. Barnett sent you, on the second page of the document -- this is Document 16, about six short paragraphs from the bottom -- it reads, "Political insiders say that if the main suspects are Democrats, the shoe could drop before the November 7th election."

What does that refer to?

A I assume it says -- since it is an October 6th election, I assume it is suggesting that if the suspects are Democrats, the indictment would appear before the election.

Q It then goes on to say, "If there are Republicans in the mix, the office might want to avoid an, quote, 'October surprise,' unquote, and seek indictments later, political observers say."

Do you have any information about whether that was an accurate analysis?

A I have no idea who the unnamed political observers are who are talking to Kate Nash at the Albuquerque Tribune.

I would also draw your attention to the five paragraphs, beginning with the fourth paragraph:

"Prominent officials are mum," which indicates -- it says apparently, "Prominent officials are mum, though insiders have indicated the case may be a doozy.

"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...

"The State Auditor's Office...has asked for documents...

"The Auditor's Office also has asked the county for...

"And, the FBI has questioned at least..."

Q Did you have any conversations with anyone other than Senator Domenici and Representative Wilson about the timing of indictments in New Mexico?

A Steve Bell, for certain. And again, this may have been an issue that was brought up by others. But those three for certain, and probably Allen Weh. But --

Q And when did you have the conversation with Steve Bell?

A I couldn't say specifically. During this time frame and earlier.

Q And what did Steve Bell tell you?

A Essentially the same that Senator Domenici did, that the rumors were that the indictment was ripe, and that Iglesias was sitting on it for some long period of time, that it had been ripe in the winter, or March of '06 at the latest, and that Iglesias was sitting on it for political reasons.

Q And Mr. Bell's conversation with you, was that a follow-up to your conversation with the Senator?

A It may have preceded it. Excuse me 1 second.

Yeah, I have multiple conversations with Domenici and Bell about this. It is not just one conversation with the two of them. And I suspect and my recollection is I had more than one conversation with Domenici about this, early and late.

I mean, this is an item of why is this not happening? You know, this guy is sitting on this. This is politics. He shouldn't be playing politics with indictments. He should make the indictments when the indictments are ready, not sit on them.

Q So you had multiple conversations with both Senator Domenici and Steve Bell on his staff about the timing of indictments in New Mexico?

A I remember multiple conversations with Senator Domenici -- may have been multiple conversations with Steve Bell. It would not be unusual to have multiple conversations with Steve about it.

Q And it is fair to characterize those conversations as

expressing frustration on the part of Senator Domenici and Steve Bell that Mr. Iglesias was not moving forward with indictments prior to the election?

A That he made a deliberate decision not to move forward for political reasons.

Mr. Luskin. Could we have a brief break here? Is this an opportune moment?

Mr. Schiff. Why don't we reconvene at quarter to 1:00?

RPTS WALKER

DCMN BURRELL

[12:45 p.m.]

BY MR. SCHIFF:

Q All right. Let's start with Document 17. This is an e-mail to you from Scott Jennings dated October 10th, 2006: Subject: Domenici/U.S. Attorney. It states: I received a call from Steve Bell tonight and need to update you on the U.S. Attorney situation in New Mexico. Last week, Senator Domenici reached the Chief of Staff and asked that we remove the U.S. Attorney. Steve wanted to make sure we all understand 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, of voter fraud in 2004 and more recently the mishandling of an individual trial.

Did you have a conversation with Mr. Jennings after receiving this e-mail?

A I don't recall. It wouldn't have been unusual for me to have one.

Q When he refers to Senator Domenici reaching the Chief of Staff, referring to the White House Chief of Staff?

A I believe so.

Q And who was the White House Chief of Staff?

A Joshua Bolten.

Q Did Senator Domenici relate to you his conversation with

Mr. Bolten?

A No, but as I think I said earlier, I talked to Senator Domenici, and my impression was this is where he said I want to talk to the President, and at the end of the conversation, after I discouraged him, I had the impression he was probably going to call Josh about it, and I believe he did contact Josh.

Q So this was a follow-up on your conversation with him then?

A Yes.

Q Did you ever speak to Josh Bolten about his conversation with Senator Domenici?

A I believe I did, as I said earlier.

Q And what did Mr. Bolten tell you about his conversation?

A I don't recall specifically, but I'm sure it was the general contours of Senator Domenici talked about Mr. Iglesias, which I was quite familiar with.

Q Did Mr. Bolten ask you to do anything about it?

A Not that I recall.

Q Did you make a recommendation to Mr. Bolten about what should be done about it?

A I don't recall, but again it was not, by this time, it was not -- people were not unaware that I thought that if these charges or allegations of behavior were true that he was worthy of being removed.

Q Let's turn to Document 18. The bottom e-mail is one

from H.A. Wilson. Is that Heather Wilson?

A I would assume so. I don't know for certain, but it is her Chief of Staff, Bryce Dustman, underneath.

Q The subject matter is FBI story, and H.A. Wilson writes: FBI or those close to them are talking about public corruption cases ongoing in other States. And it appends an article about an FBI investigation of Curt Weldon from Pennsylvania, correct?

A Correct.

Q This e-mail was then forwarded to you by Scott Jennings?

A It's what it says at the top of it, yes.

Q And it includes an e-mail from Steve Bell on the same day to Scott Jennings that reads: Seems like other U.S. Attorneys can do their work even in election season, and FBI has already admitted they have turned over their evidence to the USA in New Mexico and are merely awaiting his action. Bell.

The top e-mail that was sent to you by Scott Jennings says: Steve Bell sent this e-mail to Candi and me essentially saying U.S. Attorney in Pennsylvania has no trouble going after Weldon. So why should U.S. Attorney in New Mexico be shy about doing his job on Madrid.

What was Mr. Jennings referring to by doing his job on Madrid?

A I have no idea why Madrid's name is even there. I was not aware of any allegations of corrupt behavior on the part of the Attorney General. I assume that this is a reference to

Patricia Madrid, the Attorney General who was running against Heather Wilson.

Q And that was a hotly contested House race, right?

A Yes. I think that -- I think that's a typo or misprint or wrong name in there.

Q Well, was Madrid being criticized for not prosecuting the same corruption case you mentioned earlier?

A I think she was being criticized for having, after the mistrial, gone after the Federal Government's witnesses, filed indictments against the Federal Government's witnesses that had testified in the first trial that was declared a mistrial. I think that was the criticism. I don't think it was as you suggested.

Q And you have no idea what he was referring to by his e-mail to you asking why should U.S. Attorney in New Mexico be shy about doing his job on Madrid?

A Yeah, I don't know what Madrid would be in there for.

Q Now, you were claiming earlier that Mr. Iglesias had a political motivation for not bringing certain indictment or indictments before the election, right?

Mr. Luskin. No. I think you misstate his testimony, Mr. Schiff. What he said was he received allegations --

Mr. Schiff. Mr. Rove can tell me if I am not --

Mr. Luskin. No, this is a foundational. This is an objection, sir. If you misstate someone's prior testimony, that

is a foundational objection and you ought to correct it.

BY MR. SCHIFF:

Q Mr. Rove?

A You're misinterpreting my views.

Q Tell me your views.

A Would you repeat the question, please?

Q You stated earlier that you believed that Mr. Iglesias failed to bring an indictment or indictments prior to the election for a political reason, didn't you?

A What I said was that these were the complaints about him. I also said that while I had come to believe the credibility of the people who were telling me this, that at the end of the day I did not have the ability to determine whether or not this was completely accurate. That's why the complaints got referred to the Counsel's Office and then referred over to the Justice Department. The Justice Department had the people in place, the procedures in place and the authority to find out if this was accurate or not. I could form an opinion based on what people gave me in the way of information, but I could not at the end of the day determine whether or not this information was accurate.

Q I'm trying to get to the bottom of your opinion, Mr. Rove, and then you passed on to others. Was it your opinion that Mr. Iglesias had failed to bring an indictment prior to the election for some political reason?

A My opinion was if it was accurate that he had failed to

bring an indictment, had delayed an indictment -- he did make the indictment after the election -- there was obvious foundation for the indictment because he made the indictment after the election. But if the information was correct that this indictment was ripe sometime in the winter of 2005 or early in 2006 and he made a deliberate decision not to go forward with the indictment for reasons of politics, that was inappropriate. That was wrong. It should not have entered into his decision. And what I knew was, only Justice could determine whether it was accurate or not. I know that it is customary -- and I believe you're a former judge?

Q No, former assistant U.S. Attorney.

A Then from that side of the angle -- that sometimes the agents who are involved in preparing these indictments think they're ready to go to trial a lot earlier, the indictments are ready to go a lot earlier than the attorneys or prosecutors may think. I recognize that, which is again why this is up to the Justice Department to figure out whether or not this charge was accurate.

Q Mr. Rove, I appreciate your answer. Right now, I'm just focused on what your opinion was of why Mr. Iglesias allegedly failed to bring the indictments before the election. You said that there were claims of political motivation, and first I'd like to ask you, did you believe those claims?

A There was -- they had credibility with me, but again, I repeat, at the end of the day I'm entitled to have an opinion but

I recognize what I don't know, and I know that the only people who could determine whether this was truly accurate was the people at the Justice Department.

Q You can say that a number of times, you can repeat it further if you like, but there's no necessity unless you want to. Now what --

A I would like to respond to that. I do think it gives clarity and nuance and completeness.

Q Okay. Well, what I would like to ask you is what, in your opinion, was the political motivation of a Republican U.S. Attorney to hold off on bringing an indictment against Democratic officials prior to the election? What was the political motivation you were concerned about?

A Well, it struck me that this and the other instance were ones where we're let's not antagonize the majority party in the State if I've got political aspirations. He had run for Attorney General before. He was openly interested in running for office again at some point, and it's let me do this but let me not do it in a way that antagonizes the opposition.

Q It was clear to you, wasn't it, Mr. Rove, from the conversations with Heather Wilson that she thought it would be to her benefit if the indictment was brought before the election?

A I don't think that that was what was conveyed to me. What was conveyed to me was that this was really irresponsible for him not to -- for him to be sitting on an indictment and not

taking action because of politics.

Q Were you unaware of the effect it might have on her campaign?

A You know, again, I'm not certain I could quantify what effect it would have on her campaign, and she didn't raise it in that context. She raised it in the context of he is doing something that is irresponsible, which is sitting on an indictment for reasons of politics.

Q Mr. Bell was expressing the view in this e-mail that other U.S. Attorneys were going after in this case a public corruption case against a Republican Member, Mr. Weldon, before an election. Why couldn't indictments go forward against Democratic officials in New Mexico? Wasn't that the point that Senator Domenici's staff was making?

A That the U.S. Attorney in Philadelphia obviously was not taking politics into consideration and the U.S. Attorney in Albuquerque was from that perspective.

Q Do you have any reason to believe that the Republican U.S. Attorney in New Mexico was going out of his way to help a Democratic candidate for Congress?

A No, but it did -- again, I repeat -- the question was was he sitting on this -- was he making a political calculation about something into which politics should not enter. Again, I readily concede that you can make an argument about Judge Walsh filing an indictment literally before the 1992 Presidential

election. I grant you that. But again, if the charge was accurate that this case was ready to go in 2005 or early 2006 and that Mr. Iglesias made a deliberate decision for reasons of politics to sit on the indictment for 9 months, 10 months, 12 months, 14 months, that strikes me as inappropriate behavior because you're virtually always that close to an election at that point. Obviously, it didn't affect the attitude of the U.S. Attorney in Pennsylvania in moving ahead in what he thought was an appropriate way against an elected official, and you know, even at this point, 3 weeks before an election.

Q You would agree, wouldn't you, that for an elected official to contact a U.S. Attorney and urge him to bring charges before an election, when that would have a political benefit to that elected official, would also be improper, wouldn't you?

A I'm not certain -- that's a hypothetical. You're asking me -- I assume you're asking did Heather Wilson do that. I'm not aware whether she did that or not do that. I have no knowledge of that.

Q You have no knowledge of whether she contacted the U.S. Attorney --

A I have no personal knowledge of whether she did or she didn't. I certainly didn't at that time. I've read the report since then, but I had no knowledge at the time.

Q Was Mr. Jennings suggesting that if Mr. Iglesias brought a Federal corruption case on the courthouse controversy,

particularly involving a Democratic defendant before the election, this would hurt Madrid politically because she had not taken action herself as AG?

A You'd have to ask Mr. Jennings. Again, let me be clear. The White House had an attitude -- I certainly had the attitude that it was not our province to either directly or indirectly to try and influence any specific action at the U.S. Justice Department. It wasn't our object. So if Mr. Jennings's object was to get him to file a lawsuit, that request was going to fall on deaf ears with me. My focus was was he acting in an inappropriate way and should this be taken into consideration of with regard to whether or not he was retained as U.S. Attorney.

Q I think at the outset I had asked you, you said I'd have to ask Mr. Jennings.

A His motivations.

Q I want to ask you about your understanding. Did you understand this e-mail to suggest that if Iglesias brought a Federal corruption case on the courthouse controversy, particularly involving a Democratic defendant, before the election that this could hurt Madrid politically because she had not taken action as AG?

A Congressman, this is October 15th. This is 3 weeks before the election. This enters into a window where I think you could possibly make the argument that the U.S. Attorney, whoever he or she is, should sit on the issue until after the election.

So we're past the point at which this is a question with regard to this election and this specific act taking place now. This, to me, was in the broader context of was this part of a pattern in which he had inappropriately exercised the responsibilities of his office. The question was, had he earlier failed to move. As I said earlier, you can raise a legitimate issue, is should Judge Walsh have made the action he did in the moments leading up to the 1992 election. If somebody had said to me and I were in Justice Department and they were saying this is ready to go and it should go now, I would say, you know what, leave it up to them to determine whether or not they should wait until after the election. We are close. We are in the window where it stinks if it was filed.

Q Mr. Rove, you still haven't responded to my question. My question is a very narrow one, and that is, didn't you understand by Mr. Jennings's e-mail that he was suggesting that if Iglesias brought a Federal corruption case on the courthouse controversy, particularly involving a Democratic defendant before the election, this could hurt Madrid politically because she had not taking action resulting against the AG?

A I'm not certain I read it that way at the time. I would have read this as part of Scott Jennings's continuing lobbying campaign on behalf of removing Iglesias.

Q In the article that I referred you to earlier, it's Document 16, that Mr. Burnett sent you. I think I read you a line

from that, but if the main suspects are Democrats the shoe should drop before the election. Didn't most Republicans in New Mexico that you were in contact with believe it would help their prospects in the contested Heather Wilson-Patsy Madrid election if Iglesias brought the corruption case before the election?

A I don't remember that being a principal argument. I guess you could make that argument, but again, that's sort of a one-off, isn't it? It's sort of like courthouse corruption and she did something filing a lawsuit against two people who are involved in that. I'm not certain how all that all worked out in the campaign. I'm really not.

Q But a corruption case against prominent Democrats would help Republicans in a contested election, wouldn't it, whether it was involving that particular candidate or not?

A I think it ought to be done though -- my point is, it ought to be done without making that the centerpiece. It ought to be done without regard. If the question of political damage is a question, then the U.S. Attorney in Philadelphia acted inappropriately by acting before the election. It ought to be done with regard to when it is ready to move, not with regard to the political calendar.

Q Did Republican elected officials -- I'm sorry, did Republican Party officials in New Mexico tell you they thought that if Iglesias could bring an indictment before the election it would help him politically?

A I don't recall. I wouldn't be surprised if somebody made that argument, but I don't recall.

Q Did Allen Weh make that argument to you?

A He may have but I don't recall. Again, realize there is a lot of stuff going on here, and this is about this much of it. So I don't recall.

Q Do you recall whether Mr. Barnett raised that argument with you?

A I don't -- I don't recall that he did, no. I think his -- Mr. Barnett's comments were more -- as I recall, they were on the performance in office, on what a lousy job he was doing.

Q Were you aware that both Wilson and Domenici had called Mr. Iglesias directly about the filing of the corruption case in October 2006 before the November election?

A I was not aware of it at the time, no.

Q Look at -- I'll have you turn to Document 19. This is at the top an e-mail from you to Steve Bell dated November 7th, 2006: I'd have the Senator call the Attorney General about this. An e-mail that is responding to one from Mr. Bell, it says: "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 clerk's office said 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 involve a HAVA violation and, therefore, Federal offense."

And it ends by saying, "We still worry about the U.S. Attorney here."

What did you take that to mean, that last sentence?

A In the days leading up to the 2006 election, the Bernalillo County sheriff asked for Federal monitors for the election because there had been a consistent set of problems in Bernalillo County over the years. The U.S. Attorney refused to join in that request, and Justice turned them down.

On election day -- and I think it misstates it somewhat -- my understanding is there were several precincts, including one very large, very Republican precinct in the Northeast Heights of Albuquerque were given an inadequate number of ballots. So they ran out of ballots, and then they were given an inadequate number of provisional ballots. Very large precinct given a much smaller number of ballots.

And this happened in the Republican part of town, and the concern here was that literally people had to stand in line in order to vote because they ran out of ballots in the middle of the day and took some time -- I can't remember whether it was 45 minutes, an hour and a half -- to get them some additional ballots, and even then they had to send them another shipment of ballots. And this is a very close election, and the concern here was that the U.S. Attorney had little or no interest in making

sure that these issues were resolved.

Q So that was the worry that's referred to -- that the U.S. Attorney was not interested in this particular issue?

A Yeah. He had been dismissive of the need for Federal monitors. If there had been Federal monitors then it is my suspicion that the county officials would have acted a lot faster if there are Federal monitors looking over their shoulder saying what are you doing in order to ensure that people have a ballot to vote.

Q Do you know whether the Senator followed your suggestion and contacted the Attorney General about this?

A I don't know. Only Justice could make the determination for whether or not there should be Federal monitors present. They could send anybody down from Washington and deputize people out there to do it.

Q Were you involved in any communications or meetings with the Attorney General relating to the possible replacement of Mr. Iglesias in 2006?

A I believe I made comments to Alberto about his performance, but I don't remember any particular meetings. But there may have been a JSC in which it was discussed, but I don't recall any specific meeting, no.

Q Had you raised it with him in 2005 as well?

A I don't know if I did or not. I do know that I expressed in 2005, as I said earlier, concerns about the voter

registration, voter fraud issues that were around in 2004 of which obviously some included New Mexico.

Q Do you recall what his response was with respect to Mr. Iglesias?

A In 2006?

Q Yes.

A Noncommittal.

Q And do you recall how you raised the subject of Mr. Iglesias?

A I don't.

Q Did you ask that he be removed?

A I made -- I made -- I suspect it was no -- no surprise what my attitude towards him was, but I can't remember what I said.

Q If you could turn to Document 20 with me. This is an article in Albuquerque Journal dated April 15, 2007: Domenici Sought Iglesias Ouster. I want to ask you about some of the statements in the article.

The article claims that in 2006 Senator Domenici told the Attorney General that he wanted Mr. Iglesias removed as U.S. Attorney, and the Attorney General said he would fire Iglesias only on direct orders from the President. Do you know if that was true?

A I have no idea. I doubt it.

Q It also claims that Senator Domenici made a request to

you and asked you to raise it with the President. Did he ask you to raise it with President?

A As I mentioned earlier, I believe that he wanted to talk to the President, but before November 6, and that I discouraged him from doing so, and that prompted his phone call to Josh Bolten.

Q Did he ask you to raise it with the President?

A I can't remember, but again, I pointed him to where the appropriate place was to make his comment.

Q Did you at some subsequent point find out whether the Senator had a meeting or discussion with the President on the issue?

A I don't.

Q You did not find out?

A No, that there were, ever.

Q Do you have any information about whether the Attorney General ever refused to fire Mr. Iglesias without a direct order from the President?

A You'd have to ask the Attorney General. Again, that sounds out of character.

Q So you don't have any information about it?

A I don't.

Q And you don't have any information about whether against your advice Senator Domenici ever raised it with the President?

A I don't.

Q Earlier you testified that the White House had acknowledged that the President related concerns about voter fraud to the Attorney General. Were concerns related by the President about Mr. Iglesias as well?

A I was not in on the conversation. I doubt it. I think this was a policy question rather than a personality or performance or individual conversation.

Q Let's turn back to Document 9 if we could. This is the November 15th, 2006, proposed replacement list for Mr. Sampson in which Mr. Iglesias is listed as one of the U.S. Attorneys to be replaced. What is your understanding of how Mr. Iglesias came to be included on the list?

A I don't know. I assume it was part of the process of evaluating attorneys -- U.S. Attorneys' performance and putting them on the list if they had problems.

Q How did you first learn that Mr. Iglesias was going to, in fact, be dismissed?

A Sometime after this list comes over to the White House, somebody mentioned it to me. I don't recall when or where. I suspect they did mention it to me because they knew I was interested in that particular individual, but I don't recall. I don't know whether they told me all of them or some of them or Iglesias only.

Q Let's turn to page 185 of the IG report. As the IG report points out, the DOJ e-mail including Mr. Iglesias on the

replacement list for the first time was sent to the White House at 10:55 a.m. but Representative Wilson stated that you told her more than 2 hours earlier that, quote, the decision has already been made; he's gone, unquote. Do you have any reason to doubt Representative Wilson's recollection?

A I don't. The list is compiled sometime before the 15th, transmitted to the White House in writing on the 15th, but obviously somebody was given the list inside the White House before that point because I wouldn't have said it to her if I hadn't been told that.

Q Now, I think we discussed at some length two prior e-mails: one from November 15th, in which this list was circulated; and another from November, I believe it was the 25th, in which you asked about a list of potential vacancies. And you weren't clear whether you had seen any list in the interim, correct?

A A complete list. Obviously I know Iglesias's name because I say it to Wilson on the 15th, according to her recollection. I have no reason to doubt her recollection of it.

Q But you can't tell us whether you knew Iglesias was being removed because you had seen him on the list or because someone had told you?

A I would think it would be somebody had told me because I have no recollection of being shown a list. Obviously if I was given a list I wouldn't be inquiring sometime later as to give me

a list.

Q And who -- who -- you don't recall who told you but who may have told you? Who are the list of people that would have that information and provide it to you?

A I assume that somebody in the Counsel's Office would be the most likely, Harriet or her deputy Bill Kelley, or perhaps someone with -- I don't know who with -- I can't remember who within the Judicial Selection Committee was leading the -- might have had principal responsibilities and liaison with Justice. It could have been somebody in OPA, but I doubt it. But I think it's more likely to have come from somebody in the Counsel's Office.

Q And whether it was the first person who told you or it wasn't the person who told you, did Harriet Miers ever tell you that Iglesias was on the list to be fired?

A Again, I don't recall specifically. She would be the most logical. She or her deputy Bill Kelley would be the most logical, but I don't recall. It would have to be somebody in whom I had confidence who knew what they were talking about. Otherwise I wouldn't have been able to say definitively he's gone to Heather Wilson.

Q While you have the OPR report in front of you, turn to page 190. The first paragraph begins: "The evidence we uncovered in our investigation demonstrated that the real reason for Iglesias's removal were the complaints from New Mexico Republican politicians and party activists about how Iglesias handled voter

fraud and public corruption cases in the State."

And do you agree with that conclusion?

A I'm not in a position to -- you know, this is their investigation of what they found inside. Again, I'm not the investigator. I have my opinion about why I would have removed him, but again, it's up to them to have reviewed it and made a determination.

Q Do you have any information that would give you a basis to conclude that other factors were responsible?

A Again, I'm not inside the -- you know, I'm not inside the Justice Department looking at these. I couldn't even tell you what factors they would evaluate all of them on. I assume they have a consistent set of factors, that they look at all of them to make these performance reports. I couldn't tell you what they were.

Q All right. Mr. Rove, I'd like to turn to the replacement of Bud Cummins in Arkansas and his replacement, at least for a time, with Tim Griffin. When did you first become acquainted with Mr. Griffin?

A I met him in the spring of 2000.

Q And what was he doing then?

A He was working at the Republican National Committee and I was in the Bush for President Campaign.

Q And what was his job at the RNC?

A He was the Deputy Director of Research.

Q Is that opposition research?

A Opposition and issue research.

Q What does opposition research involve?

A This was collecting the public documents and utterances and statements regarding the background of Vice President Al Gore and helping to frame a consistent message from them.

Q At some point you became involved in advocating that Mr. Griffin become U.S. Attorney, correct?

A Yes.

Q And your interest in seeing Mr. Griffin appointed was fairly well-known to the White House and at the Department of Justice?

A I can speak to the White House. Yes.

Q And it was well-known to the White House Counsel's Office?

A Absolutely.

Q As early as February 2005 didn't you tell Sara Taylor, who worked for you in the White House, to keep pushing for Mr. Griffin at DOJ, that you wanted him on the team?

A Yes, absolutely.

Q If you take a look at --

A May I clarify one thing?

Q Sure.

A If you look at the rest of those e-mails, he would like to -- he would like to return home to be U.S. Attorney. In the

interim, between the time that he ended his service in the campaign and whenever that moment might be, my encouragement was there were jobs available in the Office of Legal Counsel and elsewhere in Justice that I thought would serve him well in being credentialed further in the event there was a likely vacancy in the Eastern District.

Q What made you think of the Office of Legal Counsel?

A Because we had a vacancy available and this was a very bright, analytical mind. He graduated near the top of his class at Hendrix College, studied at Oxford -- Pembroke College at Oxford; Tulane Law School, cracker jack performance there; went to work for a white shoe law firm in New Orleans that's one of the best firms; was a deputy to Chertoff at Justice Department; and then had been detailed down to the Eastern District office itself before returning to Washington to work in the 2004 campaign; and really impressed with the guy's mind, and he was just the kind of person you want to have in that office, smart, able, doing it for the right reason, Reserve officer, eventually went to Iraq in the Reserves, and terrific individual.

Q Tell us a little bit about what the Office of Legal Counsel does.

A I'm not the expert. Again, I'm not a lawyer but it involves serious analytical work and writing, you know, significant opinions regarding, you know, issues that come before the Department and come before the administration and the

government generally.

Q Part of the responsibility is to tell the administration what it can do and what it can't do legally; is that part of the responsibility?

A Yes.

Q Doesn't that job require a certain level of independence from political partisan concerns?

A Well, there are a lot of career positions in that office, and then there are a lot of positions that are filled in each administration by noncareer appointees. And there was a job available for a noncareer appointee in the OLC.

Q And who was departing the OLC?

A I have no idea.

Q But you knew there was a vacancy there?

A I remember hearing a vacancy there and elsewhere in the Department, yes.

Q Did you think that someone who had -- was coming from doing opposition research for the party was a good fit for OLC?

A I thought he had a great mind. I didn't question his integrity. I thought he had the integrity for the job.

Q As early as February of 2005, did you have in mind his interest in the position as U.S. Attorney?

A Yes. As we talked about earlier, Bud Cummins at the end of 2004 is quoted in the local newspapers as saying unlikely -- it would not be unexpected for him not to serve out the entire

4 years, and earlier in the year, as I think I said earlier, we heard discussions by Cummins of leaving -- of the arrangements that the U.S. Attorney in the Western District had been able to achieve after he had left the slot.

Q This article in the local Arkansas paper you mentioned, I take it that's not a paper you regularly read?

A No.

Q Someone brought that article to your attention?

A Yes.

Q Was it Mr. Griffin?

A No. I believe it was Sara Taylor who knew of my enormous respect for Tim and showed me that was -- and confirmed things that we heard earlier.

Q And do you know who brought the article to Sara Taylor's attention?

A I don't.

Q Take a quick look at Document 27. This is a string of e-mails from December 2006. If you look at the e-mail in the middle of the page from Kyle Sampson -- Chris Oprison. Who is Chris Oprison?

A I believe he's one of the deputy counsels.

Q In the White House Counsel's Office?

A Right.

Q This is concerning Mr. Griffin's, at that time, AG appointment as U.S. Attorney?

A Uh-huh.

Mr. Luskin. You need to answer yes or no.

The Witness. Yes.

BY MR. SCHIFF:

Q And Mr. Sampson writes: "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."

Did you ever see this e-mail?

A Yes, I did.

Q When did you see it for the first time?

A I believe I saw it on December 19th, 2006, sometime after 7:09 p.m.

Q What was your reaction?

A I don't think this is how you could deal with a nomination like this. You cannot run out the clock. We did have the opportunity to do a recess appointment if the opportunity arose, but the Senate Democrats made it virtually impossible to have such a recess appointment, and you can't leave somebody in there for 2 years or even for the better part of a year if both

Senators refuse to return a blue slip.

Q This e-mail was forwarded to you by Harriet Miers?

A Uh-huh.

Mr. Luskin. You have to answer yes or no.

The Witness. Yes.

BY MR. SCHIFF:

Q Did you discuss it with her after she sent you the e-mail?

A I don't recall specifically, but I believe we did have conversations about this imbroglio and how to find a way out of it.

Q What did you suggest to her?

A Senator Lincoln would say it was unfortunate but not come out and specifically say she would oppose him. Senator Pryor would also say that he had concerns, but again, refused to come out and say we would oppose him. So we were in sort of a nether world where both Senators wanted the political cover of being able to say to people back home, well, we had -- we thought it was unfortunate, and we thought we had concerns, but they wanted us to withdraw him without them saying no. They didn't want to have the political damage of having to say to people back home we said no, because Tim in particular was performing I thought exceptionally well, and there were a lot of people applauding his performance.

So I took it as this -- we had to find a way to either convince them that they ought to return the blue slip on him or we

were going to run into a place where ultimately they would -- will say no -- we do say no and we'd have to withdraw him.

Q Did Harriet Miers raise with you Mr. Sampson or Department of Justice's suggestion that it be gummed to death?

A It was impossible to gum it to death. You can't gum for 2 years. In fact, as an interim appointee I think he's there for a year. Again, I'm not a lawyer, and I'm not familiar with all this, but he can't even -- there's a limited amount of time he can stay.

Q The change that was made in the PATRIOT bill to the Attorney General's appointment authority allowed the appointment to go on without time duration, didn't it?

A Yes, but my view of it, that was not meant for this situation. It was not meant for a -- I don't think it was meant for this situation. Here we had a U.S. Attorney who had left. There was plenty of time for the Congress to consider it. We had an able nominee. I don't think the PATRIOT Act was designed for -- I think it was designed for a situation in which there was a major undertaking of that office, a high profile case, and they needed to make certain that they had leadership through the course of that case. This did not seem to me to be the kind of situation that was envisioned by the PATRIOT Act amendment.

Q I think I had asked that. I don't think you responded. Did Harriet ever raise with you the thought in this e-mail of Mr. Sampson or the Department of Justice's suggestion that this be

gummed to death?

A No, but as I said, I saw this e-mail. I received this e-mail. I don't remember Harriet specifically bringing it up to me, but my attitude is you can't gum it to death. I did -- I pushed this along in every way I could to see if we couldn't convince Pryor and Lincoln to withdraw -- to either be forming their objection so we resolve this situation or, better yet, to let Griffin do the job.

Q Is this what you told Harriet Miers?

A I believe so, yes.

Q In that same e-mail from Mr. Sampson, he concludes the e-mail by saying -- referring to the Attorney General's appointment authority that came through the PATRIOT bill: "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.)"

Did you discuss with either Mr. Sampson or Ms. Miers a concern that the use of the Attorney General's appointment authority here might result in legislative action to repeal that authority?

A I don't recall having a conversation with either one, but again, that points back to the point I made earlier. I don't think you exercise this authority unless it is in a situation for

which the authority was designed, and I don't think this is what it was designed for.

Ultimately, at some point, I think there was conversation about do we invoke the authority, and I'm opposed to it because, again, I think it's a stretch, you know, and it doesn't serve the office, doesn't serve Tim personally, doesn't serve the administration well to take that authority and stretch it. And again, I'm not -- I wasn't involved in the legislative wrangling over it, and I may have a misunderstanding of what the purpose of the language was, but my impression was it was designed for, in essence, emergencies where you needed to make certain you had continuity in a particular U.S. Attorney office because of the peculiar demands at that moment on that office.

Q I think I asked you earlier whether your strong interest in having Mr. Griffin appointed to a position at Justice or U.S. Attorney was known to people in the White House Counsel's Office and the Department of Justice, and I think you responded, certainly known in the White House Counsel's Office. You couldn't say about the Department.

Does Mr. Sampson's from the Department of Justice e-mail stating that "know that getting him appointed was important to Harriet, Karl," refresh your recollection as to whether Department of Justice was aware of your keen interest in getting him appointed?

A It was no secret I was for him, and I would draw your

attention to the fact that he was also well regarded at Justice. He had been approved. He had gone through the Justice screening committee for the vacancy in the Western District of Arkansas, which the panel included a highly regarded career official, and unanimously recommended him for appointment to that office. So he was well-regarded over there and well-regarded at the White House.

Was it a secret that I was for him? No, it's well-known. Do I know who at Justice was aware of that? No. This memo indicates that Kyle Sampson was, but your question asked me to sort of make a broad statement regarding the Justice Department's feelings towards him. I don't know how the Justice Department generally felt towards him except by the action of that committee which approved him for the Western District, and this and I'm sure there are other e-mails that would reflect over there that knew I was for him.

Q Certainly, at least one of the key Department of Justice officials involved in creating the list of who should be replaced knew of your strong interest; that much is clear?

A Yes.

Q Now, Mr. Griffin was submitted to and approved by the JSC and by the President to be U.S. Attorney months before Mr. Cummins resigned in 2006 and without informing the State Senators or soliciting candidates; isn't that correct?

A I believe that's accurate. The Arkansas Senators, yes. The President --

Q I may not have heard?

A You said State Senators?

Q That is accurate or inaccurate?

A That was accurate.

Q That was accurate. And what clarification were you making. I'm sorry?

A You said State Senators.

Q No, the State's Senators?

A I was clarifying that it was the Arkansas Senators.

Q Yes.

A As opposed to State Senators, just to be precise.

Q Let me break that up in order just to be perfectly clear. Mr. Griffin was submitted to and approved by the JSC and the President before Mr. Cummins resigned, correct?

A Correct.

Q And he was submitted and approved without informing the two Arkansas U.S. Senators, correct?

A That would not be unusual. Rarely were the -- rarely were the Senators consulted before a nomination was settled on by the President. We might have consultations with the Senators, but particularly if they were Democrats, we would make a decision and then go to them and say this is what we would like to do.

Q And in the case of Mr. Griffin, the decision was made and approved by the JSC and the President before informing the U.S. Senators from Arkansas, correct?

A Correct.

Q And it was also made before soliciting any other candidates for the position, right?

A I'm not aware -- I can't speak to that, but again, I would not be surprised if there were no others because again he had been approved by the Western District by the Justice Department committee that reviewed all applicants and was well thought of and well-regarded inside the White House as well.

Q You would agree this was a pretty unusual process to pick a replacement, not solicit other candidates, not consult with the State's U.S. Senators, prior to the incumbent resigning, wouldn't you?

A I'm not certain about the last item. The others I would chalk up to the fact that this person was well-known, well-regarded, highly thought of, who had been through the Judicial Selection Committee and the Supreme Court battles, and had been well-regarded, well thought of, would not be one of their own, and say this is an opportunity we would like to serve. We don't need to go do a lot of due diligence. We think he's the guy.

Q In the years you were at the White House were you aware of any other case where a candidate for U.S. Attorney was identified, approved before there was a vacancy, before the State's U.S. Senators were informed and without considering any other candidates.

A All three conditions?

Q Yes.

A Yes.

Q Who was that?

A Well, there were a number of them in the first tranche where we identified who we're going to recommend to the President. The President accepted the recommendation, and we told the Senators then.

Q And were these cases where no other candidates were considered?

A I can't speak to that. Again, I would doubt it was because we considered a lot of candidates for the 93 vacancies in 2001.

Q That's what I'm asking, Mr. Rove. That is, the exceptional circumstances here where a candidate was identified before the vacancy and no others were considered, that was extraordinary, wasn't it?

A Before the vacancy, there's a knowledge that the vacancy is going to be there. We ought to get points for continuity here to make certain that there is no gap in service between the time Cummins departed and his replacement is there. In fact, if you recall, Cummins literally asked that Tim come down and spend some time in the office before he departs the office, and then Tim asks Cummins if he will stay on until after he returns from a family vacation. So there is a lot of cooperation during the period of

transition.

Q Can give you us any other illustration of any other U.S. Attorney position where one candidate was preapproved and no others were solicited?

A You know, I can't, but I can -- throughout the government it's not uncommon. You know, the number two guy at Commerce in charge of international affairs was the only person reviewed. He was an ambassador to Singapore, well-regarded, well thought of, essentially the only person thought of for the job. I can't give you other cases. There might be other cases. I'm just not aware of them out of the modest number of replacements that there were after the initial 93.

Q So the only case you're aware that was handled like the Griffin case was the Griffin case?

A Out of I don't know how many dozen or so, you know, how many vacancies there were after 2001.

Q Mr. Cummins resigned December 20th, 2006, is that right?

A I have no recollection of the specific date.

Q Page 134 of the OIG report states in the third paragraph from the bottom that that was the date in which he resigned. Do you have any reason to dispute that?

A I don't.

Q If you could turn to page 145 of the OIG report it indicates that the JSC and the President approved Mr. Griffin after Mr. Cummins was told to resign in June 2006, and that this

occurred without following the traditional practice of informing the home State congressional delegation and soliciting U.S. Attorney candidate names?

A I'm sorry, read that again?

Q That the traditional -- let's see, that Mr. Griffin's approval --

A On the paragraphs there, could you indicate which of the five paragraphs on that page?

Q Looking at the second to bottom paragraph, the middle of the paragraph: However, after Mr. -- after Cummins was directed in June 2006 to resign, the White House's Judicial Selection Committee voted in favor of Griffin's nomination. The President signed off on the intent to nominate Griffin. However, the White House did not follow the traditional practice of informing the home State congressional delegation and soliciting U.S. Attorney candidate names. This deviation from the customary procedure contributed to the belief that the administration intended to bypass the Senate's normal role in U.S. Attorney nominations.

Without getting to that last sentence about the --

A Deviation?

Q -- deviation, do you agree with the statement, the White House did not follow the traditional practice of informing the home State delegation and soliciting U.S. Attorney candidate names?

A With all due respect, that is inaccurate. We didn't

consult Senator Kennedy or Senator Kerry to solicit names for the Massachusetts U.S. Attorney slots. We didn't consult with Democratic Senators from a State that had two Democratic Senators. If they had one Democratic Senate, we didn't consult with them about soliciting names.

RPTS JOHNSON

DCMN HOFSTAD

[1:43 p.m.]

BY MR. SCHIFF:

Q And what about informing the Republican congressional Members?

A Again, it is generally after, not before.

Q In a State like Arkansas, for example, where you have Republican House Members, would it be the practice to consult with Republican House Members where the Senators are both Democrats?

A In that instance, yes. But, on the other hand, this involved a member of the White House staff. The President's attitude might be, and the White House staff attitude might be, "We feel strongly about this, and we are going to go tell them, not ask; we are going to tell."

Q And that was the case with Mr. Griffin?

A I don't know the case with Mr. Griffin. I don't know the conversations with Congressman Boozman, whether that took place before or after. But it is not traditional, I think, with all due respect to the Office of the Inspector General, I do not think it is traditional that White Houses solicit U.S. Attorney candidate names from Senators of the other party as a matter of routine. I know it is not happening in Texas right now. There is a little bit of controversy about it.

Q When you were asked about a press report claiming that

your OPA office had sent a list of suggested U.S. Attorney replacements, you stated that such replacements were submitted after the fact. Isn't that right?

A I'm sorry?

Q Why don't you take a look at Document 31? There is an e-mail at the bottom from Dana Perino to Sara Taylor and to you that states, "Reporters have been told that Sara/her office sent a list of names for replacements of U.S. Attorneys."

And you responded -- and, again, this is March 2nd, 2007 -- to Dana Perino, "After the fact and to Counsel's, and not for slots which are commission recommendations, and not for all. He has been told the wrong thing."

Can you explain what you meant by that?

A I'm not certain, is this for all of them or is this for some of them? After the fact. Okay.

Sara's office sent a list of names for replacements for U.S. Attorneys. "After the fact" means after they were replaced, after they were gone. "And to Counsel's," I suspect that means Counsel's, White House Counsel's, "and not for the slots which are commission recommendations, and not for all." Two or three of these are commission recommendations. The two California ones are commission recommendations, and I believe Washington State is a recommendation.

Q When you say "after the fact," though, you are referring to after there is a vacancy?

A After the announcements been made. Now, that obviously doesn't apply to the U.S. Attorney in Arkansas.

Q Well, that was my question. Why didn't that apply to the U.S. Attorney in Arkansas?

A It is a more collegial -- it was a more collegial exchange. I mean, Cummins was going out, and he and Griffin had such a good level of cooperation that Cummins was asking for Griffin to come down and be in the office before he departs.

Q Did you ever tell Sara Taylor that the information you had sent her was not accurate, as to Mr. Griffin? I'm sorry, did you ever tell Dana Perino --

A No.

Q -- that this was not correct, it as pertained to Mr. Cummins and Mr. Griffin?

A No.

Q Sometime after Mr. Griffin was approved by the President, the plan became not to follow the usual nomination and approval process involving the Senate, but instead to appoint him as U.S. Attorney using the Attorney General's authority, didn't it?

A I am not aware of that. I think that was a recommendation or that was a suggestion by some, but I don't think that was the policy that was agreed to. I certainly wouldn't have agreed to it. And at the end, I know it was suggested, but it was not pursued.

Mr. Luskin. I believe we've discussed that at length with the Kyle Sampson-Miers interchange at the beginning of his colloquy, didn't we?

BY MR. SCHIFF:

Q If you could turn to Document 50, this is an e-mail from Tim Griffin to Debbie Hardos, subject matter: "I talked to Jennings," that reads, "He doesn't see any reason to proceed with the Senate paperwork since the appointment will occur the other way."

Doesn't that refer to an appointment via the Attorney General's authority?

A Could refer to a recess appointment. But I don't know, and I am not familiar with this.

Q Well, recess appointment wasn't an issue with respect to Mr. Griffin, was it?

A Yes, it was. There was active discussion. There is some references in some of the documents to whether or not there is a possibility for a recess or the other way, pointing towards a January '07 appointment.

Q And were you a party to discussions about whether the Attorney General's authority should be used or whether you should go the Senate confirmation route?

A Yeah, I remember discussions about them, as I said earlier. And, you know, my sense of it was that that was a not well-regarded option. There was an active interest in seeing if

we could do a recess appointment. We had one difficulty in that he was in, as I recall, in Iraq during the August recess. But even then, Senator Reid made arrangements to keep people around so that that was closed off. And the question was, would we have a window during the holidays at the end of the year when he was back and was there going to be a window?

Q Well, I think when we talked about this earlier, we were talking about after the fact, after he had already been appointed pursuant to the AG authority. I would like to ask you about the discussions that led up to the decision to use the AG authority in the first place.

A And that would be when?

Q Prior to his appointment under the AG authority.

A And when would that be?

Q Do you know what period that would be?

That would be in December of 2006. Were you a part of discussions at the end of 2006 about using the AG's appointment authority to appoint Mr. Griffin as U.S. Attorney as opposed to using the Senate confirmation route?

A I don't recall when exactly the discussions were. All I know is I did not think it was a viable alternative.

Q Well, I want to make sure that we're talking about the same thing. When you say you didn't think it was a viable alternative, did you form that opinion after he had already been appointed using the AG authority, or did you make the argument

prior to his being appointed that way that he should not be appointed through the AG's authority?

A I'm not certain I was aware of the authority until after he was appointed, but I have no recollection of when I learned about the authority that was achieved in March of 2006. Is that right?

Q So you don't recall any conversations you would've had prior to his appointment about the use of the AG authority?

A I have no recollection of when those conversations were. As I said earlier, I was privy to the conversations about whether or not the authority should be used, and I was very skeptical that it was -- it struck me as a weak option, it did not work.

Mr. Luskin. For the record, Mr. Schiff, so we are clear on the timeline, the e-mails that we discussed originally involving "gumming it to death" from Kyle Sampson was dated December 19th, 2006. And on December 20th, Cummins resigned and Griffin was sworn in. So that exchange took place prior to his appointment.

Mr. Rove. The August 30th?

Mr. Luskin. No, it was December.

Mr. Mincberg. December.

Mr. Luskin. I think you suggested a moment ago that that was after he had been appointed, and that is not, in fact, the case.

BY MR. SCHIFF:

Q Let's turn back to Document 27. This was the e-mail that we were talking about earlier dated December 19th.

Let's start on the second page with the first e-mail chronologically in this chain, from Griffin to Monica Goodling, subject: "Another one," appending an article, "Lincoln Calls Appointment of Rove Assistant Unfortunate."

Moving up the chain of e-mails, there is an e-mail from Mr. Oprison to Kyle Sampson in the chain that says, with respect to using the AG authority, "I raised that issue with Harriet earlier. Seems to me that, number one, Pryor and Lincoln are taking steps to back DOJ/White House into a corner on Tim Griffin, and commit to not commit on him as a nominee, and two, "interim" may be a source of confusion or, worse, a term that Pryor or Lincoln's office can springboard from to press for their own nominee rather than" -- I can't read that word there --

A Rallying.

Q -- "rallying behind Tim. What are your thoughts? If this is a section 546 AG appointment for unlimited duration, Tim can call himself U.S. Attorney rather than interim or acting. And our talkers should avoid referring to him as interim. What are your thoughts?"

This is ultimately forwarded to you from Harriet Miers, along with a note, "This does not seem to be developing as we thought."

How did you think that this would develop? And how did this end up developing a different way?

A We thought that, at the end of the day, Lincoln and Pryor would both be happy to sideline Tim and get him into a job

in which he was no electoral danger to either one of them, couldn't run for office. He was talked about as being a prospective candidate. He would be sidelined in the U.S. Attorney's office.

Q And did you discuss this with Harriet Miers after this e-mail?

A I don't recall, but, I mean, we did discuss how this was going south. I mean, this was an item of discussion for, as I recall, a couple of months as we, again, were in this netherworld where neither Lincoln nor Pryor would say no. She would say "unfortunate," he would say "concerns." They would tell people, interlocutors in Arkansas, "We've got concerns, we think it's unfortunate, but, no, we haven't told the White House no," at the same time hoping that we would then bring Tim down and say no.

So we wanted to force them to either say yes or no. We were willing to live with either answer. And when they eventually said no, we brought him down, we went a different direction.

Q Mr. Rove, I want to ask you, this e-mail on December 19th, 7 o'clock in the evening, from Harriet Miers to you, "This doesn't seem to be developing as we thought," that appends these other e-mails suggesting that the AG's interim authority be used, or the AG's -- not interim, but the AG's authority to appoint be used. The following day, wasn't Mr. Griffin appointed using that AG authority?

A I don't know.

Q Let's take a look at the IG report, page 134.

Mr. Luskin. He was sworn in as the interim U.S. Attorney, Mr. Schiff.

Mr. Schiff. I'm sorry?

Mr. Luskin. He was sworn in as the interim U.S. Attorney, which means that the authority was not used, because he wouldn't have been interim had the Attorney General exercised his authority under the PATRIOT Act.

Mr. Mincberg. I don't know how much we want to get into this on the record, but I don't think that is correct, Mr. Luskin.

Mr. Luskin. Okay. All right.

BY MR. SCHIFF:

Q Between the time of this December 19th e-mail from Harriet Miers to you and Mr. Griffin's December 20th appointment, was a decision made not to seek the Senate confirmation route with respect to Mr. Griffin?

A I don't believe so. But, again, my impression is the same as Mr. Luskin's, that this was not a 546 appointment, this didn't use section 546. If so, we would never have had to worry about the Senate confirmation. But, again, I don't know.

Mr. Luskin. If there is a convenient stopping point here along this line of questions, this would be a convenient time.

Mr. Schiff. Okay. Why don't we take a break right now?

Mr. Luskin. Thank you, sir.

[Recess.]

Mr. Rove. Before we go on, can we go back to two issues?

Mr. Schiff. Sure.

Mr. Rove. One is the e-mail from Dana Perino, I guess it's Exhibit 31. I just want to clarify, this refers to the seven U.S. Attorneys who were removed. At this point, hasn't Cummins already been done? Your point about this was, was this correct as with regards to Cummins? Here we are dealing with a specific question of the U.S. Attorneys who have just been removed. Cummins was gone 4 months before.

Your question was about, was this inaccurate as regards to Cummins? I am dealing with the immediate question of the U.S. Attorneys who have been replaced recently, not Cummins, who has left on the December 20th, as you said, 2006.

Mr. Schiff. Anything else you would like to clarify?

Mr. Rove. Yeah, one other thing, this issue of using the 5 -- not 527 -- the 546 authority. There may have been discussions about that, but I believe the intent was always -- and it may have been used. I am not aware that it was, but it may have been used. But the intent was, at least my understanding of the intent was, get the approval of the Senators and move this through the normal process. And that is why we spent a lot of time trying to get to the Senators to get them to approve them. And, at the end of the day when they did not approve them and finally gave us a declarative "no," Griffin was no longer the U.S. Attorney.

We were pursuing the path of presidential appointment rather than relying on the authority. If we could have done a recess appointment, fine. They would have been irritated, but there is clear precedent that that has been used and, in fact, welcomed in some instances of troublesome nominations by home State Senators to remove a problem without -- giving them a chance to oppose it without actually having to oppose it.

But, all along, our theory was -- and we put a lot of effort into -- getting Griffin confirmed through the normal process with the return of blue slips by both Lincoln and Pryor.

BY MR. SCHIFF:

Q Mr. Rove, you do understand, though, that the interim authority that has been referred to effectively was merged into an unlimited authority in the PATRIOT Act for the Attorney General to make an appointment, right?

A Congressman, you're the member of the Judiciary Committee and a lawyer; I am neither. And so I am not familiar with what the authority is, its legislative history, or any of it. You are asking the wrong guy.

Q And the earlier e-mails that we discussed, in particular that said there was, in effect, no need to provide the paperwork because we were going to go the other route, didn't that refer to an apparent decision to go the AG appointment route rather than the Senate confirmation route?

A I don't -- again, I don't recall that. That was not

Harriet Miers, that wasn't Alberto Gonzales, that wasn't me. And I can't remember -- in fact, what exhibit number is that again?

Q Well, let me try to find it for you.

Mr. Mincberg. It's 50.

Mr. Luskin. 5-0?

Mr. Mincberg. 5-0.

Mr. Rove. Thank you.

Yeah, I thought this was with regard to a recess appointment for Tim, but --

BY MR. SCHIFF:

Q Okay. Anything further you want to clarify before we start up again?

A No.

Q Okay.

All right. Well, let's start with Document 32. At the bottom of the page is an e-mail from you to Tim Griffin dated January 9th, which responds to an e-mail from Mr. Griffin to you of January 9th, as well, in which Mr. Griffin writes, "I am en route to D.C. this a.m. to meet with Senators Pryor and Lincoln regarding potential confirmation. I am not optimistic, but we shall see."

Later in the e-mail chain that day, Mr. Griffin wrote to you, "Pryor suggested" -- this is about, I guess, the largest paragraph at the top of the page -- "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 you all hang in there with me. Thank you." To which you replied, "We will. You stay strong." To which he replies, among other things, that he is thinking about naming his son Karl.

Mr. Luskin. Doesn't everyone?

Mr. Rove. Didn't happen.

Mr. Schiff. He did say "laugh out loud." I believe "LOL" stands for "laugh out loud."

BY MR. SCHIFF:

Q Mr. Griffin is asking you here whether you will stick with him even if he can't get through the Senate, isn't he?

A No. "Pryor suggested I withdraw my name if I get stuck in the Senate." This is exactly the kind of unresponsive response we were getting from Pryor. He wouldn't say, "No, Tim, I'm not going to be for you, I will not return a blue slip." Instead he would say, you know, "You are going to have problems in the Senate with others, and I think you ought to avoid problems with the Senate with others. If you get stuck with others, withdraw your name."

Again, our attitude was, we respected the senatorial prerogative. If Pryor and Lincoln said no, it was dead. We had a history of previously taking nominees whose home State Senators said no and clearing the battlefield.

Pryor was asking Griffin to do his dirty work for him. He would not say no to him. He didn't want to go home to Arkansas

and say, "You know what? I told Tim Griffin no." What he wanted to do was to say to Tim Griffin, "You know, you will have problems with others. You will get hung up in the Senate. It is a contentious atmosphere here. And if that happens, you ought to retire from the field of battle."

Q And your position was that, barring the State Senators from that State actively opposing his confirmation, other Senate opposition didn't matter?

A Other Senate opposition had to be dealt with in time. If a home State Senator, who under senatorial prerogative had the right to say no, said no, we respected that. But you don't make a determination about the rest of the Senate until you get past that first hurdle. I know the House operates in a more organized and --

Q Don't get me started on that.

A -- personalities and prerogatives don't enter into it.

Mr. Mincberg. You were going to say organized and principled way.

BY MR. SCHIFF:

Q This e-mail chain in January of '07 took place after Mr. Griffin had already been appointed by the AG, correct?

A Yes.

Q Is it fair to say, at this point, that you were willing to work to keep Mr. Griffin in this position even if his nomination couldn't get through the Senate?

A No. If we could get it by recess appointment, yes, because that is accepted, normal, and ordinary. But, you know, my view was we didn't do Tim any good, we didn't do the office any good, we didn't do the President any good if we were in a place where his home State Senators definitively said no.

Q Let's take a look at the next document, 33, just a few days later, an e-mail chain from January 15th.

Without going through each of the e-mails, it is fair to say that this e-mail chain reflects communications involving you, Mr. Griffin, as well as Sara Taylor of OPA, to try to marshal support for Mr. Griffin?

A Let me take a few moments to read this, if I could.

Q Sure.

A Okay.

Q Looking at the second page -- well, let me go beyond that. The final page is an attachment from Brad Smith to Sara Taylor, subject: "New York Times editorial: Politicizing Prosecutors," dated January 15th, 2007. Is that right?

A Yes.

Q And the e-mail on the bottom of page 2, there is an e-mail sent to you, it looks like, from Sara Taylor that reads, "Pryor is going after Griffin. He has 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 him. Anyone better?"

And then you respond, "What about Bud Cummins?" Correct?

A Yes.

Q Does this indicate to you that, as of about a week later, that Senator Pryor had made up his mind on Mr. Griffin?

A No. Again, this was -- you will notice on the first page the suggestion is made by Griffin that maybe we could -- that Fred Thompson suggested to him to put Tim through the Senate with the U.S. Marshal nominee that Pryor is happy about, sort of pair the two of them together.

I didn't take -- until Pryor finally said no, I wasn't willing to accept that we couldn't eventually find a way for him to say yes. So long as he was out there sort of saying "I want this to go away, but I don't want to be responsible for it," I felt we could convince him.

It is February 15th is when, finally, Pryor tells Gonzales, "I will not accept Griffin," he says no. For the first time, he gives a definitive, "I am no." Not "It's the Senate, somebody else, I've got concerns." He tells no, and the next day Griffin is gone.

Q And how do you know it was February 15th? What do you base that on?

A I believe there is a document in there.

Q Well, you were just quite emphatic about that date.

A Yeah, because --

Q And I was wondering how you picked that date.

A -- I have read this over some time ago, and Bob reminded me that that is in there.

Q Bob, your counsel, reminded you?

A My counsel, I'm sorry, and Mr. Luskin. I believe I also have the -- yeah, February 15th, 2007. And it is --

Mr. Mincberg. By "there," I assume, Mr. Rove, you meant the inspector general's report. I believe Mr. Schiff is planning to get to that a little bit later.

Mr. Luskin. Okay. Perfect.

BY MR. SCHIFF:

Q You mentioned in this e-mail chain that you will raise -- "Let me raise to leg shop and Counsel's Office." And was this the idea of pairing up the marshal with Mr. Griffin?

A Yes.

Q And did you raise it with the leg shop and Counsel's Office?

A If I said I would, I did. I don't recall who I raised it to or what the response was.

Q Do you know whether any effort was made to approach Senator Pryor with a package?

A I don't recall, but I am sure if I asked that it be done, and we were frantically trying to make this work, that something was done.

Q Did someone ever relate back to you that that offer was not accepted?

A I assume they did. I don't recall specifically.

Q Let's turn to the next document, 34. This is an e-mail from you to Mr. Griffin stating, "I am doing fine and have no jeopardy. Thanks for thinking of me," responding to e-mail evidently from Mr. Griffin the day before, January 23rd, 2007, "Hang in there. You are in my thoughts and prayers. Peace. TG."

What was this referring to?

A I have no idea.

Q You have no idea what he would be urging you to hang in there with?

A I would have to go back and check the press at the time.

Q January 24th. It was January 23rd and 24th of 2007.

A Sorry.

Q If I represented to you, Mr. Rove, that on January 23rd Mr. Libby's defense attorney, in his opening statement, suggested that Mr. Libby was being sacrificed to protect you in that investigation, does that refresh your recollection about what this e-mail refers to?

A I assume, if that is what the news reports of the day show.

Q Then you assume what?

A If that was in the newspapers, then that is probably what this is referring to, which is why I said I'm doing fine and have no jeopardy.

Q Around 2 weeks after that, February 6th, 2007, both

Senator Pryor and Deputy Attorney General McNulty testified before the Senate Judiciary Committee relating to U.S. Attorney terminations. Did you or anyone in OPA review drafts of testimony, participate in meetings, or do anything else relating to that hearing that took place?

A I can't speak to OPA. I don't recall for me.

Q I guess I should say that both participated in that hearing.

After Mr. McNulty's testimony was given, did you become aware that Mr. McNulty had testified that Mr. Cummins was not removed for performance reasons but to make room for Griffin?

A I remember reading that, yes.

Q Were you concerned that he had so testified?

A You know, it struck me that Cummins was in a different basket than the seven attorneys. The seven attorneys were the ones on which the performance had been focused. Cummins was a result of Cummins signaling in December of 2004 "I don't expect to be here the rest of the President's term" and for us having a good nominee whom we could put into play.

Q And what was your concern about Mr. McNulty acknowledging that Mr. Cummins was not removed for performance reasons?

A I'm not certain I had concerns at the time. I don't recall what my emotions were at that time, frankly.

Q Were others at the White House concerned about that

testimony?

A I don't recall.

Q Were people at the White House concerned because it would raise speculation that maybe the others were not removed for cause either?

A I don't know about that cause-and-effect relationship. There were people at the White House, and I was one of them, who were concerned that we were not doing a good enough job of explaining Justice Department's rationale for removing these people. There were concerns about the so-called privacy rights of these individuals. The Justice Department didn't want to say, we removed Kevin Ryan for this reason or Lam for this reason. Instead, they wanted to keep it at a -- publicly and privately. They gave up the private by giving a briefing to the Members on it. But I didn't think they did a particularly good job of explaining why it is, the rationale for each one of these.

Q Were you also concerned -- or were you concerned that this would lead to further speculation that Mr. Griffin was appointed for political patronage reasons, including his relationship with you?

A No, because I knew how well-qualified he was and what an extraordinary background he was and what an excellent job he was doing in the office.

Q Turn to Document 35. This, at the top, is an e-mail from you to Taylor Hughes. And then just below that is a

forwarded message from Scott Jennings to you that says, "I am waiting on a transcript of the Q and A" -- this is referring to Mr. McNulty's testimony -- "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."

How did he get tripped up during the Q and A?

A I have no idea.

Q Wasn't it Mr. Jennings's view that he got tripped up during the Q and A by acknowledging that Mr. Cummins was not removed for cause?

A I don't recall. I don't know. Do you have the Q and A in here? I don't have it under Tab 35 for me.

Q It is in the next document, 36. So why don't we take a look at 36. This is a February 14th, 2007, e-mail from Scott Jennings to you. It says, "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 to 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."

Does this refresh your recollection at all whether the concern at OPA or in the White House and other offices was that he had acknowledged that Mr. Cummins was not removed for performance

reasons?

A I don't recall that as being an issue. I do agree with Mr. McNulty's testimony that Arkansas and the seven should not be lumped together. My view of Cummins was that Cummins had signaled he wanted to depart. He was open to departing. And 2 years after he signaled that, he departed. And he was replaced by an excellent person, in my opinion.

Q If you could turn to the highlighted portions, which are -- you may have it already before you, but HJC 11678 and 9.

A Right. Those are the only two pages I have, incidentally, in my book. I have a cover memo and then two pages.

Q Okay. Yours is better prepared than mine.

In the highlighted portion, Senator Whitehouse just above the highlighted portion asks, "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 laugh test, really. Can you respond to those two observations?"

Mr. McNulty replies, "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 the 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."

Wasn't this the section that was being referred to as where Mr. McNulty tripped up?

A Again, I wouldn't -- you know, I don't recall the memo. Let me go back to what was the previous exhibit. Oh, 35.

I am not certain I concur with Scott Jennings that this is tripped up. This is my understanding of it.

Q But that was the portion he was referring to, wasn't it?

A Yeah, but I am not certain I agree with Mr. Jennings's characterization as "tripped up." I mean, Bud Cummins signaled that he wanted to depart. When somebody says, "I don't expect to be here," and when somebody says, "I want to get a deal like the U.S. Attorney in the Western District did," then "It provided an opportunity for a fresh start with a new person in that position" is legitimate, and particularly when we had somebody as talented as Tim Griffin.

Q And I take it "the opportunity to provide a fresh start with a new person in that position," that was referring to Mr. Griffin, right?

A Yes.

Q And had you asked Mr. Jennings to retrieve this testimony for you?

A I don't recall.

Q Did you discuss with Mr. Jennings Mr. McNulty's acknowledgment that the termination of Mr. Cummins was not for cause?

A I don't recall. It would not have been unusual had I, but I don't recall.

Q Did you take any action after receiving this information from Mr. Jennings?

A Not that I recall.

Q If you could turn to Document 25.

Mr. Luskin. I'm sorry, 25, sir?

Mr. Schiff. Twenty-five.

Mr. Luskin. Thank you.

BY MR. SCHIFF:

Q This is an excerpt of testimony from the Attorney General before the House Judiciary Committee. At the bottom of the second page, the Attorney General testifies that Mr. Cummins was asked to leave because a change was desired by the White House because they had identified a well-qualified individual that they wanted to have as a U.S. Attorney.

Was that accurate testimony?

A I believe so, yes. But, you know, again, I'm not -- yes.

Q And, in particular, was it accurate that Mr. Cummins was asked to leave?

A I don't know that for certain. I don't know the back

and forth between Cummins with regard to his plans and so forth. I don't know.

Q I would like to ask you about some of the interactions related to Mr. Griffin that occurred around the middle of February and have been described in the IG report. Could you turn to page 140 and 141 of the IG report? This may reference the conversation you recalled reading about in the report earlier.

At the bottom of page 140, the report states that a meeting between the AG and Senator Pryor took place on February 15th, and when Senator Pryor indicated he would not support Mr. Griffin's nomination, the AG said he would look for names of other individuals to consider as U.S. Attorney.

On the top of the following page, the report states that Mr. Griffin stated that you told him that, quote, "individuals in the White House were unhappy with," unquote, the Attorney General when they learned that he had told Senator Pryor he would not support Mr. Griffin as permanent U.S. Attorney because Senator Pryor would not support him.

Is that correct?

A I don't think that's accurate. I think people were disappointed that we weren't able to get it through. But I think, you know, Gonzales had gotten what we ultimately wanted, which was clarity from Pryor. And maybe I said we were disappointed that he couldn't get Pryor to swing around your way. But I don't think that's -- I don't think that's totally accurate.

Q So you don't think the Attorney General's statement to the OIG was perfectly accurate, that the White House was unhappy that I had honored my commitment to Senator Pryor?

A I'm not certain that that refers to that. I think it refers to Griffin told us that Rove informed him that individuals were unhappy with Gonzales when they learned that he told Pryor he would not recommend Griffin's nomination to the White House because Pryor would not support Griffin. That's inaccurate.

Our attitude all along was, if Pryor didn't support Griffin and affirmatively returned and said, "I will not return a blue slip," told us no, then it was done. If Blanche Lincoln said no definitively, it was done. Neither one of them would. Both of them were in the, sort of, netherworld of trying to say, "We've got concerns," or, "It's unfortunate," but not say no.

On the 15th, Pryor tells Gonzales no, and that night Griffin withdraws his name.

Q Well, in the OIG report, on page 141, where it says, "Griffin told us that Rove informed him that individuals in the White House were unhappy with Gonzales when they learned that he told Pryor that he would not recommend Griffin's nomination to the White House because Pryor would not support Griffin," you are saying that that is not correct?

A It is not accurate to say that people were -- that people were unhappy with Gonzales when they learned that he told Pryor that if he would not recommend Griffin we wouldn't proceed

with him. That's what we were trying to signal all along: Tell us where you are, yes or no. If you are no, we respect senatorial prerogative.

Q Do you know why Mr. Griffin would have told the OIG that?

A I don't know.

Q The statement in the paragraph above that, "During our interview, Gonzales said he was reluctant to discuss with us conversations he had with the White House concerning his commitment to Senator Pryor to find other candidates. Gonzales said, however, that the White House was unhappy that I had honored my commitment to Pryor."

Was this correct?

A You know, again, I can't speak for Gonzales, but, again, my attitude was, and I think it was the attitude of most people that were dealing with this issue, we wanted clarity. We thought we had a good chance of getting Tim to be approved by Pryor and Lincoln and, if the issue was forced, they would approve him. At the end of the day, Pryor stepped forward and said no, and Tim was gone that night.

That is the way the process is supposed to work. You are supposed to -- senatorial prerogative is not a "I've got to divine your intent." It is a yes or no. It's binary. I'm either going to exercise my prerogative and refuse to return the blue slip or I'm going to exercise -- you know, I'm going to cede to the

President's nomination and provide my blue slip.

Q Do you know whether the Attorney General was referring to you when he made the claim that the White House was unhappy that he had honored his commitment to Pryor?

A I have no idea.

Q Do you know who else he might have been referring to?

A No.

Q Were both Mr. Griffin and the Attorney General wrong when they said the White House was upset about either honoring the commitment to Pryor or not recommending Griffin's nomination to the White House?

A I can't speak to the entity of the White House. I wasn't unhappy with it. I mean, I was unhappy that Tim didn't get it. I was disappointed that Alberto had not been able to prevail with it. But it was what it was.

Q And you are not aware of anyone else at the White House

--

A Not aware of anyone.

Q -- that was unhappy with the AG or with -- well, unhappy with the Attorney General's decision?

A I am not aware of anybody. Not to say there weren't people, but I am just not aware of them.

Q Let's turn to Document 37. I guess the bottom e-mail is from Mr. Griffin to you and others, subject: "FYI from today's Arkansas paper." And the article is entitled, "Prosecutor Griffin

Now Rejects Post. Interim Appointee Blames Senate Flak."

In Mr. Griffin's e-mail to you just above that, he states, "I am going to go back to focusing on my job until I am told otherwise." Did you understand by that that he meant to continue in the U.S. Attorney position until he was told otherwise?

A Until, yeah, until -- well, I am not certain of exactly what I thought. But, I mean, I knew he was going to withdraw his name, and so the question would be, would he remain in that until his successor was duly confirmed, or was he going to remain in that office for a week, or was he going to leave immediately? You know, the question now was what to do with him.

Q What did your note to Criston Tanner, "Run off ASAP," mean?

A It means "run this off on a piece of paper," because I couldn't read it. This was sent to me on my BlackBerry. I am getting old, I can't read.

Q Were you aware of a letter that was drafted in February involving the Department of Justice and the White House to respond to questions from Senators about the Cummins-Griffin matter?

A Not in advance of it, I don't believe.

Q You weren't ever consulted or involved in any way concerning the preparation of the letter or the administration's response?

A Not that I recall.

Q Turning to Document 45, this is a February 23rd letter

to Senator Schumer from the Department of Justice Office of Legislative Affairs.

If you look at page 2 of the letter, it claims in the first bullet at the bottom that the decision to replace Mr. Cummins was, quote, "first contemplated in the spring or summer of 2006," unquote.

That is false, isn't it?

A Yeah. Earlier, 2005, 2004. 2004 is when the -- yeah, earlier, 2005.

Q Turn to the last bullet point on page 3 of the letter. The letter in the last bullet point says, "The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin."

That is not true either, is it?

A You know, this is parsing. I obviously was for Tim Griffin. You know, I've seen this before. I've tried to figure out why anybody would write this, because I was clearly for Tim Griffin and advocating for Tim Griffin and helping to get Tim Griffin into the job and enthusiastic about it. And I've tried to figure out why somebody would write that, and I assume that it is playing any role in the decision. Maybe they said, "We made the decision over here. We are the people in charge of framing the recommendation to the President. We are happy to accept advice from other people, but that doesn't mean that you play a role."

But, you know, I would not have written it this way.

Q Well, it is misleading at best, isn't it?

A Well, I'm not -- I am going to let you characterize it. That is not how I would have written it. I did not see it before it went out. I can understand why someone would say that. I wouldn't think it was -- I wouldn't have put it that way. I was clearly an advocate for Tim Griffin.

Q And the Department of Justice knew that, right?

A Yes.

Q And White House Counsel's Office knew that?

A Yes.

Q And OPA knew that?

A Yes.

Q When did you find out about the false statements in this letter?

A I don't know exactly, sometime after the letter was sent. And, again, I am not certain I would accept the characterization as false.

Counsel reminds me that there was a transition under way in the Counsel's Office between Harriet Miers and Fred Fielding, so the White House may not have been aware of this letter, and it may not have been circulated within -- oh, I'm sorry. The White House Counsel may not have been aware of my views. Fred Fielding, the new counsel, may not have known that I had been an advocate for Tim Griffin, whereas Harriet Miers obviously did know I was.

So if this was reviewed by the White House, new counsel may

have said, "That is a decision that belongs over there." That wasn't a decision he was involved in.

Q Wouldn't they have made an effort to determine whether the assertions they were making to the Congress were truthful and accurate?

A I assume that the Justice did believe this to be accurate.

Q And that the new head of the Office of White House Counsel wasn't present and couldn't determine whether you played a role or not? Wouldn't he be obligated to find out?

A Well, again, he may have. I assume that he did. And, again, the phrase may be "playing a role in the decision to." Again, I wouldn't have written it this way, but they may say, "All the decision-making took place over there. We are happy to receive advice. A Member of Congress may recommend somebody. That doesn't mean that they play a role in the decision. Their participation is advisory. The decision is made here."

Q So your position, Mr. Rove, then, is that, knowing of your strong advocacy for Mr. Griffin, the Department may still have represented to Congress that you played no role in the decision to appoint Mr. Griffin?

A Look, this is their letter, not my letter.

Q And when did you find out about -- the first bullet point you indicated was false, and the fourth bullet point you indicated may be false. When did you learn about the falsity of

those statements?

A I am not certain I would agree with your characterization. When did I learn about the letter? Sometime after. I don't remember when.

Q Did you make any effort to correct it?

A I don't recall at the time. I think I did say -- raise an eyebrow about "the role." But I don't recall.

Q When you say you raised an eyebrow about "the role," what you are saying is you raised an issue about the claim that you were not involved in the decision to appoint Mr. Griffin?

A Well, I was sort of mystified by why they would write it that way. And I may have been told at the time, "Look, the decision was made over at Justice, not over here. You know, you were simply -- your opinions were your opinions. Happy to take them under guidance, but the decision was made over there." I don't recall.

Q What you just said, is that just sheer conjecture or do you have a recollection --

A I have a recollection --

Q Please let me finish. Or do you have any recollection of someone actually saying that to you?

A I have a recollection of talking to somebody about this, but I can't remember who and when.

Q Around the time of this February 23rd letter, weren't you involved in communicating or providing information to the

Counsel's Office or elsewhere in the administration on the Griffin-Cummins controversy?

A Most of the activities at this point were between OPA and counsel and me and Leg Affairs. I did a lot of talking back and forth with Candi Wolff about things that we were trying to do or could do to make this happen.

Q Let's turn to Document 48.

A One thing. This letter is 8 days after he departs. So it's in the time frame leading up to the letter that I'm working with Leg Affairs. And it's a dead deal at this point.

Q Well, turning to Document 48, which is an e-mail from you to William Kelley, this is February 20th, so it's 3 days before this letter we've just discussed went out to Senator Schumer from the Justice Department.

In your e-mail 3 days before that letter went out, you sent an e-mail to Mr. Kelley, subject matter: "Here's the answer," that begins, "Many thought he was going to leave in December of 2005, when his 4 years was up. Of course, he didn't leave."

You are talking here about Mr. Cummins, aren't you?

A Yes.

Q And you append an article from the Arkansas Times Staff speculating about whether Mr. Cummins will leave office. Is that right?

A Yep.

Q And Mr. Kelley was in what office at the time you sent

him this?

A Counsel's Office.

Q So 3 days before the DOJ letter went out, you are providing information to the White House Counsel's Office about the circumstances in which Mr. Cummins was asked to leave and Mr. Griffin replaced him?

A Uh-huh, yes.

Q Did Mr. Kelley ever ask you about your role in advocating for Mr. Griffin?

A I don't recall. And I don't recall what the question was that caused this answer.

Q By this e-mail, you were suggesting to Mr. Kelley that the answer to whatever the question is should be that he was preparing to leave on his own, weren't you?

A I think that is the intimation. It leaves out the earlier piece that appeared in December of 2004. So this may have been a question of, did we have anything besides the 2004 conversations and the 2004 article? That could be one other.

Q Now, this article that was updated in August of 2006 that you forwarded, isn't it correct that Mr. Cummins had already been told to step down as U.S. Attorney prior to this article?

A Yes. Yes.

Q So it is not surprising that he would be thinking about leaving, given he had been asked to step down, right?

A Right.

And you will notice in the message above, I draw attention to, "In it the Arkansas Times recalls Bud has saying" -- "has saying," obviously incorrectly typed, proving that I typed it -- "that Bud has been saying he was going to be leaving for a while."

And you will notice there in the second sentence of the first paragraph, "He had earlier told us," referring to the Arkansas Times, "he didn't intend to serve out the entirety of the Bush administration's second term and that he had been looking for private-sector work."

Q There is nothing in this article that indicates that this was the reason why he was being asked to step down, is there?

A I'm sorry, I don't follow your question.

Q There's nothing -- we talked earlier about the Attorney General's testimony that he was asked to step down.

A Uh-huh.

Q And that was to make room for Mr. Griffin.

A Uh-huh.

Q The article that you are forwarding to Mr. Kelley as the answer asserts a completely different theory, doesn't it?

A You're assuming that the question that I was being asked to answer is the question that was addressed by Judge Gonzales, and I'm not certain that's it. It may have been, the question may well have been -- and I don't remember what the question was -- but the question may well have been, has he said anything since December of 2004, and is there anything else in the record?

Q And why was it necessary to find statements from Mr. Cummins about whether he planned to leave office or not?

A I have no idea, except that remember what sets this in train is Bud Cummins says, "It is unlikely that I will serve out the second administration" publicly on the record, and privately he is telling people, "I like the deal that my compatriot in the Western District got after he left, and I'd like to have the freedom to pursue the same kind of arrangement."

Q But this wasn't the reason why he was asked to leave, was it?

A Well, it certainly made it more likely that, since we had a highly qualified individual, if you have somebody who says, "You know what? I am really not going to be around here forever, and, not only that, but I would like to get the deal like the guy next to me got," that if you've got a well-qualified individual, maybe that is a useful time 2 years later to make a change.

Q Mr. Rove, wasn't your purpose in sending this to Mr. Kelley to suggest that Mr. Cummins was not being pushed out to make room for Mr. Griffin?

A No. I mean, we had two things going on here. We had somebody who had said on the record twice and off the record a number of times and in a public forum at least once, you know, "I am not going to be around. I am not going to serve out the second term." And it was a useful thing for us to say, if his intention is to try and find a place and time to leave, fine, let's find

somebody else to serve in that job.

Q Let's turn to Document 49. This is an e-mail, at the top, from you to Mr. Griffin that asks, "Did Cummins ever say publicly he was looking to leave -- something that was picked up by the press well before he left?"

Doesn't this indicate that, as of February 2007, you are unclear about whether he ever made a public statement about intending to leave?

A Well, I remember the December 2004 piece, and I obviously remembered it during 2004 and 2005. Obviously, I am looking for more things in the press to use, yeah. I don't have perfect recall. I remember the article that set it in train, but I may have forgot it at some later date.

Q So on February 20th, 2007, you didn't remember the article, but you do now?

A I may not have. Yeah. Exactly.

Q And were you attempting to generate these articles to provide information to the administration and the Department so it could respond to the press reports about Mr. Cummins being asked to leave to make room for your protegee?

A I may have been responding to my colleague, Mr. Griffin. I may have been sending this out because I had the question from Bill Kelley. They appear on the same day, one at 9:38 and the other one at 2 o'clock in the afternoon. I wonder what that's all about.

Q Do you know whether any of this information was designed to go to those who were preparing the letter to Senator Schumer?

A I have no idea. I doubt it. It was going to Tim Griffin and Barbara Comstock.

Q At any time in the process that led to the removal of Mr. Cummins were you aware of an investigation being conducted by Mr. Cummins of Republican Missouri Governor Matt Blunt, son of Representative Roy Blunt?

A No.

Q Have you heard about that issue before today?

A No.

Mr. Schiff. We could take a brief break here, if you would like. It is a good stopping point. Or we could keep going. Whatever you prefer.

Mr. Luskin. Good. Why don't we take 5 minutes?

[Recess.]

RPTS KESTERSON

DCMN HOFSTAD

[3:05 p.m.]

BY MR. SCHIFF:

Q Mr. Rove, are you ready?

A Yes.

Q I'd like to turn to a couple of the other U.S. Attorneys who were ultimately removed.

Why, to the best of your knowledge, was Carol Lam terminated as U.S. Attorney in San Diego?

A The explanation offered, I believe, was that she had refused to prosecute immigration cases.

Q Given our last conversation about your role, per se -- I will use that term -- did you have any involvement, provide any input or otherwise have any discussions about whether Carol Lam should be removed --

A No.

Q -- before she was removed?

A No.

Q So you never raised it with White House Counsel, DOJ, or OPA?

A No.

Q Did anyone ever provide you information prior to her termination about why she was let go?

A Other than I did see the letter several years before

when Senator Feinstein sent it in.

Q Do you have any information about why Paul Charlton was terminated as U.S. Attorney in Arizona?

A Again, only the public explanation regarding death penalty, refused to follow Justice Department policy on death penalty cases, which was offered after the --

Q But you provided no input and had no discussions with anyone at Justice or White House Counsel or OPA about whether Paul Charlton should be removed as U.S. Attorney prior to his removal?

A No.

Q Let's turn to Document 51. This is an Associated Press article of March 15, 2007. It reports on a speech you gave in Troy, Alabama, in which you claim that Ms. Lam was fired because she wouldn't commit resources to prosecute immigration cases and, in the next paragraph, Mr. Charlton because he would not ask for the death penalty.

Was that an accurate report of what you said?

A I believe so. I think I may have said a little bit more on the death penalty, that he would not follow Justice Department policy applying the death penalty.

Q And this article was in, as I mentioned, March of 2007. How did you get that purported information on these firings?

A My recollection is that after the imbroglio breaks out on the Hill, the question is, "Give us the explanation. If we're going to defend these and we can't cite privacy rights, we can't

say, well, we are not going to tell you, so what is the rationale on it?" I believe we were given these talking points. I can't remember by whom, either the press shop or, more likely, somebody from Counsel.

Q And did you get this in written talking points, or did someone actually brief you on what the justification was for their removal?

A Yeah, I don't recall.

Q Do you know whether anyone in your office or at OPA was involved in the communications concerning these terminations?

A I'm not sure what you mean.

Q Well, let's talk about them before they were terminated. Did you see any communications from OPA or White House Counsel that set out any reasons why they should be let go? And I'm referring, by "they," to Lam and Charlton.

A No.

Q Were you involved at all in formulating a response when the imbroglio, as you put it, hit the Hill and how the terminations ought to be defended vis-a-vis Lam and Charlton?

A I remember attending one meeting, I believe it was for congressional testimony, and making the point that we ought to lay out the reasons. I mean, we are going to have conversations with Harriet -- I mean, not with Harriet, with Bill Kelley or somebody in Counsel's Office about it that would say, "We're getting beat up on it," and I'd give the privacy rights line and say, that's

inadequate, we've got to explain to people -- whatever the reason was that Justice picked these people, we need to lay it out.

And if it is, in the case of Ryan, who might have heard some controversy about his management style beforehand -- you know, excellent attorney, superb individual, wonderful person, and a lousy manager, then they need to explain it. I appreciate the necessity of not damaging their reputations. But, on the other hand, they took a position of public responsibility, and it was important that people know that, if they were removed, what the reason was that they were removed for.

Q In this meeting where you made these points, this was after the terminations and the discussion began on the Hill?

A Yeah. Could I -- if you'd like, I think I can pinpoint the meeting.

Q Sure.

A March 5th.

Q So, March 5th was this broader meeting to discuss how the termination imbroglio would be handled.

A No. It was specifically decided to help discuss the testimony of Paul Moschella -- no, Will Moschella, Will Moschella.

Q I'm going to ask you about that later on. Let me focus back to Ms. Lam. Were you aware that she had prosecuted Republican Duke Cunningham, Representative Duke Cunningham?

A I'm sure I knew about it at the time, yeah. Yes.

Q And were you aware of the expansion of the Cunningham

investigation to include Representative Lewis and CIA official Dusty Foggo?

A No.

Q Did you or anyone from OPA participate in discussions or communications concerning the Cunningham case?

A I don't know of anybody in OPA. They might have. I know about it after the fact. After Cunningham went away, his mother, who I guess is in her 90s, or was then in her 90s or late 80s, lived in Seguin, Texas, and took to writing letters to me at the White House, asking the President to intercede on behalf of her son.

Q Did you participate in any discussions concerning the Cunningham case in the context of whether Carol Lam should be removed as U.S. Attorney?

A No.

Q Did you or anyone at OPA communicate with Representative Darrell Issa about Carol Lam?

A Could have. I don't recall.

Q And do you recall any conversation with Mr. Issa prior to her termination?

A I don't. Not to say it didn't happen. Members of Congress have a way of buttonholing White House officials.

Q With respect to Mr. Charlton, were you aware that he began an investigation of Republican Representative Rick Renzi before he was placed on the list of U.S. Attorneys to be

terminated?

A I'm not certain I knew when he started the investigation, but I knew that he had investigated Renzi, yes.

Q Turn to Document 53, if you would. The bottom e-mail is one from Mike -- McElwain?

A McElwain.

Q McElwain. Excuse me. And who was Mike McElwain?

A He is at the National Republican Congressional Committee, the NRCC. You may remember them.

Q Yes, I do. He wrote to Sara Taylor sending as an FYI a story entitled, "Breaking: U.S. Attorney Sitting on Renzi Indictment Until After Election."

This was something that you forwarded as an FYI to Taylor Hughes, correct?

A Uh-huh.

Q Is that a yes?

A Yes. Sorry.

Q And Taylor Hughes was in your office? Was he in OPA?

A She.

Q She. I'm sorry. Was she in OPA?

A No. She won the -- no, she worked directly in my office. She was the winner of the Wonkette most attractive White House staffer contest. So I will not tell her you called her a he.

Q Clearly a she, then.

A Generally, what this would mean is: Run off a copy of this. There is no message there when I sent it to Taylor Hughes. The unstated purpose of it was: Please run off a physical copy of this.

Q So that you could read it not on your BlackBerry?

A Correct.

Q Were you concerned when you received this article that it might impact Mr. Renzi's re-election campaign?

A There had already been a lot of attention paid to this already. This was a blog, the loftydonkey.com blog. So I'm not certain that I had any reactions to it except that I wanted to read it because I couldn't read it on my BlackBerry.

Q Did you ever discuss with Ms. Miers whether the Department of Justice should issue clarifying statements about their investigation that might help Mr. Renzi?

A Not that I recall.

Q Did anyone in your office contact Ms. Miers to urge her to reach out to DOJ to take action that would help Mr. Renzi?

A Not that I recall.

Q Please turn to Document 54, the bottom e-mail from Harriet Miers to Jeffrey S. Jennings, "Re: our call," it is October 24, 2006.

"Scott, I just finished speaking with Paul McNulty. He said what we suspected he would. He has been contacted by a number of frustrated Members of Congress asking why people can't be

vindicated in the event nothing is going on. He acknowledged the situation is frustrating, but reiterated their position that they can't confirm or deny the existence of an investigation. He said the AG did an interview last week to put things in as good a perspective as possible by explaining that no one should be talking and that a refusal to deny should be given no meaning beyond that Justice does not admit or deny the existence of any investigation. I observed that at some point, immediately preceding an election, unattributed statements about the existence of the investigation was rankly unfair. He is continuing to think about the situation, but I did not get a lot of encouragement that they will deviate from normal course."

Do you know why this had been raised by Jennings?

A I assume because he was wired up about it, and we were probably getting Renzi denials, that he was under investigation. Frankly, I'm not surprised that the Justice Department said they could not either confirm nor deny the existence of an investigation. This was wasted effort.

Q And what was Mr. Jennings's position, at this point?

A He was the number two in the Office of Political Affairs.

Q Would Mr. Jennings have asked the White House Counsel to intervene with Justice without your being in the loop?

A Could have. In this instance, I would have said, don't waste your breath. I mean, they are just simply not going to

confirm or deny the existence of an investigation, particularly when you are 10 days before an election.

Q Something of this magnitude would not have come to your attention?

A Not necessarily. I wish he had've. I could have saved him and Harriet Miers a little bit of effort. But, no, this didn't come to my attention. I had 66 people reporting to me, four offices, about 12 direct reports.

Q Earlier, you indicated that you were dismayed by a surreptitious effort to arrange a meeting with Justice for Republican attorneys. But you're not surprised that Harriet Miers would go to the Justice Department at the request of one of the deputies in OPA to ask them to comment on a pending investigation --

A I would --

Q -- without your being in the loop?

A No, I would -- look, I would have confidence in Harriet Miers making a judgment to whether or not that she felt comfortable calling Justice and saying, "What is your policy going to be on these kind of things?"

Q The e-mail at the bottom of the page, which talks about her discussion with Mr. McNulty, references a call. It says "our call." That was, I would expect, a call between Mr. Jennings and Ms. Miers. Were you a party to that call?

A Not that I'm aware of.

Q Did Ms. Miers ever discuss with you her conversation with Mr. McNulty?

A No. But I do have a recollection of her basically saying at this point, you know, Justice is not going to -- Justice is not going to say -- nobody is going to say whether it is an investigation or not an investigation. Because this is one of several, at this point. You may remember there are -- we have the same issue with Weldon, we have -- we may have one other, I can't recall which. But I have a vague recollection of her saying, don't expect Justice to be confirming or denying any investigation.

And then we did have leaks, obviously. There are leaks. If you follow this particular paper trail back, there are clearly leaks from people that are familiar with the Renzi investigation, which points towards either people in the U.S. Attorneys Office, which I think is unlikely, or the FBI or people that they are talking to. The same with Weldon; the article you showed earlier on Weldon has a number of people who were, quote, "familiar with the investigation."

Q When Harriet Miers raised this issue with you or commented on the fact that you couldn't expect much from Justice, was it in response to a question you asked or a point you raised? Or how did it come up?

A I don't recall, except I have a vague recollection of her saying they're not going to be -- and I don't remember being

surprised about it.

Q And what, to the best of your recollection, did she say?

A I can't recall, except to say, you know, all these rumors about investigations and Justice is neither going to confirm nor deny whether anybody is under investigation.

Q Do you recall having a specific conversation about the Renzi investigation with Harriet Miers?

A No, I don't. Could well have been. It was one of several going on at that point that she could have referenced in our conversation. But it was not -- I don't remember it except it was in passing and small and I was not particularly surprised by it.

Q Did you become aware after this contact from the White House that, despite their normal course, DOJ did, in fact, make public statements that there was an investigation and, further, that there were inaccuracies in the media reports on the subject?

A I don't recall that.

Q Take a look at Document 55, if you would. This is an article in The Arizona Republic 2 days after the last e-mail we were discussing on October 26th.

In the middle paragraph, on the first page, it states, "A Justice Department official in Washington, D.C., confirmed a preliminary inquiry of allegations about Renzi. The official also cautioned Wednesday that initial media reports contain significant inaccuracies. The official said that the Justice Department

contacted at least two newspapers Wednesday about chunks of stuff in their stories that are wrong."

When did you become aware that the DOJ had reached out to newspapers on the Renzi investigation?

A When I read this clip just now.

Q You would agree that was a pretty extraordinary step for the Department of Justice to take, wouldn't you?

A Yes, particularly since they don't seem -- I mean, confirmed a preliminary inquiry of allegations about Renzi? They are saying they are admitting that there is an investigation of Renzi? If I were Renzi, I wouldn't be particularly happy with that, even if they go on to say chunks of stuff in their stories is wrong.

Q I think, Mr. Rove, you said already that there were numerous reports about the Renzi investigation prior to this time, right?

A Uh-huh.

Q Yes?

A Yes.

Q Wasn't the primary purpose behind the Department of Justice calls precisely what Harriet Miers e-mailed about, and that is to point out that there are inaccuracies in some of the stories about the Renzi investigation?

A I don't know what the purpose was. I don't know who the unnamed official is.

Q On the second page, it states, "The Justice Department official in Washington would not discuss the nature of the inquiry into Renzi. 'This is not a well-developed investigation by any means,' the official said. 'If a tip comes into the Department, the Department is obligated to follow up, and we do that. People are assuming there is evidence of some crime even though that's not necessarily true.'"

Have you ever seen the Department of Justice make a statement like that about a pending investigation?

A You know, I don't follow this closely enough, so I wouldn't be a good authority on this. It is unusual that they would confirm an investigation, even if they say it is not well-developed.

Q And wouldn't you agree that if the information about the pending investigation was already well-circulated in the press, that having the Department of Justice make a public statement that it was not well-developed, that it may be no more than a tip, would be helpful to Mr. Renzi in his re-election?

A I'm not certain because, before this, it was unnamed sources, as I recall, familiar with the investigation. Now we have a Justice Department official on the record. I'm not certain this is good news.

Q Well, it was clearly what Harriet Miers sought from the Justice Department, wasn't it?

A She sought that they either confirm or deny. This

confirms there is an investigation. They are not denying there was one. They are confirming it.

Q Do you have any indication that Harriet Miers was trying to help Mr. Renzi's Democratic opponent?

A Nope.

Q These statements depart from what Harriet Miers reported was Mr. McNulty's position on the normal policy of the Department of Justice, doesn't it?

A You're assuming that Mr. McNulty is the person who is making these comments, or somebody at Mr. McNulty's direction.

Q I'm not assuming anything of the kind. But I'm asking you whether these statements to the press contradict policy that Mr. McNulty expressed to Harriet Miers?

A I'm not certain I would use "contradict." They are not the policy annunciated by Mr. McNulty. "Contradict" makes it sound like this is a deliberate effort for Mr. McNulty to say one thing and some unnamed official to do something else.

Q I'm not suggesting that, Mr. Rove. But I am asking the question whether these statements are inconsistent with the policy that Mr. McNulty expressed.

A "Inconsistent" is a good word.

Q Let's take a look at Document 56. This is a Wall Street Journal article of April 25, 2007, entitled, "Delays in Renzi Case Raise More Gonzales Questions."

It begins, "As midterm elections approached last November,

Federal investigators in Arizona faced unexpected obstacles in getting needed Justice Department approvals to advance a corruption investigation of Republican Representative Rick Renzi, people close to the case said."

Were you aware of any obstacles in getting approvals to advance the corruption case?

A No.

Q It goes on to say that, "Delays which postponed key approvals in the case until after the election raise new questions about whether Attorney General Albert Gonzales or other officials may have weighed political issues in some investigations."

If these key approvals were withheld, that would have been appropriate, wouldn't it?

A Yeah, it depends on the reason. I mean, why? I do -- as I say, it is general policy, as I indicated when we discussed Mr. Iglesias, I don't think these things ought to be approached from a political perspective. They ought to be treated as separate and apart from politics.

Q Did you have any conversations with anyone at OPA regarding these delays?

A No.

Q Did anyone, to your knowledge, from OPA participate in any discussion with Representative Renzi about it?

A Not that I'm aware of. I know they were talking -- there were calls from Renzi, but I think they were along the lines

of "I'm not under investigation," to have him go out and say, "I'm not under investigation."

Q These were calls by Representative Renzi to whom?

A I don't know. I assume they were because Scott then contacts -- it is either -- well, it may have been McElwain at the NRCC who contacted, because that's where the article comes from. So I can't say that Renzi talked to him directly, no.

Q To your knowledge, did Representative Renzi talk with anyone either at OPA or White House Counsel's Office about the investigation of him?

A I don't know.

Q Did anyone in either office ever tell you that he did?

A No.

Q Did Representative Renzi ever speak to you about his investigation?

A I think I may have seen him at some point where -- at the Capitol Hill Club or at the Republican House Caucus where he was talking about it, or maybe out in Arizona someplace, but I don't recall.

Q And what did he tell you?

A I don't recall.

Q Did he ever ask you to intervene in connection with his investigation?

A No.

Q Did you or anyone from OPA ever have a discussion with

his father, General Renzi, about the investigation or about Mr. Charlton?

A Not that I'm aware of.

Q Did you ever have a conversation with Representative Renzi about Mr. Charlton?

A Not that I recall.

Q Were you aware that some people in the White House had concerns about the Lam and Charlton firings because of the Cunningham and Renzi investigations?

A Not that I'm aware of.

Q If you would, turn to Document 57. These are a string of e-mails from November 15th through the 17th.

In one of them, the bottom of the first page, an e-mail from Mr. Kelley to Fiddelke -- am I pronouncing that correctly?

A Fiddelke.

Q Fiddelke, Jennings, and Martin regarding the USA replacement plan. It is then followed by a couple of e-mails, one of which in the chain is from Dana Perino, which says, "Someone get me the oxygen can!!"

Do you know what she was referring to there?

A No, I don't. But she lived a frantic life.

Q Well, if you go further up the chain, in an e-mail from Jeanie Mamo --

A Mamo.

Q And who is Jeanie Mamo?

A In the press shop, she generally handled the regional press.

Q It reads, "Issues in the press for which Dana will need the oxygen can: Carol Lam prosecuted Representative Randy Duke Cunningham. AP in Arizona reports that U.S. Attorney Paul Charlton's office in Arizona is scrutinizing a land deal involving Rick Renzi. Obviously USA's office will not confirm this."

Is she suggesting here that this is going to be a tough question for Dana Perino to answer, about why Mr. Charlton is being removed when he is involved in this investigation?

A She has just done a quick gloss on the names, I guess, and come back with these two and circled them as items that Dana needs to be prepared for.

Q And Dana replies later, "Give me a double shot. I can't breathe." The double shot means both the Lam and Charlton dismissals in light of both Cunningham and Renzi; is that right?

A I think it means a double shot of espresso or a double shot of oxygen, and I don't know which. Normally she replies in haiku, and that helps clarify it. I don't know why.

Q But she needed a double shot -- one shot for how she was going to answer the firing of Lam in light of Cunningham and another shot of whatever in light of how she was going to have to respond to the firing of Charlton in light of the Renzi investigation, right?

A She knew what kinds of things she might have to deal

with from the press and from political opponents, yes.

Q Were you brought into the conversation about how to deal with the public image problem that these firings were going to create?

A In specifically this --

Q Yes.

A -- exchange? No.

Q These two cases.

A No. Look, let me be clear. I would just asked you, with regard to this memo?

Q I'm asking with regard to these two cases.

A No. There was a broader issue of, explain why we did it. And during that discussion of the broader, you know, "what are the rationale" -- because if you don't explain, this is the kind of stuff that pops up. And if this is all they've got to hang their hat on, you know, Carol Lam, you won't tell us why, but she prosecuted Duke Cunningham and sent him away, you know, if you don't explain why, that is all that is left.

Q So you don't recall --

A Let me finish. I don't recall a conversation about that, but that was -- you know, you had to explain why, otherwise people were able to fill in the blanks themselves.

Q But this conversation that you're referring to is the one that you alluded to earlier that was a broad discussion of how to handle the firings issue?

A I don't know -- I would make these points whenever the issue came up. That's the one, sort of, organized -- I may have made these points at the senior staff meeting, for example, saying, we're getting killed, somebody needs to get them to get this laid out.

I did go to the Will Moschella meeting, and I wasn't there -- I don't recall being there for the entire meeting, but I do remember being asked -- because people knew where I was coming from, they asked me to make the point at the meeting.

Q Do you have any information as to whether these investigations had anything at all to do with the decision to remove Ms. Lam and Mr. Charlton?

A I never heard them being identified as a reason, no.

Q In either case?

A In neither case. Neither case. I know they would not enter into the President's thinking at all.

Q And how do you know that?

A Because I know how he felt about both Duke Cunningham and Rick Renzi's behavior.

Q And how do you know about that?

A Because --

Mr. Flood. If this involves a conversation, Mr. Rove, I will ask you to not respond. Because the way he answered, it doesn't involve the content of the communication. Go ahead.

Mr. Schiff. I asked because Mr. Rove raised the topic.

Mr. Flood. He can raise all the topics he wants.

Mr. Schiff. Well, if Mr. Rove raised this conversation with the President, then I think he is opening the door.

Mr. Luskin. He can't open the door. It's not his privilege. That is why Mr. Flood is here.

BY MR. SCHIFF:

Q Anything further you wish to add, Mr. Rove?

A No.

Q What was your role in the selection of Patrick Fitzgerald as U.S. Attorney in the Northern District of Illinois?

A My job was to talk to Senator Peter Fitzgerald, who had settled on two nominees, one for the Southern District and one for the Northern District, Patrick Fitzgerald being for the Northern District, and to try and discourage him from submitting only one name for each slot to the White House as acceptable.

Whenever possible, we, you know, obviously solicited names from Members of Congress, from Members of the Senate. Senator Fitzgerald's attitude was, "I'm not going to submit multiple names. I will take only one name, and this is all that is going to be acceptable." And we asked him to submit multiple names, and we also asked him to think about people from within the districts. Our predilection was to have people from within the district selected. We thought it, you know, encouraged a civic-minded attitude among lawyers. It made certain that you had some fresh blood that would flow in. If you pick people from outside the

district, they tend to be career prosecutors.

And Senator Fitzgerald was particularly unimpressed by this. He said that, in Chicago, the politics in Chicago were such that no U.S. Attorney from Chicago could exist without being subverted by the political influence peddlers in Chicago, that they would be bought off by the big law firms and the Chicago Democrat machine. And so he was going to only provide us one name for each, the Northern District and the Southern District.

Following my very effective telephone conversation with him, he responded by going out and announcing to the press that the President was nominating his two names from the Northern and Southern Districts.

Q Did you oppose the selection of Patrick Fitzgerald?

A That wasn't mine -- once that conversation was over, it wasn't mine to have an opinion. I believe the President has a right to appoint. And that means that Senators have, by tradition, the right to recommend. But they are usurping a presidential right when they go out and name the nominee before the President has even had a chance to evaluate multiple names and settle on who he wants and do the necessary staff work to arrive at it.

Fortunately, Senator Fitzgerald recommended two good names, and both of them worked out. But it was an unusual process that involved, in my opinion, a congressional usurpation of a presidential power, which probably finds no attraction in this

room except for the representatives from the Obama White House. And they will come to agree with the view more and more as time goes on.

Q Is it true you told the Senator Peter Fitzgerald that the selection of Patrick Fitzgerald ticked off the base?

A No. I've seen his public comments, and they are inaccurate. And I've told him so.

Q Let's take a look at Document 71. This is a Chicago Tribune article from March 14, 2007, where Senator Fitzgerald is quoted in, I think, the sixth paragraph as saying, "Rove said to me that the Fitzgerald appointment got great headlines for you but it ticked off the base."

Did you ever say that?

A No.

Q Do you know why Senator Fitzgerald would be under the impression that you did?

A No. I chalk it up to an overactive imagination. It is one of the reasons why I said no when he asked me to come bank at his bank when he was in Virginia.

Q Is there any reason why Senator Fitzgerald would understand that the base of Illinois Republicans would be upset by his choice?

A Well, I'm not certain that is accurate, but obviously Mr. Fitzgerald prosecuted Governor Ryan, you know, who was a political opponent of Senator Fitzgerald, and neither one of them

liked each other. And I suspect this was more than just a professional delight to Senator Fitzgerald.

But this comment is made out of thin air. In fact, you know, I have no idea why he would say it, nor do -- he said also in the same article that he believed I was trying to influence the selection in reaction to pressure from Representative Dennis Hastert. In other articles, he has said that Dennis Hastert was trying to install his own choice, which is again completely inaccurate. Then-Speaker Hastert was keenly aware of senatorial prerogatives.

Q You mentioned that Patrick Fitzgerald had prosecuted Governor Ryan. Is that right?

A Yes.

Q Governor Ryan was a Republican?

A Yes.

Q Was Senator Fitzgerald correct that appointing someone who had prosecuted the Republican Governor would tick off the base?

A I'm not certain that that is accurate, because that assumes that the Republican base accepts the kind of behavior that Governor Ryan engaged in. I don't think, at the end of the day, most partisans come to accept the bad behavior of officeholders, even of their own party.

Q After Mr. Fitzgerald was confirmed, did you ever discuss the possibility that he might be removed or replaced as U.S.

Attorney?

A No.

Q Were you ever present when others were discussing whether Mr. Fitzgerald ought to be removed as U.S. Attorney?

A Not that I recall.

Q Do you have any knowledge of anyone at OPA or Justice or White House Counsel's Office considering the possibility that Mr. Fitzgerald could be removed?

A I've seen the press report that Mr. Sampson at some time recommended it.

Q Did you ever discuss that with Mr. Sampson?

A No. He might understand the reasons why.

Q What is your relationship with a man named Bob Kjellander?

A I've known him since college days.

Q Is he a long friend of yours?

A It's "Kjellander," pronounced S-H.

Q I thought that's what I said.

A I thought you said "Kjellander."

Q I would have, but it's spelled out for me.

A All right. Excellent.

Q Is he a long-time friend of yours?

A Yes.

Q Did you or anyone working for you have a conversation with Mr. Kjellander regarding the possible replacement of Patrick

Fitzgerald as U.S. Attorney?

A No.

Q Turn with me, if you would, to Document 73. This is an excerpt from a trial transcript of the U.S. v. Antoin Rezko. If you would turn to Page 129, Line 10, through Page 130, Line 12, and take a moment to review that.

In the criminal trial of Mr. Rezko, a witness named Ali Ata testified in 2004 Mr. Rezko told him that he had just finished meeting with Mr. Kjellander, that there will be a change in the U.S. Attorney's office come the new administration and that Mr. Kjellander will talk to Karl Rove and make a change in the U.S. Attorney's office.

Was that accurate?

A No.

Q You never had that conversation?

A No.

Q If you would, take a look at Document 72.

And you're quite certain you never had that conversation?

A Yes.

Mr. Flood. Can I just seek clarity here? Does the question mean what Mr. Rove said to Mr. Kjellander, what Mr. Kjellander's allegedly repeated to Mr. Rezko but Mr. Rezko is alleged to have repeated to an unnamed person, I didn't catch the name, which he then rendered as testimony in the case. Is that the question?

Mr. Luskin. Obviously, we don't know whether Mr. Ata said it

and we don't know whether Mr. Rezko said it. The only thing that Mr. Rove can speak to is whether or not he had a conversation with Mr. Kjellander, as it is alleged by this, sort of, you know, double string of supposed people who heard it. And I think his answer to that was absolutely not.

Mr. Schiff. Let's have Mr. Rove answer the question.

BY MR. SCHIFF:

Q And I can ask it again if you'd like. Would you like me to ask it again?

A I think I said no before. But ask again.

Q I think you said no also. And I just want to be certain. You are quite clear you never had a conversation with Mr. Kjellander about removing Mr. Fitzgerald?

A No, I had no such conversation that I recall.

Q If we could turn to Document 72.

Mr. Luskin. I think that's what we were just looking at.

BY MR. SCHIFF:

Q On the eighth paragraph, it says, "Rove's lawyer, Robert Luskin, acknowledged his client's long friendship with Kjellander but denied any role in the alleged scheme to dislodge Fitzgerald as Chicago's top Federal prosecutor. 'I can tell you Karl has known Kjellander for many years, does not recall ever being approached by him or anyone else about the removal of Pat Fitzgerald.'"

Is this a situation, Mr. Rove, where you don't recall or

you're certain that the conversation never took place?

A I do not recall any such conversation. I do not believe any such conversation took place.

Q Did you ever have any discussion of any kind about Mr. Fitzgerald with Mr. Kjellander?

A Not that I recall.

Q Did you ever have any conversation of any kind about Mr. Fitzgerald with anyone associated with Mr. Kjellander?

A No, not that I recall. Mr. Kjellander is Mr. Kjellander. I don't even know -- yeah, no.

Q Mr. Sampson testified before the Senate Judiciary Committee that, in the summer of 2006, he raised the possibility of replacing Mr. Fitzgerald after a Judicial Selection meeting with Harriet Miers and Bill Kelley.

Did you or anyone at OPA, to your knowledge, have a conversation with Mr. Sampson about Patrick Fitzgerald?

A Not that -- I didn't. And I don't -- I'm not aware of any others.

Q Did you later become aware that Mr. Sampson had suggested possibly removing Mr. Fitzgerald?

A No.

Q Ms. Miers and Mr. Kelley never informed you that Mr. Sampson raised the idea?

A No.

Q Can you think of any reason that Mr. Fitzgerald would be

suggested by Mr. Sampson for potential removal other than his work investigating White House officials in the Plame matter?

A No.

Q You can't think of any other reason?

A Look, I'm not aware of his performance except in one very personal way. So I can't comment on his broader efforts.

Q You testified earlier about discussions with White House Counsel's Office at the beginning of President Bush's second term, about the possibility of removing some or all of the U.S. Attorneys. When you raised this question with White House Counsel's Office, you, yourself, were involved in a serious investigation being handled by Mr. Fitzgerald, correct?

A Yes.

Q Did you have any concern about raising the possibility of replacing U.S. Attorneys while you were under Federal investigation by one of the very U.S. Attorneys who --

Mr. Luskin. I'm going to object. That's got so many false premises, and I think you should withdraw it and restate it, please.

First of all, he testified this morning that he opposed the wholesale removal of U.S. Attorneys. Second of all, he didn't recommend that Mr. Fitzgerald be removed. I mean, really, sir.

BY MR. SCHIFF:

Q Mr. Rove, I haven't asked you this question before. Do you need me to repeat it to you?

A Why don't you repeat it. That would be helpful.

Q Okay. Did you have any concern about raising the possibility of replacing U.S. Attorneys while you were under Federal investigation by one of the U.S. Attorneys who might be removed?

A I did not raise the issue of replacing selected U.S. Attorneys. The question was, as a policy, should we replace them all or should the administration review the performance and replace some, with the recommendations being framed by the Justice Department.

Obviously, if there was ever any question involving Patrick Fitzgerald, I would not have been within 100 miles of it.

Q I would like to ask you a question about a conversation you had with Mark Corallo. Who is Mr. Corallo?

A Mr. Corallo was a public relations advisor to me during the investigation.

Q And prior to that, do you know, was he with the Department of Justice?

A Yes, he was.

Q In the Public Affairs office?

A I believe so, yes.

Q Did you ever discuss the U.S. Attorney removals with Mr. Corallo?

A I believe Mr. Corallo called me to lobby on behalf of Kevin Ryan.

Q To lobby in what direction?

A In favor of him.

Q In favor of retaining him?

A I believe so.

Q And what was his relationship with Mr. Ryan?

A I don't know. A friend, I suppose.

Q What was your response to him?

A I was aware of Ryan being a wonderful individual. He is a very -- everyone speaks highly of him personally, but he was an atrocious manager. And that had been a problem for sometime and widely acknowledged as such.

Q And so what did you tell Mr. Corallo?

A I told him, thanks for weighing in on behalf of your friend, but it's not going to happen.

Q It's not going to happen that he would be retained?

A Retained. My recollection -- I could be wrong on this -- it was, like, give him a little bit of time, give him a face-saving -- you know, move him to Justice, main Justice, he is a brilliant lawyer. But I can't remember the specifics.

Q Did you ever discuss the possibility of removing Mr. Fitzgerald with Mr. Corallo?

A No.

Q Did he ever raise the topic of Mr. Fitzgerald with you?

A The topic of Mr. Fitzgerald -- the topic of removing Mr. Fitzgerald? I'm trying to clarify, because he was my public

relations advisor during the Fitzgerald investigation. So Mr. Fitzgerald's name was in several of our conversations. But if what you are asking me, Congressman Schiff, is did he ever raise the issue of removing Patrick Fitzgerald, the answer is no.

Q I'd like to take a look at Document 75. This is an e-mail between Bill Kelley and Shannen Coffin that reads, "Bill, I learned after the fact that Mark Corallo called Karl R. about the U.S. Attorney issue I had discussed with you earlier. Would have told you if I had known that that had happened, but Mark called me about it after he called Karl."

What does that refer to?

A I assume it is referring to Kevin Ryan.

Q And who was Shannen Coffin?

A Shannen Coffin -- just for the record, it is a he, just so you don't confuse him with Taylor Hughes, who won the most attractive White House aide category. I believe he was in the White House Counsel's Office.

Q And --

A Oh, vice president, that's right, the vice president's counsel, and adding to deputy of some sort.

Q So Mr. Coffin was in the Vice President's Office?

A I believe so, yes.

Q Do you know why the Vice President's Office was discussing the issue of the U.S. Attorney removals with the White House Counsel?

A Well, first of all, I believe Mr. Coffin was in the Vice President's Counsel's Office, and he was a personal friend of Mr. Ryan who had been active in conservative legal circles.

Q And do you have any information about what preceded this e-mail, what prompted him to clarify that, in fact, Corallo had called you about the U.S. Attorney issues?

A No.

Q Did Mr. Coffin ever discuss with you whether Patrick Fitzgerald ought to be removed as U.S. Attorney?

A No.

Q Did anyone at the Vice President's Office ever discuss that issue with you?

A No.

Mr. Schiff. Okay. This would be a good point to pause, if you'd like.

Mr. Luskin. Thank you.

[Recess.]

[Rove Exhibit No. 3
was marked for identification.]

EXAMINATION

BY MR. MINCBERG:

Q Back on record.

Mr. Rove, before we go further, I wanted, as I mentioned during the break, to clarify something that came up earlier on the subject of phone logs by you and the White House.

Please take a look at what has been marked as Exhibit 3, a document produced to us by the White House with the Bates number HJC 00490.

Although this doesn't have your name on it anywhere, am I correct that this is at least a partial phone log of telephone calls that came to or from you?

A Yes. This is a log obviously selected to show the phone calls from Senator Domenici or Steve Bell over a period of October 12th to December 11th.

Q October 2nd do you mean?

A October 2nd. I'm sorry.

Q And if I'm counting correct, there are a dozen calls involving yourself and Senator Domenici or Mr. Bell during that period?

A Yes. And this would be an incomplete list of the calls. You'll notice there are two of them on the 7th of November; that's Election Day. And Steve Bell and I talked a number of times that day and on the 8th and the 9th about the election results in New Mexico.

Q So, as I understand it, there may be calls in addition to these 12 --

A Correct.

Q -- that were placed on cell phones or some other kind of --

A Or just not logged in by whoever -- you know, I may have

picked up the phone directly or I may have made a phone call. These are phone calls that I received, not necessarily phone calls I would make.

Q Got it.

Now, the very first entry on October 2nd says, "Re: U.S. Attorney in NV," which commonly stands for Nevada. But am I correct that you believe that that should be NM, New Mexico?

A Correct.

Q And this could well have been that October 2nd phone call that you spoke with Mr. Schiff with Senator Domenici and you, relating to Mr. Iglesias, correct?

A Correct.

Q Did the other calls on this list involve Mr. Iglesias in whole or in part?

A Some of them may have, but some of them didn't.

Q You just can't recall offhand looking?

A No.

Q That's great.

Now, I want to ask you about some of the other U.S. Attorneys who were removed and particularly where you or other Republican officials reportedly raised concerns about vote fraud.

You may recall -- we can go back to this document, if you'd like -- in Document 5, one of those articles, that one of the areas referred to was Kansas City, Missouri, and Todd Graves.

As I recall what you testified earlier, you don't recall one

way or the other as to whether you raised concerns about Kansas City?

A Well, I don't believe I raised concerns about it.

Q You don't think you did.

A Right.

Q Do you know whether anybody else did?

A About vote fraud in Kansas City being a --

Q Yes.

A No, I don't recall.

Q Or about voter registration problems, problems with ACORN?

A Let me differentiate. Problems with voter registration, we may have had discussions inside either the White House to Bush campaign structure, or OPA to the campaign, or OPA to me to the RNC, about voter registration/vote fraud problems in the State of Missouri. But as with regards to performance of Todd Graves, I have no recollection of any such conversations.

RPTS WALKER

DCMN BURRELL

[4:05 p.m.]

BY MR. MINCBERG:

Q Look, if you would, for a moment at the fourth paragraph of Exhibit 5, which refers to the demand that Mr. Graves resign in January 2006, several months after refusing to sign off on a Justice lawsuit involving the State's voters rolls. Do you see that reference?

A Yes, I do.

Q Do you recall anything about that controversy about the State's voter rolls?

A No.

Q Do you recall any controversy about allegations that ACORN was engaged in voter registration irregularities in Kansas City?

A No, but I wouldn't be surprised.

Q Do you know whether you or anyone at the White House raised any concerns relating to Mr. Graves?

A I do remember there was controversies between Congressman Graves and Senator Bond. Congressman Graves's political consultant put up a Web site devoted to attacking Senator Bond, and this irritated Senator Bond, who was both a former client and friend of mine, enormously. And he complained about Congressman Graves, and this is his brother Todd Graves who

was the U.S. Attorney. He did not bring up Todd Graves in his conversations with me, but he was very clear that he was upset with Congressman Graves's political guy running an open, aboveboard, in the clear Web site devoted to trashing Senator Bond.

Q You're not -- you don't recall any complaints or concerns reaching your ears about Todd Graves, the U.S. Attorney?

A No.

Q Now, take a look if you would at Document 21 in the Exhibit 1 notebook before you, and the second e-mail here is an e-mail from Richard Klingler to Harriet Miers. I think we've established before in other interviews that Mr. Klingler was in the White House Counsel's Office. Do you recall that?

A Yes.

Q And going to the second paragraph here, Mr. Klingler indicates Ms. Miers we have heard will work to satisfy Senator Bond's request providing a replacement for the U.S. Attorney in the Western District of Missouri, and that would be Mr. Graves, is that correct, at that time?

A I don't know. I accept your word on that.

Q The e-mail goes on to say, Scott Jennings indicates that Karl is fine with the replacement. Do you see that?

A Yes, I do.

Q Do you recall having a conversation with Mr. Jennings about replacing Mr. Graves?

A I don't, but I assume it's accurate and I don't know the context of which -- "fine with the replacement" makes it sound like I'm in favor. I'm fine with whoever they're suggesting replace Mr. Graves.

Q So you don't dispute that you were fine with the idea of replacing Mr. Graves and replacing him with whoever --

A No, no. I was fine with the idea of who the replacement was. I was fine with the replacement. I take this as a fait accompli as presented to me that the deal is the U.S. Attorney is being replaced, here's who's going to replace him, and in turn, there's going to be -- the Eighth District seat issue is going to be resolved so that they can allow the seat to remain in Arkansas rather than come back to Missouri. So I mean it's -- what I take this as is I'm comfortable with whoever is being suggested as the replacement.

Q I see. Okay.

Mr. Luskin. "Replacement" I think is a noun as opposed to a verb.

Mr. Mincberg. Well, and I can understand how it can be interpreted either way.

BY MR. MINCBERG:

Q Would it have been routine to consult with you on whether a U.S. Attorney should be replaced or only who that U.S. Attorney should be replaced with?

A It would have been unusual to consult with me on the replacement -- on removing someone, not unusual to consult on the replacement.

Q Do you recall who was being talked about as the replacement?

A I don't. I assume that, in this instance, the fact that Senator Bond was in favor of it, we probably had conversations with Representative Blunt's office and we would have to have some signal that Congressman Graves was willing to be acceptable to it.

Q If you look a little bit further into the e-mail -- in fact, I think it's pretty much the last sentence in that paragraph -- it indicates that Senator Bond's office is, quote, to be told that he will be invited to suggest names for replacement in the relatively near future. Do you see that?

A Yeah.

Q Doesn't that suggest to you that there wasn't, in fact, a replacement in mind at that point?

A Again, I don't have any specific recollection of this other than what I've shared with you.

Q All right. So, again, looking at the e-mail itself for

what it appears to be, I acknowledge your counsel's indication that the word "replacement" is somewhat ambiguous, but given the e-mail statement that Senator Bond would be invited to suggest a replacement later, wouldn't it be a correct impression that what you were fine with the idea of replacing the U.S. Attorney with a person to be --

A The trade is -- it's the trade is what -- I'm fine with the trade. They're going to -- the U.S. Attorney's going to be replaced. The Eighth Circuit seat, he's going to release the hold on the Arkansas U.S. Senator, the Arkansas nominee, and let that seat go forward and we can nominate.

Q So what you're saying is you're fine with the idea that we'll replace, we'll remove the U.S. Attorney and we will keep the Eighth Circuit seat in Arkansas, and as far as you were concerned, that was a fine deal?

A Right.

Q Do you have any recollection at all as to whether the issue of voter fraud came up in connection with your decision to be fine with the deal that involved, among other things, removing Mr. Graves?

A No.

Q You don't recall one way or the other?

A I don't believe it came up. This was a question of the Eighth -- of an appellate nomination being held up by a Senator who had a good point to make. Arkansas is overrepresented on the

Eighth and Missouri's underrepresented on it, but -- and was a strong supporter of the President and the Senate making waves about it.

Q So are you testifying then it is your recollection or simply your inference from this e-mail that you weren't -- you didn't have any particular thought on the reasons for replacement?

A I didn't and I have no recollection -- I have no recollection of any conversation about Todd Graves's performance with regard to voter registration and voter fraud.

Q Okay. Good enough. Now, do you recall being involved, as the e-mail suggests, with talking to Senator Bond's office -- and I'm sorry, let me rephrase that. You testified before that when U.S. Attorneys were going to be replaced with a new person that one of OPA's jobs was to help consult on who that new person might be. Do you recall being involved in that with respect to the replacement for Todd Graves?

A This would be the Office of Political Affairs. I wouldn't be making -- I tried to stay out of the business of making those phone calls because literally, in this instance, there might have been, I don't know -- this was probably an easy one because you had a United States Senator who probably -- Bond was good about giving multiple names. So you probably had two or three names that he gave, and that probably meant 10 or 20 phone calls. So I tried to stay out of the business of doing it.

Q So you weren't involved in helping -- in what would

happen when there was vacancy and who should fill that vacancy?

A I would have staff make the phone calls, come to me with reports, and occasionally I would make a phone call. For example, California was a particular sensitivity. I had a strong relationship with the head of our commissions out there, Gerry Parsky, so he liked to have the opportunity to talk with me about it. But I tried not to be in a place where my time was consumed with a lot of those phone calls. I was well aware of people would brief me on sort of here's what we're hearing and here's what we've shared with our colleagues in the Judicial Selection Committee or the Counsel's Office.

Q So do you recall getting any information with respect to the person who would replace Mr. Graves?

A I don't.

Q You don't recall having any discussions about that?

A Which would tend to lead me to believe that it was relatively uncontroversial who the person would be.

Q Take a look at Document 22 in the notebook in front of you, which is an NPR story on May 3rd, 2007, and again this refers in the second paragraph to what we've talked about before, to Mr. Graves leaving as U.S. Attorney 7 months after refusing to sign off on the voter registration lawsuit. This time it identifies it as one filed by Acting Assistant Attorney, Bradley Schlozman. Do you see that?

A Yes.

Q Do you know Mr. Schlozman?

A No.

Q Have you ever met him?

A No, not that I am aware of.

Q The article goes on to say that less than 2 weeks later, Schlozman was installed to replace Graves under a PATRIOT Act provision allowing him to be replaced there without Senate confirmation and that he went on to bring voter fraud charges against ACORN. Do you see that?

A I do.

Q Did you or anyone at the White House, to your knowledge, have any knowledge of or involvement in the decision to appoint Mr. Schlozman to replace Mr. Graves?

A I'm sure the White House was involved in the decision, but you know, I don't even recognize the name. I assume it was a noncontroversial appointed Justice Department person supported by Bond and supported by others.

Q So you don't recall either yourself or OPA having any involvement in that?

A I'm not saying that. I'm confident that they had an involvement in it but it was a noncontroversial appointment.

Q I'm sorry, I was not talking about the White House Counsel. I'm localizing this one in particular to whether you or OPA had any involvement in having Mr. Schlozman come in to replace Mr. Graves.

A I'm confident that OPA was given a name and checked it out.

Q I see.

A But I don't -- the name did not originate with OPA, did not originate with me, and I don't recall making any phone calls myself to ascertain his expertise.

Q To your knowledge, was there any discussion or communication about appointing Mr. Schlozman before Mr. Graves was asked to resign?

A Not that I am aware of.

Q You just don't know one way or the other?

A I don't.

Q I'm sorry?

A I do not.

Q You do not. All right. Go back if you would to Document 5, that article that identifies a number of places where there were issues of voter fraud, and I recall that you spoke with Mr. Schiff briefly about concerns about Washington State. Do you recall that discussion?

A Yes.

Q And I think you indicated that you recall that there was a problem because of the close election in 2004, which as I recall was between Democratic candidate Gregoire and Republican --

A Gregoire.

Q Gregoire, excuse me -- and Republican candidate Rossi;

is that correct?

A Dino Rossi.

Q And do you recall that Republicans claimed there were vote fraud problems and demanded an investigation and prosecution?

A I know there were concerns about vote fraud. I don't recall that there were demands for prosecution. I mean, there was a very active -- the Secretary of State was deeply involved in this. There was a lot of litigation. You know, my recollection is that at the end of the day the district court that was charged with this, you know, basically said we're convinced there are lots of problems but we can't undo this problem. We can't undo this at this point.

Q And in fact, you referred in that speech to the National Republican Lawyers Association to the spectacle in Washington State. Were you referring there to alleged vote fraud in the 2004 election and the fact that no vote fraud charges were brought?

A I was referring to the former, not the latter. This was -- this, as you may recall, went on for several weeks. Rossi led on election day, and weeks later was declared the loser after I believe some shenanigans involving ballots that were literally destroyed in King County. So it was a spectacle. Even both newspapers, the liberal newspaper, the conservative newspaper, decried the broken system of election management in the State of Washington.

Q Do you recall hearing from then Republican Party Chair

Chris Vance about the allegations of vote fraud?

A I believe I did, yes.

Q And --

A Either during or after, yes.

Q And didn't Mr. Vance or other officials think that there ought to be a vote fraud investigation?

A I thought they were -- well, I don't recall them asking for the FBI or the U.S. Attorney to investigate.

Q You don't have any recollection?

A I do think -- I think they were comfortable with the sort of aggressive, you know, litigation strategy that they were following.

Q That they, the Republican Party, was following?

A Right.

Q Now, do you recall hearing any concerns about then-U.S. Attorney John McKay in Washington?

A I later heard issues, which I may have heard it at the time, but I think I only heard it later, which was the issue of the case management software.

Q Do you recall any complaints or concerns about the failure of Mr. McKay to actually investigate or bring vote fraud charges in regards to the 2004 election?

A I don't recall. I don't believe there were. I don't recall but --

Q You don't believe that there were letters from

Republicans and others in Washington to the Justice Department and others saying there really ought to be an investigation or prosecution here?

A Not that I saw. Not that I recall seeing.

Q So you don't recall it, but you're not saying that there weren't? You just don't know of any; is that correct?

A Correct.

Q Now, do you recall that Mr. McKay was also at one point a candidate for a judicial nomination in Washington?

A I believe so. Washington has this odd commission structure, however, which you would come to love, which did not approve of, as I recall, or there were problems within the commission structure.

Q Was there any discussion of that nomination slot or would there have been discussion of that nomination slot routinely at JSC meetings?

A That's a commission. So the commissions were treated slightly differently. They got -- the commissions would cough up a name, and then it was less discussed at JSC. It wasn't discussed at JSC at the beginning. Those people then had to be interviewed by the Justice Department, White House Counsel, and only then -- I mean, our authority on commissions is basically to reject them. So -- and there the attitude is you reject them if you think they are by experience or philosophy disqualified. And I can't tell you the details on the Washington State and McKay.

My recollection is he didn't even make it to us through the commission process but I can't recall.

Q And do you recall hearing that the reason for that was that there were, in fact, objections to him by Republicans in Washington in part because of the failure to be more active on the vote fraud in the 2004 election?

A No, I don't recall it.

Q Again, you just don't know one way or the other?

A Just don't know.

Q Do you recall Harriet Miers or her deputy Bill Kelley mentioning a meeting that they had with Mr. McKay where they discussed Republican complaints about vote fraud or the failure to bring vote fraud cases in Washington?

A I don't remember.

Q You don't recall that one way or the other?

A Huh-uh, no.

Q Were you aware that Miss Miers and her deputy Mr. Kelley met with Mr. McKay relating to those complaints just a few weeks before his name appeared on a proposed U.S. Attorney firing list?

A No.

Q So I take it then that neither you nor anyone at OPA, to your knowledge, had any communications with anyone at DOJ or Counsel's Office as to whether Mr. McKay should be replaced; is that correct?

A Correct, to my knowledge.

Q Do you have any information one way or the other on whether Republican complaints in Washington had anything to do with Mr. McKay being asked to resign as U.S. Attorney?

A No.

Q You can't rule out the possibility? You just don't know; is that correct?

A Not the reason cited for --

Q Not the reason cited later by the Department of Justice?

A Right.

Q You didn't find out in advance what the reasons were?

A No.

Q So, again, you can't rule out the possibility that that might have played a role; you simply don't know one way or the other. Is that a fair statement?

A I can't rule out a wide variety of subjects.

Q Now, I won't ask you to flip back to the page but --

A I've got it right here.

Q All right. Well, then we can. But in looking back again at Document No. 5, one of the other jurisdictions referred to in there was Nevada, and I think you did say to Mr. Schiff that you do recall there having been voter registration/fraud issues in Nevada. Can you elaborate on that?

A Well, just a large number of Donald Duck, Mickey Mouse, and all the members of Ocean 11 are registered multiple times in Clark County, Nevada, and the Secretary of State at one point told

me that he thought there were as many as 20,000 illicit registrations on the Clark County voter registration rolls. But again, I'm not aware of any criticism of the U.S. Attorney there because the Secretary of State and the local election officials have a -- you know, have a high degree of interest in keeping the voter registration rolls clean. So they do lots of things in order to by the end of the election tag problematic addresses. It doesn't stop people from adding them on. There have been some prosecutions, as I recall, of people who have engaged in, and the State has a very -- don't ask me to describe the provisions of it, but it has a very tough law with regard to paid solicitors, which is where a lot of these problems with registrations emerged.

Mr. Luskin. So in Clark County, Donald Duck only votes once.

BY MR. MINCBERG:

Q Are you aware of any complaints about Dan Bogden as U.S. Attorney in Nevada?

A I'm aware of the concerns afterwards.

Q The concerns expressed to you --

A Expressed afterwards, which frankly Senator Ensign when he talked to me about them acknowledged that there were -- Bogden's attitude, you know, it's just he wanted more money in order to prosecute immigration cases and child -- Internet child pornography cases because he felt he had inadequate resources in the office.

Q I want to get to your conversation with Senator Ensign

in a little bit. But to go back to my original question, are you aware of any complaints about Mr. Bogden as U.S. Attorney prior to the decision to remove?

A No.

Q Okay. Now, what is your understanding of why Mr. Bogden was removed?

A My belief was -- I was informed those were the two issues.

Q I'm sorry, you were informed by whom?

A I was informed by whomever in the Counsel's Office, Justice people, that the reason he was replaced was he refused to prosecute immigration cases, which obviously is a problem in Clark County, Las Vegas, and that he also refused to prosecute Internet child pornography cases. Again, these were budget issues. He felt he had inadequate resources and said I can't do these unless I get more resources.

Q And again, the information on that would have come after the determination from --

A Right.

Q -- some oral briefing of some sort?

A Right. And they also went out of their way to say that this was a close call, that he was an otherwise excellent attorney, ran a very fine shop, but that they had -- there was -- and it was a close call for them but these were to them dispositive again themselves.

Q When you refer to "they" and "them," who are you referring to?

A Justice, Justice Department.

Q Do you recall hearing about that directly from the Department of Justice?

A You know, I can't -- as I said earlier, I can't pin down who was -- who it was or when it was, but there was a just quick rundown, here are the reasons why for each of these people.

Q Did you or anyone in your office have any discussions or communications about Mr. Bogden's removal before you heard?

A No, not that I'm aware.

Q Do you recall any discussions or communications with anyone at the White House or DOJ concerning any cases that Mr. Bogden was involved in?

A No.

Q I'm going to mention a few specific names just to see if that jogs your recollection. Particularly, do you recall anything relating to cases involving first Republican Representative John Porter?

A No.

Q Second, Walter Eddie Floyd and Nevada Republican Dean Heller?

A No.

Q Third, James or Erlene Forsyth, or Lisa Marie or Steve Werk?

A No.

Q Okay. Now, you did indicate before I think that you became aware of concerns by Republican Senator Ensign relating to the firing of Mr. Bogden; is that correct?

A Yes.

Q And can you elaborate on that?

A He called me afterwards to complain.

Q And what did he say?

A Big mistake, this is a good guy, doing a great job, stupid, easy to get along with, works well with everybody. They didn't check with the Attorney General. They didn't check with the prosecutors. They didn't check with the sheriffs. This guy is well liked, well thought of. They made a stupid mistake. Undo it.

Q So when you used the word "stupid" a few minutes ago, you weren't referring to Mr. Bogden, but the decision to remove him?

A Correct.

Q And when you say Attorney General, do you mean Attorney General of Nevada?

A Attorney General of Nevada.

Mr. Mincberg. Off the record.

[Discussion off the record.]

BY MR. MINCBERG:

Q Did Senator Ensign ask you to do anything as a result of

his discontent about this?

A Well, he wanted it to be undone, and so I put him in touch with the Counsel's Office.

Q Do you recall who at the Counsel's Office?

A I don't recall.

Q Was there any follow-up to that?

A I believe he was given a meeting with the Counsel's Office and allowed to make his case.

Q Senator Ensign was?

A Senator Ensign.

Q Did you attend that meeting?

A No, I didn't.

Q Did anyone from OPA attend it?

A I can't say.

Q What happened as a result of it, do you know?

A It was not undone.

Q Did Senator -- did you have any further communications with Senator Ensign or his office on that subject?

A I may have seen him later, and he may have thanked me for getting him the meeting and expressed disappointment at it. That's only a vague recollection. It would have been customary. Because of our sharing Nevada roots, we had a cordial relationship.

Q And in terms of Nevada, did you ever get any understanding either from Senator Ensign or otherwise as to why

the decision to remove Mr. Bogden was not reversed?

A Did I get that from Senator Ensign?

Q Or anybody.

A Well, it was done. I mean, they felt if they did it, if they reversed course on one they'd be asked questions about reversing course on others, and again, it came down to a question of they made a judgment about his unwillingness to prosecute these two cases -- these two kinds of cases without additional resources. They felt that if they gave in and sort of set the precedence that everybody gets to sort of say I won't do these cases unless you give me more money and more resources.

Q And when you explained that basis for the decision not to restore Mr. Bogden, what is that based on?

A Again, just, you know, Counsel saying that this is what we -- this is the reason we've removed him -- I'm sorry, Justice.

Q Okay. That's what I'm trying to get straight. When you were told about why the decision was made not to restore Mr. Bogden -- wait, let me rephrase that. I'm not now talking about the decision to remove Mr. Bogden. I'm focusing on the decision not to put him back as Senator Ensign wanted. Are we clear on that?

A Yes.

Q Okay. When you were told about why the decision not to restore him was made, do you think that came from the Counsel's Office?

A May have or may have been reported to me by counsel.

You know, I -- I don't recall.

Q And you don't recall who in Counsel's Office?

A No.

Q Do you have any information as to who was involved in the decision not to restore him?

A No.

Q Other than counsel with whom Senator Ensign met?

A Right.

Q You don't know one way or the other whether the Justice Department was at the meeting with Senator Ensign; you only know for sure that White House Counsel's Office was at the meeting?

A I'm pretty confident that the meeting took place but I wouldn't know who was in the meeting.

Q Although I think we did say before that the meeting did involve White House Counsel?

A I believe so, yes.

Q Now, Mr. Rove, it's now public knowledge that Steve Biskupic, who was the U.S. Attorney in Milwaukee, was on the first draft of the U.S. Attorney removal list prepared by Kyle Sampson in early March 2005. Do you have any information on how or why he was placed on that list?

A No.

Q Did you ever discuss with Mr. Sampson or anyone at DOJ the possibility of replacing Mr. Biskupic?

A No.

Q To your knowledge, did anyone at OPA do that?

A No.

Q Did you or anyone at OPA ever have any conversation of any kind about Mr. Biskupic with anybody either at Justice or the White House Counsel's Office?

A Not that I recall, no.

Q Now, you mentioned earlier that Milwaukee was one of the places that you talked about publicly and otherwise that were trouble spots for voter fraud. Did you ever receive any complaints or criticism's about Mr. Biskupic's handling of those claims?

A No. In fact, I think -- my recollection was that he was one of the more active. He was the one who in the aftermath of 2000 or 2004, you know, prodded -- prodded the State and local officials into doing something about the Marquette students who openly boasted of having voted multiple times, and he was also involved in -- he may have been involved in it directly, but he also was involved in or may have gotten the local officials to do something about the out-of-State poll workers who were bribing homeless with cigarettes and other consumables in order to get them to vote. So he also had a close working relationship with the Milwaukee Police Department, which had until last year a special unit that was engaged in looking into voter registration, voter fraud. They have the same day registration. So the problem

gets a little exaggerated.

Q Do you recall ever getting any complaints about Mr. Biskupic from Rick Wiley or Rick Graber or Chris Lato?

A I don't remember, no. I must admit when I saw that he was on an earlier list, I wondered why because my impression was that he had done a good job in making this a priority within his own office.

Q Do you recall getting other information about vote fraud issues from Mr. Riley or Mr. Graber or Mr. Lato?

A Yes.

Q What was that?

A I can't remember the specifics on what involved double voting by multiple -- voting by particularly students in college town counties, and then the normal problems in Milwaukee.

Q Did they provide written information to you about vote fraud problems in Wisconsin?

A I believe, yes, and I believe -- I'm not certain -- they may have given it to me directly or I may have seen it in a report compiled by the Republican Lawyers Association.

Q So why don't we take a look at some of that right now. If you would take a look at Document 66. This set of documents or set of pages was again produced to us by the White House, and on the bottom right, because we'll be using these pages, it -- they're labeled as HJC00172-A to Y on the bottom righthand corner. Do you see that pagination down there?

A Yes.

Q Now, let me start, if I could, towards the back of that at section -- at page V about the third or fourth page from the back. Do you recognize this page?

A Yes.

Q Can you tell us what it is?

A It's a clipping from the Milwaukee newspaper, you get it off the Internet: There 17 wards in Milwaukee in which there were at least 100 more ballots cast than people listed by the city as voting there. They range from 595 more votes cast in Ward 229 to 101 more in Ward 58.

Q And when you say you got it off the Internet, I see at the bottom of both this page and page W, there's a legend that includes the letters Rove-K. I'm talking at the very bottom of the page. It's at the bottom of both those pages. Is that what indicates to you this is something you printed off of the Internet?

A No, the words "temporary" and "intern" would tend to indicate to me that a temporary intern found this and printed it off.

Q Got it. That's even more precise. And did that temporary intern then give it to you?

A I assume I saw it because that's my handwriting, "discuss with Harriet" up there.

Q And you're referring now to the handwriting in the upper

lefthand corner, "discuss with Harriet"?

A Yes.

Q And by Harriet, you mean Harriet Miers?

A Yes.

Q Do you recall discussing this with Harriet Miers?

A I don't remember specifically, but I'm confident I did because Milwaukee was one of the problem children.

Q And again, just to direct to the bottom here, to helping a little bit more with the computer legend, it appears as though it bears the date -- it's a little hard to tell because the page marking is superimposed on it -- but it appears as those pages bear the date 2-2-2006. Do you see that?

A I believe it's 2005.

Q 2005, I'm sorry. Do you see that?

A Yes, and if you will notice at the top of the next page it says February 2nd, 2005, editions of Milwaukee Journal Sentinel.

Q So it would make sense to you this would have been printed out by the intern and given to you sometime around February 2nd, 2005, is that right?

A Correct. Looks like the story that accompanies it is missing pages one and two.

Q Let me ask you to flip back towards the front of the document. I'm going to ask you to look now at what appears to me anyway to be a large chunk of the document that begins with

HJC-00127B, the second page, and goes all the way to page U. And you will see that the title at the top is Fraud in Wisconsin 2004, a Timeline/Summary, prepared by Chris Lato, RPW Communications Director, and it's an e-mail address. Do you see that?

A Yes.

Q Can you identify those pages B through U?

A I'm not certain what you mean by identify.

Q I mean, can you tell us what that all is?

A Well, I believe I was speaking at the Waukesha County Republican Lincoln Day dinner at the behest of former Judiciary Committee Chairman James Sensenbrenner and was given this by the Republican county chairman, a local banker whose name escapes me.

Q And when was that, do you recall?

A I don't. Sometime shortly before the 11th of April 2005.

Q Why do you say before the 11th of April?

A Because the date on the upper righthand corner of my handwritten notes says 4-11-2005.

Q You're talking now about page 172-A?

A Yes.

Q The only thing I was uncertain about the precision of that date is, again, going back towards the end of the that document is something here came a couple of months before that, from February of '05. So I take it what you're saying is that you must have gotten this document, Fraud in Wisconsin, sometime

before April 11th, 2005, but you're not sure how much before that?

A I believe there are two different documents here. I wouldn't be surprised if the February 2nd document wasn't stuffed in the same file and was not part of the same document.

Q I see. So, in other words, your belief is that what you gave to Ms. Miers was pages A through U of the document?

A Right.

Q And that pages V and W, you think is something you may have discussed orally with Ms. Miers?

A No, I gave these -- V -- I don't know, but it makes more sense that I gave her V and W sometime after the 2nd of February.

Q I see, or reasonably shortly after that?

A Reasonably shortly after that, and that I gave her B through U plus X on the 11th of April.

Q Just for the record, presumably X and Y I presume?

A I'm sorry?

Q I said for the record, you referred to X. I assume you meant X and Y, just looking at the document.

A Yes, correct. Though X and Y has to do with New Orleans, with Orleans Parish. So that may be even a third document.

Q Well, again, I only raised it because you injected X as a possibility.

A I just -- I'm sorry, I didn't see until just now that it's the -- living outside of Orleans Parish. The only State in

the country that have parishes rather than counties is Louisiana, and Orleans Parish is the City of New Orleans, and it has a Perdido Street address in New Orleans on the next page. So this is three documents in my opinion.

Q Well, while we're at it, I will go back to the earlier part in a minute. But let's take a look at those last couple of pages for a minute. What's your recollection of how you came to -- well, let me back up. Did you in fact in your view at some point see pages X and Y?

A They're unfamiliar to me.

Q You don't recall seeing them?

A No.

Q So you don't know one way or the other whether you forwarded those to Harriet Miers or to anybody else?

A No.

Q But you do recall, I think, pages V and W which we talked about and then pages A through U, correct?

A I remember the Milwaukee map, but this other document, frankly, I didn't recall before seeing it in here. I have no independent recollection.

Q And just to be sure that we've got the record clear on that, when you're referring to the Milwaukee map, you are referring now to page V, which is part of that two-page printout from February 2nd, 2005?

A V and W, and that may be missing pages one and two as

well. I don't know whether those were with it or not.

Q Right, right, and then I think what you just said a moment ago is that sitting here you don't recall the document beginning on page B, but if I understand you correctly, you believe that this would have been received by you at that event in Waukesha, and then transmitted to Ms. Miers?

A I don't recall giving it to Ms. Miers, but I do have a vague recollection of being pigeonholed by the Waukesha County Republican Chairman about vote fraud when I spoke to him.

Q Now, let's go to page A, which is your note to Harriet Miers dated April 11th, 2005, and I think just for the record I will just read this. Please correct me if I read any of it wrong. Actually, let me take that back. Why don't you read it -- since this is your handwriting, why don't you read for the record the note on page 172-A of Document 66?

A 4-11-05. Harriet, here's a good summary on the clips on Wisconsin vote fraud, period. I was assured Saturday while I was in Milwaukee that the issue of more voters than people on the registration list is real. Even the local newspaper has assigned an investigative reporter and run articles ferreting out nonexistent addresses and convicted felon voters. Karl.

Q Now, what led you to send this information to Ms. Miers?

A Ms. Miers was the principal contact with the Justice Department, and I had raised previously the issue of should the Justice Department develop a policy with regard to prioritization

of voter registration, voter fraud cases.

Q And so what were you seeking to achieve by giving information to Ms. Miers?

A Provide her more information about the problem.

Q And hopefully encourage her to contact the Department of Justice to take more action in the area?

A Yes.

Q Now the --

A And have a policy.

Q I'm sorry?

A To have a policy.

Q Now, the notes that you were assured Saturday while in Wisconsin that the issue of more voters than registrations was real, is that reference, being assured Saturday, to that same Waukesha dinner you were referring to before?

A I believe it is, yes.

Q Who gave you these assurances that the problem was real?

A Well, it's the Waukesha County Republican Chairman, whose name escapes me, but there are other elected officials there, including I believe the county executive in Milwaukee.

Q What else do you recall about those discussions?

A I don't other than hurried conversation while I'm trying to get ready to go give a speech at the behest of the chairman of the Judiciary Committee.

Q Off the record.

[Discussion off the record.]

BY MR. MINCBERG:

Q Do you recall any discussion when you were in Waukesha of Mr. Biskupic or the role of the U.S. Attorney with respect to this voter fraud controversy?

A No, I don't. I think they were focused on a voter ID bill. I think that was the general sense, and the answer needed to be something that caused people to show identification at the polls. This would be the easiest way to stop the double voting of college students in the college towns.

Q Did you ever have any further discussions with Ms. Miers about the subject of voter fraud and more registration from voters in Wisconsin with Ms. Miers?

A I would suspect I did, but I can't -- I can't say that. I can't tell you that I -- I did talk with her more voter registration. Did I talk to her specifically about Milwaukee? I don't know.

Q You just don't recall one way or the other?

A No.

Q Did you ever arrange to transmit this document yourself to anyone at the Department of Justice?

A I don't know. I may have given it to Alberto Gonzales, but I think what I did was I gave him a larger document that was a compilation of a whole series of studies done by the Republican Lawyers Association.

Q Now, there had been testimony from a Matt Frederick that Kyle Sampson gave this document to him saying that it had come from your shop. Does that refresh your recollection at all about how it may have gotten to the Department of Justice?

A No.

Q You say it's possible you gave to it Mr. Gonzales but you're just not sure?

A I'm not sure. I'm pretty confident I gave him a large -- there's a larger document about the size of this notebook that has a whole series of reports. I'm pretty confident that I gave that to him.

Q And by this notebook you're again referring to the Exhibit 1 notebook that we've been looking at today?

A Correct.

Q Do you recall whether at the time you transmitted that to Mr. Gonzales whether you talked about problems in Wisconsin in particular?

A I don't recall.

Q Do you recall anything at all about the conversations?

A Let me say this. I do recall saying to him, look, we've got problems in Philadelphia where we opened up machines on election day to check the counters, and there were already hundreds of votes cast for John Kerry in 2004. We had people ordered out of the polling places by people with guns. We had problems with this Wisconsin issue. We had problems in New

Mexico. We had problems with registration in Ohio. So, you know, I gave him sort of the around the world -- you know, lots of fraudulent registrations in Clark County, Nevada. I gave him sort of the around the world quick tour.

Q But you don't remember anything more specifically than that?

A No.

Q Now, are you aware that Ms. Miers herself also forwarded this information to the Justice Department?

A No.

Q You just didn't hear about that one way or the other?

A Not that I recall.

Q Are you aware that the Justice Department reported back to Ms. Miers that the allegations of more voters than registrants was not a legitimate concern and that there was simply overlapping jurisdictional lines that made it appear as if there were extra voters in some districts?

A I heard this from Harriet. I'm not certain I necessarily agree with it. I've talked to some political scientists who've looked into this, and they don't necessarily agree with it either. But there is an argument to be made that some of these ward boundaries are inconsistent with precinct boundaries, but it does not explain, for example, the biggest -- I remember talking with one political scientist about the 595, and he said that that can't be explained by minor deviations in the

precinct boundaries and ward boundaries.

Q Which political scientist was that?

A University of -- he's University of Wisconsin, like Shorewood or something. I think he's now deceased, but I can't remember his name.

Q Now, when did you hear back from Ms. Miers that Justice had reported to her that they didn't think this had a proper basis?

A I'm not certain she said Justice. I think she may have said she got a report back or heard that, and I don't recall.

Q You don't recall when you heard that from her?

A Sometime after -- obviously sometime after this and probably significantly after this.

Q What did you say in response to her?

A I said I wasn't -- I'd heard the argument and I wasn't in agreement with the argument. I thought there was a real basis for this, and it was particularly given the fact that you had same-day registration and we had a number of instances in which students openly admitted that they had double voted, registering in one precinct, giving their name, going to another precinct, giving another name.

Q So did you go back to her and ask her to pursue this further with Justice or whoever?

A No, no. Look, this was a policy question that had to be decided by Justice. If I felt it was at the White House and

within my purview in 2005 as the Deputy Chief of Staff of Policy to make it a White House driven policy, I would have conducted -- I would have gone to the domestic policy chief and said why don't you look into this, get everybody around the table, let's take a look at this. But this was something that needed to be left inside Justice.

Q Now, I think we established before that -- that at least one of the times you spoke with Attorney General Gonzales about the problem of voter fraud was in the fall of 2006. Does that sound correct?

A Uh-huh, yes.

Q At that point had you already heard from Ms. Miers that at least there was dispute as to whether or not this problem of more registrants than voters was real?

A Probably did, yes, because this is April of '05, and you know, they might move slowly but not that slowly.

Q Did you mention at all that dispute to the Attorney General when you raised that issue with him?

A I'm not certain in the fall of 2006 I raised Milwaukee specifically.

Q Well, I can ask you to look at the particular document, but in fact there is testimony from the Attorney General where he indicated that in the fall of 2006 Wisconsin was one of the places that you conveyed concerns about voter fraud to him. Do you have any reason to dispute that?

A Oh, not at all. As I said earlier, if I was asked to sort of describe the problem, I'd cite Ohio, Philadelphia, Milwaukee, Las Vegas, New Mexico. I should say New Mexico then before Las Vegas. I don't think I'm referring to the home of --

Q Again my question is, therefore, in discussing this situation with respect to Wisconsin with the Attorney General, did you mention to him that there was at the very least a dispute about this allegation that there were more -- more voters than registrants?

A No.

Q That just didn't come up?

A Well, there are arguments -- arguments -- objections to believing that there's a problem anywhere in America. There are people who don't think we have a problem with voter fraud and voter registration fraud in America. If I had to couch -- share their arguments about it every time I said I think there's a problem, I'd probably be more fair minded than most individuals by doing so.

Q Let me ask you to take look at Document 68, which -- in Exhibit 1 notebook, which is the partial transcript of the press briefing by Dan Bartlett, Counsel to the President, on March 13th, 2007. I'm going to ask you to take a look at the top two paragraphs on the second page and in particular at the last sentence on the first paragraph which says, quote, and over the course of several years we have received complaints about U.S.

Attorneys, particularly when it comes to election fraud cases -- not just New Mexico, but also Wisconsin and Pennsylvania, end quote.

Do you see that?

A I do.

Q Did anyone in your office receive complaints about the U.S. Attorney in Wisconsin?

A Not that I'm aware of.

Q Where was Mr. Bartlett getting that information?

A I think he may have been comparing the problems -- the areas where we had problems with voter fraud with problems with the U.S. Attorneys.

Q So, to the best of your knowledge, there were never any complaints about the U.S. Attorney in Wisconsin?

A I did not hear complaints that I recall. I did not hear complaints about the U.S. Attorney in Pennsylvania. I assume by this they mean the Eastern District of Pennsylvania. I don't recall complaints. Others may have received them but I did not.

Q So if there were complaints about Mr. Biskupic in Wisconsin, what you're testifying today is that you don't recall receiving any?

A I don't recall somebody making it a point with me. That's not to say somebody said hey, I think he can do a better job. I don't recall anybody taking me aside and saying this guy's screwing up. My impression, as I said earlier, is just the

opposite. He actually seemed to have provoked some State and local attention to the problem.

Q So if there were complaints about Mr. Biskupic, as Mr. Bartlett seems to indicate, you would have no information one way or the other whether those had anything to do with his name being placed on the list of possible U.S. Attorneys to be removed in March of '05?

A I'm not aware of it. That's not to say there wouldn't have been, but I'm just not -- it just doesn't ring a bell with me. As I say, my impression was he was a guy who actually had gotten State and local law enforcement to look into these.

Q And actually, we'll get to that with you in just a minute. So certainly March of '05 would have been after that February 2nd, '05 date we looked at where you had that article printed out about the alleged problems in Milwaukee, correct?

A Uh-huh.

Q I'm sorry?

A Oh, yes, yes.

Q Now, it's also publicly known that Mr. Biskupic was, in fact, no longer on the possible termination list as of January of 2006. Do you have any information as to why that happened?

A No. As I said earlier, I'm not -- I don't recall getting the earlier variations of this list. If I was -- if I was shown them, I probably just tried to ignore them because this process went on for 2 years, and you know, it was going to be what

the list was going to be when they finally arrived at the list.

Q And in fact, you did indicate that you were aware that Mr. Biskupic did initiate a series of aggressive actions with respect to alleged fraud in connection with the 2004 election, correct?

A Yes.

Q Do you recall whether those occurred before or after March of '05 when his name was put on that list?

A I don't know.

Q So you don't know one way or the other?

A No.

Q You don't know whether his initiation of those actions might have helped get his name off those lists?

A My recollection is some of those actions were taking place in the immediate aftermath of the election, particularly the ones involving the Marquette students and the out-of-State poll workers.

Q Well, obviously we can go back to the record on that unless you have a specific memory?

A No, I don't.

Q Okay. Now, also during 2005 it's public record that Mr. Biskupic launched an investigation of a State employee who worked for the Democratic Governor named Georgia Thompson. Do you recall hearing about that?

A I do.

Q What do you recall about it?

A Reading about it in the papers or the clips.

Q I'm sorry?

A Reading about it from the papers or the clips.

Q What do you recall reading about it?

A I don't recall, other than worked for the Governor somehow.

Q Do you recall when you first learned about it?

A No.

Q Do you recall hearing about the reversal of the conviction later on in 2007?

A Yes.

Q How do you recall that?

A Again, just reading it in the clips or minor item in the clips.

Q Do you have any information as to whether Mr. Biskupic's aggressive prosecution of a corruption case involving the administration of Democratic Governor Jim Doyle could have been a factor in the decision to take his name off a potential removal list?

A No.

Q You can't rule it out one way or the other, I take it?

A Can't rule it in; can't rule it out.

Q Fair enough. Why don't we take a brief break right at the moment, if we could, just to discuss off the record our

schedule for going forward. Let me have a minute or two with my colleagues, and then we'll come back.

[Recess.]

RPTS JOHNSON

DCMN MAYER

[5:09 p.m.]

Mr. Mincberg. Mr. Rove, I want to ask you about a couple of other U.S. Attorneys who had been mentioned as possibilities for termination, but hadn't, in fact, been terminated during the Bush administration.

Again, it is public knowledge that Dunn Lampton, who was then U.S. Attorney for the Southern District of Mississippi, was on that first draft of the firing list in March 2005.

Do you have any idea why?

A No.

Q During your time at the White House did you ever hear any criticisms or concerns about Mr. Lampton's performance?

A No.

Q Did you ever hear any praise or support for Mr. Lampton?

A No.

Q Did you have any discussions or receive any information about Mr. Lampton?

A No. Surprising, since I have family in southern Mississippi.

Q Did you have any involvement with the selection or nomination of Mr. Lampton to become U.S. Attorney?

A Yes. In 2001, yes.

Q Okay. Explain.

A Well, I don't recall --

Mr. Flood. Can I just say I believe that this is outside the scope of our agreement?

And I have been, you know, somewhat liberal about that scope issue, but at this hour, after all this, I intend to be a little more rigorous.

I just don't see --

Mr. Mincberg. Well, we can have a long discussion about it or we can just go forward with questions that I think, based on our previous pace, we can get answered fairly directly.

But are you directing the witness not to answer the question, Mr. Flood?

Mr. Flood. No, but if you would be good enough to cite to me the provision of the agreement that you think justifies asking questions about appointments in 2001, when, as I think we all understand, we are here to talk about decisions to replace, remove, et cetera, I would be grateful.

Mr. Mincberg. Well, again, for the record, the agreement clearly includes the retention of U.S. Attorneys. And Mr. Lampton was specifically identified in an e-mail that we got from the Obama White House, and which was represented you had been informed about and agreed to, as one of the individuals whose retention we would talk about.

And relevant to that, I think, is Mr. Rove's involvement with respect to the selection.

Mr. Flood. Boy, and I think this is where we part company. The idea that somebody's retention in 2005 or -6 or what have you is such, its scope and the implications of that, the circumstances of his appointment, which I assume is around 2001, is somehow relevant to that, I just don't see it.

Mr. Mincberg. Are you directing the witness not to answer?

Mr. Flood. No. But I am asking you again to point to the provision of the agreement that authorizes your question. And if you want, I am going to let the question go, because it is, you know, no sense my wasting any more time than you are wasting. But that is where we are.

Mr. Mincberg. Well, I believe that I do not want to take the witness's time with that at this point. I will be happy to provide that to you later.

As long as you are not directing the witness not to answer, I think I would like to go forward with the question.

Mr. Flood. You know, I would have been grateful to hear just what specific provision of the agreement authorizes questions about the appointment of Mr. Lampton in 2001.

I haven't gotten it from you. But I am not going to -- you know, if you want to go there now, I am prepared to allow it because, you know, we have wasted already too much time here.

Mr. Mincberg. I agree.

Mr. Flood. Ask away.

Mr. Mincberg. I agree with the notion of wasting too much

time. And I will make a statement to that effect for the record. But I don't want to take the witness's time to do it now.

BY MR. MINCBERG:

Q Could you then answer the question?

A I don't recall the specific individual in question. The State has two Republican Senators. One of them, in particular, has strong feelings about anything that is connected with southern Mississippi. I speak of former Senator Lott.

I would suspect that we were given a small list of names, and checked them out and found probably all of them acceptable, or at least this one was found to be acceptable and -- after they passed through the Judicial Selection committee and the interview process at Justice.

I have no specific recollection.

Q Okay. And so you don't recall who, in particular, from Mississippi advocated for Mr. Lampton's selection?

A No.

Q Did the subject of Mississippi trial lawyers arise during the selection or nomination process?

A Not that I recall.

Q Did the subject of alleged corruption in the State judiciary arise?

A Not that I recall.

Q Did the subject of Mississippi Attorney Paul Minor ever arise?

A Not that I recall.

Q How about Mississippi Judges Oliver Diaz, Wes Teel, or John Whitfield?

A Not that I recall.

Q Now, again it is also public knowledge that Mr. Lampton does not appear on that January 2006 edition of the potential termination list, which again I think you testified you did not see, correct?

A Correct.

Q Do you have any idea whether anyone from the White House suggested that Mr. Lampton be removed from the list?

A No.

Q Do you or anyone at OPA ever communicate about Mr. Lampton with anyone at the Department of Justice?

A Not that I am aware of.

Q Do you have any knowledge of Mr. Lampton's investigation or prosecution of Mississippi Attorney Paul Minor?

A No, I don't.

Q Do you know whether you or anyone at OPA ever communicated about the investigation or prosecution of Paul Minor?

A No.

Q You say no, you don't know, or --

A I didn't. I don't know if anybody in OPA did. I find it highly unlikely.

Q Why do you say that?

A You are asking about a distant part of the country and cases; and I repeat, it was not the policy of the White House to directly or indirectly attempt to influence any specific case.

Q So as far as you can recall, you have never discussed the investigation or prosecution of Mr. Minor with anyone at all; is that correct?

A Anybody in the White House.

Q Have you discussed it with anyone?

A I remember reading about it -- I don't know which one of the Mississippi cases this is, but the -- Mr. Scruggs and everything else makes for entertaining reading. I don't know if Mr. Minor is involved in that.

Q So do you recall having any discussions of the prosecution of Mr. Minor with anyone at all?

A Maybe my wife; maybe my brother-in-law, who is the John Deere dealer in Hattiesburg, Mississippi, or my sister-in-law.

Q Let me ask the same question with respect to the Mississippi judges that I mentioned -- Oliver Diaz, Wes Teel, or John Whitfield?

A None of those names are familiar.

If they were a part of the whole Scruggs bribery, then I have read about them and I have talked about them -- if not by name, by position -- with my in-laws.

I hope that doesn't violate a law.

Q And so I take it you have no idea or information one way

or the other as to whether the prosecution of Mr. Minor, Mr. Diaz, Mr. Teel, or Mr. Whitfield had anything to do with removing Mr. Lampton's name on the list of possible U.S. Attorney replacements?

A No.

Q Now, what was your role in the selection or nomination of Christopher Christie as U.S. Attorney in New Jersey?

Mr. Flood. If you allow me, Mr. Rove, in the selection and nomination in 2001, I have the same problem.

Elliott, it is 5:17. We have sat here today and heard questions like what does "runoff ASAP" mean? What does "opposition research" involve? "Isn't March 5th after February 2nd, 2005?"

Then we had questions about Dunn Lampton's hiring.

Now we are going to have questions about circumstances of Christopher Christie's hiring.

It is outside the scope. If this continues, I will have to give an instruction based on its being outside the scope.

Mr. Mincberg. And you are free to give that instruction whenever you would like. I will state again that I will clarify in more detail for the record, but I will say in advance that, as with the previous U.S. Attorney, we are concerned here with the issue of selective prosecution, which was, in fact, raised in the agreement. And Mr. Christie is one of those names who was specifically referenced as somebody who would be talked about.

Mr. Flood. If you would be good enough to explain on the

record how the circumstances of somebody's hiring, which is to say how events occurring before they are hired have anything to do with their engaging in, being suspected of, rumored to be involved in selective prosecution while they are in office, I would be grateful.

But otherwise, I think the question is improper; I think it is manifestly improper.

Mr. Mincberg. Are you directing the witness --

Mr. Flores. I think at this point in time it is important that we do hear a clear articulation of the basis for the scope.

Mr. Mincberg. Are you directing the witness not to answer?

Mr. Flores. I am particularly concerned about the issue of Mr. Christie.

You know, could you give us an explanation of what the basis is for tying Mr. Christie to questions about alleged selective prosecution?

Mr. Mincberg. Mr. Flood, are you directing the witness not to answer?

Mr. Flood. Not at this time. But it is outside the scope. Everybody in this room knows that.

Mr. Mincberg. I think I take exception to that. But again, I don't --

Mr. Flood. But you won't state the proper jurisdiction in the agreement that justifies it.

Mr. Mincberg. I will make that statement, but I am not going

to take the witness's time to do it now.

BY MR. MINCBERG:

Q So let me ask you again, what was your role in the selection and nomination of Mr. Christie as U.S. Attorney?

A I have no specific recollection of any specific action I took. I assume that in 2001, OPA, lacking a United States Senator in New Jersey, probably had to work with the former Governor and -- both former Governors, Kean and Christie Todd Whitman, and with the State's congressional delegation, and with the relatively thin group of lawyers that are available in the State to advise on this kind of situation. Most lawyers end up practicing in New York and then they live in New Jersey.

Q Do you know of a gentleman named William, I believe it is Palatucci?

A Palatucci.

Q Palatucci?

A Yes, I do.

Q You know that gentleman?

A Yes.

Q Do you recall that Mr. Palatucci forwarded Mr. Christie's resume to you?

A I would fully anticipate that he did. He is a close friend of Chris Christie's, whom I have known myself for a number of years.

Q And were you aware that Mr. Palatucci actually boasted

of selecting a U.S. Attorney by forwarding his resume to you?

A Well, that overstates his role. He forwarded the resume, and the resume went into the stack, and at the end of the process Chris Christie was chosen.

Q Did you endorse his candidacy?

A No.

Q You didn't do anything one way or the other on the subject?

A No. Our job was to collect a bunch of resumes of people who would be acceptable. And he was one of a number of people in New Jersey who was acceptable.

He then went through an interview process with a committee from the Justice Department and the White House Counsel's Office. My recollection is that he came out with very high marks by that group.

He then came to the Judicial Selection Committee. He had strong endorsements from, as I recall, both former Governors and a wide variety of officials, Republican and Democrat is my recollection -- don't ask me who. But my recollection was that this was a relatively easy one to settle on because his qualifications were so good.

Q Were you aware that a New Jersey Federal bar group objected to Mr. Christie's appointment because he did not have trial, criminal law, or investigative experience?

A I don't recall that, but I wouldn't be surprised.

Virtually everybody at one time or another, particularly these high-profile States, and particularly in the States that tend to be more Democrat object to the Republican nominees.

Q Did you or anyone at OPA have any communications with Mr. Christie or his office after he started as U.S. Attorney?

A I talked to him twice in the last couple of years, perhaps one time while I was at the White House and once or twice since I left the White House, but -- not regarding his duties as U.S. Attorney, but regarding his interest in running for Governor, and he asked me questions about who -- who were good people that knew about running for Governor that he could talk to.

Q And I won't ask you about those conversations.

But again, just so we are clear, what you are testifying here is that none of those conversations with Mr. Christie had anything to do with any of his duties as U.S. Attorney; is that correct?

A Correct.

He may have said, I am really enjoying the job and, you know, I have got a whole bunch of cases that I am prosecuting and, boy, maybe you have been reading about me. But no; about the sum and substance of it, no.

Q Now, again, it is a matter of public record that on November 1, 2006, the chief of staff for the Deputy Attorney General, Mike Elston, sent a list of other possibilities for U.S. Attorneys to be removed to Kyle Sampson, and Mr. Christie was on that list. It is actually at page 40 to 41 of the IG report.

Were you aware of that?

A No.

Q Now, it is also a matter of public record that he was never included in one of Mr. Sampson's lists of U.S. Attorneys.

Do you have any information or idea as to why?

A No.

Q Did you have any communications with anyone at the White House or DOJ about Mr. Christie remaining as U.S. Attorney?

A No.

Q Now, it has been publicly contended that with respect to public corruption cases, Mr. Christie has prosecuted Democrats over Republicans at a rate of two to one.

Do you have any information or idea as to whether that fact played any role in keeping Mr. Christie off the list of U.S. Attorneys?

Mr. Flood. I object to the question.

Okay. The predicate was it has been publicly contended. By the end of the question it had become a fact. Okay.

Mr. Mincberg. All right, I will change --

Mr. Flood. That is improper.

Mr. Mincberg. I am happy to amend that.

BY MR. MINCBERG:

Q Do you have any information or idea as to whether that contention played a role in keeping Mr. Christie off the list of U.S. Attorneys to be replaced?

A No.

Q It has also been publicly noted that several months before the 2006 election, in which Democratic Senator Menendez was running, Mr. Christie began an investigation of Senator Menendez, which had been leaked to the press.

Do you recall hearing about that investigation?

A Vaguely.

Q Again, do you have any idea or information about whether that had anything to do with Mr. Christie being on or not on any list of U.S. Attorneys to be replaced?

A No.

Q Did you have any communications with anyone about the investigation of Senator Menendez?

A I may have talked with people in the Office of Political Affairs if the President was going to New Jersey, but I can't recall whether he was going to New Jersey on official or political business.

I doubt that he went there on political business.

Q Do you recall any of those discussions or communications?

A They would have concerned what was available in the public record.

Q Did you or anyone at OPA have any communications with Mr. Christie or anyone at DOJ about the investigation of Senator Menendez?

A No.

Q When you answered that as flatly as you did with no, I am sure that clearly relates to you. But are you personally confident that no one at OPA had that discussion, or simply that you don't know?

A I am not aware of anybody at --

Q Fair enough.

I am sorry, finish your answer.

A Yeah, I am not aware of anybody. And if you wanted me to divide them, divide the question, I am happy to stay and have you ask the question two different ways.

Q Okay. Why don't we do that. It will take just a second.

Did you personally have any communications with Mr. Christie or anyone at DOJ or the White House Counsel's Office about the Menendez investigation?

A I just answered that no.

Q Right. I am doing as you asked.

A I was hoping that you would do it going forward. There is no need for you to go back. Please don't go all the way back to the previous questions that you have been asking about others.

Q I will try not to do that.

A Why don't we just make this going forward.

Q I think that is a perfectly fair statement.

Now certainly the timing of that investigation and that leak

about Senator Menendez was favorable to Republicans in the election, wasn't it?

A I would suspect so. Again, I don't know enough about New Jersey politics and how widely it was covered to make a comment.

Q Did you or anyone at OPA complain to DOJ or the White House Counsel's Office about that leak, as you did with respect to the Renzi leak that we talked about?

A Not that I am aware of. I didn't. I am not aware of them.

Mr. Mincberg. Mr. Rove, I am happy to state that before 5:30, despite some of our dialogues that we had -- not with you and me, but with counsel -- we have completed as far as we wanted to get today.

Just so we are clear for the record, my understanding is we will resume at 9:00 a.m. on the 30th of July. I will check for sure about whether it will be this room or one of the other rooms in the committee.

I have one area of questioning to go relating predominantly to the Siegelman issue. Mr. Schiff has one area after that. And then we will turn it over to Mr. Forbes and Mr. Flores.

Mr. Luskin. Excellent. We look forward to it.

Mr. Mincberg. Thank you very much, Mr. Rove.

Mr. Schiff. And I would think -- and correct me if you feel differently -- we will be done with our portion in the morning of

July 30th.

Mr. Mincberg. Easily.

Mr. Schiff. So my colleague will have as much time the rest of the day that he would need.

Mr. Luskin. Good. I am hopeful that we won't have to replot any of the ground that we sort of carefully furrowed today.

Mr. Mincberg. We certainly don't intend to.

Again, it is not inconceivable that Mr. Schiff may have a follow-up from what Mr. Forbes says, but we don't intend to replot any of that ground.

Mr. Luskin. Good. Look forward to it.

Mr. Mincberg. Thank you all very much.

Mr. Rove. Easy for you to say.

[Whereupon, at 5:28 p.m., the interview was adjourned, to reconvene on Thursday, July 30, 2009.]