

Mercer, Bill (USAMT)

From: Otis, Lee L
Sent: Tuesday, April 04, 2006 9:01 PM
To: Mercer, Bill (ODAG); Mercer, Bill (USAMT)
Cc: Elston, Michael (ODAG)
Subject: FW: Catch and release

Importance: High

Attachments: 0501817.wpd; criminal alien - AG letter (final).pdf



0501817.wpd (23 KB)



criminal alien - AG letter (fi...

Here is the Issa letter and the original draft response that the U.S. Attorney's office prepared but that wasn't sent.

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

From: Seidel, Rebecca
Sent: Monday, April 03, 2006 5:18 PM
To: Bounds, Ryan W (OLP)
Cc: Otis, Lee L; Rybka, Timothy A; Voris, Natalie (USAEO)
Subject: FW: Catch and release
Importance: High

Thanks Natalie. Ryan, could you please turn this draft response into talkers? First talker should be the AG saying "I understand that we are arranging a briefing for you on this issue" (DAG will be meeting with him after the Easter recess).

Then the rest should be just enough as may be necessary to rebut a little.

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

From: Voris, Natalie (USAEO)
Sent: Monday, April 03, 2006 5:12 PM
To: Seidel, Rebecca
Cc: Crews, John (USAEO); Smith, David L. (USAEO)
Subject: FW: Catch and release

Rebecca,
Dave must be reading minds today...see below.

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

From: Smith, David L. (USAEO)
Sent: Monday, April 03, 2006 5:00 PM
To: Voris, Natalie (USAEO)
Cc: Crews, John (USAEO)
Subject: RE: Catch and release

Natalie,

I don't know of any talking points either. However, perhaps Rebecca is thinking of letters that Rep. Issa wrote to Carol Lam and to the AG last year criticizing the SDCA for its immigration prosecution policies. The letters were mostly focused on two specific cases that SDCA did not prosecute. But in the letter to the AG Issa also criticized "catch and release" generally in the context of USAO prosecutions. I drafted a response to the letters, attached. I don't believe the response was

ever sent because it was determined to have a briefing rather than a formal letter response. I don't know whether the briefing ever took place or what ever happened to the issue.

See emails on this subject below.
Dave

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

From: Crews, John (USAEO)
Sent: Monday, April 03, 2006 4:37 PM
To: Voris, Natalie (USAEO); Smith, David L. (USAEO)
Subject: Re: Catch and release

I am not aware of any talking points on this. The issue of catch and release is an administrative, which is to say - non criminal context. The USAO's don't get involved in this part of immigration enforcement.
Jgc

Sent from my BlackBerry Wireless Device

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

From: Voris, Natalie (USAEO) <NVoris@usa.doj.gov>
To: Smith, David L. (USAEO) <DSmith@usa.doj.gov>; Crews, John (USAEO) <JCrews@usa.doj.gov>
Sent: Mon Apr 03 16:32:36 2006
Subject: FW: Catch and release

Are either of you aware of catch and release talkers? See below.

nv

From: Seidel, Rebecca
Sent: Monday, April 03, 2006 4:27 PM
To: Voris, Natalie (USAEO)
Cc: Bounds, Ryan W (OLP); Otis, Lee L
Subject: Fw: Catch and release
Importance: High

See below. I think EOUSA has something too?

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

From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Kent, Don (DHS) <Don.Kent@dhs.gov>; Turner, Pam (DHS) <Pam.Turner@DHS.GOV>; Kendall, Sarah (DHS) <Sarah.Kendall@dhs.gov>

CC: Bounds, Ryan W (OLP) <Ryan.W.Bounds@SMOJMD.USDOJ.gov>; Otis, Lee L <Lee.L.Otis@SMOJMD.USDOJ.gov>
Sent: Mon Apr 03 16:26:09 2006
Subject: Catch and release

I think you guys have good talkers on this, about how you are remedying? Apparently Rep Issa is going to ask AG at his hearing Thurs in HJC about crim alien prosecutions generally, and catch and release in particular.

Please forward what you can asap?

From: Smith, David L. (USAEO)
Sent: Tuesday, January 10, 2006 6:25 PM
To: Seidel, Rebecca; Otis, Lee L
Cc: Voris, Natalie (USAEO); Crews, John (USAEO)
Subject: FW: Issa letter

Rebecca,

Per our conversation last night, attached is the Issa/CA delegation letter to the AG regarding alien prosecutions in the SDCA, as well as EOUSA's draft response to the letter. There are additional materials that I can forward on this, including a long memo that the SDCA prepared on the matter as well as SDCA stats, etc. Please note that the response letter was intended to be a response to both the CA delegation letter and to an earlier letter Issa sent directly to USA Carol Lam on the same issue.

Lee, my understanding is that the latest thought was to do a briefing in lieu of a letter response, but I am not sure where this stands at the moment.

Please let me know what your thoughts are on this so I can keep SDCA apprised.

Thanks

Dave

From: Smith, David L. (USAEO)
Sent: Friday, November 18, 2005 11:53 AM
To: Otis, Lee L
Cc: Voris, Natalie (USAEO); Parras, Jeff (USAEO)
Subject: Issa letter

Lee,

Attached is my draft response to Cong. Issa and the California delegation regarding the prosecution policies in SDCA. The Exec Sec. hard copy of this letter is being sent on down the line here as well.

Also, I have collected a variety of additional stats not currently cited in the draft and can forward them to you if you would like. I will give you a call.

Dave

David L. Smith
Legislative Counsel
Executive Office for U.S. Attorneys
(202) 353-3035
David.L.Smith2@usdoj.gov

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

From: Seidel, Rebecca
Sent: Tuesday, October 25, 2005 12:14 PM
To: Voris, Natalie (USAEO)
Cc: Cohn, Jonathan (CIV); Callier, Sandra M; Bounds, Ryan W (OLP);

Scott-Finan, Nancy

Subject: FW: CA Republican delegation letter - prosecution of Criminal aliens

Natalie - please see this letter. Sandra will log with Exec Sec and start through normal process, but wanted to give you heads up as EOUSA will likely have pen, hopefully we can get this response done soon (do we have a good response?). Note that the Delegation asks to meet with the AG. AG not necessary for this, but we should discuss whether Mike Battle may be appropriate to bring up to meet with Members?

I know the "catch and release" thing is a DHS issue, however, note the reference to USA declining to prosecute.

Congress of the United States

Washington, DC 20515

October 20, 2005

The Honorable Alberto Gonzales
Attorney General
United States Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Attorney General Gonzales:

We write to request a meeting with you to discuss our frustration with the current policies within the Administration related to the prosecution of criminal aliens. To date, many illegal aliens, who deserve jail time, fall instead into the current practice of "catch and release." The recidivism rate among criminal aliens is high, and your Department's lack of action aggravates rather than remedies this problem.

The Border Patrol recently arrested illegal alien, Alfredo Gonzales Garcia, near the border in San Diego. Even though Mr. Garcia had at least two prior arrests for selling drugs and was incarcerated on two separate occasions for these offenses, the U.S. Attorney's Office in San Diego declined to prosecute him. Prior to that event, the U.S. Attorney's Office chose not to prosecute Antonio Amparo-Lopez, a human smuggler and illegal alien with multiple prior convictions. In each instance, under the Immigration and Nationality Act, they were both eligible, upon conviction, for a two-year prison sentence, at minimum.

The U.S. Attorney in San Diego has stated that the office will not prosecute a criminal alien unless they have previously been convicted of two felonies in the district. This lax prosecutorial standard virtually guarantees that both of these individuals will be arrested on U.S. soil in the future for committing further serious crimes.

There is one simple reason why "catch and release" cannot continue: it endangers our citizens. It is the responsibility of the Department of Justice to punish dangerous criminals who violate federal laws, and this includes criminal aliens. When we meet, at the very least we encourage you to be prepared to discuss the current policies used by the U.S. Attorneys to determine when to prosecute criminal aliens, including providing us with a copy of the prosecution guidelines that are applied to such cases in the Southern District of California.

Again, we would like to meet to discuss the disparity between crimes committed and prosecutions conducted at your earliest convenience. Please contact us at 202-225-3906 to schedule this meeting.

Sincerely,



Ken Collier
John Little
Byrd
Eta Jackson
Dana Roberts
Lynn Nunez
Jan Jung
Richard Rombo
Bill Thomas

Ray Kaden
Buck McKeon
Wayne
Wally Berger
Jimmy
Randy "Lake" Cunningham

Image Not
Available

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530-0001

The Honorable Darrell Issa
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Issa:

This is in response to your October 20, 2005 letter, which was co-signed by 18 House colleagues from California, to the Attorney General inquiring about the prosecution of aliens in the Southern District of California. We are sending an identical letter to each House member that co-signed your letter. This also responds to the October 13, 2005 letter you sent to Carol Lam, the United States Attorney for the Southern District of California on the same topic. We apologize for any inconvenience our delay in responding may have caused you or your colleagues.

The Department of Justice very much appreciates and shares your concern with criminal aliens in this country who jeopardize the safety and well-being of the public. There are, as you know, approximately one million illegal aliens who are apprehended each year along our border with Mexico. As a result, the United States Attorneys' Offices along the Southwest Border (including the Districts of Southern Texas, Western Texas, New Mexico, Arizona and Southern California) face a great challenge in enforcing the criminal immigration and narcotics laws along that border.

Enforcing the immigration laws is a joint effort. The cooperation and resources of not only the United States Attorneys' Offices, but that of the U.S. Customs and Border Protection, Immigration and Customs Enforcement, the Bureau of Prisons, the United States Detention Trustee and many other federal agencies are needed to apprehend, detain, prosecute and imprison these criminal aliens.

The characterization in your October 20th letter of the Department's prosecution policies relating to criminal aliens as "catch and release" is inaccurate. Because it is not, at the present time, literally possible to prosecute and incarcerate every alien who enters this country illegally, priorities must be set as to which cases must be prosecuted first. Such prosecution policies are set by the individual United States Attorneys' Offices in their individual districts. Such policies may be the product of joint discussion and mutual agreement by both the United States Attorneys Office and the principal investigative or apprehending agency, such as the Border Patrol.

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One size does not fit all. Almost 68 percent of all immigration prosecutions nationally from all 94 United States Attorneys Offices in Fiscal Year 2005 were handled by just the five Southwest border districts. Thus, priorities set to meet the crush of cases along the Southwest border may be ill suited in districts that experience far less illegal immigration.

Understandably, the Department does not and should not publicize the specifics of each District's prosecution guidelines, in this area or in any other area of criminal prosecution. Were such guidelines made public in all their specificity, alien smugglers, criminal organizations and individual aliens would conform their conduct as much as possible to avoid prosecution. It is, however, important for the public to know what the general priorities are when considering what cases will be prosecuted.

In particular, your letters questioned the record of the United States Attorney's Office in the Southern District of California (SDCA) in prosecuting criminal aliens. I want to assure you that United States Attorney Lam and her staff are committed to protecting the residents of their District, and the District's record of prosecuting criminal aliens clearly demonstrates that fact. In making charging decisions, SDCA, like all Department of Justice components, adheres to the Principles of Federal Prosecution outlined in the United States Attorney's Manual. SDCA prosecution policies are based on the premise that illegal aliens with the most serious criminal histories should have priority for prosecution. SDCA has directed its resources to bringing many felony (as opposed to misdemeanor) charges against illegal aliens with substantial criminal histories so that it can seek longer prison sentences against those who present the greatest threat to public safety.

To focus its available resources on this target group of criminal aliens, SDCA employs prosecution guidelines for illegal re-entry offenses under 8 U.S.C. § 1326 which categorize criminal aliens into essentially four categories: (a) violent/major felons (which includes aliens with convictions for national security or terrorism offenses, murder, rape, forcible sex offenses and other violent crimes), (b) recidivist felons, (c) repeat immigration violators on supervised release, and (d) alien smugglers (guides) who otherwise do not meet the guidelines for smuggling prosecution under 8 U.S.C. § 1324.

The SDCA has a strong record of prosecuting criminal aliens generally and in particular alien smugglers. At the close of Fiscal Year 2005, SDCA had 385 alien smuggling cases pending against 454 defendants, which is the highest annual number of pending cases that office has ever had. SDCA also closed 470 alien smuggling cases that year (again its highest ever annual total) convicting 560 defendants of charges under 8 U.S.C. § 1324. Moreover, despite the fact that both the SDCA and the Department of Justice as a whole have numerous criminal priorities in addition to criminal aliens,^{1/} from Fiscal Year 2000 through Fiscal Year 2005, well over half of

^{1/}Additional Department of Justice and SDCA priorities include: counter-terrorism cases; firearms prosecutions; gang prosecutions; crimes against children (child pornography and sexual

all criminal cases filed by SDCA were cases filed under just three statutes, the primary criminal alien statutes, 8 U.S.C. §§1324, 1325 and 1326.²

Your letters also made specific reference to the non-prosecution by SDCA of Alfredo Garcia-Gonzalez, who was apprehended by the U.S. Border Patrol on October 12, 2005. As an initial matter, the SDCA was never presented this case for prosecution.³ Thus, there was no decision by SDCA not to prosecute him. Nevertheless, it appears that the case was not presented to SDCA by the apprehending agency because it did not meet the prosecution guidelines jointly established by SDCA and the United States Border Protection in December 2004. These guidelines specifically contemplate meritorious exceptions for cases that should be prosecuted despite otherwise falling outside the guideline range. We are not in a position to second guess the decision by the apprehending agency not to present this case for prosecution, but we note that there are approximately 100,000 illegal aliens apprehended each year in the Southern District of California alone, and many of the criminal aliens prosecuted by SDCA have committed smuggling crimes that endanger the smuggled aliens far more severely than did Garcia-Gonzalez, or have a greater criminal record than Garcia-Gonzalez.

The SDCA and the apprehending agencies, including U.S. Border Protection and Immigration and Customs Enforcement, are aggressively apprehending and prosecuting criminal aliens and alien smugglers, and they are doing the best possible job in prioritizing the crush of illegal aliens entering this country from Mexico.

abuse); corporate fraud; health care fraud; bankruptcy fraud; computer hacking and intellectual property theft; human trafficking (involuntary servitude, prostitution cases involving smuggled aliens); civil rights prosecutions; counterfeiting; and passport and visa fraud.

²SDCA filed a total of 20,481 criminal cases from FY 2000 through and including FY 2005. Of that number 10,482 were illegal alien cases filed under 8 U.S.C. §§1325, 1325 or 1326.

³Had the SSCA been presented the case and declined it, we would not be in a position to share the specific reasons for that declination. As you know, all Department attorneys are asked to render unbiased, professional judgments about the merits of potential criminal and civil law enforcement cases. If their deliberations were made subject to Congressional challenge and scrutiny, we would face a grave danger that they would be chilled from providing the candid and independent analysis essential to just and effective law enforcement or, just as troubling, that they might err on the side of prosecution simply to avoid public second-guessing. This in turn would undermine public and judicial confidence in our law enforcement processes.

The Honorable Darrell Issa
Page Four

We hope that the information above has helped to alleviate your concerns in this matter. Please do not hesitate to contact the Department of Justice if we can be of assistance in other matters.

Sincerely,

William E. Moschella
Assistant Attorney General

Mercer, Bill (USAMT)

From: Otis, Lee L
Sent: Tuesday, April 04, 2006 8:28 PM
To: Mercer, Bill (ODAG); Mercer, Bill (USAMT)
Cc: Elston, Michael (ODAG)
Subject: FW: TPs on Issa's Catch-and-Release question
Importance: High
Attachments: ISSA-- Catch-and-Release (AG Briefing 4-7).doc

Congressman Issa has indicated he intends to ask the AG a question about this letter at the HJC hearing on Thursday. You will remember that this letter had come in shortly after I arrived. The plan was to offer a briefing with the then-Acting DAG. Leg Affairs was never able to get that scheduled, I assume primarily because of difficulties on the Congressman's end, although they are now looking at scheduling it after the Easter recess. Here are some talking points that Ryan has drafted for the AG to use in responding to such a question. They look good to me, especially given the nature of the issue, but I thought I should run them by you as well.

I saw on the matrix that you sent around that there are a number of references to potential communications with the US Atties on this general issue. Wasn't sure who was supposed to be in charge of those but whoever that is should perhaps also get a copy of these.

I think these need to go to the AG tomorrow morning.

From: Bounds, Ryan W (OLP)
Sent: Tuesday, April 04, 2006 8:13 PM
To: Seidel, Rebecca; Otis, Lee L
Subject: TPs on Issa's Catch-and-Release question
Importance: High

See attached.

<<ISSA-- Catch-and-Release (AG Briefing 4-7).doc>>

Ryan W. Bounds
Chief of Staff and Senior Counsel
Office of Legal Policy, DOJ
W: 202/305-4870

F: 202/514-1731

REP. ISSA: CATCH-AND-RELEASE

Issue: The U.S. Attorney for the Southern District of California has reportedly indicated to Congressman Issa of San Diego that the USAO will not prosecute a criminal alien for unlawful entry unless the alien has already been convicted of two felonies in the district. Congressman Issa wants a copy of the prosecutorial guidelines and to discuss the Department's enforcement policies.

Talking Points:

- I understand that the Department is in the process of setting up a briefing with you on this issue.
- I share your belief in the importance of securing the Southwest border and preventing criminal aliens—and all illegal aliens—from remaining at large in Southwestern towns and cities. I applaud the House's passage of H.R. 4437 as an important legislative advance in this critical effort.
- Although enactment of a border-security bill along the lines of H.R. 4437 will improve matters considerably, I must note that the Southern District of California has a strong record of prosecuting criminal aliens despite the obvious and formidable challenges.
- **The U.S. Attorney's Office for the Southern District of California, along with the USAOs for just four other districts, prosecuted over two-thirds of the criminal immigration cases nationwide last year.**
- More can and must be done, of course, and so the Department is constantly seeking new ways to enhance the effectiveness of our law-enforcement efforts. H.R. 4437 and the comprehensive immigration reform that is now being debated in the Senate should give us many tools to do just that.

Background:

Congressman Issa sent you an October 20, 2005, letter complaining about the Southern District of California's (SDCA's) failure to prosecute criminal aliens generally and two aliens in particular. The letter was co-signed by 18 members of California's delegation.

A briefing is being scheduled for Congressman Issa and the DAG after the Easter recess.

SDCA categorizes criminal aliens into four major categories for purposes of illegal re-entry prosecutions: (1) violent/major felons (which includes aliens with convictions for national security or terrorism offenses, murder, rape, forcible sex offenses and other violent crimes), (2) recidivist felons, (3) repeat immigration violators on supervised release, and (4) alien smugglers (guides) who otherwise do not meet the guidelines for smuggling prosecution.

Drafter: Ryan Bounds, OLP, x54870

Mercer, Bill (USAMT)

From: Otis, Lee L
Sent: Tuesday, April 04, 2006 8:42 PM
To: Mercer, Bill (ODAG); Mercer, Bill (USAMT)
Cc: Elston, Michael (ODAG)
Subject: FW: TPs on Issa's Catch-and-Release question

Fyi, Rebecca says I should have said "first thing" in the morning.

I'll also send you the pdf of the Issa letter. You will remember it I am sure when you see it.

From: Seidel, Rebecca
Sent: Tuesday, April 04, 2006 8:29 PM
To: Otis, Lee L; Bounds, Ryan W (OLP)
Subject: RE: TPs on Issa's Catch-and-Release question

First thing. Thanks.

From: Otis, Lee L
Sent: Tuesday, April 04, 2006 8:28 PM
To: Bounds, Ryan W (OLP); Seidel, Rebecca
Subject: RE: TPs on Issa's Catch-and-Release question

These look good to me but I've also forwarded them to Bill Mercer to have a look at if that's OK. I told him they would need to go to the AG in the morning.

From: Bounds, Ryan W (OLP)
Sent: Tuesday, April 04, 2006 8:13 PM
To: Seidel, Rebecca; Otis, Lee L
Subject: TPs on Issa's Catch-and-Release question
Importance: High

See attached.

<< File: ISSA-- Catch-and-Release (AG Briefing 4-7).doc >>

Ryan W. Bounds
Chief of Staff and Senior Counsel
Office of Legal Policy, DOJ
W: 202/305-4870

F: 202/514-1731

Mercer, Bill (USAMT)

From: Mercer, Bill (ODAG)
Sent: Tuesday, April 04, 2006 9:47 PM
To: Otis, Lee L; Mercer, Bill (USAMT)
Cc: Elston, Michael (ODAG)
Subject: Re: TPs on Issa's Catch-and-Release question

I will look at this tonight. I'm quite sure that OLA offered a member briefing with Issa and the California Republicans. Not sure why it didn't happen. Logistics, I believe.

The calls -- if authorized by the DAG -- are designed to tell each USA of the need to do more prosecutions of illegal aliens -- agg felons and the other classes of illegal aliens that we have discussed in the past. We don't want to call it an "initiative" or a "priority".

Sent from my BlackBerry Wireless Handheld

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From: Otis, Lee L
To: Mercer, Bill (ODAG); Mercer, Bill (USAMT)
CC: Elston, Michael (ODAG)
Sent: Tue Apr 04 20:27:33 2006
Subject: FW: TPs on Issa's Catch-and-Release question

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I saw on the matrix that you sent around that there are a number of references to potential communications with the US Atties on this general issue. Wasn't sure who was supposed to be in charge of those but whoever that is should perhaps also get a copy of these.

I think these need to go to the AG tomorrow morning.

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Importance: High

See attached.

Ryan W. Bounds
Chief of Staff and Senior Counsel
Office of Legal Policy, DOJ
W: 202/305-4870

F: 202/514-1731

Mercer, Bill (USAMT)

From: Elston, Michael (ODAG)
Sent: Tuesday, April 04, 2006 9:49 PM
To: Mercer, Bill (ODAG); Otis, Lee L; Mercer, Bill (USAMT)
Subject: Re: TPs on Issa's Catch-and-Release question

The meeting did not occur b/c the CA delegation could not coordinate their schedules. DAG has always been and remains willing to do this meeting.

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

From: Mercer, Bill (ODAG)
To: Otis, Lee L; Mercer, Bill (USAMT)
CC: Elston, Michael (ODAG)
Sent: Tue Apr 04 21:47:24 2006
Subject: Re: TPs on Issa's Catch-and-Release question

I will look at this tonight. I'm quite sure that OLA offered a member briefing with Issa and the California Republicans. Not sure why it didn't happen. Logistics, I believe.

The calls -- if authorized by the DAG -- are designed to tell each USA of the need to do more prosecutions of illegal aliens -- agg felons and the other classes of illegal aliens that we have discussed in the past. We don't want to call it an "initiative" or a "priority".

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Importance: High

See attached.

Ryan W. Bounds
Chief of Staff and Senior Counsel
Office of Legal Policy, DOJ
W: 202/305-4870

F: 202/514-1731

Mercer, Bill (USAMT)

From: Otis, Lee L
Sent: Tuesday, April 04, 2006 10:05 PM
To: Elston, Michael (ODAG); Mercer, Bill (ODAG); Mercer, Bill (USAMT)
Subject: Re: TPs on Issa's Catch-and-Release question

Ola is working on getting the meeting after the Easter recess. I believe the delay has been bec of scheduling issues on the delegation's end.

Sent from my BlackBerry Wireless Handheld

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

From: Elston, Michael (ODAG)
To: Mercer, Bill (ODAG); Otis, Lee L; Mercer, Bill (USAMT)
Sent: Tue Apr 04 21:49:07 2006
Subject: Re: TPs on Issa's Catch-and-Release question

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Importance: High

See attached.

Ryan W. Bounds
Chief of Staff and Senior Counsel
Office of Legal Policy, DOJ
W: 202/305-4870

F: 202/514-1731

Mercer, Bill (USAMT)

From: Otis, Lee L
Sent: Wednesday, April 05, 2006 1:41 AM
To: Mercer, Bill (ODAG); Mercer, Bill (USAMT)
Cc: Tenpas, Ronald J (ODAG); Elston, Michael (ODAG)
Subject: Re: TPs on Issa's Catch-and-Release question

The two felonies in the district business is from Issa's letter. I have no reason to believe it is an accurate description of the southern district's pros guidelines. That said that even if they are accurately described as I believe they are in the background portion of the tps you are right that Issa likely will not be satisfied with them because they have some holes in terms of who they don't pick up.

Sent from my BlackBerry Wireless Handheld

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

From: Mercer, Bill (USAMT)
To: Mercer, Bill (ODAG); Otis, Lee L
CC: Tenpas, Ronald J (ODAG); Elston, Michael (ODAG)
Sent: Tue Apr 04 23:02:32 2006
Subject: Re: TPs on Issa's Catch-and-Release question

Two felonies in the district or two felonies anywhere?

"Strong record" is too strong. I wonder if we shouldn't fo for an average of their sentencings over the past 5 years?. It is a large number. The problems that I see are (1) the number of 05 cases charged is lower than what the USAO did in 2000 and (2)

the number of illegal alien cases in SDCA is substantially lower than the numbers in other SW border districts.

If we had the AG read their pros guidelines as described herein, Issa might take issue with him given his view that recidivists are not being prosecuted in SDCA.

Sent from my BlackBerry Wireless Handheld

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

From: Otis, Lee L <Lee.L.Otis@usdoj.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer2@usdoj.gov>; Mercer, Bill (USAMT) <BMercer@usa.doj.gov>
CC: Elston, Michael (ODAG) <Michael.Elston@usdoj.gov>
Sent: Tue Apr 04 18:27:33 2006
Subject: FW: TPs on Issa's Catch-and-Release question

Congressman Issa has indicated he intends to ask the AG a question about this letter at the HJC hearing on Thursday. You will remember that this letter had come in shortly after I arrived. The plan was to offer a briefing with the then-Acting DAG. Leg Affairs was never able to get that scheduled, I assume primarily because of difficulties on the Congressman's end, although they are now looking at scheduling it after the Easter recess. Here are some talking points that Ryan has drafted for

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From: Bounds, Ryan W (OLP)
Sent: Tuesday, April 04, 2006 8:13 PM
To: Seidel, Rebecca; Otis, Lee L
Subject: TPs on Issa's Catch-and-Release question
Importance: High

See attached.

<<ISSA-- Catch-and-Release (AG Briefing 4-7).doc>>

Ryan W. Bounds
Chief of Staff and Senior Counsel
Office of Legal Policy, DOJ
W: 202/305-4870

F: 202/514-1731

Mercer, Bill (USAMT)

From: Tenpas, Ronald J (ODAG)
Sent: Wednesday, April 05, 2006 9:37 AM
To: Otis, Lee L; Mercer, Bill (ODAG); Mercer, Bill (USAMT)
Cc: Elston, Michael (ODAG)
Subject: RE: TPs on Issa's Catch-and-Release question

Bill/Lee:

Generally I don't see anything in here that conflicts with their fasttrack proposal. Of course, that proposal describes who gets a deal once selected for prosecution; it doesn't really address who simply gets a non-prosecution pass because of falling below the guidelines. There are a couple of allusions in the FT proposal that are consistent though with the four part division noted in the last paragraph, e.g. they note in the FT that those with convictions for prior violent crimes are ineligible.

I agree that "strong" may be too strong. How about "sustained record"

Ron

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From: Otis, Lee L
Sent: Wednesday, April 05, 2006 1:41 AM
To: Mercer, Bill (USAMT); Mercer, Bill (ODAG)
Cc: Tenpas, Ronald J (ODAG); Elston, Michael (ODAG)
Subject: Re: TPs on Issa's Catch-and-Release question

The two felonies in the district business is from Issa's letter. I have no reason to believe it is an accurate description of the southern district's pros guidelines. That said that even if they are accurately described as I believe they are in the background portion of the tps you are right that Issa likely will not be satisfied with them because they have some holes in terms of who they don't pick up.

Sent from my BlackBerry Wireless Handheld

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

From: Mercer, Bill (USAMT)
To: Mercer, Bill (ODAG); Otis, Lee L
CC: Tenpas, Ronald J (ODAG); Elston, Michael (ODAG)
Sent: Tue Apr 04 23:02:32 2006
Subject: Re: TPs on Issa's Catch-and-Release question

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Sent from my BlackBerry Wireless Handheld

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Ryan W. Bounds
Chief of Staff and Senior Counsel
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W: 202/305-4870

F: 202/514-1731

Mercer, Bill (USAMT)

From: Otis, Lee L
Sent: Wednesday, April 05, 2006 9:42 AM
To: Tenpas, Ronald J (ODAG); Mercer, Bill (ODAG); Mercer, Bill (USAMT)
Cc: Elston, Michael (ODAG)
Subject: Re: TPs on Issa's Catch-and-Release question

I revised these to delete the bullet among other things. Sent the revision around 2 am

Sent from my BlackBerry Wireless Handheld

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

From: Tenpas, Ronald J (ODAG)
To: Otis, Lee L; Mercer, Bill (USAMT); Mercer, Bill (ODAG)
CC: Elston, Michael (ODAG)
Sent: Wed Apr 05 09:36:45 2006
Subject: RE: TPs on Issa's Catch-and-Release question

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Ryan W. Bounds
Chief of Staff and Senior Counsel
Office of Legal Policy, DOJ

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F: 202/514-1731

Mercer, Bill (USAMT)

From: Charlton, Paul (USAAZ)
Sent: Thursday, April 13, 2006 6:35 PM
To: Mercer, Bill (ODAG); Mercer, Bill (USAMT)
Subject: Taping Policy

Hi Bill - Hope that all is well with you and the family. Any news on the taping policy and our request for a pilot program?
Paul

Mercer, Bill (USAMT)

From: Charlton, Paul (USAAZ)
Sent: Wednesday, May 03, 2006 9:45 AM
To: Mercer, Bill (ODAG); Mercer, Bill (USAMT)
Subject: Pilot Project for Arizona

Bill - Any news on our pilot project for taping confessions? Thanks my friend, Paul

Mercer, Bill (USAMT)

From: Charlton, Paul (USAAZ)
Sent: Monday, May 08, 2006 12:19 PM
To: Mercer, Bill (ODAG); Mercer, Bill (USAMT)
Subject: FW: Pilot Project for Arizona

Bill,

I would ask, as a personal favor, that you consider becoming involved in this issue. When I withdrew our policy it was with the promise from the ODAG that the request for an Arizona pilot project would be reviewed "expeditiously." More than 60 days has passed. I may be reading too much into Ron's response, but it seems to me that nothing has been done with my request and that there is no sense that anything has to happen soon.

Bill, I am concerned that with your departure this Summer, nothing will be done. I am sure that you have accomplished much in your time there and that you have much you wish to complete. But here is an issue that you can make a significant difference on.

Please help me make this change Bill. I am convinced that it is something that we, in our old age, will be proud to have been a part of.

Paul

-----Original Message-----
From: Tenpas, Ronald J (ODAG)
Sent: Wednesday, May 03, 2006 9:26 AM
To: Mercer, Bill (ODAG)
Cc: Charlton, Paul (USAAZ)
Subject: RE: Pilot Project for Arizona

Working on it. Trying to reconvene the working group so that we can get some input on the proposal. Losing Rybicki set us back a bit on this one b/c he had the ODAG institutional knowledge, along with Trono.

Ron

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Wednesday, May 03, 2006 10:50 AM
To: Tenpas, Ronald J (ODAG)
Subject: Fw: Pilot Project for Arizona

Any update on this?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Charlton, Paul (USAAZ)
To: Mercer, Bill (ODAG); Mercer, Bill (USAMT)
Sent: Wed May 03 09:45:09 2006
Subject: Pilot Project for Arizona

Bill - Any news on our pilot project for taping confessions? Thanks my friend, Paul

Mercer, Bill (USAMT)

From: Mercer, Bill (ODAG)
Sent: Saturday, June 03, 2006 4:09 PM
To: McNulty, Paul J
Cc: Elston, Michael (ODAG)
Subject: Re: 6/2 Report

Just reread number 7.

Sent from my BlackBerry Wireless Handheld

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

From: Mercer, Bill (ODAG)
To: McNulty, Paul J
CC: Elston, Michael (ODAG)
Sent: Sat Jun 03 16:04:50 2006
Subject: 6/2 Report

Hope all is well and you are having a great time. When you get a chance will you answer the questions in 2 and 3?

1. Yesterday's most significant topic was immigration enforcement. The AG and Rachel had meetings on Thursday on the strategy to push the President's legislative agenda. I will be faxing you a couple of documents this weekend. The first is the SDCA

issue. The second is a review of options to increase enforcement. The AG would like your recommendation on both.

Related to the question of SW Border enforcement is your query on available EOUSA resources for SW border districts and capacity of the offices. The cost estimate for FY 06 isn't bad because any hiring wouldn't happen until late in the fiscal year. The tougher question is what sort of costs are you willing to incur in FY 07 when the new hires would be on board for a full year.

2.

3.

4.

5.

6. i

7.

Sent from my BlackBerry Wireless Handheld

Mercer, Bill (USAMT)

From: Chiara, Margaret M. (USAMIW)
Sent: Sunday, October 22, 2006 12:07 PM
To: Mercer, Bill (USAMT)
Subject: Need Assistance ASAP

Importance: High

Bill: Later the same afternoon that we encountered one another on the street corner, I met with Dan Villegas, (EOUSA OLP&P Director), at his request. He informed me that he was no longer able to honor his previously stated commitment to renew Leslie Hagen's detail through which she primarily serves as liaison to NAIS and to federally recognized tribes and other Indian communities nationwide. Leslie accepted Dan's invitation to renew her detail for a second year in August. Subsequently, I began asking for an updated MOU. Managers and staff were informed that Leslie would continue for a second year in late September and early October. Our financial planning has been impacted by the decision because the district does not pay the AUSA while on detail. In other words, she/we relied on the representation to our detriment. What is critical about this situation is the absolute necessity to continue Leslie's service in her capacity as IC/NAIS liaison. She has spent a year establishing difficult to forge constructive contacts throughout IC. Leslie is credible; no small accomplishment for a white woman! She has provided training and litigation assistance and an abundance of information to her colleagues. She has also established excellent working relationships with federal agencies. We just completed a successful 1.5 day NAIS meeting; our next is scheduled for mid-March in N. Carolina. It has taken me most of 2006 to recoup from Tom Heffelfinger's tenure as chair with EOUSA/AGAC. I have accomplished this with Leslie's assistance because she goes almost everywhere and does almost everything that Tom believed that he had to do personally. Dan Villegas tells me that CTD, i.e., J. Novaski and J.Kelly, has a directive from Monica Goodling that detailees will no longer be renewed for a second or subsequent year. It took nine months to fill the position. WDMI incurred a substantial loss to our IC practice. However, I finally acceded to Tom H.'s pleading because I observed the negative consequences after Jan Morley's departure. You know what I have learned; it takes the right person for these difficult assignments to be effective.

Dan got a brief extension until the end of the calendar year for Leslie. This is an insufficient accommodation given our reliance on Dan's assurance that Leslie would be available for a second year to provide development and transition. EOUSA needs to announce its new policy forthwith so all detailees are on notice. Tracy Toulou and other long term detailees will also be vulnerable to the recent directive, wherever its source. Fundamental fairness and those of us who are asked to lead the A.G. various subcommittees and initiatives require no less. **We need your help Bill. MMC**

Mercer, Bill (USAMT)

From: Mercer, Bill (USAMT)
Sent: Sunday, October 22, 2006 1:08 PM
To: Mercer, William W
Subject: FW: Need Assistance ASAP

Importance: High

Sent from my GoodLink synchronized handheld (www.good.com)

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

From: Chiara, Margaret M. (USAMIW)
Sent: Sunday, October 22, 2006 12:06 PM Eastern Standard Time
To: Mercer, Bill (USAMT)
Subject: Need Assistance ASAP

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Mercer, Bill (USAMT)

From: Chiara, Margaret M. (USAMIW)
Sent: Friday, October 27, 2006 10:25 AM
To: Mercer, Bill (USAMT)
Subject: RE: Need Assistance ASAP

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To: Mercer, William W
Subject: FW: Need Assistance ASAP

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From: Chiara, Margaret M. (USAMIW)
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Mercer, Bill (USAMT)

From: Mercer, Bill (USAMT)
Sent: Friday, October 27, 2006 12:51 PM
To: Mercer, William W
Subject: FW: Need Assistance ASAP

Sent from my GoodLink synchronized handheld (www.good.com)

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

From: Chiara, Margaret M. (USAMIW)
Sent: Friday, October 27, 2006 10:24 AM Eastern Standard Time
To: Mercer, Bill (USAMT)
Subject: RE: Need Assistance ASAP

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Mercer, Bill (USAMT)

From: Chiara, Margaret M. (USAMIW)
Sent: Monday, October 30, 2006 1:34 PM
To: Mercer, Bill (USAMT)
Subject: RE: Need Assistance ASAP

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Mercer, Bill (USAMT)

From: McKay, John (USAWAW)
Sent: Thursday, December 14, 2006 1:02 PM
To: USAEO-USAttorneysOnly
Subject: Happy Trails

Dear Friends,

This may NOT be the greatest job I've ever had.

It must be, however, a close second to my 6th Grade paper route, and only because I got a box of Butterfingers (Bonus Size) at Christmas from the newspaper's owner.

Still, I HAVE made the most friends, worked and played with wonderfully talented colleagues and had the opportunity to serve a great President in challenging times for our Country.

What a privilege this has been.

I will wrap up my service here in Seattle next month, and after leaving office will pursue new opportunities. As always, you are welcome to visit or call when you are in my neck of the woods.

All the best,

- JOHN

John McKay
United States Attorney
Seattle, Washington

Mercer, Bill (USAMT)

From: Cummins, Bud (USAARE)
Sent: Friday, December 15, 2006 12:57 PM
To: USAEO-USAttorneysOnly
Subject: RE: It has been a great ride...

Friends and Colleagues:

Next Wednesday, December 20, will be my final day as United States Attorney in the Eastern District of Arkansas. Simply put, this is the best job I have ever had. It may be the best job there is. I am very grateful that President Bush gave me this opportunity to serve. Perhaps the best aspect of this job has been getting to know each of you and establishing contacts all over the country with such special and talented people.

I could write a long essay about my feelings about this job and my experience here over the past five years, but I know you could write the same essay. Suffice to say that it has been an honor to serve in this way and at this time and with you.

My contact information can be found below. I have not completely committed to the "next endeavor." Jody and I have four kids and the youngest is only five, so I know that whatever I do next may need to last awhile, so I am being a little picky. Maybe greedy is a better word. When Alexander Hamilton left the Department of the Treasury, he supposedly said "Having taken care of the nation's finances, I go to take a little care of my own which need my care not a little." I am currently thinking along those lines as well.

In the meantime I will be working on some individual cases and other projects.

I hope that you would never hesitate to contact me if I can be of service to you at any time.

Best Regards,

Bud

Bud Cummins

Cell

Mercer, Bill (USAMT)

From: Mercer, Bill (USAMT)
Sent: Friday, December 15, 2006 2:07 PM
To: McNulty, Paul J
Subject: FW: It has been a great ride...

Sent from my GoodLink synchronized handheld (www.good.com)

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Mercer, Bill (USAMT)

From: Bogden, Daniel (USANV)
Sent: Tuesday, January 02, 2007 6:46 PM
To: Mercer, Bill (USAMT)
Subject: Telephone Call

Bill -- Hope your holidays went well. I know how hectic your schedule is and did not know if you were still in Montana or back in Washington D.C. yet. Last time we spoke, you said to get back to you after the 1st. I am in my Las Vegas office today (1/2/2007) and will be here the rest of the week. What is easiest for you by way of contact? Cellular telephone or at your Washington D.C. or Montana office? As you know, most USAOs are closed today. We are operating with skeleton crews in our Las Vegas and Reno offices. Let me know what is the most convenient way to contact you and what is a convenient time. Dan

Mercer, Bill (USAMT)

From: Mercer, Bill (USAMT)
Sent: Tuesday, January 02, 2007 6:52 PM
To: Bogden, Daniel (USANV)
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I'm in DC. Will be in all week on 202 514-9500 or (the cell).

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From: Sanchez, Sandra (USAAZ)**Sent:** Thursday, February 01, 2007 11:32 AM**To:** Acosta, Alex (USAFLS); Anderson, Thomas (USAVT); Balfe, Robert C. (USAARW); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Colantuono, Thomas P. (USANH); Crews, John (USAEO); DeGabrielle, Don (USATXS); Flynn, Terrance (USANYW); Iglesias, David C. (USANM); Jenkins, Anthony (USAVI); Kubo, Ed (USAHI); Lam, Carol (USACAS); McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mercer, Bill (USAMT); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Perez, Paul (USAFLM); Peterson, Erik 2 (USAWIW); Rapadas, Leonardo (USAGU); Sanchez, Sandra (USAAZ); Silsby, Paula (USAME); Suddaby, Glenn (USANYN); Sutton, Johnny K. (USATXW); Tetzlaff, Marc (USAAZ); White, Greg (USAOHN); Wrigley, Drew (USAND)**Subject:** FW: Contact Information for Paul Charlton

Mr. Charlton asked that I forward this information to you all.

Please let me know if there is any other assistance I may offer.

Thank you

Sandra Sanchez
602.514.7583
Sandra.Sanchez@usdoj.gov

GALLAGHER & KENNEDY
P.A.
LAW OFFICES**Paul K. Charlton**

Gallagher & Kennedy, P.A.

Phone: .
Fax: f
E-mail:
Web site: www.gknet.com

Attorney Profile

Mercer, Bill (USAMT)

From: Mercer, Bill (USAMT)
Sent: Thursday, February 01, 2007 11:53 AM
To: Mercer, William W
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Attachments: gk_header.gif



gk_header.gif (3
KB)

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Gallagher & Kennedy, P.A.

Phone:
Fax:
E-mail:
Web site: www.gknet.com <<http://www.gknet.com/>>

Attorney Profile <<http://www.gknet.com/attorneyprofile.aspx?id=XX>>

Mercer, Bill (USAMT)

From: USDOJ- Office of Public Affairs
Sent: Tuesday, February 06, 2007 11:25 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED STATEMENT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AT THE SENATE JUDICIARY COMMITTEE HEARING ON APPOINTMENTS AND RESIGNATIONS OF U.S. ATTORNEYS



Department of Justice

FOR IMMEDIATE RELEASE DAG

TUESDAY, FEBRUARY 6, 2007 (202) 514-2007

WWW.USDOJ.GOV TDD (202) 514-1888

**PREPARED STATEMENT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AT
THE SENATE**

**JUDICIARY COMMITTEE HEARING ON APPOINTMENTS AND RESIGNATIONS OF U.S.
ATTORNEYS**

WASHINGTON, D.C.

Thank you, Mr. Chairman. I appreciate the opportunity to be here this morning and attempt to clear up the misunderstandings and misperceptions about the recent resignations of some United States Attorneys (USA), and to testify in strong opposition to S.214, a bill which would strip the Attorney General of the authority to make interim appointments to fill vacant USA positions.

As you know, I had the privilege of serving as a USA for 4 ½ years. It was the best job I ever had. That's something you hear a lot from former USAs – "Best job I ever had." In my case, Mr. Chairman, it was even better than serving as counsel on the House Crime Sub. under your leadership.

Why is being a USA such a great job? There are a variety of reasons, but I think it boils down to this. The USAs are the President's chief legal representatives in the 94 federal judicial districts. In my former district of Eastern Virginia, Supreme Court Chief Justice John Marshal was the first USA.

Being the President's chief legal representative means you are the face of the Justice Department in your district. Every police chief you support, every victim you comfort, every citizen you inspire or encourage, and, yes, every criminal who is prosecuted in your name, communicates to all of these people something significant about the priorities and values of both the President and the AG. At his inauguration, the President raises his right hand and solemnly swears to faithfully execute the office of the President of the United States. He fulfills this promise in no small measure through the men and

women he appoints as USAs. If the President and the Attorney General want to crack down on gun criminals or go after child pornographers and pedophiles, as this President and AG have ordered federal prosecutors to do, it's the USAs who have the privilege of making such priorities a reality. That's why it's the best job a lawyer can ever have. It's an incredible honor.

And this is why, Mr. Chairman, judges should not appoint USAs, as S.214 proposes. What could be clearer Executive Branch responsibilities than the AG's authority to temporarily appoint and for the President to nominate for Senate confirmation those who will execute the President's duties of office? S.214 doesn't even allow the AG to make ANY interim appointments, contrary to the law prior to the most recent amendment.

The indisputable fact is that USAs serve at the pleasure of the President. They come and they go for lots of reasons. Of the USAs appointed in my class at the beginning of this Administration, more than half are now gone. Turnover is not unusual and it rarely causes a problem because even though the job of USA is extremely important, the greatest assets of any successful USA are the career men and women who serve as AUSAs, victim-witness coordinators, paralegals, legal assistants, and administrative personnel. Their experience and professionalism ensures smooth continuity as the USA job transitions from one person to another.

Mr. Chairman, I conclude with these three promises to this Committee and the American people on behalf of the AG and myself:

1) We never have and never will seek to remove a USA to interfere with an ongoing investigation or prosecution. Such an act is contrary to the most basic values of our system of justice, the proud legacy of the Department of Justice, and our integrity as public servants.

2) In every single case, where a USA position is vacant, the Administration is committed to filling that position with a USA who is confirmed by the Senate. The AG's appointment authority has not, and will not, be used to circumvent the confirmation process. All accusations in this regard are contrary to the clear factual record. The statistics are all laid out in my written statement.

3) Through temporary appointments and nominations for Senate confirmation, the Administration will continue to fill USA vacancies with men and women who are well qualified to assume the important duties of this office.

Mr. Chairman, I appreciate your friendship and courtesy, and I am happy to respond to the Committee's questions.

###

Mercer, Bill (USAMT)

From: USDOJ- Office of Public Affairs
Sent: Tuesday, February 06, 2007 3:00 PM
To: USDOJ- Office of Public Affairs
Subject: WRITTEN STATEMENT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO THE SENATE JUDICIARY COMMITTEE FOR HEARING ON APPOINTMENTS AND RESIGNATIONS OF U.S. ATTORNEYS



Department of Justice

FOR IMMEDIATE RELEASE DAG

TUESDAY, FEBRUARY 6, 2007 (202) 514-2007

WWW.USDOJ.GOV TDD (202) 514-1888

WRITTEN STATEMENT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO THE SENATE

JUDICIARY COMMITTEE FOR HEARING ON APPOINTMENTS AND RESIGNATIONS OF U.S. ATTORNEYS

WASHINGTON, D.C.

Chairman Leahy, Senator Specter, and members of the Committee, thank you for the invitation to discuss the importance of the Justice Department's United States Attorneys. As a former United States Attorney, I particularly appreciate this opportunity to address the critical role U.S. Attorneys play in enforcing our Nation's laws and carrying out the priorities of the Department of Justice.

I have often said that being a United States Attorney is one of the greatest jobs you can ever have. It is a privilege and a challenge—one that carries a great responsibility. As former Attorney General Griffin Bell said, U.S. Attorneys are "the front-line troops charged with carrying out the Executive's constitutional mandate to execute faithfully the laws in every federal judicial district." As the chief federal law-enforcement officers in their districts, U.S. Attorneys represent the Attorney General before Americans who may not otherwise have contact with the Department of Justice. They lead our efforts to protect America from terrorist attacks and fight violent crime, combat illegal drug trafficking, ensure the integrity of government and the marketplace, enforce our immigration laws, and prosecute crimes that endanger children and families—including child pornography, obscenity, and human trafficking.

U.S. Attorneys are not only prosecutors; they are government officials charged with managing and implementing the policies and priorities of the Executive Branch. United States Attorneys serve at the pleasure of the President. Like any other high-ranking officials in the Executive Branch, they may be removed for any reason or no reason. The Department of Justice—including the office of United States Attorney—was created precisely so that the government's legal business could be effectively managed

and carried out through a coherent program under the supervision of the Attorney General. And unlike judges, who are supposed to act independently of those who nominate them, U.S. Attorneys are accountable to the Attorney General, and through him, to the President—the head of the Executive Branch. For these reasons, the Department is committed to having the best person possible discharging the responsibilities of that office at all times and in every district.

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

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

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

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

In every single case where a vacancy occurs, the Bush Administration is committed to having a United States Attorney who is confirmed by the Senate. And the Administration's actions bear this out. Every time a vacancy has arisen, the President has either made a nomination, or the Administration is working—in consultation with home-state Senators—to select candidates for nomination. Let me be perfectly clear—at no time has the Administration sought to avoid the Senate confirmation process by appointing an interim United States Attorney and then refusing to move forward, in consultation with home-State Senators, on the selection, nomination and confirmation of a new United States Attorney.

Not once.

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

However, while that nomination process continues, the Department must have a leader in place to carry out the important work of these offices. To ensure an effective and smooth transition during U.S. Attorney vacancies, the office of the U.S. Attorney must be filled on an interim basis. To do so, the Department relies on the Vacancy Reform Act ("VRA"), 5 U.S.C. § 3345(a)(1), when the First Assistant is selected to lead the office, or the Attorney General's appointment authority in 28 U.S.C. § 546 when another Department employee is chosen. Under the VRA, the First Assistant may serve in an acting capacity for only 210 days, unless a nomination is made during that period. Under an Attorney General appointment, the interim U.S. Attorney serves until a nominee is confirmed the Senate. There is no other statutory authority for filling such a vacancy, and thus the use of the Attorney General's appointment authority, as amended last year, signals nothing other than a decision to have an interim U.S. Attorney who is not the First Assistant. It does not indicate an intention to avoid the confirmation process, as some have suggested.

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

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

In most cases, of course, the district court simply appointed the Attorney General's choice as interim U.S. Attorney, revealing the fact that most judges recognized the importance of appointing an interim U.S. Attorney who enjoys the confidence of the Attorney General. In other words, the most important factor in the selection of past court-appointed interim U.S. Attorneys was the Attorney General's recommendation. By foreclosing the possibility of judicial appointment of interim U.S. Attorneys unacceptable to the Administration, last year's amendment to Section 546 appropriately eliminated a procedure that created unnecessary problems without any apparent benefit.

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

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

Finally, S. 214 seems to be aimed at solving a problem that does not exist. As noted, when a vacancy in the office of U.S. Attorney occurs, the Department typically looks first to the First Assistant or another senior manager in the office to serve as an Acting or interim U.S. Attorney. Where neither the First Assistant nor another senior manager is able or willing to serve as an Acting or interim U.S. Attorney, or where their service would not be appropriate under the circumstances, the Administration has looked to other Department employees to serve temporarily. No matter which way a U.S. Attorney is temporarily appointed, the Administration has consistently sought, and will continue to seek, to fill the vacancy—in consultation with home-State Senators—with a presidentially-nominated and Senate-confirmed nominee.

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

###

Mercer, Bill (USAMT)

From: Chiara, Margaret M. (USAMIW)
Sent: Saturday, February 24, 2007 3:50 PM
To: Chiara, Margaret M. (USAMIW); Cohen, Nelson (USAOK); Eid, Troy (USACO); Jackley, Marty J. (USASD); Knauss, Dan (USAAZ); Lampton, Dunn (USAMSS); Mead, Matthew H. (USAWY); Mercer, Bill (USAMT); Moss, Thomas (USAID); O'Connor, Kevin (USACT); OMeilia, David E. (USAOKN); Rhodes, Deborah (USAALS); Richter, John (USAOKW); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn (USANYN); Sullivan, Jeff C. (USAWAW); Tolman, Brett (USAUT); Washington, Donald (USALAW); Wrigley, Drew (USAND)
Cc: Wong, Norman (USAEO)
Subject: WDMI

NAIS Colleagues: I wanted you to be aware of the local news. The March 16 departure date is intended to accommodate our upcoming meeting in North Carolina. Gretchen Shappert and Leslie Hagen, aided and abetted by Norm Wong and Suellen Pierce, have organized an excellent opportunity for us to advance the mission of NAIS. I am informed that Gretchen has been asked to assume the NAIS leadership responsibility. I am confident that you, like me, consider this a very good decision for Indian Country. As for MMC, I am doing just fine; upright and moving forward! I look forward to being in your company in a few weeks.

Margaret

Questions swirl around Chiara resignation

Saturday, February 24, 2007

By Nate Reens and John Agar **The Grand Rapids Press**

GRAND RAPIDS -- U.S. Attorney Margaret Chiara is known professionally as reserved and introspective, and if she was forced to resign by the Department of Justice, local attorneys speculate she will never tell.

Chiara, 63, announced Friday she will leave the top federal prosecutor post in western and northern Michigan on March 16 and intends to "remain in public service," after her five-year tenure.

Chiara and her assistants refused to elaborate on her departure, but some believe she was caught up in a wave of demanded resignations by the Bush administration. At least seven federal prosecutors have left their jobs in recent months.

"My guess is there's something there," said Jon Muth, a Grand Rapids lawyer and a Chiara supporter. "My sense is that she was doing an outstanding job, that she's a fine person and she's as ethical as the day is long.

"What she's not, is someone who is going to go to the street screeching and yelling even if she was treated badly. She's likely to keep her reasons (for the resignation) to herself, if they're hers. And if they're the department's, well, she'll keep those to herself, too."

U.S. District Judge Robert Holmes Bell said Friday he had no direct knowledge that Chiara was forced to resign. But with numerous U.S. attorneys shown the door, he said: "The question is out there."

Justice Department officials declined to comment on Chiara's resignation.

The Senate and House Judiciary Committees have held hearings on the string of dismissals, with Sen. Charles Schumer, D-New York, among the most outspoken.

Schumer said the Justice Department hires on political affiliation, ignores recommendations of career attorneys and promotes political agendas like he has never seen in 24 years of service on judiciary committees in the

House and Senate.

"Even the hiring and firing of our top federal prosecutors has become infused and corrupted with political, rather than prudent, considerations," Schumer said recently.

Chiara was nominated by President Bush in 2001 to succeed Michael Dettmer, who returned to private practice. She is the first and only woman in the state's history to serve as a U.S. attorney and is the only woman to serve as president of a state prosecutors association.

Among other accomplishments, Chiara earned Department of Justice recognition for her attention to American Indian issues and victim-witness outreach. She also developed an attorney training and mentoring program that serves as a national model and earned "best practice" praise from the Justice Department.

Federal prosecutors serve at the discretion of the president and may be dismissed for any reason, or no reason at all. Most serve for the duration of the president's term and expect to be replaced when a new party sweeps into office.

"The timing is suspicious for anyone to leave on their own will and in the middle of a term when they were appointed by the sitting president. That alone makes it unusual," Muth said. "I can't imagine it being performance-related."

James Brady, a former U.S. attorney for the Western District, is concerned by the possibility Chiara could be connected to the recent dismissals.

Like Bell, Brady, a past chairman of a national committee of former top federal prosecutors, is not aware that it is, but the question is there.

"There's no question we're concerned that politics may be involved in these types of decisions," he said. "In the (other forced resignations) there was nothing but praise until some political trouble started."

The Washington Post reported most U.S. attorneys forced out had trouble over such issues as the death penalty and immigration.

Chiara opposes capital punishment, although she has vowed to uphold such laws.

"Why things happen in politics, if this is political, I don't know," Muth said. "I do know it's a shame if she got caught up in something beyond her control."

Send e-mail to the author: nreens@grpress.com

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Mercer, Bill (USAMT)

From: Iglesias, David C. (USANM)
Sent: Tuesday, February 27, 2007 8:01 PM
To: USAEO-USAttorneys
Subject: Farewell, Adios, Good bye, Auf Weidersehen

Dear friends and colleagues:

As King Solomon wrote more than 2,500 years ago, "there is a time for everything." It's time to say goodbye from this wonderful job. Tomorrow will be my last day as U.S. Attorney. It's been the most responsible job I've ever had and the second most exciting job I've ever had (nothing beats being launched off and landing on a Navy aircraft carrier). The years have been an unprecedented mixture of experiences, memories and accomplishments. Beyond the record number of criminal cases my AUSAs brought, I'm proud of my hard-working office and its 95% conviction rate. I'm proud to have successfully prosecuted the biggest political corruption case in New Mexico history. I'm proud of having nationally recognized Weed and Seed and PSN programs. But, it's more than just metrics, it's about forming friendships with many of you. I'll never forget going to Colombia and Mexico with Johnny Sutton, Paul Charlton and the late great Mike Shelby. I'll never forget visiting drug cartel lord Pablo Escobar's home in Medellin and realizing America saved Colombia from becoming the world's first "narcocracy." I'll never forget running in L.A.'s seedy MacArthur Park with Matt Whitaker in the early morning hours. I'll never forget speaking at Main Justice's Great Hall for Hispanic Heritage Month, or testifying before Congress, debating a member of Congress and Village Voice journalist on the Patriot Act, backseating an F-16, or getting an op-ed published on immigration reform in the Washington Times. I'll never forget former A.G. and Mrs. John Ashcroft giving us a walking tour of the Washington monuments at night. Heady stuff for a guy originally from Panama whose family is just one generation removed from subsistence living in the jungle.

As one of just several US Attorneys born outside the United States, I know the America dream lives. I'd like to thank President Bush for nominating me to be the United States Attorney almost 6 years ago. I am grateful to have been allowed the honor of making a difference in my community. We need US Attorneys who "maintain justice and do what is right" (Isaiah 56:1) and are willing to pay the price for doing so.

After taking off the month of March to decompress and performing Navy duty overseas in April, I will begin my new job. I haven't decided which of my options to pursue, but in the interim you can reach me at _____ or _____). I wish you all success in the next 22 months in keeping America safe against all enemies, foreign and domestic.

Respectfully,

David

Mercer, Bill (USAMT)

From: Mercer, Bill (USAMT)
Sent: Tuesday, February 27, 2007 10:50 PM
To: Mercer, William W
Subject: FW: Farewell, Adios, Good bye, Auf Weidersehen

Sent from my GoodLink synchronized handheld (www.good.com)

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

From: Iglesias, David C. (USANM)
Sent: Tuesday, February 27, 2007 08:00 PM Eastern Standard Time
To: USAEO-USAttorneys
Subject: Farewell, Adios, Good bye, Auf Weidersehen

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Respectfully,

David

Mercer, Bill (USAMT)

From: Bogden, Daniel (USANV)
Sent: Thursday, March 01, 2007 11:48 AM
To: USAEO-USAttorneysOnly
Subject: Thank You

Today is my last day as United States Attorney for the District of Nevada. I will always remember and think back fondly on the 16 1/2 years I have spent with the Department of Justice – all in Nevada. It has been a dream job and dream career and one that always made me enjoy each and every day on the job. Not only was it a challenging and interesting job but a fulfilling one in which you really could and did make a difference. When I was asked to serve as United States Attorney, I knew at that time that in accepting the position, I would be foregoing my career as an Assistant United States Attorney. It was a difficult decision at the time because I was giving up the best job in the world, that of being an Assistant United States Attorney – prosecuting criminals and keeping our nation, state and communities safe. I knew some day I would come to this juncture in my DOJ career. Well that day is upon me — I know my decision to choose a career in the Department of Justice was the right one and I would do it again without any hesitation. Because being an AUSA is now the 2nd best job in my world, surpassed only by being the United States Attorney for the District of Nevada — the best job in the world. So as I step down as United States Attorney, I have no regrets. I realize how much our office has accomplished and how much we have achieved. We have accomplished what we set out to do — to “make a difference”. We have done so in all aspects of our work – criminal, civil, appellate, asset forfeiture and FLU – in an outstanding manner. I want to thank each of you for your collegiality and comraderie. It has been an honor and privilege serving with each of you. So I say goodbye to each of you and all my colleagues in the Department of Justice and wish you all well.

The very best to each of you,

Dan

Contact information:
(cell)

Mercer, Bill (USAMT)

From: Mercer, Bill (USAMT)
Sent: Thursday, March 01, 2007 12:02 PM
To: Brinkley, Winnie
Subject: FW: Thank You

Please print

Sent from my GoodLink synchronized handheld (www.good.com)

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

From: Bogden, Daniel (USANV)
Sent: Thursday, March 01, 2007 11:48 AM Eastern Standard Time
To: USAEO-USAttorneysOnly
Subject: Thank You

Today is my last day as United States Attorney for the District of Nevada. I will always remember and think back fondly on the 16 1/2 years I have spent with the Department of Justice - all in Nevada. It has been a dream job and dream career and one that always made me enjoy each and every day on the job. Not only was it a challenging and interesting job but a fulfilling one in which you really could and did make a difference. When I was asked to serve as United States Attorney, I knew at that time that in accepting the position, I would be foregoing my career as an Assistant United States Attorney. It was a difficult decision at the time because I was giving up the best job in the world, that of being an Assistant United States Attorney - prosecuting criminals and keeping our nation, state and communities safe. I knew some day I would come to this juncture in my DOJ career. Well that day is upon me - I know my decision to choose a career in the Department of Justice was the right one and I would do it again without any hesitation. Because being an AUSA is now the 2nd best job in my world, surpassed only by being the United States Attorney for the District of Nevada - the best job in the world. So as I step down as United States Attorney, I have no regrets. I realize how much our office has accomplished and how much we have achieved. We have accomplished what we set out to do - to "make a difference". We have done so in all aspects of our work - criminal, civil, appellate, asset forfeiture and FLU - in an outstanding manner. I want to thank each of you for your collegiality and comraderie. It has been an honor and privilege serving with each of you. So I say goodbye to each of you and all my colleagues in the Department of Justice and wish you all well.

The very best to each of you,

Dan

Contact information:
(cell)

Mercer, Bill (USAMT)

From: Beeman, Judy (USAEO)
Sent: Tuesday, March 06, 2007 3:44 PM
To: USAEO-USAttorneysOnly
Subject: FW: PREPARED OPENING STATEMENT OF WILLIAM E. MOSCHELLA, PRINCIPAL ASSOCIATE DEPUTY ATTORNEY GENERAL, BEFORE THE HOUSE JUDICIARY SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW ON H.R. 580, RESTORING CHECKS AND BALANCES IN THE CONFIRMATION PROCESS OF U.S

To: All United States Attorneys

Please find attached Will Moschella's opening statement before the House Judiciary Subcommittee on Commercial and Administrative Law on H.R. 580, on Restoring checks and balances in the confirmation process of USAs.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, March 06, 2007 2:05 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED OPENING STATEMENT OF WILLIAM E. MOSCHELLA, PRINCIPAL ASSOCIATE DEPUTY ATTORNEY GENERAL, BEFORE THE HOUSE JUDICIARY SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW ON H.R. 580, RESTORING CHECKS AND BALANCES IN THE CONFIRMATION PROCESS OF U.S. AT

Department of Justice



FOR IMMEDIATE RELEASE OPA

TUESDAY, MARCH 6, 2006

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PREPARED OPENING STATEMENT OF WILLIAM E. MOSCHELLA, PRINCIPAL ASSOCIATE DEPUTY ATTORNEY GENERAL,

BEFORE THE HOUSE JUDICIARY SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW ON H.R. 580,

RESTORING CHECKS AND BALANCES IN THE CONFIRMATION PROCESS OF U.S. ATTORNEYS

WASHINGTON, D.C.

Madam Chairman, Mr. Cannon, and Members of the Subcommittee, I appreciate the opportunity to testify today.

Let me begin by stating clearly that the Department of Justice appreciates the public service that was rendered by the seven U.S. Attorneys who were asked to resign last December. Each is a talented lawyer who served as U.S. Attorney for more than four years, and we have no doubt they will achieve success in their future endeavors – just like the 40 or so other U.S. Attorneys who have resigned for various reasons over the last six years.

Let me also stress that one of the Attorney General's most important responsibilities is to manage the Department of Justice. Part of managing the Department is ensuring that the Administration's priorities and policies are carried out consistently and uniformly. Individuals who have the high privilege of serving as presidential appointees have an obligation to carry out the Administration's priorities and policies.

U.S. Attorneys in the field (as well as Assistant Attorneys General here in Washington) are duty bound not only to make prosecutorial decisions, but also to implement and further the Administration and Department's priorities and policy decisions. In carrying out these responsibilities they serve at the pleasure of the President and report to the Attorney General. If a judgment is made that they are not executing their responsibilities in a manner that furthers the management and policy goals of departmental leadership, then it is appropriate that they be asked to resign so that they can be replaced by other individuals who will.

To be clear, it was for reasons related to policy, priorities and management – what has been referred to broadly as “performance-related” reasons – that these U.S. Attorneys were asked to resign. I want to emphasize that the Department – out of respect for the U.S. Attorneys at issue – would have preferred not to talk at all about those reasons, but disclosures in the press and requests for information from Congress altered those best laid plans. In hindsight, perhaps this situation could have been handled better. These U.S. Attorneys could have been informed at the time they were asked to resign about the reasons for the decision. Unfortunately, our failure to provide reasons to these individual U.S. Attorneys has only served to fuel wild and inaccurate speculation about our motives, and that is unfortunate because faith and confidence in our justice system is more important than any one individual.

That said, the Department stands by the decisions. It is clear that after closed door briefings with House and Senate members and staff, some agree with the reasons that form the basis for our decisions and some disagree – such is the nature of subjective judgments. Just because you might disagree with a decision, does not mean it was made for improper political reasons – there were appropriate reasons for each decision.

One troubling allegation is that certain of these U.S. Attorneys were asked to resign because of actions they took or didn't take relating to public corruption cases. These charges are dangerous, baseless and irresponsible. This Administration has never removed a U.S. Attorney to retaliate against them or interfere with or inappropriately influence a public corruption case. Not once.

The Attorney General and the Director of the FBI have made public corruption a high priority. Integrity in government and trust in our public officials and institutions is paramount. Without question, the Department's record is one of great accomplishment that is unmatched in recent memory. The Department has not pulled any punches or shown any political favoritism. Public corruption investigations are neither rushed nor delayed for improper purposes.

Some, particularly in the other body, claim that the Department's reasons for asking these U.S. Attorneys to resign was to make way for preselected Republican lawyers to be appointed and circumvent Senate confirmation. The facts, however, prove otherwise. After the seven U.S. Attorneys were asked to resign last December, the Administration immediately began consulting with home-state Senators and other home-state political leaders about possible candidates for nomination. Indeed, the facts are that since March 9, 2006, the date the Attorney General's new appointment authority went into effect, the Administration has nominated 16 individuals to serve as U.S. Attorney and 12 have been confirmed. Furthermore, 18 vacancies have arisen since March 9, 2006. Of those 18 vacancies, the Administration (1) has nominated candidates for six of them (and of those six, the Senate has confirmed three); (2) has interviewed candidates for eight of them; and (3) is working to identify candidates for the remaining four of them. Let me repeat what has been said many times before and what the record reflects: the Administration is committed to having a Senate-confirmed U.S. Attorney in every single federal district.

In conclusion, let me make three points: First, although the Department stands by the decision to ask these U.S. Attorneys to resign, it would have been much better to have addressed the relevant issues up front with each of them. Second, the Department has not asked anyone to resign to influence any public corruption case – and would never do so. Third, the Administration at no time intended to circumvent the confirmation process.

I would be happy to take your questions.

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Date	Time	Caller & Phone Number	Call Taken/VM	Nature of Call
11/27/2006	9:40 am			
11/27/2006	5:12 pm			
11/28/2006	9:00am			
11/28/2006	11:25 am			
11/29/2006	11:00 am			
11/29/2006	3:30pm			
11/30/2006	10:45am			
11/30/2006	3:57pm			
12/1/2006	6:15pm			
12/4/2006	4:31pm			
12/6/2006	10:35am			
12/7/2006	3:15pm			
12/7/2006	4:37pm	Dan Bogden		
12/11/2006	2:35 pm			
12/12/2006	11:10 am	Paul Charlton (USA - Arizona)	djd	

ASG000000426

**William W. Mercer
Phone Log**

January 1, 2007 - December 31, 2007

Date	Time	Caller & Phone Number	Call Taken/VM	Nature of Call
1/3/2007	9:58 am	Dan Bogden		follow-up on email
1/3/2007	3:52 pm			
1/3/2007	5:22 pm			
1/3/2007	6:26 pm			
1/4/2007	4:30 pm			
1/5/2007	10:30 am	Dan Bogden		
1/5/2007	3:40 pm			
1/5/2007	4:54 pm			
1/8/2007	9:00 am			
1/8/2007	3:11 pm			
1/8/2007	3:20 pm			
1/9/2007	11:15 am			
1/10/2007	11:50 am			
1/12/2007	2:45 pm			

Date	Time	Caller & Phone Number	Call Taken/VM	Nature of Call
1/17/2007	11:28 am	Bud Cummins		
1/17/2007	11:30 am			
1/17/2007	11:45 am			
1/22/2007	11:43			
1/23/2007	1:16 pm			
1/24/2007	3:20 pm			
1/25/2007	4:30 pm			
1/24/2007	9:18 am			
1/26/2007	11:01 am			
1/29/2007	12:13 pm			
1/31/2007	9:03 am			
1/31/2007	11:24 am			
1/31/2007	3:01 pm			
1/31/2007	5:10 pm			
1/31/2007	5:18 pm			
2/1/2007	12:26 pm			