

Sampson, Kyle

From: Sampson, Kyle
Sent: Friday, February 18, 2005 8:23 AM
To: Mercer, Bill
Subject: RE: 2 AGAC items

ok, good
will look for recommendations from you on subcommittees

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

From: Mercer, Bill
Sent: Thursday, February 17, 2005 10:41 PM
To: Sampson, Kyle
Subject: Re: 2 AGAC items

We should have a conversation about the subcommittees.

Committee. _____ are doing well. I would like to add a Legislative
the _____ to interact w/OLA and OLP. I would recommend termination of
point. We don't have much of a budget. I can't see this as a core function at this
_____ I don't see the value in this one.

That leaves
Border/Immigration (Iglesias): _____
_____ These are a mixed bag. Some are the least active and should get new
chairs/reconstituted.

As soon as these decisions are made, I will let people know that now is the time to
switch/add/leave subcommittees.

Sent from my BlackBerry Wireless Handheld

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

From: Sampson, Kyle <Kyle.Sampson@USDOJ.gov>
To: Mercer, Bill <Bill.Mercer@usdoj.gov>
CC: Beeman, Judy <Judy.Beeman2@usdoj.gov>
Sent: Thu Feb 17 17:24:56 2005
Subject: 2 AGAC items

A couple of AGAC items:

1. The Attorney General would like to have dinner with the AGAC on the evening of
Wednesday, March 2, 2005, beginning at approximately 6pm (or 6:30pm)? Could you all
select a restaurant and make reservations and add to the AGAC schedule of events?
Participants would be USAs, AG (and perhaps Mrs. Gonzales), me, and Ted Ulliyot.

2. The Attorney General would like to make the following appointments to the AGAC:
New appointments (for terms expiring 12/31/2007)

[new AUSA representative, for term expiring 12/31/2005]

Re-appointments (for terms expiring 12/31/2006)

Judy, could you prepare letters as follows:

1. Appointment letters for new appointments and re-appointments;
2. Letters thanking _____ for their service and inviting them to come to their final AGAC meeting on Mar. 1-3;
3. A letter to _____ thanking her for her service and inviting her, as a former chair of the AGAC, to continue as an ex officio member;
4. Letters to _____ inviting them to continue to serve as ex officio members.

Please e-mail me versions of these letters; I'll likely tinker with them. I will call the new appointments and re-appointments myself to ensure they are willing to serve or continue serving before we send the letters. I would like to get them out early next week, at the latest.

Bill, could you recommend a strong, diverse AUSA, hopefully a manager, who would share the AG's general philosophy and be thrilled to serve on his AGAC?

Sampson, Kyle

From: Sampson, Kyle
Sent: Wednesday, March 02, 2005 5:42 PM
To: 'Harriet Miers'
Subject: U.S. Attorneys

To be clear, putting aside the question of expiring terms, the analysis on the chart I gave you is as follows:

bold = Recommend retaining; strong U.S. Attorneys who have produced, managed well, and exhibited loyalty to the President and Attorney General.

~~strikeout~~ = Recommend removing; weak U.S. Attorneys who have been ineffectual managers and prosecutors, chafed against Administration initiatives, etc.

nothing = No recommendation; have not distinguished themselves either positively or negatively.

cedes 3.9.2005

Thanks. In response to similar inquiries you may receive, you should make these points:

- due to the statutory holdover provision, it is unlikely that the President will make any reappointments
- because U.S. Attorneys serve at the pleasure of the President, there should be no presumption that a sitting U.S. Attorney will continue to serve beyond the expiration of his or her current term

OAG000000004

Sampson, Kyle
Wednesday, March 02, 2005 9:49 PM
'Harriet_Miers@who.eop.gov'
RE: U.S. Attorneys

Attachments:

IUSA APPOINTMENT EVALUATION SUMMARY.wpd



IUSA
APPOINTMENT EVALUATION SUMMARY

Attached is a revised chart (based on some some additional information I got tonight). The changes are:

strike
strike
bold

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

From: Harriet_Miers@who.eop.gov [mailto:Harriet_Miers@who.eop.gov]
Sent: Wednesday, March 02, 2005 6:03 PM
To: Sampson, Kyle
Subject: RE: U.S. Attorneys

Thanks, Kyle. Interesting meeting today. Senator Hatch had a call into me re 9th cir when I returned.

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

From: Kyle.Sampson@usdoj.gov [mailto:Kyle.Sampson@usdoj.gov]
Sent: Wednesday, March 02, 2005 5:46 PM
To: Miers, Harriet
Subject: U.S. Attorneys

To be clear, putting aside the question of expiring terms, the analysis on the chart I gave you is as follows:

bold = Recommend retaining; strong U.S. Attorneys who have produced, managed well, and exhibited loyalty to the President and Attorney General.

strikeout = Recommend removing; weak U.S. Attorneys who have been ineffectual managers and prosecutors, chafed against Administration initiatives, etc.

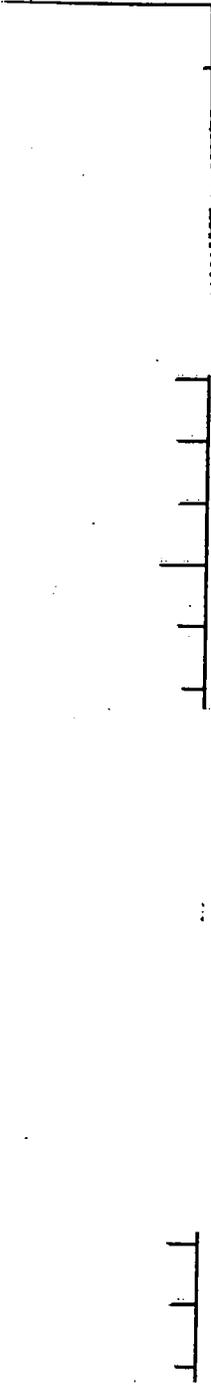
nothing = No recommendation; have not distinguished themselves either positively or negatively.

UNITED STATES ATTORNEYS – APPOINTMENT SUMMARY
(2/24/05)

PRESIDENTIALLY APPOINTED – 79		
DISTRICT	NAME	DATE OF OATH
ALABAMA/MIDDLE		
ALABAMA/NORTHERN		
ALABAMA/SOUTHERN		
ALASKA		
ARIZONA	PAUL K. CHARLTON	11/14/01
ARKANSAS/EASTERN	H.E. "BUD" CUMMINS, III	1/9/02
ARKANSAS/WESTERN		
CALIFORNIA/CENTRAL		
CALIFORNIA/EASTERN		
CALIFORNIA/NORTHERN	KEVIN V. RYAN	8/2/02
CALIFORNIA/SOUTHERN	CAROL C. LAM	11/18/02
CONNECTICUT		
DELAWARE		
FLORIDA/MIDDLE		
FLORIDA/NORTHERN		
FLORIDA/SOUTHERN		
GEORGIA/MIDDLE		
GEORGIA/NORTHERN		
GEORGIA/SOUTHERN		
GUAM/N. MARIANA ISLANDS		
HAWAII		
IDAHO		
ILLINOIS/ CENTRAL		
ILLINOIS/ NORTHERN		

ILLINOIS SOUTHERN		
INDIANA/ NORTHERN		
INDIANA/SOUTHERN		
IOWA/NORTHERN		
IOWA/SOUTHERN		
KANSAS		
KENTUCKY/EASTERN		
KENTUCKY/WESTERN		
LOUISIANA/MIDDLE		
LOUISIANA/WESTERN		
MASSACHUSETTS		
MICHIGAN/WESTERN	MARGARET M. CHARA	11/02/01
MINNESOTA		
MISSISSIPPI/NORTHERN		
MISSISSIPPI/SOUTHERN		
MISSOURI/WESTERN		
MONTANA		
NEBRASKA		
NEVADA	DANIEL G. BOGDEN	11/02/01
NEW HAMPSHIRE		
NEW JERSEY		
NEW MEXICO	DAVID C. IGLESIAS	10/18/01
NEW YORK/EASTERN		
NEW YORK/NORTHERN		
NEW YORK/WESTERN		
NORTH CAROLINA/EASTERN		
NORTH CAROLINA/MIDDLE		

NORTH DAKOTA
OHIO/NORTHERN
OHIO/SOUTHERN
OKLAHOMA/EASTERN
OKLAHOMA/NORTHERN
OKLAHOMA/WESTERN
OREGON
PENNSYLVANIA/EASTERN
PENNSYLVANIA/MIDDLE
PENNSYLVANIA/WESTERN
PUERTO RICO
RHODE ISLAND
TENNESSEE/EASTERN
TENNESSEE/MIDDLE
TENNESSEE/WESTERN
TEXAS/EASTERN
TEXAS/NORTHERN
TEXAS/SOUTHERN
TEXAS/WESTERN
UTAH
VIRGINIA/EASTERN
VIRGINIA/WESTERN
WASHINGTON/EASTERN
WASHINGTON/WESTERN
WEST VIRGINIA/NORTHERN
WEST VIRGINIA/SOUTHERN
WISCONSIN/EASTERN



WYOMING	
PENDING OATH - 0	
DISTRICT	NAME
PENDING COMMISSION - 0	
DISTRICT	NAME
PENDING CONFIRMATION - 3	
DISTRICT	NAME
MICHIGAN/EASTERN	STEPHEN J. MURPHY, III
VIRGIN ISLANDS	ANTHONY J. JENKINS (VRA)
NORTH CAROLINA/WESTERN	GRETCHEN C.F. SHAPPERT (Ct Apptd)
PENDING NOMINATION - 0	
DISTRICT	NAME
PENDING AG FINAL INTERVIEW and RECOMMENDATION - 0	
DISTRICT	NAME
PENDING BI - 3	
DISTRICT	NAME
INTERVIEWED and PENDING DECISION - 7	
DISTRICT	NAME

SOUTH CAROLINA
SOUTH DAKOTA
VERMONT
WISCONSIN/WESTERN

ATTORNEY GENERAL APPOINTMENTS - 2

DISTRICT	NAME	APPT DATE	EXP DATE
Maryland	Allen F. Loucks	1/3/05	5/2/05
Vermont	David V. Kirby	1/24/05	5/23/05

VACANCIES REFORM ACT APPOINTMENTS - 5

DISTRICT	NAME	DATE OF APPT	EXP DATE
Colorado	William J. Leone	1/1/05	7/29/05
South Carolina	Jonathan S. Gasser	1/21/05	8/18/05
South Dakota	Michelle G. Tapken	1/31/05	8/29/05
Virgin Islands	Anthony J. Jenkins	8/21/04	3/19/05
Wisconsin/Western	Stephen P. Sinnott	1/31/05	8/29/05

COURT APPOINTMENTS - 7

DISTRICT	NAME	DATE OF OATH
DC	Kenneth L. Wainstein	9/26/04
Louisiana/E	James B. Letten	8/19/01
Maine	Paula D. Silsby	9/3/01
Michigan/E	Craig S. Morford	12/21/04
Missouri/E	James G. Martin	10/03/04
New York/S	David N. Kelley	04/12/04
North Carolina/W	Gretchen C.F. Shappert	9/29/04

PENDING RESIGNATIONS - 0

DISTRICT	NAME	RESIGNATION DATE
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RESIGNATIONS FORTHCOMING - 0

January 1, 2006

MEMORANDUM FOR THE COUNSEL TO THE PRESIDENT

FROM: Kyle Sampson

SUBJECT: U.S. Attorney Appointments

You have asked whether President Bush should remove and replace U.S. Attorneys whose four-year terms have expired. I recommend that the Department of Justice and the Office of the Counsel to the President work together to seek the replacement of a limited number of U.S. Attorneys.

United States Attorneys are appointed to a four-year term of office and, thereafter, may holdover until a successor is appointed. The U.S. Code provides:

(a) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney for each judicial district.

(b) Each United States attorney shall be appointed for a term of four years. On the expiration of his term, a United States attorney shall continue to perform the duties of his office until his successor is appointed and qualifies.

(c) Each United States attorney is subject to removal by the President.

28 U.S.C. §541. During the Reagan and Clinton Administrations, Presidents Reagan and Clinton did not seek to remove and replace U.S. Attorneys they had appointed whose four-year terms had expired, but instead permitted such U.S. Attorneys to serve indefinitely under the holdover provision.

There likely are several explanations for this. In some instances, Presidents Reagan and Clinton may have been pleased with the work of the U.S. Attorneys who, after all, they had appointed. In other instances, Presidents Reagan and Clinton may simply have been unwilling to commit the resources necessary to remove the U.S. Attorneys, find suitable replacements (i.e., receive the "advice" of the home-state Senators), complete background investigations, and secure Senate confirmations.

There are practical obstacles to removing and replacing U.S. Attorneys. First, wholesale removal of U.S. Attorneys would cause significant disruption to the work of the Department of Justice. Second, individual U.S. Attorneys often were originally recommended for appointment by a home-state Senator who may be opposed to the President's determination to remove the U.S. Attorney. Third, a suitable replacement must be found in consultation with the home-state Senator, the difficulty of which would vary from state to state. Fourth, a background investigation must be completed on the

OAG00000012

replacement -- a task often complicated if the outgoing U.S. Attorney remains in office. Fifth, after nomination, the Senate must confirm the replacement.

None of the above obstacles are insuperable. First, a limited number of U.S. Attorneys could be targeted for removal and replacement, mitigating the shock to the system that would result from an across-the-board firing. Second, the Department of Justice's Executive Office of U.S. Attorneys (EOUSA) could work quietly with the targeted U.S. Attorneys to encourage them to leave government service voluntarily; this would allow targeted U.S. Attorneys make arrangements for work in the private sector and to "save face," both in the Department of Justice community and in their local legal communities. Third, after targeted U.S. Attorneys have left office or indicated publicly their intention to leave office, then the Office of the Counsel to the President can work with home-state Senators and/or other political leaders in the state to secure recommendations for a replacement U.S. Attorney. Finally, after background investigations are complete and the replacement candidate is nominated, the Attorney General can appoint the nominee to serve as Interim U.S. Attorney, reducing the time during which the leadership of the office is uncertain.

If a decision is made to remove and replace a limited number of U.S. Attorneys, then the following might be considered for removal and replacement:

Margaret M Chiara, U.S. Attorney for the Western District of Michigan

Term expired 11/2/2005

Replacement candidates:

Home-state Senators/political leaders: Levin (D) and Stabenow (D); numerous

Harry E. "Bud" Cummins III, U.S. Attorney for the Eastern District of Arkansas

Term expires 1/9/2006

Replacement candidates:

Home-state Senators/political leaders: Pryor (D) and Lincoln (D); Gov. Huckabee(?)

Kevin V. Ryan, U.S. Attorney for the Northern District of California

Term expires 8/2/2006

Replacement candidates:
Home-state Senators/political leaders: Feinstein (D) and Boxer (D); Parsky
Commission
Carol C. Lam, U.S. Attorney for the Southern District of California
Term expires 11/18/2006
Replacement candidates:
Home-state Senators/political leaders: Feinstein (D) and Boxer (D); Parsky
Commission

I list these folks based on my review of the evaluations of their offices conducted by EOUSA and my interviews with officials in the Office of the Attorney General, Office of the Deputy Attorney General, and the Criminal Division. If a determination is made to seek the removal of these folks, then we should similarly seek to remove and replace

Please let me know how you would like to proceed

Others:

Tier 1

Tier 2

Tier 3

created 2.10.2006

January 1, 2006

MEMORANDUM FOR THE COUNSEL TO THE PRESIDENT

FROM: Kyle Sampson

SUBJECT: U.S. Attorney Appointments

You have asked whether President Bush should remove and replace U.S. Attorneys whose four-year terms have expired. I recommend that the Department of Justice and the Office of the Counsel to the President work together to seek the replacement of a limited number of U.S. Attorneys.

United States Attorneys are appointed to a four-year term of office and, thereafter, may no longer hold office until a successor is appointed. The U.S. Code provides:

(a) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney for each judicial district.

(b) Each United States attorney shall be appointed for a term of four years. On the expiration of his term, a United States attorney shall continue to perform the duties of his office until his successor is appointed and qualified.

(c) Each United States attorney is subject to removal by the President.

18 U.S.C. § 541. During the Reagan and Clinton Administrations, Presidents Reagan and Clinton did not seek to remove and replace U.S. Attorneys they had appointed whose four-year terms had expired, but instead permitted such U.S. Attorneys to serve indefinitely under the holdover provisions.

There are several explanations for this. In some instances, Presidents Reagan and Clinton may have been pleased with the work of the U.S. Attorneys who, after all, they had appointed. In other instances, Presidents Reagan and Clinton may simply have been unwilling to commit the resources necessary to remove the U.S. Attorneys and undertake replacement (e.g., serve the "notice" of the home state Senators), complete and soundly explanations, and assume Senate confirmation.

There are practical obstacles to removing and replacing U.S. Attorneys. First, wholesale removal of all U.S. Attorneys would cause significant disruption to the work of the Department of Justice. Second, individual U.S. Attorneys often were originally recommended for appointment by a home state Senator who may be opposed to the President's determination to remove the U.S. Attorney. Third, a suitable replacement must be found in consultation with the home state Senator, the difficulty of which would vary from state to state. Fourth, a basis must be found to justify the removal.

replacement - a task often complicated if the outgoing U.S. Attorney remains in office. Fifth, after nomination, the Senate must confirm the replacement.

None of the above obstacles are insurmountable. First, a limited number of U.S. Attorneys could be targeted for removal and replacement, mitigating the shock to the system that would result from an across-the-board firing. Second, the Department of Justice's Executive Office of U.S. Attorneys (EOUSA) could work quietly with the targeted U.S. Attorneys to encourage them to leave government service voluntarily; this would allow targeted U.S. Attorneys to make arrangements for work in the private sector and to "save face" both in the Department of Justice community and within local legal communities. Third, after targeted U.S. Attorneys have left office or indicated publicly their intention to leave office, then the Office of the Counsel to the President can work with home-state senators and/or other political leaders in the state to secure recommendations for a replacement U.S. Attorney. Finally, after background investigations are complete and the replacement candidate is nominated, the Attorney General can appoint the nominee to serve as interim U.S. Attorney, reducing the time during which the leadership of the office is uncertain.

If a decision is made to remove and replace a limited number of U.S. Attorneys, then the following might be considered for removal and replacement:

- Harry T. "Bud" Cummins III, U.S. Attorney for the Eastern District of Arkansas
Term expires 1/9/2006
Replacement candidate: Tim Griffin
Home-state Senators/political leaders: Pryor (D) and Lincoln (D), Gov. Huckabee?
[Redacted]
- Kevin V. Ryan, U.S. Attorney for the Northern District of California
[Redacted]

Replacement candidates:

Home-state Senators/political leaders: Feinstein (D) and Boxer (D); Parsky
Commission

Carol C. Lam, U.S. Attorney for the Southern District of California

Term expires 11/18/2006

Replacement candidates:

Home-state Senators/political leaders: Feinstein (D) and Boxer (D); Parsky
Commission

First, these folks based on my review of the evaluations of their offices conducted by EOUSA and my interviews with officials in the Office of the Attorney General, Office of the Deputy Attorney General, and the Criminal Division. If a determination is made to seek the removal of these folks, then we should similarly seek to remove and replace

Please let me know how you would like to proceed.

Others:

Tier 1

Charleton

Tier 2

Bogden

Tier 3

Sampson, Kyle

From: Sampson, Kyle
Sent: Monday, January 09, 2006 10:09 AM
To: Harriet Miers (Harriet_Miers@who.eop.gov)
Cc: Bill Kelley (william_k_kelley@who.eop.gov)
Subject: U.S. Attorney Appointments -- PLEASE TREAT THIS AS CONFIDENTIAL

PLEASE TREAT THIS AS CONFIDENTIAL

Harriet, you have asked whether President Bush should remove and replace U.S. Attorneys whose four-year terms have expired. I recommend that the Department of Justice and the Office of the Counsel to the President work together to seek the replacement of a limited number of U.S. Attorneys.

The U.S. Code provides that each United States Attorney "shall be appointed for a term of four years . . . [and] shall continue to perform the duties of his office until his successor is appointed and qualifies." 28 U.S.C. § 541(b). Accordingly, once confirmed by the Senate and appointed, U.S. Attorneys serve for four years and then holdover indefinitely (at the pleasure of the President, of course). In recent memory, during the Reagan and Clinton Administrations, Presidents Reagan and Clinton did not seek to remove and replace U.S. Attorneys they had appointed whose four-year terms had expired, but instead permitted such U.S. Attorneys to serve indefinitely under the holdover provision.

There likely are several explanations for this: In some instances, Presidents Reagan and Clinton may have been pleased with the work of the U.S. Attorneys who, after all, they had appointed. In other instances, Presidents Reagan and Clinton may simply have been unwilling to commit the resources necessary to remove the U.S. Attorneys, find suitable replacements (i.e., receive the "advice" of the home-state Senators), complete background investigations, and secure Senate confirmations.

There are practical obstacles to removing and replacing U.S. Attorneys. First, wholesale removal of U.S. Attorneys would cause significant disruption to the work of the Department of Justice. Second, individual U.S. Attorneys often were originally recommended for appointment by a home-state Senator who may be opposed to the President's determination to remove the U.S. Attorney. Third, a suitable replacement must be found in consultation with the home-state Senator, the difficulty of which would vary from state to state. Fourth, a background investigation must be completed on the replacement -- a task often complicated if the outgoing U.S. Attorney remains in office. Fifth, after nomination, the Senate must confirm the replacement.

None of the above obstacles are insuperable. First, a limited number of U.S. Attorneys could be targeted for removal and replacement, mitigating the shock to the system that would result from an across-the-board firing. Second, the Department of Justice's Executive Office of U.S. Attorneys (EOUSA) could work quietly with targeted U.S. Attorneys to encourage them to leave government service voluntarily; this would allow targeted U.S. Attorneys to make arrangements for work in the private sector and "save face" regarding the reason for leaving office, both in the Department of Justice community and in their local legal communities. Third, after targeted U.S. Attorneys have left office or indicated publicly their intention to leave office, then the Office of the Counsel to the President can work with home-state Senators and/or other political leaders in the state to secure recommendations for a replacement U.S. Attorney. Finally, after background investigations are complete and the replacement candidate is nominated, the Attorney General can appoint the nominee to serve as Interim U.S. Attorney pending confirmation, thereby reducing the time during which the leadership of the office is uncertain.

If a decision is made to remove and replace a limited number of U.S. Attorneys, then the following might be considered for removal and replacement:

- 1.
- 2.
3. **Margaret M Chiara**, U.S. Attorney for the Western District of Michigan
Term expired 11/2/2005

5. **Harry E. "Bud" Cummins III**, U.S. Attorney for the Eastern District of Arkansas
 Term expires 1/9/2006 (today!)
 Replacement candidates: Tim Griffin?
 Home-state Senators/political leaders: Pryor (D) and Lincoln (D); Gov. Huckabee(?)
6. **Kevin V. Ryan**, U.S. Attorney for the Northern District of California
 Term expires 8/2/2006
 Replacement candidates:
 Home-state Senators/political leaders: Feinstein (D) and Boxer (D); Parsky Commission
7. **Carol C. Lam**, U.S. Attorney for the Southern District of California
 Term expires 11/18/2006
 Replacement candidates:
 Home-state Senators/political leaders: Feinstein (D) and Boxer (D); Parsky Commission

I list these folks based on my review of the evaluations of their offices conducted by EOUSA and my interviews with officials in the Office of the Attorney General, Office of the Deputy Attorney General, and the Criminal Division. If a determination is made to seek the removal of these folks, then we should similarly seek to remove and replace

Please let me know how you would like to proceed. The first steps, I think, would be (1) to agree on the target list of U.S. Attorneys and (2) ask EOUSA to begin quietly calling them to ascertain their intentions for continued service/indicating to them that they might want to consider looking for other employment.

Tracking:

Recipient

Read

Harriet Miers (Harriet_Miers@who.eop.gov)

Bill Kelley (william_k_kelley@who.eop.gov)

Sampson, Kyle

Read: 1/9/2006 10:09 AM

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, May 11, 2006 11:36 AM
To: 'William_K_Kelley@who.eop.gov'
Subject: FW: Removal and Replacement of U.S. Attorneys Whose 4-year Terms Have Expired
Sensitivity: Confidential

Per your inquiry yesterday after JSC, this is the e-mail I sent to Dabney last month at Harriet's request. Please call me at your convenience to discuss the following:

- Tim Griffin for E.D. Ark.; and
- The real problem we have right now with Carol Lam that leads me to conclude that we should have someone ready to be nominated on 11/18, the day her 4-year term expires.

From: Sampson, Kyle
Sent: Friday, April 14, 2006 9:31 AM
To: 'Dabney_Friedrich@who.eop.gov'
Subject: RE: Removal and Replacement of U.S. Attorneys Whose 4-year Terms Have Expired
Sensitivity: Confidential

Also, I would note that two others on my original list already have left office. They are:

and

From: Sampson, Kyle
Sent: Friday, April 14, 2006 9:30 AM
To: 'Dabney_Friedrich@who.eop.gov'
Subject: Removal and Replacement of U.S. Attorneys Whose 4-year Terms Have Expired
Sensitivity: Confidential

Dabney, DOJ recommends that the White House consider removing and replacing the following U.S. Attorneys upon the expiration of their 4-year terms:

Margaret M. Chiara, W.D. Mich., term expired 11/2/2005;

Harry E. "Bud" Cummins III, E.D. Ark., term expired 1/9/2006; and
Carol C. Lam, S.D. Cal., term expires 11/18/2006.

We also should similarly seek to remove and replace:

Call me if you have any questions. If you pushed me, I'd have 3-5 additional names that the White House might want to consider.

Sampson, Kyle

From: Sampson, Kyle
Sent: Wednesday, May 31, 2006 6:34 PM
To: Mercer, Bill (ODAG)
Subject: RE: Immigration Enforcement

No. I have to leave in five.

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

From: Mercer, Bill (ODAG)
Sent: Wednesday, May 31, 2006 6:33 PM
To: Sampson, Kyle
Subject: Re: Immigration Enforcement

Are you going to be upstairs for awhile?

Sent from my BlackBerry Wireless Handheld

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

From: Sampson, Kyle
To: Mercer, Bill (ODAG)
Sent: Wed May 31 18:26:58 2006
Subject: Immigration Enforcement

Has ODAG ever called Carol Lam and woodshedded her re immigration enforcement? Has anyone?

If the AG ordered 20 more prosecutors to S.D. Cal. to do immigration enforcement only, where would we get them from (remember the premise: AG has ordered it)? Please advise.

Tracking:

Recipient
Mercer, Bill (ODAG)

Read
Read: 5/31/2006 6:43 PM

From: Brand, Rachel
Sent: Thursday, July 27, 2006 2:31 PM
To: Sampson, Kyle; Elwood, Courtney
Subject: FW: Prosecution Issues

Fyi, per our conversation this morning.

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

From: Brand, Rachel
Sent: Wednesday, July 26, 2006 6:39 PM
To: 'Douglas B. Baker@who.eop.gov'
Cc: Robert_Jacobs@who.eop.gov; Bounds, Ryan W (OLP); Brand, Rachel
Subject: RE: Prosecution Issues

I've talked to the U.S. Attorney in Arizona. Here's what he says:

"We have altered our threshold guidelines for the Tucson Sector so that we prosecute marijuana cases of 500 pounds and above. There are exceptions. If the marijuana is found on the Tohono O'odham Indian Reservation, we take all of their cases, regardless of weight, because of our trust obligation. In any other area of the Tucson Sector, we take the case regardless of weight if there is an ongoing investigation regarding the smuggling ring, or some other compelling factor exists, such as endangerment, assault on the officer, or a repeat offender."

There are three major issues to keep in mind when considering this fact:

- 1) Because we are a federal system and states also have jurisdiction to investigate and prosecute drug offenses, the prosecution threshold has not resulted in a real gap of enforcement on marijuana cases. According to the US Attorney, three of the four border county attorneys in Arizona have agreed to prosecute marijuana cases involving less than 500 pounds. While the fourth county attorney has not issued a blanket policy of accepting cases involving less than 500 pounds, he has agreed to take them on a case-by-case basis. Since the implementation of this drug weight threshold, the U.S. Attorney's Office in Arizona is unaware of any case referred to the county attorneys that completely fell between the cracks of enforcement.
- 2) Across the country, the Department of Justice's focus is and has been on large, and especially international, drug trafficking rings. For example, the Organized Crime Drug Enforcement Task Force (OCDEF) focuses on prosecuting entire organizations, not necessarily responding to each enforcement event. This is partly a function of limited resources and partly because these are the types of cases that federal law enforcement (as opposed to state and local law enforcement) is uniquely equipped to handle.
- 3) Finally, higher prosecution thresholds are simply going to be a fact of life if the state of budget/resources in the SWB US Attorneys' offices remains what it is now. These districts, and perhaps especially Arizona, are absolutely stretched to the limit. Our focus recently has been on immigration enforcement, but insufficient resources affects every type of enforcement, including narcotics cases. US Attorneys' offices must always triage and prioritize, and the need to do so is especially acute here. We'd be happy to get you more info on the staggering caseload that each Assistant US Attorney in Arizona currently carries. It is true that we will be adding 20 new immigration prosecutors and 5 OCDEF prosecutors to the SWB districts with the money from the supplemental, and I would imagine this would be part of the response to Speaker Hastert. Just for your information, however -- do not expect this to effect a radical change in those districts' ability to take smaller cases. It is only a first step.

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

From: Douglas_B._Baker@who.eop.gov [mailto:Douglas_B._Baker@who.eop.gov]
Sent: Tuesday, July 25, 2006 5:54 PM
To: Brand, Rachel
Cc: Robert_Jacobs@who.eop.gov
Subject: Prosecution Issues

Rachel:

I understand that Barry Jackson has asked a question about the variable prosecution policies by AUSA for illegal immigration. We have another question posed by Speaker Hastert. He understands that the AUSA for Nogales will not prosecute marijuana possession for amounts less than 500 lbs. Seems unlikely to me, but need to get to the truth as this was raised in meeting with POTUS.

Thanks,

Doug