



U.S. Department of Justice

Executive Office for United States Attorneys

Office of the Director

Room 2261, RFK Main Justice Building
950 Pennsylvania Avenue, NW
Washington, DC 20530

(202) 514-2121

MEMORANDUM - Sent via Electronic Mail

DATE: OCT 05 2006

TO: ALL UNITED STATES ATTORNEYS
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS
ALL ADMINISTRATIVE OFFICERS

FROM: Michael A. Battle
Director

SUBJECT: Resignation Guidance for United States Attorneys

ACTION REQUIRED: Information Only.

CONTACT PERSON: John A. Nowacki
Principal Deputy Director
Telephone: (202) 514-2121
E-mail: John.Nowacki@usdoj.gov

Recently, a few United States Attorneys have contacted me regarding the procedures for submitting their resignations. To assist you, I have attached answers to some of the most frequently asked questions regarding the resignation process including guidance for a resigning interim United States Attorney who is returning to a position as an Assistant United States Attorney. If you intend to resign, please advise me at your earliest opportunity either by electronic mail or by phone (202) 514-2121. It is very important for us to provide the President and the Attorney General with as much advance notice as possible.

Letters of resignation addressed to the President and to the Attorney General should be sent by express mail to the U.S. Attorney Nominations and Appointments Unit, EOUSA. Once a United States Attorney announces their intention to resign, please be aware that discretionary staff personnel changes (e.g., appointments, promotions, and reassignments), at all grade levels, from all sources, will be restricted. This affects actions which increase employment by adding a new employee to a district's rolls and internal actions which involve a change in position, such as a promotion or reassignment.

Any offer of employment extended verbally or in writing before the United States Attorney announces their resignation, including offers that were contingent on clearances such as drug testing or background investigation, will be honored.

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No new offer of employment in the district may be made after the United States Attorney announces their resignation. If the office is in the final interview stage with any candidate, the selecting official must inform the applicant that no offer can be extended until the new United States Attorney is appointed.

If you have any questions, please contact John Nowacki at (202) 514-2121.

Attachments

cc: All United States Attorneys' Secretaries

DAG000000002

RESIGNATION OF A UNITED STATES ATTORNEY

FREQUENTLY ASKED QUESTIONS

- **The district's United States Attorney has decided to resign from their position. Who needs to be notified?**

The United States Attorney should prepare letters of resignation to the President and the Attorney General stating the date and time of the proposed resignation. Generally, the letter to the President is brief, while the letter to the Attorney General is usually longer and more personal (see examples attached). These letters should be sent by express mail to the U.S. Attorney Nominations and Appointments Unit, Executive Office for United States Attorneys (EOUSA), to handle delivery.

The United States Attorney should personally notify the Attorney General of their resignation. The United States Attorney should also contact their United States Senators or other individuals involved with recommending a replacement, so that the process of selecting a successor can begin.

The United States Attorney should call the Director, EOUSA, (202) 514-2121, at their earliest opportunity to notify them of their plans to resign.

The United States Attorney should announce their resignation to their district. They may send a memorandum announcing their departure to government agency heads and other interested parties.

- **Does a press release need to be prepared? And if so, what should it say?**

The United States Attorney's Office may send a news release announcing the United States Attorney's resignation. The press release should include in general terms the United States Attorney's future plans and any specific accomplishments (see example attached). The press release should not be used as an announcement of a political campaign or a new business. Courtesy copies of the press release should be forwarded to EOUSA and the Department of Justice, Office of Public Affairs.

- **Who handles paperwork for a United States Attorney's resignation, and what documents need to be prepared?**

The EOUSA's Personnel Staff handles separation actions for all United States Attorneys, both Servicing Personnel Office districts (SPO) and non-SPO districts. EOUSA also processes all insurance forms and associated benefits for departing United States Attorneys.

The district's Administrative Officer should complete an SF-52, Request for Personnel Action, for the United States Attorney's resignation. This document, along with a copy

of the United States Attorney's resignation letter, is sent to EOUSA's Personnel Staff.

- **What happens to the United States Attorney's annual leave upon his/her resignation?**

A Presidentially-appointed United States Attorney does not earn leave. If a United States Attorney was a federal employee earning leave prior to the Presidential appointment, their leave was frozen upon appointment. The United States Attorney generally receives a lump sum leave payment upon resignation for any annual leave accrued prior to the Presidential appointment. The lump sum payment is calculated at the hourly rate the employee earned at the time their annual leave was frozen. If the United States Attorney accepts a position in the federal government after their resignation (e.g., appointment to a federal judgeship), annual leave may transfer to the new appointment. Lump sum leave payments are processed by EOUSA's Personnel Staff.

- **What other steps need to be taken before the United States Attorney actually separates from the office?**

The United States Attorney should ensure that the district's Administrative Officer has their correct home and work forwarding information. The United States Attorney should also work with the district's Administrative Officer to ensure that all obligations are met concerning the return of government property, the removal or preservation of federal records, and post-employment restrictions.

- **Are there any restrictions on hiring and staffing changes within the office after the United States Attorney announces their resignation?**

Yes. After a United States Attorney announces his or her resignation, all discretionary staff personnel changes (e.g., appointments, promotions, and reassignments), at all grade levels, from all sources, will be restricted. This affects actions which increase employment by adding a new employee to the district's rolls and internal actions which involve a change in position, such as a promotion or reassignment. Career ladder promotions for support employees are exempt because they do not involve filling a different position and all non-discretionary personnel actions (e.g., within-grade increases and pay adjustments) are also exempt from this prohibition.

Offers of employment extended verbally or in writing prior to the resignation announcement of a United States Attorney, including offers that were contingent on clearances such as drug testing or background investigation, will be honored.

No new offers of employment in the district may be made after the United States Attorney announces his/her resignation. If the office is in the final interview stage with any candidate, the selecting official must inform the applicant that no offer can be extended

until the new United States Attorney is appointed either by the President or as an interim.

- **What is the process for determining the new United States Attorney?**

When the vacancy of a Presidentially-appointed United States Attorney occurs, the Attorney General has the authority to appoint an interim United States Attorney whose term lasts until the confirmation of a Presidential appointment. In the absence of an interim United States Attorney appointed by the Attorney General, the Department of Justice's Office of Legal Counsel has determined that the First Assistant United States Attorney (FAUSA) may act as the United States Attorney under the Vacancies Reform Act for no more than 210 days and should be referred to as "Acting United States Attorney." No paperwork (SF-52, SF-61 Appointment Affidavit, etc.) is required for this change.

- **How long is a Presidentially-appointed United States Attorney's term?**

A Presidentially-appointed United States Attorney serves for a four-year term but may hold over after his/her term expires (and without formal reappointment), at the pleasure of the President.

- **Where should recommendations for United States Attorney appointments be sent?**

Recommendations for United States Attorneys should be forwarded to the Attorney General. Copies of recommendation letters should be sent to the Director, EOUSA.

- **Who can make recommendations for an interim United States Attorney?**

The departing United States Attorney may make a recommendation of an interim United States Attorney to the Director, EOUSA.

- **When serving as an interim United States Attorney, what title should be used?**

When serving under an Attorney General appointment or Presidential appointment, the title of "United States Attorney" should be used. "Interim United States Attorney" refers to the status not the title of the appointment. If the FAUSA is serving as the Acting United States Attorney under the Vacancies Reform Act, the title "Acting United States Attorney" should be used.



U.S. Department of Justice

*United States Attorney
Eastern District of the United States*

The President
The White House
Washington, DC 20500

Dear Mr. President:

I am hereby submitting my resignation as United States Attorney for the Eastern District of the United States, effective midnight December 31, 2006.

I deeply appreciate the opportunity to have served as United States Attorney. I wish you and your administration the best of luck and success.

Sincerely,

John A. Smith
United States Attorney

DAG00000006



U.S. Department of Justice

*United States Attorney
Eastern District of the United States*

The Attorney General
United States Department of Justice
Main Justice Building, Room 5111
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General:

I am hereby submitting my resignation as United States Attorney for the Eastern District of the United States, effective midnight December 31, 2006. It has been a great honor and privilege to have served these past two years as a United States Attorney, initially by your appointment and thereafter by Presidential appointment.

Serving the United States as a United States Attorney has been the highest honor and most fulfilling duty of my public career. Thank you for your support and the support of the Department of Justice during my tenure.

I deeply appreciate the opportunity to have served as the United States Attorney for the Eastern District of the United States. I wish you the best of luck and success.

Sincerely,

John A. Smith
United States Attorney

DAG000000007

**UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF
THE UNITED STATES ANNOUNCES RESIGNATION**

Washington, DC . . . United States Attorney John A. Smith, 43, of Washington, DC, has announced his resignation effective midnight on March 30, 2000. After his resignation, he plans on joining a private law firm in the Washington, DC, area.

Smith, a graduate of American University and the University of Virginia Law School, had previously served as First Assistant United States Attorney and Chief Assistant United States Attorney for the Criminal Division. During his tenure as United States Attorney, he served on the Attorney General's Advisory Committee and was co-chair of the Civil Rights Subcommittee. Mr. Smith has also served as an Instructor at the Attorney General's Advocacy Institute and the National Institute of Trial Advocacy. He implemented the current Weed and Seed program, which helps local communities reduce crime by bringing in investment and opportunity.

As United States Attorney, Smith also successfully prosecuted many civil rights and hate crime cases. In *US v. Carter*, he sought the conviction in 1998 of Bob D. Carter for racially-biased assaults against African American citizens and police officers in the downtown Washington, DC, area. Mr. Smith also oversaw the prosecution of many individuals under the Deadbeat Parents Punishment Act, which charges parents who fail to pay court-ordered child support.

The Eastern District of the United States covers 13 states, and includes the cities of Washington, DC, New York City, Boston and Philadelphia. The United States Attorney's Office, with staffed offices in Washington, DC, and New York City, has 32 attorneys and is responsible for conducting all criminal and civil litigation in the district involving the United States government.

McNulty, Paul J

From: Chiara, Margaret M. (USAMIW)
Sent: Tuesday, November 07, 2006 8:00 AM
To: McNulty, Paul J
Subject: Re: USA/WDMI

Paul: As soon as the "election dust settles", I ask that you tell me why my resignation may be requested. Since you have not taken exception to the eventually, I now assume that it is likely. I need to know the truth to live in peace with the aftermath. (Of course, we do need to retain control of the Senate to facilitate confirmations.) Perhaps you are not aware that Michael Elston informed me, per Monica Goodling, that a congress person, who is expected to lose in today's election, will be offered the leadership of the VAW office. I am already actively but discretely pursuing self-help options. However, I will need assistance to retain federal gov't financial security, as stated in my previous e-mail. Know that I appreciate your response and offer to assist. Margaret

Sent from my BlackBerry Wireless Handheld

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

From: McNulty, Paul J <Paul.J.McNulty@usdoj.gov>
To: Chiara, Margaret M. (USAMIW) <MChiara@usa.doj.gov>
Sent: Tue Nov 07 07:22:51 2006
Subject: Re: USA/WDMI

Margaret, I received your message and I appreciate your perspective. I know of your interest in the VAWA job and will let you know if any other opportunities come up. Paul

Sent from my BlackBerry Wireless Handheld

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

From: Chiara, Margaret M. (USAMIW)
To: McNulty, Paul J
Sent: Sun Nov 05 15:13:03 2006
Subject: USA/WDMI

Paul: On November 3, Michael Elston conveyed professionally shocking news. I had previously consulted him about the feasibility of a brief leave of absence to serve as the interim dean of the Michigan State University College of Law. (Note: MSU is interested in me only if I am the USA for WDMI.) Mr. Elston informed me that such a leave is only an option when the alternate service is within the federal government. He further informed me that I should expect contact from the White House requesting my resignation as USA shortly after the November 7 elections. He could offer no explanation other than that I erroneously assumed that good service guaranteed longevity because other USAs have been asked for their resignation without cause. In my case the service has exemplary in a difficult district in addition to being an active contributor since appointment on 3 of the A.G.'s subcommittees.

While I live in hope that this dire prediction is untrue, I am contacting you because I need assistance to remain in federal service with a comparable compensation or, quite frankly, I will lose everything that I have been working toward for the past five years. My chronology will not allow me to recoup from such an unanticipated financial catastrophe. I trust that I can count on you to intervene or provide an alternative. Margaret

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Tuesday, November 07, 2006 6:24 PM
To: McNulty, Paul J
Subject: Fw: U.S. Attorney Replacement Plan

Importance: High

Attachments: USA replacement plan.doc

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

From: Sampson, Kyle
To: Elston, Michael (ODAG)
Sent: Tue Nov 07 18:21:01 2006
Subject: U.S. Attorney Replacement Plan

Please review and provide comments ASAP. I'd like to get this to Harriet tonight, if possible. I've pasted it into the e-mail for your convenience.

PLAN FOR REPLACING CERTAIN
UNITED STATES ATTORNEYS

November 7, 2006

STEP 1

U.S. Attorney calls: On or about November 8-10, Mike Battle contacts the following U.S. Attorneys:

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

Battle informs the U.S. Attorneys as follows:

- * What are your plans with regard to continued service as U.S. Attorney?
- * The Administration is grateful for your service as U.S. Attorney, but has determined to give someone else the opportunity to serve as U.S. Attorney in your district for the final two years of the Administration.
- * We will work with you to make sure that there is a smooth transition, but intend to have a new Acting or Interim U.S. Attorney in place by January 1st.

STEP 2

Senator calls: On or about November 8-10 (very important that Senator calls and U.S. Attorney calls happen simultaneously), Bill Kelley or appropriate Associate Counsel contacts the following Senators:

- * Jon Kyl (re Charlton)
- *
- *
- *
- * John Ensign (re Bogden)

*
* Pete Domenici (re Iglesias)

Kelley informs the Senators as follows:

* The Administration has determined to give someone else the opportunity to serve as U.S. Attorney in [relevant district] for the final two years of the Administration. [If pushed, this determination is based on a thorough review of the U.S. Attorney's performance.]

* [Relevant U.S. Attorney] has been informed of this determination and knows that we intend to have a new Acting or Interim U.S. Attorney in place by the end of the year.

* We will look to you, Senator, to recommend candidates that we should consider for appointment as the new U.S. Attorney. As always, we ask that you recommend at least three candidates for the President's consideration.

STEP 3

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

STEP 4

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



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mations of U.S. Attorney nominees.

<<USA replacement plan.doc>>

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

**PLAN FOR REPLACING CERTAIN
UNITED STATES ATTORNEYS**

November 7, 2006

STEP 1

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

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- Jon Kyl (re Charlton)
-
-
-
- John Ensign (re Bogden)
-
- Pete Domenici (re Iglesias)

Kelley informs the Senators as follows:

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

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McNulty, Paul J

From: Sampson, Kyle
Sent: Wednesday, November 15, 2006 12:08 PM
To: 'Harriet_Miers@who.eop.gov'; William_K._Kelley@who.eop.gov
Cc: McNulty, Paul J
Subject: RE: USA replacement plan

Who will determine whether whether this requires the President's attention?

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

From: Harriet_Miers@who.eop.gov [mailto:Harriet_Miers@who.eop.gov]
Sent: Wednesday, November 15, 2006 11:39 AM
To: Sampson, Kyle; William_K._Kelley@who.eop.gov
Cc: McNulty, Paul J
Subject: RE: USA replacement plan

Not sure whether this will be determined to require the boss's attention. If it does, he just left last night so would not be able to accomplish that for some time. We will see. Thanks.

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

From: Kyle.Sampson@usdoj.gov [mailto:Kyle.Sampson@usdoj.gov]
Sent: Wednesday, November 15, 2006 11:02 AM
To: Kelley, William K.; Miers, Harriet
Cc: Paul.J.McNulty@usdoj.gov
Subject: USA replacement plan
Importance: High

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

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

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

PLAN FOR REPLACING CERTAIN UNITED STATES ATTORNEYS

November 15, 2006

STEP 1

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

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

Battle informs the U.S. Attorneys as follows:

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

STEP 2

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

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

Kelley informs the Senators/Bush political leads as follows:

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

STEP 3

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

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

STEP 4

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

STEP 5

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

McNulty, Paul J

From: Sampson, Kyle
Sent: Monday, December 04, 2006 6:30 PM
To: McNulty, Paul J; Battle, Michael (USAEO)
Cc: Goodling, Monica; Moschella, William; Elston, Michael (ODAG)
Subject: FW: US Atty Plan
Importance: High
Attachments: USA replacement, plan.doc

Paul/Mike, we are a go for Thursday (see below). At this point we likely need to inform Johnny Sutton and Bill Mercer re the plan (so they are not caught unawares) – Paul, do you want to handle that, or would you like me to? On Thursday, I think we should shoot to get the Senator calls done in the morning, and then have Mike start calling USAs at noon – let me know if anyone thinks otherwise. Thx.

From: Sampson, Kyle
Sent: Monday, December 04, 2006 6:26 PM
To: 'Kelley, William K.'
Cc: 'Miers, Harriet'
Subject: RE: US Atty Plan

here is the revised plan, per our discussions

From: Sampson, Kyle
Sent: Monday, December 04, 2006 6:12 PM
To: 'Kelley, William K.'
Cc: Miers, Harriet
Subject: RE: US Atty Plan
Importance: High

Great. We would like to execute this on Thursday, December 7 (all the U.S. Attorneys are in town for our Project Safe Childhood conference until Wednesday; we want to wait until they are back home and dispersed, to reduce chatter). So, on Thursday morning, we'll need the calls to be made as follows:

- * AG calls Sen. Kyl
- * Harriet/Bill call Sens. Ensign and Domenici (alternatively, the AG could make these calls and, if Senators express any concern, offer briefings re why the decision was made – let me know)
- * White House OPA calls California, Michigan, and Washington "leads"

EOUSA Director Mike Battle then will call the relevant U.S. Attorneys. Okay?

From: Kelley, William K. [mailto:William_K_Kelley@who.eop.gov]
Sent: Monday, December 04, 2006 4:48 PM
To: Sampson, Kyle
Cc: Miers, Harriet
Subject: US Atty Plan

We're a go for the US Atty plan. WH leg, political, and communications have signed off and acknowledged that

DAG000000018

3/13/2007

we have to be committed to following through once the pressure comes.

PLAN FOR REPLACING CERTAIN UNITED STATES ATTORNEYS

STEP 1

Senator calls: On December 7, the following Republican home-state Senators or, where there is no Republican home-state Senator, the home-state "Bush political lead" are contacted:

- AG calls **Jon Kyl** (re Charlton)
- WHCO calls **John Ensign** (re Bogden)
- WHCO calls **Pete Domenici** (re Iglesias)
- WH OPA calls **California political lead** (re Lam and Ryan)
- WH OPA calls **Michigan political lead** (re Chiara)
- WH OPA calls **Washington political lead** (re McKay)

AG/WHCO/WH OPA inform the Senators/Bush political leads as follows:

- The Administration has determined to give someone else the opportunity to serve as U.S. Attorney in [relevant district] for the final two years of the Administration.
- [Relevant U.S. Attorney] has been informed of this determination and knows that we intend to have a new Acting or Interim U.S. Attorney in place by January 31, 2007.
- We will look to you, Senator/Bush political lead, to recommend candidates that we should consider for appointment as the new U.S. Attorney. As always, we ask that you recommend at least three candidates for the President's consideration. Importantly, we ask that you make recommendations as soon as possible.

STEP 2

U.S. Attorney calls: On December 7 (very important that Senator calls and U.S. Attorney calls happen simultaneously), Mike Battle contacts the following U.S. Attorneys:

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

Battle informs the U.S. Attorneys as follows:

- What are your plans with regard to continued service as U.S. Attorney?
- The Administration is grateful for your service as U.S. Attorney, but has determined to give someone else the opportunity to serve as U.S. Attorney in your district for the final two years of the Administration.
- We will work with you to make sure that there is a smooth transition, but intend to have a new Acting or Interim U.S. Attorney in place by January 31, 2007.

STEP 3

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

- What? U.S. Attorneys serve at the pleasure of the President (there is no right, nor should there be any expectation, that U.S. Attorneys would be entitled to serve beyond their four-year term).
- Who decided? The Administration made the determination to seek the resignations (not any specific person at the White House or the Department of Justice).
- Why me? The Administration is grateful for your service, but wants to give someone else the chance to serve in your district.
- I need more time! The decision is to have a new Acting or Interim U.S. Attorney in place by January 31, 2007 (granting "extensions" will hinder the process of getting a new U.S. Attorney in place and giving that person the opportunity to serve for a full two years).

STEP 4

Evaluation and Selection of "Interim" Candidates: During December 2006-January 2007, the Department of Justice, in consultation with the Office of the Counsel to the President, evaluates and selects candidates for Attorney General-appointment (or candidates who may become Acting U.S. Attorney by operation of law) to serve upon the resignation of above-listed U.S. Attorneys.

STEP 5

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

McNulty, Paul J

From: McNulty, Paul J
Sent: Tuesday, December 05, 2006 9:44 AM
To: Sampson, Kyle
Subject: RE: US Atty Plan

I'll talk to Johnny. I'm still a little skittish about Bogden. He has been with DOJ since 1990 and, at age 50, has never had a job outside of government. My guess is that he was hoping to ride this out well into '09 or beyond. I'll admit have not looked at his district's performance. Sorry to be raising this again/now; it was just on my mind last night and this morning.

From: Sampson, Kyle
Sent: Monday, December 04, 2006 6:30 PM
To: McNulty, Paul J; Battle, Michael (USAEO)
Cc: Goodling, Monica; Moschella, William; Elston, Michael (ODAG)
Subject: FW: US Atty Plan
Importance: High

Paul/Mike, we are a go for Thursday (see below). At this point we likely need to inform Johnny Sutton and Bill Mercer re the plan (so they are not caught unawares) – Paul, do you want to handle that, or would you like me to? On Thursday, I think we should shoot to get the Senator calls done in the morning, and then have Mike start calling USAs at noon – let me know if anyone thinks otherwise. Thx.

From: Sampson, Kyle
Sent: Monday, December 04, 2006 6:26 PM
To: 'Kelley, William K.'
Cc: 'Miers, Harriet'
Subject: RE: US Atty Plan

here is the revised plan, per our discussions

From: Sampson, Kyle
Sent: Monday, December 04, 2006 6:12 PM
To: 'Kelley, William K.'
Cc: Miers, Harriet
Subject: RE: US Atty Plan
Importance: High

Great. We would like to execute this on Thursday, December 7 (all the U.S. Attorneys are in town for our Project Safe Childhood conference until Wednesday; we want to wait until they are back home and dispersed, to reduce chatter). So, on Thursday morning, we'll need the calls to be made as follows:

- * AG calls Sen. Kyl
- * Harriet/Bill call Sens. Ensign and Domenici (alternatively, the AG could make these calls and, if Senators express any concern, offer briefings re why the decision was made -- let me know)
- * White House OPA calls California, Michigan, and Washington "leads"

EOUSA Director Mike Battle then will call the relevant U.S. Attorneys. Okay?

DAG000000023

3/13/2007

McNulty, Paul J

From: Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]
Sent: Thursday, December 07, 2006 5:20 PM
To: McNulty, Paul J
Subject: WDMI
Importance: High

Mike Battle returned a telephone call to me this afternoon. During a discussion of another matter, he informed me that my tenure as United States Attorney for the Western District of Michigan (WDMI) will conclude on or before January 31, 2007. Mike could provided no additional information other than it was my decision as to the timing of an announcement to the USAO staff and WDMI legal community.

The unwelcome news is not unexpected because Chief of Staff Michael Elston advised me that it was a likely consequence of the recent election. However, the timing is surprising and distressing. I have assiduously been pursuing options in Washington, Michigan and elsewhere. With one exception, no organization or agency where I have submitted a resume or application will conduct interviews until January. If there is no assistance forthcoming from the Administration or the Department with a placement, I need at least the month of February, preferably March, to secure alternate employment.

Since my five year tenure has been exemplary and my contribution to the Department through three subcommittees quite substantial, I deserve consideration and flexibility. My financial circumstances require continuous employment. I ask for your immediate assistance.

Thank you. Margaret

DAG000000024

3/13/2007

McNulty, Paul J

From: McNulty, Paul J
Sent: Tuesday, December 12, 2006 8:13 PM
To: Chiara, Margaret M. (USAMIW)
Subject: Re: WDMI

Margaret, I'm not avoiding you. I have been completely immersed in this revision to the Thompson memo. I'm on my way home from NY. I'll try to call you in the morning. Thanks for your patience.

Sent from my BlackBerry Wireless Handheld

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

From: Chiara, Margaret M. (USAMIW) <MM.Chiara@usdoj.gov>
To: McNulty, Paul J
Sent: Thu Dec 07 17:20:22 2006
Subject: WDMI

Mike Battle returned a telephone call to me this afternoon. During a discussion of another matter, he informed me that my tenure as United States Attorney for the Western District of Michigan (WDMI) will conclude on or before January 31, 2007. Mike could provided no additional information other than it was my decision as to the timing of an announcement to the USAO staff and WDMI legal community.

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Thank you. Margaret

McNulty, Paul J

From: Battle, Michael (USAEO) [Michael.Battle@usdoj.gov]
Sent: Wednesday, December 13, 2006 7:05 PM
To: McNulty, Paul J
Subject: RE: USA replacements

I am more than willing to call.

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

From: McNulty, Paul J
Sent: Wednesday, December 13, 2006 06:42 PM Eastern Standard Time
To: Sampson, Kyle; Battle, Michael (USAEO)
Cc: Elston, Michael (ODAG); Moschella, William; Mercer, William W; Goodling, Monica; Sutton, Johnny K. (USATXW)
Subject: RE: USA replacements

I generally think this is a good idea. The more communication, the better. They are probably slowly adjusting and some hand-holding may calm things down.

From: Sampson, Kyle
Sent: Wednesday, December 13, 2006 2:25 PM
To: Battle, Michael (USAEO)
Cc: McNulty, Paul J; Elston, Michael (ODAG); Moschella, William; Mercer, William W; Goodling, Monica; Sutton, Johnny K. (USATXW)

Subject: USA replacements

Mike, Bill Kelley called to report that they are weathering two main complaints: in making the calls, Battle (1) wasn't clear whether the USAs in question would be permitted to resign, or instead were being fired; and (2) was too abrupt. Bill seemed nonplussed by the complaints, but nevertheless passed them on to me.

Perhaps a second round of calls from you, Mike, to the relevant USAs is in order? Talkers would be something like:

* I wanted to be sure you understood that DOJ intends not to say anything about your leaving, but instead allow you to announce your resignation and the reasons for it;
* We want to work with you over the next six weeks to ensure a smooth transition; and
* It's in our interest for you to land on your feet and maintain our good relations with the Department -- how can I help?

Perhaps this is a bad idea? Thoughts?

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

McNulty, Paul J

From: Goodling, Monica
Sent: Thursday, December 14, 2006 1:21 PM
To: Sampson, Kyle; McNulty, Paul J; Mercer, William W; Elston, Michael (ODAG); Moschella, William; Battle, Michael (USAEO)
Subject: FW: Happy Trails

FYI - Looks like McKay's ok.

From: McKay, John (USAWAW) [mailto:John.McKay@usdoj.gov]
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

McNulty, Paul J

From: Mercer, Bill (USAMT) [Bill.Mercer@usdoj.gov]
Sent: Thursday, December 14, 2006 1:06 PM
To: McNulty, Paul J
Subject: FW: Happy Trails

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

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

From: McKay, John (USA WAW)
Sent: Thursday, December 14, 2006 01:02 PM Eastern Standard Time
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All the best,

- JOHN

John McKay
United States Attorney
Seattle, Washington

McNulty, Paul J

From: Battle, Michael (USAEO) [Michael.Battle@usdoj.gov]
Sent: Thursday, December 14, 2006 3:27 PM
To: McNulty, Paul J
Subject: RE: USA replacements

If it is something that you need me on I can talk to you about it this afternoon when we have our weekly. I am also available before that.

From: McNulty, Paul J
Sent: Thursday, December 14, 2006 1:03 PM
To: Sampson, Kyle; Battle, Michael (USAEO)
Cc: Elston, Michael (ODAG); Moschella, William; Mercer, William W; Goodling, Monica; Sutton, Johnny K. (USATXW)
Subject: RE: USA replacements

Just had a lengthy chat with Margaret and she is fine, although she has an issue on which I need to get back to her..

From: Sampson, Kyle
Sent: Wednesday, December 13, 2006 2:25 PM
To: Battle, Michael (USAEO)
Cc: McNulty, Paul J; Elston, Michael (ODAG); Moschella, William; Mercer, William W; Goodling, Monica; Sutton, Johnny K. (USATXW)
Subject: USA replacements

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

3/13/2007

DAG00000029

kyle.sampson@usdoj.gov

McNulty, Paul J

From: Mercer, Bill (USAMT) [Bill.Mercer@usdoj.gov]
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)

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

From: Cummins, Bud (USAARE)
Sent: Friday, December 15, 2006 12:57 PM Eastern Standard Time
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
1818 North Taylor, No. 301
Little Rock, AR 72207

McNulty, Paul J

From: Sampson, Kyle
Sent: Monday, December 18, 2006 1:06 PM
To: Goodling, Monica
Cc: Mercer, William W; Moschella, William; McNulty, Paul J; Battle, Michael (USAEO)
Subject: RE: USA Resignation

From: Goodling, Monica
Sent: Monday, December 18, 2006 12:47 PM
To: Sampson, Kyle
Subject: FW: USA Resignation

FYI

From: Nowacki, John (USAEO) [<mailto:John.Nowacki@usdoj.gov>]
Sent: Monday, December 18, 2006 10:25 AM
To: Goodling, Monica; Elston, Michael (ODAG)
Subject: USA Resignation

Paul Charlton has notified us that he will announce his resignation today, effective 31 January 2007.

McNulty, Paul J

From: Moschella, William
Sent: Tuesday, December 19, 2006 7:35 PM
To: McNulty, Paul J; Elston, Michael (ODAG)
Subject: FW: U.S. ATTORNEY PAUL CHARLTON TO STEP DOWN AT END OF JANUARY
Attachments: 2006-270(Charlton).wpd; 2006-270(Charlton).pdf

Got a Kyl quote.

From: Goodling, Monica
Sent: Tuesday, December 19, 2006 1:53 PM
To: Sampson, Kyle; Elston, Michael (ODAG); Mercer, William W; Moschella, William; Nowacki, John (USAEO); Battle, Michael (USAEO)
Subject: FW: U.S. ATTORNEY PAUL CHARLTON TO STEP DOWN AT END OF JANUARY

FYI

From: Roehrkasse, Brian
Sent: Tuesday, December 19, 2006 1:16 PM
To: Goodling, Monica
Subject: FW: U.S. ATTORNEY PAUL CHARLTON TO STEP DOWN AT END OF JANUARY

From: Smith, Kimberly A
Sent: Tuesday, December 19, 2006 1:16 PM
To: Ames, Andrew; Block, Jonathan; Blomquist, Kathleen M; Boyd, Dean; Brian Roehrkasse; Clarke, Elizabeth E (OPA); Holland, Eric W; Jean Card; Lesch, Jaclyn; Magnuson, Cynthia; Miller, Charles S; Mitchell, John A; Peterson, Evan; Schwartz, Arthur; Scolinos, Tasia; Sellers, Donna J.; Sierra, Bryan; Smith Kimberly A; Talamona, Gina; Williams, Linda Fitzgerald
Subject: U.S. ATTORNEY PAUL CHARLTON TO STEP DOWN AT END OF JANUARY



FOR IMMEDIATE RELEASE
December 19, 2006

For Information Contact Public Affairs
WYN HORNBUCKLE
Telephone (602) 514-7625
Cell (602) 525-2681

U.S. ATTORNEY PAUL CHARLTON TO STEP DOWN AT END OF JANUARY

PHOENIX – U.S. Attorney Paul K. Charlton has announced he will resign his position as the U.S. Attorney for the District of Arizona and take a position as a partner with the firm of Gallagher and Kennedy, P.A. Charlton will step down at the end of January after more than five years as U.S. Attorney in which his office addressed many pressing challenges posed by terrorism, public corruption, illegal immigration, methamphetamine, and ensuring the rights of victims of federal crimes, among many others.

“Paul Charlton has been an extraordinary public servant during a time of grave challenge to our national security,” said U.S. Senator Jon Kyl. “We will miss his strong and principled leadership.”

USA Charlton made the announcement to his staff Monday afternoon. “I am immensely proud of what the men and women of this office have accomplished over the past five years,” Charlton stated. “I am grateful to the President, the Department of Justice and Arizona’s dedicated law enforcement community for this incredible opportunity to serve. I’m excited to open a new chapter in my career, and to face the very new and different challenges of private practice.”

Paul K. Charlton was appointed U.S. Attorney by President George W. Bush on November 12, 2001 and confirmed by the United States Senate. In the wake of the 9/11 terrorist attacks, Charlton established the Anti-Terrorism Task Force (now called ATAC - the Anti-Terrorism Advisory Council), which has improved statewide law enforcement communication and coordination to fight terrorism and explored how to better secure nuclear power plants, water supply, air travel, rail transportation, and computer security. In 2006, Charlton established a National Security Division within the U.S. Attorney’s Office to actively work with law enforcement agencies on terrorism related criminal cases.

FBI Special Agent in Charge of the Phoenix Division John E. Lewis stated: “Paul Charlton has supported the FBI’s investigative efforts on many fronts and has been most proactive concerning the Bureau’s number one priority, protecting the United States from terrorist attacks. As the FBI works with many law enforcement agencies concerning terrorism matters, USA Charlton has dedicated resources to support terrorism investigations and other national security issues. I applaud and appreciate USA Charlton’s work as he has served the District of Arizona.”

“Paul Charlton has served Arizona exceptionally well over the last five years,” said Arizona Attorney General Terry Goddard. “He has forged partnerships across state, local and federal jurisdiction, and this has made Arizona a safer place to live.”

Another chief goal of USA Charlton has been to advocate for the rights of federal crime victims. He expanded the Victim Advocate staff in his office to better serve crime victims. In 2002, the U.S. Attorney’s Office Victim Witness Program was awarded the Federal Service Award and this

-MORE-

DAG000000034

December the U.S. Department of Justice announced that the Arizona U.S. Attorney's Office would serve as a national "Model Program."

In an effort to address the growing problems posed by methamphetamine, in the summer of 2005, Charlton met with Arizona federal and tribal law enforcement agencies to discuss how to confront the methamphetamine problems in Indian Country. After gaining commitments for assistance from federal and tribal law enforcement, he consulted with and invited Arizona's 21 tribes to participate in the Arizona Indian Country Methamphetamine Eradication Initiative. Since then, numerous Indian tribes have engaged in the Initiative, resulting in multiple arrests of methamphetamine dealers in the Navajo Nation, the Salt River Pima-Maricopa Indian Community, the San Carlos Apache and the White Mountain Apache tribal communities.

"Paul has proven time and time again to be an outstanding law enforcement leader for the people of Arizona," said DEA Special Agent in Charge Timothy J. Landrum. "I have developed a strong personal and professional relationship with Paul. His innovative initiatives to combat crime on tribal lands and to battle the scourge of methamphetamine will leave a standing legacy that other federal districts will strive to emulate. His dedication to protecting the people of Arizona and the United States will be missed, but never forgotten."

In 2004, USA Charlton joined U.S. Attorneys in Utah, New Mexico, and Colorado to address Indian tribal concerns over the damage, theft, and trafficking in cultural patrimony and archeological resources. Together they initiated a 90-day amnesty from federal prosecution, resulting in telephone tips and returns of cultural patrimony belonging to tribes throughout the Southwest.

"It is with regret that the Inter Tribal Council of Arizona extends its heart felt good wishes to Paul Charlton," said Inter Tribal Council Executive Director John Lewis. "Paul has proven to be very responsive to the law enforcement needs of tribal governments in Arizona. He understands the sovereign status of the tribes and the U.S. Government's commitment to recognize this status and at the same time the need to carry out the U.S. Government's constitutional directed responsibility of Trust for Indian tribes. He will be greatly missed."

U.S. Attorney Charlton made public corruption cases a priority, sending a clear message that the U.S. Attorney's Office would hold public officials to the highest standards of ethical conduct. He joined with federal, state, and local law enforcement to identify, investigate, and aggressively prosecute corrupt public officials. This included several successful prosecutions of corrupt border officials, such as Fernando Arango and Michael Anderson, who received stiff penalties for taking bribes from and assisting narcotics traffickers.

"U.S. Attorney Paul Charlton has been a steadfast supporter of law enforcement and has played a tremendous part in the United States Border Patrol's efforts in bringing control to our nation's borders," stated National Border Patrol Chief David V. Aguilar, the chief Border Patrol officer for the United States. "The void left by U.S. Attorney Charlton's departure will be one that will be felt by the entire law enforcement community. Arizona can and should be proud of Mr. Charlton for what he has done for his country and state during his tenure."

USA Charlton also worked to build the capacity of the U.S. Attorney's Office to address pressing issues of illegal immigration, drug trafficking, and crimes in Indian Country. In 2002, Charlton

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DAG000000035

made temporary offices in Yuma and Flagstaff permanent, and during his tenure he brought on 16 new Assistant U.S. Attorney positions. Under his leadership, the U.S. Attorney's Office expanded prosecutions, increasing the number of criminal cases charged in federal district court from 3,979 in fiscal year 2001 to 5,026 in FY 2005.

Arizona Department of Public Safety Director Roger Vanderpool stated: "The law enforcement community is losing a great partner. Paul has shown he is a man of great integrity. He is a proven leader and will be missed."

Cochise County Sheriff Larry A. Dever stated: "I was saddened to hear Paul is leaving us. He has served Arizona law enforcement and the people of the State of Arizona in the highest traditions of the office. It has been a great honor to work with him over the past several years and I will miss my friend. We wish him the best in his new endeavor."

The Attorney General will appoint an interim U.S. Attorney who will serve until such time as the President nominates and the Senate confirms a new U.S. Attorney. In the interim, USA Charlton pledged to work with the Department of Justice and Arizona's law enforcement community to ensure a smooth transition.

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FOR IMMEDIATE RELEASE
December 19, 2006

*Office of the United States Attorney
District of Arizona*

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Cochise County Sheriff Larry A. Dever stated: "I was saddened to hear Paul is leaving us. He has served Arizona law enforcement and the people of the State of Arizona in the highest traditions of the office. It has been a great honor to work with him over the past several years and I will miss my friend. We wish him the best in his new endeavor."

The Attorney General will appoint an interim U.S. Attorney who will serve until such time as the President nominates and the Senate confirms a new U.S. Attorney. In the interim, USA Charlton pledged to work with the Department of Justice and Arizona's law enforcement community to ensure a smooth transition.

###

McNulty, Paul J

From: McNulty, Paul J
Sent: Friday, January 05, 2007 2:12 PM
To: Sampson, Kyle; Elston, Michael (ODAG); Goodling, Monica
Subject: RE: USAs

I talked to Margaret before Christmas and gave her a one month extension (I think) pursuant to our previous discussions. We agreed to talk in the new year to see how the search was going with the likelihood that she would need the extra month. Wasn't Mercer going to talk to Dan? I will be talking to David I. this afternoon. I have not talked to any of the others.

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

From: Sampson, Kyle
Sent: Friday, January 05, 2007 11:50 AM
To: Elston, Michael (ODAG); Goodling, Monica; McNulty, Paul J
Subject: Re: USAs

And we granted 1-month extensions for Dan and Margaret, but not Carol -- right?

Sent from my BlackBerry Wireless Handheld

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

From: Elston, Michael (ODAG)
To: Goodling, Monica; Sampson, Kyle; McNulty, Paul J
Sent: Fri Jan 05 11:36:01 2007
Subject: Re: USAs

Do you want me to call Kevin? I have a pretty good relationship with him.

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

From: Goodling, Monica
To: Sampson, Kyle; McNulty, Paul J; Elston, Michael (ODAG)
Sent: Fri Jan 05 11:34:48 2007
Subject: RE: USAs

I have not yet heard or seen anything from these offices. Lam, Bogden, and Chiara have asked Mike Battle for extensions.

From: Sampson, Kyle
Sent: Thursday, January 04, 2007 7:34 PM
To: McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica
Subject: USAs

Of our list, I'm aware of Iglesias, Charlton, and McKay making it known publicly that they are leaving. Have Lam, Ryan, Bogden, or Chiara done so yet? What is the status of these?

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

McNulty, Paul J

From: Iglesias, David C. (USANM) [David.C.Iglesias@usdoj.gov]
Sent: Friday, January 05, 2007 5:22 PM
To: McNulty, Paul J
Subject: RE: Phone call

505.224.1406 is my direct line. 6:30 your time is fine. Thanks.

From: McNulty, Paul J
Sent: Friday, January 05, 2007 3:19 PM
To: Iglesias, David C. (USANM)
Subject: RE: Phone call

I'll call you, so please send me your number. It looks like it will be closer to 6:30. Thanks.

From: Iglesias, David C. (USANM) [mailto:David.C.Iglesias@usdoj.gov]
Sent: Friday, January 05, 2007 3:50 PM
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Paul: No problems, thanks for getting back to me. Yes, 6 pm your time (4 my time) works for me. What number should I call?

From: McNulty, Paul J
Sent: Friday, January 05, 2007 1:34 PM
To: Iglesias, David C. (USANM)
Subject: RE: Phone call

David, I'm sorry for my slow response. I've been swamped with a short work-week. Will you be available for a call at 6:00 my time?

From: Iglesias, David C. (USANM) [mailto:David.C.Iglesias@usdoj.gov]
Sent: Wednesday, January 03, 2007 2:40 PM
To: McNulty, Paul J
Subject: Phone call
Importance: High

Paul:

Happy New Year! Hope your holidays were as pleasant and relaxing as mine were.

Is there a good time I can call you today thru Friday to discuss what day my resignation will become effective? I asked for a 2 month extension when I talked to Mike Battle on 7 DEC 06 and have heard nothing definite back. I assure you my call will be pleasant and respectful.

Regards,

DAG000000041

3/13/2007

David

McNulty, Paul J

From: Sampson, Kyle
Sent: Friday, January 05, 2007 7:13 PM
To: McNulty, Paul J
Subject: Re: USAs

Yes.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: McNulty, Paul J
To: Sampson, Kyle
Sent: Fri Jan 05 19:07:49 2007
Subject: RE: USAs

Just talked to Iglesias and he is working at lining up a job. He has a couple of interviews next week and hopes things will work out quickly. Overall, he has a positive attitude, especially from a spiritual perspective. However, he's anxious about the deadline coming and not having anything finalized. Albuquerque is a small legal market and he's not certain how it will all shake out. He has four kids with a stay-at-home wife. He wants to know if he will have some flexibility if nothing is lined up by 1/31. I told him I would get back to him next week. I would like to tell him to work hard with the assumption that he only has until the end of the month, but we can be flexible if he needs a little more time. Doesn't sound like it will take even another full month. OK with you?

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Washington, D.C. 20530
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(202) 305-5289 cell
kyle.sampson@usdoj.gov

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Friday, January 05, 2007 9:20 PM
To: Battle, Michael (USAEO)
Cc: Sampson, Kyle; McNulty, Paul J; Goodling, Monica
Subject: Phone Conversations

Paul, Kyle, Monica and Mike:

I spoke separately with both Carol and Kevin this evening. Both of these are in essentially the same posture (Kevin explained that he sent the DAG a letter by FedEx yesterday requesting until April 30; I have not seen it, but his description made it sound similar to Carol's earlier letter). In addition to the office/case related concerns (which is still their primary focus), both are now concerned that they cannot get it together in three weeks. Carol also noted the problem created by Iglesias's announcement. On the DAG's suggestion, I advised both of them to treat the deadline as real and begin developing a strategy. Kevin advised me that he has contacted a head hunter. I asked both of them to call me early next week so we can talk further about the extension request. I told them that we wanted to work with them as much as possible, but that any extension -- if there is an extension at all -- would probably be measured in weeks rather than months.

Both expressed continuing dismay at the situation and the timing. Carol also shared with me that she and several others (presumably Paul, David and Kevin) have been comparing notes. I said that I was not going to discuss any other personnel situation.

I will provide a further update and recommendation to you after I speak with them early next week.

Mike

McNulty, Paul J

From: Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]
Sent: Saturday, January 06, 2007 8:08 PM
To: McNulty, Paul J
Subject: Status Report

As promised, this is the first status report, with periodic updates to follow, on progress made to secure employment.

Mike Battle contacted me about available Immigration Judge positions. I had ample time over the holidays to research the option and to consult with persons who are knowledgeable about these particular courts. While there is a strong inclination to settle this situation quickly by any means possible, I have concluded that the Immigration Judge would be the wrong "next step" for me. Thank you for providing the alternative.

Here are three possibilities within DOJ where your assistance would be helpful. (1) OIG Attorney-Advisor GS-0905-14/15. Application deadline is January 8. (2) SMART Office at OJP. I am aware that SMART Director Laura Rogers will need assistance implementing the "Adam Walsh" mandate. I have already contacted Ms. Rogers indicating my interest in such an assignment. Note that I previously contact Assistant AG Regina Schofield regarding employment options at OJP. Actually, OJP is the DOJ entity for which my experience and current interest are most suited. (3) NAC options which I realize presently do not exist due to funding constraints. Also, I have contacted OPR Director Marshall Jarrett regarding organizational opportunities. Currently, the only position available is a one year detail. Given my considerable OPR experience as a USA, I am confident that I could make a useful contribution if a permanent staff position were made available.

Thank you for accompanying me on this journey! Margaret

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Tuesday, January 09, 2007 2:34 PM
To: Sampson, Kyle; McNulty, Paul J
Subject: Fw: WF 1117121 - resignation letter from USA Kevin Ryan

What should I do?

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

From: Nowacki, John (USAEO) <John.Nowacki@usdoj.gov>
To: Elston, Michael (ODAG); Goodling, Monica; Battle, Michael (USAEO)
Sent: Tue Jan 09 14:31:02 2007
Subject: Fw: WF 1117121 - resignation letter from USA Kevin Ryan

First we've seen from him. Note the departure date of 4/27. Will check whether that accurately reflects the letter.

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

From: Beeman, Judy (USAEO) <JBeeman@usa.doj.gov>
To: Murphy, Sean (USAEO) <SMurphyl@usa.doj.gov>; Nowacki, John (USAEO) <JNowacki@usa.doj.gov>
Sent: Tue Jan 09 14:26:26 2007
Subject: FW: WF 1117121 - resignation letter from USA Kevin Ryan

FYI. Judy

From: Harden, Cyndi A
Sent: Tuesday, January 09, 2007 2:13 PM
To: Beeman, Judy (USAEO); West, Nicole (USAEO)
Cc: Smith, Mauri E
Subject: WF 1117121 - resignation letter from USA Kevin Ryan

ExSec assigned this workflow to EOUSA yesterday with a two week due date. Even though the USA is not leaving until 4/27/07, the AG would like a retirement letter for his signature prepared within the 2-week time frame. Please pass this email/information on to those who will be preparing the retirement letter.

Thanks, Cindy

McNulty, Paul J

From: Iglesias, David C. (USANM) [David.C.Iglesias@usdoj.gov]
Sent: Thursday, January 11, 2007 2:28 PM
To: McNulty, Paul J
Subject: Thank you
Importance: High

Paul: First, on behalf of my wife and kids, thank you for going to bat for me regarding the extension. I talked to your staffer yesterday and he passed the good news. I'll be preparing my resignation package which should be in DC by early next week. Please also know that I've been a veritable whirling dervish in sending out emails, resumes, bios phone calls, etc. I've had one interview and expect more in the next week or so.

Would you mind if I list you as a reference?

Again, thanks for your support and prayers.

Regards,

David

Proverbs 19:25

From: McNulty, Paul J
Sent: Friday, January 05, 2007 3:19 PM
To: Iglesias, David C. (USANM)
Subject: RE: Phone call

I'll call you, so please send me your number. It looks like it will be closer to 6.30. Thanks.

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Regards,

David

McNulty, Paul J

From: McNulty, Paul J
Sent: Thursday, January 11, 2007 4:38 PM
To: Iglesias, David C. (USANM)
Subject: Re: Thank you

You're most welcome, brother. I would be happy to be a reference for you. Keep me posted.

Sent from my BlackBerry Wireless Handheld

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

From: Iglesias, David C. (USANM) <David.C.Iglesias@usdoj.gov>
To: McNulty, Paul J
Sent: Thu Jan 11 14:28:11 2007
Subject: Thank you

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Regards,

David

McNulty, Paul J

From: McNulty, Paul J
Sent: Friday, January 12, 2007 4:57 PM
To: Elston, Michael (ODAG)
Subject: Re: San Diego Article

Wow. Has she been called yet?

Sent from my BlackBerry Wireless Handheld

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

From: Elston, Michael (ODAG)
To: McNulty, Paul J
Sent: Fri Jan 12 09:42:22 2007
Subject: San Diego Article

Job performance said to be behind White House firing
By Kelly Thornton and Onell R. Soto
UNION-TRIBUNE STAFF WRITERS
January 12, 2007

The Bush administration has quietly asked San Diego U.S. Attorney Carol Lam, best known for her high-profile prosecutions of politicians and corporate executives, to resign her post, a law enforcement official said.

Lam, a Bush appointee who took the helm in 2002, was targeted because of job performance issues - in particular that she failed to make smuggling and gun cases a top priority, said the official, who declined to be identified because Lam has yet to step down.

Lam has had high-profile successes during her tenure, such as the Randy "Duke" Cunningham bribery case - but she alienated herself from bosses at the Justice Department because she is outspoken and independent, said local lawyers familiar with her policies.

When she took over, Lam made it clear that she planned to focus less on low-level smuggling cases in favor of public corruption and white collar crime, which would mean fewer but more significant prosecutions.

Lam declined to comment yesterday.

Several prosecutors in Lam's office and many defense lawyers said yesterday that they were unaware of her impending dismissal, and were universally shocked by it.

"It's virtually unprecedented to fire a U.S. Attorney absent some misconduct in office," said criminal defense attorney Michael Attanasio, a former federal prosecutor.

"This office has clearly made a priority of investigating and prosecuting white collar offenses and has had occasional success doing so," he said. "One would think that would be valued by any administration, even if it meant fewer resources were devoted to routine and repetitive border crimes."

Lam, 47, has been criticized by members of the Border Patrol agents union and by members of Congress, including Vista Republican Darrell Issa, who accused her office of "an appalling record of refusal to prosecute even the worst criminal alien offenders." But even some of Lam's legal opponents said the supposed reasons she is being forced out are perplexing.

"What do they want her to do, lock up Mexico?" said Mario Conte, former chief of Federal Defenders of San Diego Inc. Conte, now a professor at California Western School of Law in downtown San Diego, said every prosecutor walks a tightrope.

"I'm sure that Carol, in her role, is simply not able to accommodate everybody's desires of what they think the U.S. Attorney should be doing in this district."

Her most prominent case involved Cunningham. The former Rancho Santa Fe congressman is in federal prison, and indictments of others connected to the case may be forthcoming. Her office is also prosecuting Francisco Javier Arellano-Félix, a suspected Mexican drug kingpin, who is in federal custody in San Diego facing charges that could lead to the death penalty. Two San Diego city councilmen were convicted of corruption charges by Lam's office, but a judge reversed the jury's verdict for one of the men.

Lam spent almost a year personally prosecuting a national hospital chain that she said used complex agreements to pay off local doctors in return for referrals. That case ended in a mistrial.

But under Lam, the overall number of prosecutions has plummeted.

In 2001, the year before she took over, federal prosecutors in San Diego and Imperial counties filed 5,266 cases, while in 2005, the office prosecuted 3,261 cases, according to statistics compiled by the Transactional Records Access Clearinghouse at Syracuse University from federal reports.

Of the 2001 cases, 2,419 were related to immigration, while that number stood at 1,641 in 2005. Although the number of cases dropped significantly in 2005, a higher percentage were immigration-related - 50 percent in 2005 compared with 46 percent in 2001.

Most of the other prosecutions were drug cases, with 2,294 filed in 2001 and 1,290 in 2005. There were 14 weapons cases in 2001, and eight in 2005.

Some in the defense community were glad to hear there may be change at the U.S. Attorney's Office.

"She has shown a certain tunnel vision in her prosecutions and has exercised an appalling lack of discretion in terms of the individuals she has targeted for prosecution and the classes of crimes that she has chosen to direct her resources at," said criminal defense attorney Geoffrey C. Morrison, who represented a defendant in the City Hall corruption case prosecuted by Lam's office.

"Having somebody with a more broad-minded approach and a greater sense of fairness and justice will do the legal community a tremendous justice," he said.

Lam, a career prosecutor, former Superior Court judge and political independent, sent an e-mail to her staff late in the afternoon in which she neither confirmed nor denied that she was asked to step down. She told attorneys not to let speculation interfere with their work.

She also told them not to speak to reporters about the subject, but to refer calls to her spokeswoman, according to a recipient of the e-mail who asked not to be identified for fear of reprisal.

U.S. attorneys are usually appointed by the president and require Senate approval. They typically serve the same term as the president that appointed them, and are replaced when a new president is elected.

However, a provision in the Patriot Act that was revised last year allows the Attorney General to appoint interim U.S. Attorneys for indefinite terms when vacancies arise, without Senate confirmation. Filling interim vacancies had been the responsibility of the district court.

Sen. Dianne Feinstein, D-Calif., criticized the Bush administration yesterday for "pushing out U.S. Attorneys from across the country under the cloak of secrecy."

"We don't know how many U.S. Attorneys have been asked to resign - it could be two, it could be ten, it could be more. No one knows," she said in a statement.

Feinstein said the administration was abusing its executive power by trying to circumvent the Senate confirmation process. She and two colleagues proposed legislation yesterday to restore appointment authority to the district court when a vacancy occurs and an interim leader is needed.

Lam is one of several prosecutors who have either resigned under pressure or been told to leave in recent months.

New Mexico U.S. Attorney David Iglesias is among those who have announced they are stepping down.

"I was asked to resign," he said. "I asked (why) and wasn't given any answers. I ultimately am OK with that. We all take these jobs knowing we serve at the pleasure of the president."

H.E. "Bud" Cummins, who left the post of U.S. Attorney in Little Rock, Ark., wouldn't say whether he was asked. His replacement, J. Timothy Griffin, was an Army prosecutor who worked in the White House and for the Republican National Committee. Arkansas' senators, both Democrats, have criticized the way in which he was selected because it did not require Senate approval.

It's not the intent of the Justice Department to avoid the confirmation process, and the department is committed to working with senators when making a nomination, a department spokesman said.

Of 11 U.S. Attorney vacancies since the Attorney General gained the authority to make the appointments in March 2006, the Bush administration has nominated four people and interviewed seven others, all of whom are expected to complete the confirmation process, said Justice Department spokesman Brian Roehrkasse.

"In every case, it is a goal of this administration to have a U.S. Attorney that is confirmed by the Senate," Roehrkasse said. "It is wrong for a member of Congress to believe that this is in any way an attempt to circumvent the confirmation process."

Brian Roehrkasse
Deputy Director of Public Affairs
U.S. Department of Justice

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Tuesday, January 16, 2007 5:27 PM
To: Sampson, Kyle; Goodling, Monica; McNulty, Paul J
Subject: FW: USA Lam

From: Long, Linda E
Sent: Tuesday, January 16, 2007 5:26 PM
To: Elston, Michael (ODAG)
Subject: USA Lam

Phone call from USA Lam's office to notify that she has faxed her resignation to Debbie Hardos/EOUSA - with original copy overnight mail. DAG has been advised. Linda

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Friday, January 12, 2007 6:38 PM
To: McNulty, Paul J
Subject: Re: San Diego Article

We are going to see if she announces by the Monday deadline.

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H.E. "Bud" Cummins, who left the post of U.S. Attorney in Little Rock, Ark., wouldn't say whether he was asked. His replacement, J. Timothy Griffin, was an Army prosecutor who worked in the White House and for the Republican National Committee. Arkansas' senators, both Democrats, have criticized the way in which he was selected because it did not require Senate approval.

It's not the intent of the Justice Department to avoid the confirmation process, and the department is committed to working with senators when making a nomination, a department spokesman said.

Of 11 U.S. Attorney vacancies since the Attorney General gained the authority to make the appointments in March 2006, the Bush administration has nominated four people and

interviewed seven others, all of whom are expected to complete the confirmation process, said Justice Department spokesman Brian Roehrkaske.

"In every case, it is a goal of this administration to have a U.S. Attorney that is confirmed by the Senate," Roehrkaske said. "It is wrong for a member of Congress to believe that this is in any way an attempt to circumvent the confirmation process."

Brian Roehrkaske
Deputy Director of Public Affairs
U.S. Department of Justice
(202) 514-2007

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Tuesday, January 16, 2007 9:43 PM
To: Sampson, Kyle; Goodling, Monica, McNulty, Paul J 'John Nowacki@SMOJMD USDOJ gov'
Subject: Kevin Ryan

Internet reports suggest that he has submitted his resignation.

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Thursday, January 18, 2007 10:58 AM
To: Sampson, Kyle; Moschella, William; Goodling, Monica
Cc: Mercer, William W; McNulty, Paul J
Subject: USAO-NDCA

Kyle:

Kevin Ryan's FAUSA, Eumi Choi, just called to let us know that Kevin is not returning calls from Sen. Feinstein or Carol Lam and doing his best to stay out of this. He wanted us to know that he's still a "company man." I gave her my talkers for McKay and Charlton and asked her to convey them to Kevin.

Mike

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Sent: Thursday, January 18, 2007 10:58 AM
To: Elston, Michael (ODAG); Moschella, William; Goodling, Monica
Cc: Mercer, William W; McNulty, Paul J
Subject: Re: USAO-NDCA

Thx.

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

From: Elston, Michael (ODAG)
To: Sampson, Kyle; Moschella, William; Goodling, Monica
CC: Mercer, William W; McNulty, Paul J
Sent: Thu Jan 18 10:57:32 2007
Subject: USAO-NDCA

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Mike

McNulty, Paul J

From: Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]
Sent: Thursday, February 01, 2007 3:41 PM
To: McNulty, Paul J
Cc: Elston, Michael (ODAG)
Subject: WDMI

Paul: February 1 seems to be the right date to provide a status report. I continue to vigorously pursue employment. In addition to applying to numerous public agencies and organizations, I am now working with a "headhunter". Who knew this could be so difficult?

Michael Elston informed me that I must vacate my position by March 1. Therefore, I plan to announce my resignation on the afternoon of February 14 or the morning of February 15. I need all the time, salary and benefits available so my resignation will be effective on February 28. The first question within WDMI will be who is the nominee? When will I be able to answer that question?

FYI: Everyone who knows about my required resignation, (primarily our USA colleagues and people who are providing references), is astonished that I am being asked to leave. Now that it has been widely reported that departing USAs have either failed to meet performance expectations or that they acted independently rather than follow DOJ/EOUSA directives, the situation is so much worse. You know that I am in neither category. This makes me so sad. Why have I been asked to resign? The real reason, especially if true, would be a lot easier to live with. Margaret

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Thursday, February 01, 2007 3:52 PM
To: Hertling, Richard
Cc: Sampson, Kyle; Goodling, Monica; Moschella, William; McNulty, Paul J; Seidel, Rebecca
Subject: Bud Cummins

just called to let me know that Pryor's and Schumer's staff have called and asked him to testify on Tuesday. He declined, but wanted to know if we wanted him to testify -- would tell the truth about his circumstances and would also strongly support our view of S 214.

Thoughts?

McNulty, Paul J

From: Sampson, Kyle
Sent: Thursday, February 01, 2007 4:15 PM
To: Elston, Michael (ODAG); Hertling, Richard
Cc: Goodling, Monica; Moschella, William; McNulty, Paul J; Seidel, Rebecca
Subject: RE: Bud Cummins

I don't think he should. How would he answer:

Did you resign voluntarily?
Were you told why you were being asked to resign?
Who told you?
When did they tell you?
What did they say?
Did you ever talk to Tim Griffin about his becoming U.S. Attorney?
What did Griffin say?
Did Griffin ever talk about being AG appointed and avoiding Senate confirmation?
Were you asked to resign because you were underperforming?
If not, then why?
Etc., etc.

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From: Elston, Michael (ODAG)
Sent: Thursday, February 01, 2007 3:52 PM
To: Hertling, Richard
Cc: Sampson, Kyle; Goodling, Monica; Moschella, William; McNulty, Paul J; Seidel, Rebecca
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Thoughts?

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Sent: Thursday, February 01, 2007 4:35 PM
To: Sampson, Kyle; Hertling, Richard
Cc: Goodling, Monica; Moschella, William; McNulty, Paul J; Seidel, Rebecca
Subject: Re: Bud Cummins

Agreed.

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

From: Sampson, Kyle
To: Elston, Michael (ODAG); Hertling, Richard
CC: Goodling, Monica; Moschella, William; McNulty, Paul J; Seidel, Rebecca
Sent: Thu Feb 01 16:15:00 2007
Subject: RE: Bud Cummins

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Did you resign voluntarily?
Were you told why you were being asked to resign?
Who told you?
When did they tell you?
What did they say?
Did you ever talk to Tim Griffin about his becoming U.S. Attorney?
What did Griffin say?
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Etc., etc.

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Thoughts?

McNulty, Paul J

From: Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]
Sent: Saturday, February 03, 2007 1:39 PM
To: McNulty, Paul J
Cc: Elston, Michael (ODAG)
Subject: WDMI
Importance: High

Michael Elston telephoned on Friday afternoon with the welcome news that February 23 should be the date for announcing my resignation followed by a departure date of March 9. I appreciate the consideration.

Here's what I should have mentioned. I am the NAIS chair. Our first field-based meeting in over a year is scheduled on March 13 and 14 in North Carolina. Gretchen Shappert and the Eastern Band of Cherokee Indians are hosting the meeting and a tribal summit which will include 26 federally recognized tribes in the region. Secretary of the Interior Kempthorn is expected to attend. The NAIS staff detailee, who is from WDMI, was terminated despite an outstanding evaluation because EOUSA would not renew her detail. The replacement has not been announced nor will he be available to assist. It makes good sense for me to prepare. (which I have been doing), and chair the meeting. This is particularly true because 4 NAIS members are part of "the group" (Charlton, Bogden, McKay, Igelsias). It is better for me to handle this situation than an interim chair.

My resignation announcement continues to be on February 23; the departure date would be March 16. I trust that this minor adjustment for good cause is acceptable to you.

Margaret

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Tuesday, February 06, 2007 7:03 PM
To: Hertling, Richard; Moschella, William; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia
Cc: Scott-Finan, Nancy
Subject: Re:

Paul wants to try to put this to bed, so if only Paul will satisfy them (or avoid offending them), he'll do it. If it is Paul, it may not be Friday. If it is Friday, it will need to be late in the day because we will probably need an hour of prep in the morning.

Mike

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

From: Hertling, Richard
To: Moschella, William; Elston, Michael (ODAG); McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia
CC: Scott-Finan, Nancy
Sent: Tue Feb 06 18:36:13 2007
Subject: FW:

I intend to push back and offer Will and Mike for the briefing, not the DAG. Members can't be unhappy with the PADAG and CoS to the DAG. We ought to convene to discuss how we respond to questions and what we are prepared to offer by way of the EARS reports.

From: Bharara, Preet (Judiciary-Dem) [mailto:Preet_Bharara@Judiciary-dem.senate.gov]
Sent: Tuesday, February 06, 2007 6:33 PM
To: Hertling, Richard
Subject: RE:

It was Senator Schumer's understanding and intent that this be a Member meeting and that DAG McNulty would participate. Thanks much.

From: Hertling, Richard [mailto:Richard.Hertling@usdoj.gov]
Sent: Tuesday, February 06, 2007 12:26 PM
To: Bharara, Preet (Judiciary-Dem)
Subject: RE:

Preet: I think we would need to look to do this on Friday. I am still nailing down the briefers. Do you expect the briefing to be for all Committee staffers? I take it Members are not expected. Let me know, and let me know a time that works for you on Friday.

From: Bharara, Preet (Judiciary-Dem) [mailto:Preet_Bharara@Judiciary-dem.senate.gov]
Sent: Tuesday, February 06, 2007 11:41 AM
To: Hertling, Richard
Subject: Re:

I'll bring the beer.

Sent from my BlackBerry Wireless Handheld

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

From: Hertling, Richard <Richard.Hertling@usdoj.gov>
To: Bharara, Preet (Judiciary-Dem)
Sent: Tue Feb 06 11:35:25 2007
Subject: Re:

We will determine who the briefers will be and what their schedules are.

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

From: Bharara, Preet (Judiciary-Dem) <Preet_Bharara@Judiciary-dem.senate.gov>
To: Hertling, Richard
Sent: Tue Feb 06 11:27:06 2007
Subject: Re:

So, when are we having our private session?

Sent from my BlackBerry Wireless Handheld

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

From: Hertling, Richard <Richard.Hertling@usdoj.gov>
To: Bharara, Preet (Judiciary-Dem)
Sent: Tue Feb 06 06:50:02 2007
Subject:

Preet: sorry this took so long, but here, as you requested, is a list of a few instances in which the former regime for selecting interim US Attorneys caused problems for DOJ. See you later this morning.

<<Examples of Difficult Transition Situations.pdf>>

McNulty, Paul J

From: Moschella, William
Sent: Tuesday, February 06, 2007 7:11 PM
To: Elston, Michael (ODAG); Hertling, Richard; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia
Cc: Scott-Finan, Nancy
Subject: Re:

We also need to decide who will testify before the HJC next week. Whoever it is needs to be fully looped into what is being said on the Hill.

Sent from my BlackBerry Wireless Handheld

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

From: Elston, Michael (ODAG)
To: Hertling, Richard; Moschella, William; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia
CC: Scott-Finan, Nancy
Sent: Tue Feb 06 19:02:32 2007
Subject: Re:

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Mike

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CC: Scott-Finan, Nancy
Sent: Tue Feb 06 18:36:13 2007
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Subject: Re:

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To: Bharara, Preet (Judiciary-Dem)
Sent: Tue Feb 06 06:50:02 2007
Subject:

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<<Examples of Difficult Transition Situations.pdf>>

McNulty, Paul J

From: Scott-Finan, Nancy
Sent: Tuesday, February 06, 2007 7:26 PM
To: Elston, Michael (ODAG); Hertling, Richard; Moschella, William; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia
Cc: Burton, Faith; Seidel, Rebecca
Subject: Briefing on EARS reports

I am including Faith and Rebecca in the email chain.

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

From: Elston, Michael (ODAG) ,
Sent: Tuesday, February 06, 2007 7:03 PM
To: Hertling, Richard; Moschella, William; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia
Cc: Scott-Finan, Nancy
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Mike

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CC: Scott-Finan, Nancy
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Sent: Tue Feb 06 11:35:25 2007
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McNulty, Paul J

From: Scott-Finan, Nancy
Sent: Tuesday, February 06, 2007 7:29 PM
To: Moschella, William; Elston, Michael (ODAG); Hertling, Richard; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia
Cc: Burton, Faith; Seidel, Rebecca
Subject: RE: Briefing on EARS reports

Thursday, February 15th
The time that was given to me was 10:15 am
It is the Adm Law Subcommittee, chaired by Sanchez with Cannon as the RRM.

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

From: Moschella, William
Sent: Tuesday, February 06, 2007 7:27 PM
To: Scott-Finan, Nancy; Elston, Michael (ODAG); Hertling, Richard; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia
Cc: Burton, Faith; Seidel, Rebecca
Subject: Re: Briefing on EARS reports

When is the HJC hearing next week.

Sent from my BlackBerry Wireless Handheld

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CC: Burton, Faith; Seidel, Rebecca
Sent: Tue Feb 06 19:25:35 2007
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Examples of Difficult Transition Situations

Examples of Districts Where Judges Did Not Exercise Their Court Appointment (Making the Attorney General's Appointment Authority Essential To Keep the Position Filled until a Nominee Is Confirmed)

- 1. Southern District of Florida:** In 2005, a vacancy occurred in the SDFL. The Attorney General appointed Assistant Attorney General of the Civil Rights Division, Alex Acosta, for 120 days. At the end of the term, the Court indicated that they had (years earlier) appointed an individual who later became controversial. As a result, the Court indicated that they would not make an appointment unless the Department turned over its internal employee files and FBI background reports, so that the court could review potential candidates' backgrounds. Because those materials are protected under federal law, the Department declined the request. The court then indicated it would not use its authority at all, and that the Attorney General should make multiple, successive appointments. While the selection, nomination, and confirmation of a new U.S. Attorney was underway, the Attorney General made three 120-day appointments of Mr. Acosta. Ultimately, he was selected, nominated, and confirmed to the position.
- 2. Eastern District of Oklahoma:** In 2000-2001, a vacancy occurred in the EDOK. The court refused to exercise the court's authority to make appointments. As a result, the Attorney General appointed Shelly Sperling to three 120-day appointments before Sperling was nominated and confirmed by the Senate (he was appointed by the Attorney General to a fourth 120-day term while the nomination was pending).
- 3. In the Western District of Virginia:** In 2001, a vacancy occurred in the WDVA. The court declined to exercise its authority to make an appointment. As a result, the Attorney General made two successive 120-day appointments (two different individuals).

This problem is not new ...

- 4. The District of Massachusetts.** In 1987, the Attorney General had appointed an interim U.S. Attorney while a nomination was pending before the Senate. The 120-day period expired before the nomination had been reviewed and the court declined to exercise its authority. The Attorney General then made another 120-day appointment. The legitimacy of the second appointment was questioned and was reviewed the U.S. District Court for the District of Massachusetts. The Judge upheld the validity of the second 120-day appointment where the court had declined to make an appointment. See 671 F. Supp. 5 (D. Ma. 1987).

Examples Where Judges Discussed Appointing or Attempted to Appoint Unacceptable Candidates:

1. Southern District of West Virginia: When a U.S. Attorney in the Southern District of West Virginia, David Faber, was confirmed to be a federal judge in 1987, the district went through a series of temporary appointments. Following the Attorney General's 120-day appointment of an individual named Michael Carey, the court appointed another individual as the U.S. Attorney. The court's appointee was not a DOJ-employee at the time and had not been subject of any background investigation. The court's appointee came into the office and started making inquiries into ongoing public integrity investigations, including investigations into Charleston Mayor Michael Roark and the Governor Arch Moore, both of whom were later tried and convicted of various federal charges. The First Assistant United States Attorney, knowing that the Department did not have the benefit of having a background examination on the appointee, believed that her inquiries into these sensitive cases were inappropriate and reported them to the Executive Office for United States Attorneys in Washington, D.C. The Department directed that the office forward the investigative files involving the Governor to Washington, D.C. for safeguarding. The Department further directed that the court's appointee be recused from certain criminal matters until a background examination was completed. During that time, the Reagan Administration sped up Michael Carey's nomination. Carey was confirmed and the court's appointee was replaced within two-three weeks of her original appointment.

2. South Dakota:

In 2005, a vacancy arose in South Dakota. The First Assistant United States Attorney (FAUSA) was elevated to serve as acting United States Attorney under the Vacancies Reform Act (VRA) for 210 days. As that appointment neared an end without a nomination having yet been made, the Attorney General made an interim appointment of the FAUSA for a 120-day term. The Administration continued to work to identify a nominee; however, it eventually became clear that there would not be a nomination and confirmation prior to the expiration of the 120-day appointment.

Near the expiration of the 120-day term, the Department contacted the court and requested that the FAUSA be allowed to serve under a court appointment. However, the court was not willing to re-appoint her. The Department proposed a solution to protect the court from appointing someone about whom they had reservations, which was for the court to refrain from making any appointment (as other district courts have sometimes done), which would allow the Attorney General to give the FAUSA a second successive, 120-day appointment.

The Chief Judge instead indicated that he was thinking about appointing a non-DOJ employee, someone without federal prosecution experience, who had not been the subject of a thorough background investigation and did not have the

necessary security clearances. The Department strongly indicated that it did not believe this was an appropriate individual to lead the office.

The Department then notified the court that the Attorney General intended to ask the FAUSA to resign her 120-day appointment early (without the expiration of the 120-day appointment, the Department did not believe the court's appointment authority was operational). The Department notified the court that since the Attorney General's authority was still in force, he would make a new appointment of another experienced career prosecutor. The Department believed that the Chief Judge indicated his support of this course of action and implemented this plan.

The FAUSA resigned her position as interim U.S. Attorney and the Attorney General appointed the new interim U.S. Attorney (Steve Mullins). A federal judge executed the oath and copies of the Attorney General's order and the press release were sent to the court for their information. There was no response for over 10 days, when a fax arrived stating that the court had also attempted to appoint the non-DOJ individual as the U.S. Attorney.

This created a situation where two individuals had seemingly been appointed by two different authorities. Defense attorneys indicated their intention to challenge ongoing investigations and cases. The Department attempted to negotiate a resolution to this very difficult situation, but was unsuccessful. Litigating the situation would have taken months, during which many of the criminal cases and investigations that were underway would have been thrown into confusion and litigation themselves.

Needing to resolve the matter for the sake of the ongoing criminal prosecutions and litigation, after it was clear that negotiations would resolve the matter, the White House Counsel notified the court's purported appointee that even if his court order was valid and effective, then the President was removing him from that office pursuant to Article II of the Constitution and 28 U.S.C. § 541(c). Shortly thereafter, Mr. Mullins resigned his Attorney General appointment and was recess appointed by President Bush to serve as the U.S. Attorney for the District of South Dakota. The Department continued to work with the home-state Senators and identified and nominated a new U.S. Attorney candidate, who was confirmed by the Senate in the summer of 2006.

- 3. Northern District of California:** In 1998, a vacancy resulted in NDCA, a district suffering from numerous challenges. The district court shared the Department's concerns about the state of the office and discussed the possibility of appointing of a non-DOJ employee to take over. The Department found the potential appointment of a non-DOJ employee unacceptable. A confrontation was avoided by the Attorney General's appointment of an experienced prosecutor from Washington, D.C. (Robert Mueller), which occurred with the court's concurrence. Mueller served under an AG appointment for 120 days, after which the district court gave him a court appointment. Eight months later, President Clinton nominated Mueller to fill the position for the rest of his term.

McNulty, Paul J

From: McNulty, Paul J
Sent: Wednesday, February 07, 2007 7:34 PM
To: Elston, Michael (ODAG)
Subject: RE: WDMI

Sounds like we should let her extend a week and go to the meeting. Happy birthday. Go Heels.

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

From: Chiara, Margaret M. (USAMIW) [mailto:MM.Chiara@usdoj.gov]
Sent: Wednesday, February 07, 2007 5:59 PM
To: Elston, Michael (ODAG)
Cc: McNulty, Paul J
Subject: Re: WDMI

I will resign effective March 9. However, it is too late to postpone the meeting. Invitations have been extended to 26 Tribes and the host Tribe, (Eastern Band of Cherokees), has made extensive preparations for the tribal summit. To cancel now would be a setback to the government-to-government relations we work so hard to maintain. Also, the agenda for the rest of the meeting has been planned. We have a signed contract for the facility. Almost all of the NAIS members, including the 2 now in Arizona and Western Washington, have affirmed their participation. USA G. Shappert is the host USA. She, with some of the experienced members, can handle the event in my absence. This assignment has educated me to what it takes to work effectively in Indian Country. I ask that you reconsider the request to cancel. Margaret

Sent from my BlackBerry Wireless Handheld

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

From: Elston, Michael (ODAG) <Michael.Elston@usdoj.gov>
To: Chiara, Margaret M. (USAMIW) <MChiara@usa.doj.gov>
CC: McNulty, Paul J <Paul.J.McNulty@usdoj.gov>
Sent: Wed Feb 07 16:55:53 2007
Subject: Re: WDMI

Margaret:

I have looked into the NAIS meeting. Given the turnover on that subcommittee, I think it makes sense to postpone the meeting until the summer when the new USAs will be in place. Accordingly, let's leave the dates as the 23rd and the 9th.

Thank you for bringing the issue to my attention.

Mike

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

From: Chiara, Margaret M. (USAMIW) <MM.Chiara@usdoj.gov>
To: McNulty, Paul J
CC: Elston, Michael (ODAG)
Sent: Sat Feb 03 13:39:28 2007
Subject: WDMI

Michael Elston telephoned on Friday afternoon with the welcome news that February 23 should be the date for announcing my resignation followed by a departure date of March 9. I appreciate the consideration.

Here's what I should have mentioned. I am the NAIS chair. Our first field-based meeting in over a year is scheduled on March 13 and 14 in North Carolina. Gretchen Shappert and the Eastern Band of Cherokee Indians are hosting the meeting and a tribal summit which will include 26 federally recognized tribes in the region. Secretary of the Interior

Kemphorn is expected to attend. The NAIS staff detailee, who is from WDMI, was terminated despite an outstanding evaluation because EOUSA would not renew her detail. The replacement has not been announced nor will he be available to assist. It makes good sense for me to prepare, (which I have been doing), and chair the meeting. This is particularly true because 4 NAIS members are part of "the group" (Charlton, Bogden, McKay, Igelsias). It is better for me to handle this situation than an interim chair.

My resignation announcement continues to be on February 23; the departure date would be March 16. I trust that this minor adjustment for good cause is acceptable to you.

Margaret

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Thursday, February 08, 2007 12:15 AM
To: Chiara, Margaret M. (USAMIW)
Cc: McNulty, Paul J
Subject: Re: WDMI

Margaret:

I will certainly reconsider in light of this additional information, although I will say that the information I received from EOUSA about the meeting differs somewhat from yours.

I'll get back to you as soon as I can.

Thanks,
Mike

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

From: Chiara, Margaret M. (USAMIW) <MM.Chiara@usdoj.gov>
To: Elston, Michael (ODAG)
CC: McNulty, Paul J
Sent: Wed Feb 07 17:59:16 2007
Subject: Re: WDMI

I will resign effective March 9. However, it is too late to postpone the meeting. Invitations have been extended to 26 Tribes and the host Tribe, (Eastern Band of Cherokees), has made extensive preparations for the tribal summit. To cancel now would be a setback to the government-to-government relations we work so hard to maintain. Also, the agenda for the rest of the meeting has been planned. We have a signed contract for the facility. Almost all of the NAIS members, including the 2 now in Arizona and Western Washington, have affirmed their participation. USA G. Shappert is the host USA. She, with some of the experienced members, can handle the event in my absence. This assignment has educated me to what it takes to work effectively in Indian Country. I ask that you reconsider the request to cancel. Margaret

Sent from my BlackBerry Wireless Handheld

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

From: Elston, Michael (ODAG) <Michael.Elston@usdoj.gov>
To: Chiara, Margaret M. (USAMIW) <MChiara@usa.doj.gov>
CC: McNulty, Paul J <Paul.J.McNulty@usdoj.gov>
Sent: Wed Feb 07 16:55:53 2007
Subject: Re: WDMI

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Thank you for bringing the issue to my attention.

Mike

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From: Chiara, Margaret M. (USAMIW) <MM.Chiara@usdoj.gov>
To: McNulty, Paul J
CC: Elston, Michael (ODAG)
Sent: Sat Feb 03 13:39:28 2007
Subject: WDMI

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My resignation announcement continues to be on February 23; the departure date would be March 16. I trust that this minor adjustment for good cause is acceptable to you.

Margaret

McNulty, Paul J

From: McNulty, Paul J
Sent: Friday, February 09, 2007 5:25 PM
To: Elston, Michael (ODAG)
Subject: FW: Solution

Could we make this happen? Hire her into an EOUSA slot and then send her down to the NAC?

From: Chiara, Margaret M. (USAMIW) [mailto:MM.Chiara@usdoj.gov]
Sent: Friday, February 09, 2007 1:55 PM
To: McNulty, Paul J
Subject: Solution

Paul: You may recall from earlier communication with me that I have owned a home in South Carolina for several years.

The announcement (below) is for a detail at the NAC for which I am completely qualified and which I would enjoy doing. Obviously, I am not currently eligible for a detail position. Will you please intervene to make the position available for me? It would provide a timely and satisfactory solution to my current job search. Thank you.

Margaret

Experienced Prosecutor Needed to Serve as an Assistant Director, Office of Legal Education, EOUSA, Columbia, South Carolina

The Office of Legal Education (OLE), Executive Office for United States Attorneys, U.S. Department of Justice, seeks an experienced Assistant United States Attorney to serve as an Assistant Director (AD) for Criminal Programs at the National Advocacy Center in Columbia, South Carolina. This detail is for two years, with the possibility of renewal for additional years. **This is a reimbursable detail.**

The AD will lead a program manager and program assistant in coordinating up to 25 training classes per year at the National Advocacy Center in Columbia, SC. Responsibilities will include course design; instructor recruitment and training, student selection; course administration, and post-course review. The AD will report to OLE's Director and Deputy Director. Applicants must have excellent interpersonal and management skills, be responsible and self-sufficient, communicate effectively orally and in writing, possess extensive experience as a prosecutor in criminal law, and possess experience working with task forces or interagency projects.

The AD selected for this position will be housed in the Kirkland Apartment Building, directly across the street from the NAC, and will be entitled to one trip home each month.

Interested applicants should send a resume; cover letter; and letter of support from your U.S. Attorney to arrive as soon as possible but not later than **February 23, 2007**, addressed to Cammy Chandler, Deputy Director, Office of Legal Education, 1620 Pendleton Street, Columbia, SC 29201.

E-mail and fax submissions are also acceptable. Ms. Chandler's fax number is (803) 705-5110 and her e-mail address is cammy.chandler@usdoj.gov

McNulty, Paul J

From: McNulty, Paul J
Sent: Friday, February 09, 2007 9:53 PM
To: Chiara, Margaret M. (USAMIW)
Subject: Re: Solution

Margaret, I'll look into it. Hope you have a peaceful weekend. Paul

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

From: Chiara, Margaret M. (USAMIW) <MM.Chiara@usdoj.gov>
To: McNulty, Paul J
Sent: Fri Feb 09 13:55:26 2007
Subject: Solution

Paul: You may recall from earlier communication with me that I have owned a home in South Carolina for several years.

The announcement (below) is for a detail at the NAC for which I am completely qualified and which I would enjoy doing. Obviously, I am not currently eligible for a detail position. Will you please intervene to make the position available for me? It would provide a timely and satisfactory solution to my current job search. Thank you.

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E-mail and fax submissions are also acceptable. Ms. Chandler's fax number is (803) 705-5110 and her e-mail address is cammy.chandler@usdoj.gov
<<mailto:cammy.chandler@usdoj.gov>>

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Monday, February 12, 2007 3:44 PM
To: Chiara, Margaret M. (USAMIW)
Cc: McNulty, Paul J; Shappert, Gretchen (USANCW)
Subject: NAIS Meeting

Margaret:

I have spoken to Gretchen Shappert, and, as you recommended and based on the additional information Gretchen provided, I have concluded that it makes sense to keep the meeting date as scheduled in March despite the absence of some long-time members of the subcommittee.

You also mentioned that two new members of the subcommittee from Arizona and Western Washington would attend. I don't have any problem with the interims from Arizona and Western Washington attending, but I wanted to make it clear that they are not members of the subcommittee. New U.S. Attorneys do not simply succeed their predecessors on AGAC or its subcommittees, and normally interims are not made members of AGAC subcommittees except in unusual circumstances. There is a process for appointment to subcommittees, and neither interim has been appointed to the subcommittee.

Thanks again for bringing this issue to my attention.

Mike

McNulty, Paul J

From: Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]
Sent: Monday, February 12, 2007 5:36 PM
To: Elston, Michael (ODAG)
Cc: McNulty, Paul J
Subject: Re: NAIS Meeting

This is a good call. Thank you. I am aware of the required procedure to secure subcommittee assignments. The 2 interims were invited to ensure continuity of service to their district's Indian Country population Now that NAIS is convening on March 13 + 14, am I chairing the meeting and departing on March 16 or shall I work out other arrangements with NAIS members after I announce on Feb. 23? Margaret

Sent from my BlackBerry Wireless Handheld

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

From: Elston, Michael (ODAG) <Michael.Elston@usdoj.gov>
To: Chiara, Margaret M. (USAMIW) <MChiara@usa.doj.gov>
CC: McNulty, Paul J <Paul.J.McNulty@usdoj.gov>; Shappert, Gretchen (USANCW) <GShappert@usa.doj.gov>
Sent: Mon Feb 12 15:43:49 2007
Subject: NAIS Meeting

Margaret:

I have spoken to Gretchen Shappert, and, as you recommended and based on the additional information Gretchen provided, I have concluded that it makes sense to keep the meeting date as scheduled in March despite the absence of some long-time members of the subcommittee.

You also mentioned that two new members of the subcommittee from Arizona and Western Washington would attend. I don't have any problem with the interims from Arizona and Western Washington attending, but I wanted to make it clear that they are not members of the subcommittee. New U.S. Attorneys do not simply succeed their predecessors on AGAC or its subcommittees, and normally interims are not made members of AGAC subcommittees except in unusual circumstances. There is a process for appointment to subcommittees, and neither interim has been appointed to the subcommittee.

Thanks again for bringing this issue to my attention.

Mike

McNulty, Paul J

From: Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]
Sent: Tuesday, February 13, 2007 5:08 PM
To: McNulty, Paul J
Subject: Solution Supplement
Attachments: 07-EOUSA-12.wpd

Paul: Another NAC position was announced earlier today. Please refer to the attachment. The Assistant Director for OLE is a permanent position rather than a detail. Given current circumstances, it is unlikely that EOUSA will employ a former USA. Your intervention would be needed. Actually, I have applied for other EOUSA staff positions but both the location and the assignment make the NAC a clear preference.

Thanks, Margaret

<<07-EOUSA-12.wpd>>

**U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS
OFFICE OF LEGAL EDUCATION (OLE)
ATTORNEY-ADVISOR, GS-0905-15
DUTY TITLE: ASSISTANT DIRECTOR, OLE**

Vacancy Announcement Number: 07-EOUSA-12

About the Office: U.S. Department of Justice, Executive Office for United States Attorneys, is seeking an experienced Attorney to serve as an Assistant Director for the Office of Legal Education (OLE), located at the National Advocacy Center in Columbia, SC. The Office of Legal Education provides training and education for attorneys, paralegal and legal support staff of the Department of Justice, and the executive branch of the United States government. Courses are offered on-site at the National Advocacy Center, off-site, and through distance learning programs.

Responsibilities: This position will serve as an Assistant Director for Legal Training. Training programs developed typically deal with new or emerging fields of law or new programs or initiatives. Applicant will also be expected to develop and participate in legal programming for Justice Television Network (JTN), OLE's in-house satellite broadcast network.

Qualifications: Applicants must possess a J.D. degree, be duly licensed and authorized to practice as an attorney under the laws of a State, territory or the District of Columbia. Applicants must have at least five years of post J.D. experience to be qualified at the GS-15 level. Applicants must possess a broad knowledge of federal criminal **and** civil legal disciplines to plan, coordinate, develop, implement, and assess legal training needs and develop policy and program proposals. Skills in developing cooperative training programs to achieve the common interests of state, local, and international law enforcement agencies, and developing educational programs using distance learning technology are mandatory. Must have experience in curriculum development for legal and/or law related training education.

Salary: Columbia, SC is in the Rest of U.S. locality pay area. The salary range for GS-15 is \$104,826 through \$136,273 per year.

Travel: Routine travel will be required to participate in meetings and direct training events.

Application Process and Deadline Date: Applicants must submit a cover letter (highlighting relevant experience), a detailed resume or OF-615 (Optional Application for Federal Employment) or SF-171 (Application for Federal Employment), your most recent SF-50 and current performance appraisal, if applicable to:

Please send your resume to:
U.S. Department of Justice
Executive Office for U.S. Attorneys
Office of Administration/H.R. Division
Attn: **07-EOUSA-12**
600 E Street NW, Room 8300

Announcement closes: 02/26/2007

Application materials must be RECEIVED by 11:59 p.m. (Eastern Standard Time) of the closing date. **Application materials may be faxed to (202) 514-7463.** No telephone calls please. Applications submitted using government postage, internal Federal government mail systems, or email will not be considered. **PLEASE NOTE** – mail coming through our mail system can be delayed due to security screening, faxing your resume to our dedicated fax number is encouraged.

Relocation Expenses are not authorized.

DAG000000089

Internet Sites: This and other attorney vacancy announcements can be found at <http://10.173.2.12/oarm/attvacancies.html>

For more information about the Office of Legal Education, visit <http://www.usdoj.gov/usao/eousa/ole/index.html>

Department Policies: The U.S. Department of Justice is an Equal Opportunity Reasonable Accommodation Employer. Except where otherwise provided by law, there will be no discrimination based on sex, sexual orientation, color, race, religion, national origin, politics, marital status, disability, age, status as a parent, membership or nonmembership in an employee organization, or personal favoritism. The Department of Justice welcomes and encourages applications from persons with physical and mental disabilities. The Department is firmly committed to satisfying its affirmative obligations under the Rehabilitation Act of 1973 to ensure that persons with disabilities have every opportunity to be hired and advanced on the basis of merit within the Department of Justice. This agency provides reasonable accommodation to applicants with disabilities where appropriate. If you need a reasonable accommodation for any part of the application and hiring process, please notify the agency. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

It is the policy of the Department to achieve a drug-free workplace and persons selected for employment will be required to pass a drug test which screens for illegal drug use prior to final appointment. Employment is also contingent upon the completion and satisfactory adjudication of a background investigation. Only U.S. citizens are eligible for employment with the Executive Office for Immigration Review and the United States Attorneys' Offices. Unless otherwise indicated in a particular job advertisement, non-U.S. citizens may apply for employment with other organizations, but should be advised that appointments of non-U.S. citizens are extremely rare: such appointments would be possible only if necessary to accomplish the Department's mission and would be subject to strict security requirements. Applicants who hold dual citizenship in the U.S. and another country will be considered on a case-by-case basis.

McNulty, Paul J

From: Elston, Michael (ODAG)
Sent: Friday, February 16, 2007 3:36 PM
To: Goodling, Monica; McNulty, Paul J; Sampson, Kyle
Subject: FW:

I have a one-member fan club in California!

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

From: Ryan, Kevin (USACAN) [mailto:Kevin.Ryan@usdoj.gov]
Sent: Thursday, February 15, 2007 10:17 PM
To: Elston, Michael (ODAG)
Cc: Ryan, Kevin (USACAN)
Subject:

Mike,

You have been a gentleman in your dealings with me, and I appreciate it.

Thanks,

Kevin

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

McNulty, Paul J

From: Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]
Sent: Wednesday, February 21, 2007 11:48 AM
To: McNulty, Paul J
Subject: February 23 Announcement
Importance: High

Given Michael Elston's unavailability today, I ask that you clarify my departure date. March 16 will permit me to chair the NAIS meeting, including a Tribal Summit to which 26 federally recognized tribes have been invited. Michael was checking on that date rather than the original date of March 9. Also, I need to confirm that FAUSA Russ Stoddard will serve as interim. Again, this is what was discussed with Michael. The legal community and more importantly, the USAO will deal better with my departure if they have a sense of their short term future.

Press release and several mailings are presently being prepared now. Please contact me.

Cell number: Office number: 616-456-2404. Assistant: Karrie Wichtman
Thank you.

Margaret

McNulty, Paul J

From: Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]
Sent: Wednesday, February 21, 2007 5:13 PM
To: McNulty, Paul J
Cc: Elston, Michael (ODAG)
Subject: WDMI Update

Paul: My thanks for your telephone call this afternoon. I did some quick checking. It appears that information about me is beginning to circulate in the district. I have expended an enormous amount of effort trying to contain this situation. Therefore, I believe that staying with the February 23 announcement date is the best approach. All I need to go forward is the departure date. I now understand that there is to be no mention of the interim appointment in the press release. I will anticipate hearing from Michael Elston as soon as he is available.

Margaret

McNulty, Paul J

From: Tasia Scolinos [tasia_scolinos@yahoo.com]
Sent: Sunday, March 04, 2007 8:02 PM
To: Sampson, Kyle; McNulty, Paul J; william.moscella@usdoj.gov; Roehrkasse, Brian
Cc: Scolinos, Tasia
Subject: DRAFT Talking Points

Attachments: 1340525209-attorney letter.doc



attorney letter.doc
(27 KB)

Below are draft message points that we could insert into Will's testimony or figure out another tactic to move it. I think this will get some traction with media but without it going under the AG's name less so. Let me know what you think- I would like to send these over to Dan before the 1 PM WH meeting. Also, WH comms in under the impression that we did not remove all the Clinton USA's in '01 like he did when he took office. Is this true?

Draft Talking Points for 3/6 Hearing:

- One of the most important responsibilities the Attorney General has is to effectively manage the Department of Justice, including its thousands of employees.
- Managers, as you know, often times have to make difficult decisions for the betterment of the organization.
- It is vitally important that the Department take all necessary steps to ensure that its policies and priorities are served in a consistent manner. This is especially true of those who have the high privilege of serving as presidential appointees.
- DOJ Presidential appointees, both at Main Justice and in the field, are tasked with making prosecutorial decisions but that responsibility does not change or alter in any way the fact that they serve at the pleasure of the President and if they are not executing their responsibilities in a manner that furthers the management and policy goals of departmental leadership it is appropriate that they be replaced with other individuals.
- At a time when America's well being is threatened by terrorism, violent gangs, child predators and corruption in business and government, this responsibility has never been clearer.
- It is also important to note that the Clinton Administration fired all existing U.S. Attorneys when he took office presumably to put in individuals who understood the priorities of his Administration. Removing our own political appointees is not substantively different than that decision.
- That said, it is also important that the Department's management actions be prudently executed once a decision is made.
- The process by which the U.S. attorneys were informed of our decision fell short of this standard. We should have informed the individuals at the time we

asked for their resignations of the various matters relating to policy, priorities and management justifying our actions.

- Our intention in not providing a full explanation initially was to avoid protracted discussions and make these difficult discussions as non-inflammatory as possible for those being asked to resign.
- In hindsight, although the Department continues to believe our decision to remove these individuals was the correct one, it would have been much better to have addressed the relevant issues up front with them.
- All of the United States Attorneys asked to resign in this matter are professionals and we appreciate their service. I have no doubt that they will achieve success in their future endeavors along with the other (56?) U.S. Attorneys who have left their posts for various reasons over the last six years.
- The Department remains focused on making sure that the good work being done by the career lawyers in all of those offices across the country continues uninterrupted and that qualified candidates are nominated as soon as possible for those positions.

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McNulty, Paul J

From: Sampson, Kyle
Sent: Sunday, March 04, 2007 8:40 PM
To: 'tasia_scolinos@yahoo.com'; McNulty, Paul J; 'william.moscella@usdoj.gov'; Roehrkasse, Brian
Cc: Scolinos, Tasia
Subject: Re: DRAFT Talking Points

* Clinton fired all Bush USAs in one fell swoop. Has been described to me as "have your offices cleared out by the end of the week."
* We fired all Clinton USAs (except Mueller and Warner), but staggered it more and permitted some to stay on for several months (including Mary Jo White in SDNY who we permitted to stay on for many months).

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

From: Tasia Scolinos <tasia_scolinos@yahoo.com>
To: Sampson, Kyle; McNulty, Paul J; william.moscella@usdoj.gov <william.moscella@usdoj.gov>; Roehrkasse, Brian
CC: Scolinos, Tasia
Sent: Sun Mar 04 20:01:46 2007
Subject: DRAFT Talking Points

Below are draft message points that we could insert into Will's testimony or figure out another tactic to move it. I think this will get some traction with media but without it going under the AG's name less so. Let me know what you think- I would like to send these over to Dan before the 1 PM WH meeting. Also, WH comms in under the impression that we did not remove all the Clinton USA's in '01 like he did when he took office. Is this true?

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- It is also important to note that the Clinton Administration fired all existing U.S. Attorneys when

he took office presumably to put in individuals who understood the priorities of his Administration. Removing our own political appointees is not substantively different than that decision.

- That said, it is also important that the Department's management actions be prudently executed once a decision is made.

- The process by which the U.S. attorneys were informed of our decision fell short of this standard. We should have informed the individuals at the time we asked for their resignations of the various matters relating to policy, priorities and management justifying our actions.

- Our intention in not providing a full explanation initially was to avoid protracted discussions and make these difficult discussions as non-inflammatory as possible for those being asked to resign.

- In hindsight, although the Department continues to believe our decision to remove these individuals was the correct one, it would have been much better to have addressed the relevant issues up front with them.

- All of the United States Attorneys asked to resign in this matter are professionals and we appreciate their service. I have no doubt that they will achieve success in their future endeavors along with the other (56?) U.S. Attorneys who have left their posts for various reasons over the last six years.

- The Department remains focused on making sure that the good work being done by the career lawyers in all of those offices across the country continues uninterrupted and that qualified candidates are nominated as soon as possible for those positions.

McNulty, Paul J

From: McNulty, Paul J
Sent: Sunday, March 04, 2007 8:47 PM
To: 'tasia_scolinos@yahoo.com'
Subject: Re: DRAFT Talking Points

These points look pretty good. If we can get them out in the early afternoon as part of Will's oral statement for Tues, maybe the AP would pick it up and it would gain notice from there.

On the issue of the Clinton USAs, we called each one and had them give us a timeframe. Most were gone by late April. In contrast, Clinton DOJ told all but a dozen in early March to be gone immediately. I would have someone run it by Margolis if were going to use this.

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

From: Tasia Scolinos <tasia_scolinos@yahoo.com>
To: Sampson, Kyle; McNulty, Paul J; william.moscella@usdoj.gov
<william.moscella@usdoj.gov>; Roehrkasse, Brian
CC: Scolinos, Tasia
Sent: Sun Mar 04 20:01:46 2007
Subject: DRAFT Talking Points

Below are draft message points that we could insert into Will's testimony or figure out another tactic to move it. I think this will get some traction with media but without it going under the AG's name less so. Let me know what you think- I would like to send these over to Dan before the 1 PM WH meeting. Also, WH comms in under the impression that we did not remove all the Clinton USA's in '01 like he did when he took office. Is this true?

Draft Talking Points for 3/6 Hearing:

- One of the most important responsibilities the Attorney General has is to effectively manage the Department of Justice, including its thousands of employees.
- Managers, as you know, often times have to make difficult decisions for the betterment of the organization.
- It is vitally important that the Department take all necessary steps to ensure that its policies and priorities are served in a consistent manner. This is especially true of those who have the high privilege of serving as presidential appointees.
- DOJ Presidential appointees, both at Main Justice and in the field, are tasked with making prosecutorial decisions but that responsibility does not change or alter in any way the fact that they serve at the pleasure of the President and if they are not executing their responsibilities in a manner that furthers the management and policy goals of departmental leadership it is appropriate that they be replaced with other individuals.
- At a time when America's well being is threatened by terrorism, violent gangs, child predators and corruption in business and government, this responsibility has never been clearer.
- It is also important to note that the Clinton Administration fired all existing U.S. Attorneys when he took office presumably to put in individuals who