

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>>

Goodling, Monica

From: Elston, Michael (ODAG)
Sent: Friday, February 09, 2007 5:28 PM
To: Goodling, Monica
Subject: Fw: Solution

This idea may help us avoid linking this to the others. What do you think?

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

From: McNulty, Paul J
To: Elston, Michael (ODAG)
Sent: Fri Feb 09 17:25:15 2007
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 35 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
<<mailto:cammy.chandler@usdoj.gov>>

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, February 15, 2007 4:41 PM
To: Hertling, Richard; Elston, Michael (ODAG); Nowacki, John (USAEO)
Subject: Release

Attachments: Hewitt - Schools Release.pdf

Richard -- Schools is informing his staff right now. Nowacki is calling the judge. Elston is calling Kevin Ryan. You are clear to go ahead and start calling the Senators.

All -- Please confirm once you have completed your calls and we'll get the release to SDCA at that point. Thanks.



Hewitt - Schools
Release.pdf (...)

Tracking:

Recipient
Hertling, Richard
Elston, Michael (ODAG)
Nowacki, John (USAEO)

Read
Read: 2/15/2007 4:51 PM

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, February 15, 2007 4:47 PM
To: Scolinos, Tasia
Subject: RE: Drew Holmes/LA Daily Journal/213-229-5523

No - having trouble getting Kevin Ryan and the judge. We'll let you know when we're clear.

From: Scolinos, Tasia
Sent: Thursday, February 15, 2007 4:46 PM
To: Goodling, Monica
Subject: FW: Drew Holmes/LA Daily Journal/213-229-5523

Is this out yet?

From: Miller, Asa G
Sent: Thursday, February 15, 2007 4:45 PM
To: Scolinos, Tasia
Cc: Block, Jonathan
Subject: Drew Holmes/LA Daily Journal/213-229-5523

RE: requests confirmation that the DOJ has appointed an interim USA in San Diego. The San Diego office confirmed the current USA's last day was today he says.

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Goodling, Monica

From: Hertling, Richard
Sent: Thursday, February 15, 2007 4:56 PM
To: Elston, Michael (ODAG); Goodling, Monica; Nowacki, John (USAEO)
Subject: RE: Release

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From: Goodling, Monica
Sent: Thursday, February 15, 2007 5:03 PM
To: Scolinos, Tasia
Subject: RE: Drew Holmes/LA Daily Journal/213-229-5523

Kevin and Feinstein calls now complete. Judge has a message and we'll circle back, but we're good to launch. Hewitt has the release and is working with the SDCA PIO and NDCA PIO is getting it right now, so you can deliver to the below reporter and anyone else who calls OPA directly.

From: Scolinos, Tasia
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To: Goodling, Monica
Subject: RE: Drew Holmes/LA Daily Journal/213-229-5523

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Tracking: Recipient
Scolinos, Tasia

Read
Read: 2/15/2007 6:16 PM

Goodling, Monica

From: Hewitt, Karen (USACAS) [Karen.Hewitt@usdoj.gov]
Sent: Thursday, February 15, 2007 5:39 PM
To: Goodling, Monica
Cc: Nowacki, John (USAEO)
Subject: RE: Release

I just confirmed that the DOJ press release went out to our local list. Carol Lam is about to send an internal e-mail to our staff about the interim appointment.

On a separate note, it is very good news about Scott Schools. He has always provided outstanding counsel to the offices in the field and I know we here in San Diego respect him very much.

Thanks again,
Karen

From: Goodling, Monica
Sent: Thursday, February 15, 2007 1:59 PM
To: Hewitt, Karen (USACAS)
Cc: Nowacki, John (USAEO)
Subject: Release

Karen -- Here is the final release for use by your district's PIO. You are free to release at this time. Please confirm once it has gone out to your local list. Thank you and congratulations once again.

<<Hewitt - Schools Release.pdf>>

Goodling, Monica

From: Nowacki, John (USAEO) [John.Nowacki@usdoj.gov]
Sent: Thursday, February 15, 2007 5:40 PM
To: Hertling, Richard; Elston, Michael (ODAG); Goodling, Monica
Subject: RE: Release

I have spoken with the judge.

From: Hertling, Richard
Sent: Thursday, February 15, 2007 4:56 PM
To: Elston, Michael (ODAG); Goodling, Monica; Nowacki, John (USAEO)
Subject: RE: Release

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Goodling, Monica

From: Hertling, Richard
Sent: Thursday, February 15, 2007 6:17 PM
To: Nowacki, John (USAEO); Elston, Michael (ODAG); Goodling, Monica
Subject: RE: Release

I have now also talked to Boxer's counsel. He too was fine.

From: Nowacki, John (USAEO) [mailto:John.Nowacki@usdoj.gov]
Sent: Thursday, February 15, 2007 5:40 PM
To: Hertling, Richard; Elston, Michael (ODAG); Goodling, Monica
Subject: RE: Release

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From: Hertling, Richard
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All -- Please confirm once you have completed your calls and we'll get the release to SDCA at that point. Thanks.

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Goodling, Monica

From: Lam, Carol (USACAS) [Carol.Lam@usdoj.gov]
Sent: Friday, February 16, 2007 12:46 AM
To: USAEO-USAttorneysOnly
Subject: Contact information

Colleagues,

I'm signing off in a couple of hours, so I wanted to pass along my contact information. Thank you for your collegiality and comraderie. It has been a privilege serving with you.

Warm regards,

Carol

Contact information:

From: H.E. Cummins [mailto:]

Sent: Tue 2/20/2007 5:06 PM

To: Dan Bogden; Paul K. Charlton; David Iglesias; Carol Lam; McKay, John (Law Adjunct)

Subject: on another note

Mike Elston from the DAG's office called me today. The call was amiable enough, but clearly spurred by the Sunday Post article. The essence of his message was that they feel like they are taking unnecessary flak to avoid trashing each of us specifically or further, but if they feel like any of us intend to continue to offer quotes to the press, or organize behind the scenes congressional pressure, then they would feel forced to somehow pull their gloves off and offer public criticisms to defend their actions more fully. I can't offer any specific quotes, but that was clearly the message. I was tempted to challenge him and say something movie-like such as "are you threatening ME???", but instead I kind of shrugged it off and said I didn't sense that anyone was intending to perpetuate this. He mentioned my quote on Sunday and I didn't apologize for it, told him it was true and that everyone involved should agree with the truth of my statement, and pointed out to him that I stopped short of calling them liars and merely said that IF they were doing as alleged they should retract. I also made it a point to tell him that all of us have turned down multiple invitations to testify. He reacted quite a bit to the idea of anyone voluntarily testifying and it seemed clear that they would see that as a major escalation of the conflict meriting some kind of unspecified form of retaliation.

I don't personally see this as any big deal and it sounded like the threat of retaliation amounts to a threat that they would make their recent behind doors senate presentation public. I didn't tell him that I had heard about the details in that presentation and found it to be a pretty weak threat since everyone that heard it apparently thought it was weak.

I don't want to stir you up conflict or overstate the threatening undercurrent in the call, but the message was clearly there and you should be aware before you speak to the press again if you choose to do that. I don't feel like I am betraying him by reporting this to you because I think that is probably what he wanted me to do. Of course, I would appreciate maximum opsec regarding this email and ask that you not forward it or let ~~others read it.~~

Bud

0AG000000740

Goodling, Monica

From: Hertling, Richard
Sent: Wednesday, February 28, 2007 12:50 PM
To: Moschella, William; Goodling, Monica
Subject: FW: Urgent

Nothing from NM in OLA.

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

From: Scott-Finan, Nancy
Sent: Wednesday, February 28, 2007 12:18 PM
To: Hertling, Richard; Burton, Faith
Subject: RE: Urgent

My notes from that time frame are about the direct contact between staff for Congressman [redacted] in [redacted] about [redacted] and trying to get [redacted] in [redacted] to minimize his contacts with Senator [redacted].

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

From: Hertling, Richard
Sent: Wednesday, February 28, 2007 12:11 PM
To: Burton, Faith; Scott-Finan, Nancy
Subject: Re: Urgent

October 06

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

From: Burton, Faith
To: Hertling, Richard; Scott-Finan, Nancy
Sent: Wed Feb 28 12:10:17 2007
Subject: RE: Urgent

I do not recall any contact by USA Iglesias; I can check my notes if we have a time frame.

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

From: Hertling, Richard
Sent: Wednesday, February 28, 2007 12:07 PM
To: Scott-Finan, Nancy; Burton, Faith
Subject: Re: Urgent

Was that an Oklahoma case?

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

From: Scott-Finan, Nancy
To: Hertling, Richard; Burton, Faith
Sent: Wed Feb 28 12:05:14 2007
Subject: RE: Urgent

I am trying to recall. There was contact with one of the Western States USAs about either an environmental or Indian case. I receive reports about Members reaching out to the USAs about cases all too frequently and have to return calls with the "neither confirm nor deny" or provide the public record pleadings.

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

From: Hertling, Richard
Sent: Wednesday, February 28, 2007 11:59 AM
To: Scott-Finan, Nancy; Burton, Faith
Subject: Urgent

Was either of you ever contacted by NM US Attorney Iglesias last year alerting you to contacts he received from 2 MCs on a specific case?

Goodling, Monica

From: Scott-Finan, Nancy
Sent: Monday, March 05, 2007 8:11 AM
To: Goodling, Monica
Subject: RE: Updated USA documents - PUBLIC

Which are the ones that need to be replaced in the briefing book: talking points, fact sheet and prosecution stats? Thanks

From: Goodling, Monica
Sent: Saturday, March 03, 2007 3:31 PM
To: Sampson, Kyle; Moschella, William; Scolinos, Tasia; Roehrkasse, Brian; Hertling, Richard; Elston, Michael (ODAG); Scott-Finan, Nancy; Seidel, Rebecca
Subject: Updated USA documents - PUBLIC

Attached please find updated documents in advance of this week's hearing. (These include the resignations in Nevada and New Mexico, where we elevated the First Assistant to the position of Acting U.S. Attorney under the Vacancy Reform Act; no additional resignations are expected before mid-March, when Chiara departs.) Please let me know if you have any questions. Thanks!

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Goodling, Monica

From: Goodling, Monica
Sent: Monday, March 05, 2007 8:12 AM
To: Scott-Finan, Nancy
Subject: RE: Updated USA documents - PUBLIC

Yes, plus Griffin talkers

From: Scott-Finan, Nancy
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Tracking:	Recipient	Read
	Scott-Finan, Nancy	Read: 3/5/2007 8:14 AM

Goodling, Monica

From: Rice, Dorianna C
Sent: Monday, March 05, 2007 10:07 AM
To: Goodling, Monica
Subject: FW: Discontinuation of SSBI-PR

Hi Monica - can you please confirm that USA Chiara has resigned. thanks

Dorianna

From: Kaloudis, Patricia B. [mailto:Patricia.Kaloudis@ic.fbi.gov]
Sent: Monday, March 05, 2007 8:56 AM
To: Rice, Dorianna C
Subject: RE: Discontinuation of SSBI-PR

Doriana, we have another pending reinvestigation on Margaret Chiara Newman, US Attorney Western District of Michigan. SPSS Melanie Leblanc (who will be assuming my duties when I depart at the end of March), left a couple of messages last week. Please confirm we should discontinue this BI ? USA Chiara Newman has advised she has resigned.

Thanks

Pat

202-324-6946

Goodling, Monica

From: Goodling, Monica
Sent: Monday, March 05, 2007 10:09 AM
To: Rice, Dorianna C
Subject: RE: Discontinuation of SSBI-PR

She will resign effective March 16th.

From: Rice, Dorianna C
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To: Goodling, Monica
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Goodling, Monica

From: Moschella, William
Sent: Tuesday, March 06, 2007 9:48 AM
To: 'Oprison, Christopher G.'
Cc: Sampson, Kyle; Kelley, William K.; Scudder, Michael Y.; Fielding, Fred F.; Gibbs, Landon M.; Scolinos, Tasia; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica
Subject: RE: Moschella Oral Testimony
Attachments: moschellafinal.2.doc; moschellafinal.1.doc



moschellafinal.2.doc (35 KB) moschellafinal.1.doc (36 KB)

All, attached is the final document. We accepted all of Chris's proposed changes. I have made some other small minor tweaks and those are tracked so that you can see them in "moschellafinal.1.doc" and the clean version is "moschellafinal.2.doc".

From: Oprison, Christopher G. [mailto:Christopher_G._Oprison@who.eop.gov]
Sent: Monday, March 05, 2007 9:33 PM
To: Moschella, William
Cc: Sampson, Kyle; Kelley, William K.; Scudder, Michael Y.; Fielding, Fred F.; Gibbs, Landon M.
Subject: RE: Moschella Oral Testimony

Will - attached please find a redlined version with suggested edits. Thanks

Chris

From: Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]
Sent: Monday, March 05, 2007 8:43 PM
To: Oprison, Christopher G.
Cc: Moschella, William
Subject: RE: Moschella Oral Testimony

~~Thx, Chris. Will now has the pen, so please send the comments to him directly (but cc me, if you would). Thx!~~

From: Oprison, Christopher G. [mailto:Christopher_G._Oprison@who.eop.gov]
Sent: Monday, March 05, 2007 8:40 PM
To: Sampson, Kyle
Subject: RE: Moschella Oral Testimony

we are gathering comments and should have this back to you shortly

From: Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]

Sent: Monday, March 05, 2007 7:25 PM
To: Kelley, William K.
Cc: Oprison, Christopher G.
Subject: Moschella Oral Testimony
Importance: High

Bill, can you forward this on to Dana and Cathie (and whomever else in the White House you deem appropriate) for review and approval? Thanks!

<<Moschella Oral Statement.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

William E. Moschella
Opening Statement

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

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

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

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

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

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

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

OAG000000749

to retaliate against them or interfere with or inappropriately influence a public corruption case. Not once.

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

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

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

I would be happy to take your questions.

OAG00000750

William E. Moschella
Opening Statement

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

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

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

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Deleted: the Department's

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

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

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

OAG000000751

to retaliate against them or interfere with or inappropriately influence a public corruption case. Not once.

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

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

Deleted: of them

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

Deleted: taken any action

I would be happy to take your questions.

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OAG000000752

Goodling, Monica

From: Elwood, Courtney
Sent: Tuesday, March 06, 2007 10:11 AM
To: Moschella, William; Sampson, Kyle; Hertling, Richard; Goodling, Monica
Subject: Call from Bill Kelley on QFR responses on USA firings

Importance: High

Bill called this morning and spoke to me in Kyle's absence. Chris Oprison told Bill that DOJ was preparing QFR answers that addressed contacts between WH, Hill, and DOJ on USAs. He wants to make sure that he is given, in advance, whatever DOJ plans to say in response to these questions. I told him that QFR responses are always circulated through OMB and WHCO, and I am sure that happen in this case.

I know nothing 'bout this, so I pass this along to those of you who may.

I suggest that Kyle or someone else give Bill a call for clarification, if necessary.

*Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c) 2
(fax) 202.305.9687*

**Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET**

DATE OF DOCUMENT: 04/01/2005
DATE RECEIVED: 04/13/2005

WORKFLOW ID: 780668
DUE DATE:

FROM: Mr. Reagan Dunn
Councilmember
Metropolitan King County Council
516 3rd Avenue
Seattle, WA 98104-2372

TO: AG

MAIL TYPE: General

SUBJECT: (Rec'd from OAG) Requesting a federal investigation into whether illegitimate voting and processing errors in King County during the 2004 Washington state general election were the result of unlawful efforts to undermine election system safeguards. Ltr also signed by Councilmembers Kathy Lambert, David Irons, Jane Hague, Pete von Reichbauer, and Steve Hammond.

DATE ASSIGNED
07/28/2005

ACTION COMPONENT & ACTION REQUESTED
For OIPL signature.
Office of Intergovernmental and Public Liaison

INFO COMPONENT: OAG, ODAG, OASG, OIPL, EOUSA, CRT (Acosta)

COMMENTS: 8/24/2005: OIPL replied by ltrs (six) dtd 8/19/05. cc to CRM.
7/28/2005: CRM submitted 6 proposed ltrs for OIPL signature.
5/25/2005: Per CRT, reassign to CRM.
4/14/2005: Per AG request, ES provided separate copy for CRT AAG Acosta. OIPL to review CRT's response prior to dispatch.

~~**FILE CODE:**~~ ~~AG FILE: INVESTIGATIONS State~~

EXECSEC POC: Shirley McKay: 202-514-5305

0AG000000754



Metropolitan King County Council

Room 1200, King County Courthouse
516 Third Avenue
Seattle, WA 98104-3272

(206) 296-0100
FAX (206) 296-0198
TTY/TDD (206) 296-1024

April 1, 2005

The Honorable Alberto Gonzales
United States Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

Dear Attorney General Gonzales:

We are writing to request a federal investigation into whether illegitimate voting and processing errors in King County during the 2004 Washington state general election were the result of unlawful efforts to undermine election system safeguards.

In the five months since November's election we have learned that hundreds of unqualified voters voted in King County on Election Day. We have also learned that large numbers of unverified provisional ballots were voted at polling locations contrary to state law. We do not know whether widespread voting by unqualified voters or the unprecedented number of processing errors was a consequence of misfortune, willful neglect or orchestrated conduct.

Our constituents are left without a firm understanding of the extent of ballot processing errors and unqualified voting that occurred. Allegations of voter fraud, public admission of "mistakes" made by King County elections officials, and a growing list of felons who cast illegal votes continue to threaten the legitimacy of past and future elections.

On two occasions the King County Council had the opportunity to hear from local elections officials. Several of our questions regarding the accuracy of certain reports and numbers went unanswered. In addition, more facts came to light regarding provisional ballots and felons voting. Recently, King County Prosecuting Attorney Norm Maleng announced that his legal staff would be reviewing a list of alleged felon voters and his office has already announced that 118 individuals' voter registrations will be challenged.

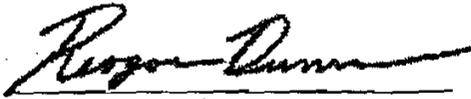
Officials at all levels of government have a vested interest in eliminating voter fraud. The United States Department of Justice in particular has always made it a top priority to ensure fair and accurate elections — including investigating alleged voter fraud. We are confident that an investigation by your office will play a crucial role in determining whether allegations of voter fraud are true.

As representatives in King County government, we are working collaboratively to repair many of these failed mechanisms. However, we believe that legitimacy is unreachable without the active scrutiny of a neutral party to independently investigate these complex allegations. We understand the delicate nature of this issue, and call on the objective resources of Department of Justice to help legitimize the administration of future elections while restoring the public faith that every legal vote counts.

OAG000000755

Thank you for your thoughtful consideration of this request.

Respectfully,



Councilmember Reagan Dunn
District Six



Councilmember Kathy Lambert
District Three



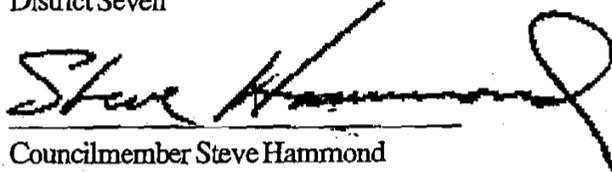
Councilmember David Irons
District Twelve



Councilmember Pete von Reichbauer
District Seven



Councilmember Jane Hague
District Eleven



Councilmember Steve Hammond
District Nine

cc: The Honorable John McKay, United States Attorney for the Western District of Washington

0AG000000756

**Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET**

DATE OF DOCUMENT: 04/07/2005

WORKFLOW ID: 778071

DATE RECEIVED: 04/08/2005

DUE DATE:

FROM: Mr. Bob Williams
President
Evergreen Freedom Foundation
PO Box 552
Olympia, WA 98507

TO: AG (cc indicated for CRT Acosta, CIV Keisler, CRM Wray)

MAIL TYPE: General

SUBJECT: Advising that members of the King County Council recently submitted a request to DOJ for a federal investigation of the Washington State 2004 general election. In support of that request, the Evergreen Freedom Foundation (EEF) submits evidence of possible fraud and civil rights violations compiled as part of EEF's Voter Integrity Project. EEF believes that a DOJ investigation is necessary and urgent. (Note: No record in ES of corres from the King County Council but see WF 759557.)

DATE ASSIGNED

04/15/2005

ACTION COMPONENT & ACTION REQUESTED

Criminal Division
For component response.

INFO COMPONENT: OAG, ODAG, OASG, OIPL, EOUSA, CRM, CIV

COMMENTS: 5/20/2005: CRM replied by ltr dtd 5/10/05.
04/15/2005: Per CRT reassign to CRM.
FedEx 8473-3217-3425

FILE CODE: AG FILE: CIVIL RIGHTS Voting

EXECSEC POC: Debbie Alexander: 202-616-0075

0AG000000757



Evergreen Freedom Foundation

A Nonprofit Public Policy Research Organization

April 7, 2005

The Honorable Alberto Gonzales
United States Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530-0001

COPY

Dear Attorney General Gonzales:

Members of the King County Council recently submitted a request to your office for a federal investigation of the Washington State 2004 general election. In support of that request, the Evergreen Freedom Foundation (EFF) submits evidence of possible fraud and civil rights violations that we have compiled as part of our Voter Integrity Project.

So many irregularities were uncovered following the 2004 general election that the integrity of our entire system was brought into question. In response, EFF established the Voter Integrity Project with the goal of restoring the free and fair elections that are indispensable to our political freedoms. The necessary first step in developing an effective corrective action plan was to determine what went wrong. Faced with apparent indifference by election officials to registration and voting fraud and outright cover-up of their own errors, it has been necessary to rely on private organizations and citizens to investigate, analyze, and gather evidence. Information supporting the following allegations was compiled and is summarized in the enclosure:

1. Over 1000 felons cast illegal votes.
2. At least 45 votes were cast in the name of deceased persons, at least 15 people voted twice, and at least 2 non-citizens voted.
3. More than 660 unverified provisional ballots were inserted into tabulating machines at the polls.
4. Some signatures collected by party workers to validate provisional ballots were apparently forged.
5. Almost 900 more absentee ballots were counted in King County than the number of registered voters who sent in absentee ballots.
6. King County reconciliation records from the year 2000 general election are missing.
7. Election officials illegally modified (enhanced) ballots.
8. Selected absentee ballots were set aside and not counted. Voters who were disenfranchised were not notified.
9. There was an apparent organized effort to register voters who had been judged mentally incompetent.
10. King County election officials have been unable to reconcile polling place results and are withholding election records to cover up error and possible fraud.

11. King County illegally registered individuals who gave the County Courthouse as their residence and mailing address.
12. King County illegally registered individuals who gave invalid residence addresses.

We believe strong indications exist of illegal activities including election fraud, noncompliance with regulations, and civil rights violations. However, state officials have only limited authority to pursue such allegations and county authorities have failed to carry out their responsibilities. Therefore we believe that a Department of Justice investigation is necessary and urgent.

Thank you for your consideration.

Respectfully submitted,



Bob Williams
President

Enclosure

cc: R. Alexander Acosta, Assistant Attorney General, Civil Rights Division
Peter D. Keisler, Assistant Attorney General, Civil Division
Christopher A. Wray, Assistant Attorney General, Criminal Division
John McKay, United States Attorney for the Western District of Washington

Evident Illegal Activity in the 2004 Washington State General Election

1. Over 1000 felons cast illegal votes.

On February 22nd, the Rossi campaign reported that they found 1108 persons voted who had felony convictions but did not have voting rights restores. (Exhibit 1.1) This list is currently being investigated by county prosecutors and has not been released. King County reported that about 200 have subsequently had their registrations cancelled by the county prosecutor but there is no indication that any will be prosecuted.

The BIAW independently compiled a list of 506 felons who voted. There may be some overlap with the list compiled by the Rossi campaign. (Exhibit 1.2)

2. At least 45 votes were cast in the name of deceased persons, at least 15 people voted twice, and at least 2 non-citizens voted.

On March 3rd, the Dino Rossi campaign released a list of 45 persons who were credited with having voted in the November 2004 election but were deceased prior to that election. (Exhibit 2.1)

On February 22nd, the Rossi campaign reported that they had found 10 people in Washington State who had voted more than once and 5 people who had voted in Washington and another state. (Exhibit 1.1)

Two non-citizens identified themselves to King County Elections as having voted and were removed from the rolls. (Exhibit 2.2) It is suspected that there are far more non-citizens voting in Washington State elections but there have been no citizenship checks by elections officials.

3. More than 660 unverified provisional ballots were inserted into tabulating machines at the polls.

In King County, provisional ballots are identical to poll ballots. Provisional voters are required to put marked ballots into envelopes for later validation. Early in January, 2005, King County election officials revealed that 348 provisional ballots were inserted into tabulating machines at the polls without validation. (Exhibit 3.1)

In a meeting with the King County Council on March 14, 2005, Director of Elections Dean Logan reported that the number was not limited to 348; that there were more instances in which insertion of un-validated ballots was likely to have occurred. He reported that an analysis shows 660 additional un-validated ballots although some of those might overlap with the 348 already reported.

4. Some signatures collected by party workers to validate provisional ballots were apparently forged.

On November 12, 2005, Superior Court Judge Dean Lum ruled that the names of 929 voters whose ballots have been rejected because of mismatched or missing signatures be disclosed. This resulted from an action brought by the Washington State Democratic Party. Party workers immediately began contacting these voters to selectively obtain signature affidavits from those who supported the democratic candidate for governor. County election officials subsequently accepted approximately 415 of these affidavits and the votes were tallied.

The Building Industry Association of Washington (BIAW) conducted an effort to determine the validity of the signatures from public records, a home ownership survey, and endorsements on checks sent with the survey forms. Approximately 150 signatures were obtained for comparison and turned over to a documents expert for examination. Several possible forgeries have been detected. To date, examination of signatures continues. This information is on file at BIAW offices in Olympia. (Examples are included in Exhibit 4.1.)

5. Almost 900 more absentee ballots were counted in King County than the number of registered voters who sent in absentee ballots.

An analysis of election returns by Stefan Sharkansky showed that 565,014 absentee ballots were counted but only 564,234 people can be identified as having cast valid absentee ballots. The latter number, the number of absentee voters, is the sum of the number of people credited with voting, the number of Federal write-in ballots, and the number of address confidentiality ballots less the number of credited voters whose ballots were rejected and not counted. (Exhibit 5.1- summary lines only)

The source data for Mr. Sharkansky's analysis were derived from various King County documents, including the manual recount precinct canvass, the Mail Ballot Report and the voter file released shortly after the manual recount.

Subsequent to Mr. Sharkansky's analysis, King County Elections confirmed that 93 absentee ballots had not been removed from their mailing envelopes. (Exhibit 5.2) These envelopes were reported to have been opened indicating that the voters had been credited although the ballots had not been tabulated. This increased the number excess absentee ballots from 780 to 873.

6. King County reconciliation records from the year 2000 general election are missing.

King County reconciliation records for the 2000 election were sought by Councilmember David Irons to verify that there was close reconciliation of the number of votes cast with the number of voters in the previous presidential election. In response, an email from Director of Elections and Records Dean Logan reveals that reconciliation records are available for 1999, 2001, and 2002 but not for 2000. He states in passing that records retention for Federal

elections is 22 months. This is a "red herring". Other election records for 2000 were retained; the reconciliation records for 2000 have disappeared. (Exhibit 6.1)

7. Election officials illegally modified (enhanced) ballots.

The Washington Administrative Code provides

If a ballot contains marks or punches that differ from those specified in the voting instructions, those marks or punches shall not be counted as valid votes unless there is a discernable and consistent pattern, to the extent that the voter's intent can clearly be determined. If there is such a pattern, the ballot shall be enhanced or duplicated to reflect the voter's intent. [Emphasis added.]

The general requirement is that improperly marked ballots shall not be counted. A limited exception applies; ballots are enhanced only when the voter's intent can clearly be determined.

On March 14, 2004, the King County Council held a hearing in which Director of Elections Dean Logan was questioned. During questioning on the issue of enhancement of optically scanned ballots, Mr. Logan pointed out that the Canvassing Board delegates ballot enhancement to his staff, and that ballots may be enhanced only if the intent of the voter is clear. According to Mr. Logan, approximately 1600 ballots were forwarded to the Canvassing Board because voter intent was not clear. Therefore, these ballots should have been rejected. Instead, most of them were accepted and enhanced in disregard of the law. Mr. Logan also pointed out that approximately twenty-five were enhanced based on a two to one vote, which is even more convincing evidence that alteration of ballots occurred when voter intent was not clear.

8. Selected absentee ballots were set aside and not counted. Voters who were disenfranchised were not notified.

King County discovered that 93 absentee ballots had not been counted and were still in their mailing envelopes. (Exhibit 5.3) The mailing envelopes were opened but inner security envelopes were not removed. Eight-six percent of the uncounted ballots were from the 8th Congressional District although that district accounted for only thirty-two percent of total absentee ballots in King County. (Exhibit 8.1) This is evidence that the ballots were deliberately left in their mailing envelopes. King County election officials refuse to identify the names of the disenfranchised voters or notify them that their votes were not counted.

A National Guard officer who recently returned from duty in Iraq discovered through an on-line database that his absentee ballot had not been counted. He also determined that his ballot was not one of the 93. This raises the likely possibility that many more absentee ballots may have been set aside or rejected without notifying the voter.

9. There was an apparent organized effort to register voters who had been judged incompetent.

Western State Hospital (WSH)

is operated by the State of Washington for approximately 800 individuals suffering from mental health disease. The Center for Geriatric Services houses about 200 geriatric patients with acute mental illness. Many of these have been judged incompetent and are under guardianship. The Center for Forensic Services houses about 250 patients who were committed by the criminal justice system. Evaluation and treatment services are provided for adults prior to their trial, after they are convicted, or after they are acquitted by reason of insanity.

A large number of patients in WSH were registered or had a change in registration in late 2004 and voted in the general election. An employee in the hospital reported that there appeared to be an organized effort to register patients including some that she knew to have been declared incompetent. Exhibit 9.1 is a list of patients recently registered at WSH and Exhibit 9.2 is a list of patients housed in the legal offender unit who voted.

10. King County election officials have been unable to reconcile polling place results and are withholding election records to cover up error and possible fraud.

King County will not release copies of some records that would allow an independent audit of election results and reconciliation of poll votes and voters. Whenever records are released they are inconsistent with previous releases. For example, the King County Absentee Ballot Return Statistics report shows 566,294 absentee ballots had been returned by November 15 but the Mail Ballot Report to the Canvassing Board shows 568,333. (Exhibits 10.1 and 10.2) There are numerous other irregularities for which there is no apparent explanation.

King County election officials discovered in late March that some absentee ballots had not ever been counted. There was a concerted effort to withhold this information from County Council members for more than a week. (Exhibit 10.3) The problem was not revealed until a reporter questioned the Director of Records and Elections. This discovery showed that the numbers in absentee reconciliation had been fabricated.

11. King County illegally registered individuals who gave the County Courthouse as their residence and mailing address.

Individuals with non-traditional residences are allowed to give a government building as their residence but must also give an address where they receive mail. The auditor is required by statute to send the applicant an acknowledgement notice with instructions to the postal service not to forward and to return to the auditor if undeliverable. If the registration notice is returned the auditor is required to place the registrant on the inactive list. As of March 28, 2005, eighty-two individuals were on the active voter list and remained registered with the King County Administration Building as their mailing address. Eighteen were registered as permanent absentee voters. It is not known who received the ballots that were mailed to them nor is it known why eighty-two individuals remain on the active list even though mail cannot be delivered to them. (Exhibit 11.1)

The failure of King County election officials to comply with the requirements to place registrants on the inactive list may not be limited to those residing at the Administration Building. This very well may be a systemic failure. Incorrect addresses in the election database can easily lead to fraudulent use of absentee ballots sent through the mail.

12. King County illegally registered individuals who gave invalid residence addresses.

The Revised Code of Washington provides

On receipt of an application for voter registration under this chapter, the county auditor shall review the application to determine whether the information supplied is complete. An application that contains the applicant's name, complete valid residence address, date of birth, and signature attesting to the truth of the information provided on the application is complete. [Emphasis added.]

Residence addresses were checked for Seattle precinct #1823, a downtown precinct. Fifteen registrants were found to have invalid residence addresses this single precinct and one of these was entered in the database twice. Four of the registrants were in office buildings, five in a warehouse, and six in a non-existent location. (The non-existent location was probably an address error, which caused the voters to be registered in the wrong precinct.) Since this was only one sample precinct there are probably hundreds of voters registered at false residence addresses. (Exhibit 12.1) King County illegally accepted these as valid residence addresses. Registration in the wrong precinct can result in votes being illegally cast for candidates and issues outside of the proper political district.

mg

**Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET**

DATE OF DOCUMENT: 02/03/2006

WORKFLOW ID: 953247

DATE RECEIVED: 02/14/2006

DUE DATE: 03/07/2006

FROM: Mr. Bob Williams
President
Evergreen Freedom Foundation
PO Box 552
Olympia, WA 98507

TO: AG

MAIL TYPE: General

SUBJECT: Regarding serious charges of malfeasance concerning USA John McKay, W.D. of WA. Requesting that the AG ask Mr. McKay to recuse himself and allow public integrity attorneys to investigate election fraud in Washington state. Feels Mr. McKay's refusal to act will soon seriously hinder any chance for a thorough investigation. Encls. See WFs 780668, 778071 & 759557.

DATE ASSIGNED

02/21/2006

ACTION COMPONENT & ACTION REQUESTED

Criminal Division

For component response.

INFO COMPONENT: OAG, ODAG, OASG, OIPL, EOUSA, CRT, CIV, FBI

COMMENTS:

FILE CODE:

EXECSEC POC: Debbie Alexander: 202-616-0075

OAG000000765



2006 FEB 13 PM 4:05
EXHIBIT

February 3, 2006

The Honorable Alberto Gonzales
United States Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530-0001

Dear Attorney General Gonzales,

I would like to bring to your attention the serious charges of malfeasance regarding John McKay, U.S. Attorney for Western Washington. He has systematically ignored and refused to act on evidence of substantial election fraud given to his office, and I ask for your action to right this wrong.

In an August 2005 press release you rightly said, "The power to vote is one of the greatest opportunities we share as Americans....The very fiber of our Nation rests on the zealous protection of certain inalienable rights for every citizen, and we cannot grow complacent in the safeguarding of those rights. The Department of Justice will continue to aggressively protect each person's right to vote—and just as important—preserve the value of that vote from those who would corrupt the election process."

Mr. McKay has not protected the voting rights of the citizens of Washington state. Decisive action is needed to prevent him from further damaging the value of our votes.

On April 1, 2005, six members of the King County Council (Seattle-area) sent a request to you requesting a Department of Justice investigation of the 2004 General Election. This request was followed on April 7, 2005, by a letter from the Evergreen Freedom Foundation (EFF) of Olympia, Washington.

The letter from EFF included twelve specific allegations of election fraud under this definition, and it was copied to Mr. McKay in his role as U.S. Attorney. The letter is enclosed for your review. Please note that, subsequently, much additional evidence has been found and sent to Mr. McKay.

After several attempts to contact Mr. McKay to request a grand jury investigation of these allegations, his office finally directed us to the Seattle FBI office. When called, the FBI stated that they could not begin an investigation without a request from Mr. McKay.

Further attempts to contact Mr. McKay regarding the investigation were rebuffed with the explanation that he had no authority to conduct a grand jury investigation of election fraud. This despite the fact that Mr. McKay issued three press releases since May 2002 urging the public to contact his office with suspicions of election fraud.

Upon further research, Mr. McKay's explanation was found to be wrong:

1. Authority is found in the U.S. Attorney's Grand Jury Manual Section 9-11-241 and in 28 U.S.C. 547.
2. A September 2004 report to Congress by the GAO stated that U.S. Attorneys and PIN attorneys initiated a total of 61 election fraud investigations related to election years 2000-2003.
3. Arlen Storm, the DEO for Mr. McKay, attended a Symposium on Ballot Access and Voting Integrity Initiative hosted by your department in September 2004. During this session, he received clear information on his duties and authority to investigate election fraud.
4. Currently there are at least four ongoing grand jury investigations of election fraud by U.S. Attorneys, all with less evidence than was presented to Mr. McKay.
5. Top officials in the Public Integrity Section of your department have confirmed that Mr. McKay has the authority to convene a grand jury for investigation of the election.

I have asked Mr. McKay to consider recusing himself from the investigation, allowing Public Integrity Section attorneys to step in. He has ignored this suggestion.

The election system in Washington state is severely damaged, partially as a result of apparent election fraud. So many irregularities have been uncovered that the integrity of the entire system is in question, and the people of our state have lost faith in the ability of government to conduct clean and fair elections. The integrity of the system and confidence of the public cannot be restored without vigorous enforcement of election laws.

Mr. McKay is an essential part in this enforcement effort. Sadly, those who wish to commit federal election fraud in Washington state are free to continue their illegal activities, thanks in part to Mr. McKay.

I detailed my concerns to the Executive Office of U.S. Attorneys and to the Public Integrity Section, but have seen no change in the situation or even a response to my concerns.

Therefore, I respectfully request that you ask Mr. McKay to recuse himself and allow PIN attorneys to investigate election fraud in Washington state. If he is unwilling to do this, please ask President Bush to replace Mr. McKay with a U.S. Attorney who will do his job.

Time is of the essence, as part of any investigation into the 2004 General Election will necessarily involve election records held by county auditors. Some of these records can

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be destroyed after a short period of time, and thus Mr. McKay's refusal to act will soon seriously hinder any chance for a thorough investigation.

Thank you for looking into this matter.

Cordially,



Bob Williams
President

Cc:

William O. Jenkins, Jr.
Director, Homeland Security and Justice Issues, Government Accountability
Office
Senator Susan Collins
Chairman, Senate Committee on Homeland Security and Governmental
Affairs
Senator Arlen Specter
Chairman, Senate Judiciary Committee
Representative Tom Davis
Chairman, House Committee on Government Reform
Representative F. James Sensenbrenner, Jr.
Chairman, House Judiciary Committee

Enclosures:

- Letter from King County Councilmembers to Attorney General Gonzales
- Letter from EFF to Attorney General Gonzales
- Letter from EFF to Executive Office of U.S. Attorneys
- Letter from Stefan Sharkansky to the Seattle office of the FBI

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Evergreen Freedom Foundation

A Nonprofit Public Policy Research Organization

May 20, 2005

Thomas F. McLaughlin
Assistant Inspector General
U.S. Department of Justice
Investigations Division
950 Pennsylvania Avenue, NW
Room 4706
Washington, D.C. 20530

Dear Mr. McLaughlin,

I am writing to request an investigation by your office into misconduct by John McKay, U.S. Attorney for Western Washington. I believe that he has committed malfeasance by systematically refusing to act on evidence of election fraud delivered to his office. He has attempted to hide behind a façade of excuses and responsibility-shifting, while sensitive documents pertinent to the investigation are in danger of being destroyed. His lack of action, whether intentional or negligent, has effectively hamstrung the possibility of finding and eliminating election fraud in Washington state.

On April 1, 2005, six members of the King County Council (Seattle-area) sent a request to U.S. Attorney General Gonzales for a Department of Justice investigation of the 2004 General Election. This request was followed up on April 7, 2005, by a letter from the Evergreen Freedom Foundation (EFF) of Olympia, Washington.

I believed that the Department of Justice would initiate an investigation; a belief based on a September 2004 report to Congress from the Government Accountability Office (GAO), which stated, "The Public Integrity Section (PIN), in conjunction with the 93 U.S. Attorneys and the FBI, is responsible for enforcing federal criminal laws applicable to federal election fraud offenses, among other things. Election fraud is conduct that corrupts the electoral process for (1) obtaining, marking, or tabulating ballots; (2) canvassing and certifying election results; or (3) registering voters."

The letter from EFF included twelve specific allegations of election fraud under this definition, and it was therefore copied to Mr. McKay in his role as U.S. Attorney. The letter is enclosed for your review. Please note that, subsequently, additional evidence has been found and sent to Mr. McKay.

After several attempts to contact Mr. McKay to request a grand jury investigation of these allegations, his office finally directed us to the Seattle FBI office. When called, the FBI stated that they could not begin an investigation without a request from Mr. McKay.

I contacted Mr. McKay again to relay this information, and was directed to Assistant U.S. Attorney Arlen Storm, the appointed District Elections Officer (DEO) for Western

Washington. His duties as DEO, as outlined by the GAO report to Congress, include screening and conducting "preliminary investigations of complaints, in conjunction with the FBI and PIN [Public Integrity Section], to determine whether they constitute potential election crimes and should become matters for investigation"; overseeing "the investigation and prosecution of election fraud and other election crimes in their districts"; and coordinating "their district's (investigative and prosecutorial) efforts with DOJ headquarters prosecutors."

Mr. Storm clearly has the duty to review and conduct preliminary investigations of allegations of election fraud; yet he too directed me to contact the FBI, who continued to indicate that they would not conduct an investigation without a request from Mr. McKay. Mr. McKay also attempted to evade the investigation by shifting responsibility to state authorities. In an email response to a question on this issue he wrote "Given the [election] contest now pending in state courts, state venues continue to exist for the matters you identify..." This communication ignored the fact that the 2004 General Election was for federal as well as state offices.

Further attempts to contact Mr. McKay regarding the investigation were rebuffed with the explanation that he had no authority to conduct a grand jury investigation of election fraud. This is despite the fact that Mr. McKay issued three press releases since May 2002 urging the public to contact his office with suspicions of election fraud.

Upon further research this excuse was found to be wrong, for several reasons:

1. Authority is found in the U.S. Attorney's Grand Jury Manual Section 9-11-241 and in 28 U.S.C. 547;
2. A September 2004 report to Congress by the GAO stated that U.S. Attorneys and PIN attorneys initiated a total of 61 election fraud investigations related to election years 2000-2003. These investigations took place in 32 states, none were in Washington.
3. Mr. Storm, the DEO for Mr. McKay, attended a Symposium on Ballot Access and Voting Integrity Initiative hosted by the DoJ in September 2004. During this session he received clear information on his duties and authority to investigate election fraud.
4. Currently there are at least four ongoing grand jury investigations of election fraud by U.S. Attorneys, all with less evidence than was presented to Mr. McKay.
5. Top officials in the PIN of the DoJ have confirmed that Mr. McKay has the authority to convene a grand jury for investigation of the election.

These points were related to Mr. McKay in a letter from the Evergreen Freedom Foundation on April 20, 2005. Despite this explanation, Mr. McKay has continued to refuse to begin an investigation, and has offered no valid reason for his reluctance. On May 9, 2005, Mr. McKay appeared on a local radio talk show, and stated that his jurisdiction is limited to "crimes like bribery, forgery of ballots, conspiracies to intimidate individuals to affect the outcome of an election." He intimated that he was waiting on state and county authorities to investigate, as well as attorneys from an

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ongoing election challenge civil case. The transcript of this interview, which aired on the John Carlson show on KVI radio in Seattle, is available if needed.

Part of any investigation into the 2004 General Election will necessarily involve election records held by county auditors. Some of these records can be destroyed after a short period of time, and thus Mr. McKay's omission to act will soon seriously hinder any chance for a thorough investigation.

I have even asked Mr. McKay to merely recuse himself from the investigation, thus allowing DoJ PIN attorneys to step in. He has completely ignored this suggestion.

The election system in Washington state is severely damaged, partially as a result of apparent election fraud. So many irregularities have been uncovered that the integrity of the entire system is in question, and the people of our state have lost faith in the ability of government to conduct clean and fair elections. The integrity of the system and confidence of the public cannot be restored without vigorous enforcement of the election laws.

Mr. McKay is an essential part of this necessary enforcement, but despite repeated contacts from EFF and scores of concerned citizens, he has refused to fulfill his duties as a U.S. Attorney.

I respectfully request that you investigate this matter promptly. Please contact me if you need further information.

Cordially,



Bob Williams
President

Enclosures:

- Press release of November 1, 2004 from John McKay
- Email of January 27, 2005, from John McKay stating the limits of his authority
- News Article of April 14, 2005, regarding call for grand jury.
- ~~Letter of April 20, 2005 from EFF to John McKay~~
- Three Emails of April 29, 2005 from Bob Williams to John McKay
- Email of May 4, 2005, to John McKay from Bob Williams, includes series of exchanges
- Email of May 4, 2005 from DEO Arlen Storm to concerned citizen
- Email of May 5, 2005 from Bob Williams to John McKay
- Letter of May 12, 2005 from Arlen Storm to Bob Williams
- Letter of May 19, 2005 from Bob Williams to John McKay

OAG000000771

December 02, 2005

Federal Bureau of Investigation
1110 Third Avenue
Seattle, WA 98101-2904

Dear Sir or Madam:

Enclosed is evidence that officials in King County, Washington committed election fraud during the 2004 General Election. Stefan Sharkansky uncovered this evidence through examination of public records to understand why the number of votes counted exceeded the number of persons who voted. Official foot dragging and cover-up continues to delay completion of his investigation, forcing him to file a lawsuit for disclosure of records. However, he has been able to find a significant amount of fraudulently processed ballots. The information is detailed in the accompanying CD with photographs of the ballot envelopes.

Evidence of fraud is in three categories:

1. Provisional ballots cast by voters who returned incomplete registrations and were not entitled to vote in the November 2004 election. Some envelopes were marked "Fatal Pend" indicating that the ballot was rejected; yet the rejection was overridden by election officials and the ballots were counted. Figures 1a and 1b are examples. To date, 89 such ballots have been found. It is estimated that there is a total of 100 to 150.
2. Provisional ballots cast by unregistered voters. Most of these voters were inexplicitly assigned to Precinct 1823, home of the King County Administration Building, even though their residential addresses are in different jurisdictions. Figure 2 is an example. To date, 30 such ballots have been found. It is estimated that there is a total of 100.
3. Provisional ballots cast by voters who also cast absentee ballots. Markings on many of the envelopes prove that it was known that absentee ballots had been received; yet both ballots were counted. Figures 3a and 3b show an example. To date, 146 such ballots have been found. It is estimated that there is a total of 200.

Additional evidence shows that many of the unqualified ballots were processed in the last 24 hours before initial certification when the closeness of the governor election was known. Also, there is evidence that computer records were modified to cover up irregularities.

The enclosed CD contains images of the evidence, details concerning the evidence in a spreadsheet file named "IneligibleVotesPost.xls", and an explanatory file named "IneligibleVoteCatalog.pdf".

Please note that under federal and state records retention laws, election records may be destroyed after 22 months. Therefore, only 9 months remain until original evidence of election fraud may be destroyed.

The following is contact information for Mr. Sharkansky:

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Stefan Sharkansky
5726 Keystone Pl N
Seattle, WA 98103
(206) 526-9970
e-mail: theshark@usefulwork.com

I supported Mr. Sharkansky in the review of archived ballot envelopes for the violations discussed in item 3 above. Contact information for me is:

Robert M. Edelman
29871 232nd Ave SE
Black Diamond, WA 98010
(360) 886-7166
e-mail: bobedelman@comcast.net

Respectfully submitted,

Robert M. Edelman

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Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET

ARG

MB

DATE OF DOCUMENT: 12/14/2006
DATE RECEIVED: 12/29/2006

WORKFLOW ID: 1114470
DUE DATE: 01/17/2007

FROM: The Honorable John McKay
U. S. Attorney, W.D. of Washington
601 Union Street, Suite 5100
Seattle, WA 98101-3903

TO: AG

MAIL TYPE: Priority VIP Correspondence-Policy/Issue

SUBJECT: Submitting his resignation as USA for the Western District of Washington,
effective 1/26/2007. Commending the AG for his leadership and extending best
wishes.

DATE ASSIGNED
12/29/2006

ACTION COMPONENT & ACTION REQUESTED
Executive Office of United States Attorneys
Prepare response for AG signature.

INFO COMPONENT: OAG, ODAG, OLP

COMMENTS:

FILE CODE:

EXECSEC POC: Debbie Alexander: 202-616-0075

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U.S. Department of Justice

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DA

United States Attorney
Western District of Washington

700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271

Tel: (206) 553-7970
Fax: (206) 553-2054

December 14, 2006

Hon. Alberto Gonzalez
Attorney General of the United States
950 Pennsylvania Ave. N.W., Room 5111
Washington, D.C. 20530

Dear Judge Gonzalez:

I have today submitted to the President my resignation as United States Attorney for the Western District of Washington, effective midnight January 26, 2007.

It has been a privilege to serve with you and the many talented men and women of the U.S. Department of Justice. I am particularly proud of the accomplishments of the prosecutors, trial attorneys and support staff whom I have been honored to lead in this District. Together, we have helped to secure our nation from terrorism, international drug crime, violent criminals and corporate fraud.

We have reestablished the unifying role of the United States Attorney as the chief federal law enforcement official with the responsibility to advance the priorities of the President and the Attorney General. In doing so, this District has experienced dramatic increases in investigations and prosecutions within these priorities, including the extensive use of Title III wiretaps and unprecedented law enforcement information sharing through the innovative Law Enforcement Information Exchange (LInX). The expansion of this program under the leadership of U.S. Attorneys and the Attorney General's Advisory Committee ranks among my most satisfying and rewarding endeavors, and I hope and trust the Department will continue to lead this critical effort to combat terrorism and organized crime that transcends jurisdictional boundaries.

I have been privileged to know you longer than most of our colleagues. I deeply admire your service as Texas Supreme Court Justice and White House Counsel, and am grateful for your support and friendship during my prior service at Legal Services Corporation and as United States Attorney. You have my best wishes for every continued success, and to you and all of your family I send my prayers for a joyous Christmas and all of the blessings of the New Year.

Sincerely,


John McKay
United States Attorney

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