

resigned to be appointed Deputy Attorney General (Rosenberg was confirmed shortly thereafter);

- **Eastern District of Arkansas** – Tim Griffin was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Columbia** – Jeff Taylor was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Assistant Attorney General for the National Security Division;
- **District of Nebraska** – Joe Stecher was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Chief Justice of Nebraska Supreme Court;
- **Middle District of Tennessee** – Craig Morford was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Western District of Missouri** – Brad Schlozman was appointed interim United States Attorney when incumbent United States Attorney and FAUSA resigned at the same time (John Wood was nominated);
- **Western District of Washington** – Jeff Sullivan was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Arizona** – Dan Knauss was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Northern District of California** – Scott Schools was appointed interim United States Attorney when incumbent United States Attorney resigned; and
- **Southern District of California** – Karen Hewitt was appointed interim United States Attorney when incumbent United States Attorney resigned.

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**UNITED STATES ATTORNEYS' PROSECUTION STATISTICS**

**This Administration Has Demonstrated that It Values Prosecution Experience. Of the 124 Individuals President George W. Bush Has Nominated Who Have Been Confirmed by the Senate:**

- 98 had prior experience as prosecutors (79 %)
  - 71 had prior experience as federal prosecutors (57 %)
  - 54 had prior experience as state or local prosecutors (44%)
- 104 had prior experience as prosecutors or government litigators on the civil side (84 %)

**In Comparison, of President Clinton's 122 Nominees Who Were Confirmed by the Senate:**

- 84 had prior experience as prosecutors (69 %)
  - 56 had prior experience as federal prosecutors (46 %)
  - 40 had prior experience as state or local prosecutors (33 %)
- 87 had prior experience as prosecutors or government litigators on the civil side (71 %)

**Since the Attorney General's Appointment Authority Was Amended on March 9, 2006, the Backgrounds of Our Nominees Has Not Changed. Of the 16 Nominees Since that Time:**

- 14 of the 16 had prior experience as prosecutors (88%) – *a higher percentage than before.*
  - 12 of the 16 had prior experience as federal prosecutors (75%) – *a higher percentage than before the change*; 11 were career AUSAs or former career AUSAs and 1 had federal prosecution experience as an Assistant Attorney General of the Civil Rights Division
  - 4 of the 15 nominees had experience as state or local prosecutors (27%)

**Those Chosen To Be Acting/Interim U.S. Attorneys since the Attorney General's Appointment Authority Was Amended on March 9, 2006, Have Continued To Be Highly Qualified. Of the 18 districts in which new vacancies have occurred, 19 acting and/or interim appointments have been made:**

- 18 of the 19 had prior experience as federal prosecutors (95%)

### 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).

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**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 remove the investigative files involving the Governor from the office 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 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.

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**TALKING POINTS: U.S. ATTORNEY NOMINATIONS AND INTERIM APPOINTMENTS BY THE ATTORNEY GENERAL**

**Overview:**

- In every single case, it is a goal of the Bush Administration to have a U.S. Attorney that is confirmed by the Senate. Use of the AG's appointment authority is in no way an attempt to circumvent the confirmation process. To the contrary, when a United States Attorney submits his or her resignation, the Administration has an obligation to ensure that someone is able to carry out the important function of leading a U.S. Attorney's office during the period when there is not a presidentially-nominated, senate-confirmed (PAS) U.S. Attorney. Whenever a U.S. Attorney vacancy arises, we consult with the home-state Senators about candidates for nomination.
- Our record since the AG-appointment authority was amended demonstrates we are committed to working with the Senate to nominate candidates for U.S. Attorney positions. Every single time that a United States Attorney vacancy has arisen, the President either has made a nomination or the Administration is working, in consultation with home-State Senators, to select candidates for nomination.
  - ✓ Specifically, since March 9, 2006 (when the AG's appointment authority was amended), the Administration has nominated 16 individuals to serve as U.S. Attorney (12 have been confirmed to date).

**U.S. Attorneys Serve at the Pleasure of the President:**

- United States Attorneys are at the forefront of the Department of Justice's efforts. They are leading the charge to protect America from acts of terrorism; reduce violent crime, including gun crime and gang crime; enforce immigration laws; fight illegal drugs, especially methamphetamine; combat crimes that endanger children and families like child pornography, obscenity, and human trafficking; and ensure the integrity of the marketplace and of government by prosecuting corporate fraud and public corruption.
- The Attorney General and the Deputy Attorney General are responsible for evaluating the performance the United States Attorneys and ensuring that United States Attorneys are leading their offices effectively.
- United States Attorneys serve at the pleasure of the President. Thus, like other high-ranking Executive Branch officials, they may be removed for any reason or no reason. That on occasion in an organization as large as the Justice Department some United States Attorneys are removed, or are asked or encouraged to resign, should come as no surprise. United States Attorneys never are removed, or asked or encouraged to resign, in an effort to retaliate against them or interfere with or

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inappropriately influence a particular investigation, criminal prosecution or civil case.

- Whenever a vacancy occurs, we act to fill it in compliance with our obligations under the Constitution, the laws of the United States, and in consultation with the home-state Senators. The Senators have raised concerns based on a misunderstanding of the facts surrounding the resignations of a handful of U.S. Attorneys, each of whom have been in office for their full four year term or more.
- The Attorney General and the Deputy Attorney General are responsible for evaluating the performance the U.S. Attorneys and ensuring that they are leading their offices effectively. However, U.S. Attorneys are never removed, or asked or encouraged to resign, in an effort to retaliate against them or interfere with or inappropriately influence a particular investigation, criminal prosecution or civil case.

**The Administration Must Ensure an Effective Transition When Vacancies Occur:**

- When a United States Attorney has submitted his or her resignation, the Administration has -- in every single case -- consulted with home-state Senators regarding candidates for the Presidential nomination and Senate confirmation. The Administration is committed to nominating a candidate for Senate consideration everywhere a vacancy arises, as evidenced by the fact that there have been 124 confirmations of new U.S. Attorneys since January 20, 2001.
- With 93 U.S. Attorney positions across the country, the Department often averages between 8-15 vacancies at any given time. Because of the important work conducted by these offices, and the need to ensure that the office is being managed effectively and appropriately, the Department uses a range of options to ensure continuity of operations.
- In some cases, the First Assistant U.S. Attorney is an appropriate choice. However, in other cases, the First Assistant may not be an appropriate option for reasons including that he or she: resigns or retires at the same time as the outgoing U.S. Attorney; indicates that he/she does not want to serve as Acting U.S. Attorney; has ongoing or completed OPR or IG matters in their file, which may make his/her elevation to the Acting role inappropriate; or is subject of an unfavorable recommendation by the outgoing U.S. Attorney or otherwise does not enjoy the confidence of those responsible for ensuring ongoing operations and an appropriate transition until such time as a new U.S. Attorney is nominated and confirmed by the Senate. In those cases, the Attorney General has appointed another individual to lead the office during the transition, often another senior manager from that office or an experienced attorney from within the Department.

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**The Administration Is Nominating Candidates for U.S. Attorney Positions:**

- Since March 9, 2006, when the appointment authority was amended, the Administration has nominated 16 individuals for Senate consideration (12 have been confirmed to date).
- Since March 9, 2006, when the appointment authority was amended, 18 vacancies have been created. Of those 18 vacancies, the Administration nominated candidates to fill 6 of these positions (3 were confirmed to date), has interviewed candidates for 8 positions, and is waiting to receive names to set up interviews for the remaining positions – all in consultation with home-state Senators.

**The 18 Vacancies Were Filled on an Interim Basis Using a Range of Authorities, in Order To Ensure an Effective and Smooth Transition:**

- In 7 cases, the First Assistant was selected to lead the office and took over under the Vacancy Reform Act's provision at: 5 U.S.C. § 3345(a)(1). That authority is limited to 210 days, unless a nomination is made during that period.
- In 1 case, the First Assistant was selected to lead the office and took over under the Vacancy Reform Act's provision at: 5 U.S.C. § 3345(a)(1). However, the First Assistant took federal retirement a month later and the Department had to select another Department employee to serve as interim under AG appointment until such time as a nomination is submitted to the Senate.
- In 10 cases, the Department selected another Department employee to serve as interim under AG appointment until such time as a nomination is submitted to the Senate. In 1 of those 10 cases, the First Assistant had resigned at the same time as the U.S. Attorney, creating a need for an interim until such time as a nomination is submitted to the Senate.

**Amending the Statute Was Necessary:**

- Last year's amendment to the Attorney General's appointment authority was necessary and appropriate.
- We are aware of no other federal agency where federal judges, members of a separate branch of government and not the head of the agency, appoint interim staff on behalf of the agency.
- Prior to the amendment, the Attorney General could appoint an interim United States Attorney for only 120 days; thereafter, the district court was authorized to appoint an interim United States Attorney. In cases where a Senate-confirmed United States Attorney could not be appointed within 120 days, the limitation on the Attorney General's appointment authority resulted in numerous, recurring problems.

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- The statute was amended for several reasons:
  - 1) The previous provision was constitutionally-suspect in that it is inappropriate and inconsistent with sound separation of powers principles to vest federal courts with the authority to appoint a critical Executive Branch officer such as a United States Attorney;
  - 2) Some district courts – recognizing the oddity of members of one branch of government appointing officers of another and the conflicts inherent in the appointment of an interim United States Attorney who would then have many matters before the court – refused to exercise the court appointment authority, thereby requiring the Attorney General to make successive, 120-day appointments;
  - 3) Other district courts – ignoring the oddity and the inherent conflicts – sought to appoint as interim United States Attorney wholly unacceptable candidates who did not have the appropriate experience or the necessary clearances.
  
- Court appointments raise significant conflict questions. After being appointed by the court, the judicial appointee would have authority for litigating the entire federal criminal and civil docket for this period before the very district court to whom he was beholden for his appointment. Such an arrangement at a minimum gives rise to an appearance of potential conflict that undermines the performance of not just the Executive Branch, but also the Judicial one. Furthermore, prosecutorial authority should be exercised by the Executive Branch in a unified manner, with consistent application of criminal enforcement policy under the supervision of the Attorney General.
  
- Because the Administration is committed to having a Senate-confirmed United States Attorney in all districts, changing the law to restore the limitations on the Attorney General's appointment authority is unnecessary.

### WHY 120 DAYS IS NOT REALISTIC

- One hundred twenty days is not a realistic period of time to permit any Administration to **solicit and wait for home-state political leaders to identify a list of potential candidates**, provide the time needed to **interview and select a candidate for background investigation**, provide the FBI with adequate time to **do the full-field background investigation, prepare and submit the nomination**, and to be followed by the Senate's review and confirmation of a new U.S. Attorney.
- The average number of days between the resignation of one Senate-confirmed U.S. Attorney and the President's nomination of a candidate for Senate consideration is 273 days (including 250 USAs during the Clinton Administration and George W. Bush Administration to date). Once nominated, the Senate has taken an additional period of time to review the nominations of the Administration's law enforcement officials.
- The average number of days between the nomination of a new U.S. Attorney candidate and Senate confirmation has been 58 days for President George W. Bush's USA nominees (note - the majority were submitted to a Senate that was controlled by the same party as the President) and 81 days for President Bill Clinton's USA nominees (note - 70% of nominees were submitted in the first two years to a Senate controlled by the same party as the President, others were submitted in the later six years to a party that was not).
- Simply adding the two averages of 273 and 58 days would mean a combined average of 331 days from resignation of one USA to confirmation of the next.
- The substantial time period between resignation and nomination is often due to factors outside the Administration's control, such as: 1) the Administration is waiting for home-state political leaders to develop and transmit their list of names for the Administration to begin interviewing candidates; 2) the Administration is awaiting feedback from home-state Senators on the individual selected after the interviews to move forward into background; and 3) the Administration is waiting for the FBI to complete its full-field background review. (The FBI often uses 2-4 months to do the background investigation -- and sometimes needs additional time if they identify an issue that requires significant investigation.)

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**TIMOTHY GRIFFIN AS INTERIM UNITED STATES ATTORNEY  
FOR THE EASTERN DISTRICT OF ARKANSAS**

- The Attorney General appointed Tim Griffin as the interim U.S. Attorney following the resignation of Bud Cummins, who resigned on Dec. 20, 2006. Since early in 2006, Mr. Cummins had been talking about leaving the Department to go into private practice for family reasons.
- Timothy Griffin is highly qualified to serve as the U.S. Attorney for the Eastern District of Arkansas.
- Mr. Griffin has significant experience as a federal prosecutor at both the Department of Justice and as a military prosecutor. At the time of his appointment, he was serving as a federal prosecutor in the Eastern District of Arkansas. Also, from 2001 to 2002, Mr. Griffin served at the Department of Justice as Special Assistant to the Assistant Attorney General for the Criminal Division and as a Special Assistant U.S. Attorney in the Eastern District of Arkansas in Little Rock. In this capacity, Mr. Griffin prosecuted a variety of federal cases with an emphasis on firearm and drug cases and organized the Eastern District's Project Safe Neighborhoods (PSN) initiative, the Bush Administration's effort to reduce firearm-related violence by promoting close cooperation between State and federal law enforcement, and served as the PSN coordinator.
- Prior to rejoining the Department in the fall of 2006, Mr. Griffin completed a year of active duty in the U.S. Army, and is in his tenth year as an officer in the U.S. Army Reserve, Judge Advocate General's Corps (JAG), holding the rank of Major. In September 2005, Mr. Griffin was mobilized to active duty to serve as an Army prosecutor at Fort Campbell, Ky. At Fort Campbell, he prosecuted 40 criminal cases, including *U.S. v. Mikel*, which drew national interest after Pvt. Mikel attempted to murder his platoon sergeant and fired upon his unit's early morning formation. Pvt. Mikel pleaded guilty to attempted murder and was sentenced to 25 years in prison.
- In May 2006, Tim was assigned to the 501st Special Troops Battalion, 101st Airborne Division and sent to serve in Iraq. From May through August 2006, he served as an Army JAG with the 101st Airborne Division in Mosul, Iraq, as a member of the 172d Stryker Brigade Combat Team Brigade Operational Law Team, for which he was awarded the Combat Action Badge and the Army Commendation Medal.
- Like many political appointees, Mr. Griffin has political experience as well. Prior to being called to active duty, Mr. Griffin served as Special Assistant to the President and Deputy Director of the Office of Political Affairs at the White House, following a stint at the Republican National Committee. Mr. Griffin has also served as Senior Counsel to the House Government Reform Committee, as an Associate Independent Counsel for *In Re: Housing and Urban Development Secretary Henry Cisneros*, and as an associate attorney with a New Orleans law firm.
- Mr. Griffin has very strong academic credentials. He graduated *cum laude* from Hendrix College in Conway, Ark., and received his law degree, *cum laude*, from Tulane Law School. He also attended graduate school at Pembroke College at Oxford University. Mr. Griffin was raised in Magnolia, Ark., and resides in Little Rock with his wife, Elizabeth.
- The Attorney General assured Senator Pryor that we are not circumventing the process by making an interim appointment and that the Administration intended to nominate Mr. Griffin. However, Senator Pryor refused to support Mr. Griffin if he was nominated. As a result of the lack of support shown by his home-state Senators, Mr. Griffin has withdrawn his name from consideration.

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- While the Administration consults with the home-state Senators on a potential nomination, however, the Department must have someone lead the office – and we believe Mr. Griffin is well-qualified to serve in this interim role until such time as a new U.S. Attorney is nominated and confirmed.

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# J. TIMOTHY GRIFFIN

## EDUCATION

**Tulane University Law School.** New Orleans, Louisiana. Juris Doctor, *cum laude*, May 1994. Cumulative G.P.A.: 3.25/4.00; Rank: 80/319, Top 25%. Common law and civil law curricula. Legal Research and Writing grade: A.

- Senior Fellow, Legal Research and Writing Program. Taught first year law students legal research and writing.
- Volunteer, The New Orleans Free Tutoring Program, Inc.

**Oxford University, Pembroke College.** Oxford, England. Graduate School, British and European History, 1990-1991.

- Under-secretary and Treasurer, Oxford University Clay Pigeon Shooting Club.

**Hendrix College.** Conway, Arkansas. Bachelor of Arts in Economics and Business, *cum laude*, June 1990. Cumulative G.P.A.: Major 3.79/4.00, Overall 3.78/4.00; Rank: 22/210, Top 10%.

- Oxford Overseas Study Course, September 1988-May 1989, Oxford, England.

## LEGAL EXPERIENCE

**U.S. Attorney (Interim).** Eastern District of Arkansas, U.S. Department of Justice. Little Rock, Arkansas. December 2006-present.

- Served as a Special Assistant U.S. Attorney, Eastern District of Arkansas, September-December 2006.

**Trial Counsel, U.S. Army JAG Corps. Criminal Law Branch, Office of the Staff Judge Advocate.** Fort Campbell, Kentucky, September 2005-May 2006; August-September 2006.

- Successfully prosecuted U.S. v. Mikel, involving a soldier's attempted murder of his platoon sergeant.
- Provided legal advice to E Co., 1<sup>st</sup> and 3<sup>rd</sup> Brigade Combat Teams, 101<sup>st</sup> Airborne Division (Air Assault)(R)(P).
- Prosecuted 40 Army criminal cases at courts-martial and federal criminal cases as a Special Assistant U.S. Attorney, Western District of Kentucky and Middle District of Tennessee, and handled 90 administrative separations.

**Brigade Judge Advocate, U.S. Army Judge Advocate General's (JAG) Corps. Operation Iraqi Freedom. Task Force Band of Brothers.** 501<sup>st</sup> STB, 101<sup>st</sup> Airborne Division (Air Assault). Mosul, Iraq, May-August 2006.

- Served on the Brigade Operational Law Team (BOLT), 172d Stryker Brigade Combat Team, FOB Marez, Iraq.
- Provided legal advice on various topics, including financial investigations, rules of engagement, and rule of law.

**Special Assistant to the Assistant Attorney General. Criminal Division, U.S. Department of Justice.** Washington, D.C. and Little Rock, Arkansas. March 2001-June 2002.

- Tracked issues for Assistant Attorney General Michael Chertoff and worked with the Office of International Affairs (OIA) on matters involving extradition, provisional arrest and mutual legal assistance treaties (MLATs).
- Prosecuted federal firearm and drug cases and served as the coordinator for Project Safe Neighborhoods, a strategy to reduce firearm-related violence through cooperation between state and federal law enforcement, as a Special Assistant U.S. Attorney, Eastern District of Arkansas, in Little Rock, September 2001-June 2002.

**Senior Investigative Counsel.** Committee on Government Reform, U.S. House of Representatives. Washington, D.C. January 1997-February 1998; June 1998-September 1999.

- Developed hearing series entitled "National Problems, Local Solutions: Federalism at Work" to highlight innovative and successful reforms at the state and local levels, including: "Fighting Crime in the Trenches," featuring New York City Mayor Rudolph Giuliani, and "Tax Reform in the States."
- Pursuant to the Committee's campaign finance investigation, interviewed Johnny Chung and played key role in hearing detailing his illegal political contributions; organized, supervised and conducted the financial investigation of individuals and entities; interviewed witnesses; drafted subpoenas; and briefed Speaker of the House Newt Gingrich.

**Associate Independent Counsel.** U.S. Office of Independent Counsel David M. Barrett. *In re: Henry G. Cisneros, Secretary of Housing and Urban Development (HUD)*. Washington, D.C. September 1995-January 1997.

- Interviewed numerous witnesses with the F.B.I. and supervised the execution of a search warrant.
- Drafted subpoenas and pleadings and questioned witnesses before a federal grand jury.

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**Associate Attorney.** General Litigation Section. Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P. New Orleans, Louisiana. September 1994-September 1995.

- Drafted legal memoranda and pleadings and conducted depositions.

#### ADDITIONAL WORK EXPERIENCE

**Special Assistant to the President and Deputy Director.** Office of Political Affairs, The White House. Washington, D.C. April-September 2005. On military leave after mobilization to active duty, September 2005-September 2006.

- Advised President George W. Bush and Vice-President Richard B. Cheney.
- Organized and coordinated support for the President's agenda.

**Research Director and Deputy Communications Director.** 2004 Presidential Campaign, Republican National Committee (RNC). Washington, D.C. June 2002-December 2004.

- Briefed Vice-President Richard B. Cheney and other Bush-Cheney 2004 (BC04) and RNC senior staff.
- Managed RNC Research, the primary research resource for BC04, with over 25 staff.
- Worked daily with BC04 senior staff on campaign and press strategy, ad development and debate preparation.

**Deputy Research Director.** 2000 Presidential Campaign, Republican National Committee (RNC). Washington, D.C. September 1999-February 2001.

- Managed RNC Research, the primary research resource for Bush-Cheney 2000 (BC00), with over 30 staff.
- Served as legal advisor in Volusia and Brevard Counties for BC00 Florida Recount Team.

**Campaign Manager.** Betty Dickey for Attorney General. Pine Bluff, Arkansas. February 1998-May 1998.

#### SUMMARY OF MILITARY SERVICE

**Major.** JAG Corps, U.S. Army Reserve. Commissioned First Lieutenant, June 1996.

- Served on active duty in Mosul, Iraq with the 101<sup>st</sup> Airborne Division (Air Assault), and at Fort Campbell, Kentucky, September 2005-September 2006.
- Authorized to wear 101<sup>st</sup> Airborne Division (Air Assault) "Screaming Eagle" combat patch.
- **Medals, Ribbons and Badges:** Army Commendation Medal with Five Oak Leaf Clusters; Army Achievement Medal with Four Oak Leaf Clusters; Army Reserve Components Achievement Medal with Two Oak Leaf Clusters; National Defense Service Medal; Iraq Campaign Medal; Global War on Terrorism Service Medal; Armed Forces Reserve Medal with Bronze Hourglass and "M" Devices; Army Service Ribbon; and Army Reserve Overseas Training Ribbon with "3" Device; and Combat Action Badge.

#### ACTIVITIES AND ASSOCIATIONS

**Arkansas Bar Association.** Little Rock, Arkansas. *Member*, 1995-present. Annual Meeting Subcommittee on Technology, 2002. Admitted to Arkansas Bar, April 26, 1995.

**Friends of Central Arkansas Libraries (FOCAL).** Little Rock, Arkansas. *Life Member*.

**Florence Crittenton Services, Inc.** Little Rock, Arkansas. *Member*, Board of Directors, 2001-2002.

**Louisiana State Bar Association.** New Orleans, Louisiana. *Member*. Admitted October 7, 1994. Currently inactive.

**The Oxford Union Society.** Oxford, England. *Member*, 1990-present.

**Pulaski County Bar Association.** Little Rock, Arkansas. *Member*, 2001-2002. *Co-chair*, Law School Liaison Committee, 2001-2002.

**Reserve Officers Association.** Washington, D.C. *Life Member*.

**Sampson, Kyle**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:30 PM  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** FW:  
**Importance:** High

**Tracking:**

Recipient	Read
McNulty, Paul J	Read: 3/5/2007 3:37 PM
Moschella, William	
Hertling, Richard	
Scolinos, Tasia	Read: 3/5/2007 2:35 PM
Battle, Michael (USAEO)	
Elston, Michael (ODAG)	Read: 3/5/2007 2:31 PM
Roehrkasse, Brian	Read: 3/5/2007 2:30 PM
Goodling, Monica	Read: 3/5/2007 2:42 PM
Washington, Tracy T	Read: 3/5/2007 2:30 PM

All, please see the below. I propose to you all that I propose 5pm to Bill -- I assume they'll want us to go over there. Thoughts?

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**From:** Kelley, William K. [mailto:William\_K\_Kelley@who.eop.gov]  
**Sent:** Monday, March 05, 2007 1:57 PM  
**To:** Sampson, Kyle  
**Subject:**

Kyle--We've been tasked with getting a meeting together with you, Paul, Will, DOJ leg and pa, and maybe Battle - today - to go over the Administration's position on all aspects of the US Atty issue, including what we are going to say about the proposed legislation and why the US Attys were asked to resign. There's a hearing tomorrow at which Will is scheduled to testify, so we have to get this group together with some folks here asap. Can you look into possible times? Thanks, and sorry to impose.

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**Sampson, Kyle**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:49 PM  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** RE:  
**Importance:** High

Tracking:	Recipient	Read
	McNulty, Paul J	Read: 3/5/2007 3:37 PM
	Moschella, William	
	Hertling, Richard	
	Scolinos, Tasia	
	Battle, Michael (USAEO)	
	Elston, Michael (ODAG)	Read: 3/5/2007 2:52 PM
	Roehrkasse, Brian	Read: 3/5/2007 2:51 PM
	Goodling, Monica	
	Washington, Tracy T	Read: 3/5/2007 2:49 PM

Okay -- two things:

1. We are set for 5pm at the White House. I need WAVES info from each of you: DOBs and SSNs.
2. Kelley says that among other things they'll want to cover (1) Administration's position on the legislation (Will's written testimony says that we oppose the bill, raising White House concerns); and (2) how we are going to respond substantively to each of the U.S. Attorney's allegations that they were dismissed for improper reasons.

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:30 PM  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** FW:  
**Importance:** High

All, please see the below. I propose to you all that I propose 5pm to Bill -- I assume they'll want us to go over there. Thoughts?

---

**From:** Kelley, William K. [mailto:William\_K\_Kelley@who.eop.gov]  
**Sent:** Monday, March 05, 2007 1:57 PM  
**To:** Sampson, Kyle  
**Subject:**

Kyle--We've been tasked with getting a meeting together with you, Paul, Will, DOJ leg and pa, and maybe Battle - today - to go over the Administration's position on all aspects of the US Atty issue, including what we are going to say about the proposed legislation and why the US Attys were asked to resign. There's a hearing tomorrow at which Will is scheduled to testify, so we have to get this group together with some folks here asap. Can you look into possible times? Thanks, and sorry to impose.

OAG000000326

2/13/2007

**Sampson, Kyle**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:52 PM  
**To:** Scolinos, Tasia  
**Subject:** RE:

**Tracking:** Recipient Read  
Scolinos, Tasia Read: 3/5/2007 2:52 PM

yes, and already told him so

---

**From:** Scolinos, Tasia  
**Sent:** Monday, March 05, 2007 2:50 PM  
**To:** Sampson, Kyle  
**Subject:** RE:

are you okay with Brian coming too? He asked to come and he has been extremely involved on this issue

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:49 PM  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** RE:  
**Importance:** High

Okay – two things:

1. We are set for 5pm at the White House. I need WAVES info from each of you: DOBs and SSNs.
2. Kelley says that among other things they'll want to cover (1) Administration's position on the legislation (Will's written testimony says that we oppose the bill, raising White House concerns); and (2) how we are going to respond substantively to each of the U.S. Attorney's allegations that they were dismissed for improper reasons.

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:30 PM  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** FW:  
**Importance:** High

All, please see the below. I propose to you all that I propose 5pm to Bill – I assume they'll want us to go over there. Thoughts?

---

**From:** Kelley, William K. [mailto:William\_K\_Kelley@who.eop.gov]  
**Sent:** Monday, March 05, 2007 1:57 PM  
**To:** Sampson, Kyle  
**Subject:**

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OAG000000327

- today – to go over the Administration's position on all aspects of the US Atty issue, including what we are going to say about the proposed legislation and why the US Attys were asked to resign. There's a hearing tomorrow at which Will is scheduled to testify, so we have to get this group together with some folks here asap. Can you look into possible times? Thanks, and sorry to impose.

OAG000000328

2/12/007

**Sampson, Kyle**

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**From:** Seidel, Rebecca  
**Sent:** Monday, March 05, 2007 2:53 PM  
**To:** Sampson, Kyle; Goodling, Monica; Moschella, William; Nowacki, John (USAEO); Scott-Finan, Nancy; Scolinos, Tasia; Roehrkasse, Brian  
**Cc:** Smith, Kimberly A  
**Subject:** FW: [USA Issue] Witness List for Full Committee Hearing on Tuesday, March 6, 2007 at 10:00 a.m.  
**Attachments:** 3-6-07 Witness List.doc

assuming you already knew this. looks like they got 4 without subpoenas. Cummins, Iglesias, Lam and McKay

---

**From:** Butterfield, Jane (Judiciary-Dem) [mailto:Jane.Butterfield@Judiciary-dem.senate.gov]  
**Sent:** Monday, March 05, 2007 11:57 AM  
**To:** All Judiciary Users; Alexander, Elizabeth (Biden); Brannon, Ike (Hatch); Carle, David (Leahy); Cota, Greg (Leahy); Del'Aguila, Andrea (Durbin); Galyean, James (L. Graham); Ginsberg, Daniel (Leahy); Kuhn, Walt (L. Graham); Nuebel, Kathy (Grassley); Orloff, Nancy (Biden); Pagano, Ed (Leahy); Sandgren, Matthew (Hatch); Saunders, Chris (Leahy); Tardibono, Timothy (Coburn); Upton, Marianne (Appropriations); Wilson, Alexis (Feinstein); Branca, Arlene (Kohl); Dowd, John (Leahy); Fay, Scott (Kennedy); Hinck, Kaaren (Whitehouse); Kidera, Daniel (Schumer); Lapa, Joe (Dem-Secretary); Magee, Kimberly (Schumer); McDonald, Kevin (Leahy); Sebern, Will (Feingold); Smith, Michele (Biden); Yamada, Debbie (Cardin); Berwick, Sally (Brownback); Edwards, Lauren (L. Graham); Hollis, Kate (Sessions); Jafari, Beth (Cornyn); Larrabee, Jill (Kyl); Lisa Dennis (Court Reporter); Montoya, Ruth (Hatch); Plakoudas, Maria (Specter); Shadegg, Courtney (Coburn); Shimp, Leah (Grassley); Stewart, Christine (Cornyn)  
**Subject:** Witness List for Full Committee Hearing on Tuesday, March 6, 2007 at 10:00 a.m.

**Witness List**

**Hearing before the  
Senate Judiciary Committee**

**On**

**"Preserving Prosecutorial Independence: Is the Department of Justice Politicizing the Hiring and Firing of U.S. Attorneys?—Part II"**

Tuesday, March 6, 2007  
10:00 a.m. Dirksen Senate Office Building, Room 226

**H.E. "Bud" Cummins, III**  
Former U.S. Attorney  
Eastern District of Arkansas  
Little Rock, AR

**David C. Iglesias**  
Former U.S. Attorney  
District of New Mexico  
Albuquerque, NM

3/12/2007

OAG000000329

**Carol Lam**  
Former U.S. Attorney  
Southern District of California  
San Diego, CA

**John McKay**  
Former U.S. Attorney  
Western District of Washington  
Seattle, WA

**Witness List**

**Hearing before the  
Senate Judiciary Committee**

**On**

**“Preserving Prosecutorial Independence: Is the Department of Justice Politicizing  
the Hiring and Firing of U.S. Attorneys?—Part II”**

Tuesday, March 6, 2007  
10:00 a.m. Dirksen Senate Office Building, Room 226

**H.E. “Bud” Cummins, III**  
Former U.S. Attorney  
Eastern District of Arkansas  
Little Rock, AR

**David C. Iglesias**  
Former U.S. Attorney  
District of New Mexico  
Albuquerque, NM

**Carol Lam**  
Former U.S. Attorney  
Southern District of California  
San Diego, CA

**John McKay**  
Former U.S. Attorney  
Western District of Washington  
Seattle, WA

OAG00000331

**Sampson, Kyle**

---

**From:** Seidel, Rebecca  
**Sent:** Monday, March 05, 2007 2:55 PM  
**To:** Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO); Scolinos, Tasia; Hertling, Richard; Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy  
**Subject:** FW: US ATTY II Hearing 3/6/07: Cummins, Iglesias, Lam and McKay Joint Testimony & Individual Bios  
**Importance:** High  
**Attachments:** 03-06-07 US ATTY II Hearing - Joint Testimony.pdf; 03-06-07 US Atty II Hearing - Cummins Bio.pdf; 03-06-07 US Atty II Hearing - Iglesias Bio.pdf; 03-06-07 US Atty II Hearing - Lam Bio.pdf; 03-06-07 US Atty II Hearing - McKay Bio.pdf

did you already get these?

---

**From:** Evans, Ryan (Judiciary-Rep) [mailto:Ryan\_Evans@judiciary-rep.senate.gov]  
**Sent:** Monday, March 05, 2007 2:25 PM  
**To:** Seidel, Rebecca  
**Subject:** FW: US ATTY II Hearing 3/6/07: Cummins, Iglesias, Lam and McKay Joint Testimony & Individual Bios

---

**From:** Burroughs, Nikole (Judiciary-Dem) [mailto:Nikole\_Burroughs@Judiciary-dem.senate.gov]  
**Sent:** Monday, March 05, 2007 11:59 AM  
**To:** All Judiciary Users  
**Subject:** US ATTY II Hearing 3/6/07: Cummins, Iglesias, Lam and McKay Joint Testimony & Individual Bios

Attached please find joint testimony and individual bios submitted by Mr. Cummins, Mr. Iglesias, Ms. Lam and Mr. McKay to the March 6, 2007 hearing entitled "Part II—Preserving Prosecutorial Independence: Is the Department of Justice Politicizing the Hiring and Firing of U.S. Attorneys?"

Thank you

3/12/2007

OAG000000332

**Joint Statement of Former United States Attorneys  
Before Senate Committee on the Judiciary**

**March 6, 2007**

Good morning Chairman Leahy, and members of the Committee. My name is Carol Lam. Until recently, I was the United States Attorney for the Southern District of California. In the interest of conserving time, I will be making introductory remarks on behalf of all the former United States Attorneys before you on the panel today, with whom I had the great privilege of serving as a colleague, from the following districts: Bud Cummins, Eastern District of Arkansas; David Iglesias, District of New Mexico; and John McKay, Western District of Washington. Each of us was subpoenaed to testify this afternoon on the same subject matter before a subcommittee of the House Committee on the Judiciary, and we were informed that in short order we would be receiving subpoenas to testify before this Committee, and so we are making our appearances before both Committees today. We respect the oversight responsibilities of the Senate Committee on the Judiciary over the Department of Justice, as well as the important role this Committee plays in the confirmation process of United States Attorneys.

Each of us is very appreciative of the President and our home state Senators and Representatives who entrusted us five years ago with appointments as United States Attorneys. The men and women in the United States Attorney's Offices in 94 federal judicial districts throughout the country have the great distinction of representing the United States in criminal and civil cases in federal court. They are public servants who carry voluminous case loads and work tirelessly to protect the country from threats both foreign and domestic. It was our privilege to lead them and to serve with our fellow United States Attorneys around the country.

As United States Attorneys, our job was to provide leadership in each of our districts, to coordinate federal law enforcement, and to support the work of Assistant United States Attorneys as they prosecuted a wide variety of criminals, including drug traffickers, violent offenders and white collar defendants. As the first United States Attorneys appointed after the terrible events of September 11, 2001, we took seriously the commitment of the President and the Attorney General to lead our districts in the fight against terrorism. We not only prosecuted terrorism-related cases, but also led our law enforcement partners at the federal, state and local levels in preventing and disrupting potential terrorist attacks.

Like many of our United States Attorney colleagues across this country, we focused our efforts on international and interstate crime, including the investigation and prosecution of drug traffickers, human traffickers, violent criminals and organized crime figures. We also prosecuted, among others, fraudulent corporations and their executives, criminal aliens, alien smugglers, tax cheats, computer hackers, and child pornographers.

Every United States Attorney knows that he or she is a political appointee, but also recognizes the importance of supporting and defending the Constitution in a fair and impartial manner that is devoid of politics. Prosecutorial discretion is an important part of a United States Attorney's responsibilities. The prosecution of individual cases must be based on justice, fairness, and compassion – not political ideology or partisan politics. We believed that the public we served and protected deserved nothing less.

Toward that end, we also believed that within the many prosecutorial priorities established by the Department of Justice, we had the obligation to pursue those priorities by deploying our office resources in the manner that best and most efficiently addressed the needs of our districts. As Presidential appointees in particular geographic districts, it was our responsibility to inform the Department of Justice about the unique characteristics of our districts. All of us were longtime, if not lifelong, residents of the districts in which we served. Some of us had many years of experience as Assistant U.S. Attorneys, and each of us knew the histories of our courts, our agencies, and our offices. We viewed it as a part of our duties to engage in discussion about these priorities with our colleagues and superiors at the Justice Department. When we had new ideas or differing opinions, we assumed that such thoughts would always be welcomed by the Department and could be freely and openly debated within the halls of that great institution.

Recently, each of us was asked by Department of Justice officials to resign our posts. Each of us was fully aware that we served at the pleasure of the President, and that we could be removed for any or no reason. In most of our cases, we were given little or no information about the reason for the request for our resignations. This hearing is not a forum to engage in speculation, and we decline to speculate about the reasons. We have every confidence that the excellent career attorneys in our offices will continue to serve as aggressive, independent advocates of the best interests of the people of the United States. We continue to be grateful for having had the opportunity to serve and to have represented the United States during challenging and difficult times for our country.

While the members of this panel all agree with the views I have just expressed, we will be responding individually to the Committee's questions, and those answers will be based on our own individual situations and circumstances.

The members of the panel regret the circumstances that have brought us here to testify today. We hope those circumstances do not in any way call into question the good work of the United States Attorneys Offices we led and the independence of the career prosecutors who staff them. And while it is never easy to leave a position one cares deeply about, we leave with no regrets, because we served well and upheld the best traditions of the Department of Justice.

We welcome the questions of the Chair and Members of the Committee. Thank you.

Bud Cummins, *Little Rock, Arkansas*

Carol Lam, *San Diego, California*

David Iglesias, *Albuquerque, New Mexico*

John McKay, *Seattle, Washington*

## **BUD CUMMINS**

Bud Cummins was born in Enid, Oklahoma, where his family operated a construction business. He earned a B.S./B.A. from the University of Arkansas in 1981. After working for several years for Arkansas construction companies, he returned to school and earned a law degree from the UALR School of Law. He clerked for United States Magistrate Judge John F. Forster, Jr., and then for Chief United States District Judge Stephen M. Reasoner, both in the Eastern District of Arkansas. Cummins then entered private practice in Little Rock, with two interruptions. First, he ran for Congress in 1996, and in 1997-98 he served as Chief Legal Counsel to Governor Mike Huckabee. He was nominated in 2001 by President George W. Bush to serve as the United States Attorney for the Eastern District of Arkansas. He was confirmed by the Senate and served in that capacity until December, 2006. He is now engaged as a consultant for a biofuel company.

OAG000000336

**DAVID C. IGLESIAS**

**Professional Experience**

- 2001-2007**      **United States Attorney**  
**District of New Mexico, Albuquerque, NM**  
-Chief Federal law enforcement official in New Mexico
- 2002-2005**      **Chair, Border and Immigration Subcommittee, U.S. Justice Dept.**  
-Supervise 150 member office  
-Security Clearance: TS/SCI, Q
- 1998-2001**      **Chief Counsel**  
**NM Taxation and Revenue Department, Santa Fe, NM**  
-Advised Secretary of Taxation on legal issues  
-Supervised eight attorneys and eight staff members
- 1998**              **Republican Nominee for New Mexico Attorney General**  
-Received 48.6% of vote in state-wide race
- 1995-1998**      **Chief Counsel**  
**NM State Risk Management, Santa Fe, NM**  
-Office Defended State Government in Civil Litigation  
-Supervised Seven Attorneys and staff  
-Oversight Involving 50 Private Law Firm Contractors
- 1994-1995**      **White House Fellow**  
**White House Fellowship, Washington, DC**  
-Special Assistant to Secretary of Transportation Federico Peña  
-Security Clearance: Top Secret
- 1994**              **Director of Public Safety Division**  
**1991-1994**      **-Albuquerque City Attorney's Office**  
-Supervised Five Attorneys, Four Detectives and staff  
-Defended City and Police in Civil Rights Lawsuits
- 1988-1991**      **Prosecutor**  
**New Mexico Attorney General's Office**  
Office of Special Prosecutions, Santa Fe, NM  
-White Collar Cases: Fraud, RICO, Securities Fraud
- 1984-1988**      **Military Attorney**  
**Lieutenant, United States Navy, Judge Advocate General's Corps,**  
**Washington, DC**  
**Criminal Defense Counsel in:**  
-*A Few Good Men* Court-martial, Guantanamo Bay, Cuba

OAG000000337

-Navy SEAL Team Commander Marcinko case (Author of *New York Times* best-selling *Rogue Warrior* books)  
-Security Clearance: Secret

1988-Present

**United States Navy Reserve**  
Captain, Judge Advocate General's Corps  
-Staff Judge Advocate, Readiness Command, Southwest, San Diego, CA  
-Adjunct Instructor, Defense Institute of International Legal Studies, Newport, RI  
-Adjunct Instructor, Joint Special Operations University, Hurlburt Field, FL  
-Security Clearance: Top Secret

#### Education and Licenses

1980

B.A. - Wheaton College, Wheaton, Illinois

1984

J.D. - University of New Mexico School of Law

1984-1992

Licensed in New Mexico, U.S. Military Courts, U.S. District Court (NM), Tenth Circuit Court of Appeals, U.S. Supreme Court

#### Honors

2001

**Reserve Officer of the Year**, United States Special Operations Command, Tampa, FL

2000

**Outstanding Reserve Career Judge Advocate**, Judge Advocates Association

1988-Present

Six personal awards including **Defense Meritorious Service Award**, U.S. Navy Reserve

1980

1<sup>st</sup> Place in Annual Writing Contest (poetry), Wheaton College

#### References

Available upon Request

OAG000000338

**CAROL C. LAM**

**EDUCATION**

- 1982-1985 **Stanford Law School, J.D. 1985**  
*Stanford Law Review*, Associate Editor  
Semifinalist, 1984 Kirkwood Moot Court Competition  
1984-1985 Kirkwood Moot Court Board  
Principal flute, Stanford Symphony Orchestra (Winner, 1984 Stanford  
Symphony Orchestra Concerto Competition)
- 1977-1981 **Yale University, B.A. Philosophy 1981**  
Honors: *Cum Laude*; Distinction in the Philosophy major  
President, Yale University Bands

**EXPERIENCE**

- 2/26/07 – Present and **QUALCOMM Incorporated, San Diego, CA. Senior Vice-President  
Legal Counsel.**
- 9/4/02 – 2/15/07 **United States Attorney for the Southern District of California. Interim  
U.S. Attorney (9/4/02-11/17/02); Presidential Appointment on 11/18/02.**
- 12/1/00 - 9/3/02 **Superior Court Judge, County of San Diego, California. Criminal  
trials, sentencings, preliminary hearings, law and motion calendar.**
- 10/1/86-11/31/00 **United States Attorney's Office, San Diego, CA. Assistant United  
States Attorney; Chief of the Major Frauds and Economic Crimes Section  
(1997-2000). Health Care Fraud Coordinator (1996-1999).**
- Awards and Commendations:**  
Attorney General's Award for Distinguished Service (1997)  
Executive Office of U.S. Attorneys' Director's Award for Superior  
Performance as an Assistant U.S. Attorney (1994)  
Department of Justice Special Achievement Awards (1990, 1992, 1993,  
1994, 1996, 1997, 1998, 1999)  
Health and Human Services Inspector General's Award for Exceptional  
Achievement (1997)  
Health and Human Services Inspector General's Integrity Award (1995)  
Commendation from FBI Director Louis Freeh (1993, 1997)
- 1985-1986 Law clerk to the **Honorable Irving R. Kaufman**, United States Court of Appeals  
for the Second Circuit, New York, New York.

OAG000000339

(CAROL C. LAM, cont.)

Fall 1984 Internship with the Honorable Earl B. Gilliam, United States District Court Judge for the Southern District of California, San Diego, California.

Summer 1984 United States Department of Justice, Washington, D.C. Law Clerk, Appellate Tax Division and Office of Special Litigation.

Skadden, Arps, Slate, Meagher & Flom, New York, New York. Summer law associate.

Summer 1983 Sutherland, Asbill & Brennan, Washington, D.C. Summer law associate.

Summer Jiao Tong University, Shanghai, People's Republic of China. Instructor of English conversation and American literature.

Summers 1980, 1981 *Newsweek* Magazine, New York, New York. Reporter and researcher.

**BAR MEMBERSHIP**

1986 Admitted to New York bar  
1987 Admitted to California bar

**PUBLICATION**

Lam, Carol C. and Loucks, Michael K., *Prosecuting and Defending Health Care Fraud Cases*, BNA Books (2000).

OAG00000340

(CAROL C. LAM, cont.)

#### SIGNIFICANT CASES

United States v. National Health Laboratories, Inc. (1992) -- Huge fraud by national blood laboratory chain involving deceptive marketing and billing practices, resulting in losses of millions of dollars by Medicare, Medicaid and other insurers. In a global settlement, National Health Laboratories ("NHL") and its president pled guilty and paid total criminal and civil fines of \$111.4 million -- at the time by far the largest health care fraud recovery in history. (Prior to the NHL settlement, the next largest recovery in a Medicare fraud case had been \$4 million.) The massive global plea negotiations involving the San Diego U.S. Attorney's Office, the Department of Justice Civil Division, 33 state Medicaid Fraud Control Units, the Department of Health and Human Services, and defense counsel for the corporation and several individuals.

United States v. Allied Clinical Laboratories, Inc. (San Diego Regional Laboratory (1997) - San Diego regional laboratory of Allied Clinical Laboratories, a national independent clinical blood laboratory, pled guilty to Medicare fraud and paid a \$5 million criminal fine. The parent corporation, Laboratory Corporation of America, paid a total of \$187 million in combined criminal and civil penalties as a result of government investigation into several allegations of marketing and billing fraud. With the benefit of knowledge gained from the National Health Laboratories prosecution (see case #1, above), the government team was able to efficiently and effectively target and investigate similar Medicare fraud schemes committed by other laboratories. The new approach to tackling fraud schemes on a national level, and the successful results of the project (\$640 million recovered and two corporate guilty pleas obtained) earned each member of the Labscam investigative team the U.S. Attorney General's Award for Distinguished Service.

United States v. Carlisi et al. (1993) -- RICO indictment of ten Chicago organized crime figures involved in scheme to gain control of gambling operations at the Rincon Indian Reservation, and extortions of four individuals. The convicted defendants received sentences ranging from four months to 117 months in custody. Successfully briefed and argued the appeal before the Ninth Circuit, resulting in the first appellate opinion in the country upholding the constitutionality of the "roving wiretap."

United States v. Jeffrey Jay Rutgard (1995) -- Ophthalmologist committed large-scale Medicare fraud by performing thousands of unnecessary cataract and eyelid surgeries on elderly patients. Rutgard was convicted after a five-month trial, the longest federal trial in San Diego history, and was sentenced to 60 months in custody. Member of three-attorney prosecution team.

OAG000000341

**JOHN MCKAY**

Seattle University School of Law  
Seattle, Washington  
jmckay@seattleu.edu  
(206) 697-2053

**EMPLOYMENT:**

- 2007 – Present      **Visiting Professor of Law**, Seattle University School of Law
- 2001 – 2007      **United States Attorney**, Western District of Washington, Seattle  
                            Presidentially appointed federal prosecutor responsible for criminal  
                            and civil matters in courts of the United States
- 1997 – 2001      **President**, Legal Services Corporation, Washington, D.C.  
                            President of Congressionally chartered not-for-profit  
                            delivering civil legal services to low-income Americans  
                            throughout the United States
- 1992-97            **Partner**, Cairncross & Hempelmann, Seattle  
                            Chief litigation partner; supervised all firm litigation in state  
                            and federal courts  
                            Managing partner (1995-97)
- 1990-92            **Litigation Partner**, Lane Powell Spears Lubersky, Seattle
- 1989-90            **White House Fellow**, Special Assistant to Director of Federal Bureau of  
                            Investigation, Washington, D.C.
- 1984-97            **Judge Pro Tem**, King County District Court, Federal Way, Washington
- 1982-89            **Associate Attorney**, Lane Powell Moss & Miller, Seattle
- 1978-79            **Legislative Assistant**, Congressman Joel Pritchard (R-WA)

**LEGAL AND COMMUNITY:**

- 2007                *Distinguished Public Service Award*, United States Navy  
                            Received Department of the Navy's highest civilian award for  
                            innovative leadership in Federal law enforcement
- 2005                *St. Thomas More Award*, Christian Legal Society, University of Washington  
                            School of Law

OAG000000342

**John McKay**  
**Page - 2**

2002 *Commencement Speaker, Seattle University School of Law*

2001 *Cruz Reynoso - Ralph Abascal Don Quijote Award, California Rural Legal Assistance*

2001 *Award of Merit, Washington State Bar Association Highest Award for Distinguished Service*

2000 *Commencement Speaker, University of Washington School of Law*

1998 *Commencement Speaker, Gonzaga University School of Law, Awarded Doctor of Laws Degree*

1997 *Commencement Speaker, The Ohio State University School of Law*

1987-97 Founder and Director, Northwest Minority Job Fair

1996-97 American Bar Association, *Standing Committee on the Federal Judiciary*, Ninth Circuit Member

1991-96 American Bar Association House of Delegates

1995 *Pro Bono Lawyer of the Year, Washington State Bar Association*

1991-94 American Bar Association Board of Governors

**PUBLICATION:** *Federally Funded Legal Services: A New Vision of Equal Justice Under Law, 68 Tenn. L. Rev. 101 (2000)*

**ADMITTED:** Washington State Bar  
U.S. District Court, Western District of Washington  
Ninth Circuit Court of Appeals  
United States Supreme Court

**EDUCATION:** Creighton University *J.D., 1982*  
University of Washington *B.A., 1978*

OAG000000343

**Sampson, Kyle**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 6:45 PM  
**To:** 'Oprison, Christopher G.'  
**Subject:** FW: Letter For Tomorrow's Hearing from HJC

**Attachments:** LettertoWEMfromHJCreUSA3.5.07.pdf

fyi

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**From:** Cabral, Catalina  
**Sent:** Monday, March 05, 2007 6:26 PM  
**To:** Moschella, William; Elston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO); Roehrkasse, Brian; Scolinos, Tasia; Hertling, Richard; Burton, Faith; Battle, Michael (USAEO); Margolis, David  
**Subject:** Letter For Tomorrow's Hearing from HJC



LettertoWEMfromH  
JCreUSA3.5.07....

Catalina Cabral  
U.S. DEPARTMENT OF JUSTICE  
Office of Legislative Affairs  
Catalina.Cabral@USDOJ.gov  
(202) 514-4828

MAR-05-2007 18:14  
JOHN CONYERS, JR., Michigan  
CHAIRMAN

JUDICIARY COMMITTEE

P.001

LAMAR S. SMITH, Texas  
RANKING MEMBER

**U.S. House of Representatives**  
**Committee on the Judiciary**  
Washington, DC 20515-6216  
One Hundred Tenth Congress

FAX COVER SHEET

DATE: 3/5/07

TO: Mr. William Moschella c/o OLA

FAX NO.: 514-4482

FROM: \_\_\_\_\_ Fax No.: (202) 225-4423

NUMBER OF PAGES IN THIS TRANSMISSION: 3 (including cover)

COMMENTS: \_\_\_\_\_

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PLEASE CALL IF THERE ARE ANY PROBLEMS WITH THIS TRANSMISSION  
(202) 225-3951

OAG000000345

**U.S. House of Representatives**  
**Committee on the Judiciary**  
Washington, DC 20515-6216  
One Hundred Tenth Congress

March 5, 2007

Mr. William Moschella  
Principal Associate Deputy Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Mr. Moschella:

In anticipation of tomorrow's hearing regarding the forced resignations of the eight United States Attorneys, we are submitting requests in advance so that you will be able to provide us with the necessary information at the hearing. We hope that the advance notice will help you as you prepare for the hearing. The requests are as follows:

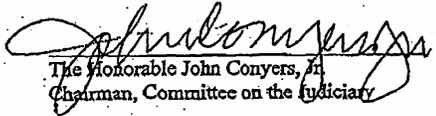
- 1) We have today learned that Michael Battle, head of the Executive Office of United States Attorneys, submitted his resignation some time ago. Please provide a copy of the resignation letter or communication and a record of all communications pertaining thereto.
- 2) Please detail the nature and extent of any communications the Department received on or behalf of Members of Congress concerning any of the terminated US Attorneys in advance of their terminations.
- 3) Please let us know which Members of Congress were given advance notification of the termination of the U.S Attorneys, the dates of such notification of the terminations, and the substance and nature of the notifications.
- 4) Please identify all individuals at the White House and Department of Justice who were involved in the creation of the lists of US Attorneys to terminate. Provide any supporting materials concerning these matters.
- 5) Please detail any communications the Department may have had with the terminated US Attorneys or any other US Attorneys concerning their specific failures to comply with particular Administration law enforcement priorities. Please provide any record or memorandum concerning these matters.

OAG000000346

Mr. William Moschella  
Page Two  
March 5, 2007

We appreciate your cooperation in this matter, and we look forward to receiving answers to these and other questions tomorrow.

Sincerely,

  
The Honorable John Conyers, Jr.  
Chairman, Committee on the Judiciary

  
The Honorable Linda T. Sanchez  
Chairwoman, Subcommittee on  
Commercial and Administrative Law

cc: The Honorable Lamar S. Smith  
The Honorable Christopher B. Cannon

**Sampson, Kyle**

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 7:24 PM  
**To:** Hertling, Richard  
**Cc:** 'Oprison, Christopher G.'  
**Subject:** RE: Letter For Tomorrow's Hearing from HJC  
**Importance:** High

**Tracking:**

Recipient	Read
Hertling, Richard	Read: 3/5/2007 7:24 PM
'Oprison, Christopher G.'	

Richard, I think you're the man to answer Chris' questions, set forth below. What say you?

---

**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 7:15 PM  
**To:** Sampson, Kyle  
**Subject:** RE: Letter For Tomorrow's Hearing from HJC

not trying to pressure this; by the way. just curious if it would come tonight so that I could let our front office know, and they could pass along to OMB

---

**From:** Oprison, Christopher G.  
**Sent:** Monday, March 05, 2007 7:12 PM  
**To:** 'Sampson, Kyle'  
**Subject:** RE: Letter For Tomorrow's Hearing from HJC

Kyle - do you know when we should be receiving the revised Moschella testimony for tomorrow's hearing? Also, has someone notified OMB that the prior testimony should not be cleared?

---

**From:** Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
**Sent:** Monday, March 05, 2007 6:45 PM  
**To:** Oprison, Christopher G.  
**Subject:** FW: Letter For Tomorrow's Hearing from HJC

fyi

---

**From:** Cabral, Catalina  
**Sent:** Monday, March 05, 2007 6:26 PM  
**To:** Moschella, William; Elston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO); Roehrkasse, Brian; Scolinos, Tasia; Hertling, Richard; Burton, Faith; Battle, Michael (USAEO); Margolis, David

**Subject:** Letter For Tomorrow's Hearing from HJC

<<LettertoWEMfromHJCReUSA3.5.07.pdf>>

OAG00000348

3/13/2007

Catalina Cabral  
U.S. DEPARTMENT OF JUSTICE  
Office of Legislative Affairs  
Catalina.Cabral@USDOJ.gov  
(202) 514-4828

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 eight U.S. Attorneys who were asked to resign. Each is a talented lawyer, 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.

But one of the Attorney General's most important responsibilities is to manage the Department of Justice. Part of managing an organization like the Department is ensuring that the President's and the Attorney General's priorities are followed consistently and seeing that Department policies are carried out uniformly. And those individuals who have the high privilege of serving as presidential appointees are especially obligated to carry out the Administration's priorities and policies.

Assistant Attorneys General at Main Justice and U.S. Attorneys 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. Nor does it change or alter the fact that if 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.

To be clear, it was for reasons related to policy, priorities and management – what unfortunately was referred to broadly in a short-hand manner as “performance-related” reasons – that these U.S. Attorneys were asked to resign. To be sure, 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. The Department's failure to provide reasons that these U.S. Attorneys were asked to resign has led to wild 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 its decision. It is clear that after closed door briefings with House and Senate members and staff, some agree with 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 reasons for each decision.

Let me say a word about the EARS evaluations. Several have made the point that these evaluations indicate good ratings for the US Attorneys. That is not necessarily so as they are not evaluations of the U.S. Attorneys themselves. The EARS evaluations are evaluations of the office. The US Attorneys supervisors are the AG and Deputy AG, and neither are asked about the U.S. Attorneys as part of these evaluations. [I would consider dropping this paragraph.]

Deleted: on H.R. 580. Although this hearing is styled as a legislative hearing, I am sure that most of the questions will focus on the circumstances surrounding the Department's request that eight U.S. Attorneys resign. It is to these issues that I will address my opening comments

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Deleted: It is apparent that these political appointees, who served at the pleasure of the President, disagree with the Attorney General's and Deputy Attorney General's explanation that they were asked to resign for “performance-related” reasons. Both the Attorney General and Deputy used the word “performance” broadly to include issues relating to policy, priorities, or management.¶

¶ In hindsight, the Department agrees with The Washington Post's editorial over the weekend that this situation was handled poorly. The US Attorneys who were asked to resign were not provided specific reasons for the request in an effort to avoid protracted debate about the decision and not prejudice negatively their future employment prospects. The

Deleted: A decision was made to let them down easy; in fact, it seems, just the opposite happened.

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Deleted: It is important to recognize that one of the most important responsibilities the Attorney General has is to manage effectively the Department of Justice and that requires being willing to make tough decisions. Furthermore, it is the Attorney General's responsibility to ensure that the priorities he sets and those of the President are carried out. The Attorney General has announced specific priorities and has every expectation that they will be followed. U.S. Attorneys and other political appointees in the Department, like all other departments under all other presidents understand ... [1]

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

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

The Department knows that public corruption cases are sensitive, and that this is an area that will be scrutinized. We can take the scrutiny. There has been no retaliation for the San Diego U.S. Attorney's Office's prosecution of former Congressman Randy "Duke" Cunningham. To the contrary, we applaud it; Main Justice has assisted with it; and the investigation continues. And there has been no retaliation for the Albuquerque U.S. Attorney's Office's efforts a public corruption case in New Mexico. According to Mr. Iglesias's comments reported in the press, that matter also continues.

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 or to circumvent Senate confirmation. The facts, however, prove otherwise. Let me repeat what has been said repeatedly 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 the U.S. Attorneys. Second, the Department has not taken any action to influence any public corruption case - and would never do so. Third, at no time did the Administration intend to circumvent the confirmation process.

I would be happy to take you questions.

- Deleted: that has been made
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- Deleted: United States
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- Deleted: The record of this Justice Department is w
- Deleted: We have
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- Deleted: In public corruption cases, the professionals at t
- Deleted: it
- Deleted: , and we can take the criticism. For example, we have recently been criticized for the plea agreement entered into with President Clinton's former National Security Advisor and or executing search warrants related to a Republican congressman close to an election. No Democrats criticized us for either. Now, however, there is a chorus of partisan criticism for events that have not occurred.
- Deleted: case. W
- Deleted: m
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- Deleted: not proceeding fast enough in
- Deleted: our
- Deleted: excusing
- Deleted: Setting aside the situation in Eastern Arkansas, which we have said was different from the rest, we did ... [2]
- Deleted: we have
- Deleted: ,
- Deleted: in every single case it (... [3]
- Deleted: to have a
- Deleted: that is confirmed by th (... [4]
- Deleted: .
- Deleted: continues to believe our
- Deleted: removes these individu (... [5]
- Deleted: we
- Deleted: have
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Page 1: [1] Deleted ksampson 3/5/2007 2:06:00 PM

It is important to recognize that one of the most important responsibilities the Attorney General has is to manage effectively the Department of Justice and that requires being willing to make tough decisions. Furthermore, it is the Attorney General's responsibility to ensure that the priorities he sets and those of the President are carried out. The Attorney General has announced specific priorities and has every expectation that they will be followed. U.S. Attorneys and other political appointees in the Department, like all other departments under all other presidents understand that they are charged with carrying out those policies and that they serve at the pleasure of the President.

Page 2: [2] Deleted ksampson 3/5/2007 2:13:00 PM

Setting aside the situation in Eastern Arkansas, which we have said was different from the rest, we did not have any lawyers preselected for these positions. We worked with home state Senators only after we asked the seven to move on. The facts are that since March 9, 2006, the date the 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 been created since March 9, 2006. Of those 18 vacancies, the Administration has nominated candidates to fill six of these position (3 have been confirmed); we have interviewed candidates for 8 more, and are waiting to receive names for the remaining four positions – all in consultation with home-state Senators.

Page 2: [3] Deleted ksampson 3/5/2007 2:13:00 PM

in every single case it is the goal of the Bush

Page 2: [4] Deleted ksampson 3/5/2007 2:14:00 PM

that is confirmed by the Senate.

Page 2: [5] Deleted ksampson 3/5/2007 2:15:00 PM

remove these individuals was the correct one,

OAG00000352

**Sampson, Kyle**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 7:25 PM  
**To:** 'Kelley, William K.'  
**Cc:** 'Oprison, Christopher G.'  
**Subject:** Moschella Oral Testimony

**Importance:** High

**Attachments:** Moschella Oral Statement.doc

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.

But 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 President's and the Attorney General's priorities and the Department's 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 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 report to the Attorney General in the discharge of their offices. Nor does it change or alter the fact that if 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. To be sure, 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, 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

OAG00000354

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 both have made public corruption a high priority. Integrity in government and trust in our public officials and institutions is paramount. Without question, the Department of Justice'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 of them); (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 repeatedly 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 taken any action to influence any public corruption case—and would never do so. Third, the Administration did not intend to circumvent the confirmation process.

I would be happy to take your questions.

OAG000000355

**Sampson, Kyle**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 7:27 PM  
**To:** McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Goodling, Monica; Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian  
**Subject:** FW: Moschella Oral Testimony  
**Importance:** High  
**Attachments:** Moschella Oral Statement.doc

Gang, I just sent the below draft Moschella Oral Statement to the White House. Let me know if you have any comments (though I wouldn't mind giving the pen up at this point; let me know).

---

**From:** Sampson, Kyle  
**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

Tracking:	Recipient	Read
	McNulty, Paul J	Read: 3/5/2007 7:51 PM
	Moschella, William	Read: 3/5/2007 7:47 PM
	Elston, Michael (ODAG)	Read: 3/5/2007 8:23 PM
	Goodling, Monica	Read: 3/13/2007 10:10 AM
	Hertling, Richard	Read: 3/5/2007 7:36 PM
	Scolinos, Tasia	Read: 3/5/2007 7:32 PM
	Roehrkasse, Brian	Read: 3/5/2007 7:27 PM

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.

But 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 President's and the Attorney General's priorities and the Department's 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 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 report to the Attorney General in the discharge of their offices. Nor does it change or alter the fact that if 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. To be sure, 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, 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

OAG000000357

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 both have made public corruption a high priority. Integrity in government and trust in our public officials and institutions is paramount. Without question, the Department of Justice'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 of them); (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 repeatedly 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 taken any action to influence any public corruption case – and would never do so. Third, the Administration did not intend to circumvent the confirmation process.

I would be happy to take your questions.

OAG000000358

**Sampson, Kyle**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 8:16 PM  
**To:** Moschella, William  
**Subject:** FW: Moschella Oral Testimony

**Importance:** High

**Attachments:** Moschella Oral Statement.doc

Will, I have made the changes below that you suggest, but now am handing the pen to you (I will be in late in the morning; need to accompany Noelle to a doctor's appointment). I will feed any additional comments that I get to you.



Moschella Oral  
Statement.doc (...)

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**From:** Moschella, William  
**Sent:** Monday, March 05, 2007 7:58 PM  
**To:** Sampson, Kyle; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica; Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian  
**Subject:** RE: Moschella Oral Testimony

In the second graph, replace "the President's and the Attorney General's priorities and the Department's policies" with "the Administration's policies and priorities".

In the last graph, I suggest replacing "taken any action" with "asked anyone to resign".

This is really good. Thanks everyone for the collaboration.

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 7:27 PM  
**To:** McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Goodling, Monica; Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian  
**Subject:** FW: Moschella Oral Testimony  
**Importance:** High

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**Cc:** 'Oprison, Christopher G.'  
**Subject:** Moschella Oral Testimony  
**Importance:** High

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<< File: 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

**Tracking:**

**Recipient**  
Moschella, William

**Read:**  
Read: 3/5/2007 8:21 PM

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.

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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

OAG000000361

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 both have made public corruption a high priority. Integrity in government and trust in our public officials and institutions is paramount. Without question, the Department of Justice'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 of them); (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 repeatedly 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 did not intend to circumvent the confirmation process.

I would be happy to take your questions.

OAG00000362

**Sampson, Kyle**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 8:22 PM  
**To:** Moschella, William  
**Subject:** RE: Moschella Oral Testimony

10-4.

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**From:** Moschella, William  
**Sent:** Monday, March 05, 2007 8:21 PM  
**To:** Sampson, Kyle  
**Subject:** RE: Moschella Oral Testimony

Great. We should huddle when you get back about the Conyers questions.

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 8:16 PM  
**To:** Moschella, William  
**Subject:** FW: Moschella Oral Testimony  
**Importance:** High

Will, I have made the changes below that you suggest, but now am handing the pen to you (I will be in late in the morning; need to accompany Noelle to a doctor's appointment). I will feed any additional comments that I get to you.

<< File: Moschella Oral Statement.doc >>

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**From:** Moschella, William  
**Sent:** Monday, March 05, 2007 7:58 PM  
**To:** Sampson, Kyle; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica; Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian  
**Subject:** RE: Moschella Oral Testimony

In the second graph, replace "the President's and the Attorney General's priorities and the Department's policies" with "the Administration's policies and priorities".

In the last graph, I suggest replacing "taken any action" with "asked anyone to resign".

This is really good. Thanks everyone for the collaboration.

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 7:27 PM  
**To:** McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Goodling, Monica; Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian  
**Subject:** FW: Moschella Oral Testimony  
**Importance:** High

Gang, I just sent the below draft Moschella Oral Statement to the White House. Let me know if you have any comments (though I wouldn't mind giving the pen up at this point; let me know).

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**From:** Sampson, Kyle  
**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!

<< File: 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

**Tracking:**

**Recipient**

Moschella, William

**Read**

Read: 3/5/2007 8:23 PM

**Sampson, Kyle**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 8:43 PM  
**To:** 'Oprison, Christopher G.'  
**Cc:** Moschella, William  
**Subject:** RE: Moschella Oral Testimony

**Tracking:**

Recipient	Read
'Oprison, Christopher G.'	
Moschella, William	Read: 3/5/2007 8:45 PM

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

OAG000000365

**Sampson, Kyle**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 10:24 PM  
**To:** Moschella, William; Elston, Michael (ODAG); McNulty, Paul J  
**Subject:** Re: Moschella Oral Testimony

No concerns here, though I would add your comments in.

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

**From:** Moschella, William  
**To:** Elston, Michael (ODAG); McNulty, Paul J  
**CC:** Sampson, Kyle  
**Sent:** Mon Mar 05 21:37:13 2007  
**Subject:** FW: Moschella Oral Testimony

Thoughts. I have no problems with the changes.

---

**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



**Sampson, Kyle**

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**From:** Sampson, Kyle  
**Sent:** Tuesday, March 06, 2007 7:16 AM  
**To:** 'christopher\_g\_oprison@who.eop.gov'; Moschella, William; Hertling, Richard  
**Cc:** 'Michael\_Y\_Scudder@who.eop.gov'  
**Subject:** Re: Letter For Tomorrow's Hearing from HJC

No. If asked, Will will note that the request came in late last night and that the Dep't will work as quickly as possible to respond to it. Will/Rich, correct me if I'm wrong.

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

**From:** Oprison, Christopher G. <Christopher\_G\_Oprison@who.eop.gov>  
**To:** Sampson, Kyle; Moschella, William; Hertling, Richard  
**CC:** Scudder, Michael Y. <Michael\_Y\_Scudder@who.eop.gov>  
**Sent:** Tue Mar 06 07:11:29 2007  
**Subject:** RE: Letter For Tomorrow's Hearing from HJC

Hey gents - is the department going to be drafting responses to these questions prior to the hearing today? For number 4, can we discuss? Also, are there any other communications (other than Mike Elston's) that are potentially responsive to number 5?

---

**From:** Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
**Sent:** Monday, March 05, 2007 6:45 PM  
**To:** Oprison, Christopher G.  
**Subject:** FW: Letter For Tomorrow's Hearing from HJC

fyi

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**From:** Cabral, Catalina  
**Sent:** Monday, March 05, 2007 6:26 PM  
**To:** Moschella, William; Elston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO); Roehrkasse, Brian; Scolinos, Tasia; Hertling, Richard; Burton, Faith; Battle, Michael (USAEO); Margolis, David

**Subject:** Letter For Tomorrow's Hearing from HJC

<<LettertoWEMfromHJCcreUSA3.5.07.pdf>>

Catalina Cabral  
U.S. DEPARTMENT OF JUSTICE  
Office of Legislative Affairs  
Catalina.Cabral@USDOJ.gov  
(202) 514-4828

**Sampson, Kyle**

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**From:** Roehrkasse, Brian  
**Sent:** Tuesday, March 06, 2007 11:59 AM  
**To:** Elston, Michael (ODAG); Scolinos, Tasia; McNulty, Paul J; Goodling, Monica; Moschella, William; Sampson, Kyle; Mercer, William W  
**Subject:** FW: Please respond asap  
**Attachments:** e-mail.pdf



e-mail.pdf (71 KB)

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

**From:** Kellman, Laurie [mailto:lkellman@ap.org]  
**Sent:** Tuesday, March 06, 2007 11:54 AM  
**To:** Roehrkasse, Brian  
**Subject:** RE: Please respond asap

Sri, I meant to attach Cummins' email...trying again. Let me know if you don't have it.

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

**From:** Roehrkasse, Brian [mailto:Brian.Roehrkasse@usdoj.gov]  
**Sent:** Tuesday, March 06, 2007 11:35 AM  
**To:** Kellman, Laurie  
**Subject:** RE: Please respond asap

Did he say he "didn't view it as a threat"? Or did I mishear?

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

**From:** Kellman, Laurie [mailto:lkellman@ap.org]  
**Sent:** Tuesday, March 06, 2007 11:21 AM  
**To:** Roehrkasse, Brian  
**Subject:** Please respond asap

Brian we have your previous comment, but I'd appreciate a fresh response to this email. Is cummins making it up? Did he misunderstand?

**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

OAG000000371

**Sampson, Kyle**

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**From:** Hertling, Richard  
**Sent:** Tuesday, March 06, 2007 1:38 PM  
**To:** Sampson, Kyle; Goodling, Monica; Roehrkasse, Brian; Scolinos, Tasia  
**Subject:** FW: Cummins email for WEM review

**Attachments:** Cummins Email.pdf

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

**From:** Wade, Jill C  
**Sent:** Tuesday, March 06, 2007 12:32 PM  
**To:** Hertling, Richard  
**Subject:** Fw: Cummins email for WEM review

Sorry thought I cc'd you

Jill C. Wade  
U.S. DEPARTMENT OF JUSTICE  
Office of Legislative Affairs  
(202) 514-3597

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

**From:** Wade, Jill C  
**To:** Moschella, William; Scott-Finan, Nancy  
**CC:** Seidel, Rebecca  
**Sent:** Tue Mar 06 11:50:08 2007  
**Subject:** Cummins email for WEM review

I would not be surprised if this email is raised at WEM hearing today. See attached. (I faxed to catalina just now bc I am on Hill). I will have a summary from this SJC hearing on us atty resignations asap. Hearing is still going strong.

J

Jill C. Wade  
U.S. DEPARTMENT OF JUSTICE  
Office of Legislative Affairs  
(202) 514-3597



Cummins Email.pdf  
(57 KB)

-----Original Message-----  
**From:** Cabral, Catalina  
**To:** Wade, Jill C; Scott-Finan, Nancy  
**Sent:** Tue Mar 06 11:30:50 2007  
**Subject:**

<<Cummins Email.pdf>>

Catalina Cabral  
U.S. DEPARTMENT OF JUSTICE  
Office of Legislative Affairs

Catalina.Cabral@USDOJ.gov  
(202) 514-4828



U.S. ATTORNEY ASSESSMENT

**Kevin Ryan (NDCA):** Appointed Aug. 2, 2002; term expired Aug. 2, 2006  
*EOUSA General Counsel Scott Schools was appointed interim USA; 11 years as career federal prosecutor/First Assistant/manager w/ 9 months as interim USA in SC; plus 5 years in private practice*

- Significant management problems have manifested during his tenure.
- The district has become one of the most fractured offices in the Nation.
- Morale has fallen to the point that it is harming our prosecutorial efforts.
- The USA has lost the confidence of many of his career prosecutors.
- The problems here have been so significant that it has required multiple on-site visits by management and personnel experts from EOUSA.
- Although our Evaluation and Review Staff (EARS) reports are not an evaluation of the performance of a United States Attorney by his or her supervisor – in this case, we had two office-wide evaluations that detailed the problems within the management of this office, which dictated the need for a change.