



Miers Exhibit

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THE WHITE HOUSE
WASHINGTON

March 4, 2009

Dear Chairman Conyers and Mr. Flood:

I have enclosed with this letter an Agreement Concerning Accommodation (the "Agreement") that outlines a plan to resolve a dispute that arose during President Bush's Administration concerning the enforcement of Committee subpoenas. Both the Bush Administration and the House Judiciary Committee have confirmed to me orally and in writing that they have accepted the terms of the enclosed Agreement. Both the Bush Administration and the Committee also have committed to work in good faith to resolve any issues or questions that may arise during the execution of the Agreement. My Office will continue to work with both parties to implement the Agreement.

President Obama is pleased that the parties have agreed to resolve this matter amicably, and he appreciates the work of the Committee, its staff, and the former Bush Administration.

Please contact me with any questions.

Sincerely,



Gregory B. Craig
Counsel to the President

Enclosure

Hon. John Conyers Jr.
Chairman, Committee on the Judiciary
U.S. House of Representatives

Emmet T. Flood, Esq.
Counsel for President George W. Bush

Agreement Concerning Accommodation

Committee on the Judiciary, US House of Representatives v. Harriet Miers et al.
Civil Action No. 08-0409 (JDB)

This document describes the terms of an accommodation agreement between the Bush Administration and the House Judiciary Committee to resolve the U.S. Attorneys matter finally. The parties agree in good faith to resolve any outstanding questions with a view toward ending the entire matter between the parties. The Obama Administration and the House Judiciary Committee will execute a separate agreement concerning the final disposition of the ongoing litigation.

Interviews

- The House Judiciary Committee (the "Committee") will interview Karl Rove and Harriet Miers, but there will be no additional interviewees / witnesses (subject to the one exception below). The interviews will be conducted as soon as possible, consistent with needed preparation time and the availability of the witnesses and their counsel. After the conclusion of the interviews, the Committee reserves its right to seek public testimony from Mr. Rove and Ms. Miers.
 - The Committee has no current intention to seek interviews of any additional former Bush White House personnel. However, if information comes to light necessitating an interview from former Bush White House official William Kelley, the interview will be conducted pursuant to the terms of this agreement.
- Transcripts of interviews will be created and promptly provided to all involved parties.
- The scope of the interviews will be limited to: (1) facts relating to the evaluation of, decision to dismiss, or decision to replace the former U.S. Attorneys in question; the alleged decisions to retain certain U.S. Attorneys; and any allegations of selective prosecution related thereto; and (2) testimony or representations made by Department of Justice officials to Congress on the U.S. Attorneys matter. For the period beginning on March 9, 2007 (the date of the Committee's first written demand for information from the White House), interviews will not include the content of conversations involving: (i) Mr. Rove and members of the White House Counsel's office; or (ii) Ms. Miers and members of the White House Counsel's office. In the case of Mr. Rove, the interview also will include facts relating to the prosecution of Alabama governor Don Siegelman.
- As to official privileges, counsel will direct witnesses not to respond to questions only when questions relate to communications to or from the President or when questions are outside the scope of questioning set forth above.
- The following counsel may attend the interviews: counsel for the interviewee, Committee majority, Committee minority, the President, and the former President.
- Interviewees will be allowed a reasonable period of time to review relevant documents in advance of the interview.

- Reasonable logistical details (*e.g.*, venue, time limitation, etc.) will be set in advance.

Documents

- With the exception of 4 pages of particularly sensitive privileged material (which will be described for Committee staff by a representative of the former President), Committee staff (majority and minority) will be allowed to review the documents for the period December 2004 through March 8, 2007. Documents subpoenaed by the Committee from Harriet Miers will be treated in the same manner.
- The foregoing documents will be provided to Committee staff (majority and minority) at a reasonable time in advance of the interviews.
- As to documents post-dating March 8, 2007, the following will be made available for Committee review only and a copy will not be produced to the Committee:
 - The final draft of the Scudder Memorandum;
 - Any factual chronology prepared by the Department of Justice Office of Legal Counsel in the possession of the White House; and
 - Any documents showing White House inputs or edits to Congressional testimony of Department of Justice officials on the subject of the U.S. Attorneys matter.

Copies of the aforementioned documents will be made available for the Committee's use during interviews conducted pursuant to this agreement. The Committee will return and will not retain any such copies at the conclusion of the respective interviews.

- In addition, the former Administration will conduct a timely review to identify: (1) any documents sent to/from White House personnel to/from third parties other than Department of Justice personnel; and (2) any documents referenced in the aforementioned Scudder Memorandum or OLC chronologies shown to the Committee. The former Administration will consider making some or all of the above material available to the Committee (in the same manner as the other post-March 8, 2007 documents described above). This process will be completed and the issue resolved prior to the interviews described in this agreement.
- Documents and their contents will remain confidential through the time of completion of the last interview. At that time, copies of documents provided to the Committee and/or contents of documents reviewed by the Committee may be made public. The transcripts discussed above may be made public after the completion of the last interview and after counsel has had a reasonable opportunity to review them for accuracy. No document or part of any document and no description or partial description of any document shall be disclosed to any other person until after the completion of the last interview.

Litigation

- The existing litigation will be stayed or the briefing schedule extended in such a way as to serve as the equivalent of a stay until at least the completion of the interviews.
- The Committee retains its rights to challenge any assertion of privilege over questions and documents for the period December 2004 through March 8, 2007.
- The Committee will not argue that this accommodation operates as a bar or waiver of the current or former Administration's existing rights, including but not limited to the right to argue jurisdictional objections, claims of immunity, or claims of executive privilege

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Sampson, Kyle

From: Sampson, Kyle
Sent: Sunday, January 09, 2005 7:34 PM
To: 'David_G_Leitch@who.eop.gov'
Subject: RE: Question from Karl Rove

Judge and I discussed briefly a couple of weeks ago. My thoughts are:

1. As a legal matter, U.S. Attorneys serve a 4-year term and may holdover indefinitely thereafter (all at the pleasure of the President, of course). None of the President's U.S. Attorney appointees have served a full term yet -- the first were confirmed in September 2001, and many were confirmed during the 12 months thereafter. Although they serve at the pleasure of the President, it would be weird to ask them to leave before completing at least a 4-year term.
2. As an historical matter, U.S. Attorneys served at least until the expiration of their 4-year term, even where an election changed the party in power -- until President Clinton fired the Bush41-appointed U.S. attorneys in 1993, nearly all of whom were in the midst of their 4-year terms. In 2001, President Bush43 fired the Clinton-appointed U.S. Attorneys, some of whom were in the midst of a 4-year term, but many of whom had completed their 4-year terms and were serving in holdover status.
3. As an operational matter, we would like to replace 15-20 percent of the current U.S. Attorneys -- the underperforming ones. (This is a rough guess; we might want to consider doing performance evaluations after Judge comes on board.) The vast majority of U.S. Attorneys, 80-85 percent, I would guess, are doing a great job, are loyal Bushies, etc., etc. Due to the history, it would certainly send ripples through the U.S. Attorney community if we told folks they got one term only (as a general matter, the Reagan U.S. Attorneys appointed in 1981 stayed on through the entire Reagan Administration; Bush41 even had to establish that Reagan-appointed U.S. Attorneys would not be permitted to continue on through the Bush41 Administration) -- indeed, even performance evaluations likely would create ripples, though this wouldn't necessarily be a bad thing.
4. As a political matter, each of our U.S. Attorneys has been recommended by one or more political leaders in their home State. I suspect that when push comes to shove, home-State Senators likely would resist wholesale (or even piecemeal) replacement of U.S. Attorneys they recommended (see Senator Hatch and the Utah U.S. Attorney). That said, if Karl thinks there would be political will to do it, then so do I.

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

From: David_G_Leitch@who.eop.gov [mailto:David_G_Leitch@who.eop.gov]
Sent: Thursday, January 06, 2005 12:34 PM
To: Sampson, Kyle
Subject: Fw: Question from Karl Rove

Let's discuss

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

From: Newman, Colin <Colin_Newman@who.eop.gov>
To: Leitch, David G. <David_G_Leitch@who.eop.gov>
Sent: Thu Jan 06 12:30:17 2005
Subject: Question from Karl Rove

David -- Karl Rove stopped by to ask you (roughly quoting) "how we planned to proceed regarding US Attorneys, whether we were going to allow all to stay, request resignations from all and accept only some of them, or selectively replace them, etc." I told him that you would be on the hill all day for the Judge's hearing, and he said the matter was not urgent. Please let me know if you have any questions. Thanks, -Colin

Colin M. Newman
Office of Counsel to the President
202) 456-5887

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From: Kyle.Sampson@usdoj.gov
Sent: Wednesday, March 02, 2005 10:06 PM
To: Miers, Harriet
Subject: RE: U.S. Attorneys

yep, he's good
oversight by me

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

From: Harriet_Miers@who.eop.gov [mailto:Harriet_Miers@who.eop.gov]
Sent: Wednesday, March 02, 2005 10:03 PM
To: Sampson, Kyle
Subject: Re: U.S. Attorneys

Good to hear about Matt actually. Thanks.

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

From: Kyle.Sampson@usdoj.gov <Kyle.Sampson@usdoj.gov>
To: Miers, Harriet <Harriet_Miers@who.eop.gov>
Sent: Wed Mar 02 21:49:23 2005
Subject: RE: U.S. Attorneys

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

strike Heffelfinger (D. Minn.)
strike Biskupic (E.D. Wis.)
bold Orwig (N.D. Tex.)

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

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

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

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

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

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

bold = Recommend retaining; strong U.S. Attorneys who have produced, managed well, and exhibited loyalty to the President and Attorney General.
strikeout = Recommend removing; weak U.S. Attorneys who have been ineffectual managers and prosecutors, chafed against Administration initiatives, etc.

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

REDACTED

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

PRESIDENTIALLY APPOINTED		
DISTRICT	NAME	DATE OF OATH
ALABAMA/MIDDLE	[REDACTED]	[REDACTED]
ALABAMA/NORTHERN	[REDACTED]	[REDACTED]
ALABAMA/SOUTHERN	[REDACTED]	[REDACTED]
ALASKA	[REDACTED]	[REDACTED]
ARIZONA	PAUL K. CHARLTON	11/14/01
ARKANSAS/EASTERN	H.E. "BUD" CUMMINS, III	1/9/02
ARKANSAS/WESTERN	[REDACTED]	[REDACTED]
CALIFORNIA/CENTRAL	DEBRA W. YANG	5/17/02
CALIFORNIA/EASTERN	[REDACTED]	[REDACTED]
CALIFORNIA/NORTHERN	KEVIN V. RYAN	8/2/02
CALIFORNIA/SOUTHERN	GAROL G. LAM	11/18/02
CONNECTICUT	[REDACTED]	[REDACTED]
DELAWARE	[REDACTED]	[REDACTED]
FLORIDA/MIDDLE	[REDACTED]	[REDACTED]
FLORIDA/NORTHERN	[REDACTED]	[REDACTED]
FLORIDA/SOUTHERN	[REDACTED]	[REDACTED]
GEORGIA/MIDDLE	[REDACTED]	[REDACTED]
GEORGIA/NORTHERN	[REDACTED]	[REDACTED]
GEORGIA/SOUTHERN	[REDACTED]	[REDACTED]
GUAM/N. MARIANA ISLANDS	[REDACTED]	[REDACTED]
HAWAII	[REDACTED]	[REDACTED]
IDAHO	[REDACTED]	[REDACTED]
ILLINOIS/ CENTRAL	[REDACTED]	[REDACTED]

REDACTED

ILLINOIS/ NORTHERN	PATRICK J. FITZGERALD	10/31/01
ILLINOIS SOUTHERN	[REDACTED]	[REDACTED]
INDIANA/ NORTHERN	[REDACTED]	[REDACTED]
INDIANA/SOUTHERN	[REDACTED]	[REDACTED]
IOWA/ NORTHERN	[REDACTED]	[REDACTED]
IOWA/SOUTHERN	[REDACTED]	[REDACTED]
KANSAS	[REDACTED]	[REDACTED]
KENTUCKY/EASTERN	[REDACTED]	[REDACTED]
KENTUCKY/WESTERN	[REDACTED]	[REDACTED]
LOUISIANA/MIDDLE	[REDACTED]	[REDACTED]
LOUISIANA/WESTERN	[REDACTED]	[REDACTED]
MASSACHUSETTS	[REDACTED]	[REDACTED]
MICHIGAN/WESTERN	MARGARET M. CHIARA	11/02/01
MINNESOTA	THOMAS B. HEFFELFINGER	9/24/01
MISSISSIPPI/NORTHERN	[REDACTED]	[REDACTED]
MISSISSIPPI/SOUTHERN	DUNN O. LAMPTON	11/14/01
MISSOURI/WESTERN	TODD P. GRAVES	10/19/01
MONTANA	[REDACTED]	[REDACTED]
NEBRASKA	[REDACTED]	[REDACTED]
NEVADA	DANIEL G. BOGDEN	11/02/01
NEW HAMPSHIRE	[REDACTED]	[REDACTED]
NEW JERSEY	CHRISTOPHER J. CHRISTIE	1/17/02
NEW MEXICO	DAVID C. IGLESIAS	10/18/01
NEW YORK/EASTERN	[REDACTED]	[REDACTED]
NEW YORK/NORTHERN	[REDACTED]	[REDACTED]
NEW YORK/WESTERN	[REDACTED]	[REDACTED]

REDACTED

NORTH CAROLINA/EASTERN	[REDACTED]	[REDACTED]
NORTH CAROLINA/MIDDLE	ANNA MILLS S. WAGONER	11/16/01
NORTH DAKOTA	[REDACTED]	[REDACTED]
OHIO/NORTHERN	[REDACTED]	[REDACTED]
OHIO/SOUTHERN	[REDACTED]	[REDACTED]
OKLAHOMA/EASTERN	[REDACTED]	[REDACTED]
OKLAHOMA/NORTHERN	[REDACTED]	[REDACTED]
OKLAHOMA/WESTERN	[REDACTED]	[REDACTED]
OREGON	[REDACTED]	[REDACTED]
PENNSYLVANIA/EASTERN	[REDACTED]	[REDACTED]
PENNSYLVANIA/MIDDLE	[REDACTED]	[REDACTED]
PENNSYLVANIA/WESTERN	MARY BETH BUCHANAN	10/15/01
PUERTO RICO	[REDACTED]	[REDACTED]
RHODE ISLAND	[REDACTED]	[REDACTED]
TENNESSEE/EASTERN	[REDACTED]	[REDACTED]
TENNESSEE/MIDDLE	[REDACTED]	[REDACTED]
TENNESSEE/WESTERN	[REDACTED]	[REDACTED]
TEXAS/EASTERN	[REDACTED]	[REDACTED]
TEXAS/NORTHERN	[REDACTED]	[REDACTED]
TEXAS/SOUTHERN	[REDACTED]	[REDACTED]
TEXAS/WESTERN	[REDACTED]	[REDACTED]
UTAH	[REDACTED]	[REDACTED]
VIRGINIA/EASTERN	[REDACTED]	[REDACTED]
VIRGINIA/WESTERN	[REDACTED]	[REDACTED]
WASHINGTON/EASTERN	[REDACTED]	[REDACTED]

¹ First appointed in 1996 by President Clinton.

REDACTED

WASHINGTON/WESTERN	JOHN MCKAY, JR.	10/30/01
WEST VIRGINIA/NORTHERN	[REDACTED]	[REDACTED]
WEST VIRGINIA/SOUTHERN	[REDACTED]	[REDACTED]
WISCONSIN/EASTERN	STEVEN M. BISKUPIC	5/13/02
WYOMING	[REDACTED]	[REDACTED]
PENDING OATH		
DISTRICT	NAME	
PENDING CONFIRMATION		
DISTRICT	NAME	
PENDING CONFIRMATION		
DISTRICT	NAME	
MICHIGAN/EASTERN	[REDACTED]	
VIRGIN ISLANDS	[REDACTED]	
NORTH CAROLINA/WESTERN	[REDACTED]	
PENDING NOMINATION		
DISTRICT	NAME	
PENDING ACTUAL INTERVIEW		
DISTRICT	NAME	
PENDING		
DISTRICT	NAME	
LOUISIANA/EASTERN	[REDACTED]	
MISSOURI/EASTERN	[REDACTED]	
NORTH CAROLINA/WESTERN	[REDACTED]	
INTERVIEWED and PENDING DECISION - 7		
DISTRICT	NAME	
	[REDACTED]	

REDACTED

COLORADO	[REDACTED]
DISTRICT OF COLUMBIA	[REDACTED]
MAINE	[REDACTED]
MARYLAND	[REDACTED]
NEW YORK/SOUTHERN	[REDACTED]
SOUTH CAROLINA	[REDACTED]
VERMONT	[REDACTED]

REDACTED

THOMAS A. ZONAY	
VACANCY and PENDING CANDIDATE	
DISTRICT	CURRENT USA
COLORADO	[REDACTED]
DISTRICT OF COLUMBIA	[REDACTED]
MAINE	[REDACTED]
MARYLAND	[REDACTED]
NEW YORK/SOUTHERN	[REDACTED]
SOUTH CAROLINA	[REDACTED]
SOUTH DAKOTA	[REDACTED]
VERMONT	[REDACTED]
WISCONSIN/WESTERN	[REDACTED]

ATTORNEY GENERAL APPOINTMENTS - 2

DISTRICT	NAME	APPT DATE	EXP DATE
Maryland	[REDACTED]	[REDACTED]	[REDACTED]
Vermont	[REDACTED]	[REDACTED]	[REDACTED]

VACANCIES REFORM ACT APPOINTMENTS - 5

DISTRICT	NAME	DATE OF APPT	EXP DATE
Colorado	[REDACTED]	[REDACTED]	[REDACTED]
South Carolina	[REDACTED]	[REDACTED]	[REDACTED]
South Dakota	[REDACTED]	[REDACTED]	[REDACTED]
Virgin Islands	[REDACTED]	[REDACTED]	[REDACTED]
Wisconsin/Western	[REDACTED]	[REDACTED]	[REDACTED]

COURT APPOINTMENTS - 7

DISTRICT	NAME	DATE OF OATH
DC	[REDACTED]	[REDACTED]
Louisiana/E	[REDACTED]	[REDACTED]

REDACTED

Maine
Michigan/E
Missouri/E
New York/S
North Carolina/W



PENDING RESIGNATIONS - 0

DISTRICT

NAME

RESIGNATION DATE

RESIGNATIONS FORTHCOMING - 0

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Message

Page 1 of 1

From: Taylor, Sara M.
Sent: Thursday, March 10, 2005 7:13 AM
To: Miers, Harriet
Subject: RE: US Attomeys

Thanks. We will start working the process to identify suitable candidates for your office to consider. Karl and I also spoke about some of the states and the breakdown in getting good candidates. I will work with your staff to help rectify that situation.

Sara

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

From: Miers, Harriet
Sent: Thursday, March 10, 2005 7:09 AM
To: Taylor, Sara M.
Subject: US Attomeys

Sara, Karl asked me to forward to you a list of locations where we may consider replacing the USAs. They are: Alabama (Southern), Arkansas (Eastern), California (Southern), Florida (Northern), Kentucky (Western), Michigan (Western), Mississippi (Northern), Mississippi (Southern) North Carolina (Middle), Washington (Western), West Virginia (Southern). Thanks.

HJC00108

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From: Friedrich, Dabney
Sent: Wednesday, March 23, 2005 5:42 PM
To: Kyle.Sampson@usdoj.gov
Subject: RE: USAttys

Understood.

I agree completely with your recommendation and would be surprised to hear that either the Judge or Harriet favors a different approach.

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

From: Kyle.Sampson@usdoj.gov [mailto:Kyle.Sampson@usdoj.gov]
Sent: Wednesday, March 23, 2005 12:33 PM
To: Friedrich, Dabney
Subject: Re: USAttys

We (me, you, Judge, and Harriet) should talk this through. I think that my advice would be to replace selectively (based on the chart I faxed to you) certain USAs after (soon after) their terms expire. I fear that replacing USAs before their terms expire would create significant (1) political trouble with home-state Senators and other home-state politicians and (2) internal management trouble here at DOJ. Please note that these are all my views and should not be attributed to Judge; I think I've been clear not to mislead on that point.

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

From: Dabney_Friedrich@who.eop.gov <Dabney_Friedrich@who.eop.gov>
To: Sampson, Kyle <Kyle.Sampson@USDOJ.gov>
Sent: Wed Mar 23 10:51:57 2005
Subject: USAttys

Harriet asked me to confirm that the plan for replacing US Attys is to wait until each has served a 4-year term. She was operating under the assumption that we would act to remove/replace right away.

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From: Kyle.Sampson@usdoj.gov
Sent: Monday, January 09, 2006 10:13 AM
To: Miers, Harriet
Cc: Kelley, William K.
Subject: U.S. Attorney Appointments -- PLEASE TREAT THIS AS CONFIDENTIAL

PLEASE TREAT THIS AS CONFIDENTIAL

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

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

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

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

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

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

1. Thomas B. Heffelfinger, U.S. Attorney for the District of Minnesota
Term expired 9/24/2005
Replacement candidates: ???

Home-state Senators: Coleman (R) (first opportunity to recommend a U.S. Attorney candidate) and Dayton (D) 2. Todd P. Graves, U.S. Attorney for the Western District of

Missouri

Term expired 10/19/2005

Replacement candidates: John Wood?

Home-state Senators: Bond (R) and Talent (R) 3: Margaret M Chiara, U.S. Attorney for the Western District of Michigan

Term expired 11/2/2005

Replacement candidates: Rachel Brand?

Home-state Senators/political leaders: Levin (D) and Stabenow (D); numerous GOP congressmen 4. David E. O'Mellia, U.S. Attorney for the Northern District of Oklahoma

Term expired 12/7/2005 Replacement candidates: ???

Home-state Senators: Inhofe (R) and Coburn (R) 5. Harry E. "Bud" Cummins III, U.S. Attorney for the Eastern District of Arkansas Term expires 1/9/2006 (today!) Replacement candidates: Tim Griffin?

Home-state Senators/political leaders: Pryor (D) and Lincoln (D); Gov. Huckabee(?) 6. Kevin V. Ryan, U.S. Attorney for the Northern District of California

Term expires 8/2/2006

Replacement candidates: Dan Levin?

Home-state Senators/political leaders: Feinstein (D) and Boxer (D); Parsky Commission 7. Carol C. Lam, U.S. Attorney for the Southern District of California

Term expires 11/18/2006

Replacement candidates: Jeff Taylor, Deb Rhodes. Home-state Senators/political leaders: Feinstein (D) and Boxer (D); Parsky Commission

I list these folks based on my review of the evaluations of their offices conducted by EOUSA and my interviews with officials in the Office of the Attorney General, Office of the Deputy Attorney General, and the Criminal Division. If a determination is made to seek the removal of these folks, then we should similarly seek to remove and replace Paula D. Silsby, the Interim U.S. Attorney for the District of Maine, and William J. Leone, the Interim U.S. Attorney for the District of Colorado.

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

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From: Kyle.Sampson@usdoj.gov
Sent: Thursday, May 11, 2006 11:35 AM
To: Kelley, William K.
Subject: FW: Removal and Replacement of U.S. Attorneys Whose 4-year Terms Have Expired

Sensitivity: Confidential

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

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

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

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

Tom Heffelfinger, D. Minn.; and
Todd Graves, W.D. Mo.

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

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

Margaret M. Chiara, W.D. Mich., term expired 11/2/2005; David E. O'Meilia, N.D. Okla., term expired 12/7/2005; Harry E. "Bud" Cummins III, E.D. Ark., term expired 1/9/2006; and Carol C. Lam, S.D. Cal., term expires 11/18/2006.

We also should similarly seek to remove and replace:

Paula D. Silsby, D. Maine, serving as Interim U.S. Attorney since 2001.

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

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From: Kyle.Sampson@usdoj.gov
Sent: Sunday, September 17, 2006 3:41 PM
To: Miers, Harriet
Subject: Re: United States Attorneys

No worries. At your convenience.

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

From: Harriet_Miers@who.eop.gov <Harriet_Miers@who.eop.gov>
To: Sampson, Kyle
Sent: Sun Sep 17 15:14:30 2006
Subject: RE: United States Attorneys

Kyle, thanks for this. I have not forgotten I need to follow up on the info, but things have been crazy. Will be back in touch!

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

From: Kyle.Sampson@usdoj.gov [mailto:Kyle.Sampson@usdoj.gov]
Sent: Wednesday, September 13, 2006 4:23 PM
To: Miers, Harriet
Subject: RE: United States Attorneys

Harriet, the U.S. Attorney ranks currently break down as follows:

I. Vacancies w/o Candidates

D. Alaska
E.D. Tenn.
S.D.W.V.

II. USAs Who Have Been (Or Will Be) Nominated for Other Things (I am strongly of the view that we should be working now to get their replacements selected and in the pipeline)

S.D. Ga. (Lisa Wood)
N.D. Ind. (Joe Van Bokkelen)
E.D. Mich. (Steve Murphy)
D. Mont. (Bill Mercer)
E.D.N.Y. (Roz Mauskopf)
D.D.C. (Ken Wainstein)

III. USAs Who, Rumor Has It, Will Be Leaving in Coming Months

C.D. Cal. (Deb Yang)
N.D. Iowa (Chuck Larsen, Sr.)
M.D. Tenn. (Jim Vines)

IV. USA in the Process of Being Pushed Out

E.D. Ark. (Bud Cummins)

V. USAs We Now Should Consider Pushing Out

D. Ariz. (Paul Charlton)
S.D. Cal. (Carol Lam)
N.D. Fla. (Greg Miller)
D. Me. (Paula Silsby)
W.D. Mich. (Margaret Chiara)
D. Nev. (Dan Bogden)
M.D. Pa. (Tom Marino)
W.D. Wash. (John McKay)

VI. Summary

I am only in favor of executing on a plan to push some USAs out if we really are ready and willing to put in the time necessary to select candidates and get them appointed -- it will be counterproductive to DOJ operations if we push USAs out and then don't have replacements ready to roll immediately. In addition, I strongly recommend that, as a matter of Administration policy, we utilize the new statutory provisions that authorize the AG to make USA appointments. We can continue to do selection in JSC, but then should have DOJ take over entirely the vet and appointment. By not going the PAS route, we can give far less deference to home-State Senators and thereby get (1) our preferred person appointed and (2) do it far faster and more efficiently, at less political cost to the White House.

Let me know when you have read this; I have one follow up item I would want to do over the phone. What say you?

Kyle

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

From: Harriet Miers@who.eop.gov [mailto:Harriet_Miers@who.eop.gov]

Sent: Wednesday, September 13, 2006 2:39 PM

To: Sampson, Kyle

Subject: United States Attorneys

Kyle, any current thinking on holdover U. S. Attorneys? Any recent word on Debra Yang's intentions?

9

McNulty, Paul J

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

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

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

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

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

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

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

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

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

Kyle Sampson
Chief of Staff
U.S. Department of Justice
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Washington, D.C. 20530
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(202) 305-5289 cell
kyle.sampson@usdoj.gov

PLAN FOR REPLACING CERTAIN UNITED STATES ATTORNEYS

November 15, 2006

STEP 1

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

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

Battle informs the U.S. Attorneys as follows:

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

STEP 2

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

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

DAG000000015

Kelley informs the Senators/Bush political leads as follows:

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

STEP 3

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

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

STEP 4

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

STEP 5

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

10

From: Miers, Harriet
Sent: Friday, November 17, 2006 12:32 PM
To: Kelley, William K.
Subject: FW: USA replacement plan

Importance: High

Attachments: USA replacement plan.doc



USA
replacement plan.doc

Please note his comment about "political upheaval" that might result and reference to Senators. I think we need to take the ramifications of this quite seriously as I know we are.

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

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

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

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

Kyle Sampson
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11

Sampson, Kyle

From: Sampson, Kyle
Sent: Monday, December 04, 2006 6:26 PM
To: 'Kelley, William K.'
Gc: 'Miers, Harriet'
Subject: RE: US Atty Plan
Attachments: USA replacement plan.doc

here is the revised plan, per our discussions

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

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

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

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

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

We're a go for the US Atty plan. WH leg, political, and communications have signed off and acknowledged that we have to be committed to following through once the pressure comes.

**PLAN FOR REPLACING CERTAIN
UNITED STATES ATTORNEYS**

STEP 1

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

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

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

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

STEP 2

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

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

Battle informs the U.S. Attorneys as follows:

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

STEP 3

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

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1 of 75 DOCUMENTS

>KNIGHT RIDDER<
WASHINGTON BUREAU
Knight Ridder Washington Bureau

March 12, 2007 Monday

White House says Rove relayed complaints about prosecutors

BYLINE: Ron Hutcheson, Marisa Taylor and Margaret Talev, McClatchy Newspapers

SECTION: W

LENGTH: 989 words

WASHINGTON - The White House acknowledged on Sunday that presidential adviser Karl Rove served as a conduit for complaints to the Justice Department about federal prosecutors who were later fired for what critics charge were partisan political reasons.

House investigators on Sunday declared their intention to question Rove about any role he may have played in the firings.

White House spokeswoman Dana Perino said Rove had relayed complaints from Republican officials and others to the Justice Department and the White House counsel's office. She said Rove, the chief White House political operative, specifically recalled passing along complaints about former U.S. Attorney David Iglesias and may have mentioned the grumblings about Iglesias to Attorney General Alberto Gonzales.

Iglesias says he believes he lost his job as the top federal prosecutor in New Mexico after rebuffing Republican pressure to speed his investigation of a Democratic state official.

Perino said Rove might have mentioned the complaints about Iglesias "in passing" to Gonzales.

"He doesn't exactly recall, but he may have had a casual conversation with the A.G. to say he had passed those complaints to Harriet Miers," Perino said, relaying Rove's hazy recollection.

Perino said such a conversation would be fairly routine at the White House.

"Lots of people at the White House gets lots of complaints about lots of different people on a multitude of subjects," she said. "The procedure is to listen and take the appropriate action to notify the relevant agency."

Perino said Rove told her that he did not suggest any of the eight U.S. attorneys be forced to resign.

The new details about Rove's involvement emerged as the top Democrats on the House Judiciary Committee declared their interest in talking to him.

The committee is trying to determine whether the firings were part of an effort to exert political control over federal prosecutors. Democrats consider Rove the key source for any political interference at the Justice Department because of his role at the center of politics and policy in the White House.

Judiciary Committee Chairman John Conyers, D-Mich., and Linda Sanchez, D-Calif., confirmed their plans after McClatchy Newspapers reported Saturday that New Mexico's Republican Party chairman, Allen Weh, had complained to Rove and one of Rove's deputies about Iglesias.

"Mr. Conyers and Ms. Sanchez intend to talk with Karl Rove about any role he may have had in the firing of the U.S. attorneys," Sanchez spokesman James Dau said. "The revelations from Mr. Weh certainly give us something else relevant and salient to talk about."

Conyers and Sanchez last week told the **White House** they intended to interview several unnamed **White House** officials. But they had not previously specified **Rove**. It was unclear whether they would seek his public testimony or simply have the committee staff interview him.

The **White House's** explanation of **Rove's** role is the latest attempt to explain the firings of Republican appointees in the middle of an administration and in the absence of allegations of misconduct. After initially citing "performance-related" reasons, the Justice Department later acknowledged that policy differences played a role but denied acting at the request of the **White House**. **Rove's** statement Sunday indicates a bigger **White House** role than was previously known.

In another development, two leading Democrats said Gonzales should resign. Sen. Chuck Schumer, D-N.Y., and Sen. Joseph Biden, D-Del., said Gonzales has lost credibility with his handling of the firings, his failure to catch privacy infringements by federal investigators operating under the Patriot Act and other controversies at the Justice Department.

Perino offered **Rove's** account of his dealings with the Justice Department after talking with him by telephone. She said **Rove** routinely passed along complaints about various U.S. attorneys to the Justice Department and then-**White House** counsel Miers.

Among the complaints that **Rove** relayed were concerns among Republican Party officials in various jurisdictions that the Justice Department was not being aggressive in pursuing allegations of election fraud by Democrats. Such allegations by Republicans were a particular concern in New Mexico and Washington.

Rove acknowledged that he personally complained to Miers that "voter fraud cases were not being treated as a priority" by the Justice Department, Perino said. He also passed along complaints about Iglesias that he had heard going back as far as 2004.

In addition to the voter fraud issue, some New Mexico Republicans were angry that Iglesias refused to speed up his corruption investigation of several Democratic state officials. At the time, party leaders were looking for any advantage they could get that might help them retain control of Congress.

Neither **Rove** nor his deputy, Scott Jennings, recalled talking to Weh, the New Mexico Republican Party chairman, about Iglesias, but they did not dispute Weh's account of the conversation, Perino said.

In an interview Saturday with McClatchy Newspapers, Weh said he complained in 2005 about Iglesias to a **White House** liaison who worked for **Rove** and asked that he be removed. Weh said he followed up with **Rove** personally in late 2006 during a visit to the **White House**, but **Rove** told him Iglesias had already been fired.

"He's gone," **Rove** said, according to Weh. While **Rove** didn't remember the conversation, Perino said that it most likely occurred during a **White House** Christmas party on Dec. 14 - a week after Iglesias was told that he should step down.

Sunday, Weh said he wanted to be clear he didn't think **Rove** had the power to fire Iglesias.

"Folks, this isn't about the **White House** political office, this is about an incompetent attorney," he told McClatchy Newspapers. "Clearly I'm smart enough to know Karl **Rove** can't terminate anybody. It was a request."

LOAD-DATE: March 12, 2007

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Newspaper

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13



THE WHITE HOUSE
PRESIDENT
GEORGE W. BUSH

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For Immediate Release
Office of the Press Secretary
June 28, 2007

Press Background Briefing by Senior Administration Officials on Executive Privilege Via Teleconference

10:07 A.M. EDT

White House News

MR. FRATTO: This is Tony Fratto, Deputy Press Secretary at the White House. This is, as the operator said, a senior administration official call. So that's your sourcing. I'll turn the phone over to my colleague. He'll make some opening remarks, and then we will open it up to questions.

SENIOR ADMINISTRATION OFFICIAL: Good morning. Before we take your questions, I'd like to just give you a little background, so we're all working from the same page. As you know, the Senate and House Judiciary Committees issued a total of five subpoenas. Two of the subpoenas to the White House for documents to be produced no later than today. A third subpoena was issued by the House Judiciary Committee to Harriet Miers for documents and testimony, and the response and hearing date is simultaneously set for July 12th. The fourth and fifth subpoenas were issued by the Senate Judiciary Committee to Sara Taylor for documents and for testimony, and the documents subpoena called for response this morning as well.

In response to those subpoenas, the President has asserted executive privilege over the requested document relating to the subpoenas, and has directed that none of them be produced pursuant to subpoena. This morning the chairs of both committees were notified by telephone and also are now in receipt of a letter from the Counsel to the President setting forth the President's decision. That letter is accompanied by a letter from the Department of Justice in which the President is advised of the propriety and legality of such an exercise of executive privilege in this instance.

We regret that we were forced to take this step. We had very much hoped that accommodation could be reached and this could be avoided. Please note this exercise -- assertion, excuse me, of executive privilege applies only to documents today, but in reading the Counsel of the President's letter, you should note that although it relates only to documents today, which is the only thing in issue today, the President has also advised that consistent with his view and the Department of Justice advice, that would be a valid exercise of executive privilege, as the testimony that he is prepared to exercise executive privilege as to testimony at the appropriate time if this matter is not resolved.

Please note further that the President wanted and also instructed Counsel of the President to confirm to both committees that he is willing and the White House is willing to revive the pending offer of accommodation if there is a withdrawal of the subpoenas or it would not be -- if it would not be under compulsion. As I say, we again regret that we had to reach this impasse, because we hoped that there could be accommodation. Unfortunately, that has not occurred.

Our system is a system, obviously, of separation of powers. Each branch has its prerogatives. And the constitutional design of our system, the President must be able to receive unfettered advice and counsel from the people working around him and their deliberations and in the performance of their executive branch duties, as they relate to the President's constitutional obligations and duties.

And executive privilege protects from compelled testimony and forced disclosure of those things. It's a principle the President feels very strongly must be protected for the institution of the presidency and for future Presidents.

I'll be happy to take any questions.

Q I have actually two questions. First, you said the President is prepared to exercise, or assert executive

privilege with respect to testimony. Democrats and Republicans on Capitol Hill seem to agree that if the President would offer a transcript for these interviews, that they might withdraw the subpoenas.

So two questions. First, why not just agree to their request for a transcript? And, secondly, how confident are you that if this goes to court, you will win in court?

SENIOR ADMINISTRATION OFFICIAL: Let me answer your first question as to transcripts. Obviously, there has been a lot of discussion back and forth in that regard. The position that the President took and conveyed to the committees and the offer of compromise did not include transcripts. The accommodation was designed to provide information, not to appear to be having testimony without having testimony. One of the concomitants of testimony, of course, is transcripts.

As far as the debate goes, often cited is that a transcript is not wanted because otherwise there would be a perjury trap. And, candidly, as everyone has discussed, misleading Congress is misleading Congress, whether it's under oath or not. And so a transcript may be convenient, but there's no intention to try to avoid telling the truth. The transcript issue has been debated, as I mentioned before, but we've not been able to resolve that as far as the committees are concerned. The President felt that he made an offer which was a generous and historic offer, if you will, and that he hopes that it would be accepted. He still hopes it would be accepted.

And the second question was?

Q How confident are you that you would win in court?

SENIOR ADMINISTRATION OFFICIAL: We've been advised and we're confident that our position is sound. I'm not going to speculate as to whether it ends up in court or where it ends up. I can just advise you that the President and his advisors are confident in the soundness of our decision.

Q And one follow up. They issued yet more subpoenas yesterday on a different topic, the wiretapping. Can we take this as a foreshadowing of what your response will be to those subpoenas?

SENIOR ADMINISTRATION OFFICIAL: Our response to those subpoenas will be the same as our response was before. We would like to accommodate and we will seek ways of accommodating. But if the subpoena is insisted upon, we will have to deal with that at the time we discuss and make our decision. I'm not going to speculate at this point.

Q I take it the President's assertion of executive privilege does not cover Miers and Taylor testifying? Or is he saying that it does -- since they've left the executive branch?

SENIOR ADMINISTRATION OFFICIAL: Oh, thank you for giving me the opportunity to clarify that. The position stated in this letter and in this exercise of executive privilege is only with regard and in regard to documents; that's the only thing at instant issue.

However, the President has advised that he would exercise executive privilege in regard to the testimony of both of those individuals if it gets to that point and the subpoenas are not withdrawn and they're still (inaudible) at the time they're due. The fact that they are no longer present employees has nothing to do with the principle of executive privilege and the information protection that that affords.

Q Can you give us some background on precedent on that? Have there been other examples where people who have left government have complied with a presidential order not to testify because of executive privilege?

SENIOR ADMINISTRATION OFFICIAL: I'm sure we could provide that for you. I'm searching right now, I'm looking across the table. Does anybody have one -- yes.

SENIOR ADMINISTRATION OFFICIAL: In, I believe, the early 1950s, material was sought from the Eisenhower administration pertaining to conduct at State in the Truman administration. And former -- then former President Truman, himself, wrote a letter objecting to the attempt to obtain such material, and it was resolved, I believe, without turning anything over.

Q That's documents, not people, right?

SENIOR ADMINISTRATION OFFICIAL: Don't know the answer to that, I think that's right.

Q Good morning. I had a couple of questions and one is, what happens next? Has the Senate given you any indication of how they're going to react and therefore what would be your next step? Or is there going to go a contempt route, or straight to court, and do we know? And second of all, I had wanted to ask, did you say that you had sought the opinion of DOJ in this?

SENIOR ADMINISTRATION OFFICIAL: Let me take your second question. The opinion of the Department of Justice is attached to the Counsel of the President's letter to the chairs of both the committees, and obviously that is a result of the request from the President for the advice and counsel of the Department of Justice.

Q And on the "what happens next" question?

SENIOR ADMINISTRATION OFFICIAL: That's entirely up to Congress.

Q Okay. And can I ask you, in terms of testimony -- I know this only directly covers documents -- but why not agree to let some officials testify, and then in response to certain questions which you felt would impede the President's ability to get the appropriate unfettered counsel from his aides -- why not answer some questions and not answer other questions?

SENIOR ADMINISTRATION OFFICIAL: The subject matter of the subpoenas relates directly to the performance of the duties within the executive branch within the White House in this instance. So we have to take them at their word on the subpoena, and the subpoena covers that, and that's why executive privilege would obtain.

Q But essentially anything they ask would be not something that you'd be comfortable discussing in that setting.

SENIOR ADMINISTRATION OFFICIAL: We're only responding to the subpoenas.

Q Thanks.

Q For any of you, I have a question about -- as a non-legal scholar. My understanding is the evolution of the law, the executive privilege, that there are basically two forms of privilege that a president can claim. And I wanted to clarify: Is the President saying, by doing this, that he himself personally was in receipt of advice about the U.S. Attorney firings, and that's why he's invoking the privilege? The documents went to him; that his staff provided him with advice, and that's what he's protecting.

SENIOR ADMINISTRATION OFFICIAL: Oh no, no, that would be a misconstruction of the breadth of the executive privilege. What is related -- deliberations, formulation of advice, performance of executive branch duties consistent with the President's constitutional obligations.

Q So he is still maintaining that he had nothing to do with the actual discussions between White House staff, meaning Ms. Miers and Sara Taylor and the Justice Department related to the Attorney firings; that he had no direct involvement.

SENIOR ADMINISTRATION OFFICIAL: No, there's no change in our prior position at all.

Q But that is -- the way I've stated it is correct?

SENIOR ADMINISTRATION OFFICIAL: Well, state it again. I'm going to make sure -- I don't have a transcript.

Q Maybe you should get one. That would help. No -- in this case, the President is saying that he had nothing to do, directly himself, with receiving advice about the firing of the U.S. Attorneys and approving the list or adjusting the list. Just because Ms. Miers or Ms. Taylor or Scott Jennings appeared in emails with DOJ discussing that, he is asserting that there is no involvement; his personal involvement did not engage in those discussions.

SENIOR ADMINISTRATION OFFICIAL: He has no personal involvement. Our position has never been any different than that.

Q Okay, thank you.

SENIOR ADMINISTRATION OFFICIAL: Right.

Q Hi, thank you all for the chance. Quick procedural question. Could you clarify just why this is on background? The letter, obviously, is on the record, and the substance of our stories -- I just wanted to get that clarification.

MR. FRATTO: We wanted to give you all an opportunity to get more detail and context on the substance of our position and Mr. Fielding's letter, which you have, and can quote from extensively. So this is for your benefit, and if it's something that you can't do, we understand. But we think it's helpful to reporters covering the story.

Q Okay, thanks. With that, I would like to run a couple of quick things by the senior administration official. What would you say to the argument, sir, that if this does end up in court, and it takes some time to resolve, that that's part of a White House strategy, in effect, to drag this out perhaps even until after the President leaves office?

SENIOR ADMINISTRATION OFFICIAL: The time that this controversy will take is totally dependent upon the actions of Congress. And we're not doing it for design of anything, we're exercising a privilege that the President feels is very important.

Let me give you a little context, which I probably should have mentioned earlier. This is a principle. This is a principle of protecting executive branch prerogatives. This will be the second time this President has exercised executive privilege in his administration. The first time was also on a matter of principle, strictly principle. If you will check, I think -- I'm sure it was 2001. He exercised privilege -- had a request to turn over documents relating to the Department of Justice in the Clinton administration, and communications to and from the Attorney General Reno. This is not a mere exercise relating to a particular event, this is an exercise in an attempt to protect the prerogatives of the President for this President and for future Presidents.

Q Okay, thank you for that. And also, I just wanted to clarify on the earlier question about the degree to which the executive privilege assertion outlined today may or may not apply to other pending cases as it relates to the subpoenas the White House and other agencies received yesterday. You're saying no speculation at this point about whether the President will exert executive privilege then, too?

SENIOR ADMINISTRATION OFFICIAL: We're not going to comment and speculate on anything except what we're dealing with today, with all due respect.

Q Just wanted to get an update on what negotiations right now are ongoing between the White House and Congress, if they are, when it comes to potential testimony of Miers and Taylor -- where does that stand right now?

SENIOR ADMINISTRATION OFFICIAL: Right now it stands that negotiations are not taking place and the Counsel's letter reflecting the President's direction is an invitation if they wish to resume negotiations and reopen them, that the President has directed that Counsel to the President do that.

Q And has the White House also been in contact with both Miers and Taylor on this?

SENIOR ADMINISTRATION OFFICIAL: Well, I'm not going to comment on any direct conversations with the counsel for both of those. But I can advise you and assure you that we have communicated with them. We have also communicated to both of them, through their counsel, the direction of the President that these documents and any documents they may have in their possession that are covered by the subpoena are not to be produced.

Q Thank you.

SENIOR ADMINISTRATION OFFICIAL: You're welcome.

Q Thank you all for doing this. I wonder if you could tell us what the sticking point was in the effort to reach an accommodation with Congress? What was the last issue that you weren't able to resolve?

SENIOR ADMINISTRATION OFFICIAL: The last time that we had any discussion with them it was basically a rejection and the characterization of our offer (inaudible) take it or leave it. It was tendered as an accommodation and the only other mention of any facts is something that's been mentioned earlier today, which was, I believe, Senator Specter urging that we might want to consider transcripts as part of our -- excuse me, as part of the President's offer and an accommodation.

Q And, sir, was that something that you formally discussed with the committee and you couldn't work out the specifics of it? Or did you never really talk to them about that?

SENIOR ADMINISTRATION OFFICIAL: We offered it. It's in the four corners of our offer.

Q And when was the last time you talked to these committees?

SENIOR ADMINISTRATION OFFICIAL: I talked to Senator Leahy this morning - talked to some congressmen last night, but it was not in (inaudible) courtesy, advising them that the President was about to take this position.

Q Okay. Thank you.

MR. FRATTO: Thank you everyone. (Inaudible) reminder that the sourcing for the call is Senior Administration Official. We will release a transcript as soon as we have one ready.

END 10:30 A.M. EDT

Return to this article at:

<http://www.whitehouse.gov/news/releases/2007/06/20070628-4.html>

 [CLICK HERE TO PRINT](#)

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Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, January 25, 2007 9:54 AM
To: 'Miers, Harriet'
Subject: RE: FYI

Hertling and I are briefing Schumer staff tomorrow.

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

From: Miers, Harriet [mailto:Harriet_Miers@who.eop.gov]
Sent: Thursday, January 25, 2007 9:52 AM
To: Sampson, Kyle
Subject: FW: FYI

Re conversation I just had with the AG.

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

From: Oprison, Christopher G.
Sent: Thursday, January 25, 2007 9:43 AM
To: Miers, Harriet; Kelley, William K.
Cc: Brosnahan, Jennifer R.
Subject: FW: FYI

fyi

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

From: Tim Griffin [mailto:griffinjag@comcast.net]
Sent: Thursday, January 25, 2007 9:42 AM
To: Oprison, Christopher G.
Subject: FYI

January 25, 2007

NOTICE OF FULL COMMITTEE HEARING

The Senate Committee on the Judiciary has scheduled a hearing on
"Preserving Prosecutorial

Independence: Is the Department of Justice Politicizing the Hiring and
Firing of U.S. Attorneys?"

for Wednesday, February 7, 2007 at 9:30 a.m. in Room
226 of the Dirksen Senate Office Building.

Senator Schumer will chair the hearing.

By order of the Chairman

15

From: Miers, Harriet
Sent: Tuesday, January 16, 2007 10:50 AM
To: Kelley, William K.
Subject: RE: Leahy-Feinstein Letter re USA appointments

I believe the letter implies that there was removal for cause too much for my appetite. So I can't sign off on the letter. I believe we should treat these actions as matter of fact management of the department and the desire to have USA's in place who are recommended by the AG. I certainly think that we can make the point about not interfering.....that any such inference is without justification.

From: Kelley, William K.
Sent: Tuesday, January 16, 2007 10:34 AM
To: Miers, Harriet
Subject: FW: Leahy-Feinstein Letter re USA appointments
Importance: High

I assume we agree with the proposition below, but I wanted to see if you had any comments before signing off.

From: Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]
Sent: Tuesday, January 16, 2007 10:31 AM
To: Kelley, William K.
Subject: Leahy-Feinstein Letter re USA appointments
Importance: High

Bill, attached are the "final" drafts of the letter and fact sheet. We REALLY want to get these sent up to the Hill ASAP, but I feel like I need your clearance, as it implicates the President's appointment authority. For your ease of reference, the operative language for your purposes is:

"The Administration is committed to having a Senate-confirmed United States Attorney in all 94 federal districts."

If WHCO is fine with this statement, then you all should be fine with the rest of the letter. Thanks for your attention to this. Standing by.

<<Leahy Letter re USA Appts 1.16.2007.doc>> <<Leahy Letter re USA Appts 1.16.2007 fact sheet.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-ell
kyle.sampson@usdoj.gov

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~~XXXXXXXXXX~~
Mike S.
Chris Griset

June '06 - Aug '06

Explain why calling - USA ~~Hy~~ issue

Schumer → PM Briefing

Contacts → WH Counsel to D&J
Conversation with me →

Kyle → Job → specific to USA?

Monica Goodling - said was
specific
Conflicts with what Bill said.
Consistent with our
understanding - Tim G
wanted to be U.S. Atty
we thought he was a
good guy -

We would support him.
Not our prerogative
to recommend
removal —

Always our thought —
~~Atty Gen met with President~~
~~of all the time~~

Made recommendation
to the President.
I don't recall such
a specific meeting.
No suggestion except for
politically motivated

Select Flights Passenger Details Flight Summary Payment Ticketing Opti

To continue with your reservation:

- Verify your itinerary and fare summary
- Complete the information below
- View the detailed

From: or
DCA

and airports within 30 Miles

Departure Date: Mar 19 Afterno

Return Date: Apr 11 Afterno

Number of Stops : No Preference

FARE SUMMARY

Carrier	Flight Number	Departing City	Date & Time	Arriving City	Date
AMERICAN AIRLINES	1063	BWI Baltimore	Mar 19, 2007 06:40 PM	DFW Dallas/ Fort Worth	Mar 09:1
AMERICAN AIRLINES	1494	DFW Dallas/ Fort Worth	Apr 11, 2007 02:05 PM	BWI Baltimore	Apr 06:0

1 Adult	158.00 USD	20.80 USD	Total
			Total Price

- Fares are not guaranteed until tickets are purchased
- For U.S. residents, the ticket price per person shown above includes applicable surcharges. For Non may apply
- Flights not on American Airlines, American Eagle, or AmericanConnection® are on a availability are subject to change
- In order to comply with federal security regulations, we may provide government agencies access to you disclose to us

First Name	Last Name	Suffix	AAdvantage Number	Passenger Type	Disability A Requi
HARRIET	MIERS	-	C431296	Adult	

		Area/City Code	Number	Ext.
Home	1	- 703	- 5216555	
Business	1	- 202	- 4941656	
Cell	1	-	-	

Email Address **HEMIERS@AOL.COM**
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CONTACT INFO



Full Court
No 7

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17

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

From: Brosnahan, Jennifer R.
Sent: Wednesday, September 20, 2006 2:53 PM
To: Miers, Harriet; Kelley, William K.
Cc: Klingler, Richard D.; McIntosh, Brent J.; Hoyt, Robert F.; Lee, Kenneth K.; Smith, John M.; Fahrenkopf, Leslie
Subject: Follow up on judicial/US Atty issues

Harriet and Bill,

Below are a few updates on judicial and US Attorney issues that we discussed on Monday:

1. Review of circuit court candidates by a bipartisan state commission: Kyle confirmed that Diane Sykes (CA7 - Wisconsin) is the only one he is aware of.
 2. U.S. Attorneys "rumored to be leaving": Two of the three on Kyle's list are now publicly confirmed -- Chuck Larsen, Sr. (N.D. Iowa) and Jim Vines (M.D. Tenn.). We learned of one more today: Michael G. Heavican (D. Neb.). Also, Kyle says that Deb Yang (C.D. Cal.) is on the market, and he recommends waiting until the end of the year to begin searching for her replacement.
 3. Attached are two charts providing the status updates you requested on all judicial vacancies for which we are currently "awaiting names" and on all current US Attorney vacancies.
 4. The AG's authority to appoint US Attorneys: The USA PATRIOT Improvement and Reauthorization Act of 2005 ("PATRIOT Reauthorization Act") (enacted Mar. 9, 2006) authorized the AG to appoint a United States attorney for a district in which the position is vacant. 28 U.S.C. § 546. Kyle explained that AG appointees under this authority are not "Interim" or "Acting"; they are full US Attys with the same title and authority as PAS appointees, and there is no time limitation on their service -- they may serve until a successor is confirmed and appointed. (The former provision placed a 120-day limit on service, after which the court could appoint someone). The only limitation on the AG appointment authority is that he cannot appoint someone who was nominated, but whom the Senate has refused to confirm, to the position. Kyle's view is that we should take advantage of this authority except when there is a specific net benefit to going to PAS route.
- Please let us know if you have any questions.

Thanks,
Jenny

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17 of 19 DOCUMENTS

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Federal News Service

February 6, 2007 Tuesday

SECTION: CAPITOL HILL HEARING

LENGTH: 27813 words

HEADLINE: HEARING OF THE SENATE JUDICIARY COMMITTEE;
SUBJECT: PRESERVING PROSECUTORIAL INDEPENDENCE: IS THE DEPARTMENT OF JUSTICE POLITICIZING THE HIRING AND FIRING OF U.S. ATTORNEYS?;
CHAIR BY: SENATOR CHARLES SCHUMER (D-NY);
WITNESSES: SENATOR MARK PRYOR (D-AR); DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY; MARY JO WHITE, ATTORNEY; LAURIE L. LEVENSON, PROFESSOR OF LAW, LOYOLA LAW SCHOOL, LOS ANGELES, CA; STUART M. GERSON, ATTORNEY;
LOCATION: ROOM 226 DIRKSEN SENATE OFFICE BUILDING, WASHINGTON, D.C.

BODY:

HEARING OF THE SENATE JUDICIARY COMMITTEE SUBJECT: PRESERVING PROSECUTORIAL INDEPENDENCE: IS THE DEPARTMENT OF JUSTICE POLITICIZING THE HIRING AND FIRING OF U.S. ATTORNEYS? CHAIRED BY: SENATOR CHARLES SCHUMER (D-NY) WITNESSES: SENATOR MARK PRYOR (D-AR); DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY; MARY JO WHITE, ATTORNEY; LAURIE L. LEVENSON, PROFESSOR OF LAW, LOYOLA LAW SCHOOL, LOS ANGELES, CA; STUART M. GERSON, ATTORNEY LOCATION: ROOM 226 DIRKSEN SENATE OFFICE BUILDING, WASHINGTON, D.C. TIME: 9:30 A.M. EST DATE: TUESDAY, FEBRUARY 6, 2007

SEN. SCHUMER: (Sounds gavel.) Good morning and welcome to the first hearing of our Administrative Law and Court Subcommittee. And we --

STAFF: (Off mike.)

SEN. SCHUMER: -- oh. And this is a full-committee hearing, I am just informed -- power has already gone to his head. (Laughter.) Reminds you of that old Woody Allen movie, remember? Anyway, we'll save that for another time.

Anyway, I will give an opening statement, then Senator Specter will, and any others who wish to give opening statements are welcome to do so.

Well, we are holding this hearing because many members of this committee, including Chairman Leahy -- who had hoped to be here, but is speaking on the floor at this time -- have become increasingly concerned about the administration of justice and the rule of law in this country. I have observed with increasing alarm how politicized the Department of Justice has become. I have watched with growing worry as the department has increasingly based hiring on political affiliation, ignored the recommendations of career attorneys, focused on the promotion of political agendas and failed to retain legions of talented career attorneys.

I have sat on this committee for eight years, and before that on the House Judiciary Committee for 16. During

HEARING OF THE SENATE JUDICIARY COMMITTEE; SUBJECT: PRESERVING PROSECUTO

MR. MCNULTY: Yes, sir. Thank you.

Senator, first of all, with regard to Arkansas and what happened there and any other efforts to seek the resignation of U.S. attorneys, these have been lumped together, but they really ought not to be. And we'll talk about the Arkansas situation, as Senator Pryor has laid it out.

And the fact is that there was a change made there that was not connected to, as was said, the performance of the incumbent, but more related to the opportunity to provide a fresh start with a new person in that position.

With regard to the other positions, however --

SEN. WHITEHOUSE: But why would you need a fresh start if the first person was doing a perfectly good job?

MR. MCNULTY: Well, again, in the discretion of the department, individuals in the position of U.S. attorneys serve at the pleasure of the president. And because turnover -- and that's the only way of going to your second question I was referring to turnover -- because turnover is a common thing in U.S. attorneys offices --

SEN. WHITEHOUSE: I know. I turned over myself as a U.S. attorney.

MR. MCNULTY: -- bringing in someone does not create a disruption that is going to be hazardous to the office. And it does, again, provide some benefits.

In the case of Arkansas, which this is really what we're talking about, the individual who was brought in had a significant prosecution experience -- he actually had more experience than Mr. Cummins did when he started the job -- and so there was every reason to believe that he could be a good interim until his nomination or someone else's nomination for that position went forward and there was a confirmed person in the job.

SEN. WHITEHOUSE: Mr. McNulty, what value does it bring to the U.S. attorneys office in Arkansas to have the incoming U.S. attorney have served as an aide to Karl Rove and to have served on the Republican National Committee?

MR. MCNULTY: With all --

SEN. WHITEHOUSE: Do you find anything useful there to be an U.S. attorney?

MR. MCNULTY: Well, I don't know. All I know is that a lot of U.S. attorneys have political backgrounds. Mr. Cummins ran for Congress as a Republican candidate. Mr. Cummins served in the Bush-Cheney campaign. I don't know if those experiences were useful for him to be a successful U.S. attorney, because he was.

I think a lot of U.S. attorneys bring political experience to the job. It might help them in some intangible way. But in the case of Mr. Griffin, he actually was in that district for a period of time serving as an assistant United States attorney, started their gun enforcement program, did many cases as a JAG prosecutor, went to Iraq, served his country there and came back. So there are a lot of things about him that make him a credible and well-qualified person to be a U.S. attorney.

SEN. WHITEHOUSE: Having run public corruption cases, and having firsthand experience of how difficult it is to get people to be willing to testify and come forward, it is not an easy thing to do. You put your career, you put your relations, everything on the line to come in and be a witness. If somebody in Arkansas were a witness to Republican political corruption, do you think it would have any affect on their willingness to come forward to have the new U.S. attorney be somebody who assisted Karl Rove and worked for the Republican National Committee? Do you think it would give any reasonable hesitation or cause for concern on their part that maybe they should keep this one to themselves until the air cleared?

MR. MCNULTY: Well, again, U.S. attorneys over a period of long history have had political backgrounds, and yet

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REP. JOHN CONYERS JR. HOLDS A HEARING ON OVERSIGHT OF THE DEPARTMENT
OF JUSTICE - COMMITTEE HEARING

43,613 words

10 May 2007

Political Transcripts by CQ Transcriptions

English

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HOUSE JUDICIARY COMMITTEE HOLDS A HEARING ON OVERSIGHT OF THE
DEPARTMENT OF JUSTICE

MAY 10, 2007

SPEAKERS: REP. JOHN CONYERS JR., D-MICH. CHAIRMAN REP. HOWARD L.
BERMAN, D-CALIF. REP. RICK BOUCHER, D-VA. REP. JERROLD NADLER, D-N.Y.
REP. ROBERT C. SCOTT, D-VA. REP. MELVIN WATT, D-N.C. REP. ZOE LOFGREN,
D-CALIF. REP. SHEILA JACKSON-LEE, D-TEXAS REP. MAXINE WATERS, D-CALIF.
REP. MARTIN T. MEEHAN, D-MASS. REP. BILL DELAHUNT, D-MASS. REP. ROBERT
WEXLER, D-FLA. REP. LINDA T. SANCHEZ, D-CALIF. REP. STEPHEN I. COHEN,
D-TENN. REP. HANK JOHNSON, D-GA. REP. LUIS V. GUTIERREZ, D-ILL. REP. BRAD
SHERMAN, D-CALIF. REP. ANTHONY WEINER, D-N.Y. REP. ADAM B. SCHIFF,
D-CALIF. REP. ARTUR DAVIS, D-ALA. REP. DEBBIE WASSERMAN-SCHULTZ, D-FLA.
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REP. LAMAR SMITH, R-TEXAS RANKING MEMBER REP. F. JAMES SENSENBRENNER
JR., R-WIS. REP. HOWARD COBLE, R-N.C. REP. ELTON GALLEGLY, R-CALIF. REP.
ROBERT W. GOODLATTE, R-VA. REP. STEVE CHABOT, R-OHIO REP. DAN LUNGREN,
R-CALIF. REP. CHRIS CANNON, R-UTAH REP. RIC KELLER, R-FLA. REP. DARRELL
ISSA, R-CALIF. REP. MIKE PENCE, R-IND. REP. J. RANDY FORBES, R-VA. REP. STEVE
KING, R-IOWA REP. TOM FEENEY, R-FLA. REP. TRENT FRANKS, R-ARIZ. REP. LOUIE
GOHMERT, R-TEXAS REP. JIM JORDAN, R-OHIO

WITNESSES: ATTORNEY GENERAL ALBERTO R. GONZALES

[*] CONYERS: Good morning. The committee will come to order. Welcome, everyone.

Mr. Attorney General, I want to thank you for appearing before us today. It's my hope that the members will focus on -- their questions today on the United States attorney investigation and related matters, and that in the near future you will come back so that we may exercise our oversight responsibility, considering the many important issues that involve the Department of

So at one point the White House wanted to replace all 93. So when they wanted to replace all 93, why do you think they wouldn't want to replace eight?

GONZALES: What I've testified also is that I don't know whether or not Ms. Miers thought this was a good idea, whether or not this was even Ms. Miers' idea. She raised this as an idea. We quickly said no...

COHEN: Did you ever talk to Ms. Miers, to Mr. Rove or to anyone else, or communicate to Ms. Miers or Mr. Rove or anyone else as to why they wanted to remove all 93 U.S. prosecutors?

GONZALES: I have no recollection of having that kind of conversation with Ms. Miers or Mr. Rove.

COHEN: And do you have any recollection of a letter to or from them?

GONZALES: I don't. But going back and looking at the documents, there was some e-mail traffic I think in late December of '04, early January of '05 about a conversation involving Mr. Rove stepping into the Counsel's Office about: What are we going to do about U.S. attorneys?

GONZALES: And then there was a subsequent e-mail back from Mr. Sampson. It's all in the record and I don't recall a conversation with Mr. Sampson during that period of time. This would have been during Christmas week, just 10 days or two weeks before my confirmation hearing and so I have no recollection of that.

But I do remember, as I've gone back and looking at the documents, there was some e-mail traffic about U.S. attorneys even before -- just before I became attorney general.

COHEN: These eight individuals who were fired, one of them was Mr. Cummins. Did you inquire into why Mr. Cummins was fired?

GONZALES: Congressman, I don't -- when you asked did I inquire when, I mean, Mr. Cummins was asked...

COHEN: Why? Why? Not when, why?

GONZALES: Mr. Cummins was asked to leave in June, June 14, not December 7. He was not part of that group and he was asked to -- a change was desired by the White House because they had identified a well-qualified individual that they wanted to have as a United States attorney.

COHEN: Who was the well-qualified individual? His name hasn't surfaced yet.

GONZALES: Tim Griffin was the person...

COHEN: Oh, he was well-qualified?

GONZALES: Well, I -- he certainly had more -- well I don't want to disparage Mr. Cummins,

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From: Miers, Harriet [Harriet_Miers@who.eop.gov]
Sent: Tuesday, December 19, 2006 7:09 PM
To: Karl Rove
Subject: FW: Another Griffin article

FYI. This does not seem to be developing as we thought.

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

From: Oprison, Christopher G.
Sent: Tuesday, December 19, 2006 6:39 PM
To: Miers, Harriet; Kelley, William K.
Subject: FW: Another Griffin article

Fyi - see below

Also, Richard Klingler confirmed with Paul Perkins earlier today that Tim had been approved by the President as a nominee in June 2006 but, after Senator Pryor indicated he would oppose Tim's nomination, the plan turned to putting Tim up as an AG appointment.

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

From: Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]
Sent: Tuesday, December 19, 2006 6:27 PM
To: Oprison, Christopher G.
Subject: RE: Another Griffin article

My thoughts:

1. I think we should gun this to death: ask the Senators to give Tim a chance, meet with him, give him some time in office to see how he performs, etc. If they ultimately say "no never" (and the longer we can forestall that, the better), then we can tell them we'll look for other candidates, ask them for recommendations, evaluate the recommendations, interview their candidates, and otherwise run out the clock. All of this should be done in "good faith," of course.
2. Officially, Tim is the U.S. Attorney, and will identify himself as such on pleadings and other official documents. I think it's fine for us to refer to him as an "interim U.S. Attorney" in talking points, with the understanding that by "interim U.S. Attorney" we mean AG-appointed (as opposed to Presidentially-appointed and Senate confirmed) U.S. Attorney.
3. Overall, I think we should take the temperature way down -- our guy is in there so the status quo is good for us. Ask for them to consider him; note that he is qualified and doing a good job whenever asked; pledge to desire a Senate-confirmed U.S. Attorney; and otherwise hunker down.
4. The only thing really at risk here is a repeal of the AG's appointment authority. We intend to have DOJ leg affairs people on notice to work hard to preserve this (House members won't care about this; all we really need is for one Senator to object to language being added to legislative vehicles that are moving through). There is some risk that we'll lose the authority, but if we don't ever exercise it then what's the point of having it? (I'm not 100 percent sure that Tim was the guy on which to test drive this authority, but know that getting him appointed was important to Harriet, Karl, etc.)

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

From: Oprison, Christopher G. [mailto:Christopher_G._Oprison@who.eop.gov]
Sent: Tuesday, December 19, 2006 6:16 PM
To: Sampson, Kyle
Subject: RE: Another Griffin article

Thanks. I raised that issue with Harriet earlier. Seems to me that (1) Pryor and Lincoln are taking steps to back DOJ/WH into a corner on Tim Griffin and commit to not commit on him as a nominee; and (2) "interim" may be a source of confusion or, worse, a term that Pryor's and Lincoln's office can springboard from to press for their own nominee rather than rallying behind Tim. What are your thoughts? If this is a Section 546 AG HJC 10023

appointment for unlimited duration, Tim can call himself "US Attorney" rather than "interim" or "acting" and our talkers should avoid referring to him as "interim." What are your thoughts?

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

From: Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]
Sent: Tuesday, December 19, 2006 5:36 PM
To: Oprison, Christopher G.
Subject: FW: Another Griffin article

fyi

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

From: Scolinos, Tasia
Sent: Tuesday, December 19, 2006 5:34 PM
To: Sampson, Kyle; Goodling, Monica
Cc: Roehrkasse, Brian
Subject: RE: Another Griffin article

I agree - those are stronger talkers.

BR- who in our office took this call? Let's make sure they have these new points if we get another call. Thanks.

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

From: Sampson, Kyle
Sent: Tuesday, December 19, 2006 5:30 PM
To: Goodling, Monica; Scolinos, Tasia
Subject: RE: Another Griffin article

Monica/Tasia, I'm a little concerned about this:

"A Justice Department spokesman has said officials will work with the Arkansas congressional delegation "in the near future" to make a nomination, and that Griffin was nominated on an interim basis because of the timing of Cummins' resignation."

I think would prefer:

- * When a U.S. Attorney vacancy arises, someone needs to be appointed -- even if on an interim basis -- to fill the vacancy and do the work of the U.S. Attorney.
- * Griffin was appointed on an interim basis because of the timing of Cummins' resignation.
- * It is our hope that, in every federal district, we'll be able to have a U.S. Attorney who was nominated by the President and confirmed by the Senate.

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

From: Goodling, Monica
Sent: Tuesday, December 19, 2006 12:22 PM
To: 'Oprison, Christopher G.'; Sampson, Kyle
Subject: Another Griffin article

FYI

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

From: griffin
Sent: Tuesday, December 19, 2006 10:49 AM
To: Goodling, Monica
Subject: Another one

Lincoln calls appointment of Rove assistant 'unfortunate'

By ANDREW DeMILLO Associated Press Writer

LITTLE ROCK (AP) Arkansas Sen. Blanche Lincoln called President Bush's decision to appoint political adviser Karl Rove's former assistant as interim U.S. attorney for eastern Arkansas "unfortunate" because she believes it bypasses the normal approval process.

HJC10024

"I think it's very unfortunate that the president would choose not to go down the normal route," Lincoln, D-Ark., told The Associated Press in an interview on Monday.

The Justice Department announced Friday that Tim Griffin would replace Bud Cummins, who plans to resign Dec. 20. There is no maximum amount of time someone can serve as an interim U.S. attorney.

"This is a person who's going to be implementing the law of the land, and I have concerns from what I read in terms of his political nature," Lincoln said. "People need to know that and the way you know that is by going through the processes. The reason we have processes and committees and hearings is so there will be a transparency in the people that are going to serve, and that won't exist in this case."

Arkansas' lone Republican in Congress, Rep. John Boozman, last week said Griffin was highly qualified for the position. But Griffin, who worked on President Bush's re-election campaign in 2004, likely wouldn't have faced a fair hearing in the soon-to-be Democratically controlled Senate, Boozman said.

A native of Magnolia, Griffin now serves as special assistant U.S. attorney for the eastern district of Arkansas. Griffin has previously served as special assistant to President Bush and deputy director of political affairs at the White House, as well as deputy communications director for the Republican National Committee.

He recently finished a year of active duty in Iraq and is an Army Reserve major, serving in the Judge Advocate General's Corps.

A spokesman for Sen. Mark Pryor, D-Ark., on Friday criticized the appointment for avoiding the normal appointment process.

"The senator is concerned that, by announcing an interim (appointment) and not making a nomination, they're determining who the nominee is," Pryor spokesman Michael Teague said Friday. "They're basically circumventing the constitutional process."

A Justice Department spokesman has said officials will work with the Arkansas congressional delegation "in the near future" to make a nomination, and that Griffin was nominated on an interim basis because of the timing of Cummins' resignation.

Lincoln said the White House had contacted her earlier in the year and said they were interested in appointing him to Bud Cummins' position. She said her office had expressed concern about his appointment.

"I don't know that much more about him than you could find if you Googled him," Lincoln said. "That's what we did."

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From: Klingler, Richard D.
Sent: Tuesday, May 16, 2006 10:49 PM
To: 'SJennings@gwb43.com'; Dixon, Grant
Subject: Re: Griffin

When Kyle and I last discussed this, the plot was to confirm Griffin's interest and availability and begin the formal process in late May. Harriet has been briefed and was fine with proceeding without a group of interviews.

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

From: Scott Jennings <SJennings@gwb43.com>
To: Dixon, Grant <Grant_Dixon@who.eop.gov>
CC: Klingler, Richard D. <Richard_D_Klingler@who.eop.gov>
Sent: Tue May 16 22:07:31 2006
Subject: RE: Griffin

What is the next move?

From: Dixon, Grant [mailto:Grant_Dixon@who.eop.gov]
Sent: Tue 5/16/2006 9:45 PM
To: Scott Jennings
Cc: Klingler, Richard D.
Subject: Re: Griffin

I do not think there has been any movement off the track we were on, but I am copying Richard Klingler to confirm.

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

From: Scott Jennings <SJennings@gwb43.com>
To: Dixon, Grant <Grant_Dixon@who.eop.gov>
Sent: Tue May 16 19:04:54 2006
Subject: Griffin

Any update on the Tim Griffin situation...things still moving as far as you know?

J. Scott Jennings

Special Assistant to the President and

Deputy Political Director

The White House

washington D.C. 20502

sjennings@gwb43.com

Office: 202-456-

22

From: Brosnahan, Jennifer R.
Sent: Friday, June 23, 2006 5:48 PM
To: Fahrenkopf, Leslie; Dixon, Grant; Klingler, Richard D.; Rao, Neomi J.; Hoyt, Robert F.; Gerry, Brett C.; Smith, John M.
Cc: Kelley, William K.; Courtwright, Susan M.
Subject: POTUS decisions

Here is the run down of what happened in today's meeting between Harriet and the President:

CA1 - Smith approved.

Status: HM informed Sen. Chafee, who asked for time to speak with Flanders about a district position. HM to follow up with Sen. Chafee on Monday. Hold off on notification calls until checking with HM on Monday.

CA2 - Livingston approved.

Status - BI also cleared, but still need to receive Judge Walker's letter, and Bill will speak with Livingston. Hold off on any other notifications.

CA4 - O'Neill approved.

Status - HM to speak with Mike about timing/approach with Senator Specter. Hold off on notifications.

DC Cir. - Keisler approved.

Status - Hold off on any action until Livingston situation resolved.

MD NC - Osteen approved (vice Osteen), and Schroeder approved (vice Bullock).

Status - OK to proceed with standard process.

WD NC - Reidinger approved.

Status - OK to proceed with standard process.

SD MS - Ozerden approved.

Status - OK to proceed with standard process.

Also, Tim Griffin was approved for US Atty in ED Ark. OK to proceed with standard process.

Please call me with any questions. Thanks!
Jenny

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From: Oprison, Christopher G.
Sent: Wednesday, December 13, 2006 3:52 PM
To: Looney, Andrea B.
Subject: RE: Tim Griffin - ED Ark USA spot

As an AG-appointed Interim US Attorney for the remainder of the time.

From: Looney, Andrea B.
Sent: ~~Wednesday, December 13, 2006 3:51 PM~~
To: Oprison, Christopher G.
Subject: RE: Tim Griffin - ED Ark USA spot

Let me double check. Remind me, the plan is to put Tim into the US Attorney office as what? An assistant of some kind?

From: Oprison, Christopher G.
Sent: Wednesday, December 13, 2006 3:20 PM
To: Looney, Andrea B.
Subject: Tim Griffin - ED Ark USA spot
Importance: High

Andrea -- to follow on our prior call, have you had a chance to discuss with Candi whether any other names are forthcoming for this position? Harriet has a call with Senator Pryor today and I would like to brief her on the latest. Thanks

Christopher G. Oprison
Associate Counsel to the President
(202) 456-

24

From: Wolff, Candida P.
Sent: Wednesday, December 13, 2006 5:35 PM
To: Looney, Andrea B.; O'Hollaren, Sean B.
Subject: RE: Tim Griffin - ED Ark USA spot

Pryor called Harriet and the AG. AG was unfamiliar but said he would look into it. If he is the most qualified, not sure I have strong feelings if the AG is willing to withstand the heat.

From: Looney, Andrea B.
Sent: Wednesday, December 13, 2006 3:58 PM
To: Wolff, Candida P.; O'Hollaren, Sean B.
Subject: FW: Tim Griffin - ED Ark USA spot
Importance: High

Have you all heard anything from Pryor on Tim Griffin? Counsel floated his name as a potential US Attorney, but Pryor was adamantly opposed. So, now, DOJ is planning to put Tim in as an AG-appointed Interim US Attorney for the remainder of the President's term. I am not sure what kind of push back from the Senators we will get, but it could be high. Currently, we are not even planning to ask for names of other candidates from them. Please let me know what you think.