

Sampson, Kyle

From: Scott-Finan, Nancy
Sent: Thursday, February 08, 2007 1:25 PM
To: Sampson, Kyle; Goodling, Monica; Elston, Michael (ODAG); Moschella, William; Hertling, Richard; Seidel, Rebecca; Scolinos, Tasia
Cc: Cabral, Catalina; Long, Linda E; Green, Saralene E
Subject: FW: Letter to Gonzales 2.8.07
Attachments: Document.pdf

Senator Schumer's press secretary just emailed me this Schumer/Reid/Durbin/Murray letter with regard to Cummins/Griffin.

United States Senate

WASHINGTON, DC 20510

February 8, 2007

The Honorable Alberto R. Gonzales
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Dear Attorney General Gonzales:

As you know, the Senate Judiciary Committee held a hearing this week to examine the growing politicization of the hiring and firing of United States Attorneys, our nation's top federal prosecutors.

Unfortunately, the hearing only served to intensify, rather than assuage, our concerns, particularly given the circumstances surrounding the ouster of Bud Cummins, who was the U.S. Attorney in the Eastern District of Arkansas until last December.

When you testified before the Committee on January 18, 2007, you stated unequivocally that you "would never, ever make a change in a U.S. Attorney position for political reasons." In a stunning admission, however, Deputy Attorney General Paul McNulty, in his own testimony on February 6th, acknowledged that Mr. Cummins was pushed out for no reason other than to install – without Senate confirmation – Tim Griffin, a former aide to Karl Rove. At the time, Mr. Griffin had minimal federal prosecution experience, but was highly skilled in opposition research and partisan attacks for the Republican National Committee. This strikes us as a quintessentially "political" reason to make a change.

We recognize, of course, that United States Attorneys serve at the pleasure of the President, but as several highly respected and distinguished former officials of the Department of Justice have noted, the dismissal of a well-respected U.S. Attorney simply to reward an inexperienced partisan is unprecedented.

Although Senators expect soon to be briefed privately about the alleged performance issues of several other U.S. Attorneys, we hope that you will quickly and publicly address the most troubling aspects of the Cummins ouster and Griffin appointment. We look forward to a fuller explanation of why a concededly well-performing prosecutor was terminated in favor of such a partisan figure:

- In particular, when was the decision made to appoint Tim Griffin to replace Bud Cummins?

OAG000000959

- Specifically, who lobbied on behalf of Tim Griffin's appointment, both inside and outside the Administration?
- Why was Bud Cummins told to resign in June of 2006, when the other dismissed officials were told in December of 2006? Was the reason to give the replacement, Tim Griffin, a chance to become ensconced at the U.S. Attorney's Office in Arkansas before making the appointment?
- In light of the unprecedented nature of the appointment, we are especially interested in understanding the role played by Karl Rove. In particular, what role did Karl Rove, with whom Griffin was closely associated, play in the decision to appoint Griffin?

Given that Mr. Rove was himself apparently still being investigated by a U.S. Attorney in June of 2006, it would be extremely untoward if he were at the same time leading the charge to oust a sitting U.S. Attorney and install his own former aide.

These questions go to the heart of the public's confidence in the fair administration of justice. Once appointed, U.S. Attorneys, perhaps more than any other public servant, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor.

Given the issues raised in the recent hearing, we are naturally concerned about the Administration's professed commitment to keeping politics out of the Department of Justice. We hope that you will quickly put those concerns to rest.

Sincerely,

Harry Reid
Cliff

Dick Durbin
Patty Murray

United States Senate

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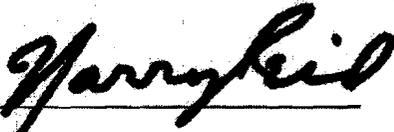
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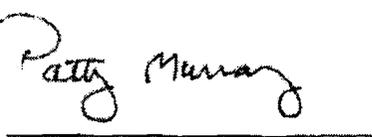
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Sincerely,









Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, February 08, 2007 4:15 PM
To: Goodling, Monica; McNulty, Paul J; Elston, Michael (ODAG); Moschella, William; Hertling, Richard; Scolinos, Tasia
Subject: FW: Letter to Gonzales 2.8.07
Attachments: Document.pdf

My thoughts re the response:

- The full quotation (not the selective quote) of the AG's testimony more fairly represents his views about not asking U.S. Attorney to resign for so-called "political reasons," to wit: "I think I would never, ever make a change in a United States attorney for political reasons or **if it would in any way jeopardize an ongoing serious investigation. I just would not do it**" (emphasis added).
- The DAG's testimony clarifies that asking Cummins to resign, not because of underperformance, but to permit Griffin to serve, is not a "political reason":

SEN. SCHUMER: . . . So here we have the attorney general adamant; here's his quote, "We would never, ever make a change in the U.S. attorney position for political reasons." Then we have now – for the first time, we learn that Bud Cummins was asked to leave for no reason and we're putting in someone who has all kinds of political connections -- not disqualifiers, obviously, certainly not legally -- and I'm sure it's been done by other administrations as well. But do you believe that firing a well-performing U.S. attorney to make way for a political operative is not a political reason?

MR. MCNULTY: Yes, I believe that's it's **not** a political reason.

SEN. SCHUMER: Okay, could you try to explain yourself there?

MR. MCNULTY: . . . I think that the fact that he had political activities in his background does not speak to the question of his qualifications for being the United States attorney in that district. . . . So he started off with a strong enough resume, and the fact that he was given an opportunity to step in – . . . [where Cummins] may have already been thinking about leaving at some point anyway. . . . And all those things came together to say in this case, this unique situation, we can make a change and this would still be good for the office.

- Griffin is not an inexperienced prosecutor: he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's Office) than Cummins did when he was appointed, in addition to substantial military prosecution experience.

As for the specific questions:

- The decision to appoint Tim Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General's telephone conversations with Sen. Pryor. Appointing Griffin to be U.S. Attorney (for the Western District of Arkansas) was first contemplated in the spring of 2004 [Monica, please verify], when Griffin was one of three names recommended by Rep. Boozman to fill the U.S. Attorney vacancy in that district that arose because of the resignation of Tom Gean on [insert date]; ultimately, Griffin withdrew his name from consideration for that appointment. Appointing Griffin to be U.S. Attorney (for the Eastern District of Arkansas) was first contemplated in the spring of 2006 [Monica, please verify], after Griffin had left the employment of the White House due to his being activated for full-time military service.
- I am not aware of anyone (other than Mr. Griffin) lobbying, either inside or outside of the Administration, for appointment. In the spring of 2006 [Monica, please verify], White House Counsel Harriet Miers asked the Department if Mr. Griffin (who then was on active duty) could be considered for appointment as U.S.

Attorney upon his return from Iraq. As Griffin was well known to the Department (from his service in the Criminal Division, the U.S. Attorney's Office, and the White House), this request was considered favorably.

- Cummins' continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the DAG acknowledged were asked to resign for reasons related to their performance. As the DAG testified, with regard to Cummins' continued service, "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." (Or where the DAG testified that he was "not disputing [the] characterization" that Cummins was "fired simply to let someone else have a shot at the job.")
- I am not aware of Karl Rove playing any role in the Attorney General's decision to appoint Griffin.
- Agree wholeheartedly that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servant, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." Historically, many U.S. Attorneys, prior to their appointment have political experience.
- Hertling should sign.

From: Scott-Finan, Nancy

Sent: Thursday, February 08, 2007 1:25 PM

To: Sampson, Kyle; Goodling, Monica; Elston, Michael (ODAG); Moschella, William; Hertling, Richard; Seidel, Rebecca; Scolinos, Tasia

Cc: Cabral, Catalina; Long, Linda E; Green, Saralene E

Subject: FW: Letter to Gonzales 2.8.07

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Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, February 08, 2007 4:32 PM
To: Beck, Michael (OAG)
Subject: 2 of 2 – U.S. Attorney issue
Attachments: Document.pdf

Tracking: **Recipient** **Read**
 Beck, Michael (OAG) Read: 2/8/2007 5:47 PM

Please print (1) the attached letter and (2) the below e-mail for the AG. Thx.

From: Sampson, Kyle
Sent: Thursday, February 08, 2007 4:15 PM
To: Goodling, Monica; McNulty, Paul J; Elston, Michael (ODAG); Moschella, William; Hertling, Richard; Scolinos, Tasia
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Unfortunately, the hearing only served to intensify, rather than assuage, our concerns, particularly given the circumstances surrounding the ouster of Bud Cummins, who was the U.S. Attorney in the Eastern District of Arkansas until last December.

When you testified before the Committee on January 13, 2007, you stated unequivocally that you "would never, ever make a change in a U.S. Attorney position for political reasons." In a stunning admission, however, Deputy Attorney General Paul McNulty, in his own testimony on February 6th, acknowledged that Mr. Cummins was pushed out for no reason other than to install - without Senate confirmation - Tim Griffin, a former aide to Karl Rove. At the time, Mr. Griffin had minimal federal prosecution experience, but was highly skilled in opposition research and partisan attacks for the Republican National Committee. This strikes us as a quintessentially "political" reason to make a change.

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0AG000000957

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Sincerely,

Garry
Chase

Don
Patty Murray

Sampson, Kyle

From: Sampson, Kyle
Sent: Friday, February 09, 2007 11:57 AM
To: Hertling, Richard
Subject: RE: Letter to Gonzales 2.8.07

Tracking: Recipient Read
 Hertling, Richard Read: 2/9/2007 12:01 PM

I can, I suppose.

From: Hertling, Richard
Sent: Friday, February 09, 2007 10:34 AM
To: Sampson, Kyle
Subject: RE: Letter to Gonzales 2.8.07

who has the pen on this?

From: Sampson, Kyle
Sent: Thursday, February 08, 2007 4:15 PM
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0AG000000969

3/13/2007

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As for the specific questions:

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Sent: Thursday, February 08, 2007 1:25 PM

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Cc: Cabral, Catalina; Long, Linda E; Green, Saralene E

Subject: FW: Letter to Gonzales 2.8.07

Senator Schumer's press secretary just emailed me this Schumer/Reid/Durbin/Murray letter with regard to Cummins/Griffin.

Sampson, Kyle

From: Sampson, Kyle
Sent: Wednesday, February 21, 2007 7:22 PM
To: McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Margolis, David; Hertling, Richard; Goodling, Monica
Subject: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin
Importance: High
Attachments: reid letter re cummins-griffin.doc

All, can you please review and provide comments on my draft response to the above-referenced letter?
Richard, can you send the .pdf version of the above-referenced letter around to this group?
Thanks!



reid letter re
cummins-griffin...

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

Tracking:	Recipient	Read
	McNulty, Paul J	Read: 2/22/2007 11:33 AM
	Moschella, William	Read: 2/21/2007 7:31 PM
	Elston, Michael (ODAG)	Read: 2/21/2007 9:36 PM
	Margolis, David	Read: 2/21/2007 8:50 PM
	Hertling, Richard	Read: 2/21/2007 7:28 PM
	Goodling, Monica	Read: 2/21/2007 7:40 PM

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

The full quotation of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007 (not the selective quote cited in your letter), more fairly represents his views about the appropriate reasons for asking a U.S. Attorney to resign. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added).

The Deputy Attorney General, at the hearing held on February 6, 2007, further stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified because, *inter alia*, Griffin was very well-qualified and had "a strong enough resume" to serve as U.S. Attorney, and Cummins "may have already been thinking about leaving at some point anyway." Indeed, at the time Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Cummins did at the time he was appointed U.S. Attorney in [insert month] 2001. In addition, Griffin has substantial military prosecution experience that Cummins does not have. And it was well-known, as early as December 2004, that Cummins intended to leave the office and seek employment in the private sector. *See* "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.").

In answer to your specific questions:

- The decision to appoint Tim Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General's telephone conversations with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying, either inside or outside of the Administration, for Griffin's appointment. In the spring of 2006,

OAG000000972

following regular procedures, the Office of the Counsel to the President inquired of the Office of the Attorney General as to whether Griffin (who then was on active military duty) might be considered for appointment as U.S. Attorney upon his return from Iraq.

- As the Deputy Attorney General testified, Cummins' continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Griffin.

In conclusion, the Department wholeheartedly agrees with the principle that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, February 22, 2007 10:16 AM
To: Margolis, David; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard; Goodling, Monica
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

Monica, can you tell us how long Tim was in CRM?

From: Margolis, David
Sent: Thursday, February 22, 2007 9:23 AM
To: Sampson, Kyle; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard; Goodling, Monica
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

Kyle: remind me - did Tim spend a substantial period of time in Crm Div.? I just don't recall. Otherwise I have no qualms about the letter.

From: Sampson, Kyle
Sent: Wednesday, February 21, 2007 7:22 PM
To: McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Margolis, David; Hertling, Richard; Goodling, Monica
Subject: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin
Importance: High

All, can you please review and provide comments on my draft response to the above-referenced letter?
Richard, can you send the .pdf version of the above-referenced letter around to this group?
Thanks!

<< File: reid letter re cummins-griffin.doc >>

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

Tracking:	Recipient	Read
	Margolis, David	Read: 2/22/2007 10:20 AM
	McNulty, Paul J	Read: 2/22/2007 11:33 AM
	Moschella, William	Read: 2/22/2007 3:08 PM
	Elston, Michael (ODAG)	Read: 2/22/2007 10:26 AM
	Hertling, Richard	Read: 2/22/2007 10:18 AM
	Goodling, Monica	Read: 2/22/2007 10:25 AM

Sampson, Kyle

From: Hertling, Richard
Sent: Thursday, February 22, 2007 10:18 AM
To: Sampson, Kyle; Moschella, William; Elston, Michael (ODAG); Margolis, David; Goodling, Monica; McNulty, Paul J
Subject: FW: Schumer/Reid/Durbin/Murray 2/8/07 Letter Re USA Bud Cummins
Attachments: Schumer.Reid.Durbin.Murray 2.8.07 Letter Re USA Bud Cummins.pdf

As Kyle requested, here is the letter to which the draft letter on Griffin circulated last night responds.

From: Cabral, Catalina
Sent: Thursday, February 22, 2007 10:11 AM
To: Hertling, Richard
Subject: Schumer/Reid/Durbin/Murray 2/8/07 Letter Re USA Bud Cummins



Schumer.Reid.Durbin.Murray 2.8...

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

United States Senate

WASHINGTON, DC 20510

February 8, 2007

The Honorable Alberto R. Gonzales
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Dear Attorney General Gonzales:

As you know, the Senate Judiciary Committee held a hearing this week to examine the growing politicization of the hiring and firing of United States Attorneys, our nation's top federal prosecutors.

Unfortunately, the hearing only served to intensify, rather than assuage, our concerns, particularly given the circumstances surrounding the ouster of Bud Cummins, who was the U.S. Attorney in the Eastern District of Arkansas until last December.

When you testified before the Committee on January 18, 2007, you stated unequivocally that you "would never, ever make a change in a U.S. Attorney position for political reasons." In a stunning admission, however, Deputy Attorney General Paul McNulty, in his own testimony on February 6th, acknowledged that Mr. Cummins was pushed out for no reason other than to install - without Senate confirmation - Tim Griffin, a former aide to Karl Rove. At the time, Mr. Griffin had minimal federal prosecution experience, but was highly skilled in opposition research and partisan attacks for the Republican National Committee. This strikes us as a quintessentially "political" reason to make a change.

We recognize, of course, that United States Attorneys serve at the pleasure of the President, but as several highly respected and distinguished former officials of the Department of Justice have noted, the dismissal of a well-respected U.S. Attorney simply to reward an inexperienced partisan is unprecedented.

Although Senators expect soon to be briefed privately about the alleged performance issues of several other U.S. Attorneys, we hope that you will quickly and publicly address the most troubling aspects of the Cummins ouster and Griffin appointment. We look forward to a fuller explanation of why a concededly well-performing prosecutor was terminated in favor of such a partisan figure:

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- Specifically, who lobbied on behalf of Tim Griffin's appointment, both inside and outside the Administration?
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These questions go to the heart of the public's confidence in the fair administration of justice. Once appointed, U.S. Attorneys, perhaps more than any other public servant, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor.

Given the issues raised in the recent hearing, we are naturally concerned about the Administration's professed commitment to keeping politics out of the Department of Justice. We hope that you will quickly put those concerns to rest.

Sincerely,

Harry Reid
CLIS

Dee Decker
Patty Murray

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, February 22, 2007 12:03 PM
To: Goodling, Monica; Margolis, David; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin
Importance: High
Attachments: reid letter re cummins-griffin v.2.doc

If you have not already reviewed the letter, please review this version 2. (It includes some nits, plus a new graf from Hertling.) Because this letter mentions Rove and alludes to Harriet, I'd like to send it to WHCO today for their review, with an eye on getting it out tomorrow. THx.



reid letter re
cummins-griffin...

From: Goodling, Monica
Sent: Thursday, February 22, 2007 12:01 PM
To: Sampson, Kyle; Margolis, David; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

He was technically an employee of Crim Div from March 2001 to June 2002, but was on detail to EDAR for September 2001-June 2002 -- so about 6 months in Crim Div.

From: Sampson, Kyle
Sent: Thursday, February 22, 2007 10:16 AM
To: Margolis, David; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard; Goodling, Monica
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

Monica, can you tell us how long Tim was in CRM?

From: Margolis, David
Sent: Thursday, February 22, 2007 9:23 AM
To: Sampson, Kyle; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard; Goodling, Monica
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

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Sent: Wednesday, February 21, 2007 7:22 PM
To: McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Margolis, David; Hertling, Richard; Goodling, Monica
Subject: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin
Importance: High

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Thanks!

<< File: reid letter re cummins-griffin.doc >>

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Tracking:

Recipient

Goodling, Monica
Margolis, David
McNulty, Paul J
Moschella, William
Elston, Michael (ODAG)
Hertling, Richard

Read

Read: 2/22/2007 12:05 PM
Read: 2/22/2007 3:57 PM
Read: 2/22/2007 2:38 PM
Read: 2/22/2007 3:15 PM
Read: 2/22/2007 12:05 PM
Read: 2/22/2007 12:24 PM

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, February 22, 2007 4:47 PM
To: 'Kelley, William K.'
Subject: Correspondence re Cummins-Griffin

Importance: High

Attachments: Reid.Schumer.Durbin.Murray 2.8.07 Letter Re USA Bud Cummins.pdf; reid letter re cummins-griffin.doc

Bill, attached is a letter we rec'd from Sens. Reid, Durbin, Schumer, and Murray re Bud Cummins' resignation and Tim Griffin's appointment. Also attached is our draft response. As you will see, the response touches on White House entities/equities and obviously concerns a hot-button issue of mutual interest -- hence, I'm forwarding it to you for WHCO review (and review by whomever else you think is appropriate). I would like to get this out tomorrow afternoon; sorry for the tight turnaround. Thanks!



Reid.Schumer.Durbin.Murray 2.8... reid letter re cummins-griffin...

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United States Senate

WASHINGTON, DC 20510

February 8, 2007

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Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

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Sincerely,

Harry Reid
Cliff

Dick Durbin
Patty Murray

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

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First, the full quotation of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007, more fairly represents his views about the appropriate reasons for asking a U.S. Attorney to resign. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added).

Second, the Deputy Attorney General, at the hearing held on February 6, 2007, further stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified and has "a strong enough resume" to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway."

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of the office's successful gun crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Anyone who knows Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. *See* "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.").

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive

experience as a prosecutor and strong ties to the district to be a change made for “political reasons.” United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

- Although the decision to appoint Mr. Griffin to replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General’s telephone conversations with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying, either inside or outside of the Administration, for Mr. Griffin’s appointment. In the spring or summer of 2006, following regular procedures, the Office of the Counsel to the President inquired of the Office of the Attorney General as to whether Mr. Griffin (who then was on active military duty in Iraq) might be considered for appointment as U.S. Attorney upon his return.
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- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

In conclusion, the Department wholeheartedly agrees with the principle you set forth in your letter that “[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor.” That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

OAG000000984

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, February 22, 2007 6:06 PM
To: Hertling, Richard
Subject: FW: Correspondence re Cummins-Griffin

Importance: High

Attachments: Reid.Schumer.Durbin.Murray 2.8.07 Letter Re USA Bud Cummins.pdf; reid letter re cummins-griffin.doc

fyi

From: Sampson, Kyle
Sent: Thursday, February 22, 2007 4:47 PM
To: 'Kelley, William K.'
Subject: Correspondence re Cummins-Griffin
Importance: High

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Reid.Schumer.Durbin.Murray 2.8... reid letter re cummins-griffin...

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Washington, D.C. 20530
(202) 514-2001 wk.
(202) 305-5289 cell
kyle.sampson@usdoj.gov

Tracking: Recipient
Hertling, Richard

Read
Read: 2/22/2007 6:08 PM

United States Senate

WASHINGTON, DC 20510

February 8, 2007

The Honorable Alberto R. Gonzales
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Dear Attorney General Gonzales:

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Cliff

Dirk Rubin
Patty Murray

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Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of the office's successful gun crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Anyone who knows Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. *See* "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.").

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive

OAG000000988

experience as a prosecutor and strong ties to the district to be a change made for "political reasons." United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

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- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

In conclusion, the Department wholeheartedly agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

OAG000000989

Sampson, Kyle

From: Sampson, Kyle
Sent: Friday, February 23, 2007 2:56 PM
To: 'Oprison, Christopher G.'
Subject: Version 2 of Reid Letter re Cummins-Griffin

Importance: High

Attachments: reid letter re cummins-griffin v.2.doc

Chris, please review and (hopefully) clear at your earliest. Thanks!



reid letter re
cummins-griffin...

Kyle Sampson
Chief of Staff
U.S. Department of Justice
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Washington, D.C. 20530
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Second, the Deputy Attorney General, at the hearing held on February 6, 2007, further stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway."

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Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

OAG000000992

Sampson, Kyle

From: Sampson, Kyle
Sent: Friday, February 23, 2007 2:59 PM
To: 'Oprison, Christopher G.'
Subject: RE: Version 2 of Reid Letter re Cummins-Griffin

Importance: High

Attachments: reid letter re cummins-griffin v.3.doc

Chris, please review this version 3.



reid letter re
cummins-griffin...

From: Sampson, Kyle
Sent: Friday, February 23, 2007 2:56 PM
To: 'Oprison, Christopher G.'
Subject: Version 2 of Reid Letter re Cummins-Griffin
Importance: High

Chris, please review and (hopefully) clear at your earliest. Thanks!

<< File: reid letter re cummins-griffin v.2.doc >>

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

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

First, the full quotation of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007, more fairly represents his views about the appropriate reasons for asking a U.S. Attorney to resign. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added). The Department of Justice rejects any suggestion that U.S. Attorneys were asked or encouraged to resign for the inappropriate "political reason" of interfering with any public corruption case or retaliating against a U.S. Attorney who oversaw such a case.

Second, the Deputy Attorney General, at the hearing held on February 6, 2007, further stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway."

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of the office's successful gun crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Anyone who knows Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. *See* "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.").

OAG000000994

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." Mr. Cummins was confirmed to serve a four-year term, which expired on January 9, 2006; he served his entire term, plus an additional year. United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

- Although the decision to appoint Mr. Griffin to replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the Attorney General's telephone conversation with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying for Mr. Griffin's appointment. The question of whether Mr. Griffin (who then was on active military duty in Iraq) might be considered for appointment as U.S. Attorney upon his return was addressed by the Department of Justice and the White House consistent with prior practice.
- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

In conclusion, the Department wholeheartedly agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

OAG000000995

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

Sampson, Kyle

From: Sampson, Kyle
Sent: Monday, February 26, 2007 9:49 AM
To: 'Kelley, William K.'
Cc: 'Oprison, Christopher G.'
Subject: FW: Durbin/Schumer/Reid/Murray letter

Attachments: Durbin letter re cummins-griffin final.pdf; Schumer letter re cummins-griffin final.pdf; Reid letter re cummins-griffin final.pdf; Murray letter re cummins-griffin final.pdf

fyi

From: Hertling, Richard
Sent: Monday, February 26, 2007 9:24 AM
To: Sampson, Kyle; Goodling, Monica; Scolinos, Tasia; Scott-Finan, Nancy; Nowacki, John (USAEO); Elston, Michael (ODAG); Moschella, William
Subject: FW: Durbin/Schumer/Reid/Murray letter

These letters were faxed to the senators' offices on Friday evening. We called this morning to confirm receipt.

From: Cabral, Catalina
Sent: Friday, February 23, 2007 7:43 PM
To: Hertling, Richard
Subject: Durbin/Schumer/Reid/Murray letter

All four faxes went through, I'll call Monday morning to confirm



Durbin letter re
cummins-griff...



Schumer letter re
cummins-grif...



Reid letter re
cummins-griffin...



Murray letter re
cummins-griff...

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



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 23, 2007

The Honorable Charles E. Schumer
United States Senate
Washington, D.C. 20510

Dear Senator Schumer:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

As an initial matter, the Department agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle. Your letter, however, contains assumptions and assertions that are simply erroneous.

First, your letter truncates the actual quote of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007, and consequently, mischaracterizes the statement. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added). The Department of Justice rejects any suggestion that U.S. Attorneys were asked or encouraged to resign for the inappropriate "political reason" of interfering with any public corruption case or retaliating against a U.S. Attorney who oversaw such a case.

Second, your letter mischaracterizes the testimony of the Deputy Attorney General given at the hearing held on February 6, 2007. The Deputy Attorney General simply stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not an inappropriate "political reason." This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway."

OAG000000998

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of that office's successful gun-crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Those who know Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. *See* "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term."). Finally, the Deputy Attorney General did not state or imply that Mr. Griffin would be appointed as the U.S. Attorney without Senate confirmation. Such a statement would be inconsistent with the Department's stated position that we are committed to having a Senate-confirmed U.S. Attorney in all 94 federal districts.

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." Mr. Cummins was confirmed to serve a four-year term, which expired on January 9, 2006. He served his entire term, plus an additional year. United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

- Although the decision to have Mr. Griffin replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the Attorney General had spoken with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying for Mr. Griffin's appointment. Consistent with longstanding Administration practice, the decision regarding whether Mr. Griffin (who then was on active military duty) might be considered for appointment as U.S. Attorney upon his return from Iraq was discussed and made jointly by the Department of Justice and the White House.

The Honorable Charles E. Schumer
Page Three

- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

We appreciate the opportunity to respond to your inquiry.

Sincerely,



Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

OAG000001000

Goodling, Monica

From: Sampson, Kyle
Sent: Thursday, February 08, 2007 4:15 PM
To: Goodling, Monica; McNulty, Paul J; Elston, Michael (ODAG); Moschella, William; Hertling, Richard; Scolinos, Tasia
Subject: FW: Letter to Gonzales 2.8.07
Attachments: Document.pdf

My thoughts re the response:

- The full quotation (not the selective quote) of the AG's testimony more fairly represents his views about not asking U.S. Attorney to resign for so-called "political reasons," to wit: "I think I would never, ever make a change in a United States attorney for political reasons or **if it would in any way jeopardize an ongoing serious investigation. I just would not do it**" (emphasis added).
- The DAG's testimony clarifies that asking Cummins to resign, not because of underperformance, but to permit Griffin to serve, is not a "political reason":

SEN. SCHUMER: . . . So here we have the attorney general adamant; here's his quote, "We would never, ever make a change in the U.S. attorney position for political reasons." Then we have now -- for the first time, we learn that Bud Cummins was asked to leave for no reason and we're putting in someone who has all kinds of political connections -- not disqualifiers, obviously, certainly not legally -- and I'm sure it's been done by other administrations as well. But do you believe that firing a well-performing U.S. attorney to make way for a political operative is not a political reason?

MR. MCNULTY: Yes, I believe that's it's **not** a political reason.

SEN. SCHUMER: Okay, could you try to explain yourself there?

MR. MCNULTY: . . . I think that the fact that he had political activities in his background does not speak to the question of his qualifications for being the United States attorney in that district. . . . So he started off with a strong enough resume, and the fact that he was given an opportunity to step in -- . . . [where Cummins] may have already been thinking about leaving at some point anyway. . . . And all those things came together to say in this case, this unique situation, we can make a change and this would still be good for the office.

- Griffin is not an inexperienced prosecutor: he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's Office) than Cummins did when he was appointed, in addition to substantial military prosecution experience.

As for the specific questions:

- The decision to appoint Tim Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General's telephone conversations with Sen. Pryor. Appointing Griffin to be U.S. Attorney (for the Western District of Arkansas) was first contemplated in the spring of 2004 [Monica, please verify], when Griffin was one of three names recommended by Rep. Boozman to fill the U.S. Attorney vacancy in that district that arose because of the resignation of Tom Gean on [insert date]; ultimately, Griffin withdrew his name from consideration for that appointment. Appointing Griffin to be U.S. Attorney (for the Eastern District of Arkansas) was first contemplated in the spring of 2006 [Monica, please verify], after Griffin had left the employment of the White House due to his being activated for full-time military service.
- I am not aware of anyone (other than Mr. Griffin) lobbying, either inside or outside of the Administration, for appointment. In the spring of 2006 [Monica, please verify], White House Counsel Harriet Miers asked the Department if Mr. Griffin (who then was on active duty) could be considered for appointment as U.S.

Attorney upon his return from Iraq. As Griffin was well known to the Department (from his service in the Criminal Division, the U.S. Attorney's Office, and the White House), this request was considered favorably.

- Cummins' continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the DAG acknowledged were asked to resign for reasons related to their performance. As the DAG testified, with regard to Cummins' continued service, "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." (Or where the DAG testified that he was "not disputing [the] characterization" that Cummins was "fired simply to let someone else have a shot at the job.")
- I am not aware of Karl Rove playing any role in the Attorney General's decision to appoint Griffin.
- Agree wholeheartedly that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servance, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." Historically, many U.S. Attorneys, prior to their appointment have political experience.
- Hertling should sign.

From: Scott-Finan, Nancy

Sent: Thursday, February 08, 2007 1:25 PM

To: Sampson, Kyle; Goodling, Monica; Elston, Michael (ODAG); Moschella, William; Hertling, Richard; Seidel, Rebecca; Scolinos, Tasia

Cc: Cabral, Catalina; Long, Linda E; Green, Saralene E

Subject: FW: Letter to Gonzales 2.8.07

Senator Schumer's press secretary just emailed me this Schumer/Reid/Durbin/Murray letter with regard to Cummins/Griffin.

Goodling, Monica

From: Sampson, Kyle
Sent: Wednesday, February 21, 2007 7:22 PM
To: McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Margolis, David; Hertling, Richard; Goodling, Monica
Subject: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin
Importance: High
Attachments: reid letter re cummins-griffin.doc

All, can you please review and provide comments on my draft response to the above-referenced letter?
Richard, can you send the .pdf version of the above-referenced letter around to this group?
Thanks!



reid letter re
cummins-griffin...

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

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

The full quotation of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007 (not the selective quote cited in your letter), more fairly represents his views about the appropriate reasons for asking a U.S. Attorney to resign. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added).

The Deputy Attorney General, at the hearing held on February 6, 2007, further stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified because, *inter alia*, Mr. Griffin is very well-qualified and has "a strong enough resume" to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway." Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was confirmed as U.S. Attorney in December 2001. In addition, Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. And it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.").

In addition, the Department does not consider the replacement of one Republican U.S. Attorney by another well-qualified person with extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." U.S. Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding. U.S. Attorneys leave office all the time for a wide variety of reasons. As noted in the case of Mr. Cummins, he had previously

OAG000001004

indicated publicly that he did not expect to remain in office through the President's second term. It was only natural and appropriate that the Department would seek a successor in anticipation of the potential vacancy. When the Department found an able and experienced successor, it moved forward with his interim appointment.

In answer to your specific questions:

- The decision to appoint Tim Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General's telephone conversations with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying, either inside or outside of the Administration, for Mr. Griffin's appointment. In the spring of 2006, following regular procedures, the Office of the Counsel to the President inquired of the Office of the Attorney General as to whether Mr. Griffin (who then was on active military duty in Iraq) might be considered for appointment as U.S. Attorney upon his return.
- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

In conclusion, the Department wholeheartedly agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

Goodling, Monica

From: Margolis, David
Sent: Thursday, February 22, 2007 9:23 AM
To: Sampson, Kyle; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard; Goodling, Monica
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

Kyle: remind me - did Tim spend a substantial period of time in Crm Div.? I just don't recall. Otherwise I have no qualms about the letter.

From: Sampson, Kyle
Sent: Wednesday, February 21, 2007 7:22 PM
To: McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Margolis, David; Hertling, Richard; Goodling, Monica
Subject: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin
Importance: High

All, can you please review and provide comments on my draft response to the above-referenced letter?
Richard, can you send the .pdf version of the above-referenced letter around to this group?
Thanks!

<< File: reid letter re cummins-griffin.doc >>

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

Goodling, Monica

From: Sampson, Kyle
Sent: Thursday, February 22, 2007 10:16 AM
To: Margolis, David; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard; Goodling, Monica
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

Monica, can you tell us how long Tim was in CRM?

From: Margolis, David
Sent: Thursday, February 22, 2007 9:23 AM
To: Sampson, Kyle; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard; Goodling, Monica
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

Kyle: remind me - did Tim spend a substantial period of time in Crm Div.? I just don't recall. Otherwise I have no qualms about the letter.

From: Sampson, Kyle
Sent: Wednesday, February 21, 2007 7:22 PM
To: McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Margolis, David; Hertling, Richard; Goodling, Monica
Subject: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin
Importance: High

All, can you please review and provide comments on my draft response to the above-referenced letter?
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Kyle Sampson
Chief of Staff
U.S. Department of Justice
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Washington, D.C. 20530
(202) 514-2001 wk.
(202) 305-5289 cell
kyle.sampson@usdoj.gov

Goodling, Monica

From: Hertling, Richard
Sent: Thursday, February 22, 2007 10:18 AM
To: Sampson, Kyle; Moschella, William; Elston, Michael (ODAG); Margolis, David; Goodling, Monica; McNulty, Paul J
Subject: FW: Schumer/Reid/Durbin/Murray 2/8/07 Letter Re USA Bud Cummins
Attachments: Schumer.Reid.Durbin.Murray 2.8.07 Letter Re USA Bud Cummins.pdf

As Kyle requested, here is the letter to which the draft letter on Griffin circulated last night responds.

From: Cabral, Catalina
Sent: Thursday, February 22, 2007 10:11 AM
To: Hertling, Richard
Subject: Schumer/Reid/Durbin/Murray 2/8/07 Letter Re USA Bud Cummins



Schumer.Reid.Durbin.Murray 2.8...

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

Goodling, Monica

From: Sampson, Kyle
Sent: Thursday, February 22, 2007 12:03 PM
To: Goodling, Monica; Margolis, David; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin
Importance: High
Attachments: reid letter re cummins-griffin v.2.doc

If you have not already reviewed the letter, please review this version 2. (It includes some nits, plus a new graf from Hertling.) Because this letter mentions Rove and alludes to Harriet, I'd like to send it to WHCO today for their review, with an eye on getting it out tomorrow. THx.



reid letter re
cummins-griffin...

From: Goodling, Monica
Sent: Thursday, February 22, 2007 12:01 PM
To: Sampson, Kyle; Margolis, David; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

He was technically an employee of Crim Div from March 2001 to June 2002, but was on detail to EDAR for September 2001-June 2002 -- so about 6 months in Crim Div.

From: Sampson, Kyle
Sent: Thursday, February 22, 2007 10:16 AM
To: Margolis, David; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard; Goodling, Monica
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

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Sent: Thursday, February 22, 2007 9:23 AM
To: Sampson, Kyle; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard; Goodling, Monica
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

Kyle: remind me - did Tim spend a substantial period of time in Crm Div.? I just don't recall. Otherwise I have no qualms about the letter.

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Sent: Wednesday, February 21, 2007 7:22 PM
To: McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Margolis, David; Hertling, Richard; Goodling, Monica
Subject: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin
Importance: High

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U.S. Department of Justice

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The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

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The full quotation of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007 (not the selective quote cited in your letter), more fairly represents his views about the appropriate reasons for asking a U.S. Attorney to resign. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added).

The Deputy Attorney General, at the hearing held on February 6, 2007, further stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified because, *inter alia*, Mr. Griffin is very well-qualified and has "a strong enough resume" to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway." Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was confirmed as U.S. Attorney in December 2001. In addition, Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. And it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.").

In addition, the Department does not consider the replacement of one Republican U.S. Attorney by another well-qualified person with extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." U.S. Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding. U.S. Attorneys leave office all the time for a wide variety of reasons. As noted in the case of Mr. Cummins, he had previously

indicated publicly that he did not expect to remain in office through the President's second term. It was only natural and appropriate that the Department would seek a successor in anticipation of the potential vacancy. When the Department found an able and experienced successor, it moved forward with his interim appointment.

In answer to your specific questions:

- The decision to appoint Tim Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General's telephone conversations with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying, either inside or outside of the Administration, for Mr. Griffin's appointment. In the spring of 2006, following regular procedures, the Office of the Counsel to the President inquired of the Office of the Attorney General as to whether Mr. Griffin (who then was on active military duty in Iraq) might be considered for appointment as U.S. Attorney upon his return.
- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

In conclusion, the Department wholeheartedly agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, February 22, 2007 12:01 PM
To: Sampson, Kyle; Margolis, David; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

He was technically an employee of Crim Div from March 2001 to June 2002, but was on detail to EDAR for September 2001-June 2002 -- so about 6 months in Crim Div.

From: Sampson, Kyle
Sent: Thursday, February 22, 2007 10:16 AM
To: Margolis, David; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard; Goodling, Monica
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

Monica, can you tell us how long Tim was in CRM?

From: Margolis, David
Sent: Thursday, February 22, 2007 9:23 AM
To: Sampson, Kyle; McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Hertling, Richard; Goodling, Monica
Subject: RE: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin

Kyle: remind me - did Tim spend a substantial period of time in Crm Div.? I just don't recall. Otherwise I have no qualms about the letter.

From: Sampson, Kyle
Sent: Wednesday, February 21, 2007 7:22 PM
To: McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Margolis, David; Hertling, Richard; Goodling, Monica
Subject: Draft response to Reid/Durbin/Schumer/Murray letter re Cummins-Griffin
Importance: High

All, can you please review and provide comments on my draft response to the above-referenced letter?
Richard, can you send the .pdf version of the above-referenced letter around to this group?
Thanks!

<< File: reid letter re cummins-griffin.doc >>

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

Tracking:	Recipient	Read
	Sampson, Kyle	Read: 2/22/2007 12:02 PM
	Margolis, David	Read: 2/22/2007 2:09 PM
	McNulty, Paul J	Read: 2/22/2007 2:22 PM
	Moschella, William	Read: 2/22/2007 3:15 PM
	Elston, Michael (ODAG)	Read: 2/22/2007 12:05 PM
	Hertling, Richard	Read: 2/22/2007 12:24 PM



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Fw: 2 of 2 -- U.S. Attorney issue

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From: Sampson, Kyle
To: Beck, Michael (OAG)
Sent: Thu Feb 08 16:31:55 2007
Subject: 2 of 2 -- U.S. Attorney issue

The book George
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littledemocrats.n

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Please print (1) the attached letter and (2) the below e-mail for
the AG. Thx.

Chris Simcox to l
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www.Minuteman

From: Sampson, Kyle
Sent: Thursday, February 08, 2007 4:15 PM
To: Goodling, Monica; McNulty, Paul J; Elston, Michael (ODAG);
Moschella, William; Hertling, Richard; Scolinos, Tasia
Subject: FW: Letter to Gonzales 2.8.07

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My thoughts re the response:

* The full quotation (not the selective quote) of the AG's
testimony more fairly represents his views about not asking U.S.
Attorney to resign for so-called "political reasons," to wit: "I think
I would never, ever make a change in a United States attorney
for political reasons or if it would in any way jeopardize an
ongoing serious investigation. I just would not do it" (emphasis
added).

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* The DAG's testimony clarifies that asking Cummins to
resign, not because of underperformance, but to permit Griffin to
serve, is not a "political reason":

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SEN. SCHUMER: . . . So here we have the attorney
general adamant; here's his quote, "We would never, ever make
a change in the U.S. attorney position for political reasons."
Then we have now -- for the first time, we learn that Bud
Cummins was asked to leave for no reason and we're putting in
someone who has all kinds of political connections -- not
disqualifiers, obviously, certainly not legally -- and I'm sure it's
been done by other administrations as well. But do you believe
that firing a well-performing U.S. attorney to make way for a
political operative is not a political reason?

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MR. MCNULTY: Yes, I believe that's it's not a
political reason.

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SEN. SCHUMER: Okay, could you try to explain yourself there?

MR. MCNULTY: . . . I think that the fact that he had political activities in his background does not speak to the question of his qualifications for being the United States attorney in that district. . . . So he started off with a strong enough resume, and the fact that he was given an opportunity to step in - . . . [where Cummins] may have already been thinking about leaving at some point anyway. . . . And all those things came together to say in this case, this unique situation, we can make a change and this would still be good for the office.

* Griffin is not an inexperienced prosecutor: he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's Office) than Cummins did when he was appointed, in addition to substantial military prosecution experience.

As for the specific questions:

* The decision to appoint Tim Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General's telephone conversations with Sen. Pryor. Appointing Griffin to be U.S. Attorney (for the Western District of Arkansas) was first contemplated in the spring of 2004 [Monica, please verify], when Griffin was one of three names recommended by Rep. Boozman to fill the U.S. Attorney vacancy in that district that arose because of the resignation of Tom Gean on [insert date]; ultimately, Griffin withdrew his name from consideration for that appointment. Appointing Griffin to be U.S. Attorney (for the Eastern District of Arkansas) was first contemplated in the spring of 2006 [Monica, please verify], after Griffin had left the employment of the White House due to his being activated for full-time military service.

* I am not aware of anyone (other than Mr. Griffin) lobbying, either inside or outside of the Administration, for appointment. In the spring of 2006 [Monica, please verify], White House Counsel Harriet Miers asked the Department if Mr. Griffin (who then was on active duty) could be considered for appointment as U.S. Attorney upon his return from Iraq. As Griffin was well known to the Department (from his service in the Criminal Division, the U.S. Attorney's Office, and the White House), this request was considered favorably.

* Cummins' continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the DAG acknowledged were asked to resign for reasons related to their performance. As the DAG testified, with regard to Cummins' continued service, "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." (Or where the DAG testified that he was "not disputing [the] characterization" that Cummins was "fired simply to let someone else have a shot at the job.")

* I am not aware of Karl Rove playing any role in the Attorney General's decision to appoint Griffin.

* Agree wholeheartedly that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to

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enforce the rule of law without fear or favor." Historically, many U.S. Attorneys, prior to their appointment have political experience.

* Hertling should sign.

From: Scott-Finan, Nancy
 Sent: Thursday, February 08, 2007 1:25 PM
 To: Sampson, Kyle; Goodling, Monica; Elston, Michael (ODAG); Moschella, William; Hertling, Richard; Seidel, Rebecca; Scolinos, Tasia
 Cc: Cabral, Catalina; Long, Linda E; Green, Saralene E
 Subject: FW: Letter to Gonzales 2.8.07

Senator Schumer's press secretary just emailed me this Schumer/Reid/Durbin/Murray letter with regard to Cummins/Griffin.

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Beck, Michael (OAG)

From: Sampson, Kyle
Sent: Thursday, February 08, 2007 4:32 PM
To: Beck, Michael (OAG)
Subject: 2 of 2 -- U.S. Attorney issue
Attachments: Document.pdf

Please print (1) the attached letter and (2) the below e-mail for the AG. Thx.

From: Sampson, Kyle
Sent: Thursday, February 08, 2007 4:15 PM
To: Goodling, Monica; McNulty, Paul J; Elston, Michael (ODAG); Moschella, William; Hertling, Richard; Scolinos, Tasia
Subject: FW: Letter to Gonzales 2.8.07

My thoughts re the response:

- The full quotation (not the selective quote) of the AG's testimony more fairly represents his views about not asking U.S. Attorney to resign for so-called "political reasons," to wit: "I think I would never, ever make a change in a United States attorney for political reasons or if it would in any way jeopardize an ongoing serious investigation. I just would not do it" (emphasis added).
- The DAG's testimony clarifies that asking Cummins to resign, not because of underperformance, but to permit Griffin to serve, is not a "political reason":

SEN. SCHUMER: . . . So here we have the attorney general adamant; here's his quote, "We would never, ever make a change in the U.S. attorney position for political reasons." Then we have now -- for the first time, we learn that Bud Cummins was asked to leave for no reason and we're putting in someone who has all kinds of political connections -- not disqualifiers, obviously, certainly not legally -- and I'm sure it's been done by other administrations as well. But do you believe that firing a well-performing U.S. attorney to make way for a political operative is not a political reason?

MR. MCNULTY: Yes, I believe that's it's not a political reason.

SEN. SCHUMER: Okay, could you try to explain yourself there?

MR. MCNULTY: . . . I think that the fact that he had political activities in his background does not speak to the question of his qualifications for being the United States attorney in that district. . . . So he started off with a strong enough resume, and the fact that he was given an opportunity to step in -- . . . [where Cummins] may have already been thinking about leaving at some point anyway. . . . And all those things came together to say in this case, this unique situation, we can make a change and this would still be good for the office.

- Griffin is not an inexperienced prosecutor: he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's Office) than Cummins did when he was appointed, in addition to substantial military prosecution experience.

As for the specific questions:

- The decision to appoint Tim Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General's telephone conversations with Sen. Pryor. Appointing Griffin to be U.S. Attorney (for the Western District of Arkansas) was first

contemplated in the spring of 2004 [Monica, please verify], when Griffin was one of three names recommended by Rep. Boozman to fill the U.S. Attorney vacancy in that district that arose because of the resignation of Tom Gean on [insert date]; ultimately, Griffin withdrew his name from consideration for that appointment. Appointing Griffin to be U.S. Attorney (for the Eastern District of Arkansas) was first contemplated in the spring of 2006 [Monica, please verify], after Griffin had left the employment of the White House due to his being activated for full-time military service.

- I am not aware of anyone (other than Mr. Griffin) lobbying, either inside or outside of the Administration, for appointment. In the spring of 2006 [Monica, please verify], White House Counsel Harriet Miers asked the Department if Mr. Griffin (who then was on active duty) could be considered for appointment as U.S. Attorney upon his return from Iraq. As Griffin was well known to the Department (from his service in the Criminal Division, the U.S. Attorney's Office, and the White House), this request was considered favorably.
- Cummins' continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the DAG acknowledged were asked to resign for reasons related to their performance. As the DAG testified, with regard to Cummins' continued service, "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." (Or where the DAG testified that he was "not disputing [the] characterization" that Cummins was "fired simply to let someone else have a shot at the job.")
- I am not aware of Karl Rove playing any role in the Attorney General's decision to appoint Griffin.
- Agree wholeheartedly that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servant, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." Historically, many U.S. Attorneys, prior to their appointment have political experience.
- Hertling should sign.

From: Scott-Finan, Nancy

Sent: Thursday, February 08, 2007 1:25 PM

To: Sampson, Kyle; Goodling, Monica; Elston, Michael (ODAG); Moschella, William; Hertling, Richard; Seidel, Rebecca; Scolinos, Tasia

Cc: Cabral, Catalina; Long, Linda E; Green, Saralene E

Subject: FW: Letter to Gonzales 2.8.07

Senator Schumer's press secretary just emailed me this Schumer/Reid/Durbin/Murray letter with regard to Cummins/Griffin.

United States Senate

WASHINGTON, DC 20510

February 8, 2007

The Honorable Alberto R. Gonzales
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Dear Attorney General Gonzales:

As you know, the Senate Judiciary Committee held a hearing this week to examine the growing politicization of the hiring and firing of United States Attorneys, our nation's top federal prosecutors.

Unfortunately, the hearing only served to intensify, rather than assuage, our concerns, particularly given the circumstances surrounding the ouster of Bud Cummins, who was the U.S. Attorney in the Eastern District of Arkansas until last December.

When you testified before the Committee on January 18, 2007, you stated unequivocally that you "would never, ever make a change in a U.S. Attorney position for political reasons." In a stunning admission, however, Deputy Attorney General Paul McNulty, in his own testimony on February 6th, acknowledged that Mr. Cummins was pushed out for no reason other than to install – without Senate confirmation – Tim Griffin, a former aide to Karl Rove. At the time, Mr. Griffin had minimal federal prosecution experience, but was highly skilled in opposition research and partisan attacks for the Republican National Committee. This strikes us as a quintessentially "political" reason to make a change.

We recognize, of course, that United States Attorneys serve at the pleasure of the President, but as several highly respected and distinguished former officials of the Department of Justice have noted, the dismissal of a well-respected U.S. Attorney simply to reward an inexperienced partisan is unprecedented.

Although Senators expect soon to be briefed privately about the alleged performance issues of several other U.S. Attorneys, we hope that you will quickly and publicly address the most troubling aspects of the Cummins ouster and Griffin appointment. We look forward to a fuller explanation of why a concededly well-performing prosecutor was terminated in favor of such a partisan figure:

- In particular, when was the decision made to appoint Tim Griffin to replace Bud Cummins?

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- Specifically, who lobbied on behalf of Tim Griffin's appointment, both inside and outside the Administration?
- Why was Bud Cummins told to resign in June of 2006, when the other dismissed officials were told in December of 2006? Was the reason to give the replacement, Tim Griffin, a chance to become ensconced at the U.S. Attorney's Office in Arkansas before making the appointment?
- In light of the unprecedented nature of the appointment, we are especially interested in understanding the role played by Karl Rove. In particular, what role did Karl Rove, with whom Griffin was closely associated, play in the decision to appoint Griffin?

Given that Mr. Rove was himself apparently still being investigated by a U.S. Attorney in June of 2006, it would be extremely untoward if he were at the same time leading the charge to oust a sitting U.S. Attorney and install his own former aide.

These questions go to the heart of the public's confidence in the fair administration of justice. Once appointed, U.S. Attorneys, perhaps more than any other public servant, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor.

Given the issues raised in the recent hearing, we are naturally concerned about the Administration's professed commitment to keeping politics out of the Department of Justice. We hope that you will quickly put those concerns to rest.

Sincerely,

Harry Reid
Cliff

Dick Durbin
Patty Murray

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

The full quotation of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007 (not the selective quote cited in your letter), more fairly represents his views about the appropriate reasons for asking a U.S. Attorney to resign. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added).

The Deputy Attorney General, at the hearing held on February 6, 2007, further stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified because, *inter alia*, Mr. Griffin is very well-qualified and has "a strong enough resume" to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway." Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was confirmed as U.S. Attorney in December 2001. In addition, Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. And it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.").

In addition, the Department does not consider the replacement of one Republican U.S. Attorney by another well-qualified person with extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." U.S. Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding. U.S. Attorneys leave office all the time for a wide variety of reasons. As noted in the case of Mr. Cummins, he had previously

indicated publicly that he did not expect to remain in office through the President's second term. It was only natural and appropriate that the Department would seek a successor in anticipation of the potential vacancy. When the Department found an able and experienced successor, it moved forward with his interim appointment.

In answer to your specific questions:

- The decision to appoint Tim Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General's telephone conversations with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying, either inside or outside of the Administration, for Mr. Griffin's appointment. In the spring of 2006, following regular procedures, the Office of the Counsel to the President inquired of the Office of the Attorney General as to whether Mr. Griffin (who then was on active military duty in Iraq) might be considered for appointment as U.S. Attorney upon his return.
- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

In conclusion, the Department wholeheartedly agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

First, the full quotation of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007, more fairly represents his views about the appropriate reasons for asking a U.S. Attorney to resign. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added). The Department of Justice rejects any suggestion that U.S. Attorneys were asked or encouraged to resign for the inappropriate "political reason" of interfering with any public corruption case or retaliating against a U.S. Attorney who oversaw such a case.

Second, your letter mischaracterizes the Deputy Attorney General's testimony at the hearing held on February 6, 2007, regarding the reasons Mr. Cummins was asked to resign and Mr. Griffin was appointed. At that hearing, the Deputy Attorney General stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway."

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of the office's successful gun crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Anyone who knows Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through

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college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.”).

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive experience as a prosecutor and strong ties to the district to be a change made for “political reasons.” Mr. Cummins was confirmed to serve a four-year term, which expired on January 9, 2006; he served his entire term, plus an additional year. United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

- Although the decision to appoint Mr. Griffin to replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the Attorney General's telephone conversation with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying for Mr. Griffin's appointment. The question of whether Mr. Griffin (who then was on active military duty in Iraq) might be considered for appointment as U.S. Attorney upon his return was addressed by the Department of Justice and the White House consistent with prior practice.
- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was “related to the opportunity to provide a fresh start with a new person in that position.”
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

In conclusion, the Department wholeheartedly agrees with the principle you set forth in your letter that “[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor.” That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling

Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

0AG000001025

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

First, the full quotation of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007, more fairly represents his views about the appropriate reasons for asking a U.S. Attorney to resign. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added). The Department of Justice rejects any suggestion that U.S. Attorneys were asked or encouraged to resign for the inappropriate "political reason" of interfering with any public corruption case or retaliating against a U.S. Attorney who oversaw such a case.

Second, the Deputy Attorney General, at the hearing held on February 6, 2007, further stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway."

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of the office's successful gun crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Anyone who knows Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.").

OAG000001026

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." Mr. Cummins was confirmed to serve a four-year term, which expired on January 9, 2006; he served his entire term, plus an additional year. United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

- Although the decision to appoint Mr. Griffin to replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the Attorney General's telephone conversation with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying for Mr. Griffin's appointment. The question of whether Mr. Griffin (who then was on active military duty in Iraq) might be considered for appointment as U.S. Attorney upon his return was addressed by the Department of Justice and the White House consistent with prior practice.
- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

In conclusion, the Department wholeheartedly agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

OAG000001027

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

First, the full quotation of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007, more fairly represents his views about the appropriate reasons for asking a U.S. Attorney to resign. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added).

Second, the Deputy Attorney General, at the hearing held on February 6, 2007, further stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified and has "a strong enough resume" to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway."

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of the office's successful gun crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Anyone who knows Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.").

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive

experience as a prosecutor and strong ties to the district to be a change made for “political reasons.” United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

- Although the decision to appoint Mr. Griffin to replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General’s telephone conversations with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying, either inside or outside of the Administration, for Mr. Griffin’s appointment. In the spring or summer of 2006, following regular procedures, the Office of the Counsel to the President inquired of the Office of the Attorney General as to whether Mr. Griffin (who then was on active military duty in Iraq) might be considered for appointment as U.S. Attorney upon his return.
- As the Deputy Attorney General testified, Mr. Cummins’s continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was “related to the opportunity to provide a fresh start with a new person in that position.”
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

In conclusion, the Department wholeheartedly agrees with the principle you set forth in your letter that “[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor.” That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

OAG000001030

Sampson, Kyle

From: Sampson, Kyle
Sent: Friday, February 23, 2007 6:02 PM
To: 'Oprison, Christopher G.'
Cc: Hertling, Richard
Subject: Reid letter v.4

Importance: High

Attachments: reid letter re cummins-griffin v.4.doc

Chris, I accepted your changes and then made some changes -- most are for accuracy (though a couple are stylistic). Call me (I need to leave in 5 minutes for my daughter's dance recital!).



reid letter re
cummins-griffin...

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

Tracking:

Recipient

Read

'Oprison, Christopher G.'

Hertling, Richard

Read: 2/23/2007 6:12 PM

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

As an initial matter, the Department agrees with the principle you set forth in your letter that “[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor.” That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle. Your letter, however, contains assumptions and assertions that are simply erroneous.

First, your letter truncates the actual quote of the Attorney General’s testimony at the Judiciary Committee hearing on January 18, 2007, and consequently, mischaracterizes the statement. In full, the Attorney General stated: “I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*” (emphasis added). The Department of Justice rejects any suggestion that U.S. Attorneys were asked or encouraged to resign for the inappropriate “political reason” of interfering with any public corruption case or retaliating against a U.S. Attorney who oversaw such a case.

Second, your letter mischaracterizes the testimony of the Deputy Attorney General given at the hearing held on February 6, 2007. The Deputy Attorney General simply stated the Department’s view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not an inappropriate “political reason.” This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified to serve as U.S. Attorney, and Mr. Cummins “may have already been thinking about leaving at some point anyway.”

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Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney’s office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of that office’s successful gun crime prosecution initiative. And Mr.

Deleted: the

Griffin has substantial military prosecution experience that Mr. Cummins does not have. Those who know Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term."). Finally, the Deputy Attorney General did not state or imply that Mr. Griffin would be appointed as the U.S. Attorney without Senate confirmation. Such a statement would be inconsistent with the Department's stated position that we are committed to having a Senate-confirmed U.S. Attorney in all 94 federal districts.

Deleted: it would strive to have each vacancy filled by a Senate-confirmed U.S. Attorney.

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." Mr. Cummins was confirmed to serve a four-year term, which expired on January 9, 2006. He served his entire term, plus an additional year. United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

Deleted: As you know, U.S. Attorneys serve at the pleasure of the President. That has always been the rule and U.S. Attorneys accept their appointment with full understanding that they may serve the full term or in excess of the full term, but that at any time they could be removed by the President.

In answer to your specific questions:

Deleted: Regarding specific questions raised in your letter, we respond as follows:¶

- Although the decision to have Mr. Griffin replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, the Attorney General had spoken with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying for Mr. Griffin's appointment. Consistent with longstanding Administration practice, the decision regarding whether Mr. Griffin (who then was on active military duty) might be considered for appointment as U.S. Attorney upon his return from Iraq was discussed and made jointly by the Department of Justice and the White House.
- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

Deleted: after a series of conversations between the Attorney General and Senator Pryor.

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Deleted: But, c

Deleted: in this Administration

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Deleted: Mr. Cummins' continued service as U.S. Attorney was first considered after the Department learned of Mr. Cummins' stated interest in possibly resigning for a position in the private sector. As the Deputy Attorney General testified, this commenced well prior to considering the other U.S. Attorneys to resign for reasons related to their performance and was instead "related to the opportunity to provide a fresh start with a new person in that position." Also, a general matter, it is often preferable, to the extent practicable, to appoint a permanent replacement who has experience with and familiarity of the workings of the particular office, as Mr. Griffin did.

We appreciate the opportunity to respond to your inquiry.

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Sincerely,

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Deleted: as either on an interim or permanent basis

Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

Sampson, Kyle

From: Sampson, Kyle
Sent: Friday, February 23, 2007 8:44 PM
To: Hertling, Richard
Subject: RE: Cummins-Griffin letters

Thx, Richard.

From: Hertling, Richard
Sent: Friday, February 23, 2007 7:39 PM
To: Sampson, Kyle
Subject: Cummins-Griffin letters

These were signed and faxed tonight around 7:30. I will email you, Monica, the DAG, and Tasia pdfs of the letters on Monday morning. Enjoy the weekend.

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

As an initial matter, the Department agrees with the principle you set forth in your letter that “[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor.” That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle. Your letter, however, contains assumptions and assertions that are simply erroneous.

First, your letter truncates the actual quote of the Attorney General’s testimony at the Judiciary Committee hearing on January 18, 2007, and consequently, mischaracterizes the statement. In full, the Attorney General stated: “I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*” (emphasis added). The Department of Justice rejects any suggestion that U.S. Attorneys were asked or encouraged to resign for the inappropriate “political reason” of interfering with any public corruption case or retaliating against a U.S. Attorney who oversaw such a case.

Second, your letter mischaracterizes the testimony of the Deputy Attorney General given at the hearing held on February 6, 2007. The Deputy Attorney General simply stated the Department’s view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not an inappropriate “political reason.” This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified to serve as U.S. Attorney, and Mr. Cummins “may have already been thinking about leaving at some point anyway.”

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney’s office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of that office’s successful gun crime prosecution initiative. And Mr.

OAG000001036

Griffin has substantial military prosecution experience that Mr. Cummins does not have. Those who know Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term."). Finally, the Deputy Attorney General did not state or imply that Mr. Griffin would be appointed as the U.S. Attorney without Senate confirmation. Such a statement would be inconsistent with the Department's stated position that we are committed to having a Senate-confirmed U.S. Attorney in all 94 federal districts.

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." Mr. Cummins was confirmed to serve a four-year term, which expired on January 9, 2006. He served his entire term, plus an additional year. United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

- Although the decision to have Mr. Griffin replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the Attorney General had spoken with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying for Mr. Griffin's appointment. Consistent with longstanding Administration practice, the decision regarding whether Mr. Griffin (who then was on active military duty) might be considered for appointment as U.S. Attorney upon his return from Iraq was discussed and made jointly by the Department of Justice and the White House.
- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 23, 2007

The Honorable Richard J. Durbin
United States Senate
Washington, D.C. 20510

Dear Senator Durbin:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

As an initial matter, the Department agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle. Your letter, however, contains assumptions and assertions that are simply erroneous.

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OAG000001039

The Honorable Richard J. Durbin
Page Two

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of that office's successful gun-crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Those who know Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term."). Finally, the Deputy Attorney General did not state or imply that Mr. Griffin would be appointed as the U.S. Attorney without Senate confirmation. Such a statement would be inconsistent with the Department's stated position that we are committed to having a Senate-confirmed U.S. Attorney in all 94 federal districts.

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In answer to your specific questions:

- Although the decision to have Mr. Griffin replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the Attorney General had spoken with Senator Pryor.
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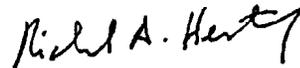
OAG000001040

The Honorable Richard J. Durbin
Page Three

- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

We appreciate the opportunity to respond to your inquiry.

Sincerely,



Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 23, 2007

The Honorable Charles E. Schumer
United States Senate
Washington, D.C. 20510

Dear Senator Schumer:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

As an initial matter, the Department agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle. Your letter, however, contains assumptions and assertions that are simply erroneous.

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OAG000001042

The Honorable Charles E. Schumer
Page Two

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of that office's successful gun-crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Those who know Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term."). Finally, the Deputy Attorney General did not state or imply that Mr. Griffin would be appointed as the U.S. Attorney without Senate confirmation. Such a statement would be inconsistent with the Department's stated position that we are committed to having a Senate-confirmed U.S. Attorney in all 94 federal districts.

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." Mr. Cummins was confirmed to serve a four-year term, which expired on January 9, 2006. He served his entire term, plus an additional year. United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

- Although the decision to have Mr. Griffin replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the Attorney General had spoken with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying for Mr. Griffin's appointment. Consistent with longstanding Administration practice, the decision regarding whether Mr. Griffin (who then was on active military duty) might be considered for appointment as U.S. Attorney upon his return from Iraq was discussed and made jointly by the Department of Justice and the White House.

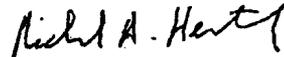
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The Honorable Charles E. Schumer
Page Three

- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

We appreciate the opportunity to respond to your inquiry.

Sincerely,



Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

OAG000001044



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 23, 2007

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

As an initial matter, the Department agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle. Your letter, however, contains assumptions and assertions that are simply erroneous.

First, your letter truncates the actual quote of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007, and consequently, mischaracterizes the statement. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added). The Department of Justice rejects any suggestion that U.S. Attorneys were asked or encouraged to resign for the inappropriate "political reason" of interfering with any public corruption case or retaliating against a U.S. Attorney who oversaw such a case.

Second, your letter mischaracterizes the testimony of the Deputy Attorney General given at the hearing held on February 6, 2007. The Deputy Attorney General simply stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not an inappropriate "political reason." This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway."

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The Honorable Harry Reid
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Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of that office's successful gun-crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Those who know Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term."). Finally, the Deputy Attorney General did not state or imply that Mr. Griffin would be appointed as the U.S. Attorney without Senate confirmation. Such a statement would be inconsistent with the Department's stated position that we are committed to having a Senate-confirmed U.S. Attorney in all 94 federal districts.

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." Mr. Cummins was confirmed to serve a four-year term, which expired on January 9, 2006. He served his entire term, plus an additional year. United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

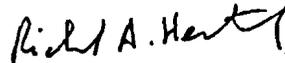
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We appreciate the opportunity to respond to your inquiry.

Sincerely,



Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

0AG000001047



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 23, 2007

The Honorable Patty Murray
United States Senate
Washington, D.C. 20510

Dear Senator Murray:

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As an initial matter, the Department agrees with the principle you set forth in your letter that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle. Your letter, however, contains assumptions and assertions that are simply erroneous.

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0AG000001048

The Honorable Patty Murray
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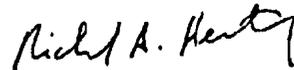
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The Honorable Patty Murray
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We appreciate the opportunity to respond to your inquiry.

Sincerely,



Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

OAG000001050