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# United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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April 5, 2007

Fred Fielding, Esq.  
Counsel to the President  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

Dear Mr. Fielding:

I continue to await answers to two letters. The first is the March 22, 2007 letter sent by 10 Members of the Senate Judiciary Committee inviting the White House to agree to provide the investigating Committees of the Congress, both House and Senate, with access to witnesses, information and relevant documents. The second is the March 28, 2007 letter I sent with House Judiciary Chairman Conyers asking the White House to reconsider its "take it or leave it" approach with respect to documents. There are documents that the White House appeared willing to provide, and we urged those documents be provided without delay so as to narrow the dispute and further the investigation. To date, we have received no documents from the White House and no testimony of any White House personnel.

The President acknowledged at his press conference on March 20<sup>th</sup> that Congress is examining these questions and "the role the White House played in the resignations of these U.S. attorneys." He said that he recognized the importance of our "understanding how and why this decision was made." He indicated that the White House would be making the relevant White House staff available and providing at least some of the relevant documents, as well. Despite his saying that we would be provided with information from the White House, that has not happened.

Despite the lack of cooperation, the President and White House surrogates assert publicly that there was no wrongdoing. Those assertions prompt me to ask for their basis. On March 20, the President apparently based his assertion that no one did anything improper on "reviews by the White House staff." Earlier this week the President asserted at another press conference that "there has been no credible evidence of any wrongdoing." The investigating Committees of the Congress would benefit from the reviews and investigations the Administration has conducted that have led the President to conclude that there has been no wrongdoing. Please make prompt arrangements to provide us with "the reviews by the White House staff" on which the President relied in his statements on March 20 and all other Administration investigations and reviews into these matters.

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Who was involved in conducting “the reviews by the White House staff,” what did they examine, who did they interview, and what documents did they review in arriving at the conclusion that no one did anything “improper”? What other investigations and reviews has the Administration undertaken into this matter? Who was involved in conducting those investigations and reviews, what did they examine, who did they interview, and what documents did they review in coming to the conclusion that there is no evidence of wrongdoing? What evidence of wrongdoing has the Administration rejected as “not credible” in the course of its investigations and reviews into these matters?

Please include any and all information obtained or reviewed in the course of these reviews by White House staff and all other investigations and reviews by the Administration that lead the President to discount the evidence the investigating Committees have gathered so far, including:

- The March 6, 2007 testimony of four of the fired U.S. Attorneys before the Senate Judiciary Committee and six of the fired U.S. Attorneys before the House Judiciary Committee, that they were fired for improper political reasons.
- The March 28, 2007 testimony of D. Kyle Sampson, former Chief of Staff to the Attorney General, that the Attorney General and White House officials including Karl Rove and former White House Counsel Harriet Miers were deeply involved in the decision to fire and replace certain U.S. Attorneys, who, according to internal evaluations and performance reviews, had been doing their jobs well.
- The testimony of Mr. Sampson, corroborated by documents released by the Department, demonstrating that, contrary to the Attorney General’s statements, Attorney General Gonzales had talked to Mr. Sampson about the plan to fire prosecutors many times dating back at least two years, beginning after the 2004 election when he was still the White House counsel.
- Mr. Sampson’s testimony that Karl Rove complained to the Attorney General about U.S. Attorneys not being aggressive enough against “voter fraud” in three jurisdictions—including in New Mexico where David Iglesias was U.S. Attorney—and that those three names were added to the list of U.S. Attorneys targeted for removal, with Mr. Iglesias remaining on the list and being fired.
- Documents and the testimony of Mr. Sampson demonstrating that Mr. Iglesias was held in high regard and even mentioned for possible promotion to the highest levels of the Department in 2004 and 2005, until late in 2006 when Administration officials received calls from New Mexico Republicans upset that Mr. Iglesias would not hurry an investigation in order to indict Democrats before the 2006 elections.

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- Mr. Sampson's testimony that he had suggested to the White House that Patrick Fitzgerald be fired and replaced in the middle of the investigation and prosecution in connection with the leaking of Valerie Plame's identity as an undercover CIA agent, which led to the conviction of I. Lewis Libby, the former Chief of Staff to the Vice President, for perjury, lying and obstruction of justice.
- Documents showing that discussions began at the highest levels of the Justice Department about the "real problem with Carol Lam," former U.S. Attorney for the Southern District of California, immediately following notice of the expansion of the public corruption probe Ms. Lam was leading into the activities of Republican Rep. Randy ("Duke") Cunningham and other Republican officials.
- Documents and testimony showing that John McKay, former U.S. Attorney for the Western District of Washington, was highly praised by Mr. Sampson and others in the Administration and supported by them for a judgeship as late as the summer of 2006, but was included in the list of people to fire later in 2006. Documents and Mr. McKay's testimony suggest that Republicans were upset with Mr. McKay for his decision not to intervene in connection with the close 2004 gubernatorial election in Washington.
- The recent testimony of FBI Director Mueller to the Senate Judiciary Committee that he was not aware of any voter fraud cases that should have been brought but were not, nor had any FBI agents or officials brought such complaints to his attention.
- Deputy Attorney General Paul McNulty's testimony that former Eastern District of Arkansas U.S. Attorney H.E. "Bud" Cummins, III was removed to make room for Tim Griffin, a former aide to Karl Rove, and the documents that demonstrate this was done over the objection of home state Senators and with the intent to circumvent Senate confirmation.

I understand that there is a joint Inspector General and Office of Professional Responsibility inquiry recently begun at the Department of Justice. Given that it has just recently begun, the President could not have been relying on it in connection with his March 20 statement and I doubt that he was relying on it this week. I am not requesting that investigation be provided at this time.

I am deeply concerned regarding what appears to be political influence in federal law enforcement. There remain several obstacles to the ability of the investigating Committees to learn the truth about what occurred with these firings and replacements, who was involved and why. The selectivity and incompleteness of the highly-redacted set of documents we have received so far from the Department of Justice present one set

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of obstacles. The refusal of the White House to provide relevant documents and access to White House staff who played a role in these firings and replacements are others.

Providing information to the investigating Committees regarding the investigations and reviews conducted by the Administration would aid us in our goal of getting to the truth in this matter.

I look forward to your response.

Sincerely,

  
PATRICK LEAHY  
Chairman