

RPTS MERCHANT

DCMN ROSEN

EXECUTIVE SESSION

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: MARY BETH BUCHANAN

Friday, June 15, 2007

Washington, D.C.

The interview in the above matter was held at Room  
2138, Rayburn House Office Building, commencing at 9:05 a.m.

Appearances:

FOR U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON THE  
JUDICIARY:

IRVIN NATHAN, COUNSEL, ARNOLD & PORTER LLP

ELLIOT M. MINCBERG, CHIEF COUNSEL, OVERSIGHT AND  
INVESTIGATIONS

DANIEL FLORES, CHIEF MINORITY COUNSEL

ZACHARY SOMERS, MINORITY COUNSEL

SAM BRODERICK-SOKOL, OVERSIGHT COUNSEL

FOR U.S. SENATE COMMITTEE ON THE JUDICIARY:

ZULIMA ESPINEL, MAJORITY COUNSEL

MATTHEW MINER, MINORITY CHIEF COUNSEL FOR CRIME AND  
TERRORISM

FOR THE U.S. DEPARTMENT OF JUSTICE:

JOSEPH H. "JODY" HUNT, DIRECTOR, FEDERAL PROGRAMS BRANCH,  
CIVIL DIVISION

FAITH BURTON, SPECIAL COUNSEL, OFFICE OF LEGISLATIVE AFFAIRS

MATTHEW EISENSTEIN, COUNSEL, ARNOLD & PORTER LLP

FOR MARY BETH BUCHANAN:

ROSCOE C. HOWARD, JR. COUNSEL, TROUTMAN SANDERS LLP

CARRIE COLLIER-BROWN, INTERN, TROUTMAN SANDERS LLP

## EXAMINATION

BY MR. NATHAN:

Q Good morning, Ms. Buchanan, I am Irvin Nathan, and I am here representing the majority of the House Judiciary Committee. And this deposition is being taken pursuant to our authority to conduct this investigation. I have provided to you and your counsel prior to the beginning of the deposition an exchange of letters between the Department and the chairman, which lay out the ground rules of the deposition. As you'll see from that, we are not asking the witnesses to be sworn in, but, as you know, this deposition is governed by 18 U.S.C. 1001, which requires truthful testimony in this proceeding.

If at any point you need a break, I'll be happy to accommodate you. And if at any point you don't understand my questions please ask me and I'll rephrase them. As you know, pursuant to the procedures there will be a number of people questioning you today in addition to myself, and I will ask them now to identify themselves for the record so that you will know who is here and who may be questioning?

Mr. Flores. Daniel Flores, House Judiciary, Republicans.

Mr. Miner. Matt Miner with the Senate Judiciary,

Republicans.

Ms. Espinel. Zulie Espinel with the Senate majority.

BY MR. NATHAN:

Q If there is anybody out there, there are a number of other people in the room, anybody else you want identified, we'll be happy to identify them. I know Mr. Howard is here and two of his colleagues and two representatives from the Department of Justice.

Mr. Hunt. Jody Hunt from the Department of Justice.

Ms. Burton. And Faith Burton.

BY MR. NATHAN:

Q Just prior to today's deposition, counsel handed me this prepared statement. I would like to have this marked as Exhibit 1 to this deposition.

[Buchanan Exhibit No. 1  
was marked for identification.]

BY MR. NATHAN:

Q Ms. Buchanan, for the record, would you state your full name.

A Mary Beth Buchanan.

Q And your current position with the Department of Justice?

A I am currently the United States attorney for the Western District of Pennsylvania and the acting director for the Department's office on Violence Against Women.

Q And I want to show you what's been marked as Exhibit 1. Is this the statement that you prepared for today's proceedings?

A Yes, it is.

Q And are all the statements in there true and accurate to the best of your knowledge?

A Yes, they are.

Q In addition to serving as the U.S. attorney in Pittsburgh --

Let me establish the record, I think it is in your statement, but were you appointed the U.S. attorney in Pittsburgh?

A I was appointed as the United States attorney for the Western District of Pennsylvania on September 5, 2001.

Q And since that time, in addition to the position you described with respect to the Violence Against Women, Office of the Department, have you held other positions for the Department of Justice since you were appointed U.S. attorney for the Western District of Pennsylvania?

A Yes. From May of 2004 until June of 2005, I served as the director of the Executive Office for United States Attorneys. I have also served in other capacities throughout the Department on a number of subcommittees of the Attorney General's Advisory Committee, I served as Chair of the Attorney General's Advisory Committee, and I have

also served on the United States sentencing commission's ad hoc advisory committee on the organizational guidelines.

Q When did you serve as Chair of the Attorney General's Advisory Committee?

A I was chair of the Attorney General's Advisory Committee from April 2003 through May 2004.

Q And were you the department's representative to this ad hoc committee on the sentencing commission?

A Yes, I was.

Q And during what period?

A I served on the sentencing commission's ad hoc advisory committee from February 2002 through August 2003.

Q How would you describe the responsibilities of the EOUSA?

A As the director of the Executive Office for United States Attorneys, I was responsible for providing support to the 93 United States attorneys throughout the country and to their more than 10,000 employees throughout the United States. I also served as a liaison between the Attorney General and the Deputy Attorney General and other components of the Department and to the United States attorneys. I handled personnel matters, budget and financial issues, public affairs matters, policy development and the coordination of priority projects.

Q And was it the responsibility of EOUSA to evaluate



the performances of the offices of U.S. Attorneys?

A The Executive Office for United States Attorneys implemented a program for peer evaluation of United States Attorneys. This was a program that was operated through the Executive Office for U.S. Attorneys. We put together teams from throughout the country to evaluate U.S. Attorneys to assist them in the management of their offices.

Q So is that a yes, that it is part of the job of the Executive Office for U.S. Attorneys to evaluate the performance of the U.S. Attorneys?

A It is part of the role of the Executive Office for U.S. Attorneys to evaluate the offices of the United States attorney for purposes of assisting them in the management of their offices.

Q And is it also appropriate to make reports and to propose corrective action when necessary?

A Evaluation reports were prepared and shared with the U.S. attorney and with the management of each office. The United States attorney and their senior management could also provide input into the report. But, yes, the purpose of the report was to aid the United States attorney in evaluating the effectiveness of his or her office and to make changes where appropriate.

Q And then I want to conclude that the EOUSA would take the corrective actions where necessary?

A In certain instances, if management problems existed in offices that were of a significant nature, the Executive Office for United States Attorneys would propose corrective action.

Q And is this what is called the EARS Report?

A That's correct.

Q And what does EARS stand for?

A I believe it stands for Employee Evaluation and Review. I am not certain what the E stands for. Wait. I'm sorry. It stands for Evaluation and Review.

Q Evaluation and Review, right.

And in your experience, were these EARS reports well done?

A The EARS reports were very thorough. They were conducted approximately every 2 to 4 years for each office. There was an extensive amount of time spent in the preparation for the review, as well as the review itself and the follow-up to the review.

Q And how were the reviews utilized within the Department?

A The evaluation of each United States Attorney's Office was primarily used to assist the United States attorney in improving the effectiveness and the management of his or her office.

Q In your experience, were these reviews candid and

accurate?

A Yes.

Q Now, in your statement you say that when you were the director of EOUSA, you were advised by Kyle Sampson, who at that time was the chief of staff to the Attorney General, that United States attorneys would neither be renominated nor asked to submit a letter of resignation, is that right?

A That's correct.

Q And this was in November of 2004 that he advised you of this?

A Yes. He advised me of this after I asked him what the procedure would be for United States Attorneys who want to continue to serve in the second term of the President's administration.

Q I am wondering why in light of that advice from Mr. Sampson in November of 2004, you circulated in December of 2004 forms for resignations of U.S. attorneys?

A At the end of the first administration, I was asked to provide United States attorneys with guidance for those who wished to resign at the end of the first administration. That guidance was issued in November of 2004. Subsequent to that guidance being issued, several United States attorneys called me at the Executive Office for United States Attorneys and inquired whether they would be renominated and would undergo a second confirmation. In response to this

inquiry, I asked Kyle Sampson what the procedure would be for United States attorneys who wished to remain with the administration during the second term.

Q So is it your testimony that you circulated to the U.S. attorneys the forms about a resignation before you had this conversation with Sampson in which he told you that resignations would not be sought?

A That's correct. At the end of the first term, the then White House liaison, Susan Richmond, sent an e-mail to the United States attorneys asking them to advise the administration if they intended to leave after the first term, or whether they were interested in exploring other opportunities within the administration. So that is why the resignation guidance was sent out to the United States attorneys in November of 2004.

Q Is Susan Richmond, was she at the Department of Justice at that time?

A That's correct.

Q And in addition to being White House liaison, what other position did she hold, what office was she in?

A She also held the position of counselor to the Attorney General, who at that time was John Ashcroft. I believe you have the e-mail in some of the documents that have been produced that Susan Richmond sent to the United States attorneys asking them to provide the Department with

as much advance notice of their intentions within the second term.

Q Did you send the draft of the resignation forms to Mr. Sampson prior to circulating them to the U.S. attorneys?

A Yes. I coordinated with my Appointments Unit to provide the most thorough and complete guidance that we could provide to the United States attorneys. And I sent it to Mr. Sampson so that he could provide any additional input if warranted.

Q And did he advise you at that time that no resignations would be sought?

A No. As I told you earlier, the resignation guidance was sent out in November of 2004. The conversation that I had with Kyle Sampson regarding U.S. attorneys remaining in the second term occurred after I received telephone calls from United States attorneys requesting information about the procedure that they could expect for the second term.

Q Let me have marked as Exhibit 2 this document, which is an e-mail from Judy Beeman to Kyle Sampson and attachments, and it is AG, lots of zeros, 167.

[Buchanan Exhibit No. 2  
was marked for identification.]

BY MR. NATHAN:

Q And let me show you, Ms. Buchanan, Exhibit 2. Who is Judy Beeman?

A Judy Beeman was the liaison to the Attorney General's Advisory Committee. And during my tenure at the Executive Office for United States Attorneys, Judy Beeman served as my executive assistant.

Q So this was your executive assistant as of December 16, 2004?

A That's correct.

Q And have you seen this e-mail before and the attachment?

A Yes, I have.

Q And it says Mary Beth, I am assuming that was referring to you?

A That's correct.

Q Asked her, Judy Beeman, to forward to Kyle Sampson a draft guidance that the EOUSA office prepared with respect to U.S. attorney resignations to be sent to all U.S. attorneys, is that correct? Is this an accurate e-mail?

A That's correct.

Q I notice the date is December 16 that it is being sent for a draft, do you see that?

A Yes.

Q And then I want to show you as Exhibit 3 a document which appears to be signed by you, and it is marked EOUSA, bate stamp number, lots of zeros, 198 through 208.

Let's have this marked as Exhibit 3.

Do you have that document before you, Ms. Buchanan?

A I do.

Q And I notice that the date on this is December 21, 2004?

A That's correct.

Q But this is the memo you have been discussing this morning, correct?

A Yes.

Q This is the date, December 21, when you sent to the U.S. Attorneys resignation guidance, sent this memo on that, correct?

A That's correct.

Q And was it after this memo went out and you received some responses that you had the conversation with Mr. Sampson that resignations would not be sought? I am just trying to pinpoint the dates. And I recognize it is a long time ago.

A I had conversations with Kyle Sampson regarding the necessity or lack of necessity to renominate United States attorneys after the December 2004 resignation guidance was sent to United States attorneys. So these are two separate events that are not connected. The resignation guidance that was sent out was sent to United States attorneys who intended to leave the administration after the first term.

Q Well, this was sent to all the United States

attorneys, wasn't it?

A It was sent to all United States attorneys so that they would all have it. And for those who intended to resign, they would have the documents that they needed so that they could resign in the appropriate manner.

Q I am just trying to pinpoint, based on these documents, when you had the conversation with Mr. Sampson that resignations would not be required of U.S. attorneys and they wouldn't need to be renominated. Was it before or after December 21?

A As I have told you several times now --

Q I am not following you.

A -- it was after December of 2004. It was in the winter, it was possibly in January, it was possibly in February, but it was well after the original resignation guidance was sent out.

Q And in response to the December 21, 2004 memo to all U.S. attorneys, did any then-sitting U.S. attorneys contact you and suggest that they did want to resign before the second term began?

A Yes.

Q Who called you?

A I don't remember. But the Executive Office would certainly have the information regarding which United States attorneys resigned. We maintain that information. And once



we received the resignation letters, we disseminated them to the White House and to the Attorney General and then we prepared to assist the United States attorney in his or her transition from the Department.

Q I don't recollect if anyone, any U.S. attorney, called you about the resignation who did not resign in the first month or so after 2005?

A I don't recall.

Q Now, on page 2 of your statement, which is Exhibit 1, you say that Mr. Sampson indicated that a review of the United States attorneys would be conducted and that while most United States attorneys would serve, some would be replaced. When did you have that conversation with Mr. Sampson?

A This conversation occurred in either January or February of 2005.

Q So, again, it was after the letter went out to the U.S. attorneys with the forms about resignation?

A Yes. As I have previously --

Q Is it the same conversation?

A As I have previously stated, these conversations were totally unconnected.

Q Okay. But was it the same conversation in which Mr. Sampson told you that the U.S. attorneys did not have to be renominated and their resignations wouldn't be sought, in

which he told you there would be this review process?

A I am not certain. I had regular communications with Mr. Sampson. The reason that I asked Mr. Sampson what the procedure would be for United States attorneys who wanted to continue to serve was because I was receiving telephone calls from U.S. attorneys who wanted to know whether they would be renominated or would have to go through the nomination process. In response to that inquiry, Mr. Sampson advised me that those -- that most U.S. attorneys who wanted to continue to serve could continue to serve and they wouldn't be renominated, but that there would be some United States attorneys who may be asked to resign.

Q And you say in your statement that he said that he would most likely seek your input in the process. I assume the process was reviewing U.S. attorneys to see which ones should stay and which ones should be suggested

for leaving, is that correct?

A That's correct.

Q And then you say that request never came?

A That's correct.

Q So you never had a follow-up conversation with Mr. Sampson about which U.S. attorneys to retain and which to ask to leave?

A That's correct.

Q Did you ever recommend to Mr. Sampson any particular

U.S. attorney who should be asked to resign?

A No.

Q Did he ever consult with you with respect to whether you believed a particular U.S. attorney should be asked to resign?

A No.

Q After he told you that he would likely seek your input in the process, did you do anything to prepare for such a role?

A No. But, at this point, I think it is important for you to understand the position that I held within the Department and my knowledge of the United States attorneys. I had been serving with most of these United States attorneys since September of 2001. I worked with many of them through various subcommittees of the Attorney General's Advisory Committee and worked with many of them in my role as Chair of the Advisory Committee. I also worked with United States attorneys on a regular basis in my role as the Director of the Executive Office for United States Attorneys. So I was a person who had extensive knowledge about the United States attorneys and their performance.

So I was certainly a likely person who Mr. Sampson would have consulted. However, Mr. Sampson never showed me a list of United States attorneys who were considered for replacement. He never asked me to comment specifically on

any individual United States attorney for purposes of his list.

Q Does that complete your answer?

A For now, yes.

Q Okay. That is fine. I want to show you Mr. Sampson's testimony that he gave in these proceedings. And I am not going to make this an exhibit, but I have an extra copy for you. And I am looking at page 112 of the transcript. And you will see that at line 8, it is Mr. Sampson talking, and he says that he remembers speaking with Bill Mercer extensively about this. On line 14, I remember visiting with him about that and asking for his views about who should be included in that smaller subset, and that subset is the ones that they were going to ask to leave. And then at line 18 he says, I remember having a similar conversation with Mary Beth Buchanan, who was the director of the EOUSA at the time. Is it your testimony that that is incorrect?

A Let me read the page and I'll get back to you.

Q Okay. Sure. You can, of course, look at any part of this, but I think you can reference lines 18 and 19. Although I would also call your attention to page 113, lines 11 and 12 where he says, So that is the group of people that I spoke with about this and gathered information from.

A Kyle Sampson did not speak with me specifically

about the list of United States attorneys who would be asked to resign. I knew that Kyle Sampson was going to conduct a review of the United States to determine if some of them should be asked to resign. I had many conversations with Kyle Sampson during our tenure at the Department of Justice that involved United States attorneys. So it is quite possible that Mr. Sampson developed impressions about U.S. attorneys as a result of those conversations. I think that it is more accurate to say, as Mr. Sampson did at page 113, that he spoke generally to those in the Department about the United States attorneys. And I would certainly agree that I spoke with Mr. Sampson generally about United States attorneys, but never specifically about the list of United States attorneys who would be asked to resign.

Q It says that this is the group of people that he gathered information from. Did you provide any information about U.S. attorneys to Mr. Sampson?

A I don't know how Kyle Sampson gathered the information.

Q No, but I am asking you whether you provided information to him? Did you go to a file, obtain information and provide it to Mr. Sampson in connection with his review?

A No.

Mr. Hunt. Can you clarify? I would just ask you to

clarify, because your question was two-part. You said, did you provide any information, and then you asked, did you go to a file. She had just testified that she spoke generally with him. So just so I understand when she says no, which part of your question she is referring to.

BY MR. NATHAN:

Q Did you gather any information for the purpose of providing it to Mr. Sampson in connection with his review?

A I did not gather any information from files of the Executive Office or any other files for Mr. Sampson in connection with his review. However, I do not know what information Mr. Sampson used to compile this list, and I don't know whether he used any information that was included in any of our numerous conversations that we had in connection with the performance of our duties at the Department of Justice.

Q Did you provide any EARS reports to Mr. Sampson?

A We provided all EARS reports to the Deputy Attorney General and to the Attorney General.

Q As they were completed, there was a routine to provide the EARS Reports as they were completed to the Offices of the Deputy and the Attorney General?

A That's correct.

Q Did you ever discuss with Mr. Sampson any EARS Reports that had been provided to the Attorney General's

Office?

A Yes.

Q Whose EARS Reports did you discuss?

A We discussed the EARS Report of Carol Lam, who was then the United States attorney for the Southern District of California.

Q When did you have that conversation?

A Shortly after the EARS Report was completed and probably while the EARS evaluation was being conducted.

Q What was the discussion you had with Mr. Sampson about the EARS Reports for the Southern District of California?

A Part of the regular communication with the Deputy Attorney General's Office and the Attorney General's Office included keeping them advised of evaluations that were ongoing and any findings that were included in the evaluation. So as these evaluations occurred, it was customary to inform the Deputy's Office and the Attorney General's Office that the evaluations were underway. So I recall advising Mr. Sampson that this evaluation was occurring. And I also recall that we discussed some of the issues that were included in the EARS evaluation.

Q So those are two separate conversations, I assume?

A There were many conversations.

Q Well, with respect to --

Was there a reason that you advised Mr. Sampson that there was a review of the Southern District of California that was underway?

A As I told you in the answer to the last question you asked, it was the regular course of our business at the Executive Office that we kept the Deputy's Office and the Attorney General's Office advised of ongoing matters involving United States attorneys, including the evaluation and review of the United States Attorney's Offices.

Q But I am asking you specifically about Kyle Sampson. And you said, you recalled only one of these EARS Reports being discussed with Mr. Sampson, and that was Ms. Lam's evaluation. And then you said you discussed with him first that it was underway. And I am asking you what was the occasion to have a discussion with Mr. Sampson, and why is it that you recall the evaluation of the southern district of California during the time that it was in process?

A Well, the reason that I recall it today is because this is one of the United States attorneys who was on the list of eight fired. So I have had an opportunity to review the evaluation and I have had an opportunity to think about anyone who I may have talked to about this evaluation process. But, as I told you earlier, every single United States attorney who was evaluated during my tenure at the Executive Office was discussed with members of the



Department.

Q Well, I am asking you now, what is it that you can recollect, realizing that Ms. Lam is one of nine U.S. attorneys that was asked to resign as a result of this process by Mr. Sampson, about the fact that an EARS evaluation was underway that you can recall now with Mr. Sampson?

A I recall that I had the conversation with Mr. Sampson because the evaluation was underway, and I was telling him that the evaluation was underway.

Q And the evaluation was conducted between February 7 and February 11, 2005. Is that the period of time at which you had this discussion with Mr. Sampson?

A Yes.

Q And then I believe you testified a little while ago that following the evaluation and the preparation of the report, you had a further conversation with Mr. Sampson about issues that were raised in the report, is that correct?

A That's correct.

Q What do you recall of that conversation?

A The issues that I recall that we discussed included the challenges that the Southern District of California faced in dealing with a large number of border and immigration cases. I also recall that we discussed the

relatively low number of cases that were prosecuted involving Project Safe Neighborhoods Prosecutions. I also recall that we discussed the unusually large number of contract employees that were on staff at the Southern District of California and the amount that each contractor was paid as compared to the salary of government employees.

Q And when, approximately, was this conversation with Mr. Sampson?

A It would have been some time after the evaluation was conducted.

Q Well, the evaluation was conducted, as it says on its face, ending on February 11.

Approximately, how long after an evaluation of the field work is done is the written report prepared and circulated?

A You know, it really depends. Because the evaluation is completed and then the report is provided to the United States attorney, and the United States attorney is given the opportunity to provide a response. And then a final report is prepared by the Executive Office based upon all of this input.

So depending upon how quickly the evaluation report could be prepared and how quickly the United States attorney could respond, that would vary when the final report would be prepared.

Q Well, if the report is -- if the field work is done by February 11, and then it has to be drafted and then submitted to the U.S. attorney, comments evaluated and then a final report prepared, does that take at least a period of 30 days or something like that?

A At least.

Q At least 30 days?

A That's correct.

Q Why don't we have --

And I take it that the conversation you had with Mr. Sampson followed the final report?

A I am not sure of that. I advised people within the Department that evaluations were occurring. I advised people in the Department about any issues that were developed during the course of the evaluation. And then often I had conversations with members of the Department after the final report was prepared. And I don't recall when I had any of these conversations with Kyle Sampson. Only that they occurred after the evaluation during the course of my communications with him about the findings of this evaluation.

Q And any time during the course of these discussions with Mr. Sampson about the evaluation in the Southern District of California, did you suggest that Ms. Lam should be terminated?

A Absolutely not.

Q Did Mr. Sampson say anything about desiring to terminate Ms. Lam based on these issues?

A No.

Q Why don't we have marked as the next exhibit the final evaluation report for -- I notice this doesn't have a date stamp.

[Discussion held off the record.]

[Buchanan Exhibit No. 4  
was marked for identification.]

BY MR. NATHAN:

Q I have handed you what's been marked as Exhibit 4. And this is the evaluation report that we have been discussing with respect to the U.S. Attorney's Office for the Southern District of California that was conducted between February 7 and 11 of 2005?

A That's correct.

Q Did you send a letter to Ms. Lam after this evaluation?

A It was the practice of the Executive Office to advise each United States attorney of the findings from their evaluation. So, yes, it was the normal course of our practice to send a letter to the United States attorneys following their evaluations, including Carol Lam.

Q And in that letter, did you raise any of the issues

that you discussed with Mr. Sampson about that report?

A If you show me the letter, I can tell you.

Q Well, I am trying to test your recollection. But I do have the letter and I will show it to you.

A And if you show it to me, I'll tell you whether I raised any of those issues.

Q So you don't recollect it without seeing it?

A That's correct.

Q Let's have this marked as the next exhibit.

Ms. Buchanan, I am handing you what is marked as Exhibit 5. It is a two-page letter. And it is EOUSA, lots of zeros, 177178.

[Buchanan Exhibit No. 5  
was marked for identification.]

BY MR. NATHAN:

Q Why don't you take time to look at it.

Ms. Buchanan, I see that you have completed reviewing the letter. Is that your signature on the second page?

A It is.

Q And is this the letter that you sent to Carol Lam in June of 2005 following the evaluation of February 7, 2005?

A No.

Q What is it?

A Deputy Attorney General Larry Thompson developed a self-evaluation management review process for United States

attorneys to utilize. The letter that you have marked as Exhibit 5 is the letter that I sent to Carol Lam following her completion of the 2003 self-management evaluation report.

Q In this report, did you identify any of the issues that were raised in the EARS Report?

A I would have to compare the EARS Report to this letter in order to determine that, but this letter was sent for another purpose. It wasn't connected to the EARS Report, so it wouldn't be appropriate to compare the two.

Q But you tell her in this letter, which you agree it was sent in June of 2005 after the evaluation?

A I don't know. I can't read the date of the letter, so I don't know what year it was sent.

Q So you don't know --

Well, you were only an EOUSA for one year from May of 2004 to June of 2005, correct?

A That's correct.

Q Would it be helpful if you saw other letters that were sent on the same day to the U.S. attorneys to pinpoint the letter you sent to Carol Lam?

A It certainly would.

Q Okay. Let me show you letters to Mr. Bogden --

A Oh, no, no. These letters that were sent to United States attorneys were letters that were sent and signed by

me in response to their completion of the management self-evaluation report.

Q I understand. I am just trying to get the year of that. And I thought you said it would help you, and I'll be happy to show it to you.

A It would help. But what would really help is if you showed me a copy of the letter that was sent to Carol Lam following her evaluation and review.

Q I am going to try to find that as well, but what I want to show you are these other letters to Ms. Chiara and Mr. Bogden, which are dated July 3, 2005. And I recognize on the letter to Ms. Lam it is hard to read the year. But you would agree with respect to the special performance that Mr. Thompson put in and the letters, they also are on the same day in early June of 2005?

A That's correct.

Q And you didn't send it in June of 2004, did you?

A No, that's correct. These letters were probably sent in June of 2005.

Q The one to Carol Lam, the one that is Exhibit 5?

A Correct.

Q And you indicated that her performance reports were excellent. I understand these are what she filled out and not the EARS Report. And that they demonstrate a firm commitment with the U.S. attorneys to achieve the

Department's national priorities, correct?

A In the June 2005 letter to Carol Lam, I stated that overall the 2003 district performance report was excellent and demonstrates a firm commitment by United States attorneys, plural, to achieve the Department's national priorities, as well as a wide variety of district priorities and sound management practices. This statement referred to the United States attorneys generally, not specifically to Carol Lam.

Q Well, with respect to page 2, let's look at page 2, it says in the first full paragraph, The dedication of substantial resources of the enforcement of immigration laws enhances the district's ability to prosecute a myriad of offenses from the importation of drugs to human trafficking. Do you see that?

A Yes.

Q And that is referring to her district, isn't it?

A That's correct.

Q And in the last sentence where you say, of the last paragraph of this letter, where you say, Your report makes clear the emphasis you have put on carrying out department priorities and maintaining a solid management practice, that is also referring to the Southern District of California, isn't it, and to Ms. Lam?

A That's correct.



Q And with respect to the EARS Report, is there anything in the EARS Report that suggests that Ms. Lam is not doing an excellent job?

A I would have to look at the report to determine that.

Q You have it in front of you. It is Exhibit 4. And I want to call your attention in particular to the section under United States Attorney Management Team on the first page. It says: United States attorney Lam was an effective manager and a respected leader in the district. She was active in the Department of activities and was respected by the judiciary law enforcement agencies and the U.S. Attorney's Office staff. Do you see that? And the next sentence says: The first Assistant U.S. attorney was also an effective manager. And then the last sentence of that paragraph says: The strategy plan in district priorities were appropriate. Do you see that? Now, is there anything in there, and you can look at the rest of the report, that suggests that her performance was so deficient that she should be considered for termination?

A The evaluation and review process was intended to assist the United States attorneys to effectively manage their offices. The evaluation and review process wasn't intended to scrutinize every activity of the United States attorney, it was intended to allow United States attorneys

to raise issues that the Executive Office could look at in order to assist them in improving the effectiveness and management of their office. It was never intended to be adversarial, it was never intended to be a thorough review of the sole performance of the United States attorney. So you cannot use the evaluation and review in order to determine whether there were ever any problems with the United States attorney.

Q I am not asking whether there were any problems. I am asking you -- and you previously testified, Ms. Buchanan, and I don't want to be argumentative, but you previously testified that the EARS Reports were objective and candid and honest, correct?

A Yes. But I have also told you repeatedly that they were not intended to be an evaluation of every aspect of the U.S. Attorney's performance.

Q Right. I am not asking about every aspect. But the EARS Report says that Ms. Lam was an effective manager and a respected leader, that the first assistant was also an effective leader, and that the plan and priorities were appropriate. As far as you know, those are truthful statements, correct?

A Again, the evaluation and review process was not intended to be a thorough review of each United States attorney. Based upon the overall evaluation and review, it

was determined that Carol Lam and her management were doing an effective job, which is not the same as to try to compare Carol Lam and her performance in every aspect with other United States attorneys and their performance. So regardless of how many times you ask me this, I am not going to allow you to use this report to suggest that this was the only evaluation of Carol Lam's performance and that this was the only statement of what she was or wasn't doing. And I am happy to talk to you about any specific aspects of her performance and those that I have ever heard were problematic.

Q What other evaluations of Carol Lam are you aware of that existed as of February or March of 2005 besides the EARS Report?

A United States attorneys regularly provided information to the Department of Justice involving a full array of the programs that each office handled. These programs included Project Safe Neighborhoods, immigration prosecutions, child exploitation prosecutions, corporate fraud, and I am sure there were other areas. But each United States attorney was required to submit on a regular basis information about their prosecutions in significant priority areas. So this was one way that the productivity and effectiveness of each United States attorney could be measured.

Q Let me have marked as the next exhibit this e-mail attachment from Mr. Sampson to Ms. Miers dated March 2 of '05.

Let me show you what's been marked as Exhibit 6.

[Buchanan Exhibit No. 6  
was marked for identification.]

BY MR. NATHAN:

Q Attached to Exhibit 6 is a chart that is dated February 24, '05. I take it from your prior testimony that you did not see this document contemporaneously, that is in 2005, correct?

A That's correct.

Q But you have seen it since in connection with preparation for this appearance, correct?

A Yes, that's correct.

Q I want to call your attention to the first page which says, as you'll see at the bottom, that a ~~strikeout~~ means recommending removing, that these are weak U.S. attorneys who have been ineffectual managers and prosecutors who have chafed against administration initiatives, et cetera. Do you see that?

A Yes.

Q Now, if you turn to the first page and you look at the California Southern District, you'll see that Carol Lam's name is stricken, which means that as of February 24

of '05, Mr. Sampson concludes that she is an ineffectual manager who is chafing against administration priorities. And also take a look at Exhibit 4, which says that she's an effective manager who is implementing the priorities. My question to you is, do you know the basis for Mr. Sampson's conclusions in February of '05 that Ms. Lam was an ineffectual manager who chafed against administration initiatives?

A Well, I think that what this says, my reading of this, is that the strikeout referred to ineffectual managers and prosecutors, comma, chafed against administration initiatives, comma, et cetera. So I think that that included a number of factors. But in answer to your question, no, I do not know specifically which of these issues he was referring to, because I don't know what process he used to compile the list.

Q You don't know what he consulted or who he consulted to come up with that conclusion, correct?

A That's correct.

Q And it wasn't you?

A That's correct.

Q Now, let's go back to your statement. In your statement on page 2, this is Exhibit 1, you quote a statement from Ms. Goodling which says, I heard that Sampson was engaged in an effort in mid 2005 because I was working

in the Executive Office for U.S. Attorneys, and I know that Sampson had spoken with Mary Beth Buchanan and Mike Battle at various points and they had mentioned it to me. Do you see that?

A I have seen that, yes.

Q Now, did you have conversations with Monica Goodling about this process that Mr. Sampson was engaged in?

A During my tenure as the director of the Executive Office for United States Attorneys, Monica Goodling was one of my deputies. During that time period, I believe that I told Monica that Kyle and I had discussed the fact that certain U.S. attorneys may be asked to resign.

Q When did Ms. Goodling become one of your deputies?

A I believe she joined the Executive Office in December of 2004.

Q December of 2004?

A Yes.

Q So that is near the end of your tenure?

A It was in the middle.

Q The middle. And did she remain as a deputy through June of 2005 when you left?

A When I left the Executive Office in June of 2005, Monica Goodling was then a deputy for the new director, Michael Battle.

Q So she remained continuously from December 2004

through at least June of 2005 when you left?

A That's correct.

Q And, approximately, when did you have this discussion with Ms. Goodling about Mr. Sampson's conversation with you?

A I don't recall.

Q Was it near the beginning of her tenure?

A I don't recall.

Q Why did you tell her that?

A As my deputy, one of the responsibilities that Monica Goodling had was to work with the Appointments Unit. And she assisted me in scheduling interviews for United States attorneys who were acting in an interim basis and for those who were being appointed upon the resignation of United States attorneys. So I told Monica Goodling that Kyle Sampson was going to conduct a review process and that some U.S. attorneys may be asked to resign. Therefore, if that happened, the Appointments Unit would have additional work to do.

Q Did you ask her to participate in the process in any way?

A No. Because, again, I wasn't participating in the process. I was just telling her that this was something that he had told me and that we might expect would occur in the future.

Q Did you ask her to gather any information to provide to Mr. Sampson?

A No.

Q Did you ask her to offer reviews on this?

A No.

Q Do you know whether she did offer her views to Mr. Sampson?

A I do not know that.

Q She never discussed that with you?

A No.

Q Did Mr. Sampson ever share with you the reasons that any of the U.S. attorneys he was recommending for termination were put on the list for termination?

A I never discussed with Kyle Sampson the individuals who were proposed for termination, nor did I discuss with him the attorneys who were ultimately asked to resign.



RPTS DEAN

DCMN MAGMER

[10:06 a.m.]

Q And this comes within that, but let me just ask it, did Mr. Sampson ever share with you the individuals who recommended to him that certain U.S. attorneys be terminated?

A No, but when Kyle Sampson had his initial conversation with me about certain United States attorneys who may be asked to resign, he indicated that a review of the United States attorneys would be conducted, others in the Department would be consulted, as well as individuals from the home State of the U.S. attorney to determine if they had any recommendations for whether the U.S. attorney should stay or go.

Q Well, with respect to the latter, what did you understand him to say with respect to contacts of third parties in the home States of the U.S. attorneys?

A As I previously stated, it was my understanding that Kyle Sampson was going to conduct a review of the U.S. attorneys to determine if there were any who had not been as effective as they could have been and that should be replaced for any reason. It was my understanding that Kyle Sampson generally wanted to make sure that the United States attorneys that were going to serve in the second term were

the most effective that we could get.

And you know, as often the case, sometimes United States attorneys as they serve for an extensive period of time they lose their zeal for the job; and he wanted to make sure that the people we had in place were the best that we could get.

Q With all due respect, you didn't answer my question, which is, with respect to the third parties in the home States that Mr. Sampson told you he would consult with, who did you understand those people to be? What types of people?

A He didn't tell me that. It was a general conversation. He indicated that he would consult with people in the Department and others. So it was a very general conversation. It wasn't a conversation that we had in connection with his preparation of this list. It wasn't a detailed conversation. He didn't get specific and name names as to who he would consult.

Q With respect to those within the Department that he would consult, did he name either names or positions -- or their positions?

A The only thing I know about who he was going to consult is what I just told you. I don't know who he was going to consult. I don't know what positions they held. I -- I don't know.

Q So that's within the Department. You don't know who -- he did not say or you don't recollect his saying to you who within the Department to consult or what positions they held; is that correct?

A How many times do I have to answer this question?

As I've told you, the only thing he told me about this was that he was going to consult with people in the Department generally. He never told me who he was going to consult or what their positions were. I knew that he was going to consult people. That's all I know. I don't know anything more about who he consulted with.

Q With respect to third parties in the States, did he mention any names or any positions of those people?

A As I've told you, I don't know who he was going to consult. I've told you everything I know about who he was going to consult with.

Q Did he say anything about consulting with the White House?

A I don't recall.

Q Did he tell you that this process, this review process had been initiated by the white house?

A No, he did not.

Q Did he tell you that he was in consultation with people at the White House about the review?

A No, he did not.

Q Did you discuss this review process with Mr. Battle when he succeeded you?

A No.

Q Did you discuss this process with the Attorney General?

A No.

Q Did you discuss this process with the Deputy Attorney General?

A No.

Q As you were leaving EOUSA did you have any further conversation Mr. Sampson to ask him what the status of this project was?

A No.

Q And after you left EOUSA and returned to your job at -- or spent your time in Pittsburgh as the U.S. attorney for the Western District, did you have any conversations with Mr. Sampson about this process?

A I don't think so.

Q When you were the Executive Director of the Office of the U.S. Attorneys, were you located in Washington?

A Yes.

Q And full time?

A No. While I was the Director of the Executive Office for United States Attorneys I also concurrently served as the United States attorney for the Western

District of Pennsylvania. So I split my time between Pittsburgh and Washington. While I was in Washington, my office was on the second floor of the Main Justice Building.

Q And in a given week during a time that you held both positions, how much time did you spend in Washington and how much time in Pittsburgh?

A I would try to split my time equally, but very often I spent more weekdays in Washington than in Pittsburgh. So I probably was in Washington at least 3 of the 5 workdays.

Q And did you work on weekends in Pittsburgh in the U.S. attorneys office?

A I work all the time.

Q Okay. But did you work in the U.S. attorneys office over the weekends?

A Yes.

Q When's the last time you did speak with Kyle Sampson?

A I haven't spoken to Kyle Sampson since he left the Department.

Q Did you speak to him between late November of '06 and the time you left the Department, which I believe was around March 12th of '07?

A Oh, I'm sure I did.

Q What would be the topics that you would have had with Mr. Sampson at that time?

A I don't recall.

Q Well, did you speak to him about the culmination of this process and the resignation of -- at that time, it was believed to be eight, it is now known to be nine U.S. attorneys?

A No.

Q Even after it was publicized, there was publicity about it, did you ever have any conversation with Mr. Sampson about the selection process?

A No.

Q Has he ever explained to you who recommended any of the particular people for the list?

A No.

Q When's the last time you spoke with Monica Goodling?  
[Discussion off the record.]

Ms. Buchanan. Possibly in May of 2007.

BY MR. NATHAN:

Q What was that occasion?

A I called Monica after she left the Department to ask how she was doing and to tell her that a number of her coworkers were thinking about her and wished her well.

Q In that conversation, did you discuss the firings of the U.S. attorneys?

A No.

Q At any time prior to that, did you discuss with

Monica Goodling the process about the -- and apart from the initial conversation you had with her about Mr. Sampson's process, did you have -- as that process was going on and even after you left the Executive Office of U.S. attorneys and remained the U.S. attorney in the Western District, did you have conversations with Monica Goodling about Mr. Sampson's process of evaluation?

A I had frequent conversations with Monica Goodling since she worked with me as my deputy in the Executive Office of the U.S. attorneys, but I didn't have discussions with her about the process that was used to select the United States attorneys who were asked to resign.

Q Did you have conversations with Monica Goodling -- let's limit this to after you left the Executive Office of the U.S. attorneys, which I take it is June of '05. After that time and while you were the U.S. attorney in the Western District of Pennsylvania, did you have conversations with Ms. Goodling about any of the nine U.S. attorneys who ultimately were asked to resign?

A Yes.

Q Which ones?

A I believe that Monica told me which United States attorneys had been asked to resign.

Q And approximately when was that?

A Some time after they were asked to resign, so

probably in December or January of -- either December of '06 or January of '07.

Q And what did she say about those who had been asked to resign?

A We didn't talk specifically about each of the United States attorneys who were asked to resign, but there were two United States attorneys that we discussed.

Q Which are the two?

A We briefly discussed Carol Lam and Margaret Chiara. And I don't recall that we had conversations about any of the other United States attorneys, although we may have, because she did mention the names of the United States attorneys who had been asked to resign.

Q Did she mention Mr. Graves to you?

A No.

Q And with respect to Ms. Lam, what do you recall Monica said to you?

A I recall that we talked about the communications that I had with Carol Lam in December of '04 that related to the performance of the southwest border districts in the handling of immigration cases.

Q What was the conversation that you had? I'm focusing now with Ms. Goodling. What was the -- what did she say to you and what did you say to her about Ms. Lam and your earlier conversation?



A We talked about the fact that there were a number of Members of Congress who were concerned about the prosecution of immigration cases on the border and that Carol Lam was asked to look at her prosecutions and determine whether improvements could be made or best practices could be adopted and that there weren't significant improvements that were made after that request.

Q Did --

A We also talked about Project Safe Neighborhoods cases.

Q About Carol -- what about the Southern District of California?

A That's correct.

Q What did she say about that?

Mr. Howard. "She" being Monica?

Mr. Nathan. Yes.

Ms. Buchanan. We talked about the low number of Project Safe Neighborhoods cases that were prosecuted by Carol Lam's district.

BY MR. NATHAN:

Q And exactly why was she having this conversation with you about Ms. Lam? Sometime -- I take it this is like in December of '06 or January of '07?

A I think because she was telling me that I might be asked questions about my discussions with Carol Lam

involving her performance that I may have had during my tenure as a Director of the Executive Office for the United States attorneys.

Q She was giving you a heads-up and reminding you of your December, '04, conversation; is that right?

A No, she wasn't giving me a heads-up or reminder. She was just saying that, since I dealt with some of the United States attorneys, that I may be asked questions about my dealings with them.

Q Did you make a note of this conversation?

A No.

Q Is there any way that you can pinpoint the date on which this conversation occurred?

A I don't know.

Q When is the first time that you learned that the eight U.S. attorneys had been asked to resign?

A I think I learned this in December of 2006.

Q And from whom did you learn it?

A There are a culmination of things that happened at the time. Several United States attorneys who were asked to resign sent e-mails to United States attorneys in December advising their colleagues that they would be leaving the Department. And I recall that at the time I was surprised to see many of these e-mails coming out in December with United States attorneys indicating their plan to leave the

Department without also having some information about where they were going. And I recall that I had a conversation with Mike Battle in December of '05 and I --

Q December of '05 or '06?

A December, '06, '06 -- and I believe that he told me that there were a number of United States attorneys who had been asked to resign.

Q Did he tell you who they were?

A Yes.

Q And with respect to these e-mails that were sent to all U.S. attorneys, which of those that you can recollect surprised you?

A I recall being very surprised that John McKay was leaving.

Q Anyone else?

A I don't recall. I just remember that there were a number of e-mails that came out, and it struck me as odd that they were all sending e-mails around at the same time and that many of them did not also announce their future intentions.

Q I just want to go back and see if there is anything that -- now that you recollect that you had this conversation with Mr. Battle and that you were surprised by seeing these e-mails, if you can with any degree of accuracy estimate when it is you had this conversation with Monica

Goodling about your conversations with Carol Lam.

A I don't know. I --

Q Could it have been as late as February of '07?

A Oh, it could have been.

Q Okay.

Did -- and what was the conversation you had about Ms. Chiara, the conversation with Monica Goodling about Margaret Chiara?

Mr. Howard. Can we just go off the record?

Mr. Nathan. Absolutely.

[Discussion off the record.]

BY MR. NATHAN:

Q Is there anything that you can consult that would help you recollect when this conversation with Ms. Goodling took place?

A I had a number of conversations with Monica Goodling during December, January and February; and I can't recall specifically when we talked about Carol Lam.

And at this point I need to take a break.

Mr. Nathan. Okay, let's take a break. As promised.

[Recess.]

BY MR. NATHAN:

Q You testified that in this conversation you had with Ms. Goodling that she mentioned you might be called upon to answer questions about Ms. Lam. Did she explain who might

be asking you these questions?

A No.

Q Did she say where this inquiry would take place?

A No.

Q Did she say that there had been a congressional interest in this matter?

A I don't recall.

Q What did you understand her to be saying when she said you would be asked about this or you might be asked about this?

A Monica remembered that during our time together at the Executive Office I had had several conversations with Carol Lam about prosecutions, and based upon her recollection she thought that I might be asked to talk about those issues.

Q Asked by people at the Department?

A She didn't say.

Q Did she suggest what you should do about the possibility that you might be asked?

A No, no, she just said I might be asked to talk about dealings I had with the U.S. attorneys; and specifically she mentioned Carol Lam.

Q Did she suggest that you do anything about preparing for such an inquiry?

A No.

Q Did you do anything to prepare for such an inquiry?

A No, other than reviewing the documents that were produced after the letter was sent requesting that I meet you for an interview.

Q I meant immediately after the conversation with Ms. Goodling, did you do anything to prepare for the possibility of you being asked about your earlier conversations with Ms. Lam?

A No.

Q When did you have this conversations with Ms. Lam?

A Well, I had a lot of conversation with Ms. Lam.

Q Presumably the witness Ms. Goodling was referring to in the 2007 conversation?

A The first conversations that I had with Carol Lam, among other things, dealt with the prosecution of firearms cases. Carol and I had a discussion about her district's prosecution numbers. She indicated that this was a program that she really didn't think her district could handle, that they had lots of cases dealing with immigration, and they couldn't handle prosecuting firearms cases. And I recall thinking that this is a priority of the Department and somehow she's got to find a way to prosecute firearms cases.

I also recall having a discussion with her when I began my tenure at EOUSA. Because Carol had to come in and meet with Jim Comey, who was then the Deputy Attorney General, to

discuss her low prosecution numbers in the area of firearms cases.

I also talked with Carol Lam in December, 2004, in response to Congressman Issa's letter to the Department asking us to take a look at the prosecution of immigration cases along the southwest border.

During these conversations with Carol Lam, I advised her that the Department was looking at her performance in the area of immigration and that they had also been looking at her district in connection with her performance in the prosecution of firearms cases. And I wanted her to know that because as her friend, as her colleague and as a Director of the Executive Office for U.S. Attorneys, I wanted her to know that she should pay attention to these areas and she should improve her performance.

Q Were you present for the conversation with Mr. Comey and Ms. Lam?

A No.

Q Did Mr. Comey have a similar conversation with you?

A We had a telephone conversation.

Q Did he discuss your low numbers in this area of gun violence?

A At the time we had a discussion, my numbers weren't low.

Q Why did he have a discussion with you?

Mr. Flores. Objection, please answer the question.

Ms. Buchanan. The former Director of the Executive Office for U.S. Attorneys, Guy Lewis, had conducted an extensive review of the United States attorney districts. He collated information about population, crime rates and the prosecution of Project Safe Neighborhoods cases.

At the time that information was collated, the number of firearms prosecutions in my district were not very good. After our Project Safe Neighborhoods program got under way, I coordinated the efforts of Federal, State and local law enforcement; and we dramatically increased the prosecution of firearms cases to an increase of 300 percent.

So at the time I had a conversation with Jim Comey my prosecution numbers in the area of Project Safe Neighborhoods was exceptional, and so there was no reason for him to have a discussion with me. Because the lack of coordination between the Federal, State and local law enforcement had been noted by me without anyone telling me there was a problem, and it had been corrected by me, and the performance of my district at that time was exceptional.

BY MR. NATHAN:

Q Did Ms. Lam tell you that violence in the Southern District of California was at a 25-year low?

A I don't think so.

Q Did she tell you that the local prosecutor was doing



a good job with respect to gun prosecutions?

A Yes, she did.

Q And did she say that she was coordinating with and working with the local prosecutor?

A I think she did.

Q Did you make any suggestions in these conversations that you had with Ms. Lam in the December of '04 time frame that she might be asked to resign because of these matters?

A No.

Q Did you make any suggestions to Mr. Sampson that Ms. Lam should be asked to resign because of those matters?

A No.

Q When you participated in drafting the response to Congressman Issa's and other congressmen about immigration cases in the Southern District of California, did you say anything critical about Ms. Lam?

A Can you repeat the question?

Q Sure. When you participated in drafting the letter in response to Congressman Issa and others, where they were complaining about the prosecution numbers of immigration cases in the Southern District, in your letter did you put in anything critical of Ms. Lam about the immigration prosecution in that district?

A I'd have to take a look at the letter.

Q You don't recollect?

A I'd have to take a look at the letter.

Q No, I'm asking what your recollection is.

A And I'm telling you that I'm not going to try to recall something that happened in 2004 without looking at the letter. And you have a letter, so --

Q You've been telling us about --

Mr. Flores. Objection, let the witness answer the question.

BY MR. NATHAN:

Q I want to make it clear, you said in your statement you will answer any questions of the staff?

You're telling us about conversations with Ms. Lam that you recall in 2004. I'm asking you your recollection of your drafting a letter about her in the same time period, and I'm asking you if you think there is anything critical in that letter about her practices with respect to immigration matters in the very same time frame that you've just been testifying about.

A I've drafted the response to Congressman Issa. There were a number of drafts that were prepared. I don't recall if there was anything in any of the drafts that was critical of Carol Lam.

Q Thank you.

A However, during the preparation of this letter, I attempted to give Carol Lam the opportunity to take an

active role in being a part of the solution to the problem. I asked Carol Lam to coordinate with the other United States attorneys on the southwest border and to determine if, through information sharing between these districts, they could identify best practices that were effective in certain districts and whether these best practices could be shared between the districts.

She ultimately talked to the other United States attorneys, but she did that somewhat reluctantly.

Q She talked to them reluctantly?

A She was reluctant to talk to the other United States attorneys because she really didn't feel that there was anything more than anybody could do. And I felt that, regardless of how well you are doing in any given area, that you can always improve and that clearly in this area there were a number of Members of Congress who were concerned. And when a number of Members of Congress are concerned, we have an obligation as the Department of Justice to look at the problem, and we also have an obligation to see whether we can do anything to improve. And I had hoped that she would be -- she would more readily respond to do that. So she did it, but she was reluctant.

Q And I want to call your attention to page two of your statement in the last paragraph on that, which says, "There were only two United States attorneys on the list of

eight fired U.S. attorneys to whom I specifically spoke about any issue that could be labeled 'performance' or 'failure to pursue Department policy' and whom I discussed with Mr. Sampson."

Is Ms. Lam one of those two?

A Yes, she is.

Q Who is the other one?

A The other one is Kevin Ryan.

I think it is also important to clarify something else at this point for you. As I said earlier, I did not participate in this process; and if I had participated, what I would have done was to compile all the documents about all the U.S. attorneys and compare all their performance and compare them to each other and make an evaluation. That wasn't done -- it wasn't done by me. So I don't know what information they used. And certainly, based upon the information I had, I wouldn't have suggested -- I wouldn't have fired any of these people.

So I'm not saying in our communications that I in any way encouraged Sampson or anyone else to put any of these people on this list. But you're also asking me whether there were any issues about problems that these U.S. attorneys had, and that's why these two individuals were included in my letter, because I know I had conversations with Kyle Sampson about two of the U.S. attorneys. I don't

know whether he considered any of that information in his process.

Q I appreciate that. I take that what you're saying is that, while there are issues here, you did not believe these were firing issues --

A No, I --

Q -- at the time?

A I don't know what all the issues were.

Q The issues that you knew about at the time and the issues that you were discussing with both Ms. Lam and with Mr. Sampson.

A I can't answer that question. Because if you had to compare all the United States attorneys and compare all of their performance, compared to each other, I don't know whether these individuals would fall below the performance level of the other U.S. attorneys, because that kind of a comparison wasn't done. So I'm not going to say that they should or shouldn't have been fired. What I can tell you is that I didn't have anything to do with the process, and I don't know what process was used.

Q With respect with Mr. Ryan, what was your discussion with Mr. Sampson?

A During the time that I was the Director of the Executive Office, we received complaints about the management of the office in the Northern District of

California. We received complaints from former staff members, from members of the judiciary and possibly others in the community, and we were concerned about the management of Kevin Ryan's office.

So I, along with David Margolis, asked to meet with Mr. Ryan and his first assistant so that we could discuss the complaints about the management of his office and determine what was going on there.

Q And what did you conclude?

A We concluded that there were probably some management problems in Kevin Ryan's office and in order to address those problems we should ask a special evaluation team to go to the Northern District of California and conduct a review of the management practices.

Q Approximately when did you have these discussions with Mr. Sampson about Mr. Ryan in his office?

A I would have had those discussions with him in or around the time that I was meeting with Mr. Ryan, and these discussions would have occurred because I would have told Kyle that we had a meeting with Kevin Ryan.

I think that the meeting occurred in early spring of 2005.

Q Sometime near March of 2005, is that what you mean by the "early spring"?

A In the spring of 2005.

Mr. Howard. It might be important to -- we know that she's having conversations with Kyle Sampson, but why were you having conversations with Kyle Sampson is the nature of --

Mr. Nathan. I accept that question from your counsel.

BY MR. NATHAN:

Q Why were you having conversations with Mr. Sampson about Mr. Ryan in his office?

A I regularly had communications with the Deputy Attorney General and members of the Attorney General's staff about things that the Executive Office was involved in. And I recall that I brought this to the attention of the Deputy Attorney General and to members of the Attorney General's staff, including Kyle Sampson.

Q What was your understanding they would do with this information? How were they supposed to utilize it?

A Well, the reason we wanted to keep the Deputy and the Attorney General's office advised is that if a U.S. attorney contacted the Deputy or the Attorney General about the issue or if anyone else such as members of the judiciary would contact the Deputy or the Attorney General, we wanted them to be advised of what was occurring.

Q Did you have reason to believe in the spring of 2005 that the judiciary or any other outsiders might be contacting the Department about the management issues in the

San Francisco U.S. Attorneys Office?

A I knew that they were, because they wrote letters.

Q They had already written letters?

A Yes, they had written letters to the Deputy Attorney General; and I recall seeing news reports about complaints from people in the San Francisco community about the management of the United States Attorneys Office.

Q Were these letters written and the news reports published prior to the time that you advised the Deputy and the people in the Attorney General's office, including Mr. Sampson, about Mr. Ryan?

A Some of them probably were, and others had not.

Q I want to call your attention again to Exhibit 6 that I believe you have over there, which is the e-mail from Mr. Sampson to Ms. Miers; and I want you to take a look at the first page of the attachment, the second page of the document. In there, you see Mr. Ryan's name is in bold?

A Yes.

Q And if you look at the first page you will see bold means recommended retaining strong U.S. attorneys who have produced and managed well and exhibited loyalties to the President and Attorney General.

Do you have any basis for which Mr. Sampson in late February of '05 could have concluded that Mr. Ryan was a good manager of his office and was a strong U.S. attorney?



A I don't know. I think that the communications that I had with Kevin Ryan and with other people in his district occurred after March 2nd.

Q Well, okay, after March 2nd. And, before that, was this all a surprise to you after March 2nd that Mr. Ryan had problems out there?

A No.

Q When did you first know?

A The United States Attorneys Office for the Northern District of California had a long history of problems. The problems in the office predated Kevin Ryan's tenure as the United States attorney.

Shortly after Kevin Ryan became the United States attorney, there were discussions about his management style. I don't recall exactly when these communications came to the attention of the Executive Office. What I can tell you is that, at some point, these communications escalated, and there were letters that were sent to the Deputy Attorney General, there were numerous newspaper articles that appeared in the press. And after the escalation of these concerns, I meet with Kevin Ryan and his first assistant along with David Margolis in an attempt to address some of the management concerns.

Q What I'm asking you is, do you know of any basis on which Mr. Sampson could conclude at the end of February of

'05 that Mr. Ryan was a strong U.S. attorney who was managing his office well?

A Well, I know that Kevin Ryan had a number of significant computer crime and intellectual property cases, so I think that there were certainly good things that were done in Mr. Ryan's office. So I certainly think that there were positive things that could have come to the attention of Kyle Sampson and others.

Q Is Mr. Ryan a member of The Federalist Society?

A I don't know.

Q Are you?

A Yes.

Q Was there ever occasion to analyze the U.S. attorneys who were members of The Federalist Society?

A Not to my knowledge.

Q During your tenure?

A Not by me and not to my knowledge.

Mr. Nathan. Let's have marked as the next exhibit, a document which bears the Bates stamp AG -- lots of zeros -- 1151 through 1154.

[Buchanan Exhibit No. 7

Was marked for identification.]

BY MR. NATHAN:

Q I'm handing a copy of what has been marked as Buchanan 7. The cover e-mail is from Monica Goodling to

John Nowacki. Do you know who is Mr. Nowacki?

A John Nowacki.

Q It is pronounced --

A Nowacki is a deputy in the Executive Office for United States Attorneys.

Q Was he there when you were there --

A No.

Q -- in that capacity?

A No.

Q Attached to this is a document which appeared to have been prepared long before that e-mail. As you will see, it lists Mr. Comey as the U.S. attorney in the Southern District of New York; and it includes, as far as I can tell, all the U.S. attorneys at the time it was prepared.

Have you ever seen this document before?

A I saw it because it was provided to me shortly before my meeting with you today.

Q But prior to that and particularly in your capacity as Executive Director of the EOUSA, did you see this document?

A No, I have not seen this document at any time prior to my preparation for my interview with you today.

Q And do you have any knowledge of why this was prepared?

A I have absolutely no knowledge as to why Exhibit No.

7 was prepared or who prepared it.

Q You will see, with respect to you, the last column of this says Fed-Soc. Do you understand that stands for Federalist Society?

A It could.

Q It says as to you, yes, correct?

A That's correct.

Q And when did you first join The Federalist Society?

A Long before it was cool.

Q Is it cool?

A I think so.

Q When did it become cool?

A Let's see, I probably joined The Federalist Society in the '80s.

Q And you will note that Mr. Ryan --

A Late '80s.

Q -- is listed as a member The Federalist Society on the last page.

A Yes, I see that.

Q Is Mr. Sampson a member The Federalist Society?

A I don't know.

Q Do you think that had anything to do with Mr. Sampson ranking Mr. Ryan as a strong, good manager of the U.S. Attorney's Office in late February of '05?

A I don't know.

Q Did Mr. Ryan have strong political support in the Northern District of California to be a U.S. attorney?

A I don't know.

Q You said that you were surprised by the resignation letter of Mr. McKay, which you saw in December of '06. Do you recall that?

A That's correct.

Q Why did that surprise you?

A Well, it surprised me because I knew John well, and I was not aware that he had any intentions of leaving the Department. I knew how much he loved being a United States Attorney. I knew how well regarded he was in his office and in his community. And it surprised me that he resigned or announced his intention to resign and that I hadn't heard anything about it.

Q Did Mr. McKay have a good reputation in the Department?

A I think that John McKay had a good reputation with some in the Department, and I think that he had a not-so-good reputation with others.

Q With whom did he have not a good reputation?

A There were some people in the Department that felt that from time to time John didn't exhibit the highest level of diplomacy when dealing with others within and outside of the Department.

For example, if the United States attorneys would have a meeting of all United States attorneys, we would often invite individuals from within the administration to come and address the group, including the directors of the law enforcement agencies. At these meetings we would have an opportunity to ask questions of the agency heads, and most often we submitted questions in advance so that the agency head could obtain the appropriate information to answer the questions. And there were a couple of occasions when John McKay asked a question that was considered by some to be inappropriate, to put these individuals on the spot in that setting and ask that question, but John McKay was well liked by his colleagues.

Q With respect to the Deputy at the Attorney General, was Mr. Comey the Deputy during the time that you were the Executive Director of EOUSA?

A Yes.

Q What did you understand Mr. McKay's reputation to be in the Deputy's office?

A With Jim Comey?

Q Yes.

A I don't have any understanding of what it was with Jim Comey.

Q What about in the Attorney General's office?

A I know that some of the incidents involving John

McKay asking questions during U.S. attorney meetings occurred during Attorney General Ashcroft's tenure, so I -- you know, I'm not sure specifically when these incidents occurred, and I don't know what the extent of his reputation was, but I do know that these incidents were noted.

RPTS CALHOUN

DCMN MAGMER

[11:05 a.m.]

Q Did you ever have any discussions with Kyle Sampson about John McKay?

A I don't recall. I don't recall that I specifically had conversations with Kyle Sampson in detail about any of these U.S. attorneys other than Kevin Ryan and Carol Lam, but from time to time Kyle Sampson would ask questions of me and other U.S. attorneys of a general nature, like what do the U.S. attorneys think of so and so.

Q You mean another U.S. attorney?

A Right. A question that would be asked in general conversation. So he did have a habit of asking these types of questions. So I can't tell you today whether at any time during the time I have known Kyle Sampson whether he ever asked me what I thought about John McKay or what others thought of John McKay.

Q You don't recall ever sharing your views of Mr. McKay with Mr. Sampson?

A No.

Q I want to call your attention again to this Exhibit 6, I believe it is, particularly on page three, page three of the exhibit. You will see that Mr. McKay's name is stricken there, and you'll see that this was done in



February of 2005.

Again, if you will look at the front page, stricken means a weak U.S. attorney, who is an ineffectual manager, who chafes against management initiatives.

Did you ever hear any criticisms of Mr. McKay as of late February or early March of '05 suggesting that he was a weak U.S. attorney and ineffectual manager or that he chafed against administration initiatives?

A The only negative things I heard about John McKay up to that point were concerns that he was sometimes inappropriate in asking questions in public settings.

I thought John McKay was a very good U.S. attorney. I had been to his district on a number of occasions. I knew that he had good relationships with the law enforcement in his community, that he had good relationships with members of his staff.

I reviewed newspaper accounts of cases that John handled. My daughter lives in Seattle, so I heard about John's performance in Seattle. I think that, generally, John's performance was very good and the only -- the comments of concern that I heard dealt with his lack of diplomacy.

I also heard that shortly before he was asked to resign he sent a letter to the Deputy Attorney General urging the Deputy to support the LinX Information Sharing System, which

had been signed by a number of other United States attorneys; and I understand that the Deputy Attorney General had concern over what was in the letter and what John McKay had done to coordinate the signatures of the other United States attorneys on the letter.

Q When you say "shortly before," you mean that's in connection with December of '06 -- shortly before December of '06?

A Yes, that's correct.

Q I'm asking about March of '05, which we can agree is well before December of '06, correct?

A I have told you everything I know about John McKay.

Q Well, have you? Did you hear of anything that Mr. McKay was criticized in late '04 and early '05 for not prosecuting cases relating to the gubernatorial election in the State of Washington?

A No, I never heard that.

Q Did you ever hear that Mr. McKay was rejected for a judgeship that he had applied for?

A Yes.

Q When did you hear that?

A John McKay told me that in January of '07.

Q Is that the first time you heard that?

A Yes. I didn't even know John McKay was being considered.

Q Did he explain why he thought he had been rejected for this?

A He explained that his rejection occurred either the day after or within days of his being asked to resign from the Department and he believed that the two were connected.

Q Did he say what he thought the connection was?

A No.

Q Did he tell you of any conversation with anyone at the White House who told him that he was not popular with Republicans because he hadn't brought any cases in connection with the very close gubernatorial election in '04?

A He told me about his interview with Harriet Miers, and he told me that Harriet Miers asked him a question about his handling of a case and suggested that he had mishandled it. I don't recall what case he was referring to, but he did relay this to me in January of 2007.

Q And Mr. McKay told you that he believed that his termination as U.S. attorney and his rejection as a judge were related?

A Yes.

Q Did he tell you what he thought the relationship was?

A I don't recall that we specifically talked about what the relationship was, but we both knew that the process

for the selection of judges involved the congressional delegations and the White House and the Department of Justice, and if the Department of Justice fires you one day, it's going to be connected to the judicial process.

And I don't recall whether we specifically connected each of the dots, but we both knew what he was referring to when he said that he thought the two were connected.

Q Do you believe that the White House was involved in the termination of Mr. McKay?

A I have no idea what was involved in the termination of John McKay.

Q Did you ask Monica Goodling when you talked to her how come John McKay was on this list?

A No.

Q Did you ask her why any of the others, apart from Ms. Lam and Ms. Chiara, were on the list?

A I never asked her why any of the people were on the list.

Q Did she tell you why?

A At the time we had our first conversation about the United States Attorneys being asked to resign, she told me who the United States Attorneys were. Subsequent to that conversation, we had other conversations about Carol Lam and Margaret Chiara. Those are the only conversations that we had subsequent to the termination of these United States

attorneys.

However, during the time period that I worked with Monica, both in the executive office and after, there were a few conversations that we had about some of the United States attorneys on the list.

Q What were those discussions?

A One of the discussions that I recall about David Iglesias had something to do with his handling of a public corruption investigation and a very unorthodox process of utilizing a bipartisan commission to investigate the case. This would not be something that a United States attorney would do in the due course of conducting a criminal investigation. I recall her telling me about that, about David Iglesias.

Q Is that all you remember about David Iglesias -- about Monica's conversation with you about David Iglesias post the termination?

A Yes, that's correct.

Q Did you ask what was this bipartisan commission?

A I recall that she told me about it in a conversation that we were having in connection with an unrelated matter, and she had to get off the telephone because she had to deal with some issue that came up as a result of this issue, and that's how I recall that she told me about it.

Q Did she tell you who put Mr. Iglesias on the list to

be fired?

A No.

Q Did you ask her?

A No.

Q Were you surprised about Mr. Iglesias being on the list?

A Yes, I was surprised.

Q Was Mr. Iglesias a good U.S. attorney as far as you knew when you were Executive Director of the U.S. attorneys?

A Everything I knew about David was positive. I knew that David was very focused on border issues, narcotics issues, specifically methamphetamine, and that he was very involved in military issues. And my interactions with David were good, and I think that his interactions with his colleagues were good, and I had a generally good impression of David Iglesias.

Q Did you have any conversations with Monica Goodling about any of the remaining -- I guess there are five left -- U.S. attorneys in this post-December, '06, period?

A Well, we did have conversations about Bud Cummins; and I knew that, based on our conversations, Bud Cummins had been asked to resign in order to make room for Tim Griffin. And we also had a conversation about Margaret Chiara.

Q With respect to Mr. Cummins, did Ms. Goodling give you any reasons for his termination, other than making room

for Mr. Griffin?

A What she told me was that it had been the Department's impression that Bud Cummins intended -- had an interest in leaving and that Tim Griffin was interested in serving as United States attorney and that at some point they asked Bud Cummins when he was planning to leave and whether he could leave by a certain time because Tim Griffin was a candidate that people were interested in.

Q Were you aware of any performance-related issues with Mr. Cummins?

A No.

Q With respect to the terminations of these U.S. attorneys and your conversations with Ms. Goodling, I understood you to say that all those conversations occurred after December 7th of 2006.

A No, that's not correct.

Q What conversations about the terminations occurred prior to December?

A We didn't have any conversations about terminations prior to December 7th, 2006. We had conversations about various U.S. attorneys prior to December 7th, 2006. But these conversations were not directly related to their proposed terminations.

Q What conversations can you recall concerning any of these eight U.S. attorneys with Ms. Goodling between the

time that you left as Executive Director of the OUSA in June of '05 and December 7th of '06?

A I just answered your question. I had lots of conversations with Monica Goodling from the time I left the executive office to December 7th. I never had any conversations with her before December 7th about the termination of these United States Attorneys.

Q Did you have any conversations with her about the performances of these eight U.S. attorneys between June of '05 and December, '06?

A The conversation that we had about David Iglesias' use of a bipartisan commission to investigate a public corruption case occurred at some point between June, 2005, and December, 2007.

Q What was the context of that conversation?

A That was the conversation that I just related to you earlier wherein Monica indicated that she had to address an issue that was related to David Iglesias and his use of a bipartisan commission. And it was such an odd concept that I remember it.

Mr. Flores. I believe you said that conversation took place between June, '05 and December, '07. Did you mean '06?

Ms. Buchanan. I'm sorry, yes. Thank you.

BY MR. NATHAN:



Q Do you recollect when approximately this conversation took place?

A I don't recall.

Q Why was Ms. Goodling talking to you about Mr. Iglesias in this time period?

A I talked to Monica Goodling often and --

Q After you left the office of executive --

A Yes. And I believe that we were having a telephone conversation, and she had to get off of the telephone call to deal with this issue.

Q Did Ms. Goodling ever tell you that the EARS report on Mr. Iglesias was not fully satisfactory?

A I don't recall having any discussions with Monica Goodling about the EARS report, David Iglesias, and I don't know when an EARS evaluation of David Iglesias took place.

Q Let's turn to that. I am going to hand you what's been marked as Buchanan deposition 8, which is an evaluation report on the office of the District of New Mexico in the period of November 14 to 18, 2005. Do you have a copy there? Have you seen this EARS report before?

A Because the report is dated November 14th -- or because the evaluation occurred between November 14th and the 18th of 2005, this would have been during the time period that I was the Director of the Executive Office for U.S. Attorneys, so I would have seen this at some point.

But at this time as I look at it now, as I look at Exhibit Number 8, I don't recall anything about this.

Q Let me just call your attention to the paragraph under United States Attorney and Management Team. Do you see that on the first page?

A Yes.

Q Let me read it. Says: United States attorney was experienced in legal, management and community relations work and was respected by the judiciary agencies and staff. The first assistant United States attorney appropriately oversaw the day-to-day work of the senior management team, effectively addressed all management issue issues, and directed the resources to accomplish the Department's and United States attorneys priorities. The U.S. attorneys office had a well-conceived strategic plan that complied with Department priorities and reflected the needs of the district.

Do you see that?

A Yes.

Q Do you see anything in there that is -- can be construed as critical of Mr. Iglesias?

A Well, this is the same conversation we had this morning. The evaluation and review of each district was not developed or devised to be a top-to-bottom review of the performance of the United States attorney. It was designed

to help the United States attorney to effectively manage the office and improve the performance of the office.

Q With all due respect, that is not my question. My question is, do you see in this paragraph --

A Your question is trying to ask me whether this report is a full evaluation of Mr. Iglesias.

Q I did not ask about a full report of Mr. Iglesias. With all due respect, Ms. Buchanan, I am asking you, in the confines of this paragraph, is there anything in this paragraph that suggests that Mr. Iglesias is not an excellent U.S. attorney?

A Not --

Q I am not asking you about anything outside the paragraph.

A This paragraph does not. However, my testimony today should reflect that this report is not the sole performance and review evaluation of any United States attorney.

Q I understand, and that has been your testimony. What I am asking you is, can this paragraph -- is there anything in this paragraph that could be cited as a justification for the termination of Mr. Iglesias?

A In this paragraph alone, no.

Q Thank you.

Mr. Howard. Just so the record is clear, the date is

November 14th to 18th, 2005; and she had already left the executive office by that period.

BY MR. NATHAN:

Q Ms. Buchanan, when is --

A That's right. I was thinking this was during my tenure. This is why I don't remember it, because it occurred after I left. Thank you.

Q What's the first time that you learned about the investigation of Congressman Cunningham in the Southern District of California?

A Probably when I read about it in the newspaper.

Q Approximately when was it?

A I don't remember. Whenever it was in the newspaper, that's when I learned about it.

Q You wouldn't have learned about it in advance of that?

A The first time I recall hearing about the Cunningham investigation was when I read about it in the newspaper.

Q And did you have any conversations with Mr. Sampson about that investigation or prosecution?

A No.

Mr. Nathan. May I have marked as the next exhibit a one-page document which is from the EOUSA with Bates stamp number of 195.

[Buchanan Exhibit No. 9

Was marked for identification.]

BY MR. NATHAN:

Q As you will see, Ms. Buchanan, this is an e-mail or copy of an e-mail that apparently was sent to you by someone named Leonard Leo on March 7th, 2005. It's referenced in your statement. Do you currently have a recollection of receiving this e-mail?

A No.

Q Can you tell us who Mr. Leo is?

A I believe that Leonard Leo's current position is Executive Director of the Federalist Society for Law and Public Policy Studies.

Q What was his position on March 7th of 2005?

A I think it was the same.

Q He was affiliated with the Federalist Society.

A That's correct.

Q Had you dealt with him in the Federalist Society matters prior to March of '05?

A Yes. I have known Leonard Leo for many years.

Q Where is he actually located?

A The office of the Federalist Society is in Washington, D.C.; and Mr. Leo lives in Washington, D.C.

Q Looking at the letter, at the e-mail now, it was sent after 11:00 that evening of March 7th. Do you have any explanation as to why Mr. Leo was suggesting that you guys

at the Department of Justice needed a candidate for the U.S. attorney in San Diego when Ms. Lam was the U.S. attorney and there was no indication, publicly anyway, that anybody was leaving the U.S. attorneys office in the Southern District of California?

A I don't know.

Q Did you ever make any inquiry of Mr. Leo as to why he sent this e-mail?

A Yes.

Q When?

A I asked Leonard Leo about this e-mail last week. I saw this e-mail last week for the first time.

Q The first time that you now recollect, right?

A Right.

Q You're not saying that you didn't see it back then?

A I don't know. I don't recall ever seeing this.

One of the things that I asked the Department of Justice if they could do was to determine whether the e-mail was ever opened on my e-mail system to determine whether I received it, because I don't recall seeing this.

Q Did you get an answer to that inquiry to the Department?

A No, I haven't. I called Leonard Leo after I knew that this e-mail was being turned over to advise him that this e-mail would most likely find its way into the

newspaper, and I asked him why did you send me this e-mail. And he didn't recall sending me the e-mail either, but he did say, if he sent it to me, he probably sent it because for some reason he thought Carol Lam might be leaving, and he thought that he most likely read some article or -- he didn't specifically recall, but he thought there had to be some reason why he thought that she might be leaving.

Q Have you noted the fact that on March 2nd Mr. Sampson told Ms. Miers that he proposed to fire Ms. Lam and that within a couple of days Mr. Leo's e-mail shows up in your machine?

A Those are the dates of the exhibits, yes.

Q And Mr. Leo had no explanation for that?

A He didn't recall either.

Q Do you recall seeing anything in the newspapers in the period of March of '05 suggesting that Ms. Lam was about to leave the office?

A I don't recall.

Q In this same time frame, March of '05, did you solicit the resume of Mr. Griffin?

A No. I believe that I had asked for the resume of Tim Griffin at an earlier point when I was considering Mr. Griffin for an AUSA position in Arkansas.

Q Who is Lisa Bevels?

A Lisa Bevels was and is the budget officer for the

Executive Office for the United States Attorneys.

Q And when did you first know Mr. Griffin?

A Mr. Griffin was interested in serving as an assistant United States attorney in Arkansas in the winter of 2005.

Q I will show it to you, if you like. I'm not sure we need to attach it, but this is an e-mail.

A I reviewed Mr. Griffin's resume --

Mr. Howard. Are you marking this one?

Mr. Nathan. It's not necessary.

BY MR. NATHAN:

Q I'm just asking you if you can recollect why you are asking for Tim Griffin's resume.

A I recall receiving his resume because he was interested in the AUSA position in Arkansas. I recall talking with the U.S. attorney there, Bob Balfe, about whether he would be interested in Mr. Griffin as an AUSA in his district. He indicated that he was. I sent his resume to Lisa Bevels, who is my budget officer, to consider his experience level and determine what appropriate salary range he might be in if we offered him a position.

Q Was the U.S. attorney there an interim U.S. attorney?

A No.

Q He was a permanent U.S. attorney?



A Yes.

Q Why were you involved in the hiring -- potential hiring of an assistant U.S. attorney in that district?

A Because he didn't have any open positions, and I was looking to see whether we had any positions that we could give Bob Balfe and whether there was a need in his district for additional support. Because, as the Director of the Executive Office, I monitored the resources of the districts; and from time to time there were certain districts that were understaffed and others that were overstaffed and we tried to make sure there were sufficient resources throughout the offices.

Mr. Nathan. Let's have this marked. I think this will be Exhibit 10.

[Buchanan Exhibit No. 10

Was marked for identification.]

BY MR. NATHAN:

Q Was this a common practice of you when you were the Executive Director of the EOUSA to review resumes and try to find places for assistant U.S. attorneys in offices which had permanent U.S. attorneys, presidentially-appointed and Senate-confirmed U.S. attorneys?

A It wasn't a regular practice, no.

Q Was it unusual?

A No.

Q When did you first hear of Mr. Griffin?

A Somewhere in the winter of 2005.

Q So shortly before this e-mail.

A That's correct.

Q And did you note on his resume that his work experience, that he said that he had been a research director and deputy communications director for the Presidential campaign of the Republican National Committee?

A I don't recall anything about his resume.

Q So you don't recall that?

A I don't recall the details of his resume. I recall that I looked at it, I requested it, I tried to determine what his experience level was and what salary range he might fall into.

Q Did you have any conversations from anyone at the White House about Mr. Griffin --

A No.

Q -- at this time?

A No.

Q Did you have any conversations with Monica Goodling about Mr. Griffin?

A No.

Q Do you know whether Ms. Goodling worked with Mr. Griffin in the campaign of 2004?

A I know she knew Tim Griffin.

Q How do you know that?

A At some point afterwards I knew that she knew him.

Q But in connection with looking for a position for him, that topic didn't come up with Ms. Goodling?

A No.

Q Do you recall discussing there with anyone other than Mr. Griffin and the U.S. attorney in the Western District of Arkansas?

A I think that I originally got his resume from Susan Richmond.

Q Ms. Richmond was the White House liaison at the Department of Justice?

A Yes.

Q Do you recall what she said?

A Yeah, she said Tim Griffin was interested in working at the Department of Justice, that he was a good candidate. Could we take a look at his resume and see if we might be able to use him in Arkansas.

Q Did she suggest that she had had some conversations with the White House about Mr. Griffin?

A I knew that she had been asked to pass his resume along. I don't know who specifically she talked to, but I had the impression that she had been asked to.

Q By the White House, someone at the White House.

A I think so, yes.

Q And did Mr. Griffin get this position?

A No. I think we ultimately offered him the position, but he took another job instead.

Q You say in your statement on page three that you have no reason to believe that Bud Cummins, the former United States attorney to the Eastern District of Arkansas, was replaced for any purpose. I assume you -- any other purpose than to make room for someone else to serve in his position.

A That's correct.

Q Did you ever hear that -- any performance criticism of Mr. Cummins?

A No.

Q Did you ever hear that Mr. Cummins was lazy?

A I never heard that, no.

Mr. Nathan. Let me show you an e-mail that was only produced very recently by the Department of Justice, and let's have this marked as the next exhibit, number 11.

[Buchanan Exhibit No. 11

Was marked for identification.]

BY MR. NATHAN:

Q Ms. Buchanan, I show you this e-mail that is an exchange of e-mails between Sara Taylor and Kyle Sampson in February of '07. I assume you have not seen this before.

A No.

Q Do you know who Sara Taylor is?

A Yes.

Q Who is she?

A Sara Taylor was the Political Director at the White House.

Q To whom did she report?

A I don't know.

Q Have you received e-mails from her?

A No.

Q Have you had dealings with her?

A I met her, but -- I met her.

Q You see the e-mails, the second e-mail here, the one that says from Sara Taylor to Kyle Sampson, dated Friday February 16th at 8:47, 2007, Re: McNulty strikes again?

A Why don't you point to it?

This one. I see what you're referring to.

Q And let's just read it. It says -- it is from Sara Taylor to Kyle Sampson in February of '07 -- "Tim was put in a horrible position."

I think you will see from the context this was Tim Griffin.

"Hung to dry with no heads-up. This is not good for his long-term career. Bud runs a campaign and McNulty refuses to say Bud is lazy, which is why we got rid of him in the first place."

Do you see that?

A I see that.

Q Do you know -- when she says "we got rid of him," do you know who she's referring to?

A I have no idea.

Q When she said that Bud is lazy, is that anything that you had ever heard before?

A I had not heard that.

Q Do you have any reason to believe that that's true?

A I had not heard that.

Q And you don't know of any evidence of your own accord.

A That's correct.

Q As far as you're concerned, his performance, at least while you were Executive Director of the EOUSA, was fully competent?

A That's correct.

Q And do you have any reason to believe it deteriorated after you left that position and while he continued to be the U.S. attorney in the Western District of Pennsylvania before he left?

A I don't know, but I don't have any reason to believe that's the case.

Q Do you have any reason to believe Ms. Taylor would know about the performance of the U.S. attorney in Arkansas?

A I don't know. I don't know what she knew, I don't know what people told her, and I don't know what she's referring to.

Q But what she's saying there is not consistent with your understanding of the facts.

A As I previously stated, I had never heard anyone say that Bud Cummins was lazy.

Q Or incompetent in any way.

A I have no reason to believe that that was true. I never heard that.

Q Did you ever hear Mr. Iglesias referred to as an absentee landlord?

A I think I read that in some of the news accounts after his termination.

Q After the resignation but before December 7th of '06, had you ever heard that Mr. Iglesias was an absentee landlord?

A I don't believe so.

Q Did you ever hear that he wasn't devoting enough time to his district?

A I don't believe so.

Q Did you ever hear of any complaints by Senator Domenici concerning Mr. Iglesias?

A I read about this in news accounts after Mr. Iglesias's termination, but I had never heard anything to

this effect prior to his termination.

Q So let's just be clear, prior to his termination, you never heard anything about any complaint by Senator Domenici about Mr. Iglesias.

A That's correct.

Q From December 7th and prior to any newspaper reports about this, did you hear anything about any calls from Mr. Iglesias -- from Senator Domenici about Mr. Iglesias?

A No.

Q Did you ever talk to Monica Goodling about any calls from Senator Domenici to anyone at the Department of Justice --

A No.

Q -- about Mr. Iglesias?

A No, I did not.

Q And after the newspaper stories that you read about these calls from Senator Domenici, did you have any conversations about them with Ms. Goodling?

A No.

Q Has Ms. Goodling ever told you why David Iglesias was placed on the list for termination?

A No.

Q Has anyone from the Department of Justice told you that?

A No.



Q Has anyone from the White House told you that?

A No.

Q Have you made any inquiries about why Mr. Iglesias was asked to leave the Department of Justice?

A No.

Q Have you talked to Mr. Iglesias since his resignation?

A No.

Q Have you talked to Mr. McKay since his termination?

A Yes.

Q And have you told us the full extent of your conversation with him about the combination between the -- the connection between his not getting the judgeship?

A It was a long conversation. During the conversation John McKay related to me the circumstances of his being notified of his termination, relayed to me communications that he had afterwards with people in the Department of Justice. He expressed his deep regret that he was leaving the Department and that he would not have the opportunity to continue to serve the Department of Justice or to serve on the judiciary.

He was very disappointed in the manner in which this process was carried out. However, he acknowledged that he always knew that he served at the pleasure of the President and that anytime the President could seek his resignation

and he understood that that could occur at any time, but he was very disappointed in the manner that this was carried out.

Q And what did you say to him?

A I agreed.

Q When you were at the Executive Office of the U.S. Attorneys were you involved in the termination of any U.S. attorney?

A Yes.

Q And was there one that you are thinking of?

A Yes.

Q And is that one in which you worked with Mr. Margolis with respect to the termination?

A Yes.

Q With respect to that process, did you provide an opportunity to the U.S. attorney to give his side of the events that led to his termination?

A Yes.

Q So you told him what the complaints were and gave him an opportunity to respond to that?

A Yes.

Q In fact, did you have a special EARS evaluation of that office in connection with that termination?

A Yes.

Q Is there any other termination, apart from that one

that you were involved in, when you were the Executive Director of the EOUSA? I am not aware of any, just asking you.

A I believe there was one other.

Q And in that situation was the same process followed?

A Yes. In every situation during my tenure as the Director of the Executive Office when there was a performance issue or management issue within a United States attorneys office I consulted with the United States attorney, and I worked with David Margolis to develop a process to investigate the allegations and to give the United States attorney an opportunity to respond so that we could gather all the information that we needed in order to make a decision.

Q Do you have any information about why that process was not followed with respect to the nine U.S. attorneys who were terminated in early December of '06?

A Based upon my conversation with Kyle Sampson, at the beginning of their process it was my understanding that he was going to conduct a review of the United States attorneys and determine if any of them should be replaced to make sure that we had the best U.S. attorneys in place. That was my understanding of the process that was going to be conducted. Beyond that, I don't know anything else about what occurred during this process.

Q When you say you understood from Mr. Sampson that they had the best person in place, did Mr. Sampson suggest to you where he would find replacements?

A No.

Q Did he suggest to you that the replacements would have to be located before the terminations so that you would know that the replacement would be better than the person replaced?

A We didn't have any of those discussions.

Q Well, do you think that would be required in order to put the best person in?

A I'm not going to speculate on that.

Q Were you asked to provide any names for U.S. attorney positions which, as of the time of your request, were filled with a presidentially appointed U.S. attorney?

A I'm not sure I understand your question.

Q Did anyone from the U.S. attorneys office or White House ask you to suggest people who might replace sitting U.S. attorneys?

A No.

Q Did you ever look for such candidates?

A No.

Q With respect to Mr. Charlton in Arizona, what was his reputation as a U.S. attorney?

A I think that he generally had a good reputation. He

focused a lot of his efforts on narcotics prosecution, border prosecutions, and specifically narcotics involving methamphetamine.

Q Did you hear any criticism of his work while you were in the Executive Office of the U.S. Attorneys?

A I heard some criticisms of Paul Charlton. Some of them occurred when I was the Director of the Executive Office and then some of them I heard about later.

The first that I became aware of, Paul Charlton managed to obtain additional positions within his office to handle border and immigration issues, and these positions came from other offices, and there was some criticism about the manner in which he did this.

One of the things that we as a Department were always instructed to do is to think about the overall operation of the Department and not to have individual United States attorneys making efforts to gain additional resources for their own individual offices, and there was some criticism that Paul Charlton had engaged in some effort to do that.

Q When did you hear that? Were you the Executive Director of the EOUSA at the time?

A Yes.

Q Was he successful in getting his additional spots?

A He was. And I had to go to other districts and take them. So they weren't additional spots.

Q How did he accomplish this task? I'm sure there are other U.S. attorneys who would like to know.

A It was believed that he had gone to his Senators and expressed a need for additional positions in his office.

Q And did you confirm that that was the case?

A I don't know how he obtained the positions. This is what I heard. My role of the Director of the Executive Office was to find them, and I had to find them by calling individual districts and borrowing positions from other U.S. attorneys who weren't -- who hadn't filled them at the time so that he could get 10 new positions for border and immigration cases.

Q Who told you that he had secured these by contacting his home State Senators?

A I believe that I heard this from the Deputy's office or the Attorney General's office.

Q And did they tell you that you were required to fill those additional spots?

A Yes.

Q Who told you that?

A I don't recall who specifically told me, but that was my -- one of the responsibilities I had as the Director of the Executive Office, was to manage the resources. A commitment had been made to give Paul Charlton 10 positions, and I had to find them.

Q And did you find 10?

A I did.

Q And did you have any discussions with Mr. Charlton about this?

A No, I did not.

Q So --

A Wait a second. I told him that -- I told him how I got the positions because I wanted him to know that these were not extra positions that were sitting around not being used. These were positions that came from his colleagues. And so he should be aware that he probably would have a number of angry colleagues who knew that he was suspected of circumventing the process that we had in place and obtaining additional resources at the expense of his colleagues.

Q And what did he say?

A I don't think he cared.

Q Did he confirm that that's how he got the extra spots?

A I only recall that he didn't care.

Q He didn't care about what his colleagues thought, you mean?

A That's correct.

Q And did you report this to someone?

A I'm sure I did.

Q Did you complain and suggest that Mr. Charlton

should be fired?

A Absolutely not. But I think that this is one example of Paul Charlton's selfishness, and it's only one. He also had a history of badgering the Executive Office for U.S. Attorneys for additional awards for his district. And, again, this is a similar concept, that there are only a certain number of awards that can be given; and if Paul Charlton's district gets extra awards, that means someone else's district doesn't get them.

And I had been told every year Paul Charlton came into the Executive Office and badgered who was in the director spot to give his district additional awards. So it was known in the Department that Paul Charlton didn't have a lot of consideration for others in making sure that the resources were given to his office.

Mr. Nathan. Can we take a short break, a few minutes, off the record?

[Discussion off the record.]



RPTS MERCHANT

DCMN ROSEN

Q You said that you heard about Mr. Charlton making these requests. From whom did you hear this?

A I don't remember who I specifically heard it from. But I recall being told that Charlton was getting ten additional positions because his Senators had requested this based on information that Charlton gave them about his district. And I knew that this was very extraordinary.

Q Did you discuss this with Ms. Goodling?

A I don't recall.

Q Did Ms. Goodling ever tell you that she had recommended Charlton to be terminated?

A No.

Q Do you know whether she did?

A I don't know. And just to be clear on Paul Charlton, now, I knew that Paul -- there were certainly some things that Paul did that were very good as a United States attorney. And I am trying to help identify any concerns that I heard.

Q I understand.

A Whether it was during my tenure at the executive office or things that I heard after the fact. And that is why I identified these things that I had heard people discuss. I also know that during the time that I was the

director of the Executive Office, we held a United States attorneys conference in Paul Charlton's district. And the United States attorney who hosts the conference is generally extremely cooperative in helping run the conference. And I do recall Mr. Charlton was not very cooperative. So individuals who would have dealt with had him would have been aware of that. And those people that would have dealt with him would have been in the Deputy's office or in the AG's office.

Q Again, I assume that you are not suggesting that either the effort to get extra U.S. attorneys or what you were describing as a lack of congeniality in connection with the conference were firing offenses?

A I am not making any suggestions with respect to any of the United States attorneys on the list. I am simply making you aware of issues that I heard of about these United States attorneys.

Q Did you also hear an issue about his investigation of a Congressman in Arizona, Mr. Renzi?

A No.

Q Have you heard of that investigation?

A No. I also heard that there were two other issues that Paul Charlton had that may have caused concern. One of the issues dealt with --

Q Before you tell us the issue, when did you hear the

issue? Is it the time you were executive director of the EOUSA?

A No. It was after Mr. Charlton left the department.

Q After Charlton. So, I mean, after January of 2007?

A That's correct.

Q And it is fine for you to put it on the record, but from whom did you hear this?

A I don't recall. I don't recall who specifically told me. But there were other issues about Paul Charlton that I heard after he left the Department.

Q And I am going to give you the opportunity to put those concerns on the record, but I do want to also put on the record that you have a yellow note pad there that looks like it has handwriting on it. Is that your handwriting?

A Yes.

Q All of it is your handwriting. Did you prepare those notes for today's testimony?

A Yes.

Q And are you using that to refresh your recollection for your testimony?

A Yes.

Q All right. So subsequent to January of '07, you learned from an unidentified, or from a source you can't recall now some other concerns that the Department had with Mr. Charlton?

A Yes.

Q And what are they?

A I heard that there was an incident involving Paul Charlton involving a death penalty case wherein he had been instructed to seek the death penalty and he represented to the court that a decision had not yet been made. That was one issue. The other issue I heard was that he may have irritated someone in the Department by pursuing a plan to videotape subject interviews, which was inconsistent with current law enforcement practices within his district and around the country.

Q Now, other than Monica Goodling, with whom did you discuss the terminations of the U.S. attorneys following the announcement of their termination?

A There were many discussions that I had about the termination of the United States attorneys with other United States attorneys who are currently serving within the Department. This was a subject of much conversation every time United States attorneys were together at every occasion after these individuals were terminated.

Q With whom at Main Justice, not a U.S. attorney, other than Monica Goodling, did you have any discussions about the reasons for the terminations of any of the U.S. attorneys?

A I didn't have discussions with anyone at the

Department regarding the reasons for the termination of these individuals.

Q So these allegations about the death penalty and the taping program do not come from anyone in a position to know the reasons for the termination other than perhaps Monica Goodling, is that right?

A I didn't say that. I don't know where they came from. I'm simply --

Q When they were told to you --

Mr. Flores. Objection. Let her finish the question.

BY MR. NATHAN:

Q Look, this is very important because you are passing on third-hand hearsay here and putting it on the record. And if you want to do that, that is fine. But I am entitled to know where you are getting it from and how reliable it is. And all I have heard you say so far is that anybody involved in this process that was involved in the termination, the only person you have talked to after the termination was Monica Goodling, am I right about that? And the people I am talking about are the Attorney General, the Deputy Attorney General, the chief of staff of the Attorney General -- and the chief of staff of the Deputy Attorney General, and Ms. Goodling. Is there anybody else that you know of that was involved in this process to terminate these U.S. attorneys?

Mr. Hunt. I should just note that when you say she's putting on the record hearsay testimony, that quite a number of your questions often ask for even hearsay testimony. So let's just be even-handed about what you want on the record.

Mr. Nathan. But in every case, I am asking the source of the information. I am not disputing what she says. I am asking for conversations you had with others, but it has to do with specific people you had these conversations and when, not from unidentified unexplained sources after the events.

Mr. Howard. Well, just ask her, do you know.

Mr. Nathan. Well, that is what I am asking her.

Mr. Howard. And she said no.

BY MR. NATHAN:

Q I am trying to identify anybody who was involved in the process other than Monica Goodling that had conversations with you after the terminations as to the reasons of the terminations or as to the concerns that people in a position to make these terminations had?

A Those are two separate questions. The answer to your first question whether I had conversations with anyone in the Department about the reasons for the termination, the answer to that question is no.

Q Okay.

A Your second question was whether I had conversations

with anyone in the Department about these concerns.

Q I am talking about at Main Justice as opposed to U.S. attorneys whose knowledge would simply be derivative.

A I know I had some conversations with Mike Battle. And I believe I had a brief conversation with Paul McNulty about Paul Charlton and about this death penalty issue.

Q Well, first --

A And these are things -- again, I am not trying to put things on the record that you can't confirm. You can go out and confirm these things. You can investigate this all you want. I am trying to help you.

Q I know. I appreciate that.

A I am trying to tell you what I have heard about these people, why I think that anyone in the Department could have been dissatisfied with them. This isn't information that is included in my written statement. But the reason I am answering your questions today, I am really trying to help you.

Q No, I appreciate that, although I didn't ask you, so this was something that you volunteered. And it is fine if you want to volunteer it. But I want to know what the source of the volunteered information is. I didn't ask you anything about the death penalty or the taping, which has been provided as a pretext here.

Mr. Flores. Can you ask questions of her?

Mr. Nathan. I am asking questions.

BY MR. NATHAN:

Q Well, the question is, who told you about the Department's concerns about Mr. Charlton and the death penalty?

A I believe I had a brief conversation with Paul McNulty about Paul Charlton.

Q And in that conversation he mentioned the death penalty situation?

A Yes.

Q And when did you have this conversation with Mr. McNulty?

A It would have been following the award ceremony for Victim Rights Week.

Q Which was?

A Some time in the last month, month to 6 weeks.

Q And in that conversation, did you ask Mr. McNulty why Mr. Charlton was terminated?

A No.

Q Well, how did it come up that Mr. McNulty stated to you that he had concerns about Mr. Charlton's role in the death penalty case?

A Paul McNulty was expressing to me his regret that I had been dragged into this process. And I commented to Paul McNulty that I had no involvement in the development of this



list, I had no involvement in the firing of these United States attorneys. And he was expressing his remorse that I was pulled into this.

Q And, therefore, what does that have to do with Mr. Charlton and the death penalty case, his remorse that you were pulled into it? You knew nothing about any death penalty matter with Mr. Charlton, correct?

A We talked about the fact that I had limited knowledge about some of these United States attorneys in my dealings with them as a director of the executive office that there were some issues that I dealt with and others that I hadn't, that there were some U.S. attorneys that had personality issues that we both knew had crossed individuals within the Department. And it was a general conversation that turned to Paul Charlton's persistence of issues once decisions had been made. And there was a similarity between him being told that he got two awards for his district, but he pressed on to ask for five more. And the similarity between the death penalty decision that had been made by the attorney general, and that even though the decision had been made Paul Charlton kept pressing on asking that that decision be changed to the extent that he misrepresented that process in a hearing in the District Court.

Q And did Mr. McNulty tell you that is the reason that he was put on the list?

A As I told you earlier, I didn't have any discussions with anybody about why individual people were put on the list.

Q Did he tell you that was the reason he was fired?

A I didn't have any discussions with anyone in the Department about why these people were fired.

Q Did you discuss anyone other than Mr. Charlton with Mr. McNulty? And when you look at your notes now, as you are doing, do you have notes of the conversation with Mr. McNulty?

A No. I believe we may have also talked about Carol Lam and the fact that I might be asked to talk about her PSN performance and her handling of border immigration cases.

Q What's your best recollection of the date of this conference on victims in the last month where you had this conversation with Mr. McNulty?

A April or May.

Q And I assume the Department can provide it. It was here in D.C.?

A Here in D.C.

Q At Main Justice?

A I think it was in the Reagan Building.

Q And the name of the conference, is it Victims Rights or something?

A It was a victim rights award ceremony. And I can

probably find that for you. I can check my calendar.

Q I'm sure the Department can. That would be fine. At the time that you had this conversation, had you been requested to appear as a witness here?

A I don't recall. Because I think that there was a letter that was sent to the Department, and I don't know at what point it was actually decided that I would come for an interview.

Q But you knew at the time of the conversation with Mr. McNulty that you were likely to be a witness in this proceeding, correct?

A Yes, yes.

Q And did that deter you in any way of discussing these matters with Mr. McNulty?

A No.

Q And did he suggest that you should include this in your testimony?

A No.

Q Did you discuss Mr. Bogden with Mr. McNulty?

A No.

Q Did Mr. McNulty tell you that he was quite ambivalent about the termination of Mr. Bogden?

A I think I heard that at some point.

Q But not from Mr. McNulty?

A I don't remember.

Q What's your perception of Mr. Bogden as a U.S. attorney?

A I don't recall much at all about Dan Bogden's performance as a United States attorney. I don't recall hearing anything good. But I also don't recall hearing anything bad. So I think that I -- you know, I don't have any reason to believe that there was anything negative in his performance.

Q Was there an EARS evaluation done of Mr. Bogden while you were the executive director?

A I don't know.

Q Did you send Mr. Bogden a letter praising him?

A I sent Mr. Bogden a letter about his internal self-management evaluation.

Q And was it positive?

A They were all positive.

Q Had you ever heard that Mr. Bogden or his office lacked vigor?

A I had not heard that.

Q Did you have any discussions with Monica Goodling about Mr. Bogden?

A No.

Q Did Ms. Goodling tell you that she had placed Mr. Bogden on the list?

A No.

Q Do you know anything about Mr. Bogden's investigation of the governor of Nevada, Jim Gibbons?

A No.

Q When did you first learn that Mr. Graves had been asked to resign?

A I think that at some time after Mr. Graves resigned I had the general impression that he had been asked.

Q Where did you get this general impression?

A From conversations that I had with Monica Goodling.

Q What did she say?

A She indicated that the congressional delegation in his district or state --

Q Which is Missouri.

A -- were disappointed that Todd did not have an interest in running for political office in the future. And so that is the only conversation I recall. And, you know, I had a general impression, you know, that he may have been asked to resign.

Q When was this conversation with Ms. Goodling about Mr. Graves?

A At some point after he left.

Q Well, he left some time in 2006, correct, well before December 7?

A He left before December 7.

Q He left before the elections in 2006, correct?

A I don't know when he left. I don't remember when he left. I know I didn't know why he left at the time. But at some point after he left, I had a conversation with Monica Goodling which caused me to form the general impression that he was probably asked to leave.

Q And you had the impression he was asked to leave because he had expressed a view that he did not want to run for office?

A I just had the general sense that there was some unhappiness about his performance.

Q Well, but you said it was unhappiness about his lack of interest in running for office?

A And I knew that there were people within the congressional delegation that were unhappy, you know, disappointed that he wasn't going to run and they wanted someone else to have an opportunity to serve.

Q They wanted someone to have an opportunity to serve as a predicate to running for office?

A I didn't say that.

Q Well, I understand that. I am trying to understand the connection between what Monica Goodling told you was the concern about Mr. Graves, about his lack of ambition to run for political office and his being asked to leave as a U.S. attorney?

A That is something you are going to have to draw for

yourself. All I can do is tell you what I know, what people told me and what my impression was.

Q Did she tell you that he was not bringing voter fraud actions prior to the election and that is what disappointed the Members of Congress who were running for reelection?

A She definitely did not tell me that.

Q Do you know Mr. Schlozman?

A Yes.

Q Do you know why he was selected to be the interim U.S. attorney in Missouri?

A No.

Q Did you have any conversations about that?

A No.

Q What role did you have with respect to the appointment of the interim U.S. attorney in Alaska?

A I suggested Mr. Cohen as a possible candidate for the position of United States attorney in Alaska.

Mr. Hunt. I am not sure what this has to do with any of the U.S. attorneys who were asked to leave.

BY MR. NATHAN:

Q Did you know the first assistant in Alaska, Deborah Smith?

A No.

Q Did you know anything about her?

A No.

Mr. Hunt. Look, the discussions and investigation is about the U.S. attorneys that you have identified before and their jurisdiction. Alaska is not one of them.

Mr. Nathan. Well, I think that we are entitled to ask these questions and you can object to it.

Mr. Hunt. But we are and have previously said that we object to information about U.S. attorneys and candidates for U.S. attorney positions other than those with respect to these jurisdictions, and that is not one of them.

Mr. Nathan. I understand your point. I am going to ask the questions. If you want to direct the witness not to answer them and she follows your direction, that is fine.

Mr. Hunt. You understand and she's understood that the Department has agreed to participate in cooperating in this investigation, but not to talk about information related to other U.S. attorneys or candidates for U.S. attorney positions unless they have something to do with the replacement of one of those U.S. attorneys, and this is not one of them.

Mr. Nathan. Look, I am going to move on. But I think this investigation is broader than that and it relates to the complete politicization of the Department of Justice. And I am going to persist in asking questions about that matter beyond these eight or nine because it relates to the



reasons which still have not been provided, and certainly have not been provided by this witness, as to the reasons for termination of these nine U.S. attorneys.

Mr. Flores. Let the record reflect that, as in the past, we support the Department's objection on this issue.

Mr. Nathan. Thank you, Mr. Flores.

BY MR. NATHAN:

Q In your statement, Ms. Buchanan, you say that you learned that you were placed on a list around November 1 of '06, for replacement, is that correct?

A That's correct.

Q And when did you first learn that?

A I learned of it on the morning of May 17, 2007.

Q And how did you learn of it?

A When my husband told me it had been reported in the Washington Post that I was on an e-mail list of people that had been considered for firing, and I thought he absolutely must be joking.

Q And what did you do after learning of this?

A I called, what's his name, Michael Elston and asked him why he had included my name in the e-mail. I demanded to know why I was included and who had any concerns about my performance.

Q And what did Mr. Elston state?

A He told me that he could not recall who put my name

on the list or who put anybody's name on the list or what the concern was. He simply could not recall.

Q Did you believe him?

A I told him that this was totally implausible.

Q And what did he say?

A He insisted that he couldn't recall.

Q Did you find that any more plausible?

A No. I told him that it was reckless to include the names of five stellar United States attorneys on an e-mail list without having any justification for including these names.

Q Did you follow up with any further conversations with people at the Department about this?

A I talked to the other United States attorneys who were on the same e-mail list, and I also had a conversation with Brian Rorcasey and with Kevin O'Connor.

Q What's Mr. O'Connor's position?

A Kevin O'Connor is the chief of staff for the attorney general.

Q And what did they say? What did you say to them and what did they say to you?

A I also had a conversation with Paul McNulty. Who do you want to start with?

Q Who do you want to start with? Let's start with Mr. McNulty, who was the boss of Mr. Elston, correct?

A That is correct. I wanted to know what Paul McNulty knew about this. And he reiterated what Mike Elston told me.

Q Which is what, what did Mr. McNulty say?

A Mr. McNulty said that Michael Elston had been asked by Kyle Sampson to survey people within the Department to find out if there were any other individuals with whom anybody had any concern that maybe should also be considered.

Q For termination?

A Yes. Paul McNulty said that he didn't know that Michael Elston was doing this at the time, and that he certainly regrets now that Michael Elston had anything to do with this. And that what Michael Elston told me is what Michael Elston told Paul McNulty, that he didn't remember why anyone within the Department had ever expressed concerns, if, in fact, they had, because I didn't believe that anyone did have any concerns. My belief was that Elston made this up and put these names on the list. And I was pressing Paul to see if he knew anything else about this.

Q Just so it is clear, who are the other four U.S. attorneys, and this is something that is in the press?

Mr. Hunt. Well, no, it is in the press. But to the extent that she has personal knowledge beyond what's in the

press, that would be beyond the scope as well.

Mr. Nathan. Well, I don't think so, and I am asking the questions.

BY MR. NATHAN:

Q Who are the other four and with whom did you have conversations among those four?

Mr. Hunt. That is outside the scope.

Mr. Nathan. Are you directing her not to answer that question?

Mr. Hunt. Yes, if you are asking for beyond --

Mr. Nathan. And are you going to follow his direction?

Ms. Buchanan. Yes.

Mr. Hunt. If you are asking for information beyond what we have agreed to for these purposes, yes.

Mr. Nathan. Well, I want to make it clear. I want to get an answer to that question, and we'll have to deal with it at another time because I want to know with whom you have had conversations about this.

BY MR. NATHAN:

Q Going back to your conversation with Mr. McNulty, what did you say to him in response to these statements?

A I continued to express my deep dissatisfaction that my name was included on this list. And my disappointment that my name would be included on a list. And that no one in the Department had alerted me to this fact before it

appeared. And, again, I demanded to know who included this information and why it was included.

Q And you didn't get any answers?

A That's correct.

Q And is that the last conversation you had with Mr. McNulty?

A The conversations that we had about this would have been on that same day, May 17, because I was contemplating whether I should issue statements about this information and whether Elston would issue a statement. And Elston did issue a statement and so did the Attorney General indicating that nobody -- that the Department never believed that I should ever have been included on this list.

Q Have you had any prior experiences with Mr. Elston?

A I have had some dealings with Michael Elston, yes.

Q I mean, any negative experiences?

A Not really, no.

Q Well, I think you said that you believe that he made this up and that he put you on the list without getting it from anyone else?

A Right.

Q Because that is what you believe, isn't it?

A That's correct.

Q What's the basis for that?

A I think that he made it up because he had a

colleague in his district that was from the Eastern District who was interested in being the U.S. attorney in Western Pennsylvania.

Q And who was that?

A And I knew that this was the case because this person had previously communicated that to me. And I knew that. Because the explanation that Elston gave was so implausible I couldn't imagine why I would be included for any other reason.

Q Who was the assistant in his district that is interested in your job?

A Is it appropriate to discuss that?

Mr. Nathan. You said you talked to him or her.

Mr. Hunt. Just off the record for one second.

Mr. Nathan. Okay, we are off the record.

(Discussion held off the record.)

Mr. Hunt. I want to discuss this a little bit more with Faith. Can we reserve and come back to this because there is a particular issue that I just want to make sure we are okay. We may be all right.

Mr. Nathan. Let's move on and we'll come back.

Mr. Hunt. Okay.

BY MR. NATHAN:

Q What you are saying, Ms. Buchanan, is that Michael Elston lied to you, is that right?

A I believe he lied to me, yes.

Q In connection with an explanation of how your name got on this list?

A Yes. And the reason that I believe he lied is because I didn't think it was credible that he couldn't recall why any of the individuals were placed on the list. And that to me seemed to be very unbelievable for someone who was as bright as Michael Elston.

Mr. Hunt. Let's clarify you are talking about this list of, supposedly a list of five that was set forth in a Washington Post article, that is the list you are referring to?

Ms. Buchanan. Correct.

Mr. Howard. May 17.

BY MR. NATHAN:

Q Did Mr. Elston tell you that he couldn't remember who had suggested that any of the five people be put on the list, not just yourself, but any of the other four?

A I think that at the time we only spoke about me. But I know from talking to others on the list that that's the same thing they were told.

Q By Mr. Elston?

A Right.

Q So Mr. Elston, as best you know, has told each of the five people, yourself and the other four, that he can't

recall who told him to put any of those five on the list, is that right?

A That's correct.

Q And he also told you and each of the other four, as best you know, that he doesn't know why those unnumbered people suggested that you be on the list, that those people be on the list?

A That's correct. And he also said that he personally didn't believe that any of us should be on the list. And that when he passed on this information, that Kyle Sampson and others in the Department didn't think that any of the U.S. attorneys should be put on the list.

Q Any of those five?

A That's correct.

Q I want to call your attention to the last paragraph of your statement, or I'm sorry, the next to the last paragraph. It is the one that begins on the bottom of page 3. You say: It has been an honor for me to work with the talented men and women of the Western District of Pennsylvania and throughout the Department over the last 19 years. Are you planning to leave?

A No.

Q And you say in the next sentence, the last sentence in that paragraph, that you hope the Department can quickly move past this point and return its focus to the pursuit of



justice. Is the focus of the Department of Justice now on these firings and not on the pursuit of justice?

A The reason I said this is because this investigation is consuming so many resources of the Department of Justice. Me, personally, over the last couple of weeks, I have spent so many hours reading these documents, preparing for this, and I am just one person. So this is consuming the efforts and resources of the Department. And I and everyone else would be very pleased that this investigation can expeditiously be completed so that we can return our focus to the important work that we have to do.

Q And have you got any suggestion as to how we could find out how these names got on the list since you didn't have anything to do with putting them on the list and everyone else at the Department who was cited by Mr. Sampson denies that they put anybody on the list?

A Well, I think that you have to go to the person that created the list.

Q Is there any other source that you can think of?

A I don't know how the list was created.

Q Let me deal with another topic. You hired Monica Goodling at EOUSA in December of '04?

A That's correct.

Q Why?

A We needed a deputy in the executive office.

Q But why was she qualified to be a deputy in the office of EOUSA, a person who had never been in a U.S. Attorney's Office, correct?

A It came to my attention that Monica Goodling was interested in moving to another department or another component within the Department.

Q She was in the public relations office, right?

A That's correct.

Q And she had done public relations work in the campaign of '04?

A I don't know what she did in the campaign of '04. I knew that she did public affairs for the Department of Justice, and I knew that she was interested in moving to another component. I needed someone to work in the U.S. Attorney's Office to assist me with many of the activities that we had ongoing within the office. Some of those activities involved public affairs issues. The U.S. attorneys always felt that they didn't have enough support within the public affairs department because that is such a small department. And I felt that it would be important to have more support within the executive office so that we could assist the United States attorneys. So that was one of the things that she worked on. She also helped me to plan training conferences for the U.S. attorneys, including the National United States Attorneys Conference. And she

also worked with the United States attorneys in coordinating work with Project Safe Neighborhoods. And also some work involving collecting information about the Patriot Act and responding to different requests about that.

Q Was Ms. Goodling qualified to consider the hiring of U.S. attorneys and assistant U.S. attorneys when you hired her as your deputy?

A I don't know.

Q Did you inquire?

A That is not what I had her doing for me.

Q She didn't do that for you?

A No.

Q Did you attempt to make Monica Goodling your principal deputy?

A I had considered her at one point as a principal deputy, yes.

Q And would that position include the recommendations with respect to hiring of U.S. attorneys and assistant U.S. attorneys in certain offices?

A It would have included reviewing decisions that were made for hiring attorneys when we had a situation where there was an interim United States attorney. So, yes, it could have included that.

Q And was she qualified to do it?

A I can't comment on that.

Q But this was a job that you proffered to her, you wanted to give her, and you can't comment whether she was qualified to do it?

A She didn't do that for me at the time that she was my deputy. However, I certainly think that she could have gathered information for me as the director of the Executive Office and provided me with the support that I needed to make those decisions. Because that decision would have been made by the director of the Executive Office for United States attorneys and not other individuals within the office.

Q Did Mr. Comey veto your selection of Monica Goodling to be your principal deputy?

A I don't know.

Q Well, how is it that she didn't become the principal deputy?

A She wasn't offered the position of principal deputy. I had considered her to fill that role because I didn't have one. And I do recall that there was some discussion within the deputy's office that because she was just joining the office, she shouldn't assume that role, that we should start with the deputy position and see how things turn out.

Q Did you have a deputy previous to Ms. Goodling who was still there when Ms. Goodling was hired?

A Yes.

Q Who was that?

A Robin Ashton was a deputy in the executive office for U.S. attorneys, and she continued to be a deputy within the office even while Ms. Goodling was there.

Q Were those your only two deputies when you were executive director?

A At the time, yes. I subsequently made an offer to Steve Parent, who is there now as a deputy. But I don't believe he started until after I left.

Q How long had Ms. Ashton been there before you became the executive director?

A She had been there for a couple of years.

Q In the deputy position?

A Yes.

Q Why was it that you didn't want to make Ms. Ashton your principal deputy?

A Because I didn't think that Ms. Ashton was performing her duties in the best interest of the Department or in the best interest of supporting me in the position as the director of the executive office.

Q Are these two deputy positions political appointments?

A No.

Q Are either of them political appointments?

A I think that the position that Monica held was a

Schedule C appointment. So she was a Schedule C employee within the Department of Justice at the Office of Public Affairs. And I think she continued to serve in that role in the executive office.

Q But on paper these two deputy positions are not political appointments, right, these are career appointments?

A The two deputy positions would be career appointments. However, the principal deputy or the chief of staff, those would be positions that were brought in by the person who was the current director.

Q Is the executive director a political appointment?

A Yes.

Q Do you believe that Robin Ashton is a Democrat?

A I have no idea what her political affiliation is.

Q When you say she wasn't acting in the best interest of the Department, what did you mean?

A There were numerous instances when Robin Ashton --  
Ms. Burton. Could we go off the record for a minute?  
Do we need to put this on the record?

Mr. Nathan. Absolutely.

Ms. Burton. Why?

Mr. Nathan. Why? Because this was part of the politicization of the Department of Justice.

Mr. Mincberg. If you'll recall, there was a specific

article about Ashton not losing her job in part because she had started an investigation.

Mr. Nathan. Look, we have a limited time frame and I want an answer to the question.

BY Mr. NATHAN:

Q What did Ms. Ashton do that wasn't in the interest of the Department? Why did you say that?

Mr. Flores. Are we back on the record?

Mr. Nathan. Yes. We never left the record.

Ms. Buchanan. She certainly didn't lose her job. She left the executive office on her own.

BY Mr. NATHAN:

Q You testified here that you didn't believe Ms. Ashton was acting in the best interest of the Department. This is a career employee, a former assistant U.S. attorney. I don't know what her position is now. Maybe she's back to being an assistant. That is a pretty heavy charge to make about a person who was in that office for several years.

A Because every time I turned my back she was taking actions within the office that were contrary to things that I had done. She repeatedly made statements to the support staff about work that I was doing in the office. She would tell me one thing and tell the support staff something else. She was not a truthful person. And I could not have someone in that office in that position in a confidential role who I

didn't believe was honest.

Q Did Monica Goodling make statements to you about Ms. Ashton, critical statements about Ms. Ashton?

A She told me that Robin Ashton was rude and unprofessional to her, so, yes, that is critical.

Q Did she tell you that she thought she was a Democrat?

A No.

Q Did she tell you that she thought she was not supportive of the President or the Attorney General's programs?

A No.

Q Did you ever talk to Mr. Battle about Ms. Ashton?

A Yes.

Q What did you say to Mr. Battle about Ms. Ashton?

A I told Mr. Battle that I had concerns about Robin Ashton and that he should make his own decision about whether he could work with Robin.

Q Did you tell him what your concerns were?

A Well, there was one concern that was readily apparent to everyone. At the final United States attorney conference that I presided over as the director of the Executive Office for United States attorneys, Robin Ashton had been asked to compile a video of the accomplishments of the Executive Office. And I repeatedly asked her to show me



the progress of the video, to let me know how it was going, so that I could review it, and she refused to do that. And finally the night before the conference I saw the video, which was an extremely long presentation of the Robin Ashton show. It was embarrassing, it was unprofessional, it was insubordination. I had to spend an extremely large amount of time cutting these things so that this video presentation could be shown at the United States attorney conference. So this is one example of how you wouldn't want someone like this to be a deputy. I wouldn't consider this conduct to be supportive.

Q Did Mr. Battle ever tell you about his discussion with Ms. Ashton in which he said that Ms. Ashton had a Monica problem?

A No. Mr. Battle told me that he reassigned some of Ms. Goodling's or Goodling's duties and Ashton's duties and he also wanted to move Robin Ashton's office away from his office. And Robin was not happy about that decision, and she questioned Battle about the decision. And Mike Battle advised me that he told Robin that was his decision and she could handle the new duties that he had given her, or she could go back to the district where she was an assistant United States attorney. This is not a position that Ashton was entitled to. She was detailed to the Executive Office for United States attorneys, and she could be sent back at

any moment.

Q I assume that you heard the testimony of Ms. Goodling before this committee?

A I heard some of it, yes.

Q And you heard that she said she crossed the line and considered improper and unlawful political considerations in the hiring of career Department of Justice employees?

A I heard that, yes.

Q Did you hear that during the time that she worked for you?

A No. I watched it on C-SPAN 3, I believe.

Q I understand the testimony. But I am asking you, at the time that you were executive director and she was your deputy, were you aware that she was utilizing these improper considerations in making recommendations?

A Well, first, I was not aware of it. And, second, she wasn't making those recommendations to me at the time that I was the director.

Q Well, did you suggest to her that political considerations would be appropriately taken into account in considering assistant U.S. attorney positions in offices which were headed by interim or acting U.S. attorneys?

A I never suggested this to her. And, again, she wasn't performing this role for me when I was the director of the Executive Office for United States Attorneys.

Q Well, what personnel role did she play when she was at the Executive Office of U.S. Attorneys when you were the director?

A She managed the appointments unit, which was the unit that processed the paper work for interim United States attorneys and for United States attorneys. And this process involved a lot of paperwork.

Q Did it involve the selection of those people?

A It did involve the selection, but that was my role as the director.

Q But did she make recommendations in that position?

A No.

Q That wasn't part of her job?

A No.

Q Did she make comments on any of them?

A No.

Q So you are saying that her job, when she was your deputy and you were executive director was simply to deal with paper work on assignments, appointments?

A She coordinated the activities of the appointments unit, which would involve meeting with the appointment staff on a regular basis to keep track of what U.S. attorneys were leaving and what the time period was that we had to find an interim U.S. attorney. And she updated me regularly on that and she assisted me in the scheduling of interviews for

candidates for interim positions and for U.S. attorney positions.

Q And any other role in personnel matters when she was your deputy?

A She oversaw and coordinated the activities of the counsel to the director's staff, which would have been assistant U.S. attorneys who were on detail to the Executive Office. And she met with them on a regular basis and made sure that I was aware of any issues that were being handled by those attorneys.

Q Was she involved in the selection of assistant U.S. attorneys to be seconded to EOUSA?

A I don't understand your question.

Q Was she involved in the selection or review of applications for assistant U.S. attorneys who would be seconded to the Executive Office of the U.S. Attorneys?

A I don't know what seconded means.

Q Sent over there, transferred to work over there?

A Not during my tenure, no.

Q After you left the job of executive director of the EOUSA, and while you were still the U.S. attorney for the Western District, as you are now, did you have conversations with Monica Goodling about her work in EOUSA?

A I am sure I did.

Q And, at that time, was she involved in the selection

or recommendation of assistant U.S. attorneys in offices headed by interim U.S. attorneys or acting U.S. attorneys?

A I don't recall that.

Q When she was White House liaison and counsel to the attorney general, did you have conversations with her?

A Yes.

Q And did she tell you of her role then in the review and selection of assistant U.S. attorneys in offices headed by interim and acting U.S. attorneys?

A No.

Q Did she tell you about her role in reviewing potential immigration judges?

A No.

Q Did you know after you left the Executive Office and before her testimony before this committee that she was using political considerations in the hiring of career employees at the Department?

A No. I learned of that only from watching her testimony on C-SPAN 3.

Q And have you had any discussions with her since that time?

A No, not about this.

Q About anything?

A I repeated to you the conversation, the only conversation I had with her since she left the Department,

which was a brief telephone call simply to let her know that people in the Department were thinking about her and we wished her well and I hoped she was doing okay.

Q But I understood that was before her testimony?

A That's correct.

Q So I am asking now since her testimony?

A That is the only conversation I have with her since she left the Department, the only one. So there weren't any after her testimony.

Q Do you know whether Ms. Goodling ever took religious beliefs into account in making hiring decisions?

Mr. Flores. If I could interject. This might be a good time. We are now at 1:00. We started over four hours ago. We have three sides left to ask her questions. And I am concerned about the time that we'll have. And I am concerned about whether the witness needs a break for a refreshment.

Mr. Nathan. You have got a lot of concerns, Mr. Flores.

Mr. Flores. Could you please --

Mr. Nathan. If there are further questions, I think you are going to have to do it today or reschedule with Ms. Buchanan. I am confident that she's available to come back to Washington.

Mr. Flores. I disagree with that. Perhaps an

alternative procedure would be to interrupt your questioning at this point so the other side can get in time today.

Mr. Miner. Mr. Nathan, I join Mr. Flores in this. We all had notice that we have between 9:00 a.m. and 2:30 today to proceed. And in the interest of comity between the two Houses in the majority and minority I ask that we have at least a half an hour for the three remaining parties who have to ask. If you need to wrap up your line of questioning, that is fine. But I would ask some level of courtesy towards the three remaining questioners.

Mr. Flores. And I do not want to have to call Ms. Buchanan back again because she is a very busy sitting U.S. attorney.

Mr. Nathan. Is that right? You have checked her schedule and you know that; a woman who has spent 3 days a week in Washington during the time she was U.S. --

Mr. Hunt. Who works around-the-clock.

Mr. Nathan. Look, I understand you are a hard worker, but there is obviously a lot of relevant information that you have.

Mr. Hunt. And let me just say that this was carefully scheduled. If it wouldn't work, then it is a terrible imposition on a number of people.

Mr. Nathan. Well, I'll tell you what's a terrible imposition, is to give documents the night before that

relate to her office, and especially when this deposition was requested a month ago or more than a month ago.

Mr. Hunt. You have asked for so many different documents it is hard to get them all to you at the same time.

Mr. Nathan. Every time we have a deposition we get them the night before, including when I am out of town.

Mr. Hunt. You get a lot before that.

Ms. Buchanan. I thought we said we were going to be professional. Time out here.

Mr. Nathan. I thought so too.

BY Mr. NATHAN:

Q I repeat the question. Do you know if Ms. Goodling took religious beliefs into account in the hiring decisions with respect to career employees?

A I don't think we made a decision on the last motion.

Q I have made a decision. Let's move ahead.

Mr. Miner. I don't think you can make that decision unilaterally. Are you saying you are disregarding the request?

Mr. Nathan. I am going to do my best, guys. I want to get an answer to the question and the colloquy is delaying resolving getting my questions answered.

Mr. Miner. How much more time do you think you need?

Mr. Nathan. I would say about half an hour maybe.



Mr. Flores. And that would leave us with less than an hour for three people. That would disproportionately disadvantage Republican time.

Mr. Nathan. I didn't know there was Republican time.

Mr. Flores. Also, questions they would want to ask. And I would hope that you could reconsider your position. And perhaps we should take a few minutes for the four counsel from the four sides to confer?

BY Mr. NATHAN:

Q Could you answer my question, please?

A The quick answer is no.

Q Ms. Buchanan, when you talked with Mr. McNulty and Mr. Elston and objected to your being included on the list, did you give reasons to them why you should not have been on that list?

A The reasons would have been too numerous to mention.

Q Did you mention any of them?

A I didn't need to.

Q Did you mention that you have only brought prosecutions against Republicans and not against any Democrats?

A Absolutely not.

Q But is that a fact? Have you brought any official political corruption cases against a Republican office holder during the time that you have been the U.S. attorney?

A No Republican office holder has committed crimes that could be proven beyond a reasonable doubt.

Q And you know that in your district, I assume, or do you mean anywhere, is it anywhere?

A In my judgment. That is the answer to your question.

Q In your judgment? And did you investigate them?

A Absolutely.

RPTS DEAN

DCMN ROSEN

Q Did you investigate Senator Santorum with respect to the allegation about --

Mr. Flores. Objection.

Mr. Hunt. I caution the witness not to talk about any pending or prior investigations of anyone?

Mr. Nathan. She said that she investigating and they didn't commit a crime.

BY MR. NATHAN:

Q Did you inves --

Mr. Hunt. She's not going to talk about specific investigations and don't mischaracterize her testimony.

Mr. Howard. Irv, I'm going to instruct the witness not to answer.

BY MR. NATHAN:

Q Did you publicly report that you had referred Senator Santorum to main justice for investigation?

A I responded in an interview that my office did not participate in any investigation of Senator Santorum, and that that matter was referred to the public integrity section of the Department of Justice.

Q Who referred it to them?

A I did.

Q You referred it. And when did you refer it?

A Whenever the allegations were made.

Q And why did you refer it as opposed to investigating it?

A As a United States attorney, it's common practice to refer matters to the Department when it's believed that there's either a conflict or an appearance of conflict or when you suspect that whatever you do, somebody's going to complain about it.

Q Did you refer to the Department any investigation of Representative Habay?

Mr. Hunt. Look, I'm going to continue to object to questions that call for information about investigations. You know that's outside the scope.

Mr. Flores. And I'm going to support that objection. And I'm concerned about whether we're turning this interview into a witch hunt without a predicate set for such highly charged questions being asked of a witness who is a sitting U.S. Attorney?

BY MR. NATHAN:

Q Ms. Buchanan, how many Democratic office holders have you prosecuted in the time you've been in your position?

A Well, I don't count them based upon their political affiliation. There have been a number, there have been a

number of individuals within the Sheriff's Department of Allegheny County, there have been a number within other departments. However, Allegheny County is largely Democratic, so most office holders are democrats.

Q Your district includes more than Allegheny County, right, 23 other counties?

A That's correct.

Q And they have many Republicans as office holders in those counties, don't they?

A I don't know.

Q But you do know that you've prosecuted a number of Democratic office holders and you haven't prosecuted a single Republican, correct?

A I have prosecuted those cases in which evidence has supported the charges being brought in connection with illegal conduct.

Q Your office filed a brief and affidavit in a court case last week involving Democratic coroner Cyril Wecht in which it is represented that Mr. McNulty had nothing to do with the decision not to have a perp walk of Mr. Wecht, or Dr. Wecht.

A That's correct.

Q Are you aware of that?

A That's correct.

Q And is that true?

A That's correct.

Q Is it not true that you told a former United States Attorney general, a Republican U.S. Attorney General that you were insisting on a perp walk for Mr. Wecht?

A That's not correct.

Q So if that former Attorney General makes that statement, he's not telling the truth?

A And it wouldn't be the first time.

Ms. Burton. This is beyond the scope of this oversight inquiry.

Mr. Nathan. No, I don't think so.

Ms. Burton. Yes. This is nothing that's ever been discussed in the past, this is just outside the scope.

Mr. Hunt. It seems like particularly abuses of a sitting U.S. attorney to question on particular ongoing litigation and investigation matters that have nothing to do with the issues before this committee.

Mr. Nathan. I'm not asking about the investigation.

Ms. Burton. Yes, you are. You are cross-examining her about a pending matter, and I don't think that's appropriate.

Mr. Nathan. I want to ask her this question.

BY MR. NATHAN:

Q Did Mr. McNulty call you and have a discussion with you concerning a perp walk for Dr. Wecht?

Ms. Burton. I object to this question.

Mr. Flores. Objection.

Mr. Hunt. I agree, this not an appropriate line of questioning. I don't think it is appropriate for her to be put in a position where she's asked to divulge non-public information about a pending matter.

BY MR. NATHAN:

Q Can you answer that question?

Ms. Burton. The Department objects to this kind of inquiry.

Mr. Flores. As do we.

Mr. Howard. She won't answer it. Go ahead and ask your next appropriate question.

BY MR. NATHAN:

Q When you were director of EOUSA, did you have conversations with people at the White House?

Mr. Howard. I think that's been asked. I'm going to make a suggestion, you said about another 30 minutes, why don't you ask questions you haven't asked?

BY MR. NATHAN:

Q Can you answer that question?

A About what?

Q Well, did you have conversations with people at the White House? If you say about what, that suggests that you did.

Mr. Hunt. It doesn't suggest anything.

The Witness. The only conversations I had with people at the White House were either in relation to presentations that I made at the White House or for meetings that I had with individuals involving my own consideration for different positions.

BY MR. NATHAN:

Q I'm not asking about the positions, your own positions. What presentations did you make to the White House?

A I gave a presentation for -- about the PATRIOT Act to a group, I believe it was called Jinsa, that involved citizens who came in for a roundtable discussion about the PATRIOT Act, and I did a presentation about that.

Q And you also wrote an op ed paper about the PATRIOT Act?

A I've written a number of op ed pieces.

Q About the PATRIOT Act?

A Yes.

Q I'd like to have marked and this will be our last exhibit this article that appeared in an op ed piece that appeared in the Pittsburgh Post Gazette in March of '07 written by Thomas Farrell.

[Buchanan Exhibit No. 12  
was marked for identification.]



BY MR. NATHAN:

Q I assume you've seen this article before, Ms. Buchanan?

A I have, yes.

Q Was Mr. Farrell an Assistant U.S. attorney with you when you were an Assistant U.S. attorney in the Western District of Pennsylvania?

A Yes.

Q Did he work -- you were never the U.S. attorney when he was there, right?

A No.

Q Did you have any administrative positions when --

A When he was there? No.

Q You were never his supervisor?

A No.

Q Do you have any kind of antagonistic personal relationship with Mr. Farrell?

A I do now.

Q Before this article appeared?

A I really didn't have much involvement with Tom Farrell at any time while he was in the office or outside of the office. Obviously by the tone of this article, he doesn't like the PATRIOT Act, and I think it is a fine piece of legislation.

Q Actually, what he says in this article is that he no

longer has faith that you can remain independent of the administration's partisanship and that your continued leadership casts a cloud over public corruption investigations and prosecutions pending in your office.

I would just ask you how you respond to that statement by someone who doesn't appear to have anything against you personally?

A Well, the article really ought to mention that Tom Farrell represents a number of democrats who are subjects of former and current investigations. So I certainly wouldn't call him an unbiased individual.

Q What would you answer with respect to the independence and confidence when as you've told us, you've brought a number of public corruption cases against Democrats, but in 24 counties, can't find a single Republican office holder in 6 years to bring a charge against.

Mr. Flores. Is that a fair characterization of the witness's testimony?

Mr. Nathan. I thought so.

Mr. Flores. I believe the witness testified that she did not have evidence sufficient to support a charge beyond a reasonable doubt against an individual, not that she had not been able to find in 24 counties a single Democrat --

Mr. Nathan. No, no, she's found Democrats.

BY MR. NATHAN:

Q I'm was asking if you wanted a chance to put it on the record?

A I'll respond to this as a baseless criticism by an adversary of the U.S. Attorneys Office who clearly has a motive and a political bias that is completely add odds with the current administration, that's what I would characterize this as.

Mr. Nathan. All right, I'm going to terminate my questioning now.

Let me ask one more -- one more document, I apologize. We won't go beyond identifying it for the record. Let's have this marked as the next exhibit.

[Buchanan Exhibit No. 13  
was marked for identification.]

BY MR. NATHAN:

Q I've handed you a document that's been marked as Exhibit 13, and the question I have for you is the letter attached to it, which is Bates stamped DAG 2336 to 2338, the letter that you helped prepare in response to Congressman Issa and other representatives in the December 2004, which was then sent by Mr. Moschella.

A What's your question?

Q Is that the letter that you helped prepare and that was sent dealing with the Southern District of California?

Mr. Howard. Is your question is the letter in the back?

Mr. Nathan. Yes, and are the e-mails genuine? Those are the comments you made and the statements you made in preparation of that letter.

The Witness. I believe so, yes.

Mr. Nathan. Thanks.

#### EXAMINATION

BY MR. FLORES:

Q Ms. Buchanan, I'm Daniel Flores from the House minority. I want to thank you for your graciousness and your time today and your willingness to come here and answer our questions.

I also want to thank you for your preparation of your statement, which has been very helpful to us I think in going about the conduct of the interview.

I will try and go through my questions relatively quickly given the pressures on your time and the time of others. The first question I have follows up on some of the concluding questioning by Mr. Nathan.

You were appointed as U.S. attorney for the Western District in 2001, correct?

A That's correct.

Q When did you begin serving in office?

A I began serving around September the 15th. I was on

a flight from Madrid, Spain to Philadelphia on September 11th, 2001 so I -- my flight was diverted back to Madrid and I was stranded outside of the country for a number of days. And I had been confirmed before I could even get back to the United States.

Q Since you assumed office, have you endeavored to discharge your duties consistent with high standards of integrity, honesty, impartiality and zealousness for the just administration of law?

A I have. And I have done everything in my power to ensure that every Assistant United States Attorney within my office did the same.

Q Have you endeavored to do so with regard to all classes of cases which have come before your office?

A I have reviewed every case that has been referred to the United States Attorney's Office and I have reviewed every case based upon the facts and the law. And I have made decisions based upon those factors and those factors alone.

Q Have you striven to assure that all of the individuals beneath you in your office have done the same?

A I have. And in fact, every case which is brought to the United States Attorney's Office is generally brought from law enforcement agencies. So we don't generate the investigations, they are generally brought to us from law

enforcement agencies. Every prosecution recommendation that is made within my office is made to the supervisory staff, and is reviewed by the supervisory staff, and is ultimately decided by me. And each and every one of these decisions is made after a full and fair review of all the evidence and all the legal issues involved in each and every investigation.

Q If I could now turn to a few questions that came to me as I was reviewing your statement. In the conversation that you had with Kyle Sampson that you reference there and which you discussed earlier in the morning, is there any further detail you might be able to offer us concerning why he undertook to begin that review of U.S. Attorneys and why he was doing that that review?

A It was my understanding that at the conclusion of the first term of the administration some U.S. attorneys left and other U.S. attorneys had a desire to remain within the Department. And I believe that Kyle Sampson was of the opinion that most of the United States attorneys should probably remain, but that we should conduct a review of the United States attorneys to determine if there are any districts in which the Department may be better served by another individual. And I think he really did have a genuine interest in trying to make sure that we had the best person in the position, and that there weren't U.S.

attorneys who, at the end of 4 years, had kind of lost their interest and focus on the job or that based on their performance for the first 4 years, if they weren't -- you know, if they weren't carrying out the department's priorities, that their continued tenure should be questioned.

Q Is it not true that U.S. attorneys serve at the pleasure of the President?

A That's correct. And I think that each United States attorney who accepted the appointment as the United States attorney fully understood that, and understood that we served at the pleasure of the President, and at any time the President can thank us for our service and ask us to submit a letter of resignation.

Q Is it not also the case that when the President asks a U.S. attorney to serve, that it is expected that that U.S. attorney in office be effective, be professional and in generally comport with high standards for such a judicial officer?

A That's correct. And before each United States attorney began serving his or her tenure, we met with Attorney General Ashcroft and the Attorney General explained to us what the priorities of the Department of Justice were and asked if we would have any difficulty in carrying out those priorities. And so every one of the 93 United States

Attorneys who accepted the President's appointment knew what the priorities of Department of Justice were and knew that it was expected that each and every United States attorney would carry out those priorities and would serve in the public's interest.

Q Is it reasonable to say that notwithstanding that initially high standard that is applied to U.S. attorneys as they are asked to serve and begin to serve office that it can nevertheless be determined that in a given district it might be possible for another individual or multiple individuals to actually come in and serve in replacement of a U.S. attorney and do even better?

Mr. Nathan. When you say "multiple," do you mean teams of U.S. attorneys?

BY MR. FLORES:

Q No, various individuals could be --

A Well, I think generally, when a vacancy occurs within the United States Attorney's Office, there are often multiple candidates who are being considered. And I know this because in my role as the director of the Executive Office for the United States Attorneys, I participated in that selection process. So I often had the opportunity to meet outstanding lawyers in each judicial district and to have a role in making recommendations. So yes, I believe in numerous districts, except the Western District of



Pennsylvania, there are probably many attorneys who may be qualified and would do an outstanding job.

Q Is it fair to say that some of them might even do a better job than a sitting U.S. attorney?

A Yeah, I mean, I can't speculate on that without knowing who the candidates were.

Q Sure. I'm just asking as a general proposition.

In your view how important is it for a Presidential administration to get the maximum amount of performance out of the U.S. attorneys and their administration of justice in their districts, particularly as the time for the administration to make achievements draws to a close in the last couple of years of the administration?

A Well, I think that that is generally not a problem, because most individuals who serve as a United States attorney are so honored to have the opportunity to serve and they want to do the very best job they possibly can. And in my opinion, most United States attorneys will carry out that obligation with incredible zeal.

And each United States attorney is a representative of the administration in that district, because most citizens are not going to have an opportunity to meet the President or the Attorney General. So it is the United States attorney who represents very often the administration in that district. And I think every U.S. attorney understands

that it is a pretty awesome responsibility that you have when you are the Department's representative in your district.

Q Is it not the case that at the conclusion of the U.S. attorney review process that was coordinated by Mr. Sampson, most of the U.S. attorneys who had been sitting remained in office?

A Well, eight United States attorneys were asked to resign. So yes, more than the majority of the United States attorneys remained in office.

Q So were the results of the process consistent with what Mr. Sampson had indicated to you at the outset was the goal?

A Yes.

Q Earlier in your testimony and perhaps in your statement as well you mentioned that you had discussions or actually had not -- let me rephrase -- that you had not had discussions with Mr. Sampson or Ms. Goodling that you characterized as conversations in which you provided input into the review process; is that correct?

A That's correct. I had conversations with Kyle Sampson about the fact that there would be a review process and he indicated to me that he would most likely seek my input. I advised Monica Goodling of this fact. But beyond that, he did not ask me -- Kyle Sampson did not ask me for

my input, and I did not discuss anything further with Ms. Goodling other than the fact that Kyle Sampson had indicated to me that there would be a process.

Q When you say you he did not -- do you mean in a specific conversation that was stated to bear on that process that was put forward?

A Yes, that's correct. I had many conversations with him during his tenure at the Department of Justice about United States attorneys in general, but I didn't have any conversations with him that I believed were in an effort to develop a list of United States attorneys who should be considered for replacement.

Q If I'm correct, your testimony about those conversations you just described did include some content bearing on performance of their jobs by some U.S. attorneys.

Please correct me if I'm wrong, but might it have been reasonable for Mr. Sampson to have recalled those conversations as the ones by which he obtained your input?

A Well, he certainly may have, because he knew that he was involved in this process. And so he may very well have developed a list and then sought information in many forms. I can't tell you what information he may have taken from any conversations we had that he utilized in the development of his list.

Q Did he ever come back to you over the course of your

many conversations about whatever topic and revisit any performance issues that you had previously discussed about a U.S. attorney?

A Not that I recall.

Q You testified earlier you mentioned in your statement that there were two U.S. attorneys to whom you spoke about performance issues and their pursuit of policy priorities, I believe those were Ms. Lam and Mr. Ryan, if I am correct?

A That's correct.

Q I notice you provided a fair amount of testimony already about the nature of those conversations, but is there anything else relevant and material about those conversations that you would like to get on the record?

A Well, for example, my statement was directed to the eight United States attorneys who were on the list. So I was referring to any communications that could have been characterized of performance or not pursuing department priorities. And I wanted to make sure that it was distinguished that there were some issues dealing with management concerns involving the Northern District of California, and there were also concerns about the pursuit of the priorities in the Department involving the Southern District of California, which would have included Project Safe Neighborhoods and the prosecution of immigration cases.

It was very unique that a United States attorney would directly, you know, admit that they weren't even going to try to comply with the priority. And that's sort of what Carol Lam did in terms of the Project Safe Neighborhoods.

In fact, many districts received additional resources to handle those cases and her office received additional resources. And instead of using those resources to handle those cases, you know, she didn't. And so that clearly shows a lack of support of that particular effort that the President and Attorney General thought were important.

But I don't know what the reasons were that she was on the list. These are just issues that I'm aware of that I know that others were aware of that could have been taken into consideration.

Q Is there anything more?

[Witness conferred with counsel.]

The Witness. And I had -- I also had several conversations with Kyle Sampson regarding the concerns over the prosecution of border and immigration cases along the southwest border, so I know that Kyle and I had many conversations about that issue.

BY MR. FLORES:

Q Mm-hmm.

A So I mentioned these two United States attorneys, because I recall that I had conversations with Mr. Sampson

about these two attorneys involving issues that could be characterized as performance-related or lack of support of pursuing priority issues.

Q Is there anything else you'd like to add about your conversations with those two individuals?

A No, not at this time.

Q In your testimony earlier, you discussed the particular situation of Project Safe Neighborhood and gun crime numbers in the Western District of Pennsylvania earlier in your tenure. And you indicated that there had been low numbers in that area and that when you became aware of that, if I'm recalling correctly, it was when you became aware of it first, you sua sponte, took note of the issue and undertook steps to bring the numbers up consistent with that area being a priority of the administration.

What steps did you take that you haven't already discussed?

A At one point, I met with my Deputy Criminal Chief who oversaw the prosecution violent offenses to find out why we did not have more gun prosecutions. I was trying to understand what the problem was. And he had indicated to me that we weren't receiving sufficient referrals from local law enforcement, nor were we receiving sufficient support from the ATF.

And when I heard that, I brought all the parties

together in one room, because I didn't want the various law enforcement agencies to point the finger at each other. So I wanted to make sure that everyone explained exactly what they were doing and how they were doing it so I could get to the bottom of what this problem was, because I certainly knew that there were gun violations occurring in Western Pennsylvania and I knew that I wasn't seeing them.

And so I addressed the issue with each law enforcement member in front of the others so that we could get to the bottom of the problem. And what I learned was that we weren't receiving all the referrals, that ATF was not processing all the referrals, and that my staff did not have a clear direction about what types of cases we should be pursuing.

And once we left that meeting, everyone had a very clear direction about what was expected in terms of addressing firearms violations in the Western District of Pennsylvania. And as a result of that. The firearms prosecutions increased by 300 percent.

Q Within what time frame?

A I could get that information for you.

Q Okay. Was it a matter of months or a matter of a couple of years?

A The prosecution of firearms cases has dramatically increased from 2003 to 2004, and then the prosecutions have

remained steady since that time, so it wasn't just a backlog of old cases. It has been a continued and sustained effort to protect the citizens of Western Pennsylvania from violent crime.

Q Following the meeting with the relevant players that you just described, what steps did you take to make sure that everybody acted effectively on the understanding that they left the meeting with regarding to how to bring up the prosecution numbers?

A I set a practice in place where the City of Pittsburgh would send referrals for gun cases directly to the United States Attorney's Office at the same time that they sent them to the ATF so that everyone would have the same referrals, that the ATF understood what our prosecution guidelines were for handling these cases and that my assistants understood what the prosecution guidelines were for handling these cases. And with everyone having a consistent understanding, there was no longer a problem about what cases should be referred for prosecution.

I also instituted a regular practice that every 2 weeks, members from the district attorney's office of Allegheny County would meet with members of my staff and members of the ATF so that they could review and confer with each other about what cases might be appropriate for Federal prosecution.



Q Do you believe it fair to say that that describes a set of procedures that were relatively simple and straightforward, good management practices that pursued with a reasonable level of activity could be expected to produce improvements?

A Oh, absolutely. And I think that it was also apparent from the focus that the Department of Justice had in this area and from the Deputy Attorney General's interest in reviewing the performance of various districts that this was something that was important to the Department. Not only were we told by the Department this was important, but the President came to speak to the United States attorneys, and told everyone in the room that if there was any doubt about how important it was to prosecute violent crimes cases and cases involving firearm violations, that they needed to understand it was a priority and we better get after it.

Q Was there anything about those steps that you undertook to produce effective results -- was there anything among those steps that you undertook to produce effective results in your district for Project Safe Neighborhoods that Carol Lam could not have undertaken in her district to attempt to achieve similar results?

A Not my knowledge.

Q I hope I'm not being incorrect, as I'm recalling you mentioned earlier in your testimony that when either the

question of improve Project Safe Neighborhood enforcement, or achievement of priorities, or immigration and border crime prosecutions was raised Ms. Lam suggested there was really nothing she could do about it.

Was that the Project Safe Neighborhoods issue or the immigration issue?

A I believe it was both issues.

Carol Lam did have unique challenges as a border district, she had a large number of immigration violations that occurred along the border. And those districts really had a unique challenge and she felt that these cases required so many resources that if she applied all of her resources to the immigration matters and to firearms matters, she wouldn't have available resources to prosecute other types of crime, including health care fraud. And these were -- the fraud cases were those that Carol Lam believed were a bigger priority for her district.

Q But if it is fair, it sounds like the steps that you undertook in Pennsylvania were not terribly resource-intensive steps, that it might at least have been a first attempt in the Southern District of California for a period there to improve numbers; is that fair to say?

A Well, there are a lot of things that I think U.S. attorneys could do. In fact, one of the things we did in Western Pennsylvania was to designate several assistant

United States attorneys who would develop expertise in investigating and prosecuting gun cases. And we would also work with the ATF to develop their expertise so that these cases could be handled with the greatest amount of efficiency. And I think that those are practices that many other United States attorneys put into place throughout the country.

Q I know I'm taking up more time than I'd suggested, so I will try and move on more promptly from this point.

Turning to Mr. Cummins, I believe in your statement you make a representation to the effect that you believe Mr. Cummins more than ably served.

What was your basis for that? Was that personal knowledge or secondhand knowledge?

A I never heard anything negative about Bud Cummins. I knew that he was relevant regarded by his colleagues. I never heard any other reason for why he was asked to leave, other than that the Department believed he was planning to leave, and that they had an interest in seeing Tim Griffin in that position, which is certainly the President's prerogative.

Q Thanks.

On page 3 of your statement, you state that it has also been suggested -- this is a quote, "That United States attorneys were replaced because they made prosecution

decisions based on political motives. Based on my experience as the United States attorney for the Western District of Pennsylvania and the Director of EOUSA, I do not believe that this ever occurred."

A very basic and simple question, but what were the basis upon which typically prosecution decisions were made in your district and throughout the country while you were Director of EOUSA?

A The prosecution decisions were made based upon the facts and the law. I know from my experience in bringing cases that we were very sensitive to make sure that we carefully investigated public corruption cases and that we did not allow any other factors to enter into this decision process other than the facts and the law.

I did have one incident involving the investigation of the Allegheny County Sheriff's office in which the investigation was wrapping up near an election. And I made the determination that an active consultation with the public integrity section that I would not bring charges against the number two person in the sheriff's office until after the election, because I wanted to avoid any appearance that the Department of Justice was taking any step that would in any way influence the election.

So this is a situation in which the Department was very careful and very sensitive to the timing of the prosecution

and the political nature of these kinds of cases. And surprisingly, because we waited until after the election, there were people who were critical and said, gee, they wish they'd known that the number two guy in the sheriff's office was going to be indicted because that would have affected their decision in who to vote for.

Q A question has come up during the investigation at various times about why having identified through the review process that Mr. Sampson initiated performance problems with the various U.S. attorneys who were dismissed, the Department did not afford, at least in every case in every way it could have, an opportunity for each of those U.S. attorneys to cure their performance issues in order to be able to continue to serve.

Based upon your experience as director of EOUSA and other relevant experience you have, do you think it might have been reasonable for Department of Justice management to have concluded that when this process ended in late 2006, given the short time left for any sitting U.S. attorney after confirmation to actually serve and achieve something in their district to have determined that based on considerations of time, that it just wasn't feasible to provide each of these individuals an opportunity to cure rather than bringing in a U.S. attorney?

Mr. Nathan. Could I have the question read back,

please?

BY MR. FLORES:

Q Did you understand the question?

A I think I understood the --

Mr. Nathan. I would like it read back, please.

[The reporter read the question as requested.]

The Witness. The process of hiring a U.S. attorney can be a lengthy process, that certainly could have been a consideration, but I do think that almost everyone who has been involved or reviewed this process would agree it could have been done better.

BY MR. FLORES:

Q Bear with me.

The question was asked earlier regarding Mr. Iglesias based on I believe it is the EARS report that was done for him, that would be Exhibit 8. Could I ask you to refer to that exhibit, page 1, paragraph 4 under the heading "United States attorney and management team"?

Have you read it?

A Yes.

Q I draw your attention to the second sentence in that paragraph which reads, "The first Assistant United States Attorney (AUSA) appropriately oversaw the day-to-day work of the senior management team effectively addressed all management issues and directed the resources to accomplish

the Department's and United States attorneys' priorities."

Over the course of the investigation from time to time, and I believe again today, the suggestion has been attempted that this statement indicates that the United States attorney in the district of Mr. Iglesias had appropriately delegated to the first U.S. attorney -- the assistant U.S. attorney those responsibilities and that there was no indication of ineffective management as a result of that.

I'd like to ask you if you believe that sentence which I read might be interpreted strictly to mean that for the tasks that he was performing the first assistant U.S. attorney was performing them appropriately and adequately, but not addressing at all the question as to whether the delegation of that authority to first Assistant U.S. attorney had been appropriate and reflected proper management?

A As I believe I previously stated, the evaluation and review of each United States Attorney's Office was conducted to help United States attorneys to improve the management and effectiveness of the office. So I don't think that the evaluation was ever intended to be a complete scrutiny of every aspect of the functions of the United States attorney. This paragraph says that the management issues and the resources were being handled effectively.

I believe your question is should they have been

handled by the first assistant. In my experience, it is not common for a United States attorney to turn over the day-to-day operations of the office to the first assistant.

Every U.S. attorney handles his or her responsibilities differently. And there are some United States attorneys who delegate different processes. In my district, I review every single indictment, every plea agreement, every immunity request. I don't delegate any of these things to anyone. And in larger offices, of course, that becomes more difficult.

Mr. Iglesias's office was not a large office, so I don't know why he delegated these issues to his first assistant. But I think what this report suggests is that things were being handled and I think your question was, was it appropriate for them to be handled by the first assistant rather than the United States attorney.

Q One of the exhibits introduced in the earlier part of your testimony, Exhibit 12, has an article from the Pittsburgh Post Gazette, it has a subtitle "Mary Beth Buchanan has pursued the parties in priority for the Bush Administration."

In this investigation there have been many assertions made about the propriety or the impropriety of U.S. attorneys being attentive to the priorities of the President. And based upon your experience as a U.S.



attorney in addressing issues in the district, and based on your experience as a former Director of the EOUSA, would you like to offer any views of importance in the law enforcement system and the accountability of that system to the people of the country that U.S. attorneys be attentive to the priorities of the President and law enforcement?

A Well, the role of the United States attorney in each district is to carry out the priorities of the Department of Justice on a national level. We're not district attorneys, we're not local attorneys, we are United States attorneys. So we're supposed to effectively handle the priorities of the United States in a consistent and even manner throughout the country, and that's why we have national priorities. So each United States attorney has to take into consideration those national priorities and also individual priorities that may be significant within a district.

Q Mm-hmm.

A And it is important for United States attorneys to apply these priorities consistently.

Q What do you think, in your experience, might be the dangers of an overly independent prosecutor, I use the term a rogue prosecutor for lack of a better term, in law enforcement, someone who wasn't attentive to being accountable?

A Well, the reason that we have consistency is so that

every citizen will be treated the same in every district without regard to who the prosecutor is. That every prosecutor is going to be carrying out the law in a consistent and uniform manner. And that is a goal that we want to achieve by having consistency in priorities and practices throughout the country.

Q I don't have too many more questions for you.

We talked a good bit earlier about Mr. Charlton and the information which you knew of firsthand or secondhand by Mr. Charlton. You spoke about Mr. Charlton's difficulties regarding help with U.S. attorney conference in the District of Arizona, and Mr. Charlton's difficulty is presented in getting resources, the incident involving the death penalty case was mentioned and witness interview, a taping was also mentioned. For at least some of these issues you describe them to what you term selfishness of Paul Charlton.

Are there any other instances that you can recall in which Mr. Charlton pursued an objective for the benefit of his district selfishly at the expense of the Department as a whole or other districts?

A Not that I can recall. And these incidents that I raised, this is solely my attempt to provide information about things that I either knew about or that I had heard that may have been factors that were taken into consideration. And again, I do not know what factors were

taken into consideration with respect to any of the eight  
United States attorneys on the list.

RPTS CALHOUN

DCMN MAGMER

[2:05 p.m.]

Q Some discussion was had earlier about your appearance at some point, at least in a mention by Mr. Elston, of what U.S. attorneys might additionally be looked at in terms of whether there were concerns about them and perhaps their retention in office. Is it not the case that you were not asked to resign?

A That's correct.

Q Isn't it the case that if you ever had appeared on one of the lists Mr. Sampson was obtaining of attorneys who might be asked to resign, you weren't, in any case, removed from such list before the final list was generated?

A That's correct. I could not think of any instance in which anyone in the Department could ever complain about my performance or have any concern about my performance whatsoever.

Q Might it be fair to say that, whatever faults the process might have had, there at least appears to have been a sufficient check in place so that the well-performing U.S. attorney in the Western District of Pennsylvania was removed from the list?

A Well, that was certainly a correct decision. I don't know what the process was that was used, and I don't

know how thorough it was, but it does appear that the process may have been inconsistent. So I can't really comment about it in all respects, because I don't know what the process was.

Q You are still a sitting U.S. attorney in the Western District of Pennsylvania.

A That's correct.

Q So the extent that -- the reason you were included in Mr. Elston's list, the one you mentioned earlier, was the speculation perhaps someone in the Eastern District of Virginia was interested in your job, and that person did not obtain your job.

A That's correct.

Q How much time has passed since that? That would be a good amount of time since then.

Not too much more here. Quickly review my notes.

I don't recall if you mentioned earlier, when you had your discussions with Ms. Lam while you were director, this was in December, 2004, and you stated you would let her know the Department was looking at her with regard to immigration and gun prosecutions, to the extent you already haven't conveyed what her response was, is there anything you would like to add?

A I knew that the Department was concerned about her, Carol Lam's performance in the area of Project Safe

Neighborhoods, and I knew there were concerns about her effectiveness of handling border and immigration issues. I thought it was important to let her know that people were concerned. She didn't appear to have suggestions for how she might change that performance or even indicate that there were things she could do to improve.

Q Thereafter, did she ever indicate a perception there was a problem or a willingness to take steps to improve?

A I never had any discussions with her after that time, but I don't think that her performance improved. When I say "her performance," I mean in those two areas.

Q My last question would be with regard to the testimony that you gave, which was limited, and the questions that you received about prosecutions or investigations of Republican and Democrat candidates or office holders in Pennsylvania during your tenure. Is there anything further you would like to add about any of those?

A Nobody ever suggested to me who should be considered for investigation or prosecution within the Western District of Pennsylvania. I am not aware of any United States attorney in any district who the Department has made suggestions with regard to who should or should not be investigated. Never in my career in the Department of Justice have I ever heard politics of a defendant to ever be taken into consideration in whether an individual should be

investigated. It is offensive for anyone to suggest otherwise.

Mr. Flores. I have no further questions.

Ms. Espinel. I will try to be very brief. Good afternoon.

Ms. Buchanan. Hello.

Ms. Espinel. My name is Zulima Espinel, I am representing Senate majority.

BY MS. ESPINEL:

Q Why did you leave the directorship of the EOUSA?

A I was asked to serve as the Director of the Executive Office for the United States Attorneys in May of 2004. At that time, I agreed to serve in that role until a successor could be identified. So I never intended to stay for an extended period. In fact, when I was asked to serve, I was told that my service would be about 5 or 6 months, and it ended up being 13 months.

After the election occurred, I was asked if I was interested in remaining in the position as the Director for the Executive Office for U.S. Attorneys, which would have required that I resign from the position of United States attorney for the Western District of Pennsylvania; and between the two positions I was much more interested in remaining in the Western District of Pennsylvania, and so I helped to identify Michael Battle as my successor.

Q And you said you consulted with Mr. Sampson regarding all 93 U.S. attorneys every day.

A Well, I had a lot of conversations with Mr. Sampson regarding numerous matters, and we spent a lot of time together during the interview process for selecting United States attorneys. So we would have regular interviews of candidates for these positions. So I would have meetings with him in connection with those interviews. I also spoke to him over the telephone and exchanged some e-mail messages.

Q You also had regular contact with all of the U.S. attorneys.

A That's correct.

Q And you were to some extent involved in the EARS reports of all U.S. attorneys.

A That's correct. I would have been involved in those EARS reports that would have been conducted during my tenure as the United States attorney.

Q Okay.

A I mean, the Director of the Executive Office for the United States attorneys.

Q Would you say you generally had a good working relationship with the U.S. attorneys while you were Director?

A Yes, I believe I had a good working relationship.



Q And yet Kyle Sampson never formally consulted you or informally about preparing a list of U.S. attorneys or recommendations for who should be asked to resign.

A That's correct.

Q How long have you known Mr. Schlozman?

A I have known Brad Schlozman for several years.

Q And did he ever discuss any voter fraud cases with you during your tenure as U.S. attorney?

A No, he did not.

Q And I guess that would also include being Director of EOUSA.

A That's correct.

Q What about Hans von Spakovsky?

A I know Hans, but I have not discussed voter fraud cases with Hans.

Q Did either Mr. Schlozman or Hans ever discuss cases that they wanted you to pursue in your district, or types of cases?

A No.

Q Were you surprised that when Mr. Schlozman became a U.S. attorney that he filed those Acorn indictments so close to an election?

A I am not familiar with the indictments.

Q But you are familiar with the fact that they were filed right before an election.

A I have heard that, yes.

Q And what do you think about that?

A I don't know the nature of the investigations. I don't know when they began. I do know that the policy within the Department of Justice is that we should consider the date of an election in terms of making prosecution decisions. We should not expedite an investigation to coincide with an election, and we should be mindful of the fact that any action by the Department of Justice could be construed as an attempt to adversely affect an election.

Q So would you say it's unusual for someone to file that kind of indictment, an indictment that could influence an election so close to an election?

A I would say it's not the preferred timetable.

Q How long have you known Monica Goodling?

A I have known Monica Goodling for several years.

Q Did you ever work with her before you worked with her at the EOUSA?

A I first met Monica Goodling when she was employed with the Office of Public Affairs, and I worked with her on public affairs matters. I knew Monica Goodling to be a very hard worker, and she was highly recommended to me at the Executive Office for the United States attorneys.

Q Who was she highly recommended to you by?

A She was highly recommended to me by those that she

worked with in the Office of Public Affairs, including Mark Corrallo, who had been the deputy in charge of the Office of Public Affairs. She was also highly recommended by Barbara Comstock, who had also been a deputy in the Office of Public Affairs. And I knew from my experience in working with her that she worked very long hours and she was very thorough and was an extremely hard worker, which I am, and I appreciate that in my coworkers.

Q Was she also recommended by Susan Richmond for a job at EOUSA?

A She was.

Q Was it Susan Richmond's idea to put her as principal deputy director or was that your idea?

A Susan Richmond suggested that I consider Monica Goodling for a deputy position. I didn't have a principal deputy at the time and we had a lot of work in the Executive Office for U.S. attorneys and I felt that I could not rely upon the confidentiality and the support of Robin Ashton, so I was really looking for some assistance, and I needed Monica Goodling's help in the office, and I was certainly willing to have her come work with me.

Q And you wanted her to be the principal, which means she was be superior to Robin Ashton in title.

A That's correct.

Q So she would be directing Robin Ashton then?

A That's correct.

Q Now you said you weren't aware that James Comey ever had a problem with Monica Goodling.

A I recall that I was traveling out of the district, I was somewhere giving a speech, and the paperwork for Monica Goodling was being processed, and I received a phone call from David Margolis wanting to know what position Monica Goodling was going to go into. He expressed concern that she should not be going into the principal deputy position as such a junior attorney, and I agreed at the time that we would put her in a deputy position and give her an opportunity to perform in that position.

Q And, I'm sorry, with regard to James Comey.

A I didn't think that David Margolis came up with this idea on his own, so I assumed he probably consulted others. I never talked to Jim Comey about it.

Q What about Chuck Rosenberg?

A I don't recall if I specifically talked to Chuck Rosenberg about this. However, Chuck was a friend of Robin Ashton's, and he had been pushing for quite some time for Robin Ashton to be given a more senior role within the Executive Office for U.S. attorneys.

Q So, generally, how would you describe your relationship with Monica Goodling? I mean, obviously, a working relationship and you had respect with her, but was

it also a friendship?

A I would say it's friendship. We had lunch, dinner together.

Q Did Ms. Goodling ever discuss her personal opinion of any U.S. attorneys with you?

A I wouldn't characterize it as her discussing her personal opinion, but it would also be unfair to say that she never commented on any U.S. attorney. We had a lot of dealings with U.S. attorneys who would call the office requesting various types of assistance or resources, and some U.S. attorneys were a lot easier to deal with than others.

Q Do you recall her ever commenting, giving her personal opinion about Paul Charlton, for example?

A I know that Monica Goodling would have worked with Paul Charlton on the United States Attorneys Conference that was held in Phoenix; and, as a result of Paul Charlton's lack of cooperation, Monica Goodling had to do a lot of additional work for the conference because Paul would not assist nor would he provide resources from his office to assist.

Now -- and Robin Ashton, by the way, had prior dealings with Paul Charlton with the badgering of EOUSA to give his district additional awards at the annual award selection.

Q Okay. So not just Monica Goodling but also Robin

Ashton.

A That's correct.

Q Was Susan Richmond -- you said she was the White House liaison and counselor for the Attorney General when you were director of EOUSA, is that correct?

A That's correct.

Q And that is a role, or a position, rather, that Monica Goodling eventually took over, is that correct?

A That's correct.

Q Do you know if Susan Richmond recommended Monica Goodling for that position?

A I don't know.

Q Do you know if Susan Richmond when she was White House liaison and counselor to the Attorney General was ever involved in the hiring or firing of career AUSAs?

A I don't know.

Q Do you know if that's something that in her role -- in that role she would normally do? Is that an authority she would normally have?

A I don't think so. My understanding of the role of the White House liaison is to deal with political appointees.

Q So is it surprising to you to understand that Monica Goodling, while she was in that role, was involved in the hiring of career AUSAs?

A I don't know what role she had and what I do know about what she did was what I saw on C-Span 3, and I think that she admitted that she probably took factors into consideration that she shouldn't have.

Q Just having that authority in general that she took with her when she was in that position, isn't it fair to say that that is unusual for someone who has that title to have that authority?

A I don't know of anyone -- I don't know of anyone who had that authority.

Q Did you have conversations with Monica Goodling about Paul McNulty's testimony in front of Congress?

A No.

Q What about the Attorney General's?

A No.

Q Are you aware -- now you said you had a conversation with Monica Goodling about Todd Graves at some point with regard to his resignation and why he was asked to resign.

A I don't recall that we had a specific conversation about why he was asked to resign. I recall that I had a conversation with her after he left the Department, and it was my sense from that conversation that he may have been asked to resign.

Q And I thought that you had stated earlier that in that conversation Ms. Goodling had stated that Mr. Graves

had been asked to resign so that Tim Griffin could be given a chance -- I'm sorry, Bud Cummins --

Mr. Nathan. He was not interested in running for office.

A She indicated to me in the conversation that there were members of his congressional district that were disappointed that he wasn't interested in running for office. I took that statement and a general sense that I had that he may have been asked to resign.

Q No, I understand that. I guess my question --

A That was my conclusion.

Q That wasn't my question.

I'm sorry, I don't mean to cut you off.

My question was I thought you stated earlier that Ms. Goodling had discussed the fact that this was to give somebody else a chance to serve as U.S. attorney, not because Mr. Graves had performance-related reasons, performance -- there were not performance-related reasons for Mr. Graves' resignation.

Mr. Howard. I think -- I am not testifying, but I think what she said was something to the effect of it may have been to give somebody else a chance who may want to use the credential of the U.S. attorney to run for something else.

BY MS. ESPINEL:



Q Is that correct?

A That's correct. There was some discussion about it being good to give someone else an opportunity to serve in that district.

Q So she never mentioned a performance-related reason to you.

A No, she did not.

Q So are you aware that when Monica Goodling testified in front of Congress she said that Mr. Graves did have a performance-related problem as U.S. attorney?

A I believe I heard that, yes.

Q But she never mentioned anything like that to you.

A Not that I recall.

Q Now just taking you back to Robin Ashton for a minute, do you know what her reputation was in the field with the U.S. attorneys?

A I think she had a very good reputation in the field with the United States attorneys, and I think that she went out of her way to develop that reputation, and in fact I think she did it at the detriment of the Director of the Executive Office for U.S. attorneys.

Q You mean she was trying to overshadow the Director? Is that what you're trying to say?

A That's correct.

Q So do you think that she did a good job in the

performance of her duties with regard to helping U.S. attorneys in the field?

A Part of the problem is I don't know what she did, because she did a lot of things that she did not advise me of. But I do think that, generally, United States attorneys liked dealing with her.

Q And are you aware that Mike Battle had actually offered her the job of deputy director and she had accepted that job before she was asked to leave? Are you aware of that fact?

A I don't know whether that's true or not.

Q You stated earlier that she was a detailee.

A Well, she was a detailee, but she also occupied a position of deputy. So she was a deputy in the office during my tenure, and she continued to be a deputy under Mike Battle's tenure, and I don't know what -- what, if any, other positions she may have been offered.

Mr. Nathan. Mr. Battle offered her the job as principal deputy? Because she already was a deputy.

Ms. Espinel. Principal deputy.

Ms. Buchanan. If he offered her that, that would surprise me.

Mr. Hunt. When she was a deputy, she was a detailee.

Ms. Buchanan. Correct.

BY MS. ESPINEL:

Q Are you aware of whether or not he offered a permanent deputy position?

A I'm not aware of that.

Q You're not aware of that. And you're not aware of Monica Goodling making any commentaries to Mike Battle about whether or not Ms. Ashton should be asked to resign or stay in her position?

A I'm not aware of that.

Q Is it your understanding -- or let me ask you this, did Monica Goodling take over some of the duties and tasks of Robin Ashton?

A Yes, I believe she did.

Q Okay. And basically when she came in she was your press person, is that fair to say?

A That was one of the responsibilities that she had.

Q And Robin Ashton's duties were more substantive?

A Robin Ashton had initially more substantive duties than Monica Goodling.

Part of the problem was Robin was supposed to be supervising Counsel to the Director's staff. She wasn't really supervising them, nor was she keeping me advised of anything they were doing. So I had no ability to review the work of the Executive Office. So I needed somebody who was going to manage the office and who was going to keep me, the Director, advised of what was going on. And so that was why

I assigned some of those duties to Monica Goodling, because I know that she would report to me what was going on and that I would not have this management issue that was existing.

Q Did you ever discuss Robin Ashton with James Comey?

A Yes.

Q And what was his opinion of her?

A Well, I knew that Robin Ashton had a good working relationship with Chuck Rosenberg and a good working relationship with James Comey and she had worked as the Acting Director for a brief period before I became the Director, and I think that they had a very high regard for her. But I also think that they saw a very different side of her. They didn't see many of the things that she was doing within the office, nor did I want to appear to be repeating every negative performance issue that Robin did to the deputy or to his chief of staff.

But I did have one conversation with the deputy wherein I relayed to him that Robin Ashton went into my office after hours and removed resumes from my desk. So this is something that I really don't think that should be tolerated by an employee; and, yes, this is an instance that gave me cause to believe that Robin Ashton couldn't be trusted as my deputy.

Q Those were resumes for what?

A For people I was considering hiring.

Q Hiring as?

A Anything, anything. Any resumes I got in the office were in my desk, and they were not being handled by Robin Ashton, but she went into my desk and took the resumes out of my desk and directed my support staff to photocopy them.

Q Did you confront her about this?

A I didn't because the support staff reported it to me, and the support staff had to deal with her every time I got on a plane and went back to Pittsburgh. When I left, she would slam doors and yell at the support staff; and I didn't want to leave them with her knowing that they had reported her. So I knew that I had to watch her like a hawk.

Q And, again, you don't recall in particular what resumes they were for any particular post or any particular person?

A I don't recall which one it was.

Q How long have you known Leonard Leo?

A I have probably known Leonard Leo for more than 10 years.

Q Did you ever consult with him about U.S. attorneys?

A During my consideration of the selection of the U.S. attorney in Detroit, Michigan, Leonard Leo expressed his support for Stephen Murphy, who was ultimately selected for

the position.

Q Did that have any influence on the fact that Stephen Murphy was selected for the position?

A Leo highly recommended him. He informed me of other individuals who would also speak highly of him, including members of the Supreme Court of Michigan; and I subsequently spoke with some of those individuals. So I think that, taken as a whole, those positive references from members of the judiciary certainly were taken into consideration and Steve Murphy was selected.

Q Steve Murphy was referred to you initially by Leonard Leo?

A No, no.

Q Do you know, were they all conservative references that he was getting?

A I don't recall.

Q And you don't recall that e-mail from Leonard Leo, correct, with regard to Mary Walker?

A No, I don't. I don't know Mary Walker, never heard of Mary Walker.

Q Okay. Now you indicated you had a conversation with Monica Goodling about Margaret Chiara after the resignations that was personal in nature.

A That's correct.

Q Was any part of that conversation not personal in

nature discussing Margaret Chiara?

A No.

Q And did that personal issue have anything to do with her resignation as U.S. attorney?

A I believe that it did, yes.

Q Did it have anything to do with your opinion of her as U.S. attorney?

A It affected my understanding of a management issue within her district.

Q And was that an opinion shared by other people at the Department of Justice?

A I certainly believe it would have been, yes.

Q Did you discuss it with anybody else at the Department of Justice?

A No.

Q Or the White House?

A No.

Q When you say "lack of diplomacy" regarding John McKay, do you mean criticisms of the administration or of Justice policy?

A No, no. John McKay is a good friend of mine. I just think that John McKay was the guy in the room who often asked the question that other people were thinking but knew that it probably wasn't appropriate to ask in that particular forum.

Q And do you think that may have been an impact on the fact that he was asked to resign?

A I think that it was noticed by people within the Department, and I think that it caused some people within the Department to question his judgment.

Q Did Mike Elston ever -- before you read that e-mail, did he ever make any criticisms of your performance as U.S. attorney?

A Absolutely not.

Q Did Kyle Sampson?

A Absolutely not.

Q Did anyone else?

A No.

Q And did you ever hear any criticisms of you being an absentee landlord?

A No, I didn't. In fact, the whole time I have continued to serve as the Director for the Executive Office for U.S. attorneys or the Acting Director for the Office of Violence Against Women I still review all the indictments in my office. So when I leave my district, all of my work is done. When I return, there may be a big stack of work on my desk, and I come in, and I deal with it, and it's done before I return to Washington.

Q Just a few more questions. Is it possible the conversation that Monica Goodling had with you where she



said you might be asked questions about your conversations with Lam, is it possible that that conversation occurred after the congressional inquiry when this issue began?

A You know, I really don't know when it occurred, so I don't want to speculate.

Q So it's possible.

A I don't know. I don't know when it occurred.

Q Were you talking with her -- you said your last conversation was, I believe -- was it in May of 2007 with Monica Goodling?

A I think it was in May of 2007. I think it was a phone call that I placed only to tell her that I wished her well and I knew that others in the Department wished her well and were thinking about her. That's all we talked about. We didn't talk about anything about this investigation at all.

Q So might you have been talking to her in March or April of 2007?

A I would have also talked to her at that time, too.

Q With regard to what?

A Just day-to-day conversations. I also had conversations with her about my new role as the Acting Director for the Office of Violence Against Women.

Q Were you talking to her about the congressional inquiry at all?

A No, absolutely not.

Q Did the fact that you were aware when you were Director of EOUSA that there was an ongoing review of all U.S. attorneys, did that have any influence on what kind of cases you pursued as a U.S. attorney? I mean, you were a U.S. attorney at that time.

A No, it did not. I knew what was expected of me. I knew there were national priorities that I was expected to pursue, and I pursued those. I pursued them with the same vigor at the beginning of my tenure as I pursue them at this stage of my tenure.

Q So it didn't make -- did you ever have any concerns that you might be asked to resign?

A Absolutely not.

Ms. Espinell. I have nothing further. Thank you -- one other.

BY MS. ESPINELL:

Q In the third or fourth paragraph down in your statement it says: It has also been suggested that United States attorneys were replaced because they made prosecution decisions based on political motives.

Where do you get that suggestion, that the U.S. attorneys were making prosecution decisions --

A Where is that ridiculous letter from Tom? This is an example of ridiculous allegations that are being made

about prosecution decisions, and it is offensive, and it's wrong.

Q So you were more talking maybe about the fact that you were put on a list at some point?

A No, I was talking about the allegations that were made by people in the public or in Congress about the prosecution decisions or directions from the Department of Justice or the White House, and it's totally baseless. There's absolutely no support for those allegations; and it's offensive to me as a United States attorney that anyone, particularly those without the information, would make such an allegation.

Ms. Burton. We have about 10 minutes. I don't know if that is going to be enough.

BY MR. MINER:

Q Matt Miner with the Senate Judiciary minority. I'm told I have 10 minutes to ask questions on behalf of the Senate Judiciary minority, including the ranking member, the senior Senator from Pennsylvania, of this witness, the U.S. attorney from the Western District of Pennsylvania.

Let me follow up on the sentence that was asked about in your letter on page two where you state: It has also been suggested that United States attorneys were replaced because they made prosecution decisions based on political motives.

You conclude by saying that nothing has ever been brought to your attention that would indicate that prosecutions in the districts of the affected United States attorneys or any other district were brought for any reason other than factual and legal circumstances of the case.

Let me peel that back and just ask specifically about what you may have seen or heard or participated in while at the Department of Justice. Did you ever suggest or were you ever present when anyone else ever suggested removing or disciplining a U.S. attorney for bringing a political case?

A Absolutely not.

Q Would that include jump-starting a political case?

A I never heard any discussions about U.S. attorneys bringing or not bringing political cases. That wasn't discussed within the Department of Justice in my presence or to my knowledge.

Q That would include while you were the Director of the Executive Office of U.S. attorneys?

A That's correct.

Q What about while you served on the Attorney General's Advisory Committee?

A That's correct.

Q While you were at the Executive Office of the U.S. attorneys or the Attorney General's Advisory Committee, did anyone put pressure on you to talk to, reprimand, somehow

encourage or discourage the bringing of political cases against --

A Absolutely not.

Q There has been some talk, you just mentioned, following through on the policies and priorities of the administration. In terms of the policies and priorities of the administration, it would include things like Project Safe Neighborhoods, Project Safe Childhood, terrorism, corporate fraud, matters along those lines, correct?

A That's correct.

Q Did you ever believe that the priorities and policies of this administration of the Department of Justice would include prosecuting Democrats?

A Absolutely not.

Q Not prosecuting Republicans or chilling those investigations?

A Absolutely not.

Q Winning elections?

A Absolutely not. Nor would I have ever participated in an effort to do so, nor do I think that any of my colleagues would have participated in such an effort.

Q In your written statement you have been asked some questions as well about an e-mail from Leonard Leo, which I believe is Exhibit 9. You state in your written statement: I do not recall seeing it, and I certainly did not act on

it.

To your recollection, did you do anything to solicit this e-mail from Leonard Leo?

A No, I did not.

Q Take a look at Exhibit 9, and we might as well use another exhibit that we have had, Exhibit Number 11. Take a look at Exhibit Number 11. It is an e-mail from Kyle Sampson where there are -- which appears to be responsive to other e-mails. If you look down in the chain, do you see e-mails that precede Kyle Sampson's e-mail that is at the top of the page? I'm not asking about the substance but more the formatting and how the e-mail appears.

A Yes, I see that.

Q You see in the subject line it says Re?

A Yes.

Q May I see that for a second?

Taking a look at Exhibit Number 11, the first entry is from Sara Taylor; and the subject has a forward line. The next has a Re, which would suggest a reply, correct?

Why don't you point -- taking a look here, subject line, forward, McNulty strikes again; and the responsive e-mail actually has the Re inserted into it.

A That's correct. It appears as though the e-mail string is responding to the same e-mail.

Q That's identified in the actual e-mail itself in the

subject line once there's a responsive e-mail.

A That's correct.

Q Now turning your attention to Buchanan Exhibit 9, the e-mail from Leonard Leo, in the subject line do you see a Re or anything that would suggest there is a response?

A No. There's a subject line that says San Diego, but it does not indicate whether there was a response.

Q There are no e-mails from you preceding on this page.

A That's correct. I don't believe I did anything with this e-mail because I don't recall seeing it.

Q Mr. Nathan asked you about a list of U.S. attorneys that is Exhibit Number 7; and in asking the question I believe he suggested or asked if the document appeared to have been created before it was sent. The date of the send on the e-mail is February 12th, 2007. I believe he said that because Mr. Comey is listed as one of the U.S. attorneys on the list.

Taking a look at that document, there are U.S. attorneys listed on this document who were appointed after Mr. Comey left as U.S. attorney -- number 7?

A Okay.

Q For example, looking at that document, Mr. Comey was succeeded as U.S. attorney in the Southern District of New York by Mr. Garcia, correct?

A He was succeeded immediately by David Kelley and then by Michael Garcia.

Q And then Brett Tolman became U.S. attorney for Utah in 2006. He's identified on this document, correct, on page OAG 1154.

A Yes, he is included in the list.

Q Other recent U.S. attorneys appointed last year include Deborah Rhodes and Rachel Paulose. Are they also identified in this document?

A Yes.

Q So this document does not appear to have been created when Mr. Comey was U.S. attorney, correct? Because Rachel Paulose, Brett Tolman, Deborah Rhodes, they were not serving as U.S. attorney at that time, correct?

A That's correct.

Q Taking a look and keeping our attention on Exhibit Number 7, there are 124 names listed on this document. Looking at the far right column which identifies Federalist Society members, and this document has gotten quite a lot of attention, how many Federalist Society members are listed among those 124?

A I believe there are eight members listed.

Q One of the members listed among those eight is Kevin Ryan, correct?

A That's correct.



Q And he was asked to resign, along with the other seven or other eight, depending upon which count is being used, correct?

A Yes, that's correct.

Q Among the other Federalist Society members listed on this document, Greg Van Tatenhove is also listed, correct? That would be on --

A Yes, that's correct.

Q He's no longer a U.S. attorney in the Eastern District of Kentucky, correct?

A That's correct.

Q Ron Tenpas is listed. He is no longer for the Southern District of Illinois, is that correct?

A Yes.

Q Raymond Gruender has left his post in St. Louis as a U.S. attorney; and he's also listed as a Federalist Society member, correct?

A Correct.

Q So of the eight who are listed among this 124, four have already departed.

A Yes.

Q Earlier, you were asked some questions about ongoing investigations; and you declined to speak about certain ongoing investigations relating to political figures, correct?

A That's correct.

Q Is it the Department of Justice policy to comment on ongoing investigations?

A It is the Department's policy that United States attorneys are prohibited from speaking regarding ongoing criminal investigations.

Q And there is a rule that relates to grand jury proceedings, correct?

A Correct.

Q If I asked you now about uncharged investigations relating to Democrats, you wouldn't answer those questions either, correct?

A That's correct.

Mr. Miner. Out of deference to your need to get out of here, I'm going to want to bring this to a close. Because you have been here quite a while, and you need to run.

Ms. Burton. Let me be clear here, we are interested in cooperating in a way so that every part is represented, and House and Senate majority and minority get a chance to question. I am sorry we're up against this time bind here, and we are prepared to work with you so that you have a chance to ask other questions of her however is most convenient for everyone. If you have more questions, we can go do this on the phone, whenever. We can come back if we need to. I think this has been unfortunate it has taken so

long to get everybody a chance to ask questions, and I'm sorry.

Mr. Miner. I appreciate this, Ms. Burton. We'll try to work it out better in the future, but I don't want to delay your leaving, and we certainly have covered a lot of ground today.

Ms. Buchanan. It's certainly my intention to cooperate fully with this investigation, so I would have no objection to returning to answer your questions. Because I recognize that you have not had an opportunity to fully review the questions with me that I see you have written.

Mr. Miner. That's fine. You have stayed already 25 minutes past when you intended to leave; and I know, Jody, you have to get to the Intelligence Committee.

Mr. Nathan. Off the record. Thank you very much.

[Whereupon, at 2:51 p.m., the interview was concluded.]