

February 12, 2007

Monday

February 2007

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March 2007

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7 ^{am}	
8 ⁰⁰	
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11 ⁰⁰	
12 ^{pm}	
1 ⁰⁰	
2 ⁰⁰	
3 ⁰⁰	US Attorneys Meeting
4 ⁰⁰	
5 ⁰⁰	
6 ⁰⁰	

TaskPad

TaskPad

Notes

McNulty, Paul J

Subject: US Attorneys Meeting
Start: Mon 2/12/2007 3:00 PM
End: Mon 2/12/2007 3:30 PM
Recurrence: (none)
Meeting Status: Accepted
Required Attendees: Sampson, Kyle; McNulty, Paul J; Scolinos, Tasia

AG's Conference Room
AO: Kyle Sampson DOJ: DAG Paul McNulty, Tasia Scolinos

OIP

Subject: US Attorneys Meeting
Start: Mon 2/12/2007 15:00
End: Mon 2/12/2007 15:30
Recurrence: (none)
Meeting Status: Accepted
Required Attendees: Sampson, Kyle; McNulty, Paul J; Scolinos, Tasia

AG's Conference Room
AO: Kyle Sampson DOJ: DAG Paul McNulty, Tasia Scolinos

Elston, Michael (ODAG)

From: McNulty, Paul J
Sent: Wednesday, December 13, 2006 6:42 PM
To: Sampson, Kyle; Battle, Michael (USAEO)
Cc: Elston, Michael (ODAG); Moschella, William; Mercer, William W; Goodling, Monica; Sutton, Johnny K. (USATXW)
Subject: RE: USA replacements

I generally think this is a good idea. The more communication, the better. They are probably slowly adjusting and some hand-holding may calm things down.

From: Sampson, Kyle
Sent: Wednesday, December 13, 2006 2:25 PM
To: Battle, Michael (USAEO)
Cc: McNulty, Paul J; Elston, Michael (ODAG); Moschella, William; Mercer, William W; Goodling, Monica; Sutton, Johnny K. (USATXW)
Subject: USA replacements

Mike, Bill Kelley called to report that they are weathering two main complaints: in making the calls, Battle (1) wasn't clear whether the USAs in question would be permitted to resign, or instead were being fired; and (2) was too abrupt. Bill seemed nonplussed by the complaints, but nevertheless passed them on to me.

Perhaps a second round of calls from you, Mike, to the relevant USAs is in order? Talkers would be something like:

- I wanted to be sure you understood that DOJ intends not to say anything about your leaving, but instead allow you to announce your resignation and the reasons for it;
- We want to work with you over the next six weeks to ensure a smooth transition; and
- It's in our interest for you to land on your feet and maintain our good relations with the Department -- how can I help?

Perhaps this is a bad idea? Thoughts?

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

Elston, Michael (ODAG)

From: McNulty, Paul J
Sent: Thursday, December 14, 2006 1:03 PM
To: Sampson, Kyle; Battle, Michael (USAEO)
Cc: Elston, Michael (ODAG); Moschella, William; Mercer, William W; Goodling, Monica; Sutton, Johnny K. (USATXW)
Subject: RE: USA replacements

Just had a lengthy chat with Margaret and she is fine, although she has an issue on which I need to get back to her..

From: Sampson, Kyle
Sent: Wednesday, December 13, 2006 2:25 PM
To: Battle, Michael (USAEO)
Cc: McNulty, Paul J; Elston, Michael (ODAG); Moschella, William; Mercer, William W; Goodling, Monica; Sutton, Johnny K. (USATXW)
Subject: USA replacements

Mike, Bill Kelley called to report that they are weathering two main complaints: in making the calls, Battle (1) wasn't clear whether the USAs in question would be permitted to resign, or instead were being fired; and (2) was too abrupt. Bill seemed nonplussed by the complaints, but nevertheless passed them on to me.

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kyle.sampson@usdoj.gov

Elston, Michael (ODAG)

From: Goodling, Monica
Sent: Thursday, December 14, 2006 1:21 PM
To: Sampson, Kyle; McNulty, Paul J; Mercer, William W; Elston, Michael (ODAG); Moschella, William; Battle, Michael (USAEO)
Subject: FW: Happy Trails

FYI - Looks like McKay's ok.

From: McKay, John (USAWAW) [mailto:John.McKay@usdoj.gov]
Sent: Thursday, December 14, 2006 1:02 PM
To: USAEO-USAttorneysOnly
Subject: Happy Trails

Dear Friends,

This may NOT be the greatest job I've ever had.

It must be, however, a close second to my 6th Grade paper route, and only because I got a box of Butterfingers (Bonus Size) at Christmas from the newspaper's owner.

Still, I HAVE made the most friends, worked and played with wonderfully talented colleagues and had the opportunity to serve a great President in challenging times for our Country.

What a privilege this has been.

I will wrap up my service here in Seattle next month, and after leaving office will pursue new opportunities. As always, you are welcome to visit or call when you are in my neck of the woods.

All the best,

- JOHN

John McKay
United States Attorney
Seattle, Washington

Elston, Michael (ODAG)

From: Nowacki, John (USAEO) [John.Nowacki@usdoj.gov]

Sent: Tuesday, December 19, 2006 11:04 AM

To: Goodling, Monica; Elston, Michael (ODAG)

Subject: Iglesias

David Iglesias announced to his office today that he will resign, effective in late January or February.

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Thursday, December 21, 2006 7:37 PM
To: Goodling, Monica
Subject: IJs

Paul wants me to call Bogden and Chiara to talk IJ options with them. May I? If so, where do we have slots available?

Elston, Michael (ODAG)

From: Goodling, Monica
Sent: Friday, January 05, 2007 11:35 AM
To: Sampson, Kyle; McNulty, Paul J; Elston, Michael (ODAG)
Subject: RE: USAs

I have not yet heard or seen anything from these offices. Lam, Bogden, and Chiara have asked Mike Battle for extensions.

From: Sampson, Kyle
Sent: Thursday, January 04, 2007 7:34 PM
To: McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica
Subject: USAs

Of our list, I'm aware of Iglesias, Charlton, and McKay making it known publicly that they are leaving. Have Lam, Ryan, Bogden, or Chiara done so yet? What is the status of these?

Kyle Sampson
Chief of Staff
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(202) 305-5289 cell
kyle.sampson@usdoj.gov

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Friday, January 05, 2007 11:36 AM
To: Goodling, Monica; Sampson, Kyle; McNulty, Paul J
Subject: Re: USAs

Do you want me to call Kevin? I have a pretty good relationship with him.

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

From: Goodling, Monica
To: Sampson, Kyle; McNulty, Paul J; Elston, Michael (ODAG)
Sent: Fri Jan 05 11:34:48 2007
Subject: RE: USAs

I have not yet heard or seen anything from these offices. Lam, Bogden, and Chiara have asked Mike Battle for extensions.

From: Sampson, Kyle
Sent: Thursday, January 04, 2007 7:34 PM
To: McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica
Subject: USAs

Of our list, I'm aware of Iglesias, Charlton, and McKay making it known publicly that they are leaving. Have Lam, Ryan, Bogden, or Chiara done so yet? What is the status of these?

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

Elston, Michael (ODAG)

From: McNulty, Paul J
Sent: Friday, January 05, 2007 2:12 PM
To: Sampson, Kyle; Elston, Michael (ODAG); Goodling, Monica
Subject: RE: USAs

I talked to Margaret before Christmas and gave her a one month extension (I think) pursuant to our previous discussions. We agreed to talk in the new year to see how the search was going with the likelihood that she would need the extra month. Wasn't Mercer going to talk to Dan? I will be talking to David I. this afternoon. I have not talked to any of the others.

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

From: Sampson, Kyle
Sent: Friday, January 05, 2007 11:50 AM
To: Elston, Michael (ODAG); Goodling, Monica; McNulty, Paul J
Subject: Re: USAs

And we granted 1-month extensions for Dan and Margaret, but not Carol -- right?

Sent from my BlackBerry Wireless Handheld

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

From: Elston, Michael (ODAG)
To: Goodling, Monica; Sampson, Kyle; McNulty, Paul J
Sent: Fri Jan 05 11:36:01 2007
Subject: Re: USAs

Do you want me to call Kevin? I have a pretty good relationship with him.

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

From: Goodling, Monica
To: Sampson, Kyle; McNulty, Paul J; Elston, Michael (ODAG)
Sent: Fri Jan 05 11:34:48 2007
Subject: RE: USAs

I have not yet heard or seen anything from these offices. Lam, Bogden, and Chiara have asked Mike Battle for extensions.

From: Sampson, Kyle
Sent: Thursday, January 04, 2007 7:34 PM
To: McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica
Subject: USAs

Of our list, I'm aware of Iglesias, Charlton, and McKay making it known publicly that they are leaving. Have Lam, Ryan, Bogden, or Chiara done so yet? What is the status of these?

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(202) 305-5289 cell
kyle.sampson@usdoj.gov

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Friday, January 05, 2007 8:50 PM
To: Ryan, Kevin (USACAN)
Subject: RE: Please give me a call at

Yes, sir. I am still in the office, so you can call me at 202-307-2090 instead of my cell phone.

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

From: Ryan, Kevin (USACAN) [mailto:Kevin.Ryan@usdoj.gov]
Sent: Friday, January 05, 2007 8:49 PM
To: Elston, Michael (ODAG)
Cc: Ryan, Kevin (USACAN)
Subject: RE: Please give me a call at

Mike,

Is now a good time?

Sent from my GoodLink synchronized handheld (www.good.com)

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

From: Elston, Michael (ODAG)
Sent: Friday, January 05, 2007 08:47 PM Eastern Standard Time
To: Ryan, Kevin (USACAN)
Subject: Please give me a call at

Thanks, Kevin!

Mike

Michael J. Elston
Chief of Staff and Counselor
to the Deputy Attorney General
950 Pennsylvania Avenue, N.W., Room 4210
Washington, D.C. 20530
(202) 307-2090
(202) 514-9368 (fax)

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Tuesday, January 09, 2007 3:07 PM
To: Nowacki, John (USAEO); Goodling, Monica; Battle, Michael (USAEO)
Cc: Sampson, Kyle
Subject: Re: WF 1117121 - resignation letter from USA Kevin Ryan

This letter was sent before my conversation w/ Kevin on Friday.

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

From: Nowacki, John (USAEO) <John.Nowacki@usdoj.gov>
To: Elston, Michael (ODAG); Goodling, Monica; Battle, Michael (USAEO)
Sent: Tue Jan 09 14:31:02 2007
Subject: Fw: WF 1117121 - resignation letter from USA Kevin Ryan

First we've seen from him. Note the departure date of 4/27. Will check whether that accurately reflects the letter.

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

From: Beeman, Judy (USAEO) <JBeeman@usa.doj.gov>
To: Murphy, Sean (USAEO) <SMurphyl@usa.doj.gov>; Nowacki, John (USAEO) <JNowacki@usa.doj.gov>
Sent: Tue Jan 09 14:26:26 2007
Subject: FW: WF 1117121 - resignation letter from USA Kevin Ryan

FYI. Judy

From: Harden, Cyndi A
Sent: Tuesday, January 09, 2007 2:13 PM
To: Beeman, Judy (USAEO); West, Nicole (USAEO)
Cc: Smith, Mauri E
Subject: WF 1117121 - resignation letter from USA Kevin Ryan

ExSec assigned this workflow to EOUSA yesterday with a two week due date. Even though the USA is not leaving until 4/27/07, the AG would like a retirement letter for his signature prepared within the 2-week time frame. Please pass this email/information on to those who will be preparing the retirement letter.

Thanks, Cindy

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Friday, January 12, 2007 9:42 AM
To: Bogden, Daniel (USANV)
Subject: RE: Please give me a call

One more update for you -- please call when you have a minute

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

From: Elston, Michael (ODAG)
Sent: Thursday, January 11, 2007 11:28 PM
To: Bogden, Daniel (USANV)
Subject: Re: Please give me a call

I have additional information about the press call.

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

From: Elston, Michael (ODAG)
To: Bogden, Daniel (USANV)
Sent: Thu Jan 11 21:42:23 2007
Subject: Please give me a call

Elston, Michael (ODAG)

From: Ryan, Kevin (USACAN) [Kevin.Ryan@usdoj.gov]
Sent: Friday, January 12, 2007 6:30 PM
To: Elston, Michael (ODAG)
Cc: Ryan, Kevin (USACAN)
Subject:

Mike,

Just checking in. We talked about the timing of my announcement and departure, and I am happy to abide by the time frame but would only ask if it is possible for me to make the announcement next Friday instead of this Monday since it is a federal holiday and I would like to get a few things in order before making the public announcement. The time frame for departure however is fine-- I see that the 15th is a Thursday, how about Friday the 16th?

Thanks,

Kevin

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Friday, January 12, 2007 6:44 PM
To: Ryan, Kevin (USACAN); Goodling, Monica; Sampson, Kyle
Subject: Re:

What do you think?

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

From: Ryan, Kevin (USACAN) <Kevin.Ryan@usdoj.gov>
To: Elston, Michael (ODAG)
CC: Ryan, Kevin (USACAN)
Sent: Fri Jan 12 18:30:25 2007
Subject:

Mike,

Just checking in. We talked about the timing of my announcement and departure, and I am happy to abide by the time frame but would only ask if it is possible for me to make the announcement next Friday instead of this Monday since it is a federal holiday and I would like to get a few things in order before making the public announcement. The time frame for departure however is fine-- I see that the 15th is a Thursday, how about Friday the 16th?

Thanks,

Kevin

Elston, Michael (ODAG)

From: Sampson, Kyle
Sent: Friday, January 12, 2007 9:06 PM
To: Elston, Michael (ODAG); Goodling, Monica
Subject: RE:

ok

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

From: Elston, Michael (ODAG)
Sent: Friday, January 12, 2007 9:04 PM
To: Goodling, Monica; Sampson, Kyle
Subject: Fw:

Sorry I sent the other one to Kevin -- don't know how that happened. Still, how do you think I should respond? I am inclined to say OK as long as he sends in his letter of resignation on Tuesday.

Mike

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

From: Ryan, Kevin (USACAN) <Kevin.Ryan@usdoj.gov>
To: Elston, Michael (ODAG)
CC: Ryan, Kevin (USACAN)
Sent: Fri Jan 12 18:30:25 2007
Subject:

Mike,

Just checking in. We talked about the timing of my announcement and departure, and I am happy to abide by the time frame but would only ask if it is possible for me to make the announcement next Friday instead of this Monday since it is a federal holiday and I would like to get a few things in order before making the public announcement. The time frame for departure however is fine-- I see that the 15th is a Thursday, how about Friday the 16th?

Thanks,

Kevin

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Friday, January 12, 2007 9:13 PM
To: Ryan, Kevin (USACAN)
Subject: Re:

Kevin:

After consultation with others (which I inadvertently forwarded to you as well -- sorry), we are fine with your proposal. However, we would like to have a copy of your resignation letter by fax on Tuesday. We will not begin the transition process until after your announcement, but it will allow us to put certain things in motion on Tuesday.

Let me know if that works for you.

Thanks,
Mike

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

From: Ryan, Kevin (USACAN) <Kevin.Ryan@usdoj.gov>
To: Elston, Michael (ODAG)
CC: Ryan, Kevin (USACAN)
Sent: Fri Jan 12 18:30:25 2007
Subject:

Mike,

Just checking in. We talked about the timing of my announcement and departure, and I am happy to abide by the time frame but would only ask if it is possible for me to make the announcement next Friday instead of this Monday since it is a federal holiday and I would like to get a few things in order before making the public announcement. The time frame for departure however is fine-- I see that the 15th is a Thursday, how about Friday the 16th?

Thanks,

Kevin

Elston, Michael (ODAG)

From: Nowacki, John (USAEO) [John.Nowacki@usdoj.gov]
Sent: Monday, January 29, 2007 3:27 PM
To: Goodling, Monica; Elston, Michael (ODAG)
Subject: Bogden resignation letter
Attachments: letter1.pdf

We have just received the attached resignation letter from Daniel Bogden. His resignation, according to the letter, is effective on midnight, February 28.

<<letter1.pdf>>

11 25 135
DA

U.S. Department of Justice



*United States Attorney
District of Nevada*

*Daniel G. Bogden
United States Attorney*

*333 Las Vegas Boulevard South
Suite 5000
Las Vegas, Nevada 89101*

*Telephone (702) 388-6336
FAX: (702) 388-6296*

January 17, 2007

The Attorney General
United States Department of Justice
Main Justice Building, Room 5111
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General:

I am hereby submitting my resignation as United States Attorney for the District of Nevada, effective midnight February 28, 2007. It has been a great honor and privilege to have served the past five and one-half years as a United States Attorney, initially by appointment of Attorney General John Ashcroft and thereafter by Presidential appointment.

Serving the United States as a United States Attorney has been the highest honor and most fulfilling duty of my public career. Thank you for your support and the support of the Department of Justice during my tenure.

I deeply appreciate the opportunity to have served as the United States Attorney for the District of Nevada. I wish you the best of luck and success.

Sincerely,

A handwritten signature in cursive script that reads "Daniel G. Bogden".

DANIEL G. BOGDEN
United States Attorney
District of Nevada

DAG000002623

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Saturday, February 03, 2007 6:19 PM
To: Goodling, Monica
Subject: Fw: WDMI

Importance: High

Give 'em an inch

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

From: Chiara, Margaret M. (USAMIW) <MM.Chiara@usdoj.gov>
To: McNulty, Paul J
CC: Elston, Michael (ODAG)
Sent: Sat Feb 03 13:39:28 2007
Subject: WDMI

Michael Elston telephoned on Friday afternoon with the welcome news that February 23 should be the date for announcing my resignation followed by a departure date of March 9. I appreciate the consideration.

Here's what I should have mentioned. I am the NAIS chair. Our first field-based meeting in over a year is scheduled on March 13 and 14 in North Carolina. Gretchen Shappert and the Eastern Band of Cherokee Indians are hosting the meeting and a tribal summit which will include 26 federally recognized tribes in the region. Secretary of the Interior Kempthorn is expected to attend. The NAIS staff detailee, who is from WDMI, was terminated despite an outstanding evaluation because EOUSA would not renew her detail. The replacement has not been announced nor will he be available to assist. It makes good sense for me to prepare, (which I have been doing), and chair the meeting. This is particularly true because 4 NAIS members are part of "the group" (Charlton, Bogden, McKay, Igelsias). It is better for me to handle this situation than an interim chair.

My resignation announcement continues to be on February 23; the departure date would be March 16. I trust that this minor adjustment for good cause is acceptable to you.

Margaret

Elston, Michael (ODAG)

From: Goodling, Monica
Sent: Monday, February 12, 2007 9:08 PM
To: Elston, Michael (ODAG)
Subject: For your edits (column two is complete other than my call in to Schools on WDMI)

Attachments: US Attorney leadership assessment.doc



US Attorney
eadership assessm..

U.S. ATTORNEY RESIGNATIONS

DISTRICT:	LEADERSHIP ASSESSMENT:	EARS:
<p>Dan Bodgen (NV) Term expired: Nov. 2, 2005 Called: Dec. 7, 2006 Resignation: Feb. 28, 2007</p>	<ul style="list-style-type: none"> • Very important district being underserved (Las Vegas target for terrorism; violent crime; drugs/organized crime). • Resistant to at least one leadership priority (obscenity task force). 	<ul style="list-style-type: none"> • March 3-7, 2003 • USA Bogden is highly regarded by the federal judiciary, the law enforcement and civil client agencies, and the staff of the USAO.
<p>Paul Charlton (AZ) Term expired: Nov. 14, 2005 Called: Dec. 7, 2006 Resignation: Jan. 30, 2007</p>	<ul style="list-style-type: none"> • Repeated instances of insubordination, actions taken contrary to instructions, and actions taken that were clearly unauthorized. • Worked outside of proper channels without regard to the approved process or impact on others (i.e. budget resources). • Ex: multiple failures to follow AG's instruction on death penalty. • Ex: required FBI to videotape interviews despite FBI policy. • Ex: refusal(?) to comply with a leadership priority (obscenity). • Ex: contrary to guidance from Main Justice that it was poor judgment, put an employee on "leave without pay" status so she could become a paid press secretary for the 2002 gubernatorial campaign (supporting the candidate who was challenging Napolitano). 	<ul style="list-style-type: none"> • December 8-12, 2003 • USA Charlton is well respected by the USAO staff, investigative and civil client agencies, local law enforcement community, Native American Nations, and judiciary regarding his integrity, professionalism, and competence. • The USA's adherence to the chain of command in the Organizational Chart has led to a perception by some that he is inaccessible.
<p>Margaret Chiara (WDMI) Term expired: Nov. 2, 2005 Called: Dec. 7, 2006 Resignation: Mar. 9, 2007 (NOT PUBLIC)</p>	<ul style="list-style-type: none"> • During her tenure, the office has become fractured, morale has fallen, and the USA has lost the confidence of some of the career prosecutors. • The problems here have required on-site visits by 	<ul style="list-style-type: none"> • July 12-16, 2004 • USA Chiara is a well regarded, hard-working, and capable leader who has the respect and confidence of the judiciary, the agencies,

	management experts from our EOUSA to visit and mediate with disgruntled career prosecutors. (CONFIRM WITH SCHOOLS)	and USAO personnel.
David Iglesias (NM) Term expired: Oct. 17, 2005 Called: Dec. 7, 2006 Resignation: Feb. 28, 2007	<ul style="list-style-type: none"> • Critically-important border district being underserved. • Perceived to be an “absentee landlord” who relies on the FAUSA to run the office. 	<ul style="list-style-type: none"> • November 14-18, 2006 • USA Iglesias is experienced in legal, management, and community relations work and is respected by the judiciary, agencies, and staff. • (Report does note heavy reliance on FAUSA to manage operations.)
Carol Lam (SDCA) Term expired: Nov. 18, 2006 Called: Dec. 7, 2006 Resignation: Feb. 15, 2007	<ul style="list-style-type: none"> • Despite the significant management challenges and needs of an extra-large border district with complex litigation, she has focused too much attention and time on personally trying cases than managing the USAO. • Failure to perform in relation to significant leadership priorities (i.e. immigration and gun crime). • Ex: The President has made clear that he expects strong immigration enforcement efforts, but SDCA has only brought a fraction of the cases that other significant border districts are doing. While some good numbers on alien smuggling: <ul style="list-style-type: none"> - Only 422 illegal re-entry cases in 2005 where AZ did 1,491 and NM did 1,607; - Only 470 illegal entry cases in 2005 where AZ did 3,409 and NM did 1,194; - In June 2006, Sen. Feinstein wrote a letter to the AG 	<ul style="list-style-type: none"> • February 7-11, 2005 • USA Lam is an effective manager of the USAO and a respected leader for the District. She is active in Department activities and is respected by the judiciary, law enforcement agencies, and the USAO staff.

	<p>complaining about the high prosecution guidelines which kept these numbers low.</p> <ul style="list-style-type: none"> • Ex: The President has made clear he expects gun crime prosecution to be a significant effort, but SDVA has only brought a fraction of the cases of other extra-large districts. Despite its size and population, it ranks 91 out of 93 districts in terms of average numbers of firearms cases since FY 2000 (doing only an average of 18 cases). 	
<p>John McKay (WDWA) Term expired: Oct. 30, 2005 Called: Dec. 7, 2006 Resignation: Jan. 31, 2007</p>	<ul style="list-style-type: none"> • Pattern of insubordination, poor judgment, and demonstration of temperament issues in seeking policy changes without regard to appropriate methods or tactics. • Extensive focus and travel outside of district to advocate policy changes, rather than proper focus on running the office. 	<ul style="list-style-type: none"> • March 13-17, 2006 • USA McKay is an effective, well-regarded, and capable leader of the USAO and the District's law enforcement community.
<p>Kevin Ryan (NDCA) Term expired: Aug. 2, 2006 Called: Dec. 7, 2006 Resignation: Feb. 16, 2007</p>	<ul style="list-style-type: none"> • During his tenure, the office has become the most fractured office in the Nation, morale has fallen to the point that it is harming our prosecutorial efforts, and the USA has lost the confidence of many of the career prosecutors who are leaving the office. • The problems here have required multiple on-site visits by management and personnel experts from EOUSA to visit with and mediate between disgruntled career prosecutors and the USA. 	<ul style="list-style-type: none"> • Special: March 27-31, 2006 • Overall, USA Ryan effectively manages relations with the outside agencies, the local community, and the judiciary, although some judges expressed concern that he does not adequately communicate with them. • Although, under USA Ryan's leadership, the USAO effectively manages its substantive work, his management style and practices have

		contributed, at least in part, to low morale among a number of the line AUSAs in the Criminal Division in the San Francisco office.
Bud Cummins (EDAR) Term expired: Jan. 9, 2006 <i>(In April 2006, Cummins repeated previous statements that he would not stay for the whole second term and that he was leaving for private sector later that year)</i> Called: June 2006 Resigned: December 2006	<ul style="list-style-type: none">• He had completed his four-year term and indicated he would not stay for the entire second term, so we worked on developing a replacement plan.	[Requested]

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Thursday, March 08, 2007 10:23 AM
To: Friedrich, Matthew (OAG); Purpura, Michael M (ODAG); Monheim, Thomas
Subject: RE: Intl matters mtg at 11

I will be briefing HJC Republicans on my Bud Cummins conversations at 11.

From: Friedrich, Matthew (OAG)
Sent: Thursday, March 08, 2007 10:16 AM
To: Purpura, Michael M (ODAG); Monheim, Thomas; Elston, Michael (ODAG)
Subject: Intl matters mtg at 11

Guys, could one of you pls bring the pc/dc list for next wk, as I see mac can't make it. Thanks much.

United States Attorneys--Criminal Caseload Statistics*
Cases Filed/Defendants in Cases Filed - Sorted Highest to Lowest
Fiscal Year 2007 - First Quarter Actual Data

8 U.S.C 1324**

	Cases Filed		Defendants Filed
Texas, Southern	151	Texas, Southern	214
California, Southern	141	California, Southern	168
Texas, Western	84	Arizona	160
Arizona	77	Texas, Western	157
New Mexico	23	New Mexico	40

8 U.S.C 1325***

California, Southern	80	California, Southern	80
Texas, Southern	9	Texas, Southern	9
Arizona	6	Arizona	7
Texas, Western	4	Texas, Western	4
New Mexico	3	New Mexico	3

8 U.S.C 1326****

Texas, Southern	613	Texas, Southern	612
Arizona	458	Arizona	464
Texas, Western	396	Texas, Western	396
New Mexico	321	New Mexico	321
California, Southern	83	California, Southern	83

*Caseload data extracted from the United States Attorneys' Case Management System.

**Includes data on any and all criminal cases/defendants where 8 U.S.C. 1324 (Bringing in and Harboring Certain Aliens) was brought as any charge against a defendant.

***Includes data on any and all criminal cases/defendants where 8 U.S.C. 1325 (Entry of Alien at Improper Time or Place, Misrepresentation and Concealment of Facts) was brought as any charge against a defendant.

****Includes data on any and all criminal cases/defendants where 8 U.S.C. 1326 (Reentry of Deported Aliens) was brought as any charge against a defendant.

DAG000002631

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

Overview:

- In every single case, it is a goal of the Bush Administration to have a U.S. Attorney that is confirmed by the Senate. Use of the AG's appointment authority is in no way an attempt to circumvent the confirmation process. To the contrary, when a United States Attorney submits his or her resignation, the Administration has an obligation to ensure that someone is able to carry out the important function of leading a U.S. Attorney's office during the period when there is not a presidentially-nominated, senate-confirmed (PAS) U.S. Attorney. Whenever a U.S. Attorney vacancy arises, we consult with the home-state Senators about candidates for nomination.
- Our record since the AG-appointment authority was amended demonstrates we are committed to working with the Senate to nominate candidates for U.S. Attorney positions. Every single time that a United States Attorney vacancy has arisen, the President either has made a nomination or the Administration is working, in consultation with home-State Senators, to select candidates for nomination.
 - ✓ Specifically, since March 9, 2006 (when the AG's appointment authority was amended), the Administration has nominated 15 individuals to serve as U.S. Attorney (12 have been confirmed to date).

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

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

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

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

The Administration Must Ensure an Effective Transition When Vacancies Occur:

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

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

- Since March 9, 2006, when the appointment authority was amended, the Administration has nominated 15 individuals for Senate consideration (12 have been confirmed to date).
- Since March 9, 2006, when the appointment authority was amended, 13 vacancies have been created. Of those 13 vacancies, the Administration nominated candidates to fill 5 of these positions (3 were confirmed to date), has interviewed candidates for 7 positions, and is waiting to receive names to set up interviews for 1 position – all in consultation with home-state Senators.

The 13 Vacancies Were Filled on an Interim Basis Using a Range of Authorities, in Order To Ensure an Effective and Smooth Transition:

- In 4 cases, the First Assistant was selected to lead the office and took over under the Vacancy Reform Act's provision at: 5 U.S.C. § 3345(a)(1). That authority is limited to 210 days, unless a nomination is made during that period.
- In 1 case, the First Assistant was selected to lead the office and took over under the Vacancy Reform Act's provision at: 5 U.S.C. § 3345(a)(1). However, the First Assistant took federal retirement a month later and the Department had to select another Department employee to serve as interim under AG appointment until such time as a nomination is submitted to the Senate.
- In 7 cases, the Department selected another Department employee to serve as interim under AG appointment until such time as a nomination is submitted to the Senate.
- In 1 case, the First Assistant resigned at the same time as the U.S. Attorney, creating a need for an interim until such time as a nomination is submitted to the Senate.

Amending the Statute Was Necessary:

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

the Attorney General's appointment authority resulted in numerous, recurring problems.

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

UNITED STATES ATTORNEYS STATISTICS

Average Ages of U.S. Attorneys:

- Average age of President George W. Bush U.S. Attorneys: 44.82 years
- Average age of President Bill Clinton U.S. Attorneys: 44.67 years

Status of Our U.S. Attorneys' Four-Year Terms:

- 43 districts are currently being led by a U.S. Attorney nominated by President George W. Bush and confirmed by the Senate in 2001 or 2002. All of these U.S. Attorneys have completed their four year terms and continue to serve at the pleasure of the President (5 of the 43 have announced their resignations).
- Only 6 districts are currently being led by the first U.S. Attorney nominated by President Bush and confirmed by the Senate -- but who are still serving their four year terms.
- 44 districts are either being led by their second Presidentially-nominated and Senate-confirmed U.S. Attorney, or are currently awaiting a nomination. These U.S. Attorneys have not completed their four year terms.

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

- 98 had prior experience as prosecutors (79 %)
 - 71 had prior experience as federal prosecutors (57 %)
 - 54 had prior experience as state or local prosecutors (44%)
- 104 had prior experience as prosecutors or government litigators on the civil side (84 %)
- 10 had judicial experience (8%); 13 had Hill experience (10%)
- Of the 10 who had worked at Main Justice in the George W. Bush Administration before being nominated for a U.S. Attorney position, please note that 8 were either career AUSAs or former career AUSAs.

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

- 84 had prior experience as prosecutors (69 %)
 - 56 had prior experience as federal prosecutors (46 %)
 - 40 had prior experience as state or local prosecutors (33 %)
- 87 had prior experience as prosecutors or government litigators on the civil side (71 %)
- 12 had judicial experience (9 %); 10 had Hill experience (8 %)

Since the Attorney General's Appointment Authority Was Amended on March 9, 2006, the Backgrounds of Our Nominees Has Not Changed. Of the 15 Nominees Since that Time:

- 13 of the 15 had prior experience as prosecutors (87%) – *a higher percentage than before.*
 - 11 of the 15 had prior experience as federal prosecutors (73%) – *a higher percentage than before the change*; 10 were career AUSAs or former career AUSAs and 1 had federal prosecution experience as an Assistant Attorney General of the Civil Rights Division
 - 4 of the 15 nominees had experience as state or local prosecutors (27%)

Those Chosen To Be Acting/Interim U.S. Attorneys since the Attorney General's Appointment Authority Was Amended on March 9, 2006, Have Continued To Be Highly Qualified. Of the 13 districts in which vacancies have occurred, 14 acting and/or interim appointments have been made:

- 13 of the 14 had prior experience as federal prosecutors (93%)

FACT SHEET: UNITED STATES ATTORNEY APPOINTMENTS

NOMINATIONS AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

Since March 9, 2006, when the Congress amended the Attorney General's authority to appoint interim United States Attorneys, the President has nominated 15 individuals to serve as United States Attorney. The 15 nominations are:

- **Erik Peterson** – Western District of Wisconsin;
- **Charles Rosenberg** – Eastern District of Virginia;
- **Thomas Anderson** – District of Vermont;
- **Martin Jackley** – District of South Dakota;
- **Alexander Acosta** – Southern District of Florida;
- **Troy Eid** – District of Colorado;
- **Phillip Green** – Southern District of Illinois;
- **George Holding** – Eastern District of North Carolina;
- **Sharon Potter** – Northern District of West Virginia;
- **Brett Tolman** – District of Utah;
- **Rodger Heaton** – Central District of Illinois;
- **Deborah Rhodes** – Southern District of Alabama;
- **Rachel Paulose** – District of Minnesota;
- **John Wood** – Western District of Missouri; and
- **Rosa Rodriguez-Velez** – District of Puerto Rico.

All but Phillip Green, John Wood, and Rosa Rodriguez-Velez have been confirmed by the Senate.

VACANCIES AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

Since March 9, 2006, there have been 13 new U.S. Attorney vacancies that have arisen. They have been filled as noted below.

For 4 of the 13 vacancies, the First Assistant United States Attorney (FAUSA) in the district was selected to lead the office in an acting capacity under the Vacancies Reform Act, *see* 5 U.S.C. § 3345(a)(1) (first assistant may serve in acting capacity for 210 days unless a nomination is made) until a nomination could be or can be submitted to the Senate. Those districts are:

- **Central District of California** – FAUSA George Cardona is acting United States Attorney
- **Southern District of Illinois** – FAUSA Randy Massey is acting United States Attorney (a nomination was made last Congress for Phillip Green, but confirmation did not occur);

- **Eastern District of North Carolina** – FAUSA George Holding served as acting United States Attorney (Holding was nominated and confirmed);
- **Northern District of West Virginia** – FAUSA Rita Valdrini served as acting United States Attorney (Sharon Potter was nominated and confirmed).

For 1 vacancy, the Department first selected the First Assistant United States Attorney to lead the office in an acting capacity under the Vacancies Reform Act, but the First Assistant retired a month later. At that point, the Department selected another employee to serve as interim United States Attorney until a nomination could be submitted to the Senate, *see* 28 U.S.C. § 546(a) (“Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant”). This district is:

- **Northern District of Iowa** – FAUSA Judi Whetstine was acting United States Attorney until she retired and Matt Dummermuth was appointed interim United States Attorney.

For 8 of the 13 vacancies, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate, *see* 28 U.S.C. § 546(a) (“Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant”). Those districts are:

- **Eastern District of Virginia** – Pending nominee Chuck Rosenberg was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Deputy Attorney General (Rosenberg was confirmed shortly thereafter);
- **Eastern District of Arkansas** – Tim Griffin was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Columbia** – Jeff Taylor was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Assistant Attorney General for the National Security Division;
- **District of Nebraska** – Joe Stecher was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Chief Justice of Nebraska Supreme Court;
- **Middle District of Tennessee** – Craig Morford was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Western District of Missouri** – Brad Schlozman was appointed interim United States Attorney when incumbent United States Attorney and FAUSA resigned at the same time (John Wood was nominated);
- **Western District of Washington** – Jeff Sullivan was appointed interim United States Attorney when incumbent United States Attorney resigned; and
- **District of Arizona** – Dan Knauss was appointed interim United States Attorney when incumbent United States Attorney resigned.

ATTORNEY GENERAL APPOINTMENTS AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

The Attorney General has exercised the authority to appoint interim United States Attorneys a total of 12 times since the authority was amended in March 2006.

In 2 of the 12 cases, the FAUSA had been serving as acting United States Attorney under the Vacancies Reform Act (VRA), but the VRA's 210-day period expired before a nomination could be made. Thereafter, the Attorney General appointed that same FAUSA to serve as interim United States Attorney. These districts include:

- **District of Puerto Rico** – Rosa Rodriguez-Velez (Rodriguez-Velez has been nominated); and
- **Eastern District of Tennessee** – Russ Dedrick

In 1 case, the FAUSA had been serving as acting United States Attorney under the VRA, but the VRA's 210-day period expired before a nomination could be made. Thereafter, the Attorney General appointed another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. That district is:

- **District of Alaska** – Nelson Cohen

In 1 case, the Department originally selected the First Assistant to serve as acting United States Attorney; however, she retired from federal service a month later. At that point, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. That district is:

- **Northern District of Iowa** – Matt Dummermuth

In the 8 remaining cases, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. Those districts are:

- **Eastern District of Virginia** – Pending nominee Chuck Rosenberg was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Deputy Attorney General (Rosenberg was confirmed shortly thereafter);
- **Eastern District of Arkansas** – Tim Griffin was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Columbia** – Jeff Taylor was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Assistant Attorney General for the National Security Division;
- **District of Nebraska** – Joe Stecher was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Chief Justice of Nebraska Supreme Court;

- **Middle District of Tennessee** – Craig Morford was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Western District of Missouri** – Brad Schlozman was appointed interim United States Attorney when incumbent United States Attorney and FAUSA resigned at the same time (John Wood was nominated);
- **Western District of Washington** – Jeff Sullivan was appointed interim United States Attorney when incumbent United States Attorney resigned; and
- **District of Arizona** – Dan Knauss was appointed interim United States Attorney when incumbent United States Attorney resigned.

CURRENT & UPCOMING VACANCIES

Current vacancies (15):

- **Maine** (since 2001) – still continuing to request names from senators
- **Southern District of West Virginia** (since 2005) - waiting on names from congresswoman
- **Eastern District of Tennessee** (since 2005) – candidate selected but waiting on home-state senator sign-off
- **Alaska** (since 1/06) – waiting on names from senators
- **Southern District of Illinois** (since 2005 or 3/06, depending) - nomination sent to last Congress but not approved; on hold
- **Western District of Missouri** (since 3/06) - nomination pending
- **Puerto Rico** (since 6/06) - nomination pending
- **District of Columbia** (since 9/06) - candidate in background review
- **Nebraska** (since 10/06) - candidate in background review
- **Middle District of Tennessee** (since 10/06) - waiting on additional names from senators
- **Central District of California** (since 11/06) – working with home-state commission
- **Eastern District of Arkansas** (since 12/06) - candidate in background
- **Northern District of Iowa** (since 12/06) - candidate selected but waiting on home-state senator sign-off
- **District of Arizona** (since 1/07) – would like to request more names from senators
- **Western District of Washington** (since 1/07) – interviews being scheduled

Publicly-announced or known upcoming resignations (9):

- **Nevada**, Dan Bogden, 2/28/07 – waiting on names
- **Southern District of California**, Carol Lam, 2/15/07 – waiting on names
- **Northern District of California** Kevin Ryan, 2/16/07 – waiting on names
- **New Mexico**, David Iglesias, 2/28/07 – candidate selected but waiting on home-state senator sign-off

- **Southern District of Georgia**, Lisa Wood, 2/7/07, pending appointment to court – waiting on additional names from senators
- **Montana**, Bill Mercer, pending confirmation of new position
- **Northern District of Indiana**, Joe Van Bokkelen, pending confirmation of new position
- **Eastern District of New York**, Roslynn Mauskopf, pending confirmation of new position
- **Eastern District of Michigan**, Steve Murphy, pending confirmation of new position

Non-public resignation (1):

- **Western District of Michigan**, Margaret Chiara, 3/07

**VACANCIES OVER THE PAST YEAR:
(13 since March of 2006)**

- **There are many reasons why a U.S. Attorney may retire or resign.**

- **Nearly half were confirmed or appointed to new federal positions:**
 - ✓ Paul McNulty, EDVA, 3/06 (to become DAG)
 - ✓ Tom Johnston, NDWV, 4/06 (to become federal district court judge)
 - ✓ Frank Whitney, EDNC, 6/06 (to become federal district court judge)
 - ✓ Bert Garcia, PR, 6/06 (to return family to home state of Texas)
 - ✓ Ken Wainstein, DC, 9/06 (to become AAG of NSD)
 - ✓ Mike Heavican, NE, 10/06 (to become Chief Justice on the state's Supreme Court)

- **Others left to pursue private sector opportunities (i.e. Jim Vines, MDTN) or retired at the end of a long career (i.e. Charles Larson, NDIA).**

Full list of resignations since last March in reverse date order (13 total):

- *John McKay, WDWA, 1/07 (has said he will teach at a law school)*
- *Paul Charlton, AZ, 1/07 (going into private practice)*
- *Bud Cummins, EDAR, 12/06 (pursuing private sector opportunities)*
- Chuck Larson, NDIA, 12/06 (to take federal retirement)
- Deb Yang, CDCA, 11/06 (to go into private practice)
- Jim Vines, MDTN, 10/06 (to move to D.C. and go into private practice)
- Mike Heavican, NE, 10/06 (to become Chief Justice on the state's Supreme Court)
- Ken Wainstein, DC, 9/06 (to become AAG of NSD)
- Frank Whitney, EDNC, 6/06 (to become federal district court judge)
- Bert Garcia, PR, 6/06 (to return family to home state of Texas)
- Tom Johnston, NDWV, 4/06 (to become federal district court judge)
- Todd Graves, WDMO, 3/06 (started his own firm)
- Paul McNulty, EDVA, 3/06 (to become DAG)

Additional U.S. Attorneys are pending confirmation/appointment to new federal positions (5):

- Lisa Godbey Wood, SDGA (confirmed to be federal district court judge, but not yet appointed)
- Bill Mercer, MT (to become Associate Attorney General)
- Joe Van Bokkelen, NDIN (to become federal district court judge)
- Roslynn Mauskopf, EDNY (to become federal district court judge)
- Steve Murphy, EDMT (to become federal court of appeals judge)

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

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

DAG000002644

BIOGRAPHIES OF U.S. ATTORNEYS FROM ARKANSAS

EASTERN DISTRICT

Attorney General Appointment of Tim Griffin (37 years old at appointment)

Appointed 12/20/2006

Educational Background:

- B.A. from Hendrix College in Arkansas in 1990
- Graduate school at Pembroke College, Oxford University in 1991
- J.D. from Tulane Law School in 1994

Prosecution & Military Background:

- Officer—currently a major—in the U.S. Army Judge Advocate General's (JAG) Corps (over ten years), including service as a Brigade Judge Advocate, U.S. Army JAG Corps., Operation Iraqi Freedom, 101st Airborne Division (Air Assault) May-Aug 2006 (approx. 3 months)
- Special Assistant U.S. Attorney, Eastern District of Arkansas, Sept 2001-June 2002 (9 months)
- Special Assistant to the Assistant Attorney General for the Criminal Division, U.S. Department of Justice (approx. 15 months)
- Senior Investigative Counsel, Committee on Government Reform, U.S. House of Representatives, 1997-1999 (approx. 2 ½ years total)
- Associate Independent Counsel, U.S. Office of Independent Counsel David Barrett (16 months)
- Associate Attorney, Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P. (approx. one year)
- Military Honors: Army Commendation Medal with Five Oak Leaf Clusters; Army Achievement Medal with Four Oak Leaf Clusters; Army Reserve Components Achievement Medal with Two Oak Leaf Clusters; National Defense Service Medal; Iraq Campaign Medal; Global War on Terrorism Service Medal; Armed Forces Reserve Medal with Bronze Hourglass and "M" Devices; Army Service Ribbon; and Army Reserve Overseas Training Ribbon with "3" Device; and Combat Action Badge.

Political experience:

- Special Assistant to the President & Deputy Director, Office of Political Affairs, The White House (approximately 5 months; then on military leave)
- RNC Research Dir. & Dep. Communications Dir., 2004 Presidential Campaign (approx. 2 ½ years)
- RNC Dep. Research Director, 2000 Presidential Campaign (approx. 1 ½ years)

George W. Bush USA: H.E. "Bud" Cummins (42 years old at nomination)

Nominated 11/30/2001; confirmed 12/20/2001

Talkers:

- Unlike Mr. Griffin, he did not attend top-rated universities.
- *However, like Mr. Griffin, he had political experience.* In 2000, he served as Arkansas Legal Counsel to the Bush/Cheney campaign, was part of the GOP Florida Ballot Recount Team in Broward County, and was an Arkansas Elector. He was also the Republican nominee for the U.S. Congress 2nd Congressional District in 1996.

Background:

- B.S./B.A. from University of Arkansas in 1981
- J.D. from University of Arkansas Little Rock School of Law in 1989
- Private Law Practice and State Director, NFIB/Arkansas (approximately 3 years)
- Chief Legal Counsel for the Arkansas Governor (approximately one year)
- Private Law Practice 1993-1996 (approximately 3 years)
- Clerk to Chief Judge, United States District Court, Eastern District of Arkansas (approximately one year)
- Clerk to United States Magistrate Judge, United States District Court, Eastern District of Arkansas (approximately 2 years)
- Five separate gubernatorial appointments as Special Justice to Supreme Court of Arkansas

Clinton USA: Paula Jean Casey (42 years old at nomination)

Nominated 8/6/93; confirmed 9/21/93

Talkers:

- Unlike Mr. Griffin, she did not attend top-rated universities.
- Unlike Mr. Griffin, she did not have military or federal prosecution experience.
- *However, like Mr. Griffin, she had political experience.* She volunteered on the political campaigns of the President who nominated her and was a former student of his. In addition to owing the President her job, then-Governor Clinton had also appointed her husband to a state agency position. She was also a law student of then-Professor Bill Clinton. (See *Associated Press*, 11/10/93)

Background:

- B.A. from East Central Oklahoma University in 1973
- J.D. from University of Arkansas Law School in 1976
- Staff attorney for the Central Arkansas Legal Services (approximately 3 years)
- Deputy Public Defender (less than one year)
- Supervisor of Legal Clinic at University of Arkansas Law School (approximately 2 years)

- Professor at the University of Arkansas Law School (approximately 8 years)
- Chief Counsel & Legislative Director to Senator Dale Bumpers (approximately 3 years)
- Lobbyist for the Arkansas Bar Association (approximately 1 year)

WESTERN DISTRICT

George W. Bush USA: Robert Cramer Balfe, III for WDAR (37 years old at nomination)

Nominated 6/1/2004; confirmed 11/20/2004

Talkers:

- While he had local experience as a prosecutor, he did not have federal prosecution experience. Also, he did not attend top-rated universities.

Background:

- B.S. from Arkansas State University in 1990
- J.D. from University of Arkansas School of Law in 1994
- Prosecuting Attorney for the 19th Judicial District West (approximately 3 years)
- Deputy Prosecuting Attorney for the 19th Judicial District West (approximately 5 years)
- Secretary/Treasurer of the Arkansas Prosecuting Attorney's Association

George W. Bush USA for WDAR: Thomas C. Gean (39 years old at nomination)

Nominated 8/2/2001; confirmed 10/23/2001

Talkers:

- While he did have local prosecution experience, he did not have any federal prosecution experience.

Background:

- Bachelor degree from University of Arkansas
- J.D. from Vanderbilt University Law School
- Prosecuting Attorney for the Sebastian County District Attorney's Office (approximately 4 years)
- Attorney with Gean, Gean, and Gean in Fort Smith, Arkansas (approximately 4 years)
- Attorney with Alston and Bird in Atlanta, Georgia (approximately 4 years)

Clinton USA for WDAR: Paul Kinloch Holmes, III (42 years old at nomination)

Nominated 8/6/1993; confirmed 9/21/93

Talkers:

- *Unlike Mr. Griffin, he did not have any military or federal prosecution experience. He also did not have any state or local prosecution experience. He also did not attend top-rated universities.*
- *Like Mr. Griffin, he had political experience.* He served as chairman of the Sebastian County Democratic Party and Sebastian County Election Commission from 1979-1983. (See *Arkansas Democrat-Gazette*, 10/19/00)

Background:

- B.A. from Westminster College in 1973
- J.D. from University of Arkansas in 1978

- Attorney for Warner and Smith, Fort Smith, Arkansas (approximately 15 years)

FACT SHEET: UNITED STATES ATTORNEY APPOINTMENTS

NOMINATIONS AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

Since March 9, 2006, when the Congress amended the Attorney General's authority to appoint interim United States Attorneys, the President has nominated 15 individuals to serve as United States Attorney. The 15 nominations are:

- **Erik Peterson** – Western District of Wisconsin;
- **Charles Rosenberg** – Eastern District of Virginia;
- **Thomas Anderson** – District of Vermont;
- **Martin Jackley** – District of South Dakota;
- **Alexander Acosta** – Southern District of Florida;
- **Troy Eid** – District of Colorado;
- **Phillip Green** – Southern District of Illinois;
- **George Holding** – Eastern District of North Carolina;
- **Sharon Potter** – Northern District of West Virginia;
- **Brett Tolman** – District of Utah;
- **Rodger Heaton** – Central District of Illinois;
- **Deborah Rhodes** – Southern District of Alabama;
- **Rachel Paulose** – District of Minnesota;
- **John Wood** – Western District of Missouri; and
- **Rosa Rodriguez-Velez** – District of Puerto Rico.

All but Phillip Green, John Wood, and Rosa Rodriguez-Velez have been confirmed by the Senate.

VACANCIES AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

Since March 9, 2006, there have been 13 new U.S. Attorney vacancies that have arisen. They have been filled as noted below.

For 4 of the 13 vacancies, the First Assistant United States Attorney (FAUSA) in the district was selected to lead the office in an acting capacity under the Vacancies Reform Act, *see* 5 U.S.C. § 3345(a)(1) (first assistant may serve in acting capacity for 210 days unless a nomination is made) until a nomination could be or can be submitted to the Senate. Those districts are:

- **Central District of California** – FAUSA George Cardona is acting United States Attorney
- **Southern District of Illinois** – FAUSA Randy Massey is acting United States Attorney (a nomination was made last Congress for Phillip Green, but confirmation did not occur);

- **Eastern District of North Carolina** – FAUSA George Holding served as acting United States Attorney (Holding was nominated and confirmed);
- **Northern District of West Virginia** – FAUSA Rita Valdrini served as acting United States Attorney (Sharon Potter was nominated and confirmed).

For 1 vacancy, the Department first selected the First Assistant United States Attorney to lead the office in an acting capacity under the Vacancies Reform Act, but the First Assistant retired a month later. At that point, the Department selected another employee to serve as interim United States Attorney until a nomination could be submitted to the Senate, *see* 28 U.S.C. § 546(a) (“Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant”). This district is:

- **Northern District of Iowa** – FAUSA Judi Whetstine was acting United States Attorney until she retired and Matt Dummermuth was appointed interim United States Attorney.

For 8 of the 13 vacancies, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate, *see* 28 U.S.C. § 546(a) (“Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant”). Those districts are:

- **Eastern District of Virginia** – Pending nominee Chuck Rosenberg was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Deputy Attorney General (Rosenberg was confirmed shortly thereafter);
- **Eastern District of Arkansas** – Tim Griffin was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Columbia** – Jeff Taylor was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Assistant Attorney General for the National Security Division;
- **District of Nebraska** – Joe Stecher was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Chief Justice of Nebraska Supreme Court;
- **Middle District of Tennessee** – Craig Morford was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Western District of Missouri** – Brad Schlozman was appointed interim United States Attorney when incumbent United States Attorney and FAUSA resigned at the same time (John Wood was nominated);
- **Western District of Washington** – Jeff Sullivan was appointed interim United States Attorney when incumbent United States Attorney resigned; and
- **District of Arizona** – Dan Knauss was appointed interim United States Attorney when incumbent United States Attorney resigned.

ATTORNEY GENERAL APPOINTMENTS AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

The Attorney General has exercised the authority to appoint interim United States Attorneys a total of 12 times since the authority was amended in March 2006.

In 2 of the 12 cases, the FAUSA had been serving as acting United States Attorney under the Vacancies Reform Act (VRA), but the VRA's 210-day period expired before a nomination could be made. Thereafter, the Attorney General appointed that same FAUSA to serve as interim United States Attorney. These districts include:

- **District of Puerto Rico** – Rosa Rodriguez-Velez (Rodriguez-Velez has been nominated); and
- **Eastern District of Tennessee** – Russ Detrick

In 1 case, the FAUSA had been serving as acting United States Attorney under the VRA, but the VRA's 210-day period expired before a nomination could be made. Thereafter, the Attorney General appointed another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. That district is:

- **District of Alaska** – Nelson Cohen

In 1 case, the Department originally selected the First Assistant to serve as acting United States Attorney; however, she retired from federal service a month later. At that point, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. That district is:

- **Northern District of Iowa** – Matt Dummermuth

In the 8 remaining cases, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. Those districts are:

- **Eastern District of Virginia** – Pending nominee Chuck Rosenberg was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Deputy Attorney General (Rosenberg was confirmed shortly thereafter);
- **Eastern District of Arkansas** – Tim Griffin was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Columbia** – Jeff Taylor was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Assistant Attorney General for the National Security Division;
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- **Middle District of Tennessee** – Craig Morford was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Western District of Missouri** – Brad Schlozman was appointed interim United States Attorney when incumbent United States Attorney and FAUSA resigned at the same time (John Wood was nominated);
- **Western District of Washington** – Jeff Sullivan was appointed interim United States Attorney when incumbent United States Attorney resigned; and
- **District of Arizona** – Dan Knauss was appointed interim United States Attorney when incumbent United States Attorney resigned.

Moschella, William

From: Sampson, Kyle
Sent: Monday, December 18, 2006 1:06 PM
To: Goodling, Monica
Cc: Mercer, William W; Moschella, William; McNulty, Paul J; Battle, Michael (USAEO)
Subject: RE: USA Resignation

From: Goodling, Monica
Sent: Monday, December 18, 2006 12:47 PM
To: Sampson, Kyle
Subject: FW: USA Resignation

FYI

From: Nowacki, John (USAEO) [mailto:John.Nowacki@usdoj.gov]
Sent: Monday, December 18, 2006 10:25 AM
To: Goodling, Monica; Elston, Michael (ODAG)
Subject: USA Resignation

Paul Charlton has notified us that he will announce his resignation today, effective 31 January 2007.

Moschella, William

From: Moschella, William
Sent: Tuesday, December 19, 2006 7:35 PM
To: McNulty, Paul J; Elston, Michael (ODAG)
Subject: FW: U.S. ATTORNEY PAUL CHARLTON TO STEP DOWN AT END OF JANUARY
Attachments: 2006-270(Charlton).wpd; 2006-270(Charlton).pdf

Tracking:

Recipient	Read
McNulty, Paul J	Read: 12/20/2006 12:39 PM
Elston, Michael (ODAG)	Read: 12/19/2006 8:47 PM

Got a Kyl quote.

From: Goodling, Monica
Sent: Tuesday, December 19, 2006 1:53 PM
To: Sampson, Kyle; Elston, Michael (ODAG); Mercer, William W; Moschella, William; Nowacki, John (USAEO); Battle, Michael (USAEO)
Subject: FW: U.S. ATTORNEY PAUL CHARLTON TO STEP DOWN AT END OF JANUARY

FYI

From: Roehrkasse, Brian
Sent: Tuesday, December 19, 2006 1:16 PM
To: Goodling, Monica
Subject: FW: U.S. ATTORNEY PAUL CHARLTON TO STEP DOWN AT END OF JANUARY

From: Smith, Kimberly A
Sent: Tuesday, December 19, 2006 1:16 PM
To: Ames, Andrew; Block, Jonathan; Blomquist, Kathleen M; Boyd, Dean; Brian Roehrkasse; Clarke, Elizabeth E (OPA); Holland, Eric W; Jean Card; Lesch, Jaclyn; Magnuson, Cynthia; Miller, Charles S; Mitchell, John A; Peterson, Evan; Schwartz, Arthur; Scolinos, Tasia; Sellers, Donna J.; Sierra, Bryan; Smith Kimberly A; Talamona, Gina; Williams, Linda Fitzgerald
Subject: U.S. ATTORNEY PAUL CHARLTON TO STEP DOWN AT END OF JANUARY

Moschella, William

From: Seidel, Rebecca
Sent: Monday, December 18, 2006 8:00 PM
To: Moschella, William
Subject: RE: USAs -Sen Kyl / AG hearing in Jan

Thank you.

From: Moschella, William
Sent: Monday, December 18, 2006 7:47 PM
To: Seidel, Rebecca; Nowacki, John (USAEO); Elston, Michael (ODAG)
Cc: Clinger, James H
Subject: RE: USAs -Sen Kyl / AG hearing in Jan

I don't think he will raise this in public.

From: Seidel, Rebecca
Sent: Monday, December 18, 2006 1:50 PM
To: Nowacki, John (USAEO); Moschella, William; Elston, Michael (ODAG)
Cc: Clinger, James H
Subject: USAs -Sen Kyl / AG hearing in Jan

I understand that Kyl is significantly disturbed over the Charlton issue. We should ensure that the AG is adequately prepared to deal with a question over the firings of the USAs, do we need a paper on it or is the AG prepared? Didn't want to task one through the regular channels. I am hoping that Kyl would not bring it up in an open hearing, but I am not sure yet if he could.

Moschella, William

From: Sampson, Kyle
Sent: Thursday, January 18, 2007 10:58 AM
To: Elston, Michael (ODAG); Moschella, William; Goodling, Monica
Cc: Mercer, William W; McNulty, Paul J
Subject: Re: USAO-NDCA

Thx.

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

From: Elston, Michael (ODAG)
To: Sampson, Kyle; Moschella, William; Goodling, Monica
CC: Mercer, William W; McNulty, Paul J
Sent: Thu Jan 18 10:57:32 2007
Subject: USAO-NDCA

Kyle:

Kevin Ryan's FAUSA, Eumi Choi, just called to let us know that Kevin is not returning calls from Sen. Feinstein or Carol Lam and doing his best to stay out of this. He wanted us to know that he's still a "company man." I gave her my talkers for McKay and Charlton and asked her to convey them to Kevin.

Mike

Moschella, William

From: Sampson, Kyle
Sent: Thursday, January 25, 2007 5:34 PM
To: Hertling, Richard; Seidel, Rebecca; Goodling, Monica; Nowacki, John (USAEO)
Cc: Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy
Subject: RE: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.
Importance: High

Will/Mike, I think that the DAG should be the witness. We need to be serious and hit back hard. Will you ask him if he is willing?

From: Hertling, Richard
Sent: Thursday, January 25, 2007 5:23 PM
To: Seidel, Rebecca; Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO)
Cc: Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy
Subject: RE: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

we need to decide who our witness will be

From: Seidel, Rebecca
Sent: Thursday, January 25, 2007 4:02 PM
To: Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO); Hertling, Richard
Cc: Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy
Subject: FW: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

here is the notice for the hearing on the USA issue.

From: Butterfield, Jane (Judiciary-Rep) [mailto:Jane_Butterfield@judiciary-rep.senate.gov]
Sent: Thursday, January 25, 2007 8:56 AM
To: White, Brandi (Frist); Andrea Looney (Whitehouse); Bacak, Brooke (RPC); Bellocchi, Luke (RPC); Best, David T; Dianna Dunne (Whitehouse); Hicks, Allen (Frist); Hippe, Jim (Frist); Janette Evans-Lee ; Jeri Gronewold; Mark Braswell; Michael Allen (Whitehouse); Moschella, William; Seidel, Rebecca; Stout, Stacey L; Kebodeaux, Tiffany (DHS); Dewine; Peterlin,

January 25, 2007

NOTICE OF FULL COMMITTEE HEARING

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

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

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

Senator Schumer will chair the hearing.

By order of the Chairman

Moschella, William

From: Moschella, William
Sent: Thursday, January 25, 2007 5:45 PM
To: Sampson, Kyle
Cc: Elston, Michael (ODAG)
Subject: RE: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

Tracking:	Recipient	Read
	Sampson, Kyle	Read: 1/25/2007 5:53 PM
	Elston, Michael (ODAG)	Read: 1/26/2007 11:45 AM

are you crazy? no way, you ask him! . . .

Of course we will raise it with him.

From: Sampson, Kyle
Sent: Thursday, January 25, 2007 5:34 PM
To: Hertling, Richard; Seidel, Rebecca; Goodling, Monica; Nowacki, John (USAEO)
Cc: Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy
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Will/Mike, I think that the DAG should be the witness. We need to be serious and hit back hard. Will you ask him if he is willing?

From: Hertling, Richard
Sent: Thursday, January 25, 2007 5:23 PM
To: Seidel, Rebecca; Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO)

3/13/2007

DAG000002659

Cc: Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy
Subject: RE: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

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Subject: RE: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.
Importance: High

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3/13/2007

DAG000002661

From: Hertling, Richard
Sent: Thursday, January 25, 2007 5:23 PM
To: Seidel, Rebecca; Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO)
Cc: Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy
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Moschella, William

From: Elston, Michael (ODAG)
Sent: Thursday, January 25, 2007 6:40 PM
To: Sampson, Kyle; Moschella, William
Subject: Re: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

DAG and I discussed it earlier today, and his choice is ... Moschella.

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

From: Sampson, Kyle
To: Moschella, William
CC: Elston, Michael (ODAG)
Sent: Thu Jan 25 17:53:25 2007
Subject: RE: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

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Sent: Thursday, January 25, 2007 5:45 PM
To: Sampson, Kyle
Cc: Elston, Michael (ODAG)
Subject: RE: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

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By order of the Chairman

Moschella, William

From: Sampson, Kyle
Sent: Thursday, January 25, 2007 6:41 PM
To: Elston, Michael (ODAG); Moschella, William
Cc: Hertling, Richard
Subject: RE: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

Looping in Richard.

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

From: Elston, Michael (ODAG)
Sent: Thursday, January 25, 2007 6:40 PM
To: Sampson, Kyle; Moschella, William
Subject: Re: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

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By order of the Chairman

Moschella, William

From: Moschella, William
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To: Elston, Michael (ODAG)
Cc: Hertling, Richard; Sampson, Kyle
Subject: RE: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

Are you serious? I was going to be in El Paso on Wednesday.

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

From: Sampson, Kyle
Sent: Thursday, January 25, 2007 6:41 PM
To: Elston, Michael (ODAG); Moschella, William
Cc: Hertling, Richard
Subject: RE: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

Looping in Richard.

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

From: Elston, Michael (ODAG)
Sent: Thursday, January 25, 2007 6:40 PM
To: Sampson, Kyle; Moschella, William
Subject: Re: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

DAG and I discussed it earlier today, and his choice is ... Moschella.

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

From: Sampson, Kyle
To: Moschella, William
CC: Elston, Michael (ODAG)
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Sent: Thursday, January 25, 2007 5:23 PM
To: Seidel, Rebecca; Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO)
Cc: Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy
Subject: RE: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

we need to decide who our witness will be

From: Seidel, Rebecca
Sent: Thursday, January 25, 2007 4:02 PM
To: Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO); Hertling, Richard
Cc: Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy
Subject: FW: Notice of Full Committee Hearing for Wed., Feb. 7, 2007 at 9:30 a.m.

here is the notice for the hearing on the USA issue.

From: Butterfield, Jane (Judiciary-Rep) [mailto:Jane_Butterfield@judiciary-rep.senate.gov]
Sent: Thursday, January 25, 2007 8:56 AM
To: White, Brandi (Frist); Andrea Looney (Whitehouse); Bacak, Brooke (RPC); Bellocchi, Luke (RPC); Best, David T; Dianna Dunne (Whitehouse); Hicks, Allen (Frist); Hippe, Jim (Frist); Janette Evans-Lee; Jeri Gronewold; Mark Braswell; Michael Allen (Whitehouse); Moschella, William; Seidel, Rebecca; Stout, Stacey L; Kebodeaux, Tiffany (DHS); Dewine; Peterlin,

January 25, 2007

NOTICE OF FULL COMMITTEE HEARING

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

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

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

Senator Schumer will chair the hearing.

By order of the Chairman

Tracking:

Recipient

Elston, Michael (ODAG)

Hertling, Richard

Sampson, Kyle

Read

Read: 1/25/2007 7:23 PM

Read: 1/25/2007 7:05 PM

Deleted: 1/25/2007 7:59 PM

Moschella, William

From: Goodling, Monica
Sent: Tuesday, January 30, 2007 7:48 PM
To: Sampson, Kyle; Elston, Michael (ODAG); Moschella, William; Hertling, Richard; Seidel, Rebecca; Scolinos, Tasia; Roehrkasse, Brian
Subject: USA talkers & fact sheet - updated

Attachments: FACT SHEET - USA appointments.pdf; TPS - USA vacancy-appointments.pdf

Folks -- The attached version of the talkers and fact sheet include the vacancies and interim appointments of Sullivan (WDWA) who was sworn in on Saturday, Dummermuth (NDIA) who was sworn in today, and Knauss (AZ) who was just appointed and who will be sworn in tomorrow. I do not expect any additional vacancies prior to the hearing on February 7th, which the possible exception of Lisa Wood who will be resigning to take a position on the federal bench. Other than minor changes surrounding the numbers, I have not changed the original language we have been using for the talkers -- but we may be due for a refresher prior to the hearing. Let me know if you have questions.



FACT SHEET - USA TPS - USA
appointments.... cancy-appointments

FACT SHEET: UNITED STATES ATTORNEY APPOINTMENTS

NOMINATIONS AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

Since March 9, 2006, when the Congress amended the Attorney General's authority to appoint interim United States Attorneys, the President has nominated 15 individuals to serve as United States Attorney. The 15 nominations are:

- **Erik Peterson** – Western District of Wisconsin;
- **Charles Rosenberg** – Eastern District of Virginia;
- **Thomas Anderson** – District of Vermont;
- **Martin Jackley** – District of South Dakota;
- **Alexander Acosta** – Southern District of Florida;
- **Troy Eid** – District of Colorado;
- **Phillip Green** – Southern District of Illinois;
- **George Holding** – Eastern District of North Carolina;
- **Sharon Potter** – Northern District of West Virginia;
- **Brett Tolman** – District of Utah;
- **Rodger Heaton** – Central District of Illinois;
- **Deborah Rhodes** – Southern District of Alabama;
- **Rachel Paulose** – District of Minnesota;
- **John Wood** – Western District of Missouri; and
- **Rosa Rodriguez-Velez** – District of Puerto Rico.

All but Phillip Green, John Wood, and Rosa Rodriguez-Velez have been confirmed by the Senate.

VACANCIES AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

Since March 9, 2006, there have been 13 new U.S. Attorney vacancies that have arisen. They have been filled as noted below.

For 4 of the 13 vacancies, the First Assistant United States Attorney (FAUSA) in the district was selected to lead the office in an acting capacity under the Vacancies Reform Act, *see* 5 U.S.C. § 3345(a)(1) (first assistant may serve in acting capacity for 210 days unless a nomination is made) until a nomination could be or can be submitted to the Senate. Those districts are:

- **Central District of California** – FAUSA George Cardona is acting United States Attorney
- **Southern District of Illinois** – FAUSA Randy Massey is acting United States Attorney (a nomination was made last Congress for Phillip Green, but confirmation did not occur);

- **Eastern District of North Carolina** – FAUSA George Holding served as acting United States Attorney (Holding was nominated and confirmed);
- **Northern District of West Virginia** – FAUSA Rita Valdrini served as acting United States Attorney (Sharon Potter was nominated and confirmed).

For 1 vacancy, the Department first selected the First Assistant United States Attorney to lead the office in an acting capacity under the Vacancies Reform Act, but the First Assistant retired a month later. At that point, the Department selected another employee to serve as interim United States Attorney until a nomination could be submitted to the Senate, *see* 28 U.S.C. § 546(a) (“Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant”). This district is:

- **Northern District of Iowa** – FAUSA Judi Whetstine was acting United States Attorney until she retired and Matt Dummermuth was appointed interim United States Attorney.

For 8 of the 13 vacancies, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate, *see* 28 U.S.C. § 546(a) (“Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant”). Those districts are:

- **Eastern District of Virginia** – Pending nominee Chuck Rosenberg was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Deputy Attorney General (Rosenberg was confirmed shortly thereafter);
- **Eastern District of Arkansas** – Tim Griffin was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Columbia** – Jeff Taylor was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Assistant Attorney General for the National Security Division;
- **District of Nebraska** – Joe Stecher was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Chief Justice of Nebraska Supreme Court;
- **Middle District of Tennessee** – Craig Morford was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Western District of Missouri** – Brad Schlozman was appointed interim United States Attorney when incumbent United States Attorney and FAUSA resigned at the same time (John Wood was nominated);
- **Western District of Washington** – Jeff Sullivan was appointed interim United States Attorney when incumbent United States Attorney resigned; and
- **District of Arizona** – Dan Knauss was appointed interim United States Attorney when incumbent United States Attorney resigned.

ATTORNEY GENERAL APPOINTMENTS AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

The Attorney General has exercised the authority to appoint interim United States Attorneys a total of 12 times since the authority was amended in March 2006.

In 2 of the 12 cases, the FAUSA had been serving as acting United States Attorney under the Vacancies Reform Act (VRA), but the VRA's 210-day period expired before a nomination could be made. Thereafter, the Attorney General appointed that same FAUSA to serve as interim United States Attorney. These districts include:

- **District of Puerto Rico** – Rosa Rodriguez-Velez (Rodriguez-Velez has been nominated); and
- **Eastern District of Tennessee** – Russ Dedrick

In 1 case, the FAUSA had been serving as acting United States Attorney under the VRA, but the VRA's 210-day period expired before a nomination could be made. Thereafter, the Attorney General appointed another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. That district is:

- **District of Alaska** – Nelson Cohen

In 1 case, the Department originally selected the First Assistant to serve as acting United States Attorney; however, she retired from federal service a month later. At that point, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. That district is:

- **Northern District of Iowa** – Matt Dummermuth

In the 8 remaining cases, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. Those districts are:

- **Eastern District of Virginia** – Pending nominee Chuck Rosenberg was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Deputy Attorney General (Rosenberg was confirmed shortly thereafter);
- **Eastern District of Arkansas** – Tim Griffin was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Columbia** – Jeff Taylor was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Assistant Attorney General for the National Security Division;
- **District of Nebraska** – Joe Stecher was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Chief Justice of Nebraska Supreme Court;

- **Middle District of Tennessee** – Craig Morford was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Western District of Missouri** – Brad Schlozman was appointed interim United States Attorney when incumbent United States Attorney and FAUSA resigned at the same time (John Wood was nominated);
- **Western District of Washington** – Jeff Sullivan was appointed interim United States Attorney when incumbent United States Attorney resigned; and
- **District of Arizona** – Dan Knauss was appointed interim United States Attorney when incumbent United States Attorney resigned.

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

Overview:

- In every single case, it is a goal of the Bush Administration to have a U.S. Attorney that is confirmed by the Senate. Use of the AG's appointment authority is in no way an attempt to circumvent the confirmation process. To the contrary, when a United States Attorney submits his or her resignation, the Administration has an obligation to ensure that someone is able to carry out the important function of leading a U.S. Attorney's office during the period when there is not a presidentially-nominated, senate-confirmed (PAS) U.S. Attorney. Whenever a U.S. Attorney vacancy arises, we consult with the home-state Senators about candidates for nomination.
- Our record since the AG-appointment authority was amended demonstrates we are committed to working with the Senate to nominate candidates for U.S. Attorney positions. Every single time that a United States Attorney vacancy has arisen, the President either has made a nomination or the Administration is working, in consultation with home-State Senators, to select candidates for nomination.
 - ✓ Specifically, since March 9, 2006 (when the AG's appointment authority was amended), the Administration has nominated 15 individuals to serve as U.S. Attorney (12 have been confirmed to date).

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

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

The Administration Must Ensure an Effective Transition When Vacancies Occur:

- When a United States Attorney has submitted his or her resignation, the Administration has -- in every single case -- consulted with home-state Senators regarding candidates for the Presidential nomination and Senate confirmation.

The Administration is committed to nominating a candidate for Senate consideration everywhere a vacancy arises, as evidenced by the fact that there have been 125 confirmations of new U.S. Attorneys since January 20, 2001.

- With 93 U.S. Attorney positions across the country, the Department often averages between 8-15 vacancies at any given time. Because of the important work conducted by these offices, and the need to ensure that the office is being managed effectively and appropriately, the Department uses a range of options to ensure continuity of operations.
- In some cases, the First Assistant U.S. Attorney is an appropriate choice. However, in other cases, the First Assistant may not be an appropriate option for reasons including that he or she: resigns or retires at the same time as the outgoing U.S. Attorney; indicates that he/she does not want to serve as Acting U.S. Attorney; has ongoing or completed OPR or IG matters in their file, which may make his/her elevation to the Acting role inappropriate; or is subject of an unfavorable recommendation by the outgoing U.S. Attorney or otherwise does not enjoy the confidence of those responsible for ensuring ongoing operations and an appropriate transition until such time as a new U.S. Attorney is nominated and confirmed by the Senate. In those cases, the Attorney General has appointed another individual to lead the office during the transition.

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

- Since March 9, 2006, when the appointment authority was amended, the Administration has nominated 15 individuals for Senate consideration (12 have been confirmed to date).
- Since March 9, 2006, when the appointment authority was amended, 13 vacancies have been created. Of those 13 vacancies, the Administration nominated candidates to fill 5 of these positions (3 were confirmed to date), has interviewed candidates for 7 positions, and is waiting to receive names to set up interviews for 1 position – all in consultation with home-state Senators.

The 13 Vacancies Were Filled on an Interim Basis Using a Range of Authorities, in Order To Ensure an Effective and Smooth Transition:

- In 4 cases, the First Assistant was selected to lead the office and took over under the Vacancy Reform Act's provision at: 5 U.S.C. § 3345(a)(1). That authority is limited to 210 days, unless a nomination is made during that period.
- In 1 case, the First Assistant was selected to lead the office and took over under the Vacancy Reform Act's provision at: 5 U.S.C. § 3345(a)(1). However, the First Assistant took federal retirement a month later and the Department had to select another Department employee to serve as interim under AG appointment until such time as a nomination is submitted to the Senate.

- In 7 cases, the Department selected another Department employee to serve as interim under AG appointment until such time as a nomination is submitted to the Senate.
- In 1 case, the First Assistant resigned at the same time as the U.S. Attorney, creating a need for an interim until such time as a nomination is submitted to the Senate.

Amending the Statute Was Necessary:

- Last year's amendment to the Attorney General's appointment authority was necessary and appropriate.
- We are aware of no other federal agency where federal judges, members of a separate branch of government and not the head of the agency, appoint interim staff on behalf of the agency.
- Prior to the amendment, the Attorney General could appoint an interim United States Attorney for only 120 days; thereafter, the district court was authorized to appoint an interim United States Attorney. In cases where a Senate-confirmed United States Attorney could not be appointed within 120 days, the limitation on the Attorney General's appointment authority resulted in numerous, recurring problems.
- The statute was amended for several reasons:
 - 1) The previous provision was constitutionally-suspect;
 - 2) Some district courts – recognizing the oddity of members of one branch of government appointing officers of another and the conflicts inherent in the appointment of an interim United States Attorney who would then have many matters before the court – refused to exercise the court appointment authority, thereby requiring the Attorney General to make successive, 120-day appointments;
 - 3) Other district courts – ignoring the oddity and the inherent conflicts – sought to appoint as interim United States Attorney wholly unacceptable candidates who did not have the appropriate experience or the necessary clearances.
- Because the Administration is committed to having a Senate-confirmed United States Attorney in all districts, changing the law to restore the limitations on the Attorney General's appointment authority is unnecessary.

Moschella, William

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

My thoughts re the response:

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

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

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

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

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

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

As for the specific questions:

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

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

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

From: Scott-Finan, Nancy

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

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

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

Subject: FW: Letter to Gonzales 2.8.07

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

Moschella, William

From: Goodling, Monica
Sent: Tuesday, February 27, 2007 8:23 PM
To: Elston, Michael (ODAG); Moschella, William; Sampson, Kyle
Subject: FW: Farewell, Adios, Good bye, Auf Weidersehen

FYI - mass email today.

From: Iglesias, David C. (USANM) [mailto:David.C.Iglesias@usdoj.gov]
Sent: Tuesday, February 27, 2007 8:01 PM
To: USAEO-USAttorneys
Subject: Farewell, Adios, Good bye, Auf Weidersehen

Dear friends and colleagues:

As King Solomon wrote more than 2,500 years ago, "there is a time for everything." It's time to say goodbye from this wonderful job. Tomorrow will be my last day as U.S. Attorney. It's been the most responsible job I've ever had and the second most exciting job I've ever had (nothing beats being launched off and landing on a Navy aircraft carrier). The years have been an unprecedented mixture of experiences, memories and accomplishments. Beyond the record number of criminal cases my AUSAs brought, I'm proud of my hard-working office and its 95% conviction rate. I'm proud to have successfully prosecuted the biggest political corruption case in New Mexico history. I'm proud of having nationally recognized Weed and Seed and PSN programs. But, it's more than just metrics, it's about forming friendships with many of you. I'll never forget going to Colombia and Mexico with Johnny Sutton, Paul Charlton and the late great Mike Shelby. I'll never forget visiting drug cartel lord Pablo Escobar's home in Medellin and realizing America saved Colombia from becoming the world's first "narcocracy." I'll never forget running in L.A.'s seedy MacArthur Park with Matt Whitaker in the early morning hours. I'll never forget speaking at Main Justice's Great Hall for Hispanic Heritage Month, or testifying before Congress, debating a member of Congress and Village Voice journalist on the Patriot Act, backseating an F-16, or getting an op-ed published on immigration reform in the Washington Times. I'll never forget former A.G. and Mrs. John Ashcroft giving us a walking tour of the Washington monuments at night. Heady stuff for a guy originally from Panama whose family is just one generation removed from subsistence living in the jungle.

As one of just several US Attorneys born outside the United States, I know the America dream lives. I'd like to thank President Bush for nominating me to be the United States Attorney almost 6 years ago. I am grateful to have been allowed the honor of making a difference in my community. We need US Attorneys who "maintain justice and do what is right" (Isaiah 56:1) and are willing to pay the price for doing so.

After taking off the month of March to decompress and performing Navy duty overseas in April, I will begin my new job. I haven't decided which of my options to pursue, but in the interim you can reach me at dciglesias@earthlink.net or 505.220.6150. I wish you all success in the next 22 months in keeping America safe against all enemies, foreign and domestic.

DAG000002682

3/9/2007

Respectfully,

David

Moschella, William

From: Moschella, William
Sent: Saturday, March 03, 2007 10:33 AM
To: Roehrkasse, Brian; Scolinos, Tasia; Hertling, Richard; Elston, Michael (ODAG); Scott-Finan, Nancy; Goodling, Monica; Sampson, Kyle
Subject: Re: WP - White House Backed U.S. Attorney Firings, Officials Say

The headline is unremarkable for obvious reasons.

Sent from my BlackBerry Wireless Handheld

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

From: Roehrkasse, Brian
To: Scolinos, Tasia; Hertling, Richard; Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy; Goodling, Monica; Sampson, Kyle
Sent: Sat Mar 03 10:16:52 2007
Subject: Fw: WP - White House Backed U.S. Attorney Firings, Officials Say

This is not an entirely accurate picture of what happened, but I think this story is far better than most recent post stories on this subject.

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

From: White House News Update <News.Update@WhiteHouse.Gov>
To: Roehrkasse, Brian
Sent: Sat Mar 03 07:16:34 2007
Subject: WP - White House Backed U.S. Attorney Firings, Officials Say

White House Backed U.S. Attorney Firings, Officials Say

By John Solomon and Dan Eggen, Washington Post

The White House approved the firings of seven U.S. attorneys late last year after senior Justice Department officials identified the prosecutors they believed were not doing enough to carry out President Bush's policies on immigration, firearms and other issues, White House and Justice Department officials said yesterday.

The list of prosecutors was assembled last fall, based largely on complaints from members of Congress, law enforcement officials and career Justice Department lawyers, administration officials said.

One of the complaints came from Sen. Pete V. Domenici (R-N.M.), who specifically raised concerns with the Justice Department last fall about the performance of then-U.S. Attorney David C. Iglesias of New Mexico, according to administration officials and Domenici's office.

Iglesias has alleged that two unnamed New Mexico lawmakers pressured him in October to speed up the indictments of Democrats before the elections. Domenici has declined to comment on that allegation.

Since the mass firings were carried out three months ago, Justice Department officials have consistently portrayed them as personnel decisions based on the prosecutors' "performance-related" problems. But, yesterday, officials acknowledged that the ousters were based primarily on the administration's unhappiness with the prosecutors' policy decisions and revealed the White House's role in the matter.

"At the end of the day, this was a decision to pick the prosecutors we felt would most effectively carry out the department's policies and priorities in the last two years,"

said Justice Department spokesman Brian Roehrkasse.

Officials portrayed the firings as part of a routine process, saying the White House did not play any role in identifying which U.S. attorneys should be removed or encourage the dismissals. The administration previously said that the White House counsel recommended a GOP replacement for one U.S. attorney, in Arkansas, but did not say that the White House approved the seven other firings.

"If any agency wants to make a change regarding a presidential appointee, they run that change by the White House counsel's office," said White House spokeswoman Dana Perino. "That is standard operating procedure, and that is what happened here. The White House did not object to the Justice Department decision."

The seven prosecutors were first identified by the Justice Department's senior leadership shortly before the November elections, officials said. The final decision was supported by Attorney General Alberto R. Gonzales and his deputy, Paul J. McNulty, and cleared with the White House counsel's office, including deputy counsel William Kelly, they said.

The firings have sparked outrage from Democrats and some Republicans in Congress as details emerge about the unusual decision to remove so many at once on Dec. 7, in the middle of the administration's term. The issue escalated this week with the allegations from Iglesias, who has said he will name the two New Mexico lawmakers who called him if he is asked under oath.

The House Judiciary Committee has issued subpoenas for Iglesias and three other fired prosecutors, who are set to testify in both the House and the Senate on Tuesday. Lawmakers plan to press for answers, including what triggered the creation of the list and who else was involved.

Most of the prosecutors have said they were given no reason for their dismissals and have responded angrily to the Justice Department's contention that they were fired because of their performance. At least five of the prosecutors, including Iglesias, were presiding over public corruption investigations when they were fired, but Justice Department officials have said that those probes played no role in the dismissals.

Domenici's office confirmed yesterday that it had raised concerns with the Justice Department about Iglesias's office, particularly on immigration.

"We had very legitimate concerns expressed to us by hundreds of New Mexicans -- in the media, in the legal communities and just regular citizens -- about the resources that were available to the U.S. attorney," said Steve Bell, Domenici's chief of staff.

Domenici and his aides have declined to comment on whether the lawmaker called Iglesias. Any communication by a senator or House member with a federal prosecutor regarding an ongoing criminal investigation is a violation of ethics rules.

The fired prosecutors in San Diego and Nevada are registered independents, while the rest are generally viewed as moderate Republicans, according to administration officials and many of the fired prosecutors.

In a recent briefing with lawmakers, McNulty said one factor in the decision to create the list of U.S. attorneys was the concern raised by various members of Congress and law enforcement officials that some U.S. attorneys were not following Bush administration policies or federal sentencing rules, administration officials said.

The Justice Department received several letters dating to 2005 and signed by more than a dozen California lawmakers, mostly Republicans, raising concerns about then-U.S. Attorney Carol S. Lam's approach to prosecuting immigration cases. Sen. Dianne Feinstein of California, a Democrat, also wrote Gonzales in June, saying that the "low prosecution rates have a demoralizing effect on the men and women patrolling our nation's borders."

On the job less than a year, McNulty consulted his predecessor as deputy attorney general, James B. Comey, about some of the prosecutors before approving the list, officials said. Comey, who did not return a telephone call seeking comment yesterday, praised Iglesias earlier this week as one of the department's best prosecutors.

The seven prosecutors outside Arkansas were informed about their ousters on Dec. 7, after

the White House counsel's office signed off.

A few days before the firings, administration officials began the traditional process of calling lawmakers in the affected states to inform them about the decisions and to gather early input on possible successors, officials said.

Although the White House approved the firings, two administration officials said the counsel's office did not suggest replacements. But the officials said White House political affairs officials keep databases on potential job candidates that Justice Department officials could have accessed if they chose.

An administration official said White House Chief of Staff Joshua B. Bolten does not recall whether he was briefed about the firings before they occurred.

Privately, White House officials acknowledged that the administration mishandled the firings by not explaining more clearly to lawmakers that a large group was being terminated at once -- which is unusual -- and that the reason was the policy performance review.

Staff writer Michael Abramowitz, washingtonpost.com staff writer Paul Kane and staff researcher Julie Tate contributed to this report.

You are currently subscribed to News Update (wires) as: Brian.Roehrkasse@usdoj.gov.
To unsubscribe send a blank email to leave-whitehouse-news-wires-1294395V@list.whitehouse.gov

Moschella, William

From: Moschella, William
Sent: Saturday, March 03, 2007 10:34 AM
To: Roehrkasse, Brian
Subject: Re: WP - White House Backed U.S. Attorney Firings, Officials Say

Was there a NYT's story?

Sent from my BlackBerry Wireless Handheld

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

From: Roehrkasse, Brian
To: Scolinos, Tasia; Hertling, Richard; Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy; Goodling, Monica; Sampson, Kyle
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From: White House News Update <News.Update@WhiteHouse.Gov>
To: Roehrkasse, Brian
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Subject: WP - White House Backed U.S. Attorney Firings, Officials Say

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By John Solomon and Dan Eggen, Washington Post

The White House approved the firings of seven U.S. attorneys late last year after senior Justice Department officials identified the prosecutors they believed were not doing enough to carry out President Bush's policies on immigration, firearms and other issues, White House and Justice Department officials said yesterday.

The list of prosecutors was assembled last fall, based largely on complaints from members of Congress, law enforcement officials and career Justice Department lawyers, administration officials said.

One of the complaints came from Sen. Pete V. Domenici (R-N.M.), who specifically raised concerns with the Justice Department last fall about the performance of then-U.S. Attorney David C. Iglesias of New Mexico, according to administration officials and Domenici's office.

Iglesias has alleged that two unnamed New Mexico lawmakers pressured him in October to speed up the indictments of Democrats before the elections. Domenici has declined to comment on that allegation.

Since the mass firings were carried out three months ago, Justice Department officials have consistently portrayed them as personnel decisions based on the prosecutors' "performance-related" problems. But, yesterday, officials acknowledged that the ousters were based primarily on the administration's unhappiness with the prosecutors' policy decisions and revealed the White House's role in the matter.

"At the end of the day, this was a decision to pick the prosecutors we felt would most effectively carry out the department's policies and priorities in the last two years," said Justice Department spokesman Brian Roehrkasse.

Officials portrayed the firings as part of a routine process, saying the White House did not play any role in identifying which U.S. attorneys should be removed or encourage the dismissals. The administration previously said that the White House counsel recommended a GOP replacement for one U.S. attorney, in Arkansas, but did not say that the White House approved the seven other firings.

"If any agency wants to make a change regarding a presidential appointee, they run that change by the White House counsel's office," said White House spokeswoman Dana Perino. "That is standard operating procedure, and that is what happened here. The White House did not object to the Justice Department decision."

The seven prosecutors were first identified by the Justice Department's senior leadership shortly before the November elections, officials said. The final decision was supported by Attorney General Alberto R. Gonzales and his deputy, Paul J. McNulty, and cleared with the White House counsel's office, including deputy counsel William Kelly, they said.

The firings have sparked outrage from Democrats and some Republicans in Congress as details emerge about the unusual decision to remove so many at once on Dec. 7, in the middle of the administration's term. The issue escalated this week with the allegations from Iglesias, who has said he will name the two New Mexico lawmakers who called him if he is asked under oath.

The House Judiciary Committee has issued subpoenas for Iglesias and three other fired prosecutors, who are set to testify in both the House and the Senate on Tuesday. Lawmakers plan to press for answers, including what triggered the creation of the list and who else was involved.

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Privately, White House officials acknowledged that the administration mishandled the firings by not explaining more clearly to lawmakers that a large group was being terminated at once -- which is unusual -- and that the reason was the policy performance review.

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Moschella, William

From: Sampson, Kyle
Sent: Saturday, March 03, 2007 10:39 AM
To: Roehrkasse, Brian; Scolinos, Tasia; Hertling, Richard; Moschella, William; Elston, Michael (ODAG); Goodling, Monica
Subject: Re: WP - White House Backed U.S. Attorney Firings, Officials Say

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To: Scolinos, Tasia; Hertling, Richard; Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy; Goodling, Monica; Sampson, Kyle
Sent: Sat Mar 03 10:16:52 2007
Subject: Fw: WP - White House Backed U.S. Attorney Firings, Officials Say

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From: Hertling, Richard
Sent: Saturday, March 03, 2007 10:41 AM
To: Roehrkasse, Brian; Scolinos, Tasia; Moschella, William; Elston, Michael (ODAG); Scott-Finan, Nancy; Goodling, Monica; Sampson, Kyle
Subject: Re: WP - White House Backed U.S. Attorney Firings, Officials Say

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From: Roehrkasse, Brian
Sent: Saturday, March 03, 2007 11:14 AM
To: Sampson, Kyle; Scolinos, Tasia; Hertling, Richard; Moschella, William; Elston, Michael (ODAG); Goodling, Monica
Subject: Re: WP - White House Backed U.S. Attorney Firings, Officials Say

Thanks.

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

From: Sampson, Kyle
To: Roehrkasse, Brian; Scolinos, Tasia; Hertling, Richard; Moschella, William; Elston, Michael (ODAG); Goodling, Monica
Sent: Sat Mar 03 10:39:21 2007
Subject: Re: WP - White House Backed U.S. Attorney Firings, Officials Say

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Sent: Saturday, March 03, 2007 1:52 PM
To: Moschella, William; Sampson, Kyle; Goodling, Monica; McNulty, Paul J; Scolinos, Tasia
Subject: Re: WP - White House Backed U.S. Attorney Firings, Officials Say

The NYT story is coming tomorrow. [

The DAG and both spoke with him yesterday and I gave him a verbal quote to this effect today.

Any suggestion that any US Attorney was removed to innappropriately interfere with any investigation is plainly wrong and ill conceived. These decisions were based on the individual concerns of each US Attorney about their overall performance. This included performance concerns about ineffectively prosecuting departmental priorities areas, failure to follow departmental guidelines or just overall concerns about their inability to lead and effectively manage an US Attorneys office.

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From: Moschella, William
To: Roehrkasse, Brian
Sent: Sat Mar 03 10:33:40 2007
Subject: Re: WP - White House Backed U.S. Attorney Firings, Officials Say

Was there a NYT's story?

Sent from my BlackBerry Wireless Handheld

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Most of the prosecutors have said they were given no reason for their dismissals and have responded angrily to the Justice Department's contention that they were fired because of their performance. At least five of the prosecutors, including Iglesias, were presiding over public corruption investigations when they were fired, but Justice Department officials have said that those probes played no role in the dismissals.

Domenici's office confirmed yesterday that it had raised concerns with the Justice Department about Iglesias's office, particularly on immigration.

"We had very legitimate concerns expressed to us by hundreds of New Mexicans -- in the media, in the legal communities and just regular citizens -- about the resources that were available to the U.S. attorney," said Steve Bell, Domenici's chief of staff.

Domenici and his aides have declined to comment on whether the lawmaker called Iglesias.

Any communication by a senator or House member with a federal prosecutor regarding an ongoing criminal investigation is a violation of ethics rules.

The fired prosecutors in San Diego and Nevada are registered independents, while the rest are generally viewed as moderate Republicans, according to administration officials and many of the fired prosecutors.

In a recent briefing with lawmakers, McNulty said one factor in the decision to create the list of U.S. attorneys was the concern raised by various members of Congress and law enforcement officials that some U.S. attorneys were not following Bush administration policies or federal sentencing rules, administration officials said.

The Justice Department received several letters dating to 2005 and signed by more than a dozen California lawmakers, mostly Republicans, raising concerns about then-U.S. Attorney Carol S. Lam's approach to prosecuting immigration cases. Sen. Dianne Feinstein of California, a Democrat, also wrote Gonzales in June, saying that the "low prosecution rates have a demoralizing effect on the men and women patrolling our nation's borders."

On the job less than a year, McNulty consulted his predecessor as deputy attorney general, James B. Comey, about some of the prosecutors before approving the list, officials said. Comey, who did not return a telephone call seeking comment yesterday, praised Iglesias earlier this week as one of the department's best prosecutors.

The seven prosecutors outside Arkansas were informed about their ousters on Dec. 7, after the White House counsel's office signed off.

A few days before the firings, administration officials began the traditional process of calling lawmakers in the affected states to inform them about the decisions and to gather early input on possible successors, officials said.

Although the White House approved the firings, two administration officials said the counsel's office did not suggest replacements. But the officials said White House political affairs officials keep databases on potential job candidates that Justice Department officials could have accessed if they chose.

An administration official said White House Chief of Staff Joshua B. Bolten does not recall whether he was briefed about the firings before they occurred.

Privately, White House officials acknowledged that the administration mishandled the firings by not explaining more clearly to lawmakers that a large group was being terminated at once -- which is unusual -- and that the reason was the policy performance review.

Staff writer Michael Abramowitz, washingtonpost.com staff writer Paul Kane and staff researcher Julie Tate contributed to this report.

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To unsubscribe send a blank email to leave-whitehouse-news-wires-1294395V@list.whitehouse.gov

3 goals for conversations with Bogden and Charlton:

- Communicate that while we've had a good opportunity to serve, the Administration wants to give someone else the opportunity to serve as U.S. Attorney.
- Reiterate the timetable - - complete your service by the end of January because it will get increasingly difficult for the Administration to get a new person nominated, confirmed, and in place to serve in a meaningful way if extensions are granted.
- Empathize with their situations - - they were both long-time federal prosecutors who were not getting to leave based upon their own choice.

Context of message:

- Mercer took calls from Bogden and Charlton

all 3 had started together as U.S. Attorneys, were long-time AUSAs before becoming U.S. Attorneys, and our fellow Westerners;

given his role as Acting Associate AG, it made sense for them to reach out to him to discuss

- Because he did not supervise them, he had no basis to discuss more with them than his understanding that they were being asked to step aside so that someone else could have the opportunity to serve as U.S. Attorney

As such, these calls were not designed to be an opportunity for a full discussion of the basis for the dismissal.

In general, as noted earlier with our overall effort, perhaps these discussions should have been a time for a full airing of the reasons for the dismissal. However, at the time, this seemed to be imprudent as it would inspire rounds of back and forth on performance even though a final decision had been made.

In retrospect, perhaps this approach was focused too much on being empathetic and supportive and should have been more specific. However, it was our intention to say nothing negative about their performance publicly or otherwise.

Saying that a U.S. Attorney is being asked to leave to allow another person to serve in the role is not inconsistent with the fact that the Department had concerns regarding performance and/or policy compliance.

It also cannot be interpreted as an admission that others had been pre-selected to take over as U.S. Attorney.

U.S. ATTORNEY ASSESSMENT

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

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

Carol Lam (SDCA): Appointed Nov. 18, 2002; term expired Nov. 18, 2006
*Executive AUSA Karen Hewitt is interim USA; 6 years as career federal
prosecutor/manager; 8 years as government litigator; 3 years in private practice*

- This is one of our largest offices in the country. In addition to all of the complex legal issues that occur in these extra-large districts, San Diego also faces a tremendous responsibility to effectively manage a border.
- She continually failed to perform in relation to significant leadership priorities – these were priorities that were well-known within the Department. They were discussed at our annual mandatory USA conferences, in speeches by Department leaders, in memos, in conference calls, and in a host of other ways.
- First, the President and Attorney General have made clear that border enforcement is a top priority. It's important to our national security and to our domestic security. Regardless of what was done by the office in this area, she failed to tackle this responsibility as aggressively and as vigorously as we expected and needed her to do. At the end of the day, we expected more.
- Ex: The President has made clear that he expects strong immigration enforcement efforts, but SDCA has only brought a fraction of the cases that other significant border districts are doing. While some good numbers on alien smuggling:
 - Only 422 illegal re-entry cases in 2005 where AZ did 1,491 and NM did 1,607;
 - Only 470 illegal entry cases in 2005 where AZ did 3,409 and NM did 1,194;
 - In June 2006, Sen. Feinstein wrote a letter to the AG complaining about the high prosecution guidelines which kept these numbers low.
- Writing about her concern for Ms. Lam's "restrictive prosecutorial guidelines," Sen. Feinstein stressed "the importance of vigorously prosecuting these type of cases so that California isn't viewed as an easy entry point for alien smugglers because there is no fear of prosecution if caught."
- More than 18 other members of Congress complained about her "catch and release" policies and her failure to let alien smugglers back out onto the street by raising prosecution guidelines too high.
- Second, the President and both Attorneys General in this Administration made clear that, after terrorism, gun crime is the top priority and an important tactic to fighting violent crime.
- SDCA has only brought a fraction of the cases of other extra-large districts. Despite its size and population, it ranks 91 out of 93 districts in terms of average numbers of firearms cases since FY 2000 (doing only an average of 18 cases).

- Third, rather than focusing on the management of her office, this USA spent a significant amount of her time trying cases – this is discouraged in extra-large districts, because these are offices that require full-time managers.

John McKay (WDWA): Appointed Oct. 30, 2001; term expired Oct. 30, 2005
Criminal Chief Jeff Sullivan was appointed interim USA -- 5 years as a career federal prosecutor after 27 years as the county prosecutor and 3 years in private practice.

- Demonstrated a pattern of poor judgment in relation to the tactics he used to push for policy changes that were not in the best interest of the Department and without regard to the Department's appropriate channels and methods of evaluating policy.
- Placed extensive focus, and engaged in a significant amount of travel outside of the district to advocate policy changes, rather than focusing on running the office.
- The Department was aware that his district had a bad record with downward departures, failure to appeal downward departures, and that his policy focus was distracting him from the work of the office.

Paul Charlton (AZ): Appointed Nov. 14, 2001; term expired Nov. 14, 2005
Chief AUSA Daniel Knauss was appointed interim USA; 32 ½ years as a career federal prosecutor, including 2 months as interim USA in that office in the past

- Repeatedly took actions contrary to DOJ policy and procedure.
- Failed to implement the AG's instruction on a death penalty case, when federal law places the decision with the AG.
- Like McKay, Charlton demonstrated a pattern of poor judgment in relation to the tactics he used to push for policy changes without regard to the Department's appropriate channels and methods of evaluating policy. He tried to mandate the FBI to institute a new policy to videotape all interviews with suspects without regard to the national policy taken by the FBI or all of the many reasons why this raises significant concerns that require substantial discussion.
- Despite the national focus the Attorney General requested for offices to focus on the federal crime of obscenity, which coarsens society, McKay failed to support the Department's prosecution of a case that was developed within his district.
- Worked outside of proper channels in seeking resources, without regard to the process or the impact his action would have on our other USAOs.

- [Contrary to guidance from Main Justice that it was poor judgment, he put an employee on "leave without pay" status so she could become a paid press secretary for a Republican running in the 2002 gubernatorial campaign against Governor Napolitano, the former U.S. Attorney. (Shortly thereafter, the employee left the USAO permanently.)]

David Iglesias (NM): Appointed Oct. 17, 2001; term expired Oct. 17, 2005

First AUSA Larry Gomez is Acting USA; 27 years as career federal prosecutor/manager plus 2 years as local prosecutor

- One of our large offices, New Mexico is a critically-important border district.
- Again, the President and Attorney General have made clear that border enforcement is a top priority. It's important to our national security and to our domestic security. Regardless of what was done by the office in this area, he failed to tackle this responsibility as aggressively and as vigorously as we expected and needed her to do.
- There was a perception that he traveled a lot, but that even when he was in the office he still delegated a vast majority of the management to his First Assistant. We expect our U.S. Attorneys, particularly those in critical districts, to be hands-on managers working hard to advance the work of the Department.
- Quite simply, now that Mr. Iglesias finished his four-year term (and then some) this was an area where we thought we could make a change to bring more dynamic leadership to the office.

Dan Bogden (Nevada): Appointed Nov. 2, 2001; term expired Nov. 2, 2005

First AUSA Steve Myhre is Acting USA; 9 years as federal prosecutor/manager plus 5 years of private sector litigation and 8 years in the Marine Corps Judge Advocate

- Similarly, Nevada is what we consider to be a very important district that was underserved.
- Given the large tourist population that visits each year, it's well-known that Las Vegas could present a target for terrorism. It has also struggled with violent crime, drugs, and organized crime. This is an office where we have the right to expect excellence and aggressive prosecution in a number of priority areas.
- Despite the national focus the Attorney General requested for offices to place on the federal crime of obscenity, which coarsens society, the USA failed to support the Department's prosecution of a case that was developed within his district.

Sensitive/ Personnel: Not for distribution
PRIVACY ACT PROTECTED

- This is another district where, now that Mr. Bodgen has finished his four-year term (and then some), we thought we could make a change to bring more dynamic leadership to the office.

Margaret Chiara (WDMI): Appointed Nov. 2, 2001; term expired Nov. 2005
Decision pending on who will lead the office until a new Senate-confirmed USA is identified.

TRY TO AVOID SINCE NO PUBLIC STATEMENTS FROM CHIARA:

- We have briefed privately the reasons for the change in this district; however, Ms. Chiara has not made any public statements at this time, and out of respect for her silence, we'd say only that this office presented some management issues.

IF PUSHED:

- Under the USA's tenure, the office has become fractured, morale has fallen, and the USA has lost the confidence of several members of the leadership team and some career prosecutors.
- The problems here have required an on-site visit by management experts from our EOUSA to visit and mediate with members of the leadership team, and in the end, it was decided that new leadership would be appropriate to unite the office.

DAG000002707

DRAFT:

Kevin Ryan (NDCA): Appointed Aug. 2, 2002; term expired: Aug. 2, 2006

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

“EARS” EVALUATIONS OF UNITED STATES ATTORNEY’S OFFICES

- The Attorney General and the Deputy Attorney General are responsible for evaluating the performance of the United States Attorneys and ensuring that they are leading their offices effectively.
- Because United States Attorneys are appointed by the President and confirmed by the Senate, they do not have formal evaluations or annual performance reviews by their supervisors like other Department of Justice employees.
- An "EARS" report is not an evaluation of the performance of a United States Attorney by his or her supervisor. It is a peer review of the legal and administrative procedures and internal controls of the entire United States Attorneys Office that occurs once every three to five years.
- The Evaluation and Review Staff (EARS) of the Executive Office for United States Attorneys (EOUSA) conducts periodic peer reviews of each United States Attorney’s Office (USAO) in order to evaluate the overall performance of the entire USAO, make reports, and allow the USAO to take corrective action where needed.
- The EARS program serves as a mechanism by which the USAO and the evaluators can share ideas and innovations, in addition to serving as a means of enhancing communication between EOUSA and the USAO. Evaluation teams are generally comprised of Assistant United States Attorneys and administrative staff from other USAOs who volunteer to evaluate their peers. They are not professional auditors nor inspectors. The teams do not include other United States Attorneys.

MORE DETAILS:

Evaluators make recommendations for improving the legal and administrative operations of the USAO, analyzing the organizational structure of the office and providing feedback and recommendations to the United States Attorney. The evaluation team relies on experienced Assistant United States Attorneys (AUSA) and USAO staff from all over the country, and is led by an AUSA. The evaluators are in an office for a maximum of one week, during which they interview all civil and criminal AUSA’s at the USAO, as well as the administrative staff and some members of the support staff. In addition, the evaluation team interviews the district judges, some circuit judges, magistrate judges, bankruptcy judges, the Clerk of Court, the Probation Officer, other court personnel, the United States Marshal, representatives of the district’s major civil and law enforcement agencies, the OCDETF Regional Coordinator, and any other federal officials or persons that appear appropriate to the USAO point-of-contact and the team leader. Representatives of non-federal agencies, such as local prosecutors and police chiefs, may also be interviewed.

The evaluation team produces a draft report, which is sent to the United States Attorney of the reviewed district for a response. Approximately three to four months after the response has been received, a follow-up evaluator or team visits the USAO review corrective measures, provide assistance to the district, assess the performance of the evaluation team, and produce a follow-up report. Once that report has been received, the EARS staff prepares a final evaluation report,

which is approximately 6-12 pages in length. The final report is a narrative summary of the assessments and evaluations from the draft report that have been verified during the response and follow-up process, and of the corrective actions taken by the USAO regarding those recommendations. Completion of a final report takes between 235-265 days after the completion of the evaluation team's visit.

*Drafted by John Nowacki, EOUSA (514-2121); edited by Michael Elston, ODAG (307-2090).
February 26, 2007*

Epley, Mark D

From: Elston, Michael (ODAG)
Sent: Wednesday, February 14, 2007 3:05 PM
To: 'John.Nowacki@SMOJMD.USDOJ.gov'; Epley, Mark D
Cc: Goodling, Monica
Subject: ASAP - D. Nev. Child porn Stats

Importance: High

Could one of you pull these for 01 to 06? We have about 45 min.

Epley, Mark D

From: Epley, Mark D
Sent: Wednesday, February 14, 2007 3:38 PM
To: Elston, Michael (ODAG)
Cc: Nowacki, John (USAEO); Goodling, Monica
Subject: 2005 Stats, some context
Attachments: StatsCEOverallOutcomes2005.pdf

Tracking:

Recipient	Read
Elston, Michael (ODAG)	Read: 2/14/2007 4:03 PM
Nowacki, John (USAEO)	
Goodling, Monica	

In 2005 NV ranked 18 with 35 matter r'cd and 25 filed, compared with 20 matters r'cd and 15 filed in 2006. I believe John's folks have tracked down the rest of the data and will send soon.

United States Attorneys—Criminal Caseload Statistics*
 Child Exploitation - 18 U.S.C. 1591, 2251, 2252, 2252A, 2252B, 2260, 2422, 2423, 2425**
 Fiscal Year 2005***

Listing Sorted: Based on the number of Cases Filed in FY 2005; highest to lowest

District	Matters Received	Cases Filed	Defendants In Cases Filed	Defendants Sentenced To Prison****	Defendants Guilty****
1 California, Eastern	96	66	67	47	47
2 California, Central	99	57	60	29	33
3 Missouri, Western	92	49	49	24	24
4 New Jersey	45	42	46	41	43
5 Utah	55	40	41	10	10
6 Ohio, Northern	54	38	38	30	30
7 Florida, Middle	83	37	37	45	45
8 Florida, Southern	50	36	38	29	31
9 Georgia, Northern	46	35	35	22	23
10 California, Northern	58	34	35	14	16
11 Kansas	32	33	33	27	28
12 Montana	43	32	33	16	17
13 Texas, Western	65	32	32	37	37
14 New York, Western	44	30	30	28	30
15 South Carolina	46	29	29	28	32
16 Missouri, Eastern	38	28	28	20	21
17 Pennsylvania, Western	53	26	29	12	12
18 Nevada	35	25	26	14	14
19 Arizona	38	24	24	8	10
20 New York, Southern	55	22	32	19	21
21 Washington, Western	32	22	27	18	18
22 New York, Eastern	45	21	23	16	17
23 Texas, Southern	63	21	21	17	17
24 Virginia, Eastern	52	21	21	14	15
25 Maryland	25	20	21	15	17
26 Pennsylvania, Middle	41	20	21	15	17
27 Ohio, Southern	53	19	19	7	8
28 Tennessee, Western	21	19	21	21	22
29 Texas, Northern	54	19	19	23	24
30 Washington, Eastern	22	19	19	11	11
31 Iowa, Northern	15	18	20	13	13
32 Iowa, Southern	18	18	18	5	5
33 Oregon	27	18	18	18	22
34 Texas, Eastern	35	18	19	25	25
35 Kentucky, Eastern	28	17	17	18	18
36 Pennsylvania, Eastern	25	17	17	20	21
37 Colorado	40	16	16	15	15
38 Illinois, Northern	31	16	17	11	11
39 Indiana, Southern	21	16	16	18	18
40 Michigan, Western	20	16	17	8	8
41 Connecticut	32	15	15	15	15
42 Kentucky, Western	22	15	15	10	10
43 Michigan, Eastern	32	15	16	9	10
44 Minnesota	15	15	15	12	12
45 Massachusetts	21	14	16	4	4
46 Arkansas, Eastern	15	13	14	7	10
47 Mississippi, Northern	11	13	13	11	11
48 Alabama, Southern	8	12	12	8	8
49 Illinois, Central	23	12	12	22	23
50 Louisiana, Western	16	11	11	11	13

DAG000002713

District	Matters Received	Cases Filed	Defendants In Cases Filed	Defendants Sentenced To Prison****	Defendants Guilty****
51 North Carolina, Eastern	25	11	11	8	8
52 Arkansas, Western	21	10	10	6	7
53 New York, Northern	47	10	10	16	19
54 Oklahoma, Western	16	10	13	18	19
55 North Carolina, Middle	17	9	9	5	5
56 West Virginia, Northern	9	9	12	6	6
57 Alabama, Northern	12	8	8	6	6
58 Alaska	18	8	8	14	14
59 North Carolina, Western	17	8	8	9	10
60 North Dakota	10	8	9	11	11
61 Virginia, Western	12	8	8	10	10
62 Wisconsin, Eastern	22	8	8	8	8
63 Hawaii	12	7	7	7	8
64 Illinois, Southern	12	7	7	6	6
65 Indiana, Northern	6	7	7	9	10
66 Idaho	13	6	6	5	5
67 New Hampshire	13	6	6	6	6
68 New Mexico	17	6	6	5	5
69 Oklahoma, Northern	6	6	6	3	3
70 Tennessee, Eastern	15	6	6	10	10
71 Alabama, Middle	13	5	5	3	3
72 California, Southern	5	5	7	2	2
73 District of Columbia	17	5	5	3	3
74 Georgia, Middle	11	5	5	4	4
75 Louisiana, Eastern	9	5	5	3	4
76 Puerto Rico	7	5	5	7	7
77 Tennessee, Middle	3	5	5	6	6
78 Florida, Northern	22	4	4	8	8
79 Guam	4	4	4	1	1
80 Wisconsin, Western	18	4	4	4	4
81 Georgia, Southern	4	3	3	2	2
82 Louisiana, Middle	4	3	3	2	2
83 Mississippi, Southern	3	3	3	8	9
84 Nebraska	10	3	3	8	10
85 Wyoming	3	3	3	4	4
86 Oklahoma, Eastern	8	2	2	4	4
87 Delaware	6	1	1	0	1
88 Rhode Island	9	1	1	0	0
89 South Dakota	4	1	1	2	2
90 West Virginia, Southern	13	1	1	1	1
91 Maine	7	0	0	0	0
92 Northern Mariana Islands	0	0	0	0	0
93 Vermont	3	0	0	2	4
94 Virgin Islands	0	0	0	0	1
All Districts	2,493	1,447	1,503	1,159	1,220

*Caseload data extracted from the United States Attorneys' Case Management System.

**This chart includes data on any and all criminal cases/defendants where 18 U.S.C. 1591, 2251, 2252, 2252A, 2252B, 2260, 2422, 2423, or 2425 was brought as any charge against a defendant.

However, the statutes were run together to eliminate any double counting of cases/defendants where more than one of the statutes was charged against the same defendant.

***FY 2005 numbers are actual data through the end of September 2005.

****Displayed defendant outcome information based upon the overall outcome of a defendant.

12-Dec-06

DAG000002714

Epley, Mark D

From: System Administrator
To: John.Nowacki@SMOJMD.USDOJ.gov
Sent: Wednesday, February 14, 2007 3:27 PM
Subject: Undeliverable: RE: ASAP - D. Nev. Child porn Stats

Your message did not reach some or all of the intended recipients.

Subject: RE: ASAP - D. Nev. Child porn Stats
Sent: 2/14/2007 3:27 PM

The following recipient(s) could not be reached:

John.Nowacki@SMOJMD.USDOJ.gov on 2/14/2007 3:27 PM

The e-mail account does not exist at the organization this message was sent to. Check the e-mail address, or contact the recipient directly to find out the correct address.

<JMD-MSGE-MBV21.JCONMAIL.DDJ.GOV #5.1.1>

Epley, Mark D

From: Haller, Craig (USAEO) [Craig.Haller@usdoj.gov]
Sent: Wednesday, February 14, 2007 3:36 PM
To: Epley, Mark D
Subject: FW: ASAP - D. Nev. Child porn Stats

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

From: Tripodo, Joe (USAEO)
Sent: Wednesday, February 14, 2007 3:29 PM
To: Nowacki, John (USAEO); Tone, Barbara (USAEO)
Cc: Haller, Craig (USAEO)
Subject: RE: ASAP - D. Nev. Child porn Stats

John, if you need anything else please let me know!

Barbara/Craig, I walked John through what was on the website and he thinks he's got what he needs now.

Joe

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

From: Nowacki, John (USAEO)
Sent: Wednesday, February 14, 2007 3:19 PM
To: Tone, Barbara (USAEO); Tripodo, Joe (USAEO)
Cc: Haller, Craig (USAEO)
Subject: Fw: ASAP - D. Nev. Child porn Stats
Importance: High

Barbara/Joe/Craig -- I'm in a mtg on BB and can't check the website. Can one of you pull these asap? The DAG needs them. Thx.

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

From: Elston, Michael (ODAG) <Michael.Elston@usdoj.gov>
To: Nowacki, John (USAEO) <JNowacki@usa.doj.gov>
Sent: Wed Feb 14 15:08:11 2007
Subject: Fw: ASAP - D. Nev. Child porn Stats

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

From: Elston, Michael (ODAG)
To: 'John.Nowacki@SMOJMD.USDOJ.gov' <John.Nowacki@SMOJMD.USDOJ.gov>; Epley, Mark D
CC: Goodling, Monica
Sent: Wed Feb 14 15:05:08 2007
Subject: ASAP - D. Nev. Child porn Stats

Could one of you pull these for 01 to 06? We have about 45 min.

Epley, Mark D

From: Haller, Craig (USAEO) [Craig.Haller@usdoj.gov]
Sent: Wednesday, February 14, 2007 3:36 PM
Subject: Read: ASAP - D. Nev. Child porn Stats

Your message

To: CHaller@usa.doj.gov
Subject:

was read on 2/14/2007 3:36 PM.

Epley, Mark D

From: Elston, Michael (ODAG)
To: Epley, Mark D
Sent: Wednesday, February 14, 2007 8:06 PM
Subject: Read: RE: ASAP - D. Nev. Child porn Stats

Your message

To: Elston, Michael (ODAG); 'John.Nowacki@SMOJMD.USDOJ.gov'
Cc: Goodling, Monica
Subject: RE: ASAP - D. Nev. Child porn Stats
Sent: 2/14/2007 3:27 PM

was read on 2/14/2007 8:06 PM.

Voice Mail

1/17/07 --6:10 pm []
7:15 []

1/18/07

7:29 am - Bud Cummings - 5018316125 - saved []
10:18 am - []
2:42 pm - []

Bob Russell conversation

-- maybe not reinject judges
-- not going same direction as Fkt
re judges