

David, I'm sorry for my slow response. I've been swamped with a short work-week. Will you be available for a call at 6:00 my time?

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From: Iglesias, David C. (USANM) [mailto:David.C.Iglesias@usdoj.gov]  
Sent: Wednesday, January 03, 2007 2:40 PM  
To: McNulty, Paul J  
Subject: Phone call  
Importance: High

Paul:

Happy New Year! Hope your holidays were as pleasant and relaxing as mine were.

Is there a good time I can call you today thru Friday to discuss what day my resignation will become effective? I asked for a 2 month extension when I talked to Mike Battle on 7 DEC 06 and have heard nothing definite back. I assure you my call will be pleasant and respectful.

Regards,

David

**McNulty, Paul J**

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**From:** McNulty, Paul J  
**Sent:** Friday, January 12, 2007 4:57 PM  
**To:** Elston, Michael (ODAG)  
**Subject:** Re: San Diego Article

Wow. Has she been called yet?

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Sent from my BlackBerry Wireless Handheld

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

**From:** Elston, Michael (ODAG)  
**To:** McNulty, Paul J  
**Sent:** Fri Jan 12 09:42:22 2007  
**Subject:** San Diego Article

Job performance said to be behind White House firing

By Kelly Thornton and Onell R. Soto

UNION-TRIBUNE STAFF WRITERS

January 12, 2007

The Bush administration has quietly asked San Diego U.S. Attorney Carol Lam, best known for her high-profile prosecutions of politicians and corporate executives, to resign her post, a law enforcement official said.

Lam, a Bush appointee who took the helm in 2002, was targeted because of job performance issues - in particular that she failed to make smuggling and gun cases a top priority, said the official, who declined to be identified because Lam has yet to step down.

Lam has had high-profile successes during her tenure, such as the Randy "Duke" Cunningham bribery case - but she alienated herself from bosses at the Justice Department because she is outspoken and independent, said local lawyers familiar with her policies.

When she took over, Lam made it clear that she planned to focus less on low-level smuggling cases in favor of public corruption and white collar crime, which would mean fewer but more significant prosecutions.

Lam declined to comment yesterday.

Several prosecutors in Lam's office and many defense lawyers said yesterday that they were unaware of her impending dismissal, and were universally shocked by it.

"It's virtually unprecedented to fire a U.S. Attorney absent some misconduct in office," said criminal defense attorney Michael Attanasio, a former federal prosecutor.

"This office has clearly made a priority of investigating and prosecuting white collar offenses and has had occasional success doing so," he said. "One would think that would be valued by any administration, even if it meant fewer resources were devoted to routine and repetitive border crimes."

Lam, 47, has been criticized by members of the Border Patrol agents union and by members of Congress, including Vista Republican Darrell Issa, who accused her office of "an appalling record of refusal to prosecute even the worst criminal alien offenders."

But even some of Lam's legal opponents said the supposed reasons she is being forced out are perplexing.

"What do they want her to do, lock up Mexico?" said Mario Conte, former chief of Federal Defenders of San Diego Inc. Conte, now a professor at California Western School of Law in downtown San Diego, said every prosecutor walks a tightrope.

"I'm sure that Carol, in her role, is simply not able to accommodate everybody's desires of what they think the U.S. Attorney should be doing in this district."

Her most prominent case involved Cunningham. The former Rancho Santa Fe congressman is in federal prison, and indictments of others connected to the case may be forthcoming. Her office is also prosecuting Francisco Javier Arellano-Félix, a suspected Mexican drug kingpin, who is in federal custody in San Diego facing charges that could lead to the death penalty. Two San Diego city councilmen were convicted of corruption charges by Lam's office, but a judge reversed the jury's verdict for one of the men.

Lam spent almost a year personally prosecuting a national hospital chain that she said used complex agreements to pay off local doctors in return for referrals. That case ended in a mistrial.

But under Lam, the overall number of prosecutions has plummeted.

In 2001, the year before she took over, federal prosecutors in San Diego and Imperial counties filed 5,266 cases, while in 2005, the office prosecuted 3,261 cases, according to statistics compiled by the Transactional Records Access Clearinghouse at Syracuse University from federal reports.

Of the 2001 cases, 2,419 were related to immigration, while that number stood at 1,641 in 2005. Although the number of cases dropped significantly in 2005, a higher percentage were immigration-related - 50 percent in 2005 compared with 46 percent in 2001.

Most of the other prosecutions were drug cases, with 2,294 filed in 2001 and 1,290 in 2005. There were 14 weapons cases in 2001, and eight in 2005.

Some in the defense community were glad to hear there may be change at the U.S. Attorney's Office.

"She has shown a certain tunnel vision in her prosecutions and has exercised an appalling lack of discretion in terms of the individuals she has targeted for prosecution and the classes of crimes that she has chosen to direct her resources at," said criminal defense attorney Geoffrey C. Morrison, who represented a defendant in the City Hall corruption case prosecuted by Lam's office.

"Having somebody with a more broad-minded approach and a greater sense of fairness and justice will do the legal community a tremendous justice," he said.

Lam, a career prosecutor, former Superior Court judge and political independent, sent an e-mail to her staff late in the afternoon in which she neither confirmed nor denied that she was asked to step down. She told attorneys not to let speculation interfere with their work.

She also told them not to speak to reporters about the subject, but to refer calls to her spokeswoman, according to a recipient of the e-mail who asked not to be identified for fear of reprisal.

U.S. attorneys are usually appointed by the president and require Senate approval. They typically serve the same term as the president that appointed them, and are replaced when a new president is elected.

However, a provision in the Patriot Act that was revised last year allows the Attorney General to appoint interim U.S. Attorneys for indefinite terms when vacancies arise, without Senate confirmation. Filling interim vacancies had been the responsibility of the district court.

Sen. Dianne Feinstein, D-Calif., criticized the Bush administration yesterday for "pushing out U.S. Attorneys from across the country under the cloak of secrecy."

"We don't know how many U.S. Attorneys have been asked to resign - it could be two, it could be ten, it could be more. No one knows," she said in a statement.

Feinstein said the administration was abusing its executive power by trying to circumvent the Senate confirmation process. She and two colleagues proposed legislation yesterday to restore appointment authority to the district court when a vacancy occurs and an interim leader is needed.

Lam is one of several prosecutors who have either resigned under pressure or been told to leave in recent months.

New Mexico U.S. Attorney David Iglesias is among those who have announced they are stepping down.

"I was asked to resign," he said. "I asked (why) and wasn't given any answers. I ultimately am OK with that. We all take these jobs knowing we serve at the pleasure of the president."

H.E. "Bud" Cummins, who left the post of U.S. Attorney in Little Rock, Ark., wouldn't say whether he was asked. His replacement, J. Timothy Griffin, was an Army prosecutor who worked in the White House and for the Republican National Committee. Arkansas' senators, both Democrats, have criticized the way in which he was selected because it did not require Senate approval.

It's not the intent of the Justice Department to avoid the confirmation process, and the department is committed to working with senators when making a nomination, a department spokesman said.

Of 11 U.S. Attorney vacancies since the Attorney General gained the authority to make the appointments in March 2006, the Bush administration has nominated four people and interviewed seven others, all of whom are expected to complete the confirmation process, said Justice Department spokesman Brian Roehrkasse.

"In every case, it is a goal of this administration to have a U.S. Attorney that is confirmed by the Senate," Roehrkasse said. "It is wrong for a member of Congress to believe that this is in any way an attempt to circumvent the confirmation process."

Brian Roehrkasse  
Deputy Director of Public Affairs  
U.S. Department of Justice

(202) 514-2007

**McNulty, Paul J**

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**From:** Elston, Michael (ODAG)  
**Sent:** Tuesday, January 16, 2007 5:27 PM  
**To:** Sampson, Kyle; Goodling, Monica; McNulty, Paul J  
**Subject:** FW: USA Lam

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**From:** Long, Linda E  
**Sent:** Tuesday, January 16, 2007 5:26 PM  
**To:** Elston, Michael (ODAG)  
**Subject:** USA Lam

Phone call from USA Lam's office to notify that she has faxed her resignation to Debbie Hardos/EOUSA - with original copy overnight mail. DAG has been advised. Linda

**McNulty, Paul J**

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**From:** Elston, Michael (ODAG)  
**Sent:** Friday, January 12, 2007 6:38 PM  
**To:** McNulty, Paul J  
**Subject:** Re: San Diego Article

We are going to see if she announces by the Monday deadline.

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"This office has clearly made a priority of investigating and prosecuting white collar offenses and has had occasional success doing so," he said. "One would think that would be valued by any administration, even if it meant fewer resources were devoted to routine and repetitive border crimes."

Lam, 47, has been criticized by members of the Border Patrol agents union and by members of Congress, including Vista Republican Darrell Issa, who accused her office of "an appalling record of refusal to prosecute even the worst criminal alien offenders." But even some of Lam's legal opponents said the supposed reasons she is being forced out are perplexing.

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Brian Roehrkaske  
Deputy Director of Public Affairs  
U.S. Department of Justice  
(202) 514-2007



**McNulty, Paul J**

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**From:** Elston, Michael (ODAG)  
**Sent:** Tuesday, January 16, 2007 9:43 PM  
**To:** Sampson, Kyle; Goodling, Monica; McNulty, Paul J; 'John Nowacki@SMOJMD.USDOJ.gov'  
**Subject:** Kevin Ryan

Internet reports suggest that he has submitted his resignation.

**McNulty, Paul J**

---

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

**McNulty, Paul J**

---

**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

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Mike

**McNulty, Paul J**

**From:** Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]  
**Sent:** Thursday, February 01, 2007 3:41 PM  
**To:** McNulty, Paul J  
**Cc:** Elston, Michael (ODAG)  
**Subject:** WDMI

Paul: February 1 seems to be the right date to provide a status report. I continue to vigorously pursue employment. In addition to applying to numerous public agencies and organizations, I am now working with a "headhunter". Who knew this could be so difficult?

Michael Elston informed me that I must vacate my position by March 1. Therefore, I plan to announce my resignation on the afternoon of February 14 or the morning of February 15. I need all the time, salary and benefits available so my resignation will be effective on February 28. The first question within WDMI will be who is the nominee? When will I be able to answer that question?

FYI: Everyone who knows about my required resignation, ( primarily our USA colleagues and people who are providing references ), is astonished that I am being asked to leave. Now that it has been widely reported that departing USAs have either failed to meet performance expectations or that they acted independently rather than follow DOJ/EOUSA directives, the situation is so much worse. You know that I am in neither category. This makes me so sad. Why have I been asked to resign? The real reason, especially if true, would be a lot easier to live with. Margaret

3/9/2007

DAG00000062

**McNulty, Paul J**

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**From:** Elston, Michael (ODAG)  
**Sent:** Thursday, February 01, 2007 3:52 PM  
**To:** Hertling, Richard  
**Cc:** Sampson, Kyle; Goodling, Monica; Moschella, William; McNulty, Paul J; Seidel, Rebecca  
**Subject:** Bud Cummins

just called to let me know that Pryor's and Schumer's staff have called and asked him to testify on Tuesday. He declined, but wanted to know if we wanted him to testify -- would tell the truth about his circumstances and would also strongly support our view of S 214.

Thoughts?

**McNulty, Paul J**

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**From:** Sampson, Kyle  
**Sent:** Thursday, February 01, 2007 4:15 PM  
**To:** Elston, Michael (ODAG); Hertling, Richard  
**Cc:** Goodling, Monica; Moschella, William; McNulty, Paul J; Seidel, Rebecca  
**Subject:** RE: Bud Cummins

I don't think he should. How would he answer:

Did you resign voluntarily?  
Were you told why you were being asked to resign?  
Who told you?  
When did they tell you?  
What did they say?  
Did you ever talk to Tim Griffin about his becoming U.S. Attorney?  
What did Griffin say?  
Did Griffin ever talk about being AG appointed and avoiding Senate confirmation?  
Were you asked to resign because you were underperforming?  
If not, then why?  
Etc., etc.

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**Cc:** Sampson, Kyle; Goodling, Monica; Moschella, William; McNulty, Paul J; Seidel, Rebecca  
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Thoughts?

**McNulty, Paul J**

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**From:** Elston, Michael (ODAG)  
**Sent:** Thursday, February 01, 2007 4:35 PM  
**To:** Sampson, Kyle; Hertling, Richard  
**Cc:** Goodling, Monica; Moschella, William; McNulty, Paul J; Seidel, Rebecca  
**Subject:** Re: Bud Cummins

Agreed.

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

**From:** Sampson, Kyle  
**To:** Elston, Michael (ODAG); Hettling, Richard  
**CC:** Goodling, Monica; Moschella, William; McNulty, Paul J; Seidel, Rebecca  
**Sent:** Thu Feb 01 16:15:00 2007  
**Subject:** RE: Bud Cummins

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Thoughts?

**McNulty, Paul J**

**From:** Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]  
**Sent:** Saturday, February 03, 2007 1:39 PM  
**To:** McNulty, Paul J  
**Cc:** Elston, Michael (ODAG)  
**Subject:** WDMI  
**Importance:** High

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

3/9/2007

DAG000000066



**McNulty, Paul J**

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**From:** Elston, Michael (ODAG)  
**Sent:** Tuesday, February 06, 2007 7:03 PM  
**To:** Hertling, Richard; Moschella, William; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia  
**Cc:** Scott-Finan, Nancy  
**Subject:** Re:

Paul wants to try to put this to bed, so if only Paul will satisfy them (or avoid offending them), he'll do it. If it is Paul, it may not be Friday. If it is Friday, it will need to be late in the day because we will probably need an hour of prep in the morning.

Mike

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

**From:** Hertling, Richard  
**To:** Moschella, William; Elston, Michael (ODAG); McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia  
**CC:** Scott-Finan, Nancy  
**Sent:** Tue Feb 06 18:36:13 2007  
**Subject:** FW:

I intend to push back and offer Will and Mike for the briefing, not the DAG. Members can't be unhappy with the PADAG and CoS to the DAG. We ought to convene to discuss how we respond to questions and what we are prepared to offer by way of the EARS reports.

---

**From:** Bharara, Preet (Judiciary-Dem) [mailto:Preet\_Bharara@Judiciary-dem.senate.gov]  
**Sent:** Tuesday, February 06, 2007 6:33 PM  
**To:** Hertling, Richard  
**Subject:** RE:

It was Senator Schumer's understanding and intent that this be a Member meeting and that DAG McNulty would participate. Thanks much.

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**From:** Hertling, Richard [mailto:Richard.Hertling@usdoj.gov]  
**Sent:** Tuesday, February 06, 2007 12:26 PM  
**To:** Bharara, Preet (Judiciary-Dem)  
**Subject:** RE:

Preet: I think we would need to look to do this on Friday. I am still nailing down the briefers. Do you expect the briefing to be for all Committee staffers? I take it Members are not expected. Let me know, and let me know a time that works for you on Friday.

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**From:** Bharara, Preet (Judiciary-Dem) [mailto:Preet\_Bharara@Judiciary-dem.senate.gov]  
**Sent:** Tuesday, February 06, 2007 11:41 AM  
**To:** Hertling, Richard  
**Subject:** Re:

I'll bring the beer.

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Sent from my BlackBerry Wireless Handheld

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

From: Hertling, Richard <Richard.Hertling@usdoj.gov>  
To: Bharara, Preet (Judiciary-Dem)  
Sent: Tue Feb 06 11:35:25 2007  
Subject: Re:

We will determine who the briefers will be and what their schedules are.

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

From: Bharara, Preet (Judiciary-Dem) <Preet\_Bharara@Judiciary-dem.senate.gov>  
To: Hertling, Richard  
Sent: Tue Feb 06 11:27:06 2007  
Subject: Re:

So, when are we having our private session?

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

From: Hertling, Richard <Richard.Hertling@usdoj.gov>  
To: Bharara, Preet (Judiciary-Dem)  
Sent: Tue Feb 06 06:50:02 2007  
Subject:

Preet: sorry this took so long, but here, as you requested, is a list of a few instances in which the former regime for selecting interim US Attorneys caused problems for DOJ. See you later this morning.

<<Examples of Difficult Transition Situations.pdf>>

**McNulty, Paul J**

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**From:** Moschella, William  
**Sent:** Tuesday, February 06, 2007 7:11 PM  
**To:** Elston, Michael (ODAG); Hertling, Richard; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia  
**Cc:** Scott-Finan, Nancy  
**Subject:** Re:

We also need to decide who will testify before the HJC next week. Whoever it is needs to be fully looped into what is being said on the Hill.

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From: Hertling, Richard <Richard.Hertling@usdoj.gov>  
To: Bharara, Preet (Judiciary-Dem)  
Sent: Tue Feb 06 11:35:25 2007  
Subject: Re:

We will determine who the briefers will be and what their schedules are.

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

From: Bharara, Preet (Judiciary-Dem) <Preet\_Bharara@Judiciary-dem.senate.gov>  
To: Hertling, Richard  
Sent: Tue Feb 06 11:27:06 2007  
Subject: Re:

So, when are we having our private session?

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Sent from my BlackBerry Wireless Handheld

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From: Hertling, Richard <Richard.Hertling@usdoj.gov>  
To: Bharara, Preet (Judiciary-Dem)  
Sent: Tue Feb 06 06:50:02 2007  
Subject:

Preet: sorry this took so long, but here, as you requested, is a list of a few instances in which the former regime for selecting interim US Attorneys caused problems for DOJ. See you later this morning.

<<Examples of Difficult Transition Situations.pdf>>

**McNulty, Paul J**

---

**From:** Scott-Finan, Nancy  
**Sent:** Tuesday, February 06, 2007 7:26 PM  
**To:** Elston, Michael (ODAG); Hertling, Richard; Moschella, William; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia  
**Cc:** Burton, Faith; Seidel, Rebecca  
**Subject:** Briefing on EARS reports

I am including Faith and Rebecca in the email chain.

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

**From:** Elston, Michael (ODAG)  
**Sent:** Tuesday, February 06, 2007 7:03 PM  
**To:** Hertling, Richard; Moschella, William; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia  
**Cc:** Scott-Finan, Nancy  
**Subject:** Re:

Paul wants to try to put this to bed, so if only Paul will satisfy them (or avoid offending them), he'll do it. If it is Paul, it may not be Friday. If it is Friday, it will need to be late in the day because we will probably need an hour of prep in the morning.

Mike

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

**From:** Hertling, Richard  
**To:** Moschella, William; Elston, Michael (ODAG); McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia  
**CC:** Scott-Finan, Nancy  
**Sent:** Tue Feb 06 18:36:13 2007  
**Subject:** FW:

I intend to push back and offer Will and Mike for the briefing, not the DAG. Members can't be unhappy with the PADAG and CoS to the DAG. We ought to convene to discuss how we respond to questions and what we are prepared to offer by way of the EARS reports.

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**From:** Bharara, Preet (Judiciary-Dem) [mailto:Preet\_Bharara@Judiciary-dem.senate.gov]  
**Sent:** Tuesday, February 06, 2007 6:33 PM  
**To:** Hertling, Richard  
**Subject:** RE:

It was Senator Schumer's understanding and intent that this be a Member meeting and that DAG McNulty would participate. Thanks much.

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**From:** Hertling, Richard [mailto:Richard.Hertling@usdoj.gov]  
**Sent:** Tuesday, February 06, 2007 12:26 PM  
**To:** Bharara, Preet (Judiciary-Dem)  
**Subject:** RE:

Preet: I think we would need to look to do this on Friday. I am still nailing down the briefers. Do you expect the briefing to be for all Committee staffers? I take it Members.

are not expected. Let me know, and let me know a time that works for you on Friday.

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From: Bharara, Preet (Judiciary-Dem) [mailto:Preet\_Bharara@Judiciary-dem.senate.gov]  
Sent: Tuesday, February 06, 2007 11:41 AM  
To: Hertling, Richard  
Subject: Re:

I'll bring the beer.

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Sent from my BlackBerry Wireless Handheld

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From: Hertling, Richard <Richard.Hertling@usdoj.gov>  
To: Bharara, Preet (Judiciary-Dem)  
Sent: Tue Feb 06 11:35:25 2007  
Subject: Re:

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From: Bharara, Preet (Judiciary-Dem) <Preet\_Bharara@Judiciary-dem.senate.gov>  
To: Hertling, Richard  
Sent: Tue Feb 06 11:27:06 2007  
Subject: Re:

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To: Bharara, Preet (Judiciary-Dem)  
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<<Examples of Difficult Transition Situations.pdf>>

**McNulty, Paul J**

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**From:** Scott-Finan, Nancy  
**Sent:** Tuesday, February 06, 2007 7:29 PM  
**To:** Moschella, William; Elston, Michael (ODAG); Hertling, Richard; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia  
**Cc:** Burton, Faith; Seidel, Rebecca  
**Subject:** RE: Briefing on EARS reports

Thursday, February 15th  
The time that was given to me was 10:15 am  
It is the Adm Law Subcommittee, chaired by Sanchez with Cannon as the RRM.

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

**From:** Moschella, William  
**Sent:** Tuesday, February 06, 2007 7:27 PM  
**To:** Scott-Finan, Nancy; Elston, Michael (ODAG); Hertling, Richard; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia  
**Cc:** Burton, Faith; Seidel, Rebecca  
**Subject:** Re: Briefing on EARS reports

When is the HJC hearing next week.

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** Scott-Finan, Nancy  
**To:** Elston, Michael (ODAG); Hertling, Richard; Moschella, William; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia  
**CC:** Burton, Faith; Seidel, Rebecca  
**Sent:** Tue Feb 06 19:25:35 2007  
**Subject:** Briefing on EARS reports

I am including Faith and Rebecca in the email chain.

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

**From:** Elston, Michael (ODAG)  
**Sent:** Tuesday, February 06, 2007 7:03 PM  
**To:** Hertling, Richard; Moschella, William; McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia  
**Cc:** Scott-Finan, Nancy  
**Subject:** Re:

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Mike

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

**From:** Hertling, Richard  
**To:** Moschella, William; Elston, Michael (ODAG); McNulty, Paul J; Sampson, Kyle; Goodling, Monica; Scolinos, Tasia  
**CC:** Scott-Finan, Nancy  
**Sent:** Tue Feb 06 18:36:13 2007  
**Subject:** FW:

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Sent: Tuesday, February 06, 2007 11:41 AM  
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Subject: Re:

I'll bring the beer.

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To: Bharara, Preet (Judiciary-Dem)  
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From: Hertling, Richard <Richard.Hertling@usdoj.gov>  
To: Bharara, Preet (Judiciary-Dem)  
Sent: Tue Feb 06 06:50:02 2007  
Subject:



Preet: sorry this took so long, but here, as you requested, is a list of a few instances in which the former regime for selecting interim US Attorneys caused problems for DOJ. See you later this morning.

<<Examples of Difficult Transition Situations.pdf>>

### Examples of Difficult Transition Situations

#### **Examples of Districts Where Judges Did Not Exercise Their Court Appointment Authority (Making the Attorney General's Appointment Authority Essential To Keep the Position Filled until a Nominee Is Confirmed)**

- 1. Southern District of Florida:** In 2005, a vacancy occurred in the SDFL. The Attorney General appointed Assistant Attorney General of the Civil Rights Division, Alex Acosta, for 120 days. At the end of the term, the Court indicated that they had (years earlier) appointed an individual who later became controversial. As a result, the Court indicated that they would not make an appointment unless the Department turned over its internal employee files and FBI background reports, so that the court could review potential candidates' backgrounds. Because those materials are protected under federal law, the Department declined the request. The court then indicated it would not use its authority at all, and that the Attorney General should make multiple, successive appointments. While the selection, nomination, and confirmation of a new U.S. Attorney was underway, the Attorney General made three 120-day appointments of Mr. Acosta. Ultimately, he was selected, nominated, and confirmed to the position.
- 2. Eastern District of Oklahoma:** In 2000-2001, a vacancy occurred in the EDOK. The court refused to exercise the court's authority to make appointments. As a result, the Attorney General appointed Shelly Sperling to three 120-day appointments before Sperling was nominated and confirmed by the Senate (he was appointed by the Attorney General to a fourth 120-day term while the nomination was pending).
- 3. In the Western District of Virginia:** In 2001, a vacancy occurred in the WDVA. The court declined to exercise its authority to make an appointment. As a result, the Attorney General made two successive 120-day appointments (two different individuals).

#### *This problem is not new ...*

- 4. The District of Massachusetts.** In 1987, the Attorney General had appointed an interim U.S. Attorney while a nomination was pending before the Senate. The 120-day period expired before the nomination had been reviewed and the court declined to exercise its authority. The Attorney General then made another 120-day appointment. The legitimacy of the second appointment was questioned and was reviewed the U.S. District Court for the District of Massachusetts. The Judge upheld the validity of the second 120-day appointment where the court had declined to make an appointment. See 671 F. Supp. 5 (D. Ma. 1987).

DAG00000076

**Examples Where Judges Discussed Appointing or Attempted to Appoint Unacceptable Candidates:**

**1. Southern District of West Virginia:** When a U.S. Attorney in the Southern District of West Virginia, David Faber, was confirmed to be a federal judge in 1987, the district went through a series of temporary appointments. Following the Attorney General's 120-day appointment of an individual named Michael Carey, the court appointed another individual as the U.S. Attorney. The court's appointee was not a DOJ-employee at the time and had not been subject of any background investigation. The court's appointee came into the office and started making inquiries into ongoing public integrity investigations, including investigations into Charleston Mayor Michael Roark and the Governor Arch Moore, both of whom were later tried and convicted of various federal charges. The First Assistant United States Attorney, knowing that the Department did not have the benefit of having a background examination on the appointee, believed that her inquiries into these sensitive cases were inappropriate and reported them to the Executive Office for United States Attorneys in Washington, D.C. The Department directed that the office forward the investigative files involving the Governor to Washington, D.C. for safeguarding. The Department further directed that the court's appointee be recused from certain criminal matters until a background examination was completed. During that time, the Reagan Administration sped up Michael Carey's nomination. Carey was confirmed and the court's appointee was replaced within two-three weeks of her original appointment.

**2. South Dakota:**

In 2005, a vacancy arose in South Dakota. The First Assistant United States Attorney (FAUSA) was elevated to serve as acting United States Attorney under the Vacancies Reform Act (VRA) for 210 days. As that appointment neared an end without a nomination having yet been made, the Attorney General made an interim appointment of the FAUSA for a 120-day term. The Administration continued to work to identify a nominee; however, it eventually became clear that there would not be a nomination and confirmation prior to the expiration of the 120-day appointment.

Near the expiration of the 120-day term, the Department contacted the court and requested that the FAUSA be allowed to serve under a court appointment. However, the court was not willing to re-appoint her. The Department proposed a solution to protect the court from appointing someone about whom they had reservations, which was for the court to refrain from making any appointment (as other district courts have sometimes done), which would allow the Attorney General to give the FAUSA a second successive, 120-day appointment.

The Chief Judge instead indicated that he was thinking about appointing a non-DOJ employee, someone without federal prosecution experience, who had not been the subject of a thorough background investigation and did not have the

DAG000000077

necessary security clearances. The Department strongly indicated that it did not believe this was an appropriate individual to lead the office.

The Department then notified the court that the Attorney General intended to ask the FAUSA to resign her 120-day appointment early (without the expiration of the 120-day appointment, the Department did not believe the court's appointment authority was operational). The Department notified the court that since the Attorney General's authority was still in force, he would make a new appointment of another experienced career prosecutor. The Department believed that the Chief Judge indicated his support of this course of action and implemented this plan.

The FAUSA resigned her position as interim U.S. Attorney and the Attorney General appointed the new interim U.S. Attorney (Steve Mullins). A federal judge executed the oath and copies of the Attorney General's order and the press release were sent to the court for their information. There was no response for over 10 days, when a fax arrived stating that the court had also attempted to appoint the non-DOJ individual as the U.S. Attorney.

This created a situation where two individuals had seemingly been appointed by two different authorities. Defense attorneys indicated their intention to challenge ongoing investigations and cases. The Department attempted to negotiate a resolution to this very difficult situation, but was unsuccessful. Litigating the situation would have taken months, during which many of the criminal cases and investigations that were underway would have been thrown into confusion and litigation themselves.

Needing to resolve the matter for the sake of the ongoing criminal prosecutions and litigation, after it was clear that negotiations would resolve the matter, the White House Counsel notified the court's purported appointee that even if his court order was valid and effective, then the President was removing him from that office pursuant to Article II of the Constitution and 28 U.S.C. § 541(c). Shortly thereafter, Mr. Mullins resigned his Attorney General appointment and was recess appointed by President Bush to serve as the U.S. Attorney for the District of South Dakota. The Department continued to work with the home-state Senators and identified and nominated a new U.S. Attorney candidate, who was confirmed by the Senate in the summer of 2006.

- Northern District of California:** In 1998, a vacancy resulted in NDCA, a district suffering from numerous challenges. The district court shared the Department's concerns about the state of the office and discussed the possibility of appointing a non-DOJ employee to take over. The Department found the potential appointment of a non-DOJ employee unacceptable. A confrontation was avoided by the Attorney General's appointment of an experienced prosecutor from Washington, D.C. (Robert Mueller), which occurred with the court's concurrence. Mueller served under an AG appointment for 120 days, after which the district court gave him a court appointment. Eight months later, President Clinton nominated Mueller to fill the position for the rest of his term.

DAG00000078

**McNulty, Paul J**

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**From:** McNulty, Paul J  
**Sent:** Wednesday, February 07, 2007 7:34 PM  
**To:** Elston, Michael (ODAG)  
**Subject:** RE: WDMI

Sounds like we should let her extend a week and go to the meeting. Happy birthday. Go Heels.

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

**From:** Chiara, Margaret M. (USAMIW) [mailto:MM.Chiara@usdoj.gov]  
**Sent:** Wednesday, February 07, 2007 5:59 PM  
**To:** Elston, Michael (ODAG)  
**Cc:** McNulty, Paul J  
**Subject:** Re: WDMI

I will resign effective March 9. However, it is too late to postpone the meeting. Invitations have been extended to 26 Tribes and the host Tribe, (Eastern Band of Cherokees), has made extensive preparations for the tribal summit. To cancel now would be a setback to the government-to-government relations we work so hard to maintain. Also, the agenda for the rest of the meeting has been planned. We have a signed contract for the facility. Almost all of the NAIS members, including the 2 now in Arizona and Western Washington, have affirmed their participation. USA G. Shappert is the host USA. She, with some of the experienced members, can handle the event in my absence. This assignment has educated me to what it takes to work effectively in Indian Country. I ask that you reconsider the request to cancel. Margaret

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** Elston, Michael (ODAG) <Michael.Elston@usdoj.gov>  
**To:** Chiara, Margaret M. (USAMIW) <MChiara@usa.doj.gov>  
**CC:** McNulty, Paul J <Paul.J.McNulty@usdoj.gov>  
**Sent:** Wed Feb 07 16:55:53 2007  
**Subject:** Re: WDMI

Margaret:

I have looked into the NAIS meeting. Given the turnover on that subcommittee, I think it makes sense to postpone the meeting until the summer when the new USAs will be in place. Accordingly, let's leave the dates as the 23rd and the 9th.

Thank you for bringing the issue to my attention.

Mike

-----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

Kemphorn 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

**McNulty, Paul J**

---

**From:** Elston, Michael (ODAG)  
**Sent:** Thursday, February 08, 2007 12:15 AM  
**To:** Chiara, Margaret M. (USAMIW)  
**Cc:** McNulty, Paul J  
**Subject:** Re: WDMI

Margaret:

I will certainly reconsider in light of this additional information, although I will say that the information I received from EOUSA about the meeting differs somewhat from yours.

I'll get back to you as soon as I can.

Thanks,  
Mike

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

**From:** Chiara, Margaret M. (USAMIW) <MM.Chiara@usdoj.gov>  
**To:** Elston, Michael (ODAG)  
**CC:** McNulty, Paul J  
**Sent:** Wed Feb 07 17:59:16 2007  
**Subject:** Re: WDMI

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Margaret



**McNulty, Paul J**

**From:** McNulty, Paul J  
**Sent:** Friday, February 09, 2007 5:25 PM  
**To:** Elston, Michael (ODAG)  
**Subject:** FW: Solution

Could we make this happen? Hire her into an EOUSA slot and then send her down to the NAC?

**From:** Chiara, Margaret M. (USAMIW) [mailto:MM.Chiara@usdoj.gov]  
**Sent:** Friday, February 09, 2007 1:55 PM  
**To:** McNulty, Paul J  
**Subject:** Solution

Paul: You may recall from earlier communication with me that I have owned a home in South Carolina for several years.

The announcement (below) is for a detail at the NAC for which I am completely qualified and which I would enjoy doing. Obviously, I am not currently eligible for a detail position. Will you please intervene to make the position available for me? It would provide a timely and satisfactory solution to my current job search. Thank you.

Margaret

## **Experienced Prosecutor Needed to Serve as an Assistant Director, Office of Legal Education, EOUSA, Columbia, South Carolina**

The Office of Legal Education (OLE), Executive Office for United States Attorneys, U.S. Department of Justice, seeks an experienced Assistant United States Attorney to serve as an Assistant Director (AD) for Criminal Programs at the National Advocacy Center in Columbia, South Carolina. This detail is for two years, with the possibility of renewal for additional years. **This is a reimbursable detail.**

The AD will lead a program manager and program assistant in coordinating up to 25 training classes per year at the National Advocacy Center in Columbia, SC. Responsibilities will include course design; instructor recruitment and training, student selection; course administration, and post-course review. The AD will report to OLE's Director and Deputy Director. Applicants must have excellent interpersonal and management skills, be responsible and self-sufficient, communicate effectively orally and in writing, possess extensive experience as a prosecutor in criminal law, and possess experience working with task forces or interagency projects.

The AD selected for this position will be housed in the Kirkland Apartment Building, directly across the street from the NAC, and will be entitled to one trip home each month.

Interested applicants should send a resume; cover letter; and letter of support from your U.S. Attorney to arrive as soon as possible but not later than **February 23, 2007**, addressed to Cammy Chandler, Deputy Director, Office of Legal Education, 1620 Pendleton Street, Columbia, SC 29201.

3/9/2007

DAG00000083

E-mail and fax submissions are also acceptable. Ms. Chandler's fax number is (803) 705-5110 and her e-mail address is [cammy.chandler@usdoj.gov](mailto:cammy.chandler@usdoj.gov)

**McNulty, Paul J**

---

**From:** McNulty, Paul J  
**Sent:** Friday, February 09, 2007 9:53 PM  
**To:** Chiara, Margaret M. (USAMIW)  
**Subject:** Re: Solution

Margaret, I'll look into it. Hope you have a peaceful weekend. Paul

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

**From:** Chiara, Margaret M. (USAMIW) <MM.Chiara@usdoj.gov>  
**To:** McNulty, Paul J  
**Sent:** Fri Feb 09 13:55:26 2007  
**Subject:** Solution

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E-mail and fax submissions are also acceptable. Ms. Chandler's fax number is (803) 705-5110 and her e-mail address is [cammy.chandler@usdoj.gov](mailto:cammy.chandler@usdoj.gov)  
<<mailto:cammy.chandler@usdoj.gov>>

**McNulty, Paul J**

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**From:** Elston, Michael (ODAG)  
**Sent:** Monday, February 12, 2007 3:44 PM  
**To:** Chiara, Margaret M. (USAMIW)  
**Cc:** McNulty, Paul J; Shappert, Gretchen (USANCW)  
**Subject:** NAIS Meeting

Margaret:

I have spoken to Gretchen Shappert, and, as you recommended and based on the additional information Gretchen provided, I have concluded that it makes sense to keep the meeting date as scheduled in March despite the absence of some long-time members of the subcommittee.

You also mentioned that two new members of the subcommittee from Arizona and Western Washington would attend. I don't have any problem with the interims from Arizona and Western Washington attending, but I wanted to make it clear that they are not members of the subcommittee. New U.S. Attorneys do not simply succeed their predecessors on AGAC or its subcommittees, and normally interims are not made members of AGAC subcommittees except in unusual circumstances. There is a process for appointment to subcommittees, and neither interim has been appointed to the subcommittee.

Thanks again for bringing this issue to my attention.

Mike

**McNulty, Paul J**

---

**From:** Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]  
**Sent:** Monday, February 12, 2007 5:36 PM  
**To:** Elston, Michael (ODAG)  
**Cc:** McNulty, Paul J  
**Subject:** Re: NAIS Meeting

This is a good call. Thank you. I am aware of the required procedure to secure subcommittee assignments. The 2 interims were invited to ensure continuity of service to their district's Indian Country population Now that NAIS is convening on March 13 + 14, am I chairing the meeting and departing on March 16 or shall I work out other arrangements with NAIS members after I announce on Feb. 23? Margaret

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** Elston, Michael (ODAG) <Michael.Elston@usdoj.gov>  
**To:** Chiara, Margaret M. (USAMIW) <MChiara@usa.doj.gov>  
**CC:** McNulty, Paul J <Paul.J.McNulty@usdoj.gov>; Shappert, Gretchen (USANCW) <GShappert@usa.doj.gov>  
**Sent:** Mon Feb 12 15:43:49 2007  
**Subject:** NAIS Meeting

Margaret:

I have spoken to Gretchen Shappert, and, as you recommended and based on the additional information Gretchen provided, I have concluded that it makes sense to keep the meeting date as scheduled in March despite the absence of some long-time members of the subcommittee.

You also mentioned that two new members of the subcommittee from Arizona and Western Washington would attend. I don't have any problem with the interims from Arizona and Western Washington attending, but I wanted to make it clear that they are not members of the subcommittee. New U.S. Attorneys do not simply succeed their predecessors on AGAC or its subcommittees, and normally interims are not made members of AGAC subcommittees except in unusual circumstances. There is a process for appointment to subcommittees, and neither interim has been appointed to the subcommittee.

Thanks again for bringing this issue to my attention.

Mike

**McNulty, Paul J**

**From:** Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]  
**Sent:** Tuesday, February 13, 2007 5:08 PM  
**To:** McNulty, Paul J  
**Subject:** Solution Supplement  
**Attachments:** 07-EOUSA-12.wpd

Paul: Another NAC position was announced earlier today. Please refer to the attachment. The Assistant Director for OLE is a permanent position rather than a detail. Given current circumstances, it is unlikely that EOUSA will employ a former USA. Your intervention would be needed. Actually, I have applied for other EOUSA staff positions but both the location and the assignment make the NAC a clear preference.

Thanks, Margaret

<<07-EOUSA-12.wpd>>

**U.S. DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS  
OFFICE OF LEGAL EDUCATION (OLE)  
ATTORNEY-ADVISOR, GS-0905-15  
DUTY TITLE: ASSISTANT DIRECTOR, OLE**

**Vacancy Announcement Number: 07-EOUSA-12**

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**About the Office:** U.S. Department of Justice, Executive Office for United States Attorneys, is seeking an experienced attorney to serve as an Assistant Director for the Office of Legal Education (OLE), located at the National Advocacy Center in Columbia, SC. The Office of Legal Education provides training and education for attorneys, paralegal and legal support staff of the Department of Justice, and the executive branch of the United States government. Courses are offered on-site at the National Advocacy Center, off-site, and through distance learning programs.

**Responsibilities:** This position will serve as an Assistant Director for Legal Training. Training programs developed typically deal with new or emerging fields of law or new programs or initiatives. Applicant will also be expected to develop and participate in legal programming for Justice Television Network (JTN), OLE's in-house satellite broadcast network.

**Qualifications:** Applicants must possess a J.D. degree, be duly licensed and authorized to practice as an attorney under the laws of a State, territory or the District of Columbia. Applicants must have at least five years of post J.D. experience and be qualified at the GS-15 level. Applicants must possess a broad knowledge of federal criminal and civil legal disciplines to plan, coordinate, develop, implement, and assess legal training needs and develop policy and program proposals. Skills in developing cooperative training programs to achieve the common interests of state, local, and international law enforcement agencies, and developing educational programs using distance learning technology are mandatory. Must have experience in curriculum development for legal and/or law related training education.

**Salary:** Columbia, SC is in the Rest of U.S. locality pay area. The salary range for GS-15 is \$104,826 through \$136,273 per year.

**Travel:** Routine travel will be required to participate in meetings and direct training events.

**Application Process and Deadline Date:** Applicants must submit a cover letter (highlighting relevant experience), a tailored resume or OF-615 (Optional Application for Federal Employment) or SF-171 (Application for Federal Employment), your most recent SF-50 and current performance appraisal, if applicable to:

**Please send your resume to:**  
U.S. Department of Justice  
Executive Office for U.S. Attorneys  
Office of Administration/H.R. Division  
Attn: 07-EOUSA-12  
600 E Street NW, Room 8300

**Announcement closes: 02/26/2007**

Application materials must be RECEIVED by 11:59 p.m. (Eastern Standard Time) of the closing date. **Application materials may be faxed to (202) 514-7463.** No telephone calls please. Applications submitted using government postage, internal Federal government mail systems, or email will not be considered. **PLEASE NOTE** – mail coming through our mail system can be delayed due to security screening, faxing your resume to our dedicated fax number is encouraged.

**Location Expenses are not authorized.**

DAG00000089

**Internet Sites:** This and other attorney vacancy announcements can be found at <http://10.173.2.12/oarm/attvacancies.html>

For more information about the Office of Legal Education, visit <http://www.usdoj.gov/usao/eousa/ole/index.html>

**Department Policies:** The U.S. Department of Justice is an Equal Opportunity Reasonable Accommodation Employer. Except where otherwise provided by law, there will be no discrimination based on sex, sexual orientation, color, race, religion, national origin, politics, marital status, disability, age, status as a parent, membership or nonmembership in an employee organization, or personal favoritism. The Department of Justice welcomes and encourages applications from persons with physical and mental disabilities. The Department is firmly committed to satisfying its affirmative obligations under the Rehabilitation Act of 1973 to ensure that persons with disabilities have every opportunity to be hired and advanced on the basis of merit within the Department of Justice. This agency provides reasonable accommodation to applicants with disabilities where appropriate. If you need a reasonable accommodation for any part of the application and hiring process, please notify the agency. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

It is the policy of the Department to achieve a drug-free workplace and persons selected for employment will be required to pass a drug test which screens for illegal drug use prior to final appointment. Employment is also contingent upon the completion and satisfactory adjudication of a background investigation. Only U.S. citizens are eligible for employment with the Executive Office for Immigration Review and the United States Attorneys' Offices. Unless otherwise indicated in a particular job advertisement, non-U.S. citizens may apply for employment with other organizations, but should be advised that appointments of non-U.S. citizens are extremely rare; such appointments could be possible only if necessary to accomplish the Department's mission and would be subject to strict security requirements. Applicants who hold dual citizenship in the U.S. and another country will be considered on a case-by-case basis.

DAG00000090



**McNulty, Paul J**

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**From:** Elston, Michael (ODAG)  
**Sent:** Friday, February 16, 2007 3:36 PM  
**To:** Goodling, Monica; McNulty, Paul J; Sampson, Kyle  
**Subject:** FW:

I have a one-member fan club in California!

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

**From:** Ryan, Kevin (USACAN) [mailto:Kevin.Ryan@usdoj.gov]  
**Sent:** Thursday, February 15, 2007 10:17 PM  
**To:** Elston, Michael (ODAG)  
**Cc:** Ryan, Kevin (USACAN)  
**Subject:**

Mike,

You have been a gentleman in your dealings with me, and I appreciate it.

Thanks,

Kevin

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

**McNulty, Paul J**

**From:** Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]  
**Sent:** Wednesday, February 21, 2007 11:48 AM  
**To:** McNulty, Paul J  
**Subject:** February 23 Announcement  
**Importance:** High

Given Michael Elston's unavailability today, I ask that you clarify my departure date. March 16 will permit me to chair the NAIS meeting, including a Tribal Summit to which 26 federally recognized tribes have been invited. Michael was checking on that date rather than the original date of March 9. Also, I need to confirm that FAUSA Russ Stoddard will serve as interim. Again, this is what was discussed with Michael. The legal community and more importantly, the USAO will deal better with my departure if they have a sense of their short term future.

Press release and several mailings are presently being prepared now. Please contact me.

Cell number: Office number: 616-456-2404. Assistant: Karrie Wichtman  
Thank you.

Margaret

**McNulty, Paul J**

**From:** Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]  
**Sent:** Wednesday, February 21, 2007 5:13 PM  
**To:** McNulty, Paul J  
**Cc:** Elston, Michael (ODAG)  
**Subject:** WDMI Update

Paul: My thanks for your telephone call this afternoon. I did some quick checking. It appears that information about me is beginning to circulate in the district. I have expended an enormous amount of effort trying to contain this situation. Therefore, I believe that staying with the February 23 announcement date is the best approach. All I need to go forward is the departure date. I now understand that there is to be no mention of the interim appointment in the press release. I will anticipate hearing from Michael Elston as soon as he is available.

Margaret

3/9/2007

DAG000000093

**McNulty, Paul J**

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**From:** Tasia Scolinos [tasia\_scolinos@yahoo.com]  
**Sent:** Sunday, March 04, 2007 8:02 PM  
**To:** Sampson, Kyle; McNulty, Paul J; william.moscella@usdoj.gov; Roehrkasse, Brian  
**Cc:** Scolinos, Tasia  
**Subject:** DRAFT Talking Points

**Attachments:** 1340525209-attorney letter.doc



attorney letter.doc  
(27 KB)

Below are draft message points that we could insert into Will's testimony or figure out another tactic to move it. I think this will get some traction with media but without it going under the AG's name less so. Let me know what you think- I would like to send these over to Dan before the 1 PM WH meeting. Also, WH comms in under the impression that we did not remove all the Clinton USA's in '01 like he did when he took office. Is this true?

Draft Talking Points for 3/6 Hearing:

- One of the most important responsibilities the Attorney General has is to effectively manage the Department of Justice, including its thousands of employees.
- Managers, as you know, often times have to make difficult decisions for the betterment of the organization.
- It is vitally important that the Department take all necessary steps to ensure that its policies and priorities are served in a consistent manner. This is especially true of those who have the high privilege of serving as presidential appointees.
- DOJ Presidential appointees, both at Main Justice and in the field, are tasked with making prosecutorial decisions but that responsibility does not change or alter in any way the fact that they serve at the pleasure of the President and if they are not executing their responsibilities in a manner that furthers the management and policy goals of departmental leadership it is appropriate that they be replaced with other individuals.
- At a time when America's well being is threatened by terrorism, violent gangs, child predators and corruption in business and government, this responsibility has never been clearer.
- It is also important to note that the Clinton Administration fired all existing U.S. Attorneys when he took office presumably to put in individuals who understood the priorities of his Administration. Removing our own political appointees is not substantively different than that decision.
- That said, it is also important that the Department's management actions be prudently executed once a decision is made.
- The process by which the U.S. attorneys were informed of our decision fell short of this standard. We should have informed the individuals at the time we

asked for their resignations of the various matters relating to policy, priorities and management justifying our actions.

- Our intention in not providing a full explanation initially was to avoid protracted discussions and make these difficult discussions as non-inflammatory as possible for those being asked to resign.
- In hindsight, although the Department continues to believe our decision to remove these individuals was the correct one, it would have been much better to have addressed the relevant issues up front with them.
- All of the United States Attorneys asked to resign in this matter are professionals and we appreciate their service. I have no doubt that they will achieve success in their future endeavors along with the other (56?) U.S. Attorneys who have left their posts for various reasons over the last six years.
- The Department remains focused on making sure that the good work being done by the career lawyers in all of those offices across the country continues uninterrupted and that qualified candidates are nominated as soon as possible for those positions.

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DAG000000096

**McNulty, Paul J**

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**From:** Sampson, Kyle  
**Sent:** Sunday, March 04, 2007 8:40 PM  
**To:** 'tasia\_scolinos@yahoo.com'; McNulty, Paul J; 'william.moscella@usdoj.gov'; Roehrkasse, Brian  
**Cc:** Scolinos, Tasia  
**Subject:** Re: DRAFT Talking Points

\* Clinton fired all Bush USAs in one fell swoop. Has been described to me as "have your offices cleared out by the end of the week."  
\* We fired all Clinton USAs (except Mueller and Warner), but staggered it more and permitted some to stay on for several months (including Mary Jo White in SDNY who we permitted to stay on for many months).

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

**From:** Tasia Scolinos <tasia\_scolinos@yahoo.com>  
**To:** Sampson, Kyle; McNulty, Paul J; william.moscella@usdoj.gov  
<william.moscella@usdoj.gov>; Roehrkasse, Brian  
**CC:** Scolinos, Tasia  
**Sent:** Sun Mar 04 20:01:46 2007  
**Subject:** DRAFT Talking Points

Below are draft message points that we could insert into Will's testimony or figure out another tactic to move it. I think this will get some traction with media but without it going under the AG's name less so. Let me know what you think- I would like to send these over to Dan before the 1 PM WH meeting. Also, WH comms in under the impression that we did not remove all the Clinton USA's in '01 like he did when he took office. Is this true?

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**McNulty, Paul J**

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**From:** McNulty, Paul J  
**Sent:** Sunday, March 04, 2007 8:47 PM  
**To:** 'tasia\_scolinos@yahoo.com'  
**Subject:** Re: DRAFT Talking Points

These points look pretty good. If we can get them out in the early afternoon as part of Will's oral statement for Tues, maybe the AP would pick it up and it would gain notice from there.

On the issue of the Clinton USAs, we called each one and had them give us a timeframe. Most were gone by late April., In contrast, Clinton DOJ told all but a dozen in early March to be gone immediately. I would have someone run it by Margolis if were going to use this.

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**From:** Tasia Scolinos <tasia\_scolinos@yahoo.com>  
**To:** Sampson, Kyle; McNulty, Paul J; william.moscella@usdoj.gov  
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