

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.

**McNulty, Paul J**

**From:** Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]  
**Sent:** Sunday, March 04, 2007 11:00 PM  
**To:** McNulty, Paul J  
**Cc:** Elston, Michael (ODAG)  
**Subject:** WDMI

Paul: I respectfully request that you reconsider the rationale of poor performance as the basis for my dismissal. It is in our mutual interest to retract this erroneous explanation while there is still time. Please simply state that a presidentially appointed position is not an entitlement. No other explanation is needed.

As you know, I have assiduously avoided public comment by pursuing an informal version of the "witness protection program" in order to elude reporters! However, the legal community in Grand Rapids and organizations throughout Michigan are outraged that I am being labeled "a poor performer". Politics may not be a pleasant reason but the truth is compelling. Know that I am considered a personification of ethics and productivity. And as you surely realize, the unresolved Phil Green situation has definitely complicated the perception of DOJ in WDMI.

The notoriety of being one of the "USA-8" coupled with my age being constantly cited in the press is proving to be a formidable obstacle to securing employment. The best resolution with regard to both timing and outcome is the assistant director position at the NAC. I have already made it clear to the OLE Director that you do not consider former United States Attorney status a barrier to continued DOJ service. I ask that you endorse or otherwise encourage my selection for reasons discussed in previous e-mails. Given the quality and quantity of my contribution during the past 5+ years, I am confident that you are willing to provide affirmative assistance.

Margaret

**McNulty, Paul J**

---

**To:** Chiara, Margaret M. (USAMIW)  
**Cc:** Elston, Michael (ODAG)  
**Subject:** RE: WDMI

Margaret:

I'm glad to hear your reputation in the Western Michigan legal community is strong. It was never our intention to harm it, and you know well how we have worked with you to help you make as smooth a transition as possible to your next opportunity.

That said our only choice is to continue to be truthful about this entire matter. The word "performance" obviously has not set well with you and your colleagues. By that word, we only meant to convey that there were issues about policy, priorities and management/leadership that we felt were important to the Department's effectiveness.

---

**From:** Chiara, Margaret M. (USAMIW) [mailto:MM.Chiara@usdoj.gov]  
**Sent:** Sunday, March 04, 2007 11:00 PM  
**To:** McNulty, Paul J  
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## McNulty, Paul J

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 7:27 PM  
**To:** McNulty, Paul J; Moschella, William, Elston, Michael (ODAG); Goodling, Monica, Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian  
**Subject:** FW: Moschella Oral Testimony

**Importance:** High

**Attachments:** Moschella Oral Statement.doc

Gang, I just sent the below draft Moschella Oral Statement to the White House. Let me know if you have any comments (though I wouldn't mind giving the pen up at this point; let me know).

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 7:25 PM  
**To:** 'Kelley, William K.'  
**Cc:** 'Oprison, Christopher G.'  
**Subject:** Moschella Oral Testimony  
**Importance:** High

Bill, can you forward this on to Dana and Cathie (and whomever else in the White House you deem appropriate) for review and approval? Thanks!



Moschella Oral  
Statement.doc (...)

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

William E. Moschella  
Opening Statement

Madam Chairman, Mr. Cannon, and Members of the Subcommittee, I appreciate the opportunity to testify today.

Let me begin by stating clearly that the Department of Justice appreciates the public service that was rendered by the seven U.S. Attorneys who were asked to resign last December. Each is a talented lawyer who served as U.S. Attorney for more than four years, and we have no doubt they will achieve success in their future endeavors – just like the 40 or so other U.S. Attorneys who have resigned for various reasons over the last six years.

But one of the Attorney General's most important responsibilities is to manage the Department of Justice. Part of managing the Department is ensuring that the President's and the Attorney General's priorities and the Department's policies are carried out consistently and uniformly. Individuals who have the high privilege of serving as presidential appointees have an obligation to carry out the Administration's priorities and policies.

U.S. Attorneys in the field (as well as Assistant Attorneys General here in Washington) 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 report to the Attorney General in the discharge of their offices. Nor does it change or alter the fact that if they are not executing their responsibilities in a manner that furthers the management and policy goals of departmental leadership, then it is appropriate that they be asked to resign so that they can be replaced by other individuals who will.

To be clear, it was for reasons related to policy, priorities and management – what has been referred to broadly as “performance-related” reasons – that these U.S. Attorneys were asked to resign. To be sure, the Department – out of respect for the U.S. Attorneys at issue – would have preferred not to talk at all about those reasons, but disclosures in the press and requests for information from Congress altered those best laid plans. In hindsight, this situation could have been handled better. These U.S. Attorneys could have been informed at the time they were asked to resign about the reasons for the decision. Unfortunately, our failure to provide reasons to these individual U.S. Attorneys has only served to fuel wild and inaccurate speculation about our motives, and that is unfortunate because faith and confidence in our justice system is more important than any one individual.

That said, the Department stands by the decisions. It is clear that after closed door briefings with House and Senate members and staff, some agree with the reasons that form the basis for our decisions and some disagree – such is the nature of subjective judgments. Just because you might disagree with a decision, does not mean it was made for improper political reasons – there were appropriate reasons for each decision.

One troubling allegation is that certain of these U.S. Attorneys were asked to resign because of actions they took or didn't take relating to public corruption cases. These charges are dangerous, baseless and irresponsible. This Administration has never removed a U.S. Attorney

to retaliate against them or interfere with or inappropriately influence a public corruption case. Not once.

The Attorney General and the Director of the FBI both have made public corruption a high priority. Integrity in government and trust in our public officials and institutions is paramount. Without question, the Department of Justice's record is one of great accomplishment that is unmatched in recent memory. The Department has not pulled any punches or shown any political favoritism. Public corruption investigations are neither rushed nor delayed for improper purposes.

Some, particularly in the other body, claim that the Department's reasons for asking these U.S. Attorneys to resign was to make way for preselected Republican lawyers to be appointed and circumvent Senate confirmation. The facts, however, prove otherwise. After the seven U.S. Attorneys were asked to resign last December, the Administration immediately began consulting with home-state Senators and other home-state political leaders about possible candidates for nomination. Indeed, the facts are that since March 9, 2006, the date the Attorney General's new appointment authority went into effect, the Administration has nominated 16 individuals to serve as U.S. Attorney and 12 have been confirmed. Furthermore, 18 vacancies have arisen since March 9, 2006. Of those 18 vacancies, the Administration (1) has nominated candidates for six of them (and of those six, the Senate has confirmed three of them); (2) has interviewed candidates for eight of them; and (3) is working to identify candidates for the remaining four of them. Let me repeat what has been said repeatedly and what the record reflects: the Administration is committed to having a Senate-confirmed U.S. Attorney in every single federal district.

In conclusion, let me make three points: First, although the Department stands by the decision to ask these U.S. Attorneys to resign, it would have been much better to have addressed the relevant issues up front with each of them. Second, the Department has not taken any action to influence any public corruption case – and would never do so. Third, the Administration did not intend to circumvent the confirmation process.

I would be happy to take your questions.

## McNulty, Paul J

---

**From:** Moschella, William  
**Sent:** Monday, March 05, 2007 7:58 PM  
**To:** Sampson, Kyle; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica; Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian  
**Subject:** RE: Moschella Oral Testimony

In the second graph, replace "the President's and the Attorney General's priorities and the Department's policies" with "the Administration's policies and priorities".

In the last graph, I suggest replacing "taken any action" with "asked anyone to resign".

This is really good. Thanks everyone for the collaboration.

---

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**Sent:** Monday, March 05, 2007 7:27 PM  
**To:** McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Goodling, Monica; Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian  
**Subject:** FW: Moschella Oral Testimony  
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**Cc:** 'Oprison, Christopher G.'  
**Subject:** Moschella Oral Testimony  
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<< File: Moschella Oral Statement.doc >>

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U.S. Attorneys in the field (as well as Assistant Attorneys General here in Washington) 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 report to the Attorney General in the discharge of their offices. Nor does it change or alter the fact that if they are not executing their responsibilities in a manner that furthers the management and policy goals of departmental leadership, then it is appropriate that they be asked to resign so that they can be replaced by other individuals who will.

To be clear, it was for reasons related to policy, priorities and management – what has been referred to broadly as “performance-related” reasons – that these U.S. Attorneys were asked to resign. To be sure, the Department – out of respect for the U.S. Attorneys at issue – would have preferred not to talk at all about those reasons, but disclosures in the press and requests for information from Congress altered those best laid plans. In hindsight, this situation could have been handled better. These U.S. Attorneys could have been informed at the time they were asked to resign about the reasons for the decision. Unfortunately, our failure to provide reasons to these individual U.S. Attorneys has only served to fuel wild and inaccurate speculation about our motives, and that is unfortunate because faith and confidence in our justice system is more important than any one individual.

That said, the Department stands by the decisions. It is clear that after closed door briefings with House and Senate members and staff, some agree with the reasons that form the basis for our decisions and some disagree – such is the nature of subjective judgments. Just because you might disagree with a decision, does not mean it was made for improper political reasons – there were appropriate reasons for each decision.

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I would be happy to take you questions.

**McNulty, Paul J**

---

**From:** Moschella, William  
**Sent:** Monday, March 05, 2007 9:37 PM  
**To:** Elston, Michael (ODAG); McNulty, Paul J  
**Cc:** Sampson, Kyle  
**Subject:** FW: Moschella Oral Testimony  
**Attachments:** Moschella Oral Statement - MYS (2).doc

Thoughts. I have no problems with the changes.

---

**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 9:33 PM  
**To:** Moschella, William  
**Cc:** Sampson, Kyle; Kelley, William K.; Scudder, Michael Y.; Fielding, Fred F.; Gibbs, Landon M.  
**Subject:** RE: Moschella Oral Testimony

Will - attached please find a redlined version with suggested edits. Thanks

Chris

---

**From:** Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
**Sent:** Monday, March 05, 2007 8:43 PM  
**To:** Oprison, Christopher G.  
**Cc:** Moschella, William  
**Subject:** RE: Moschella Oral Testimony

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**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 8:40 PM  
**To:** Sampson, Kyle  
**Subject:** RE: Moschella Oral Testimony

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**From:** Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
**Sent:** Monday, March 05, 2007 7:25 PM  
**To:** Kelley, William K.  
**Cc:** Oprison, Christopher G.  
**Subject:** Moschella Oral Testimony  
**Importance:** High

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<<Moschella Oral Statement.doc>>

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**Deleted:** in the discharge of their offices

**Deleted:** Nor does it change or alter the fact that if

**Deleted:** To be sure.

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Deleted: did

Deleted: not

I would be happy to take your questions.

## McNulty, Paul J

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 10:24 PM  
**To:** Moschella, William; Elston, Michael (ODAG); McNulty, Paul J  
**Subject:** Re: Moschella Oral Testimony

No concerns here, though I would add your comments in.

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

**From:** Moschella, William  
**To:** Elston, Michael (ODAG); McNulty, Paul J  
**CC:** Sampson, Kyle  
**Sent:** Mon Mar 05 21:37:13 2007  
**Subject:** FW: Moschella Oral Testimony

Thoughts. I have no problems with the changes.

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**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 9:33 PM  
**To:** Moschella, William  
**Cc:** Sampson, Kyle; Kelley, William K.; Scudder, Michael Y.; Fielding, Fred F.; Gibbs, Landon M.  
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**Cc:** Moschella, William  
**Subject:** RE: Moschella Oral Testimony

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**McNulty, Paul J**

---

**From:** Moschella, William  
**Sent:** Tuesday, March 06, 2007 9:48 AM  
**To:** 'Oprison, Christopher G.'  
**Cc:** Sampson, Kyle; Kelley, William K.; Scudder, Michael Y.; Fielding, Fred F.; Gibbs, Landon M.; Scolinos, Tasia; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica  
**Subject:** RE: Moschella Oral Testimony  
**Attachments:** moschellafinal.2.doc; moschellafinal.1.doc

All, attached is the final document. We accepted all of Chris's proposed changes. I have made some other small minor tweaks and those are tracked so that you can see them in "moschellafinal.1.doc" and the clean version is "moschellafinal.2.doc".

---

**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
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Let me also stress that one of the Attorney General's most important responsibilities is to manage the Department of Justice. Part of managing the Department is ensuring that the President's and the Attorney General's priorities and the Department's policies are carried out consistently and uniformly. Individuals who have the high privilege of serving as presidential appointees have an obligation to carry out the Administration's priorities and policies.

U.S. Attorneys in the field (as well as Assistant Attorneys General here in Washington) are duty bound not only to make prosecutorial decisions, but also to implement and further the Administration and Department's priorities and policy decisions. In carrying out these responsibilities they serve at the pleasure of the President and report to the Attorney General. If a judgment is made that they are not executing their responsibilities in a manner that furthers the management and policy goals of departmental leadership, then it is appropriate that they be asked to resign so that they can be replaced by other individuals who will.

To be clear, it was for reasons related to policy, priorities and management – what has been referred to broadly as “performance-related” reasons – that these U.S. Attorneys were asked to resign. I want to emphasize that the Department – out of respect for the U.S. Attorneys at issue – would have preferred not to talk at all about those reasons, but disclosures in the press and requests for information from Congress altered those best laid plans. In hindsight, perhaps this situation could have been handled better. These U.S. Attorneys could have been informed at the time they were asked to resign about the reasons for the decision. Unfortunately, our failure to provide reasons to these individual U.S. Attorneys has only served to fuel wild and inaccurate speculation about our motives, and that is unfortunate because faith and confidence in our justice system is more important than any one individual.

That said, the Department stands by the decisions. It is clear that after closed door briefings with House and Senate members and staff, some agree with the reasons that form the basis for our decisions and some disagree – such is the nature of subjective judgments. Just because you might disagree with a decision, does not mean it was made for improper political reasons – there were appropriate reasons for each decision.

One troubling allegation is that certain of these U.S. Attorneys were asked to resign because of actions they took or didn't take relating to public corruption cases. These charges are dangerous, baseless and irresponsible. This Administration has never removed a U.S. Attorney

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Deleted: ing

Deleted:

Deleted: – but that responsibility does not change or alter in any way the fact that

Deleted: in the discharge of their offices

Deleted: Nor does it change or alter the fact that if

Deleted: To be sure.

to retaliate against them or interfere with or inappropriately influence a public corruption case. Not once.

The Attorney General and the Director of the FBI both have made public corruption a high priority. Integrity in government and trust in our public officials and institutions is paramount. Without question, the Department's record is one of great accomplishment that is unmatched in recent memory. The Department has not pulled any punches or shown any political favoritism. Public corruption investigations are neither rushed nor delayed for improper purposes.

Deleted: of Justice

Some, particularly in the other body, claim that the Department's reasons for asking these U.S. Attorneys to resign was to make way for preselected Republican lawyers to be appointed and circumvent Senate confirmation. The facts, however, prove otherwise. After the seven U.S. Attorneys were asked to resign last December, the Administration immediately began consulting with home-state Senators and other home-state political leaders about possible candidates for nomination. Indeed, the facts are that since March 9, 2006, the date the Attorney General's new appointment authority went into effect, the Administration has nominated 16 individuals to serve as U.S. Attorney and 12 have been confirmed. Furthermore, 18 vacancies have arisen since March 9, 2006. Of those 18 vacancies, the Administration (1) has nominated candidates for six of them (and of those six, the Senate has confirmed three of them); (2) has interviewed candidates for eight of them; and (3) is working to identify candidates for the remaining four of them. Let me repeat what has been said many times before and what the record reflects: the Administration is committed to having a Senate-confirmed U.S. Attorney in every single federal district.

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In conclusion, let me make three points: First, although the Department stands by the decision to ask these U.S. Attorneys to resign, it would have been much better to have addressed the relevant issues up front with each of them. Second, the Department has not taken any action to influence any public corruption case – and would never do so. Third, the Administration at no time intended to circumvent the confirmation process.

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Deleted: not

I would be happy to take your questions.

**McNulty, Paul J**

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**From:** Chiara, Margaret M. (USAMIW) [MM.Chiara@usdoj.gov]  
**Sent:** Tuesday, March 06, 2007 9:34 PM  
**To:** McNulty, Paul J  
**Cc:** Elston, Michael (ODAG)  
**Subject:** WDMI  
**Importance:** High

Today's Congressional events make clear that I am, indeed, among the "USA - 8". Shortly after his opening statement, but before citing the perceived deficiencies of my former colleagues, Will Moschella stated that the two United States Attorneys not present were dismissed because of management problems. Apparently Kevin Ryan (whom I do not know) and I share the same reason for termination.

Michael Elston told me on more than one occasion, that the rationale for dismissal was on a continuum of sorts and that I am on the *de minimus* end after Dan Bogden. It is abundantly clear that this regrettable situation could have been better managed if the reasons for the dismissals were initially communicated to the affected United States Attorneys.

So, I now need to know what is the management problem to which Mr. Moschella referred?

Margaret

**McNulty, Paul J**

**From:** Chiara, Margaret M. (USAMIW) [MM Chiara@usdoj.gov]  
**Sent:** Tuesday, March 06, 2007 9:34 PM  
**To:** McNulty, Paul J  
**Cc:** Elston, Michael (ODAG)  
**Subject:** WDMI  
**Importance:** High

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So, I now need to know what is the management problem to which Mr. Moschella referred?

Margaret

## McNulty, Paul J

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:30 PM  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** FW:  
**Importance:** High

All, please see the below. I propose to you all that I propose 5pm to Bill -- I assume they'll want us to go over there. Thoughts?

---

**From:** Kelley, William K. [mailto:William\_K.\_Kelley@who.eop.gov]  
**Sent:** Monday, March 05, 2007 1:57 PM  
**To:** Sampson, Kyle  
**Subject:**

Kyle--We've been tasked with getting a meeting together with you, Paul, Will, DOJ leg and pa, and maybe Battle - today - to go over the Administration's position on all aspects of the US Atty issue, including what we are going to say about the proposed legislation and why the US Attys were asked to resign. There's a hearing tomorrow at which Will is scheduled to testify, so we have to get this group together with some folks here asap. Can you look into possible times? Thanks, and sorry to impose.

**McNulty, Paul J**

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**From:** Elston, Michael (ODAG)  
**Sent:** Monday, March 05, 2007 2:33 PM  
**To:** Sampson, Kyle; McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** RE:

5 p.m. is fine with the DAG

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:30 PM  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
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## McNulty, Paul J

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**From:** Scolinos, Tasia  
**Sent:** Monday, March 05, 2007 2:35 PM  
**To:** Sampson, Kyle; McNulty, Paul J; Moschella, William; Hertling, Richard; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** Re:

Works for me

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

**From:** Sampson, Kyle  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**CC:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Sent:** Mon Mar 05 14:30:17 2007  
**Subject:** FW:

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## McNulty, Paul J

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**From:** Hertling, Richard  
**Sent:** Monday, March 05, 2007 2:38 PM  
**To:** Sampson, Kyle; McNulty, Paul J; Moschella, William; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** Re:

I will rearrange my schedule to make myself available to meet everyone else's schedule. 5 will work.

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

**From:** Sampson, Kyle  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**CC:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
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## McNulty, Paul J

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**From:** McNulty, Paul J  
**Sent:** Monday, March 05, 2007 3:39 PM  
**To:** Sampson, Kyle; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** RE:

I can take 4 others in my car and there would be no need for WAVES info.

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:49 PM  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** RE:  
**Importance:** High

Okay -- two things:

1. We are set for 5pm at the White House. I need WAVES info from each of you: DOBs and SSNs.
2. Kelley says that among other things they'll want to cover (1) Administration's position on the legislation (Will's written testimony says that we oppose the bill, raising White House concerns); and (2) how we are going to respond substantively to each of the U.S. Attorney's allegations that they were dismissed for improper reasons.

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:30 PM  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
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**Subject:** FW:  
**Importance:** High

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**Subject:**

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**McNulty, Paul J**

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**From:** Mercer, Bill (ODAG)  
**Sent:** Thursday, June 29, 2006 10:00 PM  
**To:** McNulty, Paul J; Elston, Michael (ODAG)  
**Subject:** Fw: Friday morning

I've forwarded to Linda. It looks like 9 is open.

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** McKay, John (USAWAW)  
**To:** Mercer, Bill (ODAG)  
**Sent:** Thu Jun 29 21:29:23 2006  
**Subject:** Re: Friday morning

9am on or Saturday.

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

**From:** Mercer, Bill (ODAG) <Bill.Mercer2@usdoj.gov>  
**To:** McKay, John (USAWAW) <JMckay@usa.doj.gov>  
**Sent:** Thu Jun 29 15:14:08 2006  
**Subject:** Re: Friday morning

What are your possible times for a mtg in the AM?

-----  
Sent from my BlackBerry Wireless Handheld

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

**From:** McKay, John (USAWAW)  
**To:** Mercer, Bill (ODAG)  
**CC:** McNulty, Paul J  
**Sent:** Tue Jun 27 13:04:18 2006  
**Subject:** Friday morning

Bill,

I'm in DC Friday and Saturday for LInX meetings with NCIS (Dir. Tom Betro and DAD Mike Dorsey) and Tom McWeeney. If you and Paul are available early Friday morning (and you aren't flooded out), could we get a cup of coffee or something?

As we discussed, we are at a critical juncture in which huge demand among U.S. Attorneys resulting from a strong LInX program and successes in the field are smack up against serious failures by the DOJ law enforcement components to comply with the DAG Memo on LInX and RDEX last year. As you know from our briefing, the U.S. Attorneys have recommended a few discrete actions be taken by the DAG and the AG to support our work and to secure our partnerships (including funding) with DOD and DHS. Our (DOJ) long silence to the offer by DOD is leaving me, Deb Yang and 20 or more U.S. Attorney's in a very exposed and difficult

... is close to pulling the plug on the offer (which I recommended be accepted as set out in a proposed interdepartmental memo for Paul's consideration), and mid level bureaucrat nay-sayers at FBI, DEA, ATF, Main Justice and an array of consultants who sniff lucrative contracts are picking us apart. All NCIS expansion to U.S. Attorney's is on hold (and I am holding off very insistent U.S. Attorneys in South Carolina, North Carolina, Connecticut, Nebraska, Iowa, Missouri, California (L.A. and Sacramento), all of whom have seen the Working Group strategic plan and proposal for support from the DAG.

I do have a short memo suggesting how we might reconcile the national build out on information sharing between the R-DEX, N-DEX and LInX systems. Paul needs to get advice on this from operators in the field -- not GS 14 technoids who don't investigate or prosecute cases. I don't hold the keys to knowledge on this, but I have been at this for a few years, and we have done what Paul and the AGAC have requested by presenting a workable plan based on a previously endorsed pilot (by Jim Comey).

Let me know if we can get together Friday morning (or Saturday anytime). Thanks, again Bill - what will we do without you?

- JOHN

## McNulty, Paul J

---

**From:** McKay, John (USAWAW)  
**Sent:** Monday, July 24, 2006 9:20 PM  
**To:** McNulty, Paul J  
**Subject:** Re: In DC

Thanks, Paul!

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

**From:** McNulty, Paul J <Paul.J.McNulty@usdoj.gov>  
**To:** McKay, John (USAWAW) <JMckay@usa.doj.gov>  
**CC:** Yang, Debra Wong (USACAC) <DYang@usa.doj.gov>  
**Sent:** Mon Jul 24 16:19:49 2006  
**Subject:** RE: In DC

John: I have drafts of the England letter and my larger policy memo on my desk. I don't think it's necessary to circulate my letter to England before I send it out; it's pretty straightforward. I'll be sure to hit the concerns you mention. After I finish reviewing the policy memo, I will share it with your subcommittee for feedback. This memo will be a comprehensive statement of the Department's strategic direction on regional information sharing. We are working closely with the CIO, but the policy decisions will get made here in ODAG. Mike's "reluctance" is only that these drafts were prepared for me, and he was not presuming to distribute them without checking with me first (what any good staff guy would/should do). Thanks.

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

**From:** McKay, John (USAWAW)  
**Sent:** Monday, July 24, 2006 6:56 PM  
**To:** McNulty, Paul J  
**Cc:** Yang, Debra Wong (USACAC)  
**Subject:** Fw: In DC

Paul,

Apparently your authorization is necessary for me to see the draft letter to England and the policies being developed by OCIO.

Deb and our committee, as you pointed out can be of assistance here, and I don't understand Mike Scudder's reluctance to share them with us. In particular, the letter to Gordon England needs to clearly set forth DOD's commitment to Los Angeles and the continued NCIS expansion of LINX under US Attorney leadership.

Thanks again for all of your help.

- JOHN

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

**From:** Scudder, Michael (ODAG) <Michael.Scudder2@usdoj.gov>  
**To:** McKay, John (USAWAW) <JMckay@usa.doj.gov>  
**CC:** Yang, Debra Wong (USACAC) <DYang@usa.doj.gov>  
**Sent:** Mon Jul 24 15:36:28 2006  
**Subject:** RE: In DC

John:

I'll stay in touch on these. The DAG is working on them, and if he authorizes me to send them to you, I'll do so right away. This

afternoon I again relayed your request.

Regards,

Mike

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

From: McKay, John (USAWAW)  
Sent: Monday, July 24, 2006 9:36 AM  
To: Scudder, Michael (ODAG)  
Cc: Yang, Debra Wong (USACAC)  
Subject: In DC

Mike,

As I mentioned our call last week, I'm in DC late tonight until Friday morning. I know you are working on the letter to DEPSECDEF England, which I am anxious to review. I also would like the "policy documents" the DAG referenced - can you get them together for me, or should I contact Van Hitch or Mike Duffy?

Thanks very much.

John McKay  
United States Attorney  
Seattle, Washington

## McNulty, Paul J

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**From:** Charlton, Paul (USAAZ)  
**Sent:** Wednesday, July 26, 2006 3:30 PM  
**To:** McNulty, Paul J  
**Subject:** FW: Prosecution Issues

**Attachments:** tmp.htm; narc defs charged.pdf; narc cases opened.pdf; narc cases charged.pdf



tmp.htm (7 KB)



narc defs  
charged.pdf (8 KB)



narc cases  
opened.pdf (8 KB)



narc cases  
charged.pdf (8 KB)

Paul - here it is. Would you mind letting me know if you got this?  
Thanks and thanks especially for the good news. Paul

---

**From:** Charlton, Paul (USAAZ)  
**Sent:** Tuesday, July 25, 2006 4:45 PM  
**To:** Brand, Rachel; Nash, Stuart (ODAG)  
**Cc:** Macklin, Kristi R; Bounds, Ryan W (OLP); Knauss, Dan (USAAZ)  
**Subject:** RE: Prosecution Issues

Rachel - we cannot break out weight limits on our prosecutions. Nor can I obtain the numbers of cases taken by the county attorney as a result of our policy. Below are our overall narcotics prosecutions for the years 2000 to present. They are good numbers but show a drop in 2005 when we could not hire. I just got off of the phone with the fourth county attorney's criminal chief and would modify my earlier response to say as follows:

We have altered our threshold guidelines for the Tucson Sector so that we prosecute marijuana cases of 500 pounds and above. There are exceptions. If the marijuana is found on the Tohono O'odham Indian Reservation, we take all of their cases, regardless of weight, because of our trust obligation. In any other area of the Tucson Sector, we take the case regardless of weight if there is an ongoing investigation regarding the smuggling ring, or some other compelling factor exists, such as endangerment, assault on the officer, or a repeat offender. Three of the four county attorney's have agreed to take cases under our marijuana threshold, the fourth has not issued a blanket policy to accept those cases, but has agreed to take them on a case by case basis. To date, we are unaware of any case that was referred to the county attorney that was declined for threshold reasons alone.

Let me know if you need more.

Paul

---

**From:** Brand, Rachel  
**Sent:** Tuesday, July 25, 2006 4:03 PM  
**To:** Nash, Stuart (ODAG); Charlton, Paul (USAAZ)  
**Cc:** Macklin, Kristi R; Bounds, Ryan W (OLP); Knauss, Dan (USAAZ)

Subject: Re: Prosecution Issues

Do you know how many marijuana cases you prosecute over 500 lbs in a year and how many are taken by the county attorneys?

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

From: Charlton, Paul (USAAZ)  
To: Nash, Stuart (ODAG); Brand, Rachel  
CC: Macklin, Kristi R; Bounds, Ryan W (OLP); Knauss, Dan (USAAZ)  
Sent: Tue Jul 25 18:51:04 2006  
Subject: RE: Prosecution Issues

It is true. We no longer have the resources to prosecute marijuana cases under 500 pounds. The exception is the Tohono O'odham Indian reservation, where we will prosecute all drug cases based on our trust obligation. Three of the four border county attorneys have agreed to prosecute marijuana cases under 500 pounds, filling the void we have left. It is unclear what the policy of the fourth county attorney will be. We have heard of no cases going unprosecuted based on our new guidelines.

Paul

---

From: Brand, Rachel  
Sent: Tuesday, July 25, 2006 3:21 PM  
To: Nash, Stuart (ODAG); Charlton, Paul (USAAZ)  
Cc: Bounds, Ryan W (OLP); Macklin, Kristi R  
Subject: Fw: Prosecution Issues

Gentlemen: what's the response to this?

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

From: Douglas\_B.\_Baker@who.eop.gov <Douglas\_B.\_Baker@who.eop.gov>  
To: Brand, Rachel  
CC: Robert\_Jacobs@who.eop.gov <Robert\_Jacobs@who.eop.gov>  
Sent: Tue Jul 25 17:53:58 2006  
Subject: Prosecution Issues

<<tmp.htm>> Rachel:

I understand that Barry Jackson has asked a question about the variable prosecution policies by AUSA Sector for illegal immigration. We have another question posed by Speaker Hastert. He understands that the AUSA for Nogales will not prosecute marijuana possession for amounts less than 500 lbs. Seems unlikely to me, but need to get to the truth as this

was raised in meeting with POTUS.

Thanks,

Doug



# Narcotics Defendants Charged

	2000	2001	2002	2003	2004	2005	2006	Total
Total	1,696	1,700	2,036	2,490	2,406	2,417	1,314	11,761

7/25/2006

# Narcotics Cases Opened

	2000	2001	2002	2003	2004	2005	2006	Total
Total	983	978	1,235	1,460	1,659	1,537	911	8,763

7/25/2006

# Narcotics Cases Charged

	2000	2001	2002	2003	2004	2005	2006	Total
Total	1,069	1,075	1,347	1,510	1,503	1,418	624	7,102

7/25/2006

## McNulty, Paul J

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**From:** Brand, Rachel  
**Sent:** Friday, July 28, 2006 10:47 AM  
**To:** McNulty, Paul J; Elston, Michael (ODAG); Nash, Stuart (ODAG)  
**Cc:** Bounds, Ryan W (OLP)  
**Subject:** FW: Prosecution Issues

Fyi - we responded to this follow-up based on info Charlton gave us. We have an inquiry back to Charlton about why there's this difference, since I wouldn't be surprised if we get that follow-up question from the WH.

-----Original Message-----  
**From:** Bounds, Ryan W (OLP)  
**Sent:** Thursday, July 27, 2006 7:43 PM  
**To:** 'Douglas\_B.\_Baker@who.eop.gov'; Brand, Rachel  
**Cc:** Robert\_Jacobs@who.eop.gov  
**Subject:** RE: Prosecution Issues

Nogales is indeed in the Tucson sector. The only other sector in the District of Arizona is the Yuma sector, for which the USAO maintains a 250-pound threshold for marijuana cases with the same exceptions that apply in the Tucson sector. (We are told that the Yuma County Attorney accepts all cases that are referred for failing to meet the 250-pound threshold.)

-----Original Message-----  
**From:** Douglas\_B.\_Baker@who.eop.gov [mailto:Douglas\_B.\_Baker@who.eop.gov]  
**Sent:** Thursday, July 27, 2006 4:30 PM  
**To:** Brand, Rachel  
**Cc:** Bounds, Ryan W (OLP); Robert\_Jacobs@who.eop.gov  
**Subject:** RE: Prosecution Issues

Rachel:

A quick question for clarity purposes. Is Nogales in the Tucson sector? And more importantly, does the USA apply a different policy in other sectors in Arizona? (OK so two questions)

Thanks,

Doug

-----Original Message-----  
**From:** Rachel.Brand@usdoj.gov [mailto:Rachel.Brand@usdoj.gov]  
**Sent:** Wednesday, July 26, 2006 6:38 PM  
**To:** Baker, Douglas B.  
**Cc:** Jacobs, Robert; Ryan.W.Bounds@usdoj.gov; Rachel.Brand@usdoj.gov  
**Subject:** RE: Prosecution Issues

I've talked to the U.S. Attorney in Arizona. Here's what he says:

"We have altered our threshold guidelines for the Tucson Sector so that we prosecute marijuana cases of 500 pounds and above. There are exceptions. If the marijuana is found on the Tohono O'odham Indian Reservation, we take all of their cases, regardless of weight, because of our trust obligation. In any other area of the Tucson Sector, we take the case regardless of weight if there is an ongoing investigation regarding the smuggling ring, or some other compelling factor exists, such as endangerment, assault on the officer, or a repeat offender."

There are three major issues to keep in mind when considering this fact:

1) Because we are a federal system and states also have jurisdiction to investigate and prosecute drug offenses, the prosecution threshold has not resulted in a real gap of enforcement on marijuana cases. According to the US Attorney, three of the four border county attorneys in Arizona have agreed to prosecute marijuana cases involving less than 500 pounds. While the fourth county attorney has not issued a blanket policy of accepting cases involving less than 500 pounds, he has agreed to take them on a case-by-case basis. Since the implementation of this drug weight threshold, the U.S. Attorney's Office in Arizona is unaware of any case referred to the country attorneys that completely fell between the cracks of enforcement.

2) Across the country, the Department of Justice's focus is and has been on large, and especially international, drug trafficking rings. For example, the Organized Crime Drug Enforcement Task Force (OCDETF) focuses on prosecuting entire organizations, not necessarily responding to each enforcement event. This is partly a function of limited resources and partly because these are the types of cases that federal law enforcement (as opposed to state and local law enforcement) is uniquely equipped to handle.

3) Finally, higher prosecution thresholds are simply going to be a fact of life if the state of budget/resources in the SWB US Attorneys' offices remains what it is now. These districts, and perhaps especially Arizona, are absolutely stretched to the limit. Our focus recently has been on immigration enforcement, but insufficient resources affects every type of enforcement, including narcotics cases. US Attorneys' offices must always triage and prioritize, and the need to do so is especially acute here. We'd be happy to get you more info on the staggering caseload that each Assistant US Attorney in Arizona currently carries. It is true that we will be adding 20 new immigration prosecutors and 5 OCDETF prosecutors to the SWB districts with the money from the supplemental, and I would imagine this would be part of the response to Speaker Hastert. Just for your information, however -- do not expect this to effect a radical change in those districts' ability to take smaller cases. It is only a first step.

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

From: Douglas\_B.\_Baker@who.eop.gov [mailto:Douglas\_B.\_Baker@who.eop.gov]  
Sent: Tuesday, July 25, 2006 5:54 PM  
To: Brand, Rachel  
Cc: Robert\_Jacobs@who.eop.gov  
Subject: Prosecution Issues

Rachel:

I understand that Barry Jackson has asked a question about the variable prosecution policies by AUSA Sector for illegal immigration. We have another question posed by Speaker Hastert. He understands that the AUSA for Nogales will not prosecute marijuana possession for amounts less than 500 lbs. Seems unlikely to me, but need to get to the truth as this was raised in meeting with POTUS.

Thanks,

Doug

## McNulty, Paul J

---

**From:** Rosenberg, Chuck (USAVAE)  
**Sent:** Friday, September 08, 2006 12:56 PM  
**To:** McNulty, Paul J  
**Subject:** RE: AGAC/RIS Working Group - McNulty Letter

Some are chagrined and embarrassed. I have the sense that a number signed on without really reading it or thinking it through. Relatedly, some are mad at John McKay (and I think he will contact - or has contacted - you to apologize for sending the letter to outsiders, which was apparently not blessed by the group) and are probably happy to let him take the heat. Either way, I expected that you would have heard from most of them by now. Odd.

PS: Don is a very good man and I know he is upset that he joined the letter.

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

**From:** McNulty, Paul J  
**Sent:** Friday, September 08, 2006 12:30 PM  
**To:** Rosenberg, Chuck (USAVAE)  
**Subject:** RE: AGAC/RIS Working Group - McNulty Letter

This evidence is entirely cumulative at this point.

By the way, I've been surprised at how few USAs have responded to my email. I did hear from Don by the way. Any theory why only a handful have contacted me?

Thanks.

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

**From:** Rosenberg, Chuck (USAVAE)  
**Sent:** Friday, September 08, 2006 7:27 AM  
**To:** McNulty, Paul J  
**Subject:** FW: AGAC/RIS Working Group - McNulty Letter

More (unsolicited) evidence that I did not join this letter.

>  
> 

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**From:** Williams, Kim (USAVAE)  
> **Sent:** Thursday, September 07, 2006 9:18 PM  
> **To:** Rosenberg, Chuck (USAVAE)  
> **Subject:** FW: AGAC/RIS Working Group - McNulty Letter

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> Read the attached. You said you weren't interested, but your name is  
> still attached to this letter. You may want to read over this. I took  
> my time opening this e-mail because I thought it was more soliciting,  
> but check it out.

>  
> 

---

**From:** Bernier, Colleen (USAWAW)  
> **Sent:** Thursday, August 31, 2006 5:48 PM  
> **To:** Williams, Kim (USAVAE)  
> **Subject:** AGAC/RIS Working Group - McNulty Letter

>  
> Greetings: attached please find the final letter forwarded to Deputy  
> Attorney General McNulty. Thank you for all your help in getting this

> accomplished. Please let me know if you need further assistance.

>  
> Colleen O'Reilly Bernier

> Assistant to U. S. Attorney John McKay Western District of Washington  
> 700 Stewart Street, Suite 5220 Seattle, WA 98101-1271 Phone (206)  
> 553-4620  
> Fax: (206) 553-2054  
> e-mail: Colleen.Bernier@usdoj.gov  
>  
> <<McNulty Ltr.pdf>>  
>



U.S. Department of Justice

United States Attorney  
Western District of Washington

700 Stewart Street, Suite 5220  
Seattle, Washington 98101-1271

Tel: (206) 553-7970  
Fax: (206) 553-2054

August 30, 2006

Honorable Paul J. McNulty  
Deputy Attorney General  
Main Justice Bldg.  
950 Pennsylvania Ave., Room 4111  
Washington, D.C. 20530

Re: AGAC/RIS Working Group Request for Meeting

Dear Mr. McNulty:

Thank you for your continuing personal leadership in the work of the AGAC Regional Law Enforcement Information Sharing Working Group. We are grateful for your recent offer to meet with us. Our purpose in writing is two-fold: first, to schedule the AGAC/RIS Working Group meeting with you; and second, to outline in advance our major concerns.

We understand you fully appreciate how critical information sharing is to the war on terror. As United States Attorney, you were the driving force behind the Norfolk-Hampton Roads LInX program. During your tenure as Chair of the Attorney General's Advisory Committee, you created the RIS Working Group. Following your example, we have continued to build information sharing among federal, state and local partners in six additional LInX sites. All of us deeply appreciate your continued support as the Department of Justice led LInX projects have been launched or expanded in Washington State, Hawaii, Corpus Christi, Jacksonville-Kings Bay, New Mexico and the National Capital Region.

We look forward to briefing you on the recent, stunning operational successes being achieved in LInX sites around the country. For example, in Norfolk-Hampton Roads, LInX was instrumental in solving the case of a Norfolk police officer who was shot and killed while on duty. In LInX Northwest, which now includes approximately 100 law enforcement partners, LInX provided critical leads in numerous cases, leading to the arrests of various murderers, rapists and thieves. LInX Northwest was critical in developing several leads that helped Seattle Police resolve a recent homicide, and was

DAG000000139



Honorable Paul J. McNulty  
August 30, 2006  
Page - 2

used by Seattle Police in establishing the identity of Naveed Haq, the suspect in the recent tragic Jewish Federation of Seattle shootings.

In recent months, as the system has matured and more local jurisdictions contribute full text records, LInX Northwest has been heavily used by federal agents, particularly FBI, DEA and the U.S. Marshal's Service. We were recently advised that, consistent with the discussions at the Pentagon meeting, DHS will begin contributing regional and national ICE records directly to LInX Northwest under the leadership of Assistant Secretary Julie Myers. Participation by United States Attorneys in LInX and other information sharing efforts continues to grow, with the RIS Working Group now at 18 members, and additional LInX sites under serious consideration. Chief among potential expansion sites is the Los Angeles project under the leadership of United States Attorney Debra Wong Yang. Preliminary plans for this project include partnerships with Sacramento area law enforcement and California state agencies in a LInX project led by United States Attorney McGregor Scott.

Additionally, United States Attorneys in Nebraska & Iowa, St. Louis, upstate New York, Connecticut, Sacramento, Portland, Anchorage and Indiana have hosted LInX briefings. Several of these locations are in various stages of organizing regional law enforcement leadership as a prelude to LInX implementation. Serious inquiries concerning the LInX process have been made by many other U.S. Attorneys and regional law enforcement leaders in several states, including Kentucky, Oklahoma, Massachusetts, North Carolina, and South Carolina. RCMP and NCIS officials have met regularly with the Working Group Chair to explore the legal, technical and policy opportunities of sharing records through LInX with our Canadian law enforcement partners.

In short, interest in the LInX approach remains exceedingly strong, and the need for a leadership role by DOJ in building regional systems is becoming increasingly clear. The Department, under your direction and leadership is well-placed to leverage the success of LInX into an expanded, national law enforcement information sharing system. These efforts are consistent with the President's call to establish the Information Sharing Environment, the will of the Congress, and our needs in combating terror, violent crime and drugs. As the Department's "Field Commanders," we United States Attorneys believe that the LInX approach offers the best, most complete and proven path to real and effective law enforcement information sharing among federal, state and local partners.

During our upcoming meeting, we hope to ask you to do the following:

- (1) Endorse Los Angeles LInX and the \$5m offered by Deputy Secretary Of Defense Gordon England to cover first year costs of the project;

DAG000000140

Honorable Paul J. McNulty  
August 30, 2006  
Page – 3

- (2) Endorse the LInX approach to regional information sharing including full text record integration and support the expansion of LInX under United States Attorney leadership;
- (3) Mandate that DOJ law enforcement components share all legally shareable and unclassified law enforcement records with the LInX projects, including access controls be instituted to provide a greater level of protection for sensitive information in the shared data bases;
- (4) Direct DOJ policy and resources to support the building, funding and management of LInX projects in partnership with DOD and DHS.

We understand that you intend to share policy memoranda with our committee. We want to assure you of our interest in actively participating in this process on behalf of the AGAC. We are puzzled by the delays we are experiencing in the face of our written requests and briefings and trust you understand how urgently we seek your input and assistance. Our funding and program support through NCIS is on hold pending commitments from your office.

In many of our jurisdictions, local law enforcement leaders have delayed other projects due to their commitment to and firm belief the LInX approach offers the best way to share and obtain critical records in their own efforts to combat terrorism, gangs, violent crime and drugs. There is growing skepticism among those leaders because they see little progress on an issue all consider to be of the highest priority. DOJ policy on regional law enforcement information sharing remains unclear to our state and local partners, as well as to federal law enforcement agencies whose data we require in order to assure regional terrorism and law enforcement objectives are met. Some inside the department believe that DOJ's role is limited to providing interconnectivity among systems, and that developing regional systems that collect and integrate investigative records is not a federal responsibility. *We disagree.* Information sharing is not about technology – it is about providing the leadership commitment to insure full participation, complete data, and community-wide access to all relevant information. DOJ is uniquely positioned to take the lead in this effort.

Honorable Paul J. McNulty  
August 30, 2006  
Page - 4

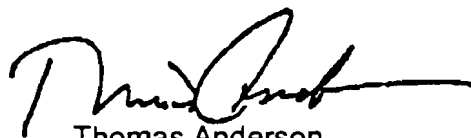
Paul, our confidence in you and your leadership of law enforcement information sharing remains firm and enthusiastic. We look forward to meeting with you at your earliest convenience. As always, we are cognizant of the tremendous demands on your time.

Sincerely,

REGIONAL LAW ENFORCEMENT INFORMATION SHARING WORKING GROUP  
of the Attorney General's Advisory Committee



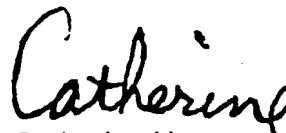
John McKay, Chair  
United States Attorney  
Western District of Washington



Thomas Anderson  
United States Attorney  
District of Vermont



Don DeGabrielle  
United States Attorney  
Southern District of Texas



Catherine Hanaway  
United States Attorney  
Eastern District of Missouri



Michael Heavican  
United States Attorney  
District of Nebraska



David Iglesias  
United States Attorney  
District of New Mexico



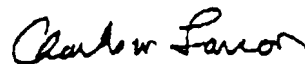
Karin Immergut  
United States Attorney  
District of Oregon



Ed Kubo  
United States Attorney  
District of Hawaii

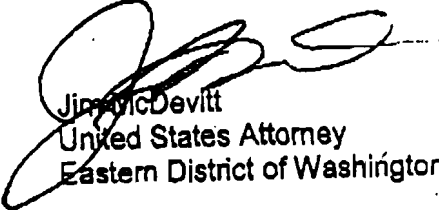


Carol Lam  
United States Attorney  
Southern District of California




Charles Larson  
United States Attorney  
Northern District of Iowa

Honorable Paul J. McNulty  
August 30, 2006  
Page - 5




Jim McDevitt  
United States Attorney  
Eastern District of Washington

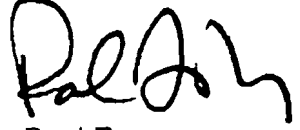
Unavailable for  
Signature  
Chuck Rosenberg  
United States Attorney  
Eastern District of Virginia



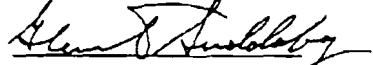
Joseph VanBokkelen  
United States Attorney  
Northern District of Indiana



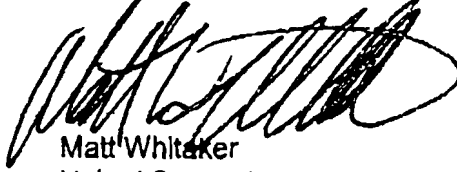
Lisa Wood  
United States Attorney  
Southern District of Georgia




Paul Perez  
United States Attorney  
Middle District of Florida



Glenn Suddaby  
United States Attorney  
Northern District of New York



Matt Whitaker  
United States Attorney  
Southern District of Iowa



Debra Wong Yang  
United States Attorney  
Central District of California

## McNulty, Paul J

---

**From:** Rosenberg, Chuck (USAVAE)  
**Sent:** Friday, September 08, 2006 7:27 AM  
**To:** McNulty, Paul J  
**Subject:** FW: AGAC/RIS Working Group - McNulty Letter

**Attachments:** tmp.htm; McNulty Ltr.pdf



tmp.htm (3 KB)



McNulty Ltr.pdf  
(229 KB)

More (unsolicited) evidence that I did not join this letter.

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> 

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**From:** Williams, Kim (USAVAE)  
> **Sent:** Thursday, September 07, 2006 9:18 PM  
> **To:** Rosenberg, Chuck (USAVAE)  
> **Subject:** FW: AGAC/RIS Working Group - McNulty Letter

>  
> Read the attached. You said you weren't interested, but your name is  
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> but check it out.

>  
> 

---

**From:** Bernier, Colleen (USAWAW)  
> **Sent:** Thursday, August 31, 2006 5:48 PM  
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> **Subject:** AGAC/RIS Working Group - McNulty Letter

>  
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> accomplished. Please let me know if you need further assistance.

>  
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> Assistant to U. S. Attorney John McKay  
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> Seattle, WA 98101-1271  
> Phone (206) 553-4620  
> Fax: (206) 553-2054  
> e-mail: Colleen.Bernier@usdoj.gov

> <<McNulty Ltr.pdf>>  
>

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Seattle, WA 98101-1271  
Phone (206) 553-4620  
Fax: (206) 553-2054  
e-mail: Colleen.Bernier@usdoj.gov*

<<McNulty Ltr.pdf>>

## McNulty, Paul J

---

**From:** Elston, Michael (ODAG)  
**Sent:** Friday, September 22, 2006 7:40 PM  
**To:** Goodling, Monica; McNulty, Paul J  
**Subject:** RE: FYI

Even when he is in Ireland he causes problems! He needs to stop writing letters.

---

**From:** Goodling, Monica  
**Sent:** Friday, September 22, 2006 7:38 PM  
**To:** Elston, Michael (ODAG); McNulty, Paul J  
**Subject:** FYI

Office Of U.S. Attorney 'stressed'  
By Paul Shukovsky, P-I REPORTER  
Seattle Post-Intelligencer, September 22, 2006

Federal prosecutor has seen budget steadily shrink

The federal prosecutor for Western Washington says his office is "stressed to the limit" because of years of budget cuts that threaten to slow the pace of criminal prosecutions. U.S. Attorney John McKay has issued this warning to county prosecutors and special agents in charge of federal agencies, including the FBI, the Drug Enforcement Administration and Immigration and Customs Enforcement: "We may not be as responsive as you want us to be on the cases you refer to us."

The office has been hemorrhaging prosecutors and support staff members even as the other Washington is poised to impose another budget cut for the 2006-07 fiscal year. The office, which handles federal criminal prosecutions and civil cases involving the U.S. government, is down six criminal prosecutors and one civil attorney, leaving 58 assistant U.S. attorneys, McKay said.

Fourteen positions in the office are unfilled, and McKay still must pay his 118 employees a mandatory 3 percent cost-of-living raise. McKay said he is proud that the office has been able to maintain its productivity -- prosecuting more than 800 defendants last year. "We are on track to do slightly more than that" this year, he said.

But cases that might have been prosecuted under tougher federal laws are increasingly being sent to local prosecutors. "We're not taking as many of these cases as we'd like to take," McKay said. "We're working hard to take up the slack, but we're not always successful in taking the cases we should."

A bigger budget would mean more prosecutions in burgeoning problem areas, such as cybercrime, according to McKay's top assistant, Mark Bartlett.

"You'd see more cases like 'botnet,' " he said, referring to the recent prosecution of a young man from California who infected thousands of computers around the world for personal profit. "You'd see more collaboration with Microsoft and other intellectual-property firms where piracy is a huge concern."

The office's cybercrime unit has two vacancies that "prevent us from being as proactive as we'd like to be," Bartlett said.

In fiscal 2003-04, the office's budget was \$12.1 million. In fiscal 2004-05, it slid to \$11.4 million. In the current fiscal year ending next week, the budget will have shrunk further, to \$11 million.

It's not clear what the next budget will bring, but McKay has been told that the best case is a flat budget and that more cuts are possible. The strain on the U.S. Attorney's Office is being felt in Whatcom County, where criminals who move contraband such as drugs, undeclared cash and illegal immigrants across the U.S.-Canadian border are arrested by the federal agents, but frequently prosecuted by locals.

McKay said his office is declining about 80 percent of the cases at the border that could be prosecuted in federal court. It's a lost opportunity, he said.

"We try to flip people by putting them through federal prosecution," said McKay, using a slang term for persuading criminals to cooperate with law enforcement in return for a lighter sentence. "We don't have that flexibility right now."

Whatcom County Prosecutor Dave McEachran said he's "amazed" that McKay is facing the possibility of more budget cuts. McEachran needs federal prosecutors to take some of the load off his attorneys, who are handling an average of 200 felony cases apiece.

"We have a huge caseload here," he said. McEachran said local prosecutors on the U.S. side of the Mexican border had to threaten to stop prosecuting arrests made by federal agents to get federal dollars to help them with the crush of border-related crime.

There have been attempts by northern border prosecutors to get similar federal assistance. But they have never received congressional approval, McEachran said. Cuts in the U.S. attorney's budget also affect violent crimes such as bank robberies, which occur at a high rate in Western Washington.

Bank robberies can be prosecuted federally, and those convicted given harsher sentences. But "most of them are shifting over to the locals," McKay said. Only the most violent cases or serial bank robberies are seeing the inside of a federal courtroom.

As for "note jobs," in which an unarmed robber slides a demand note to a teller -- "we're not seeing those," McKay said. "This is going into our third year of really tough budgets," he said. "We keep expecting it to get fixed, but that's dependent on Congress."



**McNulty, Paul J**

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**From:** Roehrkasse, Brian  
**Sent:** Tuesday, September 26, 2006 3:51 PM  
**To:** Elston, Michael (ODAG); Smith, Kimberly A; Nowacki, John (USAEO)  
**Cc:** McNulty, Paul J; Scolinos, Tasia  
**Subject:** SEATTLE POST-INTELLIGENCER - Office of U.S. attorney 'stressed'

I happened to see this article when I was traveling last week in the Northwest. These comments are not exactly helpful. John, anything we can do?

## **SEATTLE POST-INTELLIGENCER**

[http://seattlepi.nwsourc.com/local/286099\\_prosecutors22.html](http://seattlepi.nwsourc.com/local/286099_prosecutors22.html)

### **Office of U.S. attorney 'stressed'**

**Federal prosecutor has seen budget steadily shrink**

*Friday, September 22, 2006*

**By PAUL SHUKOVSKY**  
P-I REPORTER

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*P-I reporter Paul Shukovsky can be reached at 206-448-8072 or paulshukovsky@seattlepi.com.*

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

**McNulty, Paul J**

---

**From:** USAEO-OTD  
**Sent:** Thursday, October 05, 2006 3:54 PM  
**To:** USAEO-USAttorneys@usa.doj.gov; USAEO-FirstAUSAs@usa.doj.gov; USAEO-AdminOfficers@usa.doj.gov  
**Cc:** USAEO-USASecretaries@usa.doj.gov; USAEO-CrimChiefs@usa.doj.gov; USAEO-CivChiefs@usa.doj.gov  
**Subject:** Resignation Guidance for United States Attorneys  
**Attachments:** tmp.htm; Resignation Guidance.pdf; Resignation Guidance Attach.pdf



tmp.htm (4 KB)



Resignation

Guidance.pdf (22 K)



Resignation

Guidance Attach.pdf

This is an unattended E-Mail account. Please do not

reply to this address.

**TO:** ALL UNITED STATES ATTORNEYS  
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS  
ALL ADMINISTRATIVE OFFICERS

**FROM:** Michael A. Battle  
Director

**SUBJECT:** Resignation Guidance for United States Attorneys

**ACTION REQUIRED:** Information Only.

**CONTACT PERSON:** John A. Nowacki  
Principal Deputy Director  
Telephone: (202) 514-2121  
E-mail: John.Nowacki@usdoj.gov

Please see the attached memorandum regarding Resignation Guidance for United States Attorneys.

To open attachment right click, select "open" select "open it", and select "ok".

Attachment

<<Resignation Guidance.pdf>> <<Resignation Guidance Attach.pdf>>

cc: All United States Attorneys' Secretaries

**This is an unattended E-Mail account. Please do not reply to this address.**

**TO: ALL UNITED STATES ATTORNEYS  
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS  
ALL ADMINISTRATIVE OFFICERS**

**FROM: Michael A. Battle  
Director**

**SUBJECT: Resignation Guidance for United States Attorneys**

**ACTION REQUIRED: Information Only.**

**CONTACT PERSON: John A. Nowacki  
Principal Deputy Director  
Telephone: (202) 514-2121  
E-mail: John.Nowacki@usdoj.gov**

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**Attachment**

**<<Resignation Guidance.pdf>> <<Resignation Guidance Attach.pdf>>**

**cc: All United States Attorneys' Secretaries**

**DAG000000151**

## General Comments

- The nature of the briefing – pursuant to oversight committee request (Privacy Act issue).
- The importance of confidentiality and fairness. Much of what I will say has not been said publicly or even told to the affected U.S. Attorneys.
- There are media folks hanging around outside and I respectfully ask that the information provided in this briefing be kept confidential. (*unless specifically noted*)
- I do not have first-hand information about everything I am going to say – I have tried to gather all the facts as best I can.
- These are <sup>internal DOJ</sup> ~~private~~ management issues involving subjective judgments. The Attorney General was insistent about that as a matter of deference between our branches of government.
- All of the affected U.S. Attorneys are talented, highly successful lawyers who have realistic expectations for future successes. We have tried hard to respect this reality. It comes as no surprise that various officials have only good things to say about them. (*EMAS, infra.*)
- I'm here to be candid and accountable, and to assure you that the Department did not act improperly. There was no political motivation. There was no scheme to fill these positions with a hand-picked group of favorites and to circumvent the nomination and confirmation process.
- Our only intention was to move out a small group of appointees who served at the pleasure of the President of the United States and

to try and do better in these districts.

- The AG and I have used the term “performance-related” as a way of distinguishing these folks from Bud Cummins in Arkansas. Performance is a broad word including the U.S. Attorney’s management style, priorities, judgment, aggressiveness, etc. The decisions were based on what they did or did not do. No misconduct issues.

- *The number: The media has repeatedly referred to the number as 7 including Arkansas. It's actually 7, not including Arkansas. One name has never been mentioned publicly and this individual has not yet made an announcement. I said "less than 10" in my testimony.*
- Process Developed a list based on 4 or 5 years of experience with these U.S. Attorneys; not rash judgments. *It wasn't 1 strike, you're out.*
- Decided to make the calls in early December and to tell U.S. Attorneys that we want to make a change, we're not going to lay out the basis for the decision (though in a majority of the cases they knew there were significant issues); exit by January 31 if possible, but extensions would be considered on a case by case basis.
- Identify interim appointments. (I will walk through each district and explain where we are in this process.)
- Work with home state Senators and Members of Congress to identify candidates for nomination.

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"> <li>• Very important district being underserved (Las Vegas target for terrorism; violent crime; drugs/organized crime).</li> <li>• Resistant to at least one leadership priority (obscenity task force).</li> </ul>	<ul style="list-style-type: none"> <li>• March 3-7, 2003</li> <li>• USA Bogden is highly regarded by the federal judiciary, the law enforcement and civil client agencies, and the staff of the USAO.</li> <li>• AUSAs failed to consistently follow DOJ policies with regard to firearms prosecutions (924(c)), reporting adverse decisions and appellate practice.</li> </ul>
<p>Paul Charlton (AZ)                      Term expired: Nov. 14, 2005                      Called: Dec. 7, 2006                      Resignation: Jan. 30, 2007</p> <p><i>Elee took LWOP on 9/19/02 NTE 11/13/02 Elee returned to work 9/28/02; resigned 9/30/02</i></p>	<ul style="list-style-type: none"> <li>• Repeated instances of insubordination, actions taken contrary to instructions, and actions taken that were clearly unauthorized.</li> <li>• Worked outside of proper channels without regard to the approved process or impact on others (i.e. budget resources).</li> <li>• Ex: multiple failures to follow AG's instruction on death penalty.</li> <li>• Ex: required FBI to videotape interviews despite FBI policy.</li> <li>• Ex: refusal(?) to comply with a leadership priority (obscenity).</li> <li>• 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).</li> </ul>	<ul style="list-style-type: none"> <li>• December 8-12, 2003</li> <li>• 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.</li> <li>• The USA's and FAUSAs adherence to the chain of command in the Organizational Chart has led to a perception by some that he is inaccessible.</li> <li>• Perception among AUSAs that management is not open to suggestions of criticism.</li> <li>• Judges complain about inadequate AUSA of complaints prior to</li> </ul>

		<p>submission.</p> <ul style="list-style-type: none"> <li>• AUSAs fail to follow DOJ policies regarding charging and pleas; lack knowledge of DOJ prior approval requirements for media and attorney subpoenas.</li> <li>• Corporate fraud not being addressed in Phoenix or Tucson.</li> <li>• Line civil AUSAs compromise bankruptcy claims without authority to do so.</li> <li>• Case management system not used/contains inaccurate information.</li> <li>• On one occasion, office erroneously appointed SAUSA an AUSA and did so without required security papers or drug test.</li> </ul>
<p>(NOT PUBLIC)                  Term expired: Nov. 2005                  Called: Dec. 7, 2006                  Resignation: anticipated Mar. 9, 2007                  (NOT PUBLIC)</p>	<ul style="list-style-type: none"> <li>• During USA's tenure, the office has become fractured, morale has fallen, and the USA has lost the confidence of the leadership team and some career prosecutors.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• July 12-16, 2004</li> <li>• USA is a well regarded, hard-working, and capable leader who has the respect and confidence of the judiciary, the agencies, and USAO personnel. Made significant improvements over prior, dysfunctional leadership.</li> <li>• CRM division (3 managers rather than 1 CRM chief) hampers supervision/management of the division,</li> <li>• Structure prevents management from effectively managing resources in most areas of prosecution; no</li> </ul>



		<p>assurance that DOJ priorities/policies being carried out.</p> <ul style="list-style-type: none"> <li>• AUSAs with 5 yrs experience exempt from most review (e.g., intake decisions, plea agreements) and thus no idea whether those line AUSAs follow DOJ policies.</li> <li>• Noticeable differences in workload/productivity contribute to discontent in CRM division.</li> </ul>
<p>David Iglesias (NM)                  Term expired: Oct. 17, 2005                  Called: Dec. 7, 2006                  Resignation: Feb. 28, 2007</p>	<ul style="list-style-type: none"> <li>• Critically-important border district being underserved.</li> <li>• Perceived to be an “absentee landlord” who relies on the FAUSA to run the office.</li> </ul>	<ul style="list-style-type: none"> <li>• November 14-18, 2006</li> <li>• USA Iglesias is experienced in legal, management, and community relations work and is respected by the judiciary, agencies, and staff.</li> <li>• (Report does note heavy reliance on FAUSA to manage operations.)</li> <li>• Poor morale exists in Las Cruces due to appointment of inexperienced supervisor (and growing immigration caseload).</li> <li>• Insufficient resources assigned to growing criminal caseload.</li> </ul>
<p>Carol Lam (SDCA)                  Term expired: Nov. 18, 2006                  Called: Dec. 7, 2006                  Resignation: Feb. 15, 2007</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Failure to perform in relation to significant leadership priorities (i.e. immigration and gun</li> </ul>	<ul style="list-style-type: none"> <li>• February 7-11, 2005</li> <li>• 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.</li> </ul>

	<p>crime).</p> <ul style="list-style-type: none"> <li>• 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"> <li>- Only 422 illegal re-entry cases in 2005 where AZ did 1,491 and NM did 1,607;</li> <li>- Only 470 illegal entry cases in 2005 where AZ did 3,409 and NM did 1,194;</li> <li>- In June 2006, Sen. Feinstein wrote a letter to the AG complaining about the high prosecution guidelines which kept these numbers low.</li> </ul> </li> <li>• Ex: The President has made clear he expects gun crime prosecution to be a significant effort, but 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).</li> </ul>	<ul style="list-style-type: none"> <li>• While quality of cases is high, the number of immigration cases per AUSA work year statistically lower than other border USAOs; quantity of some proactive investigative matters/cases is modest and not consistent with Department priorities (e.g., crimes against children).</li> <li>• Morale issues noted in general crimes section.</li> <li>• Problems with intake of firearms referrals – ATF complains that it takes too long to get a prosecution decision.</li> <li>• Indictment review too time consuming, esp. in routine cases.</li> <li>• AUSAs unfamiliar with DOJ policy requiring presentation of exculpatory evidence to grand juries.</li> <li>• Information security issues (improper transportation and disposal of computer media).</li> </ul>
<p>John McKay (WDWA)            Term expired: Oct. 30, 2005            Called: Dec. 7, 2006            Resignation: Jan. 31, 2007</p>	<ul style="list-style-type: none"> <li>• Pattern of insubordination, poor judgment, and demonstration of temperament issues in seeking policy changes without regard to appropriate methods or tactics.</li> <li>• Extensive focus and travel outside of district to advocate policy changes, rather than proper focus on running the office.</li> </ul>	<ul style="list-style-type: none"> <li>• March 13-17, 2006</li> <li>• USA McKay is an effective, well-regarded, and capable leader of the USAO and the District's law enforcement community.</li> <li>• Some personnel not handling grand jury material appropriately; other information security issues.</li> </ul>

		<ul style="list-style-type: none"> <li>• Noncompliance with Ashcroft memo noted.</li> <li>• Downward departures for substantial assistance not documented as required by DOJ policy.</li> </ul>
<p>Kevin Ryan (NDCA)                  Term expired: Aug. 2, 2006                  Called: Dec. 7, 2006                  Resignation: Feb. 16, 2007</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• The problems here have required multiple on-site visits by management and personnel experts from EOUSA.</li> </ul>	<ul style="list-style-type: none"> <li>• Special: March 27-31, 2006</li> <li>• 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.</li> <li>• 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.</li> </ul>
<p>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</p>	<ul style="list-style-type: none"> <li>• 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.</li> </ul>	<p>[Requested]</p>

PATRICK J. LEAHY, VERMONT, CHAIRMAN

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# United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
MICHAEL O'NEILL, *Republican Chief Counsel and Staff Director*

March 7, 2007

Honorable Alberto Gonzales  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Gonzales:

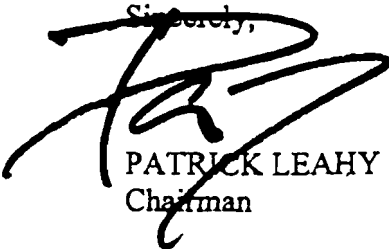
Yesterday, as you know, committees in both the Senate and the House of Representatives held hearings to address the abrupt dismissal of more than a half dozen Senate-confirmed United States Attorneys.

During the course of those hearings, witnesses identified several Department of Justice officials who were involved in the decision to dismiss these U.S. Attorneys or in the execution of that decision.

As part of the Committee's ongoing investigation into this matter, we should have the benefit of hearing directly from these officials. To that end, I would like to work out a process for the Department promptly to make these witnesses available for interviews, depositions, or hearing testimony, on a voluntary basis.

I fully expect that we will be able to come to a convenient arrangement. To avoid any future delay, however, I am listing these Department officials on tomorrow's Executive Business Meeting agenda, so that we will be in a position to authorize subpoenas next week if necessary.

Sincerely,



PATRICK LEAHY  
Chairman

cc: Hon. Arlen Specter

DAG000000161

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*Talking points:*

- We want to work with you to find a nominee who can handle the unique management challenges presented by this office.
- This USAO is one of our largest offices and handles one of the highest litigation caseloads in the Nation. This is an office that requires a candidate who comes to the position with significant leadership experience in terms of managing employees and complex litigation.
- It is in the best interest of your state and for the Nation for this office to be successful. I do not believe that we can successful do our job in ensuring justice in the state without the right person leading that office. I have an obligation to ensure that the office is running smoothly and properly.

**BACKGROUND AND TALKING POINTS:  
U.S. ATTORNEY CANDIDATE FOR ARIZONA**

*For background use only:*

- This vacancy was created on January 31, 2007, when Paul Charlton left the Department. Chief U.S. Attorney Dan Knauss, who normally oversees the Tuscan office, is serving as interim U.S. Attorney.

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W.D. Washington

After the Supreme Court issued Blakely and Deputy Attorney General Comey issued a memo to all federal prosecutors to ensure that they would seek sentences consistent with the federal sentencing guidelines, did you take steps to see that this guidance was implemented?

What did you do?

What on-going monitoring did you do?

How does your guideline compliance rate compare with other districts?

Would it surprise you that in Fiscal Year 2006 only about one in three of the sentences in your district was within the guideline range?

That number was the second lowest in the country and the lowest was in a southwest border district where more than half of the cases were outside of the guideline range because of an approved fast track program for immigration cases.

In nearly one in three of your cases in 2006, the court imposed a sentence below the guideline range even though the government had not asked for a below the range sentence because of the substantial assistance of the defendant or a fast track program for illegal aliens prosecuted for immigration offenses. Did you seek authorization to appeal any of these cases?

From looking at the Sentencing Commission data, it looks like this has been a big problem in the Western District of Washington since Booker. In fiscal year 2005 after Booker was decided, fewer than 38% of the defendants were sentenced within the guideline range.

Do you have a sense of how significant a change your district has seen in guideline sentencing post-Booker?

My review of the data suggests that before Booker sentences in your district were generally within the guidelines range about 60% of the time until Booker when the percentage of within the range sentences fell below 38%.

[FY 01 – within range - - 58.6%  
FY 02 – within range - - 58.6%  
FY 03 – within range - - 57.7%  
FY 04 – within range - - 64.4%  
FY 05 (pre-Booker) - - 54.0%  
FY 05 (post-Booker) - - 37.9%  
FY 06 – within range - - 36.9%]

What steps did you take post-Booker to ensure sentences in your district were within the guideline range unless there were substantial reasons for a non-guidelines range sentence?

Do you think that it is problematic to have so many defendants sentenced outside the range by the district court if the purpose of the system is to minimize unwarranted disparity?



S.D. California

1. Immigration

In terms of priorities for your office, where did you rank the prosecution of illegal aliens?

Did your prioritization change at any point during your tenure as U.S. Attorney?

What accounts for the fact that your prosecution of illegal aliens dropped so precipitously? Data reported by the Sentencing Commission presents a discernable trend:

USSC - '01 -- 1,836  
USSC - '02 -- 1,633  
USSC - '03 -- 2,046  
USSC - '04 -- 2,054  
USSC - '05 -- 1,413  
USSC - '06 -- 1,411

Isn't it true that your office charged fewer crimes classified as immigration offenses than it had since the mid-1990s?

From EOUSA data - - FY 2005 and 2006 (numbers charged for this category in each 2005 and 2006 are the lowest recorded since 1996)

Immigration Cases charged (FY 2006) - - 1,514

Immigration Cases charged (FY 2005) - - 1,441

Even though the office charged more than 2,000 in 2003 and 2004

Did you make any effort to see how your work compared to that of your fellow border district U.S. Attorneys?

Would you agree that such a comparison would be a good way to judge your success?

The Southern District of Texas has Houston and a lot of border territory, right? And the Western District of Texas has San Antonio and a lot of border territory, right? And the District of Arizona has Phoenix and a lot of border territory, right? And the District of New Mexico has Albuquerque and a lot of border territory, right?

If I represented you that in fiscal year 2006, in offenses coded as criminal immigration cases by the Sentencing Commission, the Western District of Texas had sentencings of 2,699 defendants, the District of New Mexico had 1,861 defendants, the District of Arizona had sentencings of

2,193 defendants, and the Southern District of Texas had sentencings of 4,132 defendants, what would you say about your record when you have done half what they do in Western Texas and a third of what they do in Southern Texas?

## 2. Firearms cases

Is violent crime a problem in San Diego and other parts of the Southern District of California?

Are gangs a problem in San Diego and other parts of the Southern District of California?

In terms of priorities for your office, where did you rank the prosecution of violent crime?

In terms of priorities for your office, where did you rank the prosecution of firearms?

Isn't it true that both Attorneys General Ashcroft and Gonzales prioritized the prosecution of firearms offenses involving dangerous criminals and recidivists under Project Safe Neighborhood?

Did your prioritization change at any point during your tenure as U.S. Attorney?

Did Deputy Attorney General Comey speak with you about your failure to pursue PSN with vigor?

When was that conversation?

Did your prosecution of firearms offenses improve after that point?

Do you contest the Sentencing Commission's data that only 20 defendants have been sentenced for firearms offenses in your district in the past two fiscal years and only 69 defendants have been sentenced for firearms offenses in the last five fiscal years?

USSC - '02 - - 18

USSC - '03 - - 19

USSC - '04 - - 12

USSC - '05 - - 10

USSC - '06 - - 10

Was your implementation of PSN comparable to that of other urban U.S. Attorneys? Other California U.S. Attorneys?

In FY 2006, according to the Sentencing Commission, sentencings for firearms offenses included 84 defendants in the Eastern District of California, 96 defendants in the Northern District of California, and 103 defendants in the Central District of California.

When we compare your firearms prosecution record with that of your fellow U.S. Attorneys on the border, do you know how your record compares?

For the five year period of time when your office successfully prosecuted 69 defendants in firearms cases according to the sentencing commission, other districts had numerous sentencings as a result of Project Safe Neighborhoods: for comparison, the Southern District of Texas had 946; the Western District of Texas had 894, the District of Arizona had 897, and the District of New Mexico had 437.

Three of the four had sentencings of 100 or more defendants in every year of the 4 year period. You never reached 20 defendants sentenced for firearms case in any year.

Isn't this a legitimate basis to question your record as U.S. Attorney, particularly when it has been a top priority of the Justice Department for the entirety of your term in office?

3. Child pornography/on-line exploitation of children

In terms of priorities for your office, where did you rank the prosecution of child pornography and the on-line exploitation of children?

Is it true that you only brought twelve cases over the past two years?

## 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.

**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.
- This is another district where, now that Mr. Bogden 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.

William E. Moschella  
Opening Statement

Madam Chairman, Mr. Cannon, and Members of the Subcommittee, I appreciate the opportunity to testify today.

Let me begin by stating clearly that the Department of Justice appreciates the public service that was rendered by the seven U.S. Attorneys who were asked to resign last December. Each is a talented lawyer who served as U.S. Attorney for more than four years, and we have no doubt they will achieve success in their future endeavors – just like the 40 or so other U.S. Attorneys who have resigned for various reasons over the last six years.

Let me also stress that one of the Attorney General's most important responsibilities is to manage the Department of Justice. Part of managing the Department is ensuring that the Administration's priorities and policies are carried out consistently and uniformly. Individuals who have the high privilege of serving as presidential appointees have an obligation to carry out the Administration's priorities and policies.

U.S. Attorneys in the field (as well as Assistant Attorneys General here in Washington) are duty bound not only to make prosecutorial decisions, but also to implement and further the Administration and Department's priorities and policy decisions. In carrying out these responsibilities they serve at the pleasure of the President and report to the Attorney General. If a judgment is made that they are not executing their responsibilities in a manner that furthers the management and policy goals of departmental leadership, then it is appropriate that they be asked to resign so that they can be replaced by other individuals who will.

To be clear, it was for reasons related to policy, priorities and management – what has been referred to broadly as “performance-related” reasons – that these U.S. Attorneys were asked to resign. I want to emphasize that the Department – out of respect for the U.S. Attorneys at issue – would have preferred not to talk at all about those reasons, but disclosures in the press and requests for information from Congress altered those best laid plans. In hindsight, perhaps this situation could have been handled better. These U.S. Attorneys could have been informed at the time they were asked to resign about the reasons for the decision. Unfortunately, our failure to provide reasons to these individual U.S. Attorneys has only served to fuel wild and inaccurate speculation about our motives, and that is unfortunate because faith and confidence in our justice system is more important than any one individual.

That said, the Department stands by the decisions. It is clear that after closed door briefings with House and Senate members and staff, some agree with the reasons that form the basis for our decisions and some disagree – such is the nature of subjective judgments. Just because you might disagree with a decision, does not mean it was made for improper political reasons – there were appropriate reasons for each decision.

One troubling allegation is that certain of these U.S. Attorneys were asked to resign because of actions they took or didn't take relating to public corruption cases. These charges are dangerous, baseless and irresponsible. This Administration has never removed a U.S. Attorney



to retaliate against them or interfere with or inappropriately influence a public corruption case. Not once.

The Attorney General and the Director of the FBI have made public corruption a high priority. Integrity in government and trust in our public officials and institutions is paramount. Without question, the Department's record is one of great accomplishment that is unmatched in recent memory. The Department has not pulled any punches or shown any political favoritism. Public corruption investigations are neither rushed nor delayed for improper purposes.

Some, particularly in the other body, claim that the Department's reasons for asking these U.S. Attorneys to resign was to make way for preselected Republican lawyers to be appointed and circumvent Senate confirmation. The facts, however, prove otherwise. After the seven U.S. Attorneys were asked to resign last December, the Administration immediately began consulting with home-state Senators and other home-state political leaders about possible candidates for nomination. Indeed, the facts are that since March 9, 2006, the date the Attorney General's new appointment authority went into effect, the Administration has nominated 16 individuals to serve as U.S. Attorney and 12 have been confirmed. Furthermore, 18 vacancies have arisen since March 9, 2006. Of those 18 vacancies, the Administration (1) has nominated candidates for six of them (and of those six, the Senate has confirmed three); (2) has interviewed candidates for eight of them; and (3) is working to identify candidates for the remaining four of them. Let me repeat what has been said many times before and what the record reflects: the Administration is committed to having a Senate-confirmed U.S. Attorney in every single federal district.

In conclusion, let me make three points: First, although the Department stands by the decision to ask these U.S. Attorneys to resign, it would have been much better to have addressed the relevant issues up front with each of them. Second, the Department has not asked anyone to resign to influence any public corruption case – and would never do so. Third, the Administration at no time intended to circumvent the confirmation process.

I would be happy to take your questions.

**Joint Statement of Former United States Attorneys**  
**Before Senate Committee on the Judiciary**

**March 6, 2007**

Good morning Chairman Leahy, and members of the Committee. My name is Carol Lam. Until recently, I was the United States Attorney for the Southern District of California. In the interest of conserving time, I will be making introductory remarks on behalf of all the former United States Attorneys before you on the panel today, with whom I had the great privilege of serving as a colleague, from the following districts: Bud Cummins, Eastern District of Arkansas; David Iglesias, District of New Mexico; and John McKay, Western District of Washington. Each of us was subpoenaed to testify this afternoon on the same subject matter before a subcommittee of the House Committee on the Judiciary, and we were informed that in short order we would be receiving subpoenas to testify before this Committee, and so we are making our appearances before both Committees today. We respect the oversight responsibilities of the Senate Committee on the Judiciary over the Department of Justice, as well as the important role this Committee plays in the confirmation process of United States Attorneys.

Each of us is very appreciative of the President and our home state Senators and Representatives who entrusted us five years ago with appointments as United States Attorneys. The men and women in the United States Attorney's Offices in 94 federal judicial districts throughout the country have the great distinction of representing the United States in criminal and civil cases in federal court. They are public servants who carry voluminous case loads and work tirelessly to protect the country from threats both foreign and domestic. It was our privilege to lead them and to serve with our fellow United States Attorneys around the country.

As United States Attorneys, our job was to provide leadership in each of our districts, to coordinate federal law enforcement, and to support the work of Assistant United States Attorneys as they prosecuted a wide variety of criminals, including drug traffickers, violent offenders and white collar defendants. As the first United States Attorneys appointed after the terrible events of September 11, 2001, we took seriously the commitment of the President and the Attorney General to lead our districts in the fight against terrorism. We not only prosecuted terrorism-related cases, but also led our law enforcement partners at the federal, state and local levels in preventing and disrupting potential terrorist attacks.

Like many of our United States Attorney colleagues across this country, we focused our efforts on international and interstate crime, including the investigation and prosecution of drug traffickers, human traffickers, violent criminals and organized crime figures. We also prosecuted, among others, fraudulent corporations and their executives, criminal aliens, alien smugglers, tax cheats, computer hackers, and child pornographers.

Every United States Attorney knows that he or she is a political appointee, but also recognizes the importance of supporting and defending the Constitution in a fair and impartial manner that is devoid of politics. Prosecutorial discretion is an important part of a United States Attorney's responsibilities. The prosecution of individual cases must be based on justice, fairness, and compassion – not political ideology or partisan politics. We believed that the public we served and protected deserved nothing less.

Toward that end, we also believed that within the many prosecutorial priorities established by the Department of Justice, we had the obligation to pursue those priorities by deploying our office resources in the manner that best and most efficiently addressed the needs of our districts. As Presidential appointees in particular geographic districts, it was our responsibility to inform the Department of Justice about the unique characteristics of our districts. All of us were longtime, if not lifelong, residents of the districts in which we served. Some of us had many years of experience as Assistant U.S. Attorneys, and each of us knew the histories of our courts, our agencies, and our offices. We viewed it as a part of our duties to engage in discussion about these priorities with our colleagues and superiors at the Justice Department. When we had new ideas or differing opinions, we assumed that such thoughts would always be welcomed by the Department and could be freely and openly debated within the halls of that great institution.

Recently, each of us was asked by Department of Justice officials to resign our posts. Each of us was fully aware that we served at the pleasure of the President, and that we could be removed for any or no reason. In most of our cases, we were given little or no information about the reason for the request for our resignations. This hearing is not a forum to engage in speculation, and we decline to speculate about the reasons. We have every confidence that the excellent career attorneys in our offices will continue to serve as aggressive, independent advocates of the best interests of the people of the United States. We continue to be grateful for having had the opportunity to serve and to have represented the United States during challenging and difficult times for our country.

While the members of this panel all agree with the views I have just expressed, we will be responding individually to the Committee's questions, and those answers will be based on our own individual situations and circumstances.

The members of the panel regret the circumstances that have brought us here to testify today. We hope those circumstances do not in any way call into question the good work of the United States Attorneys Offices we led and the independence of the career prosecutors who staff them. And while it is never easy to leave a position one cares deeply about, we leave with no regrets, because we served well and upheld the best traditions of the Department of Justice.

We welcome the questions of the Chair and Members of the Committee. Thank you.

Bud Cummins, *Little Rock, Arkansas*

Carol Lam, *San Diego, California*

David Iglesias, *Albuquerque, New Mexico*

John McKay, *Seattle, Washington*

**United States of America**  
**House of Representatives**  
**Committee on the Judiciary**  
**Subcommittee on Commercial and  
Administrative Law**

Statement of the  
Hon. George J. Terwilliger III  
Washington, D.C.  
March 6, 2007

Madam Chairwoman and members of the Subcommittee,

Thank you for inviting me to appear today to testify regarding the appointment of interim United States Attorneys. Those filling the office of the United States Attorney in each district play a vital role in promoting the safety and well-being of all Americans. Altering the process for filling vacant United States Attorney positions therefore deserves careful and thoughtful consideration.

It was my privilege to serve as an Assistant United States Attorney for eight years, the United States Attorney for the District of Vermont for five years, and to supervise the nation's 93 United States Attorneys as Deputy Attorney General of the United States. While serving as Deputy Attorney General, I had the opportunity to comment on the merits of potential nominees for the office of United States Attorney, to consult with United States Attorneys as to their performance, and to be involved in the removal or resignation of United States Attorneys.

I considered these duties to be matters wholly within the Executive Branch. Because of the sensitive nature of these duties both to the Department and, obviously, to the persons whose careers were affected, I treated such matters as ones of great confidence. These matters were neither suitable for, nor amenable to, public discourse.

My current private practice brings me into frequent contact with United States Attorneys and their offices. While my practice sometimes places me in the position of persuading United States Attorneys and their Assistants to take another view of certain matters before them, I have the utmost respect, admiration, and, indeed, gratitude for the work that the United States Attorneys and their assistants perform. As a general proposition, but with rare and sometimes troubling exception, I find the United States Attorneys and their assistants to be among the most honorable and dedicated of professionals. I am before the Committee today because I believe strongly that protecting the integrity of the office of United States Attorney is essential to our system of justice.

It was my privilege to serve in the Department of Justice for 15 years. My comments today are informed by my experience and the high offices in which I had the privilege to serve. It is also a privilege for me to know personally much of today's leadership of the Department of Justice, including Attorney General Gonzalez and Deputy Attorney General McNulty. In addition, I am fortunate to enjoy the friendship of many of their staff members and of many long-serving career Department of Justice lawyers, men and women for whom I have sincere personal and professional admiration.

From my experience with the current leadership of the Department, I have every reason to believe that the Department's leaders completely share my views

about the importance of maintaining the integrity of and respect for the office of United States Attorney. I am, of course, aware that some level of controversy has ensued about recent changes in the leadership of several United States Attorneys' offices and the manner in which these changes were brought about. I know, or have had dealings of a professional nature with, some of the United States Attorneys involved. In my view, they are lawyers of considerably high professional reputation.

In my experience, particularly as Deputy Attorney General, there are a variety of reasons why a change in leadership at a United States Attorney's office may be appropriate, or even necessary. These reasons might generally be termed to be on account of "performance," but I would not interpret such a characterization as limited in reference to a level of performance that is either substandard or below some level of appropriate professional behavior. Rather, I would interpret a "performance-related" reason for making a change as having more to do with an overall assessment of the performance of an office. Such a broad assessment would include an office's implementation of the administration's law enforcement policies and priorities.

During my tenure as United States Attorney for the District of Vermont, I believe it would be fair to say that there were those who praised my performance and those who found it wanting. I received my fair share of criticism for both policy and operational decisions. Such criticism comes with the territory; if one does not want to suffer such criticism, one should not assume such an office. I considered the proper execution of my duties to require both a recognition that I served as a subordinate to the leadership of the Department of Justice and an awareness of my responsibility for forwarding within my district the goals and objectives of the administration. I held the United States Attorneys whom I supervised as Deputy Attorney General to the same standards. Where I and/or the Attorney General believed that performance in regard to these core responsibilities was wanting, we acted upon that belief.

United States Attorneys are, of course, political appointees of the President. Their position is, in fact, unique in the Executive Branch bureaucracy. United States Attorneys are responsible for securing the mission of the Executive Branch in their respective districts, and are therefore required, in my judgment, to facilitate teamwork and joint effort in the field among the several Executive agencies vested with law-enforcement, counterterrorism, and other responsibilities vital to the well-being and safety of Americans. It is decidedly not within the scope of a United States Attorney's responsibilities for her or him to execute her or his duties in a manner that is politically-driven. Nothing is more inimical to the administration of justice, and the public's perception of the government's interest that justice be done, than having a prosecutor utilize politics as a basis for, or determining the direction of, the prosecution of a federal case.

That said, it is part of United States Attorney's job, as an officer in a political administration, to carry out, within her or his district, the administration's policies and priorities. United States Attorneys are given an important voice, both as individuals and as a group, in setting those policies and priorities and in deciding how, in a given locale, they are best carried out. However, if a United States Attorney is unable to agree with such policies and priorities and to carry them forward, that United States Attorney does not have, in my judgment, the authority to simply ignore them. Rather, such a United States Attorney should either resign and move on to other pursuits, or, if she or he fails to do so, then the failure to execute such policies and priorities would be grounds for removal.

All of these factors are relevant to the selection of persons to have the privilege to serve in this great office. Given the substantial latitude and discretion that United States Attorneys are traditionally accorded, the selection of a person to serve in this office is a critical decision. I have been working in or with United States Attorneys' offices for my entire legal career, which, I am now forced to acknowledge, is approaching 30 years in duration. In that time, and having had occasion to historically examine the office of United States Attorney, it seems to me that there has been a studied effort to continually professionalize both the functions of those offices and to look more to professional than political credentials for those who should lead them. At least up to some time in the twentieth century, entire United States Attorney's offices, including all assistants, would be replaced with a change in administration. Today, Assistant United States Attorneys, while not in the civil service, are selected and appointed on the basis of their professional, rather than political, credentials. During my time in the Justice Department, it seemed to me that the ideal United States Attorney candidate was someone of experience and accomplishment as a lawyer and, ideally, as a prosecutor, who also had such a political background as to suggest an ability to lead, to carry out an administration's policies and priorities, and, perhaps above all, whose career indicated a soundness of judgment and intellect that would permit the candidate to carry out ably the duties of office if selected.

Considering the importance of the office to the administration of justice, it might, at first blush, seem appropriate for the judicial branch to have a role in appointing interim United States Attorneys in the event of a vacancy. However, upon reflection, I think returning to that process is not well advised. I say this knowing that I first assumed the office of United States Attorney when appointed by then Chief Judge of the United States District Court for the District of Vermont, the late Albert Coffrin, Jr., one of the finest judges and men whom I have had the privilege to know. Nonetheless, because the United States Attorney serves as a subordinate to the President, it is most appropriate that the authority to appoint an interim United States Attorney be delegated to the Attorney General, who is her- or himself, of course, a presidential appointee.

I realize there is some case law supporting the notion that judicial appointment of interim United States Attorneys does not offend the constitutional



principle of separation of powers. I think the holdings in these cases are suspect as matters of constitutional law and have been subject to question by learned minds.

Historical considerations also counsel against returning to the pre-2006 regime. The office of United States Attorney was not created as an appendage to federal courts, but rather began as a presidential appointment supervised by the Executive Branch. The Judiciary Act of 1789 established the office of federal "district attorneys." These federal prosecutors were brought under the supervision of the Treasury Department in 1797, in light of the fact that most of district attorneys' work in the new Republic involved debt collection.<sup>1</sup> It was not until the Civil War that Congress gave District Courts authority to fill interim vacancies arising in the office.<sup>2</sup> The District Courts retained this authority until 1986, when the Attorney General was allowed to make a 120-day interim appointment, upon the expiration of which the District Court had power to appoint an interim United States Attorney.<sup>3</sup> In 2006, the interim appointment process came full circle when Congress vested interim appointment authority solely within the Executive Branch.<sup>4</sup>

Several practical concerns also favor leaving the current system in place. Suppose the District Court, for whatever reason, simply declined to act in making an appointment? The uncertainty that would ensue regarding the authority of the office to carry out its functions is inconsistent with the efficient and predictable administration of justice. Given the tenor of our times, take this supposition one step further and assume that the District Court is not in a position to act because it has been immobilized as a result of terrorism, or even a natural disaster. A vacancy in a United States Attorney position at such a time would be a critical gap that needs to be filled as rapidly as possible and with a person who understands that her or his appointment is firmly under Executive authority. Finally, as a practical matter, as learned and capable as chief judges of the various district courts tend to be, they may not know best about making appointments to Executive offices. The responsibility for the supervision and management of United States Attorney's offices has been vested by Congress in the Attorney General and the Department of Justice. It seems to me, as both a practical and a legal matter, that such responsibility should carry with it the authority to appoint the persons necessary to carry it out. I do recognize and support the notion that the advice and consent process is critical to the balance of power between Congress and the Executive Branch. I would hope that both

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<sup>1</sup> See Ross E. Wiener, Inter-Branch Appointments after the Independent Counsel: Court Appointment of United States Attorneys, 86 Minn. L. Rev. 363, 375-76 (2001).

<sup>2</sup> See United States v. Gantt, 194 F.3d 987, 998 (9th Cir. 1999) (citing Act of March 3, 1863, ch. 93, § 2, 12 Stat. 768 (1863) (Rev. Stat. 1873, § 793)).

<sup>3</sup> See 28 U.S.C. § 546(a)-(d) (1986).

<sup>4</sup> 28 U.S.C. § 546(c) (2006).

branches of government would act in a responsible manner to see that the nomination and appointment process necessary to fill a vacancy in the office of United States Attorney would move with dispatch.

In conclusion, I regret the circumstances which have led to this hearing. I would urge all parties to recall that the United States Attorneys serve at the pleasure of the President and may be removed for any reason, or no reason at all. I would most respectfully urge Congress, and this Committee, to accord deference to that fundamental aspect of the office and urge restraint in exploring any particular or individual decision regarding a particular office.

I thank the Chairwoman and the Sub-Committee for allowing me to be heard. I welcome the members' questions.

United States Attorneys--Criminal Caseload Statistics\*

Immigration

Cases Filed - FY 1995-2006\*\*

Listing Sorted: Alphabetically by District

District	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
1 Alabama, Middle	0	0	1	1	0	1	1	0	2	7	24	16
2 Alabama, Northern	3	4	1	0	2	3	7	9	20	16	15	19
3 Alabama, Southern	0	0	1	0	0	2	1	3	1	12	15	29
4 Alaska	4	11	17	29	18	16	9	10	13	14	8	8
5 Arizona	189	443	608	1,189	1,617	1,691	1,863	1,975	2,252	2,383	1,898	2,076
6 Arkansas, Eastern	1	4	1	3	4	5	6	15	20	11	23	39
7 Arkansas, Western	12	7	0	7	23	25	34	54	59	74	53	61
8 California, Central	112	131	164	269	255	225	204	364	296	815	619	331
9 California, Eastern	300	292	385	467	427	480	416	399	415	170	214	214
10 California, Northern	65	175	238	136	162	294	224	118	174	130	128	145
11 California, Southern	851	1,367	1,853	1,918	1,664	2,116	1,907	1,921	2,463	2,527	1,441	1,514
12 Colorado	29	46	44	38	57	40	51	78	141	101	117	148
13 Connecticut	3	2	12	9	15	11	8	21	16	11	17	19
14 Delaware	3	6	4	4	3	9	4	6	14	12	17	13
15 District of Columbia	20	13	32	17	19	15	14	3	19	16	32	11
16 Florida, Middle	31	72	132	293	168	282	212	161	238	236	330	380
17 Florida, Northern	1	3	3	3	1	3	2	6	5	11	24	68
18 Florida, Southern	59	145	106	134	172	231	259	247	423	373	537	413
19 Georgia, Middle	4	6	5	5	3	4	7	6	7	11	3	6
20 Georgia, Northern	62	65	91	108	148	195	188	139	143	173	131	152
21 Georgia, Southern	0	4	3	5	3	10	8	4	6	0	8	20
22 Guam	30	12	35	153	35	37	34	27	21	17	24	16
23 Hawaii	12	36	20	19	27	18	14	12	4	6	6	27
24 Idaho	7	9	10	21	16	30	32	56	78	74	62	66
25 Illinois, Central	8	6	9	11	13	11	16	33	25	21	29	26
26 Illinois, Northern	15	19	14	19	36	63	75	92	106	77	60	47
27 Illinois, Southern	1	1	8	86	55	7	21	12	30	13	24	16
28 Indiana, Northern	0	1	6	2	8	4	1	3	1	4	18	9
29 Indiana, Southern	0	3	3	4	6	4	8	6	6	9	9	8
30 Iowa, Northern	7	117	16	12	27	33	44	59	82	80	71	129
31 Iowa, Southern	3	11	14	14	35	50	44	60	49	72	106	51
32 Kansas	14	4	14	15	30	40	47	50	59	99	95	161
33 Kentucky, Eastern	12	6	7	12	7	22	14	13	17	29	37	89
34 Kentucky, Western	1	6	7	2	8	12	13	15	16	15	11	8
35 Louisiana, Eastern	13	18	11	22	24	14	10	23	29	28	31	84
36 Louisiana, Middle	2	13	7	2	2	0	1	5	7	2	1	4
37 Louisiana, Western	4	8	3	14	4	1	0	12	11	20	16	14
38 Maine	6	4	5	4	10	5	15	12	15	14	29	20
39 Maryland	14	18	16	9	17	16	23	31	35	34	35	41
40 Massachusetts	21	14	25	20	24	33	45	38	34	29	25	47
41 Michigan, Eastern	10	15	12	11	15	23	17	27	52	50	43	47
42 Michigan, Western	8	12	4	22	17	41	32	38	43	51	53	56
43 Minnesota	7	13	10	8	13	24	13	28	14	16	21	24
44 Mississippi, Northern	3	15	2	7	1	11	3	1	3	4	3	2
45 Mississippi, Southern	5	9	2	7	8	11	10	15	17	16	27	31
46 Missouri, Eastern	1	2	7	7	9	11	13	43	42	34	15	2
47 Missouri, Western	7	3	1	1	2	8	19	31	54	32	39	38
48 Montana	5	13	23	26	22	23	14	22	39	31	56	39

10,584

9866

District	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
49 Nebraska	23	29	31	32	32	32	51	59	93	68	74	57
50 Nevada	8	16	26	124	160	146	177	232	223	127	123	110
51 New Hampshire	1	0	1	3	6	10	8	5	14	13	11	8
52 New Jersey	9	20	15	39	31	35	36	38	36	46	36	49
53 New Mexico	103	162	246	349	754	929	732	1,339	1,529	1,501	1,849	1,836
54 New York, Eastern	40	48	58	49	48	56	88	103	107	80	68	68
55 New York, Northern	61	47	63	199	283	248	217	160	160	226	197	129
56 New York, Southern	66	72	170	132	211	166	85	136	130	151	191	175
57 New York, Western	36	29	21	32	42	62	29	35	49	48	75	92
58 North Carolina, Eastern	1	2	1	11	6	2	14	23	22	48	33	33
59 North Carolina, Middle	0	2	22	25	29	37	42	31	39	70	61	39
60 North Carolina, Western	0	2	3	16	6	5	3	10	17	13	32	56
61 North Dakota	31	61	26	24	32	29	31	27	51	110	96	102
62 Northern Mariana Islands	0	0	1	0	11	0	1	2	0	13	0	1
63 Ohio, Northern	5	8	14	8	15	21	16	26	21	38	36	36
64 Ohio, Southern	1	6	13	6	16	14	2	6	8	14	14	15
65 Oklahoma, Eastern	1	0	0	0	0	2	0	1	0	1	3	0
66 Oklahoma, Northern	0	2	0	3	3	3	0	7	6	5	0	1
67 Oklahoma, Western	7	8	8	7	7	6	10	7	10	3	9	10
68 Oregon	186	237	211	249	285	258	282	207	247	194	172	211
69 Pennsylvania, Eastern	15	29	26	39	54	35	55	53	45	69	56	48
70 Pennsylvania, Middle	12	6	9	12	16	11	15	18	18	34	43	27
71 Pennsylvania, Western	1	2	0	1	2	2	6	7	6	21	34	57
72 Puerto Rico	92	52	33	41	89	84	108	77	67	151	117	118
73 Rhode Island	12	8	19	16	15	22	28	23	16	13	18	24
74 South Carolina	1	2	1	1	6	34	18	20	161	35	41	58
75 South Dakota	31	48	33	51	82	33	22	15	25	41	63	40
76 Tennessee, Eastern	14	2	3	3	5	7	22	49	90	40	20	25
77 Tennessee, Middle	2	1	4	4	7	9	17	18	26	27	25	20
78 Tennessee, Western	2	5	10	42	8	12	8	12	23	11	10	13
79 Texas, Eastern	5	10	14	33	55	68	37	50	58	69	70	80
80 Texas, Northern	93	62	106	171	171	183	155	167	268	201	171	161
81 Texas, Southern	299	520	565	1,093	1,363	1,553	1,868	2,182	2,921	3,783	4,418	3,796
82 Texas, Western	300	597	722	1,235	1,577	1,653	1,481	1,388	1,768	2,034	2,712	2,598
83 Utah	18	57	135	307	232	221	193	229	214	216	224	251
84 Vermont	10	12	11	8	9	5	12	14	17	32	34	20
85 Virgin Islands	367	234	136	261	381	580	412	297	156	233	44	62
86 Virginia, Eastern	47	60	42	60	40	36	56	62	105	117	93	114
87 Virginia, Western	0	2	3	4	3	3	6	7	6	4	4	4
88 Washington, Eastern	118	75	80	129	112	139	134	167	138	135	99	181
89 Washington, Western	54	27	47	79	114	51	40	29	45	82	109	98
90 West Virginia, Northern	0	0	0	0	0	0	2	1	1	1	6	4
91 West Virginia, Southern	0	0	0	0	1	3	1	0	1	0	1	2
92 Wisconsin, Eastern	3	3	4	3	2	3	2	13	33	37	26	21
93 Wisconsin, Western	0	0	0	0	1	1	1	9	10	10	12	11
94 Wyoming	2	5	4	14	26	14	11	12	25	19	17	41
All Districts	4,042	5,754	6,929	10,080	11,580	13,033	12,537	13,676	16,621	18,164	18,147	17,686

8054

17,100  
10,500

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

\*\*FY 2006 numbers are actual data through the end of September 2006

United States Attorneys--Criminal Caseload Statistics\*

Immigration

Defendants in Cases Filed - Fiscal Years 1995-2006\*\*

District	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006**
Alabama, Middle	0	0	2	3	0	1	1	0	2	7	24	20
Alabama, Northern	3	4	1	0	2	3	8	9	20	17	15	22
Alabama, Southern	0	0	1	0	0	2	2	4	1	12	15	31
Alaska	4	11	17	29	19	16	9	10	13	14	8	8
Arizona	238	466	658	1349	1735	1890	1978	2121	2383	2679	2112	2285
Arkansas, Eastern	1	8	1	3	4	16	6	16	20	25	28	46
Arkansas, Western	18	13	0	7	23	25	34	54	59	78	53	63
California, Central	204	168	235	338	311	291	263	395	311	868	659	368
California, Eastern	310	300	397	485	431	484	427	407	418	176	227	220
California, Northern	66	175	243	136	166	302	229	126	176	155	136	154
California, Southern	884	1425	1949	2093	1778	2223	1988	2059	2558	2632	1514	1680
Colorado	29	51	45	40	61	41	64	82	143	113	129	160
Connecticut	3	2	12	18	16	11	8	22	18	13	18	21
Delaware	3	6	4	5	3	9	4	6	15	13	17	13
District of Columbia	24	14	34	18	28	20	20	3	20	27	45	14
Florida, Middle	33	75	132	297	176	285	216	166	244	239	338	392
Florida, Northern	2	3	3	3	1	5	2	6	5	11	24	69
Florida, Southern	68	154	118	172	194	266	283	311	461	411	582	448
Georgia, Middle	5	6	5	5	3	4	7	6	7	11	3	9
Georgia, Northern	71	70	107	114	158	202	199	147	158	179	140	162
Georgia, Southern	0	5	4	6	4	15	11	8	6	0	12	25
Guam	40	24	57	173	89	46	52	34	22	20	33	25
Hawaii	18	47	20	21	36	24	15	15	4	7	6	35
Idaho	7	9	12	21	16	31	35	59	78	74	64	66
Illinois, Central	11	8	10	15	16	12	22	39	26	24	33	28
Illinois, Northern	42	25	22	27	41	69	110	102	123	85	72	53
Illinois, Southern	1	1	8	89	55	7	22	12	31	13	26	16
Indiana, Northern	0	1	6	2	8	4	2	5	1	4	23	14
Indiana, Southern	0	5	3	4	6	4	8	6	6	10	11	8
Iowa, Northern	7	119	17	13	27	33	44	59	82	82	74	135
Iowa, Southern	3	11	14	16	36	59	49	60	49	74	128	53
Kansas	17	5	14	20	33	42	57	50	71	105	98	168
Kentucky, Eastern	12	6	7	12	7	22	27	13	19	29	40	103
Kentucky, Western	1	8	9	2	9	13	15	16	21	20	16	11
Louisiana, Eastern	21	18	11	22	24	16	12	27	32	28	45	85
Louisiana, Middle	2	13	7	2	3	0	1	5	7	2	1	4
Louisiana, Western	4	8	4	14	4	1	0	12	14	26	19	15
Maine	6	5	5	4	11	6	16	12	15	14	33	20
Maryland	14	20	18	9	19	16	26	31	36	43	36	43
Massachusetts	21	14	31	20	27	33	45	38	34	31	25	51
Michigan, Eastern	13	17	19	11	17	152	17	42	58	58	46	70
Michigan, Western	13	12	7	22	17	41	32	39	43	52	53	58
Minnesota	9	13	12	11	14	27	13	38	14	18	24	24
Mississippi, Northern	3	15	2	7	1	11	3	1	3	4	3	2
Mississippi, Southern	6	10	2	7	8	11	10	15	17	16	27	37
Missouri, Eastern	1	2	8	7	9	12	15	46	43	36	15	2
Missouri, Western	7	3	1	1	3	8	23	33	56	35	44	48
Montana	5	16	27	29	22	23	14	26	45	34	63	41
Nebraska	23	30	34	35	32	36	60	63	93	68	83	59
Nevada	8	17	26	126	166	152	190	235	234	129	128	120

11580

10443

Alabama, Middle	0	0	2	3	0	1	1	0	2	7	24	20
Alabama, Northern	3	4	1	0	2	3	8	9	20	17	15	22
New Hampshire	1	0	1	3	7	10	8	6	15	13	11	8
New Jersey	9	41	16	55	47	35	36	42	36	47	37	51
New Mexico	122	196	304	371	783	964	754	1401	1568	1554	1894	1867
New York, Eastern	54	51	79	50	52	56	89	109	115	91	74	74
New York, Northern	77	54	91	220	340	279	226	167	167	240	208	138
New York, Southern	75	84	188	138	230	175	86	145	148	157	223	227
New York, Western	41	34	21	58	42	80	33	43	54	51	75	99
North Carolina, Eastern	1	2	1	11	9	4	14	23	24	51	39	37
North Carolina, Middle	0	2	24	26	30	37	43	31	39	81	62	40
North Carolina, Western	0	2	8	20	6	14	3	12	58	14	33	60
North Dakota	33	64	27	24	32	29	31	28	52	110	106	104
Northern Mariana Islands	0	0	1	0	39	0	2	5	0	32	0	14
Ohio, Northern	5	8	20	8	15	23	16	26	22	39	39	71
Ohio, Southern	1	6	13	6	19	15	2	6	8	14	16	20
Oklahoma, Eastern	2	0	0	0	0	3	0	1	0	1	3	0
Oklahoma, Northern	0	2	0	3	3	3	0	7	7	5	0	1
Oklahoma, Western	7	8	8	7	7	8	10	7	10	3	9	11
Oregon	192	237	211	251	286	258	285	209	247	195	173	211
Pennsylvania, Eastern	15	29	29	40	57	42	63	54	45	74	57	48
Pennsylvania, Middle	12	6	10	16	22	11	15	20	18	36	61	29
Pennsylvania, Western	2	2	0	1	2	2	8	7	6	22	34	61
Puerto Rico	121	66	45	57	94	86	128	86	73	173	124	132
Rhode Island	13	8	19	16	15	23	31	23	20	13	18	24
South Carolina	1	2	7	1	30	34	20	21	231	36	45	69
South Dakota	31	49	33	51	84	33	22	15	25	43	72	40
Tennessee, Eastern	14	2	3	3	5	7	23	56	90	41	20	25
Tennessee, Middle	2	1	4	4	7	10	20	27	29	27	32	20
Tennessee, Western	2	16	14	42	8	12	9	13	27	11	17	13
Texas, Eastern	5	16	14	34	55	70	37	63	67	73	82	81
Texas, Northern	123	69	119	197	227	194	167	196	278	240	200	175
Texas, Southern	389	699	694	1204	1551	1710	2050	2385	3147	4082	4782	4158
Texas, Western	333	675	779	1405	1740	1794	1617	1526	1903	2180	2847	2812
Utah	18	58	137	307	232	224	198	231	215	218	231	281
Vermont	12	13	17	9	12	6	14	20	28	45	49	25
Virgin Islands	404	236	136	265	386	584	420	299	165	239	56	63
Virginia, Eastern	59	63	48	67	45	39	59	65	132	124	108	134
Virginia, Western	0	2	5	8	3	3	6	7	6	4	4	4
Washington, Eastern	118	75	80	129	112	139	134	167	138	135	99	183
Washington, Western	54	33	49	79	117	60	42	29	49	84	123	118
West Virginia, Northern	0	0	0	0	0	0	2	1	1	1	6	4
West Virginia, Southern	0	0	0	0	1	3	1	0	1	0	1	2
Wisconsin, Eastern	3	3	4	3	2	3	2	13	36	43	30	23
Wisconsin, Western	0	0	0	0	1	1	1	9	11	10	12	12
Wyoming	2	5	4	14	26	14	12	13	27	20	17	42
All Districts	4634	6357	7644	11066	12650	14119	13433	14705	17653	19493	19497	19215

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

\*\*FY 2006 numbers are actual data through the end of September 2006

United States Attorneys—Criminal Caseload Statistics\*  
 Child Pornography/Abuse\*\*  
 Cases Filed - Fiscal Years 1995-2006\*\*\*

Listing Sorted: Alphabetically by District

District	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006***
1 Alabama, Middle	0	2	2	3	2	2	7	1	2	3	4	12
2 Alabama, Northern	6	5	4	8	11	10	17	14	16	4	5	17
3 Alabama, Southern	1	2	5	2	3	3	1	7	2	4	12	8
4 Alaska	0	0	0	3	1	4	6	2	3	9	4	4
5 Arizona	42	68	61	75	72	54	52	55	67	67	68	44
6 Arkansas, Eastern	1	2	4	0	8	3	3	4	3	10	13	8
7 Arkansas, Western	1	0	1	1	0	6	4	7	7	6	10	6
8 California, Central	4	8	7	13	25	18	20	19	39	35	55	34
9 California, Eastern	6	10	5	10	15	14	18	17	27	68	58	67
10 California, Northern	4	10	5	7	8	9	15	15	15	15	32	23
11 California, Southern	1	4	4	8	7	9	5	4	7	2	4	3
12 Colorado	1	1	5	3	2	12	6	14	17	21	16	10
13 Connecticut	2	8	7	6	7	7	12	4	12	11	12	17
14 Delaware	0	1	1	0	2	3	0	1	1	0	1	2
15 District of Columbia	0	0	2	0	2	0	3	5	9	5	5	10
16 Florida, Middle	0	12	5	20	26	31	27	26	31	44	34	44
17 Florida, Northern	1	2	5	4	7	8	3	6	7	8	5	14
18 Florida, Southern	5	8	13	16	19	32	17	19	17	27	37	35
19 Georgia, Middle	0	3	6	4	7	2	2	5	2	6	5	7
20 Georgia, Northern	1	1	6	4	8	4	14	19	24	22	32	26
21 Georgia, Southern	1	0	1	3	3	1	0	1	11	2	3	2
22 Guam	0	0	0	0	0	2	0	0	1	0	4	2
23 Hawaii	6	3	5	2	10	6	5	12	9	4	7	8
24 Idaho	7	4	6	7	8	6	7	11	17	5	13	15
25 Illinois, Central	1	1	5	3	8	5	6	16	10	20	11	14
26 Illinois, Northern	2	9	4	6	12	10	13	23	27	23	16	18
27 Illinois, Southern	0	1	0	2	2	1	3	6	7	4	6	12
28 Indiana, Northern	0	8	1	2	3	1	6	7	6	9	6	8
29 Indiana, Southern	0	3	8	7	10	7	3	9	9	16	16	12
30 Iowa, Northern	0	1	0	0	3	3	3	9	10	14	17	12
31 Iowa, Southern	0	2	1	3	4	5	5	8	8	11	18	20
32 Kansas	2	6	7	3	14	10	11	19	20	31	36	32
33 Kentucky, Eastern	3	3	1	3	2	2	12	10	12	24	17	22
34 Kentucky, Western	3	3	1	4	4	5	5	10	10	9	16	22
35 Louisiana, Eastern	3	0	5	4	1	1	3	2	3	2	4	5
36 Louisiana, Middle	1	1	0	3	1	0	1	1	2	4	3	2
37 Louisiana, Western	1	8	5	2	4	9	11	12	18	18	12	22
38 Maine	1	0	2	3	13	16	15	8	4	0	0	1
39 Maryland	9	9	8	15	21	21	20	14	15	16	20	16
40 Massachusetts	5	3	11	9	11	12	8	17	11	9	14	19
41 Michigan, Eastern	2	3	4	11	6	6	4	12	8	12	15	24
42 Michigan, Western	0	7	9	7	8	6	11	7	14	10	22	19
43 Minnesota	5	6	10	3	11	7	14	7	10	9	18	9
44 Mississippi, Northern	2	1	2	2	2	5	3	1	2	7	13	6
45 Mississippi, Southern	3	1	9	4	10	6	3	9	3	5	7	13
46 Missouri, Eastern	2	3	6	8	11	13	24	17	16	19	28	25
47 Missouri, Western	1	1	3	6	4	7	10	13	13	30	47	18
48 Montana	23	18	18	17	17	39	24	30	42	15	53	42
49 Nebraska	4	3	6	4	2	7	7	5	8	8	4	12
50 Nevada	5	7	2	8	6	4	9	18	22	20	24	15

District	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006***
51 New Hampshire	3	3	14	15	4	4	0	2	5	4	7	2
52 New Jersey	12	14	20	12	10	14	18	15	22	25	42	39
53 New Mexico	20	43	30	37	37	46	41	44	39	7	48	35
54 New York, Eastern	2	1	7	6	13	9	12	39	21	17	20	19
55 New York, Northern	2	7	5	13	12	14	14	16	12	15	10	36
56 New York, Southern	1	5	6	5	8	4	6	34	17	15	19	15
57 New York, Western	2	6	11	5	6	6	6	10	12	18	29	37
58 North Carolina, Eastern	0	6	4	7	4	12	8	10	8	11	11	7
59 North Carolina, Middle	0	4	1	3	5	6	9	5	6	7	9	6
60 North Carolina, Western	6	9	6	11	7	7	21	6	5	13	16	23
61 North Dakota	6	12	5	17	18	16	7	9	19	7	27	17
62 Northern Mariana Islands	0	0	0	0	0	0	0	0	0	1	0	0
63 Ohio, Northern	6	2	5	9	2	13	13	11	27	16	35	23
64 Ohio, Southern	2	5	5	5	7	5	1	12	5	6	19	33
65 Oklahoma, Eastern	4	0	2	3	1	4	6	7	3	5	3	1
66 Oklahoma, Northern	1	2	3	4	12	10	2	8	10	4	6	3
67 Oklahoma, Western	2	4	1	3	19	8	17	15	18	16	7	10
68 Oregon	2	3	4	10	4	11	11	9	37	10	21	28
69 Pennsylvania, Eastern	1	1	10	4	9	6	2	6	7	10	18	16
70 Pennsylvania, Middle	4	2	4	6	9	6	11	9	9	23	20	24
71 Pennsylvania, Western	3	10	2	4	5	5	5	12	12	11	24	27
72 Puerto Rico	0	1	2	2	2	1	2	4	18	7	5	15
73 Rhode Island	2	2	0	0	3	2	6	1	0	1	1	1
74 South Carolina	6	7	2	4	13	14	9	18	21	24	29	20
75 South Dakota	37	36	50	62	44	40	43	41	42	8	29	38
76 Tennessee, Eastern	2	5	5	9	6	5	3	10	9	10	6	12
77 Tennessee, Middle	1	3	1	1	3	3	3	5	1	3	12	6
78 Tennessee, Western	2	0	3	6	4	3	9	15	7	22	18	18
79 Texas, Eastern	2	7	6	5	9	10	10	12	25	31	18	22
80 Texas, Northern	0	5	10	7	9	17	11	10	17	32	20	23
81 Texas, Southern	5	7	6	10	30	37	38	22	22	14	20	25
82 Texas, Western	2	13	6	14	8	14	21	22	28	28	31	37
83 Utah	14	11	14	16	19	12	15	19	19	9	15	31
84 Vermont	0	0	4	1	3	4	4	4	6	4	0	0
85 Virgin Islands	0	0	0	0	0	0	0	0	1	2	0	1
86 Virginia, Eastern	5	8	11	16	25	25	24	29	21	13	24	36
87 Virginia, Western	0	2	2	5	2	5	3	5	7	9	9	12
88 Washington, Eastern	3	7	4	7	9	6	11	13	11	9	19	14
89 Washington, Western	7	8	19	18	11	9	9	14	28	22	22	17
90 West Virginia, Northern	0	2	0	0	1	1	2	6	5	6	8	10
91 West Virginia, Southern	2	1	0	1	1	5	6	5	4	3	1	4
92 Wisconsin, Eastern	3	5	3	5	4	4	3	2	3	14	9	11
93 Wisconsin, Western	1	3	1	3	4	9	7	1	1	4	4	7
94 Wyoming	3	6	1	2	3	7	11	24	15	5	3	2
All Districts	344	540	583	711	848	893	938	1,119	1,261	1,244	1,576	1,601

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

\*\*This chart includes data on any and all criminal cases/defendants where selected child pornography abuse statutes were brought as any charge against the defendant. However, the statutes were run together to eliminate any double counting of cases or defendants when more than one of the statutes was brought against the same defendant. See attached list for specific statutes included in the data.

\*\*\*FY 2006 numbers are actual data through the end of September 2006

09-Nov-08

DAG000000189



United States Attorneys--Criminal Caseload Statistics\*  
 Child Pornography/Abuse\*\*  
 Defendants in Cases Filed - Fiscal Years 1995-2006\*\*\*

Listing Sorted: Alphabetically by District

District	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2000	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006***
1 Alabama, Middle	0	2	2	3	2	2	8	1	2	3	4	12
2 Alabama, Northern	6	10	4	8	11	10	17	15	16	4	5	18
3 Alabama, Southern	1	2	5	2	3	3	2	7	2	4	12	8
4 Alaska	0	0	0	3	1	4	8	2	4	9	4	4
5 Arizona	43	72	61	76	72	55	55	55	70	68	71	44
6 Arkansas, Eastern	1	2	4	0	9	3	3	4	3	10	14	9
7 Arkansas, Western	1	0	1	1	0	7	4	7	7	6	10	7
8 California, Central	5	9	8	13	27	18	20	19	39	35	58	34
9 California, Eastern	7	12	22	10	15	14	18	32	33	68	59	67
10 California, Northern	4	25	6	13	8	10	17	15	15	15	32	23
11 California, Southern	1	4	4	8	7	9	6	4	7	2	6	3
12 Colorado	1	1	6	3	2	12	6	14	17	21	16	10
13 Connecticut	2	8	7	6	7	7	12	4	12	11	12	18
14 Delaware	0	1	1	0	2	3	0	1	1	0	1	2
15 District of Columbia	0	0	4	0	2	0	3	5	9	6	5	10
16 Florida, Middle	0	13	5	20	26	33	27	26	31	46	34	45
17 Florida, Northern	1	2	6	4	7	8	5	6	7	8	5	14
18 Florida, Southern	5	8	13	21	19	34	17	31	17	29	38	35
19 Georgia, Middle	0	5	6	4	7	2	2	6	2	6	5	7
20 Georgia, Northern	1	1	6	5	8	4	28	19	27	23	32	26
21 Georgia, Southern	1	0	1	3	3	1	0	1	11	2	3	2
22 Guam	0	0	0	0	0	2	0	0	1	0	4	2
23 Hawaii	10	3	6	2	11	7	5	12	9	4	7	8
24 Idaho	7	4	7	7	8	6	7	11	17	5	14	15
25 Illinois, Central	1	1	5	3	8	6	6	16	10	21	11	19
26 Illinois, Northern	2	9	4	6	12	10	13	23	27	23	17	21
27 Illinois, Southern	0	1	0	2	2	1	3	6	8	4	6	12
28 Indiana, Northern	0	8	2	2	3	1	6	7	6	9	6	12
29 Indiana, Southern	0	3	8	7	11	7	3	9	9	16	16	12
30 Iowa, Northern	0	1	0	0	3	3	3	9	10	14	19	12
31 Iowa, Southern	0	2	1	3	4	5	5	9	9	11	18	20
32 Kansas	2	6	9	3	16	10	11	19	20	31	36	32
33 Kentucky, Eastern	3	3	1	3	2	2	12	10	12	24	17	22
34 Kentucky, Western	3	3	1	4	4	5	5	19	10	10	16	22
35 Louisiana, Eastern	3	0	5	4	1	1	3	2	3	2	4	5
36 Louisiana, Middle	1	1	0	3	1	0	1	1	2	4	3	2
37 Louisiana, Western	1	8	8	2	4	9	11	12	18	20	12	24
38 Maine	1	0	2	3	13	16	15	8	4	0	0	1
39 Maryland	9	10	9	15	21	21	20	14	15	16	21	16
40 Massachusetts	7	3	12	9	12	12	8	17	11	9	15	20
41 Michigan, Eastern	2	4	4	11	10	6	4	13	8	12	16	27
42 Michigan, Western	0	7	10	7	8	6	11	7	14	10	23	19
43 Minnesota	5	6	10	3	11	7	14	8	10	9	18	9
44 Mississippi, Northern	3	1	3	2	2	5	3	1	3	8	13	6
45 Mississippi, Southern	3	1	9	4	11	6	3	9	3	5	7	13
46 Missouri, Eastern	2	3	6	8	25	27	25	17	18	19	28	25
47 Missouri, Western	1	1	3	6	6	7	10	15	13	30	47	18
48 Montana	25	20	18	17	17	51	25	32	42	15	55	44
49 Nebraska	4	3	6	4	2	7	7	5	9	8	4	12
50 Nevada	5	11	2	8	6	4	9	18	24	20	25	15

District	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2000	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006***
51 New Hampshire	3	4	15	15	4	4	0	2	5	4	7	2
52 New Jersey	13	16	20	12	10	14	18	15	22	25	46	46
53 New Mexico	20	43	31	39	37	46	42	44	39	7	48	37
54 New York, Eastern	2	1	7	7	14	10	12	41	22	18	20	19
55 New York, Northern	2	7	5	13	12	14	14	17	12	15	10	36
56 New York, Southern	2	5	6	5	9	4	6	35	17	15	20	15
57 New York, Western	2	11	13	6	6	6	6	10	12	18	29	37
58 North Carolina, Eastern	0	6	4	7	4	13	8	11	8	11	11	7
59 North Carolina, Middle	0	4	1	3	5	6	9	5	6	10	9	6
60 North Carolina, Western	6	9	6	11	7	7	22	6	5	14	16	24
61 North Dakota	6	12	5	18	18	16	7	9	19	7	28	17
62 Northern Mariana Islands	0	0	0	0	0	0	0	0	0	1	0	0
63 Ohio, Northern	6	3	5	9	2	13	13	11	30	16	35	23
64 Ohio, Southern	2	5	5	5	7	5	1	12	5	6	19	34
65 Oklahoma, Eastern	4	0	2	3	2	4	6	7	3	5	3	1
66 Oklahoma, Northern	1	2	3	4	12	13	2	8	10	4	6	3
67 Oklahoma, Western	2	7	1	3	20	8	17	15	20	18	10	10
68 Oregon	2	4	4	11	4	11	13	9	38	10	21	28
69 Pennsylvania, Eastern	1	1	10	4	9	6	2	7	7	11	18	16
70 Pennsylvania, Middle	4	2	4	6	9	6	12	9	9	25	21	38
71 Pennsylvania, Western	3	11	2	4	5	5	5	12	14	11	26	27
72 Puerto Rico	0	1	2	2	2	1	2	4	18	7	5	15
73 Rhode Island	2	2	0	0	3	2	6	2	0	1	1	1
74 South Carolina	6	7	2	5	13	15	9	18	21	25	29	21
75 South Dakota	39	36	52	64	50	40	44	41	47	8	29	38
76 Tennessee, Eastern	2	5	5	9	6	5	3	10	9	10	6	12
77 Tennessee, Middle	1	3	1	1	3	3	3	5	1	3	12	6
78 Tennessee, Western	3	0	3	6	5	3	9	15	7	24	20	18
79 Texas, Eastern	2	24	7	5	9	10	11	12	25	31	19	22
80 Texas, Northern	0	6	14	7	10	22	12	14	17	33	20	23
81 Texas, Southern	5	7	7	10	32	39	40	32	22	14	20	25
82 Texas, Western	3	14	6	16	8	16	21	28	30	29	31	37
83 Utah	14	11	14	17	19	12	15	22	19	12	15	32
84 Vermont	0	0	4	1	3	4	4	4	6	4	0	0
85 Virgin Islands	2	0	0	0	0	0	0	0	3	2	0	1
86 Virginia, Eastern	6	9	11	16	25	25	28	29	21	13	25	37
87 Virginia, Western	0	2	2	5	2	5	4	5	7	9	9	13
88 Washington, Eastern	3	7	4	7	9	6	11	13	11	9	19	14
89 Washington, Western	7	8	19	19	11	9	9	16	29	22	24	18
90 West Virginia, Northern	0	3	0	0	1	1	2	6	5	6	8	10
91 West Virginia, Southern	2	1	0	1	1	5	6	5	4	3	1	4
92 Wisconsin, Eastern	3	5	3	5	4	4	3	2	3	17	9	11
93 Wisconsin, Western	1	6	1	3	4	9	7	1	1	4	4	7
94 Wyoming	4	7	1	2	3	7	11	27	15	5	3	4
All Districts	366	617	630	737	891	943	981	1,199	1,301	1,277	1,616	1,658

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

\*\*This chart includes data on any and all criminal cases defendants where selected child pornography abuse statutes were brought as any charge against the defendant. However, the statutes were run together to eliminate any double counting of cases or defendants when more than one of the statutes was brought against the same defendant. See attached list for specific statutes included in the data.

\*\*\*FY 2006 numbers are actual data through the end of September 2006

09-Nov-06

DAG000000191

## United States Attorneys—Criminal Caseload Statistics\*

18 U.S.C. 922, 924\*\*

Cases Filed - Fiscal Years 1995-2006\*\*\*

Listing Sorted: Alphabetically by District

District	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1 Alabama, Middle	21	19	13	15	8	15	20	31	92	83	114	89
2 Alabama, Northern	25	32	26	34	48	98	136	186	218	171	165	218
3 Alabama, Southern	39	21	22	29	33	46	48	81	87	82	109	80
4 Alaska	10	4	13	9	17	18	18	21	33	35	30	34
5 Arizona	86	90	36	110	117	137	154	165	227	230	268	223
6 Arkansas, Eastern	36	47	30	36	27	26	28	53	59	70	107	122
7 Arkansas, Western	12	13	12	6	13	11	18	13	19	23	32	25
8 California, Central	109	103	74	65	70	88	147	154	108	144	131	108
9 California, Eastern	57	66	48	28	46	48	55	70	78	119	126	97
10 California, Northern	33	50	37	43	119	120	96	89	114	92	102	75
11 California, Southern	40	24	28	25	17	16	19	24	17	18	12	17
12 Colorado	66	59	38	36	44	109	110	108	146	149	132	90
13 Connecticut	36	40	41	27	43	44	53	55	58	71	59	50
14 Delaware	14	13	18	20	10	6	13	67	41	41	29	32
15 District of Columbia	45	104	141	107	133	136	165	190	246	271	170	85
16 Florida, Middle	125	90	119	92	93	96	93	128	162	179	179	182
17 Florida, Northern	57	62	51	45	61	53	66	64	93	67	77	86
18 Florida, Southern	163	146	143	153	131	120	162	156	167	159	152	158
19 Georgia, Middle	31	14	25	18	19	29	70	42	64	63	96	85
20 Georgia, Northern	111	103	83	49	108	115	135	105	167	188	129	144
21 Georgia, Southern	15	17	14	30	30	42	75	77	89	100	107	128
22 Guam	14	13	19	13	7	8	8	15	8	2	9	13
23 Hawaii	21	7	8	23	12	10	11	31	86	84	66	45
24 Idaho	18	10	12	17	10	12	16	43	58	46	52	31
25 Illinois, Central	42	32	24	42	38	47	38	53	63	67	63	74
26 Illinois, Northern	27	23	33	28	43	46	45	103	104	105	114	90
27 Illinois, Southern	63	38	19	43	42	61	34	48	85	41	68	57
28 Indiana, Northern	31	22	43	44	81	117	116	127	111	120	171	131
29 Indiana, Southern	46	30	29	25	49	24	27	48	61	60	59	55
30 Iowa, Northern	27	23	36	25	32	73	81	58	94	65	83	102
31 Iowa, Southern	32	28	19	32	41	47	27	53	76	89	91	93
32 Kansas	82	42	54	66	73	101	93	103	147	186	135	183
33 Kentucky, Eastern	39	36	27	43	71	64	84	96	114	115	127	139
34 Kentucky, Western	34	24	24	32	36	38	89	83	86	74	87	84
35 Louisiana, Eastern	40	29	33	23	74	74	68	91	98	92	80	60
36 Louisiana, Middle	13	5	8	16	92	65	46	47	61	58	88	74
37 Louisiana, Western	39	27	17	17	25	26	39	50	82	124	93	98
38 Maine	17	23	45	32	41	48	33	62	69	76	58	66
39 Maryland	100	105	111	118	154	229	197	137	175	176	164	165
40 Massachusetts	80	65	27	47	51	35	56	81	90	72	75	55
41 Michigan, Eastern	141	102	89	147	127	86	127	216	252	171	148	102
42 Michigan, Western	16	17	28	13	31	42	58	80	99	72	109	73
43 Minnesota	31	30	42	50	47	55	41	34	65	71	62	87
44 Mississippi, Northern	26	21	8	8	16	22	31	35	24	61	30	43
45 Mississippi, Southern	33	14	11	34	22	77	61	63	96	80	69	109
46 Missouri, Eastern	91	68	83	99	116	121	119	152	256	255	248	245
47 Missouri, Western	56	40	50	46	60	171	184	222	306	323	341	335
48 Montana	28	38	27	18	28	34	36	55	95	84	86	80
49 Nebraska	22	23	23	46	32	35	54	95	166	157	171	153

DAG00000192

District	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
50 Nevada	39	24	30	61	71	74	72	168	192	171	138	109
51 New Hampshire	7	9	10	6	16	14	12	13	28	46	37	41
52 New Jersey	55	34	51	52	88	108	60	83	96	86	96	132
53 New Mexico	52	50	28	47	61	72	101	103	96	123	164	95
54 New York, Eastern	96	74	79	67	79	75	96	133	129	143	83	101
55 New York, Northern	19	10	10	18	15	20	38	40	42	40	51	57
56 New York, Southern	90	109	104	114	128	122	108	177	234	246	185	160
57 New York, Western	34	30	25	30	86	91	101	107	125	153	110	147
58 North Carolina, Eastern	48	31	24	57	52	84	108	155	282	272	250	237
59 North Carolina, Middle	53	35	35	43	79	104	108	117	154	187	161	166
60 North Carolina, Western	71	37	52	56	74	107	82	90	98	220	248	237
61 North Dakota	15	24	22	26	29	29	22	44	34	29	47	42
62 Northern Mariana Islands	1	3	1	0	6	2	0	6	2	0	1	0
63 Ohio, Northern	96	76	34	60	59	81	84	116	134	153	190	143
64 Ohio, Southern	56	33	18	32	34	50	52	71	99	128	156	160
65 Oklahoma, Eastern	11	10	9	6	13	21	23	21	45	50	29	13
66 Oklahoma, Northern	38	24	23	24	28	32	29	48	53	62	86	90
67 Oklahoma, Western	26	27	26	29	30	36	32	41	69	41	37	62
68 Oregon	75	47	52	108	126	103	92	132	150	152	134	99
69 Pennsylvania, Eastern	123	81	87	80	210	165	183	215	223	250	231	182
70 Pennsylvania, Middle	49	26	23	20	35	39	40	42	49	101	64	68
71 Pennsylvania, Western	29	24	16	20	13	36	49	50	41	111	99	115
72 Puerto Rico	33	44	26	16	41	23	38	35	35	48	36	114
73 Rhode Island	21	15	14	18	24	17	20	29	36	36	37	26
74 South Carolina	123	90	85	110	133	89	144	268	243	242	283	307
75 South Dakota	24	27	25	18	22	27	26	30	28	33	31	34
76 Tennessee, Eastern	78	41	57	70	77	105	172	145	181	215	210	178
77 Tennessee, Middle	12	12	21	29	31	38	37	60	94	66	92	79
78 Tennessee, Western	55	39	40	38	86	46	84	194	233	283	192	205
79 Texas, Eastern	66	50	62	60	61	84	100	101	147	150	211	219
80 Texas, Northern	86	77	70	119	100	176	154	126	158	182	214	187
81 Texas, Southern	96	65	65	115	138	199	292	176	193	252	223	200
82 Texas, Western	107	107	57	129	127	161	150	190	248	280	285	312
83 Utah	29	27	32	34	61	90	185	224	337	274	208	183
84 Vermont	12	12	13	12	12	18	37	28	29	43	33	34
85 Virgin Islands	28	21	5	13	26	19	15	16	4	20	12	7
86 Virginia, Eastern	81	70	166	312	297	263	292	260	311	291	271	299
87 Virginia, Western	60	43	44	53	91	68	75	129	173	160	171	131
88 Washington, Eastern	71	54	48	28	37	48	38	88	92	74	82	75
89 Washington, Western	42	38	32	35	35	27	20	43	60	64	89	91
90 West Virginia, Northern	19	25	18	17	22	32	21	54	51	49	65	55
91 West Virginia, Southern	38	20	35	25	43	51	45	73	61	72	47	51
92 Wisconsin, Eastern	37	25	39	21	31	57	70	65	56	90	87	81
93 Wisconsin, Western	11	5	13	4	6	13	13	24	28	38	32	43
94 Wyoming	12	16	16	35	29	24	21	44	71	60	60	88
All Districts	4,564	3,793	3,703	4,391	5,500	6,281	7,041	8,534	10,556	11,067	10,841	10,425

\*Caseload data extracted from the United States Attorney's Case Management System

\*\*Includes any and all criminal cases where 18 U.S.C. 922 or 924 was brought as any charge against a defendant. However, both statutes were run together to eliminate any double counting of cases/defendants when more than one subsection of Section 922 or 924 was charged against the same defendant, or both Sections 922 and 924 were charged against the same defendant.

09-Nov-06

\*\*\*FY 2006 numbers are actual data through the end of September 2006

United States Attorneys—Criminal Caseload Statistics\*  
18 U.S.C. 922, 924\*\*  
Defendants in Cases Filed - Fiscal Years 1995-2006\*\*\*

Listing Sorted: Alphabetically by District

District	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1 Alabama, Middle	33	31	18	26	10	21	30	40	103	86	119	100
2 Alabama, Northern	38	45	32	37	63	104	146	203	234	190	172	236
3 Alabama, Southern	61	27	27	45	40	65	69	105	96	93	<u>129</u>	<u>91</u>
4 Alaska	14	4	16	12	18	29	22	37	45	41	<u>33</u>	38
5 Arizona	115	140	45	156	167	211	193	243	302	283	376	263
6 Arkansas, Eastern	44	66	49	62	35	30	38	61	72	81	131	138
7 Arkansas, Western	13	21	12	9	14	11	18	14	20	23	36	25
8 California, Central	146	172	145	116	116	147	219	213	141	198	183	173
9 California, Eastern	97	102	77	43	66	78	84	109	116	129	154	123
10 California, Northern	41	118	46	64	163	143	123	118	139	93	118	79
11 California, Southern	66	38	38	36	24	29	25	30	23	18	<u>14</u>	20
12 Colorado	82	71	59	52	60	139	129	116	157	158	146	104
13 Connecticut	47	52	46	35	51	51	64	64	60	76	66	64
14 Delaware	15	21	21	23	12	8	13	73	42	42	30	34
15 District of Columbia	64	129	153	118	161	157	202	224	282	291	197	94
16 Florida, Middle	163	121	154	115	115	126	129	155	207	196	198	206
17 Florida, Northern	72	76	62	69	78	63	80	81	110	72	88	105
18 Florida, Southern	202	170	196	202	182	174	231	228	228	230	221	224
19 Georgia, Middle	45	21	44	26	28	36	96	53	81	70	103	99
20 Georgia, Northern	135	142	109	69	156	159	196	157	268	260	197	207
21 Georgia, Southern	24	33	22	49	45	54	93	95	111	114	129	158
22 Guam	14	13	20	15	7	8	9	19	8	2	11	13
23 Hawaii	23	8	12	28	19	12	14	35	97	87	72	47
24 Idaho	24	13	15	23	17	12	26	60	65	48	62	34
25 Illinois, Central	46	34	25	43	46	55	39	58	69	71	64	88
26 Illinois, Northern	72	33	54	35	58	65	63	149	137	144	164	131
27 Illinois, Southern	82	41	22	47	47	74	46	58	106	48	71	61
28 Indiana, Northern	34	25	56	69	106	139	133	145	143	137	207	144
29 Indiana, Southern	59	33	42	30	58	27	34	58	65	68	67	65
30 Iowa, Northern	37	29	48	29	37	82	96	63	112	74	85	120
31 Iowa, Southern	51	44	23	43	58	63	47	64	89	99	97	107
32 Kansas	101	57	73	93	93	124	105	123	171	233	157	214
33 Kentucky, Eastern	49	42	32	59	105	115	134	121	151	141	155	157
34 Kentucky, Western	41	41	34	51	41	49	104	97	112	82	112	101
35 Louisiana, Eastern	60	35	44	46	92	83	75	100	119	102	85	64
36 Louisiana, Middle	17	5	10	17	93	70	48	50	65	59	89	78
37 Louisiana, Western	50	42	27	20	34	27	45	65	96	138	108	113
38 Maine	20	24	48	35	48	50	36	67	75	81	59	67
39 Maryland	126	142	137	147	173	245	224	171	206	223	195	191
40 Massachusetts	103	87	51	63	59	63	65	102	114	98	92	59
41 Michigan, Eastern	286	168	115	189	154	111	149	261	282	193	184	129
42 Michigan, Western	19	19	36	17	42	48	66	87	110	79	120	85
43 Minnesota	45	49	59	65	53	67	44	43	81	78	76	117
44 Mississippi, Northern	37	28	10	8	23	30	42	49	35	66	33	46
45 Mississippi, Southern	41	17	13	45	25	93	74	79	112	85	71	112
46 Missouri, Eastern	110	81	92	112	121	128	127	170	283	269	265	257
47 Missouri, Western	81	56	59	51	81	200	203	255	330	352	373	361
48 Montana	35	64	49	37	61	64	43	65	107	104	99	86
49 Nebraska	35	29	39	54	41	41	63	111	191	168	196	167

District	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
50 Nevada	56	34	34	85	95	83	82	178	218	219	143	116
51 New Hampshire	8	15	14	6	17	15	12	13	30	48	37	48
52 New Jersey	63	41	65	59	89	118	66	88	99	91	111	144
53 New Mexico	70	83	36	57	77	85	117	117	114	133	178	102
54 New York, Eastern	252	166	163	179	177	164	183	256	189	229	238	199
55 New York, Northern	37	17	14	21	15	35	53	54	61	49	61	64
56 New York, Southern	172	248	175	190	187	180	153	243	328	333	292	265
57 New York, Western	35	35	31	32	98	104	114	121	146	171	130	161
58 North Carolina, Eastern	92	64	40	108	86	141	129	191	334	314	287	268
59 North Carolina, Middle	77	42	46	58	93	148	128	148	164	206	174	201
60 North Carolina, Western	146	64	81	78	97	170	142	131	159	264	304	342
61 North Dakota	28	32	23	31	44	30	26	55	37	36	54	45
62 Northern Mariana Islands	1	3	3	0	6	2	0	7	2	0	1	0
63 Ohio, Northern	127	88	43	73	69	91	101	138	175	165	218	162
64 Ohio, Southern	106	56	25	56	45	67	66	83	110	139	183	176
65 Oklahoma, Eastern	13	16	11	7	15	27	28	26	51	59	32	16
66 Oklahoma, Northern	51	32	32	32	40	36	36	53	56	66	100	98
67 Oklahoma, Western	33	62	52	40	42	49	36	48	90	49	43	70
68 Oregon	89	54	69	120	144	111	101	149	164	159	146	111
69 Pennsylvania, Eastern	165	113	130	120	263	221	232	283	305	310	296	238
70 Pennsylvania, Middle	62	33	30	22	46	53	57	56	76	141	90	88
71 Pennsylvania, Western	43	24	18	21	15	44	58	66	43	119	105	121
72 Puerto Rico	145	148	164	28	107	54	126	71	142	80	84	216
73 Rhode Island	36	15	14	20	26	20	23	30	39	36	40	27
74 South Carolina	238	129	144	169	176	140	191	345	346	302	379	382
75 South Dakota	27	34	26	22	23	33	31	31	31	37	44	42
76 Tennessee, Eastern	102	50	68	85	84	127	200	186	238	244	249	196
77 Tennessee, Middle	16	15	25	33	42	54	49	95	118	87	115	90
78 Tennessee, Western	76	40	54	57	113	68	113	212	263	322	213	229
79 Texas, Eastern	101	67	90	87	76	102	135	124	215	179	259	293
80 Texas, Northern	131	94	94	150	117	213	200	178	203	216	258	235
81 Texas, Southern	155	99	86	144	150	220	318	196	223	279	262	244
82 Texas, Western	148	134	75	146	146	192	183	224	327	334	347	352
83 Utah	35	38	37	40	72	99	202	250	376	304	232	192
84 Vermont	16	15	19	14	14	22	47	38	37	52	39	40
85 Virgin Islands	40	27	8	15	33	32	16	23	4	25	13	12
86 Virginia, Eastern	111	114	199	353	358	350	357	339	459	387	357	384
87 Virginia, Western	70	72	74	71	127	88	103	195	229	215	215	160
88 Washington, Eastern	71	54	48	28	37	48	38	88	92	74	83	78
89 Washington, Western	54	50	36	45	46	34	25	50	75	68	107	110
90 West Virginia, Northern	22	33	22	18	26	40	42	64	62	51	84	62
91 West Virginia, Southern	55	21	39	33	50	61	51	81	68	75	47	53
92 Wisconsin, Eastern	48	34	41	46	37	62	79	82	64	100	97	109
93 Wisconsin, Western	11	5	16	4	6	13	18	26	29	38	32	44
94 Wyoming	18	20	20	38	35	28	24	58	78	84	74	99
All Districts	6,667	5,489	5,150	5,876	7,057	8,054	8,845	10,634	13,037	12,962	13,062	12,479

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

09-Nov-06

\*\*Includes any and all criminal cases where 18 U.S.C. 922 or 924 was brought as any charge against a defendant. However, both statutes were run together to eliminate any double counting of cases/defendants when more than one subsection of Section 922 or 924 was charged against the same defendant, or both Sections 922 and 924 were charged against the same defendant.

\*\*\*FY 2006 numbers are actual data through the end of September 2006

DAG00000195

United States Attorneys--Criminal Caseload Statistics\*  
Corporate Fraud\*\*  
Cases Filed - Fiscal Years 2003-2006\*\*\*

Listing Sorted: Alphabetically by District

District	FY 2003	FY 2004	FY 2005	FY 2006***
1 Alabama, Middle	0	0	1	1
2 Alabama, Northern	16	10	2	0
3 Alabama, Southern	0	0	0	0
4 Alaska	0	0	0	0
5 Arizona	0	0	0	0
6 Arkansas, Eastern	0	0	0	0
7 Arkansas, Western	0	0	0	5
8 California, Central	13	4	7	5
9 California, Eastern	0	3	0	0
10 California, Northern	7	6	1	4
11 California, Southern	7	2	9	5
12 Colorado	2	3	2	1
13 Connecticut	8	7	8	4
14 Delaware	0	0	0	2
15 District of Columbia	0	1	1	2
16 Florida, Middle	0	1	0	0
17 Florida, Northern	0	0	0	0
18 Florida, Southern	0	11	9	3
19 Georgia, Middle	0	0	0	0
20 Georgia, Northern	0	2	9	4
21 Georgia, Southern	1	0	0	0
22 Guam	0	0	0	0
23 Hawaii	0	0	0	0
24 Idaho	0	0	0	0
25 Illinois, Central	0	2	0	0
26 Illinois, Northern	4	2	4	1
27 Illinois, Southern	1	0	1	1
28 Indiana, Northern	1	0	0	0
29 Indiana, Southern	0	0	0	1
30 Iowa, Northern	0	0	0	0
31 Iowa, Southern	0	0	1	0
32 Kansas	1	1	0	0
33 Kentucky, Eastern	0	0	0	0
34 Kentucky, Western	0	0	0	3
35 Louisiana, Eastern	0	0	0	0
36 Louisiana, Middle	0	0	0	1
37 Louisiana, Western	1	0	0	0
38 Maine	1	1	0	0
39 Maryland	1	1	1	1
40 Massachusetts	1	0	1	2
41 Michigan, Eastern	2	0	1	0
42 Michigan, Western	0	0	0	1
43 Minnesota	5	8	6	4
44 Mississippi, Northern	0	0	0	0
45 Mississippi, Southern	0	0	1	0
46 Missouri, Eastern	1	0	0	0
47 Missouri, Western	0	0	0	0
48 Montana	0	0	0	0
49 Nebraska	2	2	2	0
50 Nevada	0	0	0	0

District	FY 2003	FY 2004	FY 2005	FY 2006***
51 New Hampshire	3	3	2	0
52 New Jersey	6	2	2	4
53 New Mexico	0	0	0	0
54 New York, Eastern	8	19	3	3
55 New York, Northern	0	0	0	1
56 New York, Southern	8	12	2	3
57 New York, Western	0	2	3	1
58 North Carolina, Eastern	3	2	3	2
59 North Carolina, Middle	0	1	0	0
60 North Carolina, Western	1	3	3	3
61 North Dakota	0	0	0	0
62 Northern Mariana Islands	0	0	0	0
63 Ohio, Northern	0	13	10	6
64 Ohio, Southern	2	2	1	1
65 Oklahoma, Eastern	0	0	0	0
66 Oklahoma, Northern	2	0	1	1
67 Oklahoma, Western	0	1	0	0
68 Oregon	1	5	3	1
69 Pennsylvania, Eastern	6	1	2	1
70 Pennsylvania, Middle	0	0	0	1
71 Pennsylvania, Western	3	0	0	0
72 Puerto Rico	0	0	0	0
73 Rhode Island	2	1	3	1
74 South Carolina	0	1	4	2
75 South Dakota	0	0	0	0
76 Tennessee, Eastern	3	0	0	0
77 Tennessee, Middle	3	1	3	3
78 Tennessee, Western	0	1	0	0
79 Texas, Eastern	0	0	0	2
80 Texas, Northern	1	2	0	1
81 Texas, Southern	2	1	1	1
82 Texas, Western	0	0	1	0
83 Utah	3	0	1	1
84 Vermont	2	0	1	0
85 Virgin Islands	0	0	0	0
86 Virginia, Eastern	2	2	2	0
87 Virginia, Western	0	2	0	0
88 Washington, Eastern	0	0	0	0
89 Washington, Western	4	6	4	3
90 West Virginia, Northern	0	0	0	0
91 West Virginia, Southern	1	1	1	0
92 Wisconsin, Eastern	0	1	0	0
93 Wisconsin, Western	0	0	0	0
94 Wyoming	0	0	0	0
All Districts	141	152	123	93

09-Nov-06

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

\*\*This chart includes data for cases classified under Program Category Code J3T (Corporate Fraud), which was established beginning in FY 2003.

\*\*\*FY 2006 numbers are actual data through the end of September 2006



United States Attorneys—Criminal Caseload Statistics\*  
Corporate Fraud\*\*  
Defendants in Cases Filed - Fiscal Years 2003-2006\*\*\*

Listing Sorted: Alphabetically by District

District	FY 2003	FY 2004	FY 2005	FY 2006***
1 Alabama, Middle	0	0	1	1
2 Alabama, Northern	20	13	2	0
3 Alabama, Southern	0	0	0	0
4 Alaska	0	0	0	0
5 Arizona	0	0	0	0
6 Arkansas, Eastern	0	0	0	0
7 Arkansas, Western	0	0	0	5
8 California, Central	43	8	11	6
9 California, Eastern	0	5	0	0
10 California, Northern	11	11	1	5
11 California, Southern	9	2	21	10
12 Colorado	11	3	2	1
13 Connecticut	19	8	9	5
14 Delaware	0	0	0	2
15 District of Columbia	0	1	1	4
16 Florida, Middle	0	1	0	0
17 Florida, Northern	0	0	0	0
18 Florida, Southern	0	38	18	6
19 Georgia, Middle	0	0	0	0
20 Georgia, Northern	0	2	10	5
21 Georgia, Southern	1	0	0	0
22 Guam	0	0	0	0
23 Hawaii	0	0	0	0
24 Idaho	0	0	0	0
25 Illinois, Central	0	2	0	0
26 Illinois, Northern	5	4	6	3
27 Illinois, Southern	1	0	1	1
28 Indiana, Northern	1	0	0	0
29 Indiana, Southern	0	0	0	1
30 Iowa, Northern	0	0	0	0
31 Iowa, Southern	0	0	1	0
32 Kansas	2	2	0	0
33 Kentucky, Eastern	0	0	0	0
34 Kentucky, Western	0	0	0	14
35 Louisiana, Eastern	0	0	0	0
36 Louisiana, Middle	0	0	0	2
37 Louisiana, Western	4	0	0	0
38 Maine	1	1	0	0
39 Maryland	5	1	2	1
40 Massachusetts	2	0	1	2
41 Michigan, Eastern	5	0	1	0
42 Michigan, Western	0	0	0	1
43 Minnesota	5	12	13	6
44 Mississippi, Northern	0	0	0	0
45 Mississippi, Southern	0	0	2	0
46 Missouri, Eastern	4	0	0	0
47 Missouri, Western	0	0	0	0
48 Montana	0	0	0	0
49 Nebraska	8	4	6	0
50 Nevada	0	0	0	0

District	FY 2003	FY 2004	FY 2005	FY 2006***
51 New Hampshire	3	5	7	0
52 New Jersey	6	4	3	5
53 New Mexico	0	0	0	0
54 New York, Eastern	17	45	5	5
55 New York, Northern	0	0	0	1
56 New York, Southern	10	33	2	3
57 New York, Western	0	4	3	1
58 North Carolina, Eastern	8	2	6	4
59 North Carolina, Middle	0	1	0	0
60 North Carolina, Western	2	5	3	3
61 North Dakota	0	0	0	0
62 Northern Mariana Islands	0	0	0	0
63 Ohio, Northern	0	15	14	12
64 Ohio, Southern	2	7	1	7
65 Oklahoma, Eastern	0	0	0	0
66 Oklahoma, Northern	5	0	2	1
67 Oklahoma, Western	0	1	0	0
68 Oregon	3	6	4	1
69 Pennsylvania, Eastern	14	1	3	1
70 Pennsylvania, Middle	1	0	0	2
71 Pennsylvania, Western	3	0	0	0
72 Puerto Rico	0	0	0	0
73 Rhode Island	3	1	3	2
74 South Carolina	0	1	4	11
75 South Dakota	0	0	0	0
76 Tennessee, Eastern	6	0	0	0
77 Tennessee, Middle	14	1	5	3
78 Tennessee, Western	0	3	1	0
79 Texas, Eastern	0	0	0	2
80 Texas, Northern	4	4	0	1
81 Texas, Southern	2	3	1	3
82 Texas, Western	0	0	1	0
83 Utah	8	0	3	4
84 Vermont	8	0	1	0
85 Virgin Islands	0	0	0	0
86 Virginia, Eastern	9	3	11	0
87 Virginia, Western	0	5	0	0
88 Washington, Eastern	0	0	0	0
89 Washington, Western	24	7	4	4
90 West Virginia, Northern	0	0	0	0
91 West Virginia, Southern	4	2	1	0
92 Wisconsin, Eastern	0	2	0	0
93 Wisconsin, Western	0	0	0	0
94 Wyoming	0	0	0	0
All Districts	313	279	197	157

09-Nov-06

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

\*\*This chart includes data for cases classified under Program Category Code 03T (Corporate Fraud), which was established beginning in FY 2003.

\*\*\*FY 2005 numbers are actual data through the end of September 2005. FY 2005 data does not include data for the month of September 2005 for the Eastern District of Louisiana due to Hurricane Katrina.

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**BACKGROUND AND TALKING POINTS:  
U.S. ATTORNEY CANDIDATE FOR ARIZONA**

*For background use only:*

- This vacancy was created on January 31, 2007, when Paul Charlton left the Department. Chief U.S. Attorney Dan Knauss, who normally oversees the Tuscan office, is serving as interim U.S. Attorney.

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*Talking points:*

- We want to work with you to find a nominee who can handle the unique management challenges presented by this office.
- This USAO is one of our largest offices and handles one of the highest litigation caseloads in the Nation. This is an office that requires a candidate who comes to the position with significant leadership experience in terms of managing employees and complex litigation.
- It is in the best interest of your state and for the Nation for this office to be successful. I do not believe that we can successfully do our job in ensuring justice in the state without the right person leading that office. I have an obligation to ensure that the office is running smoothly and properly.