

01 U.S. SENATE
02 COMMITTEE ON THE JUDICIARY
03 Investigation
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07 In the Matter of: :
08 :
09 PRESERVING PROSECUTORIAL :
10 INDEPENDENCE: IS THE DEPARTMENT :
11 OF JUSTICE POLITICIZING THE :
12 HIRING AND FIRING OF U.S. :
13 ATTORNEYS? :
14 - - - - -x

15
16 Tuesday
17 May 1, 2007

18
19 The interview of DAVID MARGOLIS, Associate
20
21 Deputy Attorney General, was convened, pursuant to
22
23 notice, at 10:10 a.m. in Room SH-212, Hart Senate Office
24
25 Building.

26
27 APPEARANCES:

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30 Counsel for the Majority
31 Senate Committee on the Judiciary
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03	MARGOLIS INTERVIEW EXHIBITSMARKED
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01 P R O C E E D I N G S

02 MR. BHARARA: Good morning, Mr. Margolis.

03 MR. MARGOLIS: Good morning.

04 MR. BHARARA: My name is Prett Bharara. I
05 represent the Majority of the United States Senate
06 Committee on the Judiciary. There will be a limited
07 number of people here at this interview who will have
08 speaking roles today: myself for the Senate Judiciary
09 Committee Majority, and one counsel each for the Senate
10 Judiciary Committee Minority and the House Judiciary
11 Committee Majority and Minority.

12 At this time I would ask each of the counsels
13 for those entities to identify themselves and their
14 affiliations so that you and the court reporter know who
15 they are.

16 MR. KEMMERER: Hannibal Kemmerer with the Senate
17 Minority.

18 MR. BRODERICK-SOKOL: Sam Broderick-Sokol with
19 the House Majority.

20 MR. FLORES: Daniel Flores, House Minority.

21 MR. BHARARA: I understand that there are also
22 representatives from the Department of Justice who are
23 here on your behalf, Mr. Margolis. If they could
24 identify themselves on the record now, that would be
25 great.

01 MR. HUNT: Jody Hunt for the Department of
02 Justice.

03 MS. BURTON: Faith Burton for the Department of
04 Justice.

05 MR. BHARARA: Mr. Margolis, I am sure you are
06 familiar with how this works, but for the record, let's
07 just review how we plan to proceed. If you nod your
08 head, I will know that you mean yes, or if you shake your
09 head, I will know that you mean no. But the court
10 reporter will not, so if you could always provide a
11 verbal response, oral response, that would be helpful to
12 the court reporter and the record.

13 If I or any counsel ask you a question that you
14 did not understand, please let us know. Otherwise, if
15 you answer the question, we will assume that you
16 understood the question. Do you understand that?

17 MR. MARGOLIS: Yes.

18 MR. BHARARA: Next, if you need to take a break
19 for any reason at all, just let whoever is questioning
20 you know. I'm sure that I and the other counsels who are
21 here to question you will accommodate you as soon as the
22 pending question is answered. If for any reason you need
23 to take break or consult with the representatives from
24 the Department of Justice, that would be fine. Is that
25 all right?

01 MR. MARGOLIS: Thank you.

02 MR. BHARARA: Finally, as you know, your
03 testimony today is being taken as part of authorized
04 investigations and oversight activities within the
05 jurisdictions respectively of the Senate Judiciary
06 Committee and House Judiciary Committee.
07 Do you understand that any materially false,
08 fictitious, or fraudulent statement that you provide in
09 your testimony, including any omission or material
10 information that renders any material statement
11 misleading, could subject you to criminal prosecution in
12 a Federal court?

13 MR. MARGOLIS: Yes.

14 MR. BHARARA: Okay. Please state your name for
15 the record.

16 MR. MARGOLIS: David Margolis.

17 MR. BHARARA: I am handing you what I will ask
18 the court reporter as Margolis Exhibit 1.
19 [Whereupon, Margolis Exhibit No. 1
20 was marked for identification.]

21 MR. BHARARA: Mr. Margolis, to save time, we
22 asked the Department to provide a document that lists
23 your professional history and background so we do not
24 have to do all of that on the record, but just do some of
25 it on the record. Could you take a look at Exhibit 1?

01 Did you assist in preparing that document?

02 MR. MARGOLIS: Yes.

03 MR. BHARARA: Does that reflect your
04 professional history and education accurately, to the
05 best of your knowledge?

06 MR. MARGOLIS: Yes.

07 MR. BHARARA: Mr. Margolis, I am just going to
08 ask you a few questions about your background, and then
09 we will go into the substance of the interview.
10 First, how long have you been with the
11 Department of Justice overall?

12 MR. MARGOLIS: Since June 21st of 1965.

13 MR. BHARARA: So if I do the math, that is about
14 42 years?

15 MR. MARGOLIS: Forty-two years.

16 MR. BHARARA: And since President Bush has been
17 in office, what have been your positions at the
18 Department?

19 MR. MARGOLIS: This President Bush, Associate
20 Deputy Attorney General.

21 MR. BHARARA: And could you describe for the
22 record briefly what your responsibilities in that
23 position entail?

24 MR. MARGOLIS: I work for the Deputy Attorney
25 General, and my portfolio includes serving on the

01 selection panel for United States Attorneys, recusals for
02 United States Attorneys and their offices, media
03 subpoenas, professional discipline, the Deputy's liaison
04 with the Office of Professional Responsibility, the
05 Office of Inspector General.

06 And so as a result, if there is an OPR or OIG
07 finding against somebody in the Department at a high
08 level, I would handle it. I usually don't handle routine
09 cases.

10 MR. BHARARA: Am I correct that you are a
11 nonpolitical appointee?

12 MR. MARGOLIS: That's correct. I am not. I
13 started my career in the Johnson administration--that is
14 Lyndon Johnson, not Andrew Johnson--as a political
15 appointee. In those days, Assistant United States
16 Attorneys were politically appointed, as U.S. Attorneys
17 were. And at the end of the Johnson administration, we
18 were all terminated by President Nixon, and I joined the
19 career service.

20 MR. BHARARA: Okay. In the course of your
21 duties as Associate Deputy Attorney General, what level
22 of familiarity do you have with the performance and
23 reputations of the U.S. Attorneys around the country?

24 MR. MARGOLIS: You know, I hear things, so I
25 hear the talk of reputation. I sometimes tell them that

01 when the--during the interview process that one mark, one
02 measure of your success will be if you never have to deal
03 with me again, because if they screw up, I am the one who
04 has to handle it. That's usually in terms of conduct
05 rather than performance, though, unless the performance
06 is notorious, openly notorious.

07 MR. BHARARA: Let me ask you some questions
08 about the dismissal of several U.S. Attorneys in 2006 by
09 the Justice Department.

10 MR. MARGOLIS: Sure. I should have added I
11 also--when you talked about performance, I am one of the
12 people who looks at the EARS evaluations of U.S.
13 Attorneys' Offices.

14 MR. BHARARA: Are you aware of the fact that Mr.
15 Sampson, Kyle Sampson, described you as someone who knows
16 more about United States Attorneys than anyone alive?

17 MR. MARGOLIS: I heard him say that.

18 MR. BHARARA: Is that a fair statement?

19 MR. MARGOLIS: He flatters me. He's overly
20 modest and he flatters me.

21 MR. BHARARA: Is it fair to say that of the
22 people at the Justice Department, you know a lot about
23 United States Attorneys?

24 MR. MARGOLIS: Yes, but I think it is more
25 accurate because of my perspective over the years that

01 distinguishes me. There are a lot of people who know
02 what the U.S. Attorneys are doing on a day-to-day basis,
03 including the Executive Office for U.S. Attorneys.
04 But because of the way I entered the Department,
05 you know, I have an acute awareness of the difference
06 between career people and political people, having been
07 there in both situations, and having various jobs.
08 So I think my perspective is unique, and I tend
09 to think that's what Kyle had more in mind, and plus I
10 participated in the selection--I'm the one person that
11 participated in the selection of all U.S. Attorneys in
12 this administration.

13 MR. BHARARA: Did you participate in the
14 selection of all of the United States Attorneys including
15 the eight who were asked to resign last year?

16 MR. MARGOLIS: Yes.

17 MR. BHARARA: Aside from yourself, who are the
18 other people at a high level at the Justice Department
19 who would have a great deal of knowledge about U.S.
20 Attorneys, their performance and their conduct?

21 MR. MARGOLIS: The last two Deputies--Paul and
22 Jim Comey--were both United States Attorneys themselves
23 in this administration, and Paul was the Chairman of the
24 Advisory Committee, as I recall, so those two would have
25 a great deal of experience.

01 Bill Mercer, who is the Acting Associate
02 Attorney General and was the PADAG and was the U.S.
03 Attorney in Montana, was also the Chairman of the
04 Advisory Committee. So he would also have a very good
05 handle on the day-to-day operations.

06 MR. BHARARA: What about whoever the chief of
07 the Criminal Division is, the Assistant--

08 MR. MARGOLIS: Alice Fisher.

09 MR. BHARARA: --Attorney General for the
10 Criminal Division. What is your understanding of how
11 much knowledge that person would have about the
12 performance and conduct of various U.S. Attorneys around
13 the country?

14 MR. MARGOLIS: I think the AAG for Criminal
15 would have a lot of contacts with U.S. Attorneys' Offices
16 in individual cases, and maybe individual initiatives,
17 too. So whether she does it through herself or her
18 Deputies, you know, would depend on the case, I guess.

19 MR. BHARARA: You said you participated in the
20 selection of United States Attorneys. Did you mean the
21 selection of United States Attorneys who have been
22 nominated for Senate confirmation? Or did you also mean
23 to include Interim U.S. Attorneys or Acting U.S.
24 Attorneys?

25 MR. MARGOLIS: Both--all three. Not people who

01 have been nominated, but selecting them so that the
02 President can nominate them.

03 MR. BHARARA: Prior to nomination.

04 MR. MARGOLIS: Then Acting, which would only
05 really be First Assistant, allowing the First Assistant
06 to take over, and then Interim, which would be an
07 Attorney General appointment temporarily.

08 MR. BHARARA: Okay. You are aware that on
09 December 7th of 2006, seven United States Attorneys were
10 asked to resign by the administration?

11 MR. MARGOLIS: Yes.

12 MR. BHARARA: To your knowledge, has there ever
13 been a prior occasions where seven United States
14 Attorneys were dismissed on one day?

15 MR. MARGOLIS: No. And I think I would have
16 heard about it--well, withdrawn. Unless you mean--

17 MR. BHARARA: I was going to--let me refine the
18 question. Are you aware of seven U.S. Attorneys ever
19 being dismissed on one day other than at the beginning of
20 a new party's administration?

21 MR. MARGOLIS: No.

22 MR. BHARARA: Are you aware of whether or not
23 there have ever been two United States Attorneys
24 dismissed on any given day other than at the beginning of
25 a new party's administration?

01 MR. MARGOLIS: I don't think so. It would have
02 been a coincidence if it happened, I believe.

03 MR. BHARARA: Are you aware of--

04 MR. MARGOLIS: I am going to limit my certainty
05 to the last 14 years when I've been involved in this
06 process. The rest of it would be hearsay.

07 MR. BHARARA: Okay. Are you aware of whether or
08 not anything like a request for multiple resignations of
09 United States Attorneys at the same time ever happened in
10 either the Reagan or Clinton's second term?

11 MR. MARGOLIS: No.

12 MR. BHARARA: How many forced resignations in
13 the time that you have been involved in the last 14 years
14 -- withdrawn.

15 Over the course of the last 14 years, how many
16 forced resignations are you aware of that were unrelated
17 to misconduct or ethical violations?

18 MR. MARGOLIS: I would say--before these?

19 MR. BHARARA: Correct.

20 MR. MARGOLIS: One comes to mind, jumps out at
21 me, during the Clinton administration.

22 MR. BHARARA: Are you at liberty to discuss the
23 circumstances of that?

24 MR. MARGOLIS: I think since it was highly
25 publicized in the media at the time. Let me just make

01 sure.
02 [Witness confers with counsel.]
03 MR. HUNT: If I understood the question, you can
04 describe the circumstances without using a particular
05 name?
06 MR. MARGOLIS: I can do that.
07 MR. HUNT: That was your--
08 MR. BHARARA: Well, I was going to ask the name.
09 If you are telling me that Mr. Margolis won't answer the
10 name, then I would like to have the circumstances.
11 MR. MARGOLIS: Can we talk for a minute?
12 MR. BHARARA: Sure.
13 [Off the record at 10:23 a.m.]
14 [On the record at 10:24 a.m.]
15 MR. HUNT: Back on the record.
16 We just went off the record for a moment to
17 discuss whether or not we thought it would be appropriate
18 for the witness to give a specific name of a U.S.
19 Attorney during the Clinton administration, and we feel
20 for the same reasons that the witness is not prepared to
21 discuss specific names of U.S. Attorneys other than the
22 eight about whom this investigation is focused, we would
23 ask that the witness not identify the individual U.S.
24 Attorney in the Clinton administration by name; but we
25 certainly will permit the witness to answer questions

01 regarding the circumstances surrounding that U.S.
02 Attorney's forced resignation.

03 MR. BHARARA: Okay. Let me ask the question
04 again. I had asked you if you were aware of any people
05 in the last--any U.S. Attorneys in the last 14 years who
06 had been forced to resign for reasons other than
07 misconduct or ethical violations, and I believe you
08 stated that there was one that came to mind. Is that
09 correct?

10 MR. MARGOLIS: There was, and let me refine that
11 now that I think about it. There were some OPR-type
12 issues in the background there, but my recollection is
13 they didn't really play much, if any, role in the forced
14 resignation, that it was performance, disengagement from
15 the office, from the duties of the office, and bad
16 morale.

17 MR. BHARARA: And how long had that U.S.
18 Attorney that you are describing been on the job before
19 he--can I say "he"?--before he was forced to resign?

20 MR. MARGOLIS: The generic "he."

21 MR. BHARARA: He or she was forced to resign.

22 MR. MARGOLIS: I would say probably 5 or 6
23 years.

24 MR. BHARARA: Can you describe the circumstances
25 that led to the decision to ask that U.S. Attorney to

01 resign?

02 MR. MARGOLIS: It was public--it blew up in
03 public.

04 MR. BHARARA: And what exactly blew up in
05 public?

06 MR. MARGOLIS: Excuse me?

07 MR. BHARARA: What exactly blew up in public?

08 MR. MARGOLIS: Oh, that the U.S. Attorney was
09 disengaged and that there were complaints about his
10 management of the office. If I became much more specific
11 about the nature of the complaints and where they came
12 from, I think that's too close to identifying the person.

13 MR. BHARARA: Let me ask you this question: Was
14 there a process that occurred internally at the
15 Department of Justice before the request for resignation
16 was made? And if so, could you describe that process?

17 MR. MARGOLIS: You know, on that one I wasn't
18 intimately involved for reasons that escape me at this
19 time. But my general recollection is that there was a
20 discussion with him about it, and there was a mutual
21 agreement that it was time to move on.

22 MR. BHARARA: Do you recall who had the
23 discussion with him, in other words, what person in which
24 position had the discussion with him?

25 MR. MARGOLIS: I'm not sure who it was. It was

01 my office, I believe, the Deputy's office.

02 MR. BHARARA: Do you recall whether or not with
03 respect to that U.S. Attorney there was a documentary
04 record of some sort created that would support the
05 request for resignation?

06 MR. MARGOLIS: I don't think so, other than the
07 public record.

08 MR. BHARARA: Do you recall if that particular
09 U.S. Attorney had had an EARS evaluation prior to his
10 being asked to resign?

11 MR. MARGOLIS: There must have been; because of
12 the length of time he served, I suspect there must be
13 one. But I don't remember specifically.

14 MR. BHARARA: Do you recall as you sit here
15 whether or not that EARS evaluation reflected some of the
16 problems that led to the request for resignation?

17 MR. MARGOLIS: I don't remember.

18 Well, let me add, I don't remember but I doubt
19 it because my recollection is we were kind of caught by
20 surprise by the public hoopla.

21 MR. BHARARA: Was there some attempt, to your
22 recollection, to investigate the issues that caused the
23 public hoopla?

24 MR. MARGOLIS: I think it was one of those
25 things that spoke for itself, and so after discussion,

01 you know, the question was could there be effective
02 leadership of the office with this lurking out there.
03 And I think it was mutually agreed upon to terminate that
04 relationship, that professional relationship.

05 MR. BHARARA: And do you recall--Janet Reno was
06 the Attorney General at the time?

07 MR. MARGOLIS: She was.

08 MR. BHARARA: Do you recall whether she had
09 specific involvement in the decision to ask for the
10 resignation of that U.S. Attorney?

11 MR. MARGOLIS: I don't have a specific recall
12 there. But as Mr. Nathan will testify, she was a hands-
13 on manager, so I would be surprised if she wasn't
14 involved.

15 MR. NATHAN: I haven't received my subpoena yet.

16 MR. BHARARA: Is it fair to say that the request
17 for the resignations of seven or eight United States
18 Attorneys at one time is, in your experience,
19 unprecedented?

20 MR. MARGOLIS: I would say so--except as your
21 general limitation--

22 MR. BHARARA: Yes, separate and apart from the
23 beginning of a new administration of a different party.
24 Have you been involved in any way in the
25 decision to ask for the resignation of any other folks

01 other than these eight while the current President Bush
02 has been in office?
03 MR. MARGOLIS: Yes.
04 MR. BHARARA: And how many of those occasions
05 can you remember?
06 MR. MARGOLIS: Several, all conduct-related.
07 MR. BHARARA: I am going to take my shot at
08 asking you about the particulars, some of which I believe
09 are public, and you can tell me if you think that is
10 problematic, and then we can speak generally.
11 MR. HUNT: Well, let me just say, again, it's
12 fine for him to talk about circumstances and what went
13 into decisions, but with respect to naming individuals,
14 the Department still has a concern.
15 [Pause.]
16 MR. BHARARA: Are you familiar with a former
17 United States Attorney in Maryland by the name of
18 DiBiagio?
19 MR. MARGOLIS: I certainly am.
20 MR. BHARARA: And do you recall that recently it
21 was reported that Mr. DiBiagio had stated that he was--or
22 suggested that he was fired for political reasons?
23 MR. MARGOLIS: I do.
24 MR. BHARARA: And did you make statements to the
25 press at that time?

01 MR. MARGOLIS: I did.
02 MR. BHARARA: And what were your statements to
03 the press?
04 MR. MARGOLIS: That that claim was a fairy tale.
05 MR. BHARARA: To be specific, his claim that he
06 was fired for political reasons was a fairy tale?
07 MR. MARGOLIS: That's correct.
08 MR. BHARARA: Because based on your
09 understanding, what was the actual reason for his being--
10 MR. HUNT: Actually, now we have moved beyond--
11 we are talking about whatever reasons, if any actual
12 reasons, as opposed to what is in the media and whether
13 he is aware of what is in the media, and we are talking
14 about a specific U.S. Attorney other than the eight. So
15 for purposes of this particular investigation and this
16 testimony, that would not be appropriate.
17 MR. BHARARA: I understand your point. However,
18 in this particular case, I think I've established through
19 the witness that not only was Mr. DiBiagio asked to
20 resign, but Mr. Margolis himself talked to the media
21 about the reasons why he was asked to resign.
22 I don't see why it is not fair game to discuss
23 the circumstances surrounding how that process was
24 handled for the purposes of determining what, if
25 anything, went awry and how the process with respect to

01 the other eight were handled.

02 MR. HUNT: Because what you are doing is now
03 asking specifics about actual circumstances that went
04 into whatever decision was made with respect to a U.S.
05 Attorney who is not one of the eight.

06 MR. BHARARA: Do you folks want to take a minute
07 to discuss this?

08 MS. BURTON: Yes, we are going to take a minute.

09 MR. MARGOLIS: Before you do that, I just
10 realized I have got to correct an answer I gave before
11 you asked me about any performance-related discharges,
12 and I gave you one example and didn't identify--I didn't
13 identify him. I now recognize there was a second one.

14 MR. BHARARA: Okay.

15 [Off the record at 10:34 a.m.]

16 [On the record at 10:40 a.m.]

17 MR. BHARARA: Back on the record.

18 Mr. Margolis, I am going to hand you a document
19 that I will ask the court reporter to mark as Margolis
20 Exhibit 2. I am sorry I only have one copy of this
21 document. It is a New York Times article dated March 6,
22 2007, entitled "Ex-Prosecutor Says Departure Was
23 Pressured."

24 [Whereupon, Margolis Exhibit No. 2
25 was marked for identification.]

01 MR. BRODERICK-SOKOL: I have copies of that
02 article.
03 MR. BHARARA: Am I correct that that was the
04 article you were referring to when I asked you whether or
05 not you had made public statements about Mr. DiBiagio?
06 MR. MARGOLIS: That was only one of several
07 articles. There was a Washington Post article and one
08 other that I don't remember--oh, Baltimore Sun. I think
09 the Baltimore Sun was the most extensive one.
10 MR. BHARARA: Okay. Could you read into the
11 record the three paragraphs beginning with the paragraph
12 that says, "Several current and former officials..."?
13 MR. MARGOLIS: "Several current and former
14 officials in the Baltimore office said Mr. DiBiagio
15 voiced concerns in 2004 that the corruption inquiries
16 were jeopardizing his career, a view that they shared."
17 Should I continue?
18 MR. BHARARA: Please.
19 MR. MARGOLIS: "The Justice Department rejected
20 Mr. DiBiagio's explanation. An official in the
21 Department, David Margolis, said he told Mr. DiBiagio in
22 2004 that he had to leave because `we had lost confidence
23 in him.'
24 Mr. Margolis said the prosecutor's harsh
25 management style had caused resentments in the office

01 that ran `wide and deep' and called an `absolute fairy
02 tale' the idea that Mr. DiBiagio's departure was tied to
03 the gambling case or any other investigation."
04 MR. BHARARA: Let me ask you, Mr. Margolis, are
05 those statements true?
06 MR. HUNT: The statements attributed to him?
07 MR. BHARARA: The statements attributed to you,
08 are they true?
09 MR. MARGOLIS: Yes.
10 MR. BHARARA: And you stand by them?
11 MR. MARGOLIS: Yes.
12 MR. BHARARA: Were you asked to speak to the
13 press in connection with the DiBiagio case?
14 MR. MARGOLIS: Yes.
15 MR. BHARARA: Who asked you to speak to the
16 press?
17 MR. MARGOLIS: Kyle Sampson called me one
18 afternoon or evening and said DiBiagio was making these
19 statements, and he asked me to talk to our press office,
20 I recall, not the press but press office, about it to
21 give them the factual information.
22 I talked to our press office, and the press
23 office asked me if I was willing to talk directly to the
24 press, and I said okay.
25 MR. BHARARA: And you agreed to talk on the

01 record?

02 MR. MARGOLIS: I only talk on the record. I
03 recall Attorney General Civiletti taught us that lesson.
04 He said it will teach you how responsible you can be if
05 you talk for attribution on the record, and he was right.

06 MR. BHARARA: How often do you talk to the press
07 on the record?

08 MR. MARGOLIS: Not that often, but occasionally.

09 MR. BHARARA: In the last 4 years or so, how
10 often would you say you talked to the press on the
11 record?

12 MR. MARGOLIS: I would say, without a specific
13 recollection, at least ten times. Usually it's about
14 myself, though, rather than somebody else. My favorite
15 topic.

16 [Laughter.]

17 MR. BHARARA: How often do you recall in the
18 last 4 years that you have talked to the press on the
19 record about a topic other than yourself?

20 MR. MARGOLIS: Let's see. I talked to the press
21 three times on this. You know, I would really have to
22 search my recollection, but I know I've done it. I just
23 don't recall.

24 MR. BHARARA: Would you say fewer than five
25 times?

01 MR. MARGOLIS: No. I think it's more than that.
02 Not like this, having to discount a statement by a former
03 employee. That's unusual.
04 MR. BHARARA: Do you recall ever otherwise,
05 other than in this case, speaking to the press on the
06 record to discount the statements of a former Justice
07 official?
08 MR. MARGOLIS: I may have. I just don't recall
09 specifically. But if there was what I perceived to be an
10 inaccurate, false, and unfair attack on my Department, I
11 would not hesitate to go out and strike back with the
12 truth.
13 MR. BHARARA: Are you aware, Mr. Margolis, that
14 at the time that you made these statements on or about
15 March 6th of 2007, David Iglesias, for example, was
16 making allegations and suggestions that he was asked to
17 resign for political reasons? Were you aware of this?
18 MR. MARGOLIS: Yes.
19 MR. BHARARA: Were you ever asked to speak to
20 the press to respond to Mr. Iglesias' allegations?
21 MR. MARGOLIS: No.
22 MR. BHARARA: Are you aware that Mr. McKay from
23 Washington also had suggested that improper political
24 considerations may have played a role in his being asked
25 to resign? Are you aware of that?

01 MR. MARGOLIS: At some point I was aware of
02 that. I don't know if it was this time, but at some
03 point I was aware of that.

04 MR. BHARARA: Were you ever asked by Kyle
05 Sampson or anyone else to speak to the press to respond
06 to any allegations along those lines by Mr. McKay?

07 MR. MARGOLIS: No.

08 MR. BHARARA: Have you ever been asked to speak
09 to the press to respond to allegations made by any of the
10 eight United States Attorneys who were asked to resign
11 last year?

12 MR. MARGOLIS: No.

13 MR. BHARARA: With respect to Mr. DiBiagio,
14 could you discuss the process by which a determination
15 was made that his resignation should be sought?

16 MR. MARGOLIS: Yes. By the way, when I
17 corrected my earlier testimony, when I had originally
18 said I recall one performance--strictly performance-
19 related matter, now I corrected it to be two because I
20 forgot. This obviously reminds me of it.
21 This process started with the Deputy Attorney
22 General sending a public letter to Mr. DiBiagio directing
23 that he not bring any public corruption cases without the
24 Deputy Attorney General's approval. To my knowledge and
25 information, an unprecedented step that the Deputy

01 Attorney General has had to take--totally warranted by
02 the facts, I should add, but never had to do it before.
03 He showed me--I found out about it because the
04 Deputy showed me the letter before he signed it and
05 released it, and I endorsed it when he explained it to me.
06 And then he said, "Okay. This addresses the short-term
07 problem. I have to figure out a long-term solution."
08 So I talked to Mr. DiBiagio and convinced him
09 that he should ask for a special EARS evaluation because
10 I was--in addition to this problem that caused the Deputy
11 to send him the letter restricting his authority, I was
12 hearing complaints about his management style from his
13 office. And so, therefore, I said, you know, this is
14 really roiled.
15 He agreed to request that special review, and it
16 was done. I went up to his office and explained to the--
17 we had an all-staff meeting. I explained what we were
18 going to do. Mary Beth Buchanan, who was then the
19 Director of the Executive Office, explained what we were
20 going to do, asked everybody to cooperate.
21 There was a review done. It was the basis for
22 my request that he leave.
23 MR. HUNT: Could you just clarify the time frame
24 for the public letter and who the Deputy was?
25 MR. MARGOLIS: Oh, it was the summer--the public

01 letter was probably June or July of 2004. We did the
02 study--I went up to Baltimore like at the end of the
03 summer of 2004, and the study was probably completed in
04 early October. That's just a prediction.

05 MR. BHARARA: And the Deputy Attorney General at
06 the time was Jim Comey?

07 MR. MARGOLIS: Yes.

08 MR. BHARARA: Who was it who made the
09 recommendation that Mr. DiBiagio should depart?

10 MR. MARGOLIS: I made the recommendation and the
11 Deputy adopted it, and I'm sure--well, I shouldn't say
12 I'm sure. I wouldn't be surprised if it was cleared with
13 the White House. But, remember, it wasn't a firing. It
14 was my--and so maybe it wasn't clear. I just don't know.
15 I went to DiBiagio and said, you know, I think this is
16 what should happen and I'm going to press it if you don't
17 do it.

18 MR. BHARARA: And that recommendation--

19 MR. MARGOLIS: I should add, during the
20 process--talking about process, I received a call, Mary
21 Beth and I received a call from a former U.S. Attorney in
22 that district, which the part of it I remember was
23 basically defending DiBiagio in the sense of making the
24 claim that the animus against him was being orchestrated
25 by Democrats in the U.S. Attorney's Office.

01 MR. BHARARA: Do you have any understanding of
02 what involvement, if any, the Attorney General himself
03 had in the decision to ask for Mr. DiBiagio's
04 resignation?

05 MR. MARGOLIS: I don't know.

06 MR. BHARARA: Did you yourself have any
07 conversations with the Attorney General about Mr.
08 DiBiagio?

09 MR. MARGOLIS: No.

10 MR. BHARARA: And when you made your
11 recommendation--

12 MR. MARGOLIS: I'm trying to--the Attorney
13 General then would have been John Ashcroft, I believe.
14 No.

15 MR. BHARARA: When you made the recommendation
16 that Mr. DiBiagio should leave, am I correct that was
17 done after the completion of the special EARS evaluation?

18 MR. MARGOLIS: Yes.

19 MR. BHARARA: How unusual is it for you or
20 someone else to ask for a special EARS evaluation of a
21 U.S. Attorney?

22 MR. MARGOLIS: In this administration, which is
23 the only time I think I've ever done it--and I may be the
24 only one who has ever done it--there were three. I've
25 asked for three.

01 MR. BHARARA: And which districts were those?
02 MR. HUNT: I am going to ask the witness not to
03 identify witnesses other than unless they are one of the
04 eight that we are speaking about.
05 MR. BHARARA: Was one of them Kevin Ryan?
06 MR. MARGOLIS: Yes.
07 MR. BHARARA: And was the third someone other
08 than Mr. DiBiagio and other than the eight?
09 MR. MARGOLIS: Yes.
10 MR. BHARARA: Separate and apart from Mr.
11 DiBiagio and Mr. Ryan, on the occasion--
12 MR. MARGOLIS: By the way, to be precise, in Mr.
13 DiBiagio's case and the one I haven't identified, I
14 convinced him and the other person to actually ask for
15 the review. So in the third case, the person didn't--oh,
16 Mr. Ryan didn't ask for the review.
17 MR. BHARARA: Okay. So we are clear, in this
18 administration there has been a special EARS evaluation
19 for Mr. Ryan, Mr. DiBiagio--
20 MR. MARGOLIS: And the third person.
21 MR. BHARARA: And a third person you have not
22 identified.
23 MR. MARGOLIS: That's correct.
24 MR. BHARARA: Okay. With respect to that third
25 person for whom there was a special EARS evaluation, can

01 you describe the circumstances that led to that special
02 EARS evaluation?

03 MR. HUNT: If you can do so without identifying
04 the individual.

05 MR. MARGOLIS: I would say the office was roiled
06 and there were claims of discrimination by assistants in
07 the office.

08 MR. BHARARA: And what time frame was that?

09 MR. MARGOLIS: About 2 years ago. I remember
10 Mary Beth was the Director, and so she left in the summer
11 of 2005, I think, so it was sometime just before then,
12 probably.

13 MR. BHARARA: And was that special EARS
14 evaluation complete?

15 MR. MARGOLIS: Yes.

16 MR. BHARARA: And was there any decision made
17 with respect to that United States Attorney based on the
18 EARS evaluation, the special EARS evaluation, or any
19 other information?

20 MR. MARGOLIS: Yeah. We and he decided to see
21 if we could work it out and make things better. These
22 things are never--you know, U.S. Attorneys don't last
23 forever, so there was an improvement, I thought. But the
24 U.S. Attorney left on his own without any impetus
25 substantially later than that.

01 MR. BHARARA: Okay. But with respect to that
02 third unidentified U.S. Attorney, you had conversations
03 with that U.S. Attorney about the issues that had been
04 raised from--

05 MR. MARGOLIS: Yes.

06 MR. BHARARA: --by complaints and through the
07 evaluation process?

08 MR. MARGOLIS: Well, I think I gave him a copy
09 of the report, is what I did, and talked to him about it.

10 MR. BHARARA: And when you talked to him about
11 it, were there discussions about how he would be able to
12 improve the situation with respect to the performance of
13 his office?

14 MR. MARGOLIS: Yes. Yes. And he made
15 suggestions, too.

16 MR. BHARARA: Okay. Did you have another
17 instance that you wanted to mention where someone has
18 been--where you have been involved in a decision to ask a
19 U.S. Attorney to resign other than the ones that you've
20 mentioned during this Bush administration?

21 MR. MARGOLIS: Yes. The second of performance,
22 I think I said in history I recall one straight
23 performance disposition. I had forgotten--the one I
24 forgot was Mr. DiBiagio. I have completed my
25 recollection.

01 MR. BHARARA: So the record is clear, when you
02 mentioned performance versus misconduct or an ethical
03 violation, could you describe what you mean by each of
04 those terms?

05 MR. MARGOLIS: Yes. Underachieving, you know,
06 roiling the office, destroying morale. You could have
07 somebody who never shows up for work, screws up cases.
08 Whereas, misconduct would be things like stealing money
09 from petty cash or cheating on their travel vouchers or
10 having an affair with a subordinate officer in the
11 office, things like that. Lying.

12 MR. BHARARA: Okay. When did you first learn,
13 Mr. Margolis, that there was a plan in which Kyle Sampson
14 was involved to ask for the resignations of all or a
15 subset of the 93 U.S. Attorneys who were serving in the
16 Bush administration?

17 MR. MARGOLIS: Either shortly after the 2004
18 election or maybe during the beginning of the second
19 term, Kyle told me that Harriet Miers had asked him about
20 the feasibility of removing and replacing all United
21 States Attorneys. And he either--one of two things
22 happened.

23 My memory gets squishy on all this stuff because
24 of what I read in the newspaper and confusing it with
25 what I know and also not having the opportunity to have

01 talked to my colleagues about it because of our
02 instructions, so I am just going to be able on this stuff
03 to give you my best recollection.
04 He either told me that he had killed that idea
05 and asked me whether I agreed, or he asked me--or he told
06 me he thought it was a bad idea and asked me my opinion,
07 which I certainly endorsed either way, either he had done
08 the right thing or he should do the right thing.
09 I gave him my reasons for--and he either said,
10 "Good," you know, "I'm glad you agree," or he said,
11 "Okay. I'll see what I can do." I don't remember which
12 of the two. But we were in agreement.
13 And then he said, either that day--if, in fact,
14 he had killed the idea and he was just telling me about
15 it, or a short time later after he killed it, he said to
16 me, you know, "This does give us the opportunity, though,
17 to look at individual United States Attorneys who should
18 be replaced, and then we can"--you know, "We obviously
19 have opened the door, so we ought to do that and make the
20 U.S. Attorneys' Offices stronger for the second term."
21 And I wholeheartedly endorsed that as a novel
22 approach that I had never seen before and that I
23 encouraged, because in the past--and I'm not talking
24 about any specific administration--any administration, it
25 seemed to me that U.S. Attorneys were removed during an

01 administration either for misconduct or performance that
02 had burst out into the public scene, but not performance
03 that, you know, was mediocre and hadn't publicly
04 humiliated us.

05 So I thought that was a good idea.

06 MR. BHARARA: Let me go back--

07 MR. MARGOLIS: The concept was a good idea.

08 Obviously, our execution left something to be desired.

09 MR. BHARARA: I want to go to each of those
10 things separately. When Mr. Sampson mentioned to you
11 that Harriet Miers had suggested the possibility of
12 seeking the resignations of all 93 U.S. Attorneys, what
13 was your reaction to that idea?

14 MR. MARGOLIS: The same as his, which was, I
15 think, what he said, he rolled his eyes. And my reaction
16 was the same, that that was not a good idea. And we
17 discussed the reasons why it wasn't a good idea.

18 MR. BHARARA: And what were those reasons?

19 MR. MARGOLIS: That it would, you know,
20 needlessly cause discomobulation in the various offices;
21 it would get rid of--these were my--this is me talking
22 now to him. It would get rid of--it would throw out the
23 baby with the bath water.

24 You'd have maybe a few people that should go,
25 and you'd be throwing out great people. And not only is

01 that a bad idea and not good government, but it opens up
02 the claim, as we've seen in the past, that all these
03 people were fired just to cover for the real reason,
04 which was to fire one person to stop them from doing
05 something, you know, and the conspiracy theorists have
06 said that and said that at the beginning of the Clinton
07 administration. So that was another reason why it was a
08 bad idea.

09 And then as Tip O'Neill said, "All politics is
10 local." As I pointed out to Kyle, that would mean we
11 would have to go through 93 districts, probably three
12 interviews a district, so almost 300 new interviews, and
13 I was not up for that at all.

14 MR. BHARARA: So am I correct that part of the discussion
15 about why a decision to fire all 93 U.S. Attorneys was a
16 bad one was the appearance issue.

17 MR. MARGOLIS: Yes. That was part of it.

18 MR. BHARARA: Did Mr. Sampson tell you or did
19 you ever come to learn who other than Harriet Miers, if
20 anyone, was promoting the idea of asking for the
21 resignations of all the U.S. Attorneys?

22 MR. MARGOLIS: I think it was--I mean, from what
23 he told me, I believe it was--he's the only--she is the
24 only name he mentioned.

25 MR. BHARARA: Do you recall if he or anyone else

01 ever mentioned that Karl Rove had any role in promoting
02 that plan?

03 MR. MARGOLIS: No, but I have read some traffic
04 in newspaper articles since then. But I'm pretty sure
05 no.

06 MR. BHARARA: Do you have any understanding of
07 whether or not Mr. Gonzales ever had a view of the
08 appropriateness of pursuing a plan to fire all the U.S.
09 Attorneys?

10 MR. MARGOLIS: No, and I'm not--because of the
11 timing, I'm not sure whether he was Attorney General yet
12 or still White House Counsel, which would have been
13 Harriet Miers' boss. I'm just not sure of the time. It
14 would have been close. I think he became Attorney
15 General in February.

16 MR. BHARARA: Do you have any understanding of
17 whether or not Mr. Ashcroft ever had any view on the
18 appropriateness or wisdom of a plan to fire all the U.S.
19 Attorneys in the second term?

20 MR. MARGOLIS: No. It was just the other day
21 when I first read an article that said that his Chief of
22 Staff had inquired of Jim Comey about individual firings,
23 but I didn't even know that.

24 MR. BHARARA: Separate and apart from you, do
25 you know whether or not Mr. Sampson discussed his role in

01 putting an end to the firing all the U.S. Attorneys plan
02 with anyone else?
03 MR. MARGOLIS: He didn't mention it. I
04 certainly didn't think I was his sole confidant.
05 MR. BHARARA: Do you recall if you had the
06 discussion with other people present or not?
07 MR. MARGOLIS: No. No, we--
08 MR. BHARARA: You don't recall or you did not--
09 MR. MARGOLIS: We did not.
10 MR. BHARARA: Okay.
11 MR. MARGOLIS: I recall that we did it, as we
12 always did, in my office. He would always come to my
13 office.
14 MR. BHARARA: And so you don't know, as you sit
15 here today, whether or not Mr. Sampson and Mr. Comey had
16 a discussion about the specific plan to perhaps fire all
17 93 U.S. Attorneys?
18 MR. MARGOLIS: Let's see. The timing of it
19 would have been in early--late '94, early '95. Jim Comey
20 was the Deputy at that time. It wouldn't surprise me. I
21 didn't know, but it wouldn't surprise me.
22 MR. HUNT: You mean '04, '05?
23 MR. MARGOLIS: What did I say?
24 MR. HUNT: '94, '95, I think.
25 MR. MARGOLIS: '04, '05.

01 MR. BHARARA: Okay. After the time when Mr.
02 Sampson mentioned to you the opportunity to ask for
03 resignations from some subset of U.S. Attorneys, did you
04 and he have any further discussions about how that might
05 be accomplished?
06 MR. MARGOLIS: Was this all U.S. Attorneys or
07 some U.S. Attorneys?
08 MR. BHARARA: Subset.
09 MR. MARGOLIS: Oh, subset. Yes, I think on that
10 occasion--I think on that occasion he pulled out the list
11 of all United States Attorneys and asked me who I thought
12 should be looked at for termination, and not--you know,
13 "I'm not asking you to say, 'Fire this person.' I want
14 to know, you know, that we should consider it."
15 The impression I got was that he would talk to a
16 bunch of people about it, but he wanted candidates, I
17 guess is the word. And some I felt strongly about and
18 said, you know, "I'm prepared to say now that this person
19 should go." Others, I said, "You ought to take a look
20 at."
21 MR. BHARARA: To the best of your recollection,
22 did you look at the list with him at about the same time
23 that he first presented you the idea of asking for the
24 resignations of some subset of U.S. Attorneys?
25 MR. MARGOLIS: I can't say it was the same day,

01 but I don't think it was too far--I don't think it was
02 too far down the road.
03 MR. BHARARA: And you believe this was late '04
04 or early '05?
05 MR. MARGOLIS: I think it was--by this time it
06 was '05.
07 MR. BHARARA: When Mr. Sampson showed you that
08 list, do you recall whether or not that list was already
09 ordered in some way based on performance or rank? Or was
10 it a random list of U.S. Attorneys?
11 MR. MARGOLIS: I think it was an alphabetical
12 district list or an alphabetical name list, one of the
13 two.
14 MR. BHARARA: And to the best of your
15 recollection, at that time did you mention to him
16 specific U.S. Attorneys who should be considered for
17 possible termination?
18 MR. MARGOLIS: Yes. I had two categories, as I
19 recall: one was I really feel strongly about this one
20 going; and the other was run this fact, check this out,
21 these people ought to be looked at for a variety of
22 reasons.
23 MR. BHARARA: Do you recall how many people in
24 that first conversation might have fallen into either of
25 those two categories?

01 MR. MARGOLIS: I would say it was less than ten.

02 MR. BHARARA: In both categories combined?

03 MR. MARGOLIS: Both categories combined.

04 MR. BHARARA: And what was the basis, generally
05 speaking, of your identifying particular U.S. Attorneys
06 in either of those categories?

07 MR. MARGOLIS: The two that I was very firm
08 about going were performance, and then some others, I had
09 questions about their performance or there were questions
10 about some of their conduct.

11 MR. BHARARA: Would you say that one more time?

12 MR. MARGOLIS: Yes. The two that I felt
13 strongly should go were based on performance. And then
14 the others were based on either-and/or performance and
15 conduct.

16 MR. BHARARA: And, again, could you tell us how
17 you distinguished between performance and conduct?

18 MR. MARGOLIS: Yeah. On some of these, I think
19 at the time there were outstanding either OPR or OIG
20 investigations of them, so I thought, you know, we ought
21 to take a look at them, but we ought to see what the
22 results of the investigations are. You know, they may be
23 exonerated.

24 And it could be having an affairs with a
25 subordinate and treating that subordinate more favorably

01 than other people, creating problems in the office. It
02 could be lying, things like that.

03 MR. BHARARA: Okay. But in the pure performance
04 category, at that time--

05 MR. MARGOLIS: It could be misconduct in
06 connection with litigation.

07 MR. BHARARA: But in the pure performance
08 management category, at that time you only could identify
09 two United States Attorneys who should be considered for
10 possible termination?

11 MR. MARGOLIS: Yeah. There was--there were two
12 that I said should go. There were others--there was one
13 that almost made List 1, who later made List 1, but I
14 wasn't sure at the time.

15 MR. BHARARA: Okay.

16 MR. MARGOLIS: That was a performance one.

17 MR. BHARARA: I'm going to try to ask some
18 questions before I draw an objection. Were any of the
19 people on the first list, the performance list, later
20 asked to resign? Pure performance list.

21 MR. MARGOLIS: Do you mean as part of the--

22 MR. BHARARA: As part of the eight.

23 MR. MARGOLIS: Okay, because, you know, there
24 were--people leave for--you mean--

25 MR. BHARARA: Why don't I rephrase the question.

01 You have said there were two people that you identified
02 who for performance reasons should go. Were either of
03 those two people ultimately asked to resign?

04 MR. MARGOLIS: Yes.

05 MR. BHARARA: And who were those people?

06 MR. HUNT: As part of this--

07 MR. BHARARA: As part of the eight that we are
08 all talking about.

09 MR. MARGOLIS: One was asked. One of the two.

10 MR. BHARARA: Okay. And who was that?

11 MR. MARGOLIS: Kevin Ryan.

12 [Pause.]

13 MR. MARGOLIS: I think Mr. DiBiagio was gone by
14 that time. I think he--or at least had announced his
15 resignation by then. He wouldn't have been on my list.
16 When does it say he left?

17 MR. BHARARA: Let me just ask you to look back
18 at Exhibit 2 and see if that refreshes your recollection
19 as to when--

20 MR. MARGOLIS: It does. It says I asked him to
21 leave in 2004, so that was before this list.

22 MR. BHARARA: Okay. So you have Mr. Ryan and
23 then another person you haven't identified yet who were
24 on your initial list of performance-based people who
25 should go.

01 MR. MARGOLIS: Correct.
02 MR. BHARARA: And then you said thereafter there
03 was another person that you would put in that category?
04 MR. MARGOLIS: Yeah--no. It was at the same
05 time. It's just that I put that person in the category
06 that said let's take a very close look, talk to other
07 people about that person. But I have questions.
08 MR. BHARARA: About that person's performance?
09 MR. MARGOLIS: Yes.
10 MR. BHARARA: So that would be a third person
11 you would put in the performance category?
12 MR. MARGOLIS: Yes.
13 MR. BHARARA: Okay. And in what time frame did
14 that third person in your mind warrant being in the
15 performance category of people who should leave?
16 MR. MARGOLIS: As time went on.
17 MR. BHARARA: Was it weeks or months?
18 MR. MARGOLIS: Months.
19 MR. BHARARA: Okay.
20 MR. MARGOLIS: It was a continual process.
21 MR. BHARARA: Was that third person you have
22 just been describing among the eight people who were
23 ultimately asked to resign last year?
24 MR. MARGOLIS: Yes.
25 MR. BHARARA: And who was that?

01 MR. MARGOLIS: Margaret Chiara.
02 MR. BHARARA: So Kevin Ryan was on your initial
03 list of performance problems. At some point Margaret
04 Chiara you identified in a similar fashion. Those are
05 those people who were asked to resign. The third person
06 that you have not identified, just so we are absolutely
07 clear, that person was not asked to resign as part of the
08 eight.
09 MR. MARGOLIS: That's correct.
10 MR. BHARARA: Do you know if that third person
11 still serves as United States Attorney?
12 MR. MARGOLIS: I do know.
13 MR. BHARARA: And does that person?
14 MR. MARGOLIS: Yes.
15 MR. BHARARA: And you won't identify that
16 person?
17 MR. HUNT: No. Correct.
18 MR. MARGOLIS: The Department objects.
19 MR. BHARARA: Okay.
20 MR. MARGOLIS: I personally would love to out
21 that person.
22 [Laughter.]
23 MR. MARGOLIS: Of all the people.
24 MR. BHARARA: If I said a word that it rhymes
25 with, would you--

01 [Laughter.]

02 MR. MARGOLIS: I think you could tell by the look on
03 my face if you get it right.

04 MR. BRODERICK-SOKOL: We will note that you
05 don't support the Department's objection on this issue.

06 MR. MARGOLIS: The Department is representing
07 the Department. I don't have a lawyer. I would make
08 that plain. You had said before that I was represented--
09 that went over my head, but I am not represented by
10 choice.

11 And these two are very good lawyers. They
12 represent the Department. As long as my interests are
13 coterminous with the Department's, they represent me,
14 too. But if push comes to shove, they represent the
15 Department. I have done what they're doing in the past.

16 MR. BHARARA: Understood.

17 With respect to the other handful of folks that
18 you identified for Mr. Sampson initially about whom you
19 said there may have been ethical or OPR concerns, to the
20 best of your recollection were any of those people
21 ultimately asked to resign as part of the eight who were
22 asked to resign last year?

23 MR. MARGOLIS: Can I see the list?

24 MR. BHARARA: Sure. Do you want the list of the
25 eight?

01 MR. MARGOLIS: Yes.

02 [Witness perusing document.]

03 MR. BHARARA: We don't need to mark this, but
04 it's--I'll state the names for the record so we have them
05 on the record: Dan Bogden, David Iglesias, John McKay,
06 Carol Lam, Paul Charlton, Bud Cummins, Margaret Chiara,
07 Kevin Ryan.

08 For the record, when I refer to "the eight" and
09 when you refer to "the eight," we're referring to those
10 eight individuals.

11 MR. MARGOLIS: Okay. And remind me of the
12 question again?

13 MR. BHARARA: Were any of the other people you
14 identified in your initial conversation in late '04,
15 early '05 with Mr. Sampson who may have had in your mind
16 ethical or OPR issues, were any of those people
17 ultimately asked to resign as part of these eight?

18 MR. MARGOLIS: No. The only people who I raised
19 questions about who wound up on the list of the "Justice
20 Eight," as I call them, were Margaret and Kevin.

21 MR. BHARARA: So I am clear about the time
22 frame, we have been talking about late '04, early '05
23 that you began to identify Ms. Chiara and Mr. Ryan. Am I
24 correct that you--withdrawn.
25 Did you at any point after that identify other

01 people who you believed should go?

02 MR. MARGOLIS: I don't believe so. I don't
03 recollect adding any others.

04 MR. BHARARA: Okay. So the only--

05 MR. MARGOLIS: I think there were--in the
06 interim people came up who I terminated, but without a
07 list or anything like that. They were just handled
08 individually, always for conduct. They weren't part of
09 this Justice Eight.

10 MR. BHARARA: Do you believe--withdrawn.
11 After your initial conversation in late '04 and
12 early '05 with Mr. Sampson, could you describe your
13 involvement in discussions about who should stay and who
14 should go from that point until December 7th of 2006?

15 MR. MARGOLIS: I think--and I am pretty certain
16 of this--that the only person that I ever talked to
17 between the first conversation with Kyle and toward the
18 very end was Kyle, about this list or anything to do with
19 the list. And the only reason I'm hesitating is at some
20 point in the fall, Kyle told me what the final list was
21 at that time--

22 MR. BHARARA: Is this fall of '06?

23 MR. MARGOLIS: Fall of '06. And said--and I
24 think it was November. I think it was November. And he
25 said, "We're about to execute this" and gave me the

01 chance to weigh in on any, and I noticed two names
02 missing. And I've mentioned--I'm not sure how I phrased
03 it, but they happened to be the two names that were at
04 the top of my list.

05 MR. BHARARA: Those names would be Kevin Ryan
06 and Margaret Chiara?

07 MR. MARGOLIS: No.

08 MR. BHARARA: Or different names?

09 MR. MARGOLIS: One name--one name was Kevin
10 Ryan. The other--remember I said I had a top two. The
11 other was--the second of the top two or the first of the
12 top two.

13 MR. BHARARA: Can I just go through that so that
14 I am clear? You had a top two and later you had a third,
15 and those were Kevin Ryan--

16 MR. MARGOLIS: It was not that important to me,
17 but I had a recommendation.

18 MR. BHARARA: Okay. You had a recommendation as
19 to three people who should be gone based on performance,
20 correct?

21 MR. MARGOLIS: Yes.

22 MR. BHARARA: Kevin Ryan, Margaret Chiara, and
23 the third person that you haven't identified.

24 MR. MARGOLIS: That's correct.

25 MR. BHARARA: And then fast forward to November

01 2006--

02 MR. MARGOLIS: Now, to be precise about Margaret
03 Chiara, I'm not sure that I can claim credit for adding
04 her to the list. Somebody else may have, and I may have
05 endorsed it. I do claim responsibility--and that's the
06 word, not "credit"--responsibility for Kevin.
07 And I think I can claim responsibility for the
08 unidentified person, but if not, I hardly endorsed him.
09 In other words, was I first in the door or not? I'm not
10 a hundred percent sure.

11 MR. BHARARA: Okay. But there were three people
12 that you spoke about in the late part of '04, early part
13 of '05: Kevin Ryan, Margaret Chiara, and a third person
14 that we have talked about here.

15 MR. MARGOLIS: Yes.

16 MR. BHARARA: Then fast forward to November of
17 2006. You saw a list from Kyle Sampson. Is that
18 correct?

19 MR. MARGOLIS: Or he told me. I think he more
20 likely told me the names.

21 MR. BHARARA: Okay. And then which were the
22 names of those three that were not on the list that was
23 recited to you? In other words, which were and which
24 were not on the list that Mr. Sampson told you about in
25 November of 2006?

01 MR. MARGOLIS: I have not identified--
02 MR. HUNT: He is not going to say the same.
03 MR. BHARARA: The unidentified person--
04 MR. HUNT: Right. He didn't ask for the names,
05 right?
06 MR. MARGOLIS: He asked who the persons were.
07 MR. HUNT: He said which ones of the--you have
08 talked about one, two, and three.
09 MR. BHARARA: In November of 2006, when Kyle
10 Sampson read to you the list of names, was Kevin Ryan on
11 the list?
12 MR. MARGOLIS: No.
13 MR. BHARARA: Was Margaret Chiara on the list?
14 MR. MARGOLIS: I believe so.
15 MR. BHARARA: And was the third person that you
16 haven't identified on the list?
17 MR. MARGOLIS: No.
18 MR. BHARARA: Okay. And then how did you
19 respond when that list was read to you?
20 MR. MARGOLIS: I pointed out the absence of
21 those two names. My only comment was the absence of
22 those two names. Maybe I said, "I'm disappointed," or
23 "What about those two?" And he said--I got the
24 impression he would look into it or something.
25 MR. BHARARA: Okay. Between that time and

01 November of 2006, going back to the end of '04 and
02 beginning of '05, can you describe how frequently you
03 talked with Mr. Sampson about this whole plan or process?

04 MR. MARGOLIS: I don't think I had more than
05 one, at the most, conversation with him--it was not a
06 running thing--in between that time. I say no more than
07 one because I remember one. But I can't discount the
08 possibility.

09 I mean, I got to tell you that I didn't think
10 that--I didn't have great optimism that this would ever
11 happen because, you know, I didn't fall off a Christmas
12 tree. I know how difficult getting rid of a political
13 appointee can be without really hard evidence. And there
14 were long periods of time when I didn't hear anything.

15 MR. BHARARA: So to the best of your
16 recollection, from the first time that Mr. Sampson
17 mentioned to you this possibility of terminating a subset
18 of United States Attorneys through the very end of the
19 process in November of 2006, how many conversations in
20 total do you believe you had with Mr. Sampson about this
21 whole process?

22 MR. MARGOLIS: No more than three that I can
23 really say.

24 MR. BHARARA: And by those three, are you
25 including the first conversation?

01 MR. MARGOLIS: Actually, maybe four. If it was
02 separate conversation, one would be killing the "firing
03 of everybody" discussion, conversation; two, let's go
04 through the U.S. Attorneys and give me your views on who
05 should be considered; a third, maybe a third that I'm
06 very fuzzy on; and then near the end, maybe November,
07 saying here's the list, here's what we're going to go
08 with. And that didn't happen, by the way, but that--in
09 other words, nothing happened right away.

10 MR. BHARARA: How far apart were those
11 intervening conversations, to the best of your knowledge?

12 MR. MARGOLIS: Well, the early '05 to late '06,
13 and maybe one somewhere in the middle of that. But I
14 don't have a good specific recollection of the one in the
15 middle.

16 MR. BHARARA: Did you have any understanding of
17 who else Mr. Sampson was consulting with on this project?

18 MR. MARGOLIS: He never mentioned--as far as I
19 can recall, he never mentioned having that information,
20 but, you know, I would have guessed who he thought that--

21 MR. BHARARA: Who would you have guessed?

22 MR. MARGOLIS: I would have thought the
23 Directors of EOUSA, maybe the Chairman of the Advisory
24 Committee; the Deputies, the Deputy Attorneys General;
25 some Assistant Attorneys General, especially Criminal, I

01 guess.

02 MR. BHARARA: And why would you have assumed he
03 would be talking to those folks?

04 MR. MARGOLIS: To get their input. They would
05 know U.S. Attorneys. Like I said, you have got two
06 Deputy Attorneys General who actually were U.S.
07 Attorneys, one of whom was Chairman of the Advisory
08 Committee, so would be in a good position to meet those
09 people.

10 MR. BHARARA: Did he ask you your opinion about
11 who he should be consulting with in addition to you?

12 MR. MARGOLIS: I don't think so. I don't think
13 so. But if he did, if I'm wrong and if he did, it would
14 have been the names--the positions I just gave you.
15 That's what I would have said.

16 MR. BHARARA: Just once again, did you have any
17 conversations that you can recall about this process with
18 anyone other than Kyle during the 2-year period or so
19 ending in November of 2006?

20 MR. MARGOLIS: Not that I recall. I mean, I
21 recall in the summer of 2006 talking to--listening to
22 Bill Mercer talking about some issues with--you know,
23 that had come out with Carol Lam. But it wasn't in
24 connection with this list or anything. It was just
25 issues. I've seen some of the e-mails between him and

01 Elston that have been published, and I've read them.

02 MR. BHARARA: Did you have any understanding of
03 the involvement, if any, of Monica Goodling in this
04 process?

05 MR. MARGOLIS: Certainly after it blew up.

06 MR. BHARARA: Prior to December 7th of 2006.

07 MR. MARGOLIS: I don't recall--that's a good
08 question. I don't recall that.

09 MR. BHARARA: Did you ever have conversations--

10 MR. MARGOLIS: I'm surprised, if I don't recall
11 it.

12 MR. BHARARA: In your capacity, in your job at
13 the Deputy Attorney General's Office, did you have any
14 occasion to interact with Ms. Goodling?

15 MR. MARGOLIS: Oh, yes.

16 MR. BHARARA: In connection with what?

17 MR. MARGOLIS: Primarily in connection with U.S.
18 Attorney and U.S. Marshal selection. I played the same
19 role with the Marshal selections, primarily in those
20 contexts, both presidentially appointed U.S. Attorney,
21 Acting, and Interim U.S. Attorneys. That would be my
22 primary contact.

23 MR. BHARARA: Now, I just want to fast forward
24 to November of '06 when you were asked by Mr. Sampson
25 about a number of people that he identified to you.

01 MR. MARGOLIS: It was more--not so much asking
02 me. It was: Here's our final list. Do you have
03 anything to say? If I said to him--I believe if I said
04 to him take so-and-so off that list, he would have
05 listened.

06 I don't know what would have happened, but he
07 would have been taken aback enough to double-think it.
08 And I think when I said, you know, I really think these
09 other two people should be added to the list, I think
10 that gave him pause. I was 50 percent right, which is
11 better than I did in school.

12 MR. BHARARA: How long after you suggested that
13 Kevin Ryan be--was it Kevin Ryan or Margaret Chiara that
14 you asked to be added to the list?

15 MR. MARGOLIS: At that November thing?

16 MR. BHARARA: Yes.

17 MR. MARGOLIS: Kevin.

18 MR. BHARARA: How long after you suggested that
19 Kevin Ryan be added to the list do you know that he was
20 added to the list, if you know at all?

21 MR. MARGOLIS: I read in the Washington Post e-
22 mail traffic about that, where, you know, I raised the
23 question in early December--I gave people a heads-up that
24 I had been told by a source that a judge was going to get
25 certain Members of Congress and the Senate to get a copy

01 of the special report, and that's when I saw--and that
02 eventually made it to Kyle. I did not send it to Kyle,
03 but somebody sent it to him--Elston sent it to him.
04 And the upshot was that Kyle reported the list
05 has been expanded to include Ryan. That's how I believed
06 it was resolved. I learned for sure after the fact that
07 it was.

08 MR. BHARARA: Were you surprised that Kevin Ryan
09 wasn't on the list of people that Kyle Sampson read back
10 to you in November of '06?

11 MR. MARGOLIS: I would say more disappointed.

12 MR. BHARARA: Do you have any understanding as
13 to why Mr. Ryan would not have been on that list?

14 MR. MARGOLIS: It would be speculation.

15 MR. BHARARA: I ordinarily don't do this, but I
16 am going to ask you to speculate, if you have a
17 speculation.

18 [Pause.]

19 MR. BHARARA: Why don't I ask you this question.
20 What reasons can you think of as to why Mr. Ryan would
21 not have been on the list based on everything you know
22 about Mr. Sampson and the Department and the process?

23 MR. HUNT: If you know.

24 MR. MARGOLIS: Oh, if you speculate, but if you
25 want me to speculate, but I--

01 MR. BHARARA: Please.
02 MR. MARGOLIS: --leave it to the Department.
03 MR. BHARARA: The record is clear that he is
04 speculating.
05 MR. HUNT: Right.
06 MR. BHARARA: So I think--
07 MR. HUNT: Right. Would you just give us a
08 minute?
09 MR. BHARARA: Sure.
10 [Off the record at 11:27 a.m.]
11 [On the record at 11:30 a.m.]
12 MR. HUNT: Back on the record.
13 You have asked a question. The witness has said
14 that he doesn't know but that he can speculate, and you
15 said that ordinarily you wouldn't ask speculate, you are
16 interested in his speculation, and we are prepared to let
17 him speculate because he has made clear that he doesn't
18 actually know.
19 I hope that we don't have to do a lot of
20 speculating. I hope we're talking about things that
21 people know and witnesses know. But if you want to ask
22 him what he speculates, that is fine on this question.
23 Do you want to ask again or do you want to re-
24 read the question?
25 MR. BHARARA: If you remember the question,

01 answer the question.

02 MR. MARGOLIS: First of all, I speculate that
03 Kyle agreed with me because he's an intelligent guy and
04 I've always found him to, you know, be interested in
05 the--well, the good operation of the Department, and I
06 thought the record was pretty clear.
07 My sense, speculation, is that he agreed with
08 me, but he was having trouble selling it. And I
09 speculate that it's because, number one, Ryan did adhere
10 to the Department's priorities. That was my
11 understanding.

12 That's not my expertise, but it's my
13 understanding that he did, and that he had some political
14 muscle. And I think that's--my speculation there is
15 fueled by the fact that reading e-mails that were posted
16 after the fact showing that.
17 But, in the end, the right decision was made in
18 my opinion.

19 MR. BHARARA: With respect to Mr. Ryan?

20 MR. MARGOLIS: Yes.

21 MR. BHARARA: Did you have to do anything in
22 terms of talking with other people or providing
23 documentary evidence or making any arguments for the
24 termination of Mr. Ryan after your conversation with Mr.
25 Sampson in November of '06 to make that happen?

01 MR. MARGOLIS: I don't think so. I don't
02 believe so, no. When the special EARS evaluation was
03 completed, I talked to the--I shared with the Deputy and
04 talked to him about it and shared my thoughts with him.
05 MR. BHARARA: Mr. McNulty?
06 MR. MARGOLIS: Yes.
07 MR. BHARARA: In November of '06?
08 MR. MARGOLIS: Probably October.
09 MR. BHARARA: Okay. And just going back for a
10 moment, so the record is clear, is it your best
11 recollection that you first mentioned Mr. Ryan as someone
12 who should be asked to resign to Mr. Sampson prior to
13 March of 2005?
14 MR. MARGOLIS: I can't say prior--it could have
15 been around that time.
16 MR. BHARARA: Okay.
17 MR. MARGOLIS: It was the first substantive
18 discussion we had, I believe.
19 MR. BHARARA: With respect to the second person
20 that you suggested to Mr. Sampson who wasn't on the list
21 in November of 2006, how strongly did you feel that that
22 person should be on the list?
23 MR. MARGOLIS: I felt very comfortable making
24 that recommendation.
25 MR. BHARARA: More or less strongly or the same

01 as you felt about Mr. Ryan?

02 MR. MARGOLIS: About the same, for different
03 reasons. There was no public embarrassment to the
04 Department with the other person.

05 MR. BHARARA: With respect to the other person,
06 do you know if that person had political muscle, as you
07 describe it?

08 MR. MARGOLIS: Not any more so than anybody else
09 that I know--I mean, anybody else that got to be U.S.
10 Attorney.

11 MR. BHARARA: When you talked about Mr. Ryan and
12 the second--

13 MR. MARGOLIS: Although I'm sure he had more
14 muscle than Pat Fitzgerald and Jim Comey, but that's not
15 saying much. Political muscle, that is.

16 MR. BHARARA: How forcefully did you make the
17 case for the second person relative to how forcefully you
18 made the case for Mr. Ryan?

19 MR. MARGOLIS: It is hard for me to compare
20 because I may have been a bit of a voice in the
21 wilderness as to Kevin. But as to the other guy, the
22 other person, I have reason to believe that I was just
23 one of a chorus.

24 MR. BHARARA: With respect to the person who was
25 ultimately not put on the list to be fired?

01 MR. MARGOLIS: Right.

02 MR. BHARARA: Do you have any understanding as
03 to why, given your input and the chorus, as you describe
04 it, that that other person was not ultimately asked to
05 resign?

06 MR. MARGOLIS: No. That I don't have the same
07 kind of speculation on. You know, maybe he did not
08 publicly embarrass us. I don't know.

09 MR. BHARARA: Do you have any understanding of
10 who the other members of that chorus were that were
11 opining against the second person that you described?

12 MR. MARGOLIS: No. And the reason I say it is
13 because I think I'm a reasonable guy, and I think
14 everybody would agree with me on this one. I know other
15 people had dealings with him.

16 MR. BHARARA: Generally speaking, what were the
17 issues--

18 MR. MARGOLIS: Let me add, what sometimes
19 happens in these situations is somebody who has relevant
20 information leaves and, you know, we lose the benefit of
21 their views. That can happen, too.

22 MR. BHARARA: With respect to that second person
23 who was not on the list in November of '06, can you
24 describe generally the reasons why you thought that
25 person should be asked to resign?

01 MR. HUNT: And I emphasize his wording is
02 "generally," so that you don't do anything to reveal the
03 individual.
04 MR. BHARARA: As specifically as you can, while
05 honoring the objection, with which we disagree.
06 MR. MARGOLIS: I would say poor judgment and--
07 poor judgment.
08 MR. BHARARA: With respect to that second
09 person, to your knowledge were there any issues of
10 misconduct or ethical improprieties?
11 MR. MARGOLIS: Some smoke, but not enough to
12 ever warrant an investigation.
13 MR. BHARARA: With respect to that second
14 person, to your knowledge had there been an EARS
15 evaluation of that person's office?
16 MR. MARGOLIS: I'm sure there was at some point.
17 I don't remember what it said.
18 MR. BHARARA: With respect to that second
19 person, do you recall whether or not there was a special
20 follow-on review or--
21 MR. MARGOLIS: There was not.
22 MR. BHARARA: Did you or anyone else suggest
23 that there should be with respect to that person?
24 MR. MARGOLIS: I did not, and I don't know of
25 anybody else.

01 MR. BHARARA: Did you have conversations with
02 anyone else at the Department about what you perceived as
03 problems with respect to that second person?
04 MR. MARGOLIS: Oh, yeah.
05 MR. BHARARA: Could you say with whom?
06 MR. MARGOLIS: I mean, sometimes it was the
07 person--the other person mentioning a problem to me. I
08 remember I discussed this person with Deputy Thompson.
09 MR. BHARARA: And do you recall what the opinion
10 of--was that Larry Thompson?
11 MR. MARGOLIS: Yes.
12 MR. BHARARA: What Larry Thompson's views of the
13 abilities of this person were?
14 MR. MARGOLIS: Yes.
15 MR. BHARARA: And what were those views?
16 MR. MARGOLIS: Can I answer that?
17 MR. HUNT: If you can do so without identifying
18 the individual, I think that is fine.
19 MR. MARGOLIS: Sure. He shared my view.
20 MR. BHARARA: Shared your view that that person
21 should be asked to resign, or shared your view--
22 MR. MARGOLIS: No. This was before there was
23 any talk--shared my view of the person's poor judgment.
24 MR. BHARARA: And that is going back to what
25 time frame?

01 MR. MARGOLIS: That would probably be in--it was
02 sometime before the fall of '03. It could have been in
03 '02. Larry left in the summer of '03.

04 MR. BHARARA: Do you have an understanding as to
05 what Mr. Comey's views of that second person were?

06 MR. MARGOLIS: I don't have a specific
07 recollection of talking to Jim about him, but my sense is
08 in the back of my mind that Jim didn't think very highly
09 of him either.

10 MR. BHARARA: Do you have an understanding of
11 whether or not Attorney General Gonzales had a view of
12 that U.S. Attorney whom you have not identified?

13 MR. MARGOLIS: I don't know.

14 MR. BHARARA: Do you have a view--an
15 understanding of whether or not Monica Goodling had a
16 view of that United States Attorney?

17 MR. MARGOLIS: I don't know.

18 MR. BHARARA: Anyone else you can identify at
19 the Department that you believe had a view one way or the
20 other about the performance and judgment of that U.S.
21 Attorney?

22 MR. MARGOLIS: I think Kyle did. I think Kyle's
23 view was not very positive, and indeed, I think I saw
24 this guy's name on a list of Kyle's early on where--and
25 maybe I'm the one who put it on the list. You know, this

01 could be coming around full circle, but on the list of
02 people who should go.

03 MR. BHARARA: Did you ever yourself physically
04 compile a list?

05 MR. MARGOLIS: No. Up in my head, not in my
06 mouth.

07 MR. BHARARA: Did you ever at any point recall
08 seeing an actual physical list of people who should be
09 asked to resign other than simply being told orally by
10 Kyle Sampson or someone else?

11 MR. MARGOLIS: I would say no except I believe I
12 saw some piece of paper with this guy's name on it, I
13 mean as somebody who should go. But like I say, that may
14 have been Kyle writing down my views. My views.

15 MR. BHARARA: When you had conversations with
16 Mr. Sampson--

17 MR. MARGOLIS: You said do I have any--did you
18 ask me--

19 MR. BHARARA: If you ever saw a list--

20 MR. MARGOLIS: No. Before that. Anybody else
21 who had views?

22 MR. BHARARA: Yes.

23 MR. MARGOLIS: My hearsay view is that Attorney
24 General Ashcroft shared Deputy Thompson's view.

25 MR. BHARARA: That this person had a judgment

01 problem?

02 MR. MARGOLIS: Yeah. Or didn't think highly of-
03 -which I admit is not a strong--you know, that doesn't
04 mean--that's not saying the person should be fired. I
05 say the person should be fired.

06 MR. BHARARA: And as you sit here today, you
07 have no understanding as to why that person remained on
08 the job?

09 MR. MARGOLIS: No. All I can think of is that,
10 you know, not everybody--if there was a consensus, not
11 everybody felt the way I did.

12 MR. BHARARA: Did you ever ask anyone why he
13 remained on the job, notwithstanding your recommendation?

14 MR. MARGOLIS: I think when his name--and
15 another reason why he could have stayed on was, as I
16 indicated before, people who had views of him could be
17 gone and not asked their views, and so he was lucky that
18 way. I think I indicated to Kyle, when his name and
19 Kevin's name were not on the list, that I was
20 disappointed in the November conversation.

21 MR. BHARARA: Do you recall ever asking anyone
22 why it was that that person didn't make the list
23 ultimately?

24 MR. MARGOLIS: No. I think I was more
25 interested in getting it done than worrying about why

01 not.

02 MR. BHARARA: Are you aware of anyone at the
03 Department who had a very positive view of this United
04 States Attorney?

05 MR. MARGOLIS: If there was such a person, they
06 didn't share that view with me.

07 MR. BHARARA: Okay. With respect to the other
08 names--withdrawn.

09 At the time in November when Mr. Sampson told
10 you what the final list was, do you recall who was
11 actually on that list?

12 MR. MARGOLIS: I think it was the--

13 MR. BHARARA: And if you need to refer to the
14 list of the eight, please go ahead.

15 MR. MARGOLIS: Yeah.

16 I don't think--I don't think Bud Cummins' name
17 was on that list, but the only reason I say that is
18 because I think he was by that point treated separately.
19 And Kevin's wasn't on that list.

20 By the way, I don't think there was a list in
21 November. I think it was an oral statement running--

22 MR. BHARARA: Do you recall that the oral
23 statement to you included then six of those eight names,
24 in other words, every name other than Chiara and Cummins?

25 MR. MARGOLIS: Other than--

01 MR. BHARARA: I'm sorry, other than Ryan and
02 Cummins?

03 MR. MARGOLIS: I believe so.

04 MR. BHARARA: Were there other names that were
05 read to you that later came off the list? In other
06 words, names that are not among these eight that were on
07 the list that was read to you by Mr. Sampson?

08 MR. MARGOLIS: I don't think so.

09 MR. BHARARA: When Mr. Sampson discussed with
10 you this list of names of U.S. Attorneys who would be
11 asked to resign, did you understand it to be largely a
12 fait accompli? Or did you believe you were being asked
13 to approve or to pass judgment on the list?

14 MR. MARGOLIS: I was--I read--I can't remember
15 what exact words he used, if any, but my clear
16 understanding was speak now or forever hold your piece,
17 in both directions. You know, do you want to kick
18 somebody off, and why? Do you want to add anybody, and
19 why?

20 MR. BHARARA: And did you kick anyone--did you
21 try to kick anyone off?

22 MR. MARGOLIS: No.

23 MR. BHARARA: I am going to go through the
24 specific people shortly. I want to ask you some specific
25 questions about things you did or did not do during the

01 course of time when Mr. Sampson was putting together this
02 ultimate list.

03 Mr. Margolis, were you at any time consulted by
04 Mr. Sampson or anyone else about who should be in the
05 core group of people deciding who should ultimately be
06 dismissed?

07 MR. MARGOLIS: No.

08 MR. BHARARA: Prior to December 7th of 2006,
09 were you consulted on the issue of how to deal with any
10 political upheaval that might follow dismissal of a
11 number of U.S. Attorneys at the same time?

12 MR. MARGOLIS: No. I am known to have a tin ear
13 on that stuff.

14 MR. BHARARA: Prior to December 7th--

15 MR. MARGOLIS: I mean, this--if you didn't know
16 better, you'd think I orchestrated this whole thing.
17 [Laughter.]

18 MR. BHARARA: Prior to December 7th of 2006,
19 were you consulted specifically on what standards or
20 criteria should be used to determine ultimately who
21 should be asked to resign?

22 MR. MARGOLIS: I don't think it was ever that
23 scientifically stated, but I think over time--not just
24 with this list, Kyle--who, as I recall, was the only
25 person who ever talked about the removal issue. But over

01 a period of time, we would discuss what we expected from
02 United States Attorneys because part of it was during the
03 selection process. You know, after the person would
04 leave the room and we would hash out, you know, whether
05 up, down, or maybe, you know, we'd talk about is this
06 person a leader, is this person going to be respected,
07 are they people who will follow direction, you know, but
08 do they have a degree of independence, too.

09 So I think while it wasn't any specific
10 discussion to set up scientific standards, that we did
11 from beginning to end, including pre-hiring, have a
12 pretty good idea what we were looking for.

13 MR. BHARARA: What you were looking for in terms
14 of who should be hired as U.S. Attorney? Or what you--

15 MR. MARGOLIS: Yeah, and who would make a good
16 United States Attorney. And, therefore, if they did not
17 match up to what we expected, then they were not going to
18 be a good--if they turned out not to match up, then they
19 wouldn't be a good U.S. Attorney.

20 MR. BHARARA: So, in other words, you are saying
21 by inference the standards for dismissal came from the
22 standards of what makes a good U.S. Attorney?

23 MR. MARGOLIS: I think so.

24 MR. BHARARA: But you didn't have any specific
25 conversations with Mr. Sampson or anyone else about

01 specific goals or criteria for deciding whether or not
02 someone was above the threshold for being terminated
03 versus--

04 MR. MARGOLIS: I don't recall that--I mean, I do
05 recall when I would make a pitch for somebody to be on
06 the list, I would give my reasons. You know, so that
07 would be a standard there.

08 MR. BHARARA: Prior to December 7th of 2006,
09 were you consulted on whether U.S. Attorneys should be
10 given the opportunity to correct any performance problems
11 that may have been discussed before they were actually
12 terminated?

13 MR. MARGOLIS: No, but I should say that I am a
14 bit exasperated by my role here because I'm the only one
15 of all the people involved who knows how to fire a United
16 States Attorney or a Marshal based on experience. And I
17 was not aggressive enough or vigilant enough, and I
18 should have done a number of things, I should have
19 inserted myself.

20 I was too passive, and I'd like to, I think--and
21 I hold myself accountable for this--that if I had stepped
22 in and said something, that maybe this would have been--
23 we would have handled this better, because I'm used to--
24 the irony is when people have been found to have engaged
25 in misconduct by an OPR investigation or an OIG

01 investigation, historically when they were political
02 appointees as opposed to career people with protections,
03 historically maybe they were just bounced because they had no
04 rights. And, you know, we had this independent finding.
05 When I came on board 14 years ago, it didn't
06 take me long to change that, and I got some resistance
07 from especially career people, saying, "You're setting a
08 dangerous precedent by giving some kind of rights to
09 these people who were political appointees."
10 But I would give them a copy of the report. I'd
11 give them a chance to respond in writing. I'd give them
12 and their attorney--and I'm talking about U.S. Attorneys
13 now specifically--a chance to respond through counsel
14 personally.
15 And then I'd make my decision, and so--but I
16 didn't insist that happen in this case, and I understand
17 there was a bit of difference. A finding of misconduct,
18 if it's allowed to stand, you know, follows a lawyer
19 forever.
20 It will stop them from becoming a judge or other
21 positions of public trust; whereas, this shouldn't have
22 the same result. So I do make that distinction. But I
23 still wish that I had said, look, let's hear what these
24 people have to say.
25 Now, Kevin Ryan I gave more due process to than

01 I give a career person. I gave him an unlimited budget,
02 and he exceeded it. But the others, you know, I didn't--
03 and I would say as to Margaret, too, that she had pretty
04 good due process. But I did not insert myself as to the
05 others and say, look, what do you got? What do they say?
06 What is their response?

07 MR. BHARARA: With respect to--

08 MR. MARGOLIS: And I'd like to think that I know
09 how far a career guy should go and when he should defer
10 to the political appointees. But in this case,
11 ironically, I think my tentativeness and lack of
12 aggressiveness--which I'm not known for lack of
13 aggressiveness. I think it did my masters a disservice,
14 and I accept that. That does not mean that I'm excluding
15 everybody else from their own responsibility. That's a
16 different issue.

17 MR. BHARARA: I'm coming to those people.

18 MR. MARGOLIS: Okay.

19 MR. BHARARA: It's later in the hour.

20 MR. MARGOLIS: I'll be here.

21 MR. BHARARA: Prior to December 7, 2006, were
22 you consulted at any point on the relative merits of any
23 complaints relating to lack of aggressiveness in pursuing
24 voter fraud cases on the part of one or more of the
25 dismissed U.S. Attorneys?

01 MR. MARGOLIS: No. My pretty firm recollection
02 is that I didn't hear about that issue and others, but
03 that issue specifically, until after the dismissals and
04 things started to become public.

05 MR. BHARARA: Prior to December 7th of 2006,
06 were you ever asked to create or prepare any
07 documentation that would support the decision to dismiss
08 these eight U.S. Attorneys?

09 MR. MARGOLIS: As to Kevin -- put Kevin Ryan
10 aside, because we got the EARS evaluation, so I put him
11 in a special category. But aside from him, no.

12 MR. BHARARA: More generally, prior to December
13 7th of 2006, were you ever consulted on what, if any, due
14 diligence should be done on particular complaints raised
15 about the U.S. Attorneys who were ultimately dismissed,
16 apart from Ken Ryan?

17 MR. MARGOLIS: I think -- I think, in the
18 context -- not in the context of these removals, but in
19 the context of Deputy U.S. Attorney General's Office
20 business, Mercer discussed -- excuse me -- discussed with
21 me the performance of Carol Lam in his efforts to make it
22 better. To make her better. His failed effort.

23 MR. BHARARA: Prior to December 7 of 2006, were
24 you ever consulted about whether or not a number of U.S.
25 Attorneys should be fired on the same day or whether it

01 should be spaced out over time?
02 MR. MARGOLIS: I wasn't consulted, but I think
03 -- I think, at the end of the day--whenever that was. It
04 could have been November, it could have been early
05 December--I was orally told, maybe by Mike Elston, maybe
06 by Kyle Sampson, of how it was going to be done, you
07 know, that Mike Battle was going to make these phone
08 calls and it was going to be done.
09 MR. BHARARA: You understood that to be being
10 advised of, but not consulted about, how to proceed?
11 MR. MARGOLIS: No. But, you know, I -- Jim
12 Comey has said publicly about me that, if I think he's
13 full of crap I'll tell him he's full of crap, and if I
14 think the Attorney General's full of crap I'll say he's
15 full of crap. I'll tell him he's full of crap.
16 So when you say I was being advised, if I -- if
17 I said, whoa, that's not the way it's going to be done, I
18 think I could have stopped it. You know, on its own,
19 thinking back -- and I've got to admit, I didn't think of
20 this at the time and why I didn't make the judgment, but
21 looking at it over the benefit of hindsight, I could have
22 said, hey, these guys are presidentially-appointed United
23 States Attorneys.
24 Mike Battle is, you know, a Director of EOUSA.
25 He used to be a U.S. Attorney but he's not a U.S.

01 Attorney anymore. I want somebody at a higher level to
02 call them -- call these people and tell them. I didn't
03 say it.

04 On the other hand, I'm not too troubled by that
05 aspect because I'm the one who calls U.S. Attorneys to
06 tell them they've got to go for conduct, so I can't say,
07 you know, that Mike Battle's wasn't proper -- you know,
08 the proper level to do it.

09 MR. BHARARA: Prior to December 7th of 2006, do
10 you recall seeing any memoranda or documents prepared by
11 Kyle Sampson, Monica Goodling, or anyone else relating to
12 the plans to dismiss multiple U.S. Attorneys?

13 MR. MARGOLIS: No. I think I recently saw
14 copies of -- of this game -- you mean, the plan of how it
15 was going to be done?

16 MR. BHARARA: Any memorandum or document
17 whatsoever prior -- prior to the actual dismissals.

18 MR. MARGOLIS: I don't --

19 MR. BHARARA: Relating to the dismissals.

20 MR. MARGOLIS: I don't think so.

21 MR. BHARARA: Were you present at the November
22 27, 2006 meeting attended by the Attorney General and
23 others where the plan to fire seven U.S. Attorneys was
24 discussed?

25 MR. MARGOLIS: No. And let me make it plain: I

01 never attended any meeting on this subject, except
02 between me and Kyle, and maybe once between me and
03 Elston, but I don't call those meetings, until the
04 preparation for the Deputy's testimony.

05 MR. BHARARA: Do you have any understanding as
06 to why you wouldn't have been -- Mr. Sampson had
07 conferred with you as early as late '04, early 2005 about
08 who should be asked to resign?

09 MR. MARGOLIS: I mean, my guess -- my thought
10 would be that if they were going to have any career
11 person there they would have me there, but they didn't
12 have any career person. So -- and I don't -- I haven't
13 seen the list, or I don't remember seeing the list
14 recently of who was there, but I would predict there was
15 no career person there. A certain sausage I don't want
16 to see made, so I don't blame them.

17 MR. BHARARA: You shouldn't hang out in
18 Congress.

19 Prior to December 7th of 2006, did you have any
20 communications at all with Attorney General Gonzales
21 about the performance of any of these eight or of the
22 decisions to dismiss any of these eight?

23 MR. MARGOLIS: I pretty firmly recollect the
24 answer is no.

25 MR. BHARARA: Okay.

01 Prior to December 7th, 2006, did you have any
02 communications with anyone at the White House about the
03 performance of any of these eight, or to dismiss any of
04 these eight?

05 MR. MARGOLIS: No.

06 MR. BHARARA: And specifically, I just want to
07 run through a few names. Do you recall whether or not
08 you had any communications at all with Harriet Meirs on
09 this?

10 MR. MARGOLIS: I never had any communication
11 with Harriet Meirs on any subject. Never met her.

12 MR. BHARARA: You ever meet Bill Kelley?

13 MR. MARGOLIS: I know the name. I don't believe
14 -- I know I've never met him. I don't believe I've ever
15 talked to him. I certainly didn't discuss this with him.

16 MR. BHARARA: Did you discuss it with anyone
17 else at the White House counsel's office, to your
18 recollection?

19 MR. MARGOLIS: Now, people from the White House
20 counsel's office, not the ones you mentioned, participate
21 in our U.S. Attorney selection interviews, but I don't
22 believe any of -- that I talked to any of these people
23 about them.

24 MR. BHARARA: Same answer for Karl Rove?

25 MR. MARGOLIS: Never met Karl Rove. Never

01 talked to Karl Rove. Only contact with him is through
02 Fitzzy's investigation that everybody --
03 MR. BHARARA: Pat Fitzgerald.
04 The same answer for Scott Jennings and Sarah
05 Taylor?
06 MR. MARGOLIS: Who? Say again?
07 MR. BHARARA: Scott Jennings and Sarah Taylor.
08 MR. MARGOLIS: I've only seen their names in
09 some of these public e-mails.
10 MR. BHARARA: Separate and apart from any
11 communications you had with the folks that I've
12 mentioned, are you aware of any involvement by anyone at
13 the White House in connection with the decisions to ask
14 for the resignations of these eight U.S. Attorneys?
15 MR. MARGOLIS: Say that again.
16 MR. BHARARA: Separate and apart from whether or
17 not you personally had conversations with folks at the
18 White House, are you aware, as you sit here now, of any
19 degree of involvement on the part of people at the White
20 House in the decision to ask for these eight folks'
21 resignation?
22 MR. MARGOLIS: I only -- from the materials I
23 read publicly, you know, that have been posted on the
24 Internet that were turned over to you guys, but that --
25 you know, I see from that that there was involvement and

01 discussions, but that's all.

02 MR. BHARARA: You have no understanding of White
03 House involvement from post-December '06 conversations
04 with Kyle Sampson, or Monica Goodling, or the Attorney
05 General, or anyone else?

06 MR. MARGOLIS: I -- I have never, to this day,
07 discussed the specific -- the specifics of this U.S.
08 Attorney dismissals -- of U.S. Attorney dismissals with
09 the Attorney General. There've been vague allusions on
10 occasion when we've chatted, but nothing specific.
11 And Kyle and Monica, I -- I don't believe so.
12 You know, if something -- the only occasion would have
13 been -- oh, wait a minute. Wait a minute. Wait a
14 minute. I'm wrong. I missed an obvious point.
15 On a Thursday afternoon or early evening, the
16 Thursday before all hell broke loose -- the Thursday
17 before the Monday when all hell broke loose with our
18 disclosures that became public, I was coming back to my
19 office from somewhere and Kyle was standing outside my
20 office waiting for me and he asked me to step into my
21 office and he had some binder with him or something.
22 In any event, he sat there and read me materials
23 that, as I said, were later disclosed two or three days
24 later about White House involvement.

25 MR. BHARARA: Do you recall what time of day

01 that was on that Thursday?
02 MR. MARGOLIS: In the afternoon. Late
03 afternoon. Because I think after we left my office I saw
04 him doing the same thing in the Deputy's office, or the
05 Deputy -- with the Deputy in the conference room.
06 MR. BHARARA: Do you recall that this was two
07 days after the U.S. Attorneys testified in the House and
08 the Senate and that Mr. Moschella testified in the House?
09 MR. MARGOLIS: No. I mean, the way -- the
10 timing of it, the way I set the timing is that it was the
11 Thursday before the Monday disclosures.
12 MR. BHARARA: And the Monday disclosures
13 happened around the same time that Mr. Sampson resigned?
14 MR. MARGOLIS: Yes. Maybe even --
15 MR. BHARARA: So Mr. Sampson resigned on Monday
16 the 12th, so this was Thursday the 8th.
17 MR. MARGOLIS: This would have been Thursday the
18 --
19 MR. BHARARA: March 8th.
20 MR. MARGOLIS: -- 8th.
21 MR. BHARARA: Okay.
22 MR. MARGOLIS: So that was the first inkling.
23 And then later that night--and I mean like 8:00 or so--
24 Monica came down to see me.
25 MR. BHARARA: Can we go back to Mr. Sampson's

01 visit to you earlier that evening? What time,
02 approximately, was that again?
03 MR. MARGOLIS: Late afternoon.
04 MR. BHARARA: So before 5:00?
05 MR. MARGOLIS: No. Yeah, maybe before 5:00.
06 MR. BHARARA: And the two of you met alone in
07 your office?
08 MR. MARGOLIS: Yes.
09 MR. BHARARA: How long a meeting was that?
10 MR. MARGOLIS: It seemed longer than it probably
11 was. Maybe 15, 20 minutes.
12 MR. BHARARA: Can you tell us, to the best of
13 your recollection, what you said to him, what he said to
14 you?
15 MR. MARGOLIS: All I can remember of him is him
16 reading -- "I'm going to read you some e-mail traffic so
17 you know what's going on." And he read me some of these
18 e-mails that later -- that, you know, on Monday I read
19 publicly disclosed. I don't think I said anything to him
20 other than "oh".
21 MR. BHARARA: Can you describe what his demeanor
22 was when he was telling you this?
23 MR. MARGOLIS: Somber. Somber.
24 MR. BHARARA: Did he apologize in any way?
25 MR. MARGOLIS: I got -- I don't think he said he

01 was sorry, but I got the impression he was there to make
02 peace with me.

03 MR. BHARARA: And what's your understanding as
04 to why he wanted to make peace with you?

05 MR. MARGOLIS: Because I think we had a good
06 relationship. We've been to war together on the same
07 side, and I got the impression that this thing had -- he
08 thought this thing had all gotten out of hand and he
09 hadn't -- he hadn't disclosed everything that he knew.
10 But I don't think he -- my reaction was, he didn't owe it
11 to me. He owed it to other people but he didn't owe it
12 to me.

13 MR. BHARARA: Who do you think he owed it to?

14 MR. MARGOLIS: The Deputy and the Attorney
15 General.

16 MR. BHARARA: Why do you think he owed it to
17 them?

18 MR. MARGOLIS: So that they knew all the facts.
19 They were getting pilloried around -- they're all getting
20 pilloried. The institution was getting pilloried around.

21 MR. BHARARA: Did you understand from him during
22 that meeting why it was that those e-mails had not been
23 disclosed or it not come to light prior to that day?

24 MR. MARGOLIS: No, I didn't. He didn't -- he
25 didn't offer that fact and I did not ask.

01 MR. BHARARA: Any reason you didn't ask?

02 MR. MARGOLIS: Maybe I was stunned. And maybe
03 it wasn't until later that I really appreciated -- like,
04 later that day, that I really appreciated the
05 significance of it. I remember when he left, walking out
06 of my -- walking around a bit and thinking about whether
07 I should go and tell Paul, and then eventually I noticed
08 he was in Paul's office -- Paul's conference room with
09 the same binder, so Paul obviously is going to know.

10 MR. BHARARA: What precisely were you stunned
11 by?

12 MR. MARGOLIS: Just -- you know, I hate to
13 admit, I can't recall specifically, but it was e-mail. I
14 guess, showing the White House's heavy involvement in
15 this when I -- when I was under the impression that, you
16 know, they had this early on thing with Harriet where she
17 said, "Let's fire everybody", and then I said the next
18 step would be, we go in there and sell them the names.
19 Now, I am not criticizing the role of the White
20 House. I mean, the White House appoints, the White House
21 removes. It's just that I didn't know. I think we had
22 some prepared testimony for the Deputy to deliver, that
23 he had delivered, in which my original understanding of
24 the White House's involvement, we had Paul saying that,
25 you know, that he was -- I think he said the White House

01 wasn't involved until the end, or something like that.
02 I mean, it was -- whatever these e-mails showed
03 I think was sort of at odds with what -- with what the
04 Deputy had been caused to submit in his testimony.
05 MR. BHARARA: And do you -- did you have an
06 understanding then, or do you have an understanding now,
07 as to how it happened that the Deputy Attorney General
08 gave testimony that was at odds with these documents that
09 you were looking at and the facts as you came to
10 understand them later?
11 MR. MARGOLIS: Well, this -- this visit from
12 Kyle we're talking about took place, I'm certain, after
13 the Deputy testified, so it took place after our prep
14 session for him, which I attended, by the way, at Kyle's
15 invitation, whenever that prep session was.
16 It was an afternoon and a nighttime of a
17 particular day, what day I don't remember. Kyle stopped
18 in my office, obviously, on the way to that session and
19 said, "Are you coming to the prep session for Paul?" I
20 said I didn't know about it. He said, "Well, I think you
21 should come", so I came, whenever that was.
22 And I think -- I think there was a prepared
23 statement there that was prepared that actually said that
24 the White House's involvement was at the end. Now, maybe
25 if I was -- really was thinking clearly I would have

01 said, oh, wait a minute, you know, the White House wanted
02 to fire these people, everybody, early on, let's say
03 that. But I didn't -- that thought didn't occur to me
04 because I didn't think that was germane. I thought we
05 were talking about, you know, these eight people, or a
06 subset of them.

07 MR. BHARARA: Later on --

08 MR. MARGOLIS: I've got to say, to my knowledge
09 that statement was true about the lack of White House
10 involvement, until I later learned that -- of this e-mail
11 traffic.

12 MR. BHARARA: Do you recall who else was at --

13 I'm going to come back to the prep session later instead
14 of going there now. Later on in the evening of March 8,
15 you said that you also were visited by Monica Goodling.
16 Is that right?

17 MR. MARGOLIS: Yes.

18 MR. BHARARA: Can you describe what happened
19 during that visit?

20 MR. MARGOLIS: She came down about 8:00 and she
21 started by saying, "Has Kyle talked to you?" And I said,
22 "Yeah, he came by earlier." And then she proceeded for
23 the next, it seemed like forever but it was probably only
24 about 30 or 45 minutes, to bawl her eyes out and say,
25 "All I ever wanted to do was serve this President and

01 this administration and this department," and then cry
02 more, and more, and more, and more, and more, and talk
03 about -- talk about how she came to Washington, you know.
04 Personal stuff.

05 MR. BHARARA: Did she discuss the issues that
06 caused her to become distraught?

07 MR. MARGOLIS: No. I mean, I knew it had to be
08 -- since she started by saying, "Has Kyle been to see
09 you," I knew she must think everything was unraveling.
10 And, you know, she was right about that.

11 MR. BHARARA: Did she --

12 MR. MARGOLIS: And my goal was to try to calm
13 her, so I gave her some advice to calm her -- calm her
14 down, which didn't work.

15 MR. BHARARA: Can you recall anything else about
16 Ms. Goodling's visit, other than her crying?

17 MR. MARGOLIS: Her crying, her telling me about
18 -- about her, you know, choice of schools, and boyfriend
19 she had, and things like -- things like that. But
20 nothing -- nothing professional.

21 MR. BHARARA: Did she offer any apology while
22 she was in your office?

23 MR. MARGOLIS: No.

24 MR. BHARARA: Did she offer any explanation?

25 MR. MARGOLIS: No. She did -- she really never

01 said anything specifically, other than, "Did Kyle come
02 down and see you", and, you know, "All I ever wanted to
03 do was serve this President, this administration, this
04 department."

05 MR. BHARARA: Did she convey to you by her
06 actions and her speech that a wrong had been committed?

07 MR. MARGOLIS: I don't know if I could say that,
08 but she was certainly shaken to her core. She was -- and
09 by implication, she thought her career was over, or at
10 least her career in Justice. Maybe I overstated. At
11 least her career in Justice.

12 MR. BHARARA: Did she indicate to you, or did
13 you understand based on your interaction with her, what
14 specifically she thought she had done to perhaps have her
15 career end?

16 MR. MARGOLIS: Absolutely not. Not one
17 specific. And I wasn't anxious to hear, so I did not
18 probe. I -- I changed the subject to give her -- to try
19 to make her laugh, which didn't work, and to give her
20 some personal advice, which she didn't take.

21 MR. BHARARA: Did you give her any professional
22 advice?

23 MR. MARGOLIS: No.

24 MR. BHARARA: Did you -- after your discussion
25 with either Kyle Sampson or Monica Goodling on the 8th,

01 did you talk to other people at the department about what
02 had happened?

03 MR. MARGOLIS: Yeah. Not right away, but I
04 think a couple of days later I told some people about
05 Monica's visit. I knew the Deputy already knew about --
06 about Kyle's visit, because Kyle visited him.

07 MR. BHARARA: Would you describe your
08 conversations with the Deputy after your visit by Ms.
09 Goodling and Mr. Sampson?

10 MR. MARGOLIS: Say again?

11 MR. BHARARA: Could you describe your first
12 conversation with Deputy McNulty after your conversations
13 on March 8 with Mr. Sampson and Ms. Goodling?

14 MR. MARGOLIS: I don't -- you mean, about that
15 topic?

16 MR. BHARARA: Yes.

17 MR. MARGOLIS: I don't think I ever actually
18 discussed Kyle's visit with Paul because I -- I assumed,
19 you know--and I think correctly--that he had told Paul
20 the same thing he had told me. And as to Monica, I think
21 whoever I talked to, I probably just said I'm worried
22 that she's really -- she's really in bad shape.

23 MR. BHARARA: On March 8th or after March 8th,
24 did you have any conversations with Deputy Attorney
25 General Paul McNulty about the revelations contained in

01 these e-mails you saw in the binder on March 8th?
02 MR. MARGOLIS: Not directly. Not directly. I
03 think somebody told me that he felt let down.
04 MR. BHARARA: Did he tell you that?
05 MR. MARGOLIS: No, I don't think he did, no.
06 MR. BHARARA: Do you remember who told you that?
07 MR. MARGOLIS: Maybe Steve Bradbury. That's my
08 best guess.
09 MR. BHARARA: Did Steve Bradbury, or whoever
10 told you this, say something more specific about why Mr.
11 McNulty felt he'd been let down?
12 MR. MARGOLIS: It was about the White House
13 involvement. You know, let down in terms of preparation
14 for his testimony, and it was about the White House
15 involvement.
16 MR. BHARARA: Was -- was the phrase used "let
17 down" or closer to "misled"?
18 MR. MARGOLIS: It could have been misled. It
19 could have been misled.
20 MR. BHARARA: Did you ever discuss with Mr.
21 McNulty or Mr. Moschella whether either of them felt that
22 they had been either let down or misled by Mr. Sampson,
23 Ms. Goodling, or others?
24 MR. MARGOLIS: I believe that Will told me that,
25 that he felt misled.

01 MR. BHARARA: When did Will tell you that?
02 MR. MARGOLIS: I think he told me that he and
03 Paul were misled.
04 MR. BHARARA: When did -- this is Mr. Moschella?
05 MR. MARGOLIS: Yeah.
06 MR. BHARARA: And when did you have that
07 conversation with him?
08 MR. MARGOLIS: Maybe on a couple of occasions.
09 He was hot.
10 MR. BHARARA: Do you remember the first time?
11 MR. MARGOLIS: I think, if this was Friday --
12 Thursday night, maybe Friday.
13 MR. BHARARA: Do you recall whether you spoke to
14 him on the -- Mr. Moschella on the telephone or you spoke
15 to him --
16 MR. MARGOLIS: It would have been in person.
17 MR. BHARARA: Did he come to your office or was
18 it --
19 MR. MARGOLIS: I'm not sure. I'm not sure. I
20 mean, we're very close to each other physically.
21 MR. BHARARA: As best as you can --
22 MR. MARGOLIS: Our offices are very close to
23 each other physically.
24 [Laughter.]
25 MR. HUNT: I don't want to stop your questioning

01 here, but at some point in the next few minutes if we
02 could take a short break.
03 MR. BHARARA: Sure.
04 MR. MARGOLIS: Real men don't take breaks, Jody.
05 MR. HUNT: Sorry. Well, I've got to ask for
06 one. Faith asked me to ask for that.
07 [Laughter.]
08 MR. BHARARA: All right. Let's take a short
09 break. Is that okay?
10 MR. MARGOLIS: Well, are we going to eat lunch?
11 MR. BHARARA: We can -- I'm happy to do any --
12 I'm happy to break now for a few minutes and continue for
13 a little while, and then break for lunch.
14 [Whereupon, at 12:15 p.m. the interview was
15 recessed.]
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01

02 AFTER RECESS

03 [1:22 p.m.]

04 MR. BHARARA: Mr. Margolis, before we did the
05 lunch break I was asking you about conversations you had
06 with Mr. Moschella on or about March 8th or March 9th,
07 and I think you began to describe when it was you had
08 that conversation and what he told you and what you said
09 to him. Could you tell us a little bit more about --

10 MR. MARGOLIS: Well, you know, March 8th was
11 Thursday.

12 MR. BHARARA: Right.

13 MR. MARGOLIS: So it definitely wasn't Thursday.
14 Maybe it was Friday or the next Monday. And I think he -
15 - I think you're right, his word was "misled" not "let
16 down" in the preparation for the hearing. I think he was
17 referring to White House involvement in this process.
18 That's my best recollection.

19 MR. BHARARA: Did you ask him?

20 MR. MARGOLIS: I think he volunteered --
21 volunteered it. I think that's what he volunteered.

22 MR. BHARARA: Was he specific as to who he
23 thought had misled him?

24 MR. MARGOLIS: Yeah. I think he said Kyle, and
25 maybe Monica. But Kyle.

01 MR. BHARARA: You remember -- you remember Kyle
02 for a fact and you're not sure about Monica?
03 MR. MARGOLIS: Yes.
04 MR. BHARARA: Do you remember anything else that
05 you and he discussed?
06 MR. MARGOLIS: Not about that.
07 MR. BHARARA: Do you recall whether or not you
08 and he discussed how it was -- the case that he could
09 have been misled by Mr. Sampson and/or Ms. Goodling?
10 MR. MARGOLIS: How it could be?
11 MR. BHARARA: Yes.
12 MR. MARGOLIS: I think he expected -- and I'm
13 extrapolating a little bit here. I'm not saying these
14 were his words. But that he expected -- let me go back a
15 step. When did he testify? When did Will Moschella
16 testify?
17 MR. BHARARA: It's my -- it's my recollection--
18 and correct me if I'm wrong--Will Moschella testified on
19 Tuesday, March 6th, which was the same day that four
20 former U.S. Attorneys testified in the Senate and six
21 testified in the House.
22 MR. FLORES: That's correct.
23 MR. MARGOLIS: Because I did -- we're getting
24 confused now, as I just realized. I didn't attend Will's
25 prep, I attended Paul's prep. But I assume that Will --

01 and when Will talked to me he must have been either
02 relying -- he must have been relying on the absence of
03 information at Paul's prep that he relied upon -- the
04 absence of information about the White House, but I
05 didn't -- I don't know what happened at his prep. I was
06 not there.

07 MR. BHARARA: But you said earlier that Mr.
08 Moschella was "hot". Is that right?

09 MR. MARGOLIS: Angry.

10 MR. BHARARA: And he --

11 MR. MARGOLIS: He's cool. He's never hot.

12 MR. BHARARA: Hot for him?

13 MR. MARGOLIS: Yeah. Not hot that way either.

14 MR. BHARARA: How did he express his anger?

15 MR. MARGOLIS: I don't believe he swore, because
16 I'm not sure I ever heard him swear. But just saying --
17 well, maybe he did swear, actually. He just said that he
18 -- he -- he was -- he was the one who went out there and
19 put his, you know, name on the line and he's the one who
20 will be accused of giving inaccurate, false information,
21 and he deserved better.

22 MR. BHARARA: Did he raise his voice?

23 MR. MARGOLIS: Excuse me?

24 MR. BHARARA: Did he raise his voice?

25 MR. MARGOLIS: He spoke firmly. I'm not sure --

01 I don't think he was yelling.

02 MR. BHARARA: Did he say what, if anything,
03 should happen to either Mr. Sampson or Ms. Goodling?

04 MR. MARGOLIS: I don't think he specifically
05 said, but it was clear to me, to quote Comey in a
06 different context, "They were dead to him". There was no
07 question about that.

08 MR. BHARARA: Do you recall, at any point after
09 your first conversation with Mr. Sampson on March 8th,
10 whether or not either Mr. Moschella or Mr. McNulty said
11 that Mr. Sampson or Ms. Goodling should leave the
12 department?

13 MR. MARGOLIS: I don't think -- well, first --
14 first of all, I don't think I ever discussed this issue
15 with Paul himself.

16 MR. BHARARA: By "this issue" you mean what?

17 MR. MARGOLIS: The Goodling and Sampson
18 disingenuousness, let's say, in the prep sessions. I did
19 discuss it with Will and I don't think -- it was, like I
20 say, I don't -- I don't think he used those words, "they
21 ought to leave", but he -- they were dead to him. They
22 had burned their bridges with him.

23 MR. BHARARA: Did Mr. Moschella tell you whether
24 or not he had confronted Mr. Sampson or Ms. Goodling
25 himself?

01 MR. MARGOLIS: I think he said that the way he
02 found out about this was, he went up to see Kyle, for
03 reasons I don't know, Thursday night or Friday, I'm not
04 sure which. In any event, Kyle was on the phone and he
05 shoved the e-mails across the table, and that's how Will
06 saw them and found out about it. But I don't -- I don't
07 think he told me what he said at the time because I think
08 Kyle was on the phone. And maybe they never did talk.

09 MR. BHARARA: Do you have any understanding as
10 to how, on March 8th, these e-mails came to everyone's
11 attention that you ended up seeing on that day?

12 MR. MARGOLIS: No. No. It must -- it must have
13 been a document request from -- from you people.

14 MR. BHARARA: Do you have any understanding as
15 to how Mr. Sampson's resignation came about?

16 MR. MARGOLIS: No. As a matter of fact, I heard
17 about it, I think, in a news -- little blurb in the
18 newspaper.

19 MR. BHARARA: When was that, on the Monday or
20 the Tuesday?

21 MR. MARGOLIS: Monday or Tuesday. Yeah.

22 MR. BHARARA: And you had no part in the
23 discussions about whether or not Mr. Sampson should or
24 should not resign?

25 MR. MARGOLIS: No. No. You know, I had a

01 history with Kyle that Will didn't have, maybe. Believe
02 it or not, maybe I was softer toward him. Would have
03 been softer toward him. I'm not saying it would have
04 been a different result, but we've been through some wars
05 together and I'm not -- I'm not making excuses, I'm just
06 saying I don't know how -- if somebody said to me, what
07 should we do with Kyle, I don't know what I would have
08 said.

09 MR. BHARARA: What wars had you been through
10 with Mr. Sampson?

11 MR. MARGOLIS: Like, he -- I always found that,
12 on questions that he consulted me on, tough ethical
13 questions, that he always took the high road, even, you
14 know, when it was unpopular.

15 MR. BHARARA: Do you know whether or not Mr.
16 Sampson was ever considered for, or expressed an interest
17 in, being United States Attorney in any district other
18 than Utah?

19 MR. MARGOLIS: No. I do know Utah because I
20 interviewed him and, in fact, very strongly supported him
21 for that job.

22 MR. BHARARA: But you're not aware of his
23 interest in, or consideration for, any other U.S.
24 Attorney position?

25 MR. MARGOLIS: No. There were jokes

01 circulating, gallows humor jokes, when -- about the
02 reasons for Dan Bogden being on the list, that maybe --
03 maybe it's because Kyle wanted to be U.S. Attorney in Las
04 Vegas. But I took them as jokes.

05 MR. BHARARA: Who were making those jokes?

06 MR. MARGOLIS: Several people said it. Or if it
07 was one person, it was more than once. But I don't
08 remember who. But I've got to say, while it was said, I
09 never took it seriously.

10 MR. BHARARA: When were those jokes made, in
11 what timeframe?

12 MR. MARGOLIS: Probably when we were discussing
13 -- in connection with explaining why Bogden was asked to
14 leave.

15 MR. BHARARA: You're talking about explaining
16 why Bogden was asked to leave in connection with people's
17 testimony before Congress?

18 MR. MARGOLIS: I think so. But I've got to say,
19 once again, I didn't believe it. I mean, I think, for
20 one reason, Las Vegas was just the opposite of the kind
21 of place Kyle would want to be. That's where you and I
22 might be. I don't think he would want to be there.

23 [Laughter.]

24 MR. BHARARA: I'm not going to comment on that
25 characterization.

01 Were you consulted at any point on the
02 appropriateness of using -- withdrawn.
03 Are you aware of the fact that, in March of
04 2006, the Attorney General was granted indefinite interim
05 appointment authority of U.S. Attorneys --
06 MR. MARGOLIS: Yes.
07 MR. BHARARA: -- in the reauthorization of the
08 Patriot Act?
09 MR. MARGOLIS: Yes.
10 MR. BHARARA: Were you consulted at any point on
11 whether or not that authority should be sought?
12 MR. MARGOLIS: No. My recollection is, I heard
13 about it as soon as it was passed. Will told me about
14 it.
15 MR. BHARARA: And the first time that you recall
16 hearing about it --
17 MR. MARGOLIS: I thought it was a great idea, by
18 the way. I would love to have thought of it myself.
19 MR. BHARARA: But the first time you recall
20 hearing about it was after it had passed?
21 MR. MARGOLIS: Yes.
22 MR. BHARARA: Were you ever consulted on the
23 appropriateness of using that authority to avoid working
24 with home State Senators or to avoid going through the
25 Senate confirmation process for U.S. Attorneys?

01 MR. MARGOLIS: No. A) that's not the kind of
02 thing that would probably be shared with me. That's, you
03 know, outside my lane. But B) you know, I was -- the
04 reason I thought it was a great idea, is sometimes --
05 this isn't like it was years ago.

06 It takes more than 120 days to get somebody
07 through the process and confirmed, so I liked the idea of
08 having a longer time, not in order to avoid Senate
09 confirmation, but just so that we didn't have to go to
10 the -- I didn't like the idea of going to the courts.

11 On the other hand, I recall two situations in
12 the last 14 years where, at the end of 120 days -- three
13 situations, at the end of 120 days, the court refused to
14 appoint a person that we wanted them to. One time the
15 judge was right and two times we were, I think. So, you
16 know, it's not -- it's not all one-sided.

17 MR. BHARARA: On what occasion was the judge
18 right?

19 MR. MARGOLIS: We -- we had a First Assistant
20 who took over who EOUSA told us, you know, was golden.
21 And after 120 days, I called the judge. This was back in
22 the Clinton administration. The judge said, "You've got
23 to be kidding. This guy shouldn't have the job". And
24 Jamie talked to the judge and --

25 MR. BHARARA: Jamie Gorelick?

01 MR. MARGOLIS: Yes. And he didn't change his
02 mind. And evidently I had to move -- not evidently.
03 Eventually I had to move him out as an assistant.
04 MR. BHARARA: Because why?
05 MR. MARGOLIS: He -- there was misconduct. He
06 committed misconduct that I punished him for, and then
07 maybe a year later he just left.
08 MR. BHARARA: Prior to December 7th of 2006,
09 were you consulted or did you have any involvement in
10 discussions about possible replacements for any of the
11 dismissed U.S. Attorneys, apart from Bud Cummins?
12 MR. MARGOLIS: Excuse me. Prior to the time
13 they were dismissed?
14 MR. BHARARA: Yes.
15 MR. MARGOLIS: I don't believe so, no. My only
16 hesitancy was, Deborah Yang left on her own in November
17 of '05. November of '06, maybe. Maybe November of '06.
18 In any event, when she left we had a bunch of applicants
19 for the job, several of whom I knew well from their
20 department service. And I think when these other people
21 were moved out, I recommended them for replacement.
22 But I'm pretty sure that wasn't until they were
23 moved out. They all had applied for Los Angeles. And I
24 said, hey, you know, one of them has a good background in
25 San Diego, one has a good background in San Francisco.

01 That didn't happen. I think -- I'm pretty sure that was
02 after -- after the fact, after the vacancy.

03 MR. BHARARA: Can you just explain for the
04 record how the nominating process works in California in
05 connection with the Parsky Commission and how -- how the
06 department would have gone about filling a vacancy left
07 by Deborah Yang?

08 MR. MARGOLIS: Well, I'm not too sure how it
09 worked. I know that we interviewed a bunch of people,
10 including people I knew and respected. But then Monica
11 told them after the interview that they had to now go
12 before -- apply to the Parsky Commission and be
13 interviewed by them.

14 MR. BHARARA: Let me just break that out for a
15 moment. You interviewed how many people before Monica
16 said they had to go to the Parsky Commission?

17 MR. MARGOLIS: Three or four. Maybe four.

18 MR. BHARARA: And do you know where those names
19 came from, who suggested them?

20 MR. MARGOLIS: I don't know, except that three
21 of the four, you know, had been distinguished department
22 servants who I knew very well. Maybe they just -- maybe
23 they just wrote in to us. I don't know.

24 MR. BHARARA: With respect to replacement for
25 Bud Cummins, did you have any involvement in the

01 selection of, or the consideration of, Tim Griffin to
02 replace Bud Cummins?
03 MR. MARGOLIS: Yes.
04 MR. BHARARA: And what was your involvement in
05 that?
06 MR. MARGOLIS: As -- as in every case when
07 there's a vacancy, I either -- and we need a temporary
08 U.S. Attorney, I conduct -- I lead the video
09 teleconference interview of, if it's the First Assistant,
10 of the First Assistant to be acting.
11 And if it's not the First Assistant, whoever it
12 is within the office or within the department, to be the
13 interim. That's -- that's different than the permanent
14 selection where we bring the person in. So in this case
15 I got my calendar and it was Tim Griffin that we were
16 interviewing.
17 MR. BHARARA: And when did that interview take
18 place?
19 MR. MARGOLIS: I'd like to say early December.
20 MR. BHARARA: Did you have any involvement in
21 discussions about where Tim Griffin should work or be
22 assigned upon his arrival back from service in Iraq --
23 MR. MARGOLIS: No.
24 MR. BHARARA: -- in the summer of 2006?
25 MR. MARGOLIS: No. I didn't know anything about

01 Tim Griffin until -- well, I didn't know about him by
02 name until we interviewed him, or just before we
03 interviewed him.

04 But I had heard, during the summer, chatter
05 around the department that Bud Cummins was being moved
06 out to make way for somebody. It turned out to be Tim
07 Griffin. Then in an e-mail that wound up on the
08 Internet, Marshall Jarrett told me that Bud was being
09 moved out for a young politico.

10 MR. BHARARA: I'll ask the court reporter to
11 mark this as Margolis Exhibit 3.

12 [Whereupon, Margolis Exhibit 3 was
13 marked for identification.]

14 MR. BHARARA: Mr. Margolis, would you take a
15 look at the document that's been marked Margolis Exhibit
16 Number 3, which bears Bates number DAG2476?

17 MR. MARGOLIS: Yes.

18 MR. BHARARA: Do you recognize that?

19 MR. MARGOLIS: Yes.

20 MR. BHARARA: Is that a series of e-mail
21 exchanges between you and Marshall Jarrett?

22 MR. MARGOLIS: Yes.

23 MR. BHARARA: And who is Marshall Jarrett?

24 MR. MARGOLIS: He's the Director of the Office
25 of Professional Responsibility in the department.

01 MR. BHARARA: And what's your relationship with
02 him?

03 MR. MARGOLIS: I would say I'm his supervisor,
04 and we're friends.

05 MR. BHARARA: You'll see that on Friday, October
06 6th you sent an e-mail to Mr. Jarrett saying, "Thanks.
07 Are you hearing gossip?" What were you referring to when
08 you wrote that e-mail?

09 MR. MARGOLIS: You know, this has -- I mean,
10 this is part of an e-mail chain. I got -- somehow I got
11 a message that he had called. I was on travel.

12 MR. BHARARA: That Mr. Jarrett had called?

13 MR. MARGOLIS: Yeah. I was on travel. I was in
14 Chicago, making a speech to the Society of Former U.S.
15 Attorneys Offices -- former U.S. Attorneys, rather, at
16 which John McKay's brother told me that John thought it
17 was the greatest job he ever had. His brother, Mike, had
18 been U.S. Attorney in the same district.
19 In any event, so I'd gotten this message,
20 either from my secretary or from Marshall, on my
21 BlackBerry saying that he called. So I sent him an e-
22 mail and saying, "You have to talk to me this weekend?"
23 I think it was something -- he answered, "No. Enjoy your
24 trip and the weekend."
25 And then I asked him if he was hearing anything,

01 any gossip, because he is very good at that. He's better
02 than I am. Comey called me the J. Edgar Hoover in slacks, but
03 this guy's even better, and this was -- this was his
04 response.

05 MR. BHARARA: So when you asked the question,
06 are you hearing any gossip, did you have anything
07 specific in mind or was it general?

08 MR. MARGOLIS: No.

09 MR. BHARARA: Okay.

10 MR. MARGOLIS: Just like, he knows everything
11 that's going on.

12 MR. BHARARA: Got it.

13 And Mr. Marshall replies, "I hear that Bud
14 Cummins" --

15 MR. MARGOLIS: Jarrett.

16 MR. BHARARA: I'm sorry. Jarrett Marshall
17 replies --

18 MR. MARGOLIS: No, Marshall Jarrett.

19 MR. BHARARA: Marshall Jarrett. Sorry.

20 "I hear that Bud Cummins" -- "Bud Cummins USA in
21 Ark.," which I take to mean Arkansas, "has announced that
22 he is leaving. The scuttlebutt is that he was pushed out
23 by the WH." Do you understand that to mean the White
24 House?

25 MR. MARGOLIS: Yes.

01 MR. BHARARA: "To make room for some young
02 politico."
03 MR. MARGOLIS: Yes.
04 MR. BHARARA: Now, is that the first time you
05 had heard that Mr. Cummins was leaving or had you heard
06 some --
07 MR. MARGOLIS: No. I think during the summer --
08 like I said, this was the fall. During the summer I had
09 heard somewhere around the department that he was being
10 -- Bud was being pushed out to be replaced by somebody.
11 Once again, no name.
12 MR. BHARARA: And when did you first learn that
13 that person was Tim Griffin?
14 MR. MARGOLIS: I think in connection with the
15 interview in December, I think.
16 MR. BHARARA: And prior to the --
17 MR. MARGOLIS: I mean, put two and two together,
18 that must be the guy.
19 MR. BHARARA: Prior to the interview in December
20 that you conducted of Mr. Griffin, did you have any --
21 did you have any awareness of Mr. Griffin, or who he was,
22 or what his prior experience had been?
23 MR. MARGOLIS: No. Maybe -- maybe two days
24 before when I got his resume.
25 MR. BHARARA: Had you heard during the summer of

01 '06 through December of '06 anything about performance
02 problems with respect to Mr. Cummins?

03 MR. MARGOLIS: No. And I had led the interview
04 of him when he was selected.

05 MR. BHARARA: Of him. You mean Mr. Cummins?

06 MR. MARGOLIS: Yes. And I don't think I had any
07 contact with him since the interview till -- which is
08 good news for him, of course, until -- until after he
09 left, or even now.

10 MR. BHARARA: At the time that you interviewed
11 Mr. Griffin in December of '06, what were you
12 interviewing him for, precisely?

13 MR. MARGOLIS: I understood it was for the
14 interim position.

15 MR. BHARARA: And what did you understand Mr.
16 Griffin's job at that moment to be when you were
17 interviewing him for the interim position?

18 MR. MARGOLIS: He was Assistant U.S. Attorney in
19 that office.

20 MR. BHARARA: And did you understand whether he
21 was a supervisor or in the leadership of the office or a
22 line assistant in the office?

23 MR. MARGOLIS: I think he was a line assistant.

24 MR. BHARARA: In the ordinary course when
25 there's a vacancy and someone has made the interim from

01 the office, is there a tradition of making a particular
02 person the interim U.S. Attorney in that office?

03 MR. MARGOLIS: More often than not it would be -
04 - if we stay within the office it would be the First
05 Assistant, unless there's some reason not to.

06 MR. BHARARA: Did you have understanding whether
07 or not there was a First Assistant in the Eastern
08 District of Arkansas at the time?

09 MR. MARGOLIS: I'm told there was a First
10 Assistant. Monica told me the First Assistant -- that
11 there was a First Assistant and that she was unavailable
12 to serve because she was out on pregnancy leave.

13 MR. BHARARA: When did Ms. Goodling tell you
14 that?

15 MR. MARGOLIS: In connection with the interview.
16 By way of background, Monica and I sometimes crossed
17 swords about how to fill the interim vacancy in an
18 office.

19 I was -- my position was, unless the
20 office is in distress, unless the First Assistant, part
21 of the leadership of the issue is terrible, that we
22 should -- the bias would be in favor of putting in
23 somebody from the leadership of the office.

24 She -- her attitude was more that there wasn't
25 momentum toward that and should would look to see if

01 there was somebody outside the office, sometimes in main
02 Justice, sometimes elsewhere, who could do the job
03 better. So we would occasionally cross swords.

04 MR. BHARARA: And did you have any understanding
05 as to why Ms. Goodling would, more often than you, look
06 outside of the office to find an interim U.S. Attorney?

07 MR. MARGOLIS: I think it was as difference in
08 philosophy. I wanted the office to just be able to
09 function until we got a U.S. Attorney in there, assuming
10 -- assuming that the person they're putting in could do
11 it. I think she was of the attitude that we had good
12 people that we knew here in Washington and it would be
13 good -- a good thing for their morale to put them in.

14 MR. BHARARA: A good thing for who's morale?

15 MR. MARGOLIS: The individual's morale we were
16 putting in.

17 MR. BHARARA: As opposed to the morale of the
18 office?

19 MR. MARGOLIS: I think she would say -- if
20 pressed on that point she would probably say that, oh,
21 they'd love to work for a good person from Washington.

22 MR. BHARARA: Did you ever cross swords with Ms.
23 Goodling or anyone else in connection with the
24 appointment of interim U.S. Attorneys with respect to
25 whether or not the interim person had some connection to

01 the district to which they were being sent, whether or
02 not they were the First Assistant or held some other
03 office in that district?

04 MR. MARGOLIS: In other words, did I -- did I
05 say, why are we putting this person -- you know, they
06 couldn't find their way to the district without a map,
07 that kind of thing?

08 MR. BHARARA: Yes.

09 MR. MARGOLIS: I don't think so. I think my
10 issue was, once you decide to go outside the office it
11 was of less importance what the -- what the background
12 was. I mean, because -- remember, I come from a strike
13 force background where I was parachuted into Cleveland
14 for four years, and I couldn't find my way. I got lost
15 on the way driving there. And then Brooklyn, which I
16 never did find.

17 [Laughter.]

18 MR. MARGOLIS: So that would have been less
19 important to me. But it was -- the big -- the rubicon to
20 be crossed was going outside the office.

21 MR. BHARARA: Did you have any reason to doubt
22 Ms. Goodling's statement to you that the First Assistant
23 in the Eastern District of Arkansas was unavailable due
24 to maternity leave in December of '06?

25 MR. MARGOLIS: Not at the time she made it.

01 MR. BHARARA: Do you have reason to doubt that
02 since?

03 MR. MARGOLIS: Well, I read something later on.
04 I think it was a -- I think what piqued my interest was a
05 letter that I read from the Attorney General to Senator
06 Pryor in which he said something like -- the Attorney
07 General said something like, "it is -- it is not the fact
08 that we chose Griffin because the First Assistant was
09 unavailable."

10 And so I asked Monica about that and she gave me
11 some explanation. Well, the Attorney General didn't --
12 didn't think that was an acceptable reason, which I
13 couldn't understand because it seemed like -- you know,
14 there's no more ardent feminist than me. But if somebody
15 can't -- can't serve and isn't in the office, I don't
16 understand why that wouldn't be a valid reason not to
17 appoint them interim U.S. Attorney.

18 MR. BHARARA: Let me see if I understand. You
19 recall there was a letter in which the Attorney General
20 said, what, again?

21 MR. MARGOLIS: He said -- boy, I wish I had it
22 in front of me, because it was something like -- he said,
23 you think, Senator -- you think, Senator -- you think
24 that we put Griffin in because the U.S. -- the First
25 Assistant was on maternity leave. That's not the reason

01 why we put him in. I think that's pretty close to what
02 it says.

03 MR. BHARARA: And that stuff was different from
04 the reason that Ms. Goodling said?

05 MR. MARGOLIS: Yes.

06 MR. BHARARA: And then you had a conversation
07 with Ms. Goodling on those two different explanations?

08 MR. MARGOLIS: Just to satisfy my interest, you
09 know, because I thought there was a very good reason, as
10 I said. You know, maybe somebody else would say it was
11 wrong, but my reason for not poking further was -- as to
12 why the First Assistant shouldn't be the one was that she
13 wasn't available.

14 MR. BHARARA: Did you have an understanding as
15 to what the truth was as to the reason, given that those
16 two reasons -- those two explanations seem to have been
17 in conflict with each other?

18 MR. MARGOLIS: Yes. Speculation. It was --
19 well, I -- my speculation is that it -- I don't
20 understand why it wasn't the reason. I mean, I'm hung up
21 on that. It sounded like -- I mean, it sounded like a
22 good reason to me, number one, and number two, I think
23 she was on maternity leave because, in discussing the
24 future of that office, short term and long term, the
25 other day I heard -- I was told that she is now back in

01 the office, which would lead me to believe she was out of
02 the office.

03 MR. BHARARA: In situations where the First
04 Assistant is not able, for whatever reason, to assume the
05 duties of the interim U.S. Attorney, is there a tradition
06 of going to the next person in line, or any tradition at
07 all as to who then should become the interim?

08 MR. MARGOLIS: Well, sometimes we don't even
09 look at the First Assistant, or we don't choose the First
10 Assistant. We choose somebody from outside the office.
11 That's -- that's where, you know, Monica and I do a
12 Kabuki dance.

13 MR. BHARARA: On those occasions when you and
14 Monica Goodling do the Kabuki dance or cross swords, did
15 you have an understanding as to whether or not there were
16 other people at the department who took Ms. Goodling's
17 side and had the same view of going outside the office to
18 appoint an interim?

19 MR. MARGOLIS: When Paul came in --

20 MR. BHARARA: Paul McNulty?

21 MR. MARGOLIS: Paul McNulty came in as Deputy --
22 recall, Jim Comey left just about the time, or maybe even
23 just before, Monica went to the Attorney General's
24 Office, so I didn't really get to vet it with him.
25 When -- when Paul McNulty came in I told him

01 about this -- I would say this disagreement in principle
02 that we had. He said, anytime you feel that this is
03 important, you tell me about it and I'll back you because
04 I agree with you.

05 MR. BHARARA: And were there ever occasions
06 where you felt it was important and you told Mr. McNulty
07 that?

08 MR. MARGOLIS: No, I never went to him. I never
09 did go to him.

10 MR. MARGOLIS: On it

11 MR. BHARARA: Were there occasions where you and
12 Ms. Goodling differed about who should become the interim
13 where Ms. Goodling's view prevailed?

14 MR. MARGOLIS: Only -- it never prevailed over
15 my objection, make no mistake about that. It was that I
16 withdrew my objection. I remember in one situation I had
17 heard that the First Assistant -- it was an office in
18 turmoil and at one point it looked like the First
19 Assistant was part of the problem.

20 I was told by one person that -- that the First
21 Assistant, you know, could do the job without roiling it
22 worse, but the director of EOUSA, at Monica's request,
23 talked to other people and he reported that this First
24 Assistant, right now, would really roil the waters.
25 And Monica came up with the name of a guy from

01 outside the district who, if I had been thinking, I would
02 have -- he was a protégé of mine and I had no problem
03 with him, and I thought it was fine.

04 MR. BHARARA: With respect to the eight U.S.
05 Attorneys who were asked to resign last year, the eight
06 we've been talking about, other than Ms. Chiara and Mr.
07 Ryan, did you -- were you the cause of any of those other
08 six names being put on the list of people to be asked to
09 resign?

10 MR. MARGOLIS: Kevin Ryan. Kevin Ryan, I think
11 I put on the list. Margaret Chiara I either put on the
12 list, or endorsed being on the list.

13 MR. BHARARA: Okay.

14 MR. MARGOLIS: The other people who I either put
15 on the list or endorsed are not among those six
16 remaining.

17 MR. BHARARA: I want to turn to some of the
18 particular U.S. Attorneys among those six and ask you
19 about Mr. Bogden.

20 Do you know Mr. Bogden from -- from your time in
21 the Deputy's office?

22 MR. MARGOLIS: I interviewed him and -- so I
23 participated in that, and then the only matter -- the
24 only case that I was involved with him, ironically, was a
25 bit of a disagreement between him and Carol Lam over --

01 over some cases, and I think a disagreement between him
02 and OPR over the same matter. It was a very complicated,
03 messy situation. But that's -- that's the only time I
04 ever dealt with him.

05 MR. BHARARA: Okay.

06 When did you first learn that Mr. Bogden would
07 be asked to resign, or might be asked to resign?

08 MR. MARGOLIS: I'm not clear on that, but I
09 think it might have been, you know, in -- in November.

10 MR. BHARARA: Of 2006?

11 MR. MARGOLIS: Of 2006.

12 MR. BHARARA: Did you have a basis for forming
13 your own view of his performance as a U.S. Attorney?

14 MR. MARGOLIS: No. No. I had no reason to
15 support it or question it.

16 MR. BHARARA: Do you have any belief as to --

17 MR. MARGOLIS: There would be few -- let me tell
18 you my standard here. There would be very few reasons
19 why I would question the removal of a U.S. Attorney in
20 this situation. If it was Fitz, I would question it very
21 vehemently, and maybe even try to resign.

22 MR. BHARARA: You mean Patrick Fitzgerald?

23 MR. MARGOLIS: Yeah. Because, as you may know,
24 Comey delegated his authority to me on that, so I wasn't
25 going to -- I mean, even if that didn't happen I wouldn't

01 have taken it, but that's one. If I thought -- if I had
02 reason to believe it was being done to corrupt an
03 investigation or prosecution, I obviously wouldn't
04 tolerate it.

05 But if I didn't have reason one way or another,
06 I didn't -- I didn't question. As I said earlier, I
07 should have been more vigilant and tested the system.
08 That's what I get paid the big bucks to do. But I
09 didn't.

10 MR. BHARARA: I'll come back to Bogden, but you
11 raised an issue that I want to ask you a couple of
12 questions about.

13 With respect to Mr. Fitzgerald, had you ever --
14 did you ever become aware of the fact that Mr. Sampson at
15 one point suggested to the counsel of the President,
16 Harriet Meirs -- at some point in 2005 or 2006, that
17 perhaps Patrick Fitzgerald could be added to the list of
18 people whose resignation should be sought?

19 MR. MARGOLIS: Yes.

20 MR. BHARARA: When did you become aware of that?

21 MR. MARGOLIS: In his testimony before the
22 Senate Judiciary Committee.

23 MR. BHARARA: Did you have a reaction to that?

24 MR. MARGOLIS: Yeah. I went to reach for the
25 phone to call Comey to ask him what kind of slug he had

01 stiffed me with to supervise the Plame investigation, I
02 was laughing so hard, but I decided against it. I was --
03 I was a cross between outrage and humor. I couldn't
04 tell, because it was so silly.

05 MR. BHARARA: What were you outraged about?

06 MR. MARGOLIS: That Pat's name would appear on a
07 list like that as "undistinguished", I think was the word
08 Kyle used. Now, the fact that he mentioned it to Harriet
09 Meirs, I think he said that, you know, he realized right
10 away that was a mistake.

11 MR. BHARARA: And just for the record, again,
12 your relationship to the Plame investigation was what?

13 MR. MARGOLIS: I understand the delegation.

14 MR. MARGOLIS: Yeah. It's very -- it's very
15 tricky because the -- Fitzgerald's appointment says he
16 will answer to the supervision of nobody in the
17 Department of Justice, but that Comey is the Acting
18 Attorney General and he has all the powers of the Acting
19 Attorney General in the case, because the AG was recused.
20 So when he delegated that to me it led me to
21 believe -- you know, I could -- I was there primarily to
22 protect Pat from any undue influence from the outside.
23 And on that, I was like the Maytag -- Maytag repairman.
24 Nobody ever -- nobody ever tried.
25 And also, theoretically, if somebody had raised

01 a question about his conduct that troubled me enough, I
02 could have removed them. I could have revoked his
03 authority. But what I really didn't have the authority
04 to do is say, bring this case, don't bring this case. I
05 could just fire him. None of that ever became an issue.

06 MR. BHARARA: Based on your understanding of the
07 statutes, the regulations, and the delegation of
08 authority to you, do you have an understanding as to what
09 would happen to Patrick Fitzgerald as a special
10 prosecutor in the Plame case if he were to be fired or
11 removed as United States Attorney in the Northern
12 District of Illinois?

13 MR. MARGOLIS: I don't. If that issue ever
14 arose I would have asked OLC to tell me.

15 MR. BHARARA: Do you know if anyone has ever
16 requested such an opinion?

17 MR. MARGOLIS: I don't know, and I haven't,
18 certainly. I don't know of one.

19 MR. BHARARA: Is --

20 MR. MARGOLIS: I saw some speculation in the
21 media about it recently after Kyle's testimony, but I
22 don't --

23 MR. BHARARA: And --

24 MR. MARGOLIS: As a practical matter, that was
25 not going to happen.

01 MR. BHARARA: And why do you say that?
02 MR. MARGOLIS: Excuse me?
03 MR. BHARARA: Why do you say that?
04 MR. MARGOLIS: It would have been a firestorm.
05 MR. BHARARA: Going back to Mr. Bogden, did you
06 have any basis to believe whether or not Mr. Bogden was
07 in the bottom tier of U.S. Attorneys in terms of
08 performance?
09 MR. MARGOLIS: No. I mean, I -- I really didn't
10 know much about him. You know, he didn't come to my
11 attention as being Fitzgerald, or Comey, or anybody like
12 that. But I just don't know.
13 MR. BHARARA: Prior to December 7th of 200--
14 withdrawn.
15 Prior to the time when Mr. Sampson mentioned to
16 you in November of 2006 that Mr. Bogden was on the list
17 of people to be terminated, were you consulted in any way
18 about Mr. Bogden's performance or fitness for office in
19 Nevada?
20 MR. MARGOLIS: I don't recall being consulted
21 about that in any connection.
22 MR. BHARARA: Do you have any --
23 MR. MARGOLIS: I mean, other than, you know,
24 Kyle saying, okay, here's a name on the list. By the
25 implication there if I said, what do you mean? This

01 guy's the best U.S. Attorney we've got, but more
02 importantly he's about to indict the Vice President, you
03 know, it'll really look bad if we -- if we got rid of
04 him. You know, that would have stopped it and I had the
05 opportunity to say that if it were true.

06 MR. BHARARA: Do you know if Mr. Bogden's name
07 was on the initial list of names that Mr. Sampson
08 mentioned to you in late '04, early '05?

09 MR. MARGOLIS: I don't remember. I don't -- my
10 guess -- my best estimate would be no, but I'm not very
11 sure of that.

12 MR. BHARARA: Do you have any understanding as
13 to how Mr. Bogden's name got on that list in November of
14 -- by November of '06?

15 MR. MARGOLIS: No. Right this minute?

16 MR. BHARARA: First, before December 7th did you
17 have any understanding?

18 MR. MARGOLIS: I don't think so.

19 MR. BHARARA: And as you sit here today do you
20 have an understanding?

21 MR. MARGOLIS: During the prep sessions, that
22 was the one that was the hardest one to smoke out. But
23 it was sort of like, it reenergized the office. And --
24 and there was that -- there was an e-mail, a negative e-
25 mail, from a guy named Brent Ward.

01 MR. BHARARA: And who's Brent Ward?
02 MR. MARGOLIS: He's the head of the Adult
03 Obscenity Task Force. He's the former U.S. Attorney in
04 Utah.
05 MR. BHARARA: Do you have any understanding of
06 whether or not anyone -- do you have any understanding of
07 who, inside or outside the administration, may have
08 advocated for Mr. Bogden's being put on the list of
09 people to be terminated?
10 MR. MARGOLIS: I mean, it's possible Mr. Ward
11 did because of that.
12 MR. BHARARA: Anyone else?
13 MR. MARGOLIS: Not that I know of. Or somebody
14 -- maybe somebody also who was impressed by Mr. Ward's e-
15 mail, you know, was affected by Mr. Ward's e-mail.
16 MR. BHARARA: But as you sit here today do yo
17 know whether or not there was dissent within the
18 department prior to December 7th of '06 about whether or
19 not Mr. Bogden should be asked to resign?
20 MR. MARGOLIS: I read recently the posted e-mail
21 from the Deputy Attorney General saying he was skittish.
22 MR. BHARARA: Do you recall if that e-mail was
23 within a couple days of the time when Mr. Bogden was
24 asked to resign?
25 MR. MARGOLIS: I think it was just before.

01 MR. BHARARA: After that e-mail was sent, were
02 you part of any discussion or meeting about whether or
03 not Mr. Bogden should be asked to resign, given the
04 Deputy Attorney General's skittishness?
05 MR. MARGOLIS: No. And let me emphasize, I
06 didn't see the Deputy's e-mail or know about it until
07 very recently, long after the fact.
08 MR. BHARARA: Okay.
09 So after the Deputy Attorney General expressed
10 his skittishness, to your recollection nobody contacted
11 you to weigh in one way or another --
12 MR. MARGOLIS: No.
13 MR. BHARARA: -- about Mr. Bogden?
14 MR. MARGOLIS: No. No.
15 MR. BHARARA: And am I correct, you had no
16 conversations with Mr. Bogden about his performance,
17 other than the issue you mentioned --
18 MR. MARGOLIS: And that wasn't about
19 performance, that was a disagreement.
20 MR. BHARARA: Okay.
21 With respect to Mr. Iglesias, when did you learn
22 that he would be asked to resign?
23 MR. MARGOLIS: I can't remember whether he was a
24 name that was read to me in November or not, but I don't
25 think it was before that. It wasn't early on, in other

01 words.

02 MR. BHARARA: Did you have a basis for forming
03 your own view of Mr. Iglesias?

04 MR. MARGOLIS: No. I interviewed him. I was
05 very intimately involved in that office during the
06 Clinton administration, for a variety of reasons,
07 including the Wenho Lee prosecution, but in his tenure,
08 no.

09 MR. BHARARA: Did you ever -- did you ever
10 communicate negative impressions about Mr. Iglesias to
11 Mr. Sampson or anyone else?

12 MR. MARGOLIS: No. However, I did hear his
13 testimony --

14 MR. BHARARA: Whose testimony?

15 MR. MARGOLIS: Kyle Sampson's testimony before
16 the Senate Judiciary Committee. I did watch it live.
17 And he said that he thought that I had told him--this
18 would be as a basis for his removal--that Iglesias was an
19 absentee landlord.

20 I think he's got his timing mixed up. At the
21 prep session for Paul McNulty when he was going up to
22 testify, during the free-ranging discussion, among other
23 things, somebody mentioned that -- that Iglesias was an
24 absentee landlord and I said -- I said, "Monica, do you
25 remember when we interviewed the First Assistant to be

01 the interim or the acting, that he specifically told us
02 that he had been delegated the day-to-day management
03 of the office by Iglesias," and she said, "Yeah, that's
04 right."

05 But that conversation with the First Assistant
06 took place, by definition, well after Iglesias had been
07 fired, otherwise he wouldn't have been interviewed.

08 MR. BHARARA: So to the best of your
09 recollection -- to the best of your recollection, Mr.
10 Sampson's testimony that you had said prior to December
11 7th of 2006 was --

12 MR. MARGOLIS: Well, I don't think he actually
13 said that I told him this prior to December, but the
14 implication was that it must have been, because otherwise
15 how could he consider it?

16 MR. BHARARA: To the best of your recollection
17 did you ever say to Mr. Sampson, prior to Mr. Iglesias'
18 termination, that Mr. Iglesias was an absentee landlord?

19 MR. MARGOLIS: No.

20 MR. BHARARA: To the best of your recollection
21 did you ever communicate to Mr. Sampson, Ms. Goodling, or
22 anyone else anything negative about the performance or
23 conduct of Mr. Iglesias prior to December 7th of 2006?

24 MR. MARGOLIS: No. My recollection is, I had
25 nothing to go on either way as to him.

01 MR. BHARARA: Do you have -- did you have an
02 impression of the quality of his performance and
03 leadership in that office otherwise?
04 MR. MARGOLIS: Not during this administration.
05 MR. BHARARA: Do you have an understanding as to
06 what Mr. Comey's opinion of the performance of Mr.
07 Iglesias was as U.S. Attorney?
08 MR. MARGOLIS: Only by reading a quote from him
09 in the newspaper.
10 MR. BHARARA: Do you have an opinion on whether
11 or not Mr. Comey, as the Deputy Attorney General --
12 MR. MARGOLIS: I sense a softball coming. Just
13 throw it out there.
14 MR. BHARARA: Do you have an opinion on Mr.
15 Comey's evaluation of Mr. Iglesias as U.S. Attorney?
16 MR. MARGOLIS: Jim is very fair, very decent. I
17 have to admit, he's softer than I am on personnel
18 judgments, but he certainly had a better basis to judge
19 this guy than I did.
20 MR. BHARARA: Did you ever have any
21 conversations with anyone in which you recall, prior to
22 December 6 of 2006, that Mr. Iglesias had any performance
23 or conduct issues?
24 MR. MARGOLIS: I don't believe so, no.
25 MR. BHARARA: Did you, at any time prior to

01 December 6th of 2006 -- December 7th of 2006, understand
02 that any elected officials, including Senator Domenici or
03 Heather Wilson, had expressed concerns of any sort about
04 Mr. Iglesias?

05 MR. MARGOLIS: No. I learned that subsequently.
06 I would be remiss if I didn't point out that I am furious
07 at Mr. Iglesias for not reporting that. And I don't
08 think I'd be sitting here answering questions if he had
09 reported that, because the way we react at the department
10 when something like that comes up is, we run the other
11 way to make sure that nobody thinks we're fixing the
12 case.

13 So that's unforgivable, and his explanation was
14 unforgivable. His explanation was, oh, this guy was my
15 mentor. That's what -- we hold out an independent U.S.
16 Attorney to the public. To say, oh, well, I'm not going
17 to follow the rules if I like this guy or something like
18 that, I am furious about that. Now, that doesn't mean
19 I'm not furious at the other party to the conversation
20 either, but I don't expect as much from him.

21 MR. BHARARA: Are you aware of whether or not
22 there was any dissent within the department about whether
23 or not Mr. Iglesias should be asked to resign prior to
24 December 6th -- December 7th of 2006?

25 MR. MARGOLIS: No. No. Because I take -- as I

01 recall, specifically, Comey's comments came after the
02 fact. He was no longer -- he wouldn't have been
03 consulted, I assume. He wasn't consulted, I assume. But
04 it looks like he would have dissented if he were
05 consulted.

06 MR. BHARARA: With respect to Mr. Bogden, going
07 back for a moment, or Mr. Iglesias, at the time of the
08 termination did you have any knowledge if there were any
09 particular replacements in mind for those two spots?

10 MR. MARGOLIS: No. And as a matter of fact we
11 went scurrying all over the place looking for temporary
12 replacements, so I'm certain it couldn't have been.

13 MR. BHARARA: Did you have a view on the wisdom
14 of asking for a number of U.S. Attorneys to resign in
15 December of 2006 without there being replacements in
16 mind?

17 MR. MARGOLIS: No.

18 MR. BHARARA: Let me ask about Mr. McKay.

19 MR. MARGOLIS: Yes.

20 MR. BHARARA: When did you first learn that he
21 was being asked to resign?

22 MR. MARGOLIS: Probably in November.

23 MR. BHARARA: Did you know Mr. McKay?

24 MR. MARGOLIS: Yes. I interviewed him. I dealt
25 with him on two matters early -- very early on.

01 MR. BHARARA: Did you form an impression of him
02 and his performance and conduct?

03 MR. MARGOLIS: My recollection was, he was very
04 articulate and had -- didn't have prosecutorial
05 experience. But that's not always a prerequisite for the
06 job. Some of the best trial lawyers are lousy U.S.
07 Attorneys, and some of the best U.S. Attorneys are not
08 much as trial lawyers.

09 MR. BHARARA: Am I correct, you were not
10 involved in any way with Mr. McKay also in putting him on
11 the list?

12 MR. MARGOLIS: No. But I did hear -- now, I did
13 -- on him I heard the reason -- or one of the reasons,
14 anyway. I believe before -- before the prep -- boy.
15 After -- after he was put on the list and before this
16 blew up, I think it was -- I asked -- I used to talk--I
17 still talk to Bill Mercer--all the time and asked him,
18 what was McKay's problem?
19 And he said something about, he had tried to
20 pull a -- now, "bully" is my word. He didn't use that
21 word. I used it. He tried to pin the deputy into a
22 corner with other U.S. Attorneys unfairly on some
23 information sharing thing and my reaction was, "that
24 sounds like a bully to me", or something.

25 MR. BHARARA: Do you recall when that

01 conversation with Mr. Mercer was?
02 MR. MARGOLIS: Do I recall when it was? I'm
03 having trouble. I know it was before -- before the prep
04 session, before this blew up, but I'm not sure that it
05 was before he was fired. I just can't be sure.
06 MR. BHARARA: Do you have any understanding as
07 to how Mr. McKay's name ended up on a list of people
08 whose resignation you sought?
09 MR. MARGOLIS: Well, I would say, based on what
10 Bill told me -- Bill Mercer told me, I would put him on
11 the list.
12 MR. BHARARA: Were you ever asked --
13 MR. MARGOLIS: If Paul had come to me and said,
14 "Here's what happened," and described it the way I heard
15 it from Bill, and now have read it, you know, in the --
16 in the explanations, I would have put him on the list.
17 MR. BHARARA: Now, were you asked --
18 MR. MARGOLIS: I might have asked him, you know,
19 "what's your excuse for this?"
20 MR. BHARARA: Do you know if Mr. McKay was ever
21 given an opportunity to provide his explanation for the
22 letter that you're describing for Mr. McNulty and/or ever
23 given an opportunity to correct any problem that he might
24 have had with respect to supervision?
25 MR. MARGOLIS: I don't know as to either. As to

01 the second, if he didn't have a -- if he didn't have an
02 adequate explanation to me, if I'm making the calls, then
03 I don't -- I am not certain I would give him a second
04 chance. This isn't, you know, Douglas factors for a
05 career government employee. That kind of
06 insubordination, if true, might be a capital offense to
07 me. It might very well be a capital offense.

08 MR. BHARARA: Do you know if Mr. McKay was on
09 that initial list in late '04, early '05 when Mr. Sampson
10 talked to you about people who asked to resign?

11 MR. MARGOLIS: I don't think so, but I wouldn't
12 swear to it.

13 MR. BHARARA: Are you aware of whether or not
14 the issue of the letter that you're talking about that
15 upset Mr. McNulty occurred after March of 2005?

16 MR. MARGOLIS: I think so. I mean, the letter
17 will have the date, but I think so. I don't think I ever
18 saw -- I know I never saw the letter, I just heard about
19 it.

20 MR. BHARARA: My question is this. Are you
21 aware of any other basis for Mr. McKay's being asked to
22 resign, other than the issue of this letter --

23 MR. MARGOLIS: I thought that was the big thing.
24 Since that time I've read--and I can't tell you where.
25 Not that I wouldn't, but I just can't remember--read

01 something about sentencing practices, I think. But
02 that's after the fact. I learned that all after the
03 fact.

04 MR. BHARARA: Do you know if Mr. -- do you have
05 any understanding of what Mr. Comey's view of Mr. McKay's
06 conduct and performance was as U.S. Attorney?

07 MR. MARGOLIS: No. No. I know we had -- he
08 raised -- he had a dispute on how to handle a case, how
09 to resolve a case, an environment case. He had a
10 disagreement with the -- with the -- with the
11 environmental division, and I think it was Comey who
12 asked me to -- yeah. No, it must have been Larry. In
13 any event, Chris Ray, who was the PADAG then, and I
14 resolved it at the Deputy's request, and we ruled in
15 McKay's favor.

16 MR. BHARARA: So we're clear, you've never had a
17 conversation directly with Mr. McKay over the letter to
18 Mr. McNulty about information sharing.

19 MR. MARGOLIS: No. And I never had a
20 conversation with Mr. McNulty about it either.

21 MR. BHARARA: Have you had conversations about
22 that letter with the other signatories to that letter?

23 MR. MARGOLIS: No. If you ask me to name one
24 other person who signed it, I'd be guessing.

25 MR. BHARARA: Okay.

01 Do you have any understanding as to who, inside
02 or outside the Justice Department, inside or outside the
03 White House, suggested or advocated that Mr. McKay be put
04 on the list of people to be fired?

05 MR. MARGOLIS: No.

06 MR. BHARARA: I'm going to ask you about Paul
07 Charlton.

08 MR. MARGOLIS: Yes

09 MR. BHARARA: Do you know Paul Charlton?

10 MR. MARGOLIS: Interviewed him. I don't think I
11 knew him when he was an AUSA, and he was an AUSA
12 before he was U.S. Attorney.

13 MR. BHARARA: Did you form an impression of the
14 quality of his performance and conduct as a U.S.
15 Attorney?

16 MR. MARGOLIS: Not personally, except for one
17 item which I'll get to in a minute. But I was told--and
18 once again, I think it might have been by Mercer or
19 Elston--that he had tried to -- he had tried to enforce
20 recording requirements on statements taken by the Bureau,
21 which on the merits I don't quarrel with particularly at
22 all, but I don't want -- I don't support the concept of
23 one U.S. Attorney making national policy like that. I
24 had also heard that he was weak on immigration, none of
25 this I know firsthand.

01 But what I do know, is in one of the documents
02 that was produced -- I think it was -- can I talk to
03 counsel for a minute? I want to make sure that what I'm
04 about to say was produced.

05 MR. BHARARA: Uh-huh.

06 [Whereupon, at 2:17 p.m. the interview was
07 recessed and resumed back on the record at 2:19 p.m.]

08 MR. MARGOLIS: I am advised that what I was
09 going to talk about has -- has been produced, so I can
10 discuss it.

11 MR. BHARARA: Okay.

12 MR. MARGOLIS: There is -- in some document that
13 talks about reasons for the dismissals that was obviously
14 produced after the fact it says -- it has an incident
15 where Charlton had given a leave of absence to an
16 administrative employee to work for a candidate running
17 against Janet Napolitano. That was my issue and I was
18 hot about that. I thought it made the department look
19 like -- too political.

20 But the important thing to remember on that is,
21 or to know about that, is that couldn't have been a
22 ground for his termination because I never disclosed that
23 until after he was terminated. You know, it was very
24 early on and I got hot, and she resigned, and I
25 completely forgot about it until the eve of the prep

01 session when Monica asked me what I knew about Paul
02 Charlton.
03 And I remembered this, and I thought there were
04 newspaper -- you know, she had been an opposition
05 researcher, so I told her, check it out, I think it hit
06 the newspapers. She never did find it in the newspapers
07 but she did find it in EOUSA files. So, don't think -- I
08 don't want anybody to think that that could have been, or
09 was, a ground for his removal because it wasn't known.
10 MR. BHARARA: And again, because I've now
11 forgotten during the break, did you say that the first
12 time you learned that Mr. Charlton -- when was the first
13 time you learned that Mr. Charlton might be asked to
14 resign?
15 MR. MARGOLIS: Probably in November.
16 MR. BHARARA: Okay.
17 Were you involved in any way in the decision to
18 put him on the list?
19 MR. MARGOLIS: No. No.
20 MR. BHARARA: Did anyone solicit from you, Kyle
21 Sampson or anyone else, your impression or understanding
22 of Mr. Charlton's performance in connection with the
23 decision to put him on the list?
24 MR. MARGOLIS: Not unless you consider, which I
25 would consider, when he tells me he's on the -- when Kyle

01 tells me that Charlton's on the list, that gives me the
02 opportunity to argue for or against. So, I did have that
03 opportunity.

04 MR. BHARARA: But not prior to the time in
05 November of '06 when he was put on the list?

06 MR. MARGOLIS: I don't believe so.

07 MR. BHARARA: Okay.

08 And again, with respect to Mr. Charlton, as I've
09 asked you with the others, do you have any understanding
10 or knowledge of other people, in the Justice Department
11 or outside the Justice Department, inside or outside the
12 White House, who urged or advocated that Mr. Charlton be
13 put on the list of people to be terminated?

14 MR. MARGOLIS: No. I've got to say, once again,
15 as to him, having read the grounds -- the various
16 grounds, I would support that decision if I know, you
17 know, the facts that --

18 MR. BHARARA: Based on what you read since
19 December 7th?

20 MR. MARGOLIS: Yeah.

21 MR. BHARARA: Have you talked to Mr. Charlton
22 since December 7th?

23 MR. MARGOLIS: No. I haven't talked to him in
24 years.

25 MR. BHARARA: To your knowledge, do you know if

01 Mr. Charlton was made aware of any performance or conduct
02 issues or was given the opportunity to correct those and
03 rehabilitate himself? Do you have any knowledge of that?

04 MR. MARGOLIS: I don't know, but I suspect that
05 on the issue of the FBI taping, there probably was some
06 communication. That would be the kind of thing that
07 would require some kind of communication after the fact,
08 and maybe even on the immigration statistics.

09 MR. BHARARA: Are you aware of the fact that Mr.
10 Charlton discussed with main Justice the possibility of
11 having a pilot program for the taping of interrogations
12 that Mr. Mercer supported?

13 MR. MARGOLIS: No. Don't know one way or
14 another.

15 MR. BHARARA: We talked about Bud Cummins
16 briefly before. Let me just go back to him for a moment.
17 You know Bud Cummins?

18 MR. MARGOLIS: Yes.

19 MR. BHARARA: And you interviewed him as well?

20 MR. MARGOLIS: Yes.

21 MR. BHARARA: Did you form any impression of his
22 ability as a U.S. Attorney?

23 MR. MARGOLIS: Neither. I didn't have much, if
24 any, opportunity to observe him. So, no, neither
25 negative or positive. Never heard a bad thing about him,

01 I should say, directly or indirectly. I also, to be fair
02 to Griffin, his resume, at the time I interviewed him,
03 looked better for the job than Cummins' did when I
04 interviewed him.

05 MR. BHARARA: When did you first find out that
06 Mr. Cummins was going to be asked to resign?

07 MR. MARGOLIS: I remember I heard the chatter
08 during the summer, which was not official. I heard
09 Jarrett's e-mail -- read Jarrett's e-mail in October,
10 which was not official. Then I think just before the
11 December interview with Griffin, you know, Monica told
12 me.

13 MR. BHARARA: As you sit here now, are you aware
14 of when, in fact, Mr. Cummins was asked to resign? In
15 other words, when he was told that he would have to
16 resign at some point?

17 MR. MARGOLIS: No. I mean, I wouldn't be
18 surprised if it was back in the summer.

19 MR. BHARARA: If it was the case that Mr.
20 Cummins was asked to resign as far back as the summer of
21 '06 and you didn't learn about it for several months, is
22 that unusual for you not to learn that?

23 MR. MARGOLIS: No. No. I mean, if it wasn't
24 for misconduct or something had blown up in our face, no.

25 MR. BHARARA: At any point were you asked for

01 your input about Mr. Cummins' performance or conduct as a
02 U.S. Attorney --
03 MR. MARGOLIS: No.
04 MR. BHARARA: -- and the decision to ask him to
05 resign?
06 MR. MARGOLIS: No.
07 MR. BHARARA: And as you sit here today, what is
08 your current understanding, as you sit here, about the
09 reasons for Mr. Cummins' termination?
10 MR. MARGOLIS: That's a good question. I think
11 it's that so that Tim Griffin could be the U.S. Attorney.
12 MR. BHARARA: Do you have any basis for
13 believing that there at any point was some reason other
14 than simply allowing Mr. Griffin to have an opportunity?
15 MR. MARGOLIS: You mean, like there was a
16 problem with Bud?
17 MR. BHARARA: Correct.
18 MR. MARGOLIS: No. No. No.
19 MR. BHARARA: Are you aware of the fact that Mr.
20 Gonzales -- Attorney General Gonzales, in an e-mail at
21 one point -- withdrawn.
22 That a Department of Justice official suggested
23 in an e-mail that --
24 MR. MARGOLIS: Brian Rorcasse.
25 MR. BHARARA: Yes. Suggested that the Attorney

01 General was upset about Mr. McNulty's testimony with
02 respect to the reasons for Bud Cummins being asked to
03 resign. Are you familiar with that?
04 MR. MARGOLIS: I read that e-mail.
05 MR. BHARARA: Do you have any understanding as
06 to what the Attorney General was upset about?
07 MR. MARGOLIS: No. I know nothing about that
08 one, except the four corners of the e-mail, which I read
09 as a member of the public.
10 MR. BHARARA: Do you recall whether or not Mr.
11 Cummins was on any earlier list that Mr. Sampson may have
12 discussed with you?
13 MR. MARGOLIS: I don't believe he was.
14 MR. BHARARA: And do you have any understanding
15 about who, inside or outside the Justice Department or
16 the White House, may have advocated that Mr. Cummins be
17 asked to resign?
18 MR. MARGOLIS: No. I mean, I know firsthand
19 that Monica was a strong supporter of -- of Griffin. So
20 if the plan was to get Bud out and give Tim Griffin the
21 opportunity, then it wouldn't surprise me if Monica was a
22 strong advocate for removing Bud. Not for Bud, but in
23 favor of Griffin.
24 MR. BHARARA: And do you have any understanding
25 of whether or not anybody at the White House was also an

01 advocate of Mr. Griffin?

02 MR. MARGOLIS: Well, I think now that e-mails
03 have come out that I've read since this all exploded
04 would indicate that -- at least Kyle's e-mails indicate
05 that people in the White House were interested. I think
06 he said something, "I know this is important to Karl."

07 MR. BHARARA: Did Mr. Sampson ever discuss with
08 you any perceptions that he had about Mr. Cummins'
09 performance or conduct as U.S. Attorney?

10 MR. MARGOLIS: I don't think so. I don't think
11 so. If he did, I certainly don't remember.

12 MR. BHARARA: Let me turn to Ms. Lam. When is
13 it you learned that she would be asked to resign?

14 MR. MARGOLIS: I think I first heard her name in
15 November. October or November. That was reported to me
16 to be, remember, to put it back in context, the final
17 list.

18 MR. BHARARA: Were you involved in any way in
19 the decision to put Ms. Lam on the list?

20 MR. MARGOLIS: No. That's when I did -- I mean,
21 that's a problem I was aware -- made aware of before I
22 knew anything about her being on the list, so it didn't
23 surprise me in that sense because when Mercer was PADAG
24 he used to tell me about problems he was having with her
25 vis-a-vis immigration and -- immigration and guns, I

01 believe. But my dealings with her -- my dealings with
02 her were always on individual cases, usually of the high-
03 level magnitude type cases, like Duke Cunningham.

04 MR. BHARARA: And based on your interaction with
05 her on those high-level cases, did you form an impression
06 of Ms. Lam's performance?

07 MR. MARGOLIS: Based upon my interaction with
08 her and what other people, including Mercer, said, both
09 then and now, in reading, my--and I love Carol like a
10 sister--an outstanding investigative lawyer, an
11 outstanding trial lawyer, tough as nails, honest as the
12 day is long, but had her own ideas about what the
13 priorities of the department would be, and was probably
14 insubordinate on those things.

15 MR. BHARARA: Do you know who --

16 MR. MARGOLIS: And I don't think that she would
17 -- if she heard what I just said I'm not too sure she
18 would quarrel with what I just said, and she might even
19 like it.

20 MR. BHARARA: Have you talked to her since
21 December 7th of 2006?

22 MR. MARGOLIS: Yes, I have.

23 MR. BHARARA: On how many occasions?

24 MR. MARGOLIS: Once.

25 MR. BHARARA: When was that?

01 MR. MARGOLIS: Maybe even December 7th, if not
02 December 8th or 9th. She called me primarily to tell me
03 that -- I think she said, "I think I just got fired by --
04 by Mike Battle."
05 And I believe, as I think about it, that that's
06 how I learned that the plan actually went forward,
07 because I remember it was supposed to go forward before
08 that and it didn't.
09 I was beginning to wonder whether it really was
10 going to go forward, but that made it sure to me that it
11 was going forward. I wasn't sure what the exact final
12 list was, and of course she didn't know.
13 So she had two questions of me: "Am I -- was I
14 the subject" -- was she the subject of an OPR or OIG
15 investigation that would cause this, and I said,
16 "Absolutely not. I would know that. That's absolutely
17 false. Don't worry about that." And then jokingly she
18 sort of said, you know, "Am I the only one?" And I
19 deflected that, disingenuously, probably.
20 Then she said nobody -- that Mike wouldn't tell
21 her the reason. Couldn't tell her the reason or wouldn't
22 tell her the reason, but that she had a few -- she was
23 going to call Paul and see if she could get the reason.
24 And then she speculated to me that it was over
25 immigration and guns. It was a very pleasant

01 conversation. It was followed by a nice e-mail that I
02 got from her.

03 MR. BHARARA: Who, other than Bill Mercer,
04 within the department discussed with you issues that he
05 or she had with Ms. Lam's performance as U.S. Attorney?

06 MR. MARGOLIS: Beforehand, I don't think any --
07 when I say beforehand, before December 7th I don't think
08 anybody -- afterwards, you know, there were even stories
09 that the EOUSA had problems with her vis-a-vis either
10 guns and/or immigration.

11 MR. BHARARA: I think you testified earlier --

12 MR. MARGOLIS: And that Jim Comey had called her
13 about guns when he was Deputy.

14 MR. BHARARA: I think you testified earlier that
15 Bill Mercer said or suggested that he had made efforts to
16 work with Carol Lam. Is that right?

17 MR. MARGOLIS: Yeah. Tried to get her to follow
18 the priorities and enforce those priorities.

19 MR. BHARARA: Do you recall what Mr. Mercer said
20 specifically about what steps he took with Ms. Lam or
21 what discussions he specifically had with Ms. Lam?

22 MR. MARGOLIS: All I remember is some e-mail
23 traffic. He didn't -- with me he wasn't trying to
24 convince me. He was just venting, so we didn't get into
25 much detail.

01 MR. BHARARA: So as you sit here today you don't
02 know.

03 MR. MARGOLIS: I don't remember. I'm saying, I
04 was looking at her strictly as a lawyer, as a prosecutor.

05 MR. BHARARA: Do you know whether or not there
06 was any dissent within the department about the decision
07 to ask Ms. Lam to resign?

08 MR. MARGOLIS: I don't know of any.

09 MR. BHARARA: Do you know if there was any
10 discussion within the department prior to December 7th of
11 2006 about the appearance that might be created by asking
12 Ms. Lam to resign, given the Duke Cunningham case that
13 she was working on?

14 MR. MARGOLIS: No. But if somebody raised that
15 they were prescient.

16 MR. BHARARA: But you don't know if anyone did?

17 MR. MARGOLIS: No.

18 MR. BHARARA: Do you know if there was any
19 particular replacement identified prior to -- potential
20 replacement identified prior to Ms. Lam's being asked to
21 resign?

22 MR. MARGOLIS: I -- on that one -- on that one,
23 I might have said -- I might have said to Kyle, hey -- I
24 don't know if I should mention the name. There's a guy
25 who used to work in my office that's from there and was

01 an Assistant U.S. Attorney who wants to be U.S. Attorney
02 in Los Angeles. He'd be a great -- we could solve all
03 our problems by putting -- I'm having trouble remembering
04 when I said this, but by putting one of our guys in Los
05 Angeles, one of our guys in San Diego, and one of our
06 guys in San Francisco, all of whom -- all three of whom I
07 could vouch for to the death, and all three of them
08 applied for Los Angeles, and all three of whom we
09 interviewed for Los Angeles, but none of whom, I think,
10 have made it, or will make it. So that -- so I'm saying
11 it's not so much -- somebody -- I might have been behind
12 that.

13 MR. BHARARA: And that was before December 7th?

14 MR. MARGOLIS: That's what I'm not sure of.

15 MR. BHARARA: There was a request earlier for a
16 five-minute break at 2:30. Do you want to take a five-
17 minute break?

18 MR. HUNT: Sure, if everybody else wants it.
19 We could do it later. Keep going.

20 MR. BHARARA: All right.

21 A second ago you said that it would "solve all
22 our problems" by putting these various people in the --
23 what did you mean by that, exactly?

24 MR. MARGOLIS: I had three outstanding
25 colleagues and friends who were capable of being U.S.

01 Attorneys in any district in the country, including the
02 Sovereign District, and I wanted to see each of them be a
03 U.S. Attorney. That would -- maybe I should say solve
04 all my problems. But we would have -- no, all our
05 problems, because we would have had three outstanding
06 U.S. Attorneys in three important cities.

07 MR. BHARARA: When you say the "Sovereign
08 District", several of us here might know that, but could
09 you clarify for the record what you mean?

10 MR. MARGOLIS: Anyone who doesn't know that
11 isn't worth educating.

12 [Laughter.]

13 MR. MARGOLIS: The Southern District of New
14 York. Although when my friend Stanley Marcus became U.S.
15 Attorney in Miami he insisted that Miami be known as the
16 Southern District, and that Manhattan be known as the
17 Southern District of New York.

18 MR. BHARARA: I see that took.
19 Were you ever consulted at any time in
20 connection with this plan to terminate a subset of U.S.
21 Attorneys? Were you ever consulted about your impression
22 of the performance of Thomas Heffelfinger?

23 MR. HUNT: We're asking about U.S. Attorneys
24 other than the eight.

25 MR. BHARARA: My question was -- again, I was

01 careful in my question, at least this question: was he
02 ever consulted about the performance of a particular
03 person. The question doesn't presume anything other than
04 whether or not he was consulted about it. It doesn't
05 suggest that it was negative -- there was a negative
06 reason for it, a positive reason for it, simply whether
07 or not he was asked a question about it.
08 And I imagine, from some of the past questions,
09 that the answer to many of these might be "no" and we can
10 solve both our -- both our issues by having him answer
11 that question.

12 MS. BURTON: Maybe we should take a break.

13 MR. BHARARA: Okay.

14 MS. BURTON: We might as well do that now.

15 MR. BHARARA: Sure. Sure.

16 MS. BURTON: This will be very brief.

17 MR. BHARARA: Okay.

18 [Whereupon, at 2:38 p.m. the interview was
19 recessed and resumed back on the record at 2:50 p.m.]

20 MR. BHARARA: I am going to re-ask my question.

21 I understand that the department may have an objection,
22 which we disagree with. But my question is, Mr.
23 Margolis, at any point have you been consulted by anyone
24 at the department about your views on performance or
25 conduct as U.S. Attorney Thomas Heffelfinger?

01 MR. HUNT: For the reasons that we've discussed
02 previously, and again off the record with you, the
03 department's position is, with respect to this testimony,
04 that we're only going to talk about the eight U.S.
05 Attorneys and not anything with respect to other U.S.
06 Attorneys beyond the eight.

07 MR. BHARARA: Again, as I discussed with you on
08 the record and off the record, we don't understand this
09 objection. We disagree with the objection.
10 So the record is complete and the record shows
11 what questions the committee has, I am going to put my
12 other questions on the record. I would ask you the same
13 question, Mr. Margolis, with respect to the following
14 people. The question is whether or not you were
15 consulted by anyone at the Department of Justice about
16 your view of the performance/conduct of the following
17 U.S. Attorneys: Todd Graves, Steven Biskupic, Deborah
18 Yang, Greg Miller, Marcos Jiminez.

19 MR. HUNT: Again --

20 MR. MARGOLIS: What was the last name?

21 MR. BHARARA: Marcos Jiminez.

22 MR. MARGOLIS: Oh. Marc Jiminez.

23 MR. BHARARA: Jiminez, yes.

24 MR. MARGOLIS: Okay.

25 MR. HUNT: Again, with respect to that question

01 and those U.S. Attorneys who are beyond the eight, the
02 department's position is, at least with respect to this
03 testimony now and this investigation, that we're not
04 going to talk about other U.S. Attorneys.

05 MR. BHARARA: So you're instructing the witness
06 not to answer the question?

07 MR. HUNT: Yes.

08 MR. BHARARA: And are you, Mr. Margolis, not
09 answering the question?

10 MR. MARGOLIS: I am not insubordinate. I will
11 not answer the question.

12 MR. BHARARA: Mr. Margolis --

13 MR. MARGOLIS: Actually, I am insubordinate, but
14 not in this situation.

15 MR. BHARARA: Are you aware of whether or not
16 any changes to the EARS process or any other evaluation
17 process of U.S. Attorneys is being, or has been,
18 considered in the wake of the firings on December 7th,
19 2006?

20 MR. MARGOLIS: Mercer and I, and it may be some
21 others but I remember Mercer and I, discussing the
22 possibility of having -- forming -- him chairing the
23 group to reexamine the use of the EARS process. But we
24 decided, after a little discussion, that now is not the
25 time to do it. We'll wait until all this settles down

01 and think about it then. But if we do do it, Bill will
02 be in charge because of his unique perspective, both from
03 headquarters and the field.

04 MR. BHARARA: I'm going to ask you some
05 questions on a different subject, a related subject.
06 Prior to February of 2006, do you have an understanding
07 as to who has, or had, control over the hiring, firing,
08 and separation of non-Senate confirmed political
09 appointees and the Deputy Attorney General's Office
10 and/or the Associate Attorney General's Office?

11 MR. HUNT: So with respect to non-Senate
12 confirmed, you're talking about people other than U.S.
13 Attorneys?

14 MR. BHARARA: Yes.

15 MR. MARGOLIS: And other than -- other PAS, like
16 Assistant AGs are presidentially appointed.

17 MR. BHARARA: What I'm talking about are
18 political appointees in the DAG office or in the
19 Associate Attorney General's Office. Do you have an
20 understanding, prior to February of 2006, as to where the
21 authority to hire, fire, or separate them lay?

22 MR. MARGOLIS: I never really --

23 MR. HUNT: Let me just note for the record that
24 I really think it's a little beyond the scope, but I'm
25 not going to instruct him not to answer the question. I

01 don't think it really fits within the scope of what
02 happens with respect to politically-appointed, Senate-
03 confirmed U.S. Attorneys. That said, I -- you know, if
04 you want to spend some time on that --
05 MR. BHARARA: I just want to put on the record
06 why I'm asking the question. There was an article that
07 appeared on Monday, April 30th in the National Journal
08 written by Murray Loss that's entitled, "Secret Order by
09 Gonzales Delegated Extraordinary Powers to Aides", and
10 the reason, among others, that I'm asking questions of
11 Mr. Margolis at this proceeding is that, if the article
12 were true, quotes from an executive branch official who
13 says--and I'll have this marked in a moment--among other
14 things, according to the article, I'll read as follows:
15 "The senior administration official who had firsthand
16 knowledge of the plan said that Gonzales and other
17 Justice officials had a 'clear obligation' to disclose
18 the plan's existence to the House and Senate Judiciary
19 Committees, but the official said that as far as he knew
20 they had not done so."
21 Later in the article the official is quoted as
22 saying, "The President of the United States has said it
23 was imperative for the Attorney General, and the Attorney
24 General alone, to reestablish trust with the Congress to
25 keep his job. You have, even after the President has

01 said that, the Attorney General and his men, stiffing
02 Congress."

03 Now, I'm asking the questions because this if,
04 if true, statements from an administration official
05 suggesting that materials related to the questions I'm
06 asking about should have been provided to the committee
07 in connection with their investigation.

08 So what I'm saying is, separate and apart from
09 any arguments that I might be able to make, based on what
10 I understand the members of our committees to be wanting
11 us to ask about, according to this article at least,
12 there's an official within the administration who
13 believes that this information is directly relevant to
14 the inquiries of the committee.

15 MR. HUNT: But I don't know if the article -- if
16 that's an official statement from somebody from the
17 Department of Justice. It's attributed to an official at
18 the Department of Justice. I don't know whether it's
19 official, it's unofficial, or it's untrue or true.
20 Again, I'm not going to say the witness can't answer the
21 question. My view is, the question was worded as this is
22 beyond the scope, but if you want to ask that question,
23 go ahead.

24 MR. FLORES: If I could interject. If you know
25 the name of that person, then I would like to know that.

01 It might be good to talk to them.
02 MR. BHARARA: I don't know the name of the
03 person. If someone can tell me the name of the person, I
04 think we'd all be happy to talk to that person.
05 Have you seen this --
06 MR. MARGOLIS: First of all, it was not me.
07 MR. BHARARA: Have you seen the National Journal
08 article?
09 MR. MARGOLIS: No. I heard about it and I saw
10 something much more truncated in The Pulse this morning.
11 MR. BHARARA: Did you understand my earlier
12 question?
13 MR. MARGOLIS: Say again?
14 MR. BHARARA: Did you understand my earlier
15 question?
16 MR. MARGOLIS: I did when you asked it but I
17 don't remember it now.
18 MR. BHARARA: Did you have any understanding as
19 to who at the Justice Department has control over hiring
20 and firing, and causing to be separated, political
21 appointees in the DAG's office or in the Attorney
22 General's Office?
23 MR. MARGOLIS: On February 6th?
24 MR. BHARARA: Prior to February of 2006.
25 MR. MARGOLIS: I -- I don't think I ever thought

01 about the issue, and if I had I would have assumed,
02 because I think I exercised it, that I had the authority
03 to move people out of the Deputy's office, and maybe even
04 in the Associate's office. You know, that's part of my
05 job. If it's time for somebody to go, it's time for me
06 to tell them. And I think I've actually done that. I
07 can't remember right now. So -- and maybe that's with
08 the implied authority of the Deputy.

09 But I'm not too sure I -- the only thing that
10 caught my attention out of that whole thing was,
11 something told me it's not the Post, but the National Law
12 Journal, or National Journal, whatever it is, that they
13 said that there was something there that my office didn't
14 know about it. And I remember a secretary or somebody
15 telling me a long time ago that there was some order that
16 we didn't know about, and that must have been -- that we
17 were told not to know about. That must be the one.

18 MR. BHARARA: Why don't I mark as an exhibit,
19 Margolis Exhibit 4, a copy of the National Journal
20 article dated April 30, 2007.

21 [Whereupon, Margolis Exhibit 4 was
22 marked for identification.]

23 MR. BHARARA: And I'm not going to ask you to
24 read off the --

25 MR. MARGOLIS: Direct my attention to.

01 MR. BHARARA: I'm going to direct your attention

02 to --

03 MR. MARGOLIS: We had a rule in the Deputy's
04 Office, I should tell you, if it's more than one page,
05 don't write it. If it's more than four pages, just don't
06 read it. So --

07 MR. BHARARA: If I could direct your attention
08 to page 5 of the article. The fourth paragraph at the
09 top. Oh, you know, I think you have a copy that doesn't
10 have page numbers on it.

11 On the copy that's marked as an exhibit, I'm
12 directing your attention to page 4, to the paragraph that
13 begins, "A correspondence record..." It's the second
14 paragraph from the bottom. I'll read it aloud into the
15 record.

16 "The correspondence record from Gonzales' own
17 files indicate that when Paul Corts, the Justice
18 Department's Assistant Attorney General for
19 Administration, transmitted a memo regarding the then-
20 draft plan to Gonzales, information regarding the plan
21 was ordered to be withheld from Mr. McNulty.

22 A 'control sheet' of the department's executive
23 secretariat, which tracks sensitive records as they move
24 among senior Justice officials, includes this notation
25 regarding the transmission of the Corts memo to Gonzales:

01 'per instructions received from JMD, [the Justice
02 Department's management division] ODAG [the Office of the
03 Deputy Attorney General] is to be bypassed on the
04 package.'"

05 MR. MARGOLIS: Actually, there's a misprint,
06 isn't there? "...is to bypassed".

07 MR. BHARARA: You're correct.

08 MR. MARGOLIS: But we know what it meant.

09 MR. BHARARA: We know what it means. Does that
10 -- does that either refresh your recollection or help you
11 to understand at all what this memo may have been about?

12 MR. MARGOLIS: You know, I -- I looked after
13 this -- after we were told about the National Journal
14 article by our press office, we looked at the memo last
15 night. I think I had heard about six months ago, only in
16 the context of, hey, here's a memo that we were purposely
17 bypassed on, not on what details we were -- I'm not too -
18 - I'm still not too sure, you know, what the practical
19 impact of the memo was.

20 I am intrigued by the bypassing of my office on
21 it, and I guarantee, I know Doc Corts and I know the
22 Justice Management Division, and they don't make
23 decisions like that on their own. They were transmitting
24 somebody else's instructions.

25 There was no way the Assistant Attorney General,

01 who was an inferior officer to the Deputy Attorney
02 General, is deciding not to share something with the
03 Deputy. He may be, you know, acting on somebody else's
04 instructions, but that's not his decision.
05 MR. BHARARA: Based on your understanding of Mr.
06 Corts and how the department works, who do you believe
07 might have been the authority that directed Mr. Corts to
08 bypass the DAG's office?
09 MR. MARGOLIS: Only somebody in the Attorney
10 General's Office, not necessarily the Attorney General.
11 MR. BHARARA: Have you now had a chance to look
12 at the order, which I think is dated in March of 2006,
13 that this article refers to?
14 MR. MARGOLIS: I had the chance last night but I
15 didn't take it because I had other things to prepare for,
16 like the hearing today.
17 MR. BHARARA: Interview.
18 MR. MARGOLIS: Which is much more important than
19 some damn memo.
20 MR. BHARARA: Do you have any understanding of
21 whether or not the CFR was changed at some point in early
22 2006 to concentrate the power to fire or separate certain
23 political appointees in the Attorney General's Office
24 alone?
25 MR. MARGOLIS: I don't know.

01 MR. BHARARA: And do you know anything, separate
02 and apart from not having read the order last night,
03 about any movement to have a specific delegation of power
04 by the Attorney General to the Attorney General's Chief
05 of Staff and the White House liaison to the Justice
06 Department with respect to personnel decisions relating
07 to political appointees?

08 MR. MARGOLIS: No.

09 MR. BHARARA: Do you --

10 MR. MARGOLIS: I'm not sure I understand all the
11 import. The only thing I'm hung up on --

12 MR. BHARARA: I'm trying to understand also.

13 MR. MARGOLIS: I mean, I'm just hung up on the
14 secrecy from my office. I'm not a big fan of that.

15 MR. BHARARA: Are there other occasions during
16 the time you served in the Deputy's office that you're
17 aware of -- I realize there's some irony in the question,
18 but --

19 MR. MARGOLIS: I know, because if they were good
20 at what they did we wouldn't be aware of it.

21 MR. BHARARA: Are you aware of other
22 circumstances in which -- or occasions on which the
23 Deputy's office has been bypassed in this way?

24 MR. MARGOLIS: No. And you've noted the irony
25 in that question. That, literally, is you don't know

01 what you don't know.

02 MR. BHARARA: Have you ever been made aware, in
03 your time in the Deputy's office, of an allegation of
04 lack of aggressiveness on the part of a U.S. Attorney in
05 pursuing voter fraud cases that you found to be
06 meritorious?

07 MR. MARGOLIS: The allegation of --

08 MR. BHARARA: Yes.

09 MR. MARGOLIS: I haven't heard of voter fraud.
10 I don't know. I haven't heard anything about voter
11 fraud, except in connection with the aftermath of the
12 recent unpleasantness in unintelligible.

13 MR. BHARARA: Do you have any understanding, or
14 did you have any involvement in, any decision by the
15 department to change the way in which attorneys are hired
16 into the honors program or the summer law intern program
17 at the Department of Justice?

18 MR. HUNT: You know, I'm going to note again,
19 this seems to be a separate inquiry from the issue about
20 the U.S. Attorneys. I'm not going to instruct him not
21 to, but this seems -- I mean, it may be an issue that the
22 committees are interested in, and they ought to discuss
23 with the department and have some kind of inquiry over.
24 That's a subject of negotiation, perhaps, but it
25 seems far afield to me from the U.S. Attorney issue.

01 Again, I'm not going to instruct him on -- instruct the
02 witness not to answer the question, but I just think it's
03 off subject of this testimony and this investigation.

04 MR. FLORES: We think it's a bit off-subject as
05 well.

06 MR. HUNT: Right. We have a request for
07 information on this subject that I think has just been
08 received at the department. Mr. Margolis is here today
09 to answer questions about the topic that brought us
10 together for other interviews. We were not aware that we
11 were going to -- he was going to be asked -- and I don't
12 know that he's prepared to answer any questions. I think
13 we ought to stick with the scope of what we came here to
14 address.

15 MR. BHARARA: Did you understand the question?

16 MR. MARGOLIS: Did I understand the question?
17 Yes.

18 MR. BHARARA: What was your understanding, if
19 any, of how the process of hiring attorneys into the
20 honors program or the summer law intern program has
21 changed in recent days?

22 MR. MARGOLIS: Here's what I know. Last
23 Wednesday afternoon, the Deputy came into my office and
24 asked me to attend the meeting that he was holding with
25 Lou DeFalaise, who's the head of the Office of Attorney

01 recruitment.

02 He told me that a group, I guess headed by Lou,
03 had been working on changes to the honors program for the
04 last several months and that a draft memo was ready, and
05 he wanted me to review it, and if I was satisfied with
06 it, to give Lou the green light to have it go out, and if
07 I wasn't satisfied with it, to make whatever changes I
08 thought were necessary. Lou wanted to make a few
09 changes. I understood the import of it to -- and he made
10 those changes.

11 I understood the import of it to restore control
12 of the program to the career people in the various
13 divisions, and Paul was -- this was Thursday afternoon.
14 Paul was tied up with some appearance he had scheduled
15 for Friday in this room, I assume, so he asked me to
16 handle it, and I did. I gave Lou the green light and it
17 went out. That was the extent of my participation.

18 MR. BHARARA: Is that something that you would
19 ordinarily be participating in?

20 MR. MARGOLIS: No. Well, I didn't -- I hadn't
21 in the past, but years and years ago I used to go out on
22 the honors program and gin up applications at the best
23 and the brightest law schools, but that's it.

24 MR. BHARARA: Were you involved at all at the
25 time when, under Attorney General Ashcroft, the change

01 was made so that hiring was not done only by career
02 folks?
03 MR. MARGOLIS: No. No. I mean, I think you
04 asked me if this was usual. I think this was -- the
05 change five days ago was to restore authority to the
06 career people. And what better person to review and make
07 the call than with a career person, the highest ranking
08 career person at the department?
09 MR. BHARARA: Did you have an opinion on the
10 change?
11 MR. MARGOLIS: Excuse me?
12 MR. BHARARA: Do you have an opinion on the
13 change?
14 MR. MARGOLIS: I think it's -- let me put it
15 this way. If I didn't think it was fine it wouldn't have
16 gone out.
17 MR. BHARARA: Do you know what the impetus for
18 the change was?
19 MR. MARGOLIS: I'm told that it was in the
20 process for several months. I do know that there was
21 some chatter around the department, complaining about the
22 other practice and the other program. I think I read
23 some articles about it, actually.
24 MR. BHARARA: I'm sorry. Which other program?
25 MR. MARGOLIS: What you referred to as the

01 Ashcroft change.

02 MR. BHARARA: Do you have any knowledge or
03 understanding of a meeting led by Michael Elston or the
04 Deputy's office about hiring practices into the summer
05 law intern program or the honors program?

06 MR. MARGOLIS: Yes.

07 MR. BHARARA: And what's your understanding of
08 the meeting?

09 MR. MARGOLIS: My understanding, which is based
10 on, a career attorney in the department came and told me
11 about it after the fact and wanted to know if I thought
12 Mike was susceptible and receptive to constructive
13 criticism because he wanted to go and tell him, you know,
14 that this was a roiled up meeting, this had been a roiled
15 up meeting, unless he -- in case he hadn't noticed. So I
16 said, yeah, go ahead, that would be fine.
17 And the guy later told me that they had a good,
18 frank exchange of ideas. Then that prompted me to ask
19 Lou DeFalaise, who was at the meeting, what he thought
20 about the meeting. He said he didn't think it was as bad
21 or as -- what's the word I'm thinking of? As nasty as
22 this other guy told me. That's the last I heard about it
23 until the other day.
24 Oh, not true. I asked Mike, after all this, how
25 it went, and he said he thought it went okay. He said

01 there was -- you know, there was disagreements.
02 MR. BHARARA: I'm going to hand you a document
03 that is -- that I'll ask the Court Reporter to mark as
04 Margolis Exhibit 5.
05 While she's doing that, I'll state for the
06 record that it is a multi-page document that bears Bates
07 numbers OAG 1151 to OAG 1154. The cover page is an e-
08 mail from Monica Goodling to John Nowacki, and the
09 remaining pages appear to be a chart that have various
10 columns and categories.
11 MR. MARGOLIS: Yes.
12 [Whereupon, Margolis Exhibit 5 was
13 marked for identification.]
14 MR. BHARARA: Mr. Margolis, have you seen this
15 document before?
16 MR. MARGOLIS: Not that I can recall.
17 MR. BHARARA: If you could take a minute and
18 just look at the chart that's behind the e-mail cover
19 sheet, do you notice that the first column has a series
20 of names?
21 MR. MARGOLIS: Yes.
22 MR. BHARARA: Is there anything you notice about
23 those names?
24 MR. MARGOLIS: They're in alphabetical order.
25 MR. BHARARA: And do they appear to be --

01 MR. MARGOLIS: I'm pretty good.
02 MR. BHARARA: Who do they appear to be?
03 MR. MARGOLIS: Oh. I'm going to be two for two
04 now: U.S. Attorneys.
05 MR. BHARARA: U.S. Attorneys.
06 You've never seen this -- this document before?
07 MR. MARGOLIS: I don't recall ever seeing this
08 document.
09 MR. BHARARA: Do you see that there are four
10 categories, four major columns that are denoted by the
11 titles "Prosecution Experience with Years", "Political
12 Experience", "Judge", and then "Fed Soc", which somebody
13 suggested is a reference to the Federalist Society.
14 MR. MARGOLIS: I see it.
15 MR. BHARARA: Looking at that and looking at
16 those categories, does that help you to explain what you
17 think this document is and why it was prepared?
18 MR. MARGOLIS: I wonder who GWB is.
19 MR. BHARARA: That's not George W. Bush, is it?
20 I don't know.
21 MR. MARGOLIS: I mean, I don't know. I've never
22 seen it.
23 MR. BHARARA: Okay. This looks like -- well, I
24 notice --
25 MR. MARGOLIS: I was going to say, it includes

01 people who are no longer U.S. Attorneys, but I guess -- I
02 guess, were leaving. They hadn't actually left. I'm
03 thinking of Bogden, Chiara.

04 So it's a list of people on board as of that
05 date with some, what are considered to be relevant
06 characteristics associated with them, like experience and
07 their membership in the Federalist Society but since
08 they're already on board and since I think we've learned
09 by that date that we're not going to be firing too many
10 more people, it couldn't have been a list of people to be
11 considering for firing, so I don't know what the purpose
12 was.

13 MR. BHARARA: Well, you see there are people on
14 -- based on your review of the document, when do you
15 think it was prepared?

16 MR. MARGOLIS: February 12th. That's when the
17 e-mail was.

18 MR. BHARARA: That's an e-mail. Okay.
19 If you look at the document, you'll see, going
20 in alphabetical order, Thomas DiBiagio, for example, is
21 on --

22 MR. MARGOLIS: Oh. I didn't get that far.

23 MR. BHARARA: Okay. Well --

24 MR. MARGOLIS: Maybe this is people who ever
25 served during this administration.

01 MR. HUNT: You know, it's pretty clear he's just
02 speculating about what this document is.
03 MR. BHARARA: You said, Mr. Margolis, earlier
04 that you deserved some responsibility for how the firing
05 of the U.S. Attorneys has played out.
06 MR. MARGOLIS: That's right.
07 MR. BHARARA: Is that right?
08 MR. MARGOLIS: That's right.
09 MR. BHARARA: And you made reference to the fact
10 that there are other folks who also deserve some
11 responsibility.
12 MR. MARGOLIS: Yeah.
13 MR. BHARARA: Who are they, and why do you think
14 so?
15 MR. MARGOLIS: I have in mind one particular
16 person, and that was Mr. Iglesias, for his failure to
17 follow the rules and tell us about the contact from
18 Senator Domenici.
19 MR. BHARARA: Is there anyone else at the
20 Department of Justice?
21 MR. MARGOLIS: I think Kyle could have handled
22 it better and, to the extent that Monica reports to him,
23 she could have handled it better. But if Iglesias had
24 done his job or if I had done my job, things could have
25 been a lot different.

01 MR. BHARARA: Give me one second.
02 [Pause]
03 MR. BHARARA: Off the record for a moment.
04 [Whereupon, at 3:15 p.m. the interview was
05 recessed and resumed back on the record at 3:15 p.m.]
06 MR. BHARARA: Mr. Margolis, am I right that you
07 worry about the reputations of U.S. Attorneys who may
08 have, at one point, appeared on a list of people to be
09 terminated, but who weren't terminated?
10 MR. MARGOLIS: Yes.
11 MR. BHARARA: And am I right that you have
12 respected the department's objection to the public
13 disclosure of some of those names?
14 MR. MARGOLIS: I think I formulated that
15 objection.
16 MR. BHARARA: Earlier today I asked you a
17 question about who, other than Kevin Ryan, you thought
18 deserved to be on the November 2006 list, and you said
19 there was another person that you suggested should have
20 been on the list of people to be --
21 MR. MARGOLIS: Oh. And who was not.
22 MR. BHARARA: And who was not. Am I right?
23 MR. MARGOLIS: That's right.
24 MR. BHARARA: Okay.
25 With respect to that person, separate and apart

01 from, if the Department of Justice had no objection to
02 your revealing that person's name, would you be prepared
03 to provide that person's name?

04 MR. MARGOLIS: I'd whack them over the head and
05 I wouldn't -- I mean, my principles know some bounds and
06 I'm not going to go to jail to avoid giving it out, but I
07 would vehemently object, even if the department kicked
08 its responsibility and didn't object.

09 MR. BHARARA: I want to make sure I understand.
10 You object to stating who that other person is that you
11 thought should be fired?

12 MR. MARGOLIS: Yes.

13 MR. BHARARA: Okay.

14 MR. MARGOLIS: And I'm saying -- I thought you
15 said to me, what would you say if the department said go
16 ahead, we don't object? And I would say I would refuse,
17 and I'd probably go to the Attorney General about it.
18 He'd probably tell me he was recused, so I'd go to the
19 Solicitor General.

20 MR. BHARARA: Okay. If we can just take five
21 minutes, I can look at my notes and see if I need any
22 follow-up questions.

23 MR. HUNT: Sure.

24 [Whereupon, at 3:17 p.m. the interview was
25 recessed and resumed back on the record at 3:24 p.m.]

01 MR. BHARARA: I just want to say on the record
02 that it's my understanding that, with respect to Mr.
03 Biskupic, the Attorney General himself, during his
04 testimony on April 19, confirmed on the record under oath
05 that at some point Mr. Biskupic was on a list of
06 individuals who were being considered for possible
07 termination as U.S. Attorney, and specifically Mr.
08 Gonzales confirmed, I believe twice, that Mr. Biskupic
09 was listed as someone on such a list.
10 So I reiterate my question from before with
11 respect to Mr. Biskupic to Mr. Margolis, and that is, did
12 you at any time have any discussions with anyone at the
13 Department of Justice, did anyone consult with you about
14 issues relating to the performance and conduct of Mr.
15 Biskupic?
16 MR. HUNT: The same objection we've noted before
17 with respect to U.S. Attorneys other than the eight.
18 MR. BHARARA: Once again, for the committee, I
19 must say that we disagree with your overall objection,
20 and in particular -- this particular objection, given
21 what the Attorney General said on the record and under
22 oath, is particularly inexplicable. I have no further
23 questions. Thank you.
24 [Pause]
25 MR. KEMMERER: Good afternoon, Mr. Margolis. My

01 name is Hannibal Kemmerer. We met at the very beginning.
02 So I'm going to ask you a few questions on behalf of the
03 Senate Republicans.

04 The first question is a softball. What's the --

05 MR. MARGOLIS: I hope they're all softballs.

06 [Laughter.]

07 MR. KEMMERER: What's the Mary C. Lawton

08 Lifetime Service Award?

09 MR. MARGOLIS: Mary Lawton was a long-time

10 Justice attorney who died suddenly after back surgery

11 about 14 years ago, so the department established an

12 award in her honor every year, no more than once a year,

13 I guess, for lifetime service.

14 MR. KEMMERER: And have you received the Mary C.

15 Lawton Lifetime Service Award?

16 MR. MARGOLIS: I have.

17 MR. KEMMERER: When did you first receive it?

18 When did you receive it?

19 MR. MARGOLIS: This past September.

20 [Whereupon, Margolis Exhibit 6 was

21 marked for identification.]

22 MR. KEMMERER: Let me show you what's been

23 previously marked as Margolis Exhibit 6 and ask you if

24 you can identify that document. Do you recognize that

25 document?

01 MR. MARGOLIS: Yes, I believe I've seen this
02 before.
03 MR. KEMMERER: And is this one of the documents
04 announcing your receipt of that award?
05 MR. MARGOLIS: Yes. Well, I haven't been able
06 to find it yet, but somewhere in here.
07 MR. KEMMERER: Directing your attention to page
08 2, the third -- fourth paragraph.
09 MR. MARGOLIS: Good. Yes, I see it.
10 MR. KEMMERER: This document says loads about
11 your integrity and reliability and your dedication to the
12 cause of justice.
13 MR. MARGOLIS: It should be. I wrote it.
14 [Laughter.]
15 MR. MARGOLIS: Counsel points out, he's got some
16 mention in here. I withdraw everything.
17 MR. KEMMERER: So more seriously, you didn't
18 write, obviously, this whole document.
19 MR. MARGOLIS: No.
20 MR. KEMMERER: And with respect to that
21 paragraph, did you write that paragraph?
22 MR. MARGOLIS: No, I didn't write any of it.
23 MR. KEMMERER: I just wanted to make sure.
24 Now, this award is for people who've been with
25 the Department of Justice for 20-plus years. Is that

01 right?
02 MR. MARGOLIS: I certainly qualified on that
03 count.
04 MR. KEMMERER: So what took them so long?
05 [Laughter.]
06 MR. MARGOLIS: Some would say it was premature.
07 [Laughter.]
08 MR. MARGOLIS: In the interest of full
09 disclosure, I should identify who I later learned put me
10 in for that award.
11 MR. KEMMERER: Who put you in for the award?
12 MR. MARGOLIS: Monica Goodling.
13 MR. KEMMERER: Is that right?
14 Just because you brought up Ms. Goodling, when
15 she came to your office on that Thursday --
16 MR. MARGOLIS: Yes.
17 MR. KEMMERER: -- before everything sort of went
18 -- or I guess as everything went so crazy, and she was
19 crying and you were trying to console her.
20 MR. MARGOLIS: Yes.
21 MR. KEMMERER: You mentioned that you gave her a
22 bit of advice. Mr. Bharara asked you if it was
23 professional advice and you said no. Is that right?
24 MR. MARGOLIS: Yes.
25 MR. KEMMERER: And you said it was personal

01 advice. Would you care to share what that advice was?

02 MR. MARGOLIS: I don't think you want me to, not
03 in mixed company.

04 MR. KEMMERER: Well, can you do it without
05 cursing?

06 MR. MARGOLIS: Oh, yes. But I didn't curse. I
07 made a suggestion about her social life.

08 MR. KEMMERER: Okay.
09 [Whereupon, Margolis Exhibit 7 was
10 marked for identification.]

11 MR. KEMMERER: Let me show you what's been
12 previously marked as Margolis Exhibit 7. And directing
13 your attention just to the bottom entry, that's an e-mail
14 from you, right?

15 MR. MARGOLIS: Yes.

16 MR. KEMMERER: Dated December 1, 2006. Is that
17 correct?

18 MR. MARGOLIS: Correct.

19 MR. KEMMERER: Okay.
20 And you mentioned that you received an inquiry
21 from a judge about EARS evaluations. Is that right?

22 MR. MARGOLIS: Yes.

23 MR. KEMMERER: Is that judge in the Northern
24 District of California?

25 MR. MARGOLIS: Yes.

01 MR. KEMMERER: And who is that judge?
02 MR. MARGOLIS: Should I answer that?
03 MS. BURTON: I'm sorry?
04 MR. MARGOLIS: He asked who the judge was. It's
05 just that it's been redacted. If it's to that e-mail,
06 the inquiry wasn't from the judge. It was -- I'd talked
07 to the judge earlier. That's some third party telling me
08 what the judge had done.
09 MS. BURTON: So that's not the name of the
10 judge?
11 MR. MARGOLIS: Well, the judge is what's
12 redacted. The judge's name is what's redacted, although
13 it has been speculated about in the newspapers out there.
14 MR. HUNT: I don't think you should give the
15 name. It's been redacted here.
16 MR. MARGOLIS: Okay. Well --
17 MR. HUNT: Until I have a chance to consult with
18 somebody on why the name is redacted.
19 MR. KEMMERER: Okay. That's fine.
20 Who is the "well-placed source" other than the
21 judge who told you that the judge was going to ask, or
22 representatives?
23 MR. MARGOLIS: I would ask you, as a matter of
24 professional courtesy, not to force me to answer that
25 question, as the person who told me implicitly expected

01 me to keep that confidential. So if it's at all
02 possible, I respectfully ask that you not force me to
03 answer that question.

04 MR. KEMMERER: Well, let me ask you a series of
05 questions about why you think or know this particular
06 judge was so eager to get ahold of this EARS evaluation.
07 When you spoke with this judge at some point earlier --

08 MR. MARGOLIS: Actually, it was several
09 occasions.

10 MR. KEMMERER: Okay.
11 And was this judge critical of Mr. Ryan?

12 MR. MARGOLIS: Yes.

13 MR. KEMMERER: Okay.
14 And for what was the judge critical of Mr. Ryan?

15 MR. MARGOLIS: I would say for his management of
16 the office and his treatment of employees.

17 MR. KEMMERER: How would a judge -- I mean,
18 judges preside over adversarial proceedings, correct?

19 MR. MARGOLIS: That's correct.

20 MR. KEMMERER: So how would a judge know how Mr.
21 Ryan treats his subordinates?

22 MR. MARGOLIS: I believe it was -- she said it
23 was based on complaints from current and former attorneys
24 in the office.

25 MR. KEMMERER: Complaining to the judge about --

01 MR. MARGOLIS: Complaining to her, and I think
02 some complaining to other people who told her.

03 MR. KEMMERER: Do you know for a fact whether
04 that judge ever did receive the EARS evaluations?

05 MR. MARGOLIS: I'm almost certain that the
06 answer is no, she did not.

07 MR. KEMMERER: Now, with respect to the
08 individual U.S. Attorneys who are ultimately put on this
09 list that was presented or shared with you orally in
10 November of 2006, I believe you testified that Mr. McKay
11 -- with respect to Mr. McKay you say -- you said, "I
12 would have put him on the list." Is that right?

13 MR. MARGOLIS: I don't think I -- no. What I
14 think I said was that, given the explanation of why he
15 was on a list, I would have endorsed that.

16 MR. KEMMERER: In short, the confrontation with
17 the Deputy Attorney General?

18 MR. MARGOLIS: Yes. And I think there was also
19 something about not following department policies on
20 sentencing.

21 MR. KEMMERER: And I believe you said that with
22 respect to Mr. Charlton, after you learned about the
23 reasons he was put on the list, you would have endorsed
24 that.

25 MR. MARGOLIS: Endorsed that.

01 MR. KEMMERER: You would have endorsed that as
02 well?

03 MR. MARGOLIS: That's correct.

04 MR. KEMMERER: Okay.

05 Now, turning to Ms. Lam for the moment, would
06 you have endorsed putting Ms. Lam on the list based upon,
07 I believe it's the gun prosecutions and immigration
08 prosecutions?

09 MR. MARGOLIS: Reluctantly, yes. And I say
10 reluctantly because I know her to be a fine prosecutor
11 and I liked her. But reluctantly.

12 MR. KEMMERER: Now, with respect to Mr. Bogden,
13 I don't believe anybody asked, and I don't believe you
14 testified whether you would have endorsed putting him on
15 the list based upon all that you've known, sort of, since
16 December 7, 2006. Would you now, given everything you
17 know, have supported putting Mr. Bogden on the list?

18 MR. MARGOLIS: I would have -- I would have, and
19 should have, pressed for more facts before a decision was
20 made.

21 MR. KEMMERER: Well, with the benefit of
22 hindsight and the knowledge of everything that you've
23 read as a citizen online, have you ever read any
24 justification for removing Mr. Bogden that you felt was
25 appropriate and that you would endorse?

01 MR. MARGOLIS: I'm torn on the obscenity
02 prosecution issue, because if it was -- if, indeed, that
03 was a primary ground, then on the one hand, while those
04 aren't my favorite prosecutions, you know, I recognize
05 the Attorney General, whoever she might be at a given
06 time, has the right to set their priorities and have them
07 followed. But I would have also wanted, on a situation
08 like that, to make sure Bogs got the chance to explain
09 his side of the story and correct his action.
10 So, I don't think there was any legal reason not
11 to remove him for those grounds, but I think we should
12 have confronted him with whatever facts we had, heard his
13 answer, and then maybe, depending on the answer, given
14 him a chance to comport his conduct.

15 MR. KEMMERER: And with respect to obscenity
16 prosecutions in Mr. Bogden's U.S. Attorney's district,
17 you really were only aware of one instance where he was
18 alleged not to have brought a strong case.

19 MR. MARGOLIS: That's correct.

20 MR. KEMMERER: And if that's the case, if it was
21 really just one obscenity prosecution that Mr. Bogden let
22 slip through the cracks, it's all the more obvious once
23 you confront him and give him an opportunity to explain,
24 isn't it?

25 MR. MARGOLIS: It is. It is. The wild card

01 there was, there was also some suggestion that, quite
02 apart from any fault as to him or mistakes or performance
03 problems that people wanted a rejuvenated office, which
04 is, you know, a valid thing, it doesn't cast aspersions
05 on his conduct at all, so if that were the reason I could
06 understand it. Give a new person a chance to come in,
07 you know, and shake things up. But that was it.

08 MR. KEMMERER: But couldn't that be a reason to
09 terminate all 93 U.S. Attorneys at the beginning of the
10 second term, just to rejuvenate?

11 MR. MARGOLIS: Well, the implication being that
12 rejuvenation was needed. So you take some U.S.
13 Attorneys, they're going as fast and furious on the
14 seventh year as they were in the first year. I don't
15 know. I just don't know.

16 MR. KEMMERER: Now, with respect to Bud Cummins,
17 you understand in retrospect that his removal from the
18 department -- from the U.S. Attorney's office in Arkansas
19 had nothing to do with performance. Is that correct?

20 MR. MARGOLIS: That's my -- I never heard any
21 suggestion about a performance problem.

22 MR. KEMMERER: So given the reason for Mr.
23 Cummins' removal was evidently to make a place for Tim
24 Griffin, would you have endorsed that?

25 MR. MARGOLIS: Absolutely, in concept. I have

01 no problem with -- I mean, these are presidential
02 appointments. I've seen it happen before in various
03 administrations, Democrat and Republican.
04 As long as it doesn't really screw up an office
05 and as long as it's not a cover for a bad motive, which
06 seldom it is, because the dirty little secret that we in
07 the business know is that Assistant U.S. Attorneys do the
08 work, not the U.S. Attorneys. Right, Preet?
09 MR. BHARARA: No comment.
10 MR. KEMMERER: With respect to David Iglesias,
11 given everything that you know, would you have endorsed
12 the department asking for his separation, for him to
13 resign?
14 MR. MARGOLIS: Given everything I know today, he
15 would have been number one on my list to go.
16 MR. KEMMERER: And that's because he didn't
17 report the call from --
18 MR. MARGOLIS: That's right.
19 MR. KEMMERER: -- Senator Domenici --
20 MR. MARGOLIS: That's right.
21 MR. KEMMERER: -- or the call from Heather
22 Wilson.
23 MR. MARGOLIS: That's right.
24 MR. KEMMERER: Okay.
25 Independent of his failure to report the calls

01 from a Representative and Senator, would you still have
02 encouraged department officials to seek his resignation?

03 MR. MARGOLIS: I have to tell you, Counsel, I am
04 so furious about that that I don't know that I can give
05 him a fair shake. I don't know if I could put that
06 aside.

07 But I try to put it aside, to answer your
08 question, and I want to find out and flesh out a little
09 more as to this absentee landlord thing. I mean, when he
10 was in the district, what was he doing if he wasn't
11 running the office on an everyday basis? But that's
12 trying to be fair to him.

13 MR. KEMMERER: Directing your attention back to
14 Exhibit 4.

15 MR. MARGOLIS: Which one is that?

16 MR. KEMMERER: That's the article from the
17 National Journal. Directing your attention to the second
18 page, the last full paragraph.

19 MR. MARGOLIS: The senior administration.

20 MR. KEMMERER: Right. Just go ahead and review
21 that.

22 [Pause]

23 MR. KEMMERER: When you learned of this article
24 in the last 24 to 48 -- I guess 24 hours --

25 MR. MARGOLIS: Yes.

01 MR. KEMMERER: -- did you get the sense that

02 Congress had the right to know about this order?

03 MR. MARGOLIS: You know, I don't know. But I do

04 know that this -- first of all, I have -- I'm not a big

05 fan of anonymous sources. They're cowards usually. But

06 in any event, it says "they had the right to know that an

07 ambitious effort to install administration loyalists

08 throughout the department," I'm sorry, but political

09 appointees are supposed to be administration loyalists.

10 I'm a career guy. I'm a loyalist to the Department of

11 Justice no matter who's in power, and I zealously and

12 jealously guard that.

13 But I expect people appointed by the President

14 of the United States or under his authority to be loyal

15 to him, and to the institution, too. But the fact that

16 -- so I just don't see the point. But beyond that, it's

17 beyond my expertise as to what Congress -- what the

18 obligations were to Congress.

19 MR. KEMMERER: Okay.

20 And I will just state for the record that I, and

21 I think I'm among all my colleagues in Congress here,

22 have not seen this order so I'm going to ask you a couple

23 of questions. Having reviewed the order recently --

24 MR. MARGOLIS: Having looked at it. I did not

25 look at it carefully or review it, I just saw it last

01 night.
02 MR. KEMMERER: Okay.
03 MR. MARGOLIS: And like I said, I had other
04 things on my mind.
05 MR. KEMMERER: Sure.
06 MR. MARGOLIS: The topics that I thought were
07 coming up today.
08 MR. KEMMERER: Well, let me ask you about that,
09 because having reviewed the order -- looked at it last
10 night --
11 MR. MARGOLIS: Yes.
12 MR. KEMMERER: -- did you get the sense that it
13 empowered the Chief of Staff to the Attorney General,
14 someone in Kyle Sampson's position, to terminate
15 political appointees other than U.S. Attorneys?
16 MR. MARGOLIS: And other than -- other than
17 presidentially-appointed, Senate-confirmed officials, of
18 which we have many who are not U.S. Attorneys. Yeah, I
19 guess that's a fair reading of it.
20 MR. KEMMERER: So did it --
21 MR. MARGOLIS: I always thought I had the power
22 to terminate them.
23 MR. KEMMERER: Did it empower, for instance,
24 someone in the Chief of Staff's office?
25 MR. MARGOLIS: By the way, that -- I think that

01 was, as I recall, limited to people in the Deputy's
02 office and the Associate's office, unless I misread it.
03 MR. KEMMERER: Okay.

04 So that wouldn't include, for instance, making -
05 - the Chief of Staff making a recommendation to the
06 Attorney General to terminate an AG-appointed U.S.
07 Attorney based on your reading?

08 MR. MARGOLIS: I don't think -- I don't think
09 anybody -- if the AG appointed some U.S. Attorney, I
10 don't think anybody but the AG could terminate them,
11 legally. I mean, I'd have to ask OLC about that.
12 But, you know, there's ways to terminate. I've
13 terminated many presidential appointees, because you call
14 them in and say, it's time for you to go. If you don't
15 go now, I'm going to ask that the President remove you
16 unceremoniously. And in the great majority of cases--not
17 all cases--they resign, so they weren't technically
18 removed. These so-called "removed" eight U.S. Attorneys,
19 none of them were fired. None of them were removed.

20 MR. KEMMERER: So I think you said it was
21 limited to the Deputy Attorney General's Office and --

22 MR. MARGOLIS: And the Associate's Office, I
23 believe.

24 MR. KEMMERER: And that's why it was deeply
25 either troubling, ironic, you know, insert the adverb of

01 your choice.

02 MR. MARGOLIS: I would love to hear -- I've got
03 to say this. I don't know what the explanation was. I
04 could speculate. I'm not going to speculate. I would
05 love to know what the reason is for keeping it from my
06 office.

07 MR. KEMMERER: Right. Because it empowered them
08 to terminate people from your office.

09 MR. MARGOLIS: Well, let me -- no, that's --
10 that's really secondary. I just -- you know, the Deputy
11 Attorney General is the second-highest ranking official
12 in the department and is responsible for the day-to-day
13 operation of the department. So even if it involved
14 other offices, I'd just like to know why the Deputy
15 shouldn't know about it.

16 MR. KEMMERER: These pages are numbered on this
17 exhibit. I know mine aren't.

18 MR. MARGOLIS: They're not. They're not.

19 MR. KEMMERER: But if you could go back to the
20 fifth page, which somewhere in the center has a caption
21 that says "Politics and Perception".

22 MR. MARGOLIS: I see it.

23 MR. KEMMERER: All right. Read that paragraph
24 to yourself.

25 MR. MARGOLIS: The first paragraph on "Politics

01 and Perception".

02 MR. MARGOLIS: With all due respect to the
03 author here, I think that is gibberish.

04 MR. KEMMERER: Okay. That's what I was going to
05 ask you.

06 MR. MARGOLIS: Because -- I say that for one
07 reason because Sampson and Goodling had no more power to
08 fire U.S. Attorneys than I did, and I explained what that
09 authority is. The bully pulpit to get them to leave, but
10 if Kyle Sampson called in David Iglesias and said "you're
11 fired", Iglesias could, and probably would, go back to
12 his office and continue his duties lawfully.

13 MR. KEMMERER: You -- it seems to me you've
14 testified a couple of times about your authority to sort
15 of cajole people into resigning.

16 MR. MARGOLIS: Yes.

17 MR. KEMMERER: And you've had experience doing
18 that, right?

19 MR. MARGOLIS: Yes.

20 MR. KEMMERER: And with a number of U.S.
21 Attorneys. Is that right?

22 MR. MARGOLIS: A number of U.S. Attorneys and
23 other officials, both. I'm going to call them career --

24 MR. KEMMERER: Immigration judges, for instance.
25 One in particular.

01 MR. MARGOLIS: How did you know about that?
02 MR. KEMMERER: Okay. So I guess the bottom line
03 is --
04 MR. MARGOLIS: Have you been Googling me?
05 MR. KEMMERER: -- if you had that authority, do
06 you have any sense -- or if anyone ever told you why Mike
07 Battle was the one that made these calls?
08 MR. MARGOLIS: You mean, why it wasn't me?
09 MR. KEMMERER: Right.
10 MR. MARGOLIS: I wasn't going to look a gift
11 horse in the mouth. No, I did not ask that question.
12 MR. KEMMERER: Is that another sausage you
13 didn't want to see made?
14 MR. MARGOLIS: I mean, that's not a call that
15 anybody with half a brain would want to make. If
16 somebody told me to do it, I would have done it. But I
17 think, if I remember, Mike Battle was a colleague of
18 these people. He was an equal with them, you know,
19 before he became Director. He was the U.S. Attorney in
20 Buffalo.
21 MR. KEMMERER: By that theory they could have
22 had Bill Mercer call them, couldn't they?
23 MR. MARGOLIS: That's correct.
24 MR. KEMMERER: All right.
25 MR. MARGOLIS: But also Mike was Director of the

01 Executive Office.
02 MR. KEMMERER: Do you know whether Mr. Battle
03 was consulted about the performance of these U.S.
04 Attorneys prior --
05 MR. MARGOLIS: I don't know. I don't know.
06 MR. KEMMERER: And I believe you said earlier
07 that you could guess that Mr. Sampson, in addition to
08 consulting you, consulted with the Director of the EOUSA?
09 MR. MARGOLIS: But do I know? No.
10 MR. KEMMERER: Right. Okay.
11 I want to talk just a bit about the types of
12 questions that are asked in interviews of U.S. Attorneys.
13 But before we do that, have you ever, in the last --
14 since this administration has been in power have you
15 interviewed any Assistant U.S. Attorneys?
16 MR. MARGOLIS: To hire as Assistants --
17 MR. KEMMERER: Yes.
18 MR. MARGOLIS: -- as opposed to promoting to
19 U.S. Attorneys?
20 MR. KEMMERER: Yes.
21 MR. MARGOLIS: No.
22 MR. KEMMERER: No.
23 How -- let's say there's an interim U.S.
24 Attorney in a particular district.
25 MR. MARGOLIS: Yes.

01 MR. KEMMERER: And they want to hire Assistant
02 U.S. Attorneys. Can they merely interview and then hire
03 them or do they have to go through unintelligible?
04 MR. MARGOLIS: They have to go through --
05 assuming there's a vacancy, they have to -- they couldn't
06 do it if there wasn't a vacancy and the money and all
07 that stuff. And assuming there's a vacancy and the money,
08 they'd have to get permission from the Executive Office.
09 MR. KEMMERER: Okay.
10 And assume again that there's not only a
11 vacancy, but they get permission from the Executive
12 Office of U.S. Attorneys to interview people. Does that
13 interim actually conduct the interview?
14 MR. MARGOLIS: Sometimes she has a hiring
15 committee that does it for her. Depends on the district.
16 MR. KEMMERER: But at any rate it wouldn't rise
17 to the level of you interviewing Assistant U.S.
18 Attorneys.
19 MR. MARGOLIS: It never has.
20 MR. KEMMERER: Okay.
21 So at these interviews when --
22 MR. MARGOLIS: And I would vehemently object to
23 having those on my calendar.
24 MR. KEMMERER: Okay. Great.
25 At these interviews where you're present and

01 people are interviewing for U.S. Attorney positions --
02 MR. MARGOLIS: I -- it would be a misnomer to
03 say I was present. I'm in charge of the -- my job is to
04 flesh out all the information. I ask 95 percent of the
05 questions and then the other people get a chance to, you
06 know, sit back and watch what's happening to make their
07 judgment. So I'm sort of like the lawyer who brings out
08 all the facts and then the jury or the judges decide.
09 And I get a vote myself, though.

10 MR. KEMMERER: Give me just a sense, through
11 maybe a couple, or a few, however many questions pop in
12 your mind that you might ask -- but give me a sense of
13 the types of questions you ask in these interviews.

14 MR. MARGOLIS: Okay. I'm going to split it into
15 two. One is the private session, which comes at the end
16 where it's just me and the Director of EOUSA who takes
17 notes and I ask the questions, and that's what Kyle,
18 who's described as the "sex, drugs and rock and roll"
19 questions, kind of very private questions that we're
20 anticipating issues that could come up in the background
21 investigation: have you ever used any illegal drugs since
22 your 18th birthday; have you ever been caught in bed with
23 a live boy or a dead woman, those kind of questions.
24 That's at the end. In front of everybody, I'll ask
25 questions like -- I'll ask two hypotheticals of every --

01 of every person.
02 One hypothetical deals with how they would
03 handle a disclosure issue, an obligation during a trial,
04 another deals with how they would handle an
05 insubordination situation, whether it's insubordination
06 and how they would handle it on the behalf of an AUSA in
07 the office, ask them, especially now when there's 18
08 months left in the administration, I'll ask them what
09 they're going to do, what they want to do next in life,
10 because this job isn't going to last too long.
11 I'll ask them questions about their management
12 style. What kind of person -- without looking for a
13 name, what kind of person would they want -- would they
14 want to hire as their First Assistant. I will ask them,
15 pick out a dead America who is a non-lawyer whom you
16 respect and admire and tell me why. Then after that,
17 pick out a dead giant in American law whom you respect
18 and tell me why.
19 I will also ask them, I will preface this
20 question usually with the following: if you were applying
21 for a career job in this department and somebody asked
22 you the question I'm about to ask you, I would poke them
23 in the eye with a sharp stick.
24 But you're not applying for a career job in the
25 Department of Justice, you're applying for a political

01 job, to whit, a presidential appointment, subject to
02 Senate confirmation. So with that in mind, what can you
03 tell me you did to show your support for this President
04 in the 2000 election and the 2004 election.
05 Then my political colleagues who hear the
06 answers can make their judgments on that. Those answers
07 range from -- you know, all over the lot, from nothing,
08 to I voted for John Kerry and Al Gore.
09 [Laughter.]
10 MR. MARGOLIS: No, that's actually happened.
11 MR. KEMMERER: The person didn't get the job, I
12 take it.
13 MR. MARGOLIS: Bingo!
14 [Laughter.]
15 MR. MARGOLIS: But, you know, that person would
16 get my "A" for candor. And those are the kind of
17 questions I ask.
18 MR. KEMMERER: And the reason why you wouldn't
19 ask those questions if it were for a career position is
20 what?
21 MR. MARGOLIS: Oh, because it's against the
22 rules and it would politicize my department. And not
23 only -- I mean, I meant it when I said I'd poke somebody
24 in the eye with a sharp stick if I caught them doing
25 that.

01 And the reason why I asked that question--Kyle
02 and I established this long ago, actually, I think before
03 he came to Justice, while he was in the White House
04 Counsel's Office--is it gives it a sense of legitimacy if
05 the highest-ranking career official who happens to have a
06 different background than this administration is the one
07 asking those questions.

08 I've had people answer that question, people who
09 work in the Department answer that question, by saying,
10 "Well, I voted for Gore and I voted for Kerry, but I
11 support the President by enforcing the laws." My answer
12 is, "Well, so do I, but I wouldn't expect a presidential
13 appointment from this President. So, you know, give me
14 something else."

15 MR. KEMMERER: Okay. Directing your attention
16 back quickly to Mr. Bogden and the line of questioning
17 there, are you aware of any evidence to suggest that the
18 District of Nevada needed rejuvenation?

19 MR. MARGOLIS: I have no personal knowledge of
20 that.

21 MR. KEMMERER: So that is something you just
22 sort of took on Mr. Sampson's authority, sort of after
23 the--

24 MR. MARGOLIS: I don't know who said it. It
25 might have been in the explanations later on.

01 MR. KEMMERER: Who is Scott Schools?

02 MR. MARGOLIS: Scotty is one of our best
03 lawyers. He was General Counsel, he may technically
04 still be the General Counsel of EOUSA. He's now the
05 Interim U.S. Attorney in San Francisco until we get a
06 PAS. I can't say enough good things about Scott.

07 MR. KEMMERER: Did there come a time when--

08 MR. MARGOLIS: And I pushed that he be sent to
09 San Francisco.

10 MR. KEMMERER: Okay. Prior to being the Interim
11 U.S. Attorney for San Francisco, you said he was at the
12 Executive Office of U.S. Attorneys?

13 MR. MARGOLIS: Yes. He was the General Counsel
14 of that office, so I worked with him on a daily basis.

15 MR. KEMMERER: And was Mr. Schools invited to
16 attend a meeting between yourself, Michael Elston,
17 Inspector General Fine, and Will Moschella to discuss
18 some OIG investigation in the Western District of
19 Michigan?

20 MR. HUNT: You know, I just want to caution the
21 witness not to talk about any investigations, give
22 information with respect to particulars of any
23 investigations.

24 MS. BURTON: Off the record.
25 [Pause.]

01 [Whereupon, Margolis Exhibit No. 8
02 was marked for identification.]
03 MR. MARGOLIS: Are we ready?
04 MR. KEMMERER: Sure. Do you recognize this
05 meeting?
06 MR. MARGOLIS: No. I have no recollection--I'm
07 sure it took place because it says it did.
08 MR. KEMMERER: Does the inclusion of Marshall
09 Jarrett's name on there refresh your recollection?
10 MR. MARGOLIS: No. I saw that. I can only
11 really recall on that subject on that subject--
12 MR. KEMMERER: For the record, what's the
13 subject?
14 MR. MARGOLIS: Chiara investigation request.
15 MR. KEMMERER: Okay.
16 MR. MARGOLIS: It was a meeting with her around
17 the same time--"her" being Margaret Chiara. It may be
18 that we had a meeting to see if the Inspector General
19 and/or OPR were interested in conducting the
20 investigation that she asked for.
21 That's what this may be. And if that's the
22 case--and, you know, that may very well be the case--we
23 called a meeting to see if they were willing to discuss
24 the--to conduct the investigation she requested, although
25 I thought they responded--"they" being Jarrett and Fine.

01 I thought they responded by e-mail. I didn't realize we
02 actually had a meeting. That must be what it was on.

03 MR. KEMMERER: Okay. Is there an ongoing Office
04 of Inspector General investigation? I don't necessarily
05 need to know what it's about. I just--

06 MR. MARGOLIS: No. Let me clarify. I think I
07 can set this to rest. Margaret Chiara asked that the
08 Department conduct what I would call--and I'm not sure she
09 would agree--what I would call a "leak investigation" to
10 determine who wrote these anonymous letters that went to
11 Senator Durbin and to the media attacking an assistant in
12 her office. And so we had to decide what the answer was,
13 and I eventually sent her an e-mail--right around this
14 time, actually--denying her request and explained why.
15 So it was not an investigation of her or her
16 conduct. It was her request for an investigation.

17 MR. KEMMERER: Did her request for that
18 investigation play any role in her being added to the
19 list, to your knowledge?

20 MR. MARGOLIS: Not that I know. I mean, I would
21 say that her request and analysis did nothing to raise
22 the level of my confidence in her judgment--mine--but I'm
23 not saying that that had an effect on anybody else.
24 [Whereupon Margolis Exhibit No. 9 was
25 marked for identification.]

01 MR. KEMMERER: Do you recognize this document?
02 MR. MARGOLIS: Yes.
03 MR. KEMMERER: Directing your attention to the
04 second e-mail from the top, Mr. McNulty is responding to
05 Ms. Chiara's request to have Scott Schools and you attend
06 some meeting. Is that right?
07 MR. MARGOLIS: Yes.
08 MR. KEMMERER: And among other things, in
09 response Mr. McNulty says, "I would not have selected
10 Will as"--Will Moschella; is that right?
11 MR. MARGOLIS: Yes.
12 MR. KEMMERER: --"as my Principal Associate or
13 Mike Elston as my Chief of Staff if they were not
14 exemplary in their integrity, discretion, and respect for
15 United States Attorneys." Do you see that?
16 MR. MARGOLIS: Yes, I do.
17 MR. KEMMERER: And do you think that Mr.
18 McNulty--to your knowledge, does Mr. McNulty believe
19 that?
20 MR. MARGOLIS: Believe what he said?
21 MR. KEMMERER: Yes.
22 MR. MARGOLIS: A hundred percent.
23 MR. KEMMERER: And when you responded, you said,
24 "Well said," you meant that; is that correct? You
25 meant --

01 MR. MARGOLIS: I'm almost as truthful as he is.
02 I think there might have been a little
03 misunderstanding here. I think Paul read it that
04 Margaret didn't want the others there, and he obviously
05 railed at that. But I think maybe she just meant that
06 she wanted Scott and me there, not that she didn't want
07 the others there. But I can't remember.
08 Also, I think she responded to this, but I don't
09 see her response.

10 MR. KEMMERER: With respect to the part about
11 Will Moschella and Mike Elston being exemplary in their
12 integrity, discretion, and respect for United States
13 Attorneys, that in particular, you agree with that,
14 correct?

15 MR. MARGOLIS: Yes.

16 MR. KEMMERER: And nothing has changed since
17 October 2006 to disabuse you of that view?

18 MR. MARGOLIS: Let me take a look at this. I
19 get really nervous when...let's see.
20 Well, there's no question Mike has taken his
21 lumps, both publicly and privately, I imagine, but I
22 still stand behind him. We've all made mistakes.

23 MR. KEMMERER: Now, the meeting that Ms. Chiara
24 requested and that's being discussed in these e-mails,
25 did you attend that meeting?

01 MR. MARGOLIS: I did.
02 MR. KEMMERER: Did or did not? I am sorry.
03 MR. MARGOLIS: I did, yes.
04 MR. KEMMERER: And is that where you rejected
05 her request for an investigation?
06 MR. MARGOLIS: No. I had already rejected it,
07 and she mentions in this e-mail, she says, "Last evening,
08 I received a response from Margolis to my request."
09 MR. KEMMERER: So was the meeting about
10 something else?
11 MR. MARGOLIS: Well, we thought that it was--
12 "we" being Paul, Mike, Will, and me--thought that it must
13 be, because of the timing and what she said about
14 receiving my response, that she wanted to appeal my
15 decision to Paul. We were wrong. She complimented me on
16 the e-mail. She said this was a "beautifully written e-
17 mail. I didn't know you could write so well." And I
18 responded, truthfully, "I can't." And then she said,
19 "Now I want to figure out how to"--you know, "My office
20 is all turmoil. I want to talk about what we do now."
21 That's what the purpose of the meeting was.
22 MR. KEMMERER: Okay. Let me show you what has
23 been marked as--well, actually, let me ask you--just a
24 second. We can mark it in a second. But I believe in
25 the Q&A or the colloquy with Mr. Bharara, he asked you--

01 Preet asked you whether Mr. Sampson was incorrect in
02 suggesting that you had told him something, you know,
03 negative about Mr. Iglesias' performance.
04 MR. MARGOLIS: I think he said, if I've got the
05 right quote, in his testimony he said that, "I had told
06 him that Iglesias was an absentee landlord." Is that
07 what you're referring to?
08 MR. KEMMERER: Yes, things to that effect, and
09 that he delegated a lot to his First Assistant.
10 MR. MARGOLIS: And that, what I'm saying is I
11 said that I believe what Kyle's referring to is what I
12 said at the prep session after the firings had long since
13 taken place, because it was something I learned from the
14 First Assistant when we interviewed him to replace
15 Iglesias. So I don't think I knew that before the
16 firing. I certainly didn't hear it from the First
17 Assistant until after the firing.
18 MR. KEMMERER: Okay.
19 MR. MARGOLIS: So I think his timing is wrong.
20 MR. KEMMERER: Okay. Actually, he was fairly
21 careful. He says he doesn't know when you said that to
22 him.
23 MR. MARGOLIS: Oh, I didn't even remember that.
24 MR. KEMMERER: All right. So at any point did
25 you ever hear anyone suggest that the terminations of

01 these eight U.S. Attorneys--or the request for their
02 resignations--I think you made that distinction in your
03 testimony.

04 MR. MARGOLIS: Right.

05 MR. KEMMERER: The request for their
06 resignations were to influence a political corruption
07 case?

08 MR. MARGOLIS: Well, I've read newspaper
09 articles after the fact, and I've read Iglesias' public
10 statements after the fact and some statements from John
11 McKay. But you don't mean that. You mean anybody in a
12 position of authority. Absolutely not, and they would
13 get my sharp stick in the eye if they suggested that.

14 MR. KEMMERER: Okay. And did you ever hear from
15 anyone in the administration, either at the Department of
16 Justice or the White House, that they were terminating
17 these--or asking for the resignations of these eight U.S.
18 Attorneys in order to chill or jump-start a particular
19 case?

20 MR. MARGOLIS: No.

21 MR. KEMMERER: And what would that type of
22 statement in your presence by someone in authority have
23 elicited from you?

24 MR. MARGOLIS: Well, you know, I'd like to be
25 very simple, but I think to instruct the situation and

01 will construct the situation for you where it wouldn't
02 trouble me at all: Let's suppose it's 1963, okay? And
03 the Attorney General of the United States is RFK, and the
04 senior Senator from--the junior Senator from Connecticut
05 and the head of the NAACP from Connecticut come in to see
06 the Attorney General, and they say, "General"--or the
07 Senator says, "General, one of my constituents went down
08 to Mississippi as a Freedom Rider a couple of weeks ago,
09 and we have it on good information that he was kidnapped,
10 transported in interstate commerce, and murdered. And
11 the FBI has investigated it, and they have proved the
12 events, and your U.S. Attorney refuses to move on it."
13 Well, if I know Attorney General Kennedy, he
14 would have called the United States Attorney and asked
15 him about it. And let's suppose the U.S. Attorney said
16 to him, "General, I know my district a lot better than
17 you humps up in Washington do, and my priority is
18 investigating and prosecuting cases involving the
19 interstate transportation of stolen motor vehicles, not
20 kidnapping of Freedom Riders, kidnapping and murder of
21 Freedom Riders."
22 You can bet that the Attorney General of the
23 United States would have been on the phone to his brother
24 within 5 minutes and that United States Attorney would
25 have been out on the street, regardless of who his

01 Senator was.
02 But let's suppose he said differently and he
03 said, "General, this is my top priority. The murder, the
04 kidnapping and murder of a civil rights worker is my top
05 priority. I don't care what the Senator has told you,
06 what the Senator from Connecticut has told you. I don't
07 care what the NAACP has told you. The evidence is not
08 there in this case. That's why I didn't break it."
09 Attorney General Kennedy I believe would have
10 said to him, "I respect your judgment, but all the same I
11 am sending John Doar and Burke Marshall down to take a
12 look at the case." And if they came back and said,
13 "General, this is a righteous case," he would have said,
14 "Then you prosecute it and move the U.S. Attorney aside."
15 So it is not necessarily wrong for the United
16 States Department of Justice to step in and force the
17 prosecution of a case. And that's the example I would
18 give. And there are cases every day--strike that.
19 There are cases every once in a while where we
20 will get a complaint that a U.S. Attorney is being too
21 aggressive, and we will look at it based on the facts.
22 In most instances, we will say this case lies well within
23 the discretion of the U.S. Attorney and let him go
24 forward. But occasionally we say no.
25 Now, the difference is we wouldn't push the

01 first case I mentioned and we wouldn't stop the second
02 case I mentioned for money, because a bribe was paid, or
03 for partisan political advantage. That's true.
04 MR. KEMMERER: And when you say--
05 MR. MARGOLIS: You know, the cases I just gave
06 you are one of the reasons why I'm still in the
07 Department of Justice. You know, I joined the U.S.
08 Attorney's Office to learn how to be a lawyer and how to
09 try a lawsuit. I learned that fairly early on, both of
10 those, but I never left to help defend them.
11 MR. KEMMERER: Okay. Directing your attention
12 to the period immediately after the December 7th calls
13 that Michael Battle placed to these seven U.S. Attorneys
14 --sans Bud Cummins, okay?
15 MR. MARGOLIS: Yes.
16 MR. KEMMERER: Were you contacted by any of the
17 other U.S. Attorneys who were asked to resign other than
18 Ms. Lam, whom I believe you've already testified to?
19 MR. MARGOLIS: I don't believe so, but let me
20 just double-check the list.
21 [Pause.]
22 MR. MARGOLIS: No.
23 MR. KEMMERER: So the only one that called you
24 and said, you know, something to the effect of "I believe
25 I have just been fired" was Ms. Lam?

01 MR. MARGOLIS: Correct.
02 MR. KEMMERER: Am I correct that you testified
03 that Ms. Lam sort of opined or wondered aloud whether it
04 was about the immigration cases and gun cases?
05 MR. MARGOLIS: Yeah. She was thinking out loud.
06 MR. KEMMERER: And what, if anything, did you
07 say in response?
08 MR. MARGOLIS: Nothing. I deflected the
09 question because--for a bunch of reasons: one, it wasn't
10 my place to talk; but, second, I wasn't sure at that
11 point that that was the reason. I knew Mercer had been
12 complaining about it earlier.
13 MR. KEMMERER: And we talked about, or you
14 talked a little bit with--
15 MR. MARGOLIS: She said she was calling Paul
16 McNulty to see if she could find out officially.
17 MR. KEMMERER: Okay. When Mr. Mercer used to
18 complain about Carol Lam, that was while he was PDAG
19 especially?
20 MR. MARGOLIS: PADAG.
21 MR. KEMMERER: PADAG. Is that right?
22 MR. MARGOLIS: Yes.
23 MR. KEMMERER: Okay. And when he complained
24 about her, was it always with respect to gun cases and
25 immigration cases?

01 MR. MARGOLIS: That's what I recollect, yes.
02 MR. KEMMERER: Did he ever complain about her
03 bringing the prosecution against Duke Cunningham?
04 MR. MARGOLIS: No.
05 MR. KEMMERER: Did he ever complain about her
06 serving subpoenas on Dusty Foggo?
07 MR. MARGOLIS: No. Absolutely not. We're very
08 proud of that prosecution of Representative Cunningham
09 and the investigation of Foggo. We're very proud of
10 that. That's what we can say--
11 MR. KEMMERER: I agree. And when Mr. Mercer
12 complained about Carol Lam, did he ever complain about
13 the subpoenas that were served upon Brent Wilkes?
14 MR. MARGOLIS: Say again?
15 MR. KEMMERER: Brent Wilkes, the defense
16 contractor.
17 MR. MARGOLIS: Oh. No, no.
18 MR. KEMMERER: Okay. And so leaving aside Mr.
19 Mercer, did anyone who complained to you about Carol Lam
20 ever bring out the sort of high-profile, politically
21 charged prosecutions for which at least some know her?
22 MR. MARGOLIS: We got--I got--and I think others
23 did, but I got a call at the beginning of the
24 investigation from the defense attorney--a defense
25 attorney representing one of the contractors in the

01 Cunningham case, which is not uncommon, asking that we
02 take the case away from the U.S. Attorney's Office in San
03 Diego and bring it to Washington, and I laughed them out.
04 MR. KEMMERER: Did they have principled grounds
05 for doing that?
06 MR. MARGOLIS: It never got quite that far.
07 MR. KEMMERER: You were too busy laughing--
08 MR. MARGOLIS: I laughed and just sort of said,
09 "That's silly."
10 MR. KEMMERER: Were you contacted by any career
11 attorneys--and by that I mean Assistant U.S. Attorneys or
12 others--with respect to these requests for resignations
13 of the U.S. Attorneys? So, in other words, let's say I'm
14 in a district where my U.S. Attorney has been required to
15 resign. It becomes public by whatever means, and I'm an
16 Assistant U.S. Attorney in that district, and I happen to
17 know that the highest, you know, career official at the
18 Department is David Margolis. Were you contacted by any
19 people in that situation?
20 MR. MARGOLIS: No.
21 MR. KEMMERER: Okay. How about people outside
22 of these particular districts who were career people?
23 Did any of them contact you?
24 MR. MARGOLIS: No.
25 MR. KEMMERER: All right.

01 MR. MARGOLIS: I mean, some people outside the
02 office who read things in the newspapers may have called
03 me to see if I would share gossip with them--not to
04 complain but, you know, "What's going on?" You know. I
05 won't discuss those things. That might have happened. I
06 don't remember any specifics, though.

07 MR. KEMMERER: Were you contacted by any Article
08 III judges with questions or gossip concerning these
09 resignations?

10 MR. MARGOLIS: The redacted judge in San
11 Francisco called me to thank me.

12 MR. KEMMERER: With respect to Kevin Ryan.

13 MR. MARGOLIS: Yes.

14 MR. KEMMERER: Is that the only Article III
15 judge that called you?

16 MR. MARGOLIS: Yes. And no immigration judges
17 called me either.

18 MR. KEMMERER: And what was the sum and
19 substance of the conversation with the Northern District
20 of California judge other than thanking you?

21 MR. MARGOLIS: Oh, we talk a lot, and I think
22 she gave me more credit than I deserve--or maybe not. I
23 don't know. But, you know, she thought that I was
24 responsible for the change, and she thought that was a
25 good thing, obviously. If I said "she," I meant

01 "he/she."

02 MR. KEMMERER: "She" without attribution.

03 MR. MARGOLIS: Yes.

04 MR. KEMMERER: To gender. Okay. Now, we
05 discussed a bit that DiBiagio calls where you talk to the
06 press about the fairy tale that he was pressed out for
07 politically related cases, correct?

08 MR. MARGOLIS: Let me reiterate, if I didn't say
09 this before. I never would have been critical of Tommy
10 if he hadn't attacked my Department like he did. I
11 arranged that he could leave quietly. We didn't say
12 anything. Some people in the press speculated. But
13 everything was fine. He had his reputation intact, and
14 then he went out and at a time when we were vulnerable,
15 he filed a false attack on us. And I felt that called
16 for a response. That's not my style.

17 MR. KEMMERER: Okay. But with respect to the
18 other--did you get any other press inquiries other than
19 with the Maryland U.S. Attorney?

20 MR. MARGOLIS: You mean about other U.S.
21 Attorneys?

22 MR. KEMMERER: Yes, well, concerning these
23 eight.

24 MR. MARGOLIS: I don't think so, and if I did, I
25 didn't take them. You know, because while most of the

01 time the press wouldn't call me, anyway. They call our
02 press office. The press office might get me involved, as
03 they did in the DiBiagio case.

04 MR. KEMMERER: And that was the only case since
05 December 7th that they specifically got you involved?

06 MR. MARGOLIS: Yeah, and that's--remember, this
07 wasn't a December 7th case.

08 MR. KEMMERER: Right, but it happened--

09 MR. MARGOLIS: That's what brought it up, yes.

10 MR. KEMMERER: Okay.

11 MR. MARGOLIS: I should tell you that I had many
12 press inquiries about Kevin Ryan from a place--from a
13 periodical out in San Francisco during his tenure, before
14 he was fired, before he resigned. The San Francisco
15 Recorder, this guy would call me, you know, wanting to
16 know why he hadn't been fired yet and what my comments
17 were. But after I found out why he was calling, I
18 stopped taking his calls.

19 MR. KEMMERER: Because you saw it in the
20 article?

21 MR. MARGOLIS: I think he told me why he was
22 calling. You know, the first time I said, "No comment,"
23 or whatever. But then he kept on calling, so I just
24 didn't take his calls.

25 MR. KEMMERER: Now, with respect to--I think you

01 have already gone over this, but I just want to clarify
02 for the record. With respect to these U.S. Attorneys who
03 were asked to resign, from Bud Cummins to the seven who
04 were asked to resign in December, were any of them asked
05 to resign for misconduct?

06 MR. MARGOLIS: Nothing I would call misconduct.

07 MR. KEMMERER: I will show you this, Margolis
08 Exhibit 10.

09 [Whereupon, Margolis Exhibit No. 10
10 was marked for identification.]

11 MR. MARGOLIS: I've read it.

12 MR. KEMMERER: Do you recall getting--just
13 directing your attention to the bottom e-mail, do you
14 recall getting an e-mail from Mr. Sampson in February of
15 '07 asking that you review his response to a letter from
16 four Senators on--

17 MR. MARGOLIS: Yes.

18 MR. KEMMERER: --the Cummins and Griffin--okay.
19 And do you recall responding that same--it looks like the
20 next day, the next morning.

21 MR. MARGOLIS: Yes. The next day, yes.

22 MR. KEMMERER: Did you review the letter than
23 Mr. Sampson attached to this e-mail?

24 MR. MARGOLIS: Yes.

25 MR. KEMMERER: And the only thing you had any

01 concern about was how long Mr. Griffin was in the
02 Criminal Division. Is that right?
03 MR. MARGOLIS: Right, because, you know, I did
04 the interview of him and read his résumé, and I obviously
05 misreclected it or wasn't sure what it said, so I had a
06 question, yeah.
07 MR. KEMMERER: And let me see if I can get that
08 letter for you.
09 [Whereupon, Margolis Exhibit No.
10 11
11 was marked for identification.]
12 MR. KEMMERER: Would you like a break?
13 MR. MARGOLIS: No.
14 [Witness perusing document.]
15 MR. MARGOLIS: I've read it.
16 MR. KEMMERER: Okay. The first page says--it's
17 from Mr. Sampson to you, among others, and it says, "Can
18 you review and provide comments on my draft response?"
19 Is that correct?
20 MR. MARGOLIS: Yes.
21 MR. KEMMERER: And do you take it from that that
22 Mr. Sampson drafted the attached letter?
23 MR. MARGOLIS: Yes, I do.
24 MR. KEMMERER: Directing your attention to the
25 document Bates stamped--the second page of this exhibit,

01 Bates stamped OAG972, just looking at the bottom in the
02 bulleted points, review the first bullet and tell me
03 whether you have any reason to believe one way or the
04 other if that is accurate.

05 MR. MARGOLIS: Well, I have reason to believe
06 it's accurate because, A, that was shortly after we did
07 the interview, and we all gave an affirmative response,
08 and because Kyle said it.

09 MR. KEMMERER: Okay. Directing your attention
10 to the second bullet, asking--I mean, excuse me. Read
11 the whole thing and then tell me whether you have reason
12 to believe that that is accurate.

13 MR. MARGOLIS: This is, "The Department is
14 unaware...?"

15 MR. MARGOLIS: Yes.
16 [Witness perusing document.]

17 MR. MARGOLIS: I mean, he didn't--I'm trying to
18 remember how I understand his name to have come forward.
19 He didn't, you know, bounce off a turnip truck. I know
20 Monica thought highly of him. I don't know if that's--I
21 wouldn't call that lobbying. So I don't think it's
22 inaccurate.

23 I mean, let me put it this way. If somebody
24 outside the Department or inside the Department were
25 lobbying for him, I think Kyle would be in a position to

01 know.

02 MR. KEMMERER: Okay. Skip the third bullet and
03 review with me the last bullet. It says, "The Department
04 is not aware of Karl Rove playing any role in the
05 decision to appoint Griffin."

06 MR. MARGOLIS: Right.

07 MR. KEMMERER: Is that accurate?

08 MR. MARGOLIS: Kyle would have the answer to
09 that, and he did--I have no reason to disbelieve him.
10 The guy did work for Karl Rove, and as I said earlier to
11 Preet's question, I would be surprised that if Karl Rove
12 thought he was a doofus that he would have gotten as far
13 as he did in the interview process.

14 But he probably wouldn't have gotten into the
15 Department in the first place. But whether Rove played
16 any role in the determination, I have no reason to
17 believe--or I had no reason to believe--strike that.
18 We're talking about at that time.

19 MR. KEMMERER: Right. Now, had you had the
20 benefit of the e-mails that Mr. Sampson showed you on
21 March 8th or that Thursday evening, whatever day it was,
22 that specifically mentioned Mr. Rove or Ms. Miers--

23 MR. MARGOLIS: By the way, he didn't show them
24 to me. He read me portions of e-mails.

25 MR. KEMMERER: Read to you. Would you still

01 have been as sanguine about this draft?
02 MR. MARGOLIS: I don't want to restrict it to
03 what he showed me that night. If I saw then what I've
04 seen disclosed of his e-mails since then, I would not
05 have been as sanguine.
06 MR. KEMMERER: Okay. You probably would--
07 MR. MARGOLIS: I would have said, "Hold on."
08 MR. KEMMERER: You wouldn't have just been
09 asking about Mr. Cummins' experience in the Criminal
10 Division, right? You might have been asking about--
11 MR. MARGOLIS: That would have been the least of
12 my questions. As I recall, he did an e-mail that said,
13 "I know this appointment is important to Karl."
14 Now, I also heard his testimony where he
15 explained it, but if I saw that e-mail, I would have
16 questioned him about it. And, you know, also that's
17 probably another one where I could have been more
18 vigilant.
19 I say that because, having heard twice that
20 somebody was being forced out as U.S. Attorney and on one
21 occasion to be replaced by a young political, I could
22 have been--I could have teased out the facts a little
23 more deeply at the time. I was, unfortunately, focusing
24 on was Timothy Griffin--did he meet the bar for being
25 United States Attorney.

01 MR. KEMMERER: And you thought then and you
02 think now that he is qualified?

03 MR. MARGOLIS: I thought then he was. I do not
04 any longer think he is.

05 MR. KEMMERER: Why is that?

06 MR. MARGOLIS: Because of his intemperate attack
07 on a United States Senator in public, and that does not
08 show the good judgment that I want from a United States
09 Attorney.

10 MR. KEMMERER: Which Senator do you--

11 MR. MARGOLIS: Senator Pryor.

12 MR. KEMMERER: And how do you believe he has
13 attacked Senator--

14 MR. MARGOLIS: He accused him of engaging in a
15 circus. He's entitle to what--he's entitled to think
16 what he thinks, but a United States Attorney, when he
17 speaks, speaks ex officio, doesn't have a private speech,
18 and that pulls my Department out in a bad light, and I
19 don't like it.

20 MR. KEMMERER: Okay. Let me direct your
21 attention to--

22 MR. MARGOLIS: I don't know Senator Pryor. I
23 would say that about almost 100 Senators.

24 MR. KEMMERER: Okay. Exhibit 12, and ask you if
25 you can identify this document.

01 [Whereupon, Margolis Exhibit No. 12

02 was marked for identification.]

03 [Pause.]

04 MR. KEMMERER: Directing your attention to

05 Exhibit 12--

06 MR. MARGOLIS: I was dumbfounded when I first

07 saw that, but now I realize what it was.

08 MR. KEMMERER: Okay. What was it?

09 MR. MARGOLIS: This is the AG was getting ready

10 to testify before the Senate Judiciary Committee meeting,

11 and so he would have people come in, you know, like at

12 intervals on specific topics to brief him on the topic

13 that they were to brief him on.

14 And so I was asked to come in on a particular

15 topic, which I should say had absolutely nothing to do

16 with the U.S. Attorney situation, and so I'm going to--if

17 you want to know what it was, I've got to consult with

18 counsel because it's so far afield.

19 MR. KEMMERER: So just to clarify for the

20 record, it had nothing to do with any of the eight U.S.

21 Attorneys we're asking--

22 MR. MARGOLIS: Or any other U.S. Attorney.

23 MR. KEMMERER: Okay. So it had to be some other

24 discrete issue that you handled.

25 MR. MARGOLIS: Which he disposed of by saying,

01 "I know more about this issue than you," and I didn't
02 dispute it.
03 MR. KEMMERER: But did you stay throughout the
04 prep?
05 MR. MARGOLIS: No. I was on my way.
06 MR. KEMMERER: Now, you testified a bit about
07 being present for the preparation session for Deputy
08 Attorney General McNulty. Is that--
09 MR. MARGOLIS: The two prep sessions, yeah.
10 MR. KEMMERER: So you were there for both of
11 them?
12 MR. MARGOLIS: Yes.
13 MR. KEMMERER: All right. Was Kyle Sampson
14 there?
15 MR. MARGOLIS: Yes.
16 MR. KEMMERER: At that session did Mr. Sampson
17 share with you any designs or any strategy he had for
18 avoiding or bypassing Senate confirmation for Tim
19 Griffin?
20 MR. MARGOLIS: At Paul McNulty's--
21 MR. KEMMERER: Yes.
22 MR. MARGOLIS: --prep session? I don't recall
23 any such thing. He did not share anything with me that
24 he didn't share with the group. It wasn't like--he
25 didn't whisper in my ear about anything.

01 MR. KEMMERER: Did he let on to the group that
02 it was either his recommendation or plan to avoid Senate
03 confirmation for Tim Griffin by using the AG's
04 appointment power?

05 MR. MARGOLIS: I don't recall that at all, and
06 the only reason I hesitate is I've seen e-mails on the
07 subject since then, and so I get confused a little bit as
08 to timing, but, no, I don't recall him ever saying
09 anything about that at the hearing--I mean, at the prep.

10 MR. KEMMERER: Did Mr. Sampson disclose with the
11 group that he had discussed the removal plan with White
12 House officials before October 2006?

13 MR. MARGOLIS: No, but--and, you know, I knew he
14 discussed it in January of '05. You know, what I'm
15 talking about is the firing of everybody. But I didn't
16 think that was responsive; otherwise, I would have said,
17 "Hey, you know, there was a proposal to fire everybody in
18 January 2005, but that was quickly disposed of."

19 MR. KEMMERER: Was there any back and forth
20 between the Deputy Attorney General--and by that, I mean
21 Paul McNulty--and Mr. Sampson about whether there were
22 legitimate performance-based reasons for asking Bud
23 Cummins to resign?

24 MR. MARGOLIS: I don't think so. I don't
25 remember any such.

01 MR. KEMMERER: So what, if anything, do you
02 recall Mr. Sampson saying at that meeting, the
03 preparation--or the two meetings, the preparation
04 sessions?

05 MR. MARGOLIS: They were long meetings, and I
06 think his role was to talk about the reasons, flesh out
07 the reasons for each person. And I think then there was
08 a general discussion about how much we should say, no
09 matter what the facts were, how much we should say, and
10 he participated in that.

11 MR. KEMMERER: Do you recall any colloquy with
12 respect to Bud Cummins and Tim Griffin at all?

13 MR. MARGOLIS: I'm sure there was, but nothing
14 that sticks in my mind and, therefore, there's probably
15 nothing that was strange.

16 MR. KEMMERER: Was this the first time that you
17 heard someone in the Department of Justice discuss
18 substantively why Mr. Bogden was asked to resign?

19 MR. MARGOLIS: I am just about certain that I've
20 never heard it discussed before December 7th. Whether I
21 heard the topic discussed after December 7th and before
22 this session, I can't be certain. I just don't remember.

23 MR. KEMMERER: Describe for me the protocol at
24 the Department of Justice that has been implemented so
25 that the people that we're going to interview don't talk

01 to one another. What directions--well, strike that.
02 Have you talked Mr. Sampson since his testimony
03 on the Hill?
04 MR. MARGOLIS: I have not talked to Kyle since
05 that Thursday night?
06 MR. KEMMERER: March 8th, give or take?
07 MR. MARGOLIS: Yeah. The night he came down--
08 afternoon he came down to my office.
09 MR. KEMMERER: Have you spoken to Ms. Goodling
10 since then?
11 MR. MARGOLIS: I called Monica the next week
12 about a personnel item, and I could tell she was
13 disengaged. And so I said I'll call somebody else.
14 MR. KEMMERER: Was she on administrative leave
15 at the time?
16 MR. MARGOLIS: No. She was at work. That was
17 probably Tuesday.
18 MR. KEMMERER: Have you discussed with the
19 Deputy Attorney General the fact that you were coming
20 over here and, you know, his experience here when he came
21 over to be interviewed?
22 MR. MARGOLIS: Nothing substantive, but we have
23 gallows humor between Moschella, McNulty, and me about
24 our appearances. For instance, last night I told McNulty
25 and Moschella two things. Last night I told them that I

01 had accepted a job at the Democratic Senatorial Campaign
02 Committee, but not to worry about anything.

03 [Laughter.]

04 MR. MARGOLIS: And the week before, I said I had
05 told Preet to get me a list of names of people he wanted
06 me to flip on and he would get whatever he--things like
07 that.

08 MR. KEMMERER: Just the gallows humor, though.

09 MR. MARGOLIS: Yes. Nothing substantive.

10 MR. KEMMERER: What about--

11 MR. MARGOLIS: Except--now, Will did tell me
12 what time he got out of here, which scared the pants off
13 of me. I almost retired when he told me.

14 [Laughter.]

15 MR. KEMMERER: What about Michael Elston? Have
16 you discussed with him his experience here?

17 MR. MARGOLIS: No. I have stayed away from
18 Michael on that point. I can read the newspapers.

19 MR. KEMMERER: What about Michael Battle? Have
20 you talked to Michael Battle since he has been
21 interviewed by Senate staff?

22 MR. MARGOLIS: No--well, I had dealings with
23 Michael up until the time that he left to go on to
24 Fulbright & Jaworski, but we have been very careful not
25 to talk about this--or he's been very careful not to talk

01 about this, including his testimony, but anything else
02 either, anything else in connection with this, these
03 eight U.S. Attorneys.

04 MR. KEMMERER: How about Mr. Mercer? Have you
05 talked to Mr. Mercer about his experience when he came?

06 MR. MARGOLIS: I should have added Mercer to the
07 gallows humor. Not about the substance of his testimony.

08 MR. KEMMERER: Who is Daniel Metcalf?

09 MR. MARGOLIS: I believe he is a retired
10 employee of the Department.

11 MR. KEMMERER: Did you know him before he
12 retired?

13 MR. MARGOLIS: Yes.

14 MR. KEMMERER: And had you known him for a
15 number of years?

16 MR. MARGOLIS: Yes.

17 MR. KEMMERER: Had Mr. Metcalf been at the
18 Department for upwards of 30 years?

19 MR. MARGOLIS: A long time. I don't know just
20 how long. Well, long enough to retire.

21 MR. KEMMERER: And are you aware, through your
22 conversations with Mr. Metcalf or through anything you
23 have done on your own as an independent citizen, of why
24 he left the Department recently?

25 MS. BURTON: What is the relevance of this?

01 What is the relevance of this to the--
02 MR. KEMMERER: I am not the first one to ask
03 about Mr. Metcalf, and I'm very curious about whether he
04 knows why Mr. Metcalf left the Department.
05 MR. HUNT: I think in the course of these
06 interviews with respect to the U.S. Attorney
07 investigation, at least as far as I'm aware, nobody has
08 broached the subject of Dan Metcalf. If that is what you
09 are referring to, I am not aware of it.
10 MR. KEMMERER: let me just proffer for the
11 record that on April 15th, Mr. Sampson was asked about--
12 MR. HUNT: Oh, in Mr. Sampson's--I was talking
13 about the interviews in which I have participated. I
14 have not been involved, nor have I read or heard Mr.
15 Sampson's testimony.
16 MS. BURTON: So, again, what's the relevance of
17 Dan Metcalf to the oversight inquiry about--
18 MR. KEMMERER: Well, he can tell me if he knows
19 whether there is any connection with Mr. Metcalf. All I
20 am looking for is this witness' recollection.
21 MR. HUNT: Are you asking him if there is a
22 connection with the U.S. Attorneys issue?
23 MR. KEMMERER: That was a follow-up question,
24 yes. But first I want to know if he knows why Mr.
25 Metcalf chose to retire.

01 MR. MARGOLIS: Mr. Metcalf never told me that he
02 was retiring or why he was retiring. I have read his
03 interview in the Legal Times, and I would prefer to
04 respond to that interview with what I told the Legal
05 Times.

06 MR. KEMMERER: The Legal Times asked you
07 questions?

08 MR. MARGOLIS: No. I submitted a letter to the
09 editor.

10 MR. KEMMERER: I see. And what was the sum and
11 substance of that?

12 MR. MARGOLIS: Do we have that?

13 MR. KEMMERER: I don't know that I have it, so I
14 will just take your word for it.

15 MR. MARGOLIS: I said--well, I don't like to
16 paraphrase what I said because I was very careful. If
17 you get yesterday's edition of the Legal Times, that has
18 my letter plus Mr. Metcalf's attempted to response to my
19 letter.

20 MR. KEMMERER: Okay. Well, since I don't have
21 it right here, give me the--

22 MR. MARGOLIS: It has nothing to do with the
23 U.S. Attorneys.

24 MR. KEMMERER: Okay. Although had you read his
25 interview with Tony Morrow?

01 MR. MARGOLIS: I did.
02 MR. KEMMERER: Okay. And I take it you strongly
03 disagreed with some of the suppositions he makes in that?
04 MR. MARGOLIS: What I basically said is in
05 judging his credibility and the accuracy of his
06 assertions, I wanted to point out, A, a false statement
07 in there, which he claims is not false; and, B, something
08 else.
09 But, once again, nothing to do with the U.S.
10 Attorneys. He was trying to show had bad relationships
11 were between Comey and the Attorney General that the
12 Attorney General did not attend "the large farewell
13 party" for Comey.
14 And I pointed out that the Attorney General
15 attended the large farewell party for Comey, that he sat
16 on the stage with Comey, that he presented Comey with the
17 Randolph Award and made warm remarks, and I know because I
18 reviewed the videotape again to make sure. Metcalf's
19 response to that was, "I wasn't talking about that party.
20 I was talking about a different party."
21 And then he said Comey's departure was abrupt,
22 and I said Comey announced he was leaving on April 20th,
23 and he left on August 15th, almost 4 months, hardly
24 abrupt by anybody's standards.
25 MR. KEMMERER: So your response to the letter

01 doesn't rebut the sort of observations Mr. Metcalf makes
02 about--
03 MR. MARGOLIS: His ramblings.
04 MS. BURTON: But he has already said it has
05 nothing to do with the U.S. Attorneys.
06 MR. KEMMERER: Okay.
07 MR. MARGOLIS: What I said was in judging the
08 accuracy of his allegations, people should know about
09 the--about what I just said.
10 MR. KEMMERER: Other than with respect to Mr.
11 Ryan and perhaps Ms. Chiara, were there people that you
12 would have--and the person whom you haven't identified
13 based upon the Department's and your objection that I--
14 were there people that, based on what you knew pre-
15 December 7, 2006, you thought should be on this list? In
16 other words, the other six or so, based on what you knew
17 last year, would you have put them on this list?
18 MR. MARGOLIS: You mean these other people like
19 Iglesias, McKay?
20 MR. KEMMERER: Right.
21 MR. MARGOLIS: Last year being '06?
22 MR. KEMMERER: Yeah, at the end of last year,
23 December 1st last year.
24 MR. BRODERICK-SOKOL: December 1st, did you just
25 say?

01 MR. KEMMERER: Yeah.

02 MR. MARGOLIS: Well, I think Mercer shared with
03 me his thoughts about Carol in the summer, so I knew back
04 then, and I would reluctantly have to agree. As to McKay
05 and Charlton, I can't be sure just when I heard stuff
06 about them. But as I testified earlier, that would have
07 caused me to endorse their being put on the list whenever
08 I found out about it.

09 There was somebody else who I think I put on the
10 list early on, and the reason I can't be sure is that--
11 like I think put them on in early '04, and in May or June
12 of '04 I forced them out of the Department, so it never
13 got any further. I put them on for performance and
14 forced them out for conduct.

15 MR. KEMMERER: And they are not a part of this,
16 obviously.

17 MR. MARGOLIS: No.

18 MR. KEMMERER: Let me just consult with my
19 colleagues here and see if I have any more questions.

20 MR. MARGOLIS: Feel free.

21 [Pause.]

22 MR. KEMMERER: Okay. I think I'm done.

23 MR. MARGOLIS: I encourage you to read the
24 Metcalf exchange and make up your own mind.

25 MR. KEMMERER: I will.

01 [Off the record at 4:46 p.m.]

02 [On the record at 4:50 p.m.]

03 MR. BRODERICK-SOKOL: We are back on the record
04 after a short break. My name is Sam Sokol. I am
05 questioning for the House Judiciary Committee Majority
06 this afternoon. Thanks very much for what has already
07 been a long day, and I will do my best to keep it from
08 being not too long.

09 MR. MARGOLIS: Thank you.

10 MR. BRODERICK-SOKOL: I have been told in this
11 setting before that I sometimes speak a little quickly,
12 so if I am motoring along too fast, feel free to answer
13 or not say anything so I can carry on or let me know.

14 [Laughter.]

15 MR. BRODERICK-SOKOL: I wanted to start by going
16 back to a question that it is my understanding that the
17 Department has reconsidered its objection to the question
18 that was posed about Steve Biskupic, presumably, with the
19 fact that the Attorney General had spoken about this
20 before the Senate Judiciary Committee.

21 So if I am wrong about that, let me know, but I
22 will ask: Have you ever had any discussions with Kyle
23 Sampson or anyone else in the Department raising concerns
24 or addressing concerns about Steve Biskupic's performance
25 or conduct as a United States Attorney?

01 MR. MARGOLIS: Not that I recall.

02 MR. BRODERICK-SOKOL: Not that you recall. Do
03 you personally--have you had any concerns about his
04 performance yourself?

05 MR. MARGOLIS: No.

06 MR. BRODERICK-SOKOL: It seems that you have
07 followed some of the news on this issue. Have you been
08 aware of the news reports and media speculation about Mr.
09 Biskupic's status as having been on the list?

10 MR. MARGOLIS: I think I saw some news reports
11 of that.

12 MR. BRODERICK-SOKOL: Are you aware of any of
13 the reasons that people have speculated as possible
14 political reasons for his presence on the list?

15 MS. BURTON: I am going to--you know, it is one
16 thing for you to ask him what his knowledge of a matter
17 is, but to ask him to speculate is to--I do not see any
18 need--

19 MR. BRODERICK-SOKOL: I agree, and I am not
20 going to ask him to speculate. Frankly, I can move on
21 from this line of questioning, but my question was
22 carefully put asking if he knows the things that have
23 been reported. I will phrase the question a different
24 way, because it goes to what I see as one of the real
25 issues in this matter, one of the reasons we are here.

01 I will ask this question, which starts in a
02 different place, but do you think--what is your view on
03 the impact of this plan of forcing the resignation of a
04 group of United States Attorneys and the execution of the
05 plan the way it was has had on the Department of Justice?

06 MR. MARGOLIS: Well, you know, I get a kick out
07 of people who--unidentified people who speculate on the
08 impact it has had on the Department. I don't know--this
09 is a great Department.

10 I've been here when, in a short period of time,
11 two successive Attorneys General of the United States
12 have been convicted in Federal court at about the same
13 time the Vice President of the United States was
14 convicted and the President left office under a black
15 cloud, and we survived and we are going to survive this.
16 And I have a feeling that in the field the people are
17 just doing their work.

18 Is my morale impacted? You know, I can speak to
19 that. Sure, my morale was not--but we are doing our jobs
20 around the country, and I think I'm doing my job the best
21 I can here.

22 MR. BRODERICK-SOKOL: You have found yourself
23 second-guessed in decisions that you have made.

24 MR. MARGOLIS: Yep.

25 MR. BRODERICK-SOKOL: The DiBiagio case is one

01 where you had to answer criticisms that arose really
02 because of this controversy as it has unfolded.
03 MR. MARGOLIS: Yep.
04 MR. BRODERICK-SOKOL: Mr. Biskupic has been put
05 in a position where he has had to address speculation by
06 people within the Department, speculation about the role
07 that the fraud prosecutions or the prosecution of Georgia
08 Thompson has played. Do you agree with that?
09 MR. MARGOLIS: That he has had to--
10 MR. BRODERICK-SOKOL: That he has had to address
11 those criticisms.
12 MR. MARGOLIS: Well, he has had to face it,
13 sure.
14 MR. BRODERICK-SOKOL: Do you think that is
15 unfortunate?
16 MR. MARGOLIS: Of course.
17 MR. BRODERICK-SOKOL: You said, just as you were
18 closing with Mr. Kemmerer, something--and I might have
19 misheard the date or I might have misunderstood what you
20 were talking about. But I think you said that in early
21 '04 there was a situation where you had placed a U.S.
22 Attorney on a list based on performance and then soon
23 after--
24 MR. MARGOLIS: It should been '05.
25 MR. BRODERICK-SOKOL: You were talking about

01 '05?

02 MR. MARGOLIS: Correct.

03 MR. BRODERICK-SOKOL: Okay. And is that
04 someone--are you talking about Mr.--no, it is not
05 DiBiagio because he was gone. Is that--

06 MR. MARGOLIS: Remember, I said I think I
07 placed this person on the list, but it never came to
08 fruition because I forced him out for misconduct. It is
09 somebody--it is not DiBiagio. It has nothing--

10 MR. BRODERICK-SOKOL: That is fine, and I am
11 really just trying to understand--I am not interested in
12 the names or pressing the Department on the names right
13 now. I am trying to understand how many people. So how
14 many people have you forced out for performance or
15 conduct, let's say, in the year 2005?

16 MR. MARGOLIS: I don't keep notches on my belt,
17 but I remember this guy--I think two people, two U.S.
18 Attorneys, that is, in '05.

19 MR. BRODERICK-SOKOL: Thank you. And that is
20 all I am asking about is U.S. Attorneys. And the basis
21 for those two?

22 MR. MARGOLIS: Misconduct, both.

23 MR. BRODERICK-SOKOL: What kind of misconduct?

24 In a non-identifying way.

25 MR. MARGOLIS: One involved--you know, actually

01 on the first one, I believe I was--you know how we talk
02 about these U.S. Attorneys weren't fired. You know, they
03 resigned. And when I say I forced somebody out, they
04 resigned.

05 In the first case I'm talking about, my
06 recollection now is that the fellow did not resign, and
07 the President of the United States had to terminate him,
08 which he did. And that was for--it's hard to--it's so
09 sui generis.

10 MR. BRODERICK-SOKOL: Can you describe it in a
11 general way that wouldn't--

12 MR. MARGOLIS: I am trying to--

13 MR. BRODERICK-SOKOL: --disclose who it is?

14 MR. MARGOLIS: Conduct unbecoming a Department
15 of Justice official.

16 MR. BRODERICK-SOKOL: We will leave it at that.
17 The second case?

18 MR. MARGOLIS: The second case was an
19 investigation for inappropriate relationship, an IG
20 investigation, with a subordinate, which, while I was
21 considering whether the case was proved, the individual
22 lied to the media, and that ended that. That was good
23 enough for that.

24 MR. BRODERICK-SOKOL: And in 2006, how many U.S.
25 Attorneys did you ask to resign or direct to resign?

01 MR. MARGOLIS: 2006 may have been a lean year
02 for U.S. Attorneys. I can't think of any off the top of
03 my head in 2006.
04 MR. BRODERICK-SOKOL: Good year for Justice.
05 MR. MARGOLIS: I had other fish to fry.
06 MR. BRODERICK-SOKOL: So you have testified
07 today about conversations you had with Kyle Sampson in
08 late '04, early 2005, about the--a period that I guess
09 was the genesis of a plan to seek the resignation of some
10 or all United States Attorneys.
11 MR. MARGOLIS: Yes.
12 MR. BRODERICK-SOKOL: I am just trying to place
13 when in time those conversations were, and I know it is
14 difficult, and I know you have been asked this question
15 before. I just want to follow up on one thing you said
16 that might jog your memory, and it might not, and we will
17 move along.
18 I recall that when you were pressed to try and
19 recall when you said this was the first substantive
20 discussion you had had with Kyle--and that was at the
21 point of recalling it. Do you remember saying that?
22 MR. MARGOLIS: First about this topic, maybe,
23 not--certainly not the first substantive--
24 MR. BRODERICK-SOKOL: I was unsure what you
25 meant.

01 MR. MARGOLIS: My first substantive conversation
02 with Kyle was in early 2001.
03 MR. BRODERICK-SOKOL: Okay. That is--
04 MR. MARGOLIS: Right after the administration
05 took office.
06 MR. BRODERICK-SOKOL: And maybe I misheard, but
07 is there a chance you might have said "first subsequent,"
08 meaning the first after something?
09 MR. MARGOLIS: No. Probably the first--I must
10 have meant the first conversation on this topic.
11 MR. BRODERICK-SOKOL: On this topic, okay. And
12 you think the conversation occurred before Attorney
13 General Gonzales had taken office?
14 MR. MARGOLIS: Either that or right after he had
15 taken office.
16 MR. BRODERICK-SOKOL: And by "right after,"
17 would you think in the first couple weeks?
18 MR. MARGOLIS: Sure.
19 MR. BRODERICK-SOKOL: And I think you said that
20 you--well, you recalled that Mr. Sampson described
21 Harriet Miers proposing a plan to seek to replace all 93
22 United States Attorneys.
23 MR. MARGOLIS: Yes.
24 MR. BRODERICK-SOKOL: And you discussed how you
25 were not sure whether he at exactly that time said he

01 knocked that down or there might have been one quick
02 following--he might have been seeking your counsel and
03 you--

04 MR. MARGOLIS: Correct.

05 MR. BRODERICK-SOKOL: --might have agreed that
06 that is what he should do.

07 MR. MARGOLIS: Correct.

08 MR. BRODERICK-SOKOL: And then you testified
09 that he said something to the effect of, "But this does
10 open the door to a more responsible"--and you used that
11 word--"to a focused process to identify weak performers
12 and make some changes, and you thought that was a good
13 idea.

14 MR. MARGOLIS: I thought it was a great idea,
15 long overdue.

16 MR. BRODERICK-SOKOL: Did he say to you that
17 that was his idea, that the door had been opened and he
18 would--it gave him this idea that the opportunity could
19 be used?

20 MR. MARGOLIS: I don't recall if he actually
21 said that, but that's the conclusion I drew from what he
22 said.

23 MR. BRODERICK-SOKOL: You did not--and he didn't
24 say--did he say that he had discussed that more targeted
25 plan with the White House?

01 MR. MARGOLIS: I don't recall him saying that.
02 I have seen, you know, e-mails. That's not your point.
03 MR. BRODERICK-SOKOL: No, no. I am just trying
04 to understand. At the time your understanding was that
05 this was an idea that Kyle was working at that point.
06 MR. MARGOLIS: That's the impression I had,
07 yeah.
08 MR. BRODERICK-SOKOL: Okay.
09 MR. MARGOLIS: I think he said, "But I'm pretty
10 confident we can sell it."
11 MR. BRODERICK-SOKOL: Sell it to who?
12 MR. MARGOLIS: The White House.
13 MR. BRODERICK-SOKOL: And when you say the White
14 House, who would you understand would need to be
15 convinced for a plan like that?
16 MR. MARGOLIS: I would think the counsel.
17 MR. BRODERICK-SOKOL: Do you think the counsel
18 could make that decision without consulting the
19 President?
20 MR. MARGOLIS: Oh, no. The counsel would have
21 to be on board and then go to the President.
22 MR. BRODERICK-SOKOL: Could a United States
23 Attorney be dismissed without the approval of the
24 President himself?
25 MR. MARGOLIS: Not to my legal opinion. Not in

01 my legal opinion. Like the counsel can't appoint an
02 individual either.
03 Now, that doesn't mean the President has to pick
04 up the telephone and call the person. The way that's
05 handled is the counsel calls and says, "The President has
06 advised me..."
07 MR. BRODERICK-SOKOL: I certainly understand.
08 Is your recollection of ultimately the decision--the
09 exercise of the removal power--
10 MR. MARGOLIS: Right, best to have the
11 President's imprimatur.
12 MR. BRODERICK-SOKOL: In the conversation that
13 you had with Mr. Sampson right around then, and mostly we
14 have talked about--you identified two groups or two and a
15 half groups, two candidates where it was obvious to you
16 and important to you that they should be immediately
17 removed or that they should be removed. The group that
18 merited--and I am paraphrasing. Then further looking,
19 there were issues there that might be performance, that
20 might be conduct type issue.
21 MR. MARGOLIS: Performance.
22 MR. BRODERICK-SOKOL: And I know you--
23 MR. MARGOLIS: Make no mistake, on conduct I
24 have this attitude that once you get into the conduct
25 area, I want to be much more certain because it's going

01 to be a stain on the person. The other side of the coin
02 is if a new President comes in and tells a U.S. Attorney,
03 "Hey, you're not part of my team, you're out," that's no
04 stain on the person.

05 MR. BRODERICK-SOKOL: That makes perfect sense
06 to me.

07 It sounded to me listening like those names that
08 you had in your mind were ones that you volunteered. Is
09 that right?

10 MR. MARGOLIS: I believe so, yeah.

11 MR. BRODERICK-SOKOL: During that conversation
12 did Mr. Sampson himself float any names for you to react
13 to?

14 MR. MARGOLIS: He might have. I'm very fuzzy
15 about that, but he might have.

16 MR. BRODERICK-SOKOL: Okay.

17 MR. MARGOLIS: Or he might have even had
18 reactions to my names, like he might have said, "Why this
19 one?"

20 On some of them, I said, "These are worth
21 looking, but they're premature because OPR is looking at
22 it." You know, if the person is exonerated, I don't want
23 the person on the list.

24 MR. BRODERICK-SOKOL: Did you suggest any that
25 Mr. Sampson had an immediate reaction that that person

01 wouldn't be an appropriate candidate for removal?

02 MR. MARGOLIS: No.

03 MR. BRODERICK-SOKOL: Without identifying any
04 names.

05 MR. MARGOLIS: No.

06 MR. BRODERICK-SOKOL: And did this discussion
07 include discussion of things like the political juice of
08 these individuals?

09 MR. MARGOLIS: No. No, I don't think so. I
10 mean, I think that's a fact of life, but that's not
11 something that Kyle would necessarily discuss with me.

12 MR. BRODERICK-SOKOL: And I will just say it and
13 maybe try and save some time, but I will represent to you
14 that Mr. Sampson has testified that he would have told
15 you during that conversation that it was a White House
16 idea to seek removal of individuals. I could read you
17 the testimony, if you prefer, but I am really just
18 asking--I don't want to do a bunch of exhibits--if that
19 jogs your recollection or if it leads you--

20 MR. MARGOLIS: I would just have to say I'm sure
21 you're quoting him accurately, and I have no reason to
22 believe that he's making it up, but his recollection and
23 mine are different.

24 MR. BRODERICK-SOKOL: And you then talked about
25 really not talking to Mr. Sampson about this plan or this

01 process over the next sort of year and a half--maybe one
02 conversation, I think you said, might have occurred--
03 until you learned of it in November '06. Sitting here
04 today, it sounded to me like you have not been able to
05 place any further within the month of November or even
06 early December when Mr. Sampson orally presented to you
07 the names.

08 MR. MARGOLIS: Yeah, I'm kind of fuzzy about
09 that.

10 MR. BRODERICK-SOKOL: Do you think it was before
11 Thanksgiving?

12 MR. MARGOLIS: I do think so, yeah. Yeah,
13 because something in my mind tells me that he told me
14 this was going to happen shortly, and then it didn't
15 happen shortly.

16 MR. BRODERICK-SOKOL: There was a delay--

17 MR. MARGOLIS: But it did eventually happen on
18 December 7th.

19 MR. BRODERICK-SOKOL: And did you have any
20 conversations with Mr. Sampson between when he told you
21 and December 7th about the plan?

22 MR. MARGOLIS: I don't think so. I don't think
23 so.

24 MR. BRODERICK-SOKOL: Did you have any
25 conversations with Mr. McNulty about it during that time?

01 MR. MARGOLIS: I don't think that I talked about
02 this issue with Paul McNulty until after I talked to
03 Carol Lam on December 7th or 8th. And he's the one who
04 told me what the final list was, and I believe that's
05 when I first learned that Kevin Ryan made it to the list.
06 MR. BRODERICK-SOKOL: So you think you may have
07 talked to him before you got a call from the judge in San
08 Francisco?
09 MR. MARGOLIS: Oh, yeah, the judge in San
10 Francisco calling was after it became public, whenever
11 that was.
12 MR. BRODERICK-SOKOL: Oh, that is exactly--
13 MR. MARGOLIS: That was pretty late.
14 MR. BRODERICK-SOKOL: Right. I had thought that
15 you said you might have learned from her that the plan
16 had gone forward. But now you have said Carol Lam, I
17 think--
18 MR. MARGOLIS: Yeah.
19 MR. BRODERICK-SOKOL: Now I am mixing up my--
20 MR. MARGOLIS: The judge, this judge would be
21 one of the last people who would know, other than reading
22 the newspaper.
23 MR. BRODERICK-SOKOL: Okay.
24 MR. MARGOLIS: This administration wouldn't be
25 sharing that.

01 MR. BRODERICK-SOKOL: Okay. Sorry, I just have
02 a lot of going through and not asking things that were
03 already asked.
04 You have referred a number of times today to
05 former Deputy Attorney General Jim Comey.
06 MR. MARGOLIS: Yes.
07 MR. BRODERICK-SOKOL: You said the questions in
08 this regard were softballs, so I will try and keep up the
09 tradition, I guess. I suppose you would have in some
10 sense supervised him when he was a line prosecutor or--
11 strike that.
12 Did you know him when he was an Assistant United
13 States Attorney?
14 MR. MARGOLIS: No. And the first time I met Jim
15 was when we interviewed him to be United States Attorney
16 for Eastern Virginia. We didn't select him.
17 MR. BRODERICK-SOKOL: Does he give you a hard
18 time about that to this day?
19 MR. MARGOLIS: Yes. He said--I'll never forget.
20 Bob Mueller was the Acting Deputy, and so he was at the
21 interview, and Comey said, "Tell me the truth, guys. Do
22 I have a chance for this job?" And Mueller, you know,
23 started this long-winded explanation. And Comey reminded
24 me that I sat there like this.
25 [Laughter.]

01 MR. BRODERICK-SOKOL: Let the record reflect
02 that the witness is shaking his head side to side with a
03 frown. That's funny.
04 Okay. You served in his office while he was the
05 Deputy Attorney General.
06 MR. MARGOLIS: Absolutely. And what happened,
07 what happened was after we chose Paul McNulty for the
08 Eastern District, the candidate for the Southern
09 District, who I don't remember, pulled out and decided to
10 do something else.
11 And so we were left--and I remember Kyle said to
12 me, "What about that tall guy who was very impressive
13 that we interviewed for the Eastern District? He is from
14 the Southern District. What about him?" And I said,
15 "Oh, yeah. What was his name again?" And so we figured
16 out who it was, and that's how we got started.
17 MR. BRODERICK-SOKOL: Mr. Comey owes it to Mr.
18 Sampson then.
19 MR. BHARARA: That is the Southern District of
20 New York you are referring to?
21 MR. BRODERICK-SOKOL: We are not going to get
22 into what people mean when they say "the city."
23 Okay. I will just briefly--do you think that
24 Mr. Comey is qualified to evaluate the performance and
25 conduct of United States Attorneys--

01 MR. MARGOLIS: Yes.
02 MR. BRODERICK-SOKOL: --that served under him?
03 MR. MARGOLIS: Yes.
04 MR. BRODERICK-SOKOL: Would he be a good judge
05 of their characters?
06 MR. MARGOLIS: Yes, except, as I think I said
07 before, he's a little more charitable than I am.
08 MR. BRODERICK-SOKOL: Okay.
09 MR. MARGOLIS: And I think he'd tell you that,
10 too.
11 MR. BRODERICK-SOKOL: When Kyle Sampson raised
12 to you this idea of identifying a more limited group of
13 U.S. Attorneys as kind of a management initiative, I
14 guess I would say, as it was described to you at least,
15 did you discuss that idea with Jim Comey?
16 MR. MARGOLIS: I don't think I did.
17 MR. BRODERICK-SOKOL: Is there any reason why
18 you didn't?
19 MR. MARGOLIS: Just, you know, I felt that Kyle
20 would tell whoever he was going to tell about it. I
21 wouldn't be surprised--I would be surprised if he didn't
22 discuss it with Jim, but that was between them.
23 [Pause.]
24 MR. MARGOLIS: I like that crossout action.
25 MR. BRODERICK-SOKOL: Sometimes I am just

01 crossing out things I had already crossed out.

02 Just briefly, in your estimation what is the
03 purpose of the EARS review system?

04 MR. MARGOLIS: I think it was sort of to massage
05 the ego of U.S. Attorneys--no. It's a peer review to
06 help U.S. Attorneys spot issues that they have to
07 address, give them a chance to address them.
08 You know, the value to me is that if I see
09 something really negative that jumps off the page at me,
10 because it's so seldom you see that, then they are big,
11 big notebooks, large notebooks.

12 MR. BRODERICK-SOKOL: The EARS papers that come
13 out?

14 MR. MARGOLIS: Yes.

15 MR. BRODERICK-SOKOL: So you get a set of--what
16 is included in a full set of notebooks?

17 MR. MARGOLIS: Well, it is one notebook, but it
18 is a very thick notebook. It has, you know, the
19 observations of the team reporting what law enforcement
20 says, what judges say, statistics, stuff like that.

21 MR. BRODERICK-SOKOL: Okay. And then those
22 are--

23 MR. MARGOLIS: It will have stuff like, you
24 know, are they--what the management structure is. It is
25 very detailed.

01 MR. BRODERICK-SOKOL: And then the EARS
02 information is summarized into a file or report that is
03 shorter?
04 MR. MARGOLIS: Well, there is an executive
05 summary for people who don't read well, like me.
06 MR. BRODERICK-SOKOL: And how many pages would
07 an executive summary be?
08 MR. MARGOLIS: Maybe seven pages, single-spaced.
09 MR. BRODERICK-SOKOL: We have received final
10 reports that might be 15 pages, something like that. We
11 have not received any substantial findings containing the
12 underlying information.
13 MR. MARGOLIS: Consider yourself lucky.
14 [Laughter.]
15 MS. BURTON: I think you've received the final
16 EARS reports.
17 MR. MARGOLIS: Without the appendices, probably.
18 MR. BRODERICK-SOKOL: My sense is we have not
19 received the appendices, from my review of the documents,
20 and I don't think we need to address it here and use this
21 time. I frankly don't know if an agreement was
22 separately reached on that or not, but it will just be
23 something to--
24 MS. BURTON: Yes, some of them are in the read-
25 only.

01 MR. BRODERICK-SOKOL: To look at. Certainly in
02 the read-only there is information about a couple
03 individuals of much greater volume.
04 Would the Director of the Executive Office of
05 United States Attorneys have a good understanding of the
06 EARS process?

07 MR. MARGOLIS: Yes, especially one like Mike
08 Battle or Mary Beth Buchanan, the most recent two,
09 because they were U.S. Attorneys themselves so they had
10 their offices evaluated.

11 MR. BRODERICK-SOKOL: So they would have a good
12 understanding of both the process and the value of the
13 EARS process and limitations, if any, on the--

14 MR. MARGOLIS: Sure.

15 MR. BRODERICK-SOKOL: I just have a couple
16 questions about the situation of David Iglesias. I think
17 you said that you learned from his first attorney--

18 MR. MARGOLIS: First Assistant.

19 MR. BRODERICK-SOKOL: First Assistant, thank
20 you--during an interview of that First Assistant for
21 possible employment as Interim United States Attorney.

22 MR. MARGOLIS: That's correct.

23 MR. BRODERICK-SOKOL: He said something about
24 the delegation of day-to-day management of the office to
25 him.

01 MR. MARGOLIS: Yes.

02 MR. BRODERICK-SOKOL: Did he voice that as a
03 complaint about Mr. Iglesias, or--

04 MR. MARGOLIS: I thought it was--he voiced it
05 not as a complaint about David Iglesias but, rather, a
06 kudo to himself; in other words, "I have been running the
07 office."

08 MR. BRODERICK-SOKOL: That was the other side of
09 my "or," a statement of his own ability to continue
10 running the office--

11 MR. MARGOLIS: Correct.

12 MR. BRODERICK-SOKOL: --if he would get such an
13 appointment.

14 And then I think you stated that sometime later
15 during one of the two prep sessions for Paul McNulty,
16 that subject of the delegation to the First Assistant
17 came up.

18 MR. MARGOLIS: I raised it.

19 MR. BRODERICK-SOKOL: I think you testified
20 before that someone else raised the issue.

21 MR. MARGOLIS: No. I raised--I was the one who
22 raised his statement, the delegation. Somebody else had
23 raised the absentee management issue.

24 MR. BRODERICK-SOKOL: Do you know if that
25 someone else was Monica Goodling?

01 MR. MARGOLIS: I don't think so. I may be
02 wrong, but I don't think so.

03 MR. BRODERICK-SOKOL: Do you have any further
04 memory of who it might have been?

05 MR. MARGOLIS: No, because I turned--when that
06 was said by whoever said it, I turned to Monica and said,
07 "Monica, remember when we interviewed" the First
08 Assistant, whose name is escaping me now. "He told us
09 that he had been delegated to supervise day-to-day operations."

10 MR. BRODERICK-SOKOL: Why did you raise that at
11 that prep session?

12 MR. MARGOLIS: Because I think it, A, was a
13 relevant factor and, B, it corroborated what was said,
14 you know, the absentee management thing.
15 Now, it also, I would say, wasn't known to the
16 deciders at the time they decided because it didn't
17 happen, by definition, until after the firing.

18 MR. BRODERICK-SOKOL: And the purpose of this
19 preparation was to prepare Paul McNulty to brief Senators
20 and testify before the Senate on the--

21 MR. MARGOLIS: I think it was the testimony.

22 MR. BRODERICK-SOKOL: This is just for the
23 testimony?

24 MR. MARGOLIS: Right. I think so. The briefing
25 came later. I don't know how much later.

01 MR. BRODERICK-SOKOL: I am just wondering why
02 surfacing information that wasn't known to the deciders
03 would be relevant in helping Paul McNulty figure out what
04 he was going to say.

05 MR. MARGOLIS: So he would know all the fact.
06 You know, if somebody said to him, "Well, what do you
07 mean? How do you know?" Or, "What's the basis? Give us
08 some substantiation that this guy was an absentee
09 manager."

10 Well, it is his First Assistant backed it up--or
11 not backed it up; that would be an exaggeration--said the
12 following. That's why. And also you want the boss to
13 know everything. We just wanted to make sure he knows
14 the limitations of it.

15 MR. BRODERICK-SOKOL: Limitations meaning these
16 are facts that were not known to the people who were
17 making the decision--

18 MR. MARGOLIS: At least not from the source.

19 MR. BRODERICK-SOKOL: Yes. There was a little
20 bit of back and forth about Mr. Sampson's--strike that.
21 You described the session then with Mr. McNulty,
22 I think you said Kyle spoke and that there was discussion
23 of each of the candidates--

24 MR. MARGOLIS: A lot of people spoke. There was
25 more than a couple of people.

01 MR. BRODERICK-SOKOL: Would you describe it as
02 "brainstorming"?
03 MR. MARGOLIS: I think so. I think that's fair.
04 MR. BRODERICK-SOKOL: Coming up with all the
05 relevant facts about these individual U.S. Attorneys?
06 MR. MARGOLIS: I think so.
07 MR. BRODERICK-SOKOL: And were there any facts
08 that you supplied other than this one about the absent--
09 the delegation to the First Assistant in New Mexico?
10 MR. MARGOLIS: I think I may have given a
11 summary of the Ryan situation and maybe the Chiara
12 situation, although I think with going on, we recognized
13 that those were not going to be key.
14 MR. BRODERICK-SOKOL: Those were not key because
15 the performance-based reasons for their replacement were
16 so obvious?
17 MR. MARGOLIS: There had been, I think, some
18 publicity--you know, I'm wondering whether at that point
19 whether Chiara was publicly known. She must have been;
20 otherwise, he wouldn't be testifying about her, I guess.
21 MR. BRODERICK-SOKOL: It is not especially
22 material. I think I can tell you that there was concern
23 that she was not publicly known but would, through the
24 testimony process or around that time, but I don't...
25 So when this issue of the delegation came up and

01 you pointed out what the First Assistant has said, Paul
02 McNulty was present for that?
03 MR. MARGOLIS: Yes.
04 MR. BRODERICK-SOKOL: So he would have known at
05 the time he testified that the issue of absentee landlord
06 was raised with you by the board.
07 MR. MARGOLIS: Raised by somebody else. I don't
08 remember who, though. I guess this was corroboration of
09 it.
10 MR. BRODERICK-SOKOL: Okay. I'm going to leave
11 that. Excuse me one short second.
12 [Pause.]
13 MR. BRODERICK-SOKOL: Did you ever hear that
14 Senator Domenici had phoned the Attorney General and
15 complained about David Iglesias?
16 MR. MARGOLIS: I have now but not back then.
17 MR. BRODERICK-SOKOL: Not back then.
18 MR. MARGOLIS: Correct.
19 MR. BRODERICK-SOKOL: When did you first hear
20 that?
21 MR. MARGOLIS: Sometime after the firings--when
22 he called who? David Iglesias? Is that what you--
23 MR. BRODERICK-SOKOL: Yes.
24 MR. MARGOLIS: Yes. When Iglesias said so.
25 MR. BRODERICK-SOKOL: No. Actually, my question

01 was that Domenici had called--

02 MR. MARGOLIS: Oh, the Attorney General?

03 MR. BRODERICK-SOKOL: That Senator Domenici had
04 called the Attorney General.

05 MR. MARGOLIS: Yes, whenever that came out
06 publicly, I heard about it.

07 MR. BRODERICK-SOKOL: And I won't take too much
08 time, but there have been a few reported calls between
09 the Senator and the Attorney General, at least a couple,
10 and you were not aware of any of those--

11 MR. MARGOLIS: No. And I also recall reading--I
12 think there was a phone call from the Senator to the
13 Deputy, and I didn't know about that.

14 MR. BRODERICK-SOKOL: That was my next question.
15 So Deputy McNulty did not tell you about that call?

16 MR. MARGOLIS: No. He doesn't like to
17 overburden me with facts at my age.

18 MR. BRODERICK-SOKOL: You are making light, but
19 would that have been--would you--why do you think he
20 wouldn't have told you about that call?

21 MR. MARGOLIS: I don't know why he would. There
22 was no decision to be made.

23 MR. BRODERICK-SOKOL: Well, my understanding is
24 that the Deputy has testified that the call was
25 essentially to complain about the job performance of

01 United States Attorney David Iglesias.
02 MS. BURTON: Do you have the transcript?
03 MR. BRODERICK-SOKOL: That is a good question.
04 No, I don't. And I don't need to explore it.
05 MR. MARGOLIS: I think I read about it in the
06 newspaper or something. Remember, I said Paul and I did
07 not discuss this issue, so I had no idea how deeply his
08 role was.
09 MR. BRODERICK-SOKOL: Did he ever pass on to you
10 concerns that he had heard about performance of United
11 States Attorneys?
12 MR. MARGOLIS: Not these.
13 MR. BRODERICK-SOKOL: Not these eight, but in
14 general--
15 MR. MARGOLIS: When there was something for me
16 to do.
17 MR. BRODERICK-SOKOL: So that was the dividing
18 line, if he wanted you to do something, he would tell
19 you?
20 MR. MARGOLIS: Yeah.
21 MR. BRODERICK-SOKOL: He did not tell you things
22 as an informational matter?
23 MR. MARGOLIS: He did not. He is not a gossip.
24 MR. BRODERICK-SOKOL: But is he sharing
25 information with people who work in the area so they have

01 it--

02 MR. MARGOLIS: People who have a need to know.

03 MR. BRODERICK-SOKOL: Okay. And did he ever use
04 you as a sounding board for issues he was considering or
05 trying to decide how to address?

06 MR. MARGOLIS: Yes.

07 MR. BRODERICK-SOKOL: Sometimes he did,
08 sometimes he--

09 MR. MARGOLIS: If he has reason to.

10 MR. BRODERICK-SOKOL: Okay. Sometimes he did,
11 sometimes he didn't.

12 MR. MARGOLIS: Well, if he thought I could add
13 something to the conversation.

14 MR. BRODERICK-SOKOL: And I would say it's clear
15 from your testimony that you had never heard a story
16 circulating in the Department that Domenici had insisted
17 that--that Senator Domenici had insisted that the
18 Attorney General fire David Iglesias and the Attorney
19 General had refused?

20 MR. MARGOLIS: No. As a matter of fact, I don't
21 even think I read that anywhere until you just said it.
22 Good for the Attorney General.

23 MR. BRODERICK-SOKOL: If true.

24 MR. MARGOLIS: If true, yes. You didn't say
25 where you heard it.

01 MR. BRODERICK-SOKOL: You wouldn't want to know.
02 MR. MARGOLIS: It's the kind of thing, "Don't
03 you tell me to fire one of my people. I'll fire them on
04 my own. But you can't tell me to."
05 MR. BRODERICK-SOKOL: It was reported in the New
06 Mexico press, that story.
07 Let me ask you about John McKay. I think you
08 discussed--what is your understanding of the reason John
09 McKay was forced to resign as United States Attorney?
10 MR. MARGOLIS: As I think I've testified before,
11 he put the Deputy in a bad light by sending him a letter
12 signed by a whole bunch of United States Attorneys who
13 were led to believe that the Deputy would welcome such a
14 letter when really he didn't and it would paint him in a
15 corner. That's not the way we do business. And then,
16 secondarily, something to do with sentencing.
17 MR. BRODERICK-SOKOL: And I think you testified
18 that that issue on the communications system and, more
19 precisely, the interactions between McKay and the Deputy
20 and the letter occurred sometime in the summer of 2006.
21 MR. MARGOLIS: I didn't say that, but it might
22 very well have.
23 MR. BRODERICK-SOKOL: I can represent that that
24 meeting with--that the letter was--
25 MR. MARGOLIS: That's good enough for me.

01 MR. BRODERICK-SOKOL: The sentencing issue, is
02 that an issue related to the Supreme Court's decision in
03 the Booker case?
04 MR. MARGOLIS: It could be. It was a guidelines
05 issue, as I recall.
06 MR. BRODERICK-SOKOL: But you don't know the
07 details of it?
08 MR. MARGOLIS: No, I don't.
09 MR. BRODERICK-SOKOL: Okay. So you wouldn't be
10 able to place when in time concerns about sentencing
11 decisions arose--
12 MR. MARGOLIS: No.
13 MR. BRODERICK-SOKOL: --with respect to Mr.
14 McKay?
15 MR. MARGOLIS: Couldn't help you with that.
16 MR. BRODERICK-SOKOL: Did you ever hear anyone
17 raise a concern about how Mr. McKay had handled the
18 situation involving the murder of one of his Assistant
19 United State Attorneys?
20 MR. MARGOLIS: I'm not sure what you mean by
21 that. I handled the recusal in that case.
22 MR. BRODERICK-SOKOL: This is the Wales case.
23 Whose recusal?
24 MR. MARGOLIS: His office.
25 MR. BRODERICK-SOKOL: His office?

01 MR. MARGOLIS: Yeah. When the victim is an
02 Assistant in the office, which isn't very frequent--but
03 it happened in DiBiagio's office, too--we would recuse
04 the office.
05 MR. BRODERICK-SOKOL: Are you aware--
06 MR. MARGOLIS: He didn't really handle it. I
07 mean, he was out.
08 MR. BRODERICK-SOKOL: He was out. Are you aware
09 of any inappropriate conduct by Mr. McKay related to that
10 case, to the Wales case?
11 MR. HUNT: Are you saying any issue, misconduct,
12 allegation?
13 MR. BRODERICK-SOKOL: I am saying any
14 inappropriate conduct by Mr. McKay. I'm not suggesting
15 any sort of--well--
16 MR. MARGOLIS: Can you give me a hint?
17 MR. BRODERICK-SOKOL: Sure. I absolutely can
18 tell you more. I just want to start by--so nothing comes
19 to your mind.
20 MR. MARGOLIS: No. But it was a long--it was 5
21 years ago.
22 MR. BRODERICK-SOKOL: Yes, or anything along the
23 lines of him being overly insistent about the level of
24 attention being paid by the Department to try and--
25 MR. MARGOLIS: Oh, I remember him pushing for

01 more attention, but I thought--I would hope that--I mean,
02 not hope, I would expect that. And as a matter of fact,
03 that caused me to get one of the best prosecutors in the
04 United States outside the Southern District of New York
05 to take over the investigation.

06 MR. BRODERICK-SOKOL: And are you trying to
07 flatter the Northern District of Illinois by your--

08 MR. MARGOLIS: No, no. But Steve Clymer is--no,
09 I viewed his office, as well as Wales, as a victim of
10 this crime, especially if it had something to do with
11 their law enforcement. So I think--you know, could he be
12 a pain in the neck? Yes. But, you know, I wouldn't--you
13 know, I expect that.

14 MR. BRODERICK-SOKOL: I have a document that I
15 would like to grab. I'm going to mark as Margolis 13 an
16 e-mail from Kyle Sampson to Harriet Miers with a series
17 of attachments. This will be familiar to the lawyers and
18 folks here. It has been marked at a number of
19 interviews.

20 [Whereupon, Margolis Exhibit No. 13
21 was marked for identification.]

22 MR. BRODERICK-SOKOL: I'm not going to spend a
23 lot of time going through iterations of the list of
24 United States Attorneys, but I wanted to ask a couple
25 questions about this document and then move along.

01 This is an e-mail with attachments with a Bates
02 number OAG003. The first page is an e-mail from Kyle
03 Sampson to Harriet Miers, dated Wednesday, March 2, 2005.
04 It says in its text--I will just read it quickly--well, I
05 will start by asking, Have you ever seen this document
06 before?

07 MR. MARGOLIS: Did I see it this morning maybe?

08 MR. BRODERICK-SOKOL: I don't think we marked
09 this, but I could be--

10 MR. MARGOLIS: I think I saw it--I think--let me
11 just look at this.

12 MR. BRODERICK-SOKOL: My question, more
13 appropriately, is--

14 MR. MARGOLIS: I think I saw at least part of
15 this in my briefing book of stuff that was turned over.

16 MR. BRODERICK-SOKOL: Your briefing book for
17 this testimony?

18 MR. MARGOLIS: Yes. I got a briefing book of
19 stuff that had been--part of the stuff that had been
20 turned over.

21 MR. BRODERICK-SOKOL: Sure. Do you recall this
22 as one of the documents that Kyle Sampson might have
23 shown you in a binder on March 8th?

24 MR. MARGOLIS: Yes.

25 MR. BRODERICK-SOKOL: You think you did see this

01 then?

02 MR. MARGOLIS: Yes. And I think this morning
03 before I came over.

04 MR. BRODERICK-SOKOL: Okay. Let me ask my
05 question again to make sure the record is clear. Do you
06 recall this as an e-mail that Kyle Sampson might have
07 presented to you on March 8, 2007, when you met him, I
08 think in your office after--

09 MR. MARGOLIS: Now I understand. He did not
10 show me anything. He read me--and he might have read
11 this. This might have been one of them.

12 MR. BRODERICK-SOKOL: Right. To be honest, I
13 have lost track if you said you had a chance to look at
14 any of them. This has a code or an explanation of a
15 chart: "To be clear"--I am reading now from the document
16 from Mr. Sampson to Harriet Miers.

17 "To be clear, putting aside the question of
18 expiring terms, the analysis on the chart I gave you is
19 as follows: bold, recommend retaining, strong U.S.
20 Attorneys who have produced, managed well, and exhibited
21 loyalty to the President and Attorney General; ~~strikeout,~~
22 recommend removing, weak U.S. Attorneys who have been
23 ineffectual managers and prosecutors, chafed against
24 administration initiatives, et cetera."
25 And I will ask you--

01 MR. MARGOLIS: And then "nothing."

02 MR. BRODERICK-SOKOL: And then "nothing." I
03 wasn't going to read that because it doesn't bear on my
04 questions, but "nothing" is "no recommendation, have not
05 distinguished themselves either positively or
06 negatively."

07 So turning then to page OAG008, which is in
08 about the middle of the document, recommendations have
09 been made are redacted on this version of the document,
10 except for one, which is John McKay.

11 MR. MARGOLIS: Right.

12 MR. BRODERICK-SOKOL: And you can see that it's
13 struck out.

14 MR. MARGOLIS: Right.

15 MR. BRODERICK-SOKOL: So as of March 2005,
16 someone has recommended removing John McKay as United
17 States Attorney, Kyle Sampson has to Harriet Meirs.
18 So we've agreed that, at least in your view, the
19 Wales murder, and Mr. McKay's office -- Mr. McKay's
20 agitation about that, would not, in your view, have been
21 a good reason to seek his removal as United States
22 Attorney?

23 MR. MARGOLIS: I don't know. I mean, he was a
24 pain in the neck to a certain extent, but you could
25 understand that.

01 MR. BRODERICK-SOKOL: And I understand you
02 didn't make this list. I'm just asking your opinion of
03 these things.

04 MR. MARGOLIS: I mean, I suppose you might say,
05 if you had 14 instances he would add that, maybe. But,
06 no.

07 MR. BRODERICK-SOKOL: Okay. And there was the
08 length that the letter signed by a group of U.S.
09 Attorneys that we've talked about.

10 MR. MARGOLIS: Right.

11 MR. BRODERICK-SOKOL: My understanding is that
12 postdates March 2005. And then there's the sentencing
13 issue, and you're not sure of the timing of the
14 sentencing.

15 MR. MARGOLIS: I think it's fairly recent. It
16 may be, you know, a series of matters.

17 MR. BRODERICK-SOKOL: So are you aware of
18 anything about John McKay that we know to have existed in
19 March, 2005 that would have been a reason for his
20 removal?

21 MR. MARGOLIS: No. No. I don't recall, anyway.

22 MR. BRODERICK-SOKOL: And do you recall any
23 discussion during the prep of Mr. McNulty about anything
24 else regarding Mr. McKay that might have predated March,
25 2005?

01 MR. MARGOLIS: No.
02 MR. BRODERICK-SOKOL: Okay.
03 I'm going to turn to questions about Kevin Ryan.
04 MR. MARGOLIS: Yes.
05 MR. BRODERICK-SOKOL: On this list in March,
06 2005, "Kevin Ryan" is bolded on page OAGN006 as a strong
07 manager -- as a "strong U.S. Attorney who has produced,
08 managed well, and exhibited loyalty to the President and
09 Attorney General."
10 MR. MARGOLIS: Where is this, now?
11 MR. BRODERICK-SOKOL: I'm sorry. "Kevin Ryan"
12 is on the page that you're looking at.
13 MR. MARGOLIS: But where is that comment?
14 MR. BRODERICK-SOKOL: And that code is on the
15 very first page.
16 MR. MARGOLIS: Got you.
17 MR. BRODERICK-SOKOL: Explaining what a "bold"
18 means.
19 MR. MARGOLIS: Well, I would disagree with that
20 analysis. Now, let me take a look. March of '05. That
21 was about a couple of weeks before I brought him in for a
22 wood-shedding. So even at that point I would totally
23 disagree with that.
24 MR. BRODERICK-SOKOL: I'm going to grab one more
25 document.

01 MR. MARGOLIS: To be specific, I'm not
02 quarreling with the conclusion that he has exhibited
03 loyalty to the President and the Attorney General or that
04 he has produced. What I am talking about is the "managed
05 well".

06 MR. BRODERICK-SOKOL: Okay. Thank you for that
07 clarification.

08 Now, not having the opportunity to review the
09 unredacted version of this --

10 MR. MARGOLIS: If we could go back to Mr. McKay
11 for a minute, the document you showed me, I think that
12 gives the lie to those articles that have implied that he
13 was removed because of some case, the vote fraud -- or
14 not vote fraud, but the election case was after March of
15 2005, wasn't it?

16 MR. BRODERICK-SOKOL: I'm not sure which
17 election case you mean.

18 MR. MARGOLIS: The one that he says Harriet
19 Meirs asked him how he butchered it, and -- for his
20 judgeship.

21 MR. BRODERICK-SOKOL: Was he referring to a
22 specific lawsuit when he asked that question?

23 MR. MARGOLIS: I believe he said she was.

24 MR. BRODERICK-SOKOL: Do you know what lawsuit
25 that was?

01 MR. MARGOLIS: It was something to do with a
02 hotly contested close election. I'm getting all this
03 from the press.
04 MR. BRODERICK-SOKOL: Okay. You're getting all
05 that from the press?
06 MR. MARGOLIS: Yeah.
07 MR. BRODERICK-SOKOL: Okay.
08 MR. MARGOLIS: From his statements to the press.
09 MR. BRODERICK-SOKOL: I don't -- I'll just say,
10 the election that has been most associated with Mr. McKay
11 was in November of 2004.
12 MR. MARGOLIS: Okay.
13 MR. BRODERICK-SOKOL: And the Washington
14 Republican Party had questioned his intention on fraud
15 issues contemporaneously or in the wake of that very
16 close election, which would precede this list by some
17 months.
18 MR. MARGOLIS: Good. I stand corrected.
19 MR. BRODERICK-SOKOL: I'm going to mark this as
20 Margolis 14, another e-mail from Kyle Sampson to Harriet
21 Meirs.
22 [Whereupon, Margolis Exhibit No. 14
23 was marked for identification.]
24 MR. MARGOLIS: Yes.
25 MR. BRODERICK-SOKOL: Is the text of this e-mail

01 familiar to you as having been ready by Kyle Sampson on
02 March 8th?

03 MR. MARGOLIS: I can't say that that's how I
04 learned about it. I certainly have seen it since then,
05 like in the media.

06 MR. BRODERICK-SOKOL: Okay. Well, I will just
07 note from this document, quickly, that Kevin Ryan does
08 appear on the list recommending his removal. It's on the
09 second page.

10 MR. MARGOLIS: Right. I see that.

11 MR. BRODERICK-SOKOL: This is January '06. And
12 I would assume from the testimony you've given that you
13 think that is a reasonable recommendation for a U.S.
14 Attorney to be removed.

15 MR. MARGOLIS: Looks like that's probably my
16 recommendation.

17 MR. BRODERICK-SOKOL: That's probably your
18 recommendation?

19 MR. MARGOLIS: Yeah.

20 MR. BRODERICK-SOKOL: Did you talk to Mr.
21 Sampson between March of 2005 and January 2006 about the
22 -- Mr. Ryan?

23 MR. MARGOLIS: I don't remember. I don't
24 remember. I mean, if he wasn't on the list from before,
25 I don't know who else would have recommended them. Could

01 have been Jim. I don't know. No, Jim was already gone
02 then.
03 MR. BRODERICK-SOKOL: Okay.
04 Do you have more you want to --
05 MR. KEMMERER: Just for the record -- I'm sorry.
06 Jim who, for the record?
07 MR. MARGOLIS: Comey.
08 MR. BRODERICK-SOKOL: Do you have more you want
09 to add? I'm actually going to move on to another
10 document, quickly.
11 This is Margolis Exhibit 15.
12 [Whereupon, as Margolis Exhibit No.
13 15 was marked for identification.]
14 MR. BRODERICK-SOKOL: So this is Margolis 15,
15 and it's another e-mail from Kyle Sampson to Harriet
16 Meirs, and it's Bates stamped OAG211.
17 MR. MARGOLIS: Right.
18 MR. BRODERICK-SOKOL: And look through it at
19 your leisure. It's an e-mail chain, essentially, with a
20 large e-mail discussing U.S. Attorneys, and then a couple
21 forwarding comments. And I would direct you to the
22 bottom of the front page, heading IV, "USAs we now should
23 consider pushing out," and there are a group of names
24 there, of districts with the names in parens.
25 And I'll read the names: Paul Charlton, Carol

01 Lam, Margaret Chiara, Dan Bogden, John McKay. It doesn't
02 carry over, at least that we can see, to the second page.
03 There are names redacted here, but as you know from the
04 sort of status of that issue with the department, none of
05 the people who were ultimately forced are in those
06 redactions. So Kevin Ryan appears to have come off the
07 list --

08 MR. MARGOLIS: Right.

09 MR. BRODERICK-SOKOL: -- between the January '06
10 and September -- this e-mail originally was sent to
11 Harriet Meirs on September 13th, 2006.

12 MR. MARGOLIS: Right.

13 MR. BRODERICK-SOKOL: Are you aware of anything
14 in Kevin Ryan's performance or management of his office,
15 between January and September of 2006, that would have
16 indicated he should be removed from the list of those
17 being considered for removal?

18 MR. MARGOLIS: No. Things did not get better.
19 In other words, my recommendation became stronger as time
20 went on, not weaker.

21 MR. BRODERICK-SOKOL: Okay.

22 I don't know that I need -- there was an EARS
23 evaluation of Kevin Ryan's office in March 2006. Is that
24 correct?

25 MR. MARGOLIS: Correct. And a special follow-up

01 evaluation.
02 MR. BRODERICK-SOKOL: Okay. That obviously did
03 not go well?
04 MR. MARGOLIS: Did not go well.
05 MR. BRODERICK-SOKOL: There was a follow-up. I
06 would note --
07 MR. MARGOLIS: And the follow-up went less well.
08 MR. BRODERICK-SOKOL: And the follow-up was
09 when?
10 MR. MARGOLIS: Let's see. That was March. It
11 was a couple of months afterwards, you know.
12 MR. BRODERICK-SOKOL: Okay.
13 MR. MARGOLIS: Not too long afterwards.
14 MR. BRODERICK-SOKOL: Okay. I'd note that
15 the documents reflect an issue--a minor issue, it would
16 seem--around Mr. Ryan's office's release of a press
17 release on Sentencing Commission revisions and the
18 penalties for steroid offenses.
19 MR. MARGOLIS: UFB!
20 MR. BRODERICK-SOKOL: Do you want to state for
21 the record what was in your mind when you wrote that?
22 MR. MARGOLIS: I don't think we have to.
23 MR. BRODERICK-SOKOL: I don't think we have to,
24 but I'll --
25 MR. MARGOLIS: I'll take judicial notice.

01 MR. BRODERICK-SOKOL: I'll just note that that
02 issue, by a document that I'm looking at that I'm not
03 going to make an exhibit, was April 1, 2006. Is that
04 your recollection that this issue, too, came up over the
05 course of 2006 before he seems to have been taken out of
06 consideration for removal in September, 2006?

07 MR. MARGOLIS: Yeah.

08 MR. BRODERICK-SOKOL: Okay.

09 You speculated that Kyle may have had some
10 difficulty selling Kevin Ryan as a candidate for removal
11 through this plan.

12 MR. MARGOLIS: Yeah.

13 MR. BRODERICK-SOKOL: Selling him to who?

14 MR. MARGOLIS: Well, I guess to be precise, to
15 the White House Counsel's Office. I mean, if they
16 weren't going to -- if the White House Counsel wasn't
17 going to recommend to the President, it wouldn't happen.
18 And part of that, I think I testified, was he
19 did appear to follow the priorities, which I agree is an
20 important factor, but not the only factor. And he did
21 appear to be loyal to the President, which is a factor,
22 but not the only factor.

23 MR. BRODERICK-SOKOL: And just so we're
24 absolutely clear, when Mr. Sampson first approached you
25 there were two candidates that you most strongly felt

01 were problematic U.S. Attorneys who should be --
02 MR. MARGOLIS: Yeah.
03 MR. BRODERICK-SOKOL: -- considered for removal,
04 and one of them, as far as we know from these documents,
05 never made it on a list.
06 MR. MARGOLIS: She/he is still there.
07 MR. BRODERICK-SOKOL: Okay.
08 And I guess you wouldn't actually know if that
09 person was on a list and then taken off.
10 MR. MARGOLIS: I would say that I am 70 percent
11 sure that the name was on a list--maybe even more sure--
12 but it might have been because of me. You know, it might
13 have been a tentative thing, you know. And I might have
14 been the only one supporting it, but I don't believe
15 that.
16 MR. BRODERICK-SOKOL: There was -- well, to
17 finish that line of questioning, the other candidate was
18 Kevin Ryan, who appears briefly on the list in January of
19 '06 when it's sent to Harriet Meirs, as I showed you.
20 MR. MARGOLIS: And then off.
21 MR. BRODERICK-SOKOL: And is then off until the
22 very final days of the process.
23 I just wanted to ask a quick question of my
24 colleagues, if we could go off the record.
25 [Whereupon, at 5:50 p.m. the interview was

01 recessed and resumed back on the record at 5:51 p.m.]
02 MR. BRODERICK-SOKOL: I want to ask, briefly,
03 about Paul Charlton. You understand that one of the
04 reasons given for his forced resignation was that he had
05 sought reconsideration of the Attorney General's decision
06 in a death penalty case, or the manner in which he had
07 done so?
08 MR. MARGOLIS: I think it was the manner.
09 MR. BRODERICK-SOKOL: Were you familiar with
10 that while it was occurring?
11 MR. MARGOLIS: No.
12 MR. BRODERICK-SOKOL: Are you aware of any other
13 instance in which a United States Attorney has sought
14 reconsideration of the Deputy or Attorney General's
15 decision about whether to seek or not seek the death
16 penalty?
17 MR. MARGOLIS: While I don't recall any, that
18 doesn't send you any particular message because that's
19 not my area.
20 MR. BRODERICK-SOKOL: So it's not something you
21 would be involved in one way or the other. Okay. I
22 think, happily, my colleagues covered Tim Griffin and Bud
23 Cummins in plenty of detail.
24 I want to ask about one thing about the sort of
25 running -- the different perspective that you and Monica

01 Goodling had on appointing interims from within the
02 office, traditionally the First Assistant, or looking
03 elsewhere within the office if there was a reason the
04 First Assistant wouldn't work, or looking outside of the
05 office.

06 And I think you said -- maybe I could just ask
07 you again to explain Ms. Goodling's review of the best
08 way to make interim -- make decisions about interim
09 candidates.

10 MR. MARGOLIS: There was nothing that was 100
11 percent. You know, there were gradations of gray. But
12 her -- she gave much more emphasis to the chance to
13 reward people who served the department well in DC, and
14 maybe elsewhere, than I would.

15 MR. BRODERICK-SOKOL: And I think you said
16 something to the effect that she would -- is beneficial
17 for personal morale or individual --

18 MR. MARGOLIS: I didn't say that, I don't
19 believe, but I wouldn't disagree with that. But that was
20 one of her reasons.

21 MR. BRODERICK-SOKOL: And do you think she's
22 thinking of the benefit to the particular candidate being
23 so appointed?

24 MR. MARGOLIS: Yeah. And maybe to other people
25 similarly situated. Maybe it'll happen to me.

01 MR. BRODERICK-SOKOL: Well, I guess I'm
02 wondering how that benefits the people who live in that
03 district.

04 MR. MARGOLIS: Oh, well, I think she would say -
05 - and I'm not particularly interested in making her
06 arguments for her. She can make her own. But I think
07 she would say, these people will do a good job.

08 MR. BRODERICK-SOKOL: And certainly if the
09 selection process has as its priority identifying the
10 person who would do the best job, then it's going to be
11 best for the service of the people living in that
12 district.

13 MR. MARGOLIS: Well, accept I don't want to go
14 down that slippery slope, because if we applied that to
15 presidentially-appointed U.S. Attorneys, I'm not sure
16 where'd come out. I mean, sometimes the question is, you
17 know, is this the best person available or is this the
18 best person we have on our plate?

19 MR. BRODERICK-SOKOL: Although in fact --

20 MR. MARGOLIS: Or does this person pass the bar,
21 regardless if he's the best there is?

22 MR. BRODERICK-SOKOL: Certainly.

23 MR. MARGOLIS: If the Senator sends over three
24 names and he says, here's the one I really want, and that
25 one meets the bar and would be a competent U.S. Attorney

01 but we don't think it's the best of the three, I wouldn't
02 be surprised if, on occasion, we go with the Senator's
03 pick.

04 MR. BRODERICK-SOKOL: Certainly in a political
05 appointment, and in particular someone who has to be
06 confirmed by the Senate in any event, raises a whole host
07 of issues of the right candidate to pick that are not
08 present in this situation of interims.

09 MR. MARGOLIS: See, in most of these cases, like
10 I say, it was great because she would have -- she would
11 have a rationale, plausible reason to say why the First
12 Assistant shouldn't go -- shouldn't be chosen.

13 MR. BRODERICK-SOKOL: I'm going to ask, Kyle
14 Sampson testified before the Senate Judiciary Committee
15 at some length on Thursday, March 29th, 2007, and I want
16 to read you one sentence from his public testimony.

17 MR. MARGOLIS: All right.

18 MR. BRODERICK-SOKOL: "At one point in time the
19 United States Attorney from the Middle District of North
20 Carolina was on a tentative preliminary list that I had."
21 Did you ever have discussions with Kyle Sampson
22 about performance concerns or conduct concerns regarding
23 the U.S. Attorney for the Middle District of North
24 Carolina?

25 MR. MARGOLIS: You'd be doing me a great favor

01 if you'd tell me the name of the person.
02 MR. BRODERICK-SOKOL: Sure.
03 MS. BURTON: We're going to object to this.
04 We're going to object to your asking him questions about
05 this individual, whoever it is.
06 MR. BRODERICK-SOKOL: Well, this was testimony
07 that was given in the U.S. Senate. I'm going to read you
08 another sentence from Mr. Sampson's testimony. Her name
09 is Anna Mills Wagner.
10 MR. HUNTER: Again, I don't know what your
11 question is, but we'll have the same objection to talking
12 about performance issues with respect to U.S. Attorneys
13 other than the right.
14 MR. BRODERICK-SOKOL: I'll ask a different
15 question. Did you ever have any discussions of any kind,
16 positive or negative, with Kyle Sampson about Anna Mills
17 Wagner?
18 MR. HUNTER: Same objection.
19 MR. BRODERICK-SOKOL: Are you going to decline
20 to answer at the instruction of your attorney?
21 MR. MARGOLIS: Today I'm not going to be
22 insubordinate.
23 MR. BRODERICK-SOKOL: Personally -- oh, well.
24 MR. MARGOLIS: By the way, on the advice and
25 direction of the department's attorneys. I don't have an

01 attorney.

02 MR. BRODERICK-SOKOL: Thank you for that
03 clarification.

04 And so clearly you're not going to be willing to
05 address whether or not this U.S. Attorney, who has been
06 testified in the Senate, was on a list for removal was
07 there because of bad performance, because of political
08 reasons, or for any other reasons. She is just left to
09 know that she was targeted for removal, with no
10 explanation at this time.

11 MR. FLORES: Object to the form of the question.

12 MS. BURTON: There is no question right here.

13 MR. FLORES: No question. It's testimony.

14 MS. BURTON: Right.

15 MR. MARGOLIS: By the way, just so you know, I
16 don't know that your statement is correct that she is
17 just left, you know, to hang there without knowing. I
18 don't know that the department hasn't said something to
19 her since Kyle's testimony. I don't know one way or
20 another.

21 MR. BRODERICK-SOKOL: Fair enough. That's
22 certainly a response to my question, they may have
23 contacted her. Clearly, this is another subject on which
24 we may have to have to convene a further deposition to
25 explore the issues surrounding the entire plan to remove

01 U.S. Attorneys that we are trying to understand.
02 MR. MARGOLIS: I hope, if that happens, that you
03 call everybody back, because I don't want to be the only
04 one stuck with coming back.
05 MR. BRODERICK-SOKOL: We will tell the others
06 that you recommended their further deposition be taken as
07 well.
08 MR. MARGOLIS: And I'm about to send Moschella
09 an e-mail telling him I'm going for his record.
10 MR. FLORES: We offer no position.
11 MR. BRODERICK-SOKOL: Excuse me?
12 MR. FLORES: We offer no position at this time
13 on your suggestion about further depositions, for the
14 record.
15 MR. BRODERICK-SOKOL: Okay.
16 At the same hearing -- and have no worries. At
17 the same hearing, Mr. Sampson also testified about Carol
18 Lam and he testified that he was the aggregator of
19 information that came in about her. And referencing her,
20 he says "it came in" -- referencing -- why don't I read
21 the whole passage?
22 "Senator, all I can tell you is that I know. I
23 was the aggregator of information that came in, and it
24 came in from the Deputy Attorney General, who is a former
25 U.S. Attorney and had served with Carol Lam.

01 It came in from the principal Associate Deputy
02 Attorney General, Bill Mercer, who was a U.S. Attorney
03 and had served with Carol Lam. It came in from David
04 Margolis, who..." and then he gets cut off and Senator
05 Feinstein says -- asks, "I'm sorry. What came in?" And
06 he says, "Information about concerns about U.S.
07 Attorneys, including Carol Lam."
08 I know this is a little bit covering some ground
09 you've covered already, and I'm almost done with
10 questions, but I just want to be clear. Did you provide
11 any information to Kyle Sampson about concerns or
12 suggestion that a further look be taken at Carol Lam as a
13 candidate for removal?
14 MR. MARGOLIS: I'm almost certain I did not.
15 And I also, when you read the last part of the statement,
16 I think it's not inconsistent with what he's saying
17 because I think he's saying -- about U.S. Attorney, he
18 goes more general there.
19 MR. BRODERICK-SOKOL: He may be answering a
20 question that is directly about Carol Lam --
21 MR. MARGOLIS: Right.
22 MR. BRODERICK-SOKOL: -- but giving a somewhat
23 non-responsive answer about, I've got information about
24 U.S. Attorneys from --
25 MR. MARGOLIS: Right. Right.

01 MR. BRODERICK-SOKOL: That's certainly possibly.
02 MR. MARGOLIS: If I were cynical, which I'm not,
03 Kyle might think that I'm a useful idiot--which I may be-
04 -and wanted to spread my name as much as he could, and
05 I'd be flattered by that.
06 MR. BRODERICK-SOKOL: I am somewhat cynical. I
07 actually have a stack of places in which people have
08 referenced you as a substantial provider of information
09 for this process, also highlighting your four years of
10 career service in both parties in the United States
11 Department of Justice.
12 MR. MARGOLIS: I guess I should be flattered.
13 If it weren't for the honor, I'd pass.
14 MR. BRODERICK-SOKOL: Did Jim Comey ever talk to
15 you about the sessions he had with Carol Lam about her
16 gun prosecutions?
17 MR. MARGOLIS: No. I heard about that from
18 Mercer. But no, he did not discuss it with me. I heard
19 about Comey's conversations with Lam from Mercer.
20 MR. BRODERICK-SOKOL: Did you ever talk to Carol
21 Lam about those conversations?
22 MR. MARGOLIS: She might, in that --
23 MR. BRODERICK-SOKOL: I should say, other than
24 on December 7th?
25 MR. MARGOLIS: No. Or 8th.

01 MR. BRODERICK-SOKOL: I am very close to done,
02 other than having lost my page of notes in this stack of
03 papers. So why don't we go off for two minutes while I
04 find it and check it.
05 [Whereupon, at 6:05 p.m. the interview was
06 recessed and resumed back on the record at 6:08 p.m.]
07 MR. BRODERICK-SOKOL: Okay. You testified that
08 during interviews of U.S. Attorney candidates you would
09 take a lead in those interviews and you'd describe a
10 number of things you would kind of run through. One
11 thing you said was that you would ask all kinds of
12 political questions, what did you do to support the
13 President in the last couple elections.
14 But you asked those questions, you felt it made
15 it maybe more comfortable -- that's my word added.
16 Well, you describe that process and how you did that for
17 the other folks to react and make whatever judgments they
18 needed to make.
19 Did you have the same overall role in these
20 interviews during the Clinton administration?
21 MR. MARGOLIS: No.
22 MR. BRODERICK-SOKOL: Did you participate in
23 U.S. Attorney interviews at all?
24 MR. MARGOLIS: Yes, but it was completely flip-
25 flopped. At the end of the process, or the beginning o

01 the process after the White House had whatever process
02 they went through and selected somebody, that person
03 would come to me to get the final blessing.

04 MR. BRODERICK-SOKOL: And would you ask these
05 same questions during those interviews?

06 MR. MARGOLIS: No. Like, this is now much more
07 routinized. For instance, in the Clinton administration
08 I wouldn't ask any political questions because the person
09 was coming endorsed by the White House already and it
10 wasn't my issue.

11 MR. BRODERICK-SOKOL: Okay.

12 MR. MARGOLIS: My issue was, can this guy or
13 woman be a U.S. Attorney.

14 MR. BRODERICK-SOKOL: Can you explain a little
15 more? Was it that you were interviewing candidates or
16 you were sent one person?

17 MR. MARGOLIS: I would see the finalists just to
18 give the final okay. And that -- I should add, that
19 didn't start at the beginning of the administration. The
20 whole first round of '93 was chosen without my
21 participation at all because I wasn't on the job yet.

22 MR. BRODERICK-SOKOL: You described Monica
23 Goodling coming to your office upset on the night of
24 March 8th.

25 MR. MARGOLIS: Yes.

01 MR. BRODERICK-SOKOL: You said you gave her some
02 personal advice.

03 MR. MARGOLIS: Yes.

04 MR. BRODERICK-SOKOL: You're obviously being
05 discreet, and I don't want to get into things that truly
06 don't bear on this. We've heard a couple of times, you
07 mentioned a boyfriend and giving her social advice. I
08 just want to ask, did you talk about any people that have
09 any nexus to this U.S. Attorney controversy, as you
10 understand it?

11 MR. MARGOLIS: No. The only -- the only person
12 whose name was mentioned was -- when she came in she
13 said, has Kyle talked to you? That was it.

14 MR. BRODERICK-SOKOL: But you did mention a
15 boyfriend.

16 MR. MARGOLIS: A person not involved with the
17 Department of Justice.

18 MR. BRODERICK-SOKOL: Okay. I just wanted --
19 and you said you gave her some personal advice. Was
20 there any talk during that conversation that she might
21 consider getting an attorney?

22 MR. MARGOLIS: No.

23 MR. BRODERICK-SOKOL: And certainly no talk
24 whether or not she might need to take the Fifth
25 Amendment?

01 MR. MARGOLIS: No.
02 MR. BRODERICK-SOKOL: Yes.
03 MR. MARGOLIS: She wound up getting an attorney
04 who used to work for me on organized crime many years
05 ago.
06 MR. BRODERICK-SOKOL: And you have said, of
07 course, today that you have not heard anything about vote
08 fraud prior to December 7th, but you had heard things
09 afterwards.
10 MR. MARGOLIS: Yeah. I certainly don't recall
11 hearing anything about vote fraud before December 7th,
12 and certainly not in connection with these U.S.
13 Attorneys.
14 MR. BRODERICK-SOKOL: Do you remember hearing a
15 discussion of vote fraud prosecutions otherwise?
16 MR. MARGOLIS: No. It's just that I
17 occasionally--no more than necessary--talk to Dr. Don
18 Santo, who's the vote expert in the Criminal Division.
19 And so he might have mentioned something, but I don't
20 recall talking to him on this.
21 MR. BRODERICK-SOKOL: Sure.
22 And when you said you heard things afterwards,
23 did you hear things entirely within the department?
24 MR. MARGOLIS: Yeah. it was more posted e-mails
25 and newspaper articles.

01 MR. BRODERICK-SOKOL: Okay. And sort of
02 speculation after all those issues may have played.
03 MR. MARGOLIS: Right.
04 MR. BRODERICK-SOKOL: But nothing -- no
05 discussions with Kyle Sampson about vote fraud?
06 MR. MARGOLIS: Not that I recall, no.
07 MR. BRODERICK-SOKOL: Okay.
08 No discussions about -- with anyone within the
09 department about the White House's interest in that as a
10 prosecution priority?
11 MR. MARGOLIS: No. But I should say, following
12 up on the hypothetical I gave Attorney General Kennedy, I
13 think an administration has every right to emphasize the
14 kind of crimes that it wants to emphasize. I would -- if
15 the Attorney General said to me, I want to emphasize
16 voter fraud and I want you to make the U.S. Attorneys
17 heave to, I would do it without any compunction
18 whatsoever.
19 MR. BRODERICK-SOKOL: You gave a different
20 example involving civil rights and freedom --
21 MR. MARGOLIS: That's true. I'm sure everybody
22 would agree on that one.
23 MR. BRODERICK-SOKOL: Sure. And would you -- in
24 a hypothetical -- I mean, we can talk about either
25 hypothetical -- go the civil rights -- well, let's talk -

01 -

02 MR. MARGOLIS: Let's keep -- let's keep the
03 freedom riders.

04 MR. BRODERICK-SOKOL: With the freedom riders.
05 If the Attorney General made the decision that you had
06 described being needed to make one version of the
07 hypothetical where that person would need to be removed
08 if they had said something to the effect of, sorry, down
09 here we're doing auto theft and I don't want to get into
10 this business --

11 MR. MARGOLIS: Right. I know my district.

12 MR. BRODERICK-SOKOL: Do you think that that
13 would communicate a message about the department's
14 priorities to the other U.S. Attorneys?

15 MR. MARGOLIS: It would certainly communicate a
16 message about the Attorney General's resolve.

17 MR. BRODERICK-SOKOL: And the importance of that
18 issue to the Attorney General and the administration.

19 MR. MARGOLIS: I think so. That's right.

20 MR. BRODERICK-SOKOL: And the risks they would
21 face if they did not take a fair look at those sorts of
22 issues and prosecute as the facts warrant.

23 MR. MARGOLIS: But I think, in fact, that
24 Attorney General made that priority known right from the
25 beginning.

01 MR. BRODERICK-SOKOL: Do you think, if the
02 Attorney General had to fire someone in that situation,
03 that the Attorney General should do so publicly and
04 announce why the Attorney General is terminating that
05 person?

06 MR. MARGOLIS: I wouldn't -- I don't like
07 embarrassing people. The guy -- the guy had his Senator
08 call up and say, you know, why did you fire my U.S.
09 Attorney? And he tells me, you trumped it up. If I were
10 the AG I might say something.

11 MR. BRODERICK-SOKOL: All right. With that, no
12 further questions. Thanks very much.

13 MR. MARGOLIS: I just want to add something in
14 response to a question you asked earlier on about the
15 difference -- the evident difference and recollections
16 between Kyle and me about the issue of the White House
17 signing off on the targeted list early on.
18 If Kyle told me that, and if I remembered it,
19 neither -- I certainly don't remember, and if I
20 remembered it a couple years later, I think that would
21 have been relevant to share, for both of us to share, at
22 the time of Paul's prep. He clearly remembered it,
23 because he says he remembered it. I don't remember, but
24 if I did I would have been remiss in not mentioning it.
25 MR. BRODERICK-SOKOL: As he may have been remiss

01 in not mentioning it. Is that what you're trying to say?

02 MR. MARGOLIS: Unless he didn't remember it
03 until later. You know, he said in his testimony that he
04 was focused on something else. And I've always found him
05 to be, well, you know, partisan, but I expect partisan,
06 to be truthful.

07 MR. BRODERICK-SOKOL: Okay. Thank you very
08 much.

09 MR. MARGOLIS: My pleasure. Seventy-five
10 percent home. But unintelligible usually does about three-quarters
11 of the questions.

12 MR. FLORES: Thank you for your generousness
13 with your availability to us today.

14 MR. MARGOLIS: Did I have any choice?

15 MR. FLORES: I'm going to ask a couple of
16 different sets of questions, a separate pair of questions
17 I had, and after that, a number of questions that are
18 just to clarify during the day -- to follow up on things
19 that happened during the day. So, the latter may be a
20 little bit more sort of jumping around, but if you'll be
21 with me I'd appreciate it.

22 If I could summarize the thrust of much of your
23 testimony earlier with regard to the individual U.S.
24 Attorneys, I had a -- with regard to six of the eight
25 whose resignations were requested, two you effectively

01 put on the list, or endorsed.
02 MR. MARGOLIS: One I clearly put on the list,
03 and the other one I either put on or endorsed.
04 MR. FLORES: Okay.
05 Four of the others -- is it correct that you
06 would agree that the dismissals -- or the individuals
07 were dismissed based on the grounds discussed?
08 MR. MARGOLIS: Yes.
09 MR. FLORES: So that's six of eight. The other
10 two, I believe -- please correct me if I'm wrong, but I
11 believe would be Mr. Cummins and --
12 MR. MARGOLIS: Bogden.
13 MR. FLORES: -- and Mr. Bogden.
14 Is it fair to say that, based on the information
15 that you have about those two individuals, that both of
16 them would fall under the category of U.S. Attorneys who
17 might be replaced from somebody who would bring more
18 energy to the leadership of their offices?
19 MR. MARGOLIS: I think that was what I heard
20 about Bogden.
21 MR. FLORES: Uh-huh.
22 MR. MARGOLIS: With Cummins, you know, it was a
23 little bit -- it was like that, but it was a little bit
24 different in the sense that, you know, we want to give
25 somebody -- a new person a chance, that you could say

01 that's -- you know, that's to get new leadership and
02 aggressiveness and, you know, new ideas and energy.
03 But you could also justify it that, you know,
04 people -- these are four-year appointments. They're not
05 eight-year appointments. It's well within the legitimate
06 discretion to give somebody else a chance, and it's
07 happened before, you know, with no basis.

08 MR. FLORES: Uh-huh.

09 Is it not the case that each of these eight
10 individuals had completed their full four-year term?

11 MR. MARGOLIS: Every one of them has.

12 MR. FLORES: Uh-huh.

13 To move to another thing you mentioned during
14 your testimony earlier in the day, I believe that you had
15 indicated that you thought it was good of the department
16 to embark on an exercise like this.

17 MR. MARGOLIS: Absolutely. And I -- I should
18 add one of my sadnesses -- I have a lot of sadnesses
19 about this, but it was a great idea. Our execution
20 wasn't particularly good, but we didn't have much
21 experience with it. But one of my great sadnesses is, I
22 fear that down the road people will shy away from doing
23 this again because of the burning here.

24 And so when a U.S. Attorney called me a couple
25 of weeks ago to run an idea past me, he said, I want to

01 take some action but I want to run it past you and take
02 your temperature because I don't want to get fired, I
03 said to him, "Buddy, you could urinate on the President's
04 leg right now and it wouldn't work."

05 [Laughter.]

06 MS. BURTON: We have to have that on the record.

07 MR. MARGOLIS: That's on the record.

08 MR. FLORES: Could you please describe for me,
09 if you can, what kinds of benefits, going through a
10 process like this and executing it well, would produce
11 for the department or could produce for the department?

12 MR. MARGOLIS: We would -- because, as much as
13 we try to get the right choices the first time around, we
14 don't always succeed. And in the past, as I think I
15 indicated, the only way a U.S. Attorney left was to die
16 or decide, you know, they're going to get another job, or
17 engage in misconduct and have us remove them, or have a
18 performance problem that boiled out into the open so that
19 we had to face it.

20 But that's not good for the department to have
21 some under-performers there who we just let slug along.
22 And maybe we do it because we got a First Assistant who
23 can take over and run the office, if the United States
24 Attorney is smart enough to let the First Assistant run
25 it. You know, the kind of U.S. Attorney that is a poor

01 performer may not be smart enough to get out of the way
02 and let the First Assistant do the job.

03 I remember, in the Carter administration,
04 hearing about a U.S. Attorney who was appointed who the
05 White House had to send a letter telling him what the
06 working hours were, you know, the 9:00 to 5:00 or 9:00 to
07 5:30 to make sure he understood that and was willing to
08 hang around during those hours. You know, we can do
09 better. And if we make a mistake the first time around
10 we ought to be able to correct it without -- without a
11 big mess.

12 Part of the problem here was execution, part of
13 it was, maybe we did too many at the same time and that
14 meant it was going to get out. If it didn't get out,
15 nobody would have been embarrassed and there wouldn't
16 have been a problem.

17 MR. FLORES: So would you like the department to
18 have another opportunity to do something like this and do
19 it right?

20 MR. MARGOLIS: Yeah. But I -- I'd like it, but
21 I think, once burned, twice shy. It's going to be hard.

22 MR. FLORES: Do you have a sense of -- and if
23 it's hard to quantify this, just let me know. Do you
24 have a sense of what the magnitude of the improvement in
25 the department's performance overall would be from

01 probable executing or executing well an exercise like
02 this mid-term?

03 MR. MARGOLIS: It's hard. I mean, I think
04 there'd be improvement. But what's going to -- you know,
05 let's see what happens with this. We don't have anybody
06 in place, a PAS in place, to replace any of these who've
07 left. And, you know, near the end of an administration,
08 an eight-year administration, a lot of people don't want
09 to give up their private lives and come in, so that's a
10 bit of a challenge. Other people aren't bothered by
11 that.

12 MR. FLORES: If I'm correct, you stated earlier
13 that when Kyle Sampson first discussed this process with
14 you you didn't have great expectations that it would bear
15 fruit because you knew it could be difficult through new
16 political appointees. Is that right?

17 MR. MARGOLIS: It's like pushing a pebble
18 uphill. Yeah. And it had never happened before.

19 MR. FLORES: How much concern do you have--you
20 need to add to your prior testimony--over the degree to
21 which this controversy would chill such exercises,
22 especially in light of that last fact, that you knew how
23 difficult it is to move political appointments out, ever.

24 MR. MARGOLIS: Except for, you know, misconduct
25 or public humiliation of either -- by performance.

01 MR. FLORES: Uh-huh.

02 MR. MARGOLIS: I have concern. I mean, that's -
03 - that's not my only concern. I'm very saddened by -- by
04 the fact that I'd like to see the department in the
05 newspaper every day for locking up the bad guys, and
06 we're getting in the paper every day now in a negative
07 light and that saddens me greatly.

08 Really, I think if this had happened at the
09 beginning of my career I don't think I would have stayed.
10 I would have said, boy, this is a place I want to -- I
11 don't want to hang my hat forever. But fortunately when
12 I started, this was before -- long before Watergate, and
13 press was uncritically supportive of us. Uncritically
14 supportive of us. And that's not good either, but, hell,
15 it was a lot more fun.

16 MR. FLORES: Earlier in your testimony you also
17 took a substantial amount of responsibility for what's
18 happened in this case.

19 MR. MARGOLIS: I'm bleeding over that.

20 MR. FLORES: Have you -- have you reflected
21 substantially over what you would do differently? Could
22 you walk me through sort of what kinds of things you
23 would do differently, different steps in this kind of
24 process?

25 MR. MARGOLIS: Yeah. I mean, I think -- I think

01 -- now, remember, Mr. Iglesias doesn't escape my ire over
02 this.

03 MR. FLORES: Right.

04 MR. MARGOLIS: But I would have, right from the
05 beginning, wanted to be very vigorous--rigorous?
06 Rigorous and vigorous--in establishing the grounds for
07 why we were getting rid of people, not because there's
08 any legal necessity, and only partially out of a sense of
09 fairness. Much more important than the sense of
10 fairness, because these are -- if John -- if Senator
11 Kerry were elected after the 2004 election, these people
12 would all be out on the street anyway, so it's not like
13 we're, you know, taking the jobs out from under them.
14 But partially out of a sense of fairness, but
15 also to protect the department's image and reputation so
16 that -- you know, like if we had -- while it was Mr.
17 Iglesias' responsibility to tell us about this call from
18 the Senator, if we had said to him, you know, we've got
19 problems with you, A, B, and C, maybe even tell him who
20 was complaining, he could say, whoa, wait, let me tell
21 you what this guy did. At least we'd know that and we
22 could say, well, we're going to do this in spite of it,
23 or maybe more likely, I hope we're going to step back
24 from this.

25 MR. FLORES: Uh-huh.

01 MR. MARGOLIS: So then I suppose, you know -- I
02 think maybe there's some resentment over the fact that we
03 didn't explain to them what the reasons were in these
04 cases. And it could have been just, you didn't follow
05 priorities. I think it was important to let them know it
06 wasn't misconduct.

07 MR. FLORES: What about, in terms of the end
08 game of the process where recommendations would have been
09 finally vetted, assembled, and moved on to the three
10 general -- what would you have done differently in that
11 phase of this kind of exercise?

12 MR. MARGOLIS: I think I would have wanted to
13 play a more central -- should play -- would have wanted
14 to play a more central role so that nobody -- people
15 could be retained over my objection, like this guy that I
16 brought in. I can understand, okay, he's retained, but
17 that nobody could be removed without my signing off.

18 MR. FLORES: Uh-huh.
19 Do you think if you had advocated for that kind
20 of authority in this process this time that that would
21 have been respected and agreed to?

22 MR. MARGOLIS: Yes. Yes.

23 MR. FLORES: On what --

24 MR. MARGOLIS: Because -- because, you know,
25 everybody was learning.

01 MR. FLORES: Uh-huh. Uh-huh.
02 You alluded to the importance of the
03 department's images -- or image in your answer just now.
04 Based on your long experience in the department, how
05 precious is the public perception of the department's
06 image? And in particular, the criminal community's
07 perception of that image in the department's ability --
08 to the department's effectively getting its job done?
09 MR. MARGOLIS: I think it's very, very
10 important. And sometimes, you know, we have -- we don't
11 have any control. When we took the nolo contendere plea
12 from nolo -- from Spiro Agnew, you know, tax defendants
13 all over the country were saying, we want a Spiro Agnew
14 plea.
15 And, you know, so we had to face up to that.
16 Our answer was, well, you go get elected Vice President
17 of the United States and maybe we'll consider it. But
18 it's very important to us to be even-handed, without fear
19 or favor.
20 MR. FLORES: Do you think it's one of the most
21 important factors in the department's effectiveness?
22 MR. MARGOLIS: I think it's even more important
23 than our reputation for competence because we can win our
24 cases sometimes by being out-lawyered, but not out-
25 honest.

01 MR. FLORES: Do you think there's been any
02 damage to the department's image as far as the process
03 that you would regard as unfair?

04 MR. MARGOLIS: I think short-term. I think
05 we'll get over it, though.

06 MR. FLORES: Uh-huh.

07 MR. MARGOLIS: And I think -- and I think--I may
08 be smoking something here--I don't think the public
09 follows what goes on around here as much as we do, I
10 really don't.

11 MR. FLORES: Let me ask you, why do you think
12 the light didn't go on in your mind as you were going
13 through this process this time, telling you that you
14 should be doing more to test the system that was being
15 used or make it more robust?

16 MR. MARGOLIS: I think, two things. One, is I
17 was so pleased that it was actually happening, and
18 second, I gave too much deference to -- you know, I
19 mentioned earlier, I know the difference in a career
20 guy's role and the political role, and I gave too much
21 deference to the political role here, saying, you know,
22 these guys--and woman -- women--serve at the pleasure of
23 the President, and so that's -- you know, that solves
24 that. I didn't think about the other, more subtle
25 aspects.

01 MR. FLORES: Uh-huh.
02 MR. MARGOLIS: I do now.
03 MR. FLORES: Do you think those in the process
04 gave too much reliance to that factor as well, that these
05 were political appointees that served at the pleasure of
06 the President?
07 MR. MARGOLIS: I don't know. My great nightmare
08 is they gave too much deference to the fact that I didn't
09 balk. That was my worst nightmare. Margolis didn't come
10 in and hit us over the head.
11 MR. FLORES: Yeah. Yeah.
12 One of the things that you spoke to earlier with
13 regard to Mr. Sampson was that you and he had been
14 through a lot of wars together --
15 MR. MARGOLIS: Right.
16 MR. FLORES: -- at the department and you had
17 taken away from that experience, in least in part, the
18 sense that in a number of cases that Mr. Sampson had
19 taken the high road on an issue.
20 MR. MARGOLIS: Yes.
21 MR. FLORES: If I'm correct, it was about ethics
22 or conduct.
23 MR. MARGOLIS: Yes. In dealings with the
24 politicians. Yeah.
25 MR. FLORES: Yeah.

01 And if I'm recalling correctly, you had said
02 that he had done that even when it might be difficult for
03 him to do so.

04 MR. MARGOLIS: Yes. When it cost -- was
05 costly. Yeah.

06 MR. FLORES: When it was costly to him in
07 political terms, you mean?

08 MR. MARGOLIS: Personally. You know, he had to
09 take an unpopular -- he had to stand up for what he
10 thought was right.

11 MR. FLORES: Yeah.

12 I'd like to understand that a little bit more.

13 Could you recount for us a few key examples of those
14 kinds of instances?

15 MR. MARGOLIS: I'll make them very general.

16 Like the one -- the most recent one just before all this
17 blew up was, there was a judicial candidate and a
18 question arose whether the White House could ask him
19 questions about a decision he had made as a prosecutor on
20 a -- on a case, to test him.

21 And Kyle came to me on it and he says, I -- I
22 really want to tell them that that's way out of bounds
23 and he shouldn't do it. What do you think? I support --
24 I'll support you on that. That's the most recent
25 example.

01 Once we were looking at a candidate who -- you
02 know, you'd think because he was an enemy, he was
03 perceived -- this is a bit of an overstatement, but
04 because he was perceived as an enemy of the -- the
05 administration's enemy, he would be perceived as a friend
06 of the administration. But Kyle's attitude was, look, if
07 somebody stabs my enemy in the back, that doesn't make
08 him my friend.

09 MR. FLORES: Uh-huh.

10 Are there any other instances that really stand
11 out in your mind at this point?

12 MR. MARGOLIS: Say again?

13 MR. FLORES: Are there any instances that really
14 stand out in your mind at this point?

15 MR. MARGOLIS: Not that -- not that I feel
16 comfortable talking about. But it was just -- no, we
17 would -- well, I'll tell you, he was -- one day we were
18 interviewing a candidate for -- not a U.S. Attorney's
19 job, some job -- a political job, though, and they came -
20 - you know, he said to me, okay, what -- how do you come
21 down on this guy?

22 MR. FLORES: Uh-huh.

23 MR. MARGOLIS: And I said, you know, if you're
24 looking for a token Democrat in the administration, in
25 the department, this is your guy. And I thought he had a

01 great answer. He said, "Hey, we only have room for one
02 token Democrat in the department, and so far that's been
03 you."

04 [Laughter.]

05 MR. MARGOLIS: I said, well, the hell with this
06 guy, you know, and walked out. I mean, he was just -- he
07 was good that way.

08 MR. FLORES: Yeah.

09 In your estimation, was there a common thread in
10 his character or approach to his job that you've
11 identified in these instances?

12 MR. MARGOLIS: I think he was professional. He
13 -- he was -- he was partisan but, you know, most people
14 are at that level. But I think he cared about the
15 department.

16 MR. FLORES: Uh-huh.

17 MR. MARGOLIS: He cared about the job we do.

18 MR. FLORES: Do you think that animated his
19 desire to perform this exercise to begin with?

20 MR. MARGOLIS: Yeah, it sure -- it sure wasn't a
21 good career developer. I mean, just -- even if it had
22 worked. I'm not -- this time I'm not being facetious.
23 Even if it had worked smoothly, you're going to have
24 eight enemies who have some degree of political
25 connection, and those eight, plus maybe some of the

01 Senators who -- who endorsed them.

02 MR. FLORES: Uh-huh.

03 MR. MARGOLIS: So it certainly wasn't a career
04 enhancer, and he's shrewd enough to have known that right
05 at the beginning.

06 MR. FLORES: Uh-huh.

07 Could you please give me your relative
08 assessment of the importance to the performance of an
09 individual U.S. Attorney of each of the categories of --
10 I'll call it under-performance. The eight individuals
11 that have been identified.

12 MR. MARGOLIS: I'm not sure I understand.

13 MR. FLORES: As we've talked today, the issues
14 we've discussed that you know of that concern their
15 performance that you know directly or you've seen in the
16 documentation or the information so far, relatively
17 speaking, where does performance on those issues, things
18 like following priorities, bringing energetic leadership,
19 et cetera, fall in a U.S. Attorney optimally performing?

20 MR. MARGOLIS: Well, I think the most important
21 thing is, to both -- both perception and the reality of -
22 - and I tell them when they come in, when I -- when I
23 finish with my political questions, I say, okay, now,
24 switching gears, politics got your foot in the door, but
25 politics stops at the door.

01 Once you become a United States Attorney, you're
02 a United States Attorney for everybody, Democrats,
03 Republicans, everybody, and we won't tolerate anything
04 less. So that's not listed anywhere, but that's number
05 one.

06 And then, sound judgment. You know, I've known
07 outstanding U.S. Attorneys who couldn't try a lawsuit.
08 I've known outstanding lawyers who were terrible United
09 States Attorneys. And then on rare occasions--too rare
10 occasions--you see a great United States Attorney who is
11 also a great lawyer. But judgment is very important
12 there.

13 And then, you know, it's easy to follow a
14 priority. Someone just has to have the will to do it.
15 You don't have to be a genius with that. So that's the
16 easiest part of the job. You may not want to follow
17 priorities. You may say, you know, obscenity,
18 immigration and guns are not important to me.

19 MR. FLORES: Uh-huh. Uh-huh.

20 MR. MARGOLIS: But, you know -- then, you know,
21 you shouldn't have taken the job.

22 MR. FLORES: Uh-huh.

23 MR. MARGOLIS: We tell them what the priorities
24 are when -- at the interview. We ask them what the
25 priorities are. We want to know if they know.

01 MR. FLORES: Some of the things that have been
02 discussed with regard to some of these individuals either
03 have been characterized as insubordination or might be
04 characterized as close to that, at least.
05 In your experience, what are the negative
06 effects that can begin to ripple through a U.S.
07 Attorney's office or the department here in Washington
08 when real or perceived insubordination by a U.S. Attorney
09 of department headquarters occurs?

10 MR. MARGOLIS: Okay. Let me -- let me say, in
11 an optimal situation there has to be a certain amount of
12 tension between headquarters and the field to make sure
13 they're both doing their job, and I like to be tested, in
14 theory anyway. As I indicated before, it can be a pain
15 in the neck to have to deal in the individual situation.
16 But it's good for the system if we're testing each other.

17 MR. FLORES: Uh-huh.

18 MR. MARGOLIS: But at a certain point that
19 testing has to end. The boss has spoken. If there isn't
20 adherence to the final decision, then, you know, that's
21 really a disrespect for the law. The word gets around,
22 we'll have 93 Attorneys General in the country and we
23 can't have that.

24 MR. FLORES: Uh-huh.

25 Would you go so far as to say that, in cases of

01 substantial enough insubordination, the fact of that
02 insubordination can effectively tie headquarters' hands
03 in terms of what ought to be done with that U.S.
04 Attorney?

05 MR. MARGOLIS: Yeah. I mean, the answer is,
06 they've got to go, and that's not that easy.

07 MR. FLORES: Uh-huh.
08 Could you describe to me, if you could, what, in
09 your understanding, is meant by kind of "energetic
10 leadership" of U.S. Attorneys Offices is desired by the
11 department?

12 MR. MARGOLIS: Somebody -- somebody who comes in
13 -- I mean, sometimes it can become laughable, almost; you
14 know, somebody's just running around in circles to show
15 that they have energy. But they're really focused. They
16 send -- they send that synergy out to everybody in the
17 office if they really love the job and every day is a
18 challenge to them and they're not just putting their time
19 in or just resting on their laurels.

20 MR. FLORES: Uh-huh. Uh-huh.

21 MR. MARGOLIS: I think people can sense it.

22 MR. FLORES: What kind of differences can you
23 tell between the overall performance of a district in
24 which there is a leader like that and a district in which
25 there's not?

01 MR. MARGOLIS: Well, sometimes it's subtle
02 because our career staff of AUSAs is very professional
03 and they may make fun of a weak United States Attorney
04 and bitch and moan about him or her, but they're still
05 going to do their jobs, maybe around the margins. Maybe
06 they'll go home an hour earlier than they would under a
07 guy who was there, you know, with them all the time.
08 I mean, Attorney General Kennedy used to call up
09 U.S. Attorneys' offices, you know, after 6:00 at night
10 and whoever answered the phone, he'd introduce himself
11 and he'd ask them what they were working on, and he would
12 ask them a whole bunch of questions on it, and that
13 worked. He'd make one call and that got all over the
14 country: the Attorney General asked me about my case and
15 asked me intelligent questions about my case. He was
16 interested. And if a U.S. Attorney does that too --
17 MR. FLORES: Uh-huh.
18 MR. MARGOLIS: -- that's great. If he keeps his
19 door locked, as we heard about Kevin, that sends the
20 wrong message.
21 MR. FLORES: Uh-huh.
22 One thing that's been referred to at different
23 times today more than the other is the idea of U.S.
24 Attorneys serving at the pleasure of the President. How
25 important is it usually to the effectiveness in the

01 department that that principle be honored for political
02 appointees, in general and in the sense that it's that
03 principle that helps assure political accountability to
04 the public of the political appointees?

05 MR. MARGOLIS: I think, very important. Very
06 important. I tell -- now, I tell these people at the end
07 of the interview that, you know, you're appointed by the
08 President and serve at his pleasure.

09 MR. FLORES: Uh-huh.

10 MR. MARGOLIS: However, he's a busy man and he's
11 got a war on terrorism, among other things, to fight, so
12 he'd like you to not be calling him, and the Attorney
13 General was the one they'd be dealing with, and they
14 understand that.

15 MR. FLORES: Uh-huh.

16 And you've seen that play out over
17 administration after administration, haven't you?

18 MR. MARGOLIS: Yes. I mean, there are people
19 who say, more often marshalls than U.S. Attorneys when
20 there's a problem and it's time for them to go -- I've
21 had -- I've had them say to me, hey, I was appointed by
22 the President, not by you, and, you know, implying that
23 it would have to take the President to discharge them.
24 So, they got their wish.

25 MR. FLORES: You discussed earlier, if I'm

01 remembering correct -- correct me if I'm wrong, that on
02 the 8th or 9th of March, you had a meeting with the
03 Deputy Attorney General about the news that Kyle seemed
04 to have conveyed based on his e-mails that he discovered
05 and whatnot.
06 MR. MARGOLIS: No.
07 MR. FLORES: Not correct?
08 MR. MARGOLIS: No. Kyle did. I mean, Kyle came
09 to see me about the e-mails.
10 MR. FLORES: Okay.
11 MR. MARGOLIS: Then he went to see the Deputy.
12 MR. FLORES: Got you.
13 To your knowledge, did both Kyle Sampson and
14 Monica Goodling come to you first in their responses to
15 these disclosures?
16 MR. MARGOLIS: He -- Kyle clearly did. And I
17 don't know if Monica ever did go to the Deputy.
18 MR. FLORES: Uh-huh.
19 MR. MARGOLIS: But I'm sure she saw me first,
20 though. I just have this vague recollection, when I told
21 Paul about her visit, you know, a couple of days later --
22 MR. FLORES: Uh-huh.
23 MR. MARGOLIS: -- that that was news to him.
24 MR. FLORES: Uh-huh.
25 Why do you think they did that?

01 MR. MARGOLIS: I don't know. Part of it -- I
02 don't know. Part of it's probably, they were -- well, I
03 think there were two different things. I mean, all
04 Monica did -- and I don't want to make light of it, but
05 all she did was cry. You know, Kyle -- I think Kyle was
06 very contrite and solemn.

07 MR. FLORES: Uh-huh.

08 MR. MARGOLIS: And I don't know if he was
09 apologetic or whatever, but for a heads up, you know,
10 that's when he was a heads up.

11 MR. FLORES: Uh-huh.

12 MR. MARGOLIS: This stuff all came out a couple
13 days later.

14 MR. FLORES: Okay.

15 Let me turn, quickly, to the EARS reports issue.
16 I believe you said earlier--correct me if I'm wrong--that
17 the EARS report served to help identify for U.S.
18 Attorneys issues that they needed to address.

19 MR. MARGOLIS: Right.

20 MR. FLORES: When you said that, were you
21 referring to issues in your office that they needed to
22 address --

23 MR. MARGOLIS: Yes.

24 MR. FLORES: -- or issues about themselves they
25 needed to address?

01 MR. MARGOLIS: Mostly the office. Maybe
02 occasionally about them.
03 MR. FLORES: Uh-huh.
04 MR. MARGOLIS: And mostly a lot of technical
05 stuff.
06 MR. FLORES: Such as?
07 MR. MARGOLIS: Such as, you don't have all the
08 checks and balances in for check cashing, or something
09 like that.
10 MR. FLORES: Uh-huh. Uh-huh. I see.
11 MR. MARGOLIS: You don't have a security
12 perimeter in place.
13 MR. FLORES: Uh-huh.
14 In your years at the department have you ever
15 run into a scenario in which you had something that might
16 be characterized as a "rogue" district, a district that
17 was, you know, much more than others, sloughing off
18 attentiveness to headquarters' direction, or -- I see you
19 looking across the table.
20 MR. MARGOLIS: Yes. I wouldn't call them
21 "rogue". I would say we have 92 U.S. Attorneys and two
22 Attorneys General in the administration.
23 MR. FLORES: And in which city were the second
24 ones?
25 MR. MARGOLIS: The Sovereign District of New

01 York.

02 MR. FLORES: That would be the Southern District
03 of New York?

04 MR. MARGOLIS: Yes. I'm exaggerating a bit.

05 MR. FLORES: Yes.

06 To what extent does the unusual independence of
07 that district, if that's a fair characterization, create
08 difficulties for the department in achieving its mission?

09 MR. MARGOLIS: Well, they can be a royal pain in
10 the ass, but on the other hand, they produce. And other
11 rogue districts, I fear -- you know, they're not as smart
12 as they think they are.

13 MR. FLORES: Uh-huh.

14 MR. MARGOLIS: But these guys produce over the
15 years. So you've got to occasionally bat them around,
16 but they don't -- they won't embarrass you.

17 MR. FLORES: Uh-huh.

18 How commonly do you get a rogue district?

19 MR. MARGOLIS: Excuse me?

20 MR. FLORES: How commonly do you get a rogue
21 district?

22 MR. MARGOLIS: Not very often. Usually it would
23 be the U.S. Attorney, not -- you know, and the people in
24 the office take their lead from the U.S. Attorney.

25 MR. FLORES: Right.

01 To the extent that anything comes right to mind,
02 could you recount for me what the -- what the
03 department's historical practices have been across
04 administrations to try to ensure consistency in U.S.
05 Attorneys' offices with headquarters' priorities?
06 MR. MARGOLIS: The Attorneys General and
07 Deputies, usually the Deputy Attorney General, would, you
08 know, jawbone issues. Assistant Attorneys General would.
09 MR. FLORES: Uh-huh.
10 MR. MARGOLIS: But we always have room for, you
11 know, local priorities, too.
12 MR. FLORES: Uh-huh.
13 MR. MARGOLIS: I don't want to make you think
14 that everything is the same all over the country. That's
15 not true.
16 MR. FLORES: Uh-huh.
17 Could I ask you to turn to the dismissal of the
18 93 U.S. Attorneys by President Clinton at the outset of
19 his administration? I know that you started in your
20 current duties after that happened.
21 MR. MARGOLIS: That's true.
22 MR. FLORES: But to the extent that you have
23 what you think would be an opinion or information in
24 which one could have confidence, what's your
25 understanding -- what was the nature of that review of

01 U.S. Attorneys?

02 MR. MARGOLIS: I think somebody made -- I don't
03 think there was any analysis. I think somebody made a
04 poor judgment and we're lucky it didn't, you know, blow
05 up worse than it did.

06 MR. FLORES: Yeah.

07 MR. MARGOLIS: I mean, one of -- one of the -- I
08 mean, you just can't do that. One of the down sides to
09 it, you know, U.S. Attorneys who are bitter--and some
10 were--you know, could say this was done to stop an
11 investigation.

12 MR. FLORES: Uh-huh.

13 Do you think it was?

14 MR. MARGOLIS: No. I think it was so early and
15 so scatterbrained, that they didn't know what effect it
16 had. And that was part of the problem.

17 MR. FLORES: Uh-huh.

18 MR. MARGOLIS: An unintended consequence.

19 MR. FLORES: Uh-huh.

20 MR. MARGOLIS: But I also sense that they backed
21 off, though I may be wrong about that. But I think -- I
22 think after it blew up there was, oh, well, it doesn't
23 have to be tomorrow or the next day.

24 MR. FLORES: Uh-huh.

25 What kind of impact did that exercise have on

01 the effectiveness of the department in the first couple
02 years of that administration?

03 MR. MARGOLIS: I think it just had a -- it had a
04 temporary negative effect.

05 MR. FLORES: Uh-huh. Uh-huh.

06 MR. MARGOLIS: And I think -- I think people
07 would have -- it would be relegated to the dust bin of
08 history but for this situation which has now, you know,
09 brought it back to the fore.

10 MR. FLORES: Uh-huh.

11 In the past when there have been concerns in the
12 administration about U.S. Attorneys and their
13 performance, am I fair in characterizing the thrust of
14 your response is that, generally, some action has been
15 taken here and there but it's been less methodical and
16 less well thought out?

17 MR. MARGOLIS: And very soft.

18 MR. FLORES: Yeah.

19 MR. MARGOLIS: I mean, we treaded on softly. You
20 know, I would -- and during my tenure, I mean, I remember
21 it was a U.S. Attorney who had a negative evaluation that
22 really catches your attention.

23 MR. FLORES: Uh-huh.

24 MR. MARGOLIS: I called him in. I didn't think,
25 you know, he was going to get fired. He wasn't a crook

01 or anything like that.

02 MR. FLORES: Uh-huh.

03 MR. MARGOLIS: But I really chewed him out and
04 he reacted negatively, and I told him, you fool, I'm
05 trying to save your job for you. I don't think you're
06 worth it, actually. I think he got a little bit better,
07 and it was near the end of that administration.

08 MR. FLORES: Uh-huh.

09 With regard to each of the districts that we're
10 talking about--in this instance, the eight districts from
11 which people resigned--

12 MR. MARGOLIS: Right.

13 MR. FLORES: --do you believe the department is
14 now positioned to do better in each of those districts?

15 MR. MARGOLIS: Say again?

16 MR. FLORES: Do you think the department is now
17 positioned to do better --

18 MR. MARGOLIS: We have an opportunity. And we -
19 - like I said, we haven't chosen -- let me make sure I'm
20 right about this. We have not chosen any of the PAS
21 replacements yet. We'd better do well.

22 MR. FLORES: Uh-huh. Uh-huh.

23 Let me turn now to the --

24 MR. MARGOLIS: Like I said before, the extra
25 challenge is, it's a short -- short timeframe.

01 MR. FLORES: Sure.
02 I'll turn to the follow-up questions that I had
03 to your earlier testimony. It won't take us too long.
04 Right at the very outset of your -- your morning
05 testimony, you had indicated that you were only aware of
06 a couple of resignations that happened in the Clinton and
07 Reagan administrations, other than for conduct or ethical
08 violations.
09 MR. MARGOLIS: Or I think that what I meant was,
10 if you put aside conduct --
11 MR. FLORES: Yeah.
12 MR. MARGOLIS: -- and you put aside poor
13 performance which blew up in public so we had to address
14 it publicly, I can't recall anybody being forced out.
15 MR. FLORES: Would you have been certain to have
16 known of anybody like that?
17 MR. MARGOLIS: Not that certain, but more likely
18 than not.
19 MR. FLORES: Uh-huh.
20 MR. MARGOLIS: When we've got a U.S. Attorney
21 who bit a stripper, a dancer on the elbow, we had one who
22 choked a reporter, that was, you know, public -- a public
23 spectacle covered in the press.
24 MR. FLORES: Uh-huh.
25 MR. MARGOLIS: I like to think we would have

01 done something about it even if it hadn't come out
02 publicly.
03 MR. FLORES: Sure.
04 If you've already covered this before please let
05 me know, but, I mean, you've talked about, to what degree
06 that doing exercises like this where you exercise -- the
07 department, but thinking back on specific prior
08 administrations, how much do you think they could have
09 benefitted had they done this?
10 MR. MARGOLIS: I think I already did. I think
11 people -- as I said, people are going to be a little bit
12 squeamish or skittish about the future.
13 MR. FLORES: Uh-huh. Uh-huh.
14 To turn now to early 2005, when I believe you
15 said that Mr. Sampson and you first discussed this review
16 and Mr. Sampson first showed you the list --
17 MR. MARGOLIS: Or told me about it.
18 MR. FLORES: Yeah.
19 MR. MARGOLIS: I'm not sure whether he told me
20 or showed me.
21 MR. FLORES: Okay.
22 With regards to the people that you felt
23 strongly about or thought that he should -- I guess we've
24 gone through the people you felt strongly about. Those
25 would have been Mr. Ryan, Ms. Chiara.

01 MR. MARGOLIS: And then it was -- I added,
02 later, a third person who I had forgotten about, because
03 I got rid of that person for conduct long before --
04 shortly after them. So, it never -- I think we would
05 have gotten rid of him if he hadn't committed
06 misconduct.

07 MR. FLORES: If you've already answered, let me
08 know. But what criteria did you apply in evaluating that
09 third person at that point?

10 MR. MARGOLIS: Complaints that I -- complaints
11 I'd received about him for insubordination, for one.

12 MR. FLORES: Uh-huh.

13 MR. MARGOLIS: And number two, my own
14 interaction with him on some communications that he had
15 that I would have to call goofy.

16 MR. FLORES: Uh-huh.

17 MS. BURTON: For the record, do you have your
18 key with you to get back into your office?

19 MR. MARGOLIS: Oh, yeah.

20 MS. BURTON: Okay.

21 MR. FLORES: I won't take too much longer.

22 MS. BURTON: Okay.

23 MR. FLORES: With regard to the individuals who
24 you thought that Kyle should take a look at, who you
25 weren't then advocating be put on the list, what were the

01 criteria that were in your mind with regard to those
02 people?
03 MR. MARGOLIS: You'll remember, some of them
04 were people who had OPR or OIG investigations ongoing at
05 the time, so I think we had to -- you know, we had to
06 take a look at, there might be a misconduct or a poor
07 judgment kind of --
08 MR. FLORES: Uh-huh. Uh-huh.
09 If you could just clarify--I'm not recalling
10 anything--in your prior testimony you indicated that none
11 of the people on that second list in the end were on the
12 list of the eight in December of '06, but please correct
13 me if I'm wrong.
14 MR. MARGOLIS: I think Margaret was on my second
15 list.
16 MR. FLORES: Uh-huh. Okay.
17 MR. MARGOLIS: Second tier.
18 MR. FLORES: Okay.
19 Please bear with me while I review the notes
20 here.
21 MR. MARGOLIS: Sure.
22 [Pause]
23 MR. FLORES: Based on what you knew then and
24 know now, do you think that -- withdraw that.
25 Based on -- based on what you knew then and you

01 know now, you've said that if you had inserted yourself
02 into the process that occurred more that things -- that
03 might have changed things.
04 MR. MARGOLIS: Yes.
05 MR. FLORES: But do you believe that the bottom
06 line as to the eight individuals whose resignations were
07 sought would actually have changed?
08 MR. MARGOLIS: Based on all the circumstances
09 that came out afterwards.
10 MR. FLORES: Yeah.
11 MR. MARGOLIS: The only one I'd have a question
12 about there is Bogs.
13 MR. FLORES: Uh-huh.
14 MR. MARGOLIS: And I just haven't seen it. I
15 would -- that's one that I would have liked to peel back
16 a little bit more.
17 MR. FLORES: Uh-huh.
18 MR. MARGOLIS: I don't think I'm alone on that.
19 MR. FLORES: Okay.
20 Just to clarify for the record, is that Bogden?
21 MR. MARGOLIS: Yeah. Yes.
22 MR. FLORES: Uh-huh. Uh-huh.
23 MR. MARGOLIS: I may be a little bit prejudiced.
24 I don't think so, but, you know, he's a former Assistant
25 U.S. Attorney so he -- you know, he occupies a place

01 close to my heart, but I don't think that's what's
02 driving my concern.
03 MR. FLORES: Uh-huh. Okay.
04 MR. MARGOLIS: I mean, Charlton is a former
05 AUSA, too.
06 MR. FLORES: Right.
07 MR. MARGOLIS: As is Carol.
08 MR. FLORES: And you put both of them in a
09 different category.
10 MR. MARGOLIS: Yeah.
11 MR. FLORES: Okay.
12 Based on what you know at this point, do you
13 still consider, or would you consider, Mr. Bogden as a
14 close call?
15 MR. MARGOLIS: Yes.
16 MR. FLORES: The next question. There was one
17 thing you said earlier that referred to Mr. Sampson that
18 I'd like to follow up on. You had said that you would
19 have very strongly supported him for the Utah U.S.
20 Attorney job.
21 MR. MARGOLIS: It's not, I would have. I did.
22 MR. FLORES: Why is that?
23 MR. MARGOLIS: A couple of reasons. I thought
24 he had the talent. I thought he had the good judgment
25 and the diligence. And I'm a firm believer in loyalty,

01 and he was loyal to this department, so I think this
02 department should be loyal to him. And it was. It
03 backed him.

04 MR. FLORES: Uh-huh.

05 MR. MARGOLIS: You know, other forces prevailed,
06 but I felt very comfortable in going to the mat for him
07 an arguing hard for him.

08 MR. FLORES: Do you believe he had the proper
09 respect for, and understanding of, the role of a U.S.
10 Attorney in the Justice Department at that time?

11 MR. MARGOLIS: I think he would have been one of
12 those Sovereign District of New York guys out there, but
13 once he got out there he would not have -- he would not
14 have been saying, what do they want me to do? What do
15 they want me to do? I don't think so at all.

16 MR. FLORES: He would have been energetic and
17 hard-charging?

18 MR. MARGOLIS: He would have been energetic,
19 hard-charging, and independent.

20 MR. FLORES: Yeah.

21 Do you think he would have exercised his job
22 with integrity?

23 MR. MARGOLIS: Yes. Yes.

24 MR. FLORES: Do you have any reason to question
25 it?

01 MR. MARGOLIS: His integrity? No. From one of
02 the -- we talked about the image of the department
03 suffering temporarily. That's sad. These people being
04 embarrassed is sad. But, you know, the public career of
05 Kyle Sampson, which I thought had some potential, good
06 potential, I suspect that's over. Monica. I don't know
07 what's going to happen. She's a household word now,
08 which I'm sure she -- is bothering her.

09 MR. FLORES: Uh-huh. Uh-huh.
10 Touching on one of the other threads that came
11 out earlier, there was a question earlier about a judge
12 in the Northern District of California requesting an EARS
13 evaluation of Mr. Ryan.

14 MR. MARGOLIS: Yes.

15 MR. FLORES: What role would a judge
16 legitimately have to play in the justice system in which
17 they could appropriately be requesting a copy of an EARS
18 evaluation?

19 MR. MARGOLIS: They can request. I mean, I
20 wasn't going to give it to them. But I think -- I think,
21 as I told this judge, you know, you're not going to give
22 me a copy of an evaluation of the clerk's office, so, you
23 know, we're co-equal branches of the government. This
24 was a very polite conversation, but very pointed.

25 MR. FLORES: Uh-huh.

01 MR. MARGOLIS: But I think a judge should weigh
02 in. We want to -- we want to hear from judges. They're
03 one of our constituencies. It doesn't mean we're going
04 to do what they tell us to do.
05 MR. FLORES: But if I'm not mistaken, you said
06 that judges do weigh in on the preparation of the EARS
07 evaluation. Am I right?
08 MR. MARGOLIS: Yes.
09 MR. FLORES: But once the report was prepared,
10 what business would a judge have receiving the actual
11 report?
12 MR. MARGOLIS: If the judge -- if -- if a judge
13 or a bunch of judges in a district think that the office
14 is going in the wrong direction, I want to hear about it.
15 Like I say, that doesn't mean that I'm going to take that
16 as proven, but I want to follow up on it.
17 MR. FLORES: Okay.
18 MR. MARGOLIS: Now, this isn't the first time
19 this judge has weighed in on one of our U.S. Attorneys.
20 MR. FLORES: Uh-huh.
21 Moving, now, to another issue, you were asked
22 some questions about the White House counsel. If
23 I'm recalling your testimony--please correct me if I'm
24 wrong--you had indicated that White House counsel would
25 have gone to the President himself to clear a program of

01 removing U.S. Attorneys or dismissing one?

02 MR. MARGOLIS: No. I'm not sure about -- maybe
03 that would be wise and discreet to go to the President
04 about the program, but I meant that individual attorney,
05 an individual U.S. Attorney couldn't be fired without the
06 President's authority.

07 MR. FLORES: Are you aware of what the practice
08 has been in this administration of the background
09 authority within the White House, whether it was
10 delegated, or left to the President, or otherwise
11 handled?

12 MR. MARGOLIS: I think -- I think the President,
13 you know, has to make the decision. He can say, okay,
14 I've heard enough and I delegate to -- the White House
15 counsel firing this person. An OLC would be a better
16 judge of this than me, but I think the President really
17 has to -- has to have a hands-on role in it.

18 MR. FLORES: Do you have any firsthand knowledge
19 of actually what might have happened in this
20 administration?

21 MR. MARGOLIS: No.

22 MR. FLORES: Okay.

23 This might be my last question. Let me just do
24 a quick double-check here. You've been here a long time.

25 MR. MARGOLIS: Did I break Moschella's record?

01 MR. FLORES: No. No.
02 MR. MARGOLIS: Bring it on. Bring it on.
03 [Laughter.]
04 MR. FLORES: One last question. If I could ask,
05 which hearing preparation/process did you participate in
06 again?
07 MR. MARGOLIS: The Paul McNulty Judiciary --
08 Senate Judiciary. That may have encompassed his prep
09 session -- I mean, his private session with Senator
10 Schumer. I mean, it may have been together.
11 MR. FLORES: Okay.
12 MR. MARGOLIS: But I didn't -- the one I didn't
13 participate was in Moschella.
14 MR. FLORES: Uh-huh.
15 Do you believe that you withheld, intentionally
16 or otherwise, any information that you believe at that
17 time might be relevant and material to the questioning he
18 would receive?
19 MR. MARGOLIS: Do I believe I would tell him?
20 Yeah.
21 MR. FLORES: Pardon?
22 MR. MARGOLIS: Maybe I -- say it again.
23 MR. FLORES: If you could read back the
24 question.
25 [Whereupon, the question was read back.]

01 MR. MARGOLIS: I'm still not sure I get that.
02 MR. FLORES: Yeah.
03 MR. MARGOLIS: I think you're leaving out a
04 word. I think you're asking me whether -- if I had
05 information, whether I would intentionally or
06 inadvertently withhold that relevant information?
07 MR. FLORES: No, no. I'm asking, did you?
08 MR. MARGOLIS: Oh. No.
09 MR. FLORES: Did you?
10 MR. MARGOLIS: No. No.
11 MR. FLORES: Okay.
12 MR. MARGOLIS: I might have done something
13 inadvertently, but not intentionally.
14 MR. FLORES: Okay.
15 Did you want to --
16 MR. HUNTER: I just wondered, is this going to
17 the issue to which he testified earlier about, had he
18 known something he would have been remiss not to have
19 mentioned it? There was some earlier discussion. Is
20 that what you're getting at?
21 MR. FLORES: That's not --
22 MR. MARGOLIS: Well, I would agree with that,
23 though.
24 MR. FLORES: Not necessarily.
25 Did you ever intend, in the process of that

01 preparation, to mislead or misinform Congress?
02 MR. MARGOLIS: No. Absolutely not. The thought
03 would appall me.
04 MR. FLORES: I have no further questions.
05 MR. MARGOLIS: Okay. Thank you.
06 MR. FLORES: Thank you very much.
07 [Whereupon, at 7:05 p.m. the interview was
08 concluded.]
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01 C E R T I F I C A T E

02 This is to certify that the foregoing
03 proceedings of an interview of David Margolis, in the
04 matter of Preserving Prosecutorial Independence: Is the
05 Department of Justice Politicizing the Hiring and Firing
06 of U.S. Attorneys, held on Tuesday, May 1, 2007, were
07 transcribed as herein appears, and this is the original
08 of transcript thereof.

09

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11 LISA DENNIS
12 Court Reporter

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