

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

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

Those Chosen To Be Acting/Interim U.S. Attorneys since the Attorney General's Appointment Authority Was Amended on March 9, 2006, Have Continued To Be Highly Qualified. Of the 14 districts in which vacancies have occurred, 15 acting and/or interim appointments have been made:

- 14 of the 15 had prior experience as federal prosecutors (93%)

Examples of Difficult Transition Situations

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

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

This problem is not new ...

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

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

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

2. **South Dakota:**

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

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

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

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

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

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

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

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

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

BIOGRAPHIES OF U.S. ATTORNEYS FROM ARKANSAS

EASTERN DISTRICT

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

Appointed 12/20/2006

Educational Background:

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

Prosecution & Military Background:

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

Political experience:

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

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

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

Talkers:

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

Background:

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

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

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

Talkers:

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

Background:

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

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

WESTERN DISTRICT

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

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

Talkers:

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

Background:

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

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

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

Talkers:

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

Background:

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

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

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

Talkers:

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

Background:

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

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

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

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

J. TIMOTHY GRIFFIN

EDUCATION

Tulane University Law School. New Orleans, Louisiana. Juris Doctor, *cum laude*, May 1994. Cumulative G.P.A.: 3.25/4.00; Rank: 80/319, Top 25%. Common law and civil law curricula. Legal Research and Writing grade: A.

- Senior Fellow, Legal Research and Writing Program. Taught first year law students legal research and writing.
- Volunteer, The New Orleans Free Tutoring Program, Inc.

Oxford University, Pembroke College. Oxford, England. Graduate School, British and European History, 1990-1991.

- Under-secretary and Treasurer, Oxford University Clay Pigeon Shooting Club.

Hendrix College. Conway, Arkansas. Bachelor of Arts in Economics and Business, *cum laude*, June 1990. Cumulative G.P.A.: Major 3.79/4.00, Overall 3.78/4.00; Rank: 22/210, Top 10%.

- Oxford Overseas Study Course, September 1988-May 1989, Oxford, England.

LEGAL EXPERIENCE

U.S. Attorney (Interim). Eastern District of Arkansas, U.S. Department of Justice. Little Rock, Arkansas. December 2006-present.

- Served as a Special Assistant U.S. Attorney, Eastern District of Arkansas, September-December 2006.

Trial Counsel, U.S. Army JAG Corps. Criminal Law Branch, Office of the Staff Judge Advocate. Fort Campbell, Kentucky, September 2005-May 2006; August-September 2006.

- Successfully prosecuted U.S. v. Mikel, involving a soldier's attempted murder of his platoon sergeant.
- Provided legal advice to E Co., 1st and 3rd Brigade Combat Teams, 101st Airborne Division (Air Assault)(R)(P).
- Prosecuted 40 Army criminal cases at courts-martial and federal criminal cases as a Special Assistant U.S. Attorney, Western District of Kentucky and Middle District of Tennessee, and handled 90 administrative separations.

Brigade Judge Advocate, U.S. Army Judge Advocate General's (JAG) Corps. Operation Iraqi Freedom. Task Force Band of Brothers. 501st STB, 101st Airborne Division (Air Assault). Mosul, Iraq, May-August 2006.

- Served on the Brigade Operational Law Team (BOLT), 172d Stryker Brigade Combat Team, FOB Marez, Iraq.
- Provided legal advice on various topics, including financial investigations, rules of engagement, and rule of law.

Special Assistant to the Assistant Attorney General. Criminal Division, U.S. Department of Justice. Washington, D.C. and Little Rock, Arkansas. March 2001-June 2002.

- Tracked issues for Assistant Attorney General Michael Chertoff and worked with the Office of International Affairs (OIA) on matters involving extradition, provisional arrest and mutual legal assistance treaties (MLATs).
- Prosecuted federal firearm and drug cases and served as the coordinator for Project Safe Neighborhoods, a strategy to reduce firearm-related violence through cooperation between state and federal law enforcement, as a Special Assistant U.S. Attorney, Eastern District of Arkansas, in Little Rock, September 2001-June 2002.

Senior Investigative Counsel. Committee on Government Reform, U.S. House of Representatives. Washington, D.C. January 1997-February 1998; June 1998-September 1999.

- Developed hearing series entitled "National Problems, Local Solutions: Federalism at Work" to highlight innovative and successful reforms at the state and local levels, including: "Fighting Crime in the Trenches," featuring New York City Mayor Rudolph Giuliani, and "Tax Reform in the States."
- Pursuant to the Committee's campaign finance investigation, interviewed Johnny Chung and played key role in hearing detailing his illegal political contributions; organized, supervised and conducted the financial investigation of individuals and entities; interviewed witnesses; drafted subpoenas; and briefed Speaker of the House Newt Gingrich.

Associate Independent Counsel. U.S. Office of Independent Counsel David M. Barrett. *In re: Henry G. Cisneros, Secretary of Housing and Urban Development (HUD)*. Washington, D.C. September 1995-January 1997.

- Interviewed numerous witnesses with the F.B.I. and supervised the execution of a search warrant.
- Drafted subpoenas and pleadings and questioned witnesses before a federal grand jury.

OAG000001411

Associate Attorney. General Litigation Section. Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P. New Orleans, Louisiana. September 1994-September 1995.

- Drafted legal memoranda and pleadings and conducted depositions.

ADDITIONAL WORK EXPERIENCE

Special Assistant to the President and Deputy Director. Office of Political Affairs, The White House. Washington, D.C. April-September 2005. On military leave after mobilization to active duty, September 2005-September 2006.

- Advised President George W. Bush and Vice-President Richard B. Cheney.
- Organized and coordinated support for the President's agenda.

Research Director and Deputy Communications Director. 2004 Presidential Campaign, Republican National Committee (RNC). Washington, D.C. June 2002-December 2004.

- Briefed Vice-President Richard B. Cheney and other Bush-Cheney 2004 (BC04) and RNC senior staff.
- Managed RNC Research, the primary research resource for BC04, with over 25 staff.
- Worked daily with BC04 senior staff on campaign and press strategy, ad development and debate preparation.

Deputy Research Director. 2000 Presidential Campaign, Republican National Committee (RNC). Washington, D.C. September 1999-February 2001.

- Managed RNC Research, the primary research resource for Bush-Cheney 2000 (BC00), with over 30 staff.
- Served as legal advisor in Volusia and Brevard Counties for BC00 Florida Recount Team.

Campaign Manager. Betty Dickey for Attorney General. Pine Bluff, Arkansas. February 1998-May 1998.

SUMMARY OF MILITARY SERVICE

Major. JAG Corps, U.S. Army Reserve. Commissioned First Lieutenant, June 1996.

- Served on active duty in Mosul, Iraq with the 101st Airborne Division (Air Assault), and at Fort Campbell, Kentucky, September 2005-September 2006.
- Authorized to wear 101st Airborne Division (Air Assault) "Screaming Eagle" combat patch.
- **Medals, Ribbons and Badges:** Army Commendation Medal with Five Oak Leaf Clusters; Army Achievement Medal with Four Oak Leaf Clusters; Army Reserve Components Achievement Medal with Two Oak Leaf Clusters; National Defense Service Medal; Iraq Campaign Medal; Global War on Terrorism Service Medal; Armed Forces Reserve Medal with Bronze Hourglass and "M" Devices; Army Service Ribbon; and Army Reserve Overseas Training Ribbon with "3" Device; and Combat Action Badge.

ACTIVITIES AND ASSOCIATIONS

Arkansas Bar Association. Little Rock, Arkansas. *Member*, 1995-present. Annual Meeting Subcommittee on Technology, 2002. Admitted to Arkansas Bar, April 26, 1995.

Friends of Central Arkansas Libraries (FOCAL). Little Rock, Arkansas. *Life Member*.

Florence Crittenton Services, Inc. Little Rock, Arkansas. *Member*, Board of Directors, 2001-2002.

Louisiana State Bar Association. New Orleans, Louisiana. *Member*. Admitted October 7, 1994. Currently inactive.

The Oxford Union Society. Oxford, England. *Member*, 1990-present.

Pulaski County Bar Association. Little Rock, Arkansas. *Member*, 2001-2002. *Co-chair*, Law School Liaison Committee, 2001-2002.

Reserve Officers Association. Washington, D.C. *Life Member*.

QUESTIONS

Firings

I am deeply concerned about the recent firings of qualified and demonstrably capable U.S. Attorneys and their replacement with individuals who lack the traditional qualifications for the position [and instead have a deeply political, partisan background]. The perception of many is that this reveals a growing politicization of the work of federal prosecutors. How can you explain this action?

The Attorney General's actions are unlike anything that has occurred before. Never before [except in rare instances of misconduct or for other significant cause] have we seen the type of turnover now in progress, where the Attorney General, not the President, is asking mid-term that demonstrably capable U.S. Attorneys submit their resignations. Why did he do it? Why now?

Were they fired because you wanted U.S. Attorneys who are more politically and —behaviorally-aligned with your priorities?

Were they fired because of public corruptions or other sensitive cases that were brought or are in process?

Were they fired because of a Congressman's criticism?

Were they fired just to give another person the chance to serve and have the high-profile platform of serving as a U.S. Attorney?

These firings leave the appearance that there is an ongoing effort by the Attorney General to consolidate power over USAOs and insulate their actions from the scrutiny of Congress. I don't know how else to explain why a U.S. Attorney like Bud Cummins would be terminated after receiving sterling evaluations and be replaced by a political adviser who doesn't have nearly the same qualifications. How do you explain it?

Hasn't the purging of qualified U.S. Attorneys for political reasons had a devastating impact on the morale of Assistant U.S. Attorneys?

Hasn't the dismissal of competent U.S. Attorneys posed risks to ongoing law enforcement initiatives? Hasn't replacement with interim U.S. Attorneys unfamiliar with local law enforcement priorities posed risks to ongoing investigations and prosecutions?

Hasn't the unwarranted firing of strong, independent U.S. Attorneys created cynicism about the role of politics in all prosecutorial decisions?

Lam resignation

Why was Carol Lam fired?

Because of her political views?

Because her office was in the middle of a high-profile public corruption investigation? ["We do not doubt that removing Ms. Lam from the U.S. Attorneys' office in San Diego now will disrupt this investigation."]

Because Rep. Issa and others have criticized the office's immigration enforcement?

Because you wanted to give a political insider the chance to serve?

Was Carol Lam a good prosecutor? What did her fellow U.S. Attorneys think of her?

Griffin appointment

Why was Tim Griffin appointed [over the objection of Sen. Pryor]?

In evaluating candidates for interim appointment, do you think the Department of Justice should use pregnancy and motherhood as conditions to deny appointment? Is it true that the FAUSA was not appointed because she was on maternity leave?

The amendment to the PATRIOT Act that permits the Attorney General to appoint U.S. Attorneys, but the Department did not articulate any national security or law enforcement need for appointing Griffin over the FAUSA. Why? Doesn't that violate the spirit of the law?

The Attorney General testified that the Administration is committed to having a Senate-confirmed U.S. Attorney in every district. What about Eastern Arkansas? What about Maine? What about S.D.W.V.?

Will the President nominate Griffin over Sen. Pryor's objection? Will the AG recommend that he do so?

What if Pryor is never nominated?

What if Pryor is nominated, but not confirmed?

Feinstein bill

Chief Judges of a district often have a much better sense of the operation of the USAO and federal agencies in the jurisdiction than those who are thousands of miles away in Washington, D.C. Aren't they in a better position to select an interim U.S. Attorney?

Court appointments are less likely to be viewed as political favors, don't you agree?

District courts are more likely to have the best operations of the justice system in mind when he or she appoints an interim U.S. Attorney, don't you agree? [After all, district courts appoint counsel, federal defenders, magistrates, etc.]

What incentive does the Executive Branch have to nominate a successor in a timely fashion [and give the Senate the opportunity to fulfill its constitutional responsibility of evaluating and deciding whether to confirm the candidate]?

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

The full quotation of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007 (not the selective quote cited in your letter), more fairly represents his views about the appropriate reasons for asking a U.S. Attorney to resign. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added).

The Deputy Attorney General, at the hearing held on February 6, 2007, further stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified because, *inter alia*, Mr. Griffin was very well-qualified and had "a strong enough resume" to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway." Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in [insert month] 2001. In addition, Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. And it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.").

In addition, the Department does not consider the replacement of one Republican U.S. Attorney by another well-qualified person with extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." U.S. Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding. U.S. Attorneys leave office all the time for the most mundane of reasons. As noted in the case of Mr. Cummins, he had

previously indicated publicly that he did not expect to remain in office through the President's second term. It was only natural and appropriate that the Department would seek a successor in anticipation of the potential vacancy. When the Department found an able and experienced successor, it moved forward with his interim appointment.

In answer to your specific questions:

- The decision to appoint Tim Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General's telephone conversations with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying, either inside or outside of the Administration, for Mr. Griffin's appointment. In the spring of 2006, following regular procedures, the Office of the Counsel to the President inquired of the Office of the Attorney General as to whether Mr. Griffin (who then was on active military duty) might be considered for appointment as U.S. Attorney upon his return from Iraq.
- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

In conclusion, the Department wholeheartedly agrees with the principle that "[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor." That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

First, the full quotation of the Attorney General's testimony at the Judiciary Committee hearing on January 18, 2007, more fairly represents his views about the appropriate reasons for asking a U.S. Attorney to resign. In full, the Attorney General stated: "I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*" (emphasis added).

Second, the Deputy Attorney General, at the hearing held on February 6, 2007, further stated the Department's view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not, in the Department's view, an inappropriate "political reason." This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified and has "a strong enough resume" to serve as U.S. Attorney, and Mr. Cummins "may have already been thinking about leaving at some point anyway."

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney's office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of the office's successful gun crime prosecution initiative. And Mr. Griffin has substantial military prosecution experience that Mr. Cummins does not have. Anyone who knows Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. *See* "The Insider Dec. 30," *Ark. Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term.").

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive

experience as a prosecutor and strong ties to the district to be a change made for “political reasons.” United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

In answer to your specific questions:

- Although the decision to appoint Mr. Griffin to replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, after the second of the Attorney General’s telephone conversations with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying, either inside or outside of the Administration, for Mr. Griffin’s appointment. In the spring or summer of 2006, following regular procedures, the Office of the Counsel to the President inquired of the Office of the Attorney General as to whether Mr. Griffin (who then was on active military duty in Iraq) might be considered for appointment as U.S. Attorney upon his return.
- As the Deputy Attorney General testified, Mr. Cummins’s continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was “related to the opportunity to provide a fresh start with a new person in that position.”
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

In conclusion, the Department wholeheartedly agrees with the principle you set forth in your letter that “[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor.” That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle.

We appreciate the opportunity to respond to your inquiry.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

cc: The Honorable Mitch McConnell
The Honorable Arlen Specter

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

This is in response to your letter to the Attorney General dated February 8, 2007. An identical response has been sent to the other signatories of that letter.

As an initial matter, the Department agrees with the principle you set forth in your letter that “[o]nce appointed, U.S. Attorneys, perhaps more than any other public servants, must be above politics and beyond reproach; they must be seen to enforce the rule of law without fear or favor.” That many U.S. Attorneys, appointed by Presidents of both parties, have had political experience prior to their appointment does not undermine that principle. Your letter, however, contains assumptions and assertions that are simply erroneous.

First, your letter truncates the actual quote of the Attorney General’s testimony at the Judiciary Committee hearing on January 18, 2007, and consequently, mischaracterizes the statement. In full, the Attorney General stated: “I think I would never, ever make a change in a United States attorney for political reasons or *if it would in any way jeopardize an ongoing serious investigation. I just would not do it*” (emphasis added). The Department of Justice rejects any suggestion that U.S. Attorneys were asked or encouraged to resign for the inappropriate “political reason” of interfering with any public corruption case or retaliating against a U.S. Attorney who oversaw such a case.

Second, your letter mischaracterizes the testimony of the Deputy Attorney General given at the hearing held on February 6, 2007. The Deputy Attorney General simply stated the Department’s view that asking U.S. Attorney Bud Cummins to resign so that Special Assistant U.S. Attorney Tim Griffin might have the opportunity to serve as U.S. Attorney is not an inappropriate “political reason.” This is so, the Deputy Attorney General testified, because, *inter alia*, Mr. Griffin is very well-qualified to serve as U.S. Attorney, and Mr. Cummins “may have already been thinking about leaving at some point anyway.”

Deleted: taken

Indeed, at the time Mr. Griffin was appointed interim U.S. Attorney in December 2006 he had far more federal prosecution experience (in the Criminal Division and in the U.S. Attorney’s office) than Mr. Cummins did at the time he was appointed U.S. Attorney in January 2002. Mr. Cummins himself credits Mr. Griffin with the establishment of that office’s successful gun crime prosecution initiative. And Mr.

Deleted: the

Griffin has substantial military prosecution experience that Mr. Cummins does not have. Those who know Mr. Griffin must concede that he brings a style of leadership and level of energy that could only enhance the success of a U.S. Attorney's office. Moreover, it was well-known, as early as December 2004, that Mr. Cummins intended to leave the office and seek employment in the private sector. See "The Insider Dec. 30," *Ark Times* (Dec. 30, 2004) ("Cummins, 45, said that, with four children to put through college someday, he'll likely begin exploring career options. It wouldn't be 'shocking,' he said, for there to be a change in his office before the end of Bush's second term."). Finally, the Deputy Attorney General did not state or imply that Mr. Griffin would be appointed as the U.S. Attorney without Senate confirmation. Such a statement would be inconsistent with the Department's stated position that we are committed to having a Senate-confirmed U.S. Attorney in all 94 federal districts.

Deleted: it would strive to have each vacancy filled by a Senate-confirmed U.S. Attorney.

Third, the Department does not consider the replacement of one Republican U.S. Attorney by another Republican lawyer who is well-qualified and has extensive experience as a prosecutor and strong ties to the district to be a change made for "political reasons." Mr. Cummins was confirmed to serve a four-year term, which expired on January 9, 2006. He served his entire term, plus an additional year. United States Attorneys serve at the pleasure of the President; that has always been the rule, and U.S. Attorneys accept their appointment with that understanding.

Deleted: As you know, U.S. Attorneys serve at the pleasure of the President. That has always been the rule and U.S. Attorneys accept their appointment with full understanding that they may serve the full term or in excess of the full term, but that at any time they could be removed by the President.

In answer to your specific questions:

Deleted: Regarding specific questions raised in your letter, we respond as follows:¶

- Although the decision to have Mr. Griffin replace Mr. Cummins was first contemplated in the spring or summer of 2006, the final decision to appoint Mr. Griffin to be interim U.S. Attorney in the Eastern District of Arkansas was made on or about December 15, 2006, the Attorney General had spoken with Senator Pryor.
- The Department of Justice is not aware of anyone lobbying for Mr. Griffin's appointment. Consistent with longstanding Administration practice, the decision regarding whether Mr. Griffin (who then was on active military duty) might be considered for appointment as U.S. Attorney upon his return from Iraq was discussed and made jointly by the Department of Justice and the White House.
- As the Deputy Attorney General testified, Mr. Cummins's continued service as U.S. Attorney was not considered at the same time as the other U.S. Attorneys that the Deputy Attorney General acknowledged were asked to resign for reasons related to their performance. As the Deputy Attorney General testified, the request that Mr. Cummins resign was "related to the opportunity to provide a fresh start with a new person in that position."
- The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin.

Deleted: after a series of conversations between the Attorney General and Senator Pryor.

Deleted: ¶

Deleted: But, c

Deleted: in this Administration

Deleted: question of

Deleted: in Iraq

Deleted: addressed

Deleted: Mr. Cummins' continued service as U.S. Attorney was first considered after the Department learned of Mr. Cummins' stated interest in possibly resigning for a position in the private sector. As the Deputy Attorney General testified, this commenced well prior to considering the other U.S. Attorneys to resign for reasons related to their performance and was instead "related to the opportunity to provide a fresh start with a new person in that position." Also, a general matter, it is often preferable, to the extent practicable, to appoint a permanent replacement who has experience with and familiarity of the workings of the particular office, as Mr. Griffin did.

We appreciate the opportunity to respond to your inquiry.

Deleted: ¶

Deleted: a

Deleted: as either on an interim or permanent basis

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

cc: **The Honorable Mitch McConnell**
The Honorable Arlen Specter

TRANSITIONS IN ARKANSAS

February 2004:

- Tom Gean resigns in the Western District of Arkansas.
- DOJ interviewed four individuals for the vacancy: Bob Balfe, John Threet, Stephen Tabor, and Tim Griffin. The panel supported Griffin's selection and he would likely have been the nominee at that time; however, the White House indicated that they would like him to join the 2004 campaign and he agreed to do that instead.

December 30, 2004:

- An *Arkansas Times* article notes that Cummins had said in 2004 that with four kids to put through college, he was likely to begin exploring career options. Cummins said that it wouldn't be "shocking" for there to be a change in his office before the end of Bush's second term.

February 27, 2006 – March 1, 2006:

- At the U.S. Attorneys Conference, U.S. Attorney Bud Cummins publicly discusses his intent to pursue private sector opportunities later that year.

Spring 2006:

- White House Counsel asks if there will be a vacancy as Tim Griffin will be returning from Iraq and is interested.

June 2006:

- EOUSA Director Mike Battle calls Bud Cummins.

August 2006:

- First press reports regarding Bud Cummins's impending resignation appear.
- Cummins indicates he began discussing his departure with Main Justice in June.

September 27, 2006:

- Tim Griffin arrives in the district.

December 20, 2006:

- Bud Cummins resigns.
- Tim Griffin is sworn in as interim U.S. Attorney.

TRANSITIONS IN ARKANSAS

February 2004:

- Tom Gean resigns in the Western District of Arkansas.
- The DOJ/WHCO panel interviewed four individuals for the vacancy: Bob Balfe, John Threet, Stephen Tabor, and Tim Griffin. The panel supported Griffin's selection, and he likely would have been the nominee at that time; however, before he could be selected, Griffin withdrew his name from consideration because he had decided to accept an offer to join the staff of the Bush-Cheney reelection campaign.

December 30, 2004:

- An *Arkansas Times* article notes that Cummins had said in 2004 that with four kids to put through college, he was likely to begin exploring career options. Cummins said that it wouldn't be "shocking" for there to be a change in his office before the end of the President's second term.

February 27, 2006-March 1, 2006:

- At the U.S. Attorneys Conference, U.S. Attorney Bud Cummins publicly discusses his intent to pursue private sector opportunities later that year.

Spring 2006:

- White House Counsel asks if there will be a vacancy in the Eastern District of Arkansas, as Tim Griffin will be returning from Iraq and is interested.

June 2006:

- EOUSA Director Mike Battle calls Bud Cummins and asks him to resign.

August 2006:

- First press reports regarding Bud Cummins's impending resignation appear.
- Cummins indicates he began discussing his departure with Main Justice in June.

September 27, 2006:

- Having returned from Iraq, Tim Griffin is named Special Assistant U.S. Attorney in the Eastern District of Arkansas.

December 20, 2006:

- Bud Cummins resigns.
- The Attorney General appoints Tim Griffin as interim U.S. Attorney for the Eastern District of Arkansas.

TRANSITIONS IN ARKANSAS

February 2004:

- Tom Gean resigns as U.S. Attorney for the Western District of Arkansas.
- The DOJ/WHCO panel interviews four individuals for the W.D. Ark. vacancy: Bob Balfe, John Threet, Stephen Tabor, and Tim Griffin. Griffin is panel's first choice, and Griffin likely would have been approved by the JSC at that time; however, before he could be selected, Griffin withdrew his name from consideration because he had determined to accept an offer to join the staff of the Bush-Cheney reelection campaign.

December 30, 2004:

- *Arkansas Times* article notes that Cummins had said in 2004 that, with four kids to put through college, he was likely to begin exploring career options. Report states that Cummins said that it wouldn't be "shocking" for there to be a change in his office before the end of President Bush's second term.

February 27, 2006-March 1, 2006:

- At the U.S. Attorneys Conference, Cummins openly discusses his intention to pursue private sector opportunities later that year.

Spring 2006:

- The White House Counsel asks if there will be a U.S. Attorney vacancy in the Eastern District of Arkansas, as Tim Griffin will be returning from Iraq and is interested in being appointed as U.S. Attorney in that district.

June 2006:

- EOUSA Director Mike Battle calls Cummins, inquires of his intentions to pursue private sector employment, and asks him to resign.

August 2006:

- First press reports regarding Cummins' impending resignation appear.
- Cummins indicates that he began discussing his departure with Main Justice in June.

September 27, 2006:

- Griffin is named Special Assistant U.S. Attorney in the Eastern District of Arkansas.

December 20, 2006:

- Cummins resigns.
- The Attorney General appoints Griffin as interim U.S. Attorney for the Eastern District of Arkansas.

**FACT SHEET:
BACKGROUND INFORMATION ON VACANCIES
AND AUTHORITIES USED TO ENSURE CONTINUITY OF OPERATIONS**

Listing of Nominations Since the Change in the Appointment Authority (13 to date -- 2 more expected this week):

- Erik Peterson – Western District of Wisconsin (from outside the Department)
- Charles Rosenberg – Eastern District of Virginia (from inside the Department; was interim under AG appointment)
- Thomas Anderson – District of Vermont (from inside the Department; was not interim)
- Martin Jackley – District of South Dakota (from outside the Department)
- R. Alexander Acosta – Southern District of Florida (from inside the Department; was interim under AG appointment)
- Troy Eid – District of Colorado (from outside the Department)
- Phillip Green – Southern District of Illinois (from inside the Department; was not interim)
- George Holding – Eastern District of North Carolina (from inside the Department; was First Assistant and was Acting)
- Sharon Potter – Northern District of West Virginia (from inside the Department; was not interim)
- Brett Tolman – District of Utah (from inside the Department; was not interim)
- Rodger Heaton – Central District of Illinois (from inside the Department; was interim under AG appointment)
- Deborah Rhodes – Southern District of Alabama (from inside the Department; was interim under AG appointment)
- Rachel Paulose – District of Minnesota (from inside the Department; was interim under AG appointment)

All but Phillip Green were confirmed in the last Congress.

Listing of Vacancies Occurring After the Change in the Appointment Authority (11 to date):

- In 5 cases, the First Assistant was selected to lead the office and took over under as Acting under the Vacancy Reform Act's provision at: 5 U.S.C. § 3345(a)(1). That authority is limited to 210 days, unless a nomination is made during that period. Those districts include:
 - ✓ Central District of California – FAUSA George Cardona is Acting
 - ✓ Southern District of Illinois – FAUSA Randy Massey is Acting ;
a nomination was made last Congress, but confirmation did not
 - ✓ Northern District of Iowa – FAUSA Judi Whetstine is Acting

- ✓ Eastern District of North Carolina – FAUSA George Holding became Acting (he also became the candidate and was confirmed)
- ✓ Northern District of West Virginia – FAUSA Rita Valdrini became Acting (another individual was nominated and confirmed)
- In 5 cases, the Department selected another Department employee to serve as interim until a nomination was submitted to the Senate. Those districts include:
 - ✓ Eastern District of Virginia – Chuck Rosenberg, who was the pending nominee, was given an interim appointment when Paul McNulty vacated the position to take the oath as Deputy Attorney General (Rosenberg was confirmed shortly thereafter)
 - ✓ Eastern District of Arkansas – Tim Griffin was appointed interim (he has expressed interest in the position; no nomination is yet ready)
 - ✓ District of Columbia – Jeff Taylor
 - ✓ Nebraska – Joe Stecher
 - ✓ Middle District of Tennessee – Craig Morford
- In 1 case, the First Assistant resigned at the same time as the U.S. Attorney, creating a need for an interim until such time as a nomination is submitted to the Senate.
 - ✓ Western District of Missouri – Brad Schlozman was appointed interim

All Attorney General Appointments Since the Authority Was Amended (9 to date):

- In 2 cases, the First Assistant U.S. Attorney had been serving under the VRA provision, however the 210-day period ran out before a nomination was submitted to the Senate. As a result, the First Assistant was appointed interim using this authority. These districts include:
 - ✓ District of Puerto Rico – Rosa Rodriguez-Velez
 - ✓ Eastern District of Tennessee – Russ Dedrick
- In 5 cases, the Department selected a Department employee other than the First Assistant to serve as interim until a nomination was submitted to the Senate. Those districts include:
 - ✓ Eastern District of Virginia – Chuck Rosenberg, who was the pending nominee, was given an interim appointment when Paul McNulty vacated the position to take the oath as Deputy Attorney General (Rosenberg was confirmed shortly thereafter)
 - ✓ Eastern District of Arkansas – Tim Griffin was appointed interim
 - ✓ District of Columbia – Jeff Taylor
 - ✓ Nebraska – Joe Stecher
 - ✓ Middle District of Tennessee – Craig Morford

- In 1 case, the First Assistant had been serving under the VRA, which expired in the summer of 2006. An interim was appointed at the end of the VRA period.
 - ✓ Alaska – Nelson Cohen

- In 1 case, the First Assistant resigned that position at the same time as the U.S. Attorney, creating a need for an interim until such time as a nomination is submitted to the Senate.
 - ✓ Western District of Missouri – Brad Schlozman was appointed interim

FACT SHEET: UNITED STATES ATTORNEY APPOINTMENTS

NOMINATIONS AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

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

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

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

VACANCIES AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

Since March 9, 2006, there have been 11 new U.S. Attorney vacancies that have arisen. For five of the 11 vacancies, the First Assistant United States Attorney (FAUSA) in the district was selected to lead the office in an acting capacity under the Vacancies Reform Act, *see* 5 U.S.C. § 3345(a)(1) (first assistant may serve in acting capacity for 210 days unless a nomination is made). Those districts are:

- **Central District of California** – FAUSA George Cardona is acting United States Attorney (
- **Southern District of Illinois** – FAUSA Randy Massey is acting United States Attorney

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

For six of the 11 vacancies, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate, *see* 28 U.S.C. § 546(a) (“Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant”). Those districts are:

- **Eastern District of Virginia** – Pending nominee Chuck Rosenberg was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Deputy Attorney General (Rosenberg was confirmed shortly thereafter);
- **Eastern District of Arkansas** – Tim Griffin was appointed interim United States Attorney when incumbent United States Attorney resigned (Griffin has expressed interest in presidential nomination; nomination is not yet ready);
- **District of Columbia** – Jeff Taylor was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Assistant Attorney General for the National Security Division;
- **District of Nebraska** – Joe Stecher was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Chief Justice of Nebraska Supreme Court;
- **Middle District of Tennessee** – Craig Morford was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Western District of Missouri** – Brad Schlozman was appointed interim United States Attorney when incumbent United States Attorney and FAUSA resigned;

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

The Attorney General has exercised the authority to appoint interim United States Attorneys a total of nine times since the authority was amended in March 2006. In two of the nine cases, the FAUSA had been serving as acting United States Attorney under the Vacancies Reform Act (VRA), but the VRA’s 210-day period expired before a nomination could be made. Thereafter, the Attorney General appointed that same

FAUSA to serve as interim United States Attorney. These districts include:

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

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

- **District of Alaska** – Nelson Cohen

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

- **Eastern District of Virginia** – Pending nominee Chuck Rosenberg was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Deputy Attorney General (Rosenberg was confirmed shortly thereafter);
- **Eastern District of Arkansas** – Tim Griffin was appointed interim United States Attorney when incumbent United States Attorney resigned (Griffin has expressed interest in presidential nomination; nomination is not yet ready);
- **District of Columbia** – Jeff Taylor was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Assistant Attorney General for the National Security Division
- **District of Nebraska** – Joe Stecher was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Chief Justice of Nebraska Supreme Court
- **Middle District of Tennessee** – Craig Morford was appointed interim United States Attorney when incumbent United States Attorney resigned
- **Western District of Missouri** – Brad Schlozman was appointed interim United States Attorney when incumbent United States Attorney and FAUSA resigned

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

- **There are many reasons why a U.S. Attorney may retire or resign.**
- **Nearly half were confirmed or appointed to new federal positions:**
 - ✓ Paul McNulty, EDVA, 3/06 (to become DAG)
 - ✓ Tom Johnston, NDWV, 4/06 (to become federal district court judge)
 - ✓ Frank Whitney, EDNC, 6/06 (to become federal district court judge)
 - ✓ Bert Garcia, PR, 6/06 (to return family to home state of Texas)
 - ✓ Ken Wainstein, DC, 9/06 (to become AAG of NSD)
 - ✓ Mike Heavican, NE, 10/06 (to become Chief Justice on the state's Supreme Court)
 - ✓ Lisa Godbey Wood, SDGA, 2/07 (to become federal district court judge)
- **Others left to pursue private sector opportunities (i.e. Jim Vines, MDTN) or retired at the end of a long career (i.e. Charles Larson, NDIA).**

Full list of resignations since last March in reverse date order (14 total):

- Lisa Godbey Wood, SDGA (confirmed to be federal district court judge, but not yet appointed)
- *John McKay, WDWA, 1/07 (has said he will teach at a law school)*
- *Paul Charlton, AZ, 1/07 (going into private practice)*
- *Bud Cummins, EDAR, 12/06 (pursuing private sector opportunities)*
- Chuck Larson, NDIA, 12/06 (to take federal retirement)
- Deb Yang, CDCA, 11/06 (to go into private practice)
- Jim Vines, MDTN, 10/06 (to move to D.C. and go into private practice)
- Mike Heavican, NE, 10/06 (to become Chief Justice on the state's Supreme Court)
- Ken Wainstein, DC, 9/06 (to become AAG of NSD)
- Frank Whitney, EDNC, 6/06 (to become federal district court judge)
- Bert Garcia, PR, 6/06 (to return family to home state of Texas)
- Tom Johnston, NDWV, 4/06 (to become federal district court judge)
- Todd Graves, WDMO, 3/06 (started his own firm)
- Paul McNulty, EDVA, 3/06 (to become DAG)

Additional U.S. Attorneys are pending confirmation/appointment to new federal positions (4):

- Bill Mercer, MT (to become Associate Attorney General)
- Joe Van Bokkelen, NDIN (to become federal district court judge)
- Roslynn Mauskopf, EDNY (to become federal district court judge)
- Steve Murphy, EDMO (to become federal court of appeals judge)

Goodling, Monica

From: Nowacki, John (USAEO) [John.Nowacki@usdoj.gov]
Sent: Monday, January 22, 2007 5:48 PM
To: Goodling, Monica; Elston, Michael (ODAG)
Subject: Charlton resignation

FYI -- Charlton has moved his resignation up a day; it is now effective on 30 January.

Goodling, Monica

From: McKay, John (USAWAW) [John.McKay@usdoj.gov]
Sent: Thursday, January 25, 2007 8:05 PM
To: USAEO-USAttorneysOnly
Subject: My Contact Information

Attachments: MCKAY -1-25-07.wpd



MCKAY
1-25-07.wpd (36 KB)

Colleagues,

My contact information and office press release is below. All the best.

- JOHN McKAY

Seattle University School of Law
901 - 12th Avenue
P. O. Box 222000
Seattle, WA 98122-1090
Cell Number:
E-mail:

"UNITED STATES ATTORNEY JOHN McKAY JOINS SEATTLE UNIVERSITY LAW SCHOOL"

<<MCKAY -1-25-07.wpd>>

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, January 25, 2007 8:07 PM
To: Sampson, Kyle; Elston, Michael (ODAG); Moschella, William; Battle, Michael (USAEO); Nowacki, John (USAEO); Scolinos, Tasia; Roehrkasse, Brian
Subject: FW: My Contact Information
Attachments: MCKAY -1-25-07.wpd



MCKAY
1-25-07.wpd (36 KB)

Apparently, McKay put this out today. FYI.

From: McKay, John (USAWAW) [mailto:John.McKay@usdoj.gov]
Sent: Thursday, January 25, 2007 8:05 PM
To: USAEO-USAttorneysOnly
Subject: My Contact Information

Colleagues,

My contact information and office press release is below. All the best.

- JOHN McKAY

Seattle University School of Law
901 - 12th Avenue
P. O. Box 222000
Seattle, WA 98122-1090
Cell Number:
E-mail:

"UNITED STATES ATTORNEY JOHN McKAY JOINS SEATTLE UNIVERSITY LAW SCHOOL"

<<MCKAY -1-25-07.wpd>>

Tracking:	Recipient	Read
	Sampson, Kyle	Read: 1/25/2007 8:14 PM
	Elston, Michael (ODAG)	Read: 1/25/2007 9:38 PM
	Moschella, William	
	Battle, Michael (USAEO)	
	Nowacki, John (USAEO)	
	Scolinos, Tasia	
	Roehrkasse, Brian	Read: 1/25/2007 10:05 PM

Goodling, Monica

From: Paulose, Rachel (USAMN) [Rachel.Paulose@usdoj.gov]
Sent: Thursday, January 25, 2007 8:13 PM
To: Goodling, Monica
Subject: FW: My Contact Information

Attachments: MCKAY -1-25-07.wpd



MCKAY
1-25-07.wpd (36 KB)

From: McKay, John (USAWAW)
Sent: Thursday, January 25, 2007 7:05 PM
To: USAEO-USAttorneysOnly
Subject: My Contact Information

Colleagues,

My contact information and office press release is below. All the best.

- JOHN McKAY

Seattle University School of Law
901 - 12th Avenue
P. O. Box 222000
Seattle, WA 98122-1090
Cell Number: :
E-mail:

"UNITED STATES ATTORNEY JOHN McKAY JOINS SEATTLE UNIVERSITY LAW SCHOOL"

<<MCKAY -1-25-07.wpd>>

Goodling, Monica

From: Nowacki, John (USAEO) [John.Nowacki@usdoj.gov]
Sent: Monday, February 05, 2007 12:32 PM
To: Hertling, Richard; Scott-Finan, Nancy; Seidel, Rebecca; Goodling, Monica; Elston, Michael (ODAG);
Battle, Michael (USAEO)
Subject: HJC hearing re USA's

Carol Lam (CA-S) says that she was contacted by House Judiciary (on Friday) and told that Rep. Conyers would like her to testify at the hearing. She said that she did not provide an answer.

Goodling, Monica

From: Hertling, Richard
Sent: Wednesday, February 28, 2007 5:29 PM
To: Nowacki, John (USAEO); Sampson, Kyle; Goodling, Monica; Moschella, William; Elston, Michael (ODAG)
Subject: RE: house subpoena

Attachments: spacer.gif; spacer.gif; logo_us_canadian_2.gif; spacer.gif; hline_purple.gif; spacer.gif; spacer.gif



spacer.gif (133 B) spacer.gif (133 B) logo_us_canadian_2.gif (2 KB) spacer.gif (133 B) hline_purple.gif (290 B) spacer.gif (133 B) spacer.gif (133 B)

thanks.

The others to be subpoenaed are Lam, McKay, and Iglesias.

From: Nowacki, John (USAEO) [mailto:John.Nowacki@usdoj.gov]
Sent: Wednesday, February 28, 2007 5:27 PM
To: Sampson, Kyle; Goodling, Monica; Moschella, William; Elston, Michael (ODAG); Hertling, Richard
Subject: FW: house subpoena

FYI -- From Bud Cummins.

From: Battle, Michael (USAEO)
Sent: Wednesday, February 28, 2007 5:04 PM
To: Nowacki, John (USAEO)
Subject: FW: house subpoena

FYI.

From: Bud Cummins [mailto:bud.cummins@aael.net]
Sent: Wednesday, February 28, 2007 4:50 PM
To: Battle, Michael (USAEO)
Subject: house subpoena

Mike,

FYI, house committee called today saying they intend to subpoena me and others (I didn't ask who) for next Tuesday, March 6. If I have any legal obligations to run this somehow through DOJ please let me know. If someone at DOJ wants to talk before the testimony, I am available to do that also.

Best regards,

Bud

Bud Cummins
Consultant

p
f -
m -

Fueling Our Future

www.uscbiofuels.net

US Canandian BioFuels Inc
divider
divider

Disclaimer This message (including any attachments) may contain confidential information. The information is intended only for the use of the individual or entity to whom it is addressed. If you are not the addressee or the employee or agent responsible to deliver this email to its intended recipient, you are hereby notified that any review, use, dissemination, distribution, disclosure, copying or taking of any action in reliance on the contents of this information is strictly prohibited.

Goodling, Monica

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

Dear friends and colleagues:

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

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

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

Respectfully,

David

Goodling, Monica

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

FYI - mass email today.

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

Dear friends and colleagues:

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

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

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

Respectfully,

David

Tracking:

Recipient

Elston, Michael (ODAG)

Moschella, William

Sampson, Kyle

Read

Read: 2/28/2007 8:58 AM

Read: 2/27/2007 9:25 PM

Read: 2/27/2007 9:45 PM