

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? :
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15
16 Sunday
17 April 15, 2007

18
19 The interview of D. KYLE SAMPSON, Former Chief of
20
21 Staff to the Attorney General, Department of Justice,
22
23 was convened, pursuant to notice, at 1:19 p.m. in
24
25 Room SR-385, Russell Senate Office Building.

26
27 APPEARANCES:
28
29 PREET BHARARA, ESQ.
30 Counsel for the Majority
31 Senate Committee on the Judiciary
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33 MATTHEW S. MINER, ESQ.
34 Counsel for the Minority
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37 ELLIOTT M. MINCBERG, ESQ.
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40 the Judiciary
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42 DANIEL M. FLORES, ESQ.
43 Counsel for the Minority
44 House of Representatives Committee on
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01 APPEARANCES (Continued):
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03 M. FAITH BURTON, ESQ.
04 Special Counsel
05 Office of Legislative Affairs
06 U.S. Department of Justice
07
08 On behalf of Mr. Sampson:
09
10 BRADFORD A. BERENSON, ESQ.
11 Sidley Austin LLP
12 1501 K Street, N.W.
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14
15 ALSO PRESENT:
16
17 DAVID HIGBEE, ESQ.
18
19 JAMES CHEN, ESQ.
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03	SAMPSON INTERVIEW EXHIBITSMARKED
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01 P R O C E E D I N G S

02 MR. BHARARA: Good afternoon, Mr. Sampson. As you
03 know, my name is Preet Bharara, and I represent the Majority
04 of the United States Senate Committee on the Judiciary for
05 purposes of today's proceeding.

06 I would ask before we continue any further to have
07 the court reporter swear the witness.

08 Whereupon,

09 D. KYLE SAMPSON

10 was called as a witness and, after having been first duly
11 sworn, was examined and testified as follows:

12 MR. BHARARA: Mr. Sampson, just to explain how we
13 will be proceeding today, there will be a limited number of
14 people that will have speaking roles, to make it easier on
15 everyone: myself for the Senate Judiciary Committee
16 Majority, one counsel each for the Senate Judiciary
17 Committee Minority and House Judiciary Committee Majority
18 and Minority.

19 I would ask that each of those folks identify
20 themselves and their affiliations on the record so that you
21 and court reporter know who they are.

22 MR. MINER: Matt Miner with the Senate Judiciary
23 Committee Minority.

24 MR. MINCBERG: Elliott Mincberg with the House
25 Judiciary Committee Majority.

01 MR. FLORES: Daniel Flores, House Judiciary
02 Committee Minority.
03 MR. BERENSON: And, Preet, is this a good time for
04 me to enter my appearance as well?
05 MR. BHARARA: I was about to get that next, yes.
06 MR. BERENSON: Good. Brad Berenson from Sidley
07 Austin, representing Mr. Sampson.
08 MR. BHARARA: Is there anyone else here
09 representing Mr. Sampson for purposes of this proceeding?
10 MR. BERENSON: No one will have a speaking role.
11 We can identify others if you prefer.
12 MR. BHARARA: If you could, that would be great.
13 MR. BERENSON: Okay. We are accompanied by David
14 Higbee from Hunton & Williams, and my colleague, Jim Chen,
15 also from Sidley Austin.
16 MR. BHARARA: Great. Mr. Sampson, am I correct
17 that you are testifying here voluntarily today?
18 MR. SAMPSON: Yes.
19 MS. BURTON: Preet, can I enter my appearance for
20 the Justice Department?
21 MR. BHARARA: Yes, please.
22 MS. BURTON: Faith Burton for the Department of
23 Justice.
24 MR. BHARARA: Before I go through the format here,
25 I do want to say on behalf of everyone here, we really do

01 appreciate your coming in on a Sunday, given the production
02 of documents by the Department of Justice on Friday, which
03 necessitated having to have a weekend session, which no one
04 wanted to have, but we appreciate your willingness to come
05 here and do that in advance of the Attorney General's
06 testimony on Tuesday.

07 Since, Mr. Sampson, you are an attorney, I am sure
08 you are familiar with how most of this works, but let me
09 just go through a couple of quick things.

10 As we proceed today, in response to a question if
11 you nod your head, I will know what you mean, but the court
12 reporter will not and we will not have a record of it. So
13 if you could always provide a verbal response, that would be
14 appreciated.

15 Also, if I or any counsel asks a question and you
16 do not understand the question, please ask us to rephrase,
17 and we will do the best we can to do so. If you answer a
18 question, we will assume that you have understood the
19 question.

20 Do you understand that?

21 MR. SAMPSON: Yes.

22 MR. BHARARA: If you need to take a break for any
23 reason, just let us know. Whoever is questioning you, let
24 them know, and we will do our best to accommodate you. If
25 at any time you need to speak to your attorney or any of

01 your attorneys, let us know and the questioner, I am sure,
02 will try to wrap up that particular question so you can
03 confer.

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

14 MR. SAMPSON: Yes.

15 MR. BHARARA: Do you have any questions before we
16 start?

17 MR. SAMPSON: No.

18 MR. FLORES: Preet, if I could interject briefly,
19 I may have missed something you said before, but could we
20 have a clarification of the confidentiality of today's
21 transcript, information, et cetera.

22 MR. BHARARA: Sure. Let's go off the record for a
23 moment.

24 [Off the record at 1:23 p.m.]

25 [On the record at 1:30 p.m.]

01 MR. BHARARA: Off the record a discussion was held
02 about the terms of confidentiality with respect to the
03 transcripts that are prepared in connection with this
04 interview and the substance of what is said in connection
05 with this interview. It is the understanding of the parties
06 that with respect to transcripts, they will not be made
07 public except in the ordinary course pursuant to the
08 relevant rules of the House and Senate Judiciary Committees
09 after providing the witness with an opportunity to review
10 and correct the transcript, as is the ordinary case.
11 With respect to the substance of what is discussed
12 in the interview today, it is the understanding of the
13 parties that that substance may be disclosed publicly after
14 consultation with the attorney for Mr. Sampson.
15 Mr. Berenson, do you agree with that statement of
16 the confidentiality terms?
17 MR. BERENSON: I do.
18 MS. BURTON: And for the Department of Justice, it
19 is our position that this interview falls within the
20 agreement of March--our March 29th letter, and we would
21 request that the Committee consult with the Department as
22 provided therein.
23 MR. BHARARA: Mr. Sampson, I want to begin by
24 asking you some questions about the Attorney General's
25 knowledge and involvement in the decisions to ask a number

01 of United States Attorneys to resign.
02 Do you recall that the Attorney General made some
03 statements at around the time that you resigned from the
04 Department of Justice saying, in effect, that he had not
05 been involved in the process? Do you recall those
06 statements?
07 MR. SAMPSON: Yes.
08 MR. BHARARA: And do you recall that you have
09 testified that certain of those statements about the
10 Attorney General's involvement were not accurate? Do you
11 recall that testimony?
12 MR. SAMPSON: Yes.
13 MR. BHARARA: I want to ask you some questions
14 about clarifications that the Attorney General has made with
15 respect to his initial statements on March 13th or 14th of
16 2007. The Attorney General, in clarifying what he meant
17 about his involvement, said, "What I meant was that I--I had
18 not been involved, was not involved in the deliberations
19 over whether or not United States Attorneys should resign"
20 and "I was never focused on specific concerns about United
21 States Attorneys as to whether or not they should be asked
22 to resign."
23 I want to ask you about those statements with
24 reference to a few particular cases.
25 First, I want to ask you about Carol Lam. I want

01 to show you a document that I will ask the court reporter to
02 mark as Sampson Exhibit 1, and the Bates number on that
03 document is ASG257.

04 [Sampson Exhibit No. 1 marked
05 for identification.]

06 MR. BHARARA: Mr. Sampson, could you take a look
07 at that document? You will notice that it is an e-mail from
08 you to Bill Mercer, with a cc to Michael Elston, dated June
09 1st of 2006. Is that right?

10 MR. SAMPSON: Yes.

11 MR. BHARARA: The first sentence of that e-mail,
12 you write, "Bill, this relates (certainly in the AG's
13 mind)"--by "AG" you are referring to the Attorney General?

14 MR. SAMPSON: Yes.

15 MR. BHARARA: "This relates...to the e-mail I just
16 sent to Elston, cc to you, re our pressing need to, in the
17 very short term, generate some deliverables on immigration
18 enforcement, and in the long term insulate the Department
19 from criticism by improving our numbers."
20 And then the next sentence says, "AG"--again, the
21 Attorney General--"has given additional thought to the SD
22 situation"--I assume that is the San Diego situation.
23 "...has given additional thought to the SD situation and now
24 believes that we should adopt a plan, something like the
25 following..." Do you see that?

01 MR. SAMPSON: Yes.

02 MR. BHARARA: Was it, in fact, the case that the
03 Attorney General had given thought to the situation relating
04 to Carol Lam with reference to the specific issue of
05 immigration enforcement?

06 MR. SAMPSON: That's my recollection. During this
07 time in May and--in April and May and June of 2006, there
08 had been discussions in the senior management offices of the
09 Department about immigration enforcement, and there had been
10 a specific discussion about the immigration enforcement
11 efforts in the U.S. Attorney's Office in San Diego.

12 MR. BHARARA: I want to take you through a couple
13 of the bullet points in that e-mail. Number one is, "Have a
14 heart-to-heart with Lam about the urgent need to improve
15 immigration enforcement in San Diego." Do you see that?

16 MR. SAMPSON: Yes.

17 MR. BHARARA: The second is, "Work with her to
18 develop a plan for addressing the problem, to include
19 alteration of prosecution thresholds, additional DOJ
20 prosecutors, additional DHS SAUSA resources." Is that
21 Special Assistant U.S. Attorney resources?

22 MR. SAMPSON: Yes.

23 MR. BHARARA: Number three, "Put her on a very
24 short leash." What do you understand the Attorney General
25 to have meant by a plan that would include putting her on a

01 very short leash?

02 MR. BERENSON: Preet, I am not sure we have
03 established that that specifically was the Attorney
04 General's formulation or language.

05 MR. BHARARA: Well, let me ask you the question.

06 In the preamble to those bullet points, you write, "The AG
07 has given additional thought to the SD situation and now
08 believes that we should adopt a plan, something like the
09 following..." Was it the Attorney General's intent through
10 you to cause the creation of a plan that included putting
11 Carol Lam, colloquially, on a very short leash?

12 MR. SAMPSON: What I remember is that the Attorney
13 General was very concerned about immigration enforcement and
14 was very concerned based on information he'd received about
15 the performance of the U.S. Attorney's Office in San Diego.
16 And reviewing this e-mail reminds me that he had spoken with
17 me and others about his concern about that.

18 I don't recall specifically whether these ideas in
19 these five bullets were his or mine. I can speculate. I
20 think they're a combination of his ideas and my ideas. And
21 I believe, to the best of my recollection, I offered them up
22 to Mr. Mercer as a way to prod a response from him about how
23 action might be taken here.

24 MR. BHARARA: But at a minimum, is it fair to say,
25 based on your recollection being refreshed from this e-mail,

01 that the Attorney General was focused on a specific concern
02 of immigration enforcement in San Diego?

03 MR. SAMPSON: Yes.

04 MR. BHARARA: Okay. The next bullet says, "If she
05 balks on any of the foregoing or otherwise does not perform
06 any measurable way by July 15--my date--remove her." Do you
07 see that?

08 MR. SAMPSON: Yes.

09 MR. BHARARA: Was it part of the Attorney
10 General's plan generally that if Ms. Lam did not perform in
11 a measurable way that she should be removed?

12 MR. SAMPSON: I don't remember specifically. I
13 remember he was very concerned about her office's
14 performance, or lack thereof, with regard to immigration
15 enforcement.

16 MR. BHARARA: Let me ask you this: Did you have
17 conversations prior to the sending of this e-mail with the
18 Attorney General about the specific situation in San Diego?

19 MR. SAMPSON: I believe so.

20 MR. BHARARA: As part of those conversations,
21 would you have written an e-mail that part of the plan
22 should be to remove her without that having been part of
23 your conversation with the Attorney General? In other
24 words, would you have taken the liberty to write as part of
25 the plan--that appears to have been suggested by the

01 Attorney General--removal without having had such a
02 conversation with the Attorney General?

03 MR. SAMPSON: I really don't remember. I remember
04 general discussions in the senior leadership of the
05 Department among Mr. Mercer and Mr. Elston and myself and
06 others, and the substance of those conversations were that
07 Carol Lam has got to go, her performance in that office is a
08 problem for the Department of Justice with regard to gun
09 enforcement and at this time immigration enforcement.

10 It may very well be that the Attorney General was
11 a party to those conversations. I think he was, or at least
12 he knew the general sense of the leadership of the
13 Department. But I don't have a specific memory of him
14 saying, you know, "Put her on a short leash or she will have
15 to be removed." I don't remember that.

16 MR. BHARARA: Take a look at the last bullet. It
17 says, "The AG then appoints a new U.S. Attorney (USA) from
18 outside the office." Does that refresh your recollection on
19 whether or not there was a discussion with any degree of
20 particularity with the Attorney General about whether or not
21 Carol Lam, if she didn't improve her performance, would be
22 removed?

23 MR. SAMPSON: It really doesn't. That could have
24 just been me--the discussion that was going on at this time,
25 to the best of my recollection, was that that office just

01 needed to change the way it approached immigration
02 enforcement. And so I may have just suggested that it
03 needed to be a U.S.--someone from outside the office
04 appointed in order to shake things up in that office. I
05 just don't remember specifically talking to the Attorney
06 General at that level of specificity.

07 MR. BHARARA: You will see the last part of that
08 e-mail, you request that Bill Mercer "prepare to present
09 such a plan to the AG tomorrow or early next week for his
10 approval and execute the plan next week." Do you see that?

11 MR. SAMPSON: I do.

12 MR. BHARARA: Was that ever done, by the way?

13 MR. SAMPSON: I don't think so. I remember having
14 some frustration that the Deputy's office had not been
15 responsive to this request.

16 MR. BHARARA: Could you take a look at another
17 document I'm going to hand to you, which I will ask the
18 court reporter to mark as ASG329--I mean, it is ASG329. We
19 will mark it as Sampson Exhibit 2.

20 [Sampson Exhibit No. 2 marked
21 for identification.]

22 MR. BHARARA: Did you take a look at the document?

23 MR. SAMPSON: Yes.

24 MR. BHARARA: That is what appears to be a
25 calendar entry for a meeting on June 5, 2006. The title of

01 the meeting is "Immigration Enforcement/San Diego USAO." Do
02 you see that?

03 MR. SAMPSON: I do.

04 MR. BHARARA: Do you recall if you attended such a
05 meeting?

06 MR. SAMPSON: I don't remember specifically.

07 MR. BHARARA: The attendees listed in the document
08 are Kyle Sampson--yourself--Bill Mercer, and Jeff Taylor.
09 Does that help refresh your recollection as to whether or
10 not there was a meeting with those attendees?

11 MR. SAMPSON: I don't specifically remember a
12 meeting. Bill Mercer at that time, I believe, was serving
13 as the Principal Associate Deputy Attorney General, and Jeff
14 Taylor was Counselor to the Attorney General with
15 responsibility for criminal matters. But I just don't have
16 a recollection of that meeting. I don't have any reason to
17 doubt that it happened. I just don't remember.

18 MR. BHARARA: And, obviously, then you--would you
19 have any recollection of whether or not the Attorney General
20 would have been at that meeting?

21 MR. SAMPSON: I don't remember.

22 MR. BHARARA: Does anything about the way that the
23 calendar entry is listed or the location of the meeting, the
24 AG's conference room, suggest to you that the Attorney
25 General likely attended that meeting?

01 MR. SAMPSON: The fact that it was held in the
02 Attorney General's conference room suggests to me that the
03 Attorney General did attend that meeting. It is sort of a
04 general rule in the Office of the Attorney General that only
05 meetings that the Attorney General attends are held in the
06 conference room. And if he hadn't attended, with that
07 number of participants it likely would have in my office or
08 Mercer's office.

09 MR. BHARARA: Can you recall ever having a meeting
10 in the Attorney General's conference room with that number
11 of participants where the Attorney General did not attend?

12 MR. SAMPSON: On occasion, but rarely.

13 MR. BHARARA: So, in your estimation, it is very
14 likely that the Attorney General attended that meeting?

15 MR. SAMPSON: I think so.

16 MR. BHARARA: At which, according to the title of
17 the meeting, Carol Lam and the San Diego office of the U.S.
18 Attorney's Office was discussed?

19 MR. SAMPSON: That would be my suspicion.

20 MR. BHARARA: Do you know why Jeff Taylor would
21 have been at such a meeting?

22 MR. SAMPSON: He was Counselor to the Attorney
23 General with responsibility for criminal matters, including
24 immigration enforcement.

25 MR. BHARARA: Do you know if at that time, the

01 time of this meeting, June 5, 2006, whether or not Jeff
02 Taylor had already appeared on someone's list, yours or
03 someone else's, as a possible replacement for Carol Lam?

04 MR. SAMPSON: I believe so. I think that in the
05 thinking phase of this process, I generated ideas about
06 possible candidates for who could serve as U.S. Attorney,
07 and Jeff Taylor appeared on that list from time to time.

08 MR. BHARARA: Was it unusual in your mind in any
09 way to have someone who was being considered as a
10 replacement for Carol Lam to be involved in a discussion
11 about whether or not Carol Lam was performing well and
12 perhaps should be replaced?

13 MR. BERENSON: Preet, I am not sure that precise
14 foundation has really been laid, but at the time of this
15 meeting, Jeff Taylor was being considered as a replacement
16 for Carol Lam. Maybe she was, but I don't think that is
17 what the last Q&A got us to.

18 MR. BHARARA: I don't think I need that foundation
19 because I do have a foundation that at some point prior to
20 this, whether or not on that particular moment, in certain
21 particular individuals' minds he was being considered as a
22 replacement for Carol Lam.

23 You have testified, have you not, that before that
24 day Jeff Taylor had appeared on some lists as a possible
25 replacement for Carol Lam. Is that right?

01 MR. SAMPSON: I did testify to that, but could you
02 restate the question?

03 MR. BHARARA: Sure. Is there anything unusual
04 about Jeff Taylor participating in a meeting about Carol
05 Lam's performance given that at some prior time in the not
06 too distant past he had appeared on a list as a possible
07 replacement for that very same United States Attorney?

08 MR. SAMPSON: I don't know unusual--I don't know
09 if that was unusual or not. Jeff Taylor had served as an
10 Assistant U.S. Attorney in that office and had prosecuted
11 immigration enforcement cases, and also was the counselor to
12 the Attorney General with responsibility for criminal
13 matters. And I suspect that that is why he was invited to
14 the meeting.

15 MR. BHARARA: Do you recall if there were other
16 meetings or conversations between you and the Attorney
17 General about the specific problem of immigration
18 enforcement in San Diego under Carol Lam?

19 MR. SAMPSON: I remember that in April or May or
20 June, sometime in that time frame, in 2006, there were
21 several discussions at our senior management meetings in the
22 morning. The senior management meeting was every morning at
23 8:30, and it included the Attorney General and myself and a
24 few other Office of the Attorney General staff; and the
25 Deputy Attorney General and his Principal Deputy, the

01 Principal Associate Deputy Attorney General, and his chief
02 of staff; and the Associate Attorney General and his
03 Principal Deputies; and a few other senior leaders in the
04 Department. And I recall several conversations about
05 immigration enforcement and the concern about immigration
06 enforcement in the San Diego U.S. Attorney's Office at a
07 senior management meeting during that time frame.

08 MR. BHARARA: And at the senior management
09 meeting, was the Attorney General always present?

10 MR. SAMPSON: Not always, but usually.

11 MR. BHARARA: Okay. I want to take you back to
12 the statement by the Attorney General that I quoted to you
13 before and ask you, given what you have described with
14 respect to discussions with the Attorney General and others
15 about the immigration enforcement issue in Carol Lam's
16 district, whether or not the following statement is accurate
17 by the Attorney General: "I have not been involved, was not
18 involved in the deliberations over whether or not United
19 States Attorneys should resign."

20 Is that an accurate statement with respect to
21 Carol Lam?

22 MR. SAMPSON: I believe that the Attorney General
23 was generally involved in discussions about the performance
24 of the U.S. Attorney's Office in San Diego, Carol Lam's
25 office's performance, at various times. And those

01 discussions and concerns about her office's performance
02 formed the basis for Ms. Lam being added to the list of U.S.
03 Attorneys who would be asked to resign in December of 2006,
04 which list was ultimately approved by the Attorney General.
05 So I guess what I think, to the best of my
06 recollection, is he was sort of generally--he was certainly
07 aware of the concerns about Carol Lam, and he was generally
08 aware about the notion that she would be added to a list of
09 U.S. Attorneys who might be considered to be asked to
10 resign.

11 So taken in that context, as you read it to me,
12 that statement seems inaccurate.

13 MR. BHARARA: Okay. And--

14 MR. SAMPSON: Or at least not complete.

15 MR. BHARARA: And just two more questions on it.

16 And so fair to say that the Attorney General was involved in
17 discussing specific concerns about the U.S. Attorney's
18 Office in San Diego? Is that right?

19 MR. SAMPSON: Yes.

20 MR. BHARARA: All right. And those specific
21 concerns in this case was an alleged issue with respect to
22 immigration enforcement?

23 MR. SAMPSON: Yes.

24 MR. BHARARA: So the other part of that statement
25 from the Attorney General that "I was never focused on

01 specific concerns about United States Attorneys as to
02 whether or not they should be asked to resign," based on
03 what you understand to be true and what we have discussed,
04 is that an accurate statement with respect to Carol Lam?
05 MR. SAMPSON: I don't know how to speak to what he
06 was focused on or not. I mean, I was focused on it. I
07 guess he wasn't. But based on what I observed, he was aware
08 of the concerns about Carol Lam, and ultimately he
09 understood that she was asked to resign as a result of those
10 concerns.
11 MR. BHARARA: Okay. I want to ask you about David
12 Iglesias. You had conversations specifically about David
13 Iglesias with the Attorney General. Is that right?
14 MR. SAMPSON: Yes.
15 MR. BHARARA: In fact, during your testimony on
16 March 29th in front of the Senate Judiciary Committee, I
17 believe you testified that, "I do remember learning, I
18 believe, from the Attorney General that he had received a
19 complaint from Karl Rove about U.S. Attorneys in three
20 jurisdictions, including New Mexico, and the substance of
21 the complaint was that those U.S. Attorneys weren't pursuing
22 voter fraud cases aggressively enough."
23 Do you recall that testimony?
24 MR. SAMPSON: Yes.
25 MR. BHARARA: And do you stand by that testimony?

01 MR. SAMPSON: I do.

02 MR. BHARARA: The reference to New Mexico, would
03 that be a reference to the United States Attorney in New
04 Mexico, David Iglesias?

05 MR. SAMPSON: I understood the complaint from Mr.
06 Rove to the Attorney General to be about three U.S.
07 Attorneys--U.S. Attorneys in three districts, including New
08 Mexico. So I understood that to be about David Iglesias.

09 MR. BHARARA: There is only one U.S. Attorney in
10 New Mexico, right?

11 MR. SAMPSON: Yes.

12 MR. BHARARA: Okay. Do you remember what the
13 other two districts were?

14 MR. SAMPSON: I do.

15 MR. BHARARA: And what were they?

16 MR. SAMPSON: It was the U.S. Attorney in
17 Philadelphia--

18 MS. BURTON: I object to this. Unless they were
19 U.S. Attorneys who were removed, I think this is an area--

20 MR. BHARARA: We do not have an agreement as to
21 scope with the Department of Justice with respect to this
22 interview, so--

23 MS. BURTON: It is the Department's position that
24 this interview--that the same scope limitations that applied
25 to the others apply to this insofar as talking about

01 individuals who were considered for removal but not removed.
02 MR. BHARARA: Ms. Burton, there is no agreement as
03 to scope, even with respect to the interviews with the
04 Department of Justice officials, as we made abundantly clear
05 at the last two meetings. The Department has a position,
06 and the Committee's investigators have a position. And with
07 respect to this witness, if he is prepared to answer the
08 question, I would ask that the witness answer the question.
09 MS. BURTON: And I am stating the Department's
10 position with regard to this subject area and the
11 Department's objection that by putting this information on
12 the record, it lays a foundation for it to become public,
13 and that's the Department's objection. That is the basis
14 for the Department's objection as set forth in our letters
15 of March 27th and April 13th. We have concerns about the
16 disclosure of this information.
17 MR. BHARARA: Can I just say two things?
18 Number one, your objection is noted. We don't
19 agree with it.
20 Number two, I believe it is the case with respect
21 to this particular question, this information was revealed
22 by Dan Bartlett nationally on television in speaking about
23 Philadelphia and Milwaukee. So I don't know what the
24 particular concern is here. I am trying to--
25 MR. MINCBERG: And let me add, third, that Mr.

01 Sampson in his public testimony did talk about several U.S.
02 Attorneys who were not, in fact, discharged.

03 MR. FLORES: And let me add finally that, as a
04 general matter, the House Judiciary Minority shares the
05 concerns over scope the Department of Justice has noted and
06 is of the belief that information about attorneys other than
07 those who were asked to resign is not properly within the
08 scope of the investigation at this point. So may that also
09 be noted for the record.

10 MR. BERENSON: And, Preet, let me tell you where
11 we are on this. I am going to go ahead and let the witness
12 answer this question. I don't understand the question to be
13 about other U.S. Attorneys who were considered for removal
14 or targeted for removal. As I heard the question, it is
15 about a conversation that the Attorney General had with Mr.
16 Rove and relayed to Mr. Sampson. Whether that did or did
17 not result in anybody appearing on a list for possible
18 removal has not been addressed yet. So I don't think that
19 this particular question even falls within the scope of the
20 objection that has been articulated.

21 However, if we get to the point where there are
22 questions that do fall within the scope, I think at this
23 point we are probably going to be inclined to respect those
24 objections until you can work out an agreement with the
25 Department of Justice on that. We can talk about it if and

01 when we--when we get there. But we don't want to, in
02 essence, void a standing objection that hasn't yet been
03 worked through between the parties.

04 MR. BHARARA: Why don't we have an answer to that
05 question?

06 MR. SAMPSON: Can you restate it?

07 MR. BHARARA: Sure. You testified that you
08 understood that the Attorney General had received complaints
09 from Karl Rove about U.S. Attorneys in three jurisdictions.
10 You mentioned one--New Mexico. Do you recall what the other
11 two were?

12 MR. SAMPSON: What I remember is that the
13 complaint from Mr. Rove to the Attorney General was about
14 United States Attorneys in three cities, really. He
15 complained, to my recollection, about U.S. Attorneys in
16 Philadelphia, which I knew to be the Eastern District of
17 Pennsylvania; Milwaukee, which I knew to be the Eastern
18 District of Wisconsin; and Albuquerque, which I knew to be
19 the District of New Mexico.

20 MR. BHARARA: Thank you. Do you recall how close
21 in time the Attorney General told you about that
22 conversation as compared to when he had the conversation
23 with Mr. Rove?

24 MR. SAMPSON: I don't recall specifically, but I
25 think it was, you know, the same day or the next day.

01 MR. BHARARA: Okay. And do you recall the rough
02 time frame of when that conversation was?

03 MR. SAMPSON: I think it was late in the fall in
04 2006, sometime in October, I believe.

05 MR. BHARARA: And fair to say that this was about
06 the time when deliberations over who should be asked to
07 resign and who should not were becoming more frequent and
08 was an important focus of what you were doing?

09 MR. SAMPSON: I think it's fair to say that that
10 was the time when the final process was being carried out,
11 when we were considering who ought to be and remain on the
12 list of U.S. Attorneys who might be asked to resign.

13 MR. BHARARA: And what is your understanding as to
14 why the Attorney General shared that information with you?

15 MR. SAMPSON: My recollection is that
16 he said, "I got this complaint from Karl Rove about U.S.
17 Attorneys in Philadelphia and Milwaukee and Albuquerque,"
18 and my recollection is he said, you know, "Look into it."

19 MR. BHARARA: Well, is it fair to say that when he
20 Attorney General asked you to look into it and those
21 specific complaints about particular U.S. Attorneys, at the
22 time when you were finalizing the list of people of who
23 would be asked to resign, that that conversation would
24 affect the decision about who should resign and who should
25 not?

01 MR. SAMPSON: It may have. I don't remember
02 specifically, but it may very well have.
03 MR. BHARARA: Did you have any other conversations
04 with the Attorney General about Mr. Iglesias?
05 MR. BERENSON: Ever, on any subject?
06 MR. BHARARA: On any complaints having to do with
07 Mr. Iglesias.
08 MR. SAMPSON: I remember learning that he had
09 received some calls from Senator Domenici complaining about
10 Mr. Iglesias. I'm not sure I remembered that at the time in
11 September, October, November of 2006, but, you know, in
12 preparing for this and reviewing documents, I came to be
13 reminded of that. And towards the end of the process, of
14 course, as I stated in my testimony, the Attorney General
15 was briefed and approved the list and approved the idea of
16 going forward and asking these U.S. Attorneys to resign.
17 MR. BHARARA: I got you. And do you know what the
18 specific concerns raised by Mr. Domenici with respect to Mr.
19 Iglesias were?
20 MR. SAMPSON: I don't remember knowing that. I
21 don't know that I ever knew that.
22 MR. BHARARA: But with--
23 MR. SAMPSON: Well, let me say this: I remember
24 hearing, again--and I don't remember whether I heard this at
25 the time the calls came in or in October of 2006 or after

01 this controversy arose. But I remember learning that
02 Senator Domenici had complained that Iglesias was not up to
03 the job and in over his head. But, again, I'm not sure when
04 I learned that. And I didn't hear that from Senator
05 Domenici. I heard that, you know, reported from the
06 Attorney General.

07 MR. BHARARA: So based on your understanding, at a
08 minimum the Attorney General had heard complaints about Mr.
09 Iglesias from both Karl Rove and Senator Domenici from New
10 Mexico. Is that right?

11 MR. SAMPSON: Yes.

12 MR. BHARARA: All right. And then he ultimately
13 approved, did he not, the decision to ask Mr. Iglesias to
14 resign?

15 MR. SAMPSON: He did.

16 MR. BHARARA: So let me just back to a statement
17 made by the Attorney General, which was a clarifying
18 statement, and ask you based on what you just told us you
19 believe it was an accurate statement. "I was never focused
20 on specific concerns about United States Attorneys as to
21 whether or not they should be asked to resign." Is that an
22 accurate statement based on your knowledge and understanding
23 of the situation with respect to David Iglesias?

24 MR. SAMPSON: Again, I don't know how to speak to
25 what he was focused on. I am just not sure what he was

01 focused on.
02 MR. BHARARA: Specific concerns were raised with
03 Mr. Gonzales with respect to David Iglesias, correct?
04 MR. SAMPSON: Yes.
05 MR. BHARARA: And then he approved the decision to
06 ask Mr. Iglesias to resign?
07 MR. SAMPSON: He did.
08 MR. BHARARA: Okay. I want to ask you about Kevin
09 Ryan. He was the U.S. Attorney for the Northern District of
10 California, was he not?
11 MR. SAMPSON: Yes.
12 MR. BHARARA: There was a meeting that you
13 testified about that occurred on November 27th of 2006. Do
14 you recall that meeting?
15 MR. SAMPSON: I do.
16 MR. BHARARA: And that is a meeting that the
17 Attorney General himself attended, is it not?
18 MR. SAMPSON: I think so.
19 MR. BHARARA: Could you take a look at a document
20 that I will ask the court reporter to mark as Sampson
21 Exhibit 3? Its Bates numbers are DAG15 to 17.
22 [Sampson Exhibit No. 3 marked
23 for identification.]
24 MR. BHARARA: Could you take a look at that
25 document?

01 [Witness perusing document.]

02 MR. BHARARA: Do you recognize that document?

03 MR. SAMPSON: Yes.

04 MR. BHARARA: Did you prepare that?

05 MR. SAMPSON: I did.

06 MR. BHARARA: And is that a memo entitled "Plan
07 for replacing center United States Attorneys," dated
08 November 15, 2006?

09 MR. SAMPSON: Yes.

10 MR. BHARARA: To the best of your recollection,
11 would that have been the version of that memo that was
12 operative at the time of the November 27, 2006, meeting?

13 MR. SAMPSON: I don't remember. I remember that
14 it changed over time. I think Step 2 became Step 1 and Step
15 1 became Step 2 at some point. So I'm just not sure.

16 MR. BHARARA: Okay. Let me ask you a different
17 question then. At the top of the first page of that
18 document, DAG15, there are six U.S. Attorneys' names listed.
19 Do you see that--Mr. Charlton, Ms. Lam, Ms. Chiara, Mr.
20 Bogden, Mr. McKay, and Mr. Iglesias? Is that right?

21 MR. SAMPSON: Yes.

22 MR. BHARARA: Ultimately, however, there were
23 seven U.S. Attorneys who were asked to resign on December
24 7th. Am I correct?

25 MR. SAMPSON: Yes.

01 MR. BHARARA: And the one that is missing is who?

02 MR. SAMPSON: Kevin Ryan for the Northern District
03 of California.

04 MR. BHARARA: So is it your recollection and
05 understanding that Mr. Ryan was added to the list of people
06 who were asked to resign sometime after the November 27th
07 meeting?

08 MR. SAMPSON: My recollection is that--and I
09 believe it was after that meeting, at the conclusion of that
10 meeting on November 27th, although I guess I'm not 100
11 percent sure. But it was at the conclusion--I think it was
12 at the conclusion of that meeting. My recollection is
13 leaving the Attorney General's conference room to follow the
14 Attorney General back into his office, and the Deputy
15 Attorney General calling me back and suggesting that Kevin
16 Ryan needed to be added to the list.

17 MR. BHARARA: So your recollection is when you had
18 the conversation with the Deputy Attorney General about
19 Kevin Ryan needed to be added to the list, the Attorney
20 General was not present for that?

21 MR. SAMPSON: That's my recollection.

22 MR. BHARARA: Okay. And it's the case, am I
23 right, that the Attorney General himself, however, approved
24 all of the people who were on the final list who were asked
25 to resign? Is that right?

01 MR. SAMPSON: I believe so.

02 MR. BHARARA: So is it the case that sometime
03 after that conversation with Deputy Attorney General
04 McNulty, you had some other conversation with the Attorney
05 General specifically about Kevin Ryan and whether or not it
06 was appropriate to add him to the list of people to ask to
07 resign?

08 MR. SAMPSON: I think that's right. I don't have
09 a specific recollection of that, but the way I would have
10 operated would have been to go back to the Attorney General
11 and say, "The Deputy Attorney General said we should add
12 Ryan," and make sure that he was okay with that.

13 MR. BHARARA: Is it conceivable to you that you
14 had gotten approval at the November 27th meeting for the six
15 U.S. Attorneys with the Attorney General present, and then
16 an individual gets added and that you did not have a
17 specific conversation getting the approval of the Attorney
18 General with respect to Kevin Ryan?

19 MR. SAMPSON: Gosh, I would hope not. I don't
20 think I did that. I just don't have a specific recollection
21 of speaking with the Attorney General about whether he
22 approved adding Ryan to the list. I just don't remember.

23 MR. BHARARA: What is your understanding of the
24 reasons why Ryan should be added to the list, as articulated
25 to you by the Deputy Attorney General or by anyone else,

01 after November 15th?

02 MR. SAMPSON: My recollection is that Kevin Ryan's
03 a really good guy and an honorable person who was working in
04 a very difficult office--the U.S. Attorney's Office in San
05 Francisco--and he had a difficult time managing that office.
06 And I remember that an EARS evaluation team was sent out to
07 his office and came back with a negative review of that
08 office, which was significant, because EARS evaluations
09 rarely came back negative.

10 And Mr. Ryan was concerned that folks that were on
11 that EARS evaluation team were biased against him, and he
12 appealed, asked for a review. And David Margolis, the
13 senior career official at the Department of Justice and
14 Associate Deputy Attorney General, put together a special review
15 team that went out and did an evaluation of Mr. Ryan's office,
16 and that special review team came back with a negative
17 review as well.

18 Sometime in 2006--I don't remember when--I
19 received a letter from Kevin Ryan. It appeared in my in-
20 box, and it said, "To Kyle Sampson. Eyes Only." And it was
21 a six- or seven-page letter where Mr. Ryan laid out his
22 efforts to carry out the Attorney General's priorities in
23 his office and his concern that he was being unfairly
24 evaluated by the Deputy's office and the Executive Office of
25 U.S. Attorneys.

01 And I remember sometime in 2006, notwithstanding
02 the fact that it said "To Kyle Sampson. Eyes Only,"
03 speaking with Paul McNulty about it and sharing with him the
04 letter and asking him as the Deputy Attorney General to
05 figure out what should be done. And my recollection is that
06 I gave that to the Deputy Attorney General and asked him to
07 handle it, and sort of forgot about it until he came back to
08 me, I think at the end of that meeting on November 27th, and
09 said Kevin Ryan needs to be added to the list.

10 MR. BHARARA: How unusual is it for an EARS
11 evaluation to happen and then for another team of lawyers to
12 go and conduct additional evaluations of a district?

13 MR. SAMPSON: I don't think it's the normal
14 course, but to the best of my knowledge, I have heard of it
15 being done, you know, on a handful of occasions, several
16 times, usually handled by David Margolis.

17 MR. BHARARA: Was it also the case that, with
18 respect to Mr. Ryan, in the fall of 2006 the chief judge in
19 that district had made complaints about Mr. Ryan?

20 MR. SAMPSON: I think I saw that in some of the
21 materials that I've reviewed, some of the documents that the
22 Department has disclosed to the Congress. I remember being
23 aware that the chief judge in the Northern District of
24 California had complained to Mr. Margolis about Mr. Ryan. I
25 learned that from Mr. Margolis.

01 MR. BHARARA: Were the circumstances with respect
02 to Mr. Ryan, given the EARS evaluation and then the follow-
03 on evaluation and complaints by the chief judge in the
04 district, sufficient to have been brought to the attention
05 of the Attorney General?

06 MR. SAMPSON: I don't remember.

07 MR. BHARARA: Why wouldn't they have been?

08 MR. SAMPSON: Well, the Deputy Attorney General's
09 office is the immediate supervisor of the U.S. Attorney's
10 Offices, and my view, when I received that letter from Kevin
11 Ryan, was to give it to the Deputy Attorney General and ask
12 the Deputy Attorney General to handle it. I may have at
13 some point expressed to the Attorney General that there were
14 these concerns about Ryan. The Deputy Attorney General may
15 have expressed those concerns to the Attorney General. I
16 just don't remember.

17 MR. BHARARA: I want to go back to Carol Lam for a
18 moment and ask you a couple of questions about what was told
19 to Carol Lam herself about concerns that you and others have
20 mentioned about how she was conducting business at the San
21 Diego U.S. Attorney's Office. I'm going to hand you a
22 document that I will ask the court reporter to mark as
23 Sampson No. 4. The Bates numbers are ASG255.

24 [Sampson Exhibit No. 4 marked
25 for identification.]

01 MR. BHARARA: Do you see that document?
02 MR. SAMPSON: Yes.
03 MR. BHARARA: Have you had a chance to look at it?
04 MR. SAMPSON: I have.
05 MR. BHARARA: Okay. It is an e-mail from--well,
06 it is an e-mail chain, the first of which is on May 31 from
07 you to Bill Mercer. Is that right?
08 MR. SAMPSON: Yes.
09 MR. BHARARA: Do you remember writing that e-mail?
10 MR. SAMPSON: I don't really have any specific
11 recollection of it, but I believe I did.
12 MR. BHARARA: Okay. You have a series of
13 questions in that e-mail, the first of which is: "Has
14 ODAG"--is that the office of the Deputy Attorney General?
15 MR. SAMPSON: Yes.
16 MR. BHARARA: Has ODAG ever called Carol Lam and
17 woodshedded her re immigration enforcement? Has anyone?"
18 What is the response you get from Bill Mercer?
19 MR. SAMPSON: "I don't believe so. Not that I'm
20 aware of."
21 MR. BHARARA: Could you explain what you meant to
22 communicate by "woodshedded"?
23 MR. SAMPSON: I understood that, as I mentioned
24 before, in April and May of 2006, there had been a
25 discussion in the senior management offices of the

01 Department, primarily the Attorney General's office and the
02 Deputy Attorney General's office, about the issues and
03 concerns related to immigration enforcement in the Southern
04 District of California. And I understood that the Attorney
05 General had asked the Deputy Attorney General to focus on
06 that to see what could be done to improve immigration
07 enforcement in that office. This was a time when
08 comprehensive immigration reform legislation was being
09 debated, when Hispanics were marching in the streets, when
10 the President ordered the National Guard to the border, and
11 the Attorney General was concerned. Everywhere he went and
12 spoke, people asked questions of him as a Mexican American,
13 what his views were on immigration, and conservatives,
14 frankly, were really being very critical about the
15 Department's immigration enforcement efforts.
16 And my recollection is that sometime in April or
17 May, the Attorney General had specifically tasked the Deputy
18 Attorney General's office with working with the San Diego
19 U.S. Attorney's Office to improve immigration enforcement
20 there, and I believe that this e-mail from me--I don't
21 remember it specifically--was following up on that, was
22 following up to see if the Deputy's office had taken any
23 action as directed by the Attorney General.
24 MR. BHARARA: And the answer you got was no.
25 MR. SAMPSON: That's right.

01 MR. BHARARA: And it was case--as far as you
02 understand, did anyone at the Department of Justice ever
03 specifically relate to Carol Lam any Department of Justice
04 concerns about the way she was handling immigration
05 enforcement?

06 MR. SAMPSON: Well, in reviewing documents for
07 this, I believe that at some point Bill Mercer prepared a
08 memorandum that he sent to Ms. Lam and asked her to respond
09 to. But I don't think I had knowledge of that at the time.
10 I don't really remember that specifically.

11 MR. BHARARA: I want to ask you about that memo.
12 If you could take a look at a document that I will ask the
13 court reporter to mark as Sampson No. 5. The Bates number
14 is DAG2442.

15 I am sorry. It is a three-page document, 2440
16 through 2442.

17 [Sampson Exhibit No. 5 marked
18 for identification.]

19 MR. BHARARA: If you would just focus on the third
20 page of the document, DAG2442, you will see at the bottom of
21 that page there is an e-mail from Will Moschella to Bill
22 Mercer dated March 5th of 2007. Am I correct that that was
23 the day before Will Moschella was scheduled to testify in
24 the House?

25 MR. SAMPSON: I think that's right.

01 MR. BHARARA: And he asked Bill Mercer an
02 important question: How do we communicate to Carol our
03 displeasure with her immigration numbers? And you will see
04 the response is that Bill Mercer said he sent her a memo in
05 2006, to which apparently she responded, and let me read the
06 last sentence of Bill Mercer's response. "She responded
07 after I left the Office of the Deputy Attorney General, but
08 it seemed like mumbo-jumbo when I heard about it." And what
09 is Will Moschella's response? I mean, he forwards that e-
10 mail then to Daniel Fridman at the Office of the Deputy
11 Attorney General, and what is his response?
12 MR. SAMPSON: What is Moschella's response?
13 MR. BHARARA: Moschella's response.
14 MR. SAMPSON: It appears to be three question
15 marks.
16 MR. BHARARA: Do you have any understanding of
17 what that signified about Mr. Moschella's response or
18 reaction to the statement by Bill Mercer about whether or
19 not Ms. Lam had received communications about unhappiness
20 about how she was conducting her immigration enforcement?
21 MR. SAMPSON: Well, I am not a party to these e-
22 mails, but I can speculate. Do you want me to give you my
23 best guess?
24 MR. BHARARA: Are you familiar with Will Moschella
25 and are you familiar with the circumstances surrounding Ms.

01 Lam's--the concerns about Ms. Lam's immigration enforcement?
02 MR. SAMPSON: Well, Dan Fridman is, I think, a
03 counsel in the Deputy's office with regard to immigration--
04 immigration generally, and I think--again, I'm speculating.
05 I think Moschella's question marks to Fridman are asking
06 him, you know, what does Mercer mean by that? But, again,
07 that's just my speculation.
08 I'm sorry. Perhaps I didn't understand.
09 MR. BHARARA: No, no. You did. Let me ask you to
10 read Bill Mercer's e-mail and ask you what your reaction is
11 to that e-mail.
12 MR. SAMPSON: Mercer's e-mail says, "I sent her a
13 memo in '06--CVH should have it--saying that the USSC,
14 Courts, and EOUSA data said thus and such and did she agree
15 with these data or were they inaccurate. She responded
16 after I left ODAG, but it seemed like mumbo-jumbo when I
17 heard about it."
18 MR. BHARARA: Let me ask you a question about
19 that. That is the description that Mr. Mercer gives in
20 response to a question about whether or not anyone
21 communicated to Carol Lam the DOJ's displeasure about her
22 immigration numbers. Based on that description, did it look
23 to you like someone was actually communicating with Ms. Lam
24 displeasure about her immigration numbers? Or does it look
25 like someone is sending a memo of some sort asking a

01 question?

02 MR. SAMPSON: I remember being concerned at the
03 time that the Deputy Attorney General's Office had not
04 communicated sufficiently with Carol Lam about the Attorney
05 General's and the senior leadership of the Department's
06 concerns about her office's lack of immigration
07 prosecutions. I felt that that had been tasked to the
08 Deputy Attorney General's office and that it had not been
09 sufficiently carried out.

10 MR. BHARARA: And, in fact, when you testified on
11 March 29th in front of the Senate Judiciary Committee, you
12 said, "No one, to my knowledge, talked to Carol Lam about
13 the concerns that were had in the leadership of the
14 Department about her office's immigration enforcement." Do
15 you recall if that was your testimony?

16 MR. SAMPSON: I think that was my testimony.

17 MR. BHARARA: And do you stand by that?

18 MR. SAMPSON: Of course, I do. In reviewing some
19 of these documents, I think there was some--Mercer
20 apparently sent her a memo about it, but, again, to the best
21 of my recollection, to my knowledge, I don't think that task
22 was carried out sufficiently by the Deputy Attorney
23 General's office.

24 MR. BHARARA: Let me then ask you, based on what
25 you know about whether or not that task was carried out,

01 about a statement made by the Attorney General on March
02 14th. He said on March 14th of this year, "In responding to
03 questions about Carol Lam's performance, we advised Ms. Lam
04 of these other priorities, i.e., priorities other than
05 public corruption, that she needed to focus on these other
06 issues as well."

07 To the extent he was talking about the fact that--
08 to the extent he was suggesting that DOJ had told her to
09 focus on those other concerns that had been raised about her
10 immigration enforcement, was that statement wholly accurate?

11 MR. SAMPSON: I guess I just hesitate to comment
12 on it, not seeing it. As you read it to me, it doesn't seem
13 complete.

14 MR. BHARARA: Let me ask you this question--

15 MR. SAMPSON: Because I don't know what he meant
16 by that.

17 MR. BHARARA: To the extent that anyone has been
18 saying publicly that Ms. Lam willfully refused to push
19 administration priorities with respect to immigration
20 enforcement, in your opinion are those statements fair if it
21 is the case that no one talked to her, no one woodshedded
22 her, no one communicated to her the concerns the Department
23 had about her immigration enforcement efforts?

24 MR. SAMPSON: Listen. I think the whole thing
25 could have been handled a lot better.

01 MR. BHARARA: But I am asking specifically with
02 respect to Ms. Lam. To the extent--do you understand my
03 question?

04 MR. SAMPSON: Please restate it.

05 MR. BHARARA: To the extent that people state that
06 Carol Lam willfully refused to follow a priority of the
07 Justice Department with respect to immigration enforcement,
08 are those statements fair in light of the fact, based on
09 what you testified to, no one communicated to Carol Lam
10 concerns about her office's immigration enforcement?

11 MR. BERENSON: I don't think he testified as a
12 matter of fact that no one communicated concerns to her.

13 MR. BHARARA: His testimony was, and I will read
14 it back, "No one to my knowledge talked to Carol Lam about
15 the concerns that we had in the leadership of the Department
16 about her office's immigration enforcement."

17 MR. BERENSON: That is right. To his knowledge.

18 MR. BHARARA: I understand. What I am saying is
19 if it is the case that it is true--if it--I will repeat the
20 question for the third time.

21 To the extent people have claimed that Carol Lam
22 willfully failed to follow administration/DOJ priorities,
23 are those statements fair if it is true that no one talked
24 to Carol Lam about the concerns that were had in the
25 leadership of the Department about her office's immigration

01 enforcement?

02 MR. FLORES: Before the witness answers, if I
03 could ask, help me follow the question. What predicate
04 statement that she was willfully disregarding priorities are
05 you referring to?

06 MR. BHARARA: The question I asked was: To the
07 extent anyone says that she willfully failed to follow
08 policy, is it a fair statement? If the witness understands
09 the question, he can answer it.
10 Do you understand the question?

11 MR. SAMPSON: I think so.

12 MR. BHARARA: Okay.

13 MR. SAMPSON: And as I understand the question,
14 that doesn't seem like it would be fair. My recollection is
15 that there was--I remember hearing expressed some
16 frustration with Carol Lam that she just didn't get it, that
17 she didn't understand the importance in the broad scheme of
18 things of stepping up her office's immigration enforcement.
19 But as you stated the question, that doesn't seem
20 like it would be fair.

21 MR. BHARARA: Okay. Let me ask you a couple of
22 quick questions about an op-ed that the Attorney General
23 wrote that was published in USA Today on March 7, 2007. Are
24 you familiar with that op-ed?

25 MR. SAMPSON: Yes.

01 MR. BHARARA: Did you have any participation in
02 the drafting or writing of that op-ed?

03 MR. SAMPSON: Some.

04 MR. BHARARA: What was your participation?

05 MR. SAMPSON: My recollection is that Tasia
06 Scolinos, who was the Director of the Office of Public
07 Affairs, that day--or I guess the day before had indicated
08 that USA Today wanted--or had offered to provide the
09 Department of Justice an opportunity to publish an op-ed. I
10 believe it was one of their point/counterpoint op-eds. And
11 she was strongly in favor of doing that, given what was
12 going on in the press at the time, and she said that she was
13 going to have her speechwriters draft an op-ed and send it
14 up to the Deputy's office and to the Attorney General's
15 office for review and comment, and then it was due, you
16 know, at 6:00 p.m.--to the best of my recollection, at a
17 time certain that day.

18 MR. BHARARA: And did the Attorney General review
19 the op-ed before it was published?

20 MR. SAMPSON: I remember that a draft came up very
21 late, about 5:15, and it came up to me and was a bit ragged,
22 and so I got to work editing it. And the Attorney General
23 came into my office, and together we worked on finalizing
24 that op-ed. And I recall that it was very close to the
25 deadline. I think the deadline was 6:00 p.m., and it was

01 5:45. And the Attorney General and I were noodling over a
02 few final words.
03 And I don't have that in front of me, but I
04 remember that we--
05 MR. BHARARA: Would it help you to have it?
06 MR. SAMPSON: It would.
07 MR. BHARARA: I'm just going to spend a minute on
08 it, but if you'd look at it, and I'll ask the court reporter
09 to mark it as Sampson Exhibit 6.
10 [Sampson Exhibit No. 6 marked
11 for identification.]
12 MR. BHARARA: With the benefit of looking at the--
13 is that the op-ed you have in front of you?
14 MR. SAMPSON: Yes.
15 MR. BHARARA: With the benefit of looking at it,
16 go ahead and answer.
17 MR. SAMPSON: I remember that the Attorney General
18 and I together finalized this draft op-ed, and we came to
19 the penultimate sentence, where it says, "While I am
20 grateful for the public service of these seven U.S.
21 Attorneys, they simply lost my confidence." And that last
22 clause after the comma we didn't come to resolution on. He
23 said--he offered up some language like "We thought we could
24 do better" or "We thought a change would improve the
25 office." But the locution he was suggesting was bad

01 grammar, and so I said, "Well, let's think about this some
02 more."

03 And at that time, all the computers in the
04 building crashed, and Tasia Scolinos called me and said, "I
05 need that op-ed." And the Attorney General got a phone call
06 or something and got up and left, and I got up and walked
07 down to the first floor, to the Office of Public Affairs,
08 and Ms. Scolinos put me on the phone with the USA Today
09 people, and I dictated the op-ed to them. And when I came
10 to this part, they said, "We're running out of space." And
11 so I said, "they simply lost my confidence." And it went
12 out that way.

13 And, of course, in op-ed writing, it's the paper
14 that comes up with the headline, and so the USA Today
15 published it the next day as "They lost my confidence," and
16 the Attorney General was not pleased with that. It was a
17 judgment I made on the fly, and he didn't like that
18 language. And that's the story.

19 MR. BHARARA: What about the language in the
20 actual last sentence, which reads, "I hope that this episode
21 ultimately will be recognized for what it is--an overblown
22 personnel matter"? Did that get in there through a computer
23 malfunction as well?

24 MR. SAMPSON: We really didn't talk about that.
25 That's the draft that came up from the speechwriter. The

01 draft that came up from the speechwriter, to my
02 recollection, said "a tragically overblown personnel
03 matter," and I struck "tragically."
04 MR. BHARARA: But the rest of that op-ed the
05 Attorney General saw and approved?
06 MR. SAMPSON: He did.
07 MR. BHARARA: I want to move to a different
08 subject and spend a minute on a couple of questions with
09 respect to Bud Cummins. I want to hand you a document that
10 I will ask the court reporter to mark as Sampson Exhibit 7,
11 and it bears Bates number DAG65.
12 [Sampson Exhibit No. 7 marked
13 for identification.]
14 MR. BHARARA: Could you take a look at that e-
15 mail, the document reflected in DAG65? Then I will ask you
16 a couple questions about it.
17 [Witness perusing document.]
18 MR. BHARARA: Have you had a chance to look at it?
19 [Witness nods in the affirmative.]
20 MR. BHARARA: You see it is a series of e-mails
21 including you and some other folks, and let me go through it
22 part by part.
23 You will see that the e-mail at the bottom is one
24 from Mike Elston to Richard Hertling, cc to you and a number
25 of other people, indicating that two Senators' staffs have

01 called to ask Bud Cummins to perhaps testify before
02 Congress. Do you see that?

03 MR. SAMPSON: Yes.

04 MR. BHARARA: And then at the end of the Michael
05 Elston e-mail, he asks the folks who have been sent the e-
06 mail what their thoughts are, and the response from you to
07 the group, which includes Mr. Elston, Mr. Hertling, Ms.
08 Goodling, Mr. Moschella, Mr. McNulty, and Rebecca Seidel,
09 provide your thoughts.

10 Your answer is, "I don't think he should." Do you
11 see that?

12 MR. SAMPSON: Yes.

13 MR. BHARARA: And you have a series of questions.
14 You say, "How would he answer...?" And then you list a
15 series of questions. Was it the difficulty of those
16 questions that led you to the conclusion that you didn't
17 think he should testify?

18 MR. SAMPSON: I understood at the time that the
19 position of the Department and certainly the Attorney
20 General's views were that with regard to the United States
21 Attorneys who had been asked to resign, the Department was
22 not going to publicly talk about the affirmative reasons
23 they were asked to resign, but instead was going to reaffirm
24 the administration's position that it was committed to
25 having a Senate-confirmed U.S. Attorney in every district

01 and provide assurances that none of the U.S. Attorneys had
02 been asked to resign to influence a case for improper
03 political reasons; and that the position of the
04 administration was going to be to hold that line.
05 And I just thought that if Mr. Cummins testified,
06 he would inevitably cross that line, and I understood that
07 Mr. Cummins had declined to testify and was asking whether,
08 if given the choice, the Department thought he should
09 testify. And my view was that, given the choice, he should
10 not testify.

11 MR. BHARARA: At the time you wrote that e-mail on
12 February 1st, what was your understanding of the reason why
13 Mr. Cummins had been asked to resign?

14 MR. SAMPSON: I understood that Mr. Cummins had
15 appeared on--had been listed as someone we might consider
16 asking to resign because he had not so distinguished himself
17 as being someone who wouldn't be on the list of people we
18 might ask to resign, and also that the White House had
19 inquired as to whether a place could be made for Tim Griffin
20 to be appointed and have the opportunity to serve as United
21 States Attorney.

22 MR. BHARARA: Were those equal reasons?

23 MR. SAMPSON: In my mind, they were first--the
24 first one was necessary. If Mr. Cummins had been--it was my
25 belief that if Mr. Cummins had been a star performer U.S.

01 Attorney and the White House asked, you know, if the
02 Department would be fine with asking him to resign to make
03 way for someone else, the Department would have said no to
04 that. And so I thought they were sort of the two-step
05 reasons. The first one was necessary before the second one
06 could even be considered.

07 MR. BHARARA: So are you saying that had Bud
08 Cummins not--withdrawn.

09 Are you saying that the interest in appointing Tim
10 Griffin or appointing someone else to replace Bud Cummins
11 was not the sole reason for Mr. Cummins being asked to
12 resign?

13 MR. SAMPSON: To my knowledge, in my mind, it was
14 not the sole reason.

15 MR. BHARARA: And so to the extent there is
16 another reason, that other reason, are you saying, is based
17 on his performance as a U.S. Attorney?

18 MR. SAMPSON: In my view, yes.

19 MR. BHARARA: And do you understand that or is it
20 your recollection that Mr. McNulty testified on February 6th
21 of 2007 before the Senate Judiciary Committee that the sole
22 reason Mr. Cummins was asked to resign was to provide an
23 opportunity for another person to serve in that spot?

24 MR. SAMPSON: It's my understanding that that is
25 how he testified now. I didn't come to realize that until

01 March 8th or 9th.

02 I understood the reasons that Mr. Cummins was
03 asked to resign, as I have stated here today, to be sort of
04 a combination of reasons and a point of emphasis, really.
05 And I believed and I thought that the Deputy Attorney
06 General had simply made clear in his testimony on February
07 6th that the White House's interest in making way for Tim
08 Griffin was a factor. And I came to realize later that he
09 had said that performance was not a reason that Mr. Cummins
10 was asked to resign.

11 MR. BHARARA: Was Mr. McNulty's testimony that
12 performance was not a reason accurate?

13 MR. SAMPSON: I don't think so. I think it's--no,
14 I don't think it was.

15 MR. BHARARA: I am going to have more questions on
16 that in a moment. Let me just finish with this for a
17 moment.

18 Among the questions you wonder how Mr. Cummins
19 would answer, you say, "Did Griffin ever talk about being
20 AG-appointed and avoiding Senate confirmation?" Do you see
21 that question?

22 MR. SAMPSON: Yes.

23 MR. BHARARA: And you wonder how would Mr. Cummins
24 respond to that question. What is your understanding of how
25 he would have to respond to that question truthfully at the

01 time you wrote this e-mail?

02 MR. SAMPSON: I did not know for sure then and I
03 don't know for sure now, but I understood that Mr. Griffin
04 and Mr. Cummins were actually friends and visited and
05 talked. And I also knew that Mr. Griffin was friends and
06 visited and talked with Sarah Taylor and Scott Jennings in
07 the White House Counsel's office, and I knew that those
08 staffers in the--excuse me, in the White House Office of
09 Political Affairs. And I knew that those staffers had
10 talked about the possibility of Griffin being appointed
11 under the AG's interim appointment authority. And so I
12 suspected that Griffin may have shared that with Cummins.

13 MR. BHARARA: Do you have any knowledge about--do
14 you have any actual knowledge of what Griffin was saying,
15 either to Bud Cummins or other people, about how he would be
16 able to avoid Senate confirmation and remain in office until
17 Mr. Bush left office?

18 MR. SAMPSON: I don't have any actual knowledge.
19 My belief is that Mr. Griffin speaks freely, and so I was
20 concerned that--I didn't know what he was saying.

21 MR. BHARARA: Could you amplify what you mean by
22 your concern that Mr. Griffin speaks freely?

23 MR. SAMPSON: I just suspected that Mr. Griffin
24 had talked to Mr. Cummins about the possibility of being--of
25 Mr. Griffin being appointed under the AG's interim

01 appointment authority, and then the administration not
02 proceeding to work with the Senators on nomination and
03 confirmation.

04 MR. BHARARA: And why were you worried that he
05 would say such a thing in response to that question?

06 MR. SAMPSON: Because I knew that that idea had
07 been rejected by the Attorney General, and that the
08 administration had determined sometime in January to be
09 committed to having a Senate-confirmed United States
10 Attorney in every Federal district.

11 MR. BHARARA: Let me stay on this general subject
12 about interim authority, and then I am going to come back
13 and ask you questions about Mr. McNulty's testimony.
14 Am I correct that in March of 2006, the PATRIOT
15 Act reauthorization included a provision that would allow
16 the Attorney General to make indefinite interim U.S.
17 Attorney appointments? Is that right?

18 MR. SAMPSON: Yes.

19 MR. BHARARA: And that was done at the behest of
20 the Department of Justice?

21 MR. SAMPSON: I have come to learn that. That is
22 my understanding.

23 MR. BHARARA: And when did the Attorney General
24 come to learn that he was being--that the Department had
25 requested and had received through the PATRIOT Act

01 reauthorization the authority to make such indefinite
02 interim appointments?

03 MR. SAMPSON: I'm not sure. I think sometime
04 after the statute was enacted.

05 MR. BHARARA: Sometime after March 6th of 2006?

06 MR. SAMPSON: If that is when the statute was
07 enacted, yes.

08 MR. BHARARA: Do you have any idea if it was
09 shortly thereafter or months later or any idea at all?

10 MR. SAMPSON: I'm not sure.

11 MR. BHARARA: Do you know if it was before August
12 and September of 2006?

13 MR. SAMPSON: I suspect so, but, again, I'm not
14 sure.

15 MR. BHARARA: You don't recall any conversations
16 with the--withdrawn.

17 Do you recall any conversations with the Attorney
18 General about that interim authority, the new interim
19 authority? You had those conversations, did you not?

20 MR. SAMPSON: Yeah, I think I did. I'm just
21 trying to think of when they--

22 MR. BHARARA: Do you recall when the earliest was?

23 MR. SAMPSON: Probably not very long after it was
24 enacted.

25 MR. BHARARA: And do you recall the nature of that

01 conversation?

02 MR. SAMPSON: No. There had been a controversy in
03 December of 2005 that the Attorney General was very involved
04 in and knew and understood related to appointment of an
05 interim U.S. Attorney in South Dakota, and there was sort of
06 an inter-branch conflict between a district judge there and
07 the Department over who should be appointed interim U.S.
08 Attorney. A woman who was serving, I believe, in an acting
09 capacity, as the Acting U.S. Attorney, could no longer serve
10 because under the Vacancies Act the 260 days had run out.
11 So the Attorney General was very aware of that
12 conflict, and it was finally resolved when the Department
13 made a recommendation to the President that a person be
14 given a recess appointment to serve there on an interim
15 basis.

16 And so he was aware of the issue with Section 546,
17 and then, you know, I believe sometime after the PATRIOT Act
18 was enacted, someone made him aware that that legislation
19 had been enacted and that solved the problem that we had
20 experienced just a couple of months before.

21 MR. BHARARA: So fair to say--

22 MR. SAMPSON: I'm not sure when, though. I mean,
23 March, April, May. I don't remember.

24 MR. BHARARA: Okay. But fair to say that the
25 Attorney General was intimately familiar with perceived

01 problems from the way the interim authority was able to be
02 utilized prior to reauthorization? Is that fair?
03 MR. SAMPSON: Yes, I think so.
04 MR. BHARARA: And fair to say that this was an
05 important authority, given the Attorney General's awareness
06 of the problem, to have received?
07 MR. SAMPSON: Yes, I think so.
08 MR. BHARARA: I am going to show you a document
09 that I will have the court reporter mark as Sampson Exhibit
10 8. The Bates stamp is OAG26.
11 [Sampson Exhibit No. 8 marked
12 for identification.]
13 MR. BHARARA: It is actually a two-page document
14 with Bates numbers OAG26 and 27. Take a look at that
15 document. Let me know when you have had a chance to review
16 it.
17 [Witness perusing document.]
18 MR. SAMPSON: Okay.
19 MR. BHARARA: Okay. You see that this is--at the
20 top of the page, the latest e-mail in the chain is an e-mail
21 from you to Monica Goodling. Is that right?
22 MR. SAMPSON: Yes.
23 MR. BHARARA: And that was a response from you to
24 an e-mail that Monica Goodling had sent you on August 18,
25 2006. Is that right?

01 MR. SAMPSON: Yes.

02 MR. BHARARA: Do you see in that e-mail that Ms.
03 Goodling is--well, why don't you tell me. What is your
04 understanding of what Ms. Goodling is trying to relate to
05 you in this e-mail?

06 MR. SAMPSON: I understood that Mr. Griffin had
07 been a White House staffer when he was activated to go to
08 Iraq and was coming back from that activation. And this e-
09 mail leads me to believe--and I believe--and I think this is
10 true--that the White House was concerned about its Soldiers
11 and Sailors Relief Act obligations. They needed to find a
12 place for Griffin. And earlier in the summer, there had
13 been a discussion in the judicial selection process and
14 approval by the counsel to the President, the Attorney
15 General, and ultimately the President that Griffin would be
16 nominated to serve as U.S. Attorney in the Eastern District
17 of Arkansas. So all of that was in the background, and I
18 understand Ms. Goodling's e-mail to be logistical in nature:
19 here is how we can make all that happen.

20 MR. BHARARA: Okay. And there is a reference in
21 the first sentence of her e-mail, where she says, "Scott and
22 I spoke last Thursday or Friday, and this is what's going
23 on." Do you know who the "Scott" she is referring to is?

24 MR. SAMPSON: I believe it is Scott Jennings.

25 MR. BHARARA: Scott Jennings at the time worked

01 where?

02 MR. SAMPSON: In the White House Office of
03 Political Affairs.

04 MR. BHARARA: And who did he report to?

05 MR. SAMPSON: Sarah Taylor, who was the Director
06 of Political Affairs.

07 MR. BHARARA: And who did Sarah Taylor report to?

08 MR. SAMPSON: Karl Rove.

09 MR. BHARARA: Okay. In the second paragraph of
10 Ms. Goodling's e-mail, she says, "We have a Senator prob."
11 I assume you took "prob." to mean "problem"?

12 MR. SAMPSON: Yes.

13 MR. BHARARA: And what is your understanding of
14 what the Senator problem was that Ms. Goodling was referring
15 to?

16 MR. SAMPSON: I remember learning sometime that
17 Senator Pryor had expressed some concerns about Mr. Griffin.

18 MR. BHARARA: And do you understand what those
19 concerns were based on?

20 MR. SAMPSON: I didn't. I understood that Senator
21 Pryor had not said one way or another whether he would be
22 supportive of Mr. Griffin being nominated, but I don't
23 remember being aware of the substance of the concerns.

24 MR. BHARARA: Is that the earliest that you--when
25 was the earliest you became aware that there might be a

01 "Senator problem"?

02 MR. SAMPSON: I'm not sure. It may have been at
03 this point.

04 MR. BHARARA: Okay. And then there is a reference
05 to "WH's intent on nomination"--I am sorry, "WH's intent on
06 nominating." Do you understand "WH" to refer to the White
07 House?

08 MR. SAMPSON: I believe so.

09 MR. BHARARA: And what is your understanding of
10 who, which people at the White House were intent on
11 nominating?

12 MR. SAMPSON: I don't know. As I said before, I
13 knew that in the regular process, Mr. Griffin had been
14 signed off on by the President to be nominated pending
15 completion of the background investigation. So I understood
16 the White House to mean, you know, the people in the White
17 House who would be involved in U.S. Attorney nominations,
18 which is the Counsel's office and the Office of Political
19 Affairs and the Office of Legislative Affairs.

20 MR. BHARARA: And who are the heads of all those?
21 Harriet Miers, am I correct?

22 MR. SAMPSON: Yes.

23 MR. BHARARA: And who were the other folks you
24 mentioned?

25 MR. SAMPSON: The Office of Legislative Affairs

01 participated in U.S. Attorney selection, and that would have
02 been Candi Wolfe; and the Office of Political Affairs, which
03 we went through already.

04 MR. BHARARA: And the head of the Office of
05 Political Affairs, just for the record, again, is?

06 MR. SAMPSON: Sarah Taylor.

07 MR. BHARARA: And the Office of Political Affairs
08 always participates in decisions about the selection of
09 United States Attorneys?

10 MR. SAMPSON: Based on everything I observed and
11 saw, the answer is yes.

12 MR. BHARARA: And does that include Karl Rove's
13 involvement in all decisions to nominate United States
14 Attorneys?

15 MR. SAMPSON: No. Mr. Rove from time to time
16 appeared at Judicial Selection Committee, but very rarely.
17 It was really Scott Jennings, primarily.

18 MR. BHARARA: Well, separate and apart from
19 whether or not he appeared at certain types of meetings,
20 what is your understanding of the degree to which Mr. Rove
21 was involved in the selection consideration of potential
22 United States Attorney nominees?

23 MR. SAMPSON: I don't know. I knew that the
24 Office of Political Affairs was involved in that, and I knew
25 that the Office of Political Affairs ultimately reported to

01 Mr. Rove. But I don't know.

02 MR. BHARARA: Did you ever have any understanding
03 of whether or not people at the Office of Political Affairs,
04 including Sarah Taylor and Scott Jennings, had conversations
05 with Mr. Rove or updated Mr. Rove or sought input from Mr.
06 Rove on any of these decisions about potential U.S. Attorney
07 nominees?

08 MR. SAMPSON: I don't know. I don't think I ever
09 knew.

10 MR. BERENSON: Are you referring to any U.S.
11 Attorney appointment in the history of the administration?

12 MR. BHARARA: Yes.

13 MR. SAMPSON: My recollection is that during the
14 first term Mr. Rove participated more frequently in Judicial
15 Selection Committee, and U.S. Attorney--those meetings were
16 focused on judicial selection. The U.S. Attorney selection
17 was handled really primarily on a different track, but final
18 approvals were done at Judicial Selection Committee. U.S.
19 Attorneys were handled in a process at the Justice
20 Department where a panel of folks, including the Director of
21 EOUSA, David Margolis, and the White House liaison and an
22 Associate Counsel, someone from the White House Counsel's
23 office, interviewed candidates to be U.S. Attorney and made
24 a recommendation to the Attorney General. And that was
25 really just signed off on sort of as an adjunct in Judicial

01 Selection Committee.
02 Mr. Rove participated--my experience and
03 observation was that Mr. Rove participated in Judicial
04 Selection Committee maybe half the time in the first term,
05 and then almost never in the second term.
06 MR. BHARARA: Do you have any understanding as to
07 why his participation fell off in the second term?
08 MR. SAMPSON: I don't know.
09 MR. BHARARA: Okay. I want to show you a document
10 now that I will ask the court reporter to mark as Sampson
11 Exhibit 9. Those documents are Bates number--it is a two-
12 page document Bates numbered OAG32 to 33.
13 [Sampson Exhibit No. 9 marked
14 for identification.]
15 MR. BHARARA: Take a moment to look at that
16 document, please.
17 [Witness perusing document.]
18 MR. SAMPSON: Okay.
19 MR. BHARARA: You will see again, this is--not
20 "again." I am sorry. The first page, OAG32, is an e-mail
21 from you to Harriet Miers. Is that right?
22 MR. SAMPSON: Yes.
23 MR. BHARARA: And it's dated September 13, 2006.
24 Is that right?
25 MR. SAMPSON: Yes.

01 MR. BHARARA: And could you just describe
02 generally what this document is and what the intent of this
03 document is?

04 MR. BERENSON: Preet, I think it is from Harriet
05 Miers to Kyle, not the other way around.

06 MR. BHARARA: On OAG32--

07 MR. BERENSON: Is 32 the second page?

08 MR. BHARARA: 32 is the first page.

09 MR. BERENSON: Oh, I am sorry. The first page.

10 MR. SAMPSON: I think it is an e-mail in response
11 to Harriet Miers' inquiry to me.

12 MR. BHARARA: Right. And what was her inquiry to
13 you?

14 MR. SAMPSON: It was twofold: first, any current
15 thinking on holdover U.S. Attorneys; and, second, any recent
16 word on a particular U.S. Attorney's intentions.

17 MR. BHARARA: And do you understand why she was
18 making that inquiry?

19 MR. SAMPSON: Well, as I testified, starting in
20 early 2005, there was an inquiry as to whether all United
21 States Attorneys should be replaced. I thought that was
22 unwise, as did others, and a general determination was made
23 to identify a subset of U.S. Attorneys who, for whatever
24 reason, were underperforming in that general sense, that a
25 subset of such U.S. Attorneys could be identified for

01 consideration for asking them to resign sometime after their
02 4-year terms had expired. And that process bumped along in
03 an episodic way without any real traction, and I understood
04 that Ms. Miers was asking me where things stood on that in
05 this e-mail.

06 MR. BHARARA: And what is the substance of your
07 response and how you prepared your response?

08 MR. SAMPSON: I gave her the breakdown of all the
09 U.S. Attorneys, where things stood. She had inquired about
10 a specific U.S. Attorney, and so I responded to that. And
11 then the summary response that I gave her was as stated here
12 in the--

13 MR. BHARARA: Okay. Take a look at the summary
14 for a moment. Could you just read aloud the first two
15 sentences of the summary?

16 MR. SAMPSON: "I am only in favor of executing on
17 a plan to push some USAs out if we really are ready and
18 willing to put in the time necessary to select candidates
19 and get them appointed. It would be counterproductive to
20 DOJ operations if we push USAs out and then don't have
21 replacements ready to roll immediately."

22 MR. BHARARA: Could you also read the next
23 sentence?

24 MR. SAMPSON: "In addition, I strongly recommend
25 that, as a matter of administration policy, we utilize the

01 new statutory provisions that authorize the AG to make USA
02 appointments."

03 MR. BHARARA: Why were you so concerned about
04 proceeding with a plan without having candidates at the
05 ready?

06 MR. SAMPSON: What I remember is feeling that the
07 judicial selection process and the adjunct to that, which
08 was the U.S. Attorney selection process, was getting sclerotic,
that

09 it was hard to get decisions out of the Counsel's office.
10 And so to the best of my recollection, I was kind of
11 pounding on the table saying, you know, you asked me what
12 our views are with holdover U.S. Attorneys and if we're
13 going to move forward with that idea of identifying some
14 U.S. Attorneys who might be asked to resign. But my
15 comeback is, look, we can do that but only if you're serious
16 about it.

17 MR. BHARARA: And what precisely did you mean to
18 say by--what was it that you wanted to have done as a matter
19 of administration policy?

20 MR. SAMPSON: As I said in my testimony, I
21 recommended this course of action, to use the Attorney
22 General's appointment authority and not deal with Senators.
23 And that was a bad staff idea that was rejected.

24 MR. BHARARA: I think you were asked some
25 questions about this by--I think you were asked some

01 questions about this by Senator Specter, but just so we are
02 clear here, in response to this e-mail where you made this
03 recommendation, which you say was a bad staff
04 recommendation, did you ever hear from Ms. Miers rejecting
05 that proposal?

06 MR. SAMPSON: I don't remember getting a specific
07 rejection, but I don't feel like that ever got any traction.

08 MR. BERENSON: Give us just one moment.

09 MR. BHARARA: Sure.

10 MR. BERENSON: Can we take 5 minutes?

11 MR. BHARARA: Absolutely.

12 [Off the record at 2:55 p.m.]

13 [On the record at 3:07 p.m.]

14 MR. BHARARA: Did you have a clarification that
15 you want to make on record?

16 MR. SAMPSON: With regard to, it is with regard
17 to U.S. attorney selection. I didn't want to leave the
18 misimpression that the Office of Political Affairs at the
19 White House had a substantial role in that. That was really
20 handled on a different track. Primarily the Department of
21 Justice with consultation and participation from the White
22 House Counsel's Office, and those recommendations that
23 ultimately came from the Attorney General to the White House
24 were approved in judicial selection committee meeting before
25 going to the President.

01 The Office of Political Affairs participated in
02 the judicial selection committee meeting, but with the
03 exception of the Eastern District of Arkansas and Mr.
04 Griffin, really did not have much role at all in U.S.
05 attorney selection.

06 MR. BHARARA: Okay. Thank you. I believe we
07 were looking at a document with Bates Number OAG 32.

08 MR. SAMPSON: Exhibit 9.

09 MR. BHARARA: Number 9. Thank you. Let me just
10 wrap up with that document.

11 That email was sent in September of 2006. Is it
12 your recollection that the Attorney General was aware of the
13 idea of using the new interim authority that you had
14 proposed prior to September 13th of 2006?

15 MR. SAMPSON: Is your question was he aware that
16 as part of this process of identifying U.S. attorneys who
17 might be asked to resign?

18 MR. BHARARA: Yes. And if the answer is no, was
19 he otherwise aware of it?

20 MR. SAMPSON: With regard to this process of
21 asking the subset of U.S. Attorneys, of identifying a subset
22 of U.S. attorneys who might be asked to resign, I'm not sure
23 he was aware of the idea of asking a subset to resign and
24 then replacing them with purely AG-appointed U.S. attorneys.
25 This recommendation I made in this email of

01 September 13th, I don't feel it ever really got any traction
02 with regard to any district except the Eastern District of
03 Arkansas.

04 MR. BHARARA: My question is not whether or not
05 it got traction, but whether or not the Attorney General was
06 aware of it.

07 MR. SAMPSON: I'm not sure. I don't think he
08 necessarily was, but I don't remember.

09 MR. BHARARA: Okay.

10 MR. SAMPSON: I didn't -- I didn't operate in a
11 way that kept things from him, but I don't remember
12 specifically talking with him about it.

13 MR. BHARARA: At this point in time, as of
14 September of 2006, you don't remember? Okay. But at some
15 point he rejected the plan, correct? He planned to use the
16 interim authority to avoid and bypass homestate senators.

17 MR. SAMPSON: My recollection is that that plan
18 was never seriously considered with regard to 92 federal
19 districts. It was considered at a staff level with regard
20 to the Eastern District of Arkansas. He did reject that.

21 MR. BHARARA: Okay. So all I'm asking is with
22 respect to the Eastern District of Arkansas, to have
23 rejected it, he had to have been aware of it, correct?

24 MR. SAMPSON: Yes.

25 MR. BHARARA: Okay. Let me now take you to

01 December 19th of 2006 and ask you about an email reflected
02 in documents with Bates Numbers OAG 127 to 129, which I'll
03 ask the court reporter to mark as Sampson Exhibit 10.
04 [Sampson Exhibit No. 10 marked
05 for identification.]
06 MR. BHARARA: Could you take a moment to look at
07 that, those emails.
08 MR. SAMPSON: Okay.
09 MR. BHARARA: Have you had a chance to look at
10 the document?
11 MR. SAMPSON: Yes.
12 MR. BHARARA: Could you generally describe in
13 brief for the record what is going on in this email exchange
14 between you and other folks?
15 MR. SAMPSON: My recollection is that Mr. Griffin
16 had been appointed by the Attorney General to serve as the
17 interim U.S. attorney the previous Friday, I believe on
18 December 15th.
19 This email chain began with an AP story from
20 Arkansas talking about that. Then there is discussion back
21 and forth between Monica Goodling and myself, and Chris
22 Oprison, who was an Associate Counsel to the President,
23 about this.
24 MR. BHARARA: Could you look at the email between
25 you and Chris Oprison from December 19th at 6:27 p.m.? I

01 want to read to you a couple of sentences of phrases.
02 You write, "I think we should gum this to death."
03 By "gum this to death," what did you mean? What were you
04 referring to?

05 MR. SAMPSON: The situation where Griffin had
06 been appointed interim U.S. attorney, but concerns were
07 being raised in the press by Senator Pryor's spokesman.

08 MR. BHARARA: And you suggest a course of action,
09 do you not, about asking the senators to give him a chance,
10 is that right?

11 MR. SAMPSON: I did.

12 MR. BHARARA: Including having the senators meet
13 with Tim Griffin, is that right?

14 MR. SAMPSON: Yes.

15 MR. BHARARA: And asking them to give him some
16 time in office to see how he performs. Is that right?

17 MR. SAMPSON: Yes. The Attorney General had
18 asked Senator Pryor if he would do that in their phone
19 conversation the previous week.

20 MR. BHARARA: And then at the end of that first
21 paragraph, you say then we can tell them we'll look for
22 other candidates, ask them for recommendations, evaluate the
23 recommendations, interview their candidates, and otherwise
24 run out the clock. All of this should be done in good
25 faith, of course.

01 In those sentences, are you describing the bad
02 staff plan that you suggested was later rejected by the
03 Attorney General?

04 MR. SAMPSON: I think so. I think that my view
05 is perhaps better captured in bullet three there. My view
06 was our guy is in there, so the status quo is good for us.

07 MR. BHARARA: Okay. But you were clearly
08 suggesting in the December 19th email that the bad staff
09 plan you referred to, i.e. gumming it to death and avoiding
10 interference with homestate senators -- be considered. And
11 you're sending that email to the White House Counsel's
12 Office, correct?

13 MR. SAMPSON: Yes. So that we're clear, the bad
14 staff plan would be to have the Attorney General appoint
15 someone with his interim authority and then not work in good
16 faith with the senators to identify a candidate who could be
17 nominated and who they would support for confirmation.
18 That's how I would describe the bad staff plan.

19 MR. BHARARA: Okay. And that bad staff plan is
20 reflected, in your words, is reflected in this email,
21 correct?

22 MR. SAMPSON: I think so.

23 MR. BHARARA: And that's dated December 19th of
24 2006?

25 MR. SAMPSON: Yes.

01 MR. BHARARA: So at that point, there had not
02 been a specific rejection of that plan, either by the White
03 House Counsel's Office or by the Attorney General, is that
04 fair?

05 MR. SAMPSON: Yes.

06 MR. BHARARA: Okay. Now, let's go back four
07 days. Four days prior to that December 19th email, am I
08 correct that the Attorney General had a conversation, one or
09 more conversations with Senator Pryor about Tim Griffin, is
10 that right?

11 MR. SAMPSON: My recollection is that the
12 Attorney General spoke with Senator Pryor perhaps on
13 Wednesday of the preceding week, and then again on Friday.
14 I'm fuzzy on that, but I remember that he had two
15 conversations with Senator Pryor.

16 MR. BHARARA: Okay. And your recollection of
17 those conversations was that it was prior to this December
18 19th hearing, is that fair?

19 MR. SAMPSON: Yes.

20 MR. BHARARA: Okay. Now, at the time, let me
21 ask you a different question. Did you participate in that
22 phone call with Senator Pryor? Or those phone calls with
23 Senator Pryor?

24 MR. SAMPSON: I think so. In the room, not on
25 the line. I just heard the Attorney General's side of the

01 call.

02 MR. BHARARA: Would you have in the ordinary
03 course prepared the Attorney General for his conversations
04 with Mr. Pryor? With Senator Pryor?

05 MR. SAMPSON: Not necessarily. In the ordinary
06 course, the Assistant Attorney General for the Office of
07 Legislative Affairs was the primary briefer on calls with
08 members of Congress.

09 If it related to an appointment like this, Monica
10 Goodling would have been the primary briefer. But in either
11 instance, as the Chief of Staff, I may have been there.

12 MR. BHARARA: Do you recall if with respect to
13 these particular phone calls to Senator Pryor that you were
14 involved in preparing the Attorney General?

15 MR. SAMPSON: I think I was there for at least
16 one of the calls, maybe both. I'm just not sure.

17 MR. BHARARA: By the way, was Monica Goodling
18 aware of what you called the bad staff plan to avoid working
19 in good faith with the homestate senators?

20 MR. SAMPSON: I believe so.

21 MR. BHARARA: Was she in favor of that plan?

22 MR. SAMPSON: I don't remember her objecting to
23 it.

24 MR. BHARARA: Okay. So during the call, calls
25 plural, I'm sorry, between the Attorney General and Senator

01 Pryor before December 19th, did the Attorney General give
02 assurances to Senator Pryor that there was no intention to
03 work around the home state senators, and to work in actual
04 good faith to find nominees to the permanent U.S. attorney
05 position working with the senators?

06 MR. SAMPSON: To the best of my recollection, he
07 talked to Senator Pryor, he said I understand your concerns.
08 I would like for you to consider him. Why don't we put him
09 in, you know, I'll appoint him as an interim U.S. attorney
10 and we can continue to talk about it.

11 MR. BHARARA: To your knowledge, did the Attorney
12 General commit to Senator Pryor that he, the Attorney
13 General, was committed to having a Senate confirmed U.S.
14 attorney working in good faith with the two U.S. senators in
15 the Eastern District of Arkansas?

16 MR. SAMPSON: I don't remember if he did at that
17 time. If you're talking about the phone calls that happened
18 during the week previous to December 19th, I think it was
19 December 13th or December 15th.

20 To the best of my knowledge, the Attorney General,
21 to the best of my recollection, the Attorney General said to
22 Senator Pryor, let's continue to work together on this. I'm
23 going to appoint him as the interim, but let's talk, and I'd
24 like you to meet him.

25 I don't know, but I think the Attorney General was

01 operating in good faith when he said that.

02 MR. BHARARA: You mean good faith with quotation
03 marks, or actual good faith?

04 MR. SAMPSON: I mean actual good faith. I think
05 the Attorney General was talking with Senator Pryor, and he
06 was on the receiving end of concerns that Senator Pryor
07 expressed.

08 I think the Attorney General felt that he had a
09 good relationship with Senator Pryor. Senator Pryor had
10 been over to lunch at the Justice Department with the
11 Attorney General. I don't know for sure, but I think the
12 Attorney General sincerely wanted to continue to work with
13 Senator Pryor to resolve that issue.

14 MR. BHARARA: Here's my question. On December
15 15th, the Attorney General was aware of this bad staff plan
16 as you call it, had not specifically rejected it, and in
17 fact even four days later as Chief of Staff is writing an
18 email about gumming it to death and about running out the
19 clock.

20 How can you say that the Attorney General was
21 acting in good faith when he was speaking to Senator Pryor
22 and making those commitments on December 15th?

23 MR. BERENSON: I'm not sure that Mr. Sampson
24 testified that there was a specific commitment made to his
knowledge on
25 December 15th.

01 MR. BHARARA: Let me ask you this question. If
02 the Attorney General on December 15th prior to the December
03 19th email that we focused on, if the Attorney General made
04 commitments to Senator Pryor that he was committed to
05 working with them, to having a Senate confirmed person in
06 place in good faith, is that a true and accurate statement
07 given that he knew about your plan and had not rejected it?

08 MR. SAMPSON: I apologize. I didn't follow your
09 question. Let me say what I believe is accurate.
10 I think the Attorney General was, when he spoke
11 with Senator Pryor, was sincere in his desire to continue to
12 work with Senator Pryor. I think a couple of days later
13 when I sent this email to Chris Oprison, I may not have been
14 at the same place that the Attorney General was as far as
15 whether this bad staff idea would have any legs.
16 I think that as I testified on March 29th,
17 sometime after this either in late December or in early
18 January. I believe the Attorney General did reject the idea
19 and committed to having a
20 Senate-confirmed U.S. Attorney in every district, including
21 the Eastern District of Arkansas.

22 MR. BHARARA: Was it your practice as the Chief
23 of Staff to the Attorney General to represent his goals and
24 to carry out his instructions as you understood them to the
25 best of your ability?

01 MR. SAMPSON: I tried.

02 MR. BHARARA: Okay. If it is the case, you were
03 present for at least the Attorney General's portion of the
04 conversations with Senator Pryor on December 15th or
05 thereabouts, right?

06 MR. SAMPSON: To the best of my recollection, I
07 was there for at least one of the calls, and maybe both.

08 MR. BHARARA: Okay. And you testified a couple
09 of minutes ago, did you not, that you believe that the
10 Attorney General was sincere in acting in actual good faith
11 in making representations to Senator Pryor about how he
12 wanted to proceed with respect to having a Senate appointed,
13 Senate confirmed U.S. Attorney in that spot, correct?

14 MR. SAMPSON: Again, I think so. I mean, I think
15 you have to ask him if he was sincere. But I think he was
16 sincere.

17 MR. BHARARA: I'm asking about your state of
18 mind.

19 MR. SAMPSON: I think so.

20 MR. BHARARA: So you believed him to be sincere,
21 correct?

22 MR. SAMPSON: Uh-huh.

23 MR. BHARARA: So if it was your practice to put
24 into place the directives of the Attorney General, how are
25 you writing an email four days later that appears to go

01 completely against what you were saying to us the Attorney
02 General told Senator Pryor?

03 MR. BERENSON: I think that's a misrepresentation
04 of what he has testified to. All he has testified to about
05 his knowledge of those conversations is that the Attorney
06 General told Senator Pryor he wanted to continue discussing
07 this and continue to work with him.

08 MR. BHARARA: Did you understand my question?

09 MR. SAMPSON: Yes. Let me just explain what I
10 think. I think he was sincere when he talked to Senator
11 Pryor, but I don't think he specifically rejected the idea
12 of adopting this bad staff plan until later.
13 In the middle of that is when I had this email
14 with Chris Oprison. It may be that by, you know, for
15 whatever reason, this email on December 19th reflects my
16 views and not the Attorney General's. I tried to carry out
17 the Attorney General's views as his Chief of Staff to the
18 best of my ability, but perhaps I didn't on this occasion.

19 MR. BHARARA: After the call with Senator Pryor,
20 the calls with Senator Pryor, did the Attorney General at
21 any point between December 15th and December 19th tell you
22 your plan, bad staff plan, was rejected outright?

23 MR. SAMPSON: I don't remember him doing that.

24 MR. BHARARA: Did he give you any directions or
25 instructions after he had calls with Senator Pryor about how

01 he wanted you to find other possible candidates for the
02 Eastern District of Arkansas consistent with working in good
03 faith with the Arkansas senators?

04 MR. SAMPSON: The direction I remember him giving
05 was that arrangements be made for Mr. Griffin to meet with
06 Senator Pryor.

07 MR. BHARARA: Did you when you wrote this
08 December 19th email about gumming the process, running out
09 the clock, did you believe in your own mind that you were
10 acting inconsistently with what you understood the Attorney
11 General wanted you to be doing?

12 MR. SAMPSON: I don't remember.

13 MR. BHARARA: Was it your standard practice to
14 act in a way that was blatantly inconsistent with what you
15 understood the Attorney General's directions to you to be?

16 MR. SAMPSON: It wasn't, but I guess in
17 retrospect, I regret this email. It was an email, and it
18 was dashed off, you know, quickly. I don't remember sitting
19 there thinking what is the Attorney General's state of mind.

20 MR. BHARARA: Maybe this will be my last
21 question. Notwithstanding what you understood the Attorney
22 General to be intending, and notwithstanding what you heard
23 the Attorney General say with Senator Pryor, you wrote this
24 email when it was your standard practice not to go against
25 the directions and instructions of the Attorney General, is

01 that right?

02 MR. SAMPSON: I think what I have testified to is
03 that I understood that the Attorney General, I believed that
04 he was sincere in his conversation with Senator Pryor. I
05 also wasn't sure that he had rejected the bad staff idea.

06 MR. BHARARA: How were those consistent with each
07 other?

08 MR. SAMPSON: Well, they are consistent with each
09 other because it might be the case that Senator Pryor would
10 meet with Tim Griffin, and decide to
11 support him for nomination and confirmation. That was the
12 hope.

13 MR. BHARARA: I want to fast forward to January
14 of 2007 and ask you whether or not you are aware of the
15 Attorney General having conversations with Senator Feinstein
16 about issues of the appointment of United States attorneys
17 in California.

18 MR. SAMPSON: I don't remember. Sitting here
19 right now, I can't remember if he did.

20 MR. BHARARA: Okay. Let me --

21 MR. SAMPSON: I'm looking at Senator Feinstein's
22 counsel. I think he must have. Just sitting here right
23 now, I can't remember.

24 MR. BHARARA: It's not a memory test. I'm going
25 to show you a document. I've got a lot of documents. I'm

01 going to show you a document. I believe some weeks ago I
02 provided that email to your counsel -- provided it to your
03 counsel.

04 It is an email dated January 17th of 2007, I
05 believe. We'll mark it was Sampson Exhibit 11.
06 [Sampson Exhibit No. 11 marked
07 for identification.]

08 MR. BHARARA: Have you had a chance to look at
09 the document?

10 MR. SAMPSON: Yes.

11 MR. BHARARA: I just want to ask you a couple of
12 questions about it. The last email of the series is one
13 between you and Jennifer Duck, who is, as you understand it,
14 Chief Counsel to Senator Feinstein, is that right?

15 MR. SAMPSON: yes.

16 MR. BHARARA: And it is cc'd to Richard Hertling,
17 who is the Acting -- what was his position at the time?

18 MR. SAMPSON: Acting Assistant Attorney General
19 for the Office of Legislative Affairs.

20 MR. BHARARA: What was the purpose of your
21 sending this email to Ms. Duck?

22 MR. SAMPSON: I had forgotten about this until you
23 all provided the email to us, and I even forgot about it
24 again here today.

25 But my understanding was that, my best

01 recollection is that Senator Feinstein had expressed some
02 concerns and had sent a letter to the Department of Justice
03 asking about whether certain U.S. attorneys had been asked
04 to resign.
05 I believe the letter suggested, I'm not 100
06 percent sure, but I think the letter suggested that some may
07 have been asked to resign to influence a particular case for
08 political reasons. I think the letter also may have
09 suggested that some were asked to resign to make way for a
10 pre-selected individual candidate to replace them and be put
11 in there on an AG appointment and circumvent the Senate's
12 confirmation authority.
13 I believe that it was the Deputy Attorney
14 General's view, or maybe Mr. Hertling's view that in advance
15 of responding to the letter, -- should go up and brief
16 Senator Feinstein's counsel and Mr. Cohen, Bruce Cohen, the
17 Chief Counsel of the Senate Judiciary Committee. I was
18 asked to provide that briefing and was accompanied by Mr.
19 Hertling. We did provide that briefing in Bruce Cohen's
20 office.
21 This document, Sampson Exhibit 11, reminds me, I
22 think, that what happened is that sometime after that
23 briefing, Senator Feinstein went to the floor and said, made
24 those allegations again on the floor. The Attorney General
25 was concerned about that and picked up the phone and called

01 her right away.

02 I don't think I was on that call, but I don't
03 remember for sure. But then that prompted my follow up
04 email to Ms. Duck.

05 MR. BHARARA: Let me ask you about a couple of
06 things in that email. Your first sentence reads he,
07 referring to the Attorney General, am I right? He is not
08 upset?

09 MR. SAMPSON: I believe so, because Ms. Duck's
10 email says I understand that your boss is upset.

11 MR. BHARARA: And you understood her to be
12 referring to the Attorney General?

13 MR. SAMPSON: I did.

14 MR. BHARARA: He is not upset, just concerned
15 about the inaccuracies that Senator Feinstein continues to
16 put out there, even after our meeting with you including,
17 and then you list four.

18 The first one is U.S. Attorneys were encouraged to
19 resign before their terms expired. You write not true.
20 U.S. Attorneys were encouraged to resign without cause. No
21 comment, but not true.

22 U.S. Attorneys were pushed out so as to interfere
23 with ongoing public corruption cases, absolutely not true.
24 And then administration intends to go around the Senate and
25 avoid confirmation of new U.S. Attorneys. Not true, facts

01 conclusively establish as much.

02 That last bullet point, am I correct that you made
03 it a point that it was not true that the administration
04 intended to go around the Senate and avoid confirmation of
05 U.S. attorneys, is that right?

06 MR. SAMPSON: Yes, that's what the email says.

07 MR. BHARARA: And am I also correct that at the
08 time you wrote this email, that you had still not gotten
09 this specific rejection from the White House Counsel's
10 Office or anyone else at the White House about the staff
11 plan that you described, whose purpose was to go around the
12 Senate and do exactly that, avoid confirmation of U.S.
13 attorneys?

14 MR. SAMPSON: My recollection, as I testified on
15 March 29th, I think, I don't remember getting specific
16 rejection from the White House about that bad staff plan
17 with regard to the Eastern District of Arkansas.
18 As I said before, with regard to every other
19 district, that bad staff plan never went anywhere. But with
20 regard to the Eastern District of Arkansas, there were
21 discussions with White House staffers about that bad staff
22 plan.

23 I don't remember any specific rejection of that
24 from the White House.

25 MR. BHARARA: Okay. I am going to move onto

01 another topic.

02 MR. SAMPSON: I do remember that the Attorney
03 General rejected that specifically sometime before this
04 January 17th time frame.

05 I remember having a conversation with him where I
06 said look, there are some people at the White House that
07 think that we should stay behind Griffin and just leave him
08 in there.

09 My recollection is the Attorney General rejected
10 that. I remember him saying, you know, they can take that
11 up to the President then if that's their view, but my view
12 is that we should not go that way.

13 MR. BHARARA: But am I right, it's the White
14 House that makes nominations, correct?

15 MR. SAMPSON: The President nominates people.

16 MR. BHARARA: Right. And so people in the White
17 House, in other words, the White House counsel has an
18 important role in determining who the nominees should be for
19 these attorney positions, correct?

20 MR. SAMPSON: Yes.

21 MR. BHARARA: And so --

22 MR. SAMPSON: If I may?

23 MR. BHARARA: Yes.

24 MR. SAMPSON: There had been turnover in the
25 White House counsel position at this time. And so my

01 recollection is that the Attorney General's view was that's
02 a bad staff plan, we're not going to go that way, and there
03 wasn't, you know, there wasn't anyone higher than a White
04 House staff person that was advocating for that. So he was
05 not concerned about his rejection of that idea, even though
06 it is the President that makes the nominations.

07 MR. BHARARA: You mentioned a minute ago I
08 believe, correct me if I'm wrong, that you told the Attorney
09 General that there were some people who believed that you
10 should stand behind, the administration should stand behind
11 Tim Griffin.

12 Did you mean by that to suggest that there were
13 people who believed that the bad staff plan as you described
14 it, should be pursued?

15 MR. SAMPSON: Yes.

16 MR. BHARARA: Who are those people?

17 MR. SAMPSON: I understood them to be Chris
18 Oprison, who is an Associate Counsel to the President, Scott
19 Jennings, who was a Special Assistant to the President in
20 the Office of Political Affairs, and Sarah Taylor, who was
21 the Director of the Office of Political Affairs.

22 MR. BHARARA: So at all times prior to the
23 Attorney General's rejection of the plan to avoid
24 confirmation, Senate confirmation for U.S. Attorneys --
25 Eastern Division of Arkansas, Chris Oprison, Scott Jennings,

01 and Sarah Taylor were all in favor of the plan that you
02 described to bypass the homestate senators?

03 MR. SAMPSON: I'm sorry. Could you just state
04 that again? I just didn't follow it.

05 MR. BHARARA: Could the court reporter read the
06 question back?

07 MR. SAMPSON: That would be helpful.
08 [Whereupon, the question was read back.]

09 MR. BHARARA: Let me ask you a different way. At
10 the time that the Attorney General specifically rejected the
11 plan to bypass homestate senators with respect to the U.S.
12 Attorney position in the Eastern District of Arkansas, who
13 remained in favor of that plan?

14 MR. SAMPSON: Based on my knowledge and
15 impressions, it was Sarah Taylor, Scott Jennings, and
16 perhaps Chris Oprison who may have just been reflecting
17 their views. I'm not 100 percent sure.

18 MR. BHARARA: What about at the Justice
19 Department? Off the record.
20 [Off the record.]

21 MR. BHARARA: I asked you what about in the
22 Justice Department.

23 MR. SAMPSON: I mean, I think it would be fair to
24 say that I was open to the idea, and I believe Monica
25 Goodling also.

01 MR. BHARARA: What about Paul McNulty?
02 MR. SAMPSON: I don't know.
03 MR. BHARARA: What about Mike Elston?
04 MR. SAMPSON: I don't know.
05 MR. BHARARA: What about Will Moschella?
06 MR. SAMPSON: I don't know.
07 MR. BHARARA: What about David Margolis?
08 MR. SAMPSON: I don't know.
09 MR. BHARARA: Anyone else at the Justice
10 Department who had an opinion one way or the other?
11 MR. SAMPSON: Not that I know of.
12 MR. BHARARA: Do you know with respect to the
13 White House, specifically whether or not Harriet Miers was
14 in favor of the plan, even at the time the Attorney General
15 rejected the plan?
16 MR. SAMPSON: I don't know. I believe she had
17 left, was gone by that time.
18 MR. BHARARA: By January 17th of 2007?
19 MR. SAMPSON: I thought she left in December, but
20 I could be wrong.
21 MR. BHARARA: I'm told that she was there until
22 January 31st. Either way, you don't know?
23 MR. SAMPSON: The answer is I don't know.
24 MR. BHARARA: Do you know specifically about
25 whether or not Karl Rove had any idea about the plan?

01 MR. SAMPSON: I don't know.

02 MR. BHARARA: Did you ever discuss with Sarah
03 Taylor, Scott Jennings, or anyone else whether or not Mr.
04 Rove had any knowledge of a plan to help keep Tim Griffin
05 office by avoiding the homestate senators?

06 MR. SAMPSON: I don't remember ever having any
07 such conversation.

08 MR. BHARARA: Okay. After you stated that the
09 Attorney General specifically rejected the plan, did you
10 communicate that rejection to anyone?

11 MR. SAMPSON: My recollection is the way that it
12 was communicated was in the draft letter, I believe to Senator
13 Feinstein, where for the first time that language was used
14 that the administration is committed to having a Senate
15 confirmed U.S. attorney in every federal district.

16 MR. BHARARA: That was the first time that
17 language was used in a letter to a member of Congress you're
18 saying?

19 MR. SAMPSON: I think so. To the best of my
20 recollection.

21 MR. BHARARA: Do you recall if the Attorney
22 General had ever used language to that effect in his
23 conversations a month earlier with Senator Pryor?

24 MR. SAMPSON: I don't remember.

25 MR. BHARARA: Did you communicate the Attorney

01 General's objection of that plan internally to anyone at the
02 Justice Department?

03 MR. SAMPSON: As I said, it was teed up in the
04 drafting of that response to Senator Feinstein's letter. So
05 I don't have a specific recollection, but the standard
06 practice would be to circulate it for comment at the
07 Department of Justice, and I remember circulating it for
08 comment to the White House because it involved --

09 MR. BHARARA: Here's what I'm asking. Separate
10 and apart from having other people at the White House or the
11 Justice Department learn about the rejection of the plan by
12 inference from reading a letter that was being sent to a
13 Senator, did you specifically have a conversation with
14 anyone at the Justice Department or at the White House to
15 indicate that the Attorney General had rejected the plan?

16 MR. SAMPSON: I don't remember specifically, but
17 I think I did. We drafted the letter and circulated it
18 widely, and I remember -- I don't remember really having
19 discussions with people at the Department of Justice about
20 it, but I do remember -- I remember one conversation with
21 Sarah Taylor, and I think I remember one conversation with
22 Bill Kelly where that letter was drafted and there was a
23 discussion about that. I said, these are the Attorney
24 General's views.

25 MR. BHARARA: Do you remember if there was ever a

01 communication that you had with Bill Kelly to indicate that
02 he was aware of the idea of bypassing homestate senators in
03 favor of, in a way that would keep Tim Griffin in office
04 until President Bush's term ended?

05 MR. SAMPSON: I think he was aware of that, but I
06 don't remember a specific conversation.

07 MR. BHARARA: Okay. I want to ask you, do you
08 recall when you notified other people of the Attorney
09 General's rejection of the plan, what the reaction was?
10 Either one of disappointment, acceptance, or agreement?

11 MR. SAMPSON: I remember that Sarah Taylor was
12 not happy about that. But again, I remember the Attorney
13 General saying if anyone wants to take that up with the
14 President, they can do that. These are my views.
15 That's the only memory that I have of anyone being
16 not pleased with that issue.

17 MR. BHARARA: How about Monica Goodling? Do you
18 recall any conversation with her about her being displeased
19 about the Attorney General's objection?

20 MR. SAMPSON: I don't remember specifically. I'm
21 sure we talked about it, and I don't remember her being
22 displeased. I think she understood that to be the Attorney
23 General's determination.

24 MR. BHARARA: Okay. I want to move onto a
25 different line of questions.

01 You testified on March 29th that you kept files
02 relating to the issue that we're discussing here today in a
03 drop file. Can you describe again where you were keeping
04 those files?

05 MR. SAMPSON: I think I also testified that it is
06 maybe too much to call it a file. I don't know that I have
07 much to add from my testimony.

08 MR. BHARARA: Okay. I just want to explore a
09 couple of details about what you had, where it was, and what
10 became of it, if there is anything more you can add.
11 Why don't you finish answering the first question,
12 and then I'll ask you a second.

13 MR. SAMPSON: Well, as I said at my hearing, the
14 Executive Office of U.S. Attorneys, EOUSA, kept a chart that
15 they would update periodically of all of the United States
16 attorneys.

17 When they had been appointed, their name, the
18 district, and when their term expired. That would get you
19 through about 70 districts, and there would be about 20
20 districts that were in states of flux where there was a
21 vacancy or an interim or people had been interviewed, and so
22 the chart kept track of that.

23 I got that chart every time it was updated,
24 somebody would email it to me. I can't remember if that was
25 every couple of weeks or every month, I'm not sure. I

01 would, not every time, but sometimes print it off and throw
02 it in a little file I had in the lower right-hand desk
03 drawer. It was sort of a personnel file.
04 I had a lot of resumes in there that would just
05 come in, and then the front would be this chart of U.S.
06 attorneys. During the thinking phase of this process, it
07 was very episodic. At different times I used that chart and
08 would highlight folks who had, U.S. attorneys for whom
09 issues and concerns had been raised.
10 But then I would replace that chart with another
11 chart when it came, and I would just throw the chart in the
12 burn box. As I said, this process was not scientific or
13 very well documented. That was really the process. Then I
14 would look at that chart if someone asked, and send them an
15 email. Here are the six people that right now are folks
16 that we might consider asking to resign when their four-year
17 term expires. That's the substance of the file really.
18 MR. BHARARA: When you say there wasn't an active
19 file, was there a folder? Was there a -- can you describe
20 physically what you would keep those lists and other
21 documents relating to those lists in?
22 MR. SAMPSON: It is a hanging file, a little
23 right-hand corner, probably 2 inches thick of resumes, and
24 in the front, I would just drop that U.S. Attorney chart.
25 MR. BHARARA: You reviewed the production made by

01 the Department of Justice?

02 MR. SAMPSON: Only as a non-employee, in the
03 same way you did. I have not had access to the unredacted
04 stuff.

05 MR. BHARARA: I believe you testified about this
06 at the hearing, but I want to ask you again so I can ask you
07 some other questions.

08 Are you aware of whether or not the entire
09 contents of what was in your drop file relating to this
10 matter was produced to the -- investigation?

11 MR. SAMPSON: I don't know.

12 MR. BHARARA: And you don't know because you
13 don't recall what was in the file, or you don't know because
14 you haven't gone through the entire production? Or for some
15 other reason?

16 MR. SAMPSON: Well, both are true. My counsel
17 went through the entire production and only brought some
18 documents for me to review. But I'm not sure that there was
19 anything in the file, because in this final process I would
20 have had that chart and finalized it and drafted the U.S.
21 attorney replacement plan, and then probably thrown the
22 chart in the burn box. But I don't recall specifically.

23 MR. BHARARA: What was the day in which you
24 resigned from the Department?

25 MR. SAMPSON: The Attorney General accepted my

01 resignation on Monday --
02 MR. BHARARA: March 13th?
03 MR. SAMPSON: Or was it the 12th?
04 MR. BHARARA: The 12th? Okay. At what point did
05 you become aware that the department was going to be
06 providing documents and emails to the Congress in connection
07 with what I'll describe as the U.S. attorney firings?
08 MR. SAMPSON: On Friday, March 9th. Well, on
09 Thursday night, March 8th, the Attorney General returned to
10 the office after having come up and met with Senator Spector
11 and Senator Schumer and perhaps Senator Feinstein.
12 He had had a difficult meeting with them and had
13 agreed in that meeting to make five of his staff people
14 available for interviews. I believe that was the day of the
15 executive business meeting, the day that the committee
16 authorized subpoenas perhaps. I don't remember
17 specifically.
18 But there was some discussion on Thursday night
19 about how we would proceed, and there was no real
20 resolution. I came into the office on Friday morning. One
21 of the things that I did was said we need to prepare a good,
22 comprehensive response. I said that because I believed, you
23 know, I was sort of a fact witness, as was McNulty, as was
24 Moschella, as were so many people in the DOJ leadership,
25 that someone outside that group ought to be involved in

01 doing that, and I recommended to Steve Bradbury, the
02 Assistant Attorney General for the Office of Legal Counsel
03 do that.

04 So I was aware that on Friday morning that an
05 effort for the first time was being made to collect all the
06 documents. I don't think that I was aware that the
07 department was determined to disclose them until after I had
08 left.

09 MR. BHARARA: So did you participate in the
10 collection of documents?

11 MR. SAMPSON: On Thursday morning, or Thursday
12 sometime before the executive business meeting, I sat down
13 at my computer and looked to see what I could find and found a
couple

14 of documents. Then the next morning, when I recommended
15 Steve Bradbury begin doing that, that began, and my
16 participation was to allow people from the Office of
17 Information Privacy, or the FOIA people to come and search my
18 computer.

19 Then from time to time, Steve Bradbury would call
20 and ask me questions. This was just sort of on Friday and
21 Saturday I think. And then on Monday morning, the Attorney
22 General accepted my offer to resign.

23 MR. BHARARA: As far as you understood before you
24 resigned, were other officials at the Department of Justice
25 making similar efforts to find possibly relevant documents

01 and emails to gather in connection with this matter?

02 MR. SAMPSON: What's the time?

03 MR. BHARARA: I'm talking about from the Thursday
04 morning that you're describing, the morning of the executive
05 business session, between that time and the time you left,
06 where you had personal knowledge, were there people other
07 than you who were involved in the process of collecting
08 documents and emails in connection with this issue?

09 MR. SAMPSON: To my knowledge, no. The first
10 attempt to comprehensively collect documents was Friday
11 morning after I suggested that we do that.

12 MR. BHARARA: Right. And then from Friday
13 morning to the time you left, were other officials also
14 collecting documents? Or was it just you?

15 MR. SAMPSON: I'm sorry if I'm not following you.
16 On Friday morning, I told the Attorney General that this was
17 a significant problem for the department, and that I
18 regretted my role in it and offered my resignation.
19 He didn't accept it, and I told him that my
20 recommendation was that someone outside the players involved
21 in this be responsible for leading a comprehensive effort to
22 collect all the documents.

23 I recommended that Steve Bradbury be in charge of
24 that, and my understanding is that commenced on Friday, and
25 that was the first time anyone had really made an effort to

01 pull any documents.

02 MR. BHARARA: Do you mean people other than Steve
03 Bradbury? Do you mean other document owners? File owners?

04 MR. SAMPSON: Correct.

05 MR. BHARARA: In other words, you said you made
06 an effort to look at the documents you had to see if any of
07 them were relevant. My question to you is did other people?
08 For example, Mr. McNulty, Ms. Goodling, Mr. Moschella. Did
09 other people also do the same thing that you said that you
10 did, which was in that early time period try to find
11 documents and emails that might be responsive to the inquiry
12 that was at hand?

13 MR. SAMPSON: I don't think so. Not that I
14 remember.

15 MR. BHARARA: Okay. Did you in the course of
16 collecting documents then turn over to someone the contents
17 of what was in your drop file?

18 MR. SAMPSON: I didn't go to my drop file. I
19 didn't look in my drop file. I did sort of an email search
20 and found a couple of documents on that Thursday. Then the
21 next day I backed off and let Steve Bradbury and the FOIA
22 people do the search.

23 MR. BHARARA: Did you have any understanding as
24 to what criteria Steve Bradbury and the other folks were
25 employing to find relevant documents and materials?

01 MR. SAMPSON: I really didn't.

02 MR. BHARARA: Okay.

03 MR. SAMPSON: I think I testified before, and I
04 think it's the case. I'm not sure there was anything in
05 that drop file. You know, as the final process came
06 together for identifying U.S. attorneys who we would ask to
07 resign, that was completed in early December. So I'm not
08 sure there was anything left in the drop file, but I don't
09 know.

10 MR. BHARARA: Did you maintain paper or computer
11 files reflecting conversations you had with Justice
12 Department officials or other people about the performances
13 of United States attorneys during anytime that you were
14 working at the Department of Justice?

15 MR. SAMPSON: Not that I remember.

16 MR. BHARARA: During this process of gathering
17 information from other people about particularly United
18 States attorneys, was it your practice or not to reduce to
19 writing comments made to you by those other officials?

20 MR. SAMPSON: It was not my practice.

21 MR. BHARARA: And is there a reason it wasn't
22 your practice?

23 MR. SAMPSON: I don't remember really thinking
24 about it. It was in the context of personnel where it was
25 just talking with folks and getting their input on people

01 and how they were doing and it was not my practice to reduce
02 it to writing.

03 MR. BHARARA: You kept in all in your head?

04 MR. SAMPSON: In large measure.

05 MR. BHARARA: Did you use non-DOJ email during
06 the time that you were Chief of Staff to the Attorney
07 General?

08 MR. SAMPSON: I have a Yahoo account that I have
09 had for many years that I really didn't use much. I use it
10 for some church related items. But I didn't use it as a
11 matter of practice for official business.
12 I occasionally would email something to my home
13 account so that then I could print it at home. But very
14 rarely.

15 MR. BHARARA: But you didn't have occasion to use
16 your personal email account for purposes of receiving
17 documents you might have produced while you were at the
18 Department of Justice? As you have just described?

19 MR. SAMPSON: Not for a long time. At some
20 point, the department got some technology where I could log
21 into my DOJ account from home, you know, and I think that
22 has been a couple of years that that has been the case.

23 So any of my use of Yahoo account was very minimal
24 and was, you know, back a couple of years in time.

25 MR. BHARARA: How many non-DOJ accounts have you

01 had since you have been at DOJ?
02 MR. SAMPSON: Just that one.
03 MR. BHARARA: Have you destroyed any documents or
04 attempted to overwrite any emails of any kind relating to
05 the subject -- that you can remember?
06 MR. SAMPSON: No.
07 MR. BHARARA: Do you know if anyone else has?
08 MR. SAMPSON: I don't know.
09 MR. BHARARA: You described the burn box. What
10 does that mean, for the record?
11 MR. SAMPSON: Standard practice at the
12 department. There is a paper box that one of the staff
13 would bring around, and --
14 MR. BHARARA: Was it for shredding purposes?
15 MR. SAMPSON: Yes.
16 MR. BHARARA: In the ordinary course, is
17 everything that you put in the burn box shredded?
18 MR. SAMPSON: I don't really know. Someone comes
19 and scoops it up.
20 MR. BHARARA: It disappears?
21 MR. SAMPSON: Yes.
22 MR. BHARARA: I'm going to ask you a question
23 about several other people at the Department of Justice. If
24 you know whether or not any of the following people had non-
25 DOJ email accounts during the time that they were at DOJ,

01 the Attorney General.
02 MR. SAMPSON: The Attorney General didn't have a
03 DOJ account. I'm not aware of him having any other account.
04 MR. BHARARA: Did the Attorney General not have a
05 DOJ account, or just not have one that he used?
06 MR. SAMPSON: To my knowledge, he didn't have an
07 account.
08 MR. BHARARA: Okay. Monica Goodling?
09 MR. SAMPSON: The question is did she have a non-
10 DOJ account?
11 MR. BHARARA: Correct.
12 MR. SAMPSON: Not to my knowledge.
13 MR. BHARARA: Did you ever communicate with her
14 about a non-DOJ account associated with her?
15 MR. SAMPSON: Not that I remember.
16 MR. BHARARA: Mr. McNulty?
17 MR. SAMPSON: Not that I know of.
18 MR. BHARARA: Mr. Elston?
19 MR. SAMPSON: Not that I know of.
20 MR. BHARARA: Mr. Moschella?
21 MR. SAMPSON: Not that I know of.
22 MR. BHARARA: Mr. Battle?
23 MR. SAMPSON: Not that I know of.
24 MR. BHARARA: Okay. Mr. Margolis?
25 MR. SAMPSON: Not that I know of.

01 MR. BHARARA: I showed you an email earlier
02 between -- an email exchange between you and Ms. Duck of
03 Senator Feinstein's staff. Do you know whether or not that
04 email was produced in connection with the department's
05 disclosure of materials to the Congress?

06 MR. SAMPSON: I don't know.

07 MR. BHARARA: If it was not --

08 MR. SAMPSON: I had forgotten about it, and the
09 first time I saw it was when you all provided it to us. But
10 it may have been in the bigger production. I just don't
11 know.

12 MR. BHARARA: If it was not, do you have any
13 basis of understanding why, based on what you know, why it
14 might not have been included given the voluminous other
15 documentation that we received?

16 MR. SAMPSON: No.

17 MR. BHARARA: Has anyone at the department talked
18 to you after the time you left about documents in your
19 possession or the way in which you maintained electronic or
20 paper documents at the department while you were there?

21 MR. SAMPSON: No.

22 MR. BHARARA: Neither Mr. Bradbury or anyone else
23 has had any contact with you in an effort to try to find
24 relevant or germane electronic or other documents that might
25 have been in your possession when you were at the

01 department?

02 MR. SAMPSON: I don't think so.

03 MR. BHARARA: Are you aware of whether or not at
04 anytime the department has issued an order for preservation
05 of electronic and other documents that might be relevant to
06 the inquiry that the Congress is doing into the firing of
07 the U.S. attorneys?

08 MR. SAMPSON: I don't know.

09 MR. BHARARA: When you said that you had
10 collected some of the documents by looking at your own
11 emails prior to your resigning, prior to the Attorney
12 General accepting your resignation, what did you physically
13 do with the materials that you found on your computer?

14 MR. SAMPSON: Nothing. I printed those items I
15 found.

16 MR. BHARARA: And to whom did you give them?

17 MR. SAMPSON: I think Steve Bradbury.

18 MR. BHARARA: You think, or you're sure?

19 MR. SAMPSON: It's a blur. I don't remember.

20 MR. BHARARA: Okay. Do you have any idea of what
21 the policy, the computer policy on archiving is with respect
22 to electronic documents and emails that you had?

23 MR. SAMPSON: I don't know.

24 MR. BHARARA: Do you know, do you have any
25 knowledge of what the backup systems are, and whether or not

01 there is a period of time for which the documents are
02 preserved in the ordinary course?

03 MR. SAMPSON: I just don't know.

04 MR. BHARARA: Okay. I am going to move to a
05 separate topic now and ask you about the origination of the
06 plan to fire any United States attorneys at all in President
07 Bush's second term, all right?

08 MR. SAMPSON: Uh-huh.

09 MR. BHARARA: You recall -- let me ask you this.
10 What is the earliest time you remember there to have been a
11 discussion after President Bush was reelected about the
12 firing or the request for resignations from all or a subset
13 of United States attorneys?

14 MR. SAMPSON: I remember generally that after the
15 President was reelected, there was sort of an administration
16 wide assessment about all political appointees.
17 I'm not 100 percent sure, but I think
18 there was discussion, and there may even have been a request
19 made that all political appointees administration wide offer
20 to resign.

21 I think it was in that context that the question
22 came up about United States Attorneys and whether they
23 should be asked to resign at that time.

24 MR. BHARARA: And I think at some point you say
25 or have said that you'd be back or helped to beat back a

01 plan to fire all 93 United States attorneys, is that right?

02 MR. SAMPSON: I think I said that in an email to
03 Bill Mercer.

04 MR. BHARARA: Right. I mean, is that true? Did
05 you help to beat back that plan?

06 MR. SAMPSON: I think it's probably too much to
07 say beat back. My recollection is that there was some
08 discussion in December of 2004, early 2005 about whether all
09 United States attorneys should be asked to resign.
10 I remember that I didn't think that was a good
11 idea, and so I guess in that sense, I helped beat it back.
12 But I don't remember feeling a lot of pressure on that
13 either.

14 MR. BHARARA: And when in fact to your
15 recollection was the plan to fire all 93 U.S. attorneys
16 rejected?

17 MR. SAMPSON: Well, to the best of my
18 recollection, it would have been sometime after the Attorney
19 General was confirmed, which was in early February. Things
20 just were kind of held in limbo until after he was
21 confirmed. So it would have been sometime, you know,
22 February or March of 2005, to the best of my recollection.

23 MR. BHARARA: Okay.

24 MR. SAMPSON: And I guess I wouldn't want to
25 associate myself with the premise of your question that

01 there was a plan to seek the resignations of all of them.

02 It was an idea that was discussed.

03 MR. BHARARA: It was an idea. And do you have
04 any understanding as to who originated that idea?

05 MR. SAMPSON: To the best of my -- my
06 recollection is that Harriet Miers raised it with me. In
07 reviewing the documents, I understand that Mr. Rove raised
08 it with Mr. Leech of the Counsel's Office at the time, but I
09 don't think I knew that at the time.

10 MR. BHARARA: Okay. After the proposal of the
11 idea of firing all 93 U.S. attorneys was rejected, could you
12 tell us the first time that you or anyone else began the
13 preparation of any kind of list that might form the basis
14 for asking for resignations of some subset of those 93 U.S.
15 attorneys?

16 MR. SAMPSON: Well, a couple of things. It was
17 my view that U.S. attorneys all had the expectation that
18 they would get to serve at least four years, and none of
19 them had served four years at that time.
20 The first expirations wouldn't even be coming up
21 until September or October of 2005. And so in my mind, you
22 know, there was 9 months or something before that would even
23 ripen into a possibility.

24 That said, in reviewing the documents, I had seen
25 that I sort of in a quick and dirty fashion, sent over one

01 of those charts to Harriet Miers that made some evaluation of
02 the U.S. attorneys in March I think of 2005. You know,
03 earlier.

04 MR. BHARARA: Isn't it the case that appointed
05 U.S. attorneys in fact had an expectation of serving not
06 just to the end of their four-year term, but until the end
07 of the term of the President who appointed them? Isn't that
08 in fact what the actual expectation given the history of all
09 U.S. attorneys is? Was?

10 MR. SAMPSON: Perhaps so. I think the way that I
11 thought of it in my mind was that they had an expectation
12 that they would get to serve at least four years, and the
13 practice in other two term presidencies, the most immediate
14 preceding being President Clinton and President Reagan, the
15 practice had been that many of those U.S. attorneys had held
16 over for longer than four years.

17 I didn't know what the expectation of the U.S.
18 Attorneys was in an actual sense, but I knew that they would expect
to serve

19 at least for the statutory four-year period.

20 MR. BHARARA: Okay. So who became in charge of
21 the process that you described that had various phases,
22 including a thinking phase, of determining which if any
23 United States attorneys, should be asked to resign?

24 MR. SAMPSON: I think it would be fair to say I
25 was the staff person that was asked to work on that.

01 MR. BHARARA: And you would say you were
02 principally responsible for that? You were the person
03 principally responsible for that?

04 MR. SAMPSON: At the staff level.

05 MR. BHARARA: And who understood you to be
06 responsible for that project?

07 MR. SAMPSON: I think the Attorney General and
08 the counsel to the President.

09 MR. BHARARA: Anyone else?

10 MR. SAMPSON: I am not sure. I mean, I remember
11 visiting with several members of the DOJ senior leadership
12 about this notion of identifying a subset of U.S. attorneys
13 who might be asked to resign after their four-year terms had
14 expired. I think, although I don't recall specifically
15 whether I laid out that list of people at my hearing on
16 March 29th, but it included the Attorney General, the senior
17 counsel to the Attorney General and White House liaison, it
18 included the Deputy Attorney General, a couple of Associate Deputy
19 Attorney General's.

20 It included David Margolis, it included Bill
21 Mercer, and it included a couple of directors of EOUSA. That
22 was the core group of people that I consulted on this
23 question.

24 MR. BHARARA: Starting at what time period?

25 MR. SAMPSON: Well, beginning in 2005 in that

01 thinking phase.

02 MR. BHARARA: When in 2005?

03 MR. SAMPSON: I think as early as March.

04 MR. BHARARA: The people that you described in
05 that group, did they understand that they were part of a
06 group whose purpose was to deliberate over what subset of
07 United States attorneys might be asked to resign?

08 MR. SAMPSON: I remember speaking with Bill
09 Mercer extensively about this, that the White House had
10 raised the question of asking all 93 to resigned that, after
11 some discussion, the
12 idea of settling on a smaller subset was the way we were
13 going to proceed.

14 I remember visiting with him about that and asking
15 for his views about who should be included in that smaller
16 subset, who of his fellow U.S. attorneys should be included
17 in that subset.

18 I remember having a similar conversation with Mary
19 Beth Buchanan who was the Director of EOUSA at the time. I
20 remember having a similar conversation with Jim Comey, who
21 was the Deputy Attorney General at the time. I remember
22 having a similar conversation with David Margolis, who was
23 the Associate Deputy Attorney General at the time, and I
24 remember speaking about it in general terms with the
25 Attorney General.

01 Then later as those people were replaced by
02 successors, I remember speaking with them generally about
03 their assessment of the U.S. attorneys. So later in time, I
04 spoke with Mike Battle who became the Director of EOUSA and
05 had formerly been a U.S. attorney. I remember speaking with
06 Mike Elston, the Deputy Attorney General's Chief of Staff
07 about identifying U.S. attorneys that might be added to this
08 list.

09 Monica Goodling, who became the White House
10 liaison and senior counsel to the Attorney General. So
11 that's the group of people that I spoke with about this and
12 gathered information from.

13 MR. BHARARA: Was it a formally constituted
14 group?

15 MR. SAMPSON: I don't think it would be. I don't
16 think it's accurate to characterize it as a formally
17 constituted group.

18 MR. BHARARA: Okay. And to go back to my
19 original question. Separate and apart from conversations
20 you may have had about the specific performance problems
21 about United States attorneys from time to time, did all the
22 members of this group that you have described understand
23 themselves to be part of a group whose purpose was to
24 determine what subset of United States attorneys should be
25 asked to resign?

01 MR. SAMPSON: I don't know if they understood
02 they were supposed to be part of a group. I think to the
03 best of my knowledge, they understood themselves to be
04 providing information to me, and that I was gathering
05 information from others in evaluating U.S. attorneys who
06 might be added to the list.

07 MR. BHARARA: On each occasion where you were
08 gathering information about someone, was it understood by
09 the person from whom you were gathering the information that
10 you were gathering it in connection with a possible decision
11 to ask for that person's resignation?

12 MR. BERENSON: I have let these questions go for
13 quite awhile, but how is he supposed to know what other
14 people understood? I mean, can't we phrase the questions in
15 a way that asks him what he told these folks?

16 MR. BHARARA: Okay, sure. Did you communicate to
17 any of these people -- when you had conversations with
18 people at the department about specific performance issues
19 with respect to specific United States attorneys, did you
20 communicate to those people in any way that you were asking
21 the questions in connection with a possible decision to ask
22 for those individual's resignation?

23 MR. SAMPSON: I think on some occasions, but not
24 others.

25 MR. BHARARA: So it depended?

01 MR. SAMPSON: Yes.

02 MR. BHARARA: Okay. And the reason I ask the
03 question is I would imagine that in any department, in any
04 work environment, people in a high level position are often
05 asking about the performance of other folks.

06 But would you agree with me that there is a
07 difference between asking at a meeting informally or
08 formally how someone is doing versus asking someone how
09 someone is doing when it is understood by the questioner
10 that there is a project afoot to decide who should actually
11 be asked to resign? Do you follow what I'm asking?

12 MR. SAMPSON: I do. I mean, I feel, I mean, I
13 can't speak to what made an impression on them. But I think
14 that I was pretty open and clear about why I was asking
15 these questions with most if not all of those people, and I
16 think all of those people.

17 I mean, it was a discussion about which of the
18 U.S. attorneys, if we were going to ask some of them to
19 resign, who would be on your list, and why.

20 MR. BHARARA: Okay. I'll ask some questions
21 about the White House's involvement, and then I'll come back
22 to the department.

23 The Attorney General said on March 26th of '07
24 publicly, "As far as I know, they," referring to the White
25 House, "did not play a role in adding names or taking off

01 names." Referring as I understand it, to who should or
02 should not be asked to resign.
03 Let me ask you questions about a particular
04 circumstance. Isn't it the case that there were people at
05 the White House who were interested in the appointment of
06 Tim Griffin as United States attorney in the Eastern
07 District of Arkansas?

08 MR. SAMPSON: Yes.

09 MR. BHARARA: Included among those people,
10 Harriet Miers?

11 MR. SAMPSON: Yes. She is the one that I recall
12 initially asking me about that possibility, right.

13 MR. BHARARA: And the way for Tim Griffin to get
14 appointed was by asking for the resignation of Bud Cummins,
15 correct?

16 MR. SAMPSON: That's correct.

17 MR. BHARARA: So am I correct that the White
18 House had direct involvement given their advocacy for Tim
19 Griffin in the decision to ask Bud Cummins for his
20 resignation? Is that fair?

21 MR. SAMPSON: My recollection is that Bud Cummins
22 had been identified as someone who had not so distinguished
23 himself as to keep himself off the list prior to that
24 inquiry coming in from Harriet Miers to me.
25 So I guess, let me just, with regard to the White

01 House's involvement in specific U.S. attorneys in asking for
02 them to resign, I remember that happening on two occasions.
03 I remember Harriet Miers inquiring about whether the place
04 could be made for Tim Griffin to be appointed U.S. attorney
05 in the Eastern District of Arkansas, and I remember thinking
06 Cummins is already on the list, he had been identified as
07 someone who we would consider asking to resign at the end of
08 his four-year term.
09 And so after speaking with a few people at the
10 Department of Justice, I remember conveying to Ms. Miers
11 that I think we could do that, and then that was further
12 discussed in consultation between the Attorney General and
13 the Counsel to the President, and ultimately, as I testified
14 before, the recommendation was made to the President that
15 Griffin be approved for nomination pending the completion of
16 the background check.
17 The only other district I remember ever
18 specifically being asked about is I remember Harriet Miers
19 asking me about Debra Yang in the Central District of
20 California, and what her plans were. You know, whether she
21 might be asked to resign.
22 I remember that Debra Yang was never on a list,
23 that she was widely viewed as a strong U.S. attorney, a good
24 manager, in a big office who had worked hard on the Attorney
25 General's Advisor Committee in developing policies and in

01 working well with Justice.

02 And so I remember communicating back to Harriet
03 Miers that no, Debra Yang is a strong U.S. attorney. So
04 that's my recollection as far as White House asking about
05 specific U.S. attorneys and asking about whether they might
06 be asked to resign.

07 MR. BHARARA: I want to ask you about the
08 relationship between the Attorney General and Harriet Miers.

09 MR. SAMPSON: Uh-huh.

10 MR. BHARARA: Could you describe generally the
11 relationship at the time that Ms. Miers was White House
12 counsel and Alberto Gonzales was the Attorney General?

13 MR. SAMPSON: It was good.

14 MR. BHARARA: What was the frequency of their
15 contact with each other?

16 MR. SAMPSON: My best estimation would be four or
17 five times a week.

18 MR. BHARARA: And did they meet? What percentage
19 of those times did they communicate in person, and how much
20 on the telephone?

21 MR. SAMPSON: It was mostly on the phone.

22 MR. BHARARA: And were you always present when
23 they communicated with each other?

24 MR. SAMPSON: I was not.

25 MR. BHARARA: What is the frequency with which

01 you were present when those two individuals communicated?

02 MR. SAMPSON: I'm not sure. I mean, some of the
03 time, but not all the time.

04 MR. BHARARA: Okay. Most of the time? Or you
05 can't say?

06 MR. SAMPSON: I'm not sure. I wouldn't say most
07 of the time.

08 MR. BHARARA: Did they have a regular meeting?
09 The Attorney General and the White House counsel?

10 MR. SAMPSON: There was the regular judicial
11 selection committee meeting every Wednesday. Then from time
12 to time if they had issues to discuss, they would just go up
13 to Ms. Miers's office and discuss them there.
14 So they didn't have a regular meeting other than
15 that.

16 MR. BHARARA: And do you have any understanding
17 as to how often, if at all, the Attorney General and Ms.
18 Miers talked about anything having to do with asking a
19 United States attorney to resign or performance issues with
20 respect to United States attorneys?

21 MR. SAMPSON: I don't know.

22 MR. BHARARA: How often did you speak with Ms.
23 Miers about United States attorneys and their performance?

24 MR. SAMPSON: Really episodically. Again,
25 through the thinking phase of the process, it seemed like

01 she would -- my recollection is that she would just every
02 once in awhile ask me, you know, what is the status of
03 things?

04 For a long time, my answer would be well, none of
05 them have completed their four-year terms yet. And then
06 events would just overtake things. I mean, it wasn't really
07 a focused process.

08 MR. BHARARA: Was there someone else at the White
09 House Counsel's Office with whom you would have had more
10 regular contact on this issue than Ms. Miers?

11 MR. SAMPSON: Perhaps Bill Kelley. They were sort
12 of interchangeable.

13 MR. BHARARA: Do you have any idea of how often
14 Ms. Miers and Karl Rove have spoken on a weekly basis during
15 the time that Ms. Miers has been White House counsel?

16 MR. SAMPSON: I don't know.

17 MR. BHARARA: Do you have any idea at all?

18 MR. SAMPSON: I wouldn't know.

19 MR. BHARARA: And you wouldn't know anything
20 about the conversations they might have?

21 MR. SAMPSON: Correct.

22 MR. BHARARA: About any subject?

23 MR. SAMPSON: Correct.

24 MR. BERENSON: Preet, we've been at it a little
25 longer than an hour now. It is 4:20. Do you want to take

01 another 5-minute break, and then we can talk a little bit
02 about the schedule?

03 MR. BHARARA: If you don't mind, why don't I just
04 keep pushing ahead and seeing how far I can get in the
05 next --

06 MR. BERENSON: Do you have a particular topic you
07 need to complete? Or do you just generally not want to take
08 a break?

09 MR. BHARARA: Off the record.

10 [Off the record at 4:20 p.m.]

11 [On the record at 4:35 p.m.]

12 MR. BHARARA: Back on the record.

13 I want to ask you questions about some of the U.S.
14 Attorneys who were asked to resign and the particulars of
15 what went into that process that you were not asked about at
16 great length at your hearing. I want to ask you about Dan
17 Bogden, who was the U.S. Attorney in Nevada.

18 Did you come to believe that he was in the bottom
19 tier of United States Attorneys?

20 MR. SAMPSON: Let me say this about the different
21 reasons that U.S. Attorneys were added to the list. I
22 remember some of the reasons that were conveyed to me as I
23 was aggregating information, and some of the things I don't
24 remember and some of the things I may not have known that
25 were in the minds of other folks involved in this process.

01 My recollection with regard to Mr. Bogden was that
02 he was a relatively close case. There were no particular
03 allegations or concerns that he was a bad manager or that he
04 had failed to do thus and such. My recollection is that
05 there was sort of a judgment that a change in that office
06 would be beneficial, that a stronger leader in that office
07 would be helpful.

08 In reviewing the documents, I remember that there
09 was concern that his office had not and that he himself had
10 not worked closely with Main Justice, with the Obscenity
11 Prosecution Task Force of the Criminal Division, in trying
12 to make some obscenity cases in Nevada. But I don't
13 remember if I had that on my mind at the time late in the
14 process.

15 MR. BHARARA: With whom did you consult and from
16 whom did you receive information about the performance of
17 Dan Bogden during the course of this project?

18 MR. SAMPSON: Well, in reviewing the documents, I
19 remember receiving some criticism of his office from Brent
20 Ward, who was the Chair of the Obscenity Prosecution Task
21 Force. At the end of the process, in its final stage, when
22 we were finalizing who would be on the list, I remember
23 speaking with the Deputy Attorney General, Paul McNulty; his
24 chief of staff, Mike Elston; Monica Goodling, the senior
25 counsel to the Attorney General; and I think Bill Mercer,

01 though I am not 100 percent sure.
02 MR. BHARARA: How did his name get on the list?
03 Who put his name on the list?
04 MR. SAMPSON: I don't remember specifically.
05 MR. BHARARA: Weren't you the maintainer of the
06 list? So you would have put the name on the list, correct?
07 MR. SAMPSON: Physically, I would have put the
08 name on the list. I don't remember who suggested that he be
09 added to the list.
10 MR. BHARARA: You don't recall what the triggering
11 event of putting him on the list was?
12 MR. SAMPSON: I just don't remember. It may have
13 been suggested to me by someone else of that group of people
14 I've talked about, but I don't have a specific recollection
15 of it.
16 MR. BHARARA: So other than the person who headed
17 the Obscenity Task Force--what was his name again?
18 MR. SAMPSON: Brent Ward.
19 MR. BHARARA: Right. Other than him, can you
20 remember anybody else at Justice--I am not talking about
21 people who ultimately approved his being kept on the list,
22 but anyone in the same vein as Brent Ward who lodged a
23 complaint or told you about a performance problem with
24 respect to Dan Bogden?
25 MR. SAMPSON: I just don't remember specifically.

01 MR. BHARARA: And you never kept a file or
02 documented complaints about Mr. Bogden, did you?
03 MR. SAMPSON: I did not.
04 MR. BHARARA: Do you recall if you ever heard
05 from--withdrawn.
06 Had there been substantive performance complaints--
07 --withdrawn.
08 Did you hear about complaints with respect to Mr.
09 Bogden from outside the Justice Department? Was there
10 anybody at the White House in your recollection who said
11 anything negative at Mr. Bogden's performance as United
12 States Attorney?
13 MR. SAMPSON: Not that I remember. I really don't
14 think so.
15 MR. BHARARA: Okay. Do you recall anyone outside
16 of the administration who lodged complaints about Mr.
17 Bogden's performance?
18 MR. SAMPSON: Again, I don't remember that being
19 the case.
20 MR. BHARARA: Do you have any knowledge of whether
21 or not there was any political figure or other third party
22 who lodged a complaint with anyone in the administration
23 about Mr. Bogden prior to the time he was asked to resign?
24 MR. SAMPSON: I don't remember.
25 MR. BHARARA: And do you think it is likely not

01 the case, or you just don't remember?

02 MR. SAMPSON: I didn't--if it was the case, I
03 don't think I knew about it.

04 MR. BHARARA: Is it your understanding that given
05 how you have described everyone knew that you were the
06 aggregator of the information and you were compiling such a
07 list and engaged in this project, had there been such a
08 complaint, is it your expectation that you would have
09 received that material for purposes of your project?

10 MR. SAMPSON: I think so.

11 MR. BHARARA: Was there any dissent over whether
12 or not Mr. Bogden should have been asked to resign?

13 MR. SAMPSON: I remember the Deputy Attorney
14 General, Paul McNulty, expressed some concern about Bogden
15 being asked to resign.

16 MR. BHARARA: Do you recall when that concern was
17 expressed?

18 MR. SAMPSON: I don't remember specifically.

19 MR. BHARARA: Can I show you a document, which is
20 Bates number DAG23, which I will ask the court reporter to
21 mark as Sampson Exhibit 12.

22 [Sampson Exhibit No. 12 marked
23 for identification.]

24 MR. BHARARA: Would you take a look at that
25 document and let me know when you have had a chance to look

01 at it.

02 [Witness perusing document.]

03 MR. BHARARA: Okay. You have had a chance to look
04 at the document?

05 MR. SAMPSON: Yes.

06 MR. BHARARA: I just want to focus your attention
07 on the last e-mail in the chain, and that is an e-mail from
08 Paul McNulty to you on December 5th at 9:44 a.m. Is that
09 correct?

10 MR. SAMPSON: Yes.

11 MR. BHARARA: Okay. And I just want to focus your
12 attention on a couple of parts of that e-mail.

13 Mr. McNulty says to you, "I'm still a little
14 skittish about Bogden. He has been with DOJ since 1990 and
15 at age 50 has never had a job outside of government. My
16 guess is that he was hoping to ride this out well into '09
17 or beyond. I'll admit have not looked at his district's
18 performance. Sorry to be raising this again now. It was
19 just in my mind last night and this morning."

20 Do you see that?

21 MR. SAMPSON: I do.

22 MR. BHARARA: Does that refresh your recollection
23 as to when Mr. McNulty expressed some concerns about Mr.
24 Bogden's placement on the list?

25 MR. SAMPSON: It appears that he raised them in

01 this e-mail on December 5, 2006, and I do remember having a
02 conversation, I think subsequent to this, a brief
03 conversation, with the Deputy Attorney General and his chief
04 of staff, and I think Monica Goodling, and I think Bill
05 Mercer, though I'm not sure about Mercer.

06 MR. BHARARA: I am sorry. Say the last part
07 again?

08 MR. SAMPSON: This refreshes my recollection both
09 that Mr. McNulty sent this e-mail and also about a
10 conversation that I had subsequent to this e-mail with--

11 MR. BHARARA: I see. Tell us about that
12 conversation.

13 MR. SAMPSON: --with the Deputy Attorney General
14 and others. I believe the conversation was in my office.
15 After a meeting, I think the Deputy Attorney General just
16 came into my office. I believe that Mr. Elston was with
17 him. I believe Ms. Goodling was there. And I think Mr.
18 Mercer was there, but I'm not sure.

19 MR. BHARARA: And can you relate the substance of
20 the conversation? Well, first, how long did the
21 conversation last?

22 MR. SAMPSON: My best guess would be about 90
23 seconds.

24 MR. BHARARA: Could you describe the deliberations
25 that took place during those 90 seconds about the fate of

01 Mr. Bogden?

02 MR. SAMPSON: My recollection is that Mr. McNulty
03 and those other people came into my office, and I said, "I
04 got your e-mail." And he said, "I'm just concerned about
05 Bogden"--you know, essentially what he says in the e-mail,
06 about that he's 50, hasn't had a job in the private sector, and
07 what about his family.

08 And I think Mike Elston or Bill Mercer said, "He's
09 a bachelor. He's single." And Mr. McNulty said, "Okay.
10 Never mind," and then got up and left my office. That's the
11 best of my recollection.

12 MR. BHARARA: Subsequent to the Deputy Attorney
13 General stating that he was skittish about Mr. Bogden's
14 placement on the list, and apart from what you have just
15 described, was there any discussion or review of any
16 performance-based issues relating to Mr. Bogden before he
17 was ultimately asked to resign?

18 MR. SAMPSON: Subsequent to that?

19 MR. BHARARA: Subsequent to this e-mail.
20 Subsequent to this e-mail.

21 MR. SAMPSON: I don't think so. Not to my
22 knowledge.

23 MR. BHARARA: So it is your understanding that Mr.
24 McNulty's skittishness was only about Mr. Bogden's family
25 situation and not relating to whether or not there was an

01 appropriate performance-based foundation for asking him to
02 resign?
03 MR. SAMPSON: That is my understanding.
04 MR. BHARARA: Did anyone else in that 90-second
05 meeting that you have described express any doubts or
06 reservations about whether or not Mr. Bogden should be asked
07 to resign?
08 MR. SAMPSON: Not to my knowledge. Not to my
09 recollection.
10 MR. BHARARA: To the best of your recollection,
11 what is the total number of conversations you had with
12 anyone during the entire project about performance issues
13 related to Mr. Bogden?
14 MR. SAMPSON: I just don't remember. I mean, I
15 could speculate. I would say on the order of five or ten.
16 MR. BHARARA: And how many of them were negative?
17 MR. SAMPSON: Negative conversations?
18 MR. BHARARA: Negative comment. In how many of
19 those conversations were negative comments made about Mr.
20 Bogden?
21 MR. SAMPSON: I just don't remember. I mean, the
22 discussion was about Mr. Bogden being on the list and
23 whether he should be on the list or not. That is really all
24 I remember.
25 MR. BHARARA: Did Mr. Margolis have a view on

01 whether or not Mr. Bogden was a good performer or not?

02 MR. SAMPSON: I don't remember.

03 MR. BHARARA: Do you recall ever consulting with
04 Mr. Margolis about Dan Bogden?

05 MR. SAMPSON: I don't remember.

06 MR. BHARARA: Would you have in the ordinary
07 course, given that he was a person you mentioned was in the
08 group of people who was involved in this project?

09 MR. SAMPSON: Yes, although as this process
10 finalized, I was really working more closely with the Deputy
11 Attorney General and his chief of staff, Michael Elston.
12 And I guess I assumed that they were consulting with Mr.
13 Margolis. He was the expert on U.S. Attorneys and how they
14 were performing.

15 MR. BHARARA: You assumed that those other
16 individuals were consulting with Mr. Margolis, but you don't
17 know for a fact that they were?

18 MR. SAMPSON: At the end of this process, in
19 October and November and early December of 2006, really most
20 of my consultations were with the Deputy Attorney General
21 and his chief of staff and Monica Goodling. And I had
22 previously gotten input from others, including Mr. Margolis.
23 But at the end of this process, my best recollection is that
24 those were the folks I was visiting with. And in addition
25 to those folks, I think Bill Mercer as well. Again, I am

01 not 100 percent sure.
02 MR. BHARARA: Did the Attorney General ever
03 question you about the reasons that Bogden was on the list
04 that you can remember?
05 MR. SAMPSON: Not that I can remember.
06 MR. BHARARA: At the November 27th meeting that
07 you described earlier at which six of the United States
08 Attorneys were on a list of people to be asked to resign, do
09 you recall whether or not there was a conversation of some
10 length about each of the people who was on the list?
11 MR. SAMPSON: I don't remember.
12 MR. BHARARA: In connection with the decision to
13 put Mr. Bogden on the dismissal list, did you review his
14 most recent EARS evaluation?
15 MR. SAMPSON: I did not.
16 MR. BHARARA: Did the Attorney General direct you
17 to review Mr. Bogden's EARS evaluation?
18 MR. SAMPSON: He did not.
19 MR. BHARARA: In connection with the decision to
20 dismiss Mr. Bogden, did you--or anyone else, to your
21 knowledge--as part of the deliberation about Mr. Bogden
22 check with the law enforcement agencies with whom Mr. Bogden
23 had been dealing in Nevada?
24 MR. SAMPSON: I did not.
25 MR. BHARARA: With respect to the obscenity issue,

01 the obscenity prosecution-related issue that you mentioned,
02 do you know whether or not anyone told Mr. Bogden at any
03 time that that might provide a basis or a partial basis for
04 his being asked to resign?

05 MR. SAMPSON: I don't think so.

06 MR. BHARARA: And a related question. Do you know
07 whether or not Mr. Bogden was ever given the opportunity to
08 correct whatever failings were perceived to exist in his
09 performance so that he could improve his performance and
10 avoid being asked to resign?

11 MR. SAMPSON: To my knowledge, with regard--that
12 was not done--well, I withdraw the answer.

13 [Laughter.]

14 MR. SAMPSON: The answer is: Not to my knowledge.

15 MR. BHARARA: Okay.

16 MR. SAMPSON: I guess let me add the following:
17 It really was the view of myself, and I think the other
18 folks in this process, that these were political appointees.
19 And so while some of them had management problems, some of
20 them had policy conflicts with Justice, others simply were
21 viewed as being mediocre and were viewed as United States
22 Attorneys who could be asked to resign and that such
23 resignation would be beneficial to the office.
24 I just don't want to accept the premise that
25 you're laying out, that a problem was identified and the

01 person was given an opportunity to rectify it and they did
02 or didn't. It just didn't work that way, to the best of my
03 recollection.

04 MR. BHARARA: Were there any people who were more
05 mediocre than Mr. Bogden who were not asked to resign?

06 MR. SAMPSON: I don't know.

07 MR. BHARARA: Wouldn't you know if you are the
08 person who is assessing which among the 93 United States
09 Attorneys should be asked to resign and it was a comparative
10 thing and a relative thing? Wouldn't you be the prime
11 person in a position to know how Mr. Bogden ranked relative
12 to all the other United States Attorneys?

13 MR. SAMPSON: Sitting here today, I don't--look, I
14 don't think--sitting here today, I'd have to look at that
15 list of U.S. Attorneys and think back and say were any of
16 these more mediocre than Mr. Bogden. I don't think there
17 were, or they would have been on the list as well. Perhaps.
18 I'm not sure. I don't know.

19 MR. BHARARA: Okay. Based on the review that you
20 did of Mr. Bogden's performance, however you want to
21 describe the performance, sitting here today based on all
22 that record, do you believe that Mr. Bogden should have been
23 asked to resign?

24 MR. SAMPSON: I don't want to associate myself
25 with the premise of your question that it was a review that

01 I conducted. I was the aggregator of information that came
02 in from a variety of sources.

03 MR. BHARARA: I will rephrase the question. Based
04 on your aggregation of information from a variety of sources
05 and your involvement in the process, as you sit here today
06 do you believe that Mr. Bogden should have been asked to
07 resign?

08 MR. SAMPSON: I think Mr. Bogden was a closer case
09 than some of the other United States Attorneys. But he was
10 a political appointee, and the Attorney General approved a
11 plan to ask him to resign because folks in the senior
12 leadership of the Department thought that would be
13 beneficial for the office.

14 Sitting here today, after this controversy and after
15 having to testify in an open hearing and be here with you
16 today, as I said at my hearing, I wish we wouldn't have gone
17 down that road.

18 MR. BHARARA: Were you a mere aggregator or did
19 you also in your role make recommendations based on the
20 information that you aggregated?

21 MR. SAMPSON: I think it's fair to say that I had
22 my own views, but as I look back over that list of seven
23 United States Attorneys who were asked to resign, boy, in my
24 mind, there's not one of them that's on that list because I
25 personally felt they should be on that list.

01 MR. BHARARA: I will go back to my earlier
02 question. Do you believe that Mr. Bogden, based on the
03 information you aggregated about his performance, should
04 have been asked to resign? What is your view?

05 MR. SAMPSON: Well, at the time I thought that was
06 appropriate.

07 MR. BHARARA: Thought what was appropriate?

08 MR. SAMPSON: That he be asked to resign.

09 MR. BHARARA: As you sit here today, do you still
10 continue to believe that with respect to Mr. Bogden it was
11 appropriate?

12 MR. BERENSON: I think he has already given you
13 the answer to that question, which is none of them should
14 have been as he sits here today.

15 MR. BHARARA: I am not asking that question.
16 When you say none of them should have been asked
17 to resign, are you talking about the fact that the Justice
18 Department--tell me what you mean by that.

19 MR. SAMPSON: Well, this whole idea, obviously,
20 has resulted in controversy that has been problematic and
21 has been, I think, harmful to the Department of Justice.

22 MR. BHARARA: I am not asking whether or not it
23 has caused bad consequences. My question is: Knowing what
24 you know now about the performance--about the information
25 you aggregated about the performance of Mr. Bogden, do you

01 believe that he should have been asked to resign?

02 MR. SAMPSON: Well, I still believe that United
03 States Attorneys are political appointees and can be asked
04 to go for any reason or no reason. And I don't believe he
05 was asked to resign for the improper reason of trying to
06 influence a case for political reasons, at least to my
07 knowledge.

08 MR. BHARARA: Last try.

09 MR. SAMPSON: I'm sorry. I'm trying--

10 MR. BHARARA: Just a last try. To the extent the
11 Attorney General has stated that Mr. Bogden was fired--I
12 know you say that he could be fired for any reason or no
13 reason. That is not what the Attorney General has said.
14 That is not what the Department has said. All right? So
15 take that hypothetical out of the equation.
16 To the extent the Attorney General has said that
17 Mr. Bogden or anyone else--but we are talking about Mr.
18 Bogden--that Mr. Bogden was asked to resign for performance
19 reasons, my question to you is: Based on the information
20 that you aggregated, did his performance or lack of
21 performance warrant his being asked to resign?

22 MR. SAMPSON: I think it was the judgment of
23 senior leaders in the Department of Justice that he was
24 mediocre, and I think that is a good enough reason to ask a
25 United States Attorney to resign, you know, in that

01 hermetically sealed way that you asked that question, you
02 know, not considering the consequences that have resulted.
03 I guess I would like to say for the record I think
04 Mr. Bogden is a good person, and so, I mean, I hate having
05 to say that the judgment of people was that he was mediocre.
06 But that was the judgment of people.
07 MR. BHARARA: I want to ask you a couple of
08 questions about Mr. Iglesias.
09 I know you have not had a chance to read this.
10 There is an article in the Albuquerque Journal that came out
11 just today, and I am only passing around copies of it that I
12 would ask the court reporter to mark as Sampson Exhibit 13.
13 [Sampson Exhibit No. 13 marked
14 for identification.]
15 MR. BHARARA: There are several statements in it,
16 and I want to ask you if you know anything about whether or
17 not those statements are true.
18 Could you look at page 2 of that document? For
19 the record, this is an article in the Albuquerque Journal
20 entitled "Domenici sought Iglesias ouster," Sunday, April
21 15, 2007. You will see at the top of page 2, the second
22 complete paragraph reads--let me withdraw that.
23 The first complete paragraph reads, "At one point
24 the six-term Republican Senator"--referring to Senator
25 Domenici--tried to get Iglesias moved to a Justice

01 Department post in Washington, D.C., but Iglesias told
02 Justice officials he wasn't interested."
03 Now, do you have any understanding of whether or
04 not that is true?

05 MR. SAMPSON: I don't.

06 MR. BHARARA: Okay. The next paragraph reads, "In
07 the spring of 2006, Domenici told Gonzales he wanted
08 Iglesias out." Do you have any basis to know whether or not
09 that is true?

10 MR. SAMPSON: Well, as I testified, I think today,
11 I learned--I remember that Senator Domenici had called the
12 Attorney General on three occasions and had complained about
13 Iglesias. But I'm not aware that he told Gonzales he wanted
14 Iglesias out.

15 MR. BHARARA: Okay. The next paragraph reads,
16 "Gonzales refused. He told Domenici he would fire Iglesias
17 only on orders from the President."

18 Do you have any knowledge of whether or not
19 Attorney General Gonzales refused Mr. Domenici's request or
20 anything at all about the truthfulness of that paragraph?

21 MR. SAMPSON: I don't remember ever hearing that
22 before.

23 MR. BHARARA: The next paragraph reads, "At some
24 point after the election last November 6th, Domenici called
25 Bush's senior political adviser, Karl Rove, and told him he

01 wanted Iglesias out and asked Rove to make his request
02 directly to the President."

03 Do you know anything about whether or not that is
04 true?

05 MR. SAMPSON: That's the first I've heard it, to
06 the best of my recollection.

07 MR. BHARARA: The next paragraph--just two more.
08 The next paragraph reads, "Domenici and Bush subsequently
09 had a telephone conversation about the issue."

10 Do you know anything about that?

11 MR. SAMPSON: I don't.

12 MR. BHARARA: Continuing in the article, "The
13 conversation between Bush and Domenici occurred some time
14 after the election but before the firings of Iglesias and
15 six other U.S. Attorneys were announced on December 7th."
16 Again, do you know anything about those
17 conversations? And you've never had any conversation with
18 anybody about whether or not the President himself got
19 involved in conversations about Mr. Iglesias or decisions to
20 ask for Mr. Iglesias' resignation?

21 MR. SAMPSON: I'm sorry. I lost my train of
22 thought. Would you repeat the question?

23 MR. BHARARA: What is the sum total of your
24 knowledge of the involvement of the President personally
25 with respect to complaints about Mr. Iglesias and the

01 decision to ask Mr. Iglesias to resign?

02 MR. SAMPSON: About the knowledge of the
03 President?

04 MR. BHARARA: Yes.

05 MR. SAMPSON: What I remember is in maybe the
06 week--or just a week before I left the Department in March,
07 I remember the Attorney General telling me that he had had a
08 meeting with the President in October sometime. And he
09 reminded me about this because it was a meeting that the
10 President was having with each of the Cabinet officials, and
11 the Attorney General thought it was silly that he was
12 meeting with the President because he had met with him the
13 week before on some matter and asked me to inquire of the
14 White House whether he really needed to come over for that
15 meeting. And I think it was, you know, just some short time
16 before the meeting was to occur, and so the word I got back
17 was, "Yeah, tell him to come over anyway."
18 And, again, just--I really didn't know much about
19 this meeting. I don't remember the Attorney General
20 reporting to me the substance of it in the fall after he had
21 had the meeting. But in the week or so before I left the
22 Department, when Mr. Iglesias, you know, made some
23 allegations and it became a public affair, the Attorney
24 General--I remember the Attorney General saying, "You know,
25 I remember the President in that meeting we had in October

01 telling me that Domenici had concerns about Iglesias."
02 And to the best of my knowledge, that is what I
03 remember about everything in response to your question.
04 MR. BHARARA: The same question with respect to
05 Mr. Rove. What is the sum total of your knowledge and
06 understanding about what role--what involvement Mr. Rove had
07 in connection with the performance of Mr. Iglesias and/or
08 the decision to ask him to resign?
09 MR. SAMPSON: You know, I testified at my hearing
10 about Mr. Rove complaining to the Attorney General about
11 U.S. Attorneys in three jurisdictions, and the substance of
12 those concerns was their alleged failure to vigorously
13 prosecute voter fraud cases. And to the best of my
14 recollection, that's all I know about Mr. Rove's involvement
15 with Iglesias. Sitting here right now and trying to
16 remember, that's what I remember.
17 MR. BHARARA: When that complaint was passed along
18 by the Attorney General to you, did the Attorney General
19 tell you to assess the validity of the complaint with
20 respect to voter fraud?
21 MR. SAMPSON: He asked me to look into it or to
22 have someone look into it.
23 MR. BHARARA: And did you?
24 MR. SAMPSON: To the best of my memory, I believe
25 that I asked Matt Friedrich, who serves as counselor to the

01 Attorney General over criminal matters, to look into it.
02 MR. BHARARA: And did he?
03 MR. SAMPSON: I don't know.
04 MR. BHARARA: Did you follow up with him?
05 MR. SAMPSON: I don't remember ever getting a
06 report from him about it.
07 MR. BHARARA: Was it your practice to give an
08 assignment to someone on a matter of this importance and to
09 not follow up and accept lack of follow-up from that person?
10 MR. SAMPSON: It was my practice to do my best. I
11 had a lot of things happening at the time. And I may have
12 gotten a report from him, but I don't remember it, sitting
13 here today. I don't know if he took any action. I just
14 don't remember.
15 MR. BHARARA: You personally didn't undertake any
16 inquiry with respect to the validity of the voter fraud
17 complaints that were made against Mr. Iglesias, did you?
18 MR. SAMPSON: I don't remember doing that. To the
19 best of my memory, I asked Mr. Friedrich to look into it.
20 MR. BHARARA: Did you give Mr. Friedrich any
21 instruction other than look into it?
22 MR. SAMPSON: No. Not to my recollection.
23 MR. BHARARA: Did he ask for any instruction?
24 MR. SAMPSON: I don't remember.
25 MR. BHARARA: So you have no recollection of

01 whether or not Mr. Friedrich or anyone else investigated the
02 validity of those complaints and yet Mr. Iglesias made his
03 way on to the list. Can you explain that?

04 MR. SAMPSON: As I testified, I don't remember how
05 Mr. Iglesias first got on the list. I remember that after
06 he was on the list, there was discussion about whether he
07 should remain on the list. But I don't have any memory
08 about how that came to be.

09 If I could make one clarification, I did at my
10 hearing on March 29th say that there was--during this final
11 phase of this process, an effort was made to go back and
12 look at the list and see if there were any additional United
13 States Attorneys that should be added to the list. And my
14 recollection at the time that I was testifying was that we
15 added four additional U.S. Attorneys to the list, including
16 Iglesias, and then three came off. And I testified that we
17 did that sometime after October 17th. But because my
18 recollection isn't clear and because I don't have access to
19 the unredacted documents, I'm just not 100 percent sure when
20 that happened, whether it was before or after October 17th.
21 So I wanted to make that clarification. Or whether they all
22 went on at once or whether there was actually four U.S.
23 Attorneys who were added or whether it was three or five, I'm just
not
24 sure.
25 I think the unredacted documents might help

01 refresh my recollection on that, but I don't have access to
02 those.

03 MR. BHARARA: Okay. Let me ask you about John
04 McKay, the former U.S. Attorney in Washington. Could you
05 tell me how he got on the list?

06 MR. SAMPSON: Again, to the best of my
07 recollection, the Deputy Attorney General's office expressed
08 concerns about policy conflicts that it had had with Mr.
09 McKay.

10 MR. BHARARA: Can you recite for us your
11 recollection of every conversation and communication you had
12 with anyone at the Justice Department about any negative
13 performance issues relating to Mr. McKay?

14 MR. SAMPSON: And I assume you mean performance-
15 related in the broad sense.

16 MR. BHARARA: In whatever sense you interpret that
17 word.

18 MR. SAMPSON: I remember having conversations with
19 Michael Elston about Mr. McKay's efforts to promote the
20 LInX Software, information-sharing software, and real
21 irritation that the Deputy Attorney General himself had over
22 the fact that Mr. McKay had gotten 20 or 25 U.S. Attorneys
23 to sign on to a letter that, in the Deputy Attorney
24 General's view, I think, you know, tried to sort of force
25 his hand and box the Department in on the decision about the

01 structure of Department-wide information sharing. So that's
02 one issue.

03 I remember having conversations with Bill Mercer
04 about his concerns about Mr. McKay's office's sentencing
05 practices, and I remember Mr. Mercer complaining that that
06 office never sought to appeal downward departures. So that
07 is a second thing.

08 I remember there was concern expressed about the
09 way Mr. McKay interacted with Main Justice with regard to an
10 AUSA in his office had been murdered and they thought it
11 was case related. And it was in sort of an ongoing
12 investigation that was handled by another U.S. Attorney's
13 Office, but McKay on occasion--on at least a couple of
14 occasions, sort of demanded that the Deputy Attorney
15 General, or the Attorney General, I think, in one case, you
16 know, drop everything and fly to Seattle to participate in
17 an event related to that. It was just the manner in which
18 McKay did that that raised issues and concerns.

19 I think one thing--and you asked me for everything
20 I remembered. The other thing I remember is
21 being told--I don't remember when precisely, but I remember
22 being told that Mr. McKay had held a press conference in
23 which he complained about the President's budget for U.S.
24 Attorneys, and instead of supporting the President's budget
25 request, he had complained about it.

01 So sitting here today, that's what I remember
02 about the concerns about John McKay.

03 MR. BHARARA: Was there an issue of personal
04 animosity between Mr. McKay and certain officials at Main
05 Justice?

06 MR. SAMPSON: Not beyond what I've said. Not that
07 I'm aware of. He had irritated some officials in the
08 Deputy's office, but I don't know if I would call it
09 animosity.

10 MR. BHARARA: Did he irritate Mr. McNulty?

11 MR. SAMPSON: I understand Mr. McNulty and his
12 chief of staff, Mr. Elston.

13 MR. BHARARA: Did he irritate anyone else in the
14 Deputy's office that you are aware of?

15 MR. SAMPSON: Not that I remember.

16 MR. BHARARA: Was it your understanding that the
17 issue with respect to the LInX system was irritation with
18 how Mr. McKay had handled it or a substantive problem with
19 what he was trying to promote through the LInX system?

20 MR. SAMPSON: I'm not sure, but I think it was the
21 former.

22 MR. BHARARA: The former?

23 MR. SAMPSON: I think so. But I'm not 100 percent
24 sure.

25 MR. BHARARA: With respect to any of these issues

01 related to performance, as you broadly conceive it, was Mr.
02 McKay told that one or more of those issues could lead to
03 his potential dismissal and/or was he given an opportunity
04 to correct any issues to avoid being dismissed?

05 MR. SAMPSON: I don't know, but not to my
06 knowledge.

07 MR. BHARARA: Do you think that would have been
08 the better practice with respect to Mr. McKay, Mr. Bogden,
09 and others, to have given these folks an opportunity, if it
10 was truly a performance issue, to give them the opportunity
11 to be told about their performance problems, correct them if
12 possible, and be dismissed if they were not corrected?

13 MR. SAMPSON: In hindsight, I think that perhaps
14 would have been a stronger management objective and would
15 have been beneficial.

16 MR. BHARARA: Forget about hindsight. Shouldn't
17 it have been apparent at the time--did the Attorney General
18 ever suggest to you that, in connection with trying to
19 determine who should be asked to resign or not, these
20 individuals should be given an opportunity, to the extent
21 possible, to correct any problems they had in their
22 performance?

23 MR. SAMPSON: Not that I remember.

24 MR. BERENSON: Maybe I can save us a little time
25 here. I am not sure, based on my reading of the case law,

01 where in the world Congress has any oversight jurisdiction
02 whatsoever over the way the President chooses to exercise
03 his hiring and firing authority among permissible reasons.
04 I mean, whether it would have been a better practice or a
05 worse practice to do this, that, or the other or have an
06 internal personnel system, that just--that's a core
07 presidential power, and I don't think the oversight
08 jurisdiction of Congress extends to it. If we can just
09 stick to questions that do relate to Congress' legitimate
10 investigative and oversight jurisdiction, we can probably
11 get through this a lot faster.

12 MR. BHARARA: Thank you for the speech.

13 MR. BERENSON: You are welcome.

14 MR. BHARARA: I am going to continue my
15 questioning. Off the record later I will explain to you the
16 various ways in which that question is relevant.
17 I am going to ask you about Mr. Charlton. How did
18 he end up on the list?

19 MR. SAMPSON: I understood that there were--again,
20 let me say that I remember some of the reasons folks were
21 added to the list, and I don't remember some of the other
22 reasons, and some I may not even have known about. So this
23 is what I remember.

24 I remember there was concern about Mr. Charlton--

25 MR. BHARARA: If I could just interrupt you.

01 MR. SAMPSON: Yes.

02 MR. BHARARA: Do you remember with any specificity
03 when exactly he got on the list, and separate and apart from
04 the various concerns that you might state, what the
05 triggering issue was for putting him on the list, if you
06 remember?

07 MR. SAMPSON: I think the documents show when he
08 first appeared on a list. I just don't remember, sitting
09 here right now. To the best of my recollection, it had to
10 do with policy conflicts over the death penalty and over the
11 videotaping of FBI interrogations, as I laid out in my
12 testimony in a colloquy with Senator Kyl.

13 MR. BHARARA: One of those issues was, am I
14 correct, Mr. Charlton's desire to engage in videotaping of
15 interrogations? Is that right?

16 MR. SAMPSON: Yes.

17 MR. BHARARA: And is it your understanding that--
18 withdrawn.

19 Are you aware of whether or not Mr. Charlton, over
20 the objection of the Department of Justice, actually engaged
21 in a program to videotape interrogations at any point?

22 MR. SAMPSON: I don't remember. I'm not sure.

23 MR. BHARARA: Did you review in connection with
24 Mr. Charlton his most recent EARS evaluation?

25 MR. SAMPSON: I did not.

01 MR. BHARARA: Do you know if anyone else did from
02 whom you were aggregating information about Mr. Charlton?
03 MR. SAMPSON: With regard to EARS evaluations, I
04 understood that David Margolis read every EARS evaluation.
05 MR. BHARARA: What did Mr. Margolis have to say
06 about Mr. Charlton?
07 MR. SAMPSON: I don't remember.
08 I don't remember speaking with Mr. Margolis about
09 Mr. Charlton. I don't remember having that conversation.
10 MR. BHARARA: Do you recall if there was any
11 dissent over the issue of whether or not Mr. Charlton should
12 be asked to resign within Justice?
13 MR. SAMPSON: I don't think there was any dissent,
14 to my recollection.
15 MR. BHARARA: Do you have any knowledge of anyone
16 outside of--I am sorry. First, if there were people at the
17 White House who advocated one way or the other with respect
18 to Mr. Charlton?
19 MR. SAMPSON: Not to my knowledge.
20 MR. BHARARA: Do you have any recollection of
21 whether or not there were people outside of the
22 administration altogether who advocated or in any way
23 weighed in either way with respect to Mr. Charlton?
24 MR. SAMPSON: Not to my knowledge, other than, you
25 know, the post-resignation--or post-request for resignation,

01 conversations with Senator Kyl, who wanted him to have an
02 opportunity to be retained.

03 MR. BHARARA: I want to shift gears and go to a
04 quick different topic for a moment. You testified on March
05 29th that at one point you put Patrick Fitzgerald on a list
06 in the undistinguished category because "I knew that Mr.
07 Fitzgerald was handling a very sensitive case and really
08 didn't want to rate him one way or the other."
09 Do you recall that testimony?

10 MR. SAMPSON: Yes. I don't feel like I put Mr.
11 Fitzgerald on the list. It was a chart that had everyone,
12 and I identified strong ones and weak ones--

13 MR. BHARARA: His appearance on the chart was
14 where it was, according to your testimony, for the reason
15 that I have just recited.

16 MR. SAMPSON: Yes.

17 MR. BHARARA: Okay. And you also said that in
18 making your first list, I believe, of U.S. Attorneys, your
19 first chart, you "don't remember rating Mr. Fitzgerald one
20 way or the other, and I probably did that because I didn't
21 want to go anywhere near that."
22 Could you just explain what you meant by not
23 wanting to go anywhere near that?

24 MR. SAMPSON: I don't think I have anything to add
25 other than what I've testified to.

01 MR. BHARARA: And fair to say that you were aware
02 of the fact that he was handling a politically sensitive
03 case at that time?

04 MR. SAMPSON: Yes.

05 MR. BHARARA: And fair to say that you understood
06 that the politically sensitive case he was working on was
07 one that reached into the White House, potentially?

08 MR. SAMPSON: Yes.

09 MR. BHARARA: Notwithstanding that, not long
10 thereafter, you made the suggestion, as you testified, that
11 Patrick Fitzgerald could be added to this list, in other
12 words, the list of people whose resignations would be
13 sought. My question is: How do you go from not wanting to
14 touch that because of the political sensitivity of the case
15 he is working on to then suggesting to the Counsel to the
16 President of the United States that perhaps Patrick
17 Fitzgerald should be added to the list of people who should
18 be dismissed?

19 MR. SAMPSON: Well, the first chart that you
20 referenced I believe was in March or February of 2005. To
21 the best of my recollection, I had that unfortunate
22 conversation with Harriet Miers and Bill Kelley more than a
23 year later, sometime in mid-2006. And all I can say--I'm
24 not sure there's anything more I can say about that. I
25 think it was an immature and flippant raising of the issue

01 that I should never have done. It was an issue that was,
02 rightfully, too sensitive to be immature and flippant about,
03 and I wish I hadn't raised it.

04 MR. BHARARA: I want to go back a few minutes on
05 what you said earlier with respect to the reasons you
06 understood that Bud Cummins was asked to resign.
07 The Deputy Attorney General testified that he was
08 asked to resign for no reason related to performance, as I
09 recall it, and solely to provide an opportunity for another
10 person--in this case, Tim Griffin. I believe you said
11 earlier today that it was your understanding that, in fact,
12 Mr. Cummins was asked to resign in part based on concerns
13 about his performance. Is that fair?

14 MR. SAMPSON: Yes.

15 MR. BHARARA: Okay. Can you explain to me how it
16 came to be, then, that Mr. McNulty testified in a way
17 contrary to what your understanding of the facts is?

18 MR. SAMPSON: Yeah. I think that it is a matter
19 of interpretation and emphasis. I recall that in the
20 preparation for Mr. McNulty's testimony, Mr. McNulty stated--
21 he asked the question, because it had been asked by Members
22 of Congress, Were any of these United States Attorneys asked
23 to resign in favor of an individual who had been preselected
24 to take their place? Or, alternatively, were they asked to
25 resign purely for performance-related reasons?

01 And in the preparation for his testimony, we
02 talked about how, with regard to the seven who were asked to
03 resign in December, there were not individual replacements
04 who had been preselected to take their place. But with
05 regard to Cummins, there was an individual replacement
06 preselected to take his place, and that was Tim Griffin.
07 And my recollection is that in the preparation of Mr.
08 McNulty for his testimony, I said that Mr. Cummins was
09 performance related because he had appeared on the list
10 prior to Ms. Miers' even asking me about the possibility of
11 a place being made for Mr. Griffin.
12 And Mr. McNulty said, yes, that's true, but he
13 also was asked to go--Mr. Cummins was asked to resign to
14 make way for Tim Griffin. And Mr. McNulty, I think to his
15 credit, said we have to disclose that. I mean, that's--even
16 if Cummins was performance related, he also was asked to
17 resign because the White House had this candidate that they
18 wanted to have the opportunity to serve. And that was true.
19 And as I said before, again, I think it's a matter
20 of interpretation or emphasis. Mr. McNulty in his testimony
21 clearly emphasized the fact that Mr. Griffin had been
22 preselected to take the place of Mr. Cummins.
23 MR. BHARARA: I want to try to save time by not
24 showing you all of Mr. McNulty's testimony, but it is my
25 recollection--and tell me if it is your recollection--that

01 Mr. McNulty did not say, you know, most of the reason was
02 because Tim Griffin was there to replace him, but said,
03 quite flatly I believe, that with respect to Bud Cummins--
04 and I believe Bud Cummins has said this repeatedly since,
05 publicly, in many forums--that with respect to him, as
06 distinct from the other six--the other seven, there was no
07 performance issue whatsoever.

08 Is that your recollection of what Mr. McNulty
09 said, having had a chance to go back and review it?

10 MR. SAMPSON: I came to learn that after I left
11 the Department.

12 MR. BHARARA: Okay. And your belief about the
13 truthfulness of that statement is what?

14 MR. SAMPSON: I think it's a matter of
15 interpretation and emphasis. I think that--I think Mr.
16 Cummins was identified very early in this process as a U.S.
17 Attorney who we might consider asking to resign. I also
18 believe that he was considered in a different category than
19 the U.S. Attorneys who were asked to resign in December
20 because of the fact that the White House was interested in
21 Mr. Griffin having the opportunity to be appointed as U.S.
22 Attorney.

23 MR. BHARARA: I want to hand you a copy of a
24 letter that was sent. Its Bates numbers are--well, it is
25 not Bates-numbered. It is a February 23rd letter from

01 Richard Hertling to Senator Schumer and cc to Senator Mitch
02 McConnell and Arlen Specter, which I would ask the court
03 reporter to mark as Sampson Exhibit 14.
04 [Sampson Exhibit No. 14 marked
05 for identification.]
06 MR. BHARARA: Can you take a look at that letter
07 for a moment, please?
08 [Witness perusing document.]
09 MR. BHARARA: Have you had a chance to look at
10 that document?
11 MR. SAMPSON: Yes.
12 MR. BHARARA: Are you familiar with that letter,
13 which is responsive to a letter sent to the Department of
14 Justice by Senator Schumer and some other Members of the
15 Senate?
16 MR. SAMPSON: I am.
17 MR. BHARARA: Okay. And am I correct that in the
18 letter sent by Senator Schumer and others, there was a
19 request for information relating to, among other things, the
20 decision to appoint Mr. Griffin as U.S. Attorney?
21 MR. SAMPSON: I think so. I haven't had a chance
22 to review that letter recently. It was part of the
23 production, I think, but the version I saw was illegible.
24 It was really dark. But I think that's right.
25 MR. BHARARA: Okay. For purposes of my question

01 on this subject, I just want to direct your attention to the
02 last page of the letter, and it is the penultimate bullet
03 point. And let me just read that paragraph, and then I want
04 to ask you a question as it bears on Mr. McNulty's testimony
05 and your description of the reasons why Mr. Cummins was
06 asked to resign.

07 And before I do that, am I correct that you were
08 the principal drafter of this responsive letter?

09 MR. SAMPSON: I did the initial draft of this
10 letter and then circulated it widely at the Department and
11 at the White House.

12 MR. BHARARA: But at the time this letter was
13 submitted back to the Congress, you had approved it and
14 didn't have any problem with it?

15 MR. SAMPSON: I think that's right.

16 MR. BHARARA: And understood it to be accurate?

17 MR. SAMPSON: I think so.

18 MR. BHARARA: As far as you--

19 MR. SAMPSON: To the best of my recollection, I
20 saw the final, but I'm not 100 percent sure.

21 MR. BHARARA: Okay. That penultimate bullet
22 reads, "As the Deputy Attorney General testified, Mr.
23 Cummins' continued service as U.S. Attorney was not
24 considered at the same time as the other U.S. Attorneys that
25 the Deputy Attorney General acknowledged were asked to

01 resign for reasons related to their performance."
02 The next sentence says, "As the Deputy Attorney
03 General testified, the request that Mr. Cummins resign was
04 `related to the opportunity to provide a fresh start with a
05 new person in that position.'" Do you see that?
06 MR. SAMPSON: I do.
07 MR. BHARARA: Do you believe that that paragraph
08 is an accurate--provides accurate information about the
09 reasons why Mr. Cummins was asked to resign? Again, given
10 what you have said about Mr. McNulty's testimony.
11 MR. BERENSON: I think the only fair question on
12 this is whether what is here is accurate as far as he knows.
13 MR. BHARARA: Is it accurate as far as you know?
14 MR. SAMPSON: I think it's accurate.
15 MR. BHARARA: You realize--you see that the first
16 sentence refers to reasons for the other U.S. Attorneys
17 being asked to resign being related to their performance?
18 Do you see that in the first sentence?
19 MR. SAMPSON: I do.
20 MR. BHARARA: And you see in the second sentence
21 that it is stated in this letter the request for Mr. Cummins
22 to resign was in parallel structure "related to the
23 opportunity to provide a fresh start with a new person in
24 that position"? Do you see that?
25 MR. SAMPSON: I do.

01 MR. BHARARA: And there is no reference in that
02 second sentence with respect to Mr. Cummins about a
03 performance problem. Is that right?

04 MR. SAMPSON: That's right. I think the first
05 sentence is accurate, that Mr. Cummins' continued service
06 was not considered at the same time as the other seven who
07 were asked to resign. I think the second sentence is
08 accurate in that Mr.

09 Cummins was asked to resign because it was related to the
10 opportunity to provide a fresh start with a new person. I
11 think that is accurate as well.

12 MR. BHARARA: Is it complete?

13 MR. SAMPSON: I think it's accurate.

14 MR. BHARARA: Is it complete?

15 MR. SAMPSON: It doesn't say that Mr. Cummins also
16 was identified as someone in previous deliberative
17 documents--it doesn't say that Mr. Cummins had previously
18 been identified as someone that might be asked to resign for
19 reasons related to the performance of his office.

20 MR. BHARARA: I want to turn your attention to
21 another document, which I will ask the court reporter to
22 mark as Sampson No. 15. It is a one-page document
23 reflecting e-mail correspondence. The Bates number is
24 OAG297.

25 [Sampson Exhibit No. 15 marked

01 for identification.]
02 MR. BHARARA: Let me know when you have had a
03 chance to look at the document.
04 [Witness perusing document.]
05 MR. SAMPSON: Okay.
06 MR. BHARARA: You see it is a series of e-mail
07 exchanges. I want to just focus your attention on the one
08 at the bottom. Who is that e-mail from?
09 MR. SAMPSON: Brian Roehrkasse.
10 MR. BHARARA: And who is he?
11 MR. SAMPSON: He is the Deputy Director of the
12 Office of Public Affairs.
13 MR. BHARARA: And he is writing that e-mail on
14 February 7, 2007, at 7:07 a.m., correct?
15 MR. SAMPSON: Yes.
16 MR. BHARARA: And it is to Tasia Scolinos and to
17 you.
18 MR. SAMPSON: Correct.
19 MR. BHARARA: And is Ms. Scolinos also in the
20 Public Affairs Office?
21 MR. SAMPSON: She's the Director.
22 MR. BHARARA: The first sentence reads--I just
23 want to ask you about the first sentence. "The Attorney
24 General is extremely upset with the stories on the U.S.
25 Attorneys this morning. He also thought some of the DAG's"-

01 -meaning Deputy Attorney General's--"statements were
02 inaccurate."

03 Am I right that this e-mail was sent the early
04 morning following the Deputy Attorney General's testimony
05 before the Senate Judiciary Committee?

06 MR. SAMPSON: I think so. The Attorney General
07 was traveling overseas that week. He had been out of the
08 office about a week, and Mr. Roehrkasse was traveling with
09 him at the time.

10 MR. BHARARA: The next sentence then says, it
11 begins, "Kyle can give me a call on my cell this morning."
12 That is the whole sentence. Could you describe what you
13 understood that the Attorney General was upset about and if,
14 in fact, he was upset, this was accurate?

15 MR. SAMPSON: Yes. I understood that prior to the
16 Deputy Attorney General's testimony, the position of the
17 Department was that we would not talk about the substantive,
18 affirmative reasons that U.S. Attorneys were asked to
19 resign, but instead would provide assurance that none were
20 asked to resign to influence a case for a political reason,
21 and that the administration was committed to having a
22 Senate-confirmed U.S. Attorney in every district.
23 The Attorney General had been out of the office
24 for a week, and then I think had learned from reading the
25 newspaper reports that the Deputy Attorney General had

01 testified, for the first time had crossed that line and had
02 said that these U.S. Attorneys were asked to resign for
03 performance-related reasons, and then had said that Griffin
04 was--or that Cummins was asked to resign so that Griffin
05 could have the opportunity to serve. And I think the
06 Attorney General--my understanding was that the Attorney
07 General was concerned that Mr. McNulty had both crossed that
08 line and then also put so much emphasis on the White House's
09 role in Griffin being promoted in favor of Cummins.

10 MR. BHARARA: What is your understanding of what
11 the Attorney General thought was inaccurate about Mr.
12 McNulty's testimony?

13 MR. SAMPSON: I remember thinking at the time that
14 he was just concerned that Mr. McNulty had put so much
15 emphasis on the White House promoting Griffin in favor of
16 Cummins, that for the first time the Deputy Attorney General
17 had crossed the line and said that there were performance-
18 related reasons, which he was concerned about because he
19 thought that would have a deleterious effect on the U.S.
20 Attorneys. And then he was also concerned--what I believed
21 at the time he was concerned about was the fact that the
22 Deputy Attorney General had really brought the White House's
23 role in Griffin into the public sphere.

24 MR. BHARARA: So as far as you understood it, the
25 Attorney General's suggestion about inaccuracy was a matter

01 of emphasis on the part of the Deputy Attorney General?

02 MR. SAMPSON: That is what I believed.

03 MR. BHARARA: I want to ask you to go back to two
04 exhibits and let's look at them together. One I think is
05 Sampson Exhibit No. 10, and the other is the 2/23 letter,
06 which I believe is Sampson 14.

07 Could you just take a look at those again and
08 refresh your recollection as to what those are about?

09 MR. SAMPSON: Okay.

10 [Witness perusing document.]

11 MR. BHARARA: In the letter, Sampson Exhibit 14,
12 if you go to the third page, once again, and you look at the
13 last bullet, the letter reads, "The Department is not aware
14 of Karl Rove playing any role in the decision to appoint Mr.
15 Griffin." Right?

16 MR. SAMPSON: Yes.

17 MR. BHARARA: Okay. And that is the sentence that
18 you drafted for this letter. Am I right?

19 MR. SAMPSON: That's correct. I drafted--I think
20 it was changed as it was circulated around. But I drafted
21 that.

22 MR. BHARARA: But you had no problem with that
23 version as it went out, as reflected in this exhibit,
24 correct?

25 MR. SAMPSON: Yes, as I testified at my hearing.

01 MR. BHARARA: Okay. If you could go back to
02 Sampson Exhibit 10 and look at Bates number--the first page,
03 Bates number OAG127, and look at the end of that first--the
04 end of the second e-mail. You will know what sentence I am
05 talking about. It is the last sentence in which you say,
06 "There is some risk that we'll lose the authority"--and I
07 take it by that authority you are referring to the new
08 interim authority that was granted in the reauthorization of
09 the PATRIOT Act. Am I right?
10 MR. SAMPSON: I think so.
11 MR. BHARARA: "...but if we don't ever exercise
12 it, then what is the point of having it?" In parentheses,
13 you write, "(I'm not 100 percent sure that Tim was the guy
14 on which to test drive this authority, but know that getting
15 him appointed was important to Harriet, Karl, et cetera.)"
16 Now, I know you were asked some questions about
17 this, but I just want to clarify a couple of things and see
18 if you can explain--if you can reconcile these two
19 statements in the two exhibits.
20 You testified in your hearing that in the e-mail,
21 the OAG127 e-mail, you based your statement that you know
22 that getting him appointed was important to Harriet, Karl,
23 et cetera, that was based on an assumption with respect to
24 Karl Rove. Is that right?
25 MR. SAMPSON: Yes.

01 MR. BHARARA: I want to understand what that
02 assumption was based on and why wasn't it something more
03 than an assumption and wasn't, in fact, knowledge, if I may.
04 First of all, you didn't say it was an assumption.
05 You used the word "know." Correct?
06 MR. SAMPSON: I used the word "know" in a
07 colloquial sense. You know, I have sometimes barged into
08 someone's office and said, "I know you're busy." I didn't
09 really know they were busy. I assumed they were busy, and
10 that's the sense that I used the word "know" in this e-mail.
11 MR. BHARARA: Am I correct that in this e-mail you
12 are talking about a risky proposition, which is using the
13 interim authority to help keep Tim Griffin in office as the
14 U.S. Attorney in Arkansas? Am I correct?
15 MR. SAMPSON: I really don't have anything to add-
16 MR. BHARARA: I can ask it in a better way. Am I
17 right that--tell me if I understand the point you are trying
18 to make here. Am I correct that you are saying in this e-
19 mail that test driving this authority with Tim Griffin is
20 dangerous enough that you will lose that authority, that
21 authority you testified was important to the Attorney
22 General and that he cared about, it was important enough
23 because you know, according to your words, you know that
24 getting him appointed was important to Harriet and Karl. Am
25 I correct?

01 MR. SAMPSON: I don't think I have anything to add
02 other than what I testified to at my hearing. This was a
03 bad staff idea that ultimately was not adopted by the
04 principals.
05 I think, if I may, in the e-mail I said, and I
06 quote, "but know that getting him appointed was important to
07 Harriet, Karl, et cetera." And I believe that when I wrote
08 this e-mail--which I didn't think a lot about. It was an e-
09 mail. It was as if I was having a conversation. I put
10 "Karl" there because I assumed that it was important to
11 Karl. And to the best of my recollection, I assumed it was
12 important to Karl because I knew from conversations that it
13 was important to Scott Jennings and to Sarah Taylor. But
14 that's the extent of what I knew. I didn't really know that
15 it was important to Karl. I assumed it was because it was
16 important to those two people who worked for him. But when
17 I drafted this letter later in February, I thought to
18 myself, "Do I know that Karl Rove is even interested in Tim
19 Griffin serving as United States Attorney?" And I thought
20 to myself, "I don't even know that."
21 So I drafted it and then sent it to the White
22 House to be sure that it was accurate, and I was not
23 disabused of that notion.
24 MR. BHARARA: So when you wrote the 12/19 e-mail,
25 you were making an assumption--this was reflective of an

01 assumption that the appointment of Tim Griffin was important
02 to Karl Rove, right?

03 MR. SAMPSON: I think I don't have anything to add
04 to my testimony there.

05 MR. BHARARA: And then when you wrote the 2/23
06 letter, did you personally do any checking on the fact that
07 is reflected in the last bullet of that letter, "The
08 Department is not aware of Karl Rove playing any role in the
09 decision to appoint Mr. Griffin"? Or did you leave it to be
10 corrected in the due course of the letter being disseminated
11 within the administration?

12 MR. SAMPSON: The latter.

13 MR. BHARARA: So when you were preparing the
14 answer to this letter, the answer that is reflected in this
15 letter on 2/23, had you asked Attorney General Gonzales
16 whether or not Karl Rove had played any role in his decision
17 to approve the appointment of Tim Griffin?

18 MR. SAMPSON: I don't remember doing that.

19 MR. BHARARA: Did you ask Mr. Rove himself?

20 MR. SAMPSON: I don't remember doing that, and I
21 don't think I did.

22 MR. BHARARA: Did you ask Ms. Miers?

23 MR. SAMPSON: I sent a draft of the letter to her
24 office and asked that it be circulated and cleared and
25 checked for accuracy.

01 MR. BHARARA: So at some point--

02 MR. SAMPSON: To be clear, I sent it to her office
03 and said, "You have some equities. Please review this." I
04 didn't specifically ask that it be checked for accuracy, but
05 that's inherent in circulating a letter for clearance.

06 MR. BHARARA: Okay. So some weeks earlier, before
07 the 2/23 letter, you assumed that Karl Rove--it was
08 important to Karl Rove. But then when you were drafting the
09 letter in response to an inquiry from Congress, you did
10 nothing to test that assumption and in fact, assumed that
11 the opposite was true in that statement?

12 MR. BERENSON: He didn't say he did nothing to
13 test the assumption. He said he sent the letter to the
14 White House--

15 MR. BHARARA: You did nothing personally--

16 MR. BERENSON: --and asked them to verify--

17 MR. BHARARA: You did nothing to test the
18 assumption other than what you have already testified to.
19 Am I correct?

20 MR. SAMPSON: I don't think I have anything more
21 to testify to.

22 MR. BHARARA: I think I am on my last topic. I
23 want to ask you some questions about Wisconsin. And I want
24 to hand you a document, whose first Bates number is OAG820,
25 which I will ask the court reporter to mark as Sampson

01 Exhibit 16.

02 [Sampson Exhibit No. 16 marked
03 for identification.]

04 MR. BHARARA: It is a lengthy document whose Bates
05 numbers span OAG820 to OAG852. Don't take the time to read
06 the whole document. If you need to read any portions of it
07 as I ask you questions, please do so. But if you could just
08 look at it generally, and I'll ask you a bunch of questions
09 about it.

10 My first question, looking at the first page, do
11 you understand that first page to be the scan of an envelope
12 that you might have received this document in?

13 MR. SAMPSON: I think it is.

14 MR. BHARARA: Okay. Do you know where you got the
15 document from?

16 MR. SAMPSON: As I testified in my hearing on
17 March 29th, I remember learning from the Attorney General
18 that Karl Rove had complained about U.S. Attorneys in three
19 jurisdictions, and the substance of the complaint was their
20 failure, alleged failure to aggressively prosecute voter
21 fraud cases. And I think, although I am not sure, I think
22 this packet of materials must be related to that complaint.
23 I had forgotten, but in reviewing these documents
24 I remember that this came into my possession. I don't
25 remember who gave it to me or how I got it. It may very

01 well have just shown up in my inbox. And in reviewing it,
02 this reminds me that I think I forwarded it to Matt
03 Friedrich. I think this is a Post-It on the front of it,
04 forwarding it to Matt Friedrich.

05 That's what I remember about it.

06 MR. BHARARA: Do you know from whose files this
07 version of the document may have been obtained?

08 MR. SAMPSON: I don't know.

09 MR. BHARARA: Okay. When you forwarded it to Matt
10 Friedrich, would you have retained a copy and sent him a
11 copy, or would you have just send him the copy that you
12 received?

13 MR. SAMPSON: I think I would have just sent him
14 the copy that I received.

15 MR. BHARARA: Okay. When you received the report,
16 did you conduct any review of this thing yourself, or did
17 you sent it on?

18 MR. SAMPSON: I think I--I don't think I read it.
19 I think I just forwarded it to Friedrich.

20 MR. BHARARA: And did you forward it to him with
21 any instructions other than--with any instructions at all?

22 MR. SAMPSON: I don't remember.

23 MR. BHARARA: What is your understanding of what
24 was the reason for forwarding it to Matt Friedrich?

25 MR. SAMPSON: Well, I don't remember, but I think

01 that this may have been related to Mr. Rove's complaints to
02 the Attorney General about the U.S. Attorneys in those three
03 jurisdictions. And although I don't remember, I guess I
04 would speculate that if it was, I think that it was part of
05 my asking Friedrich, you know, to look into this.

06 MR. BHARARA: Do you believe that you solicited
07 this material or that it was sent to you unsolicited?

08 MR. SAMPSON: I think unsolicited.

09 MR. BHARARA: Okay. And can you confirm on whose
10 behest this report was prepared?

11 MR. SAMPSON: I don't know.

12 MR. BHARARA: You don't know. Did you ever
13 receive or ever see similar reports about voting issues with
14 respect to any other jurisdiction during the time that you
15 were chief of staff to the Attorney General?

16 MR. SAMPSON: I have a vague recollection that
17 Senator Cardin, after he was elected, complained about voter
18 fraud problems in Maryland. But in my mind, that's sort of
19 unrelated to this. That's really all I--as I try to comb
20 through my memory, that's the only other thing I remember.

21 MR. BHARARA: Okay. Let me direct your attention
22 to one of the pages in the document. If you could turn to
23 OAG850, I think it is the third to the last page.
24 Before you forwarded on this document to Mr.
25 Friedrich, did you take a look at this page?

01 MR. SAMPSON: I don't think so. I don't remember.
02 MR. BHARARA: You don't remember looking at this
03 page at all?
04 MR. SAMPSON: I don't.
05 MR. BHARARA: Okay. Do you see the notation in
06 the upper left-hand corner? Can you make out that
07 handwritten notation?
08 MR. SAMPSON: It appears to say, "Discuss with
09 Harriet."
10 MR. BHARARA: Is that your handwriting or someone
11 else's?
12 MR. SAMPSON: It's not my handwriting.
13 MR. BHARARA: Do you recognize the handwriting?
14 MR. SAMPSON: I don't.
15 MR. BHARARA: Is there any other Harriet other
16 than Harriet Miers, to your knowledge, who works at the
17 White House or as a top official at the Justice Department
18 to whom that would have been referring?
19 MR. SAMPSON: No.
20 MR. BHARARA: Do you have any understanding as to
21 what "Discuss with Harriet" might have meant?
22 MR. SAMPSON: I don't.
23 MR. BHARARA: Okay.
24 MR. SAMPSON: I don't know.
25 MR. BHARARA: Let me just ask a slightly broader

01 question than the one I asked you a couple minutes ago, and
02 that is, do you have any understanding at all of Mr. Rove's
03 involvement in the preparation of a request for or review of
04 this document?

05 MR. SAMPSON: I don't know. Again, as I said, I
06 suspect that this may have been related to the complaint he
07 lodged with the Attorney General, but I don't know.

08 MR. BHARARA: And do you see the notation at the
09 top in the middle of that page, 850? Can you make that out?

10 MR. SAMPSON: It looks like K-E-R.

11 MR. BHARARA: Might it be "Ken"? And if it is
12 "Ken," would you have any educated guess as to who that
13 might be referring to?

14 MR. SAMPSON: I don't know.

15 MR. BHARARA: Could you look at the bottom of that
16 page and see--you can half make out a file location.

17 MR. SAMPSON: Mm-hmm.

18 MR. BHARARA: And do you see in the middle of
19 that, it says "Rove K"?

20 [Witness nods head in the affirmative.]

21 MR. BHARARA: Does that help you to conclude
22 whether or not this document at least came from Mr. Rove?

23 MR. SAMPSON: I don't know. It appears that, you
24 know, Mr. Rove printed this sheet, but I don't know. I
25 mean, I just don't know.

01 MR. BHARARA: All right. What is Karl Rove's
02 middle name? I mean, what is his middle initial?
03 MR. SAMPSON: I don't know.
04 MR. BHARARA: Do you know if it is "E"?
05 MR. SAMPSON: I don't know.
06 MR. BHARARA: The question I am asking is, the
07 notation at the top of that page, might that be K-E-R, might
08 that be a reference to Karl Rove?
09 MR. SAMPSON: I don't know.
10 MR. BHARARA: Okay. Do you know anything about
11 whether or not this document or any of the documents
12 attached to this exhibit have been provided in their
13 entirety? Do you know whether anything has been left off?
14 MR. SAMPSON: I don't know.
15 MR. BHARARA: Did you disseminate or discuss this
16 document with anyone other than Mr. Friedrich?
17 MR. SAMPSON: Not to my recollection.
18 MR. BHARARA: Did you, in fact, discuss it with
19 Mr. Friedrich?
20 MR. SAMPSON: I don't even really remember
21 discussing it with him. Looking at it reminded me that I
22 apparently forwarded it to him. And if, in fact, it was
23 related to the complaint from Mr. Rove, I do remember having
24 a conversation with Matt Friedrich where I said, "The AG
25 asked us to look into this. Please take it off my plate."

01 MR. BHARARA: Did you or do you know if Mr.
02 Friedrich or anyone else ever discussed any of the contents
03 of this document with Mr. Biskupic?
04 MR. SAMPSON: I don't know.
05 MR. BHARARA: Have you described the sum total of
06 your follow-up on this document?
07 MR. SAMPSON: I have, to the best of my
08 recollection.
09 MR. BHARARA: Can you turn to the last page of the
10 document? It is 852. Do you see there is some handwriting
11 on the back? Do you recognize that handwriting?
12 MR. SAMPSON: I don't.
13 MR. BHARARA: It is not your handwriting?
14 MR. SAMPSON: It's not my handwriting.
15 MR. BHARARA: Do you have any idea whether or not
16 it is Matt Friedrich's handwriting?
17 MR. SAMPSON: I don't know.
18 MR. BHARARA: Could you take a look at some of the
19 writing there? Can you make out what is in the circle at
20 the top left?
21 MR. SAMPSON: It looks to me like it says,
22 "Philly, Milwaukee, Albuquerque."
23 MR. BHARARA: And are those the cities that were
24 referred to earlier in your testimony as places where
25 complaints had been received with respect to voter fraud

01 investigations?

02 MR. SAMPSON: Yes.

03 MR. BHARARA: And remind us again where those
04 complaints came from, where that information came from?

05 MR. SAMPSON: I'm sorry?

06 MR. BHARARA: Where did the information come from
07 that there were complaints about voter fraud prosecutions in
08 those three cities?

09 MR. SAMPSON: Well, as I testified before, I
10 learned that from the Attorney General.

11 MR. BHARARA: Right.

12 MR. SAMPSON: And he told me that Karl Rove had
13 complained about U.S. Attorneys in those three cities, and
14 the complaint was that they were not aggressively pursuing
15 voter fraud.

16 MR. BHARARA: Do you know whether the Attorney
17 General told anyone else about that conversation that you
18 just described?

19 MR. SAMPSON: I don't know.

20 MR. BHARARA: Did you relate that conversation to
21 Mr. Friedrich or anyone else--withdrawn.

22 MR. SAMPSON: I know you withdrew the question,
23 but I may have. But I'm not sure.

24 MR. BHARARA: Okay. There is on the document, if
25 you have any understanding--and I know that these are not

01 yours, this is not your handwriting. At the top in the
02 circle you say it refers to Philly, Milwaukee, and
03 Albuquerque. Below the first line, can you make out that it
04 says "Bad: Nevada, NM, MDGA, and EDNY"? And I assume,
05 given what we are talking about, we apparently are talking
06 about districts, that "NM" may stand for New Mexico; the
07 Middle District of Georgia is probably what is represented
08 by "MDGA." Do you have any understanding based on
09 conversations you had with the Attorney General or anyone
10 else on this subject matter what might be denoted by that
11 handwriting after the word "Bad"?

12 MR. SAMPSON: I don't know.

13 MR. BHARARA: Have you ever heard complaints about
14 voter fraud prosecutions in any of those jurisdictions?

15 MR. SAMPSON: Well, New Mexico--

16 MR. BHARARA: I mean the other two jurisdictions,
17 the Middle District of Georgia and the Eastern District of
18 New York.

19 MR. SAMPSON: I don't remember.

20 MR. BHARARA: I am sorry. Nevada.

21 MR. SAMPSON: I don't remember.

22 MR. BHARARA: Okay. Do you have any understanding
23 of what is meant by the handwriting underneath what we just
24 talked about?

25 MR. SAMPSON: I really don't. Again, this isn't

01 my document, so I just don't know.

02 MR. BHARARA: To your knowledge, was the U.S.

03 Attorney in any of these other districts that are reflected

04 in these notations, other than Nevada and New Mexico, ever

05 considered for dismissal based on complaints about voter

06 fraud prosecutions?

07 MS. BURTON: I am going to object to that question

08 on the grounds previously stated at the beginning of today's

09 session.

10 MR. BERENSON: If you will give me a moment to

11 consult with Mr. Sampson.

12 [Counsel confers with witness.]

13 MR. BERENSON: Is the Middle District of Georgia

14 Atlanta?

15 [Simultaneous conversation.]

16 MR. MINER: I can't remember if it is Macon or...

17 MR. BERENSON: Okay. Based on what I understand

18 Mr. Sampson's response is going to be, I will go ahead and

19 let him answer the question, notwithstanding the

20 Department's objection.

21 MR. SAMPSON: I understand your question to be,

22 Were the United States Attorneys in the Middle District of

23 Georgia or the Eastern District of New York ever considered

24 to be added to a list of U.S. Attorneys who might be asked

25 to resign because of concerns about voter fraud?

01 MR. BHARARA: Yes.

02 MR. SAMPSON: My answer is that my recollection is
03 that with regard to the Eastern District of New York, I'm
04 really sure--I'm pretty sure that that was not the case,
05 that the U.S. Attorney there was never considered for
06 addition to a list. The Middle District of Georgia, I'm
07 less sure, but I don't think so.

08 MR. BHARARA: Okay. And also did you mention
09 Nevada?

10 MR. SAMPSON: I think I've testified before about
11 what I remember about Nevada.

12 MR. BHARARA: In other words, that doesn't refresh
13 your recollection that there was an additional reason with
14 respect to Nevada?

15 MR. SAMPSON: Sitting here today, that doesn't
16 refresh my recollection.

17 MR. BHARARA: Okay. One last question about these
18 notes. Is it possible that these notes were--that these
19 notations were taken by someone to whom you were conversing
20 about what you understood to be voter fraud complaints? And
21 if so, does that help refresh your recollection as to the
22 meaning of what these notes are?

23 MR. SAMPSON: I just don't know.

24 MR. BHARARA: Okay. Can you just give me 30
25 seconds?

01 [Pause.]

02 MR. BHARARA: Mr. Sampson, are you aware of the
03 Georgia Thompson prosecution coming out of Wisconsin?

04 MR. SAMPSON: To the best of my recollection, I
05 was not aware of that until my attorneys informed me of that
06 a couple of days ago, or a week ago, perhaps.

07 MR. BHARARA: Are you--

08 MR. BERENSON: Let's not talk about what your
09 attorneys informed you.

10 Could you repeat the question? I couldn't hear?

11 MR. BHARARA: I said: Are you aware of the
12 Georgia Thompson prosecution coming out of Wisconsin?

13 MR. SAMPSON: I don't remember being aware of that
14 until sometime in the last week or so.

15 MR. BHARARA: Are you now aware--

16 MR. BERENSON: That's better.

17 MR. BHARARA: Are you now aware of it being
18 handled--that it is being handled--or was handled out of the
19 Eastern District of Wisconsin office?

20 MR. SAMPSON: I understand that it was.

21 MR. BHARARA: And the U.S. Attorney there is
22 Steven Biskupic?

23 MR. SAMPSON: Yes.

24 MR. BHARARA: Did you ever participate in a
25 conversation with anyone, other than your attorney or any

01 other attorneys representing you, where Ms. Thompson's case
02 or conviction was discussed?

03 MR. SAMPSON: Not that I remember.

04 MR. BHARARA: And do you ever recall that case
05 being discussed as part of any conversation with anyone
06 about whether or not Mr. Biskupic should be considered for
07 dismissal?

08 MS. BURTON: The Department objects.

09 MR. SAMPSON: No, I don't remember anything like
10 that.

11 MR. BHARARA: Do you recall whether the pursuit of
12 public corruption cases or voter fraud cases was ever
13 discussed either as a problem or a strength of Mr.
14 Biskupic's office?

15 MR. SAMPSON: I remember that the Attorney General
16 told me that Karl Rove had complained about voter fraud
17 cases in Milwaukee. But sitting here today, that is the
18 best of my recollection with regard to any complaints about
19 voter fraud cases or corruption cases in Milwaukee.

20 MR. BHARARA: Did you yourself communicate with
21 Mr. Biskupic or his office about the Thompson case?

22 MR. SAMPSON: I did not. Not to the best of my
23 recollection.

24 MR. BHARARA: After the Attorney General passed
25 along the complaint that Karl Rove had lodged about

01 Milwaukee and the other jurisdictions, did you ever discuss
02 the Thompson case or the performance of Mr. Biskupic with
03 the Attorney General?

04 MR. SAMPSON: As I said, I don't remember knowing
05 anything about the Thompson case until, you know, the last
06 week or so.

07 MR. BHARARA: Was Mr. Biskupic ever on the list of
08 U.S. Attorneys whose resignation might be sought?

09 MS. BURTON: The Department objects to that
10 question on the grounds articulated earlier.

11 MR. BERENSON: Consult.
12 [Counsel confers with witness.]

13 MR. BERENSON: All right. Based on what I
14 understand the answer is going to be, I am again going to
15 let Mr. Sampson answer the question, notwithstanding the
16 Department's objection.

17 MR. SAMPSON: I don't remember.

18 [Pause.]

19 MR. BHARARA: Did you finish your answer?

20 MR. SAMPSON: Yes.

21 MR. BHARARA: I just have one more document that I
22 am going to ask you maybe two questions about, and then I
23 believe I am done. I would just like a minute to go back
24 through my notes.

25 MR. BERENSON: Okay. Then maybe we can take a

01 short break and then have our lightning round.
02 MR. BHARARA: Sure. Just give me a moment.
03 [Pause.]
04 MR. BHARARA: Are you familiar with Monica
05 Goodling's handwriting?
06 MR. SAMPSON: I'm not sure.
07 MR. BHARARA: Why don't we give it a shot. I am
08 going to hand you a document that I am going to ask the
09 court reporter to mark as Sampson Exhibit 17. It is a two-
10 page document bearing Bates numbers OAG1165 and OAG1166.
11 [Sampson Exhibit No. 17 marked
12 for identification.]
13 MR. BHARARA: Can you take a look at the document?
14 You see it is two pages of handwritten notations. Do you
15 recognize that handwriting?
16 MR. SAMPSON: I think it may be Ms. Goodling's.
17 MR. BHARARA: How confident are you that it is Ms.
18 Goodling's?
19 MR. SAMPSON: Not 100 percent confident, but I
20 think it may be her handwriting.
21 MR. BHARARA: Do you see at the top of the first
22 page there is a series of handwritten questions, among them:
23 "Reasons. Who recommended Griffin? What was told to FAUSA?
24 Was any DOJ dissent?" Does that refresh your recollection
25 about who might have been in the position to write these

01 notes?

02 MR. SAMPSON: Well, I think what those questions
03 are are questions that Mr. McNulty wanted answered in
04 advance of a private briefing that he was providing after
05 his testimony. I remember the Deputy Attorney General
06 pulling a meeting together, I think late in the evening
07 before he was doing that, and he said, "I have six or seven
08 questions that I want to nail down before I go up and brief
09 Senator Schumer and others tomorrow."

10 MR. BHARARA: And on the second page of the
11 document, you see that there are various--there are names of
12 various U.S. Attorneys who ended up being asked to resign,
13 with various notations next to those names. There is
14 Iglesias, McKay, Bogden, Chiara.
15 Taking a look at that for a moment, does that help
16 you to conclude who might have taken these notes and what
17 the purpose was?

18 MR. SAMPSON: Well, I think it was Monica
19 Goodling, and I think it was because the Deputy Attorney
20 General was preparing to come brief in a private setting the
21 substantive, affirmative reasons that those seven U.S.
22 Attorneys were asked to resign.

23 MR. BHARARA: At the top of the second page, one
24 of the items next to Iglesias looks to be--and tell me if
25 you agree--"Domenici says he doesn't move cases." Do you

01 see that?

02 MR. SAMPSON: Yes.

03 MR. BHARARA: Did you ever have a conversation
04 with Ms. Goodling about any complaints Senator Domenici
05 might have had about David Iglesias?

06 MR. SAMPSON: I don't remember having any
07 conversation with her on that subject. I don't remember.

08 MR. BHARARA: Why don't we take our break.

09 [Off the record at 6:05 p.m.]

10 [On the record at 6:13 p.m.]

11 MR. BHARARA: I just want to hand you one last
12 document, Mr. Sampson, which will be marked as Sampson
13 Exhibit 18.

14 [Sampson Exhibit No. 18 marked
15 for identification.]

16 MR. BHARARA: That document is Bates Number OAG
17 1151 to OAG 1153. I'm sorry, 1154. Take a look at that
18 document. I just have a couple of questions. Have you had
19 a chance to look at it?

20 MR. SAMPSON: Yes.

21 MR. BHARARA: Have you seen that document or a
22 version of that document before?

23 MR. SAMPSON: To the best of my recollection, I
24 first saw it after it was produced by the Department of
25 Justice on Friday.

01 MR. BHARARA: For the record, it is a --
02 MR. SAMPSON: I may have seen it before, but I
03 don't remember ever seeing it.
04 MR. BHARARA: Okay. For the record, it is a --
05 there is a cover email from Monica Goodling to John Nowacki,
06 which is I think is not the way you pronounce his name, with
07 an attachment that is a chart that lists the names of U.S.
08 attorneys in various columns with various headings.
09 Do you have any understanding about when this
10 document was created?
11 MR. SAMPSON: Again, I don't remember seeing it
12 except in recent days. I suspect that it was prepared in
13 February or March in response to the congressional inquiries
14 about U.S. attorneys, but I don't know that.
15 MR. BHARARA: I see. So you don't believe it was
16 created for Mr. Nowacki's testimony?
17 MR. SAMPSON: I'm sorry?
18 MR. BHARARA: You don't believe it was created
19 before the congressional inquiry, but you're not sure?
20 MR. SAMPSON: I'm not sure.
21 MR. BHARARA: Okay. Did you have any
22 understanding as to why even in connection with the
23 congressional inquiry there would be a document created that
24 would list the U.S. attorneys and have the following four
25 categories for information on the chart? Those categories

01 being one, prosecution experience with years, political
02 experience, judge, and FedSoc, which may stand for Federal
03 Society.

04 Do you have any understanding as to why that
05 document would be created, whether now or before?

06 MR. SAMPSON: I just don't know.

07 MR. BHARARA: Okay. I have no more questions.
08 Thank you.

09 MR. SAMPSON: Can I clarify my testimony?

10 MR. BHARARA: Sure.

11 MR. SAMPSON: It was a question that Senator
12 Schumer asked. He asked a very broad question that I think
13 goes along these lines.

14 Have you had any communication with any member of
15 Congress from New Mexico, any Republican party official from
16 New Mexico, or any Republican official for that matter in
17 October of 2006. I answered that I didn't, and sitting here
18 today, I don't remember having done that.

19 I don't think I did, but I just wanted to make
20 clear that I don't remember having any such communication.

21 MR. BHARARA: Okay. Thanks for the
22 clarification.

23 MR. MINER: Before I go on the record with any
24 questions, I'd like to have just a minute to get my
25 materials organized.

01 [Off the record at 6:17 p.m.]

02 [On the record at 6:20 p.m.]

03 MR. MINER: Let me go on the record and I'll get
04 started with something for the record -- asking questions on
05 behalf of --

06 Just to lead off and ask questions regarding
07 clarifications or corrections to your testimony on March
08 29th. Do you have anything to add other the one
09 clarification regarding Senator Schumer's question?

10 MR. SAMPSON: I don't think so.

11 MR. MINER: Okay. Regarding anything from
12 earlier today, do you have anything that you wanted to add,
13 correct?

14 MR. SAMPSON: Nothing comes to my mind.

15 MR. MINER: Okay. In your March 29th testimony,
16 and you touched on this earlier, you stated that you felt
17 that the Attorney General had been inaccurate in some of his
18 statements and characterizations about his involvement in
19 the plan for U.S. attorney removal, correct?

20 MR. SAMPSON: Yes.

21 MR. MINER: And that was with specific references
22 to his March 13th, 2007 statement, correct?

23 MR. SAMPSON: I think so. I'd have to go back
24 and look at the question, but I think that was embedded in
25 the question that I answered.

01 MR. MINER: Okay. In answering that question, I
02 believe you stated that the Attorney General had recently
03 clarified his statement, is that correct?
04 MR. SAMPSON: Without the transcript in front of
05 me, that's my recollection.
06 MR. MINER: I'll try to dig that out.
07 MR. SAMPSON: I think that I said that.
08 MR. MINER: Okay. And you would agree that in
09 your mind he had recently clarified his statement from March
10 the 13th before your testimony on March the 29th, is that
11 correct?
12 MR. SAMPSON: I was aware when I testified on
13 March 29th that the Attorney General had given an interview
14 to Pete Williams where he clarified his involvement in this
15 process.
16 MR. MINER: Okay. Which exhibit number are we up
17 to?
18 THE REPORTER: Nineteen.
19 MR. MINER: This is Sampson Exhibit 19.
20 [Sampson Exhibit No. 19 marked
21 for identification.]
22 MR. MINER: Turning your attention to Sampson
23 Exhibit Number 19, do you recognize what this document
24 purports to be?
25 MR. SAMPSON: It appears to me to be a transcript

01 of the Attorney General's interview with Pete Williams on
02 March 27th perhaps.

03 MR. MINER: With regard to the interview that
04 could have taken place on March 26th?

05 MR. SAMPSON: Perhaps.

06 MR. MINER: All right. I'm going to go through
07 certain comments that are transcribed here in Exhibit 19 and
08 I'm going to ask you the same sort of questions you were
09 asked at the March 29th hearing regarding whether these
10 statements are accurate or inaccurate based upon your
11 knowledge of what happened in the U.S. attorney removal
12 process, okay?

13 MR. SAMPSON: Okay.

14 MR. MINER: Turning to page 2 of Exhibit Number
15 19 where it states at the top, Gonzales. At the end of the
16 first paragraph it states, "When I said on March 13th that I
17 wasn't involved, what I meant was that I had not been
18 involved, was not involved in the deliberations over whether
19 or not United States attorneys should resign."

20 Do you believe that that is a correct statement?

21 Is that accurate or inaccurate based upon your knowledge of
22 events?

23 MR. SAMPSON: It is hard for me to know what the
24 Attorney General meant when he said this. What I believe
25 the facts are I have already testified to.

01 MR. MINER: All right. Well, I'm not asking for
02 an interpretation of his intent.

03 MR. SAMPSON: Okay.

04 MR. MINER: Whether it is intentionally
05 inaccurate or intentionally accurate. My question is based
06 upon your knowledge of events, is the statement accurate or
07 inaccurate? I'm simply trying to look to statements as you
08 reflected on the March 13th statement.

09 So with regard to this statement by the Attorney
10 General, "When I said on March 13th that I wasn't involved,
11 what I meant was that I had not been involved, was not
12 involved in the deliberation over whether or not United
13 States attorneys should resign."

14 MR. SAMPSON: To the best of my recollection, the
15 Attorney General wasn't specifically involved in knowing
16 each of the reasons each of the seven were asked to resign.
17 He knew more about the issues and concerns with Carol Lam,
18 for example, than he did with, you know, to the best of my
19 knowledge, with Margaret Chiara.

20 So I don't know exactly what he meant. I think he
21 may have meant by saying this that he, you know, he was not
22 the aggregator of information I was, but all I know is what
23 I know. I know that I kept him generally informed of the
24 process, that he knew of its initiation in early 2005, that
25 he was aware of concerns and issues raised with some of the

01 U.S. attorneys throughout the process, that I briefed him on
02 it periodically, and at the end of the process he approved
03 both of the list and of the idea of moving forward and
04 asking for the resignations.

05 MR. MINER: Let me ask you this way. Was the
06 Attorney General involved in deliberations as to whether a
07 particular U.S. attorney should or should not be asked to
08 resign?

09 MR. SAMPSON: He was definitely involved with regard to some
10 of the U.S. attorneys, and he was aware of information with
11 regard to them. I guess I'm trying to follow you, I just
12 don't.

13 MR. MINER: I'm trying to ascertain whether these
14 are accurate statements, and specifically whether the
15 Attorney General was involved in deliberations as to whether
16 a U.S. attorney was asked to be removed.
17 Whether he was involved in deliberations as to
18 whether or not a particular United States attorney should or
19 should not be asked to resign.

20 MR. BERENSON: I think part of the problem here
21 is that we're asking a question about one sentence in a
22 lengthy interview. That sentence standing alone, it is very
23 hard to say without Kyle reviewing the entire interview
24 which really gives the sense of what the AG is trying to
25 communicate.

01 MR. MINER: Let's turn the paper over and
02 disregard Exhibit 19.
03 MR. SAMPSON: I apologize. I'm not trying to be
04 difficult.
05 MR. MINER: That's fine. I'm not either. Was
06 the Attorney General involved in deliberations regarding
07 whether a particular United States attorney should or should
08 not be asked to resign?
09 MR. SAMPSON: As I was aggregating information
10 from different people, I don't remember the Attorney General
11 being involved in that process. Some of the information
12 came in from him.
13 MR. MINER: Would you describe that as a
14 deliberative process? Was he considering whether folks
15 should be removed? Not be removed? Based upon that
16 exchange.
17 MR. SAMPSON: Was the Attorney General
18 considering that?
19 MR. MINER: Yes, sir. My question called for a
20 yes or no answer, and that's the reason why I'm trying to
21 get an answer as to whether he was involved in
22 deliberations, discussions, considerations as to whether a
23 particular United States attorney should be asked to resign.
24 MR. SAMPSON: I think it would be fair to say
25 that at the end of the process, he was involved in those

01 deliberations.

02 As the process developed, you know, in the
03 thinking phase and then later in the more serious, final
04 phase, he was not particularly involved in those
05 deliberations. I informed him about it. He asked me to
06 make sure that the Deputy Attorney General was involved, and
07 that it was coordinated with the White House.
08 Then he definitely to my recollection was involved
09 in the final deliberation about should we really go forward
10 with this concept and are we comfortable with these seven
11 being the ones that would be asked to resign.

12 MR. MINER: Let's look back to June of 2006. You
13 testified earlier today regarding a June 1st email
14 concerning the Attorney General having expressed an interest
15 in a plan to deal with the immigration issues in Southern
16 California, is that correct?

17 MR. SAMPSON: Yes.

18 MR. MINER: In that email as you described and as
19 you were asked questions, there was a discussion of a plan
20 that mentioned the possible removal of Carol Lam, correct?

21 MR. SAMPSON: Yes.

22 MR. MINER: With regard to the conversations that
23 preceded that email and your discussion with the Attorney
24 General regarding Carol Lam, were there deliberations
25 regarding her removal?

01 MR. SAMPSON: I don't remember specifically. I
02 think that my recollection is that Ms. Lam had been on
03 previous lists, had been identified as someone, a United
04 States attorney for whom there were issues and concerns.
05 I believe based on reviewing that email it
06 certainly was in my mind that one of the alternatives would
07 be that she be asked to resign. I just don't remember
08 whether the Attorney General specifically had that in mind.
09 I just don't remember having a specific conversation with
10 him about it. We may have, I'm just not sure.

11 MR. MINER: I believe you testified that there
12 were certain bullets or ideas in that email that were
13 suggested by you, and certain ones that were suggested by
14 him, correct?

15 MR. SAMPSON: To the best of my recollection,
16 that's the case.

17 MR. MINER: Were those bullets and the ideas that
18 were suggested in exchange with the Attorney General, were
19 they exchanged in your conversation with the Attorney
20 General before you reduced that to an email?

21 MR. SAMPSON: To the best of my recollection, I
22 had a conversation with the Attorney General about these
23 issues and concerns with Carol Lam in the U.S. attorney's
24 office in San Diego. Then sometime subsequent to that, I
25 went and drafted an email I believe it was to Bill Mercer

01 where I said look, the AG is concerned about this, here are
02 some options.

03 I just don't have a specific recollection of who
04 came up with those options, whether they were wholly my
05 ideas or wholly the Attorney General's ideas, or part of a
06 conversation we had. I just don't remember. That was a
07 long time ago. I don't remember.

08 MR. MINER: Is it you don't recall because Carol
09 Lam was not terminated and was not put on an ultimate
10 termination list in June of 2006? That didn't come until
11 later.

12 Is that part of the reason why there is a cloud
13 here as to the recollection of whether you discussed removal
14 of Carol Lam in June?

15 MR. SAMPSON: I just don't remember.

16 MR. MINER: Okay. Let's take a look at June of
17 2006 and another issue that came up in June of 2006.
18 There is a plan to ask Bud Cummins to resign in
19 June of 2006, correct?

20 MR. SAMPSON: My recollection is that in the
21 spring of 2006, Harriet Miers inquired of me as to whether
22 there would be an opportunity for Mr. Griffin to serve as
23 United States attorney in the Eastern District of Arkansas.
24 My recollection is that at that time, Mr. Cummins
25 had already been identified as someone who might be

01 considered -- someone who we might consider asking to
02 resign.

03 I remember that there were discussions at that
04 time about it among Ms. Miers and the Attorney General and
05 others. I don't remember specifically those discussions,
06 but I remember that a request was made by the White House
07 that the Department of Justice send nomination paperwork to
08 the White House.

09 That occurred after the Judicial Selection
10 Committee meeting. The recommendation of the group was that
11 someone be recommended to the President for nomination, and
12 then someone would take that into the President and the
13 President would approve a person for nomination pending the
14 completion of a background investigation.

15 After the President did that and checked the box,
16 then a request would come over to the Department of Justice
17 that nomination paperwork be prepared and sent to the White
18 House.

19
20 I was reminded in
21 the last couple of months that the President approved
22 Griffin for nomination sometime in June of 2006.

23 MR. BERENSON: Can I just have one moment? I'm
24 sorry. Go ahead.

25 MR. MINER: I believe my question was whether

01 there was a plan to ask Bud Cummins to resign in about June
02 of 2006, not regarding this replacement with Tim Griffin.

03 MR. SAMPSON: The answer is yes, I believe.

04 MR. MINER: Before you would seek the removal or
05 request the resignation of a U.S. attorney, that would be
06 something that you would clear with the Attorney General,
07 correct?

08 MR. SAMPSON: Yes.

09 MR. MINER: Just to establish the timing of some
10 of these things, I'm going to show you another exhibit. We
11 are at Sampson 20.

12 [Sampson Exhibit No. 20 marked
13 for identification.]

14 MR. MINER: I show you a set of emails between
15 yourself and Monica Goodling from June the 13th of 2006,
16 subject, EDAR.

17 Taking a look at this email, does this confirm
18 your recollection that there was a plan to ask Bud Cummins
19 to resign in June of 2006?

20 MR. SAMPSON: Yes.

21 MR. MINER: Taking a look at the email portion at
22 the lower part of Sampson Exhibit 20, the portion from
23 Monica Goodling to yourself, Tuesday, June 13th states,
24 "Susan has the pre-nomination paperwork she needs. I'll
25 talk to Mike Battle in the a.m. about calling Cummins, and

01 we'll make sure ODAG," and that would be the Office of the
02 Deputy Attorney General, correct?
03 MR. SAMPSON: Yes.
04 MR. MINER: "Knows that we are now executing this
05 plan." Then there is a parenthetical, "I did tell them this
06 was likely coming several months ago."
07 So this is at the point where the plan is being
08 executed, correct? The plan to seek the resignation of Bud
09 Cummins.
10 MR. SAMPSON: Yes.
11 MR. MINER: In terms of that plan, do you recall
12 when it was that it was carried out?
13 MR. SAMPSON: I don't remember.
14 MR. MINER: I'm going to show you another
15 document that we'll label Sampson Exhibit 21.
16 [Sampson Exhibit No. 21 marked
17 for identification.]
18 MR. MINER: It is another set of emails between
19 yourself and Monica Goodling and others dated June 20, 2006.
20
21 Taking a look at this document, does it appear
22 that Mike Battle had already called Bud Cummins by June
23 20th, 2006?
24 MR. SAMPSON: It appears to be the case.
25 MR. MINER: And just for clarification, the

01 earlier email from June the 13th referenced Mike Battle
02 calling Bud Cummins to seek his removal, correct?

03 MR. SAMPSON: I think that's right.

04 MR. MINER: Okay. You have already testified
05 that you had not sought the removal or the resignation of a
06 U.S. attorney without having first gotten the approval of
07 the Attorney General, correct?

08 MR. SAMPSON: Yes.

09 MR. MINER: Had you discussed the removal of Bud
10 Cummins with the Attorney General prior to June 13th when
11 you had the exchange with Monica Goodling about seeking, or
12 having Mike Battle call Bud Cummins?

13 MR. SAMPSON: I don't have a specific
14 recollection of the conversation, but I think that that
15 almost certainly happened.

16 MR. MINER: You already testified you wouldn't
17 have sought the removal of somebody without first conferring
18 with the Attorney General, correct?

19 MR. SAMPSON: That's right. And Mr. Griffin was
20 approved for nomination in the judicial selection committee
21 of which the Attorney General was a principal.

22 MR. MINER: Do you recall discussing the basis
23 for the removal of Bud Cummins with the Attorney General in
24 June of 2006?

25 MR. SAMPSON: Again, I don't recall a specific

01 conversation with the Attorney General, but I do remember
02 that Mr. Cummins had previously been identified as someone
03 who for reasons related to his performance might be
04 considered someone we would ask to resign after their 4-year
05 term expired.

06 MR. MINER: Do you recall discussing the removal
07 of Bud Cummins with anyone else in the Deputy Attorney
08 General's office, let's say, before June 13th of 2006?

09 MR. SAMPSON: I don't remember.

10 MR. MINER: The emails show that there were
11 communications between yourself and Monica Goodling
12 regarding that, is that correct?

13 MR. SAMPSON: Yes.

14 MR. MINER: Were public corruption cases a
15 consideration in the removal of Bud Cummins in June of 2006?

16 MR. SAMPSON: To my knowledge, that was not the
17 case.

18 MR. MINER: Was it considered earlier in 2006, or
19 at any time?

20 MR. SAMPSON: To my knowledge, that was not the
21 case.

22 MR. MINER: I am going to show you a document
23 that is Sampson 22.

24 [Sampson Exhibit No. 22 marked
25 for identification.]

01 MR. MINER: Taking a look at the first page on
02 Sampson Exhibit 22, do you recognize the cover page of this
03 document?

04 MR. SAMPSON: I believe it is a memorandum that I
05 prepared for the Counsel to the President.

06 MR. MINER: And that would be Harriet Miers?

07 MR. SAMPSON: Yes.

08 MR. MINER: This is a memorandum dated January
09 1st, 2006, correct?

10 MR. SAMPSON: Yes.

11 MR. MINER: And would this be the document where
12 you first lay out specific suggestions as to U.S. attorneys
13 to be removed?

14 MR. SAMPSON: I think there were previous lists,
15 although right now I don't remember. I think there is that
16 chart that Mr. Schumer's counsel referred to in prior
17 questioning that predated this. That's to the best of my
18 recollection.

19 MR. MINER: Taking a look at this document, if
20 you'll just leaf through it. This appears to be an interim
21 draft, does it not?

22 MR. SAMPSON: I believe so.

23 MR. MINER: There are some handwritten notations
24 in the margins. Do you recognize the handwriting?

25 MR. SAMPSON: I'm not 100 percent sure, but I

01 think that it may be Monica Goodling's.
02 MR. MINER: Have you previously seen Monica
03 Goodling's handwriting?
04 MR. SAMPSON: I believe that I saw it from time
05 to time when I worked at the department.
06 MR. MINER: Have you seen it sufficiently to the
07 point where you are familiar with it if you see a notation,
08 a notepad from her, you would return it to her based upon
09 the handwriting?
10 MR. SAMPSON: I don't know. I think this is her
11 handwriting. I'm just not sure.
12 MR. BERENSON: And we're talking there just about
13 what is in the margins on OAG 139 and --
14 MR. MINER: That's correct, the notations in the
15 margins.
16 Did you employ Monica Goodling's assistance in
17 drafting the January 1st, 2006 memorandum to Harriet Miers?
18 MR. SAMPSON: I may have. I don't remember. She
19 was the senior counsel to the Attorney General and the White
20 House liaison and had previously served as the principal
21 Deputy Director of EOUSA, and so was familiar with the work
22 of United States attorneys.
23 MR. MINER: In the final version of this memo, I
24 believe there was a listing of tiers of other candidates
25 aside from the ones that are listed in the body of the

01 memorandum, is that correct?

02 MR. SAMPSON: I don't remember. I'm sorry.

03 MR. MINER: Okay. Take a look if you would at
04 OAG 1141, the page within Sampson Exhibit 22. Does that
05 refresh your recollection as to tiers in the memorandum?

06 MR. SAMPSON: I'm sorry, it doesn't.

07 MR. MINER: Okay. Would this handwriting here as
08 well be Monica Goodling's handwriting?

09 MR. SAMPSON: I think so. But again, I'm not
10 sure.

11 MR. MINER: Okay. I'm finding another document
12 that might help. Looking to the last page on the document,
13 page 1142 OAG 1142. Do you recognize the handwriting on
14 that page?

15 MR. SAMPSON: It appears to be similar to the
16 previous handwriting, so I think it may be Monica
17 Goodling's.

18 MR. MINER: At the top of the page in the right-
19 hand corner it states EDAR, is that correct?

20 MR. SAMPSON: Yes.

21 MR. MINER: That's the same notation, is it not,
22 that is on the first email I showed you, the Monica Goodling
23 email in the subject line, correct?

24 MR. SAMPSON: Yes.

25 MR. MINER: And would that represent the Eastern

01 District of Arkansas?
02 MR. SAMPSON: I think so.
03 MR. MINER: Is that the district where Bud
04 Cummins was the U.S. attorney?
05 MR. SAMPSON: Yes.
06 MR. MINER: And in the names listed at the top
07 and underlined is Griffin, correct?
08 MR. SAMPSON: Yes.
09 MR. MINER: And that would be Tim Griffin?
10 MR. SAMPSON: I believe so.
11 MR. MINER: Looking below that, it states
12 priorities, correct?
13 MR. SAMPSON: Yes.
14 MR. MINER: There are four different things
15 listed. The first is CT. Would that be based upon your
16 experience in the department an abbreviation for counter
17 terrorism?
18 MR. SAMPSON: That would be my belief.
19 MR. MINER: Is that a priority in the Department
20 of Justice?
21 MR. SAMPSON: It is.
22 MR. MINER: Second is violent crime, and in a
23 parenthetical it states PSN. PSN, what does that stand for?
24 MR. SAMPSON: Project Safe Neighborhoods.
25 MR. MINER: And fighting crime and Project Safe

01 Neighborhoods, would that be a priority of the Department of
02 Justice?

03 MR. SAMPSON: Yes.

04 MR. MINER: Third is child EXPL. What do you
05 understand looking at that based upon your experience at the
06 department to stand for?

07 MR. SAMPSON: Child exploitation.

08 MR. MINER: Is that also a priority of the
09 department?

10 MR. SAMPSON: It is.

11 MR. MINER: And the fourth listing is public
12 corruption, is that correct?

13 MR. SAMPSON: Yes.

14 MR. MINER: Is that also a priority in the
15 Department of Justice?

16 MR. SAMPSON: It is.

17 MR. MINER: Below that, there are two other
18 statements. Policies, and what appears to be DP. Looking
19 at DP, is that an abbreviation for anything that you'd be
20 familiar with based on your experience in the Department of
21 Justice?

22 MR. SAMPSON: My best guess would be that it
23 stands for death penalty.

24 MR. MINER: Okay. After the notation DP, there
25 is a statement that says no prob. What do you understand

01 that to mean, just looking at it and based upon your
02 experience in reviewing documents of this type?

03 MR. SAMPSON: I think it means no problem.

04 MR. MINER: And with regard to policies, it also
05 states no problem?

06 MR. SAMPSON: It does.

07 MR. MINER: Looking up after public corruption,
08 what is stated after that?

09 MR. SAMPSON: It appears to say real prob with
10 that.

11 MR. MINER: With regard to the Eastern District
12 of Arkansas, are you aware of any real problem with public
13 corruption in the Eastern District of Arkansas?

14 MR. SAMPSON: I'm not aware one way or the other.
15 I don't know.

16 MR. MINER: Did anyone at any time discuss with
17 you that public corruption was a problem in the Eastern
18 District of Arkansas before Bud Cummins was asked to resign?

19 MR. SAMPSON: Not that I remember.

20 MR. MINER: In terms of, aside from discussions
21 directly directed to you, were you present and overheard any
22 conversation where public corruption was discussed as a real
23 problem in the Eastern District of Arkansas?

24 MR. SAMPSON: Not that I remember.

25 MR. MINER: I want to show you what will next be

01 labeled Sampson Exhibit 23.

02 [Sampson Exhibit No. 23 marked
03 for identification.]

04 MR. MINER: I show you Exhibit 23, which is a
05 printout of a Los Angeles Times news report. The title is
06 "Cummins fears corruption investigation led to his firing."
07 Is that the exhibit you have in front of you?

08 MR. SAMPSON: Yes.

09

10 MR. MINER: The third paragraph in the article
11 states, "In January, 2006, he," and the he refers to H.E.
12 Bud Cummins, the U.S. attorney for Arkansas, "had begun
13 looking into allegations that Missouri Governor Matt Blunt
14 had rewarded GOP supporters with lucrative contracts to run
15 the state's driver's license offices. Cummins handled the
16 case because U.S. attorneys in Missouri had recused
17 themselves over potential conflicts of interest."
18 In January, 2006 when you were crafting the list
19 that included Bud Cummins, was this part of your
20 consideration?

21 MR. SAMPSON: Not to my recollection.

22 MR. MINER: Just to go back to Sampson Exhibit
23 22. The date of this memorandum is also January, 2006,
24 correct?

25 MR. SAMPSON: It is January 1st, 2006.

01 MR. MINER: I am going to ask you a question that
02 relates to document issues in the Department of Justice. I
03 believe you stated that the Office of Information and
04 Privacy had come to take a look at the documents that were
05 on your computer on the 8th or the 9th of March, 2007, is
06 that correct?

07 MR. SAMPSON: My recollection was it was on the
08 9th. Again, I was in the office that next Monday, the 12th.
09 So it may have been the 12th.

10 My recollection is that Steve Bradbury, the
11 Assistant Attorney General for the Office of Legal Counsel
12 was in charge of a comprehensive gathering of the documents,
13 and that his office employed the Office of Information
14 Privacy to do the actual collection of computer based
15 documents, and perhaps paper based comments. I'm not sure.

16 MR. MINER: In your role as Chief of Staff to the
17 Attorney General and your prior roles in the Department of
18 Justice, is that the sort of role that the Office of
19 Information and Privacy would typically handle in the
20 department?

21 MR. SAMPSON: My understanding is that office is
22 the office that handled FOIA requests. So that is the
23 office with the expertise to gather documents is my
24 understanding.

25 MR. MINER: To your knowledge, were there any

01 changes in the personnel or the director level personnel at
02 the Office of Information and Privacy related to this
03 investigation into U.S. attorneys?

04 MR. SAMPSON: Not to my knowledge.

05 MR. MINER: For example, to your knowledge, was
06 the change in the Director of the Office of Information and
07 Privacy in January, 2007 related to anticipated responses in
08 this investigation?

09 MR. SAMPSON: Not to my knowledge.

10 MR. MINER: Were you even aware there was a
11 change in the Director of that office?

12 MR. SAMPSON: I was vaguely aware that there was
13 a change in that office, and I believe that it was, to the
14 best of my recollection, it was a consequence of a privacy
15 office being created at the department.

16 So there was some changes in the structure, but I
17 really don't know much more than that.

18 MR. MINER: I want to turn, assuming I can find
19 some of my documents that have been shuffled, to the -- that
20 was written by the Attorney General that was earlier
21 introduced into evidence, which is Sampson Exhibit Number 6.
22 You know what? I do have it right here. I want
23 to go through that document. I believe you testified that
24 you helped in the latter stages of drafting this piece, is
25 that correct?

01 MR. SAMPSON: My recollection is that some speech
02 writers drafted the first draft, and then I revised it along
03 with the Attorney General, and others may have also
04 contributed to that, but I don't recall specifically.

05 MR. MINER: And again, if I in some way try to
06 describe your earlier testimony and I do a fumble job at it,
07 I appreciate you clarifying like that.
08 I believe you testified that you and the Attorney
09 General late in the day sat down to try to get the wording
10 of this correct, is that correct?

11 MR. SAMPSON: That's right. He came to my
12 office.

13 MR. MINER: And the last sentence, or the next to
14 last sentence of this piece states, "While I'm grateful for
15 the public service of these seven U.S. attorneys, they
16 simply lost my confidence." Is that correct?

17 MR. SAMPSON: Yes.

18 MR. MINER: And that was something that the two
19 of you worked on and came up with in coordination with one
20 another, correct?

21 MR. SAMPSON: As I testified, that last clause,
22 they simply lost my confidence, was my contribution. The
23 Attorney General did not approve that, and he didn't like
24 it. It was a consequence of computer failures.
25 I had made a judgment on the fly that that

01 language would be okay. It was finalized and sent to USA
02 Today. I told the Attorney General about it that night,
03 that I included that language, and he was -- he didn't like
04 it. He wasn't really angry at me, but he just said oh, I
05 wouldn't have written it that way.

06 MR. MINER: Okay, I now recall. He had a
07 different formulation of that last sentence that you had
08 described. What was his formulation of that last sentence
09 as you recall it, for that sentence?

10 MR. SAMPSON: Well, as I recall, he didn't really
11 have -- we were throwing ideas back and forth. But the
12 substance of his idea for that clause in that sentence was
13 something along the lines of we just felt we could do
14 better, that we could improve the level of performance in
15 that office.

16 MR. MINER: Had the Attorney General ever told
17 you that he felt that the Department of Justice could do
18 better than Dan Bogden in the District in Nevada?

19 MR. SAMPSON: Well, at the end of the final
20 process, he approved the list of seven United States
21 Attorneys that were asked to resign. I believe there was some
limited

22 discussion about the reasons for each of them.

23 I don't remember speaking specifically with him
24 about the reasons for Mr. Bogden. My recollection was the
25 Attorney General was more concerned about the process, that

01 the Deputy Attorney General and other senior leaders were in
02 agreement, and he was just going to rely on that agreement
03 with regard to some of the U.S. attorneys.

04 MR. MINER: With regard to Dan Bogden, was the
05 Deputy Attorney General or other senior officials in
06 agreement that he should be asked to resign?

07 MR. SAMPSON: I don't think I have anything more
08 to add than what testified to today. The Deputy Attorney
09 General expressed some concern, but then ultimately withdrew
10 that concern, and Mr. Bogden stayed on the list.

11 MR. MINER: Concern regarding removing him from
12 the list, but not a concern that would put him on the list?

13 MR. SAMPSON: I guess I don't have anything to
14 add more than what I testified to today. Mr. Bogden was
15 added to the list. I don't really remember specifically
16 why, and then there was a later discussion where the Deputy
17 Attorney General I believe in an email said he was skittish
18 about that, but then he ultimately, his skittishness went
19 away, and Mr. Bogden remained on the list.

20 MR. MINER: Was the only basis for Dan Bogden
21 being on the list Brent Ward complaining about Dan Bogden's
22 lack of activity on obscenity cases?

23 MR. SAMPSON: I don't remember. As I had
24 testified before, as the aggregator of information, I
25 remember some of the reasons people were on, and I don't

01 remember other reasons.
02 Some of the reasons I may not even have known
03 about. I don't remember why he got on the list, except that
04 there was a general view that he was mediocre, and he stayed
05 on the list.
06 MR. MINER: Who conveyed that?
07 MR. SAMPSON: I don't remember specifically.
08 MR. MINER: Okay. And in terms of even specific
09 views, do you recall anyone bringing you a specific view as
10 to Dan Bogden, that he was deficient or otherwise not up to
11 the job?
12 MR. SAMPSON: As I testified before, I remember
13 that complaint coming in from Brent Ward about Mr. Bogden's
14 unwillingness to work with the Obscenity Prosecution task
15 force to make an obscenity case.
16 MR. MINER: I believe you testified as well that
17 you weren't sure if that factored into your decision to add
18 him to the list, is that correct?
19 MR. SAMPSON: Yes. I don't remember.
20 MR. MINER: So in terms of why he is on the list,
21 you don't recall what complaint or what person put him on
22 the list?
23 MR. SAMPSON: That was my testimony earlier, and
24 that remains my testimony now.
25 MR. MINER: I just wanted to clarify.

01 MR. SAMPSON: Yes.

02 MR. BERENSON: It is now just about 7:00. As I
03 previously advised everyone earlier in the day, we are going
04 to have a hard stop at 7:00.

05 If you have a few final questions, we can probably
06 do those and go a few more minutes. But we're almost at an
07 end here.

08 MR. MINCBERG: Mr. Berenson, I do have to state
09 for the record that I can almost guarantee that if I don't
10 get to ask any questions, that Mr. Sampson will be called to
11 testify before the House. I really do think that I can cut
12 mine to 20 minutes to half an hour. But it is obviously
13 your decision.

14 MR. BERENSON: Well, if you can keep yours to 20
15 minutes and we can start now, then maybe we can do that.
16 But Mr. Sampson testified in open hearing for eight hours,
17 he has been here for six hours today, all on a completely
18 voluntary basis.
19 You know, it is just not fair or reasonable to
20 expect a witness who has been up since 6 this morning and at
21 it for 6 hours and have no food to keep going.

22 MR. MINCBERG: And I want to make clear that I am
23 quite sympathetic to that. But you understand of course
24 that I'm from the House of Representatives which so far has
25 not asked a single question either by member or by staff to

01 Mr. Sampson.

02 MR. BERENSON: I do understand that, and it was
03 certainly our hope and intention that you would have that
04 opportunity. Depending on Mr. Miner's plans, maybe we can
05 push and stretch and still give that to you. But, you know,
06 there really is a limit to how far I can allow this to go
07 consistent with protecting the witness and keeping him sharp
08 and able to answer your questions accurately.

09 MR. FLORES: I think I need to interject here
10 then, too. I share Mr. Minberg's concerns about the House
11 needs to hear from Mr. Sampson, as I indicated before.
12 I also share Mr. Berenson's concerns about the
13 witness's ability to continue questioning after such a long
14 time and so little nutrition at the end of such a long day.
15 I cannot say that my questioning would be less than 20
16 minutes.

17 I am not confident my questioning would be less
18 than 40 minutes. I'm not sure that my questioning would be
19 less than an hour, because my side of the committee does
20 want to hear from Mr. Sampson, has quite a number of
21 questions.

22 I would support another day with Mr. Sampson. I
23 would support that it be voluntary as opposed to compulsory,
24 so I would like to lay that on the record. I hope that we
25 can discuss that.

01 MR. MINCBERG: Again, my suggestion would be that
02 if Mr. Miner could finish up, maybe we could move forward
03 with, again, just 15 or 20 minutes today. It may well be
04 that the -- because of their questions need to come back,
05 but I'm hopeful we can get a lot done in a fairly short
06 period.

07 But it will be up to Mr. Miner, and I think we
08 would probably be best spent not spending much time
09 discussing this and going forward to the extent we can.

10 MR. MINER: In light of the fact that there is
11 very little time, and in light of the fact of the time that
12 has been used today, I have used very little of it, why
13 don't I try to conclude with as many of my questions as
14 possible so this becomes a matter between Mr. Sampson and
15 the House of Representatives rather than a bicameral issue.
16 So let me move forward with a few other areas of
17 questions. With regard to Exhibit Number 9, there is one
18 question that I communicated along the list of questions
19 that I think we can handle this Pretty quickly that I
20 communicated along with Mr. Bharara to the Senate Majority
21 committee.

22 That is with regard to Exhibit 9, at the very
23 bottom of, this is your email to Harriet Miers dated
24 September 13th, 2006. At the very bottom of the first page
25 of OAG 32, there is a statement that says, "let me know when

01 you have read this. I have one follow-up item that I want
02 to do over the phone. What say you?"

03 What was that one follow-up item that you wanted
04 to do over the phone?

05 MR. SAMPSON: I don't remember for sure. But
06 what I think it was was Ms. Miers had previously in her
07 email had inquired about, well, Ms. Miers had said any
08 current thinking on U.S. attorneys, and then she put what
09 the redacted part is. She asked any recent word in Debra
10 Yang's intentions.

11 Ms. Miers was interested in whether Ms. Yang was
12 moving on, or whether a vacancy could be created there in
13 Los Angeles. So my recollection is that I wanted to follow
14 up with her on the phone to discuss with her my views about
15 how candidates should be generated for Los Angeles.
16 There had previously been at the beginning of the
17 administration, U.S. attorney candidates had been selected
18 through the Parsky Commission, and I believe the
19 conversation that I followed up with Ms. Miers on related to
20 that.

21 MR. MINER: And with regard to your notation that
22 you would like to do it over the phone, is that a matter
23 that you did not want to have it put in writing, or is it a
24 matter that was a complicated item that was difficult to
25 reduce to writing?

01 MR. SAMPSON: I think the latter.

02 MR. MINER: I want to turn to another matter as
03 well. I think I tried to flag for you in advance, so maybe
04 we can handle this quickly.

05 In your prepared testimony for the March 29th
06 hearing, you stated that one of the mistakes that you and
07 others made "honestly and in good faith" was that "none of
08 us spoke up on the origins and timing of the termination
09 plans during the process of preparing Mr. McNulty and Mr.
10 Moschella to testify."

11 There was a month between the testimony of Mr.
12 McNulty and the testimony of Mr. Moschella, correct?

13 MR. SAMPSON: Yes.

14 MR. MINER: You were notified, as was established
15 earlier in your testimony here by 7:07 in the morning after
16 Mr. McNulty's testimony that the Attorney General believed
17 that some of the statements were inaccurate, correct?

18 MR. SAMPSON: Yes. That Mr. Roehrkasse had said
19 that.

20 MR. MINER: He conveyed the Attorney General's
21 comments, correct?

22 MR. SAMPSON: Yes.

23 MR. MINER: Okay. Did you later speak with the
24 Attorney General to determine if those were his sentiments?

25 MR. SAMPSON: I did, and I think we talked about

01 that in Mr. Bharara's questioning. I don't think I have
02 anything to add to that.

03 MR. MINER: Did you speak up in the intervening
04 month between Mr. McNulty testifying and Mr. Moschella
05 testifying to flag any inaccuracies that you saw in Mr.
06 McNulty's testimony?

07 MR. BERENSON: I don't think there is a
08 foundation that has been laid at all that he even reviewed
09 Mr. McNulty's testimony, or heard it at the time it was
10 delivered.

11 MR. MINER: Did you review it?

12 MR. SAMPSON: I did not hear Mr. McNulty's
13 testimony at the time it was delivered, and I did not review
14 the transcript of his hearing. I did review a portion of it
15 in order to prepare Congressional correspondence, but I
16 didn't review it in its entirety.

17 MR. MINER: And that is even after you heard that
18 the Attorney General had some concerns?

19 MR. SAMPSON: Yes.

20 MR. MINER: Okay. I'm going to turn to a portion
21 of that testimony. The portion of the testimony you were
22 asked about earlier regarding Mr. McNulty's testimony.
23 Specifically the testimony about Mr. Cummins and the basis
24 for his removal.
25 It probably is easier because I don't have ten

01 copies of this, to simply ask you this. If Mr. McNulty
02 testified in this manner, would this be accurate or
03 inaccurate based upon your understanding of the facts?
04 Senator, first of all, with regard to Arkansas and
05 what happened there, and any other efforts to seek the
06 resignation of U.S. attorneys, these have been lumped
07 together, but they really ought not to be, and we'll talk
08 about the Arkansas situation as Senator Pryor has laid it
09 out.

10 The fact is that there was a change made there
11 that was not connected to, as was said, the performance of
12 the incumbent, but more related to the opportunity to
13 provide a fresh start with a new person in that position.
14 Do you regard that as accurate or inaccurate?

15 MR. SAMPSON: I'm not sure I have anything to add
16 to my prior testimony. I think it's a matter of
17 interpretation and emphasis. I think that I believe Mr.
18 Cummins to the best of my knowledge was asked to resign for
19 at least a couple of reasons. One was related to his
20 performance, one was related to the opportunity for Mr.
21 Griffin to have the opportunity to serve as United States
22 attorney.

23 I think it may very well be that Mr. McNulty
24 really felt that the second reason there, to provide Mr.
25 Griffin the opportunity to serve, was, you know, the

01 deciding factor. That's why he emphasized that in his
02 testimony.

03 I didn't become aware of that testimony until,
04 regrettably until after I had left the department.

05 MR. MINER: Was that a matter of just not having
06 the time to go through and review every job in that
07 document?

08 MR. SAMPSON: Yes, and also I guess I didn't feel
09 like it was my responsibility as the Chief of Staff to do
10 that. There were many others at the department that were
11 reviewing testimony. I just didn't do it.

12 MR. MINER: In terms of preparing Mr. McNulty for
13 this testimony, I believe you testified earlier today that
14 you did state that you felt there was a performance related
15 basis for Mr. Cummins to resign, correct?

16 MR. SAMPSON: I remember in the preparation
17 for Mr. McNulty's testimony, the question was
18 asked, were any of these United States attorneys asked to
19 resign in favor of a pre-selected specific individual.
20 I remember the discussion was that well, they were
21 all asked to resign based on performance related reasons,
22 and that Cummins was a little different. He was different
23 in time, he was different in that there was a preselected
24 candidate to assume that vacancy.
25 Mr. McNulty felt like even if Mr. Cummins was

01 asked to resign for reasons related to his performance, the
02 fact that the White House had a candidate preselected to
03 replace him had to be disclosed to the Congress. That's my
04 recollection of the preparation.
05 So I think Mr. McNulty in his mind just really
06 focused on the fact that there was a preselected candidate
07 and not that Mr. Cummins also had been on a list for someone
08 who might be asked to resign for reasons related to his
09 performance.
10 MR. MINER: I certainly don't want to ask you to
11 characterize Mr. McNulty's belief or what he believed. But
12 in terms of your belief, it was connected to performance as
13 well as to the replacement, correct?
14 MR. SAMPSON: Yes.
15 MR. MINER: I want to ask you about another
16 document, and I'm going to try to move along quickly.
17 MR. BERENSON: Yes. Once we're through with this
18 next document, I think we'll have to adjourn for the
19 evening.
20 MR. MINER: This is along the same lines as --
21 are we up to 24?
22 [Sampson Exhibit No. 24 marked
23 for identification.]
24 MR. MINER: Along the same lines as what I was
25 asking you about with Ms. Miers and the telephone call

01 there. This specifically relates to the February 23rd
02 letter that you have been asked about that was sent to
03 Senator Schumer, Reed, and others.
04 This is an email from Chris Oprison to you dated
05 Friday, February 23rd. This document states, and I'm just
06 looking at the most recent entry on the page. "Before we
07 send anything out, can we talk?"
08 Did you have a conversation with Mr. Oprison as a
09 result of this email?
10 MR. SAMPSON: I have a vague recollection that we
11 talked, but I don't remember the substance of the
12 conversation.
13 MR. MINER: Do you recall the reason for why he
14 wanted you to call him at all, in terms of any aspect of it?
15 MR. SAMPSON: I don't remember.
16 MR. BERENSON: Is that all for that document?
17 MR. MINER: That is all I have for that document.
18 If that's the last I'm allowed to ask about, that pretty
19 much concludes it, doesn't it?
20 MR. BERENSON: I think that that's all we can
21 really reasonably expect Mr. Sampson to do for the day. So
22 we will obviously have to talk to the folks on the House
23 side separately about their needs, and we're going to
24 endeavor to --
25 MR. MINCBERG: I am assuming you are not quite

01 done, right? Am I correct?

02 MR. MINER: We are going to see if there is
03 anything else. I don't want to have you come back for
04 another multiple hour session, but I want to be sure that we
05 cover things. There is still the issue of whether the QFRs
06 were closed from before. Not because of the closing time of
07 the hearing. So we might be able to handle certain things
08 through that, but we'll revisit that.

09 MR. BERENSON: If there are specific pieces of
10 information that you need and you want to send them over to
11 us in the form of QFRs, whether they are -- or not, we'll
12 certainly take a look and do our best to try to answer them
13 in that fashion for you certainly if it will help prevent
14 more deposition testimony.

15 MR. MINER: I believe 1/6th of the time. So I
16 want to be sure that I have a chance, if needed, to go back
17 over.

18 MR. MINCBERG: And having had zero of the time
19 today, Brad, why don't you and I just talk on Monday morning
20 and I'll loop in -- I'm sorry. You're not available.

21 MR. BERENSON: I will be out of the office.

22 MR. MINCBERG: Why don't we take a second before
23 you leave just to look at the calendar and see where we are.
24 But I clearly want to come back I would say as soon as we
25 can.

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01 [Off the record at 7:10 p.m.]