

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Tenth Congress

March 9, 2007

Mr. Fred F. Fielding
Counsel to the President
Office of Counsel to the President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Fielding:

We write to follow up on the hearings held in the House and Senate Judiciary Committees this week concerning the forced resignations of six U.S. Attorneys. At these hearings, a number of important disclosures were made, several of which raise very troubling legal questions about the conduct of officials at the Justice Department. Questions have also been raised concerning the involvement of the White House, which of course made the final decision to fire these U.S. Attorneys. Because of these concerns, and in order to further our investigation, we ask that you provide us with certain critical documents and information and make available to us certain White House officials for interviews and questioning.

At our hearings we learned of a number of troubling matters. Among other things:

- Two of the fired U.S. Attorneys, Mr. Bogden and Mr. Charlton, testified that they were told by Mr. William Mercer, the Acting Associate Attorney General, that they were fired for political reasons in order to put others in those positions so they could build their resumes, contrary to the claim by Justice Department officials that they were fired for “performance related” reasons. Many of the rationales for the terminations offered by Mr. Moschella at our hearing do not appear to hold up to scrutiny. For example, Mr. McKay was allegedly terminated because of his promotion of an information sharing program, even though he was praised for this work and his program was selected to be a pilot program by the Department. Mr. Cummins was allegedly terminated in part because he was rumored to want to leave before his term was finished, even though he testified he had never told that to anyone at the Department prior to his resignation. Mr. Charlton was allegedly terminated because he wanted the FBI to tape the confessions of alleged child molesters to facilitate their convictions, even though the Deputy Attorney General’s office had asked him not to resign over this issue and asked him to initiate a pilot program on this matter.

Mr. Fred F. Fielding
Page Two
March 9, 2007

- Mr. Iglesias and Mr. McKay testified that there were several efforts made to influence their prosecutorial decisions. For example, Mr. Iglesias testified that he felt “leaned on” and “sickened” by *ex parte* congressional contacts, and Mr. McKay testified that he received a call from a congressional representative apparently intended to pressure him to pursue a criminal vote fraud investigation, and subsequently stated that he was asked during an interview with White House Counsel Harriet Miers to explain why he had “mishandled” that issue. This testimony raises serious issues concerning possible undue influence and obstruction of justice.
- Mr. Cummins testified that he received a call from Michael Elston, Mr. McNulty’s Chief of Staff, who informed him that voluntary testimony to Congress by Mr. Cummins or any of his colleagues would be seen as “a major escalation of the conflict meriting some kind of unspecified form of retaliation.” On its face, this testimony raises the possibility that the Department may have sought to obstruct Congress’ efforts to ascertain the truth concerning these firings.

In order to further our investigation, we request that you supply the following documents and information in accordance with the definitions enclosed with this letter:

- copies of all documents (including but not limited to e-mails), either within the White House or relating to communications between anyone at the White House and the Department of Justice or any other person or entity, concerning the termination of the six U.S. Attorneys who testified at our hearing and the selection of their replacements. This includes, but is not limited to, any materials relating to the meetings held within the Justice Department on the subject, communications from or to the White House on the subject, any lists of U.S. Attorneys to be replaced, any lists of replacement candidates for their positions, the Justice Department and Administration responses to the controversy over the firings, and post-termination communications with the fired U.S. Attorneys;
- copies of all documents relating to communications between the White House and Members of Congress concerning any of the terminated U.S. Attorneys in advance of their terminations;
- the names of any Members of Congress who were given advance notification of the terminated U.S. Attorneys by anyone in the White House, together with the dates of any such notification; and

Mr. Fred F. Fielding
Page Three
March 9, 2007

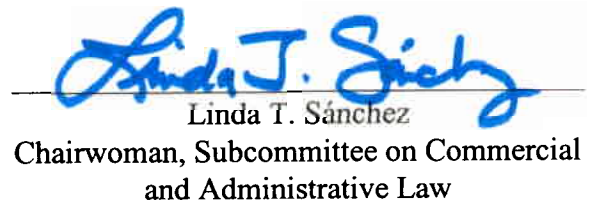
- the names of all individuals in the White House who were in any respect involved or consulted or offered advice or suggestions concerning the decision to seek the resignation of the terminated U.S. Attorneys.

In addition, we will want to interview White House officials with information on these matters, including but not limited to William Kelly, Deputy Counsel to the President. To facilitate this process, we request that you provide the requested documentary materials and other information to us by 6:00 p.m. on Friday, March 16, 2007, and we will be in touch with your office concerning the individuals we wish to interview. Responses and questions should be directed to the Judiciary Committee office, 2138 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-3951; fax: 202-225-7680). Thank you for your cooperation in this matter.

Sincerely,



John Conyers, Jr.
Chairman



Linda T. Sánchez
Chairwoman, Subcommittee on Commercial
and Administrative Law

Enclosure

cc: Hon. Richard A. Hertling
Hon. Lamar S. Smith
Hon. Christopher B. Cannon

Definitions

1. The term “document” means any written, recorded or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, manuals, instructions, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazine or newspaper articles, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, transcripts, diaries, analyses, summaries, minutes, comparisons, messages, correspondence, press releases, circulars, reviews, opinions, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), and electronic and mechanical records or representations of any kind (including without limitation, tapes, cassettes, disks, computer files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed or other graphic or recorded matter of any kind of nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, telexes, discussions, releases, personal delivery, or otherwise.