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A. Interview of Michael James Elston
March 30, 2007

A I need to -- can I go back to your last question, first, as I am sort of thinking this through?

Q Sure.

A There was a point in time where I was asked to -- I was asked to check with others to see if there were individuals that we had missed or there were problems that we weren't aware of. So I did do that.

Q And who did you wind up consulting with?

A And by and large the conversations were not about, "hey, we are going to fire a bunch of U.S. Attorneys; is there anyone you want added to the list?"

These -- my question was -- my question was, are there any problems with any -- a particular U.S. Attorney or issues regarding a particular U.S. attorney. I just was doing more of a fact-finding mission as opposed to -- as opposed to checking to see if anyone wanted to add anybody to this list.

I didn't feel like -- my sense from Kyle was this was a fairly closely held process, and I didn't feel like it was something that I was supposed to discuss broadly.

I assumed, and I don't know why I assumed this, as I sit here right now; I can't recall a specific conversation, but I was under the impression that Kyle was consulting with other people in the Department regarding U.S. Attorneys.

refers to that, but let me point -- pull it out, just to be sure.

A Sure.

Mr. Mincberg. This will be -- why don't I -- I don't think we will need that again, so why don't I get you to give that to the reporter so she can hang on to the official copies.

And I will give you -- we will mark as Document 5, which is an e-mail from you to Mr. Sampson, actually dated November 1st, a few days after that, saying "Other Possibilities."

[Elston Document No. 5

Was marked for identification.]

Mr. Elston. It is about 2 weeks after the e-mail from Mr. Sampson.

BY MR. MINCBERG:

Q This is the only one I can find. Is this the only e-mail in that time period where you were suggesting other possibilities? Or did we miss one that happened earlier?

A I don't believe that I responded to Kyle's question by e-mail. I believe that I talked to him after.

Q Ah.

A This e-mail is not connected to the October 17th e-mail.

Q Got it.

A This e-mail is connected to what I previously described as my assignment to check with other people to see if there were any issues or problems that we were missing, and none of the people that came up in that exercise ultimately ended up on the list.

Q Okay. So then let's dispose of this document before I go back to your conversation. But there were other names than on Document 5 which have been redacted, but --

A Yes.

Q But there were other possibilities for pushing out, but none of these people in fact wound up getting pushed out?

A Yes. After I sent this e-mail, I don't remember where I was or what I was doing, but I was not around Kyle, for whatever reason. I sent him this to let him know that I was done doing what he asked me to do, and then we had a face-to-face conversation about this. And I explained, you know, what the issues were with the people that were on this list; and I recommended that none of them be added because I didn't think any of the

Mr. Elston. I don't recall the specific date of the Attorney General's testimony. What I believe this relates to is that I was assigned to call Paul Charlton, John McKay and Kevin Ryan to advise them that despite the media reports that were going around regarding U.S. Attorneys, the Attorney General when he testified, I believe it was the 18th, I am not sure --

BY MR. MINCBERG:

Q I think that is right. I think that might -- that is my memory as well.

A But I was assigned to call them and to tell them that the Attorney General was not going to name names in terms of who had been asked to resign or discuss the reasons U.S. Attorneys were asked to resign.

Q What led to that assignment?

A I believe that the Deputy Attorney General was picking up, as he would put it, a certain amount of angst in the U.S. Attorney community and he wanted to have these U.S. Attorneys reassured that what we told them in December was what we were going to do when the Attorney General testified in mid-January 2007.

Q And I want to focus specifically on the conversation with Mr. Charlton right now. Tell us what you remember about that conversation.

A It was very brief. And I simply told him what I was told to tell him, which is when the Attorney General testifies tomorrow he is not going to say which Attorneys were asked to resign and/nor is he going to discuss the reasons U.S. Attorneys were asked to resign.

Q And do you recall what he said back to you?

A Thanks.

Q And that was it?

A Yes.

Q Okay. And in fact you raised a point that at around this time the Attorney General did in fact testify at, I think it was, a general oversight hearing in front of the Senate Judiciary Committee, is that correct?

A That is correct.

Q And you were involved -- I won't drag these out unless we need to -- in various preparation sessions for that?

A It would be typical for me to be involved in preparation sessions for the Attorney General before he testified, that's correct. And I believe that I was in some of the meetings in which preparation was -- you know this is a very messy process because for oversight you have to brief him on, you know, 100 different issues and I did not attend all the prep sessions. I tried to attend the ones where I thought I could be most useful.

Q And by "that statement" you mean the paraphrase where he -- where he is paraphrased as saying that Justice Department officials crossed a line by publicly criticizing the performance of his well-regarded colleagues. Is that what you are referring to?

A Correct. That was the reason I called him.

Q And why don't you explain how that reason led you to call?

A Well, as I tried to explain, Mr. Cummins and I had had a series of conversations going back to January 18th, the tenor of which was that he did not want to be included in the group of seven U.S. Attorneys asked to resign. He thought his case was different; he was protesting being lumped in.

When the Deputy Attorney General testified and said Bud Cummins is different, these seven are performance-related, Bud Cummins isn't, he was very thankful. He was very appreciative of being separated out in that manner.

He continued to ask if there were ways that he could be helpful to the Department, and I felt that I had built some rapport with Mr. Cummins during the course of these phone conversations.

I am not sure why he called me in January except that he wanted to get a message to the Deputy Attorney

General. I think that it's possible that we had one conversation or e-mail exchange while he was U.S. Attorney, but I don't remember any extensive dealings while he was U.S. Attorney. But I have seen some e-mails now that reflect, I think, some minor something -- I don't even know exactly what it was with him.

But I didn't know him well. I don't recall meeting him in person. I don't recall having conversations.

So we developed a rapport over these phone calls, and what I was concerned about, first of all, was not the quotes -- and I see that. But this is directly contrary to something he told me on February 6th, which was, thank goodness, you said the others were performance-related and separated me out.

That is how the Deputy General separated him from the other seven, which was to say that those dismissals were performance-related.

And so for lack of a better term, that sentence bugged me. And I called him and I asked him about it.

My recollection of that conversation is not great, but my recollection is that he immediately denied that he said that, that he said, Oh, no, I didn't say that. That is not in quotes. I don't know where he got that from.

And, essentially, I took him at his word when he said that because, to me, it made more sense that he

wouldn't have said that, since it was totally contrary to something he had told me 2 weeks ago. And then he went on to talk.

All of these conversations -- this is the only one that I initiated; but all of these conversations were largely Bud talking. He likes to talk about things. And I took him at his word when he went on to say, Look, these other things that I said I think are true, but look, I am not saying that you did this, but -- that the Department did this, but if you are doing that, then I think it is wrong.

And I said, Well, yeah, I agree.

And then we just -- we had a conversation like we always did about the issues of the day. I don't remember with any specificity what we talked about.

Obviously, he read something into our conversation that I never intended, that I never meant. And the only thing I can think of, as I replayed this conversation in my head 500, 1,000 times since he testified about it on March 6th, is that I said something to him which I was saying to other people, which is what I believed at the time, which is, it was a shame that all of this was coming out in the media because -- it was a shame because the Department of Justice was being tarnished. The

individual U.S. Attorneys who had been asked to resign; their reputations were being harmed.

And I did feel like that was a shame. And the Department was making big efforts to not bring forward its reasons for asking for these resignations.

On the 14th of February, the Deputy Attorney General went to a closed-door meeting with Senators and Senate staffers and tried to set forth the Department's reasons and rationale for seeking these resignations under the terms of the agreement with Senator Schumer. My understanding is that was supposed to be a closed-door session, where we weren't going to talk about these personnel issues outside of that session. But within days, my recollection is that things were leaking out about what had been said during that session. And there were little articles here, little articles there, that started to, you know, put some meat on the bones about what the reasons were.

That is my recollection, and I thought it was a shame, and I thought it was too bad.

And I recognized by the 20th of February, when I was talking to him, that the Department was likely to be put in a position of having to disclose all of its reasons, as we have been. And I may have said something like that to Bud.

But from my perspective, this was a conversation between two people who had had a number of conversations about this issue, stretching back a month. And I didn't intend to send him any message, let alone anybody else.

And let me say that with respect to that, I had no reason to believe he was in contact with any of the other U.S. Attorneys. I don't recall him ever telling me that he was talking with four or five of the other U.S. Attorneys.

He had gone to great lengths, beginning in the middle of January, to try to separate himself out from that group. And I guess what had happened is that he got back in with that group in one way or another. And I didn't know that at the time, and I certainly didn't intend to do anything that would cause him to be concerned about making public statements or, certainly, testifying.

I don't recall testimony coming up in that last conversation. Had it come up, I think I would have given him the same answer that the Deputy Attorney General instructed me to give the first time it came up, which is, Bud, the Department of Justice has no position on whether you testify. Testify if you want to. Don't testify if you don't want to.

But, obviously, as things have come out, he read something into that that I never intended. And I wish he would have clarified with me if he had any concerns what I was trying to tell him, but he didn't.

Q Well, as you probably guessed, I am going to ask you about the e-mail on that.

[Elston Document No. 22

was marked for identification.]

B. Interview of William W. Mercer
April 11, 2007

BY MR. MINCBERG:

Q This would be Document number 23, I believe, which is a Newsweek article dated February 28, 2007, by Michael Isikoff, 2 pages, entitled Justice Department Firings: A Cover-Up?

A I have never read this article.

Mr. Hunt. Did you say this is a published article?

Mr. Mincberg. It is at least on line.

BY MR. MINCBERG:

Q Well, I want to refer you to the fifth paragraph, referring to Mr. McKay, to the fourth line down.

A I see it.

Q That says, "After McKay was fired in December, he says he also got a phone call from a, quote, 'clearly nervous' Elston asking if he intended to go public. Quote, 'He was offering me a deal: You stay silent and the Attorney General won't say anything bad about you,'" end quote.

Then it goes on to state, "Elston says he, quote, 'can't imagine' how McKay got that impression. The call was meant to reassure McKay that the A.G. would not detail the reasons for the firings."

I take it you agree with the last part of that where it says, "Elston says he 'can't imagine'"?

A I testified to what this was. It was the phone call at the direction of the Deputy Attorney General to advise the U.S. Attorneys who had been asked to resign that when the Attorney General testified, he was not going to say which U.S. Attorneys had been asked to resign or state the reasons why they were asked to resign.

It was a very short conversation, and that is it.

Q And so you would disagree with Mr. McKay's characterization of the phone conversation?

A I would disagree with Mr. McKay's characterization of the phone conversation.

And I would also note that of the U.S. Attorneys who got Bud Cummins' e-mail, he is the only one who felt like it was a threat.

Mr. McKay, you haven't asked me why I think that it was a good idea to have him removed.

Q Well, that will take us well beyond Mr. McLaughlin's 5 o'clock deadline.

A But I will say that I have very good reason to believe that Mr. McKay is not always accurate in his statements, and this is one of those statements.

C. Interview of Michael Adrian Battle
April 12, 2007

remove from the list?

A I don't recall him saying anything of that nature.

Q Okay. Did you get a copy of Exhibit 10 and if you have, a chance to review that?

A I reviewed it.

Q Does this comport with effectively the final plan that you saw and the names on the list of the plan?

A Yes.

Q With regard to the list of U.S. attorneys who were going to be terminated when you looked at the list again, were you at all surprised as to anyone on the list given your interactions with U.S. attorneys' offices and your role of director of the EOUSA?

A The only two U.S. attorneys on this final list that I would expect would have a problem were Carol Lam and Kevin Ryan.

Q And why is that?

A About a year before, Carol -- I don't want to say a whole year, but some time before that, we had gotten an allocation for additional positions to handle immigration cases in the Southwest border. And I can't remember but there were a number of positions that would yield extra FTE for the U.S. attorneys to hire because the Southwest border was always have trouble dealing with those cases. And we were very happy to be able to roll out some FTE because all

needless to say, I sent some of my best evaluators out there and they came back and the report was not good. So I wasn't surprised that people were aware that Kevin had major problems. That was the most embattled district I dealt with when I was director.

Q How soon after you and your office started receiving calls about Mr. Ryan did you communicate to him that there was issues that he had to rectify, if at all?

A When Kevin first called me to ask for the extension, I told him, I said Kevin, I hear you have major problems out there. I am going to give you an opportunity to put your best foot forward but you have to work with me. And he said I will, I will. And I worked with him over time and we extended it I think from the fall. And we finally got him evaluated in the spring.

Q Aside from those two, looking at the rest of the list of U.S. attorneys, did you see any names on there that you thought should not be on the list given your supervision of the offices and what you heard about them?

A I didn't think it was my place to determine who should not be. But you know there were names on there that if they had problems, I wasn't aware of them.

Q Okay. Why did you think it wasn't your place?

A Because I felt that U.S. attorneys being presidentially appointed, it is up to the administration to

Q And to your knowledge, she was given that requisite?

A To my knowledge she was, yes.

Q And I think you also mentioned your earlier testimony that I think Mr. Elston, Mr. Mercer had specific issues with Ms. Lam's immigration prosecution. Is that a fair characterization?

A I seem to recall a conversation on one or more occasions with either one of them about that perhaps during that meeting. Now, let me clarify when I say I wasn't surprised because if I were to try to guess by looking at the list initially somebody may have had a problem those are what I knew about those 2. Did it rise to the level of where it ended? That is not what I was talking about.

Q Okay. And again, aside and apart from Mr. Elston and Mr. Mercer for that matter, do you recall hearing any complaints from any other Department of Justice officials?

A Paul McNulty, you know, maybe at that same meeting as Bill Mercer and Mike were always at the meetings that he had with the DAG, so we may have had a brief conversation with what we discussed with in the allocations, Paul might have said yes, we have to sort of work with Carol on this.

Q What about Kyle Sampson?

A Kyle was never at those meetings.

Q He wasn't at those. Okay. Okay, with regard to Mr. Kevin Ryan, could you describe the circumstances of his

D. Interview of D. Kyle Sampson
April 15, 2007

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 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 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 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 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 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

E. Interview of D. Kyle Sampson
April 18, 2007

01 asked to resign, and so ultimately, you know, that is how
02 that process got going, and that was handled in the context
03 of the Judicial Selection Committee. So that is my
04 recollection.

05 MR. MINCBERG: Okay. One final aspect of Mr.
06 Moschella's briefing and testimony, and I think you have
07 heard some of this before. With respect to Mr. Iglesias, he
08 had indicated--and, again, I will ask you to accept this for
09 the time being--that there was concern about Mr. Iglesias
10 being an absentee landlord and delegating too much. When do
11 you recall that first being discussed at Justice in
12 connection with the dismissals or the justification of
13 dismissals?

14 MR. SAMPSON: I remember learning that or hearing
15 that criticism from David Margolis, but I don't remember
16 when.

17 MR. MINCBERG: Do you recall discussion of that in
18 particular in that late October, early November time frame
19 when he was actually added to the list as opposed to when he
20 had been identified, you know, in a positive way?

21 MR. SAMPSON: I don't remember.

22 MR. MINCBERG: Do you recall a discussion of that
23 during Mr. Moschella's preparation?

24 MR. SAMPSON: I do recall that. There was a
25 discussion about each of the reasons for each of the U.S.

01 Attorneys.

02 MR. MINCBERG: And who was it that suggested that
03 as a reason for Mr. Moschella to give with respect to Mr.
04 Iglesias, as best you recall? It does not have to be one
05 person. It could be more than one.

06 MR. SAMPSON: I don't remember. I think it was
07 either Mr. Margolis or Ms. Goodling, but I'm not sure.

08 MR. MINCBERG: Okay. I am going to switch to a
09 slightly different subject. I am going to ask you--and I am
10 certainly happy to loan you the official copy of this--about
11 an exhibit that you were asked about already. It is Exhibit
12 16. I had asked people to bring their exhibits so that we
13 could not take time making additional copies. But if you
14 have got it loose, that would be that much easier.

15 MR. BERENSON: Yes, we do.

16 MR. MINCBERG: Great.

17 MR. BERENSON: If you have a transcript of
18 Sunday's session, we would love to see it as soon as you all
19 can make it available.

20 MR. MINCBERG: Well, I had assumed that that was
21 being arranged through the Senate.

22 MR. BERENSON: It may well be. Just we haven't
23 seen it.

24 MR. MINCBERG: I literally just got it, but I
25 certainly--I had assumed that since the Senate had arranged

01 the Attorney General until October of 2005.
02 MR. MINCBERG: Right. She was at EOUSA before
03 that.
04 MR. SAMPSON: Right, and I don't remember whether
05 I had any conversations with her or not about United States
06 Attorneys until after she joined the Office of the Attorney
07 General in October of 2005. But after that time, I
08 certainly would have had conversations with her about U.S.
09 Attorneys generally and presumably about those two U.S.
10 Attorneys.
11 MR. MINCBERG: Do you recall the content of any of
12 your discussions about those two U.S. Attorneys?
13 MS. BURTON: The Department's objection--
14 MR. BERENSON: With Ms. Goodling?
15 MR. MINCBERG: Let's start with Ms. Goodling.
16 MS. BURTON: The Department's objection continues.
17 MR. MINCBERG: I remember--well, I don't remember
18 any specific conversations with Ms. Goodling.
19 MR. MINCBERG: Okay.
20 MR. SAMPSON: As a general matter, I remember
21 hearing issues and concerns raised about Mr. Heffelfinger
22 from senior leaders in the Department of Justice.
23 MR. MINCBERG: How about Mr. Biskupic?
24 MR. SAMPSON: I don't remember any specifically.
25 I remember understanding based on conversations with senior

01 leaders in the Department of Justice that Mr. Biskupic was
02 sort of unknown, was quiet--
03 MR. MINCBERG: You said "unknown"?
04 MR. SAMPSON: Unknown, you know, was not a United
05 States Attorney who was prominent in the U.S. Attorney
06 community vis-a-vis Main Justice. But I don't remember any
07 specific conversations sitting here today.
08 MR. MINCBERG: Do you recall any discussion at any
09 time about the indictment by Mr. Biskupic, which actually
10 occurred right around the time of this March 2nd e-mail, of
11 a businessman name Dennis Troha, T-r-o-h-a?
12 MR. SAMPSON: I don't remember any.
13 MR. MINCBERG: One other small thing, just so we
14 can keep track of these as we go, but looking back to
15 Exhibit 28 and looking at pages OAG6 and 7, am I correct
16 that Mr. Charlton and Mr. Bogden at this point are not
17 identified as U.S. Attorneys to be--that you recommend for
18 removal?
19 MS. BURTON: Objection. Continuing objection.
20 MR. MINCBERG: I am talking about Mr. Charlton and
21 Mr. Bogden.
22 MS. BURTON: Oh, I apologize. I am sorry.
23 MR. SAMPSON: It appears to be that that's the
24 case.
25 MR. MINCBERG: All right. I am going to ask you

F. Interview of Paul J. McNulty
April 27, 2007

of October 1 of 2006 that he had received from any Member of Congress a complaint that any U.S. Attorney was not competent to do the job?

A I don't recall -- I don't have any clear recollection of that right now. I knew about the concerns expressed regarding Carol Lam, and I don't know if anybody ever put it that way to the Attorney General and that the Attorney General passed it on to me. I have no recollection of that. I just remember complaints about the immigration issue. But I don't have any recollection of anybody -- the Attorney General telling me that someone has put it to him that way.

Q As to Carol Lam, you are referring to some complaints by Members of Congress or a Senator about her enforcement of the immigration laws in San Diego, is that correct?

A That is right.

Q Are you aware of any Member of Congress who suggested to either you or the Attorney General prior to October 1 of '06 that she was not competent to be the U.S. Attorney?

A No, I don't remember anybody -- any expression in those terms.

Q Do you recall any -- with respect to any other U.S. Attorney, did you have any Member of Congress or of the

Senate express to you prior to October 1, '06, that any incumbent U.S. Attorney was not capable of handling the job?

A I don't recall that, no.

Q Now when was the first time that you learned that there was an effort within the Department to consider for termination a series of U.S. Attorneys, a number?

A To the very best of my recollection, the first time I learned about it was at the end of October. Somewhere in the time frame of late October, early November was when Kyle Sampson consulted me about the idea of seeking the resignation of a group of U.S. Attorneys.

My best recollection is that the first time I learned about it was through my chief of staff, Mike Elston, who had apparently received an inquiry from Kyle Sampson to run this by me, to ask me my thoughts on the subject. It was presented to me in an oral fashion, as I recall.

Q By Mr. Elston?

A By Mr. Elston, right. And it was presented to me as here is the idea and here are the names of individuals that are being identified for seeking the resignation.

Q And do you recall the names that he stated to you?

A Well, what I don't recall clearly are the actual names that were stated to me in a sense that I know the names that eventually were asked to resign. To the best of my memory, the people who were asked to resign were the

names that were presented to me.

There was one person I recall being presented to me who was not asked to resign because I objected to that name, and there was apparently -- now that I look at the e-mails that have been presented to you all -- one person asked to resign who may not have been presented to me at the time. That is Kevin Ryan.

My memory sitting here today is that the names that were presented to me were basically the same names as the ones that were asked to resign.

Q And have you looked at these e-mails to refresh your recollection about what names were presented to you by Mr. Elston?

A As best I can. I saw that there were some names that were on an e-mail that Mr. Elston received that I didn't see in mid-October. But I can't be sure that the names that were presented to me at some point later, maybe a week or so later, are the exact same names.

Q So your view is that -- your recollection is that, while Mr. Elston may have learned about this in mid-October, you didn't hear it from Mr. Elston until late October, is that right?

A My best recollection is that it was a little bit later in the month when I got it, yes.

Q And when it was presented to you by Mr. Elston, you

A That is my recollection. I have no recollection of receiving that name in a different way than when I received the names as a group.

Q You will note that his name is not on this list.

A Right.

Q And with respect to the redactions, I am very confident that his name is not among those redacted, aren't you? So that his name is not on this list either in this form we have redacted or in the original unredacted version.

I wonder if you have any basis for believing that Mr. Iglesias was mentioned to you by Mr. Elston when he told you about this at the end of October of '06.

A The only recollection I have is that when I was presented with the idea of seeking the resignations of the U.S. Attorneys and the names of the U.S. Attorneys that David Iglesias was in that group. Because my recollection is going through the various names that were being presented to me and in a sense kind of checking off mentally as to what I knew about that individual. And so I have only a memory of David Iglesias as being part of a group and since I reacted to it in my consultation role --

Also, there is another name that was presented to me when I was originally asked.

Q One of these that are redacted on this document?

A I think so. And I remember voicing an objection to

that name, and that name came off of the list.

Q With respect to -- first of all, what did you say to Mr. Elston when he told you that this was a plan and identified as many as eight or nine names of U.S. Attorneys that were intended for termination?

A Well, I have to say that I was somewhat surprised. I did not know this process was going on; and so, therefore, though I was readily aware of various issues and concerns associated with individuals that were being mentioned to me, I just wasn't aware that this action was being contemplated and would be occurring. So I remember having kind of a mixed set of reactions, one of being surprised by the fact that this was going to take place, but switching my thinking to, okay, if that is what the folks who do the personnel stuff are intending to do here, what do I think about these individuals and do I have an objection. Which is basically the way it is being sort of put to me, is do I have a problem or an objection with this; and I remembering thinking then about the individual names and whether or not I had an objection. That is the sort of first reaction that I had to the process.

Q Did you say to him, are we really going to do that?

A I might have said something to that effect, yeah. I mean, I don't remember if those were the exact words, but that is consistent with my memory.

didn't actually see that report when it first came in, probably didn't come do me until sometime in November.

During this same period of time, I was dealing with the Executive Office of the U.S. Attorneys and David Margolis and looking at what this report said, the significance of it. The report was very critical. And so I can't quite understand, sitting here now, just exactly why Kevin wasn't on these lists, or on this November list, early November list in particular.

I know that Kyle said in his public hearing that I told him after that November 27th meeting in the Attorney General's office that I suggested Kevin Ryan. I don't have any personal memory of that, but that would be consistent with what I was dealing with at the time.

Q But at the time that you were presented with this list in late October, again, orally you were told, you didn't suggest any additional names at that time.

A Not at that time, no.

Q And you hadn't been consulted by anyone prior to the formation of that list about these terminations, had you?

A Would you repeat that again, please?

Q You had not been consulted by Mr. Sampson or Ms. Goodling or anyone else who was compiling this list for your views with respect to whether or not any individual U.S. Attorneys should be on this list.

A Not if you are referring to placing someone on a list or not. I am sure I had lots of conversations with Kyle especially over a period of time about U.S. Attorneys.

Q Did you recommend to Mr. Sampson or anyone at the Department prior to late October that anyone be placed on a list for termination?

A No.

Q And no one came to you and said we are compiling -- before Mr. Elston spoke with you, no one came to you and said we are compiling a list and we would like to get your views of the competence or the advisability of continuing in the office a particular U.S. Attorney.

Mr. Flores. Objection to the form of the question.

Mr. McNulty. I have no memory of being approached prior to that time that Mike brought me this.

BY MR. NATHAN:

Q That is in late October of '06.

A Correct. I have no memory of ever being informed that a list was being compiled for seeking the resignations of U.S. Attorneys. I probably had -- I am sure I had many conversations about the performance of U.S. Attorneys during the time that year I was the Acting and the Deputy.

Q In a previous answer you said that you were surprised but that the people who make these kinds of decisions apparently wanted to terminate eight or ten U.S.

for termination.

A I have no memory of discussion about the specific reasons for the U.S. Attorneys being included. That doesn't mean it didn't occur. I just don't have any memory of that.

Q And you don't recall any piece of paper that was circulated that set forth any reasons for the proposed termination of any particular U.S. Attorney whose name was on the list at that meeting?

A If by that you mean the way you phrased it to me before when we talked about a specific memo that relates to this plan and justifying the reasons of those U.S. Attorneys, I don't recall that being included in that meeting.

Q Okay. And prior -- between November 27th and December 7th, were there any further meetings that you had with the Attorney General or with Mr. Sampson about implementing this plan?

A Well, I remember that after I sent the e-mail on December 5th to Kyle where I expressed my continuing concerns about Dan Bogden, Kyle and I had a conversation about that, where I think it was a follow-up to that e-mail. Because what happened was I sent the e-mail, and he didn't really respond back to me. And of course I see him all the time in the building, and I raised it again.

And I said at that meeting, as I recall the way it

worked, I was concerned about him still and that I was worried about his wife and kids. I was worried it might have an impact on his family, and -- losing his job, and he said he didn't have a family, he was single. At that point, I said, I guess I don't have any objection to going forward.

That was a conversation I do recall that occurred in the time frame you talked about, but I don't recall any other conversations in that period of time. They may have occurred. I just don't have any memory of them.

Q Right after the November 27th meeting, did you have a conversation with Mr. Battle concerning Mr. Bogden?

A What was the time frame again?

Q Right after the meeting on November 27th, as you were leaving the meeting, do you recall any conversation?

A I don't recall that.

Q Apart from the e-mail that you sent where you raised some question about Mr. Bogden, do you recall any other conversations about Mr. Bogden to any of the people at the high-level Department of Justice dealing with this list?

A My only memory is that conversation I had with Kyle following my e-mail.

Mr. Nathan. Let's have this marked as the next exhibit, please.

[McNulty Exhibit No. 4

Was marked for identification.]

BY MR. NATHAN:

Q I hand you what has been marked as McNulty Exhibit 4. What you see is an e-mail from you dated December 5, 9:44 in the morning, December 5, '06, from you to Mr. Sampson. Is this what you have been referring to when you talk about your e-mail about Mr. Bogden to Mr. Sampson?

A Yes, it is.

Q And you say that you are skittish about Bogden, meaning about keeping him on the list for termination?

A Right.

Q How long after this did you have your conversation with Mr. Sampson about Mr. Bogden?

A I am not entirely sure. Shortly after that. Could have been the same day, next day.

Q Before December 7th.

A Oh, yes.

Q And he told you that Mr. Bogden didn't have a family, and that allayed your concerns?

A Well, can I make a comment about the whole Bogden thing?

Q Sure. Absolutely.

A You know, I was trying to be in this whole process somewhat deferential in this process to the personnel folks. And the way this list came to me was, do you have any

specific objections for including these individuals. I understood right from the get-go that this was kind of a continuum of concerns from those that were subjective and not very specific to those that were very specific and things that I had been personally very involved in.

And so I in a sense accepted that as kind of the range of issues and the nature of the process itself being subjective to objective. And given those parameters and given the fact that there was a kind of deference to personnel side -- I sometimes analogize that when you are Deputy it is like being the field manager and you get the players and you have work to do and then you have got a person in the front office and there is the general managers and they make trades and so forth. So in a sense I was kind of deferential to the personnel process.

I understood that I needed to have a specific objection as to why I thought somebody should come off the list. I also, at the same time as I was looking at all this, realized that we are all -- those of us who are political appointees, we are all political appointees, and all our days are limited in terms of how long we are going to serve and that these same U.S. Attorneys were in that boat. They were going to be leaving at some point in the next couple of years. I knew that in my class of U.S. Attorneys we had lots and lots of turnover and that that is not unusual.

In my mind at the same time was the notion that, well, Dan is going to have to leave the office at some point over the next couple of years, though I note here, because I went back and looked at Dan's bio, that he may have been the kind of guy who tried to go into the new administration, having been a career AUSA.

But even Dan in his goodbye e-mail to his office said one of the reasons why he hesitated going from an AUSA to a U.S. Attorney is that that meant the day would come he would have to leave.

So also going on in my mind was the fact that, well, this is, again, a period of time we are all going to transition out. We are going to give these folks enough time.

And I was very busy at the same time working on this Thompson memo revision. It was very much on my mind. I was engaged in a lot of discussions and there was a lot of activity associated with that. So I would get back to this project or this would come up, and I remember this being on my mind, the Dan situation, as this process was getting closer to the end. So when Kyle told me that he was single, I think that just tipped the scale in my mind as saying, all right, I won't voice an objection and insist that he comes off the list.

Do I regret that to this day? That still weighs heavy

on my heart, because I think I had an opportunity there, and I didn't follow through as best I could have. I just don't still feel great about that.

Q When you say you were deferential to the personnel department, that includes the White House, correct?

A Sure.

Q They are the ones who give you the personnel, aren't they?

Mr. Hunt. Can you let him finish his answer?

Mr. McNulty. There wasn't going to be a lot more to say there. When I think of personnel, I certainly think that the personnel, when we are talking about political appointees, is a combination of the Department of Justice personnel efforts and White House personnel.

BY MR. NATHAN:

Q And with respect -- you understood, at least by November 27th and December 7th, that these decisions had been made by a combination of the Attorney General's Office and the White House, isn't that correct?

A By what day did you say?

Q November 27th or December 7th.

A Well, I knew by that date that we had submitted our list over to the White House and that we were waiting for their response based upon some of those communications.

Q And you didn't inquire as to what the reasons were

Q And that is the impression you wanted to leave with them.

A I just wanted to give them as much truth as I knew.

Q Which is what you understood at that time.

Let me go back in time to early October of '06. Did you receive a phone call at that time from Senator Domenici?

A I recall getting a phone call on December -- on October 3rd. I returned it. He wasn't available. Then he called me back on the 4th and got through to me at that time.

Q So you spoke to him on the 4th.

A Yes.

Q Can you tell us what he said to you and what you said to him?

A I didn't say much to him. He called, and it was a very short conversation. He expressed his concerns about the abilities of David Iglesias, and he used general terms, things like he's not up for the job, over his head, not getting the job done, things to that effect, and I think he's just not the right guy for the job.

He didn't, as I have searched my memory, refer to any specific case. He just talked in generalities about his fitness for the job. He may have mentioned categories like public corruption and immigration. So I am a little vague on how -- how many categories, including in terms of kind of

work he is doing. What is clear in my memory is his statements of lack of support for his abilities.

Q Did he call for his termination?

A I don't recall him doing that. What I recall him doing is just saying that to me; and I said, thank you very much, Senator.

Q Is that the full extent of the conversation?

A That is the best I remember. It was very short and just to that point.

Q He just calls you up, says David Iglesias is not up to the task. Maybe he mentions categories of cases. You say, thank you. He hangs up, and that is the entire conversation. Why did he call? What did he say was the purpose, besides giving you his opinion on Mr. Iglesias?

A That was the purpose of the call I remember.

Q He didn't ask you to secure his termination. He didn't say you should terminate him.

A I have no memory of him saying something like that.

Q Did you make a memo of this conversation?

A No, I didn't.

Q Did you report it contemporaneously to anyone?

A Well, though I don't have a specific recollection of that, my best memory is that I -- a conversation like that I would have mentioned to the AG and/or Kyle at the next opportunity I had. When I receive a call from a Senator or

A No, I did not.

Q And you don't recall any specific conversation with the Attorney General or with Mr. Sampson following this call.

A I don't recall a specific conversation, no.

Q So then I ask you, did you take any actions following the call from Senator Domenici acting on what you say was a significant development?

A I don't recall doing anything in the following month that was sort of an investigative nature associated with those concerns expressed.

Q As you sit here today, you believe that Mr. Iglesias' name was mentioned to you when Mr. Elston gave you a list of names from Mr. Sampson, correct?

A Uh-huh.

Q And you didn't object to his being on that list.

A I did not object, no.

Q And was your lack of objection predicated in part based on the call you had received from Senator Domenici?

A That was a significant factor in my thinking as to not -- as to why I did not object, yes.

Mr. Nathan. I want to have marked as the next exhibit this EARS evaluation of the New Mexico office in 2005.

[McNulty Exhibit No. 5

Was marked for identification.]

as a result, the clear impression which was going to come up much more the next day, because of the U.S. attorneys themselves testifying, was that it was for other reasons that were not proper. And therefore, the concern was, make sure that you lay out what your justifications were.

And so that was the -- and we also discussed, as I recall, the position we would take on the legislation that was going to be discussed by the House.

Q Who instructed you at the White House to provide the reasons for the termination?

A There wasn't any one person who made that, alone, clear. There were a number of folks there, and it was sort of a consensus of the group that we needed to be clear on that point.

Q Was Mr. Rove present for this meeting?

A As I recall, he came in after the meeting started, didn't stay very long, and left early or --

Q And what do you recall him saying?

A I don't have any clear recollection of whether or not he spoke. I can picture where he was sitting, but I just can't recall whether he actually -- if I -- you know, pushing my memory at its limit, I think he said something, but I just can't remember what it was he said; and I just think it was lumped into the general point of, you all need to explain what it was that you did and why you did it.

Virginia.

Do you know if there was anyone in that class who resigned voluntarily following performance issues that were brought to him or her by senior DOJ management?

Mr. Nathan. Did you say "involuntarily"?

Mr. Flores. "Voluntarily."

Mr. Nathan. Resigned voluntarily because of performance problems. That's your question?

Mr. McNulty. From time to time, issues arise with U.S. attorneys. They may be the subject of an OPR investigation. They may be the subject of -- these issues may be the subject of information that has not yet gone to OPR but will be going to OPR, and so, in terms of the use of the word "performance," I think this might fall more into a category called "misconduct," but there is sometimes a gray line between performance and misconduct and issues that come up in the course of those attorneys' tenure.

The way those are dealt with historically at DOJ -- and to my knowledge, the process has not changed for many years moving from administration to administration -- is that David Margolis in the Deputy's Office will handle the matter, and he will deal with the Executive Office; he will deal with the OPR if it is an OPR, and he will have to deal with whoever is doing personnel at the Department, and typically, that is somebody out of the Attorney General's

Office, and they will have to check with White House Counsel's Office or some White House personnel because it may involve seeking the removal of a U.S. attorney. Those are very confidential matters. They rarely -- local media sometimes will pick up on them and speculate as to why somebody has departed the office. Frequently, the reasons given by the individual will be not clear, but they may very well be connected to a problem that has come up. That goes on from one administration to the next, and when you do David Margolis' deposition, he can give you a feel for the frequency and the spacing of when those things arise.

So, in answer to your question, there very well may be or were individuals who were in my class of U.S. attorneys; that is, the first term of this President and into this second term, who fell into the category of resigning, being asked to resign, being encouraged to resign because of conduct or of issues that are associated with performance. Again, that line between conduct and performance can sometimes be a little gray. Most of the time it's going to be a conduct-related thing, and it won't be like a failure to follow DOJ priorities.

BY MR. FLORES:

Q But is it your testimony that sometimes it may be the latter or some other --

A It may be, but it is going to be -- and again, I

don't mean to make this difficult, but as to those things that fall into performance in more of the policy and priorities way, they tend to take more time to develop, and so it's not surprising that you would be well into a second term where those issues may have clarified versus earlier on in an administration where we are still kind of -- people are getting their footing, and their track record is being developed as to how well they're following the Department's procedures and policies and so forth.

Q Okay. Let me turn now to some questions about the U.S. attorney review process. We have been talking about specifically today --

A Yes.

Q -- the one that led to the request for resignations in December of last year.

In the course of that process from the time you first learned of it, did you exercise anything you would characterize as independent initiative of your own to make sure the process moved forward to a conclusion or otherwise was facilitated?

A I wasn't involved -- by "process" are you referring to the evaluations of U.S. attorneys with an eye towards seeking resignations?

Q Yes.

A I wasn't involved in that process at all. I wasn't

G. Interview of David Margolis
May 1, 2007

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

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

07 MR. MARGOLIS: No.

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

12 MR. MARGOLIS: No.

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

16 MR. MARGOLIS: Yes. By the way, when I
17 corrected my earlier testimony, when I had originally
18 said I recall one performance--strictly performance-
19 related matter, now I corrected it to be two because I
20 forgot. This obviously reminds me of it.

21 This process started with the Deputy Attorney
22 General sending a public letter to Mr. DiBiagio directing
23 that he not bring any public corruption cases without the
24 Deputy Attorney General's approval. To my knowledge and
25 information, an unprecedented step that the Deputy

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

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

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

07 MR. MARGOLIS: Yes.

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

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

18 MR. BHARARA: And that recommendation--

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

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

05 MR. MARGOLIS: I don't know.

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

09 MR. MARGOLIS: No.

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

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

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

18 MR. MARGOLIS: Yes.

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

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

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

01 MR. BHARARA: Okay. After the time when Mr.
02 Sampson mentioned to you the opportunity to ask for
03 resignations from some subset of U.S. Attorneys, did you
04 and he have any further discussions about how that might
05 be accomplished?

06 MR. MARGOLIS: Was this all U.S. Attorneys or
07 some U.S. Attorneys?

08 MR. BHARARA: Subset.

09 MR. MARGOLIS: Oh, subset. Yes, I think on that
10 occasion--I think on that occasion he pulled out the list
11 of all United States Attorneys and asked me who I thought
12 should be looked at for termination, and not--you know,
13 "I'm not asking you to say, 'Fire this person.' I want
14 to know, you know, that we should consider it."
15 The impression I got was that he would talk to a
16 bunch of people about it, but he wanted candidates, I
17 guess is the word. And some I felt strongly about and
18 said, you know, "I'm prepared to say now that this person
19 should go." Others, I said, "You ought to take a look
20 at."

21 MR. BHARARA: To the best of your recollection,
22 did you look at the list with him at about the same time
23 that he first presented you the idea of asking for the
24 resignations of some subset of U.S. Attorneys?

25 MR. MARGOLIS: I can't say it was the same day,

01 but I don't think it was too far--I don't think it was
02 too far down the road.

03 MR. BHARARA: And you believe this was late '04
04 or early '05?

05 MR. MARGOLIS: I think it was--by this time it
06 was '05.

07 MR. BHARARA: When Mr. Sampson showed you that
08 list, do you recall whether or not that list was already
09 ordered in some way based on performance or rank? Or was
10 it a random list of U.S. Attorneys?

11 MR. MARGOLIS: I think it was an alphabetical
12 district list or an alphabetical name list, one of the
13 two.

14 MR. BHARARA: And to the best of your
15 recollection, at that time did you mention to him
16 specific U.S. Attorneys who should be considered for
17 possible termination?

18 MR. MARGOLIS: Yes. I had two categories, as I
19 recall: one was I really feel strongly about this one
20 going; and the other was run this fact, check this out,
21 these people ought to be looked at for a variety of
22 reasons.

23 MR. BHARARA: Do you recall how many people in
24 that first conversation might have fallen into either of
25 those two categories?

01 MR. MARGOLIS: I would say it was less than ten.
02 MR. BHARARA: In both categories combined?
03 MR. MARGOLIS: Both categories combined.
04 MR. BHARARA: And what was the basis, generally
05 speaking, of your identifying particular U.S. Attorneys
06 in either of those categories?
07 MR. MARGOLIS: The two that I was very firm
08 about going were performance, and then some others, I had
09 questions about their performance or there were questions
10 about some of their conduct.
11 MR. BHARARA: Would you say that one more time?
12 MR. MARGOLIS: Yes. The two that I felt
13 strongly should go were based on performance. And then
14 the others were based on either-and/or performance and
15 conduct.
16 MR. BHARARA: And, again, could you tell us how
17 you distinguished between performance and conduct?
18 MR. MARGOLIS: Yeah. On some of these, I think
19 at the time there were outstanding either OPR or OIG
20 investigations of them, so I thought, you know, we ought
21 to take a look at them, but we ought to see what the
22 results of the investigations are. You know, they may be
23 exonerated.
24 And it could be having an affairs with a
25 subordinate and treating that subordinate more favorably

01 than other people, creating problems in the office. It
02 could be lying, things like that.
03 MR. BHARARA: Okay. But in the pure performance
04 category, at that time--
05 MR. MARGOLIS: It could be misconduct in
06 connection with litigation.
07 MR. BHARARA: But in the pure performance
08 management category, at that time you only could identify
09 two United States Attorneys who should be considered for
10 possible termination?
11 MR. MARGOLIS: Yeah. There was--there were two
12 that I said should go. There were others--there was one
13 that almost made List 1, who later made List 1, but I
14 wasn't sure at the time.
15 MR. BHARARA: Okay.
16 MR. MARGOLIS: That was a performance one.
17 MR. BHARARA: I'm going to try to ask some
18 questions before I draw an objection. Were any of the
19 people on the first list, the performance list, later
20 asked to resign? Pure performance list.
21 MR. MARGOLIS: Do you mean as part of the--
22 MR. BHARARA: As part of the eight.
23 MR. MARGOLIS: Okay, because, you know, there
24 were--people leave for--you mean--
25 MR. BHARARA: Why don't I rephrase the question.

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

04 MR. MARGOLIS: Yes.

05 MR. BHARARA: And who were those people?

06 MR. HUNT: As part of this--

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

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

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

11 MR. MARGOLIS: Kevin Ryan.

12 [Pause.]

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

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

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

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

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

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

01 MR. MARGOLIS: Yes.

02 [Witness perusing document.]

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

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

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

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

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

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

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

01 answer the question.

02 MR. MARGOLIS: First of all, I speculate that
03 Kyle agreed with me because he's an intelligent guy and
04 I've always found him to, you know, be interested in
05 the--well, the good operation of the Department, and I
06 thought the record was pretty clear.

07 My sense, speculation, is that he agreed with
08 me, but he was having trouble selling it. And I
09 speculate that it's because, number one, Ryan did adhere
10 to the Department's priorities. That was my
11 understanding.

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

17 But, in the end, the right decision was made in
18 my opinion.

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

20 MR. MARGOLIS: Yes.

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

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

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

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

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

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

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

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

07 MR. BHARARA: With respect to--

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

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

18 MR. MARGOLIS: Okay.

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

20 MR. MARGOLIS: I'll be here.

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

01 words.

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

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

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

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

14 MR. BHARARA: Whose testimony?

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

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

01 the interim or the acting, that he specifically told us
02 that he had been delegated the day-to-day management
03 of the office by Iglesias," and she said, "Yeah, that's
04 right."
05 But that conversation with the First Assistant
06 took place, by definition, well after Iglesias had been
07 fired, otherwise he wouldn't have been interviewed.
08 MR. BHARARA: So to the best of your
09 recollection -- to the best of your recollection, Mr.
10 Sampson's testimony that you had said prior to December
11 7th of 2006 was --
12 MR. MARGOLIS: Well, I don't think he actually
13 said that I told him this prior to December, but the
14 implication was that it must have been, because otherwise
15 how could he consider it?
16 MR. BHARARA: To the best of your recollection
17 did you ever say to Mr. Sampson, prior to Mr. Iglesias'
18 termination, that Mr. Iglesias was an absentee landlord?
19 MR. MARGOLIS: No.
20 MR. BHARARA: To the best of your recollection
21 did you ever communicate to Mr. Sampson, Ms. Goodling, or
22 anyone else anything negative about the performance or
23 conduct of Mr. Iglesias prior to December 7th of 2006?
24 MR. MARGOLIS: No. My recollection is, I had
25 nothing to go on either way as to him.

01 Preet asked you whether Mr. Sampson was incorrect in
02 suggesting that you had told him something, you know,
03 negative about Mr. Iglesias' performance.
04 MR. MARGOLIS: I think he said, if I've got the
05 right quote, in his testimony he said that, "I had told
06 him that Iglesias was an absentee landlord." Is that
07 what you're referring to?
08 MR. KEMMERER: Yes, things to that effect, and
09 that he delegated a lot to his First Assistant.
10 MR. MARGOLIS: And that, what I'm saying is I
11 said that I believe what Kyle's referring to is what I
12 said at the prep session after the firings had long since
13 taken place, because it was something I learned from the
14 First Assistant when we interviewed him to replace
15 Iglesias. So I don't think I knew that before the
16 firing. I certainly didn't hear it from the First
17 Assistant until after the firing.
18 MR. KEMMERER: Okay.
19 MR. MARGOLIS: So I think his timing is wrong.
20 MR. KEMMERER: Okay. Actually, he was fairly
21 careful. He says he doesn't know when you said that to
22 him.
23 MR. MARGOLIS: Oh, I didn't even remember that.
24 MR. KEMMERER: All right. So at any point did
25 you ever hear anyone suggest that the terminations of

01 MR. MARGOLIS: I don't think so. I may be
02 wrong, but I don't think so.
03 MR. BRODERICK-SOKOL: Do you have any further
04 memory of who it might have been?
05 MR. MARGOLIS: No, because I turned--when that
06 was said by whoever said it, I turned to Monica and said,
07 "Monica, remember when we interviewed" the First
08 Assistant, whose name is escaping me now. "He told us
09 that he had been delegated to supervise day-to-day operations."
10 MR. BRODERICK-SOKOL: Why did you raise that at
11 that prep session?
12 MR. MARGOLIS: Because I think it, A, was a
13 relevant factor and, B, it corroborated what was said,
14 you know, the absentee management thing.
15 Now, it also, I would say, wasn't known to the
16 deciders at the time they decided because it didn't
17 happen, by definition, until after the firing.
18 MR. BRODERICK-SOKOL: And the purpose of this
19 preparation was to prepare Paul McNulty to brief Senators
20 and testify before the Senate on the--
21 MR. MARGOLIS: I think it was the testimony.
22 MR. BRODERICK-SOKOL: This is just for the
23 testimony?
24 MR. MARGOLIS: Right. I think so. The briefing
25 came later. I don't know how much later.

01 MR. BRODERICK-SOKOL: I am just wondering why
02 surfacing information that wasn't known to the deciders
03 would be relevant in helping Paul McNulty figure out what
04 he was going to say.

05 MR. MARGOLIS: So he would know all the fact.
06 You know, if somebody said to him, "Well, what do you
07 mean? How do you know?" Or, "What's the basis? Give us
08 some substantiation that this guy was an absentee
09 manager."

10 Well, it is his First Assistant backed it up--or
11 not backed it up; that would be an exaggeration--said the
12 following. That's why. And also you want the boss to
13 know everything. We just wanted to make sure he knows
14 the limitations of it.

15 MR. BRODERICK-SOKOL: Limitations meaning these
16 are facts that were not known to the people who were
17 making the decision--

18 MR. MARGOLIS: At least not from the source.

19 MR. BRODERICK-SOKOL: Yes. There was a little
20 bit of back and forth about Mr. Sampson's--strike that.
21 You described the session then with Mr. McNulty,
22 I think you said Kyle spoke and that there was discussion
23 of each of the candidates--

24 MR. MARGOLIS: A lot of people spoke. There was
25 more than a couple of people.

01 MR. BRODERICK-SOKOL: Would you describe it as
02 "brainstorming"?
03 MR. MARGOLIS: I think so. I think that's fair.
04 MR. BRODERICK-SOKOL: Coming up with all the
05 relevant facts about these individual U.S. Attorneys?
06 MR. MARGOLIS: I think so.
07 MR. BRODERICK-SOKOL: And were there any facts
08 that you supplied other than this one about the absent--
09 the delegation to the First Assistant in New Mexico?
10 MR. MARGOLIS: I think I may have given a
11 summary of the Ryan situation and maybe the Chiara
12 situation, although I think with going on, we recognized
13 that those were not going to be key.
14 MR. BRODERICK-SOKOL: Those were not key because
15 the performance-based reasons for their replacement were
16 so obvious?
17 MR. MARGOLIS: There had been, I think, some
18 publicity--you know, I'm wondering whether at that point
19 whether Chiara was publicly known. She must have been;
20 otherwise, he wouldn't be testifying about her, I guess.
21 MR. BRODERICK-SOKOL: It is not especially
22 material. I think I can tell you that there was concern
23 that she was not publicly known but would, through the
24 testimony process or around that time, but I don't...
25 So when this issue of the delegation came up and

01 MR. BRODERICK-SOKOL: I'll just note that that
02 issue, by a document that I'm looking at that I'm not
03 going to make an exhibit, was April 1, 2006. Is that
04 your recollection that this issue, too, came up over the
05 course of 2006 before he seems to have been taken out of
06 consideration for removal in September, 2006?

07 MR. MARGOLIS: Yeah.

08 MR. BRODERICK-SOKOL: Okay.
09 You speculated that Kyle may have had some
10 difficulty selling Kevin Ryan as a candidate for removal
11 through this plan.

12 MR. MARGOLIS: Yeah.

13 MR. BRODERICK-SOKOL: Selling him to who?

14 MR. MARGOLIS: Well, I guess to be precise, to
15 the White House Counsel's Office. I mean, if they
16 weren't going to -- if the White House Counsel wasn't
17 going to recommend to the President, it wouldn't happen.
18 And part of that, I think I testified, was he
19 did appear to follow the priorities, which I agree is an
20 important factor, but not the only factor. And he did
21 appear to be loyal to the President, which is a factor,
22 but not the only factor.

23 MR. BRODERICK-SOKOL: And just so we're
24 absolutely clear, when Mr. Sampson first approached you
25 there were two candidates that you most strongly felt

H. Interview of Matthew Wilhelm Friedrich
May 4, 2007

And, again, that was sort of third down my list, but it was something that I was sensitive to.

So based on all of those concerns I did not believe that this was an appropriate document to forward down the criminal enforcement chain of command and I set it aside where it basically stayed set aside until I was asked to search for documents responsive to the inquiry that brings us here today.

Q Let me ask you to turn in particular to a page towards the end of the document, OAG850. Do you recall looking at this page of the document?

A I don't. That doesn't mean I didn't at the time, but I don't. I frankly did not -- once I had made sort of a determination about this, I did not continue to review the document.

Q Do you recall noticing the notation in the upper left-hand corner, discuss with Harriet?

A I see that notation. I don't have reason to disagree with you that that's what it says. I don't know whose handwriting that is, and I don't know anything about it.

Q Were there any further conversations with Mr. Sampson or anyone else in the October or November, December '06 time frame relating to election fraud or voter fraud that you recall?

A In the October, November, December time frame relating to a voter fraud, not that I recall.

Q Did you ever have any conversations with anybody at the White House about this subject?

A No.

Q Other than your conversation with Mr. Campbell, do you recall getting any other information about the issue of voter or election fraud in any of the jurisdictions that you discussed, including Wisconsin, New Mexico and Philadelphia?

A Can you state that question again?

Q Other than your conversation with Mr. Campbell that you've described --

A Right.

Q -- do you recall getting any other information or having any other discussions relating to voter or election fraud in Pennsylvania, Wisconsin or New Mexico?

A I do. I do. I recall being at my desk in June of 2006. And I recall receiving -- it was late in the day. And I recall receiving a phone call from Monica Goodling. And what I remember her saying was that there were a couple of lawyers in her office from New Mexico, one of whom was a member of a presidential board, that they had concerns about voter fraud in New Mexico. I believe she mentioned that they had been over at the White House earlier in the day, that they were there essentially for that day only, and that

she wanted to bring them down to see me to talk about voter fraud, which she did.

Q And tell us what you remember about that conversation.

A I remember that they came down. She brought them down not long after she called me, that there were two gentlemen, one of whose name was Mickey Barnett, the other whose name I think was Pat Rogers. I will tell you there's a document that has been produced, I believe by Ms. Goodling, that references these two gentlemen. I believe that relates to this. I believe that these are the folks who she brought down.

So they came down and I met with them in my office. I remember it was late in the day. I remember trying to find someone to sit in on the meeting with me. At some point Noel Hillman joined the meeting. Noel was a career employee at DOJ who had shortly there before been the head of Public Integrity and who had moved up to the front office in a counselor position. And so Noel came in and joined this meeting. But I can't tell you at what point in the meeting he walked in, but Noel came in.

I remember a few things being discussed. They were both from New Mexico. I have a family member from New Mexico. We exchanged some pleasantries about the State. I remember that they said that they had concerns about voter

fraud in their State. I talked to them about a voter fraud initiative that had been undertaken, as I understand it that predated my time, but by the Criminal Division, that these cases were regarded as serious cases. Whether they occurred for the benefit of Republicans or occurred for the benefit of Democrats, that they were regarded as serious cases and should be prosecuted.

I also recall that they had some voter fraud cases, or at least one voter fraud case in their State that they didn't feel was moving. That sufficient attention was not being paid to it, that they had brought this to the attention of the FBI and the U.S. Attorney in New Mexico, Dave Iglesias. And I don't think I had heard the name Dave Iglesias before that meeting. I knew we had a U.S. attorney in New Mexico. I just didn't know his name. And they complained about that. They complained that this case wasn't moving, to which I believe I responded essentially that the Criminal Division, as I had said before, is sort of on the same line as U.S. attorneys offices, but they don't report to us. And in terms of complaints with the U.S. attorneys offices, you know, that is something to raise with the Deputy's Office, or EOUSA. So sort of referred them there.

But they were not happy with Dave Iglesias. I certainly remember that. They had concern about, or

articulated concern about a particular case. I don't remember the name of the individual subject, but I do remember the name ACORN, which I understand to be some type of voter registration organization. They had a concern about ACORN.

And my reply to that was basically this. You know, again, U.S. attorneys offices—we are not over U.S. attorneys offices. We do have an interest in voter fraud, and that the organization that works on voter fraud in terms of the Criminal Division's responsibility was the Public Integrity Section. And that, you know, they, as anyone, were free to relay concerns to them, but that that was a conversation that they needed to have with the career officials in the Public Integrity Section. So to the extent you're interested in doing it, I'm not saying that you should, those are the people to talk to.

And it was not -- as I say, it was not a lengthy meeting. They basically said if you ever get out here, give us a buzz, and that was it, in terms of that meeting.

Q Was there anything subsequent to that meeting that you recall relating to that subject?

A I remember after that talking to people in the Public Integrity Section. And I remember, if you'll give me a little latitude, I remember having the following concern in my head --

Q Sure.

A -- which was that the people that I met did not seem to have -- I don't mean to insult them, but they didn't seem to have a high degree of sophistication in terms of DOJ or how it worked. What I didn't want to have happen is to have them call Public Integrity and say Matt Friedrich just told us that we should open a case. I didn't know them. I didn't know what they would do or not do.

So I called Public Integrity. At that time they were in a transition period that I remember. The head of the Public Integrity would either have been Andy Lourie, L-O-U-R-I-E, or his deputy Brenda Morris. Andy was coming in in an acting capacity. I don't remember who was there at the time. I worked with Public Integrity a lot. I interacted a lot with those folks. And I remember having a very brief conversation with one of them where I essentially said, listen, some folks came in to see me about a voter fraud matter -- I may have passed on the name of ACORN -- and you may hear about this from them. If you hear about this from them, they may mention my name. The fact that they mention my name shouldn't be read by you as some type of endorsement that either a case should be opened or not. If they call you, handle it as you do anything else, and what you guys choose to do with this is up to you.

I will say that I later read a New York Times article

about these individuals in this matter. The article mentioned that at one point Dave Iglesias' office had, without my knowledge, consulted with the career folks and that no case was ever brought against this -- regarding the case that they were worried about. So that was the follow-up that I recall. I also remember hearing at one point essentially, yes, there's a case open on this in New Mexico, but I can't tell you exactly when.

Q In any of this discussion do you recall something called the Vigil case coming up? It's actually spelled V-I-G-I-L.

Mr. Hunt. I don't know anything about that, but I just want to caution that to the extent he answers a question, just to be careful not to confirm or deny the existence of any investigation.

Mr. Mincberg. I should make clear for the record this is a case that was tried --

Mr. Hunt. Okay.

Mr. Mincberg. -- by Mr. Iglesias.

Mr. Hunt. That's something I'm not familiar with, so I just wanted to make that on the record. That is fine. Thank you.

Mr. Friedrich. I'm sorry, did what?

BY MR. MINCBERG:

Q Do you recall any discussion in the context of any

of these discussions relating to New Mexico about the Vigil case that may have been pronounced "Vegil"?

A Okay. That name doesn't ring a bell with me.

Now, I will also add, inasmuch you asked about sort of any information without restriction to time frame. As I said, I had a family member from New Mexico. And when I went home for Thanksgiving I did call Mr. Barnett, as he had offered to meet him. We went to breakfast. He brought Pat and one other gentleman whose name escapes me as I sit here. I had a pleasant breakfast, discussed a couple of things, talked about the State, that type of stuff. They also basically repeated what they had -- I remember them repeating basically what they had said before in terms of unhappiness with Dave Iglesias and the fact that this case hadn't gone any place. And I basically, again, in response to their concerns about Iglesias, I made clear then, in the similar manner that I had when I was in the Criminal Division, that since I had subsequently moved to the AG's Office, Personnel was not something that I worked on. I did not want to be some type of liaison for concerns about U.S. attorneys.

Q And this was you think around Thanksgiving of '06?

A Yes.

Q Was there any discussion at all about a possibility of Mr. Iglesias not being U.S. attorney in the future?

A It was clear to me that they did not want him to be the U.S. attorney. And they mentioned that they had essentially -- they were sort of working towards that.

Q And did they mention with whom they had communicated about that?

A They mentioned that they had communicated that with Senator Domenici, and they also mentioned Karl Rove.

Q Did they mention Goodling again at that point?

A No.

Q Anything more specific about what they said concerning their communications with Senator Domenici or Karl Rove?

A Not that I recall. Just that they -- you know, that they were clearly undertaking some type of effort and had expressed those views to those people.

Q And at that time did you have any knowledge of the possibility of Mr. Iglesias or other U.S. attorneys being terminated in the future?

A I did. I had -- at some point when I was in the AG's Office, I had -- Kyle Sampson had basically told me that there was some type of effort being undertaken and had mentioned districts in which there might be a possibility of a removal. New Mexico among them.

Q When did that conversation occur?

A In November.

Q What else did Mr. Sampson tell you about that?

A That was basically it.

Q So when you had the conversation with these people in New Mexico something kind of clicked in your head in essence?

A Yes, I knew that that was a possibility. And I did not discuss with them anything in terms of what was on the DOJ side of the fence, because that was not my role to do. Personnel was not in my portfolio, and I didn't do that.

Q And let me go back again briefly to that conversation that you had in the Thanksgiving of '06 period. Again, the people that were in that conversation were who?

A In November '06?

Q Right.

A The breakfast?

Q That's correct.

A It was Mickey Barnett, Pat Rogers and one other gentleman whose name I don't remember as I sit here now.

Q And that other gentleman was introduced to you by one of those other two?

A Yes. My memory is I got ahold of Mickey to go to, Mr. Barnett, to go to breakfast and then he invited these other folks.

Q Does the name Weh or Weh ring a bell, W-E-H?

A No.

I. Interview of Larry Gomez
June 8, 2007

Q I take it your entire legal career, at least as a Federal prosecutor, has been in New Mexico.

A It has been.

Q Now I want to start out if I could by talking a little bit about the operation of the office during Mr. Iglesias' tenure, and I am going to start with the final EARS, EARS evaluation report that was done in late 2005. Do you recall that generally?

A I do.

Q I am going to read to you for the record the kind of concluding or penultimate paragraph right at the beginning of the report under the heading, "United States Attorney and management team."

"The United States attorney was experienced in legal, management and community relations work and was respected by the Judiciary agencies and staff. The first Assistant U.S. Attorney, (AUSA), appropriately oversaw the day-to-day work of the senior management team, effectively addressed all management issues, and directed the resources to accomplish the Department's and the United States attorneys' priorities.

The USAO had a well-conceived strategic plan that complied with Department priorities and reflected the needs of the district.

Do you agree with that conclusion, Mr. Gomez?

A I do.

Q Is there anything in that conclusion at all that

you can find that suggests that the delegation or management of the district was, in any way, inappropriate?

A Let me make a comment about the senior management team. The senior management team consisted of many senior AUSAs who are career people with probably either line experience or management experience as prosecutors, would be State or Federal, probably in excess of two centuries of experience.

Q I appreciate that. I think -- and I think you are implicitly answering my question, but I want to go back and see if I can get you to be a little more specific for the record. Is there anything in the paragraph I just read to you that suggests in any way to you that the delegation or management going on in the U.S. attorneys office under Mr. Iglesias' tenure was inappropriate?

A It was not inappropriate.

Q And there is nothing in there that suggests that?

A No, sir.

Q Can you explain in general the operation of the office during Mr. Iglesias' tenure?

A The only thing I would have to say, we were again, as a border district, we have responsibility over 22 recognized Indian tribes. We do a lot of reactive work. I think we did an excellent job addressing the border issues and also the challenge of being responsible for prosecutions. Again, it is a credit to the management team that was here and, more importantly, credit to the support staff and to the line assistants that work day in and day

out in this office.

Q Absolutely. Now during the period that Mr. Iglesias was U.S. attorney and you were first assistant, when he was in town about how frequently would you meet with him?

A I would meet with him often. When he was here, he was in the office, and I would stay in daily contact with him.

Q Would you describe him as fully engaged?

A I believe he was fully engaged.

Q When he was out of town, how often would you talk?

A I would say generally every day.

Q Would that apply also when he was on Navy duty?

A Yes.

Q When he was out of town, including on Navy duty, did you receive communications from him by e-mail?

A It would be by phone.

Q Usually by phone?

A Yes, sir. And I think he had a BlackBerry, and of course with the BlackBerry, he would stay in touch with e-mail communication. So there was some of that, but I preferred to speak with the phone if I could.

Q Did you think that Mr. Iglesias overdelegated authority to you?

A I don't think so. Again, he came into an office with many experienced Federal prosecutors, and it wasn't just me that was involved with the management of this

office, my deputy criminal chief was the former first assistant under Norman Bay, and a number of these supervisors have been supervisors in previous administrations. I think David walked into an office with lots of experience not only in the courtroom, but leadership skills, people skills and very

committed to the work of the Department of Justice.

Q So I take it obviously you never suggested to him that he was over delegating authority.

A No. And he was the U.S. attorney. I understand chain of command. I have worked in this Department of Justice structure for many years, and I know the flow of authority and the chain of command.

Q And until Mr. Iglesias was asked to resign, did you ever hear anyone suggest that he overdelegated authority?

A No. You know, you asked me about him being in the office. It was his practice to have a Monday morning meeting with all supervisors and we would connect with Las Cruces by a video conferencing system. He would also have the appellate chief, the two SLC's in there, and the administrative officer. These were his meetings that he ran every Monday morning at 9 o'clock.

Q Overall, how was the morale in the office during Mr. Iglesias' tenure?

A I believe it was good.

Q Based on your experience with a number of

U.S. attorneys how would you rate his performance and effectiveness?

A I would rate him very good. I think he recognized he came into a large district, he recognized the talent that he had, and he let those people do their job.

Q What was your reaction when he told you he was told to resign?

A Complete surprise. I never saw it coming. It was a complete surprise. Based on we had an '02 evaluation, we had

the '05 and got the results in '06. It was a complete surprise.

Q When did you first hear the charge that Mr. Iglesias was an absentee landlord or that he overdelegated authority?

A I heard that I think when the committee or committees started their work.

Q You're talking about the House and Senate committees?

A Yes, sir.

Q How would you respond to that charge?

A Again, I don't think it is accurate. I think he was engaged in his office. He was involved in the hiring, he was the final say-so on hiring on AUSAs, he was kept informed on all resource issues, case issues, anything that involved this large district, and that I think that is reflected in the evaluation by our peers in these EARS reports that were done during his tenure as U.S. attorney.

J. Interview of Mary Beth Buchanan
June 15, 2007

EXAMINATION

BY MR. NATHAN:

Q Good morning, Ms. Buchanan, I am Irvin Nathan, and I am here representing the majority of the House Judiciary Committee. And this deposition is being taken pursuant to our authority to conduct this investigation. I have provided to you and your counsel prior to the beginning of the deposition an exchange of letters between the Department and the chairman, which lay out the ground rules of the deposition. As you'll see from that, we are not asking the witnesses to be sworn in, but, as you know, this deposition is governed by 18 U.S.C. 1001, which requires truthful testimony in this proceeding.

If at any point you need a break, I'll be happy to accommodate you. And if at any point you don't understand my questions please ask me and I'll rephrase them. As you know, pursuant to the procedures there will be a number of people questioning you today in addition to myself, and I will ask them now to identify themselves for the record so that you will know who is here and who may be questioning?

Mr. Flores. Daniel Flores, House Judiciary, Republicans.

Mr. Miner. Matt Miner with the Senate Judiciary,

Republicans.

Ms. Espinel. Zulie Espinel with the Senate majority.

BY MR. NATHAN:

Q If there is anybody out there, there are a number of other people in the room, anybody else you want identified, we'll be happy to identify them. I know Mr. Howard is here and two of his colleagues and two representatives from the Department of Justice.

Mr. Hunt. Jody Hunt from the Department of Justice.

Ms. Burton. And Faith Burton.

BY MR. NATHAN:

Q Just prior to today's deposition, counsel handed me this prepared statement. I would like to have this marked as Exhibit 1 to this deposition.

[Buchanan Exhibit No. 1
was marked for identification.]

BY MR. NATHAN:

Q Ms. Buchanan, for the record, would you state your full name.

A Mary Beth Buchanan.

Q And your current position with the Department of Justice?

A I am currently the United States attorney for the Western District of Pennsylvania and the acting director for the Department's office on Violence Against Women.

A In certain instances, if management problems existed in offices that were of a significant nature, the Executive Office for United States Attorneys would propose corrective action.

Q And is this what is called the EARS Report?

A That's correct.

Q And what does EARS stand for?

A I believe it stands for Employee Evaluation and Review. I am not certain what the E stands for. Wait. I'm sorry. It stands for Evaluation and Review.

Q Evaluation and Review, right.

And in your experience, were these EARS reports well done?

A The EARS reports were very thorough. They were conducted approximately every 2 to 4 years for each office. There was an extensive amount of time spent in the preparation for the review, as well as the review itself and the follow-up to the review.

Q And how were the reviews utilized within the Department?

A The evaluation of each United States Attorney's Office was primarily used to assist the United States attorney in improving the effectiveness and the management of his or her office.

Q In your experience, were these reviews candid and

accurate?

A Yes.

Q Now, in your statement you say that when you were the director of EOUSA, you were advised by Kyle Sampson, who at that time was the chief of staff to the Attorney General, that United States attorneys would neither be renominated nor asked to submit a letter of resignation, is that right?

A That's correct.

Q And this was in November of 2004 that he advised you of this?

A Yes. He advised me of this after I asked him what the procedure would be for United States Attorneys who want to continue to serve in the second term of the President's administration.

Q I am wondering why in light of that advice from Mr. Sampson in November of 2004, you circulated in December of 2004 forms for resignations of U.S. attorneys?

A At the end of the first administration, I was asked to provide United States attorneys with guidance for those who wished to resign at the end of the first administration. That guidance was issued in November of 2004. Subsequent to that guidance being issued, several United States attorneys called me at the Executive Office for United States Attorneys and inquired whether they would be renominated and would undergo a second confirmation. In response to this

inquiry, I asked Kyle Sampson what the procedure would be for United States attorneys who wished to remain with the administration during the second term.

Q So is it your testimony that you circulated to the U.S. attorneys the forms about a resignation before you had this conversation with Sampson in which he told you that resignations would not be sought?

A That's correct. At the end of the first term, the then White House liaison, Susan Richmond, sent an e-mail to the United States attorneys asking them to advise the administration if they intended to leave after the first term, or whether they were interested in exploring other opportunities within the administration. So that is why the resignation guidance was sent out to the United States attorneys in November of 2004.

Q Is Susan Richmond, was she at the Department of Justice at that time?

A That's correct.

Q And in addition to being White House liaison, what other position did she hold, what office was she in?

A She also held the position of counselor to the Attorney General, who at that time was John Ashcroft. I believe you have the e-mail in some of the documents that have been produced that Susan Richmond sent to the United States attorneys asking them to provide the Department with

as much advance notice of their intentions within the second term.

Q Did you send the draft of the resignation forms to Mr. Sampson prior to circulating them to the U.S. attorneys?

A Yes. I coordinated with my Appointments Unit to provide the most thorough and complete guidance that we could provide to the United States attorneys. And I sent it to Mr. Sampson so that he could provide any additional input if warranted.

Q And did he advise you at that time that no resignations would be sought?

A No. As I told you earlier, the resignation guidance was sent out in November of 2004. The conversation that I had with Kyle Sampson regarding U.S. attorneys remaining in the second term occurred after I received telephone calls from United States attorneys requesting information about the procedure that they could expect for the second term.

Q Let me have marked as Exhibit 2 this document, which is an e-mail from Judy Beeman to Kyle Sampson and attachments, and it is AG, lots of zeros, 167.

[Buchanan Exhibit No. 2
was marked for identification.]

BY MR. NATHAN:

Q And let me show you, Ms. Buchanan, Exhibit 2. Who is Judy Beeman?

A Judy Beeman was the liaison to the Attorney General's Advisory Committee. And during my tenure at the Executive Office for United States Attorneys, Judy Beeman served as my executive assistant.

Q So this was your executive assistant as of December 16, 2004?

A That's correct.

Q And have you seen this e-mail before and the attachment?

A Yes, I have.

Q And it says Mary Beth, I am assuming that was referring to you?

A That's correct.

Q Asked her, Judy Beeman, to forward to Kyle Sampson a draft guidance that the EOUSA office prepared with respect to U.S. attorney resignations to be sent to all U.S. attorneys, is that correct? Is this an accurate e-mail?

A That's correct.

Q I notice the date is December 16 that it is being sent for a draft, do you see that?

A Yes.

Q And then I want to show you as Exhibit 3 a document which appears to be signed by you, and it is marked EOUSA, bate stamp number, lots of zeros, 198 through 208.

Let's have this marked as Exhibit 3.

Do you have that document before you, Ms. Buchanan?

A I do.

Q And I notice that the date on this is December 21, 2004?

A That's correct.

Q But this is the memo you have been discussing this morning, correct?

A Yes.

Q This is the date, December 21, when you sent to the U.S. Attorneys resignation guidance, sent this memo on that, correct?

A That's correct.

Q And was it after this memo went out and you received some responses that you had the conversation with Mr. Sampson that resignations would not be sought? I am just trying to pinpoint the dates. And I recognize it is a long time ago.

A I had conversations with Kyle Sampson regarding the necessity or lack of necessity to renominate United States attorneys after the December 2004 resignation guidance was sent to United States attorneys. So these are two separate events that are not connected. The resignation guidance that was sent out was sent to United States attorneys who intended to leave the administration after the first term.

Q Well, this was sent to all the United States

attorneys, wasn't it?

A It was sent to all United States attorneys so that they would all have it. And for those who intended to resign, they would have the documents that they needed so that they could resign in the appropriate manner.

Q I am just trying to pinpoint, based on these documents, when you had the conversation with Mr. Sampson that resignations would not be required of U.S. attorneys and they wouldn't need to be renominated. Was it before or after December 21?

A As I have told you several times now --

Q I am not following you.

A -- it was after December of 2004. It was in the winter, it was possibly in January, it was possibly in February, but it was well after the original resignation guidance was sent out.

Q And in response to the December 21, 2004 memo to all U.S. attorneys, did any then-sitting U.S. attorneys contact you and suggest that they did want to resign before the second term began?

A Yes.

Q Who called you?

A I don't remember. But the Executive Office would certainly have the information regarding which United States attorneys resigned. We maintain that information. And once

we received the resignation letters, we disseminated them to the White House and to the Attorney General and then we prepared to assist the United States attorney in his or her transition from the Department.

Q I don't recollect if anyone, any U.S. attorney, called you about the resignation who did not resign in the first month or so after 2005?

A I don't recall.

Q Now, on page 2 of your statement, which is Exhibit 1, you say that Mr. Sampson indicated that a review of the United States attorneys would be conducted and that while most United States attorneys would serve, some would be replaced. When did you have that conversation with Mr. Sampson?

A This conversation occurred in either January or February of 2005.

Q So, again, it was after the letter went out to the U.S. attorneys with the forms about resignation?

A Yes. As I have previously --

Q Is it the same conversation?

A As I have previously stated, these conversations were totally unconnected.

Q Okay. But was it the same conversation in which Mr. Sampson told you that the U.S. attorneys did not have to be renominated and their resignations wouldn't be sought, in

which he told you there would be this review process?

A I am not certain. I had regular communications with Mr. Sampson. The reason that I asked Mr. Sampson what the procedure would be for United States attorneys who wanted to continue to serve was because I was receiving telephone calls from U.S. attorneys who wanted to know whether they would be renominated or would have to go through the nomination process. In response to that inquiry, Mr. Sampson advised me that those -- that most U.S. attorneys who wanted to continue to serve could continue to serve and they wouldn't be renominated, but that there would be some United States attorneys who may be asked to resign.

Q And you say in your statement that he said that he would most likely seek your input in the process. I assume the process was reviewing U.S. attorneys to see which ones should stay and which ones should be suggested

for leaving, is that correct?

A That's correct.

Q And then you say that request never came?

A That's correct.

Q So you never had a follow-up conversation with Mr. Sampson about which U.S. attorneys to retain and which to ask to leave?

A That's correct.

Q Did you ever recommend to Mr. Sampson any particular

U.S. attorney who should be asked to resign?

A No.

Q Did he ever consult with you with respect to whether you believed a particular U.S. attorney should be asked to resign?

A No.

Q After he told you that he would likely seek your input in the process, did you do anything to prepare for such a role?

A No. But, at this point, I think it is important for you to understand the position that I held within the Department and my knowledge of the United States attorneys. I had been serving with most of these United States attorneys since September of 2001. I worked with many of them through various subcommittees of the Attorney General's Advisory Committee and worked with many of them in my role as Chair of the Advisory Committee. I also worked with United States attorneys on a regular basis in my role as the Director of the Executive Office for United States Attorneys. So I was a person who had extensive knowledge about the United States attorneys and their performance.

So I was certainly a likely person who Mr. Sampson would have consulted. However, Mr. Sampson never showed me a list of United States attorneys who were considered for replacement. He never asked me to comment specifically on

any individual United States attorney for purposes of his list.

Q Does that complete your answer?

A For now, yes.

Q Okay. That is fine. I want to show you Mr. Sampson's testimony that he gave in these proceedings. And I am not going to make this an exhibit, but I have an extra copy for you. And I am looking at page 112 of the transcript. And you will see that at line 8, it is Mr. Sampson talking, and he says that he remembers speaking with Bill Mercer extensively about this. On line 14, I remember visiting with him about that and asking for his views about who should be included in that smaller subset, and that subset is the ones that they were going to ask to leave. And then at line 18 he says, I remember having a similar conversation with Mary Beth Buchanan, who was the director of the EOUSA at the time. Is it your testimony that that is incorrect?

A Let me read the page and I'll get back to you.

Q Okay. Sure. You can, of course, look at any part of this, but I think you can reference lines 18 and 19. Although I would also call your attention to page 113, lines 11 and 12 where he says, So that is the group of people that I spoke with about this and gathered information from.

A Kyle Sampson did not speak with me specifically

about the list of United States attorneys who would be asked to resign. I knew that Kyle Sampson was going to conduct a review of the United States to determine if some of them should be asked to resign. I had many conversations with Kyle Sampson during our tenure at the Department of Justice that involved United States attorneys. So it is quite possible that Mr. Sampson developed impressions about U.S. attorneys as a result of those conversations. I think that it is more accurate to say, as Mr. Sampson did at page 113, that he spoke generally to those in the Department about the United States attorneys. And I would certainly agree that I spoke with Mr. Sampson generally about United States attorneys, but never specifically about the list of United States attorneys who would be asked to resign.

Q It says that this is the group of people that he gathered information from. Did you provide any information about U.S. attorneys to Mr. Sampson?

A I don't know how Kyle Sampson gathered the information.

Q No, but I am asking you whether you provided information to him? Did you go to a file, obtain information and provide it to Mr. Sampson in connection with his review?

A No.

Mr. Hunt. Can you clarify? I would just ask you to

clarify, because your question was two-part. You said, did you provide any information, and then you asked, did you go to a file. She had just testified that she spoke generally with him. So just so I understand when she says no, which part of your question she is referring to.

BY MR. NATHAN:

Q Did you gather any information for the purpose of providing it to Mr. Sampson in connection with his review?

A I did not gather any information from files of the Executive Office or any other files for Mr. Sampson in connection with his review. However, I do not know what information Mr. Sampson used to compile this list, and I don't know whether he used any information that was included in any of our numerous conversations that we had in connection with the performance of our duties at the Department of Justice.

Q Did you provide any EARS reports to Mr. Sampson?

A We provided all EARS reports to the Deputy Attorney General and to the Attorney General.

Q As they were completed, there was a routine to provide the EARS Reports as they were completed to the Offices of the Deputy and the Attorney General?

A That's correct.

Q Did you ever discuss with Mr. Sampson any EARS Reports that had been provided to the Attorney General's

Office?

A Yes.

Q Whose EARS Reports did you discuss?

A We discussed the EARS Report of Carol Lam, who was then the United States attorney for the Southern District of California.

Q When did you have that conversation?

A Shortly after the EARS Report was completed and probably while the EARS evaluation was being conducted.

Q What was the discussion you had with Mr. Sampson about the EARS Reports for the Southern District of California?

A Part of the regular communication with the Deputy Attorney General's Office and the Attorney General's Office included keeping them advised of evaluations that were ongoing and any findings that were included in the evaluation. So as these evaluations occurred, it was customary to inform the Deputy's Office and the Attorney General's Office that the evaluations were underway. So I recall advising Mr. Sampson that this evaluation was occurring. And I also recall that we discussed some of the issues that were included in the EARS evaluation.

Q So those are two separate conversations, I assume?

A There were many conversations.

Q Well, with respect to --

Was there a reason that you advised Mr. Sampson that there was a review of the Southern District of California that was underway?

A As I told you in the answer to the last question you asked, it was the regular course of our business at the Executive Office that we kept the Deputy's Office and the Attorney General's Office advised of ongoing matters involving United States attorneys, including the evaluation and review of the United States Attorney's Offices.

Q But I am asking you specifically about Kyle Sampson. And you said, you recalled only one of these EARS Reports being discussed with Mr. Sampson, and that was Ms. Lam's evaluation. And then you said you discussed with him first that it was underway. And I am asking you what was the occasion to have a discussion with Mr. Sampson, and why is it that you recall the evaluation of the southern district of California during the time that it was in process?

A Well, the reason that I recall it today is because this is one of the United States attorneys who was on the list of eight fired. So I have had an opportunity to review the evaluation and I have had an opportunity to think about anyone who I may have talked to about this evaluation process. But, as I told you earlier, every single United States attorney who was evaluated during my tenure at the Executive Office was discussed with members of the

A Absolutely not.

Q Did Mr. Sampson say anything about desiring to terminate Ms. Lam based on these issues?

A No.

Q Why don't we have marked as the next exhibit the final evaluation report for -- I notice this doesn't have a date stamp.

[Discussion held off the record.]

[Buchanan Exhibit No. 4
was marked for identification.]

BY MR. NATHAN:

Q I have handed you what's been marked as Exhibit 4. And this is the evaluation report that we have been discussing with respect to the U.S. Attorney's Office for the Southern District of California that was conducted between February 7 and 11 of 2005?

A That's correct.

Q Did you send a letter to Ms. Lam after this evaluation?

A It was the practice of the Executive Office to advise each United States attorney of the findings from their evaluation. So, yes, it was the normal course of our practice to send a letter to the United States attorneys following their evaluations, including Carol Lam.

Q And in that letter, did you raise any of the issues

that you discussed with Mr. Sampson about that report?

A If you show me the letter, I can tell you.

Q Well, I am trying to test your recollection. But I do have the letter and I will show it to you.

A And if you show it to me, I'll tell you whether I raised any of those issues.

Q So you don't recollect it without seeing it?

A That's correct.

Q Let's have this marked as the next exhibit.

Ms. Buchanan, I am handing you what is marked as Exhibit 5. It is a two-page letter. And it is EOUSA, lots of zeros, 177178.

[Buchanan Exhibit No. 5
was marked for identification.]

BY MR. NATHAN:

Q Why don't you take time to look at it.

Ms. Buchanan, I see that you have completed reviewing the letter. Is that your signature on the second page?

A It is.

Q And is this the letter that you sent to Carol Lam in June of 2005 following the evaluation of February 7, 2005?

A No.

Q What is it?

A Deputy Attorney General Larry Thompson developed a self-evaluation management review process for United States

attorneys to utilize. The letter that you have marked as Exhibit 5 is the letter that I sent to Carol Lam following her completion of the 2003 self-management evaluation report.

Q In this report, did you identify any of the issues that were raised in the EARS Report?

A I would have to compare the EARS Report to this letter in order to determine that, but this letter was sent for another purpose. It wasn't connected to the EARS Report, so it wouldn't be appropriate to compare the two.

Q But you tell her in this letter, which you agree it was sent in June of 2005 after the evaluation?

A I don't know. I can't read the date of the letter, so I don't know what year it was sent.

Q So you don't know --

Well, you were only an EOUSA for one year from May of 2004 to June of 2005, correct?

A That's correct.

Q Would it be helpful if you saw other letters that were sent on the same day to the U.S. attorneys to pinpoint the letter you sent to Carol Lam?

A It certainly would.

Q Okay. Let me show you letters to Mr. Bogden --

A Oh, no, no. These letters that were sent to United States attorneys were letters that were sent and signed by

me in response to their completion of the management self-evaluation report.

Q I understand. I am just trying to get the year of that. And I thought you said it would help you, and I'll be happy to show it to you.

A It would help. But what would really help is if you showed me a copy of the letter that was sent to Carol Lam following her evaluation and review.

Q I am going to try to find that as well, but what I want to show you are these other letters to Ms. Chiara and Mr. Bogden, which are dated July 3, 2005. And I recognize on the letter to Ms. Lam it is hard to read the year. But you would agree with respect to the special performance that Mr. Thompson put in and the letters, they also are on the same day in early June of 2005?

A That's correct.

Q And you didn't send it in June of 2004, did you?

A No, that's correct. These letters were probably sent in June of 2005.

Q The one to Carol Lam, the one that is Exhibit 5?

A Correct.

Q And you indicated that her performance reports were excellent. I understand these are what she filled out and not the EARS Report. And that they demonstrate a firm commitment with the U.S. attorneys to achieve the

Department's national priorities, correct?

A In the June 2005 letter to Carol Lam, I stated that overall the 2003 district performance report was excellent and demonstrates a firm commitment by United States attorneys, plural, to achieve the Department's national priorities, as well as a wide variety of district priorities and sound management practices. This statement referred to the United States attorneys generally, not specifically to Carol Lam.

Q Well, with respect to page 2, let's look at page 2, it says in the first full paragraph, The dedication of substantial resources of the enforcement of immigration laws enhances the district's ability to prosecute a myriad of offenses from the importation of drugs to human trafficking. Do you see that?

A Yes.

Q And that is referring to her district, isn't it?

A That's correct.

Q And in the last sentence where you say, of the last paragraph of this letter, where you say, Your report makes clear the emphasis you have put on carrying out department priorities and maintaining a solid management practice, that is also referring to the Southern District of California, isn't it, and to Ms. Lam?

A That's correct.

Q And with respect to the EARS Report, is there anything in the EARS Report that suggests that Ms. Lam is not doing an excellent job?

A I would have to look at the report to determine that.

Q You have it in front of you. It is Exhibit 4. And I want to call your attention in particular to the section under United States Attorney Management Team on the first page. It says: United States attorney Lam was an effective manager and a respected leader in the district. She was active in the Department of activities and was respected by the judiciary law enforcement agencies and the U.S. Attorney's Office staff. Do you see that? And the next sentence says: The first Assistant U.S. attorney was also an effective manager. And then the last sentence of that paragraph says: The strategy plan in district priorities were appropriate. Do you see that? Now, is there anything in there, and you can look at the rest of the report, that suggests that her performance was so deficient that she should be considered for termination?

A The evaluation and review process was intended to assist the United States attorneys to effectively manage their offices. The evaluation and review process wasn't intended to scrutinize every activity of the United States attorney, it was intended to allow United States attorneys

to raise issues that the Executive Office could look at in order to assist them in improving the effectiveness and management of their office. It was never intended to be adversarial, it was never intended to be a thorough review of the sole performance of the United States attorney. So you cannot use the evaluation and review in order to determine whether there were ever any problems with the United States attorney.

Q I am not asking whether there were any problems. I am asking you -- and you previously testified, Ms. Buchanan, and I don't want to be argumentative, but you previously testified that the EARS Reports were objective and candid and honest, correct?

A Yes. But I have also told you repeatedly that they were not intended to be an evaluation of every aspect of the U.S. Attorney's performance.

Q Right. I am not asking about every aspect. But the EARS Report says that Ms. Lam was an effective manager and a respected leader, that the first assistant was also an effective leader, and that the plan and priorities were appropriate. As far as you know, those are truthful statements, correct?

A Again, the evaluation and review process was not intended to be a thorough review of each United States attorney. Based upon the overall evaluation and review, it

was determined that Carol Lam and her management were doing an effective job, which is not the same as to try to compare Carol Lam and her performance in every aspect with other United States attorneys and their performance. So regardless of how many times you ask me this, I am not going to allow you to use this report to suggest that this was the only evaluation of Carol Lam's performance and that this was the only statement of what she was or wasn't doing. And I am happy to talk to you about any specific aspects of her performance and those that I have ever heard were problematic.

Q What other evaluations of Carol Lam are you aware of that existed as of February or March of 2005 besides the EARS Report?

A United States attorneys regularly provided information to the Department of Justice involving a full array of the programs that each office handled. These programs included Project Safe Neighborhoods, immigration prosecutions, child exploitation prosecutions, corporate fraud, and I am sure there were other areas. But each United States attorney was required to submit on a regular basis information about their prosecutions in significant priority areas. So this was one way that the productivity and effectiveness of each United States attorney could be measured.

Q Let me have marked as the next exhibit this e-mail attachment from Mr. Sampson to Ms. Miers dated March 2 of '05.

Let me show you what's been marked as Exhibit 6.

[Buchanan Exhibit No. 6
was marked for identification.]

BY MR. NATHAN:

Q Attached to Exhibit 6 is a chart that is dated February 24, '05. I take it from your prior testimony that you did not see this document contemporaneously, that is in 2005, correct?

A That's correct.

Q But you have seen it since in connection with preparation for this appearance, correct?

A Yes, that's correct.

Q I want to call your attention to the first page which says, as you'll see at the bottom, that a ~~strikeout~~ means recommending removing, that these are weak U.S. attorneys who have been ineffectual managers and prosecutors who have chafed against administration initiatives, et cetera. Do you see that?

A Yes.

Q Now, if you turn to the first page and you look at the California Southern District, you'll see that Carol Lam's name is stricken, which means that as of February 24

of '05, Mr. Sampson concludes that she is an ineffectual manager who is chafing against administration priorities. And also take a look at Exhibit 4, which says that she's an effective manager who is implementing the priorities. My question to you is, do you know the basis for Mr. Sampson's conclusions in February of '05 that Ms. Lam was an ineffectual manager who chafed against administration initiatives?

A Well, I think that what this says, my reading of this, is that the strikeout referred to ineffectual managers and prosecutors, comma, chafed against administration initiatives, comma, et cetera. So I think that that included a number of factors. But in answer to your question, no, I do not know specifically which of these issues he was referring to, because I don't know what process he used to compile the list.

Q You don't know what he consulted or who he consulted to come up with that conclusion, correct?

A That's correct.

Q And it wasn't you?

A That's correct.

Q Now, let's go back to your statement. In your statement on page 2, this is Exhibit 1, you quote a statement from Ms. Goodling which says, I heard that Sampson was engaged in an effort in mid 2005 because I was working

in the Executive Office for U.S. Attorneys, and I know that Sampson had spoken with Mary Beth Buchanan and Mike Battle at various points and they had mentioned it to me. Do you see that?

A I have seen that, yes.

Q Now, did you have conversations with Monica Goodling about this process that Mr. Sampson was engaged in?

A During my tenure as the director of the Executive Office for United States Attorneys, Monica Goodling was one of my deputies. During that time period, I believe that I told Monica that Kyle and I had discussed the fact that certain U.S. attorneys may be asked to resign.

Q When did Ms. Goodling become one of your deputies?

A I believe she joined the Executive Office in December of 2004.

Q December of 2004?

A Yes.

Q So that is near the end of your tenure?

A It was in the middle.

Q The middle. And did she remain as a deputy through June of 2005 when you left?

A When I left the Executive Office in June of 2005, Monica Goodling was then a deputy for the new director, Michael Battle.

Q So she remained continuously from December 2004

through at least June of 2005 when you left?

A That's correct.

Q And, approximately, when did you have this discussion with Ms. Goodling about Mr. Sampson's conversation with you?

A I don't recall.

Q Was it near the beginning of her tenure?

A I don't recall.

Q Why did you tell her that?

A As my deputy, one of the responsibilities that Monica Goodling had was to work with the Appointments Unit. And she assisted me in scheduling interviews for United States attorneys who were acting in an interim basis and for those who were being appointed upon the resignation of United States attorneys. So I told Monica Goodling that Kyle Sampson was going to conduct a review process and that some U.S. attorneys may be asked to resign. Therefore, if that happened, the Appointments Unit would have additional work to do.

Q Did you ask her to participate in the process in any way?

A No. Because, again, I wasn't participating in the process. I was just telling her that this was something that he had told me and that we might expect would occur in the future.

Q Did you ask her to gather any information to provide to Mr. Sampson?

A No.

Q Did you ask her to offer reviews on this?

A No.

Q Do you know whether she did offer her views to Mr. Sampson?

A I do not know that.

Q She never discussed that with you?

A No.

Q Did Mr. Sampson ever share with you the reasons that any of the U.S. attorneys he was recommending for termination were put on the list for termination?

A I never discussed with Kyle Sampson the individuals who were proposed for termination, nor did I discuss with him the attorneys who were ultimately asked to resign.

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[10:06 a.m.]

Q And this comes within that, but let me just ask it, did Mr. Sampson ever share with you the individuals who recommended to him that certain U.S. attorneys be terminated?

A No, but when Kyle Sampson had his initial conversation with me about certain United States attorneys who may be asked to resign, he indicated that a review of the United States attorneys would be conducted, others in the Department would be consulted, as well as individuals from the home State of the U.S. attorney to determine if they had any recommendations for whether the U.S. attorney should stay or go.

Q Well, with respect to the latter, what did you understand him to say with respect to contacts of third parties in the home States of the U.S. attorneys?

A As I previously stated, it was my understanding that Kyle Sampson was going to conduct a review of the U.S. attorneys to determine if there were any who had not been as effective as they could have been and that should be replaced for any reason. It was my understanding that Kyle Sampson generally wanted to make sure that the United States attorneys that were going to serve in the second term were

the most effective that we could get.

And you know, as often the case, sometimes United States attorneys as they serve for an extensive period of time they lose their zeal for the job; and he wanted to make sure that the people we had in place were the best that we could get.

Q With all due respect, you didn't answer my question, which is, with respect to the third parties in the home States that Mr. Sampson told you he would consult with, who did you understand those people to be? What types of people?

A He didn't tell me that. It was a general conversation. He indicated that he would consult with people in the Department and others. So it was a very general conversation. It wasn't a conversation that we had in connection with his preparation of this list. It wasn't a detailed conversation. He didn't get specific and name names as to who he would consult.

Q With respect to those within the Department that he would consult, did he name either names or positions -- or their positions?

A The only thing I know about who he was going to consult is what I just told you. I don't know who he was going to consult. I don't know what positions they held. I -- I don't know.

District of Pennsylvania. So I split my time between Pittsburgh and Washington. While I was in Washington, my office was on the second floor of the Main Justice Building.

Q And in a given week during a time that you held both positions, how much time did you spend in Washington and how much time in Pittsburgh?

A I would try to split my time equally, but very often I spent more weekdays in Washington than in Pittsburgh. So I probably was in Washington at least 3 of the 5 workdays.

Q And did you work on weekends in Pittsburgh in the U.S. attorneys office?

A I work all the time.

Q Okay. But did you work in the U.S. attorneys office over the weekends?

A Yes.

Q When's the last time you did speak with Kyle Sampson?

A I haven't spoken to Kyle Sampson since he left the Department.

Q Did you speak to him between late November of '06 and the time you left the Department, which I believe was around March 12th of '07?

A Oh, I'm sure I did.

Q What would be the topics that you would have had with Mr. Sampson at that time?

A I don't recall.

Q Well, did you speak to him about the culmination of this process and the resignation of -- at that time, it was believed to be eight, it is now known to be nine U.S. attorneys?

A No.

Q Even after it was publicized, there was publicity about it, did you ever have any conversation with Mr. Sampson about the selection process?

A No.

Q Has he ever explained to you who recommended any of the particular people for the list?

A No.

Q When's the last time you spoke with Monica Goodling?
[Discussion off the record.]

Ms. Buchanan. Possibly in May of 2007.

BY MR. NATHAN:

Q What was that occasion?

A I called Monica after she left the Department to ask how she was doing and to tell her that a number of her coworkers were thinking about her and wished her well.

Q In that conversation, did you discuss the firings of the U.S. attorneys?

A No.

Q At any time prior to that, did you discuss with

A We talked about the fact that there were a number of Members of Congress who were concerned about the prosecution of immigration cases on the border and that Carol Lam was asked to look at her prosecutions and determine whether improvements could be made or best practices could be adopted and that there weren't significant improvements that were made after that request.

Q Did --

A We also talked about Project Safe Neighborhoods cases.

Q About Carol -- what about the Southern District of California?

A That's correct.

Q What did she say about that?

Mr. Howard. "She" being Monica?

Mr. Nathan. Yes.

Ms. Buchanan. We talked about the low number of Project Safe Neighborhoods cases that were prosecuted by Carol Lam's district.

BY MR. NATHAN:

Q And exactly why was she having this conversation with you about Ms. Lam? Sometime -- I take it this is like in December of '06 or January of '07?

A I think because she was telling me that I might be asked questions about my discussions with Carol Lam

involving her performance that I may have had during my tenure as a Director of the Executive Office for the United States attorneys.

Q She was giving you a heads-up and reminding you of your December, '04, conversation; is that right?

A No, she wasn't giving me a heads-up or reminder. She was just saying that, since I dealt with some of the United States attorneys, that I may be asked questions about my dealings with them.

Q Did you make a note of this conversation?

A No.

Q Is there any way that you can pinpoint the date on which this conversation occurred?

A I don't know.

Q When is the first time that you learned that the eight U.S. attorneys had been asked to resign?

A I think I learned this in December of 2006.

Q And from whom did you learn it?

A There are a culmination of things that happened at the time. Several United States attorneys who were asked to resign sent e-mails to United States attorneys in December advising their colleagues that they would be leaving the Department. And I recall that at the time I was surprised to see many of these e-mails coming out in December with United States attorneys indicating their plan to leave the

Department without also having some information about where they were going. And I recall that I had a conversation with Mike Battle in December of '05 and I --

Q December of '05 or '06?

A December, '06, '06 -- and I believe that he told me that there were a number of United States attorneys who had been asked to resign.

Q Did he tell you who they were?

A Yes.

Q And with respect to these e-mails that were sent to all U.S. attorneys, which of those that you can recollect surprised you?

A I recall being very surprised that John McKay was leaving.

Q Anyone else?

A I don't recall. I just remember that there were a number of e-mails that came out, and it struck me as odd that they were all sending e-mails around at the same time and that many of them did not also announce their future intentions.

Q I just want to go back and see if there is anything that -- now that you recollect that you had this conversation with Mr. Battle and that you were surprised by seeing these e-mails, if you can with any degree of accuracy estimate when it is you had this conversation with Monica

Goodling about your conversations with Carol Lam.

A I don't know. I --

Q Could it have been as late as February of '07?

A Oh, it could have been.

Q Okay.

Did -- and what was the conversation you had about Ms. Chiara, the conversation with Monica Goodling about Margaret Chiara?

Mr. Howard. Can we just go off the record?

Mr. Nathan. Absolutely.

[Discussion off the record.]

BY MR. NATHAN:

Q Is there anything that you can consult that would help you recollect when this conversation with Ms. Goodling took place?

A I had a number of conversations with Monica Goodling during December, January and February; and I can't recall specifically when we talked about Carol Lam.

And at this point I need to take a break.

Mr. Nathan. Okay, let's take a break. As promised.

[Recess.]

BY MR. NATHAN:

Q You testified that in this conversation you had with Ms. Goodling that she mentioned you might be called upon to answer questions about Ms. Lam. Did she explain who might

know whether he considered any of that information in his process.

Q I appreciate that. I take that what you're saying is that, while there are issues here, you did not believe these were firing issues --

A No, I --

Q -- at the time?

A I don't know what all the issues were.

Q The issues that you knew about at the time and the issues that you were discussing with both Ms. Lam and with Mr. Sampson.

A I can't answer that question. Because if you had to compare all the United States attorneys and compare all of their performance, compared to each other, I don't know whether these individuals would fall below the performance level of the other U.S. attorneys, because that kind of a comparison wasn't done. So I'm not going to say that they should or shouldn't have been fired. What I can tell you is that I didn't have anything to do with the process, and I don't know what process was used.

Q With respect with Mr. Ryan, what was your discussion with Mr. Sampson?

A During the time that I was the Director of the Executive Office, we received complaints about the management of the office in the Northern District of

California. We received complaints from former staff members, from members of the judiciary and possibly others in the community, and we were concerned about the management of Kevin Ryan's office.

So I, along with David Margolis, asked to meet with Mr. Ryan and his first assistant so that we could discuss the complaints about the management of his office and determine what was going on there.

Q And what did you conclude?

A We concluded that there were probably some management problems in Kevin Ryan's office and in order to address those problems we should ask a special evaluation team to go to the Northern District of California and conduct a review of the management practices.

Q Approximately when did you have these discussions with Mr. Sampson about Mr. Ryan in his office?

A I would have had those discussions with him in or around the time that I was meeting with Mr. Ryan, and these discussions would have occurred because I would have told Kyle that we had a meeting with Kevin Ryan.

I think that the meeting occurred in early spring of 2005.

Q Sometime near March of 2005, is that what you mean by the "early spring"?

A In the spring of 2005.

Mr. Howard. It might be important to -- we know that she's having conversations with Kyle Sampson, but why were you having conversations with Kyle Sampson is the nature of --

Mr. Nathan. I accept that question from your counsel.

BY MR. NATHAN:

Q Why were you having conversations with Mr. Sampson about Mr. Ryan in his office?

A I regularly had communications with the Deputy Attorney General and members of the Attorney General's staff about things that the Executive Office was involved in. And I recall that I brought this to the attention of the Deputy Attorney General and to members of the Attorney General's staff, including Kyle Sampson.

Q What was your understanding they would do with this information? How were they supposed to utilize it?

A Well, the reason we wanted to keep the Deputy and the Attorney General's office advised is that if a U.S. attorney contacted the Deputy or the Attorney General about the issue or if anyone else such as members of the judiciary would contact the Deputy or the Attorney General, we wanted them to be advised of what was occurring.

Q Did you have reason to believe in the spring of 2005 that the judiciary or any other outsiders might be contacting the Department about the management issues in the

San Francisco U.S. Attorneys Office?

A I knew that they were, because they wrote letters.

Q They had already written letters?

A Yes, they had written letters to the Deputy Attorney General; and I recall seeing news reports about complaints from people in the San Francisco community about the management of the United States Attorneys Office.

Q Were these letters written and the news reports published prior to the time that you advised the Deputy and the people in the Attorney General's office, including Mr. Sampson, about Mr. Ryan?

A Some of them probably were, and others had not.

Q I want to call your attention again to Exhibit 6 that I believe you have over there, which is the e-mail from Mr. Sampson to Ms. Miers; and I want you to take a look at the first page of the attachment, the second page of the document. In there, you see Mr. Ryan's name is in bold?

A Yes.

Q And if you look at the first page you will see bold means recommended retaining strong U.S. attorneys who have produced and managed well and exhibited loyalties to the President and Attorney General.

Do you have any basis for which Mr. Sampson in late February of '05 could have concluded that Mr. Ryan was a good manager of his office and was a strong U.S. attorney?

A I don't know. I think that the communications that I had with Kevin Ryan and with other people in his district occurred after March 2nd.

Q Well, okay, after March 2nd. And, before that, was this all a surprise to you after March 2nd that Mr. Ryan had problems out there?

A No.

Q When did you first know?

A The United States Attorneys Office for the Northern District of California had a long history of problems. The problems in the office predated Kevin Ryan's tenure as the United States attorney.

Shortly after Kevin Ryan became the United States attorney, there were discussions about his management style. I don't recall exactly when these communications came to the attention of the Executive Office. What I can tell you is that, at some point, these communications escalated, and there were letters that were sent to the Deputy Attorney General, there were numerous newspaper articles that appeared in the press. And after the escalation of these concerns, I meet with Kevin Ryan and his first assistant along with David Margolis in an attempt to address some of the management concerns.

Q What I'm asking you is, do you know of any basis on which Mr. Sampson could conclude at the end of February of

'05 that Mr. Ryan was a strong U.S. attorney who was managing his office well?

A Well, I know that Kevin Ryan had a number of significant computer crime and intellectual property cases, so I think that there were certainly good things that were done in Mr. Ryan's office. So I certainly think that there were positive things that could have come to the attention of Kyle Sampson and others.

Q Is Mr. Ryan a member of The Federalist Society?

A I don't know.

Q Are you?

A Yes.

Q Was there ever occasion to analyze the U.S. attorneys who were members of The Federalist Society?

A Not to my knowledge.

Q During your tenure?

A Not by me and not to my knowledge.

Mr. Nathan. Let's have marked as the next exhibit, a document which bears the Bates stamp AG -- lots of zeros -- 1151 through 1154.

[Buchanan Exhibit No. 7

Was marked for identification.]

BY MR. NATHAN:

Q I'm handing a copy of what has been marked as Buchanan 7. The cover e-mail is from Monica Goodling to

John Nowacki. Do you know who is Mr. Nowacki?

A John Nowacki.

Q It is pronounced --

A Nowacki is a deputy in the Executive Office for United States Attorneys.

Q Was he there when you were there --

A No.

Q -- in that capacity?

A No.

Q Attached to this is a document which appeared to have been prepared long before that e-mail. As you will see, it lists Mr. Comey as the U.S. attorney in the Southern District of New York; and it includes, as far as I can tell, all the U.S. attorneys at the time it was prepared.

Have you ever seen this document before?

A I saw it because it was provided to me shortly before my meeting with you today.

Q But prior to that and particularly in your capacity as Executive Director of the EOUSA, did you see this document?

A No, I have not seen this document at any time prior to my preparation for my interview with you today.

Q And do you have any knowledge of why this was prepared?

A I have absolutely no knowledge as to why Exhibit No.

7 was prepared or who prepared it.

Q You will see, with respect to you, the last column of this says Fed-Soc. Do you understand that stands for Federalist Society?

A It could.

Q It says as to you, yes, correct?

A That's correct.

Q And when did you first join The Federalist Society?

A Long before it was cool.

Q Is it cool?

A I think so.

Q When did it become cool?

A Let's see, I probably joined The Federalist Society in the '80s.

Q And you will note that Mr. Ryan --

A Late '80s.

Q -- is listed as a member The Federalist Society on the last page.

A Yes, I see that.

Q Is Mr. Sampson a member The Federalist Society?

A I don't know.

Q Do you think that had anything to do with Mr. Sampson ranking Mr. Ryan as a strong, good manager of the U.S. Attorney's Office in late February of '05?

A I don't know.

Q Did Mr. Ryan have strong political support in the Northern District of California to be a U.S. attorney?

A I don't know.

Q You said that you were surprised by the resignation letter of Mr. McKay, which you saw in December of '06. Do you recall that?

A That's correct.

Q Why did that surprise you?

A Well, it surprised me because I knew John well, and I was not aware that he had any intentions of leaving the Department. I knew how much he loved being a United States Attorney. I knew how well regarded he was in his office and in his community. And it surprised me that he resigned or announced his intention to resign and that I hadn't heard anything about it.

Q Did Mr. McKay have a good reputation in the Department?

A I think that John McKay had a good reputation with some in the Department, and I think that he had a not-so-good reputation with others.

Q With whom did he have not a good reputation?

A There were some people in the Department that felt that from time to time John didn't exhibit the highest level of diplomacy when dealing with others within and outside of the Department.

For example, if the United States attorneys would have a meeting of all United States attorneys, we would often invite individuals from within the administration to come and address the group, including the directors of the law enforcement agencies. At these meetings we would have an opportunity to ask questions of the agency heads, and most often we submitted questions in advance so that the agency head could obtain the appropriate information to answer the questions. And there were a couple of occasions when John McKay asked a question that was considered by some to be inappropriate, to put these individuals on the spot in that setting and ask that question, but John McKay was well liked by his colleagues.

Q With respect to the Deputy at the Attorney General, was Mr. Comey the Deputy during the time that you were the Executive Director of EOUSA?

A Yes.

Q What did you understand Mr. McKay's reputation to be in the Deputy's office?

A With Jim Comey?

Q Yes.

A I don't have any understanding of what it was with Jim Comey.

Q What about in the Attorney General's office?

A I know that some of the incidents involving John

McKay asking questions during U.S. attorney meetings occurred during Attorney General Ashcroft's tenure, so I -- you know, I'm not sure specifically when these incidents occurred, and I don't know what the extent of his reputation was, but I do know that these incidents were noted.

RPTS CALHOUN

DCMN MAGMER

[11:05 a.m.]

Q Did you ever have any discussions with Kyle Sampson about John McKay?

A I don't recall. I don't recall that I specifically had conversations with Kyle Sampson in detail about any of these U.S. attorneys other than Kevin Ryan and Carol Lam, but from time to time Kyle Sampson would ask questions of me and other U.S. attorneys of a general nature, like what do the U.S. attorneys think of so and so.

Q You mean another U.S. attorney?

A Right. A question that would be asked in general conversation. So he did have a habit of asking these types of questions. So I can't tell you today whether at any time during the time I have known Kyle Sampson whether he ever asked me what I thought about John McKay or what others thought of John McKay.

Q You don't recall ever sharing your views of Mr. McKay with Mr. Sampson?

A No.

Q I want to call your attention again to this Exhibit 6, I believe it is, particularly on page three, page three of the exhibit. You will see that Mr. McKay's name is stricken there, and you'll see that this was done in

February of 2005.

Again, if you will look at the front page, stricken means a weak U.S. attorney, who is an ineffectual manager, who chafes against management initiatives.

Did you ever hear any criticisms of Mr. McKay as of late February or early March of '05 suggesting that he was a weak U.S. attorney and ineffectual manager or that he chafed against administration initiatives?

A The only negative things I heard about John McKay up to that point were concerns that he was sometimes inappropriate in asking questions in public settings.

I thought John McKay was a very good U.S. attorney. I had been to his district on a number of occasions. I knew that he had good relationships with the law enforcement in his community, that he had good relationships with members of his staff.

I reviewed newspaper accounts of cases that John handled. My daughter lives in Seattle, so I heard about John's performance in Seattle. I think that, generally, John's performance was very good and the only -- the comments of concern that I heard dealt with his lack of diplomacy.

I also heard that shortly before he was asked to resign he sent a letter to the Deputy Attorney General urging the Deputy to support the LinX Information Sharing System, which

had been signed by a number of other United States attorneys; and I understand that the Deputy Attorney General had concern over what was in the letter and what John McKay had done to coordinate the signatures of the other United States attorneys on the letter.

Q When you say "shortly before," you mean that's in connection with December of '06 -- shortly before December of '06?

A Yes, that's correct.

Q I'm asking about March of '05, which we can agree is well before December of '06, correct?

A I have told you everything I know about John McKay.

Q Well, have you? Did you hear of anything that Mr. McKay was criticized in late '04 and early '05 for not prosecuting cases relating to the gubernatorial election in the State of Washington?

A No, I never heard that.

Q Did you ever hear that Mr. McKay was rejected for a judgeship that he had applied for?

A Yes.

Q When did you hear that?

A John McKay told me that in January of '07.

Q Is that the first time you heard that?

A Yes. I didn't even know John McKay was being considered.

Q Did he explain why he thought he had been rejected for this?

A He explained that his rejection occurred either the day after or within days of his being asked to resign from the Department and he believed that the two were connected.

Q Did he say what he thought the connection was?

A No.

Q Did he tell you of any conversation with anyone at the White House who told him that he was not popular with Republicans because he hadn't brought any cases in connection with the very close gubernatorial election in '04?

A He told me about his interview with Harriet Miers, and he told me that Harriet Miers asked him a question about his handling of a case and suggested that he had mishandled it. I don't recall what case he was referring to, but he did relay this to me in January of 2007.

Q And Mr. McKay told you that he believed that his termination as U.S. attorney and his rejection as a judge were related?

A Yes.

Q Did he tell you what he thought the relationship was?

A I don't recall that we specifically talked about what the relationship was, but we both knew that the process

for the selection of judges involved the congressional delegations and the White House and the Department of Justice, and if the Department of Justice fires you one day, it's going to be connected to the judicial process.

And I don't recall whether we specifically connected each of the dots, but we both knew what he was referring to when he said that he thought the two were connected.

Q Do you believe that the White House was involved in the termination of Mr. McKay?

A I have no idea what was involved in the termination of John McKay.

Q Did you ask Monica Goodling when you talked to her how come John McKay was on this list?

A No.

Q Did you ask her why any of the others, apart from Ms. Lam and Ms. Chiara, were on the list?

A I never asked her why any of the people were on the list.

Q Did she tell you why?

A At the time we had our first conversation about the United States Attorneys being asked to resign, she told me who the United States Attorneys were. Subsequent to that conversation, we had other conversations about Carol Lam and Margaret Chiara. Those are the only conversations that we had subsequent to the termination of these United States

attorneys.

However, during the time period that I worked with Monica, both in the executive office and after, there were a few conversations that we had about some of the United States attorneys on the list.

Q What were those discussions?

A One of the discussions that I recall about David Iglesias had something to do with his handling of a public corruption investigation and a very unorthodox process of utilizing a bipartisan commission to investigate the case. This would not be something that a United States attorney would do in the due course of conducting a criminal investigation. I recall her telling me about that, about David Iglesias.

Q Is that all you remember about David Iglesias -- about Monica's conversation with you about David Iglesias post the termination?

A Yes, that's correct.

Q Did you ask what was this bipartisan commission?

A I recall that she told me about it in a conversation that we were having in connection with an unrelated matter, and she had to get off the telephone because she had to deal with some issue that came up as a result of this issue, and that's how I recall that she told me about it.

Q Did she tell you who put Mr. Iglesias on the list to

be fired?

A No.

Q Did you ask her?

A No.

Q Were you surprised about Mr. Iglesias being on the list?

A Yes, I was surprised.

Q Was Mr. Iglesias a good U.S. attorney as far as you knew when you were Executive Director of the U.S. attorneys?

A Everything I knew about David was positive. I knew that David was very focused on border issues, narcotics issues, specifically methamphetamine, and that he was very involved in military issues. And my interactions with David were good, and I think that his interactions with his colleagues were good, and I had a generally good impression of David Iglesias.

Q Did you have any conversations with Monica Goodling about any of the remaining -- I guess there are five left -- U.S. attorneys in this post-December, '06, period?

A Well, we did have conversations about Bud Cummins; and I knew that, based on our conversations, Bud Cummins had been asked to resign in order to make room for Tim Griffin. And we also had a conversation about Margaret Chiara.

Q With respect to Mr. Cummins, did Ms. Goodling give you any reasons for his termination, other than making room

for Mr. Griffin?

A What she told me was that it had been the Department's impression that Bud Cummins intended -- had an interest in leaving and that Tim Griffin was interested in serving as United States attorney and that at some point they asked Bud Cummins when he was planning to leave and whether he could leave by a certain time because Tim Griffin was a candidate that people were interested in.

Q Were you aware of any performance-related issues with Mr. Cummins?

A No.

Q With respect to the terminations of these U.S. attorneys and your conversations with Ms. Goodling, I understood you to say that all those conversations occurred after December 7th of 2006.

A No, that's not correct.

Q What conversations about the terminations occurred prior to December?

A We didn't have any conversations about terminations prior to December 7th, 2006. We had conversations about various U.S. attorneys prior to December 7th, 2006. But these conversations were not directly related to their proposed terminations.

Q What conversations can you recall concerning any of these eight U.S. attorneys with Ms. Goodling between the

time that you left as Executive Director of the OUSA in June of '05 and December 7th of '06?

A I just answered your question. I had lots of conversations with Monica Goodling from the time I left the executive office to December 7th. I never had any conversations with her before December 7th about the termination of these United States Attorneys.

Q Did you have any conversations with her about the performances of these eight U.S. attorneys between June of '05 and December, '06?

A The conversation that we had about David Iglesias' use of a bipartisan commission to investigate a public corruption case occurred at some point between June, 2005, and December, 2007.

Q What was the context of that conversation?

A That was the conversation that I just related to you earlier wherein Monica indicated that she had to address an issue that was related to David Iglesias and his use of a bipartisan commission. And it was such an odd concept that I remember it.

Mr. Flores. I believe you said that conversation took place between June, '05 and December, '07. Did you mean '06?

Ms. Buchanan. I'm sorry, yes. Thank you.

BY MR. NATHAN:

Q Do you recollect when approximately this conversation took place?

A I don't recall.

Q Why was Ms. Goodling talking to you about Mr. Iglesias in this time period?

A I talked to Monica Goodling often and --

Q After you left the office of executive --

A Yes. And I believe that we were having a telephone conversation, and she had to get off of the telephone call to deal with this issue.

Q Did Ms. Goodling ever tell you that the EARS report on Mr. Iglesias was not fully satisfactory?

A I don't recall having any discussions with Monica Goodling about the EARS report, David Iglesias, and I don't know when an EARS evaluation of David Iglesias took place.

Q Let's turn to that. I am going to hand you what's been marked as Buchanan deposition 8, which is an evaluation report on the office of the District of New Mexico in the period of November 14 to 18, 2005. Do you have a copy there? Have you seen this EARS report before?

A Because the report is dated November 14th -- or because the evaluation occurred between November 14th and the 18th of 2005, this would have been during the time period that I was the Director of the Executive Office for U.S. Attorneys, so I would have seen this at some point.

But at this time as I look at it now, as I look at Exhibit Number 8, I don't recall anything about this.

Q Let me just call your attention to the paragraph under United States Attorney and Management Team. Do you see that on the first page?

A Yes.

Q Let me read it. Says: United States attorney was experienced in legal, management and community relations work and was respected by the judiciary agencies and staff. The first assistant United States attorney appropriately oversaw the day-to-day work of the senior management team, effectively addressed all management issue issues, and directed the resources to accomplish the Department's and United States attorneys priorities. The U.S. attorneys office had a well-conceived strategic plan that complied with Department priorities and reflected the needs of the district.

Do you see that?

A Yes.

Q Do you see anything in there that is -- can be construed as critical of Mr. Iglesias?

A Well, this is the same conversation we had this morning. The evaluation and review of each district was not developed or devised to be a top-to-bottom review of the performance of the United States attorney. It was designed

to help the United States attorney to effectively manage the office and improve the performance of the office.

Q With all due respect, that is not my question. My question is, do you see in this paragraph --

A Your question is trying to ask me whether this report is a full evaluation of Mr. Iglesias.

Q I did not ask about a full report of Mr. Iglesias. With all due respect, Ms. Buchanan, I am asking you, in the confines of this paragraph, is there anything in this paragraph that suggests that Mr. Iglesias is not an excellent U.S. attorney?

A Not --

Q I am not asking you about anything outside the paragraph.

A This paragraph does not. However, my testimony today should reflect that this report is not the sole performance and review evaluation of any United States attorney.

Q I understand, and that has been your testimony. What I am asking you is, can this paragraph -- is there anything in this paragraph that could be cited as a justification for the termination of Mr. Iglesias?

A In this paragraph alone, no.

Q Thank you.

Mr. Howard. Just so the record is clear, the date is

November 14th to 18th, 2005; and she had already left the executive office by that period.

BY MR. NATHAN:

Q Ms. Buchanan, when is --

A That's right. I was thinking this was during my tenure. This is why I don't remember it, because it occurred after I left. Thank you.

Q What's the first time that you learned about the investigation of Congressman Cunningham in the Southern District of California?

A Probably when I read about it in the newspaper.

Q Approximately when was it?

A I don't remember. Whenever it was in the newspaper, that's when I learned about it.

Q You wouldn't have learned about it in advance of that?

A The first time I recall hearing about the Cunningham investigation was when I read about it in the newspaper.

Q And did you have any conversations with Mr. Sampson about that investigation or prosecution?

A No.

Mr. Nathan. May I have marked as the next exhibit a one-page document which is from the EOUSA with Bates stamp number of 195.

[Buchanan Exhibit No. 9

Was marked for identification.]

BY MR. NATHAN:

Q As you will see, Ms. Buchanan, this is an e-mail or copy of an e-mail that apparently was sent to you by someone named Leonard Leo on March 7th, 2005. It's referenced in your statement. Do you currently have a recollection of receiving this e-mail?

A No.

Q Can you tell us who Mr. Leo is?

A I believe that Leonard Leo's current position is Executive Director of the Federalist Society for Law and Public Policy Studies.

Q What was his position on March 7th of 2005?

A I think it was the same.

Q He was affiliated with the Federalist Society.

A That's correct.

Q Had you dealt with him in the Federalist Society matters prior to March of '05?

A Yes. I have known Leonard Leo for many years.

Q Where is he actually located?

A The office of the Federalist Society is in Washington, D.C.; and Mr. Leo lives in Washington, D.C.

Q Looking at the letter, at the e-mail now, it was sent after 11:00 that evening of March 7th. Do you have any explanation as to why Mr. Leo was suggesting that you guys

at the Department of Justice needed a candidate for the U.S. attorney in San Diego when Ms. Lam was the U.S. attorney and there was no indication, publicly anyway, that anybody was leaving the U.S. attorneys office in the Southern District of California?

A I don't know.

Q Did you ever make any inquiry of Mr. Leo as to why he sent this e-mail?

A Yes.

Q When?

A I asked Leonard Leo about this e-mail last week. I saw this e-mail last week for the first time.

Q The first time that you now recollect, right?

A Right.

Q You're not saying that you didn't see it back then?

A I don't know. I don't recall ever seeing this.

One of the things that I asked the Department of Justice if they could do was to determine whether the e-mail was ever opened on my e-mail system to determine whether I received it, because I don't recall seeing this.

Q Did you get an answer to that inquiry to the Department?

A No, I haven't. I called Leonard Leo after I knew that this e-mail was being turned over to advise him that this e-mail would most likely find its way into the

newspaper, and I asked him why did you send me this e-mail. And he didn't recall sending me the e-mail either, but he did say, if he sent it to me, he probably sent it because for some reason he thought Carol Lam might be leaving, and he thought that he most likely read some article or -- he didn't specifically recall, but he thought there had to be some reason why he thought that she might be leaving.

Q Have you noted the fact that on March 2nd Mr. Sampson told Ms. Miers that he proposed to fire Ms. Lam and that within a couple of days Mr. Leo's e-mail shows up in your machine?

A Those are the dates of the exhibits, yes.

Q And Mr. Leo had no explanation for that?

A He didn't recall either.

Q Do you recall seeing anything in the newspapers in the period of March of '05 suggesting that Ms. Lam was about to leave the office?

A I don't recall.

Q In this same time frame, March of '05, did you solicit the resume of Mr. Griffin?

A No. I believe that I had asked for the resume of Tim Griffin at an earlier point when I was considering Mr. Griffin for an AUSA position in Arkansas.

Q Who is Lisa Bevels?

A Lisa Bevels was and is the budget officer for the

Executive Office for the United States Attorneys.

Q And when did you first know Mr. Griffin?

A Mr. Griffin was interested in serving as an assistant United States attorney in Arkansas in the winter of 2005.

Q I will show it to you, if you like. I'm not sure we need to attach it, but this is an e-mail.

A I reviewed Mr. Griffin's resume --

Mr. Howard. Are you marking this one?

Mr. Nathan. It's not necessary.

BY MR. NATHAN:

Q I'm just asking you if you can recollect why you are asking for Tim Griffin's resume.

A I recall receiving his resume because he was interested in the AUSA position in Arkansas. I recall talking with the U.S. attorney there, Bob Balfe, about whether he would be interested in Mr. Griffin as an AUSA in his district. He indicated that he was. I sent his resume to Lisa Bevels, who is my budget officer, to consider his experience level and determine what appropriate salary range he might be in if we offered him a position.

Q Was the U.S. attorney there an interim U.S. attorney?

A No.

Q He was a permanent U.S. attorney?

A Yes.

Q Why were you involved in the hiring -- potential hiring of an assistant U.S. attorney in that district?

A Because he didn't have any open positions, and I was looking to see whether we had any positions that we could give Bob Balfe and whether there was a need in his district for additional support. Because, as the Director of the Executive Office, I monitored the resources of the districts; and from time to time there were certain districts that were understaffed and others that were overstaffed and we tried to make sure there were sufficient resources throughout the offices.

Mr. Nathan. Let's have this marked. I think this will be Exhibit 10.

[Buchanan Exhibit No. 10

Was marked for identification.]

BY MR. NATHAN:

Q Was this a common practice of you when you were the Executive Director of the EOUSA to review resumes and try to find places for assistant U.S. attorneys in offices which had permanent U.S. attorneys, presidentially-appointed and Senate-confirmed U.S. attorneys?

A It wasn't a regular practice, no.

Q Was it unusual?

A No.

Q When did you first hear of Mr. Griffin?

A Somewhere in the winter of 2005.

Q So shortly before this e-mail.

A That's correct.

Q And did you note on his resume that his work experience, that he said that he had been a research director and deputy communications director for the Presidential campaign of the Republican National Committee?

A I don't recall anything about his resume.

Q So you don't recall that?

A I don't recall the details of his resume. I recall that I looked at it, I requested it, I tried to determine what his experience level was and what salary range he might fall into.

Q Did you have any conversations from anyone at the White House about Mr. Griffin --

A No.

Q -- at this time?

A No.

Q Did you have any conversations with Monica Goodling about Mr. Griffin?

A No.

Q Do you know whether Ms. Goodling worked with Mr. Griffin in the campaign of 2004?

A I know she knew Tim Griffin.

Q How do you know that?

A At some point afterwards I knew that she knew him.

Q But in connection with looking for a position for him, that topic didn't come up with Ms. Goodling?

A No.

Q Do you recall discussing there with anyone other than Mr. Griffin and the U.S. attorney in the Western District of Arkansas?

A I think that I originally got his resume from Susan Richmond.

Q Ms. Richmond was the White House liaison at the Department of Justice?

A Yes.

Q Do you recall what she said?

A Yeah, she said Tim Griffin was interested in working at the Department of Justice, that he was a good candidate. Could we take a look at his resume and see if we might be able to use him in Arkansas.

Q Did she suggest that she had had some conversations with the White House about Mr. Griffin?

A I knew that she had been asked to pass his resume along. I don't know who specifically she talked to, but I had the impression that she had been asked to.

Q By the White House, someone at the White House.

A I think so, yes.

Q And did Mr. Griffin get this position?

A No. I think we ultimately offered him the position, but he took another job instead.

Q You say in your statement on page three that you have no reason to believe that Bud Cummins, the former United States attorney to the Eastern District of Arkansas, was replaced for any purpose. I assume you -- any other purpose than to make room for someone else to serve in his position.

A That's correct.

Q Did you ever hear that -- any performance criticism of Mr. Cummins?

A No.

Q Did you ever hear that Mr. Cummins was lazy?

A I never heard that, no.

Mr. Nathan. Let me show you an e-mail that was only produced very recently by the Department of Justice, and let's have this marked as the next exhibit, number 11.

[Buchanan Exhibit No. 11

Was marked for identification.]

BY MR. NATHAN:

Q Ms. Buchanan, I show you this e-mail that is an exchange of e-mails between Sara Taylor and Kyle Sampson in February of '07. I assume you have not seen this before.

A No.

Q Do you know who Sara Taylor is?

A Yes.

Q Who is she?

A Sara Taylor was the Political Director at the White House.

Q To whom did she report?

A I don't know.

Q Have you received e-mails from her?

A No.

Q Have you had dealings with her?

A I met her, but -- I met her.

Q You see the e-mails, the second e-mail here, the one that says from Sara Taylor to Kyle Sampson, dated Friday February 16th at 8:47, 2007, Re: McNulty strikes again?

A Why don't you point to it?

This one. I see what you're referring to.

Q And let's just read it. It says -- it is from Sara Taylor to Kyle Sampson in February of '07 -- "Tim was put in a horrible position."

I think you will see from the context this was Tim Griffin.

"Hung to dry with no heads-up. This is not good for his long-term career. Bud runs a campaign and McNulty refuses to say Bud is lazy, which is why we got rid of him in the first place."

Do you see that?

A I see that.

Q Do you know -- when she says "we got rid of him," do you know who she's referring to?

A I have no idea.

Q When she said that Bud is lazy, is that anything that you had ever heard before?

A I had not heard that.

Q Do you have any reason to believe that that's true?

A I had not heard that.

Q And you don't know of any evidence of your own accord.

A That's correct.

Q As far as you're concerned, his performance, at least while you were Executive Director of the EOUSA, was fully competent?

A That's correct.

Q And do you have any reason to believe it deteriorated after you left that position and while he continued to be the U.S. attorney in the Western District of Pennsylvania before he left?

A I don't know, but I don't have any reason to believe that's the case.

Q Do you have any reason to believe Ms. Taylor would know about the performance of the U.S. attorney in Arkansas?

director of the Executive Office, we held a United States attorneys conference in Paul Charlton's district. And the United States attorney who hosts the conference is generally extremely cooperative in helping run the conference. And I do recall Mr. Charlton was not very cooperative. So individuals who would have dealt with had him would have been aware of that. And those people that would have dealt with him would have been in the Deputy's office or in the AG's office.

Q Again, I assume that you are not suggesting that either the effort to get extra U.S. attorneys or what you were describing as a lack of congeniality in connection with the conference were firing offenses?

A I am not making any suggestions with respect to any of the United States attorneys on the list. I am simply making you aware of issues that I heard of about these United States attorneys.

Q Did you also hear an issue about his investigation of a Congressman in Arizona, Mr. Renzi?

A No.

Q Have you heard of that investigation?

A No. I also heard that there were two other issues that Paul Charlton had that may have caused concern. One of the issues dealt with --

Q Before you tell us the issue, when did you hear the

issue? Is it the time you were executive director of the EOUSA?

A No. It was after Mr. Charlton left the department.

Q After Charlton. So, I mean, after January of 2007?

A That's correct.

Q And it is fine for you to put it on the record, but from whom did you hear this?

A I don't recall. I don't recall who specifically told me. But there were other issues about Paul Charlton that I heard after he left the Department.

Q And I am going to give you the opportunity to put those concerns on the record, but I do want to also put on the record that you have a yellow note pad there that looks like it has handwriting on it. Is that your handwriting?

A Yes.

Q All of it is your handwriting. Did you prepare those notes for today's testimony?

A Yes.

Q And are you using that to refresh your recollection for your testimony?

A Yes.

Q All right. So subsequent to January of '07, you learned from an unidentified, or from a source you can't recall now some other concerns that the Department had with Mr. Charlton?

A Yes.

Q And what are they?

A I heard that there was an incident involving Paul Charlton involving a death penalty case wherein he had been instructed to seek the death penalty and he represented to the court that a decision had not yet been made. That was one issue. The other issue I heard was that he may have irritated someone in the Department by pursuing a plan to videotape subject interviews, which was inconsistent with current law enforcement practices within his district and around the country.

Q Now, other than Monica Goodling, with whom did you discuss the terminations of the U.S. attorneys following the announcement of their termination?

A There were many discussions that I had about the termination of the United States attorneys with other United States attorneys who are currently serving within the Department. This was a subject of much conversation every time United States attorneys were together at every occasion after these individuals were terminated.

Q With whom at Main Justice, not a U.S. attorney, other than Monica Goodling, did you have any discussions about the reasons for the terminations of any of the U.S. attorneys?

A I didn't have discussions with anyone at the

Department regarding the reasons for the termination of these individuals.

Q So these allegations about the death penalty and the taping program do not come from anyone in a position to know the reasons for the termination other than perhaps Monica Goodling, is that right?

A I didn't say that. I don't know where they came from. I'm simply --

Q When they were told to you --

Mr. Flores. Objection. Let her finish the question.

BY MR. NATHAN:

Q Look, this is very important because you are passing on third-hand hearsay here and putting it on the record. And if you want to do that, that is fine. But I am entitled to know where you are getting it from and how reliable it is. And all I have heard you say so far is that anybody involved in this process that was involved in the termination, the only person you have talked to after the termination was Monica Goodling, am I right about that? And the people I am talking about are the Attorney General, the Deputy Attorney General, the chief of staff of the Attorney General -- and the chief of staff of the Deputy Attorney General, and Ms. Goodling. Is there anybody else that you know of that was involved in this process to terminate these U.S. attorneys?

Mr. Hunt. I should just note that when you say she's putting on the record hearsay testimony, that quite a number of your questions often ask for even hearsay testimony. So let's just be even-handed about what you want on the record.

Mr. Nathan. But in every case, I am asking the source of the information. I am not disputing what she says. I am asking for conversations you had with others, but it has to do with specific people you had these conversations and when, not from unidentified unexplained sources after the events.

Mr. Howard. Well, just ask her, do you know.

Mr. Nathan. Well, that is what I am asking her.

Mr. Howard. And she said no.

BY MR. NATHAN:

Q I am trying to identify anybody who was involved in the process other than Monica Goodling that had conversations with you after the terminations as to the reasons of the terminations or as to the concerns that people in a position to make these terminations had?

A Those are two separate questions. The answer to your first question whether I had conversations with anyone in the Department about the reasons for the termination, the answer to that question is no.

Q Okay.

A Your second question was whether I had conversations

with anyone in the Department about these concerns.

Q I am talking about at Main Justice as opposed to U.S. attorneys whose knowledge would simply be derivative.

A I know I had some conversations with Mike Battle. And I believe I had a brief conversation with Paul McNulty about Paul Charlton and about this death penalty issue.

Q Well, first --

A And these are things -- again, I am not trying to put things on the record that you can't confirm. You can go out and confirm these things. You can investigate this all you want. I am trying to help you.

Q I know. I appreciate that.

A I am trying to tell you what I have heard about these people, why I think that anyone in the Department could have been dissatisfied with them. This isn't information that is included in my written statement. But the reason I am answering your questions today, I am really trying to help you.

Q No, I appreciate that, although I didn't ask you, so this was something that you volunteered. And it is fine if you want to volunteer it. But I want to know what the source of the volunteered information is. I didn't ask you anything about the death penalty or the taping, which has been provided as a pretext here.

Mr. Flores. Can you ask questions of her?

Mr. Nathan. I am asking questions.

BY MR. NATHAN:

Q Well, the question is, who told you about the Department's concerns about Mr. Charlton and the death penalty?

A I believe I had a brief conversation with Paul McNulty about Paul Charlton.

Q And in that conversation he mentioned the death penalty situation?

A Yes.

Q And when did you have this conversation with Mr. McNulty?

A It would have been following the award ceremony for Victim Rights Week.

Q Which was?

A Some time in the last month, month to 6 weeks.

Q And in that conversation, did you ask Mr. McNulty why Mr. Charlton was terminated?

A No.

Q Well, how did it come up that Mr. McNulty stated to you that he had concerns about Mr. Charlton's role in the death penalty case?

A Paul McNulty was expressing to me his regret that I had been dragged into this process. And I commented to Paul McNulty that I had no involvement in the development of this

list, I had no involvement in the firing of these United States attorneys. And he was expressing his remorse that I was pulled into this.

Q And, therefore, what does that have to do with Mr. Charlton and the death penalty case, his remorse that you were pulled into it? You knew nothing about any death penalty matter with Mr. Charlton, correct?

A We talked about the fact that I had limited knowledge about some of these United States attorneys in my dealings with them as a director of the executive office that there were some issues that I dealt with and others that I hadn't, that there were some U.S. attorneys that had personality issues that we both knew had crossed individuals within the Department. And it was a general conversation that turned to Paul Charlton's persistence of issues once decisions had been made. And there was a similarity between him being told that he got two awards for his district, but he pressed on to ask for five more. And the similarity between the death penalty decision that had been made by the attorney general, and that even though the decision had been made Paul Charlton kept pressing on asking that that decision be changed to the extent that he misrepresented that process in a hearing in the District Court.

Q And did Mr. McNulty tell you that is the reason that he was put on the list?

A As I told you earlier, I didn't have any discussions with anybody about why individual people were put on the list.

Q Did he tell you that was the reason he was fired?

A I didn't have any discussions with anyone in the Department about why these people were fired.

Q Did you discuss anyone other than Mr. Charlton with Mr. McNulty? And when you look at your notes now, as you are doing, do you have notes of the conversation with Mr. McNulty?

A No. I believe we may have also talked about Carol Lam and the fact that I might be asked to talk about her PSN performance and her handling of border immigration cases.

Q What's your best recollection of the date of this conference on victims in the last month where you had this conversation with Mr. McNulty?

A April or May.

Q And I assume the Department can provide it. It was here in D.C.?

A Here in D.C.

Q At Main Justice?

A I think it was in the Reagan Building.

Q And the name of the conference, is it Victims Rights or something?

A It was a victim rights award ceremony. And I can

probably find that for you. I can check my calendar.

Q I'm sure the Department can. That would be fine. At the time that you had this conversation, had you been requested to appear as a witness here?

A I don't recall. Because I think that there was a letter that was sent to the Department, and I don't know at what point it was actually decided that I would come for an interview.

Q But you knew at the time of the conversation with Mr. McNulty that you were likely to be a witness in this proceeding, correct?

A Yes, yes.

Q And did that deter you in any way of discussing these matters with Mr. McNulty?

A No.

Q And did he suggest that you should include this in your testimony?

A No.

Q Did you discuss Mr. Bogden with Mr. McNulty?

A No.

Q Did Mr. McNulty tell you that he was quite ambivalent about the termination of Mr. Bogden?

A I think I heard that at some point.

Q But not from Mr. McNulty?

A I don't remember.

Q What's your perception of Mr. Bogden as a U.S. attorney?

A I don't recall much at all about Dan Bogden's performance as a United States attorney. I don't recall hearing anything good. But I also don't recall hearing anything bad. So I think that I -- you know, I don't have any reason to believe that there was anything negative in his performance.

Q Was there an EARS evaluation done of Mr. Bogden while you were the executive director?

A I don't know.

Q Did you send Mr. Bogden a letter praising him?

A I sent Mr. Bogden a letter about his internal self-management evaluation.

Q And was it positive?

A They were all positive.

Q Had you ever heard that Mr. Bogden or his office lacked vigor?

A I had not heard that.

Q Did you have any discussions with Monica Goodling about Mr. Bogden?

A No.

Q Did Ms. Goodling tell you that she had placed Mr. Bogden on the list?

A No.

Q Do you know anything about Mr. Bogden's investigation of the governor of Nevada, Jim Gibbons?

A No.

Q When did you first learn that Mr. Graves had been asked to resign?

A I think that at some time after Mr. Graves resigned I had the general impression that he had been asked.

Q Where did you get this general impression?

A From conversations that I had with Monica Goodling.

Q What did she say?

A She indicated that the congressional delegation in his district or state --

Q Which is Missouri.

A -- were disappointed that Todd did not have an interest in running for political office in the future. And so that is the only conversation I recall. And, you know, I had a general impression, you know, that he may have been asked to resign.

Q When was this conversation with Ms. Goodling about Mr. Graves?

A At some point after he left.

Q Well, he left some time in 2006, correct, well before December 7?

A He left before December 7.

Q He left before the elections in 2006, correct?

A I don't know when he left. I don't remember when he left. I know I didn't know why he left at the time. But at some point after he left, I had a conversation with Monica Goodling which caused me to form the general impression that he was probably asked to leave.

Q And you had the impression he was asked to leave because he had expressed a view that he did not want to run for office?

A I just had the general sense that there was some unhappiness about his performance.

Q Well, but you said it was unhappiness about his lack of interest in running for office?

A And I knew that there were people within the congressional delegation that were unhappy, you know, disappointed that he wasn't going to run and they wanted someone else to have an opportunity to serve.

Q They wanted someone to have an opportunity to serve as a predicate to running for office?

A I didn't say that.

Q Well, I understand that. I am trying to understand the connection between what Monica Goodling told you was the concern about Mr. Graves, about his lack of ambition to run for political office and his being asked to leave as a U.S. attorney?

A That is something you are going to have to draw for

yourself. All I can do is tell you what I know, what people told me and what my impression was.

Q Did she tell you that he was not bringing voter fraud actions prior to the election and that is what disappointed the Members of Congress who were running for reelection?

A She definitely did not tell me that.

Q Do you know Mr. Schlozman?

A Yes.

Q Do you know why he was selected to be the interim U.S. attorney in Missouri?

A No.

Q Did you have any conversations about that?

A No.

Q What role did you have with respect to the appointment of the interim U.S. attorney in Alaska?

A I suggested Mr. Cohen as a possible candidate for the position of United States attorney in Alaska.

Mr. Hunt. I am not sure what this has to do with any of the U.S. attorneys who were asked to leave.

BY MR. NATHAN:

Q Did you know the first assistant in Alaska, Deborah Smith?

A No.

Q Did you know anything about her?

A No.

Mr. Hunt. Look, the discussions and investigation is about the U.S. attorneys that you have identified before and their jurisdiction. Alaska is not one of them.

Mr. Nathan. Well, I think that we are entitled to ask these questions and you can object to it.

Mr. Hunt. But we are and have previously said that we object to information about U.S. attorneys and candidates for U.S. attorney positions other than those with respect to these jurisdictions, and that is not one of them.

Mr. Nathan. I understand your point. I am going to ask the questions. If you want to direct the witness not to answer them and she follows your direction, that is fine.

Mr. Hunt. You understand and she's understood that the Department has agreed to participate in cooperating in this investigation, but not to talk about information related to other U.S. attorneys or candidates for U.S. attorney positions unless they have something to do with the replacement of one of those U.S. attorneys, and this is not one of them.

Mr. Nathan. Look, I am going to move on. But I think this investigation is broader than that and it relates to the complete politicization of the Department of Justice. And I am going to persist in asking questions about that matter beyond these eight or nine because it relates to the

reasons which still have not been provided, and certainly have not been provided by this witness, as to the reasons for termination of these nine U.S. attorneys.

Mr. Flores. Let the record reflect that, as in the past, we support the Department's objection on this issue.

Mr. Nathan. Thank you, Mr. Flores.

BY MR. NATHAN:

Q In your statement, Ms. Buchanan, you say that you learned that you were placed on a list around November 1 of '06, for replacement, is that correct?

A That's correct.

Q And when did you first learn that?

A I learned of it on the morning of May 17, 2007.

Q And how did you learn of it?

A When my husband told me it had been reported in the Washington Post that I was on an e-mail list of people that had been considered for firing, and I thought he absolutely must be joking.

Q And what did you do after learning of this?

A I called, what's his name, Michael Elston and asked him why he had included my name in the e-mail. I demanded to know why I was included and who had any concerns about my performance.

Q And what did Mr. Elston state?

A He told me that he could not recall who put my name

on the list or who put anybody's name on the list or what the concern was. He simply could not recall.

Q Did you believe him?

A I told him that this was totally implausible.

Q And what did he say?

A He insisted that he couldn't recall.

Q Did you find that any more plausible?

A No. I told him that it was reckless to include the names of five stellar United States attorneys on an e-mail list without having any justification for including these names.

Q Did you follow up with any further conversations with people at the Department about this?

A I talked to the other United States attorneys who were on the same e-mail list, and I also had a conversation with Brian Rorcasey and with Kevin O'Connor.

Q What's Mr. O'Connor's position?

A Kevin O'Connor is the chief of staff for the attorney general.

Q And what did they say? What did you say to them and what did they say to you?

A I also had a conversation with Paul McNulty. Who do you want to start with?

Q Who do you want to start with? Let's start with Mr. McNulty, who was the boss of Mr. Elston, correct?

A That is correct. I wanted to know what Paul McNulty knew about this. And he reiterated what Mike Elston told me.

Q Which is what, what did Mr. McNulty say?

A Mr. McNulty said that Michael Elston had been asked by Kyle Sampson to survey people within the Department to find out if there were any other individuals with whom anybody had any concern that maybe should also be considered.

Q For termination?

A Yes. Paul McNulty said that he didn't know that Michael Elston was doing this at the time, and that he certainly regrets now that Michael Elston had anything to do with this. And that what Michael Elston told me is what Michael Elston told Paul McNulty, that he didn't remember why anyone within the Department had ever expressed concerns, if, in fact, they had, because I didn't believe that anyone did have any concerns. My belief was that Elston made this up and put these names on the list. And I was pressing Paul to see if he knew anything else about this.

Q Just so it is clear, who are the other four U.S. attorneys, and this is something that is in the press?

Mr. Hunt. Well, no, it is in the press. But to the extent that she has personal knowledge beyond what's in the

press, that would be beyond the scope as well.

Mr. Nathan. Well, I don't think so, and I am asking the questions.

BY MR. NATHAN:

Q Who are the other four and with whom did you have conversations among those four?

Mr. Hunt. That is outside the scope.

Mr. Nathan. Are you directing her not to answer that question?

Mr. Hunt. Yes, if you are asking for beyond --

Mr. Nathan. And are you going to follow his direction?

Ms. Buchanan. Yes.

Mr. Hunt. If you are asking for information beyond what we have agreed to for these purposes, yes.

Mr. Nathan. Well, I want to make it clear. I want to get an answer to that question, and we'll have to deal with it at another time because I want to know with whom you have had conversations about this.

BY MR. NATHAN:

Q Going back to your conversation with Mr. McNulty, what did you say to him in response to these statements?

A I continued to express my deep dissatisfaction that my name was included on this list. And my disappointment that my name would be included on a list. And that no one in the Department had alerted me to this fact before it

appeared. And, again, I demanded to know who included this information and why it was included.

Q And you didn't get any answers?

A That's correct.

Q And is that the last conversation you had with Mr. McNulty?

A The conversations that we had about this would have been on that same day, May 17, because I was contemplating whether I should issue statements about this information and whether Elston would issue a statement. And Elston did issue a statement and so did the Attorney General indicating that nobody -- that the Department never believed that I should ever have been included on this list.

Q Have you had any prior experiences with Mr. Elston?

A I have had some dealings with Michael Elston, yes.

Q I mean, any negative experiences?

A Not really, no.

Q Well, I think you said that you believe that he made this up and that he put you on the list without getting it from anyone else?

A Right.

Q Because that is what you believe, isn't it?

A That's correct.

Q What's the basis for that?

A I think that he made it up because he had a

colleague in his district that was from the Eastern District who was interested in being the U.S. attorney in Western Pennsylvania.

Q And who was that?

A And I knew that this was the case because this person had previously communicated that to me. And I knew that. Because the explanation that Elston gave was so implausible I couldn't imagine why I would be included for any other reason.

Q Who was the assistant in his district that is interested in your job?

A Is it appropriate to discuss that?

Mr. Nathan. You said you talked to him or her.

Mr. Hunt. Just off the record for one second.

Mr. Nathan. Okay, we are off the record.

(Discussion held off the record.)

Mr. Hunt. I want to discuss this a little bit more with Faith. Can we reserve and come back to this because there is a particular issue that I just want to make sure we are okay. We may be all right.

Mr. Nathan. Let's move on and we'll come back.

Mr. Hunt. Okay.

BY MR. NATHAN:

Q What you are saying, Ms. Buchanan, is that Michael Elston lied to you, is that right?

A I believe he lied to me, yes.

Q In connection with an explanation of how your name got on this list?

A Yes. And the reason that I believe he lied is because I didn't think it was credible that he couldn't recall why any of the individuals were placed on the list. And that to me seemed to be very unbelievable for someone who was as bright as Michael Elston.

Mr. Hunt. Let's clarify you are talking about this list of, supposedly a list of five that was set forth in a Washington Post article, that is the list you are referring to?

Ms. Buchanan. Correct.

Mr. Howard. May 17.

BY MR. NATHAN:

Q Did Mr. Elston tell you that he couldn't remember who had suggested that any of the five people be put on the list, not just yourself, but any of the other four?

A I think that at the time we only spoke about me. But I know from talking to others on the list that that's the same thing they were told.

Q By Mr. Elston?

A Right.

Q So Mr. Elston, as best you know, has told each of the five people, yourself and the other four, that he can't

recall who told him to put any of those five on the list, is that right?

A That's correct.

Q And he also told you and each of the other four, as best you know, that he doesn't know why those unnumbered people suggested that you be on the list, that those people be on the list?

A That's correct. And he also said that he personally didn't believe that any of us should be on the list. And that when he passed on this information, that Kyle Sampson and others in the Department didn't think that any of the U.S. attorneys should be put on the list.

Q Any of those five?

A That's correct.

Q I want to call your attention to the last paragraph of your statement, or I'm sorry, the next to the last paragraph. It is the one that begins on the bottom of page 3. You say: It has been an honor for me to work with the talented men and women of the Western District of Pennsylvania and throughout the Department over the last 19 years. Are you planning to leave?

A No.

Q And you say in the next sentence, the last sentence in that paragraph, that you hope the Department can quickly move past this point and return its focus to the pursuit of

justice. Is the focus of the Department of Justice now on these firings and not on the pursuit of justice?

A The reason I said this is because this investigation is consuming so many resources of the Department of Justice. Me, personally, over the last couple of weeks, I have spent so many hours reading these documents, preparing for this, and I am just one person. So this is consuming the efforts and resources of the Department. And I and everyone else would be very pleased that this investigation can expeditiously be completed so that we can return our focus to the important work that we have to do.

Q And have you got any suggestion as to how we could find out how these names got on the list since you didn't have anything to do with putting them on the list and everyone else at the Department who was cited by Mr. Sampson denies that they put anybody on the list?

A Well, I think that you have to go to the person that created the list.

Q Is there any other source that you can think of?

A I don't know how the list was created.

Q Let me deal with another topic. You hired Monica Goodling at EOUSA in December of '04?

A That's correct.

Q Why?

A We needed a deputy in the executive office.

any moment.

Q I assume that you heard the testimony of Ms. Goodling before this committee?

A I heard some of it, yes.

Q And you heard that she said she crossed the line and considered improper and unlawful political considerations in the hiring of career Department of Justice employees?

A I heard that, yes.

Q Did you hear that during the time that she worked for you?

A No. I watched it on C-SPAN 3, I believe.

Q I understand the testimony. But I am asking you, at the time that you were executive director and she was your deputy, were you aware that she was utilizing these improper considerations in making recommendations?

A Well, first, I was not aware of it. And, second, she wasn't making those recommendations to me at the time that I was the director.

Q Well, did you suggest to her that political considerations would be appropriately taken into account in considering assistant U.S. attorney positions in offices which were headed by interim or acting U.S. attorneys?

A I never suggested this to her. And, again, she wasn't performing this role for me when I was the director of the Executive Office for United States Attorneys.

Q Well, what personnel role did she play when she was at the Executive Office of U.S. Attorneys when you were the director?

A She managed the appointments unit, which was the unit that processed the paper work for interim United States attorneys and for United States attorneys. And this process involved a lot of paperwork.

Q Did it involve the selection of those people?

A It did involve the selection, but that was my role as the director.

Q But did she make recommendations in that position?

A No.

Q That wasn't part of her job?

A No.

Q Did she make comments on any of them?

A No.

Q So you are saying that her job, when she was your deputy and you were executive director was simply to deal with paper work on assignments, appointments?

A She coordinated the activities of the appointments unit, which would involve meeting with the appointment staff on a regular basis to keep track of what U.S. attorneys were leaving and what the time period was that we had to find an interim U.S. attorney. And she updated me regularly on that and she assisted me in the scheduling of interviews for

candidates for interim positions and for U.S. attorney positions.

Q And any other role in personnel matters when she was your deputy?

A She oversaw and coordinated the activities of the counsel to the director's staff, which would have been assistant U.S. attorneys who were on detail to the Executive Office. And she met with them on a regular basis and made sure that I was aware of any issues that were being handled by those attorneys.

Q Was she involved in the selection of assistant U.S. attorneys to be seconded to EOUSA?

A I don't understand your question.

Q Was she involved in the selection or review of applications for assistant U.S. attorneys who would be seconded to the Executive Office of the U.S. Attorneys?

A I don't know what seconded means.

Q Sent over there, transferred to work over there?

A Not during my tenure, no.

Q After you left the job of executive director of the EOUSA, and while you were still the U.S. attorney for the Western District, as you are now, did you have conversations with Monica Goodling about her work in EOUSA?

A I am sure I did.

Q And, at that time, was she involved in the selection

or recommendation of assistant U.S. attorneys in offices headed by interim U.S. attorneys or acting U.S. attorneys?

A I don't recall that.

Q When she was White House liaison and counsel to the attorney general, did you have conversations with her?

A Yes.

Q And did she tell you of her role then in the review and selection of assistant U.S. attorneys in offices headed by interim and acting U.S. attorneys?

A No.

Q Did she tell you about her role in reviewing potential immigration judges?

A No.

Q Did you know after you left the Executive Office and before her testimony before this committee that she was using political considerations in the hiring of career employees at the Department?

A No. I learned of that only from watching her testimony on C-SPAN 3.

Q And have you had any discussions with her since that time?

A No, not about this.

Q About anything?

A I repeated to you the conversation, the only conversation I had with her since she left the Department,

which was a brief telephone call simply to let her know that people in the Department were thinking about her and we wished her well and I hoped she was doing okay.

Q But I understood that was before her testimony?

A That's correct.

Q So I am asking now since her testimony?

A That is the only conversation I have with her since she left the Department, the only one. So there weren't any after her testimony.

Q Do you know whether Ms. Goodling ever took religious beliefs into account in making hiring decisions?

Mr. Flores. If I could interject. This might be a good time. We are now at 1:00. We started over four hours ago. We have three sides left to ask her questions. And I am concerned about the time that we'll have. And I am concerned about whether the witness needs a break for a refreshment.

Mr. Nathan. You have got a lot of concerns, Mr. Flores.

Mr. Flores. Could you please --

Mr. Nathan. If there are further questions, I think you are going to have to do it today or reschedule with Ms. Buchanan. I am confident that she's available to come back to Washington.

Mr. Flores. I disagree with that. Perhaps an

Mr. Flores. And that would leave us with less than an hour for three people. That would disproportionately disadvantage Republican time.

Mr. Nathan. I didn't know there was Republican time.

Mr. Flores. Also, questions they would want to ask. And I would hope that you could reconsider your position. And perhaps we should take a few minutes for the four counsel from the four sides to confer?

BY Mr. NATHAN:

Q Could you answer my question, please?

A The quick answer is no.

Q Ms. Buchanan, when you talked with Mr. McNulty and Mr. Elston and objected to your being included on the list, did you give reasons to them why you should not have been on that list?

A The reasons would have been too numerous to mention.

Q Did you mention any of them?

A I didn't need to.

Q Did you mention that you have only brought prosecutions against Republicans and not against any Democrats?

A Absolutely not.

Q But is that a fact? Have you brought any official political corruption cases against a Republican office holder during the time that you have been the U.S. attorney?

A No Republican office holder has committed crimes that could be proven beyond a reasonable doubt.

Q And you know that in your district, I assume, or do you mean anywhere, is it anywhere?

A In my judgment. That is the answer to your question.

Q In your judgment? And did you investigate them?

A Absolutely.

RPTS DEAN

DCMN ROSEN

Q Did you investigate Senator Santorum with respect to the allegation about --

Mr. Flores. Objection.

Mr. Hunt. I caution the witness not to talk about any pending or prior investigations of anyone?

Mr. Nathan. She said that she investigating and they didn't commit a crime.

BY MR. NATHAN:

Q Did you inves --

Mr. Hunt. She's not going to talk about specific investigations and don't mischaracterize her testimony.

Mr. Howard. Irv, I'm going to instruct the witness not to answer.

BY MR. NATHAN:

Q Did you publicly report that you had referred Senator Santorum to main justice for investigation?

A I responded in an interview that my office did not participate in any investigation of Senator Santorum, and that that matter was referred to the public integrity section of the Department of Justice.

Q Who referred it to them?

A I did.

Q You referred it. And when did you refer it?

A Whenever the allegations were made.

Q And why did you refer it as opposed to investigating it?

A As a United States attorney, it's common practice to refer matters to the Department when it's believed that there's either a conflict or an appearance of conflict or when you suspect that whatever you do, somebody's going to complain about it.

Q Did you refer to the Department any investigation of Representative Habay?

Mr. Hunt. Look, I'm going to continue to object to questions that call for information about investigations. You know that's outside the scope.

Mr. Flores. And I'm going to support that objection. And I'm concerned about whether we're turning this interview into a witch hunt without a predicate set for such highly charged questions being asked of a witness who is a sitting U.S. Attorney?

BY MR. NATHAN:

Q Ms. Buchanan, how many Democratic office holders have you prosecuted in the time you've been in your position?

A Well, I don't count them based upon their political affiliation. There have been a number, there have been a

number of individuals within the Sheriff's Department of Allegheny County, there have been a number within other departments. However, Allegheny County is largely Democratic, so most office holders are democrats.

Q Your district includes more than Allegheny County, right, 23 other counties?

A That's correct.

Q And they have many Republicans as office holders in those counties, don't they?

A I don't know.

Q But you do know that you've prosecuted a number of Democratic office holders and you haven't prosecuted a single Republican, correct?

A I have prosecuted those cases in which evidence has supported the charges being brought in connection with illegal conduct.

Q Your office filed a brief and affidavit in a court case last week involving Democratic coroner Cyril Wecht in which it is represented that Mr. McNulty had nothing to do with the decision not to have a perp walk of Mr. Wecht, or Dr. Wecht.

A That's correct.

Q Are you aware of that?

A That's correct.

Q And is that true?

A That's correct.

Q Is it not true that you told a former United States Attorney general, a Republican U.S. Attorney General that you were insisting on a perp walk for Mr. Wecht?

A That's not correct.

Q So if that former Attorney General makes that statement, he's not telling the truth?

A And it wouldn't be the first time.

Ms. Burton. This is beyond the scope of this oversight inquiry.

Mr. Nathan. No, I don't think so.

Ms. Burton. Yes. This is nothing that's ever been discussed in the past, this is just outside the scope.

Mr. Hunt. It seems like particularly abuses of a sitting U.S. attorney to question on particular ongoing litigation and investigation matters that have nothing to do with the issues before this committee.

Mr. Nathan. I'm not asking about the investigation.

Ms. Burton. Yes, you are. You are cross-examining her about a pending matter, and I don't think that's appropriate.

Mr. Nathan. I want to ask her this question.

BY MR. NATHAN:

Q Did Mr. McNulty call you and have a discussion with you concerning a perp walk for Dr. Wecht?

Ms. Burton. I object to this question.

Mr. Flores. Objection.

Mr. Hunt. I agree, this not an appropriate line of questioning. I don't think it is appropriate for her to be put in a position where she's asked to divulge non-public information about a pending matter.

BY MR. NATHAN:

Q Can you answer that question?

Ms. Burton. The Department objects to this kind of inquiry.

Mr. Flores. As do we.

Mr. Howard. She won't answer it. Go ahead and ask your next appropriate question.

BY MR. NATHAN:

Q When you were director of EOUSA, did you have conversations with people at the White House?

Mr. Howard. I think that's been asked. I'm going to make a suggestion, you said about another 30 minutes, why don't you ask questions you haven't asked?

BY MR. NATHAN:

Q Can you answer that question?

A About what?

Q Well, did you have conversations with people at the White House? If you say about what, that suggests that you did.

Mr. Hunt. It doesn't suggest anything.

The Witness. The only conversations I had with people at the White House were either in relation to presentations that I made at the White House or for meetings that I had with individuals involving my own consideration for different positions.

BY MR. NATHAN:

Q I'm not asking about the positions, your own positions. What presentations did you make to the White House?

A I gave a presentation for -- about the PATRIOT Act to a group, I believe it was called Jinsa, that involved citizens who came in for a roundtable discussion about the PATRIOT Act, and I did a presentation about that.

Q And you also wrote an op ed paper about the PATRIOT Act?

A I've written a number of op ed pieces.

Q About the PATRIOT Act?

A Yes.

Q I'd like to have marked and this will be our last exhibit this article that appeared in an op ed piece that appeared in the Pittsburgh Post Gazette in March of '07 written by Thomas Farrell.

[Buchanan Exhibit No. 12

was marked for identification.]

BY MR. NATHAN:

Q I assume you've seen this article before, Ms. Buchanan?

A I have, yes.

Q Was Mr. Farrell an Assistant U.S. attorney with you when you were an Assistant U.S. attorney in the Western District of Pennsylvania?

A Yes.

Q Did he work -- you were never the U.S. attorney when he was there, right?

A No.

Q Did you have any administrative positions when --

A When he was there? No.

Q You were never his supervisor?

A No.

Q Do you have any kind of antagonistic personal relationship with Mr. Farrell?

A I do now.

Q Before this article appeared?

A I really didn't have much involvement with Tom Farrell at any time while he was in the office or outside of the office. Obviously by the tone of this article, he doesn't like the PATRIOT Act, and I think it is a fine piece of legislation.

Q Actually, what he says in this article is that he no

longer has faith that you can remain independent of the administration's partisanship and that your continued leadership casts a cloud over public corruption investigations and prosecutions pending in your office.

I would just ask you how you respond to that statement by someone who doesn't appear to have anything against you personally?

A Well, the article really ought to mention that Tom Farrell represents a number of democrats who are subjects of former and current investigations. So I certainly wouldn't call him an unbiased individual.

Q What would you answer with respect to the independence and confidence when as you've told us, you've brought a number of public corruption cases against Democrats, but in 24 counties, can't find a single Republican office holder in 6 years to bring a charge against.

Mr. Flores. Is that a fair characterization of the witness's testimony?

Mr. Nathan. I thought so.

Mr. Flores. I believe the witness testified that she did not have evidence sufficient to support a charge beyond a reasonable doubt against an individual, not that she had not been able to find in 24 counties a single Democrat --

Mr. Nathan. No, no, she's found Democrats.

BY MR. NATHAN:

Q I'm was asking if you wanted a chance to put it on the record?

A I'll respond to this as a baseless criticism by an adversary of the U.S. Attorneys Office who clearly has a motive and a political bias that is completely add odds with the current administration, that's what I would characterize this as.

Mr. Nathan. All right, I'm going to terminate my questioning now.

Let me ask one more -- one more document, I apologize. We won't go beyond identifying it for the record. Let's have this marked as the next exhibit.

[Buchanan Exhibit No. 13
was marked for identification.]

BY MR. NATHAN:

Q I've handed you a document that's been marked as Exhibit 13, and the question I have for you is the letter attached to it, which is Bates stamped DAG 2336 to 2338, the letter that you helped prepare in response to Congressman Issa and other representatives in the December 2004, which was then sent by Mr. Moschella.

A What's your question?

Q Is that the letter that you helped prepare and that was sent dealing with the Southern District of California?

Mr. Howard. Is your question is the letter in the back?

Mr. Nathan. Yes, and are the e-mails genuine? Those are the comments you made and the statements you made in preparation of that letter.

The Witness. I believe so, yes.

Mr. Nathan. Thanks.

EXAMINATION

BY MR. FLORES:

Q Ms. Buchanan, I'm Daniel Flores from the House minority. I want to thank you for your graciousness and your time today and your willingness to come here and answer our questions.

I also want to thank you for your preparation of your statement, which has been very helpful to us I think in going about the conduct of the interview.

I will try and go through my questions relatively quickly given the pressures on your time and the time of others. The first question I have follows up on some of the concluding questioning by Mr. Nathan.

You were appointed as U.S. attorney for the Western District in 2001, correct?

A That's correct.

Q When did you begin serving in office?

A I began serving around September the 15th. I was on

a flight from Madrid, Spain to Philadelphia on September 11th, 2001 so I -- my flight was diverted back to Madrid and I was stranded outside of the country for a number of days. And I had been confirmed before I could even get back to the United States.

Q Since you assumed office, have you endeavored to discharge your duties consistent with high standards of integrity, honesty, impartiality and zealousness for the just administration of law?

A I have. And I have done everything in my power to ensure that every Assistant United States Attorney within my office did the same.

Q Have you endeavored to do so with regard to all classes of cases which have come before your office?

A I have reviewed every case that has been referred to the United States Attorney's Office and I have reviewed every case based upon the facts and the law. And I have made decisions based upon those factors and those factors alone.

Q Have you striven to assure that all of the individuals beneath you in your office have done the same?

A I have. And in fact, every case which is brought to the United States Attorney's Office is generally brought from law enforcement agencies. So we don't generate the investigations, they are generally brought to us from law

enforcement agencies. Every prosecution recommendation that is made within my office is made to the supervisory staff, and is reviewed by the supervisory staff, and is ultimately decided by me. And each and every one of these decisions is made after a full and fair review of all the evidence and all the legal issues involved in each and every investigation.

Q If I could now turn to a few questions that came to me as I was reviewing your statement. In the conversation that you had with Kyle Sampson that you reference there and which you discussed earlier in the morning, is there any further detail you might be able to offer us concerning why he undertook to begin that review of U.S. Attorneys and why he was doing that that review?

A It was my understanding that at the conclusion of the first term of the administration some U.S. attorneys left and other U.S. attorneys had a desire to remain within the Department. And I believe that Kyle Sampson was of the opinion that most of the United States attorneys should probably remain, but that we should conduct a review of the United States attorneys to determine if there are any districts in which the Department may be better served by another individual. And I think he really did have a genuine interest in trying to make sure that we had the best person in the position, and that there weren't U.S.

remained steady since that time, so it wasn't just a backlog of old cases. It has been a continued and sustained effort to protect the citizens of Western Pennsylvania from violent crime.

Q Following the meeting with the relevant players that you just described, what steps did you take to make sure that everybody acted effectively on the understanding that they left the meeting with regarding to how to bring up the prosecution numbers?

A I set a practice in place where the City of Pittsburgh would send referrals for gun cases directly to the United States Attorney's Office at the same time that they sent them to the ATF so that everyone would have the same referrals, that the ATF understood what our prosecution guidelines were for handling these cases and that my assistants understood what the prosecution guidelines were for handling these cases. And with everyone having a consistent understanding, there was no longer a problem about what cases should be referred for prosecution.

I also instituted a regular practice that every 2 weeks, members from the district attorney's office of Allegheny County would meet with members of my staff and members of the ATF so that they could review and confer with each other about what cases might be appropriate for Federal prosecution.

Q Do you believe it fair to say that that describes a set of procedures that were relatively simple and straightforward, good management practices that pursued with a reasonable level of activity could be expected to produce improvements?

A Oh, absolutely. And I think that it was also apparent from the focus that the Department of Justice had in this area and from the Deputy Attorney General's interest in reviewing the performance of various districts that this was something that was important to the Department. Not only were we told by the Department this was important, but the President came to speak to the United States attorneys, and told everyone in the room that if there was any doubt about how important it was to prosecute violent crimes cases and cases involving firearm violations, that they needed to understand it was a priority and we better get after it.

Q Was there anything about those steps that you undertook to produce effective results -- was there anything among those steps that you undertook to produce effective results in your district for Project Safe Neighborhoods that Carol Lam could not have undertaken in her district to attempt to achieve similar results?

A Not my knowledge.

Q I hope I'm not being incorrect, as I'm recalling you mentioned earlier in your testimony that when either the

the Department's and United States attorneys' priorities."

Over the course of the investigation from time to time, and I believe again today, the suggestion has been attempted that this statement indicates that the United States attorney in the district of Mr. Iglesias had appropriately delegated to the first U.S. attorney -- the assistant U.S. attorney those responsibilities and that there was no indication of ineffective management as a result of that.

I'd like to ask you if you believe that sentence which I read might be interpreted strictly to mean that for the tasks that he was performing the first assistant U.S. attorney was performing them appropriately and adequately, but not addressing at all the question as to whether the delegation of that authority to first Assistant U.S. attorney had been appropriate and reflected proper management?

A As I believe I previously stated, the evaluation and review of each United States Attorney's Office was conducted to help United States attorneys to improve the management and effectiveness of the office. So I don't think that the evaluation was ever intended to be a complete scrutiny of every aspect of the functions of the United States attorney. This paragraph says that the management issues and the resources were being handled effectively.

I believe your question is should they have been

handled by the first assistant. In my experience, it is not common for a United States attorney to turn over the day-to-day operations of the office to the first assistant.

Every U.S. attorney handles his or her responsibilities differently. And there are some United States attorneys who delegate different processes. In my district, I review every single indictment, every plea agreement, every immunity request. I don't delegate any of these things to anyone. And in larger offices, of course, that becomes more difficult.

Mr. Iglesias's office was not a large office, so I don't know why he delegated these issues to his first assistant. But I think what this report suggests is that things were being handled and I think your question was, was it appropriate for them to be handled by the first assistant rather than the United States attorney.

Q One of the exhibits introduced in the earlier part of your testimony, Exhibit 12, has an article from the Pittsburgh Post Gazette, it has a subtitle "Mary Beth Buchanan has pursued the parties in priority for the Bush Administration."

In this investigation there have been many assertions made about the propriety or the impropriety of U.S. attorneys being attentive to the priorities of the President. And based upon your experience as a U.S.

A I have heard that, yes.

Q And what do you think about that?

A I don't know the nature of the investigations. I don't know when they began. I do know that the policy within the Department of Justice is that we should consider the date of an election in terms of making prosecution decisions. We should not expedite an investigation to coincide with an election, and we should be mindful of the fact that any action by the Department of Justice could be construed as an attempt to adversely affect an election.

Q So would you say it's unusual for someone to file that kind of indictment, an indictment that could influence an election so close to an election?

A I would say it's not the preferred timetable.

Q How long have you known Monica Goodling?

A I have known Monica Goodling for several years.

Q Did you ever work with her before you worked with her at the EOUSA?

A I first met Monica Goodling when she was employed with the Office of Public Affairs, and I worked with her on public affairs matters. I knew Monica Goodling to be a very hard worker, and she was highly recommended to me at the Executive Office for the United States attorneys.

Q Who was she highly recommended to you by?

A She was highly recommended to me by those that she

worked with in the Office of Public Affairs, including Mark Corrallo, who had been the deputy in charge of the Office of Public Affairs. She was also highly recommended by Barbara Comstock, who had also been a deputy in the Office of Public Affairs. And I knew from my experience in working with her that she worked very long hours and she was very thorough and was an extremely hard worker, which I am, and I appreciate that in my coworkers.

Q Was she also recommended by Susan Richmond for a job at EOUSA?

A She was.

Q Was it Susan Richmond's idea to put her as principal deputy director or was that your idea?

A Susan Richmond suggested that I consider Monica Goodling for a deputy position. I didn't have a principal deputy at the time and we had a lot of work in the Executive Office for U.S. attorneys and I felt that I could not rely upon the confidentiality and the support of Robin Ashton, so I was really looking for some assistance, and I needed Monica Goodling's help in the office, and I was certainly willing to have her come work with me.

Q And you wanted her to be the principal, which means she was be superior to Robin Ashton in title.

A That's correct.

Q So she would be directing Robin Ashton then?

A That's correct.

Q Now you said you weren't aware that James Comey ever had a problem with Monica Goodling.

A I recall that I was traveling out of the district, I was somewhere giving a speech, and the paperwork for Monica Goodling was being processed, and I received a phone call from David Margolis wanting to know what position Monica Goodling was going to go into. He expressed concern that she should not be going into the principal deputy position as such a junior attorney, and I agreed at the time that we would put her in a deputy position and give her an opportunity to perform in that position.

Q And, I'm sorry, with regard to James Comey.

A I didn't think that David Margolis came up with this idea on his own, so I assumed he probably consulted others. I never talked to Jim Comey about it.

Q What about Chuck Rosenberg?

A I don't recall if I specifically talked to Chuck Rosenberg about this. However, Chuck was a friend of Robin Ashton's, and he had been pushing for quite some time for Robin Ashton to be given a more senior role within the Executive Office for U.S. attorneys.

Q So, generally, how would you describe your relationship with Monica Goodling? I mean, obviously, a working relationship and you had respect with her, but was

it also a friendship?

A I would say it's friendship. We had lunch, dinner together.

Q Did Ms. Goodling ever discuss her personal opinion of any U.S. attorneys with you?

A I wouldn't characterize it as her discussing her personal opinion, but it would also be unfair to say that she never commented on any U.S. attorney. We had a lot of dealings with U.S. attorneys who would call the office requesting various types of assistance or resources, and some U.S. attorneys were a lot easier to deal with than others.

Q Do you recall her ever commenting, giving her personal opinion about Paul Charlton, for example?

A I know that Monica Goodling would have worked with Paul Charlton on the United States Attorneys Conference that was held in Phoenix; and, as a result of Paul Charlton's lack of cooperation, Monica Goodling had to do a lot of additional work for the conference because Paul would not assist nor would he provide resources from his office to assist.

Now -- and Robin Ashton, by the way, had prior dealings with Paul Charlton with the badgering of EOUSA to give his district additional awards at the annual award selection.

Q Okay. So not just Monica Goodling but also Robin

Ashton.

A That's correct.

Q Was Susan Richmond -- you said she was the White House liaison and counselor for the Attorney General when you were director of EOUSA, is that correct?

A That's correct.

Q And that is a role, or a position, rather, that Monica Goodling eventually took over, is that correct?

A That's correct.

Q Do you know if Susan Richmond recommended Monica Goodling for that position?

A I don't know.

Q Do you know if Susan Richmond when she was White House liaison and counselor to the Attorney General was ever involved in the hiring or firing of career AUSAs?

A I don't know.

Q Do you know if that's something that in her role -- in that role she would normally do? Is that an authority she would normally have?

A I don't think so. My understanding of the role of the White House liaison is to deal with political appointees.

Q So is it surprising to you to understand that Monica Goodling, while she was in that role, was involved in the hiring of career AUSAs?

A I don't know what role she had and what I do know about what she did was what I saw on C-Span 3, and I think that she admitted that she probably took factors into consideration that she shouldn't have.

Q Just having that authority in general that she took with her when she was in that position, isn't it fair to say that that is unusual for someone who has that title to have that authority?

A I don't know of anyone -- I don't know of anyone who had that authority.

Q Did you have conversations with Monica Goodling about Paul McNulty's testimony in front of Congress?

A No.

Q What about the Attorney General's?

A No.

Q Are you aware -- now you said you had a conversation with Monica Goodling about Todd Graves at some point with regard to his resignation and why he was asked to resign.

A I don't recall that we had a specific conversation about why he was asked to resign. I recall that I had a conversation with her after he left the Department, and it was my sense from that conversation that he may have been asked to resign.

Q And I thought that you had stated earlier that in that conversation Ms. Goodling had stated that Mr. Graves

had been asked to resign so that Tim Griffin could be given a chance -- I'm sorry, Bud Cummins --

Mr. Nathan. He was not interested in running for office.

A She indicated to me in the conversation that there were members of his congressional district that were disappointed that he wasn't interested in running for office. I took that statement and a general sense that I had that he may have been asked to resign.

Q No, I understand that. I guess my question --

A That was my conclusion.

Q That wasn't my question.

I'm sorry, I don't mean to cut you off.

My question was I thought you stated earlier that Ms. Goodling had discussed the fact that this was to give somebody else a chance to serve as U.S. attorney, not because Mr. Graves had performance-related reasons, performance -- there were not performance-related reasons for Mr. Graves' resignation.

Mr. Howard. I think -- I am not testifying, but I think what she said was something to the effect of it may have been to give somebody else a chance who may want to use the credential of the U.S. attorney to run for something else.

BY MS. ESPINEL:

Q Is that correct?

A That's correct. There was some discussion about it being good to give someone else an opportunity to serve in that district.

Q So she never mentioned a performance-related reason to you.

A No, she did not.

Q So are you aware that when Monica Goodling testified in front of Congress she said that Mr. Graves did have a performance-related problem as U.S. attorney?

A I believe I heard that, yes.

Q But she never mentioned anything like that to you.

A Not that I recall.

Q Now just taking you back to Robin Ashton for a minute, do you know what her reputation was in the field with the U.S. attorneys?

A I think she had a very good reputation in the field with the United States attorneys, and I think that she went out of her way to develop that reputation, and in fact I think she did it at the detriment of the Director of the Executive Office for U.S. attorneys.

Q You mean she was trying to overshadow the Director? Is that what you're trying to say?

A That's correct.

Q So do you think that she did a good job in the

performance of her duties with regard to helping U.S. attorneys in the field?

A Part of the problem is I don't know what she did, because she did a lot of things that she did not advise me of. But I do think that, generally, United States attorneys liked dealing with her.

Q And are you aware that Mike Battle had actually offered her the job of deputy director and she had accepted that job before she was asked to leave? Are you aware of that fact?

A I don't know whether that's true or not.

Q You stated earlier that she was a detailee.

A Well, she was a detailee, but she also occupied a position of deputy. So she was a deputy in the office during my tenure, and she continued to be a deputy under Mike Battle's tenure, and I don't know what -- what, if any, other positions she may have been offered.

Mr. Nathan. Mr. Battle offered her the job as principal deputy? Because she already was a deputy.

Ms. Espinel. Principal deputy.

Ms. Buchanan. If he offered her that, that would surprise me.

Mr. Hunt. When she was a deputy, she was a detailee.

Ms. Buchanan. Correct.

BY MS. ESPINEL:

Q Are you aware of whether or not he offered a permanent deputy position?

A I'm not aware of that.

Q You're not aware of that. And you're not aware of Monica Goodling making any commentaries to Mike Battle about whether or not Ms. Ashton should be asked to resign or stay in her position?

A I'm not aware of that.

Q Is it your understanding -- or let me ask you this, did Monica Goodling take over some of the duties and tasks of Robin Ashton?

A Yes, I believe she did.

Q Okay. And basically when she came in she was your press person, is that fair to say?

A That was one of the responsibilities that she had.

Q And Robin Ashton's duties were more substantive?

A Robin Ashton had initially more substantive duties than Monica Goodling.

Part of the problem was Robin was supposed to be supervising Counsel to the Director's staff. She wasn't really supervising them, nor was she keeping me advised of anything they were doing. So I had no ability to review the work of the Executive Office. So I needed somebody who was going to manage the office and who was going to keep me, the Director, advised of what was going on. And so that was why

I assigned some of those duties to Monica Goodling, because I know that she would report to me what was going on and that I would not have this management issue that was existing.

Q Did you ever discuss Robin Ashton with James Comey?

A Yes.

Q And what was his opinion of her?

A Well, I knew that Robin Ashton had a good working relationship with Chuck Rosenberg and a good working relationship with James Comey and she had worked as the Acting Director for a brief period before I became the Director, and I think that they had a very high regard for her. But I also think that they saw a very different side of her. They didn't see many of the things that she was doing within the office, nor did I want to appear to be repeating every negative performance issue that Robin did to the deputy or to his chief of staff.

But I did have one conversation with the deputy wherein I relayed to him that Robin Ashton went into my office after hours and removed resumes from my desk. So this is something that I really don't think that should be tolerated by an employee; and, yes, this is an instance that gave me cause to believe that Robin Ashton couldn't be trusted as my deputy.

Q Those were resumes for what?

A For people I was considering hiring.

Q Hiring as?

A Anything, anything. Any resumes I got in the office were in my desk, and they were not being handled by Robin Ashton, but she went into my desk and took the resumes out of my desk and directed my support staff to photocopy them.

Q Did you confront her about this?

A I didn't because the support staff reported it to me, and the support staff had to deal with her every time I got on a plane and went back to Pittsburgh. When I left, she would slam doors and yell at the support staff; and I didn't want to leave them with her knowing that they had reported her. So I knew that I had to watch her like a hawk.

Q And, again, you don't recall in particular what resumes they were for any particular post or any particular person?

A I don't recall which one it was.

Q How long have you known Leonard Leo?

A I have probably known Leonard Leo for more than 10 years.

Q Did you ever consult with him about U.S. attorneys?

A During my consideration of the selection of the U.S. attorney in Detroit, Michigan, Leonard Leo expressed his support for Stephen Murphy, who was ultimately selected for

the position.

Q Did that have any influence on the fact that Stephen Murphy was selected for the position?

A Leo highly recommended him. He informed me of other individuals who would also speak highly of him, including members of the Supreme Court of Michigan; and I subsequently spoke with some of those individuals. So I think that, taken as a whole, those positive references from members of the judiciary certainly were taken into consideration and Steve Murphy was selected.

Q Steve Murphy was referred to you initially by Leonard Leo?

A No, no.

Q Do you know, were they all conservative references that he was getting?

A I don't recall.

Q And you don't recall that e-mail from Leonard Leo, correct, with regard to Mary Walker?

A No, I don't. I don't know Mary Walker, never heard of Mary Walker.

Q Okay. Now you indicated you had a conversation with Monica Goodling about Margaret Chiara after the resignations that was personal in nature.

A That's correct.

Q Was any part of that conversation not personal in

nature discussing Margaret Chiara?

A No.

Q And did that personal issue have anything to do with her resignation as U.S. attorney?

A I believe that it did, yes.

Q Did it have anything to do with your opinion of her as U.S. attorney?

A It affected my understanding of a management issue within her district.

Q And was that an opinion shared by other people at the Department of Justice?

A I certainly believe it would have been, yes.

Q Did you discuss it with anybody else at the Department of Justice?

A No.

Q Or the White House?

A No.

Q When you say "lack of diplomacy" regarding John McKay, do you mean criticisms of the administration or of Justice policy?

A No, no. John McKay is a good friend of mine. I just think that John McKay was the guy in the room who often asked the question that other people were thinking but knew that it probably wasn't appropriate to ask in that particular forum.

**Prepared Statement of the Honorable Mary Beth Buchanan
United States Attorney for the Western District of Pennsylvania,
Acting Director of the Department of Justice's Office on Violence Against Women and
Former Director of the Executive Office for the United States Attorneys
Provided to the
Committee on the Judiciary, United States House of Representatives**

June 15, 2007

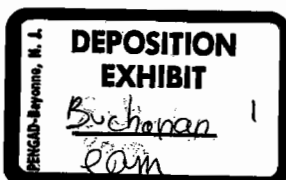
My name is Mary Beth Buchanan and I am the United States Attorney for the Western District of Pennsylvania. I am providing this statement as a summary of what I would provide as testimony or responses to questions addressing the controversy surrounding the firing of a number of United States Attorneys.

The purpose of this statement is to make sure that my position on this controversy is clearly provided to the public and to those with whom I work. This statement is general in nature, without delving into many of the details of every episode that has been brought to this Committee's attention. I am willing to answer any questions posed by this Committee, through its staff or its members.

By way of general introduction to my background with the Department of Justice, I was appointed as the United States Attorney for the Western District of Pennsylvania by President George W. Bush on September 5, 2001, and confirmed by the Senate on September 14, 2001. On November 29, 2006, President Bush further designated me to serve as the Acting Director for the Office on Violence Against Women. Prior to my appointment as the United States Attorney, I was a federal prosecutor, having joined the Department of Justice in 1988. My experience has included civil, criminal, and appellate practice. I have been honored to work with the talented men and women of the Western District of Pennsylvania and throughout the Department of Justice. We have had great success in achieving the Department's goals of preventing terrorism; reducing drug trafficking, violent crime, and corporate fraud; enforcing our civil rights laws; and protecting our nation's children from sexual exploitation.

Throughout my tenure, I have been actively involved in numerous advisory committees and working groups, both within and outside of the Department. Most notably, I have served as the Department's representative to the United States Sentencing Commission's Ad Hoc Advisory Committee on the Organizational Sentencing Guidelines (February 2002-August 2003); Chair of the Attorney General's Advisory Committee of United States Attorneys (April 2003-May 2004); and Director of the Executive Office for United States Attorneys ("EOUSA")(May 2004-June 2005).

As the Director of EOUSA, I was responsible for providing support to the 93 United States Attorneys and their 10,000 employees throughout the country. I also served as a liaison between the United States Attorneys and the offices of the Attorney General, the Deputy Attorney General, the litigating divisions and other components of the Department of Justice. My areas of responsibility included personnel matters, budget and financial issues, public affairs, policy development, training, and the coordination of priority projects.



In this role, I oversaw the review and evaluations of United States Attorneys' Offices. The districts submitted numerous reports to EOUSA ranging from statistical data in individual program areas to district management plans. I worked with the United States Attorneys to address performance, management, personnel and financial issues. I also participated in the selection of United States Attorneys. My role in the selection of United States Attorneys generally involved communication with prospective candidates, reviewing the questionnaires submitted, and interviewing the candidates. Throughout my tenure, I had regular communications with personnel throughout the Department of Justice.

Shortly after the November 2004 Presidential election I was advised by D. Kyle Sampson, the former Chief of Staff to the Attorney General, that the United States Attorneys would neither be renominated, nor asked to submit a letter of resignation. Mr. Sampson indicated that a review of the United States Attorneys would be conducted and that while most United States Attorneys would continue to serve, some would be replaced. Mr. Sampson further said that he would most likely seek my input in this process. That request never came.

In December 2006, I became aware that several United States Attorneys had been asked to resign. Later, I learned that a list was prepared by Mr. Sampson and others identifying the United States Attorneys considered for replacement. Further, I understand that Mr. Sampson testified that while I was the Director of the EOUSA he consulted with me about which United States Attorneys should be terminated.

Following Mr. Sampson's testimony, the former Senior Counselor to the Attorney General and White House Liaison, Monica Goodling commented during her testimony before the Senate Judiciary Committee as follows on Mr. Sampson's process for the creation of the list and what she believed were my communications with him on that subject:

I had heard that [Sampson] was engaged in an effort in mid-2005, because I was working in the Executive Office for U.S. Attorneys, and I know that [Sampson] had spoken with Mary Beth Buchanan and Mike Battle at various points, and they had mentioned it to me. So I knew that – I knew that [Sampson] had been engaged in some effort to evaluate U.S. Attorneys before I spoke to him in January about it. But that's the first time I recall.

While I communicated with Mr. Sampson almost daily while I was in my position at EOUSA and conceivably may have talked about performance issues relating to some of the United States Attorneys, I never saw, much less approved, a list of United States Attorneys considered for replacement. Let me be clear: at no time was I ever asked to review a list of the United States Attorneys proposed for replacement, nor was I consulted regarding the process used to make those determinations. Moreover, to this day I do not know what process was used to determine which United States Attorneys would be asked to resign.

There were only two United States Attorneys on the list of eight fired United States Attorneys to whom I specifically spoke about any issue that could be labeled "performance" or "failure to pursue Department policy" and whom I discussed with Mr. Sampson. My

conversations with these two United States Attorneys were not prompted by a list from Mr. Sampson suggesting their removal. Rather, these discussions occurred during the regular course of my responsibilities as the Director of EOUSA. I did not discuss performance issues with any of the other six United States Attorneys.

It has come to my attention on June 6, 2007 that an e-mail was sent to me from Leonard Leo regarding a candidate for the United States Attorney's Office in San Diego, California. Although Mr. Leo's e-mail is to my e-mail address, I do not recall seeing it, and I certainly did not act on it.

It has been suggested that some United States Attorneys were asked to resign because the President simply wanted another individual to serve in the position. I have no reason to believe that this supposition is incorrect. In fact, I have no reason to believe that Bud Cummins, the former United States Attorney for the Eastern District of Arkansas, was replaced for any other purpose than to make room for someone else to serve in his position. To my knowledge and belief, Mr. Cummins performed more than ably in his position.

It has also been suggested that United States Attorneys were replaced because they made prosecution decisions based on political motives. Based on my experience as the United States Attorney for the Western District of Pennsylvania and the Director of EOUSA, I do not believe that this ever occurred. Nothing has ever been brought to my attention that would indicate that prosecutions in the districts of the affected United States Attorneys or any other district were brought for any reason other than the factual and legal circumstances of the case.

As I stated earlier, I do not know what process was used to compile the list of United States Attorneys considered for replacement. I have learned, however, that there were several lists. Michael Elston, Counselor and Chief of Staff to the Deputy Attorney General, included the names of five United States Attorneys in an e-mail list to Mr. Sampson on November 1, 2006. My name was among those five. It is my understanding that Mr. Elston has said that he compiled this list after speaking to people at the Department of Justice to determine whether there were any United States Attorneys about whom there had been any concerns. As a result of this supposed inquiry, my name, along with four other United States Attorneys, was identified in the e-mail. I learned of this e-mail only after it was reported in *The Washington Post* on May 17, 2007.

I asked Mr. Elston directly who had made complaints about my performance and what those complaints were. He responded that he could not remember. Indeed, Mr. Elston now has stated that he cannot recall who had a problem with any of the five United States Attorneys listed in the e-mail, what the nature of the problems were, or when the alleged problems occurred. Based upon my knowledge of the five United States Attorneys listed in Elston's e-mail, including myself, there is no logical objective reason that any individual within the Department of Justice would question our performance, integrity or commitment.

In conclusion I would like to reiterate that it has been an honor for me to work with the talented men and women of the Western District of Pennsylvania and throughout the Department of Justice over the last nineteen years. I deeply regret that recent events have tarnished the many

valuable contributions that the Department provides to the American people on a daily basis. I can only hope that the Department can quickly move past this point in its history and return its focus to the pursuit of justice.

I would like to thank this Committee for its leadership and support, as well as the opportunity to answer questions that will be posed to me by its Staff.

Mary Beth Buchanan

Sampson, Kyle

From: Beeman, Judy
Sent: Thursday, December 16, 2004 4:55 PM
To: Sampson, Kyle
Subject: Draft Resignation Guidance

Attachments: buchana nguidance.wpd; buchana nconfcancellation.wpd

Kyle, Mary Beth has asked me to forward to you for review the draft guidance that we have prepared on USA resignations to be sent to all United States Attorneys. Also attached is the memorandum that was sent to all United States Attorneys on the cancellation of the January Conference. Please let Mary Beth know if you have any changes to the draft resignation guidance. Thanks. Judy



buchana nguidance.wpd (54 KB) buchana nconfcancellation.wpd (...)

PENGAD-Beyonne, M. J.
**DEPOSITION
EXHIBIT**
Buchanan 2
eam

EMAIL_DATE : 20041216

Comments:

Image Not Available

U.S. Department of Justice

*Executive Office for United States Attorneys
Office of the Director*

*Main Justice Building, Room 2261
950 Pennsylvania Avenue, NW
Washington, DC 20530*

(202) 514-2121

MEMORANDUM - Sent via Electronic Mail

DATE:

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

**FROM: Mary Beth Buchanan
Director**

SUBJECT: Resignation Guidance for United States Attorneys

ACTION REQUIRED: Information Only.

**CONTACT PERSON: Doug Sheorn
Executive Resources Program Manager
Telephone: (202) 353- 8714
E-mail: Douglas.Sheorn@usdoj.gov**

Within the last several months, we have had a few United States Attorneys make inquiries to the Executive Office for United States Attorneys (EOUSA) regarding the procedures for submitting their resignations. To assist you, I have attached answers to some of the most frequently asked questions regarding the resignation process, including guidance for resigning interim United States Attorneys who are returning to positions as Assistant United States Attorneys. If it is your intention to resign, please advise me at your earliest opportunity either by electronic mail or by calling (202) 514-2121. It is very important for us to provide the President and the Attorney General with as much advance notice as possible.

Letters of resignation addressed to the President and to the Attorney General should be sent to Doug Sheorn, EOUSA, by express mail. After a United States Attorney announces his or her resignation, please be aware that discretionary staff personal changes (e.g., appointments, promotions, and reassignments), at all grade levels, from all sources will be restricted. Please note that this affects actions which increase employment by adding a new employee to the

district's rolls and internal actions which involve a change in position, such as promotion or reassignment.

Offers of employment extended verbally or in writing before the United States Attorney announced his or her resignation, including offers that were contingent on clearances such as drug testing or background investigation, will be honored.

No new offers of employment in the district may be made after the United States Attorney announces his or her resignation. If the office is in the final interview stage with any candidate, the selecting official must inform the applicant that no offer can be extended until the new United States Attorney is appointed.

If you have any questions, please contact Doug Sheorn at (202) 353-8714.

Attachments

cc: All United States Attorneys' Secretaries

RESIGNATION OF A UNITED STATES ATTORNEY

OAG000000169

FREQUENTLY ASKED QUESTIONS

- **The district's United States Attorney has decided to resign his/her position. Who needs to be notified?**

- The United States Attorney should draft letters of resignation to the President and the Attorney General stating the date and time of the proposed resignation. Generally, the letter to the President is brief, while the letter to the Attorney General is usually longer and more personal (See examples attached). These letters should be overnighted to Doug Sheorn, Executive Resources Program Manager, in the Executive Office for United States Attorneys (EOUSA), who will handle their delivery.
- The United States Attorney should personally call the Attorney General to notify him/her of the resignation. The United States Attorney should also contact his/her United States Senators or other individuals involved with recommending a replacement, so that the process of selecting a successor can begin.
- The United States Attorney also should call the Director of the Executive Office for United States Attorneys (202-514-2121) at his/her earliest opportunity to notify him/her of their plans to resign.
- The United States Attorney should announce his/her resignation to the district. He/she may want to fax a memorandum announcing his/her departure to government agency heads and other interested parties.

- **Does a press release need to be prepared? And if so, what should it say?**

The United States Attorney's Office may want to send out a news release announcing the United States Attorney's resignation. The press release should include in general terms why he/she is leaving, his/her future plans, and any specific accomplishments (see example attached). The press release should not be used as an announcement of a political campaign or a new business. Copies of the press release should be forwarded to EOUSA and the Department of Justice, Office of Public Affairs.

Who handles paperwork for a United States Attorney's resignation, and what documents need to be prepared?

- The EOUSA's Personnel Staff handles separation actions for all United States Attorneys, both Servicing Personnel Office districts (SPO) and non-SPO districts. EOUSA also processes all insurance forms and associated benefits for departing United States Attorneys.
- The district's Administrative Officer should complete an SF-52, Request for Personnel Action, for the United States Attorney's resignation. He/she then forwards this document, along with a copy of the United States Attorney's resignation letter, to EOUSA's Assistant Director, Personnel Staff, Linda Schwartz.

What happens to the United States Attorney's annual leave upon his/her resignation?

Presidentially appointed United States Attorneys do not earn leave. If a United States Attorney was a federal employee earning leave prior to this appointment, however, his/her leave was frozen upon appointment. The United States Attorney generally will receive a lump sum leave payment upon resignation for any annual leave accrued prior to the appointment. The lump sum payment is calculated at the hourly rate the employee earned at the time his/her annual leave was frozen. If the United States Attorney accepts a position in the federal government after his/her resignation, e.g. appointment to a federal judgeship, leave may transfer to the new appointment. Lump sum leave payments are processed by EOUSA's Personnel Staff.

What other steps need to be taken before the United States Attorney actually separates from the office?

The United States Attorney should ensure that the district's Administrative Officer has his/her correct home and work forwarding information. The United States Attorney should also work with the district's Administrative Officer to ensure that he/she has met obligations concerning: the return of government property, the removal or preservation of federal records, and post-employment restrictions.

Are there any restrictions on hiring and staffing changes within the office after the United States Attorney announces their resignation?

Yes. After a United States Attorney announces his or her resignation, please be aware that discretionary staff personal changes (e.g., appointments, promotions, and reassignments), at all grade levels, from all sources will be restricted. Please note that this affects actions which increase employment by adding a new employee to the district's rolls and internal actions which involve a change in position, such as promotion or reassignment. Career ladder promotions for support employees are excepted because they

do not involve filling a different position and, of course, all non-discretionary personnel actions (e.g., within-grade increases and pay adjustments) are also excepted.

Offers of employment extended verbally or in writing before the United States Attorney announced his or her resignation, including offers that were contingent on clearances such as drug testing or background investigation, will be honored.

No new offers of employment in the district may be made after the United States Attorney announces his or her resignation. If the office is in the final interview stage with any candidate, the selecting official must inform the applicant that no offer can be extended until the new United States Attorney is appointed either by the President or as an interim.

• **What is the process for determining the new United States Attorney?**

When the vacancy of a Presidentially appointed United States Attorney occurs, the Attorney General has the authority to appoint an interim United States Attorney for a maximum period of 120 days. Upon the expiration of this period, and, in the absence of a Presidentially appointed candidate, the federal district court may appoint the interim United States Attorney whose term lasts until the confirmation of a Presidential appointment, or until a new court appointed interim United States Attorney is appointed. After the President nominates a candidate to the Senate, and before that candidate is confirmed, the Attorney General may want that candidate to serve as an interim United States Attorney pending confirmation. Presidentially appointed United States Attorneys serve for a four year term but may hold over after their term expires (and without formal reappointment), at the pleasure of the President.

• **An Interim United States Attorney has not yet been appointed. Who may act as the United States Attorney?**

In the absence of an interim United States Attorney appointed by the Attorney General, the Department of Justice's Office of Legal Counsel has determined that the First Assistant United States Attorney may act as the United States Attorney under the Vacancies Reform Act for no more than 210 days and should call him- or herself the Acting United States Attorney. No paperwork (SF-52, SF-61 Appointment Affidavit, etc.) is required for this change.

• **Where should recommendations for United States Attorney Appointments be sent?**

Recommendations for United States Attorneys should be forwarded to the Attorney General. Copies of recommendation letters should be sent to the Director, EOUSA.

• **Who can make recommendations for an interim United States Attorney?**

The departing United States Attorney may, if he/she so desires, make a recommendation to the Director, EOUSA as to the appointment of an interim United States Attorney.

• **When serving as an interim United States Attorney, what title should be used?**

When serving under an Attorney General appointment, court appointment, or Presidential appointment, the title of "United States Attorney" should be used. "Interim United States Attorney" refers to the status not the title of the appointment. If the FAUSA is serving as the Acting United States Attorney under the Vacancies Reform Act, the title "Acting United States Attorney" should be used.

EMAIL_DATE : 20041216

Comments:

Image Not
Available

U.S. Department of Justice

*United States Attorney
Eastern District of the United States*

The President
The White House
Washington, DC 20500

Dear Mr. President:

I am hereby submitting my resignation as United States Attorney for the Eastern District of the United States, effective midnight March 30, 2004.

I deeply appreciate the opportunity to have served as United States Attorney. I wish you and your administration the best of luck and success.

Sincerely,

John A. Smith
United States Attorney

0AG000000174

EMAIL_DATE : 20041216

Comments:

Image Not
Available

U.S. Department of Justice

*United States Attorney
Eastern District of the United States*

**The Attorney General
United States Department of Justice
Main Justice Building, Room 5111
950 Pennsylvania Avenue, NW
Washington, DC 20530**

Dear Mr. Attorney General:

I am hereby submitting my resignation as United States Attorney for the Eastern District of the United States, effective midnight March 30, 2004. It has been a great honor and privilege to have served these past two years as a United States Attorney, initially by your appointment and thereafter by Presidential appointment.

Serving the United States as a United States Attorney has been the highest honor and most fulfilling duty of my public career. Thank you for your support and the support of the Department of Justice during my tenure.

I deeply appreciate the opportunity to have served as the United States Attorney for the Eastern District of the United States. I wish you the best of luck and success.

Sincerely,

John A. Smith
United States Attorney

0AG000000175

EMAIL_DATE : 20041216

Comments:

**UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF
THE UNITED STATES ANNOUNCES RESIGNATION**

Washington, DC . . . United States Attorney John A. Smith, 43, of Washington, DC, has announced his resignation effective midnight on March 30, 2004. After his resignation, he plans on joining a private law firm in the Washington, DC, area.

Smith, a graduate of American University and the University of Virginia Law School, had previously served as First Assistant United States Attorney and Chief Assistant United States Attorney for the Criminal Division. During his tenure as United States Attorney, he served on the Attorney General's Advisory Committee and was co-chair of the Civil Rights Subcommittee. Mr. Smith has also served as an Instructor at the Attorney General's Advocacy Institute and the National Institute of Trial Advocacy. He implemented the current Weed and Seed program, which helps local communities reduce crime by bringing in investment and opportunity.

As United States Attorney, Smith also successfully prosecuted many civil rights and hate crime cases. In *US v. Carter*, he sought the conviction in 1998 of Bob D. Carter for racially-biased assaults against African American citizens and police officers in the downtown Washington, DC, area. Mr. Smith also oversaw the prosecution of many individuals under the Deadbeat Parents Punishment Act, which charges parents who fail to pay court-ordered child support.

The Eastern District of the United States covers 13 states, and includes the cities of Washington, DC, New York City, Boston and Philadelphia. The United States Attorney's Office, with staffed offices in Washington, DC, and New York City, has 32 attorneys and is responsible for conducting all criminal and civil litigation in the district involving the United States government.

EMAIL_DATE : 20041216

Comments:

Departing United States Attorneys (USAs returning to positions as Assistant United States Attorneys (AUSA) or Supervisory AUSAs)

- The United States Attorney (USA) prepares a letter of resignation from the United States Attorney position. The letter should include wording such as:

I am resigning my position as United States Attorney for the ----- District of ----- to return to my former position as AUSA OR Supervisory AUSA (Criminal Chief, Civil Chief, First Assistant, etc.) OR Senior Litigation Counsel [whichever is appropriate] for the ----- District of ----- . This resignation is effective on ----- OR effective contemporaneously with the appointment of (Mr./Ms. Last Name of the Nominee).

I understand that I will not be separated from federal service but returned to my former position within the ----- District of -----.

- The letter should be addressed to Mary Beth Buchanan, Director, EOUSA

3. Please Fed Ex the letter to: Doug Sheorn
Executive Resources Program Manager
950 Pennsylvania Avenue, NW, Rm. 2513
Washington, DC 20530

- Personnel Staff, EOUSA, will process the appropriate personnel actions to return the employee to his/her former position within the district. The actions processed will be as follows:

Hiring Restrictions After an Interim United States Attorney Announces His or Her Intention to Resign

After an interim United States Attorney announces his or her resignation, please be aware that discretionary staff personal changes (e.g., appointments, promotions, and reassignments), at all grade levels, from all sources will be restricted. Please note that this affects actions which increase employment by adding a new employee to the district's rolls and internal actions which involve a change in position, such as promotion or reassignment. Career ladder promotions for support employees are excepted because they do not involve filling a different position and, of course, all non-discretionary personnel actions (e.g., within-grade increases and pay adjustments) are also excepted.

Offers of employment extended verbally or in writing before the interim United States Attorney announced his or her resignation, including offers that were contingent on clearances such as drug testing or background investigation, will be honored.

No new offers of employment in the district may be made after the interim United States Attorney announces his or her resignation. If the office is in the final interview stage with any candidate, the selecting official must inform the applicant that no offer can be extended until the

new United States Attorney is appointed either by the President or as an interim.

Employee Returning to an AUSA Position:

Conversion to Excepted Appointment effective the day after resignation from the USA position. Pay will be set in accordance with current AD pay guidelines.

Employee Returning to an AUSA Position and Immediately Being Temporarily Promoted to Former Supervisory AUSA/SLC Position: This scenario requires two personnel actions (only one SF-52 needs to be completed; both actions may appear on one SF-52).

Personnel Action 1: Conversion to Excepted Appointment effective the day after resignation from the USA position. Pay will be set in accordance with current AD pay guidelines.

Personnel Action 2: Temporary Promotion to Supervisory AUSA or SLC position. Pay will be set in accordance with current supervisory AD pay guidelines.

NOTE: The employee should experience no break in coverage of any federal life or health insurance coverage. Retirement coverage and Thrift Savings Plan contributions, as well as annual and sick leave accruals will continue uninterrupted (USAs continue to earn leave on Attorney-General and Court Appointments). The only thing the employee should notice has changed (in the case of those who elected to receive the USA salary during this interim period) is that their pay will decrease.

The Personnel Staff, EOUSA, will monitor the processing of all of the above actions to ensure a smooth transition for these employees returning to former AUSA, Supervisory AUSA, or SLC positions.

DEPOSITION
EXHIBIT
Buchanan 7

Goodling, Monica

From: Goodling, Monica
Sent: Monday, February 12, 2007 1:46 PM
To: Nowacki, John (USAEO)

Attachments: USA data (GWB).xls



JSA data (GWB).xls
(44 KB)

EMAIL_DATE : 20070212

Comments:

NAME (district)	Prosecution experience (with years)			Chv (govt)	Political experience			FedSoc
	State/local	Fed career	USA FAUSA		Main Justice Hill	State/local	Impaign/Party	
Acosta, Alex (SDFL)								
Anderson, Tom (VT)	84-87; 93-95	87-96; 01-08			01-02, 03-05			Yes
Baife, Bob (WDAR)	96-00, 01-04							
Battle, Michael (WDNY)	95-96	85-92					88-02	
Biskupic, Steven (EDWI)		89-02						
Bogdan, Daniel (NV)	87-90	80-01						
Boyle, Jana (NDTX)	81-87	87-90					90-02	
Brooks, Susan (SDIN)								
Brownlee, John (WDVA)		97-01					98-89	
Buchanan, Mary Beth (WDPA)		89-01						Yes
Burgess, Timothy (AK)		89-01						
Canary, Laura (MDAL)		89-01		81-90, 90-94, 94-01			82-83	
Charlton, Paul (AZ)	89-91	91-01						
Chitara, Margaret (WDMI)	82-98							
Christie, Christopher (NJ)								
Colantuono, Thomas (NH)							95-97, 98-02	
Collins, Jeffrey (EDMI)				78-81			90-98, 99-01 Cong. Candidate	
Collobon, Stephen (SDIA)		91-94, 94-96, 96-98			90-91		83 Intern	94-98, 97-99, 99-01
Corney, James (SDNY)		87-93, 96-02						
Connelly, Colin (DE)		92-99						
Conrad, Robert (WDNC)		88-01			00-01			
Corrente, Robert (RI)								
Cummins, Bud (EDAR)							97-98	Cong. Candidate
DeGabriele, Don (SDTX)	82-85	86-08						
Dibiaggio, Thomas (MD)		91-00						
Duffey, William (NDGA)		80-81, 94-95						
Dugas, David (MDLA)							Local	
Eid, Troy (CO)							State Official	
Fitzgerald, Patrick (NDIL)		88-01						
Flynn, Terrance (WDNY)							81-84	
Garcia, Bert (PR)								
Garcia, Michael (SDNY)					02-05			
Gean, Thomas (WDAR)	97-01						Elected Prosecutor	
Graves, Todd (WDMO)	94-01				91,		Elected Prosecutor	
Greenlee, Jim (NDMS)					87-01		Local	Convention alt delegate
Gruender, Raymond (EDMO)		80-94, 00-01						Yes
Hall, Peter (VT)		78-86			82-86			
Hartaway, Catherine (EDMO)							93-98	State Rep 9 MO Exec Dir
Harris, Terrell (WDTN)	87-01							
Heaton, Roger (GDIL)		89-00						
Heavican, Michael (NE)	75-91	91-01				5-Mar		
Hefflinger, Thomas (MN)	78-82	82-86			91-83		Elected Prosecutor	
Holding, George (EDNC)					02-06			89-01



From: leonardleo@ []< []>
From: leonardleo@ []< []>

Date: 3/7/2005 11:05:56 PM

To: Buchanan, MaryBeth

Subject: [] San Diego

You guys need a good candidate?

I'd strongly recommend the current GC of the Air Force, Mary Walker.

Sent via BlackBerry from T-Mobile.

K. Interview of D. Kyle Sampson
July 10, 2007

RPTS McKENZIE

DCMN NORMAN

[10:30 p.m.]

A I don't remember.

Q Whether based on this conversation or more general?

A I don't remember. I mean, more generally I remember just concern that the White House had sort of been brought, you know, in a public way into this rising controversy. But I don't remember any specifics.

Q You don't recall any action being taken as a result of your conversation with Ms. Goodling?

A I don't.

Q Well, let me show you one more e-mail that I'm afraid may have interrupted your time on the slopes a little bit. This will be marked as Exhibit 37, and it bears the Bates stamps OAG 1814-1816.

[Sampson Exhibit No. 37

was marked for identification.]

BY MR. MINGBERG:

Q Have you had a chance to look at Exhibit 37?

A Yes.

Q This appears to be a series of e-mails between yourself and Sara Taylor with the subject line, "McNulty Strikes Again." Do you see that?

A I do.

staff e-mails.

Q Over the course of this process, do you recall how many times to your knowledge the White House suggested something, the Department pushed back, and the White House insisted successfully that the White House's approach be taken?

A I don't remember how many times, and I don't really remember any specific instances like that.

Q Do you remember any instance like that?

A Well, I remember in nearly every decision it was a collaborative back and forth until people on both sides agreed and came to consensus.

Q Okay. Let me turn to Sampson 37 now. This is OAG1814 on my copy through to OAG1816. Just a similar question. If you have already testified to this to the best of your knowledge earlier, then just please let me know that, and we will reference your prior testimony.

Towards the top of page 1814, there is an e-mail from Sara Taylor to you. Second sentence of that e-mail says that you forced him -- this is, quote, unquote, the "him" there being Mr. Griffin -- quote, to do what he did, close quote. What again is it that Sara Taylor was accusing the Department of forcing Mr. Griffin to do?

Mr. Mincberg. I will note for the record that was asked and answered, but --

L. Interview of Dana Jill Simpson
September 14, 2007

you weren't working or doing other things for personal reasons?

A And so, anyway, he was telling me all of the things that Alice had done as far as having messed up the deal. And then I -- and that since she had messed it up, he was definitely running, you know what -- I mean -- and then he proceeds to tell me that Bill Canary and Bob Riley had had a conversation with Karl Rove again and that they had this time gone over and seen whoever was the head of the department of -- he called it PIS, which I don't think that is the correct acronym, but that's what he called it. And I had to say what is that and he said that is the Public Integrity Section.

And I read in the paper since they call it PIN, but he called it PIS. So anyway, I said at the time that, you know, what happened -- you know what I'm saying? So -- but they had a conversation with Karl and then Karl, it is my understanding, then went over to the Public Integrity Section and talked to the head of it.

Q About what?

A About Don Siegelman and the mess that Alice Martin had made and it was my understanding in that conversation after that conversation that there was a decision made that they would bring a new case against Don Siegelman and they would bring it in the Middle District, which is not my

district where -- you know, you and I have had that discussion, I do not practice -- I am admitted to the Middle District back but that is getting pretty far afield from the location of my office.

Q Okay. And who -- when you say they had made a decision, who are you thinking of?

A Whoever that head of that Public Integrity -- the PIS was as Rob referred to it. And then whoever -- and Karl Rove.

Q And what -- well, from talking to Rob, this conversation you're describing for me was in late January, early February 2005?

A That is correct. Right after -- I was home with the baby for about 3, 3-1/2 weeks or so, and then I started getting out because I wanted more baby clothes and more baby stuff. So --

Q And is your understanding, then, that the conversation between Bob Riley and Bill Canary and Karl Rove would have occurred sometime in 2004?

A I understood -- whenever Alice's case was over -- which we had the discussion -- I don't know when it was over, but I think it was in October or September from what I've been told. But sometime between when that case had ended and when -- and I kind of understood from what --

Q And when you were talking?

A Yes, and when I was talking. And I kind of understood it had occurred before Christmas, but I don't know, November or December. But --

Q But it could have been any time --

A It could have been any time during that time.

Q Okay. And did Rob give you the name of the person at -- I'm just going to call it Public Integrity -- that he thought he understood Karl Rove had spoken to?

A No, he said it was the head guy there and he said that that guy had agreed to allocate whatever resources, so evidently the guy had the power to allocate resources, you know.

Q To the Siegelman prosecution?

A Yes. And that he'd allocate all resources necessary.

Q And did Rob -- well, did you discuss anything else about the reason to bring the case or the decision to bring the case in the Middle District?

A Oh, yes.

Q And what is that?

A I asked Rob why we needed to bring it in that area. And, of course, he mentioned Leura Canary, Bill Canary's wife, would be a good reason as to why to bring it. But he also mentioned Mark Fuller.

Q And who is Mark Fuller?

A Well, at that time -- I had heard about Fuller, but I've never met Mark Fuller so, you know. But Mark Fuller is the Chief United States Federal judge for that district.

Q Had you heard his name before Mark mentioned him?

A Yes, I had.

Q What did you know about Fuller then when Rob mentioned him that day?

A In 2001 and 2002 when I was up here trying to -- helping with the campaign and trying to collect the money on the -- the FEMA deal you read about, I made several trips up here for that. We would meet over at Stewart Hall's office, the Federalist Group. And I brought clients with me too. And I had one particular one that came a lot, but he would bring an entourage of folks who was involved in that FEMA deal. Well, anyway, Rob and Stewart and I had several discussions about these cotton tractors that do the storm work. I represent folks without naming any identities, but they predominantly do one kind of work and it is natural disasters or manmade disasters. And when you do a storm cleanup, you can make, like, 20, 30 million, 15 million in a 60-day period, a large percentage of the time. Rob and Stewart were fascinated by that because they knew Mark Fuller who had been -- Mark Fuller had been at Alabama with us because Stewart Hall was at Alabama when I was at Alabama.

Ms. Lynch. I'm going to object right now. I'm confused about -- are we still talking about a telephone conversation with Rob Riley?

The Witness. This was not a telephone conversation.

Ms. Lynch. I think the question she is responding to was still in regards to what was said to her or by her.

Mr. Broderick-Sokol. The question she is responding to now is what did you know about Mark Fuller when Rob Riley mentioned him.

Ms. Lynch. We're still getting there?

Mr. Broderick-Sokol. We're circling around to it.

The Witness. But anyway, I'll come --

BY MR. BRODERICK-SOKOL:

Q You're giving us a lot of how you know as opposed to what you really knew about Mark Fuller, which is what I want to understand. Why don't you start with -- you had just mentioned college, that he had been at Alabama. Is that what you had understood?

A With Stewart, me and Rob at the same time. But I did not know Fuller at college. They claim I knew him, but I don't recall him.

Q What is your recollection?

A I do not recall him. But they proceeded to tell me that Fuller has all these contracts, but his contracts are not the same type of contracts as mine. They were amazed

that my clients could get these cleanup large sum, whereas Fuller was getting large contract, but he was doing more what I consider to be maintenance on aircraft and fuel contracts, aviation kind of stuff which was not anything I was familiar with. It really sounded kind of like an oil job or doing government contracting.

Q So you knew that he had some business doing these contracts, you have learned this from Rob Riley and Stewart, whose name I'm not remembering.

A Hall.

Q And Stewart Hall. Thank you. Over that period, did you know he was a federal judge when Rob mentioned him to you that day?

A He wasn't a federal judge in 2001 and 2002. And, no, on 2005 on -- when Rob and I were in the office, no, I did not.

Q Okay. But when Rob mentioned Mark Fuller -- well, did Rob tell you he was a judge at that time?

A Rob, asked me, do you remember Fuller and I, it took me a minute and I said, yeah, I remember Mark Fuller. He said he is now a federal judge. I said she that guy that did those aviation contracts, and that's how I -- that's how I connected him.

Q Okay. And in that conversation in 2005, did you talk about Mark Fuller's business dealings in government

contracts?

A We did.

Q And what did you learn at that time?

A Rob told me that Mark Fuller was still a government contractor in 2005 and a United States Federal judge, which I found unusual.

Q Did he discuss with you any of the types of contracts that Mark Fuller was working?

A Yes, he did.

Q What did he say about that?

A He said that Fuller was doing fuel contracts, that he was doing maintenance contracts, that he was doing clothing contracts. He -- he makes flight suits. So you know. And he had Air Force and Navy and that he was -- did contracts with the FBI.

Q Okay.

A And I think the ATF, but -- I'm pretty sure he said the ATF also, but I'm not sure.

Q And did he talk to you about Mark Fuller's politics or political work?

A He did.

Q What did you talk about in that regard?

A I asked him -- he made a statement that Fuller would hang Don Siegelman. And I asked him how he knew that, if he got him in his court. And he said that Fuller was -- had

been on the Executive Republican Committee at Alabama -- in Alabama before he been a judge and he also told me about a backloging case, which is what you call the salary spike. He called it the "backloging."

Q Why don't you describe that?

A I had never heard the term "backloging." So I had to ask Rob what backloging was. Evidently from what I understand, Fuller had an employee when he was at the DA's job, before he got to be a job in Coffee and Pike. And he had two employees, a secretary and an investigator. And during his term of being DA, somehow that investigator wasn't making your typical salary, he kicked it up. And Rob got to telling me that there was an audit done, a couple of audits, I think, and that Fuller just hated Don Siegelman and thought he was responsible for these audits on those salaried employees and that there was something involving a backloging because they go back to figure your retirement and there was something kind of backloging deal. But I didn't fully understand it at that time.

Q And did he say any more about what Don Siegelman had to do with those audits that put Mark Fuller out?

A He said that Don Siegelman had caused Fuller to get audited. That's what Fuller thought. He hated him for that.

Q And this comment that he is going to hang Don