REMARKS OF MONICA M. GOODLING BEFORE THE COMMITTEE ON THE JUDICIARY, UNITED STATES HOUSE OF REPRESENTATIVES

PURSUANT TO THE COMMITTEE'S SUBPOENA AND THE DISTRICT COURT'S ORDER OF IMMUNITY

May 23, 2007

Good morning Chairman Conyers, Ranking Member Smith, and Members of the Committee.

On April 4th, I informed this Committee, through counsel, that I would invoke my Fifth Amendment privilege to refuse to answer questions regarding the firings of United States Attorneys and related matters. I did so in part because I learned that Deputy Attorney General Paul McNulty had accused me of withholding information from him prior to his public and private testimony before the Senate Judiciary Committee.

The Deputy Attorney General's Allegations are False

Let me start by correcting the record. I did not withhold information from the Deputy prior to his testimony. I worked diligently to compile and provide the Deputy with dozens of pages of statistics and other information that I thought he was likely to need based on the questions being asked at that time. At all times, I did my best to answer fully any question the Deputy asked of me.

I was only able to attend a portion of the preparation session for the Deputy's public testimony due to a conflicting event for which I was partially responsible. The night before the Deputy's public hearing, however, I specifically asked his Chief of Staff if there was any other information that he thought the Deputy needed or wanted from me.

As someone with significant Hill experience, the Deputy evidenced strong thoughts on how he wanted to address questions from the Hill, and given the Deputy's experience as a former U.S. Attorney, Chair of the Attorney General's Advisory Committee, and Deputy Attorney General, my expectation was that he had considerable independent knowledge of the subjects of his testimony. In addition, I had been briefing the Deputy nearly ever week for approximately a year on individual U.S. Attorney appointment issues. Those meetings almost always ran overtime, in part because the Deputy asked a lot of questions and I tried to answer them with as much information as I had. Although I do not remember specifically raising Mr. Sampson's work on the U.S. Attorney replacement plan until late in 2006, I certainly addressed some of the issues that the Deputy was asked about during his Senate appearance.

I do not agree with the Deputy's allegation that I failed to brief him adequately. Nor do I agree with the substance of his testimony in all respects. For example:

1. When asked whether the White House was involved in any way, the Deputy testified, "These are presidential appointments, so the White House personnel, I'm sure, was consulted prior to making the phone calls." This answer is not a full

statement of what the Deputy knew about White House involvement. The Deputy's Chief of Staff Michael Elston received an email indicating that Mr. Sampson had been in communication with Harriet Miers at least since September. The Deputy had received Mr. Sampson's plan in October, was copied on Mr. Sampson's transmittal of it to Harriet Miers in November, and received an email from Mr. Sampson in December stating that three different offices within the White House had signed off. As the plan was approved and implemented, the Deputy was involved and kept updated. From these communications, the Deputy certainly knew that Mr. Sampson had been working with several offices in the White House for some period of time, and certainly understood that they had signed off and were involved in the decision.

2. The Deputy testified that he did not have any knowledge of how Tim Griffin came to be recommended for an interim appointment in the Eastern District of Arkansas. In fact, however, I had kept the Deputy informed of the effort to remove Bud Cummins in order to arrange an opportunity for Mr. Griffin since the spring or early summer. The status of the Arkansas office came up frequently in my briefings over the course of the next six months. I am confident that I informed the Deputy of Mr. Griffin's background, that the White House had approved him to go into background investigation in advance of a nomination as early as June or July, and of some of the subsequent discussions about installing him as an interim U.S. Attorney while the possibility of nominating him was considered.

3. The Deputy testified that the Parsky Commission process "worked very well" and that the Department "respect[ed] that process." The Deputy knew, however, that the Department's internal assessment was to the contrary. The Deputy also knew that although a determination had been made to continue to use it, there had been some efforts to interview candidates outside the Commission process in the fall of 2006. I know that the Deputy was aware of the Department's dissatisfaction with the Commission's process because I briefed him on the issue at the time.

4. The Deputy testified that he "[did not] know anything about" allegations that Tim Griffin "caged" black votes in Arkansas during the 2004 presidential election. In fact, I informed the Deputy that this issue could arise on February 5th. To help him prepare to answer the question, I requested and received information on the issue from Tim Griffin and forwarded this information to the Deputy's Chief of Staff that night.

I attended the Deputy's public hearing and had reservations about his testimony at the time. I voiced some of those reservations to several senior leaders in the Department at its completion.

After the Deputy's public testimony, I worked with the Deputy, Kyle Sampson, Michael Elston, and David Margolis to assemble information that the Deputy had promised to provide in a future private session. At the Deputy's request, I took notes at a meeting in his office and then used those notes to prepare a chart listing reasons why each U.S. Attorney had been asked to

resign. Although I prepared the chart for the Deputy's review, and later provided largely the same information to William Moschella for his use, I was not the original source of most of the information that went into the chart, such as the comment that David Iglesias was an absentee landlord.

Furthermore, the Deputy exercised editorial control over the content that would go into the chart. For example, during the meeting someone mentioned that Senator Domenici had complained that David Iglesias did not "move cases." This reason did not appear in the Deputy's chart because the Deputy suggested that Senator Domenici himself should discuss these concerns with his congressional colleagues if he wished to do so. The Deputy indicated that he did not want to make this representation on the Senator's behalf.

On February 14, 2007, the Deputy attended a private briefing with the Senate Judiciary Committee. That afternoon, I rode with the Deputy to the Senate building, intending to observe the session and support the Deputy by providing additional information if needed. A few minutes before the private Senate briefing was to take place, however, the Deputy made it clear to me that he did not think I should attend. The Deputy suggested that if someone recognized me as the White House Liaison, the Members would be more likely to ask questions about the White House. As a result of that conversation, I waited outside the room while the Deputy briefed the Senate committee. After about an hour, the briefing broke to allow the Senators to vote. During the break, Richard Hertling told me that the briefing was not going well and recommended that I return to the Department immediately. Like the Deputy, Mr. Hertling suggested that it could complicate matters if anyone recognized me as the White House Liaison. As a result, I returned to the Department in a taxi.

Given these events, I was surprised to learn that the Deputy had blamed me for the incomplete and inaccurate information he provided to the Senate.

My Role as White House Liaison

I also expect that the Committee will ask questions about my role as White House Liaison. I am happy to answer the Committee's questions, but I am afraid the role is somewhat less glamorous than the title may suggest.

Although I held the title of White House Liaison, I was not the primary White House contact for the development or approval of the U.S. Attorney replacement plan. I never attended a meeting of the White House Judicial Selection Committee. To the best of my recollection, I have never had a conversation with Karl Rove or Harriet Miers while I served at the Department. I am certain that I never spoke to either of them about the hiring or firing of any U.S. Attorney.

I do remember attending meetings and other events at which Karl Rove was present and spoke – including a March 5th meeting regarding the U.S. Attorney replacement plan. I also attended some meetings and other events that Harriet Miers attended, but none on this topic.

In 2005, while I was serving in the Executive Office of United States Attorneys (EOUSA), I believe I had a social conversation with Tim Griffin, who then worked in the White House, in which he indicated that he was interested in returning to Arkansas as U.S. Attorney and that he may have the opportunity to do so if one of the Arkansas U.S. Attorneys, such as Bud

Cummins, were not retained. In 2006, after Mr. Cummins was asked to resign, I remember having communications with individuals in the White House Counsel's Office and Office of Political Affairs about the Arkansas position. I remember other conversations with staff within the White House Counsel's office about potential replacements for the other U.S. Attorney positions as those vacancies were created and as names of potential candidates were gathered and considered. I also remember exchanging emails with Scott Jennings about meeting with two New Mexico lawyers regarding David Iglesias in June 2006.

My Role in Selecting U.S. Attorneys for Replacement

As a separate matter, I wish to address my role in the U.S. Attorney resignations.

I first learned that others more senior to me were discussing the possibility of replacing some U.S. Attorneys whose four year terms were expiring at some point in mid-2005 when I was Deputy Director of EOUSA.

I believe that I first saw a list of candidates for replacement in January 2006 when Mr. Sampson showed me a draft memorandum he was preparing for Harriet Miers. By that time, I had worked for several years in the Office of Public Affairs and in EOUSA. In those two positions, I often had opportunities to work with U.S. Attorneys and had a good vantage point from which to learn about them and their offices. Working with the U.S. Attorneys was actually one of the best things about my job, and I admired them and the work that they do immensely.

At first glance, I thought that the U.S. Attorneys on Mr. Sampson's list seemed to fall into two general categories: districts where I had heard of various issues and districts that were simply undistinguished. I recommended that Mr. Sampson consider dividing his list into two tiers for that reason. I also recommended that two U.S. Attorneys he had listed be retained in office -- one because of his location in an area still devastated by Hurricanes Katrina and Rita and one because of her work on gun crime and other matters.

At Mr. Sampson's request, I also provided some recommendations of other U.S. Attorneys that I felt were similarly situated to those he had already listed. Given that the basic premise of Mr. Sampson's was a rejection of the idea of dismissing all U.S. Attorneys in favor of dismissing a more limited group, my understanding was that some U.S. Attorneys were not going to be retained beyond their four year term and I was being asked for my thoughts on which U.S. Attorneys were least deserving of a renewed opportunity to serve.

Two of the names I suggested were Paul Charlton and Daniel Bogden. I believe that I identified Mr. Charlton as a "problem district" based on complaints I had heard regarding his violation of Department policy in having unauthorized discussions with Members of Congress. With respect to Mr. Bogden, I simply did not know of any specific accomplishments in his district, and I recall that Mr. Bogden had received criticism for one incident in his district involving the USA PATRIOT Act.

As far as I can recall, I did not see the final version of Mr. Sampson's January memorandum until it was publicly produced to Congress. Indeed, I do not remember seeing another iteration of Mr. Sampson's list until September 2006. Based upon a review of the Department's public productions, however, it appears that Mr. Sampson did not accept my

suggestions to add Mr. Bogden and Mr. Charlton since they do not appear to have been included in the final version of the January memorandum. They also do not appear on subsequent iterations of the list that Mr. Sampson sent to the White House in April and May of 2006. Although their names do appear on the September draft of Mr. Sampson's list, my assumption is that Mr. Sampson added them to the list for reasons unrelated to my assessment nine months earlier.

In truth, I can not say with absolute certainty that I know why Kevin Ryan, John McKay, Carol Lam, Paul Charlton, Daniel Bogden, David Iglesias, and Margaret Chiara were asked to resign in December 2006. I can describe what I and others discussed as the reasons for their removal, but I cannot guarantee that these reasons are the same as those contemplated by the final decision makers who requested the resignations of these U.S. Attorneys. I am not aware, however, of anyone within the Department ever suggesting the replacement of these attorneys in order to interfere with a particular case, or in retaliation for prosecuting or refusing to prosecute a particular case, for political advantage.

My Involvement in Career Hiring at the Department of Justice

Finally, I wish to address the issue of my involvement in career hiring at the Department of Justice. In preparing for today's testimony, I requested copies of my personnel files from the Department in order to refresh my memory as to particular hiring decisions. The Department refused my request, citing Privacy Act considerations. Accordingly, while I will make every effort to provide answers to the Committee's questions, I cannot remember every particular position, applicant, or office that may be of interest.

I believe I conducted or participated in hundreds of job interviews during my time at the Department of Justice. Before I became the White House Liaison, the Attorney General delegated hiring authority over non-Presidentially-appointed political positions throughout the Department to his Chief of Staff and White House Liaison, subject to his approval. This delegation also included personnel authority over political and career positions within the Offices of the Deputy Attorney General and Associate Attorney General. My understanding at the time was that the delegation of authority over political hiring generally formalized the historical practice of this Administration. I believed that the portion of the delegation concerning staffing of the two leadership offices was designed to ensure a harmonious working relationship among the Attorney General's staff and the staffs of his Deputy and Associate.

The vast majority of the interviews I conducted or participated in were for political appointee positions. As is standard practice when reviewing applicants for political appointee positions, in addition to assessing their experience and qualifications, I would also ask these applicants direct questions regarding political affiliation and support for the President. The turnover rate in the political ranks was high during the past year, and I believe that nearly half of the individuals serving in non-career Senior Executive Service (SES) and schedule C positions were hired or promoted into new positions in the year that I served as White House Liaison.

In addition, I interviewed, reviewed, or recommended a much smaller number of applicants for positions that fell outside the non-career SES or schedule C categories. Although there were a few individual situations that arose from time to time, and in which political

considerations may have been a factor that I considered, as a general matter, I interviewed or reviewed applicants only for a few categories of career positions:

1. Details to Confidential, Policy-Making Positions. I interviewed applicants for detailee assignments to policy-making positions within a few leadership divisions of the Department of Justice, including the Deputy Attorney General's Office, the Associate Attorney General's Office, the Executive Office for U.S. Attorneys, the Office of Legal Policy, and the National Security Division. Although the applicants I considered for detailee assignments held or sought career positions, the detailee assignments they were seeking were of a confidential, policy-making nature. In most cases, these were positions that I believed could have been hired as political positions, but it was sometimes faster and easier to recruit highly qualified individuals from within the Department. Given the close and confidential working relationship that these detailees would have with political appointees, I asked questions designed to gauge whether applicants for these positions shared the same general policy viewpoint as the President and Attorney General. I believed there was a difference between trying to determine whether an applicant shared the Attorney General's policy priorities and asking the same applicant his or her political party membership. That said, due to the importance of these positions and the fact that detailees were sometimes considered for promotions into political positions, I generally conducted internet research and reference checks on these candidates, and I may have asked the wrong questions at times. In some cases, I learned and considered political information. If I veered too far into political territory when interviewing or considering applicants for policy-making positions in leadership offices, I regret that mistake, but I sincerely believed I was trying to act in the best interests of the Department.

2. Attorney General Appointments, such as Immigration Judges and Members of the Board of Immigration Appeals. Prior to December 2006, the Office of the Attorney General played a role in selecting individuals appointed under the Attorney General's name to serve as Immigration Judges and members of the Board of Immigration Appeals (BIA). Generally, for Immigration Judges, this role consisted of helping to identify and recommend candidates who would then be interviewed by the career staff of the Executive Office of Immigration Review (EOIR). Around the time I became White House Liaison in April 2005, Mr. Sampson told me that the Office of Legal Counsel (OLC) had provided guidance some years earlier indicating that Immigration Judge appointments were not subject to the civil service rules applicable to other career positions. During my tenure in the Office of Attorney General, I believe that I recommended approximately seven people to be interviewed by EOIR for Immigration Judge positions and recommended four individuals to be appointed to the BIA. Although I believed OLC considered these positions to fall into a unique personnel category, I generally focused on the applicant's judicial and immigration philosophy when conducting interviews. In reviewing resumes and soliciting applications, however, I sometimes took political considerations into account. At some point in the later part of 2006, questions arose regarding the personnel rules applicable to Immigration Judgeships and positions on the BIA.

Hiring on Immigration Judges and BIA positions was frozen in December 2006 after the Civil Division expressed concerns that the civil service rules might apply.

3. AUSA Positions in Districts with an Interim or Acting U.S. Attorney. Before I arrived in EOUSA, the Department had established a policy barring outgoing U.S. Attorneys and interim or Acting U.S. Attorneys from making hiring decisions. The purpose of this policy was to ensure that Presidentially-appointed and Senate-confirmed U.S. Attorneys would have an opportunity to make staffing decisions upon arrival in office. I tried to enforce this policy because I thought it was important to ensure that new U.S. Attorneys had as much hiring authority as possible. In cases of extraordinary need, however, the Department would sometimes grant a limited waiver to the hiring freeze in order to enable an interim or Acting U.S. Attorney to staff a crucial position. I reviewed a number of these waiver requests during my tenure in EOUSA and the Attorney General's office. While in EOUSA, I referred significant waiver requests to Mr. Sampson. When I moved to the Office of the Attorney General, my position in EOUSA was left vacant, so I continued to oversee these waiver requests. In many instances, I made a decision based solely on my evaluation of a district's demonstration of, or failure to demonstrate, extraordinary need. On some occasions, I held my decision on a request because I believed that a new U.S. Attorney would arrive fairly soon, or because I wanted to see whether that would be the case. In some cases, I believe I reviewed individual applicants' resumes. In a very small number of cases, I believe that my decisions may have been influenced in part based on political considerations. I regret this mistake.

Although it has become the subject of considerable press attention, I do not believe that I ever reviewed any candidates for the Attorney General's Honors Program, nor was I involved in the decision to change the process by which Honors Program hiring decisions are made. I do remember speaking with Michael Elston about the Honors Program a few times in 2006 and 2007, but I believe that I generally related to him what others had told me about the Program – specifically, that a decision had been made to elevate review of Honors Program hiring decisions to the leadership level in order to ensure that attorneys hired through Honors Program were supportive of the Attorney General's philosophy and priorities for the Department.

Conclusion

In conclusion, I'd like to share a few final thoughts. There are only a small number of people watching this hearing who actually know me. I wish I could explain who I really am, because the person that I read about on the internet and in the newspaper is not me.

At heart, I am a fairly quiet girl who tries to do the right thing and tries to treat people kindly along the way. As far back as the age of four, I knew I wanted to grow up and do something to serve or help other people. I went to public schools growing up but chose Christian universities, in part, because of the value they placed on service.

As I moved through life, I've had an opportunity to see what violent crime can do to its victims and I knew that at some point I wanted to do my part to seek justice on their behalf. That's why I loved the Department of Justice, particularly my time as a prosecutor. For the five years that I spent at the Department, I worked as hard as I could at whatever task was put before me – and I hope that's the reason why I was promoted five times during my service in the Department.

I considered the people that I worked with my family and I care about them deeply. I have no desire to say anything negative about anyone that I worked with, including the leadership team or the U.S. Attorneys that are the subject of my testimony. However, I am here to be a fact witness to what I heard, saw, did, or know and I'll do that to the best of my recollection.

Thank you for allowing me the time to make this statement. I'm prepared to take your questions.