

Questions for Paul Charlton from Senator Arlen Specter

1. A. Do you agree that a US Attorney serves at the pleasure of the President? **Yes.**
- B. Do you agree that he/she has an obligation to follow the policies promoted by the President and his Administration? **Yes. Additionally, a U.S. Attorney has an obligation to raise concerns regarding the implementation of those policies to leadership at the Department of Justice. Nowhere is that obligation more necessary or important than in the implementation of the death penalty. Similarly, the Attorney General has the solemn obligation to listen to all with special knowledge of the facts of a death penalty eligible case before seeking to take another's life.**
- C. And considering that you chose not to seek the death penalty in these situations, in contradiction to the Administration's desires, do you agree that they had every right to let you go? **I understand that I served at the pleasure of the President. When asked to resign, I did so. This question, however, assumes that: 1) I "chose not to seek the death penalty," and 2) this issue was the genuine reason for asking for my resignation.**

Assumption number 1 is untrue as no U.S. Attorney can "choose" to seek or not seek the death penalty. He or she can only recommend whether or not the Attorney General should seek the death penalty. A U.S. Attorney fails the Constitution as well as the dictates of his or her own conscience when he or she does not, or cannot, give the Attorney General honest advice on a death penalty case. And while I will not address the conscience of the Attorney General, I can say that he too fails the Constitution when he does not make a fully informed decision before asking for the execution of a defendant.

Assumption number 2 is currently the subject of a number of investigations.

2. Several witnesses for this hearing have made the argument that the federal death penalty should not be used in a state where the state death penalty is not legal. Do you agree with that statement, and why or why not? **I can speak best about my own experience in the District of Arizona. There, the U.S. Attorney has jurisdiction over major crimes committed on Arizona's 21 Indian tribes. Each of those tribes has opted out of the federal death penalty. See 18 U.S.C. §3598. The Department of Justice, however, does not consider this express desire when reviewing death penalty eligible cases that are crimes of general jurisdiction. For example, a carjacking that occurs on a reservation with Native American defendants and victims will be considered as a potential death penalty case by the Department, despite the tribes' express disagreement with this penalty and the law's prohibition in most other contexts. The Department of Justice should defer to the tribes' wishes as reflected in 18 U.S.C. §3598.**
3. Do you believe that the use of the federal death penalty unfairly impacts on racial minorities? **In my ten plus years of service as an Assistant U.S. Attorney and more than five years as a U.S. Attorney, I never witnessed an instance in which racial bias played a role in a decision to go forward with a case. That said, the statistics indicate that we as a nation should more fully explore the reason behind the disproportionate number of minorities on death row.**