



U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

July 22, 2007

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Please find attached Part Two of the Department's responses to questions for the record, which were posed to Attorney General Alberto Gonzales following his appearance before the Committee on April 19, 2007. The hearing concerned Department of Justice Oversight. The Department is working expeditiously to provide the remaining responses, and we will forward them to the Committee as soon as possible.

We hope this information is helpful. Please do not hesitate to contact this office if we may be of further assistance with this, or any other matter.

Sincerely,

Brian A. Benczkowski
Principal Deputy Assistant Attorney General

Enclosures

cc: The Honorable Arlen Specter
Ranking Minority Member

Questions for the Record for
Attorney General Alberto Gonzales
Senate Judiciary Committee
DOJ Oversight Hearing on April 19, 2007
(Part 2)

Leahy 21: What actions would you take, if any, if you learned that a member of Congress or White House official contacted a U.S. Attorney to inquire about an ongoing criminal investigation?

ANSWER: We would make contact with the member of Congress or White House and the U.S. Attorney in order to determine the reasons for such contact and to ensure that the Department's policy governing such contacts is followed. We would then determine the appropriate course of action.

Leahy 45: When Assistant United States Attorneys are hired in offices for which there is currently an interim or acting United States Attorney, those hires must be approved by the Executive Office of United States Attorneys. Testimony obtained in the ongoing investigation of the firing of U.S. Attorneys indicated that political officials within the Department have played a role in that process in the past. What role will political appointees and other political officials in the Department play in that hiring process going forward? What steps are being taken to make sure that political considerations are not taken into account in the hiring of Assistant United States Attorneys?

ANSWER: It is the longstanding policy of the Department of Justice to limit an interim or Acting United States Attorney's authority to hire Assistant United States Attorneys and make other discretionary personnel changes. This policy exists because hiring decisions are usually made by the Presidentially-appointed, Senate-confirmed United States Attorney. It is a longstanding practice to allow interim or Acting United States Attorneys to request that the Executive Office for United States Attorneys (EOUSA) grant a waiver of this limitation due to turnover and workload demands during the time in which the nomination and confirmation process are conducted. EOUSA reviews the requests for waivers to ensure that funding is sufficient to support the hires and also to ensure that upon confirmation, at a minimum, the incoming United States Attorney will have the ability to hire a First Assistant United States Attorney and a Secretary. Career ladder promotions and all other routine personnel actions for support employees (e.g., within-grade increases) are excepted because they do not involve filling a different position.

These factors are evaluated by career personnel within EOUSA, who consult with non-career appointees involved in the nomination process to determine whether and when Senate confirmation of a pending nominee is expected. EOUSA continues to review waiver requests on a case-by-case basis and approves those requests where funding and employee turnover are sufficient to afford an incoming Presidentially-appointed and Senate-confirmed United States Attorney the opportunity to make additional hires, or where it is critical for an interim or Acting United States Attorney to fill vacancies to avoid a hardship.

Leahy 46: During your testimony on April 19, you said that you did not know or could not recall in your answers to well over 60 – and by some counts more than 100 – questions from Senators on both sides of the aisle. As a result, the Committee’s efforts to learn the truth about why and how the United States Attorney dismissals took place, and the role you and other Department and White House officials had in them, has been hampered. Please search and refresh your recollection and supplement your testimony of April 19 with answers to those questions for which you responded that you could not recall or did not know.

Answer: My previous testimony represents my best recollection on those issue.

Leahy 47: Recently, the New York Times had two front page stories about the scant evidence of voter fraud. One of these articles is about the alteration of an Election Assistance Commission report to alter its conclusion that little voter fraud existed around the nation. The second article connected the EAC’s report to the Justice Department’s inability to demonstrate any organized efforts to skew federal elections. Despite your intense focus on criminally charging mostly Democratic voters and progressive organizations that help people register to vote, “scant evidence of voter fraud” was found. For example, in Milwaukee, an Assistant United States Attorney was quoted as saying “there was nothing that we uncovered that suggested some sort of concerted effort to tilt the election.” What role did dissatisfaction with investigation and prosecution of so-called “voter fraud” play in the decisions to replace U.S. Attorneys?

ANSWER: My previous testimony represents my best recollection on this issue.

Leahy 48: (a) Did you communicate with Harriet Miers, the White House Counsel, about replacing United States Attorneys?

ANSWER: I was aware of Ms. Miers’ interest in this subject through Mr. Sampson, but my best recollection is that I did not have any specific conversations with Ms. Miers about replacing the U.S. Attorneys we asked to step down in December 2006.

(b) When? How? How many times?

ANSWER: See answer to Leahy 48(a).

(c) What specifically do you recall about your communications with Harriet Miers on this topic?

ANSWER: See answer to Leahy 48(a).

(d) Did you discuss the “performance” of U.S. Attorneys? Did you discuss dissatisfaction or complaints about U.S. Attorneys?

ANSWER: See answer to Leahy 48(a).

Leahy 49: Did you communicate with Karl Rove about replacing United States Attorneys? When? How? How many times? What specifically do you recall about your communications with Karl Rove on this topic? Did you discuss the “performance” of U.S. Attorneys? Did you discuss dissatisfaction or complaints about U.S. Attorneys?

ANSWER: Karl Rove was a senior advisor to the President and sometimes provided input on presidential appointments. As a member of the Judicial Selection Committee where recommendations were made about U.S. Attorney appointments, Mr. Rove sometimes provided input relating to U.S. Attorney appointments. My best recollection as to his input regarding the dismissal of the eight U.S. Attorneys is reflected in my testimony.

Leahy 50: Did you communicate with Sara Taylor about replacing United States Attorneys? When? How? How many times? What specifically do you recall about your communications with Sara Taylor on this topic? Did you discuss the “performance” of U.S. Attorneys? Did you discuss dissatisfaction or complaints about U.S. Attorneys?

ANSWER: I may have had conversations with Ms. Taylor about whether to put Mr. Griffin’s name forth as the U.S. Attorney nominee after Senator Pryor indicated to me that he would not support Mr. Griffin for the U.S. Attorney position. I do not recall discussing with Ms. Taylor the performance, dissatisfaction or complaints about the eight dismissed U.S. Attorneys.

Leahy 51: Did you communicate with Andrew Card, the White House Chief of Staff, about replacing United States Attorneys? When? How? How many times? What specifically do you recall about your communications with Mr. Card on this topic?

ANSWER: To the best of my recollection, I did not talk to Andrew Card about replacing the U.S. Attorneys we asked to step down in December 2006.

(b) Did you discuss the “performance” of U.S. Attorneys?

ANSWER: See answer to Leahy 51(a).

(c) Did you discuss dissatisfaction or complaints about U.S. Attorneys?

ANSWER: See answer to Leahy 51(a).

Leahy 52: Did you communicate with Joshua Bolton, the White House Chief of Staff, about replacing United States Attorneys? When? How? How many times? What specifically do you recall about your communications with Joshua Bolton on this topic? Did you discuss the “performance” of U.S. Attorneys? Did you discuss dissatisfaction or complaints about U.S. Attorneys?

ANSWER: To the best of my recollection, I did not talk to Joshua Bolton about replacing the U.S. Attorneys we asked to step down in December 2006.

Leahy 53: Did you communicate with President Bush about replacing United States Attorneys? When? How? How many times? What specifically do you recall about your communications with President Bush on this topic? Did you discuss the “performance” of U.S. Attorneys? Did you discuss dissatisfaction or complaints about U.S. Attorneys?

ANSWER: My previous testimony represents my best recollection on this issue.

Leahy 55: Did you communicate with Kyle Sampson about replacing United States Attorneys? When? How? How many times? What specifically do you recall about your communications with Kyle Sampson on this topic? Did you discuss the “performance” of U.S. Attorneys? Did you discuss dissatisfaction or complaints about U.S. Attorneys?

ANSWER: My previous testimony represents my best recollection on this issue.

Leahy 56: What do you recall about communications you had with those working within the Administration about replacing United States Attorneys after the 2004 elections and before you became Attorney General? Do you recall discussing this matter with Mr. Sampson prior to January 9, 2005? What did you say to him during that discussion in 2004? What did he say to you?

ANSWER: My previous testimony represents my best recollection on this issue.

Leahy 64: In your written testimony for this hearing, you said, “the Department of Justice makes decisions based on the evidence.” Where is the contemporaneous record of that evidence for the decisions to replace David Iglesias, John McKay, Daniel Bodgen, Paul Charlton, Margaret Chiara, Carol Lam, and Bud Cummins?

ANSWER: In response to questions from Senator Brownback and others during the April 17 hearing, I set forth the reasons, as I understood them, for the requests for the resignation of each of the seven U.S. Attorneys asked to step down in December 2006.

Leahy 65: Do you wish to correct anything about your January 18th testimony under oath to this Committee in which you justified the decisions to replace these United States Attorneys and testified: “What we do, is we make an evaluation about the performance of individuals.”?

ANSWER: See answer to Leahy 64.

Leahy 66: Your former Chief of Staff, Mr. Sampson, has testified that in the course of putting together the list of U.S. Attorneys to fire, he never read an EARS evaluation and that you never asked for one. Mr. Battle testified that in his role as Director of the Executive Office of U.S. Attorneys, he would be aware of any significant management or performance problems, and such problems would be captured by EARS reports. Yet, he represented to Committee staff recently that he was not aware of performance problems for six of the dismissed U.S. Attorneys, and for a seventh, Carol Lam, he testified that he was aware of some complaints among some Washington staff, but nothing that he believed significant enough to merit dismissal. As to David Iglesias, John McKay, Paul Charlton, Daniel Bogden, Margaret Chiara, Carol Lam, and Bud Cummins, Mr. Battle said he was not aware of any significant performance problems. For each of these prosecutors, where no signs of significant performance or management problems had made their way to the top Department official specifically responsible for U.S. Attorneys, what do you say justified your determination to replace them?

ANSWER: See answer to Leahy 64.

Leahy 67: What had each done to lose “your confidence?”

ANSWER: See answer to Leahy 64.

Leahy 69: On January 18, you testified, “I have a responsibility to the people in your district that we have the best possible people in these positions” Do you believe Tim Griffin is the best possible person to be U.S. Attorney for the Eastern District of Arkansas?

ANSWER: As I previously testified, I believe Mr. Griffin was well-qualified for the position.

Leahy 71: Mr. Attorney General, you said to me and others at a meeting on March 8th that you replaced these U.S. Attorneys in order to get better U.S. Attorneys. I have heard you use a sports analogy about “trading up.” Yet there was no slate of candidates to take the places of those asked to leave, and according to the testimony of at least some senior staff of your Department, there were no replacements selected before the U.S. Attorneys were told to resign. How can you say that you were acting in order to improve the ranks of the U.S. Attorneys, when the U.S. Attorneys being replaced you acknowledge to be fine and

honorable people and good lawyers, and you did not have in mind who their replacements would be?

ANSWER: When I agreed in 2005 to a review of our sitting U.S. Attorneys, I did so with the understanding that to the extent some would be asked to resign, the purpose for doing so would be to seek within each district qualified individuals who could bring renewed energy and passion to the position. Where vacancies currently exist, we continue to search with recommendations and assistance from prominent local officials, for such candidates to fill these positions. I have every confidence that we will find the right person for every position, one who will bring renewed energy and talent to bear.

Leahy 72: In an August 9, 2006, email exchange between your former Chief of Staff , Kyle Sampson, and Debra Yang, U.S. Attorney for the Central District of California, Mr. Sampson agreed with Ms. Yang that John McKay had “really done good work” as U.S. Attorney for the Western District of Washington. Mr. Sampson wrote that “it’s highly unlikely that we could do better in Seattle” in terms of finding a nominee for a judgeship. Mr. Sampson made those statements about Mr. McKay after having reviewed the performance of U.S. Attorneys all over the country as part of the process of thinking about whom to fire, and Ms. Yang was a highly-respected U.S. Attorney who headed your intellectual property task force. In a September 13, 2006 email to Harriet Miers recommending U.S. Attorneys that the Administration “now should consider pushing out,” Mr. Sampson included John McKay for the first time – earlier lists he had circulated without listing Mr. McKay as a candidate for firing. Do you know how he made that fall, in only a month, from someone who had “really done good work” and was a good choice for a judgeship to someone the Administration “should consider pushing out”?

ANSWER: My previous testimony represents my best recollection on this issue.

Leahy 73: Did you have any communication with Harriet Miers about John McKay between August 9 and September 13, 2006, or at any other time?

ANSWER: To the best of my recollection, I did not have any conversations with Ms. Miers regarding Mr. McKay’s potential dismissal.

Leahy 74: Did you have discussions about John McKay with Karl Rove about John McKay? With anyone else at the White House? With anyone else at all?

ANSWER: My best recollection is that I did not discuss Mr. McKay’s dismissal as U.S. Attorney with Karl Rove. As Mr. McKay had sought to become a federal judge, his name may have come up at Judicial Selection Committee meetings which Mr. Rove may have attended.

Leahy 75: Who made the decision to add John McKay to the list? Why was he added?

ANSWER: My previous testimony represents my best recollection on this issue.

Leahy 76: What was your role in the decision? When and how did he lose your confidence?

ANSWER: My previous testimony represents my best recollection on this issue.

Leahy 77: Both Kyle Sampson, your former chief of staff, and Mike Battle, former Director of the Executive Office of U.S. Attorneys, have said that Deputy Attorney General Paul McNulty expressed reservations about replacing Daniel Bogden, the Nevada U.S. Attorney, and was not sure why he was on the list. Mr. Battle said he did not know of any performance issues with Mr. Bogden. Mr. Sampson testified that could not identify any complaint with Mr. Bogden's performance, had not reviewed his internal Department EARS evaluation, had not checked with Mr. Margolis, who reviewed EARS evaluations, or with local law enforcement about Mr. Bogden's performance, and knew of no communication with Mr. Bogden about an performance problems or opportunity given to Mr. Bogden to correct any perceived problems. Who made the decision to add Mr. Bogden to the list of U.S. Attorneys to be replaced? Why was he added?

ANSWER: My previous testimony represents my best recollection on this issue.

Leahy 78: What was your role in making the decision? When and how did he lose your confidence?

ANSWER: See answer to Leahy 64.

Leahy 79: You have not produced e-mails from the Republican National Committee or other political accounts to the Committee in connection with our investigation, is that correct?

ANSWER: The Department has produced or made available all emails identified as responsive to the Committees' requests and subpoenas, except in those limited instances where disclosure would be inconsistent with longstanding Executive Branch interests. The Department would produce, or would have produced, emails based on these standards without regard to whether any of the correspondents had a Republican National Committee email account. We are not aware, however, of any Department employees using a Republican National Committee email account for official business.

Leahy 80: Why is that?

ANSWER: See the answer to Question 79.

Leahy 81: You served as White House Counsel from the beginning of this presidency until you were appointed Attorney General in 2005. During this Presidency, have officials or employees of the Department of Justice used Republican National Committee or other political e-mail accounts? Who, for what time periods, at what e-mail addresses, and for what purposes?

ANSWER: The Department is not aware of Department officials or employees using Republican National Committee or other political email accounts in the course of carrying out their duties.

Leahy 82 Specifically, did Monica Goodling use e-mail accounts, addresses, or equipment from the Republican National Committee?

ANSWER: See the answer to Question 81.

Leahy 83: Did Kyle Sampson?

ANSWER: See the answer to Question 81.

Leahy 84: Did Paul McNulty?

ANSWER: See the answer to Question 81.

Leahy 85: Did Will Moschella?

ANSWER: See the answer to Question 81.

Leahy 86: Did you?

ANSWER: See the answer to Question 81.

Leahy 87: Have political e-mail accounts been used in connection with the development of plans to replace United States Attorneys, the implementation of those plans or the explanations of those actions?

ANSWER: The Department is not aware of Department officials or employees of the Department using Republican National Committee or other political email accounts in the course of developing, implementing, or explaining the plan to replace certain U.S. Attorneys.

Leahy 95: What is being done to avoid further spoilage of potentially relevant electronic data? Since the beginning of the investigation, have you or has anyone at the Department issued an order to preserve all documents, including relevant electronic data? When? Please provide the Committee with a copy of any court order(s) to preserve these electronic records.

ANSWER: The Department's Office of the Inspector General and Office of Professional Responsibility have issued multiple requests to relevant components of the Department to preserve any and all documents and information (including all electronically stored documents and information) relating in any way to the removal of the United States Attorneys. The first of those requests was issued on March 14, 2007.

Leahy 96: The Committee is awaiting your response to numerous letters sent to you regarding the Department's production of documents. Please answer the following questions regarding that production, which have been asked previously in letters, but not answered. What has been the precise scope of the document productions that have occurred thus far?

ANSWER: The Department provided a full discussion of our search methodology in our May 8, 2007, letter and subsequent briefing to the staff of the House and Senate Committees on the Judiciary. In addition, the Department's cover letters accompanying our productions have provided relevant information concerning the searches that led to the identification and production of the documents in question.

Leahy 97: Have all requested documents been produced, including all documents related to the Administration's evaluation of, and decisions to remove and replace, U.S. Attorneys since President Bush's re-election, as well as the selection, discussion and evaluation of possible replacements and interim appointments?

ANSWER: To date, the Department has produced or made available for review approximately 8,500 pages of documents. The Department is continuing its efforts to identify materials responsive to the Committee's initial and subsequent requests, and we will produce such documents as they are identified, consistent with our prior correspondence to the Committees.

Leahy 98: What was included, and what was excluded?

ANSWER: We would refer you to our May 8, 2007, letter to the House and Senate Committees on the Judiciary, and our various cover letters to the Committees, which discusses our search methodology and production efforts. We would specifically refer you to our March 19, 2007, letter to the Subcommittee on Administrative Oversight and the Courts, and our April 13, 2007, letter to the House and Senate Committees on the Judiciary, in which we discuss the categories of documents that the Department, based on longstanding Executive practice, has not produced or made available to the Committees.

Leahy 99: According to an April 2, 2007, article in *The American Spectator*, “a series of files and documents that could prove critical to the congressional investigation into the firings of eight U.S. Attorneys remain in the office of the Deputy Attorney General (DAG) and the Executive Office for the U.S. Attorneys (EOUSA), but have not been produced by the Department.” According to the article, these “files include overviews and evaluations of at least a dozen current and now-former U.S. Attorneys,” and briefing materials provided to you and the Deputy Attorney General for a meeting early last December. These materials are reported to contain information about the status of each U.S. Attorney for an early December meeting in Washington, D.C., including material about why particular U.S. Attorneys “might be on his or her way out.” Have the documents relevant to the Committee’s investigation cited in these articles that are in the custody, possession, or control of the Department of Justice been produced in full to the Judiciary Committee? If not, why not?

ANSWER: The Department agrees that overviews and evaluations of the eight U.S. Attorneys would be responsive to the Committees’ requests and subsequent subpoena. To the best of our knowledge, these materials have been made available or produced to the Committees, and we are not aware of documents fitting the description of the *American Spectator* article that have been withheld from the Committees. To the extent the article is referring to EARS reports, those documents have already been provided or made available to the Committees.

In response to the *American Spectator* article, we contacted the Office of the Attorney General, the Office of the Deputy Attorney General and the Executive Office for United States Attorneys, to ask whether the article described any materials that had previously been overlooked. The only other document potentially meeting that description was a briefing binder prepared for the Deputy Attorney General’s attendance at the Project Safe Childhood Conference in December 2006. This binder contains documents relevant to the conference, including the public bios of speakers at the Conference (who do not include any of the U.S. Attorneys who were removed). The binder does not contain any material evaluating the performance of any U.S. Attorney, and it therefore is not responsive to the Committees’ requests. The Department would be willing to make the binder available for review by Committee staff, however, if you wished to review it.

Leahy 100: How has the precise scope of the Department's production been determined?

ANSWER: We again would refer you to our May 8, 2007, letter to the House and Senate Committees on the Judiciary, and our various cover letters to the Committees, which discusses our search methodology and production efforts.

Leahy 101: What precise directions have been given to staff to locate, identify, and preserve relevant documents?

ANSWER: See answer to Question 100.

Leahy 102: Please identify the person or persons responsible for making that determination with respect to scope and who has been responsible for issuing instructions to staff. Please provide all instructions given to staff.

ANSWER: See answer to Question 100.

Leahy 103: What process has the Department followed for determining that all relevant documents have been located and produced, including e-mails from governmental and non-governmental accounts and documents stored in electronic archives?

ANSWER: See answer to Question 100.

Leahy 104: What, if any, documents remain that may be relevant to the Committees' investigations?

ANSWER: The Department has made an extraordinary effort to produce all responsive documents to the Committees' request, consistent with longstanding Executive Branch interests. The Department's efforts to identify material responsive to the Committees' initial and subsequent requests continue, and we will produce such documents as they are identified, consistent with our prior correspondence to the Committees.

Leahy 105: Why have those documents not been produced?

ANSWER: Consistent with its prior correspondence to the Committees, the Department's efforts to identify additional documents responsive to the Committees inquiry are continuing.

Leahy 107: Have you provided all documents, as requested, related to the case brought by Stephen Biskupic, the United States Attorney based in Milwaukee, against Georgia Thompson, formerly an official in the administration of Wisconsin's Democratic governor, that the Seventh Circuit Court of reversed immediately after oral argument for insufficiency of evidence? If not, why not?

ANSWER: The Department produced documents responsive to this request on May 17, 2007, and we refer you to our letter accompanying that production.

Leahy 108: To date, numerous documents have been withheld from the Department's productions or produced to the Committee only in redacted form. Yet the Department has yet to provide or attempt to provide any legal basis for the redactions, for the limitations on production, or for the restrictions you have unilaterally imposed on the public disclosure of documents. Thus far, the Department has produced only a partial privilege log for a small set of the documents withheld or redacted that does not set forth a legal basis for the withholding of the documents listed on the privilege log or elsewhere. If you do not have a legal basis for the redactions, withholdings, and limitations, please produce those documents to the Judiciary Committee without delay. If you believe you have a legal basis for the redactions, withholdings, and limitations, please specify that basis and for what documents the basis applies so that the Committee may assess the claim and challenge it if appropriate.

ANSWER: We would refer you to our March 19, 2007, letter to the Subcommittee on Administrative Oversight and the Courts, and our April 13, 2007, letter to the House and Senate Committees on the Judiciary, in which we discuss the categories of responsive documents that have not been produced to the Committees.

Specter 109: Among the documents submitted to the Committee by the Department in connection with the Committee's investigation into the dismissal of eight U.S. Attorneys is an email sent on the morning of February 7, 2007, the day after DAG McNulty testified before the Committee, from Brian Roehrkasse to Tasia Scolinos and Kyle Sampson which reads, "The Attorney General is extremely upset with the stories on the U.S. Attys this morning. He also thought some of the DAG's statements were inaccurate" (OAG 0297). Do you recall which stories from February 7, 2007, left you "extremely upset?" What about the stories upset you?

ANSWER: As I testified before the House Judiciary Committee, I was initially upset by the DAG's reference to the replacement of Mr. Cummins as not performance related because I had confused Mr. Cummins, who had been asked to step down in June 2006, with the 7 U.S. Attorneys who had been asked to step down in December 2006. It was my understanding that there were issues relating to the performance -- as I defined performance in my testimony -- of the 7 individuals asked to resign on December 7th.

Specter 110: Which of the DAG's statements did you find to be inaccurate?

ANSWER: As I testified to in the House Judiciary Committee, I do not believe that the DAG's statements with regard to Mr. Cummins were inaccurate.

Specter 111: Did you express your concerns directly to DAG McNulty? If so, what was the substance of that conversation?

ANSWER: No.

Specter 112: Was any consideration given to correcting the hearing record following DAG McNulty's testimony regarding any perceived inaccuracy?

ANSWER: See answer to Specter 110 above.

Specter 115: Is your decision to stand by the firings based on the list of justifications compiled by Monica Goodling on or about February 12, 2007?

ANSWER: As I previously testified, my decision to stand by the December requests to the U.S. Attorneys to step down is based on the reasons that I set forth in response to questions from Senator Brownback and others and on my conversation with the Deputy Attorney General about the decisions.

Specter 116: Did anyone brief you on the reasons why each of the U.S. Attorneys was asked to leave before the decision to seek resignation was made? If so, who told you the reasons, when did this occur, and was it done verbally or in writing?

ANSWER: My previous testimony represents my best recollection on this issue.

Specter 117: Putting aside the notion of the authority to terminate presidential appointees on an "at will" basis, do you feel that in each case, the right decision was made? If so, please explain the basis for each case where you believe the removal was correctly sought.

ANSWER: See answer to Specter 115.

Specter 118: In his interview before the Committee on April 15, 2007, Kyle Sampson indicated that, although there had been one complaint about Mr. Bogden's willingness to pursue an obscenity case, at the time the decision was made to ask Mr. Bogden to resign, Mr. Sampson did not recall the decision being based on that case. He also

said that he did not recall the reasons why Mr. Bogden was ultimately placed on the list. When DAG McNulty was interviewed by the Committee on April 27, 2007, he explained in response to being asked whether that the case of Mr. Bogden “fell through the cracks” that Mr. Bogden’s inclusion on the removal list did not receive the attention it probably should have. In light of this information, would you reconsider your decision to ask Mr. Bogden to resign?

ANSWER: As I previously testified, I stand by these decisions.

Kennedy 126: Please describe in detail the roles of Scott Jennings and Sarah Taylor, both of whom reported to Karl Rove, in the decision to dismiss eight U.S. Attorneys. Please provide any documents reflecting or relating to the participation by Mr. Jennings and/or Ms. Taylor in the recommendation or decision-making process that led to the firing of any U.S. Attorney.

ANSWER: See answers to Leahy 50 and Kennedy 133.

Kennedy 127: Kyle Sampson, your former chief of staff, testified that Mr. Jennings participated in meetings at which the replacement of U.S. attorneys was discussed. Mr. Sampson also testified that “Sara Taylor and Scott Jennings had expressed interest in promoting Mr. Griffin for appointment to be U.S. attorney.” He further stated that before Mr. Griffin was appointed to be U.S. Attorney in the Eastern District of Arkansas, Mr. Jennings and Ms. Taylor had discussed with Mr. Griffin the possibility of Mr. Griffin’s taking that position. Why were these political advisors to Karl Rove so involved in discussions about the dismissal of U.S. Attorneys?

ANSWER: See answers to Leahy 50 and Kennedy 133. Because the selection of USAs is a political appointment, I would expect the White House to be involved in such discussions.

Kennedy 128: Is it fair to say that on a daily basis, at least with respect to Mr. Cummins’ replacement by Mr. Griffin, they were more involved in the process than you were?

ANSWER: As indicated above, I do not recall being aware of any involvement in the process by Ms. Taylor or Mr. Jennings. As I testified, I had directed Mr. Sampson to consult with the appropriate Department officials and to collect the consensus recommendation of the Department’s senior leadership. I also expected that Mr. Sampson would contact the appropriate White House personnel as part of this process.

Kennedy 129: Do you agree that the involvement of Mr. Jennings and Ms. Taylor adds to the appearance that the firings were politically motivated?

ANSWER: See response to Kennedy 128.

Kennedy 130: The press has reported that Sara Taylor recently resigned her position. What were the reasons for her resignation?

ANSWER: I do not know.

Kennedy 131: The GOP website states that Scott Jennings, the Deputy White House Political Director and Special Assistant to the President, managed President Bush's campaign in New Mexico in 2004. What was Mr. Jennings' role in the firing of David Iglesias, the former U.S. Attorney for the District of New Mexico?

ANSWER: See answer to Kennedy 133.

Kennedy 132: Did Mr. Jennings or Ms. Taylor ever suggest to anyone in the Department of Justice that Mr. Iglesias should be fired? If so, please describe in detail that suggestion or communication, and state to whom it was made. Please provide any documents reflecting or related to such a statement by Mr. Jennings.

ANSWER: See answers to Leahy 50 and Kennedy 133.

Kennedy 133: Did Mr. Jennings or Ms. Taylor ever indicate to you that Mr. Iglesias had failed to pursue voter fraud? If so, please describe in detail those communications, and provide any documents reflecting or relating to this matter.

ANSWER: My best recollection is that I did not have any such discussions with them. I only would have spoken to Mr. Jennings at Judicial Selection Meetings and my best recollection is that I did not discuss Mr. Iglesias with Mr. Jennings at any of those meetings.

Kennedy 134: It appears that Karl Rove may have been dictating the dismissal of U.S. Attorneys for political reasons. U.S. Attorney David Iglesias was fired after he refused to indict New Mexico Democrats in the weeks before last November's election. John McKay was fired after he refused to pursue baseless charges of voter fraud as a means of challenging a Democratic victory in Washington's 2004 governor's race. Deputy Attorney General Paul McNulty testified that U.S. Attorney Bud Cummins was pushed aside to clear the way for Karl Rove's protégé. Many of the states where U.S. Attorneys were removed -- New Mexico, Washington, Arkansas, and Nevada -- are key battleground states. At the same time you made interim appointments in other closely contested states, such as Florida, Missouri, Iowa and Minnesota. You sent political appointees from Washington to these states. California is not a battleground state, but the widening corruption probes by the U.S. Attorney in San Diego had gained such national prominence that they were considered a factor in close races outside California during 2006, and some of those investigations could have continued into the next election cycle. How do you respond to those who are concerned -- and to the circumstantial evidence -- that the purge of U.S.

Attorneys was part of an effort to put partisans into key U.S. Attorney offices before the 2008 election season?

ANSWER: As I stated in my opening comments, I know that I did not, and would not, ask for the resignation of any individual in order to interfere with or influence a particular prosecution for partisan political gain. I also have no basis to believe that anyone involved in this process sought the removal of a U.S. Attorney for an improper purpose.

Kennedy 137: Did he mention any U.S. Attorneys' record on election fraud?

ANSWER: My previous testimony represents my best recollection on this issue.

Kennedy 138: Did President Bush himself ever ask you to fire any U.S. Attorney?

ANSWER: As I stated in my previous testimony, I do not recall the President ever telling me specifically to fire an United States Attorney.

Kennedy 139: Did Karl Rove tell you he thought that David Iglesias should be fired? What exactly did Mr. Rove say about Mr. Igelsias? Did he mention Mr. Iglesias' record on election fraud?

ANSWER: Mr. Rove did not tell me he thought Mr. Iglesias should be fired. As I previously testified, I do not recall Mr. Rove ever mentioning anything about Mr. Iglesias directly to me, rather he made a general comment about voter fraud in three districts, one of which was New Mexico.

Kennedy 140: Did you, as Mr. Bartlett stated, tell the President you knew about problems with some U.S. Attorneys and were looking into those problems? If so, what were the problems?

ANSWER: I do not recall that conversation, but I have no reason to believe that Mr. Bartlett's recollection is incorrect.

Kennedy 141: Was the decision to fire Mr. Iglesias based, even in part, on voter fraud matters? If so, what were the specific concerns about Mr. Iglesias' record on voter fraud?

ANSWER: See Answer to Leahy 64.

Kennedy 143: Who was involved in the decision to fire Mr. Iglesias?

ANSWER: My previous testimony represents my best recollection on this issue.

Kennedy 148: Did Ms. Miers or anyone else who worked in the White House ever mention to you Mr. McKay's failure to bring charges of election fraud in connection with the 2004 election?

ANSWER: My best recollection is that no one at the White House brought this allegation to my attention.

Kennedy 150: Did you discuss Mr. McKay with Karl Rove or anyone in his office? Did anyone else at the Justice Department?

ANSWER: See answer above to Leahy 74.

Kennedy 154: Did you ever discuss the development or use of the Attorney General's interim replacement authority with anyone who was employed at the White House?

ANSWER: To the best of my recollection, I did not talk about the Patriot Act's interim replacement authority with regard to the U.S. Attorneys we asked to step down in December 2006 with anyone at the White House.

Kennedy 156: Did you have discussions or communications regarding Mr. Graves' replacement with Bradley Schlozman? Describe those discussions and communications and any others of which you are aware.

ANSWER: To the best of my recollection, I did not have any discussions with Mr. Schlozman about replacing Mr. Graves prior to the time that Mr. Schlozman was recommended as a temporary acting replacement.

Kennedy 157: Why was Mr. Schlozman chosen to serve as U.S. Attorney in the Western District of Missouri? When he was selected, had you reviewed his litigation experience? Please name all of the persons who were involved in Mr. Scholzman's selection for the position of U.S. Attorney.

ANSWER: I do not recall who presented me with the recommendation that Mr. Schlozman be asked to serve as an interim U.S. Attorney nor do I recall any specific discussions on his qualifications. As a general matter, candidates for interim U.S. Attorneys do go through a recommendation process, during which the candidate's litigation experience would be one of the

factors DOJ staff would consider in their evaluation. I have no reason to believe that the normal process was not followed here.

Kennedy 158: I'm concerned that some of the U.S. Attorneys appointed in recent months helped preside over the politicization of one of the Department's most important responsibilities -- protecting the right to vote. Bradley Scholzman, who previously worked in the Bush Civil Rights Division, was involved in approving Tom DeLay's Texas redistricting plan despite the unanimous objection of career attorneys that the plan was discriminatory. The plan was later struck down by the Supreme Court. Mr. Schlozman also oversaw approval of the Georgia photo identification requirement for voting, which clearly discriminated against minority voters. That requirement was later blocked by a federal district court as tantamount to a modern poll tax. The controversy over the Department's handling of the Georgia and Texas matters was widely reported in the press, and has been the subject of oversight by this Committee. Did you or anyone involved in selecting Mr. Schlozman to be the U.S. Attorney for the Western District of Missouri know of his record on voting rights in the Civil Rights Division?

ANSWER: As described in the answer to Kennedy 157 above, I would expect that Mr. Schlozman's work in the Civil Rights Division was a factor DOJ staff would consider in the normal course in its evaluation of his candidacy for an interim U.S. Attorney appointment.

Kennedy 159: Did you discuss with or have communications with anyone regarding the use of the Attorney General's interim appointment authority to appoint Mr. Schlozman as U.S. Attorney? If so, please describe those discussions or communications, and provide any documents reflecting or relating to them.

ANSWER: We did not use the Patriot Act's interim appointment authority for Mr. Schlozman. In fact, as soon as Mr. Schlozman was named interim U.S. Attorney, the Department began working to identify a permanent replacement. This process resulted in the nomination of John Wood and his unanimous confirmation by the Senate in April 2007.

Kennedy 160: When was the decision made to replace Mr. Schlozman? Why was the decision made?

ANSWER: See answer to Kennedy 159 above.

Kennedy 161: Did the current controversy surrounding the replacement of U.S. Attorneys have anything to do with that decision?

ANSWER: No.

Kennedy 162: Was United States Attorney Heffelfinger encouraged or forced to resign? Describe all discussions and communications of which you are aware surrounding the resignation of Mr. Heffelfinger.

ANSWER: No.

Kennedy 163: Describe any discussions or communications about which you are aware regarding the replacement of Mr. Heffelfinger with Rachel Paulose.

ANSWER: Mr. Heffelfinger was not forced to resign. He left for family financial reasons after faithfully and effectively serving as U.S. Attorney for over 4 years. Ms. Paulose was subsequently nominated by the President and unanimously confirmed by the Senate.

Kennedy 164: To your knowledge, has any current or former employee of the Administration ever expressed concern that former U.S. Attorney Carol Lam's corruption investigations could -- or did -- affect the outcome of the 2006 elections? If so, who, and what did they say?

ANSWER: No.

Schumer 174: You have stated that you recall making the decision to dismiss a group of U.S. attorneys, but you do not recall when you made that decision. How can you be so sure that you approved these dismissals if you have no recollection of the occasion on which you did so?

ANSWER: My previous testimony represents my best recollection on this issue.

Schumer 175: You stated in your written testimony for April 19, 2007 that "the process that led to resignations was flawed," that it was "nowhere near as rigorous or structured as it should have been," and that "reasonable people might decide things differently[.]" You also stated during the course of the hearing that you made mistakes in managing this process and that, looking back, you should have done many things differently and given more direction to your staff. Please explain why you are standing by the results of such a flawed process.

ANSWER: My previous testimony represents my best recollection on this issue.

Schumer 176: On February 23, 2007, in response to an inquiry from the Democratic leadership of the Senate, the Department of Justice informed me and my colleagues that "The Department is not aware of Karl Rove playing any role in the decision to appoint Mr. [Tim] Griffin" as the interim U.S. Attorney in the Eastern District of Arkansas. Yet on

March 28, 2007, the Department informed the Committee that “certain statements in the February 23 letter are contradicted by Department documents included in our production in connection with the [Senate and House Judiciary] Committees’ review of the resignations of U.S. Attorneys. We sincerely regret any inaccuracy.” Given the Department’s admission that inaccurate information was provided in response to the initial Congressional inquiry, I ask you to provide a full and accurate response to the original question: What role did Karl Rove, with whom Griffin was closely associated, play in the decision to appoint Griffin?

ANSWER: My previous testimony represents my best recollection on this issue.

Schumer 177: Do you have any plan to review the records of the dismissed U.S. attorneys or to consider reinstating them, given your admission that the dismissal process was flawed?

ANSWER: No. As I previously testified, my decision to stand by the December requests to the U.S. Attorneys to step down is based on the reasons that I set forth in response to questions from Senator Brownback and others and on my conversation with the Deputy Attorney General about the decisions.

Schumer 180: John McKay and David Iglesias were both reportedly criticized for not pursuing election fraud allegations after the 2004 federal elections. Did the Public Integrity Section of the Justice Department concur with the decisions by Mr. McKay and Mr. Iglesias not to pursue criminal charges?

ANSWER: Without getting into any specific law enforcement matters, the United States Attorneys Manual (9 U.S.A.M. 85.210) requires United States Attorneys and their Assistants to "consult" with the Criminal Division before opening a general investigation into alleged election frauds. This "consultation" requirement means that the Division's views must be sought and taken into account before an election fraud investigation is initiated. The "consultation" requirement does not, however, mandate or require that the USAO follow the views of the Public Integrity Section of the Criminal Division. With respect to election fraud matters arising out of the 2004 general election in the District of New Mexico and the Western District of Washington, the United States Attorney Offices in question complied fully with this "consultation" requirement.

Schumer 181: Document OAG297, produced by the Department of Justice, is an e-mail from Brian Roehrkas to Tasia Scolinos and D. Kyle Sampson on February 7, 2007, the day after Deputy Attorney General (“DAG”) Paul McNulty testified before the Senate Judiciary Committee. Mr. Roehrkas wrote: “The Attorney General is extremely upset with the stories on the U.S. Attorneys this morning. He also thought some of the DAG’s statements were inaccurate.” What specific statements by Mr. McNulty at the hearing on February 6, 2007, did you think were inaccurate?

ANSWER: See Answer to Specter 109 and 110.

Schumer 183: "On April 12, 2007, I wrote to advise you of ten key questions that would come up during your testimony before the Senate Judiciary Committee. I provided you with these questions ahead of time in order to give you an opportunity to gather information and refresh your recollection so that the Committee could obtain full information. Unfortunately, during the course of a lengthy hearing on April 19, 2007, you were still unable to provide full answers to any of these questions. I urge you to take this additional opportunity to provide full responses to the following key questions about the dismissal of eight U.S. attorneys. A February 23, 2007, letter written to me on your behalf stated that "[t]he Department is not aware of Karl Rove playing any role in the decision to appoint Mr. Griffin." This directly contradicts a statement by your former aide, D. Kyle Sampson, that Mr. Griffin's appointment was "important" to Mr. Rove. Please provide a full account of all communications regarding Tim Griffin between the Department of Justice and Mr. Rove or aides communicating on Mr. Rove's behalf.

ANSWER: My previous testimony represents my best recollection on this issue.

Schumer 184: You have not clarified the involvement of Mr. Rove in the process of dismissing a group of U.S. attorneys. Yet in response to my questioning at the Senate Judiciary Committee hearing on March 29, 2007, Mr. Sampson stated under oath that he remembered "learning from the Attorney General that Mr. Rove had complained to the Attorney General about U.S. Attorneys in three districts" who were not aggressively pursuing voter fraud. Please provide a full account of all your communications with Mr. Rove regarding the performance or possible dismissal of any United States attorney, and state whether Mr. Rove ever expressed the view that a particular U.S. attorney should be removed from office.

ANSWER: My previous testimony represents my best recollection on this issue.

Schumer 185: President Bush has personally confirmed that he passed complaints to you last fall about certain U.S. attorneys' handling of voter fraud cases, yet you stated on March 26, 2007, that you do not recall this conversation. Please provide a full account of all your communications with President Bush regarding the performance or possible dismissal of any United States attorney.

ANSWER: See Answer to Kennedy 136.

Schumer 186: Although you reportedly do not recall speaking with President Bush about complaints regarding voter fraud cases in three jurisdictions, the White House has confirmed that one of the districts President Bush mentioned to you was New Mexico. (Washington Post, March 19, 2007) Department of Justice documents and Mr. Sampson's

testimony confirm that David Iglesias, formerly the U.S. Attorney for the District of New Mexico, was added to the list of prosecutors to be fired sometime between October 17, 2006 and November 7, 2006. On what precise date, why, and by whom was Mr. Iglesias placed on the list of U.S. attorneys to be fired?

ANSWER: My previous testimony represents my best recollection on this issue.

Schumer 187: Department officials have reported that you do not recall a November 27, 2006, meeting with your top advisors to discuss U.S. attorneys, but departmental documents support Mr. Sampson's testimony that you did attend that meeting. Please give a full account of the meeting about U.S. attorneys on November 27, 2006, including all of your statements at the meeting, and clarify whether you personally approved the dismissal of specific U.S. attorneys on that occasion.

ANSWER: My previous testimony represents my best recollection on this issue.

Schumer 188: At a press conference on March 13, 2007, you stated that you "never had a discussion about where things stood" in the process of removing certain U.S. attorneys. However, Mr. Sampson testified before the Senate Judiciary Committee that he spoke with you on at least five occasions about dismissing a group of U.S. attorneys. How many times, and when, did you discuss the plan or process to dismiss certain U.S. attorneys with any official at your Department, any official at the White House, or any other person?

ANSWER: My previous testimony and answers represent my best recollection on this issue.

Schumer 189: Over what period of time did these discussions occur?

ANSWER: My previous testimony and answers represent my best recollection on this issue.

Schumer 190: You have also stated that you "don't recall being involved in deliberations involving the question of whether or not a U.S. attorney should or should not be asked to resign." How many times, and when, did you discuss whether a specific U.S. attorney should be removed from office with any official at your Department, any official at the White House, or any other person?

ANSWER: My previous testimony represents my best recollection on this issue.

Schumer 191: Over what period of time did these discussions occur?

ANSWER: My previous testimony represents my best recollection on this issue.

Schumer 192: A Justice Department spokeswoman has stated: “The Attorney General has no recollection of any plan or discussion to replace U.S. attorneys while he was still White House counsel.” (New York Times, March 16, 2007) However, Mr. Sampson wrote on January 9, 2005 – before you had taken office as Attorney General – that “Judge and I discussed briefly” the issue of removing and replacing U.S. attorneys. (OAG0180) Please describe any and all discussions, with Mr. Sampson or any other person, which you initiated or participated in while you were Counsel to the President regarding any plan to remove and replace U.S. attorneys during President Bush’s second term.

ANSWER: My previous testimony represents my best recollection on this issue.

Schumer 193: On March 26, regarding the role of the White House in removing U.S. attorneys, you stated: “As far as I know... they did not play a role in — in adding names or taking off names.” Yet Mr. Sampson’s testimony indicated that he discussed the names of specific U.S. attorneys who could be fired, including Patrick Fitzgerald, at meetings with White House Counsel Harriet Miers and her aides. Please provide a full account of communications between any member of the Department of Justice and the White House regarding which specific U.S. attorneys would be asked to resign.

ANSWER: My previous testimony and answers represent my best recollection on this issue.

Schumer 194: Following the Deputy Attorney General’s testimony to the Senate Judiciary Committee on February 6, 2007, your spokesman sent an e-mail to Mr. Sampson stating: “The Attorney General is upset with stories on the U.S. Attorneys this morning. He thought some of the DAG’s [Deputy Attorney General’s] statements were inaccurate.” You also admitted at a press conference on March 13, 2007, that Department officials shared incomplete information with Congress. What specific statements to Congress by the Deputy Attorney General and other officials were inaccurate?

ANSWER: See Answer to Specter 109 and 110.