

Statement of

# **The Honorable Patrick Leahy**

United States Senator  
Vermont  
March 22, 2007

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Chairman, Committee on the Judiciary  
Business Meeting  
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I commend Senator Feinstein, Senator Specter, Senator Schumer and all the Members of this Committee for their outstanding work in connection with Senate's consideration and passage of S.214, the Preserving United States Attorney Independence Act of 2007. You led the way and the Senate sent a powerful message by passing that remedial measure 94 to 2.

Today, I will ask the Committee to proceed to provide additional authorization we need, if subpoenas are necessary, as we proceed with our investigation into the mass firings of U.S. Attorneys around the country. At his press conference last week the Attorney General indicated that he did not know all that had transpired in connection with this matter, and that the matter needed to be investigated. He acknowledged that we need to "find out what went wrong here, and to access accountability." This Committee is fulfilling its duty to conduct that investigation.

A growing number of other Senators, both Republican and Democratic, have called for the Attorney General's resignation. Likewise Members of the House of Representatives, both Republican and Democratic, have called for his resignation. The President determines the standard of conduct, candor, competence and effectiveness for his Administration. President Bush said on Tuesday in a televised statement to the American people that the Attorney General enjoys his confidence and support, so the Attorney General must represent the standards this President expects.

I want the American people to have a Justice Department and United States Attorneys offices that enforce the law without regard to political influence and partisanship. I want the American people to have confidence in federal law enforcement and I want our federal law enforcement officers to have the independence they need to be effective and merit the trust of the American people. Sadly, what we have heard from the Administration has been a series of shifting explanations and excuses and a lack of accountability or acknowledgement of the seriousness of this matter.

Senator Specter has counseled that Senators should cool their rhetoric on this matter. The hottest rhetoric I have yet heard came from President Bush on Tuesday evening. Less than an hour after I concluded my very first meeting with his new White House counsel, the President took to the nation's airwaves and cable channels to denounce as a "partisan witch hunt" the efforts of

Congress to seek the truth about a corruption of federal law enforcement. Regrettably, he is the one who has again chosen confrontation and division.

Apparently Mr. Rove has advised him that he should try to exploit this situation politically in an effort to rally Republicans to his defense. Today, we will learn if their efforts have been successful in turning what has been a bipartisan inquiry, in which Republicans and Democrats have registered shared concerns, into a partisan divide. I hope not. I hope that those Republicans who served as prosecutors and who value the confidence of the American people in even-handed law enforcement will continue to work with us in efforts to get to the truth. I hope we will not witness the spectacle of United States Senators parroting talking points from the White House.

This White House is good at few things, but one thing it is good at is dividing-- dividing Americans and dividing Congress along partisan lines. By doing so, it created a Republican rubberstamp Congress when they held the majority. It is now seeking to create obstructions and diversions since there is a new majority that is asking questions and providing oversight. This Administration apparently considers it a victory to divide the Senate. The Administration would much rather enlist Republican Senators in the service of partisan goals than have them working in concert with other Senators to fulfill the Senate's important, separate, institutional role as a check on the President. This Committee and the Senate should pay attention to its responsibilities and get to the truth. That is what serves the interests of the American people. I hope to do that in cooperation with all Members, but I intend to do it.

The answers to our questions at the January 18 hearing with the Attorney General and the February 6 hearing with the Deputy Attorney General, as well as a series of statements by White House spokespeople and other Justice Department officials in private briefings have been contradicted by the testimony of the former United States Attorneys and the limited emails and other documents we have obtained from the Department of Justice. Despite the initial denials of White House involvement, it is now apparent that White House officials were involved in the planning and execution of the firings, the consideration of replacements, and the subsequent misleading explanations from Justice officials.

With all due respect to President Bush, at his Tuesday press conference he based his conclusion that his Administration did not exert political pressure in the firing of the U.S. attorneys on a review conducted by the White House staff asserting that they themselves did nothing "improper". It begs the question whether political pressure was applied and by whom and why. The President did not share facts or information or testimony or evidence, but only a self-serving conclusion by the White House staff.

The dismissed U.S. attorneys have testified under oath and said in public that they believe political influence was applied. They have given chapter and verse and specific examples. If they are right, that mixing of partisan political goals into federal law enforcement is highly improper. It is wrong. That is what we are seeking to determine by our investigation of the facts.

We spoke a good deal this week about the need for prosecutors and all law enforcement to be removed from politics so that justice can be dispensed without fear or favor. We need to restore the trust of the American people in federal law enforcement. We now have strong reason to believe that, despite the earlier protestations to the contrary, Karl Rove and political operatives at

the White House and for the Republican Party, along with those in the White House Counsel office, played a role in the U.S. attorney firings.

Given revelations in the press and in the documents we obtained from the Justice Department, we will need to hear from the Attorney General's successor as White House Counsel, her associate White House Counsel and Mr. Rove. They are in the emails as interested parties in this matter. I hope to obtain their cooperation and all relevant information without having to utilize subpoenas. Having the authority from the Committee to proceed, as needed, will be helpful in that regard.

In our joint letter on March 13, Senator Specter and I suggested we proceed to obtain evidence highly relevant to our investigation, including access to witnesses and documents relevant to our investigation.

Instead of working with us, Mr. Fielding, the new White House counsel who I met for the first time on Tuesday, sent a letter imposing conditions that would unfairly constrain our ability to investigate by preventing us from having access to relevant information, interfering with our ability to learn the truth by pre-selecting only certain documents or witnesses, and unduly limiting the scope of the investigation by prejudging its outcome.

Moreover, he sought to impose restrictions on the questioning of White House staff by dictating that it be limited to off-the-record, private chats. As I have noted, there have been a number of such informal briefings already and they have all proved unsatisfactory and provided less than the whole truth.

Of course, I remain open to the White House agreeing to provide the investigating committees of the Congress with access to witnesses, information and relevant documents. We have oversight responsibility and act on behalf of the American people. Political influence in federal law enforcement is a serious matter. We need to get to the bottom of what happened, why, how and who was involved.

I have heard from others that Mr. Fielding described his letter as a "take it or leave it" offer and that he characterized it as the White House's best and final offer. As I discussed with him on Tuesday, that is unacceptable. The limitations and conditions he has sought to impose on the Committee's investigation are unfair and will not allow us to get to the truth. I do not intend to lead a partisan witch-hunt of any kind, but I do intend to work with all who will work with me on a fair and thorough investigation into what happened and why and who was involved.

By authorizing subpoenas, the Committee maintains its flexibility in our investigation so that we can do a thorough investigation not only into the firing of the U.S. attorneys, but also into the politicization of the entire process for hiring and firing them. One of the aspects of this I find of greatest concern is the effects of these firings on the decisionmaking of United States Attorneys. What did they have to do to be "loyal Bushies" and keep their jobs?

Our investigation is an important one and we should not limit its scope or prejudge its outcome. We need to follow the facts and get to the truth. The scope of this investigation includes an examination of the Administration's evaluation of U.S. attorneys and the decision to replace them

since President Bush's re-election. It also includes the selection, discussion and evaluation of possible replacements and interim appointments. The selective documents released so far by the Department of Justice prevent us from learning highly relevant information.

This investigation stems from this Committee's jurisdiction and responsibilities to the Senate and the American people. Under the Senate's Organizing Resolution and Standing Rules, the Judiciary Committee has the authority to conduct oversight and investigations related to the Department of Justice and U.S. attorneys' offices. We have the authority to examine whether inaccurate or incomplete testimony was provided to the Committee, to consider legislation within our jurisdiction, and to protect our role in evaluating nominations pursuant to the Senate's constitutional responsibility to provide advice and consent. Indeed, it was in light of this jurisdiction, the confirmation power vested in the Senate, and the jurisdiction of this Committee over the review of U.S. attorney nominations, our Ranking Member observed early on that we have "primary" responsibility to investigate this matter.

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