

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Opening Statement of Senator Patrick Leahy
Chairman, Senate Judiciary Committee
Executive Business Meeting
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This week, the Committee proceeded with a number of important matters, including important oversight matters involving the firing of United States Attorneys and the President's warrantless wiretapping program.

We are learning from the press more details about the growing number of United States Attorneys that were considered for replacement as part of a plan to ensure political loyalty at the Justice Department. The scandal swirling around the dismissal and replacement of our federal prosecutors continues to grow, and raise troubling questions about the management of that Department.

There continues a crisis of leadership at the Department of Justice. This week we learned from the press that another high-ranking Justice Department official is resigning. This time it is the Deputy Attorney General Paul McNulty. He is at least the fourth high-ranking Justice Department official to resign since this Committee began its investigation into this matter.

Meanwhile, in stunning testimony this week from respected former Deputy Attorney General James Comey, we learned of another direct White House threat to the independence of the Department and to the rule of law itself. Mr. Comey described remarkable events that would not be believed if included in a bad movie. He described how then-White House Counsel Alberto Gonzales and White House Chief of Staff Andy Card rushed to the hospital room of a seriously ill John Ashcroft to try to circumvent the leadership of the Justice Department, and pressure Mr. Ashcroft into signing off on the legality of the program to spy on Americans without a warrant. Attorney General Ashcroft and Deputy Attorney General Comey had withheld that approval based on concerns about the legality of the program. Instead of listening to the advice of their Justice Department, White House officials ignored their counsel when it did not suit them, and according to Mr. Comey, "they went ahead and reauthorized the program" anyway.

I have been raising concerns about the illegality of the warrantless wiretap program for years now. We have sought to get to the bottom of it, to learn the legal justifications and official acts that sought to justify it. Now we may know why the Administration has been so resistant to sharing their legal analysis with us-- apparently even the Office of Legal Counsel at the Department of Justice raised concerns about its legality.

We have been consistently stonewalled in response to our requests for the legal documents relating to the NSA warrantless wiretap program. I made no less than eight formal requests to the White House, the Attorney General and other Justice Department officials seeking these documents. Now we may know why -- apparently high-ranking officials at the Justice Department determined that the program had, and I quote Mr. Comey, "no legal basis." We must press for the legal analysis and purported justifications.

Mr. Comey also testified about his intention to resign rather than be complicit in an illegal program. He mentioned discussions with the FBI Director, the staff of the Attorney General, and apparently with Attorney General Ashcroft himself, about mass resignations in protest when the White House decided to override their independent legal judgment about the legality of the warrantless wiretapping program.

The American people deserve a strong and independent Department of Justice with leaders who enforce the law without fear or favor. Regrettably, that is not the Justice Department they have today. The person who apparently sought to pressure Attorney General Ashcroft and Deputy Attorney General Comey into approving an illegal program and then ignored them when they would not comply with the White House's wishes, was rewarded by this President with the job to head the Justice Department.

This Administration was willing then, and now again in the U.S. Attorney firings, to sacrifice the independence of law enforcement and the rule of law for loyalty to the White House. It pains those of us who care about law enforcement, respect law enforcement and who understand the role of law enforcement to see a Department of Justice turned into just another agency this Administration seeks to manipulate as a political arm of the White House. Our justice system should not be a political arm for this White House or any White House, whether occupied by a Republican or a Democrat.

They have not been able to conceal all. We continue to learn of more U.S. Attorney replacements than were initially revealed. We have learned in recent weeks about unprecedented efforts to screen potential hires for political allegiances throughout the Department, including for career Assistant U.S. Attorney positions, a development Mr. Comey has said "strikes at the core of what the department is."

On the agenda for today is authorization for a subpoena to Bradley Schlozman, currently Associate Counsel to the Director at the Executive Office for United States Attorneys. Mr. Schlozman is also a former interim U.S. Attorney in Missouri and high-ranking official in the Department's Civil Rights Division. We invited Mr. Schlozman to participate in our hearing this Tuesday and he failed to appear. I expect that a subpoena or authorization for a subpoena may help ensure that we are not disappointed by his failure to appear, again.

He was not the only "no-show" this week. The Attorney General failed to respond timely to our Committee subpoena on Tuesday, as well. The Attorney General offered no explanation for his noncompliance, but then again, this Attorney General is becoming famous for not offering much in the way of facts or explanation.

It appears from the evidence gathered by this Committee in six hearings, eight interviews with current and former officials from the Department of Justice, and our review of the limited documents produced by the Department that White House officials played a significant role in developing and implementing the plan for the dismissals. Indeed, the plan seems to have originated in the White House and was formulated by and with coordination of the White House political operation. Yet, to date the White House has not produced a single document or allowed even one White House official involved in these matters to be interviewed.

The Committee has requested cooperation from the Administration and I hope the information and cooperation requested will finally be forthcoming. If the White House has done nothing improper, then they have nothing to hide. The Administration should come clean so that we can begin the process of reconstituting the leadership of the Justice Department. Then all Americans can renew their faith in its role as our leading law enforcement agency. The obligations of the Justice Department are to the Constitution, the rule of law and to the American people, not to the political considerations of this White House.

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