

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Opening Statement of Senator Patrick Leahy,
Chairman, Senate Judiciary Committee,
On Hearing On "Preserving Prosecutorial Independence: Is the Department of Justice Politicizing the Hiring and Firing of U.S. Attorneys? - Part VII"
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Today, the Committee welcomes Scott Jennings, Special Assistant to the President and Deputy Director of Political Affairs. He is accompanied by his attorney Mark Paoletta, whom the Committee has permitted to be seated with Mr. Jennings at the witness table to provide him with counsel. Mr. Jennings, through his attorney, has informed the Committee that he will refuse to answer questions falling within the President's unsubstantiated blanket claim of executive privilege. I had a chance to meet with Mr. Jennings just before the hearing. I thanked him for appearing today and shared my hope that he would instead cooperate and testify to the best of his knowledge and information. I reiterate that hope -- the choice is his.

His appearance here today contrasts with the failure to appear by Karl Rove, who was also served with subpoenas to produce documents and testify today. Mr. Jennings' appearance shows that the White House's newly minted claim of "immunity" for White House employees is a sham. It is also a shame that this White House continues to act as if it is above the law. That is wrong. The subpoenas authorized by this Committee in connection with its investigation into the mass firings of U.S. Attorneys and the corrosion of federal law enforcement by White House political influence deserve respect and compliance.

For many months, I have sought the voluntary cooperation of the White House with our investigation to no avail. Instead, the President and his counsel have conditioned any limited availability of information on their demand that whatever the White House provides initially must end the matter, and the Senate Judiciary Committee must agree to stop its pursuit of the truth. They also demand that the information they chose to provide be shared behind closed doors, not under oath and without any record of the responses. This matter is too important to the public's trust in federal law enforcement to be left to a self-serving, one-time only, secret interview on which there can be no follow up.

The White House said it was willing to provide some information under these secret conditions, but when pressed to do so in a manner that would allow for follow up, this information suddenly becomes somehow "privileged" and withheld from Congress. How can that be? How can communications with the Justice Department, the RNC and others outside the White House be subject to any claim of "executive privilege"? How can White House employees like Karl Rove speak publicly about these matters one day but declare that he cannot in any way be accountable to the American people and their duly elected representatives in Congress on the same matter?

Karl Rove, who refused to comply with Senate subpoenas, spoke publicly in sessions at Troy University in Alabama and at the Clinton School of Public Service in Arkansas about the U.S. Attorney firings when the scandal first became public. In March, he spoke about the reasons that were then being given for the firings of individual U.S. Attorneys-- reasons that have now been shown to be inaccurate after-the-fact fabrications. Yet, he will not appear when summoned before Congress to tell the truth. He refuses to tell this Committee -- with legislative, oversight and advice and consent responsibilities for the Department of Justice and United States Attorney -- about his role in targeting well-respected U.S. Attorneys for firing and in seeking to cover up his role and that of his staff in the scandal.

As in the Scooter Libby matter, this White House starts by saying one thing and when caught in a lie, it changes its talking points, all the while holding itself above the law. When the firing scandal became public in January, the White House said that it was not involved. When the then-Deputy Attorney General revealed in testimony in February something of the White House's role in the targeting of Bud Cummins for firing in Arkansas, it incensed the White House political operatives. Mr. Rove's top aide, Sara Taylor, appeared before this Committee last month but hid behind the White House claim of "Executive privilege." I hope that Mr. Jennings will not repeat that error but will testify truthfully about what he did, what he knows and what, in fact, happened.

Like in the Libby scandal, as we have pried back the cover up, the White House has hunkered down and sought to fortify protection of political operatives like Mr. Rove at all costs. That is why he is not here today.

The blanket claim of Executive privilege has not been substantiated. To date the White House refuses even to specify the documents being withheld pursuant to its claim. Could it be that the mere listing of the documents, their dates, author and recipient will confirm the intimate involvement of political operatives at the White House, such as Mr. Rove? Sadly, our efforts to follow the evidence where it leads has been met with Nixonian stonewalling.

We are quickly reaching the point where, given the claim of executive privilege, the logical question is what did the President know and when did he know it? By his claim of executive privilege, is President Bush now taking responsibility for the firing of such well-regarded and well-performing U.S. attorneys?

To date, that has not been the President's position. The Attorney General's former chief of staff, the former political director at the White House and the Attorney General himself have testified under oath that they did not talk to the President about these firings. That is one reason why the White House's blanket claim of Executive privilege rings so hollow.

The White House continues to try to have it both ways, but it cannot. It cannot block Congress from obtaining the relevant evidence and credibly assert that nothing improper occurred. It cannot claim Executive privilege based on the President's involvement and need for candid advice and simultaneously contend that he was not involved, that this was done at the Justice Department. This blanket claim appears to me to be a misdirected effort by the White House legal team to protect White House political operatives whose partisan schemes are being discovered in a new set of "White House horrors," rivaling those of the Nixon White House and Watergate era.

This is a grave matter. This is about improper political influence of our justice system - it is about the White House manipulating the Justice Department into its own political arm. It is about manipulating our justice system to pursue a partisan political agenda. It is about pressuring prosecutors to bring cases of purported voter fraud to try to influence elections - of sending a partisan operative like Bradley Schlozman to Missouri to file charges on the eve of an election in violation of Justice Department guidelines. It is about high-ranking officials misleading Congress and the American people about this political manipulation of justice. It is about the unprecedented and improper reach of politics into the Department's professional ranks - such as the admission by the Department's White House Liaison Monica Goodling that she improperly screened career employees for political loyalty.

It is about political operatives pressuring prosecutors to bring partisan cases and seeking retribution against those who refuse to bend to their political will -- such as the example of New Mexico U.S. Attorney David Iglesias, who was fired a few weeks after Karl Rove complained to the Attorney General about the lack of purported "voter fraud" enforcement cases in Mr. Iglesias' jurisdiction. I hope to learn more from Mr. Jennings today about why Mr. Iglesias was fired.

The accumulated evidence shows that the list for firings was compiled based on input from the highest political ranks in the White House, including Mr. Rove and Mr. Jennings. The evidence shows that senior officials were apparently focused on the political impact of federal prosecutions and whether federal prosecutors were doing enough to bring partisan voter fraud and corruption cases. It is obvious that the reasons given for these firings were contrived as part of a cover up and that the stonewalling by the White House is part and parcel of that same effort. Just recently during his sworn testimony, Mr. Gonzales himself contrasted these politically motivated firings with the replacement of other United States Attorneys for "legitimate cause."

There can be no more conclusive demonstration of this Administration's partisan intervention in federal law enforcement than its threat to block the Justice Department from pursuing congressional contempt citations. This Administration has announced its intentions to interfere with our system of justice by preventing a United States Attorney from fulfilling his sworn constitutional duty to faithfully execute the laws and proceed pursuant to section 194 of title 2 of the United States Code.

What the White House stonewalling is preventing is conclusive evidence of who made the decisions to fire these federal prosecutors. Despite the constitutional duty of all members of the Executive branch to "take Care that the Laws be faithfully executed," the message from this White House is that the President, Vice President, and their loyal aides are above the law. No check. No balance. No accountability.

Given the stonewalling by this White House, the American people are left to wonder: What is it that the White House is so desperate to hide? As more and more stories leak out about the involvement of Karl Rove and his political team in political briefings of what should be nonpartisan government offices, we seem to be getting a better sense of what they are trying to hide.

We have learned of political briefings at over 20 government agencies, including briefings attended by Justice Department officials. Mr. Rove briefed diplomats on vulnerable Democratic districts before mid-term elections. Why, Senator Whitehouse properly asked at our recent hearing, were members of our foreign service being briefed on domestic political contests? Mr. Gonzales had no answer. Similarly, why were political operatives giving such briefings to the Government Services Administration, which rents government property and buys supplies? In her testimony before this Committee, the former political director at the White House ultimately had to concede that her briefings included specific political races and particular candidates being targeted.

In this context, is anyone surprised that the evidence in our investigation of the firings of U.S. Attorneys for political purposes points to Mr. Rove and his political operations in the White House? Mr. Rove's own words suggest that placing "loyal Bushies" in key battleground states for the next election played a significant role in these firings. In April 2006, Mr. Rove gave a speech to the Republican National Lawyers' Association where he listed 11 states he saw as pivotal battlegrounds for the 2008 election, Pennsylvania, Michigan, Ohio, Florida, Colorado, Arkansas, Wisconsin, Minnesota, Nevada, Iowa, New Mexico. Since 2005, U.S. Attorneys have been replaced in nine of these states and considered for removal in all but one of them. Four of the U.S. Attorneys who were fired as part of the mass firing were from these states and many now have to wonder what others did to show they were "loyal Bushies" and keep their jobs.

We have learned that Mr. Rove raised concerns with the Attorney General about prosecutors not aggressively pursuing purported voter fraud cases in several of the districts he discussed in that speech and that prior to the 2006 mid-term election he sent the Attorney General's chief of staff a packet of information containing a 30-page report concerning voting in Wisconsin in 2004. This evidence points to his role and the role of those in his office in removing or trying to remove prosecutors not considered sufficiently loyal to Republican electoral prospects. Such manipulation shows corruption of federal law enforcement for partisan political purposes.

Documents and testimony also show that Mr. Rove had a role in shaping the Administration's response to congressional inquiries into these dismissals, which led to inaccurate and misleading testimony to Congress and statements to the public. This response included an attempt to cover up the role that he and other White House officials played in the firings.

There is a cloud over this White House and a gathering storm. Federal prosecutors observed that such a cloud hangs over the Vice President in the Libby case. A similar cloud now envelopes Mr. Rove and his partisan political team at the White House, as well. In the course of sentencing Libby to 30 months in prison, Judge Walton rightly observed that public servants owe a duty to the American people. That duty includes telling the truth. I believe that duty also includes not corrupting law enforcement for partisan political gain.

Congress will continue to pursue the truth behind this matter because it is our constitutional responsibility -- and it is the right thing to do. I continue to hope that the White House will stop its stonewalling and accept my offer to

negotiate a workable solution to the Committee's oversight needs, so that we can effectively get to the bottom of what has gone on and gone wrong.

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