

Statement of

The Honorable Patrick Leahy

United States Senator

Vermont

July 30, 2008

Statement of Senator Patrick Leahy

Chairman, Senate Judiciary Committee

On Hearing on "Politicized Hiring at the Department of Justice"

July 30, 2008

Today, the Committee welcomes Glenn Fine, the Inspector General of the Department of Justice, to discuss the findings of his office's investigation into the hiring of attorneys for key career positions throughout the Department. I look forward to hearing Mr. Fine's testimony, and thank him and his office, again, for their important work. That work is unfinished, however, with the investigations into several other aspects of the political scandals at the Department of Justice yet to be concluded.

The report the Inspector General released this week, along with a previous report released last month, shines much needed light on hiring decisions at the Department. For years, those decisions have been shrouded in a shadow cast by the Bush White House. These reports confirm what I and others have suspected all along - that senior officials within the Department of Justice used illegal political and ideological loyalty tests in making hiring decisions for career positions that, by law and the Department's own rules, are non-partisan. They broke the law. They did so as political partisans and cronies.

Since this report was released on Monday, a number of papers around the country including The San Francisco Chronicle, USA Today, The New York Times, and even The Washington Post have editorialized against the partisanship of the Ashcroft and Gonzales regimes, and called upon the current Attorney General to take action in response to these alarming reports and hold people accountable. That is something that has been sorely lacking over the last eight years. Yesterday, a respected former Deputy Attorney General, Jamie Gorelick, explained why the Justice Department must be and be seen as non partisan. She wrote:

"In a long career counseling individuals being investigated by the Justice Department, I have had to explain to sometimes cynical citizens that politics are prohibited from influencing such inquiries. My ability to give that assurance has hinged on both the public perception - and reality - that the career assistant U.S. attorneys, line prosecutors and lawyers who work at the Department are picked on their merits and proceed without regard to politics. Until now."

When I resumed the chairmanship of this Committee at the beginning of last year, we began our oversight efforts and conducted a bipartisan investigation into the unprecedented firing of U.S. Attorneys who had been appointed by President Bush for partisan political reasons. What we uncovered reminded me of the dark days of the Watergate scandals. Now I am convinced that the U.S. Attorney firings, their cover-up, and the widespread, illegal hiring practices within the Justice Department that have been revealed, represent the most serious threat to the effectiveness, professionalism and independence of the Department since Watergate.

We learned through the course of our investigation of the firings of the U.S. Attorneys that only "loyal Bushies" would ultimately keep their jobs. Last month we saw that political functionaries under Mr. Ashcroft and Mr. Gonzales corrupted the honors program for the best and the brightest coming out of law schools, turning it into a gauntlet for all but the most demonstrably loyal conservative Republicans. Now we see in the reports of the Inspector General that our worst fears are also realized in the Department's hiring and assignment practices for nonpartisan attorney positions, those of immigration judges and prosecutors. We have laws against such practices. Those laws were broken. As a former prosecutor, I would hope that the Department of Justice would take its responsibilities seriously now, and hold people accountable. Only then will the Department have moved forward to help ensure that this never happens again. But I have yet to see any such response from the current leadership of the Department. One of my questions to Mr. Fine today is whether the Inspector General has made referrals to the prosecuting arms of the Department for further investigations and possible prosecutions.

One of the many excuses we heard from the administration's political allies last year as the truth about the U.S. Attorney firings began to come out was that the firings of U.S. Attorneys did not matter because the real work of law enforcement was carried out by the dedicated, non-partisan career staff. Now we know the truth that we have long suspected and feared - that even the ranks of professional career prosecutors were being subverted by partisan politics.

The Inspector General's reports confirm that senior officials who report to the office holders at the highest levels at the Justice Department and who interacted with the White House sacrificed the independence of law enforcement and the rule of law in allegiance to the current administration. The key question should be whether the applicant is qualified for the job. However, according to the report, the key question from Monica Goodling, the Department's White House Liaison, and others, was: "What is it about George W. Bush that makes you want to serve him?" Federal prosecutors and immigration judges take an oath of office, but that oath is to the Constitution. They are to serve justice and the

American people. This administration has had it wrong from the outset, and all of us and our institutions of government have been the victims.

The revelations in these reports pain those of us who care about law enforcement, respect law enforcement and who understand the role of law enforcement. It is troublesome to see a Department of Justice turned into just another agency this administration has manipulated into a partisan arm of the White House and made into a wholly owned subsidiary of the Republican Party.

There are chilling examples in this week's report that show the danger of putting loyalty to a certain office holder above the duty to enforce the law. The report documents one incident where: "[A]n experienced career terrorism prosecutor was rejected by Goodling for a detail to [the] Executive Office of U.S. Attorneys (EOUSA) to work on counterterrorism issues because of his wife's political affiliations. Instead, EOUSA had to select a much more junior attorney who lacked any experience in counterterrorism issues and who EOUSA officials believed was not qualified for the position." It is as if we have hit the replay button on the tragic aftermath of Katrina, where cronyism was valued over competence.

It is a dark day for this country when the administration charged with keeping America safe willingly sacrifices merit and qualifications to political and ideological tests. For those who rail against affirmative action, for those who have been held back by racial discrimination and gender bias, I offer up this example of affirmative action of the worst kind. Rather than strengthening our national security, the Department of Justice appears to have bowed to the partisan practices of political operatives like Karl Rove.

According to the report, the system put in place by the chief of staff of then-Attorney General Alberto Gonzales for selecting immigration judges, appointments that by law are non-political, was the most "systemic use of political or ideological affiliations in screening candidates for career positions [that] occurred." The Department's practice not only subverted the law and placed political loyalty above fairness -- it caused serious delays in filling immigration judge positions just as the workload and importance of those judges was increasing. Further, the report reveals that the "principal source" for politically vetted candidates considered for these important positions was the White House-- demonstrating the extent of the political reach of the Bush White House into the Department's career ranks.

There can be no remaining question that this administration encouraged politics to infect the Department and law enforcement. The question is what will Attorney General Mukasey and the President do about it to provide accountability? In our oversight hearing earlier this month, Attorney General Mukasey essentially dismissed the findings of last month's report as the actions of just a few bad apples. This reminds me of the administration's ongoing attempt to place the blame for the actions

at Abu Ghraib solely on the shoulders of a few soldiers there, rather than see those excesses as a consequence of the policies and practices put into place by the President, the Pentagon, and the Department of Justice.

This week's report, like the one that preceded it, makes clear that the problems of injecting politics into the hiring decisions of the Department are rooted deeper than just the actions of a handful of individuals. It is now clear that these politically-rooted actions were widespread, and could not have been done without at least the tacit approval of senior Department officials who allowed the subversion of the Department's mission.

Even with blanket claims of privilege and immunity from the White House in their effort to try to cover up the truth, we continue to learn about the unprecedented and improper reach of politics into the Department's professional ranks. By infusing politics into the hiring of career Assistant U.S. Attorney positions, senior career attorney positions, Main Justice detailees, young career attorneys, and Immigration Judges, this administration and its operatives have done serious damage. The American people look forward to a serious response from the current leadership of the Department of Justice.

#####