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CONTINUING INVESTIGATION INTO THE U.S. ATTORNEYS CONTROVERSY AND RELATED MATTERS (PART I)

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

MAY 23, 2007

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CONTINUING INVESTIGATION INTO THE U.S. ATTORNEYS CONTROVERSY AND RELATED MATTERS (PART I)

WEDNESDAY, MAY 23, 2007

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:25 a.m., in Room 2141, Rayburn House Office Building, the Honorable John Conyers, Jr. (Chairman of the Committee) presiding.

Present: Representatives Conyers, Berman, Boucher, Nadler, Scott, Watt, Lofgren, Jackson Lee, Waters, Meehan, Delahunt, Wexler, Sánchez, Cohen, Johnson, Gutierrez, Sherman, Schiff, Davis, Wasserman Schultz, Ellison, Smith, Sensenbrenner, Coble, Gallegly, Goodlatte, Chabot, Lungren, Cannon, Keller, Issa, Pence, Forbes, King, Feeney, Franks, Gohmert and Jordan.

Staff Present: Elliot Mincberg, Chief Oversight Counsel; Sam Sokol, Oversight Counsel; Renata Strause, Staff Assistant; Crystal Jezierski, Minority Oversight Counsel; and Daniel Flores, Minority Counsel.

Mr. CONYERS. Will the media move from the room and make sure that they are not interfering with the procedures in any way?

I am going to ask the camera people to move away. We have got to have a reasonable appearance of a Judiciary Committee hearing here, and this is unreasonable at this point.

Mr. SMITH. Mr. Chairman, I would like to insist that they follow your instructions.

Mr. CONYERS. I would further like to ask the members of the press, the cameramen, in particular, to please move away from the table. We don't want pictures taken while the witness is trying to give testimony, if you don't mind.

And I would appreciate it.

Mr. SMITH. Mr. Chairman, I do not believe that the folks with the cameras have been listening to what you have been asking them to do; and I would like to ask that we have regular order and ask that you have them move to the side and not be between us and the table.

Mr. CONYERS. Thank you very much, Mr. Smith.

The fact of the matter is that we have more cameras than this room can accommodate. So, unfortunately, some of you will have to be excused; and we will have to clear the front of the witness table so that there are no cameras in front of it.

I am sorry, but it is the great number of cameras that require that we invoke this instruction. I regret that very much, but please move away from the witness table.

All cameras please move away from the witness table.

All cameras. That means everybody with a camera please move away from the witness table.

Mr. WATT. Mr. Chairman, would you mind lengthening your instruction to include people without cameras if they are down in the well?

Mr. CONYERS. Yes, Mr. Watt. It includes people without cameras that may be in the well in front of the witness table. Let's see, do we need a Webster's dictionary? For everybody in front of the witness table, please remove themselves.

This is unusual, but I think it is necessary in fairness to everybody.

Good morning, Madam Witness and to the Members of the Committee. Today, the House Judiciary Committee continues its investigation into the controversy surrounding the United States attorneys and related matters. Our sole witness today is Ms. Monica Goodling, who served as senior counsel to the Attorney General and White House Liaison until she resigned on April 7, 2007.

As the Members know, 2 months ago, Ms. Goodling informed us that she would assert her fifth amendment right not to incriminate herself if she was called to testify. As a result of that assertion, this Committee, after careful consideration, authorized by a vote of 32 to 6 a grant of immunity to Ms. Goodling, which we have secured from the Chief Judge of the United States District Court for the District of Columbia.

The Committee also authorized a subpoena to compel the testimony as well as the production of documents.

Now these are steps that I did not take lightly but only after consultation with the Ranking Member, Lamar Smith, and my colleagues on both sides of the aisle with the Justice Department.

I believe that this is an important and necessary step to help us get to the bottom of the U.S. attorney matter and other concerns regarding possible improper politicalization of the Justice Department. As the White House Liaison and one of the Attorney General's most trusted advisers, Ms. Goodling may well have information that will help us in our inquiry.

Let me observe that the fact that we are granting limited immunity to Ms. Goodling for her testimony should not be taken as any indication that the Committee believes that she is guilty of a crime. Nor does the fact that she is testifying today mean that she necessarily has a greater role than some of the other individuals involved in the firings, whom we have already interviewed or who have testified. She is before us today in a public hearing simply because we have no other means of obtaining her testimony in a timely manner.

We appreciate your cooperation.

I would hope that the fact of her testimony would encourage others to come forward and cooperate with our inquiry; and that includes personnel in the White House itself, whose role in these firings appear to grow more central every day every time another

Department of Justice official denies recommending putting any particular prosecutor on the firing list.

The issues we are examining, which include possible obstruction of justice, misleading the Congress, violations of the Hatch Act, are obviously serious. If we cannot trust the Department of Justice to fairly and impartially enforce our Nation's laws, if we cannot trust the testimony of our most senior officials in the Administration, if it appears that the U.S. attorneys are merely pawns in a game of politics, then we will have suffered the loss of one of our Nation's most fundamental principles: the rule of law.

I would now recognize our Tanking minority Member whom I commend for the cooperation that has existed between all of us on this Committee, the distinguished gentleman from Texas, Lamar Smith, the Ranking minority Member.

Mr. SMITH. Thank you Mr. Chairman.

Ms. Goodling, welcome. You are apparently the last witness we are going to hear from who has worked within the Department of Justice, and let me say at the outset I know this is not an easy process for you to go through. I know you have never had to endure anything like this hearing before, which I think makes us all particularly appreciative of your being here and thank you for being here.

Mr. Chairman, we, our staffs, the public and the media have pored over reams of documents, heard from nearly 20 witnesses, issued a plethora of subpoenas and taken the extraordinary step of immunizing your testimony. The Senate has received and examined evidence as well.

For some time, many have been on the edges of their seats waiting for the moment in which you, Ms. Goodling, as the Department's former White House Liaison, might lead the U.S. attorneys' dismissals to any inappropriate action by Karl Rove or Harriet Miers. I understand that the majority staff already has learned that you never have had any contact with Mr. Rove or Ms. Miers. I do not share their disappointment.

When this investigation began, the Department defended its actions on the grounds that the dismissed U.S. attorneys served at the pleasure of the President. When pressed, the Department volunteered that the dismissals were mainly performance related. When examined, the evidence of performance problems was in some cases well documented and in other cases not.

The questions about the differing degrees of proof as to whether this or that U.S. attorney really was dismissed for performance reasons have helped fuel the speculation.

With regard to the dismissals, the right interpretation may just be that the dismissals were in fact for performance reasons or, in one case, to offer an opportunity to another qualified candidate.

Finally, with regard to this investigation itself, we and our investigators see ever more clearly that the accusations of wrongdoing in these eight U.S. attorney dismissals don't seem to have legs. But they won't stop. Instead, some try to graft on new legs, whether with regard to other U.S. attorneys or with hearings in which we hear about the Attorney General's activities as White House counsel or as new allegations against you, Ms. Goodling.

We want to hear from you today so that we can find out the truth, clear the air or take other appropriate steps. We have not reached any final conclusion, and we should not until we know all of the relevant facts.

I thank you, Mr. Chairman; and I yield back.

Mr. CONYERS. I thank the gentleman; and, without objection, all other Members' opening statements will be included in the record.

We will now hear from Ms. Monica Goodling.

Ms. Goodling served in a variety of capacities in the Department of Justice, beginning in the Office of Public Affairs, then for a short period in the U.S. Attorney's Office in the Eastern District of Virginia, then in the Executive Office for U.S. Attorneys, and most recently in the Office of the Attorney General where she was senior counsel to the Attorney General and White House Liaison.

She received her law degree from Regent University School of Law in 1999.

Ms. Goodling is accompanied by counsel, and we would please ask that he introduce himself for the record.

Mr. DOWD. Good morning, Mr. Chairman.

Mr. CONYERS. Good morning, Mr. Dowd.

Mr. DOWD. Mr. Chairman, John Dowd and Jeff King and Jim Sherry from Akin Gump Strauss are available on behalf of Ms. Goodling.

Mr. CONYERS. Thank you very much. We welcome you and are happy that you are here.

Under our House Rules, Ms. Goodling is entitled to have counsel present for the purpose of advising her as to her constitutional rights; and we thank you very much, sir.

Mr. DOWD. Thank you, Mr. Chairman.

Mr. CONYERS. I want to make sure you understand that your authorized role is to advise Ms. Goodling and, more specifically, to advise her as to her constitutional rights. With that understanding, we have furnished you with your own copy, Counsel, of the notebook we have given Ms. Goodling containing a number of documents that she may be questioned about today to facilitate you and her memory and cooperation. Have you received those documents?

Mr. DOWD. I have, Mr. Chairman; and I appreciate it very much.

Mr. CONYERS. Thank you.

Have you received them, Ms. Goodling?

Ms. GOODLING. Yes, thank you.

Mr. CONYERS. The documents are tabbed to make it easier to locate them if and when there is any necessity to use them. We have also provided copies of the notebook to our friends up here for the same purpose.

Mr. LUNGREN. Mr. Chairman, point of personal privilege.

Mr. CONYERS. What is it?

Mr. LUNGREN. You just referred to some documents. We don't have them at our place.

Mr. CONYERS. We gave a number of them——

Mr. LUNGREN. Are those the ones that were just given to us beforehand?

Mr. CONYERS. Yes. Yes, sir. They are being copied now, Mr. Lungren.

One housekeeping matter before we proceed, Ms. Goodling, our subpoena requires that you furnish us documents in your possession, custody or control relating to matters we are investigating; and although we have mentioned this to your counsel, we believe that the Committee is entitled to receive the documents without delay.

We understand from counsel that you wish to confer with your former employer, the Department of Justice, before they are released to us; and we will work with you to give you a reasonable time to take care of that, reserving the right to take further action if necessary.

Mr. DOWD. Mr. Chairman, we have the document.

Mr. CONYERS. You do have them. Thank you. Thank you, Counsel Dowd.

Mr. DOWD. Mr. Chairman, I think we have already corresponded and communicated about the balance of them with both you and the Department of Justice.

Mr. CONYERS. Exactly.

Mr. DOWD. Thank you sir.

Mr. CONYERS. Thank you, sir.

Ms. Goodling, given the gravity of the issues we are discussing today and your role in the hearing and to help ensure that there is no misunderstanding about your obligation here, we would ask that you be sworn in before we proceed.

Would you kindly raise your right hand?

Stand and raise your right hand.

[Witness sworn.]

Ms. Goodling, let us begin. I will ask you who made the recommendations to place on the list of the United States attorneys to be fired each of the nine U.S. attorneys who were, in fact, terminated in 2006?

Ms. GOODLING. Upon the advice of my counsel, I respectfully decline to answer the question based upon my fifth amendment right not to be a witness against myself and my sixth amendment right to rely on my counsel's advice.

Mr. CONYERS. Ms. Goodling, I am hereby communicating to you an order signed by Chief Judge Hogan of the United States District for the D.C. District. The Clerk is bringing to you now a certified copy of the order, and we made a copy for your counsel. And, without objection, the order will be placed in the record.

[The material referred to follows:]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

COMMITTEE ON THE JUDICIARY United States House of Representatives Washington, D.C. 20515 Applicant	Misc. No. 07-198

FILED
MAY 11 2007
NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

ORDER

UPON CONSIDERATION of the Application of the Committee on the Judiciary of the U.S. House of Representatives ("the Committee") for an Order Immunizing the Testimony of, and Other Information Provided by, Monica Goodling, and the Memorandum of Points and Authorities in Support thereof, and having determined that the requirements of 18 U.S.C. § 6005 have been satisfied, it is by the Court this 11th day of May, 2007 ORDERED

That Monica Goodling may not refuse to testify, and may not refuse to provide other information, when compelled to do so at proceedings before or ancillary to the Committee (including its subcommittees) on the basis of her constitutional privilege against self-incrimination, and it is FURTHER ORDERED

That no testimony or other information compelled under this Order (or any information directly or indirectly derived from such testimony or other information) may be used against Monica Goodling in any criminal proceeding, except prosecutions for perjury, giving a false statement, or otherwise failing to comply with this Order.

Thomas F. Hogan
Chief U.S. District Judge

ECF DOCUMENT
I hereby attest and certify that this is a printed copy of a document which was electronically filed with the United States District Court for the District of Columbia.
Date Filed: 5/11/07
NANCY MAYER-WHITTINGTON, CLERK
By: Calvin L. Crampton
5/11/07

Mr. CONYERS. The order provides, in substance, that you may not refuse on the basis of your fifth amendment privilege against self-incrimination to provide testimony or other information to this Committee under compulsion. The order also provides that testimony or other information obtained from you under compulsion pursuant to the order may not be used against you in any criminal proceeding nor may information derived from what you provide us under compulsion be used against you as long as the testimony and other information you provide us is truthful.

As I am sure your counsel has no doubt advised you, you are obligated to answer each question completely and truthfully; and failure to do so could subject you to prosecution for perjury or for giving false statements to Congress. So I want you to be careful about how you answer each question; and if you occasionally need to confer with your counsel, Mr. Dowd, before answering a question, we will be happy to accommodate you in that regard. And if a Member has that happen, the clock will be suspended so that our time won't be running while she might be conferring with her counsel.

With that said, Ms. Goodling, pursuant to the order you now have in front of you, I direct you to answer the questions that will be put to you regarding our investigation as I have just described it.

This, Ms. Goodling, completes the procedure for conferring use immunity on you pursuant to the order.

Now, before we begin questioning, Ms. Goodling, I appreciate that you have a statement in writing that you would like to make; and we welcome it at this time. We will include your statement in the record and invite you to begin whenever you would like.

I ask the Clerk to distribute copies of Ms. Goodling's written statement to every Member of the Judiciary Committee.

You may proceed whenever you would like.

TESTIMONY OF MONICA M. GOODLING, FORMER SENIOR COUNSEL TO THE ATTORNEY GENERAL AND WHITE HOUSE LIAISON, U.S. DEPARTMENT OF JUSTICE

Ms. GOODLING. Thank you, Mr. Chairman.

Good morning, Chairman Conyers, Ranking Member Smith and Members of the Committee. Thank you for allowing me to make this statement.

With the Committee's permission, I would like to submit lengthier written remarks to be entered into the record.

Mr. CONYERS. Without objection, so ordered.

Ms. GOODLING. My written remarks will address four topics that I expect will be of interest to the Committee.

First, I wish to set the record straight regarding what I understood to be the Deputy Attorney General's allegation to Senator Schumer that I withheld information from him prior to his public and private testimony before the Senate Judiciary Committee.

The allegation is false. I did not withhold information from the deputy. To the contrary, I worked diligently to compile and provide the Deputy with dozens of pages of statistics and other information that I thought he was likely to need based on the questions that were being asked at that time. Despite my and others' best efforts,

the Deputy's public testimony was incomplete or inaccurate in a number of respects.

As explained in more detail in my written remarks, I believe the Deputy was not fully candid about his knowledge of White House involvement in the replacement decision, failed to disclose that he had some knowledge of the White House's interest in selecting Tim Griffin as the interim U.S. attorney in the Eastern District of Arkansas, inaccurately described the Department's internal assessment of the Parsky Commission and failed to disclose that he had some knowledge of allegations that Tim Griffin had been involved in vote "caging" during his work on the President's 2004 campaign.

After the Deputy's public testimony, I continued to work to assemble information that the Deputy had promised to provide in a future private session. On February 14, 2007, the Deputy attended a private briefing with the Senate Judiciary Committee. That afternoon, I rode with him to the Senate building, intending to observe the session and support the Deputy by providing any information that I had.

However, a few minutes before the private Senate briefing was to take place, the Deputy made clear to me that he did not think I should attend. The Deputy suggested that if somebody recognized me as the White House Liaison, the Members would be more likely to ask questions about the White House. As a result of that conversation, I waited outside the room while the Deputy briefed the Senate committee.

During a break, Richard Hertling told me the briefing was not going well and recommended that I return to the Department immediately. Like the Deputy, Mr. Hertling suggested it could complicate matters if I was recognized as the White House Liaison. As a result, I returned to the Department in a taxi.

In light of these events, I was surprised to learn the Deputy has blamed me for his incomplete or inaccurate information.

Second, I wish to clarify my role as White House Liaison.

Despite that title, I did not hold the keys to the kingdom, as some have suggested. I was not the primary White House contact for purposes of the development or approval of the U.S. Attorney replacement plan. I have never attended a meeting of the White House Judicial Selection Committee. The Attorney General and Kyle Sampson attended those meetings.

To the best of my recollection, I have never had a conversation with Karl Rove or Harriet Miers while I served at the Department of Justice; and I am certain I never spoke to either of them about the hiring or firing of any U.S. Attorney. Although I did have discussions with certain members of their staffs regarding specific aspects of the replacement plan, I never recommended to them that a specific U.S. attorney be added to or removed from Mr. Sampson's list; and I do not recall that they ever communicated any such recommendation to me.

Third, I wish to address my role in selecting U.S. Attorneys for replacement.

I first learned that others more senior to me were discussing the possibility of replacing some U.S. attorneys at some point in mid-2005, and I believe I first saw a list of candidates for replacement in January, 2006, when Mr. Sampson showed me a draft memo-

randum he was preparing for Harriet Miers. At that time, I recommended that two of the U.S. attorneys Mr. Sampson had listed be retained in office and that certain other U.S. attorneys be considered for replacement.

Paul Charlton and Daniel Bogden were two of the U.S. attorneys that I recommended considering for replacement. However, it appears from the documents produced to Congress by the Department that Mr. Sampson did not initially accept that recommendation. Mr. Bogden and Mr. Charlton did not appear on iterations of the list sent to the White House in January, April or May and first appeared on the list in September, 2006, presumably for reasons unrelated to my initial recommendation.

Although I am prepared to tell the Committee what I know about the eight replaced U.S. attorneys, the truth is that I do not know why Kevin Ryan, John McKay, Carol Lam, Paul Charlton, Daniel Bogden, David Iglesias and Margaret Chiara were asked to resign in December of 2006. I can describe what I and others discussed as the reasons for their removal, but I just can't guarantee that these reasons are the same as those contemplated by the final decision makers who requested these resignations.

However, I am not aware of anybody within the Department ever suggesting the replacement of these U.S. Attorneys to interfere with a particular case or in retaliation for prosecuting or refusing to prosecute any particular case for political advantage.

Fourth, I wish to clarify my role in career hiring at the Department.

During my 5 years at the Department, I believe I interviewed hundreds of job applicants. The vast majority of these were applicants for political appointee positions, but some were applicants for certain categories of career positions.

Specifically, I interviewed candidates who were to be detailed into confidential, policy making positions and Attorney General appointments, such as immigration judges and members of the Board of Immigration Appeals. I also reviewed requests for waivers of hiring freezes imposed on districts with an outgoing U.S. Attorney or an interim or acting U.S. attorney.

In every case, I tried to act in good faith and for the purpose of ensuring that the Department was staffed by well-qualified individuals who were supportive of the Attorney General's views, priorities and goals. Nevertheless, I do acknowledge that I may have gone too far in asking political questions of applicants for career positions; and I may have taken inappropriate political considerations into account on some occasions. And I regret those mistakes.

In conclusion, I would like to give the Committee a little better sense of who I am, because the person that I read about on the Internet and in the newspaper is not me. At heart, I am a fairly quiet person. I try to do the right thing, and I try to treat people kindly along the way. I always knew that I wanted to grow up and do something to serve or help other people. I went to public schools growing up, but I chose Christian universities in part of because of of the value they place on service.

I have seen in my life what violent crime can do to its victims, and I knew at some point I wanted to do my part to seek justice on their behalf. That is why I loved the Department of Justice, par-

ticularly my time as a prosecutor. For the 5 years that I spent there, I worked as hard as I could at whatever task that was put before me; and I hope that is the reason that I was promoted five times during my time at the Department.

I considered the people that I worked with to be my family, and I care about them deeply. I have no desire to say anything negative about anyone that I worked with, including the leadership team or the U.S. attorneys who are the subject of my testimony. But I am here to be a fact witness to what I heard, saw, did, or know; and I will do that to the best of my recollection.

Thank you for allowing me the time to make this statement. I am prepared to answer your questions.

Mr. CONYERS. And I thank you for your statement.

[The prepared statement of Ms. Goodling follows:]

PREPARED STATEMENT OF MONICA M. GOODLING

REMARKS OF MONICA M. GOODLING BEFORE THE COMMITTEE ON THE JUDICIARY, UNITED STATES HOUSE OF REPRESENTATIVES

PURSUANT TO THE COMMITTEE'S SUBPOENA AND THE DISTRICT COURT'S ORDER OF IMMUNITY

May 23, 2007

Good morning Chairman Conyers, Ranking Member Smith, and Members of the Committee.

On April 4th, I informed this Committee, through counsel, that I would invoke my Fifth Amendment privilege to refuse to answer questions regarding the firings of United States Attorneys and related matters. I did so in part because I learned that Deputy Attorney General Paul McNulty had accused me of withholding information from him prior to his public and private testimony before the Senate Judiciary Committee.

The Deputy Attorney General's Allegations are False

Let me start by correcting the record. I did not withhold information from the Deputy prior to his testimony. I worked diligently to compile and provide the Deputy with dozens of pages of statistics and other information that I thought he was likely to need based on the questions being asked at that time. At all times, I did my best to answer fully any question the Deputy asked of me.

I was only able to attend a portion of the preparation session for the Deputy's public testimony due to a conflicting event for which I was partially responsible. The night before the Deputy's public hearing, however, I specifically asked his Chief of Staff if there was any other information that he thought the Deputy needed or wanted from me.

As someone with significant Hill experience, the Deputy evidenced strong thoughts on how he wanted to address questions from the Hill, and given the Deputy's experience as a former U.S. Attorney, Chair of the Attorney General's Advisory Committee, and Deputy Attorney General, my expectation was that he had considerable independent knowledge of the subjects of his testimony. In addition, I had been briefing the Deputy nearly ever week for approximately a year on individual U.S. Attorney appointment issues. Those meetings almost always ran overtime, in part because the Deputy asked a lot of questions and I tried to answer them with as much information as I had. Although I do not remember specifically raising Mr. Sampson's work on the U.S. Attorney replacement plan until late in 2006, I certainly addressed some of the issues that the Deputy was asked about during his Senate appearance.

I do not agree with the Deputy's allegation that I failed to brief him adequately. Nor do I agree with the substance of his testimony in all respects. For example:

1. When asked whether the White House was involved in any way, the Deputy testified, "These are presidential appointments, so the White House personnel, I'm sure, was consulted prior to making the phone calls." This answer is not a full

statement of what the Deputy knew about White House involvement. The Deputy's Chief of Staff Michael Elston received an email indicating that Mr. Sampson had been in communication with Harriet Miers at least since September. The Deputy had received Mr. Sampson's plan in October, was copied on Mr. Sampson's transmittal of it to Harriet Miers in November, and received an email from Mr. Sampson in December stating that three different offices within the White House had signed off. As the plan was approved and implemented, the Deputy was involved and kept updated. From these communications, the Deputy certainly knew that Mr. Sampson had been working with several offices in the White House for some period of time, and certainly understood that they had signed off and were involved in the decision.

2. The Deputy testified that he did not have any knowledge of how Tim Griffin came to be recommended for an interim appointment in the Eastern District of Arkansas. In fact, however, I had kept the Deputy informed of the effort to remove Bud Cummins in order to arrange an opportunity for Mr. Griffin since the spring or early summer. The status of the Arkansas office came up frequently in my briefings over the course of the next six months. I am confident that I informed the Deputy of Mr. Griffin's background, that the White House had approved him to go into background investigation in advance of a nomination as early as June or July, and of some of the subsequent discussions about installing him as an interim U.S. Attorney while the possibility of nominating him was considered.

3. The Deputy testified that the Parsky Commission process "worked very well" and that the Department "respect[ed] that process." The Deputy knew, however, that the Department's internal assessment was to the contrary. The Deputy also knew that although a determination had been made to continue to use it, there had been some efforts to interview candidates outside the Commission process in the fall of 2006. I know that the Deputy was aware of the Department's dissatisfaction with the Commission's process because I briefed him on the issue at the time.

4. The Deputy testified that he "[did not] know anything about" allegations that Tim Griffin "caged" black votes in Arkansas during the 2004 presidential election. In fact, I informed the Deputy that this issue could arise on February 5th. To help him prepare to answer the question, I requested and received information on the issue from Tim Griffin and forwarded this information to the Deputy's Chief of Staff that night.

I attended the Deputy's public hearing and had reservations about his testimony at the time. I voiced some of those reservations to several senior leaders in the Department at its completion.

After the Deputy's public testimony, I worked with the Deputy, Kyle Sampson, Michael Elston, and David Margolis to assemble information that the Deputy had promised to provide in a future private session. At the Deputy's request, I took notes at a meeting in his office and then used those notes to prepare a chart listing reasons why each U.S. Attorney had been asked to

resign. Although I prepared the chart for the Deputy's review, and later provided largely the same information to William Moschella for his use, I was not the original source of most of the information that went into the chart, such as the comment that David Iglesias was an absentee landlord.

Furthermore, the Deputy exercised editorial control over the content that would go into the chart. For example, during the meeting someone mentioned that Senator Domenici had complained that David Iglesias did not "move cases." This reason did not appear in the Deputy's chart because the Deputy suggested that Senator Domenici himself should discuss these concerns with his congressional colleagues if he wished to do so. The Deputy indicated that he did not want to make this representation on the Senator's behalf.

On February 14, 2007, the Deputy attended a private briefing with the Senate Judiciary Committee. That afternoon, I rode with the Deputy to the Senate building, intending to observe the session and support the Deputy by providing additional information if needed. A few minutes before the private Senate briefing was to take place, however, the Deputy made it clear to me that he did not think I should attend. The Deputy suggested that if someone recognized me as the White House Liaison, the Members would be more likely to ask questions about the White House. As a result of that conversation, I waited outside the room while the Deputy briefed the Senate committee. After about an hour, the briefing broke to allow the Senators to vote. During the break, Richard Hertling told me that the briefing was not going well and recommended that I return to the Department immediately. Like the Deputy, Mr. Hertling suggested that it could complicate matters if anyone recognized me as the White House Liaison. As a result, I returned to the Department in a taxi.

Given these events, I was surprised to learn that the Deputy had blamed me for the incomplete and inaccurate information he provided to the Senate.

My Role as White House Liaison

I also expect that the Committee will ask questions about my role as White House Liaison. I am happy to answer the Committee's questions, but I am afraid the role is somewhat less glamorous than the title may suggest.

Although I held the title of White House Liaison, I was not the primary White House contact for the development or approval of the U.S. Attorney replacement plan. I never attended a meeting of the White House Judicial Selection Committee. To the best of my recollection, I have never had a conversation with Karl Rove or Harriet Miers while I served at the Department. I am certain that I never spoke to either of them about the hiring or firing of any U.S. Attorney.

I do remember attending meetings and other events at which Karl Rove was present and spoke – including a March 5th meeting regarding the U.S. Attorney replacement plan. I also attended some meetings and other events that Harriet Miers attended, but none on this topic.

In 2005, while I was serving in the Executive Office of United States Attorneys (EOUSA), I believe I had a social conversation with Tim Griffin, who then worked in the White House, in which he indicated that he was interested in returning to Arkansas as U.S. Attorney and that he may have the opportunity to do so if one of the Arkansas U.S. Attorneys, such as Bud

Cummins, were not retained. In 2006, after Mr. Cummins was asked to resign, I remember having communications with individuals in the White House Counsel's Office and Office of Political Affairs about the Arkansas position. I remember other conversations with staff within the White House Counsel's office about potential replacements for the other U.S. Attorney positions as those vacancies were created and as names of potential candidates were gathered and considered. I also remember exchanging emails with Scott Jennings about meeting with two New Mexico lawyers regarding David Iglesias in June 2006.

My Role in Selecting U.S. Attorneys for Replacement

As a separate matter, I wish to address my role in the U.S. Attorney resignations.

I first learned that others more senior to me were discussing the possibility of replacing some U.S. Attorneys whose four year terms were expiring at some point in mid-2005 when I was Deputy Director of EOUSA.

I believe that I first saw a list of candidates for replacement in January 2006 when Mr. Sampson showed me a draft memorandum he was preparing for Harriet Miers. By that time, I had worked for several years in the Office of Public Affairs and in EOUSA. In those two positions, I often had opportunities to work with U.S. Attorneys and had a good vantage point from which to learn about them and their offices. Working with the U.S. Attorneys was actually one of the best things about my job, and I admired them and the work that they do immensely.

At first glance, I thought that the U.S. Attorneys on Mr. Sampson's list seemed to fall into two general categories: districts where I had heard of various issues and districts that were simply undistinguished. I recommended that Mr. Sampson consider dividing his list into two tiers for that reason. I also recommended that two U.S. Attorneys he had listed be retained in office -- one because of his location in an area still devastated by Hurricanes Katrina and Rita and one because of her work on gun crime and other matters.

At Mr. Sampson's request, I also provided some recommendations of other U.S. Attorneys that I felt were similarly situated to those he had already listed. Given that the basic premise of Mr. Sampson's was a rejection of the idea of dismissing all U.S. Attorneys in favor of dismissing a more limited group, my understanding was that some U.S. Attorneys were not going to be retained beyond their four year term and I was being asked for my thoughts on which U.S. Attorneys were least deserving of a renewed opportunity to serve.

Two of the names I suggested were Paul Charlton and Daniel Bogden. I believe that I identified Mr. Charlton as a "problem district" based on complaints I had heard regarding his violation of Department policy in having unauthorized discussions with Members of Congress. With respect to Mr. Bogden, I simply did not know of any specific accomplishments in his district, and I recall that Mr. Bogden had received criticism for one incident in his district involving the USA PATRIOT Act.

As far as I can recall, I did not see the final version of Mr. Sampson's January memorandum until it was publicly produced to Congress. Indeed, I do not remember seeing another iteration of Mr. Sampson's list until September 2006. Based upon a review of the Department's public productions, however, it appears that Mr. Sampson did not accept my

suggestions to add Mr. Bogden and Mr. Charlton since they do not appear to have been included in the final version of the January memorandum. They also do not appear on subsequent iterations of the list that Mr. Sampson sent to the White House in April and May of 2006. Although their names do appear on the September draft of Mr. Sampson's list, my assumption is that Mr. Sampson added them to the list for reasons unrelated to my assessment nine months earlier.

In truth, I can not say with absolute certainty that I know why Kevin Ryan, John McKay, Carol Lam, Paul Charlton, Daniel Bogden, David Iglesias, and Margaret Chiara were asked to resign in December 2006. I can describe what I and others discussed as the reasons for their removal, but I cannot guarantee that these reasons are the same as those contemplated by the final decision makers who requested the resignations of these U.S. Attorneys. I am not aware, however, of anyone within the Department ever suggesting the replacement of these attorneys in order to interfere with a particular case, or in retaliation for prosecuting or refusing to prosecute a particular case, for political advantage.

My Involvement in Career Hiring at the Department of Justice

Finally, I wish to address the issue of my involvement in career hiring at the Department of Justice. In preparing for today's testimony, I requested copies of my personnel files from the Department in order to refresh my memory as to particular hiring decisions. The Department refused my request, citing Privacy Act considerations. Accordingly, while I will make every effort to provide answers to the Committee's questions, I cannot remember every particular position, applicant, or office that may be of interest.

I believe I conducted or participated in hundreds of job interviews during my time at the Department of Justice. Before I became the White House Liaison, the Attorney General delegated hiring authority over non-Presidentially-appointed political positions throughout the Department to his Chief of Staff and White House Liaison, subject to his approval. This delegation also included personnel authority over political and career positions within the Offices of the Deputy Attorney General and Associate Attorney General. My understanding at the time was that the delegation of authority over political hiring generally formalized the historical practice of this Administration. I believed that the portion of the delegation concerning staffing of the two leadership offices was designed to ensure a harmonious working relationship among the Attorney General's staff and the staffs of his Deputy and Associate.

The vast majority of the interviews I conducted or participated in were for political appointee positions. As is standard practice when reviewing applicants for political appointee positions, in addition to assessing their experience and qualifications, I would also ask these applicants direct questions regarding political affiliation and support for the President. The turnover rate in the political ranks was high during the past year, and I believe that nearly half of the individuals serving in non-career Senior Executive Service (SES) and schedule C positions were hired or promoted into new positions in the year that I served as White House Liaison.

In addition, I interviewed, reviewed, or recommended a much smaller number of applicants for positions that fell outside the non-career SES or schedule C categories. Although there were a few individual situations that arose from time to time, and in which political

considerations may have been a factor that I considered, as a general matter, I interviewed or reviewed applicants only for a few categories of career positions:

1. Details to Confidential, Policy-Making Positions. I interviewed applicants for detailee assignments to policy-making positions within a few leadership divisions of the Department of Justice, including the Deputy Attorney General's Office, the Associate Attorney General's Office, the Executive Office for U.S. Attorneys, the Office of Legal Policy, and the National Security Division. Although the applicants I considered for detailee assignments held or sought career positions, the detailee assignments they were seeking were of a confidential, policy-making nature. In most cases, these were positions that I believed could have been hired as political positions, but it was sometimes faster and easier to recruit highly qualified individuals from within the Department. Given the close and confidential working relationship that these detailees would have with political appointees, I asked questions designed to gauge whether applicants for these positions shared the same general policy viewpoint as the President and Attorney General. I believed there was a difference between trying to determine whether an applicant shared the Attorney General's policy priorities and asking the same applicant his or her political party membership. That said, due to the importance of these positions and the fact that detailees were sometimes considered for promotions into political positions, I generally conducted internet research and reference checks on these candidates, and I may have asked the wrong questions at times. In some cases, I learned and considered political information. If I veered too far into political territory when interviewing or considering applicants for policy-making positions in leadership offices, I regret that mistake, but I sincerely believed I was trying to act in the best interests of the Department.

2. Attorney General Appointments, such as Immigration Judges and Members of the Board of Immigration Appeals. Prior to December 2006, the Office of the Attorney General played a role in selecting individuals appointed under the Attorney General's name to serve as Immigration Judges and members of the Board of Immigration Appeals (BIA). Generally, for Immigration Judges, this role consisted of helping to identify and recommend candidates who would then be interviewed by the career staff of the Executive Office of Immigration Review (EOIR). Around the time I became White House Liaison in April 2005, Mr. Sampson told me that the Office of Legal Counsel (OLC) had provided guidance some years earlier indicating that Immigration Judge appointments were not subject to the civil service rules applicable to other career positions. During my tenure in the Office of Attorney General, I believe that I recommended approximately seven people to be interviewed by EOIR for Immigration Judge positions and recommended four individuals to be appointed to the BIA. Although I believed OLC considered these positions to fall into a unique personnel category, I generally focused on the applicant's judicial and immigration philosophy when conducting interviews. In reviewing resumes and soliciting applications, however, I sometimes took political considerations into account. At some point in the later part of 2006, questions arose regarding the personnel rules applicable to Immigration Judgeships and positions on the BIA.

Hiring on Immigration Judges and BIA positions was frozen in December 2006 after the Civil Division expressed concerns that the civil service rules might apply.

3. AUSA Positions in Districts with an Interim or Acting U.S. Attorney. Before I arrived in EOUSA, the Department had established a policy barring outgoing U.S. Attorneys and interim or Acting U.S. Attorneys from making hiring decisions. The purpose of this policy was to ensure that Presidentially-appointed and Senate-confirmed U.S. Attorneys would have an opportunity to make staffing decisions upon arrival in office. I tried to enforce this policy because I thought it was important to ensure that new U.S. Attorneys had as much hiring authority as possible. In cases of extraordinary need, however, the Department would sometimes grant a limited waiver to the hiring freeze in order to enable an interim or Acting U.S. Attorney to staff a crucial position. I reviewed a number of these waiver requests during my tenure in EOUSA and the Attorney General's office. While in EOUSA, I referred significant waiver requests to Mr. Sampson. When I moved to the Office of the Attorney General, my position in EOUSA was left vacant, so I continued to oversee these waiver requests. In many instances, I made a decision based solely on my evaluation of a district's demonstration of, or failure to demonstrate, extraordinary need. On some occasions, I held my decision on a request because I believed that a new U.S. Attorney would arrive fairly soon, or because I wanted to see whether that would be the case. In some cases, I believe I reviewed individual applicants' resumes. In a very small number of cases, I believe that my decisions may have been influenced in part based on political considerations. I regret this mistake.

Although it has become the subject of considerable press attention, I do not believe that I ever reviewed any candidates for the Attorney General's Honors Program, nor was I involved in the decision to change the process by which Honors Program hiring decisions are made. I do remember speaking with Michael Elston about the Honors Program a few times in 2006 and 2007, but I believe that I generally related to him what others had told me about the Program – specifically, that a decision had been made to elevate review of Honors Program hiring decisions to the leadership level in order to ensure that attorneys hired through Honors Program were supportive of the Attorney General's philosophy and priorities for the Department.

Conclusion

In conclusion, I'd like to share a few final thoughts. There are only a small number of people watching this hearing who actually know me. I wish I could explain who I really am, because the person that I read about on the internet and in the newspaper is not me.

At heart, I am a fairly quiet girl who tries to do the right thing and tries to treat people kindly along the way. As far back as the age of four, I knew I wanted to grow up and do something to serve or help other people. I went to public schools growing up but chose Christian universities, in part, because of the value they placed on service.

As I moved through life, I've had an opportunity to see what violent crime can do to its victims and I knew that at some point I wanted to do my part to seek justice on their behalf. That's why I loved the Department of Justice, particularly my time as a prosecutor. For the five years that I spent at the Department, I worked as hard as I could at whatever task was put before me – and I hope that's the reason why I was promoted five times during my service in the Department.

I considered the people that I worked with my family and I care about them deeply. I have no desire to say anything negative about anyone that I worked with, including the leadership team or the U.S. Attorneys that are the subject of my testimony. However, I am here to be a fact witness to what I heard, saw, did, or know and I'll do that to the best of my recollection.

Thank you for allowing me the time to make this statement. I'm prepared to take your questions.

Mr. CONYERS. Let me begin the questioning, and I want to just go back to the beginning here. Could you tell the Committee who made the recommendations to place on the list of U.S. attorneys to be fired each of the nine U.S. attorneys who were in fact terminated last year?

Ms. GOODLING. Mr. Conyers, let me just say that, in relation to Todd Graves, who I believe you are considering as a ninth, my recollection on that is slightly conflicting testimony—or memories, so I would prefer to leave him out of most of what I talk about today, if I could.

Mr. CONYERS. You are going to be talking about the eight.

Ms. GOODLING. Right. Right. I am happy to tell you what I remember about Mr. Graves, but in my mind I have slightly conflicting memories of what happened there. So for purposes of the testimony I would prefer to reference the eight.

In terms of those eight, I know that Mr. Sampson compiled the list; and I know that he told me at different times he talked to different people about it. He never told me exactly who recommended which name and at what time they did that, and that is——

Mr. CONYERS. So, from your point of view, your answer to the question would be Kyle Sampson.

Ms. GOODLING. Mr. Sampson compiled the list. I know that he did speak to the Deputy Attorney General about it, and I know he presented it to the Attorney General.

Mr. CONYERS. And the Attorney General being Mr. Alberto Gonzalez?

Ms. GOODLING. Yes, sir.

Mr. CONYERS. Now, let's just take one example, the one that is so paramount here. David Iglesias, who was not put on the list to be fired until November 2006, according to our records, who put his name on the list, ma'am?

Ms. GOODLING. I don't know.

Mr. CONYERS. Well, who would you recommend a Committee, just seeking the facts in this matter, who would you recommend to answer that question?

Ms. GOODLING. I think Mr. Sampson is the only person who can tell you at what point he put that name on the list. I can tell that you before I left the Department, because there were questions about Mr. Iglesias, we had a staff meeting; and I believe the Attorney General, the Deputy Attorney General were in the room, as well as a number of those of us who had been involved in this process.

Mr. CONYERS. The Deputy Attorney General and the Attorney General.

Ms. GOODLING. Right. It was toward the end of my time, and I said—I asked the question at that point, I still don't know how Mr. Iglesias got on the list, and someone in the room just said that has been addressed. And that was all they said, so I didn't get from that answer an answer that I could provide to the Committee.

Mr. CONYERS. Do you know who it was that gave that answer?

Ms. GOODLING. I don't remember.

Mr. CONYERS. Now, what did Mr. Kyle Sampson tell about the origins of the process and how he came up with the names that

were on the list? And I know you have had a number of discussions with him, but just pulling them all together, as you can best recall.

Ms. GOODLING. To the best of my recollection, the first time he mentioned it to me was in January when he stopped by my office with a draft copy of the memorandum and asked me to take a look at that. I don't believe he gave me any context at that time.

I had heard that he was engaged in this effort mid-2005 because I was working in the Executive Office for U.S. attorneys, and I know that he had spoken with both Mary Beth Buchanan and Mike Battle at various points, and they had mentioned it to me. So I knew that he had been engaged in some effort to evaluate U.S. attorneys before I spoke to him in January about it, but that is the first time I recall, and I don't remember him telling me—giving me any background at that point other than just handing me the memo and asking me to take a look at it.

Later in the year, he sent me a memo in September—an e-mail in September; and, again, because he sent me the e-mail, I don't remember that he gave me any context, of course, other than what was in the e-mail. I think——

Mr. CONYERS. That was last year, in 2006?

Ms. GOODLING. Yes. I am sorry, September of 2006.

When we had the November 27th meeting, I feel like he did discuss a little bit of the context of this is something that he had been working on for a while. But, you know, I don't recall that we had any specific conversation where he sat down and laid out to me the origins of the entire thing.

There was some point that I remember him mentioning to me that he had consulted with different people throughout, you know, throughout time. But, you know, he was my boss; and he didn't necessarily explain everything that he was doing or why to me. He just sometimes asked for my help, and I tried to provide it.

Mr. CONYERS. He didn't have to explain everything he was doing and why, did he, because he was your boss.

Ms. GOODLING. Because he was my boss. I am sure that there were other conversations, but if your question is asking, you know, did he ever sit down and lay out for me exactly what this was all about, I don't recall that there was ever any point that he did that. It was just kind of from time to time he would show me something and ask for my thoughts; and, you know, I would gather some context from it.

That is the best I can do.

Mr. CONYERS. Thank you very much.

My time is expired. Ranking Member Lamar Smith.

Mr. SMITH. Thank you, Mr. Chairman.

Ms. Goodling, thank you for your comment about how important you consider public service to be and that being the motivation for what you had done. I certainly can appreciate your heartfelt comment about not recognizing a lot of what has been written about you. I think you would do a lot to counter that in your testimony today.

Also, I want to thank you for your candor. You have said that you would, in fact, do some things differently; and we appreciate hearing that as well.

I just want to emphasize a couple of points in your testimony and then ask you a couple of additional questions as well.

Once again, did you ever have any contact with, say, Harriet Miers about the replacement of any of these U.S. attorneys?

Ms. GOODLING. No.

Mr. SMITH. Did you ever have any contact with Karl Rove about the replacement of any of these U.S. attorneys?

Ms. GOODLING. No conversation before the decision was made. There was one meeting at the White House after the decision had been implemented and he attended a meeting that I was also at, but that was the only time I was in the room when this topic was discussed.

Mr. SMITH. Did you talk to anybody at the White House about the need to replace U.S. attorneys?

Ms. GOODLING. About the need to replace U.S. attorneys? I don't believe—I don't recall any conversations, but, to be complete, I should inform the Committee that there was—I believe in 2005 I had a social call at some point with Tim Griffin who indicated to me—and he was working at the White House at the time—that he may have the opportunity to go back to Arkansas because some U.S. attorneys may be replaced; and if Mr. Cummins was one of them, he might get a chance to go home.

And, of course, I did exchange e-mails with Scott Jennings about meeting with some lawyers from New Mexico, but I don't remember that Scott Jennings even told me what the subject of that meeting was supposed to be.

Mr. SMITH. You testified a few minutes ago about your role. How would you describe your role in the decision to replace U.S. attorneys? Would you describe it as direct or indirect or significant or minor? How would you describe your role?

Ms. GOODLING. You know, I am not sure that I am comfortable characterizing it. I will let others make that assessment. Certainly, I saw a draft memo in January. I had forgotten it, frankly, for a long time. But I did.

And I saw an e-mail in September, and I was involved in the November 27 meeting. The way I probably would characterize my role without giving it a qualifier is to say I was responsible more for what happened after the plan was implemented than maybe the plan itself.

My role was really to help ensure that once we had a vacancy that we were carrying out the process of interviewing candidates and doing the paperwork that's necessary to make sure that we have a nomination eventually.

Mr. SMITH. Thank you for that answer.

A couple more questions. When you were helping prepare individuals to testify, did you ever intentionally withhold information from or mislead those you were helping to prepare to testify?

Ms. GOODLING. No.

Mr. SMITH. And last question for you, to the best of your knowledge, do you know whether the Department or the White House requested a resignation of any of the eight U.S. attorneys to retaliate for, interfere with or gain a partisan advantage in any case or investigation, whether about public corruption or any other type of offense?

Ms. GOODLING. I have no knowledge along that line.

Mr. SMITH. Thank you, Ms. Goodling, for your testimony today. Thank you, Mr. Chairman. I will yield back.

Mr. CONYERS. Thank you.

Congresswoman, Subcommittee, Committee Chair, Linda Sánchez is recognized.

Ms. SÁNCHEZ. I thank the Chairman.

Ms. Goodling in your written testimony you stated that you had some concerns about Deputy McNulty's testimony before Congress. In what way were Deputy McNulty's statements to Congress misleading?

Ms. GOODLING. I think in some ways he simply didn't communicate all that he knew. And I am certainly not saying that he did it deliberately. Testifying is, as I am finding out right now, a difficult thing, and I am sure there will be things I don't remember, and I am going to try to be complete, but there may be things that I leave out as well.

So I am not saying it was deliberate. But what I am saying is, when I looked back on the testimony, I believe that there were a number of things that I did brief him on; and that information wasn't fully revealed. I am just trying to address the fact that I felt like he accused me of withholding information, and I felt like I had provided some information that didn't get communicated.

Ms. SÁNCHEZ. I understand. Can you be more specific? What things did you specifically brief him on that you felt that he was not entirely forthcoming before Congress when he testified?

Ms. GOODLING. He was asked whether the White House was involved in any way; and he said, well, these are Presidential appointments, so I am sure White House personnel was informed at some point. Certainly——

Ms. SÁNCHEZ. Why would that not be a complete answer?

Ms. GOODLING. I think because of the way it came across I think that people believed he was downplaying the role to a certain extent. And the White House had been involved for several—he was aware that the Department had worked for at least several months with the White House and that many offices in the White House had signed off and that they were, in fact, you know, participating and making phone calls and different sorts of things with Members.

Ms. SÁNCHEZ. Would it be fair to say that you believed that Deputy McNulty knew about the White House's role in the firing of the U.S. attorneys but wasn't—sort of diminished that before Congress, wasn't completely forthcoming with how active a role the White House played or was involved in?

Ms. GOODLING. They were involved in the sign-off. There were many offices that did sign off on the plan before it was implemented; and I am just taking about the sign-off and then the actual notification, phone calls and that sort of thing.

I just felt that the statement didn't fully express the fact that the White House was involved in the sign-off of the plan at the end. At least that is the part that I knew about. And that that—he at least knew that that was a process that had been going on for some period of months.

There were—there were other things.

Ms. SÁNCHEZ. Such as?

Ms. GOODLING. His knowledge of how Tim Griffin came to be recommended for the appointment in the Eastern District of Arkansas. I met with the Deputy Attorney General almost every week to talk about specific U.S. attorney vacancies because he was so interested in the topic. As far as I know, that may be the first time that someone—he was involved in the process, provided weekly briefings. But he was very interested, and so every week I would meet with him, and we would go down a list of where we had vacancies and if there was any new news there, whether we received names from Senators, whether we set up interviews, how the interviews had gone——

Ms. SÁNCHEZ. So you believe his knowledge of how Tim Griffin became recommended for that position—he wasn't fully forthcoming?

Ms. GOODLING. I know I would have told him over the 6 months that that process was going on that he had worked with the White House, and the White House did want to provide him with an opportunity. I am not sure I would have told him who in the White House, because I am not sure that I ever knew who in the White House wanted it. But certainly I believe there was some information about Tim Griffin's appointment that I would have communicated in those weekly meetings.

Ms. SÁNCHEZ. Aside from those two examples, are there any others?

Ms. GOODLING. He testified that the Parsky Commission worked very well. That is a Commission that refers to the California selection process. And one of the things that I had been briefing him on was the fact that we had a vacancy in the Central District of California; and, in the fall, we did take steps to interview some candidates outside that weren't recommended by the Commission. And the reason that we did that was because Mr. Sampson told me that he and the Attorney General believed that in some cases the Parsky Commission was rather slow and that they sometimes didn't include all the candidates that they had an interest in considering. And so we actually had interviewed candidates outside that process.

Ms. SÁNCHEZ. So you believed that his testimony that it worked very well was not exactly accurate, because you had—there had been a way to go around that because it wasn't working——

Ms. GOODLING. In January, he was accurate in saying that we were committed to working with it. By the time January had come along, we—the decision had been made, I believe at the White House, that we would continue to use the Parsky Commission; and we were using it in relation to the two new vacancies that were created there.

And the last thing was the voter—the caging issue, which was a reference to Tim Griffin.

Ms. SÁNCHEZ. Can you reference what caging is? I am not familiar with that term.

Ms. GOODLING. My understanding—and I don't actually know a lot about it—it is a direct mail term that people who do direct mail, when they separate addresses that may be good versus addresses that may be bad—that is about the best information that I have.

That it just—it is a direct mail term that is used by vendors in that circumstance.

But, in any case, I knew that that was an issue that might arise, because there had been stories about it.

Ms. SÁNCHEZ. That Tim Griffith was involved in that to some degree or may have been involved?

Ms. GOODLING. Right. And I believe that Mr. Griffin doesn't believe that he did anything wrong there and there actually is a very good reason for it, a very good explanation.

Ms. SÁNCHEZ. But Mr. McNulty was aware of that?

Ms. GOODLING. He was aware that was an issue. I told him the day before that there was a good chance that it could come up, and I did provide him with information the night before to make sure that he had some information to review so he could help to answer those questions.

Mr. CONYERS. Gentlelady's time is expired.

The Chair now recognizes Chris Cannon, the Ranking Member on the Subcommittee for Commercial and Administrative Law. The gentleman from Utah is recognized.

Mr. CANNON. Thank you, Mr. Chairman.

Ms. Goodling, I would like to thank you for having—actually, I am over here, Ms. Goodling. Down the line here next to my good friend, Mr. Lungren.

I want to thank you for being here today and for your equanimity in difficult times.

I would like to read a couple of things into the record here. One is a statement—I think this is Mr. Moschella, who was asked about Mr. Sampson and you and Mr. McNulty. He responded, I found these people to be hardworking, smart people, trustworthy, exercised good judgment. So that is my general feeling about them. I mean, it is not unusual to find Monica Goodling BlackBerrying people at 2 in the morning and just working hard and being diligent about a number of matters.

This is Mr. Moschella again. I specifically asked Monica if she would put this together, because I didn't think the chart was very user friendly.

And why did you choose Ms. Goodling to make this document was the question. Well, she was, you know, actively involved in my preparation. We didn't have a lot of stuff. As you see, this was a sent to me at 9:56 the night before; and she was willing to put it together. So, very obviously, very hardworking.

And this, I believe, is—so I think that you have a good reputation in the Department. I think that Mr.—I had earlier read into the record statements by Mr. Margolis about what a thoughtful and capable person you are, and you certainly showed that thus far in your testimony. So thank you for being so forthcoming, and I apologize for the inconvenience.

I know that we have had many discussions with your lawyer and also with—about the nature of your testimony. That has been very direct. I don't see that it is going to advance the debate very much.

Mr. Conyers initiated the discussion today by talking about getting to the bottom of U.S. Attorney matter and the politization of the Department of Justice. And I think that has probably not gotten us—what we have done here over the many, many hours of

Committee work and staff work and dozens of interrogations of people, I am not sure we have advanced those two issues. Because I don't think that we have had a problem with these. At least you haven't been able—the Committee has not been able to show that there has been a problem there.

But, on the other hand, we are not doing this in a vacuum; and would I like to read from the *L.A. Times* about another problem we have facing Congress that we are not actually dealing with here, which I think is relevant in balancing out the vituperation that has tended to go on.

May 23, 2007: "Murtha's misstep. The Pennsylvania Democrat tarnishes the party's image and nearly receives a reprimand playing 'earmark' politics.

"With Democrats like Representative John P. Murtha of Pennsylvania, House Speaker Nancy Pelosi doesn't need Republicans. After Pelosi promised that Democrats would preside over the most honest, the most open and the most ethical congress, Murtha, whom Pelosi unsuccessfully pushed for majority leader, described a Democratic lobbying proposal as total crap." his words. "he graciously added, however, that he would support the legislation because that is what Nancy wants.

"Murtha's latest gift to Pelosi is a confrontation in which he allegedly told Representative Mike Rogers, Republican of Michigan, who had opposed one of Murtha's pet projects, I hope you don't have any earmarks in the defense"—I can't quite say it the way Mr. Murtha said it. But with a great deal more intensity than I am putting in my voice, he said, "I hope you don't have any earmarks in the defense appropriations bill because they are gone, and you are not going to get any earmarks now and forever. Rogers, a former FBI agent, asserted that Murtha had turned the House floor into a episode of *The Sopranos,* and he filed a resolution accusing his colleague of violating House Rules. On Tuesday, the resolution was tabled"—meaning it is not going to proceed—"on a largely party line vote"—actually, it was a party line vote with Members of the Ethics Committee voting present, as is our custom here. So—"on a largely party line vote, but not before Democrats were put excruciatingly on the defensive on what Pelosi has made a signature issue."

Ms. WASSERMAN SCHULTZ. Mr. Chairman, parliamentary inquiry.

Mr. CANNON. I am about done with this article, Mr. Chairman.

"on what Pelosi has made her signature issue." that is ethical reform. "expect Republicans to continue making Sopranos jokes.

"actually, Tony Soprano is less likely a model for Murtha than Lyndon Johnson"—who was a tough guy and who played by rules that we tried to change.

He goes on, "It doesn't help the Democrats' image that this dispute over Murtha's comments originated in an earmark, a special-interest provision"——

Thank you, Mr. Chairman; and I yield back the balance of my time.

Mr. CONYERS. There wasn't any balance left.

The Chair recognizes the senior Member of the Judiciary Committee, Howard Berman of California.

Mr. BERMAN. Thank you, Mr. Chairman; and I yield my time for relevant questioning to the gentlelady from California, Ms. Sánchez.

Ms. SÁNCHEZ. And I thank the gentleman for yielding.

To get back to the subject matter of this hearing, Ms. Goodling, you said you had some concerns about Mr. McNulty's testimony before Congress. To whom at the Department of Justice did you voice those concerns?

Ms. GOODLING. I voiced them to a number of people, and some of my concerns related—or the majority of my concerns related more to I thought where we were going to be headed after the testimony. I was very concerned. I didn't want us to go out and say bad things about our U.S. attorneys.

Ms. SÁNCHEZ. But to whom did you——

Ms. GOODLING. So when I left the hearing I spoke first with Will Moschella, and I expressed some concern that—I expressed concern about providing negative information about people who had worked for us first. I went back to the Department, and I went into Kyle Sampson's office, and I told him that I did not think that the hearing had gone all that well, and I told him some of the things that the Deputy had indicated he would provide.

And I believe I did mention some of my concerns about some of the things that I thought he had said, but I think the focus of what my concern was really that I was afraid that we were going to go down a road of saying bad things about people who had worked for us publicly.

Ms. SÁNCHEZ. So you didn't express a concern to either Mr. Moschella or Mr. Sampson that the testimony might not have been complete or might have been misleading to some degree? It was just you didn't want to say bad things about people?

Ms. GOODLING. I did say to Mr. Sampson—I did say there were a couple of things that I didn't think were fully right.

Ms. SÁNCHEZ. Aside from Mr. Moschella and Mr. Sampson, was there anybody else that you voiced those concerns to?

Ms. GOODLING. I talked to Mike Elston after that.

Ms. SÁNCHEZ. Anybody else besides Mr. Elston?

Ms. GOODLING. I talked to Tasia Scolinos, but our conversation just related more to—it was a very short conversation.

Ms. SÁNCHEZ. Besides those four, anybody else?

Ms. GOODLING. I don't think so.

Ms. SÁNCHEZ. Okay, thank you.

Before you joined the Executive Office of U.S. Attorneys in the spring of 2005, did you have any experience in making personnel decisions involving the hiring or the firing of employees?

Ms. GOODLING. Yes. Putting aside college, where I was a student body president and we actually did hire people to work on various organizations——

Ms. SÁNCHEZ. In a professional capacity outside of college.

Ms. GOODLING. At the Republican National Committee, I was the deputy director there of research and strategic planning and——

Ms. SÁNCHEZ. Hiring and firing——

Ms. GOODLING. I did some in the research department——

Ms. SÁNCHEZ. How did you get your position at the EOUSA? Who hired you?

Ms. GOODLING. I interviewed with Mary Beth Buchanan, who was the director at the time.

Ms. SÁNCHEZ. At EOUSA you were involved in the hiring process for nine of the assistant U.S. Attorney positions in offices of acting or interim U.S. Attorneys, is that correct?

Ms. GOODLING. Yes.

Ms. SÁNCHEZ. And press reports say that you insisted that you retain your power to review the hiring of AUSA's after you became an aide to Alberto Gonzalez, is that correct?

A.Yes, when I first—when I was in the executive office, I would refer significant requests to Mr. Sampson, who was in the AG's office at the time. So when I moved to the AG's office and basically took that role, my position in the executive office remained vacant for a long time, so there was somebody in the executive office to do it——

Ms. SÁNCHEZ. But you did retain your power to review the hiring as an AUSA—what leverage did you have to make any demands on the Attorney General to retain that power? If the position became vacant and you were doing the interim, I am assuming you filled the position, and why would you still retain power of hiring and firing?

Ms. GOODLING. Because I had referred significant requests to Mr. Sampson before I moved—you know, those were things that they just kept referring to me. I didn't mind doing it. I kind of liked having—being able to provide input on——

One of the questions I would often ask Mr. Sampson was, do we think we are going to have a new U.S. Attorney soon? How long would it be? You know, if we held on to the waiver—you know, if it was going to be 6 more months before a new U.S. Attorney showed up, the waiver request might be more reasonable. But if a new U.S. attorney was going to be there in a few weeks, of course, you would want them to be involved in the hiring decision.

Ms. SÁNCHEZ. Let me ask you about this. Recent press reports state that you moved to block the hiring of assistant U.S. Attorneys with resumes that suggested that they might be Democrats. A recent *Newsweek* article said you attempted to block the hiring of a prosecutor in the office of Jeff Taylor, the U.S. attorney for D.C., for being a, "liberal democratic type;" and the *New York Times* reports that this was a Howard University law school graduate who worked at the EPA. Did that, in fact, occur?

Ms. GOODLING. I think that when I did look at that resume I made snap judgment, and I regret it.

Ms. SÁNCHEZ. So that did occur? You blocked that hiring?

Ms. GOODLING. I didn't block it permanently. He was hired, but I delayed it.

Ms. SÁNCHEZ. How many applicants did you block or delay on the basis of what their potential political leanings might have been?

Ms. GOODLING. I wouldn't be able to give you a number. I don't think—feel like there were many cases where I had those thoughts. Most of the time I looked at waiver requests I made them strictly based on, you know, whether there wasn't extraordinary need and I agreed with it and how long it would be till the new U.S. Attorney got there——

Mr. CONYERS. The time of the gentlelady is expired. You can finish your comments, ma'am.

Ms. GOODLING. But I want to be honest. There were cases when I looked at resumes and I thought, you know, I don't know if this is the person the new U.S. Attorney would want to hire. Why don't we wait and let them take a look at the request; and if they want to hire them when they get there, they can.

Ms. SÁNCHEZ. I would like to ask the Chairman for unanimous consent to enter into the record the *New York Times* and *Newsweek* articles about the decisionmaking for hiring and firing based on——

Mr. CONYERS. Without objection, so ordered.

[The material referred to follows:]

ARTICLE FROM *NEWSWEEK*, MAY 14, 2007, SUBMITTED BY THE HONORABLE LINDA T. SÁNCHEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND MEMBER, COMMITTEE ON THE JUDICIARY

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Newsweek

Justice Flap: The Loyalty Enforcer

Newsweek

May 14, 2007 issue - The role of Monica Goodling, a former GOP "oppo" researcher who became a top aide to Attorney General Alberto Gonzales, is getting new scrutiny in the U.S. attorneys flap.

Justice confirmed it's investigating whether Goodling improperly assessed the political loyalties of applicants for career assistant U.S. attorney posts. Two government officials (not ID'd when talking about an ongoing probe) told NEWSWEEK the inquiry began after Jeff Taylor, the interim U.S. attorney in D.C., complained that Goodling tried to block the hiring of a prosecutor in his office for being a "liberal Democratic type." Justice e-mails show Goodling also played a pivotal role in selecting which U.S. attorneys were fired. When the e-mails surfaced in March, a distraught Goodling went to see veteran DOJ official David Margolis and "bawled her eyes out," saying, "All I ever wanted to do was serve this president," and "everything is unraveling," according to Margolis's confidential testimony to congressional investigators (as described by a congressional aide, anonymous when talking about nonpublic matters). Her lawyer, John Dowd, refused to comment, saying Goodling, who has since resigned, has invoked her right to remain silent. The House Judiciary Committee is seeking to force her testimony by granting her immunity. Investigators believe Goodling, who served as DOJ's liaison to the White House, is key to their big fish: Karl Rove.

—*Michael Isikoff*

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ARTICLE FROM *THE NEW YORK TIMES*, MAY 11, 2007, SUBMITTED BY THE HONORABLE LINDA T. SÁNCHEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND MEMBER, COMMITTEE ON THE JUDICIARY

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May 12, 2007

Colleagues Cite Partisan Focus by Justice Official

By ERIC LIPTON

WASHINGTON, May 11 — Two years ago, Robin C. Ashton, a seasoned criminal prosecutor at the Department of Justice, learned from her boss that a promised promotion was no longer hers.

"You have a Monica problem," Ms. Ashton was told, according to several Jnstice Department officials. Referring to Monica M. Goodling, a 31-year-old, relatively inexperienced lawyer who had only recently arrived in the office, the boss added, "She believes you're a Democrat and doesn't feel you can be trusted."

Ms. Ashton's ouster — she left the Executive Office for United States Attorneys for another Justice Department post two weeks later — was a critical early step in a plan that would later culminate in the ouster of nine United States attorneys last year.

Ms. Goodling would soon be quizzing applicants for civil service jobs at Justice Department headquarters with questions that several United States attorneys said were inappropriate, like who was their favorite president and Supreme Court justice. Onc department official said an applicant was eveu asked, "Have you ever cheated on your wife?"

Ms. Goodling also moved to block the hiring of prosecutors with résumés that suggested they might be Democrats, even though they were seeking posts that were supposed to be nonpartisan, two department officials said.

And she helped maintain lists of all the United States attorneys that graded their loyalty to the Bush administration, including work on past political campaigns, and noted if they were members of the Federalist Society, a conservative legal group.

By the time Ms. Goodling resigned in April — after her role in the firing of the prosecutors became public and she had been promoted to the role of White House liaison — she and other senior department officials had revamped personnel practices affecting employees from the top of the agency to the bottom.

The people who spoke about Ms. Goodling's role at the department, including eight current Justice Departmeut lawyers and staff, did so only on condition of anonymity for fear of retribution. Several added that they found her activities objectionable and damaging to the integrity of the department.

Ms. Goodling, who is under investigation by the department's inspector general and ethics office, as well as Congress, has declined to testify before a House panel, citing her Fifth Amendment privilege to avoid making self-incriminating statements. Her lawyer, John M. Dowd, declined to comment ou Friday.

A judge in Federal District Court in Washington signed an order Friday to grant Ms. Goodling limited immunity, which will allow House investigators to compel her to answer questions.

Justice Department officials declined to respond to questions about Ms. Goodling's actions and refused to allow some agency employees to speak with a reporter about them.

"Whether or not Ms. Goodling engaged in prohibited personnel practices is the subject of an ongoing investigation," a written statement said. "Given the ongoing nature of the investigation, we are unable to comment on the allegations."

H. E. Cummins III, one of the fired prosecutors, said Justice Department officials should have recognized that Ms. Goodling's strategy was flawed from the start.

"She was inexperienced, way too naïve and a little overzealous," said Mr. Cummins, a Republican from Arkansas. "She might have somehow figured that what she was doing was the right thing. But a more experienced person would understand you don't help the party by trying to put political people in there. You put the best people you can find in there."

Ms. Goodling, now 33, arrived at the department at the start of the Bush administration after working as an opposition researcher for the Republican National Committee during the 2000 presidential campaign.

Her legal experience was limited; she had graduated in 1999 from Regent University School of Law, which was founded by Pat Robertson. Deeply religious and politically conservative, Ms. Goodling seemed to believe that part of her job was to bring people with similar values into the Justice Department, several former colleagues said.

She joined the department in the press office. Soon after, two lawyers said, Ms. Goodling complained that staff members in Puerto Rico had used rap music in a public service announcement intended to discourage gun crime.

"That is just outrageous," she told one department lawyer. "How could they use government money for an ad that featured rap music? That kind of music glorifies violence."

Ms. Goodling's shift to the executive office, which oversees budgets, management and performance evaluations of United States attorneys, occurred as officials in the White House and Justice Department were considering replacing a number of the top prosecutors. The first lists of possible targets had already been drawn up. But while those lists were being refined, Ms. Goodling, who would become deputy director of the executive office, was quietly helping make other changes.

In addition to making clear that she wanted Ms. Ashton out, a Justice Department employee still in that office said, Ms. Goodling took actions that encouraged a second experienced prosecutor, Kelly Shackelford, to move on. James B. Comey, who served as deputy attorney general from 2003 to 2005, said Ms. Ashton and Ms. Shackelford were excellent lawyers, whose politics he did not know nor would he ever have asked. Ms. Ashton and Ms. Shackelford declined to comment.

Ms. Goodling helped recruit new office managers who included John Nowacki, another Regent University graduate, who had little experience as a prosecutor, but had previously served as the director of legal policy at a conservative research group, the Free Congress Foundation.

She also insisted that she be given final approval in hiring assistant United States attorneys in offices where

there was an interim chief prosecutor. Interim United States attorneys always had to seek permission for hiring, but the review was typically lower level and involved checking that sufficient slots were available, current and former employees said.

But Ms. Goodling's reviews delayed hiring decisions for weeks or months, creating problems in busy offices, and her concerns at times appeared to be for partisan reasons.

In one case, Ms. Goodling told a federal prosecutor in the District of Columbia that she was not signing off on an applicant who had graduated from Howard University Law School, and then worked at the Environmental Protection Agency.

"He appeared, based on his résumé, to be a liberal Democrat," Ms. Goodling told Jeffrey A. Taylor, the acting United States attorney in Washington, according to two of the department employees who asked not to be named. "That wasn't what she was looking for."

Mr. Taylor ultimately found a way to go around Ms. Goodling in hiring the applicant.

She appeared to take similar concerns about political leanings into account when making decisions about promotions and special assignments for Justice Department lawyers.

Robert Nicholson, a career lawyer from the Southern District of Florida, was asked some unusual questions when he applied for a post at the Justice Department headquarters, according to two department lawyers, including Margaret M. Chiara, the former chief prosecutor Western Michigan.

"Which Supreme Court justice do you most admire and why? Which legislator do you most admire and why? And which president do you most admire and why?" Mr. Nicholson was asked by Ms. Goodling, according to Ms. Chiara and the other lawyer, who asked not to be named.

Mr. Nicholson, who did not get the job, did not dispute the account, but he declined to comment, citing the investigation of Ms. Goodling.

In another instance, two Justice Department officials said, Ms. Goodling decided she did not like the applicants for one prestigious posting at department headquarters and decided to offer the job to David C. Woll Jr., a young lawyer who she knew was a Republican. In the interview, a department official said, she asked Mr. Woll if he had ever cheated on his wife. Mr. Woll declined to comment for this article.

Last month, a group of department employees wrote anonymously to Congressional investigators alleging that political considerations were influencing the selection of summer interns and applicants for the Attorney General's Honors Program, which hires promising lawyers right out of law school. The letter did not say if Ms. Goodling was involved in the process. Department officials declined to comment on the matter.

Hundreds of applications for the honors slots were winnowed by career lawyers, then reviewed by top political appointees, who removed many candidates, the letter said. "Most of those struck from the list had interned for a Hill Democrat, clerked for a Democratic judge, worked for 'liberal' causes, or otherwise appeared to have 'liberal' leanings," the letter said.

Ms. Goodling worked less than a year at the executive office, then moved to the attorney general's office, where she became the White House liaison and collected a $133,000 annual salary, according to federal records. She insisted that she retain her power to review hiring of assistant United States attorneys, two department employees said.

Her mandate over hiring expanded significantly in March 2006, when Attorney General Alberto R. Gonzales signed a confidential memorandum delegating to her and D. Kyle Sampson, his former chief of staff, the power to appoint or fire all department political appointees other than the United States attorneys. That included interim United States attorneys and heads of the divisions that handle civil rights, public corruption, environmental crimes and other matters.

At the same time, Ms. Goodling, Mr. Sampson and Mr. Nowacki, according to e-mail released to Congressional investigators, were helping prepare the final list of United States attorneys to be dismissed. Ms. Goodling was also calling around the country trying to identify up-and-coming lawyers — and good Republicans — who could replace them, said one Justice Department official who received such a call.

Mr. Comey said that if the accusations about Ms. Goodling's partisan actions were true, the damage was deep and real.

"I don't know how yon would put that genie back in the bottle, if people started to believe we were hiring our A.U.S.A.s (Assistant United States Attorneys) for political reasons," he said at a House hearing this month. "I don't know that there's any window you can go to to get the department's reputation back if that kind of stuff is going on."

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Mr. CONYERS. The Chair recognizes the former Chairman of Judiciary, Jim Sensenbrenner of Wisconsin.

Mr. SENSENBRENNER. Thank you very much, Mr. Chairman. Ms. Goodling, welcome here. I know this is not a pleasant experience, and I think that basically what your testimony has been doing is confirming the documentation that has been submitted to this Committee. I have a few questions. The first is are you aware that U.S. Attorneys are appointed for terms of 4 years?

Ms. GOODLING. Yes.

Mr. SENSENBRENNER. Were all of the U.S. Attorneys who were replaced, had their terms of 4 years expired?

Ms. GOODLING. The eight, yes.

Mr. SENSENBRENNER. Yes. With respect to Carol Lam, who was the U.S. Attorney in the Southern District of California, which is in San Diego, were you aware that on June 15th of 2006, Senator Feinstein wrote Attorney General Gonzales expressing concern about the fact that Ms. Lam had not been vigorous in prosecuting criminal alien smugglers within that district?

Ms. GOODLING. Yes.

Mr. SENSENBRENNER. And were you aware that the Attorney General did respond to Senator Feinstein in a letter that contained a lot of statistics?

Ms. GOODLING. Yes, although I don't think I saw it until sometime this year.

Mr. SENSENBRENNER. Well, this being the case that all of the U.S. Attorneys whose terms had expired, or were subject to replacement, what is so unusual about replacing somebody whose fixed term had expired and consequently would either have to be reappointed or would have to be replaced with somebody else?

Ms. GOODLING. I don't know that there is anything. I don't know that this is a road that I would have decided to go down if it had been up to me. But I certainly supported the effort because I believed the President does have the right to be served by the best people that he can find and people that he would like to have serve him. So I believe he has the right to make changes if he would like to.

Mr. SENSENBRENNER. Isn't this an exercise of legitimate executive power, which practically every President, up to and including the current one, exercises all the time with officials within the executive branch subject to his appointment?

Ms. GOODLING. I believe it is.

Mr. SENSENBRENNER. Now, you know, let me say that this Committee has spent $250,000 of the taxpayers' money basically in investigating the replacement of U.S. Attorneys whose terms had expired. I was the Chairman of this Committee for 6 years during the Bush administration and the Chairman of the Science Committee for 4 years during the Clinton administration. I never signed a subpoena because I didn't have to, and I never asked my Committee to request the Justice Department to obtain a grant of immunity to anybody. It seems to me that with this fishing expedition there ain't no fish in the water and we have spent an awful lot of time and an awful lot of money finding that out.

I yield back the balance of my time.

Mr. CONYERS. The Chair recognizes now the Chairman of the Constitution Subcommittee, Jerry Nadler of New York.

Mr. NADLER. Thank you, Mr. Chairman. Ms. Goodling, before you came here to testify you asserted your fifth amendment right against self-incrimination and you were granted immunity.

Ms. GOODLING. Yes.

Mr. NADLER. To assert fifth amendment privilege you are in effect asserting that you are aware of crimes that may have been committed and you are saying that you don't want to be implicated. What crimes are you aware of that you feared your testimony might be asked about?

Ms. GOODLING. I don't believe that I committed any crime.

Mr. NADLER. I didn't ask if you committed. I said what crimes were you aware of, or possible crimes were you aware of that caused you to be concerned enough to seek—to claim the fifth amendment.

Ms. GOODLING. I asserted the fifth amendment based on the fact these were very ambiguous circumstances in which to testify, and I believed that the Deputy Attorney General had made an allegation that I had deliberately withheld information from him. And I believed that that was a concern. And I wanted——

Mr. NADLER. Okay. So in other words that his allegation might be construed by some as a crime was your concern?

Ms. GOODLING. Those were the—that was the basis for my exercise.

Mr. NADLER. Okay. And are you aware of—well, let me—thank you. Let me pursue that a moment. You testified a few minutes ago about the Deputy Attorney General, Mr. McNulty, his testimony, which you said was not correct in all respects. In your written statement you go into some detail into how incorrect it was, and you talk about he did not have—that he testified that he did not have any knowledge of how Tim Griffin came to be recommended for an interim appointment. In fact, you had informed him of the effort to remove Bud Cummins in order to arrange an opportunity for Mr. Griffin since the spring or early summer. The status of the Arkansas office came up frequently in your briefings over the next 6 months. He testified that the Parsky Commission worked very well, and they respected the process, while in fact he knew that the Department's internal assessment was to the contrary. The deputy also knew that although a determination had been made to continue to use it, there had been some efforts to interview candidates outside the Parsky Commission process, and that he was aware of the Department's dissatisfaction with the commission's process because you briefed him. And you also testified that he testified that he did not know anything about allegations that Tim Griffin caged Black votes, but that in fact you had informed him that this issue could arise and you had prepared him to answer the questions about it.

These would seem to be direct contradictions, and in effect your testimony is that the Deputy Attorney General misinformed the Senate Judiciary in sworn testimony. Is that not correct?

Ms. GOODLING. I am just saying that I didn't believe he was fully candid, and the point that I was trying to make is I did give him some information. I didn't withhold information. I gave him a lot

of information. And he had some of that information and didn't use all of it.

Mr. NADLER. Although in fact he stated things directly contrary to what your written statement says he knew to be true.

Ms. GOODLING. Those would be conclusions for others to draw.

Mr. NADLER. Okay. That is fair enough. Now, let me switch topics for a moment and get back to follow up on some of what Ms. Sánchez was asking about hiring—or rather asking political questions of non-political hirings.

The *New York Times* discussed Robin Ashton, a career prosecutor serving on detail to the Executive Office of U.S. Attorneys, who was slated to become a career Deputy Director of EOUSA at around that time. According to the article, the head of EOUSA told Ms. Ashton that she had a Monica problem, because you believed she was a Democrat and couldn't be trusted, and therefore shouldn't get the career job.

Is that correct? Did you seek to deny her a promotion because you believed she was a Democrat?

Ms. GOODLING. It wasn't my decision to make or not make in terms of giving her a promotion. When I got to the Executive Office, I was actually excited about working with Ms. Ashton because she had a lot of really good experience as a prosecutor, much more than I did, and I thought that we would complement each other very well. You know, looking back on it, I think it was mostly the case of two type A women. She had been in the office as the only deputy——

Mr. NADLER. You did not recommend that she should not be promoted?

Ms. GOODLING. You know, I don't really remember the discussions back at that time very well. What I remember was that she had been the deputy for a long time by herself, and when I arrived a lot of the responsibilities that she had were shifted to me. I thought she resented that, and as a result, it made for a tense office environment.

Mr. NADLER. Okay. Now, in general you have testified in your—or there has been statements made, and you have essentially agreed with that and regretted it, and there is testimony today and in your written testimony that you did ask a number of people, either for career positions in the Justice Department or for assistant U.S. Attorney positions, questions about their political beliefs or affiliations.

Ms. GOODLING. Yes. Let me clarify, though, that I didn't actually interview AUSA candidates.

Mr. NADLER. Did you ask such questions? My one question is were any of your superiors in the Justice Department aware, or did anybody instruct you or suggest that these questions should be asked, or agree with these questions being asked, or were aware that you were asking such kinds of questions either for assistant U.S. Attorneys or for any other career position—or for career positions at all?

Ms. GOODLING. In some cases, relating to immigration judges, when I started my position as White House Liaison, I was informed that the Office of Legal Counsel had said that because those were positions under a direct appointment authority of the Attorney

General that we could consider other factors in those cases. Later, concerns were raised as a result of some litigation, and the Civil Division came to a different conclusion. As a result of that, we actually froze hiring late in December of last year. But certainly my super——

Mr. NADLER. You froze hiring why?

Mr. CONYERS. The gentleman's time has expired. You can finish your answer, ma'am.

Ms. GOODLING. We froze hiring in relation to immigration judges. There were some other times when I was asked to help facilitate the placement of somebody that we knew to be Republican in career positions, and sometimes those were at the requests of other people in the Department.

Mr. NADLER. Thank you.

Mr. CONYERS. The Chair is pleased to recognize the gentleman from North Carolina, the Ranking Member on the Intellectual Property Subcommittee, Mr. Howard Coble.

Mr. COBLE. Thank you, Mr. Chairman. Ms. Goodling, good to have you with us today. Ms. Goodling, as the distinguished Ranking Member stated earlier, the U.S. Attorneys do in fact serve at the pleasure of the President. That's been lost in the shuffle it seems. Having said that, I recall reading two articles, Ms. Goodling, and just because I read articles does not mean they are accurate. But one article indicated that the eight U.S. Attorneys were terminated because of poor performances. I read a second article that indicated most of the eight did in fact have good performances.

Can you elaborate on that, A, and B, who was responsible for evaluating the performances of the U.S. Attorneys.

Ms. GOODLING. I believe the person responsible for evaluating the U.S. Attorneys is the Deputy Attorney General and the Attorney General of the United States. I think some of the confusion here is because offices do undergo what we call EARS evaluations. I would explain that more as a checkup of the office, but not necessarily of the U.S. Attorney. It is certainly true the EARS reports do make conclusions about the effectiveness of the U.S. Attorney. But for the most part, EARS evaluations are very in depth, and they are designed to look at the legal practice in the office and the administrative procedures. So for example, they would check to see if there is an inappropriate chain of indictment review. They would check—they would evaluate the supervisory structure on the administrative side. They would check the books and make sure that the accounting is done properly, that security procedures were being followed appropriately. And they make a lot of recommendations. In some cases, EARS reports are hundreds of pages long because they are really looking at nuts and bolts of the offices. And certainly it is true that they do in some cases reveal that there are problems in the office that relate to the U.S. Attorney. And in some cases they make conclusions that the U.S. Attorney is very effective. But the person who would have the most information about the U.S. attorney's performance is I think going to be people at Main Justice, because they are the ones that are working with the U.S. Attorney every day. They are the ones that have the opportunity to see when there is problems. Those are things that are going to be elevated above the U.S. Attorney.

Mr. COBLE. Thank you, Ms. Goodling. Ms. Goodling, explain your role—I think most of us are familiar with it, but explain your role in serving as the White House Liaison to the Justice Department. What were your responsibilities in the White House and in the Justice Department, and what was your principal mission in serving at the White House as the White House Liaison to the Justice Department?

Ms. GOODLING. I didn't actually serve at the White House at all. I worked at the Justice Department as a department employee. My basic job responsibilities fell into three categories. The first was hiring of political appointees. I spent a lot of time doing interviews for what we call Schedule C, or non-career Senior Executive Service candidates. And I wasn't the only one that would do those. Obviously, the component head that would be ultimately hiring the person would also interview. They would have interviews at the White House, and in some cases with Mr. Sampson as well. So I was one of maybe three or four people evaluating everybody coming in or considering coming into the Department. So that personnel work took a lot of time. I also served a basic liaison function that related to information. You know, for example, the President's going to be on travel here, or we would pass over the Attorney General was going to be on travel here. Just information requests that would go back and forth relating to what the White House had going on or what we had going on. You know, things, just report-type things, along those lines. And then the third thing, which took a fair amount of time actually, was a lot of what we would call, you know, morale boosting for employees and kind of internal communications.

Oftentimes the White House would have bill signings or Marine One would be landing or taking off, or there would be an opportunity to see the champions of the Stanley Cup, you know, come to the White House. And I so I would spend, you know, several times a week, send an e-mail to appointees and say, hey, who would like to go to the White House and see X, Y and Z? And we would gather their names and Social Security numbers and dates of birth and transmit those down to the White House so appointees would have the opportunity to do those sorts of things. And so there were a combination of things, and there were others I am sure I have not mentioned, but those were the three categories of things.

Mr. COBLE. I thank you. Finally, Ms. Goodling, did you have, did you ever see the initial list or the final list of the United States attorneys who were recommended for replacement?

Ms. GOODLING. If the initial list is the one in 2005, I don't have any memory of having seen that. The final list being the November 27th plan, yes, I was in the room with the Attorney General when that plan was presented, although actually I am not sure if Kevin Ryan was on the list at that point or not. It may have been only six on that day.

Mr. COBLE. I thank you again, Ms. Goodling, for your testimony. Mr. Chairman, I yield back.

Mr. CONYERS. Thank you. The Chair recognizes the Subcommittee Chairman on Crime, the gentleman from Virginia, Bobby Scott.

Mr. SCOTT. Thank you, Mr. Chairman. Ms. Goodling, as you have heard, I was introduced as the Chairman of the Subcommittee on Crime. The criminal justice system cannot function if the public does not trust the system to be fair. We expect judges and prosecutors to strictly follow the rule of law. We expect witnesses in criminal cases and all phases of criminal cases to tell the truth. We expect juries to be fair and impartial, and this won't work if there are partisan political considerations becoming more important than fair and impartial decisions. Unfortunately, there have been credible allegations that attorneys have been hired because of their partisan views rather than their legal backgrounds, that the culture of loyalty to the Administration was more important than loyalty to the rule of law, and pressure and even firing of U.S. Attorneys for failing to pursue partisan political agendas rather than the rule of law. These allegations are serious, because if true they can clearly undermine the confidence the public will have in the criminal justice system. It has been hard for us to get to the bottom of it, because when you ask simple questions you have accused others of not telling the truth under oath. You in fact yourself pleaded the fifth. So it has been hard to get to the bottom of it. But let me just ask a couple of questions.

In your testimony, you indicate that you "may have taken inappropriate political considerations into account on some occasions." Do you believe that those political considerations were not just inappropriate, but in fact illegal?

Ms. GOODLING. That is not a conclusion for me to make. I know I was acting——

Mr. SCOTT. No, do you believe that they were legal or illegal for you to take those political considerations in mind? Not whether they were legal or illegal, what do you believe? Do you believe that they were illegal?

Ms. GOODLING. I don't believe I intended to commit a crime.

Mr. SCOTT. Did you break the law? Did you break the law? Was it against the law to take those political considerations into account? You had civil service laws. You had obstruction of justice. Were there any laws that you could have broken by taking political considerations into account "on some occasions?"

Ms. GOODLING. The best I can say is that I know I took political considerations into account on some occasions.

Mr. SCOTT. Was that legal?

Ms. GOODLING. Sir, I am not able to answer that question. I know I crossed the line.

Mr. SCOTT. What line? Legal?

Ms. GOODLING. I crossed the line of the civil service rules.

Mr. SCOTT. Rules, laws? You crossed the law on civil service laws. You crossed the line on civil service laws. Is that right?

Ms. GOODLING. I believe I crossed the lines, but I didn't mean to. I mean I——

Mr. SCOTT. Okay.

Ms. GOODLING. You know, it wasn't——

Mr. SCOTT. In reference to the U.S. Attorneys, was investigations and indictments of Republican officials, or the failure to investigate or indict Democratic officials a factor in the removal of any U.S. Attorneys?

Ms. GOODLING. Not as far as I know.

Mr. SCOTT. Not at all?

Ms. GOODLING. Not as far as I know.

Mr. SCOTT. Are you aware that Senator Domenici had called one of the U.S. Attorneys that was asked to leave?

Ms. GOODLING. I have seen the press accounts, yes.

Mr. SCOTT. You have seen the press accounts?

Ms. GOODLING. Yes.

Mr. SCOTT. Do you know that he had a problem with one of the U.S. Attorneys?

Ms. GOODLING. I was aware he had concerns with Mr. Iglesias' performance.

Mr. SCOTT. Okay. On the back of tab 26 you have a note that says, "Domenici says he doesn't move cases."

Ms. GOODLING. Yes. That was a comment that was made by someone else in one of the meetings that we had in the Deputy Attorney General's room.

Mr. SCOTT. Do you know what cases he was talking about?

Ms. GOODLING. I don't remember that the person who made the comment specified.

Mr. SCOTT. Do you know what case he was talking about? Are you aware of a case of Manny Aragon, a Democratic office holder?

Ms. GOODLING. I think I have seen press accounts.

Mr. SCOTT. Was that one of the cases that you could have been talking about?

Ms. GOODLING. I don't know.

Mr. SCOTT. Now, the Deputy Attorney General's testimony did not include Domenici says he doesn't move cases as one of the reasons he was on the list.

Ms. GOODLING. It does not. The reason it did not, when we were meeting in his room somebody made the comment that that was one of the reasons. The Deputy Attorney General said that he did not think that that was something that he wanted to brief to the Senate because he didn't think it was his place to raise one Member's concerns with other Members, and that it would be better if Senator Domenici wanted to raise the concerns with his colleagues.

Mr. SCOTT. Other than Domenici's problems that he doesn't move cases, how could Mr. Iglesias' name get on the list of fired attorneys? What else could he have possibly done wrong to get him on the list?

Ms. GOODLING. The other reasons that I heard discussed was that it was a very important border district, that people just didn't think that he was—that he was doing as good of a job as we might have wanted to expect. I know at one point I heard someone say that he had been kind—and this is a quote—kind of a dud on the AGAC. That's the Attorney General's Advisory Committee. And there were—there was at some point a reference to him being an absentee landlord that somebody had made. And Mr. Sampson had indicated that he heard Mr. Mercer express concerns about the amount of time that he spent in the office. But I also heard somebody else express a concern that he delegated a lot to his first assistant. So there were different comments that people made at different times.

Mr. CONYERS. The gentleman's time has expired. You may finish your statement if you choose.

Ms. GOODLING. I mean different people did make different comments at different times, and there were other comments that people made based on things that they felt or believed. And I wrote those down.

Mr. CONYERS. Thank you. The gentleman from California, Elton Gallegly.

Mr. GALLEGLY. Thank you very much, Mr. Chairman. Ms. Goodling, I am the tall, good looking one here. Ms. Goodling, almost everyone, including the Attorney General, agrees this matter was mishandled, and that if he had to do it all over again he would have done several things differently. Do you agree with the assessment that things could have been handled much differently? And if so, how would you say that, in your opinion, should have taken place?

Ms. GOODLING. I do agree things should have been handled differently. I think it would have been better to try to document some things. It certainly would have been good to have made sure that the reasons that—you know, when we looked at the list, and when we had the meeting to discuss what we thought the reasons were, I think somebody would say a comment and somebody else would think that's what I thought, too. So I think when people looked at the list people generally had the same thoughts in their mind about people as far as I could tell from that meeting. Because somebody would say one thing and other people would nod, and I would write it down. But it would have been better to document it. And it would have been better, frankly, to have given some of these U.S. Attorneys a chance to understand what the problems were and a chance to address them. And, you know, at the November 27th meeting, there was a discussion about whether or not the U.S. Attorneys should be told in person. And someone made the comment that because they were Presidential appointees and served at the President's pleasure there wasn't a need to litigate the reasons with them. And I think there was some concern that if you sat down with the folks it would get into a back and forth on the reasons. And I think people felt like they wanted the U.S. Attorneys to be able to leave quietly and do good things with their lives. But I think there was a sense that they didn't want to make the departures more painful for people, I guess. But looking back on it, I think it would have been the right thing to do to have met with people individually and notified them in person and given them an opportunity to ask questions at that time.

Mr. GALLEGLY. Ms. Goodling, in your opening statement, correct me if I misunderstood, but when you first saw the list of the eight, that I guess it was Mr. Sampson presented you with that list? Am I correct in my recollection that there was no explanation at that time for how any of those names got on the list?

Ms. GOODLING. I don't remember. And there were not eight at the time, it was a different number. But I don't remember that time very well. And I had actually forgotten it for a while. But I think he just kind of brought it in and said can you take a look at this and give me your thoughts? That's to the best of my recollection what I remember.

Mr. GALLEGLY. However, subsequent to that, obviously, you have had some opportunity to learn a little bit more about specific cases, as I know you referenced in part of the questioning some statements regarding Mr. Iglesias; is that correct?

Ms. GOODLING. Yes.

Mr. GALLEGLY. And can you recollect any other of the judges that—other than Mr. Iglesias—that may have been, the basis of their name appearing on that list?

Ms. GOODLING. I am sorry, what did I just agree to? I think I misheard the question.

Mr. GALLEGLY. My understanding is you had—well, just a few minutes ago you did make reference to Mr. Iglesias.I assume this is something that you learned subsequent to first seeing the list as maybe one of the reasons that his name did appear on the list. Is that correct? Subsequent to originally receiving the list, when there was no direct explanation for how the names got on there, you have learned, or through conversations, and so on and so forth, that there had been certain justifications made public, or at least beyond the water cooler discussions?

Ms. GOODLING. Right.

Mr. GALLEGLY. As was the case with Mr. Iglesias. Were there other members or other judges on that list that you recall any specific reasons why their name would have been placed on the list?

Ms. GOODLING. Yes. At the November 27th meeting, there was a discussion about Daniel Bogden specifically. I think somebody made the comment like, you know, I know why—I know why it's this group or I know why—I think I know why these are the people on the list. And the DAG said the one person I have a question about is Mr. Bogden. Did he do something wrong, or is it just a general sense that we could do better? And Mr. Sampson said in that meeting something about, you know, I think it was a general sense that, you know—it was a general kind of sense that we could do better or something along that line. And then I said that I was aware of one case involving use of the PATRIOT Act that had gotten a little messy a few years ago. But that was all I was aware of. And at that point we kind of looked at each other and at the Attorney General and said, you know, what do you want to do? And he—I think he nodded and said okay.

So we had that one discussion in that November 27th meeting, which was just a brief reference. But that is the only one where I remember that the group as a whole discussed the reason for that question.

Mr. GALLEGLY. But that clearly wasn't a statement saying it was for political reasons or implied that?

Ms. GOODLING. Oh, for political reasons no, no. And I didn't mean to imply that I thought it was for political reasons in Mr. Iglesias' case, if that was the question, sorry.

Mr. GALLEGLY. Thank you very much. Mr. Chairman, thank you.

Mr. CONYERS. The Chair is pleased to recognize the distinguished gentleman from North Carolina, Mel Watt.

Mr. WATT. Thank you, Mr. Chairman. Ms. Goodling, this obviously has national implications, but it has some repercussions at local levels, too, and so I would like to ask you a couple of questions that relate to North Carolina, which happens to be where I

am from. You testified in your opening statement this morning that, "I never recommended to them that a specific U.S. Attorney be added to or removed from Mr. Sampson's list."

Ms. GOODLING. I mean them being the White House. I did discuss with Mr. Sampson, of course, removing individuals. I was referencing my interactions with the White House in my statement.

Mr. WATT. That seems to be at odds with what Mr. Sampson testified in the Senate when he testified that you suggested taking Ms. Anna Mills Wagner of the Middle District of North Carolina off the list in September of 2006. Did you or did you not recommend taking Ms. Wagner off the list?

Ms. GOODLING. I did. I recommended retaining her in service in January and in September.

Mr. WATT. So when you testified this morning that you didn't make a specific recommendation to take anybody off the list, you were really not accurate in what you were saying.

Ms. GOODLING. I believe my sentence was to them, meaning the White House. Mr. Sampson works at the Department of Justice. And I did make a recommendation to Mr. Sampson about people coming on and off the list.

Mr. WATT. What is your relationship with Ms. Wagner?

Ms. GOODLING. She is just a U.S. Attorney that I have had some interactions with from time to time. She was very involved in Project Safe Neighborhoods, and did kind of a Project Safe Neighborhood gang conference that I attended with the Attorney General. And of course I have spoke with her at some U.S. Attorney conferences.

Mr. WATT. And do you know who suggested putting Ms. Wagner on the list in the first place to be fired?

Ms. GOODLING. No. When I saw the list in January, she was on, and I recommended she come off. She was still on in September, and I recommended again that she come off, and she did.

Mr. WATT. And what was your basis for recommending that she come off?

Ms. GOODLING. I think in January I remembered her Project Safe Neighborhood work. That was something that I focused on at the Department, so I had a good sense of—or thought I had a good sense of some of the districts that were doing really good things in the gun crime area. And I also remembered that she had been very, very helpful when we were doing some PATRIOT Act authorization efforts. We asked some of the U.S. Attorneys to be engaged, and she had been very helpful in that effort as well. In September I think I was thinking mostly PSN. I am not sure if I remembered the PATRIOT Act at that point.

Mr. WATT. Now there is a document that we have had produced to us where you wrote that she "bends over backward for AG visits." You remember making that note about——

Ms. GOODLING. Yeah, that was a reference to the PATRIOT Act visit that we had done.

Mr. WATT. Okay. And you thought that was a meaningful reason to keep or replace an attorney or not replace an attorney?

Ms. GOODLING. I think it is an appropriate thing to consider, when the Attorney General asks a U.S. Attorney to be helpful and they do a really good job at it. I think that is a good thing. Some-

times we would ask U.S. Attorneys for help and, you know, you didn't get the same response. She was just someone that when you ask her for help she was very responsive. And I thought that that should be rewarded or taken into account.

Mr. WATT. And what kind of help are you talking about there?

Ms. GOODLING. I am just talking about when you ask someone to, you know, write an op-ed or just help put together a visit, some U.S. Attorneys are just very engaged and just very responsive. I don't know that I can quantify it more than saying they are responsive.

Mr. WATT. All right. The specific meetings in which you participated in which Mr. Iglesias was discussed, you indicated that a number of comments were made that could have been the basis for his being on a list to be terminated. Would you tell us who was in the room when those discussions were taking place?

Ms. GOODLING. After the deputy did his briefing on this——

Mr. WATT. Would you tell us who was in the room for those, when those discussions took place?

Ms. GOODLING. The deputy, Mr. Sampson, myself, and then Mr. Elston, I believe was there for part of the time or maybe all of the time. And I think there was another individual that may have come in and gone out, and I don't remember if that was Mr. Moschella, but I felt like there was someone that moved at some point during the meeting, but I don't remember specifically.

Mr. CONYERS. The gentleman's time has expired.

Mr. WATT. Thank you, Mr. Chairman.

Mr. CONYERS. The Chair is pleased to recognize the only ex-Attorney General that we have on the Committee, Dan Lungren of California.

Mr. LUNGREN. Thank you very much, Mr. Chairman. Ms. Goodling—I am over here—let me just say that we appreciate your testimony. I know this is not a particularly comfortable time for you. You also ought to be happy you are not hearing the clicking of the cameras that often, because they usually reserve those for gotcha moments, and there haven't been any today. Your testimony has been very strong. I think you have acquitted yourself well and have shown people who are here or watching elsewhere why people in the Justice Department thought you were worthy of your job.

I have never been in the U.S. Justice Department, but as the Chairman said, I was the Attorney General of California, elected, not appointed, and when I ran in that campaign for election I had differences with my opponent, who happened to be of the other party. I had some differences with my predecessor. I decided I was going to put more emphasis on the criminal side of my office than on the civil side. I made decisions to shift people. We had folks in the California Department of Justice who were conscientious objectors to the death penalty, when we were the ones required to carry it out from a legal standpoint. And I had to make some decisions to transfer people out of the Criminal Division because they refused to do capital cases. And I made a decision that I was criticized for as being political to say that you couldn't be a supervisor in the Criminal Division if you didn't believe in the death penalty because it would affect your job. We moved them elsewhere.

I thought it was appropriate to make decisions with respect to supervisors in my office, the ones who headed up certain divisions, certain offices, if they believed in what I was trying to do, because I actually thought that is the way the process works. During election I mentioned what I was going to do. I was elected. And then I said to the people who were there, including civil servants, this is what we intend to carry out.

Analogously, doesn't a President have a right, when he appoints an Attorney General, to expect him and the people in the Justice Department, including civil servants, to use the emphases that the President wants to make the decisions in terms of priorities that the President wants? And isn't that an appropriate thing? And is that the kind of thing that you did while you were in the Department?

Ms. GOODLING. That is what I was trying to do. I was trying to find very well-qualified people who would be enthusiastic about, you know, supporting the Attorney General's priorities and focus. But like I said, I may not have always got it right.

Mr. LUNGREN. You were permitted to do that, but weren't you even more than permitted? Didn't you feel an obligation to try and do that so that the American people could somehow have faith that the electoral process works when they have a President who says he is going to do certain things?

Ms. GOODLING. I certainly hope so.

Mr. LUNGREN. And you said you believed you crossed the line, and there was some questioning and cross-examination of you. Let me get this straight. As I understand what you said, you believe in retrospect that you may have crossed the line in terms of civil service rules, but you don't believe in your own mind you had the intent to break any law at the time you did anything. Is that correct?

Ms. GOODLING. I guess what I meant is I was intending to try to find good lawyers who would do a good job and who would carry out the Attorney General's priorities. And my focus was on that. My focus—but in my focus I think there were times when I thought that it would be good if we could hire some people that could be, you know, that could be other U.S. Attorneys down the road. And we also—we brought a lot of people from the field to Main Justice. And I thought it would be good if we had, you know, people that would be wanting to come into leadership positions that would be—that would be enthusiastic of the priorities.

Mr. LUNGREN. Let me ask you, is it 93 U.S. Attorneys that there are?

Ms. GOODLING. Yes.

Mr. LUNGREN. Do you believe that there are more than 93 qualified people in the United States who are attorneys to be U.S. Attorneys?

Ms. GOODLING. Yes.

Mr. LUNGREN. Do you believe that a President has the right to refresh an office and to say you have had your 4 years, I would like to give someone else a chance?

Ms. GOODLING. Yes.

Mr. LUNGREN. You think that is violative of the Constitution?

Ms. GOODLING. No.

Mr. LUNGREN. Does that in any way interfere with the prosecution of the laws?

Ms. GOODLING. No.

Mr. LUNGREN. Can you have two people, one who is in charge of an office, and then another one who comes in, both equally committed to prosecuting the laws of the United States?

Ms. GOODLING. Yes.

Mr. LUNGREN. And you said in your written statement, however, I am not aware of anyone within the Department ever suggesting the replacement of these U.S. Attorneys to interfere with a particular case or in retaliation for prosecuting or refusing to prosecute a particular case or political advantage. Now, after you have had all the questioning from the panelists thus far about that, do you still stand by that statement?

Ms. GOODLING. I do. I mean certainly I knew that Senator Domenici had told the Attorney General he had some concerns with public corruption.

Mr. LUNGREN. And Dianne Feinstein had complained about the lack of prosecution of coyote cases in San Diego.

Ms. GOODLING. Yes, but I didn't understand those to be the complaints—I didn't—my memory is not that it was of any specific case, that it was more of a focus or emphasis. But again, I didn't hear the Senator's comments because the Attorney General had the phone up to his ear. So I couldn't hear exactly what he said.

Mr. LUNGREN. Thank you very much.

Mr. CONYERS. Thank you. The Chair is going to announce a 5-minute recess after the gentlelady from California, Zoe Lofgren, Chair of the Immigration Subcommittee, has her questions. And we yield to her at this time.

Ms. LOFGREN. Thank you, Mr. Chairman. Ms. Goodling, I want to—we only have 5 minutes, so I want to ask you, if I could, two yes or no questions. Did you ever or did you ever have a member of your staff ask a job applicant who they voted for?

Ms. GOODLING. Political appointees, yes. I don't think we asked that of career appointees, but I can't be sure. Sometimes people would come in and would actually apply for both positions at the same time.

Ms. LOFGREN. So when it comes to your statement on hiring of immigration judges, BIA positions that were frozen, you never asked any of them who they voted for?

Ms. GOODLING. I don't remember that I did, but again I can't be sure, and I may have. Sometimes people——

Ms. LOFGREN. If I could ask on that, you mentioned that these positions, these immigration and BIA positions were frozen in December of 2006 after the Civil Division expressed concerns that civil service rules might apply. Would it be true then to say that we stopped hiring in this field because you couldn't apply a political litmus test to these individuals?

Ms. GOODLING. I think the hiring was frozen to give the division time to evaluate—and actually I would like to clarify my answer. There were some individuals that came in and applied for political positions and immigration judge positions at the same time, so those individuals would have been asked political questions, yes.

Ms. LOFGREN. About who they voted for?

Ms. GOODLING. Yes, because they were applying for both.

Ms. LOFGREN. The first of the U.S. Attorneys known to have been terminated in 2006 was Todd Graves in Kansas City. And Mr. Graves has stated publicly that he received a phone call from Michael Battle in January, and he was told to submit his resignation. And Mr. Sampson has stated that Graves was on a list of the U.S. Attorneys to be fired which he showed to you and that was sent to the White House in 2006. And Mr. Battle has told Committee investigators that it was you who called him and told him to call Graves and tell him to submit his resignation. Who did you discuss this with at the DOJ? Did you discuss this with anybody at the White House? Who gave you the permission to or directed you to make this call to Mr. Battle? And you said in your opening statement that you had conflicting memories about this Graves matter. Can you explain what you meant by that?

Ms. GOODLING. Sure. When I first heard Mr. Graves' name, months ago, my memory was that he had been asked to resign. That was what I thought. But there were two things that made me think that maybe my memory was wrong. One was in January Mr. Sampson was asked a question while he was staffing the Attorney General about how many U.S. Attorneys had been asked to resign in the previous year, and he gave the answer of eight. And because I knew that the eight were Mr. Cummins and then the seven in December, I thought that I must have just been remembering incorrectly, because Mr. Graves would have made nine. But, you know, perhaps Mr. Sampson just didn't think of Mr. Graves when he gave that answer. I don't know. But that was the first thing that made me think that maybe my historical memory just wasn't correct.

Ms. LOFGREN. So you do recall seeing his name now, though, or you don't?

Ms. GOODLING. Oh, yes, I do. I remember seeing it on the list.

Ms. LOFGREN. Do you think it is true one of the factors in removing Mr. Graves so quickly and installing his replacement, Mr. Schlozman, so promptly was to push forward with a vote fraud case that Mr. Schlozman was promoting and Mr. Graves was resisting in Missouri just before that election?

Ms. GOODLING. You know, I don't remember anything like that. My memory of the reason why I was thinking that Mr. Graves had been asked to leave related more to the fact that he was under investigation by the Inspector General, and there were some issues that were being looked at there. And I, like I said, I had conflicting memories on it. But I thought that that was—that was my memory of what was going on during that period of time.

Ms. LOFGREN. When Mr. Schlozman worked at Main Justice did you ever discuss the issue of voter fraud cases or voter ID laws with him?

Ms. GOODLING. You know, I think he did mention them to me from time to time. I remember one conversation where he told me that they had done an election law manual.

Ms. LOFGREN. Did you discuss it with anyone else? These voter fraud or voter ID cases?

Ms. GOODLING. Specific cases?

Ms. LOFGREN. M-hm.

Ms. GOODLING. I don't have any memories at this point. I certainly would have seen stories in the clips, and they may have come up in meetings that I was in.

Ms. LOFGREN. Did you ever discuss them you think with Mr. Hans von Spakovskyi, who was over at the Voting Section of Civil Rights?

Ms. GOODLING. No, I don't remember ever having met him or spoken with him.

Ms. LOFGREN. Do you remember who told you to have Mr. Battle fire Mr. Graves?

Ms. GOODLING. If I did make that phone call it would have been at Mr. Sampson's request. I wouldn't have had that kind of authority.

Ms. LOFGREN. Before my time expires I just want to make sure I understand you correctly. You never asked any immigration people applying just for immigration judge positions or BIA positions who they voted for?

Ms. GOODLING. If they were applying for other positions I did.

Ms. LOFGREN. But if they were just applying for that you never did?

Ms. GOODLING. I don't remember that I did, but I can't be sure. And I do know that we did research them, and in some cases we learned political information in the research process.

Ms. LOFGREN. My time has expired.

Mr. CONYERS. Thank you. Members of the Committee, we will stand in recess until 10 minutes after 12. Thank you very much.

[Recess.]

Mr. CONYERS. I am pleased to recognize the gentleman from Virginia, the distinguished former Chairman of the Agriculture Committee, Bob Goodlatte.

Mr. GOODLATTE. Mr. Chairman, thank you very much. Ms. Goodling, welcome. I appreciate the forthright testimony that you have given. I understand the scrutiny that is going on here today, and we very much welcome your participation. I have a few questions. Were you ever in any way a principal decision-maker in the review process and the removal process concerning the U.S. Attorneys?

Ms. GOODLING. Not a decision-maker.

Mr. GOODLATTE. Some have alleged that the Department requested the resignations of the U.S. Attorneys for partisan purposes, such as to exact retribution against U.S. Attorneys who prosecuted Republicans or failed to prosecute Democrats in public corruption cases. If that were true, would it have made any sense for the Department to have named career first assistant U.S. Attorneys as interim U.S. Attorneys to replace these individuals, as occurred in the District of New Mexico and the District of Nevada?

Ms. GOODLING. Some would say that might seem odd.

Mr. GOODLATTE. Can you elaborate on that at all? What was your experience in terms of who were the replacements for these U.S. Attorneys?

Ms. GOODLING. There actually was a lot of debate about those topics, just because we wanted to ensure that we put good people into those spots. And we were making those decisions in a time that there was a lot of scrutiny on what was happening. But we interviewed several people for all the spots and, you know, ulti-

mately we chose the people that we thought could best lead, given the circumstances and the situation that we were under.

Mr. GOODLATTE. And are you satisfied that that was the result of those who were put in those positions? That they were indeed fulfilling the responsibilities that we expect of U.S. Attorneys to conduct these offices in a professional and non-partisan fashion?

Ms. GOODLING. I certainly think that they will do a good job. I mean in some circumstances if it had been up to me, I might have made different decisions. We interviewed, like I said, a number of people in different spots, and there were disagreements, as there sometimes are when you interview multiple people for different spots. But ultimately, I think the people that are leading those offices will do a good job.

Mr. GOODLATTE. Now, with regard to the question of whether or not the Congress was misled in this matter, did you ever intend to mislead Congress through any of your activities in preparing the people who have testified for their testimony?

Ms. GOODLING. No. I never deliberately withheld any information. I think looking back trying to figure out, you know, what happened, I think sometimes we started preparing answers for questions A, and then we got questions B, and we started preparing answers for question B, and then we got question C. And at some point along the line people just started answering questions, and we had never really sat down and talked them out and put all the facts on the table and figured out what they were. And different people had forgotten different things. And it just snowballed into a not good situation.

Mr. GOODLATTE. Sure. With regard to the hiring of career officials into leadership or policy positions, in your approach to these interviews did you attempt to follow what you understood to be accepted models at the Department of Justice, such as that of David Margolis?

Ms. GOODLING. You know, there were different categories. Different categories. I am sorry, in the personnel context it is particularly hard for me to make a general statement because it won't be true in one category and then not true in another. And then there were sometimes odd situations that cropped up. I tried—if you are asking about detailed positions at Main Justice, you know, I tried to find people that would be part of the leadership team that would be on the same page in terms of philosophy. And in those positions, because they were in leadership offices, I really did want to ensure that ideologically they were compatible. In other cases, like immigration judges and Board of Immigration Appeals, I thought that we could consider other factors because I had been told that in relation to immigration judges. And I think my assumption was that applied to BIA as well. And you know, then there were other bizarre cases that kind of cropped up individually from time to time. And, you know, but my intent was to ensure that we had well-qualified, really bright lawyers that I wanted to have, you know, pull in the same direction in terms of priorities.

Mr. GOODLATTE. And with regard to the hiring of the career assistant U.S. Attorneys in the U.S. Attorney's offices led by interim U.S. Attorneys, did you ever act as a screener for Republican candidates for those positions?

Ms. GOODLING. I think that I probably did. Not in all cases. For the most cases, I looked at those waiver requests and I evaluated whether or not there really was an extraordinary need. The rule is to ensure that there isn't hiring during the times that there is a vacancy so that the new U.S. Attorney coming in has the opportunity to hire some people that they would like to work with. I thought that was a good rule, and I tried to enforce it. Sometimes there were cases of extraordinary need, and I looked at resumes or I might have made reference calls, or I did make reference calls in some cases. And in some cases, you know, I may have researched folks and learned some information that influenced my decision-making. And I regret those mistakes.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. CONYERS. Thank you.

Mr. GOODLATTE. Thank you, Ms. Goodling.

Mr. CONYERS. The Chair recognizes the distinguished gentlelady from Houston, Texas, Sheila Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman, and thank you for committing this Committee and yourself to the American people. I welcome the witness. Just for the record, I think it is important to note, because we have an important debate about immigration, there couldn't have been a greater disservice to the American people by stalling on the immigration judges and others who would participate in the process, legal process, that we would hope most who are here would participate in.

But allow me just to simply begin a series of questions, Ms. Goodling, and I would ask that your answers be as cryptic and as brief as possible, however truthful, because we do have a shortened period of time. I noticed that you were described as a loyal person or with extreme loyalty or deep loyalty to the President, President Bush. And certainly we welcome young people into this system of government of public service, as you have indicated. But you might have been better served if you were loyal to the American people. And I give you counsel, whether you are willing to accept it or not. You have been described by Bruce Fein, a former senior justice official during Reagan, the Reagan administration, both you and Mr. Goodling—excuse me, you and Mr. Sampson, that you knew politics and not the law. And I think that is the challenge that we face here today. I would like to know what your disagreement was with Seth Adam Meinero, a Howard University law school graduate that you apparently described or stalled in his hiring as a career prosecutor, a graduate of Howard University, one of the top, outstanding law schools in the Nation that graduates an array of diverse law students and future lawyers, but has an historical grounding in the African American community. But you described him as too liberal for the non-political position. He had formerly been a career attorney with the Environmental Protection Agency. Why did you dislike Mr. Meinero?

Ms. GOODLING. I didn't dislike him, and I regret the fact that I made a snap judgment based on the totality of the things that I saw on his resume. And I have no good explanation for it.

Ms. JACKSON LEE. But you did reject him. And it was only out of a career attorney's, Mr. Taylor, who pursued to get Mr. Meinero hired. Is that correct?

Ms. GOODLING. I didn't actually reject him. I actually in fact authorized the hire later. I delayed it.

Ms. JACKSON LEE. After Mr. Taylor pursued it. Is that correct?

Ms. GOODLING. Yes. Yes.

Ms. JACKSON LEE. Thank you very much. I understand that you have made a point that you say to the best of my recollection I had no meetings with Mr. Rove or Harriet Miers. Did you receive e-mail?

Ms. GOODLING. I don't remember receiving an e-mail from Mr. Rove. I did receive e-mail from Harriet Miers.

Ms. JACKSON LEE. But there was a possibility. You don't recollect, but there might have been a possibility of receiving an e-mail?

Ms. GOODLING. I can't say that it didn't happen during my time at the Department. I certainly had e-mail with the——

Ms. JACKSON LEE. Thank you. Can you tell us anything about what Karl Rove knew about the plan to fire the nine U.S. Attorneys? Or what he did to create the situation leading to those firings?

Ms. GOODLING. I know that Mr. Rove was consulted after the plan—or I believe he was consulted, I guess. I may not know for sure. When the plan went to the White House for approval, it was transmitted to the White House Counsel's office, and there was an e-mail that Mr. Sampson forwarded to me, I think on December 4, if I am remembering correctly, that said it had been circulated to different offices within the White House and that they had all signed off. So I assume that he was one of the individuals that signed off as part of that process, but I don't know for sure. I think the e-mail just referenced the offices.

Ms. JACKSON LEE. But he was certainly in an office in the White House?

Ms. GOODLING. He was in an office in the White House. I think it said White House Political had signed off. Political is actually headed by Sara Taylor, but does report to Mr. Rove, so I don't know for sure.

Ms. JACKSON LEE. I thank you. With that in mind, isn't it a fact that you cannot give us the full picture about the White House involvement in the plan in the removal of the U.S. Attorneys, and isn't it a fact that the only way we can get the story is if the White House provides documents and makes its personnel available to be interviewed by the Congress?

Ms. GOODLING. For me I can say I can't give you the whole White House story.

Ms. JACKSON LEE. And I thank you for that. I have to move to the next question. But I want the record to be clear the only way we can get to the full truth is if Mr. Karl Rove is sitting in the very same seat that you are sitting in. And he needs to be here. And he needs to be here post-haste. Let me ask you very quickly, you testified in response to Mr. Scott that someone at DOJ made a comment in a meeting that Senator Domenici says that statement Mr. Iglesias doesn't move cases in connection with Mr. Iglesias being on the list of fired U.S. Attorneys. When did that meeting take place? Who made the comment about Senator Domenici? And who else was at the meeting?

Ms. GOODLING. The DAG, Kyle Sampson, Mike Elston, and there may have been another person, and myself were in the meeting. It was after his Senate testimony, but before his private briefings, so it was the week before Valentine's Day. I don't remember the exact date.

Ms. JACKSON LEE. And the year?

Ms. GOODLING. 2007. It would have been I guess before February 12th, or around that period at some point. I don't remember who in the meeting made the comment, but I wrote it down. And I don't remember what your other question was.

Ms. JACKSON LEE. Who else was at the meeting?

Ms. GOODLING. The meeting was the Deputy Attorney General, Kyle Sampson, Mike Elston for at least part of it, and myself, and there may have been another person that came in and came out, maybe William Moschella, but I don't remember.

Ms. JACKSON LEE. The Deputy Attorney General is? The name, please.

Ms. GOODLING. Paul McNulty.

Ms. JACKSON LEE. I thank you very much. I thank the distinguished Chairman. I thank the witness. I yield back.

Mr. CONYERS. The Chair is pleased now to recognize the gentleman from Florida, Rick Keller.

Mr. KELLER. Thank you, Mr. Chairman. Ms. Goodling, when did you first get promoted to the position of Senior Counsel to the Attorney General and White House Liaison?

Ms. GOODLING. I started in the Office of the Attorney General as Counsel. I became the White House Liaison and was given a working title of Senior Counsel in April of 2006.

Mr. KELLER. And before April of 2006 you had worked at the Justice Department in a variety of different positions for about 4 years?

Ms. GOODLING. Yes.

Mr. KELLER. Okay. I understand from your testimony that Kyle Sampson is the one who compiled the list of attorneys to be replaced?

Ms. GOODLING. Yes.

Mr. KELLER. And you didn't see that list of potential U.S. Attorneys to be replaced, to the best of your recollection, until January of '06; is that right?

Ms. GOODLING. Right.

Mr. KELLER. I am going to focus most of my questions on Carol Lam-related issues, since that seems to be the most controversial. Did you ever speak to anyone within the Department of Justice regarding Carol Lam?

Ms. GOODLING. She was a topic of frequent conversation.

Mr. KELLER. Tell me what your communications were and when they took place.

Ms. GOODLING. There were a lot. I am not sure I am going to remember them all. There were a lot of conversations about her work in the gun crime area, which was an area that I worked in. And so the people that I worked on in relation to Project Safe Neighborhoods would frequently name her district as one that they felt was underperforming, and that she just didn't seem to be doing as much as they thought she should be.

Mr. KELLER. When do you first remember those conversations about the lack of sufficient gun crime prosecutions taking place?

Ms. GOODLING. I believe it was while I was in the Office of Public Affairs.

Mr. KELLER. What would be the time frame for that?

Ms. GOODLING. Maybe 2003 or 2004 time period.

Mr. KELLER. Okay. Were there any other topics of concern that you heard other than gun crimes?

Ms. GOODLING. Immigration was the one that has been most frequently discussed in the past year-and-a-half or 2 years.

Mr. KELLER. And so when did you first start hearing about the concern about immigration prosecutions?

Ms. GOODLING. I believe while I was maybe in the Executive Office for U.S. Attorneys. I am a little tentative on this, but I think there may have been some letters from Congress that came in, I think, during that time period.

Mr. KELLER. Would that be around the 2004 time period?

Ms. GOODLING. No, I was in the Executive Office in 2005.

Mr. KELLER. The 2005 time period. So to the best of your recollection, the first concerns you heard about gun crimes and Carol Lam were 2003, 2004, and about immigration enforcement around 2004. Is that fair to say?

Ms. GOODLING. I think 2005 probably.

Mr. KELLER. 2005.

Ms. GOODLING. In relation to immigration.

Mr. KELLER. Okay. So 2003-2004 for gun crimes, 2005 for immigration crimes?

Ms. GOODLING. To the best of my recollection.

Mr. KELLER. Did anyone at DOJ ever say to you, or did you hear or read an e-mail that she should be fired for prosecuting Duke Cunningham or any other Republican-related official?

Ms. GOODLING. No, I don't remember anything like that.

Mr. KELLER. Did you ever have any communications with anyone at the White House wherein they suggested that Carol Lam should be fired for prosecuting Duke Cunningham or any other Republican official?

Ms. GOODLING. No, I don't remember anything like that.

Mr. KELLER. Okay. The reason I bring this up is because one of the most controversial things, and you just heard it in the *L.A. Times* this week, and I am looking at an article May 18, 2007, and I will just read you what it says, speaking at Loyola Law School in Los Angeles, John McKay, who is a fired U.S. Attorney from Washington State, said he suspected that U.S. Attorney Carol Lam was removed in San Diego to derail the expanding probe of then Rep. Randall "Duke" Cunningham. You hear that allegation over and over. And yet I have the documents here. The first of 20 Members of Congress to complain about Carol Lam not prosecuting illegal immigration was February 2, 2004, from Darrell Issa, which was circulated to the Department of Justice, the White House, and Carol Lam. I hear from you that you had heard complaints about not enforcing gun crimes in 2003, 2004, and you had heard complaints about not enforcing immigration-related prosecutions in 2005, and yet the San Diego Tribune did not even break the initial story of Duke Cunningham until June 12th, 2005, which is a full

14 months after Congressman Issa wrote the first of many letters complaining about her not enforcing alien immigration laws, which makes it literally impossible that she was fired as a pretext for Duke Cunningham, because all these problems were occurring, as we hear from the documents and your testimony and others, before the story even broke about Duke Cunningham. And in fact, when I had Carol Lam right here I asked her, do you have any evidence whatsoever that you were fired because of Duke Cunningham? She said no. When I had the U.S. Attorney here, did you fire her because of Duke Cunningham? No. I looked at 10,000 documents, e-mails, many witness interviews, testimony. Not a shred of evidence. But I still see crap that we saw in the *L.A. Times* this week saying that our Attorney General is a criminal because he let Ms. Lam go because she prosecuted Duke Cunningham. And I just am happy that we were able set the record straight with your testimony that the problems that she incurred dealing with illegal immigration and gun crimes far pre-dated the breaking of the Duke Cunningham story. And I will yield back the balance of my time.

Mr. CONYERS. The Chair is pleased now to recognize the gentlelady from California, a distinguished Member of our Committee, Maxine Waters.

Ms. WATERS. Thank you very much, Mr. Chairman. This hearing is absolutely necessary to continue the vote that we must do to determine whether or not the Justice Department is free of political influence. So I am very pleased that we have this hearing here today.

I would like to ask our witness here today, why did you resign from your position?

Ms. GOODLING. There were several reasons, but the primary and most important one to me was that I just felt I couldn't be effective in the role anymore. My job required me to work with U.S. Attorneys every day. And after being a part of this effort, I just—I didn't think that that was realistic.

Ms. WATERS. As I understand it, before you went to the Justice Department you worked with the Republican National Committee?

Ms. GOODLING. I did.

Ms. WATERS. What did you do there?

Ms. GOODLING. My last position there was to be the Deputy Director of Research and Strategic Planning.

Ms. WATERS. Did you do opposition research?

Ms. GOODLING. Yes, we did.

Ms. WATERS. And I understand that you worked with Ms. Barbara Comstock?

Ms. GOODLING. Yes.

Ms. WATERS. And she left the Republican National Committee, working with you on opposition research, and went over to head the press office. Is that right?

Ms. GOODLING. Yes.

Ms. WATERS. And you left about that same time?

Ms. GOODLING. About a month later.

Ms. WATERS. Did you use any of your opposition research skills once you were at the Justice Department?

Ms. GOODLING. I think most of what opposition research is, and it tends to be a kind of negative term, is really just being able to use Westlaw.

Ms. WATERS. I know what it is. I want to know if you used the skills that you had developed at the Republican National Committee once you had gone over to the Justice Department.

Ms. GOODLING. I certainly used Westlaw and LEXIS.

Ms. WATERS. You used your opposition skills. In what way did you use them? Did you use them to do research on U.S. Attorneys or anyone else when you were over there?

Ms. GOODLING. I did research people that we were considering for hiring, yes.

Ms. WATERS. Did you use them in terms of helping to make decisions about who should be retired?

Ms. GOODLING. Retired, no. No. Just you know, we would get resumes from a number of sources, and you would Google people or Westlaw, do Westlaw checks if you wanted to know if there was something negative about someone before you hired them to work at the Department.

Ms. WATERS. But do you have a human resources division that is primarily responsible for doing that kind of work for you?

Ms. GOODLING. No. No. For political appointees, I and my assistant, my deputy were pretty much it. Occasionally, we would ask younger staff to help, but we didn't have a staff to do that.

Ms. WATERS. So you basically were responsible for doing whatever research was necessary and the responsibility that you had for hiring. Is that right?

Ms. GOODLING. Yes.

Ms. WATERS. Did you ever discuss any of the research that you had done or discovered with Mr. Karl Rove?

Ms. GOODLING. No.

Ms. WATERS. Anyone in his office?

Ms. GOODLING. Research on people? I think I had conversations with Scott Jennings or Jane Cherry.

Ms. WATERS. Let's think a little bit deeper. Some of the research that you had done where you had used your skills that you had developed doing opposition research you may have used as you reviewed political appointees.

Ms. GOODLING. Political appointees——

Ms. WATERS. For hiring.

Ms. GOODLING. Yes.

Ms. WATERS. And then did you discuss what you had discovered, found out about with Mr. Rove or anybody in his office?

Ms. GOODLING. Not Mr. Rove.

Ms. WATERS. Anyone in his office?

Ms. GOODLING. From time to time I would talk to the people in the Office of Political Affairs, and they would ask, well, what do you think about this candidate, or what do you think about this candidate, and I might say, oh, I checked this person out and, you know, for whatever reason I really don't think they are the best fit for it. I don't——

Ms. WATERS. Did you document your research? Is it on file somewhere?

Ms. GOODLING. I didn't really keep that kind of file. Normally, if I found something that was negative about someone we didn't hire them and I wouldn't have necessarily retained that.

Ms. WATERS. Do you have files that may have information in it that you gathered during your research using your opposition research skills?

Ms. GOODLING. There would be some files, yes.

Ms. WATERS. Where would those files be?

Ms. GOODLING. At the Department of Justice.

Ms. WATERS. Would you support us having access to those files?

Ms. GOODLING. That's really not a call for me to make.

Ms. WATERS. Not that your decision would be one to determine it. Just in terms of all of the problems that we have, do you think it would be helpful for us to understand how it operated over there by having those files?

Ms. GOODLING. I don't know that my opinion would be relevant in any way, and it certainly wouldn't be my call. That would be something I think that the Committee would need to take up with the Department.

Ms. WATERS. Your opinion would be very relevant. Let me just ask about in preparing for——

Mr. CONYERS. The time of the gentlelady has expired.

Ms. WATERS. Thank you very much.

Mr. CONYERS. Thank you. The Chair recognizes Darrell Issa, the gentleman from California.

Mr. ISSA. Thank you, Mr. Chairman, and let me go through some areas in which your testimony really is relevant. June 15, 2006, the letter, the scathing letter about Carol Lam that was written by Senator Dianne Feinstein, one of the key appointers and confirmers of Carol Lam. Wasn't that relevant to her firing?

Ms. GOODLING. I think that the concerns about her immigration work certainly were relevant to her firing. And I know that the fact that Members of Congress had concerns with her on those issues was something that we definitely talked about.

Mr. ISSA. So for 3 years there had been a constant drip, drip of Carol Lam not supporting the President's stated policy of enforcing the Federal gun laws and doing it throughout the country. This wasn't something he was asking for in southern California. He was asking for and getting it everywhere, including other parts of California. The President was seeking, and is still seeking, a comprehensive guest worker program that requires that there be a belief that there would be valid enforcement, and yet Carol Lam was not going after coyotes. Just the opposite, she set standards so hard to reach that basically the Border Patrol complained to people like myself and other Congressmen that they couldn't do their job because they couldn't meet the litmus test. Even after somebody was arrested 20 times, on the 21st time she still wouldn't prosecute. Isn't that a factor in the firing of Carol Lam?

Ms. GOODLING. I believe it was.

Mr. ISSA. Now Carol Lam has, to her credit, some high profile cases. But isn't it true that U.S. Attorneys have to implement the policy uniformly around the country if they are to be effective, that if in fact you can get away with certain types of crime in a certain area crime will morph to those areas? Isn't that true?

Ms. GOODLING. Uniformity is certainly important.

Mr. ISSA. Now do you know—earlier you were asked about opposition research. Isn't it true that when people are being put up for confirmation positions that the FBI does an intensive search of their background, that opposition research isn't even a factor on political appointees because in fact there is a thorough vetting through the FBI?

Ms. GOODLING. The FBI is certainly much better at research than I am.

Mr. ISSA. Okay. So the whole idea that somebody would go on LEXIS-NEXIS to do op research, when in fact you are looking at people that are disclosing in voluminous forms their entire background, and then having the FBI go through extensive checks, that's just pretty preposterous; isn't it?

Ms. GOODLING. I don't know that I would comment on the preposterousness——

Mr. ISSA. I will for you in this case.

Now, Carol Lam, among other things, also chose to prosecute not once but twice her own cases, spending weeks in front of jury trials. Isn't that a little unusual, a little bit of grandstanding when you are talking about somebody who has to oversee so many other U.S. attorneys?

Ms. GOODLING. It was fairly unusual in extra large offices, where you had hundreds of staff members to supervise, for a U.S. Attorney to do so much trial work.

Mr. ISSA. Isn't that also a factor in the firing of Carol Lam?

Ms. GOODLING. It was something I heard discussed, yes.

Mr. ISSA. Let's talk about Carol Lam. Because Mr. Keller mentioned that Members had made these complaints. Well, I am the Member. I am the Member who saw somebody who would not enforce stated national policy and brought this to the attention of Attorney General Ashcroft and then Attorney General Gonzalez; and, quite honestly, I spoke to the President directly on my concerns, and I am not ashamed of it.

But let's go through Carol Lam. Carol Lam is not a Republican, isn't that right?

Ms. GOODLING. I actually don't know. Somebody told me she was an Independent, but I never checked her voter registration.

Mr. ISSA. I have. It is public in California. So let's go through this. She was a career professional assistant U.S. Attorney, right?

Ms. GOODLING. Yes.

Mr. ISSA. So this Administration, even though it has the absolute right to make political appointments based on party registration and party loyalty and loyalty to the President, appointed a career professional in San Diego.

Ms. GOODLING. Yes, actually, we did that in a lot of districts; and I supported that. In many cases, career professionals have the best backgrounds for the job.

Mr. ISSA. So you were looking for people who had an obligation to deal with a policy for which the American people had chosen, but you looked at career professionals.

Isn't it also true that when people turned in their resignations or left for any reason you also looked very often to the existing career professionals inside the U.S. Attorney's office?

Ms. GOODLING. Yes.

Mr. ISSA. So here we have an absolute right to make political appointments based on the party registration, party loyalty and support of the President, and yet you chose to be nonpartisan very often, and yet that is not being heard here today.

Ms. GOODLING. I am afraid I don't have a comment on that.

Mr. ISSA. Well, I think my comment will stand on that.

Last but not least, is there any reason that this group of Republicans and Democrats—there is not an Independent sitting here—should be surprised that the Clinton administration appointed Democrats and disproportionately made lifetime appointments for Federal judges by people who were Democrats? I run into them all the time. Isn't it in fact absolutely the right of a President elected by the American people to chose people who will support his policies and that, in fact, when you did that you were doing what was your right and when you chose not to was actually the exception that should be noted here today?

Ms. GOODLING. I think Presidents of both parties have the right to pick the people who serve them.

Mr. ISSA. Thank you, and hopefully the Chairman will respect the fact that perhaps today we have concentrated on whether or not the President has a right to choose people in his own party when, in fact, that is not the debate here today and shouldn't be. Thank you.

Mr. CONYERS. The Chair is pleased to recognize the only State prosecutor on the Committee, the gentleman from Massachusetts, Bill Delahunt.

Mr. DELAHUNT. Thank you, Mr. Chairman; and thank you for your appearance here today.

I just want to speak about the process, the hiring process and the termination process. It came to me as a surprise that someone of your experience—and I say this respectfully—was delegated by the Attorney General via an executive order that bypassed Mr. McNulty, that was extraordinary in its powers and authority to someone of your limited experience in terms of your legal experience.

Were you familiar with that order?

Ms. GOODLING. I was.

Mr. DELAHUNT. You answered my question.

What came to me as a surprise and maybe you can explain to us why the executive order by the Attorney General bypassed Mr. McNulty, who is the second in command; and as an addendum to that order, the so-called control sheet, it was stated that he was not to be made aware of the order. I find that disturbing in terms of having a professional process that wasn't about political appointees but was about career and interim appointees. That I find very disturbing.

Ms. GOODLING. I would like to explain to you what the reason was.

Mr. DELAHUNT. Please.

Ms. GOODLING. This issue came up late in the fall of 2005. The Justice Management Division notified me that they had determined that the Deputies Attorney General going back many years, or at least a long period of time, maybe even into the previous Administration, had been signing off on personnel actions that had never

been delegated to them and in some cases had further delegated those decisions to others; and they told me that David Margolis was one of those individuals that had made those decisions. There had never been a delegation of the personnel authority down to the Deputy Attorney General and no ability for that individual to further delegate; and they had realized that they had a problem. There had been all these personnel actions that had been signed off.

Mr. DELAHUNT. Let me just interrupt, because my time is limited. Why not notify the existence of the executive order to Mr. McNulty, who is the second in command of the Attorney General? Why a specific statement, a specific statement that Mr. McNulty was not to be notified regarding this executive order that was vetted and caused considerable controversy, considerable controversy within the Department of Justice itself, according to a report in the National Journal?

Ms. GOODLING. I actually don't think it did generate controversy.

Mr. DELAHUNT. Are you familiar with the article I am referring to?

Ms. GOODLING. I did read the article, and I found it to be not very accurate.

Mr. DELAHUNT. That is fair.

Ms. GOODLING. There was not actually a decision not to notify him of the Attorney General's order. It actually was an Attorney General's order, not an executive order.

Mr. DELAHUNT. I meant——

Ms. GOODLING. The decision was made that Mr. Sampson would tell him about it personally. But he didn't sign off on it because what we were doing, the first part of this chain was to delegate to the Deputy Attorney General the authority that people had assumed for many years had already been done. People didn't think it was right to ask the Deputy to sign off on and approve something that would be delegating him authority in some cases, and there was a small portion that removed it. It just seemed to be odd for the Deputy to be sign off on something that was giving himself authority.

Mr. DELAHUNT. I will accept that. At the same time, it did remove some of the authority from him and conferred it upon you and Mr. Sampson.

Ms. GOODLING. No, it actually gave him authority that he never had. It gave him personnel authority.

Mr. DELAHUNT. Let me accept that answer, and again let me just make a comment about the process. You know, Mr. Comey, correct?

Ms. GOODLING. Yes, I do.

Mr. DELAHUNT. You are aware of his reputation?

Ms. GOODLING. I am.

Mr. DELAHUNT. How would you describe his reputation?

Ms. GOODLING. I would describe him as a straight shooter.

Mr. DELAHUNT. And in terms of his professional legal credentials?

Ms. GOODLING. They are outstanding.

Mr. DELAHUNT. They are outstanding. And his testimony before the United States Senate was that those prosecutors that were terminated were outstanding members of the bar, were excellent in

terms of their performance. My only inference is that the process in which you were implicated was a flawed process, given the disparity between the experience of those, including yourself, that were involved and that of the true professionals in the Department of Justice like Mr. Comey. Thank you.

Mr. CONYERS. Thank you. Did you want to respond to that?

Ms. GOODLING. I just wanted to say that it wasn't uncommon for one person to have one experience with the U.S. attorney and for someone else to have another. Sometimes you might work with Mr. Smith on something and find him to be very responsive and someone else may have a different experience. It wasn't an uncommon thing for people to assess people differently, and that sometimes happened.

Mr. CONYERS. But with this Mr. Smith it is always quite positive.

The Chair reminds our Members to allow the witness to complete her responses to their questions.

I am pleased now to recognize Mike Pence of Indiana.

Mr. PENCE. Thank you, Mr. Chairman; and, Ms. Goodling, I appreciate very much your testimony today.

I supported the granting of use immunity in this case because I am not afraid of facts, and Abraham Lincoln said it best. He said, give the people the facts and the Republic will be saved; and I am grateful for your candor coming before this Committee today and grateful for your service in that testimony.

I was looking a little bit at your biography. I was piqued by a story on April the 8th, and I think the Boston Globe that reflected on the harsh spotlight that had been drawn on the Administration's tendency—I am quoting now—to hire individuals from "conservative schools with sometimes marginal reputations."

You are a graduate, I think, cum laude from—is it Regent University School of Law and Government, Virginia Beach, Virginia?

Ms. GOODLING. I have a master's in public policy and a law degree from Regent, yes.

Mr. PENCE. You may know that the Attorney General of the State of Virginia is also a graduate of Regent University of Virginia Beach, Virginia?

Ms. GOODLING. I have heard that.

Mr. PENCE. And I would assume you are not terribly concerned about the tendency of a conservative President to hire graduates from conservative graduate schools.

Ms. GOODLING. Not at all.

Mr. PENCE. Nothing that would concern you about that?

Ms. GOODLING. No.

Mr. PENCE. This graduate of a Christian college appreciates your sentiment about that, and it really leads me to the—my sense of this, and I want to ask you just a couple of yes no questions, if I can.

Ms. Goodling, I still haven't heard any facts or seen any facts that show anything illegal about the U.S. Attorney firings themselves; and I am trying to focus, as I did when the Attorney General was here, on the issue of wrongdoing and of illegality. When the Attorney General came before this Committee, he was very candid about mismanagement and administrative errors that were

made. And I understand people's harsh criticism of those things. We expected better. We didn't get better. That is different, it seems to me, from wrongdoing.

I am listening very intently, and I am studying this case, and I want to explore this issue of illegal behavior with you. Because it seems to me so much of this and even something of what we have heard today in this otherwise cordial hearing is about the criminalization of politics. In a very real sense, it seems to be about the attempted criminalization of things that are vital to our constitutional system of government, mainly, the taking into consideration of politics in the appointment of political officials within the government; and I want to speak to you about that.

So let me see if you can, since you got a lot better grades than I did in law school. Is there anything illegal about the President being served at his pleasure by the people he believes would be best?

Ms. GOODLING. No.

Mr. PENCE. Is there anything illegal about the President being able to dismiss any of his political appointees for any reason or for no reason at all?

Ms. GOODLING. No.

Mr. PENCE. Is there anything illegal under our system about the President taking political considerations into account in determining who his political officials will be?

Ms. GOODLING. No.

Mr. PENCE. Is there anything illegal about taking those considerations into account since they are vital to the President being held accountable to the people and especially to the people who elected him?

Ms. GOODLING. No.

Mr. PENCE. Lastly, is there anything illegal about taking those considerations into account since they are just as vital to the President's ability to assure that his officials are accountable to him?

Ms. GOODLING. No.

Mr. PENCE. With that, I appreciate those straightforward answers.

Again, I just would say to my colleagues on both sides of the aisle on this Committee I am troubled about the fact that we seem to be moving ever further down the road of the criminalization of politics, and I appreciate the testimony that politics can be practiced in political appointments within an Administration.

I yield back the balance of my time.

Mr. CONYERS. I thank the gentleman.

The Chair is pleased now to recognize Steve Cohen, the gentleman from Tennessee, former State Senator.

Mr. COHEN. Thank you, Mr. Chairman.

Ms. Goodling, I have read your vitae. It says you grew up and you mostly went to public schools. Was that K through 12?

Ms. GOODLING. Yes.

Mr. COHEN. And it says you want to Christian universities in part because of the value they placed on service. What was the other part that you chose Christian universities?

Ms. GOODLING. I chose them because I had a faith system, and in some cases—I went to American University for my first year of

law school, and then I transferred, and I enjoyed studying with people that shared a similar belief system that I did. It didn't mean there wasn't a lot of diversity of discussion, because, in some cases, I actually found the debate at Regent was much more vigorous than it was at American University my first year of law school. But I enjoyed being surrounded by people who had the same belief system.

Mr. COHEN. The mission of the law school you attended, Regent, is to bring to bear upon legal education and the legal profession the will of Almighty God, our Creator. What is the will of Almighty God, the Creator, on the legal profession?

Ms. GOODLING. I am not sure I could define that question for you.

Mr. COHEN. Did you ask people who applied for jobs as AUSAs anything about their religion?

Ms. GOODLING. No, I certainly did not.

Mr. COHEN. Never had religion discussions come up?

Ms. GOODLING. Not to the best of my recollection.

Mr. COHEN. Is there a type of student, a type of person you thought embodied that philosophy of Regent University that you sought out at AUSAs?

Ms. GOODLING. In most cases, the people at Regent are good people trying to do the right thing who wanted to make a difference in the world. If the question is if I was looking for people like that, the answer is yes. I wasn't necessarily looking for people who shared a particular faith system. I don't have any recollection that that entered into my mind at any point. But certainly there are a lot of people who applied to work for this President because they share his same faith system and they did apply for jobs.

Mr. COHEN. Are there an inordinate number of people from Regent University Law School that were hired by the Department of Justice while you were there?

Ms. GOODLING. I think we have a lot more people from Harvard or Yale.

Mr. COHEN. That is refreshing.

Is it a fact—are you aware of the fact that in your graduating class 50 to 60 percent of the students failed the bar the first time?

Ms. GOODLING. I don't remember the statistics, but I know it wasn't good. I was happy I passed the first time.

Mr. COHEN. You mentioned in your opening statement Mr. Charlton was a problem district based on complaints you heard about unauthorized discussion with Members of Congress. Who told you about the violation of that departmental policy?

Ms. GOODLING. I think I was aware of it in part because I was in the executive office and complaints would come to me. I don't remember specifically who, but it was something I believe that had happened more than once and I heard about it from different people at different times.

Mr. COHEN. What are unauthorized discussions with Members of Congress?

Ms. GOODLING. Almost any—we would encourage U.S. attorneys, if they knew a Member of Congress personally and they got invited to a birthday party or something like that—of course, we didn't necessarily care if they went to a birthday party. But if it was

going to be a discussion about Department of Justice, the policy was they would talk to the Department before they had those conversations and certainly before they asked or made any request or stated any position.

Mr. COHEN. You also mentioned that Mr. Vines was a problem district. He is from the middle district of Tennessee—or was. Who gave you that information and what was the reason that was a problem district?

Ms. GOODLING. I actually believe I heard most of the information from Robin Ashton in the Executive Office of U.S. Attorneys. When I got to that office, she told me that that was an office that—it had a lot of problems, and they were historical problems.

Mr. COHEN. What were the problems? Define "problems".

Ms. GOODLING. There was a lot of turmoil among the staff, different camps of people that weren't working together. The U.S. attorney, I was told by Ms. Ashton, had actually hired a management analyst to come into the office and analyze the career people that worked for him; and that involved some of the career staff being asked to go to, as she told me—to the best of my recollection, anyway—a cabin with the management consultant or a psychiatrist for the weekend and be analyzed. Then they would come back and send the report to the U.S. attorney, and the U.S. attorney thought that this would help him understand his staff.

It was a very bizarre tale, and I may not be remembering it correctly. But, in any case, the career staff in that office didn't appreciate being asked to be analyzed, and it caused some turmoil.

Mr. COHEN. I understand Mr. Vines was a subject possibly of an age discrimination suit. Is that accurate?

Ms. GOODLING. I think there were multiple age discrimination suits.

Mr. COHEN. Do you know what came of that? Is that still ongoing?

Ms. GOODLING. I believe I heard that one or two may be settled and one may be going to trial, but I don't know. That may been resolved by now.

Mr. COHEN. While you were asked questions that were accurate concerning the President's power to hire or fire whoever he wanted, isn't it a fact historically before this President there were not U.S. attorneys who were asked to leave or who were fired during their term or in the terms of the President except in times of scandal or performance-related disagreements?

Ms. GOODLING. You know Mr. Gerston testified in the Senate, and I was there, and he said he did not think it was unprecedented. He thought it had happened before. But he didn't elaborate, and I never heard that he provided examples.

You know U.S. Attorneys are confirmed for 4 years, and it wouldn't surprise me to find that in the Justice Department's long history it has happened, but I can't give you any examples.

Mr. COHEN. Thank you, ma'am.

Mr. CONYERS. The Committee will stand in recess for three votes and a lunch, which will require our returning at 2 o'clock sharp. The room will also be cleared except for unauthorized—except for authorized staff so that the room can be reset.

The room will be cleared except for authorized staff.

[Recess.]

[2:12 p.m.]

Mr. CONYERS. The witness and her counsel are back. Thank you. Before we resume questioning, I would note that while a number of Members haven't had the opportunity to question our witness, there are a number of questions remaining unanswered, I would like to make the best of this opportunity while we have Ms. Goodling here, and I will discuss with our Ranking minority Member, Mr. Smith, how we might best approach this situation, whether by having a second round of questions or a shorter set period of extended questioning under House Rules might be the better way to go. And these discussions have not begun yet.

The Committee will resume, and Randy Forbes of Virginia is the next person to be recognized.

Mr. FORBES. Thank you, Mr. Chairman. Ms. Goodling, many of us feared this day would come, but we did not realize it would arrive so soon. When the fact that someone was a Christian would be the subject of a line of questioning as to how someone performed their job at the Department of Justice or any other agency in the United States Government, it is not a good day, nor a good sign of things to come, and I just hope those individuals watching this across the country realize the sea change that is taking place.

In addition, since my district is contiguous to Regent University, I would like to point out that not only is the Attorney General of Virginia a graduate of Regent University, but this year Regent University students won the American Bar Association's Negotiation Competition on February 11th, not only beating out 220 teams, but also beating out the former winner, Harvard University. And the American Bar Association, not exactly a bastion of conservatism, has chosen Regent University to compete internationally in their competition. And that Regent has won the ABA's national Appellate Advocacy Competition 11 out of the last 14 years, including placing first for the best brief.

Now Ms. Goodling, I know it is sometimes difficult when you sit at a table with a hearing like this, when earlier today you had dozens of cameras snapping in your face, and trying to field questions by 40 Members, some of whom we might characterize as, let's say, less than friendly. At some of our recent hearings some of our Members, you need to know, of this very Committee have said that Members of the Committee have turned their words around. And even Members of this Committee have been unsure of what they said 5 minutes after they said it, much less 5 minutes or 5 months before, as we expect you to remember. You have been very gracious in your testimony today, and we just thank you.

You know, we are on a fishing expedition today to see if there was any politics involved in making what everybody here recognizes as political appointments. As the distinguished former Chairman of this Committee stated earlier, "There just are not any fish in the pond."

Chairman Conyers stated at the outset of today's hearing that its purpose was to get to the bottom of "any possible" wrongdoing. Not that there is even any alleged wrongdoing. Chairman further stated the importance of the Justice Department, "fairly and impartially," performing its role. The Chairman then talked about mak-

ing certain employees of the Justice Department were not merely, "pawns in a game of politics." So far throughout this hearing there not only is no evidence of wrongdoing, but there is no allegation of any wrongdoing on your part. What puzzles me, and quite honestly embarrasses me, is that we do not apply the same standard to ourselves.

Currently we are a Nation at war. As such, one of the most important things we can do is to "fairly and impartially" appropriate taxpayer funds for military projects. It is absolutely crucial that these projects not become "pawns, in a game of politics." Yet yesterday there was a resolution, this resolution on the floor of the House that was not a fishing expedition, but rather a specific allegation, that to the best of my knowledge has not been refuted, that against the rules of this House, which are contained right here, written and adopted by the majority, a senior member of the majority and the Chairman of the Appropriations Subcommittee on Defense, the very Committee that would allocate taxpayer funds to crucial military projects, threatened potential earmarks in the Defense Appropriation bill of a Member of this House not because they were not needed for the defense of this Nation, but merely because that Member spoke against and voted against a $23 million project that Chairman wanted in his own district. Yet the same majority that calls these hearings today voted yesterday to not even discuss, to not even look at those unrefuted allegations.

I challenge my friends on the other side of the aisle to explain how they justify these actions. I challenge my friends on the other side of the aisle to explain why it is not as important that the American people have confidence when it comes to allocating their tax dollars for national defense, that the rules of the House should be followed, and those allocations made on a "fair and impartial" basis, with an equal or greater priority than we have for political appointees.

The reason some do not understand the relevance of those questions is very simple. We do not apply the same standard to ourselves as we apply to you. For that I am sorry. And I wanted to say you have succeeded in doing what you set out to do today, and that is showing your commitment and your good character that led you to a career in public service. And I just thank you for the graciousness with which you have been here today and for coming and being here this afternoon. And with that I yield back, Mr. Chairman.

Mr. CONYERS. The Chair now recognizes the distinguished gentleman from Florida, Robert Wexler, for his remarks.

Mr. WEXLER. Thank you very much, Mr. Chairman. Ms. Goodling, I very much appreciate how difficult it is to sit here for extended periods and answer our questions. With that in mind, I would like to ask you a few questions about some of the things you either stated earlier or alluded to earlier. You spoke about a meeting that you attended in the White House where Karl Rove was also in attendance. Was that the meeting at the White House on March 5th that you refer to?

Ms. GOODLING. Yes.

Mr. WEXLER. And could you tell us who else was at the meeting? I assume you were there, Mr. Rove was there. Who else was at that meeting?

Ms. GOODLING. It was a meeting called by the White House Counsel's Office. Fred Fielding was there, Bill Kelley was there. There were some people from White House Communications, Dana Perino, I am not sure of the other. Some people from White House Political, I believe, but I am not sure. It might have been Scott Jennings, but I am not 100 percent. From the Department, well, you may know people from the Department from the calendar entries. The other White House people——

Mr. WEXLER. Who from the Department was there?

Ms. GOODLING. Kyle Sampson and then myself. The Deputy, Mike Elston, Will Moschella, Brian Roehrkasse from our Public Affairs Office. I am not positive of the others. I think there were others. And they were on a calendar invite that has been released from the Department. Mr. Rove came in late and then left early. But he was there.

Mr. WEXLER. Do you recall Mr. Rove at that meeting saying that the Department of Justice needed to provide specific reasons why the prosecutors were terminated?

Ms. GOODLING. I remember he said something, but I don't remember exactly what the comment was. I remember somebody else from the White House, I believe it was, made some comment, and then he emphasized it or reemphasized it. At least that is what I remember. But I don't remember the substance of it. But that is certainly something that did come up, so that might have been the occasion. I just can't remember.

Mr. WEXLER. How long was Mr. Rove in the meeting?

Ms. GOODLING. You know, I don't—I don't remember, because I don't remember how long the meeting was. I guess maybe he was there half the time that the rest of us were there.

Mr. WEXLER. M-hm.

Ms. GOODLING. But I didn't fix it in time.

Mr. WEXLER. What happened? What occurred at the meeting? Could you tell us?

Ms. GOODLING. There was a discussion about Will Moschella's testimony, in particular the position the Department should take on the legislation. It was very clear—the White House folks made clear that they did not think that the legislation should be held up, that they just wanted it to pass. And they made clear that we weren't to take a position against the legislation in the hearing the next day.

Mr. WEXLER. Was there any discussion about the termination of the prosecutors?

Ms. GOODLING. I remember at one point there was a reference to when Tim Griffin's name was submitted to the President for approval. And I checked my book and said that it was June. I think that was the only comment I made in the meeting. And I think that is the only reference to a specific individual I remember in the meeting. Mr. Sampson had suggested that maybe the way to conduct the meeting would be for people to read through Mr. Moschella's prepared remarks and then comment on them. So part of the meeting was people reading the remarks and then talking

about them. There was a comment about the Department needing to explain its reasons, but I don't remember who made it. But it was made.

Mr. WEXLER. There was a comment about the Department needing to explain its reasons for——

Ms. GOODLING. I believe there was a reference to the Department needed to explain the reasons for the dismissals or maybe—it might have been a comment made by the communications folks that they just wanted people to be clear in the testimony. I can't give you a specific, and I don't remember who said it.

Mr. WEXLER. Did you go to many meetings at the White House at that time?

Ms. GOODLING. No, not that many.

Mr. WEXLER. Was that your first, second, third, fourth?

Ms. GOODLING. No. I hesitate to guess. Maybe 10 or 15.

Mr. WEXLER. Okay. So the bottom line here is to the best of your recollection somebody said the Department of Justice needs to come up with its reasons why the prosecutors were terminated. It may have been Karl Rove, or he may have just reemphasized what someone else said. Correct?

Ms. GOODLING. There was a comment about people needing to be clear about what we did, something along that line. It may have been by the communication people. I just can't tell you any more than that.

Mr. WEXLER. Did Karl Rove say anything else in the meeting, or was that the entire purpose why he came?

Ms. GOODLING. I only remember that I feel like he said one thing, but that is all that I have in my memory.

Mr. WEXLER. So to the best of your recollection, the reason why Karl Rove spent his valuable time was one, and that was to tell the Department of Justice to come up with reasons why it fired eight or nine prosecutors.

Ms. GOODLING. I don't think anyone said come up with. I believe it was more a matter of explain what you have done. But again, I don't know that was his comment. I just can't—I can't recall. I remember that I felt like he interjected one thing into the conversation.

Mr. WEXLER. Thank you very much.

Mr. CONYERS. Thank you, sir. The Ranking Member on the Judiciary Immigration Subcommittee, Steve King of Iowa.

Mr. KING. Thank you, Mr. Chairman. Thank you, Ms. Goodling, for your testimony here today, and for the poise with which you have presented to this Committee. And as I listen carefully to the words that you have chosen, I believe it is anything but scripted. I think it is a careful analysis of your memory, and as truthful as you can possibly be under any circumstances, let alone the circumstances with about $50,000 worth of camera lenses sitting in front of you. I just first reflect upon something that I think was responded to very well by Mr. Forbes of Virginia. But I had gone back in the break and took a look at the founding documents of Harvard University. And I find that Harvard University was founded upon Puritan principles. And I would point out that the founder was John Harvard, who was a young minister, and that one of the principles was to be consistent with the Puritan philos-

ophy of the first colonists. Many of its early graduates became ministers in Puritan congregations. To advance learning, perpetuate it through posterity, quote, dreading to leave an illiterate ministry to the churches. So Harvard was founded to supplement the ministry itself. And then when I look back on the founding documents of Yale, and I find that they wanted to establish—they did establish Yale in 1701 as a result of a conservative reaction by Congregationalist leaders, worried of what they identified as the increasing departure of Harvard College from its Calvinistic heritage.

So then I look at Regent University, which Mr. Forbes has so well laid out their credentials, and also your credentials simultaneously, whether it was advertent or inadvertent, and here I read our students, faculty and administrators share a calling founded on Biblical principles, to make a significant difference in our communities, our cities and our nations in the world. So I would submit Regent is a successor to Yale, which is a successor to Harvard in being founded upon religious principles. And this Nation was founded upon religious principles, as was our Constitution. And so I think it is a laudable thing, not a derogatory thing. And we will on this side of the aisle stand up for all of our principles, our constitutional principles, and our Christian principles whenever they are challenged, or whenever we have the opportunity without them being challenged. And I thank you for representing an opportunity to do that today.

So I would go into the serious part of this discussion, not that that was not, but the more informative part, and that would be if I could ask you to more fully explain to us the procedures that were adopted and the reasons for them to be adopted, your role and that of Kyle Sampson's in selecting new officials. What was the reason for that? Could you go into that with some more depth? What was the rationale behind that?

Ms. GOODLING. You mean the U.S. Attorney officials or——

Mr. KING. Yes. Between the U.S. Attorney and that replacement of U.S. Attorneys. Let me just make it a little easier. Was there a legacy from the Clinton administration that needed to be addressed?

Ms. GOODLING. Do you mean in terms of process of hiring or——

Mr. KING. The process or rules or policy. How about regulatory language?

Ms. GOODLING. If you are addressing the delegation and the regulation that Mr. Delahunt was asking about earlier, I appreciate the opportunity to explain that a little bit more fully. There was a discovery that there had not been in fact a delegation to the Deputy Attorney General, and that it needed to be corrected. So what actually happened was a regulation was sent up to the Attorney General. And then I received it as the staff person responsible for things that originated from the Justice Management Division. And it was really to fix some problems. A second piece of that was a ratification of past personnel actions to make sure all the decisions that had been made by the Deputy Attorney General, and those he had delegated to in the past, were ratified and correctly established. So that was the second piece of the package.

The third piece of the package was to do the delegation to the Chief of Staff and the White House Liaison. And I actually wasn't

the White House Liaison at the time. And as I think back on it, and I may not be remembering everything, but it was essentially housekeeping. And the regulation was actually giving authority to the Deputy Attorney General. It did retain from the deputy and the associate personnel authority for their staffs, which was largely historical, but on a more informal basis. The Attorney General's staff had I understood historically had some responsibility for working with those staffs. But it established that for the first time. So in that regard it did withhold some authority. But that is a little bit more full explanation of it.

Mr. KING. Thank you. And I appreciate that. And I would just quickly point into the record that we have important issues before this Congress. One of them was raised by Mr. Forbes with regard to the privileged motion that was brought yesterday. Another one was raised by the gentleman from Wisconsin in a previous hearing that had to do with a gentleman who was under investigation, a briber and a bribee as I recall, and the briber has been sentenced; the bribee has not been addressed. There is another investigation that has to do with Chairman of Justice Approps, who is sitting over the appropriations of the Justice committee. All of these things are far more important than this issue that is before you today. And I would say that this is a circus without a cause, and it is time to drop this issue. And I thank you for your testimony, and I yield back.

Mr. CONYERS. The Chair now recognizes the gentleman from Georgia, a magistrate in his former life, Hank Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman. Ms. Goodling, I noticed you have got three lawyers, fine lawyers who have been with you today, and you all have been preparing for this event for some time. Who is paying for your lawyers?

Ms. GOODLING. I am paying for them.

Mr. JOHNSON. Has anyone agreed to reimburse you for legal fees?

Ms. GOODLING. No. I intend to establish a legal defense fund at some point, but I haven't had the chance to do that yet.

Mr. JOHNSON. Well, ma'am, let me ask you this question. On March 1, 2006, there was an order, ORDER NO. 2808-2006 entitled Delegation of Certain Personnel Authorities to the Chief of Staff, to the Attorney General, and the White House Liaison of the Department of Justice.

Were you aware of that order when you were hired as White House Liaison.

Ms. GOODLING. Yes. That is the third piece of the discussion that I was just having.

Mr. JOHNSON. And that order granted broad authority to you and the Chief of Staff, who was Kyle Sampson, to take "final action in matters pertaining to the appointment, employment, pay, separation and general administration" of a wide range of employees in the Department of Justice, including associate—assistant U.S. Attorneys. Is that not correct?

Ms. GOODLING. I actually don't believe that delegation related to AUSAs.

Mr. JOHNSON. Let me ask you this question. You acknowledged or you stated in your statement to this Committee that you do ac-

knowledge that you may have gone too far in asking political questions of applicants for career positions. Correct?

Ms. GOODLING. Yes.

Mr. JOHNSON. Did those career positions include assistant United States attorneys?

Ms. GOODLING. Yes.

Mr. JOHNSON. And about how many times did you exercise that authority with respect to assistant U.S. Attorneys?

Ms. GOODLING. I don't recall that I interviewed——

Mr. JOHNSON. Would you say that would be 30, 40, 50, or more?

Ms. GOODLING. I don't think—I don't know that I could—I don't know that I could estimate. I had waiver requests that came in from time to time.

Mr. JOHNSON. I am speaking just of your assistant U.S. Attorneys. How many times did you use political questions in your evaluation of assistant U.S. Attorneys?

Ms. GOODLING. I don't know that I could estimate. Sometimes people came to the Department, and they were just interested in coming to the Department, and they interviewed with me for political positions or AUSA positions.

Mr. JOHNSON. I am talking about—a U.S. attorney's is not a political position, that's a career position, right?

Ms. GOODLING. Right.

Mr. JOHNSON. How many times did you use that power that you had to hire and fire with respect to hiring of assistant U.S. Attorneys and you used political reasons for making a decision not to hire? How many times did you do that?

Ms. GOODLING. I can't give you an estimate.

Mr. JOHNSON. Would you say less than 50 or more than 50?

Ms. GOODLING. I hesitate to give you a reason, just because I—or an estimate, because I can't remember. I don't think that I could have done it more than 50 times, but I don't know. I just—there were times when people came to the Department and they were interested in career positions or political positions, and those people I certainly asked political questions of.

Mr. JOHNSON. Okay. Let me ask you, these people that you asked——

Mr. DOWD. Mr. Chairman, may she finish her answers? That is the fourth time he has interrupted her answer, and I would appreciate letting her finish her answer.

Mr. JOHNSON. Mr. Chairman, if I might respond?

Mr. CONYERS. You may not respond. Just let her just finish her answers, please.

Mr. JOHNSON. I don't want her to take up all my time, though, because I am trying to get forward with some other questions.

Ms. GOODLING. I was involved in career hiring in a number of different ways. Sometimes because people would come in and they would be interested in different sorts of positions at the same time, and they would sometimes get asked political questions. When I was looking at waiver requests for AUSA positions——

Mr. JOHNSON. This is not responsive to my question.

Ms. GOODLING [continuing]. I did not normally ask questions.

Mr. JOHNSON. All right. Thank you. Now, did the Attorney General know that you were asking political questions of applicants for career positions?

Ms. GOODLING. I don't believe that he knew.

Mr. JOHNSON. Did the Deputy Attorney General know that you were asking those kinds of questions of career—of applicants for career positions?

Ms. GOODLING. I am sorry, it depends on the category. I am sorry, I was just involved into too many categories of personnel things to give you straight answers that are going to apply to each one.

Mr. JOHNSON. Well, let me ask you this question then. Who knew that you were asking—let me ask it this way. Did you discuss the fact that you were asking political questions of applicants for career positions with any of the following? The Attorney General? Yes or no?

Ms. GOODLING. Discuss it? No. I did receive resumes from him of Republicans.

Mr. JOHNSON. The Deputy Attorney General? Yes or no?

Ms. GOODLING. I don't know.

Mr. JOHNSON. The Associate Attorney General or the Acting Associate Attorney General?

Mr. CONYERS. The gentleman's time has expired, but please answer the questions.

Ms. GOODLING. I don't know specifically. But I do know that I did interview detailees for their offices. And I think that they had a sense that I was looking for people that were generally Republicans to work on their staffs as detailees. And those were people who currently held career positions. So in that category, I would think they had a general sense of that.

Mr. JOHNSON. Did anybody in the White House know that you were asking——

Mr. CONYERS. The gentleman's time has expired.

Mr. CANNON. Mr. Chairman, may I ask unanimous consent to introduce into the record the document——

Mr. CONYERS. Let us finish this first, and I will recognize you for introduction. Could I suggest to the gentleman from Georgia that he submit any continued line of questioning for the record? And we may go into a second round or work out some sort of circumstance that you may continue on.

Mr. JOHNSON. Thank you, sir.

Mr. CONYERS. You are welcome. The Chair recognizes the gentleman from Florida, Mr.—Oh, wait a minute. You have a unanimous consent request.

Mr. CANNON. Thank you, Mr. Chairman. I would just like a unanimous consent to introduce into the record the document that the gentleman from Georgia was referring to, which by the way is very careful and narrow in its delegation.

Mr. CONYERS. Please just introduce the document, please.

Mr. CANNON. I ask unanimous consent.

Mr. CONYERS. Without objection, so ordered.

Mr. CANNON. Thank you.

[The material referred to follows:]

ORDER FOR THE DELEGATION OF CERTAIN PERSONNEL AUTHORITIES, OFFICE OF THE ATTORNEY GENERAL, MARCH 1, 2006, SUBMITTED BY THE HONORABLE CHRIS CANNON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH, AND MEMBER, COMMITTEE ON THE JUDICIARY

Office of the Attorney General
Washington, D.C.

ORDER NO. 2808-2006

DELEGATION OF CERTAIN PERSONNEL AUTHORITIES TO THE CHIEF OF STAFF TO THE ATTORNEY GENERAL AND THE WHITE HOUSE LIAISON OF THE DEPARTMENT OF JUSTICE

By virtue of the authority vested in me as Attorney General of the United States, I hereby delegate to the Chief of Staff to the Attorney General and to the White House Liaison of the Department of Jnstice the authority, with the approval of the Attorney General, to take final action in matters pertaining to the appointment, employment, pay, separation, and general administration of:

(1) employees in the Offices of the Attorney General, the Deputy Attorney General, and the Associate Attorney General;

(2) employees in the Department of Justice appointed to a Schedule C position established under 5 C.F.R. Part 213, or to a position which meets the same criteria as a Schedule C position; and

(3) Any Senior Executive Service position in the Department of Justice in which the incumbent serves under other than a career appointment.

Under authority of this delegation, any proposed appointments or removals of personnel who are "inferior officers" within the meaning of Excepting Clause of the Constitution shall be

INTERNAL ORDER -- NOT PUBLISHED IN F.R.

presented to the Attorney General (individually or in groups) for approval, and each appointment or removal shall be made in the name of the Attorney General.

This authority may not be redelegated.

March 1, 2006
Date

Alberto R. Gonzales
Attorney General

Mr. CONYERS. From Florida, our colleague Tom Feeney is now recognized.

Mr. FEENEY. Thank you, Mr. Chairman. Ms. Goodling, just to clarify the last point, there were people interested in jobs at the Justice Department that were not particularly choosy. They would be happy to serve either as a political appointee or in a career nonpolitical position. Is that my understanding of the testimony that you just gave?

Ms. GOODLING. Yes. Sometimes people just wanted to work at the Department because it is a good place.

Mr. FEENEY. And in order to cover the whole realm of requirements and considerations, there were times when people were applying for more than one position but, including political positions, were asked appropriate political questions?

Ms. GOODLING. I would interview them as if they were a political appointee. But if I didn't have a political position I could, you know, recommend them for, then I would sometimes pass their resumes on to people for consideration for career positions. And certainly there were other cases where the Attorney General or the Deputy Attorney General or different people gave me resumes of people that they, you know, knew were Republicans and said, you know, would you consider passing these on, you know, to someone for consideration? So a lot of times when somebody sent me a resume, they sent it to me because they knew that I was involved in a lot of hiring, mostly on the political side. And when they sent me the resume, they told me flat out that the person was a Republican. So I already knew that. Sometimes when I interviewed people, even if I wasn't trying to ask them a political question, they would just self-disclose, because they knew I was a Republican, and they figured it would help them get the job, I assume. Sometimes people just self-disclosed that kind of information to me. And the same thing occurred when I did reference calls. There were times I crossed the line probably in my reference calls by asking, but there were other times I didn't. And people just would volunteer the information. So there were a lot of times that I received information about someone's political affiliation. And I am just not going to sit here and tell the Committee that if I knew it I could completely exclude it from my brain. Sometimes I knew where they were coming from, and I can't say that it didn't play a factor in what I thought about someone. I am just being honest. Sometimes it helped them.

Mr. FEENEY. Did you have any understanding of how the previous Justice Department worked under President Clinton? Was political considerations ever considered in either political or perhaps career positions to your knowledge?

Ms. GOODLING. I don't know.

Mr. FEENEY. You weren't there at the time. Well, you know, I just want to say that under very difficult circumstances you have conducted yourself with a lot of class and a lot of dignity. Ninety-nine percent of the cameras that were here first thing in the morning are gone, and I want to tell you you have been a huge disappointment to a lot of people that were expecting to find some grand conspiracy of the Justice Department to deny justice to the American people. So in that sense you have been a huge dis-

appointment. But in another sense you have not been. You said that of the perhaps millions of people watching us at one point during the day only a few knew you personally. You described yourself as a fairly quiet girl, tries to do the right thing, tries to treat people kindly along the way. I always knew I wanted to grow up and do something to serve or help other people. And I would say that millions of Americans now know a lot more about you. And they are proud to have somebody like you serving in government. And they understand that this is a huge sacrifice. And I want to tell you that when we have such big issues in front of us it is a shame that we have spent so much time and money and resources and lawyers and investigators for a bottom line question, and that is was politics ever considered in the political appointment process or the replacement process of political appointees?

I supported, by the way, issuing a subpoena to you because I thought maybe you had the golden answer and could tell this Committee that some huge crime had occurred in order to punish somebody because of an ongoing investigation or tried to remove somebody in order to interfere with an investigation. But in all the time that I have spent listening to witnesses and reading materials I haven't seen one shred of evidence to justify the time that we have taken on this.

The President announced yesterday that there are ongoing terrorist plots to attack us here in the United States. This Committee has a lot of work to do fighting terror and crime and a number of other issues, and I just hope that Congress and this Committee can get on with the real work and stop the circus. And I want to thank you for coming today. With that I yield back.

Mr. CONYERS. The Chair recognizes Brad Sherman, the distinguished gentleman from California.

Mr. SHERMAN. Thank you. I would like to talk to you about your work in hiring non-political folks. And you indicated just to the last questioner that sometimes you crossed the line when you were checking their references. And you asked whether, you know, they had been involved in politics and on what side. Were your superiors at Justice aware that sometimes you crossed the line?

Ms. GOODLING. If we are talking about detailees to leadership offices, those are kind of confidential policymaking positions. I think that people generally had a sense that when I was looking for people to work in the leadership offices I was looking to bring in people that were going to be working side by side with political appointees and would share those same views. If you are asking about other categories, like immigration judges or BIA members, originally I was told that we could, particularly in relation to immigration judges, and I assumed it applied to BIA positions as well. I was told that those factors could be considered. In relation to——

Mr. SHERMAN. So you were told you could ask political involvement for the BIA judges and the immigration judges?

Ms. GOODLING. I was told that because they were direct appointments by the Attorney General that other factors could be considered. But I actually don't remember asking political questions of those applicants. I generally——

Mr. SHERMAN. Who told you you could ask those questions?

Ms. GOODLING. I don't know anybody told me I could ask the questions. They told me I could consider other factors.

Mr. SHERMAN. Who told you you could consider those other factors?

Ms. GOODLING. Kyle Sampson.

Mr. SHERMAN. Okay. Also in looking at the non-political appointees, you have talked about doing Web searches. And I know that you, you know, used Google or LEXIS-NEXIS to see what was in the press. There are also though some particular Web sites that just focus on people's political contributions. In looking at non-political appointments, did you ever look at FEC.com or tray.com or any of the other sites that are pretty much focused on political giving?

Ms. GOODLING. Occasionally. Not terribly often. Frankly, it wasn't very common to find people in the law enforcement area that were active on that side. But yes, we did in some cases check those records.

Mr. SHERMAN. Even when it was a person who had applied only for a non-political position?

Ms. GOODLING. I know we checked them in relation to immigration judges, where we thought that we could consider other factors. And I think that I did in some cases check them for detailees, mostly because I was looking for people that would be working in basically political positions. I don't have a specific recollection that I did it in an AUSA case, but I can't rule it out. I did a lot of research. And sometimes I just had a stack of resumes, and I flipped through them. And I don't want to rule out that at some point I did that.

Mr. SHERMAN. So detailees, BIA judges, immigration judges were all subject on occasion, at least even if they hadn't applied for any political position, were all perhaps subject to an analysis where you were just going to, say, FEC.com or tray.com to see their political giving?

Ms. GOODLING. Occasionally. Like I said, I actually was too busy to get around to doing it terribly often. And I did sometimes direct staff to. I would give them resumes and ask them to check them. But frankly, we had a lot of other things going on, and it didn't often turn up anything. And it wasn't very helpful most of the time anyway, so——

Mr. SHERMAN. I understand. There has been a discussion of Carol Lam's supposed failings. And I know that there was a letter from Senator Feinstein that is in the file of documents given to us where the Justice Department responds and says she is doing a great job. She is getting—we are on target to be 40 percent higher on the alien smuggling prosecutions. Why would the Justice Department tell Senator Feinstein that these criticisms of Carol Lam were inaccurate and that she was doing a great job and then go off and fire her supposedly for not doing a good job?

Ms. GOODLING. I think the Department tried to address the concerns by saying what good things it could. You know, if you do two cases and then you change it to four that's a hundred percent increase, but four cases in a particular category may not actually be all that great. I think, you know, the Department tried to provide information to assure the Senator that there was some good work

being done in this area, but maybe not as much good work as the Department wanted to have done.

Mr. SHERMAN. But it is an extremely convincing letter that Justice sent, noting that half the assistant U.S. Attorneys in this district prosecute criminal immigration cases. Was there some reason you found this letter unpersuasive?

Ms. GOODLING. You know, I am not sure I really had any involvement in drafting it. I did hear a lot of discussions about Carol Lam's immigration record. And I remember hearing people feeling like it was difficult to respond to those letters, because they wanted to be able to do more——

Mr. CONYERS. The gentleman's time has expired. You can finish.

Ms. GOODLING. I think the Department would have been happier to be able to have an even more positive response, but provided the best response that it could.

Mr. CONYERS. Thank you. The Chair recognizes the gentleman from Texas, Judge Louie Gohmert.

Mr. GOHMERT. Thank you, Mr. Chairman, and I do appreciate the time. I do think it is noteworthy in all the complaints about inquiries or complaints about U.S. Attorneys, for example, when an election is won by less than 200 votes, and they are concerned that despite all the reports of potential voter fraud that the U.S. Attorney doesn't pursue it, that that somehow is offensive to inquire about that. Yet when Senator Dianne Feinstein writes a letter concerned about the lack of prosecutions over the immigration issue, not one person on the other side of the aisle has raised any issue about the impropriety of Senator Feinstein sending that letter. Why? Because it is a good inquiry.

Why wouldn't it also be a good inquiry when someone is not pursuing human smuggling that sometimes results in death? Pursuing voter fraud? Now I realize our majority is trying to make it easier to vote so nobody is checked and we can't find out about voter fraud. That seems to be the direction we are headed. But it shouldn't be anything wrong when people are wanting that pursued.

Now, as far as politics playing a role in the appointments, I hate to be the bearer of this news, but politics has always played a role in appointments. I have known of Democrats who were seeking to get Republican appointments, and they would call known Republicans and say would you please put in a good word for me because I know this will be an issue? And gee, I appreciate your testimony today, and you seem to believe you may have done something wrong by saying, gee, this person may be a liberal Democrat. Do you have any idea how many people would have wanted your head and contacted the White House if someone like you were put in your position and you thought it was a great idea to hire liberal Democrats? The same way that if Bill Clinton had put in a right wing conservative Republican in a position like yours, his supporters would have had his head. Politics is at play.

Now, I would also like to point my colleagues to the fact that I had two good friends from law school who were appointed as Federal judges in 1992, early in that year. They got a letter from Chairman Biden saying he wouldn't allow politics to keep them from having a hearing and confirmation within 3 or 4 months. Sev-

eral months later, because of politics, he let those qualified judges down the vine. They were later reappointed and confirmed, showing how they were good, qualified. When President Clinton fired 93 attorneys on the same day, 12 days after Janet Reno was hired, there was no investigation. There was no quarter of a million dollars. And frankly, Chairman, I appreciate—I see the Chair is not here. But when I was a judge, if somebody had a requirement to disclose or discover to the other side and they presented it 30 minutes before the hearing, we were either going to exclude that documentation, because that was grossly unfair, or there would be a continuance. And I think it is a little unfair to present these documents that apparently somebody has had for some time, that we got 30 minutes before the hearing and I didn't get until over an hour into it because of the copying. So when some of us have been concerned about the lack of pursuit of justice, I don't see that as a problem.

And I would also point out when we bring up God and Christianity and question somebody's belief for attending a religious college, that Harvard itself, we want to refer to them, Psalms 8 is on Emerson Hall that houses the Philosophy Department. What is a man that thou out art mindful of him? Talking to God from Psalm 8. The Latin phrase meant truth for Christ and the church. And that was the official motto of Harvard in 1692. And the rules and precepts of Harvard in 1646 said let every student be plainly instructed, and earnestly pressed to consider well, whether the main end of his life and studies is to know God and Jesus Christ, which is eternal life, and therefore to lay Christ as the bottom, and the only foundation. It is part of the foundation.

And I would also submit to my colleagues that the hate crime bill passed out of this Committee and taken to the floor and passed recently leaves an opening. If someone here seems to indicate there is something wrong about being a Christian and someone is induced to commit violence against that Christian, then the person on this Committee could possibly be charged under the hate crime bill as the principal for having committed the act of violence. And I would just encourage my colleagues to consider well your comments and your votes in this Committee.

I yield back.

Ms. JACKSON LEE. [Presiding.] The gentleman's time has expired. I now recognize the gentlelady from Wisconsin, Ms. Baldwin, for 5 minutes.

Ms. BALDWIN. Thank you. I am hoping to be able to reach two lines of questioning. We will see how far we get. The first relates to Attorney General Gonzales's previous acknowledgment that for a time Milwaukee U.S. Attorney Steve Biskupic was on the list of people to be terminated. Do you have any knowledge about who suggested that Mr. Biskupic be placed on this list to be terminated in the first place?

Ms. GOODLING. I don't. He wasn't on the January list or the September list that I saw.

Ms. BALDWIN. I am aware.

Ms. GOODLING. And those were the only two I can remember seeing. And obviously he wasn't on the final list. I don't remember hearing anything else about it.

Ms. BALDWIN. Do you have any knowledge about why he was placed on that earlier list?

Ms. GOODLING. No.

Ms. BALDWIN. Did you ever hear of any concerns of any kind about Mr. Biskupic, whether from someone inside the Department of Justice or anywhere else?

Ms. GOODLING. I feel like I would read the press clippings every day. And I feel like I did occasionally see stories that involved his office, but I can't remember any specifically, and I don't remember any discussions about them.

Ms. BALDWIN. Okay. Did you ever hear of or participate in any discussion of whether Mr. Biskupic was loyal to the President or the Administration?

Ms. GOODLING. I don't remember any.

Ms. BALDWIN. Okay. Did you ever hear of or participate in any discussion on whether Mr. Biskupic was sufficiently active in prosecuting alleged vote fraud in Wisconsin?

Ms. GOODLING. I just don't remember being a part of any discussion about him at all.

Ms. BALDWIN. No discussions at all about Mr. Biskupic?

Ms. GOODLING. I don't recall any. Like I said, I may have at some point, but I just don't remember any.

Ms. BALDWIN. Okay. Mr. Sampson testified that after you joined the Attorney General's Office, which was before Mr. Biskupic was taken off the list, that he likely would have spoken to you about Mr. Biskupic.

Did you ever have any conversation with Kyle Sampson about Mr. Biskupic?

Ms. GOODLING. You know, as I sit here today I don't remember any, but, you know, I can't rule it out. Sometimes what happened with Mr. Sampson is that we would talk about U.S. Attorneys in the context of other jobs that were opening up. Like for example when the Associate Attorney General position opened, when the ATF position opened, when the Office of Violence Against Women position opened, sometimes he would say let's, you know, take a look at the U.S. Attorneys and see if you see any there we should consider. And so sometimes I would say, well, what about this one or what about this one? Or I don't really know much about this one. And sometimes he would say, oh, I like that person. You know, he would have comments. It may have been in a context like that. But I just don't remember. I just don't remember any conversations about him at all.

Ms. BALDWIN. Okay. I am going to turn to a different line of questioning then. You have testified today that after Deputy Attorney General Paul McNulty's Senate testimony that you were concerned about key aspects of his testimony, and you told Kyle Sampson and possibly others that part of his testimony was inaccurate. Is that correct?

Ms. GOODLING. I said that I was concerned about the direction that we were going. I did raise with Mr. Elston the caging issue. I said I gave you information the night before, and his response was he just didn't think that the Deputy had had enough time to absorb it and feel comfortable with it. I remember raising that one with Mr. Elston. I believe I raised one or two others with Mr.

Sampson. But most of my comments to people, particularly I think Ms. Scolinos and Mr. Moschella, really just related to the fact that I was concerned that we were opening a door to saying bad things about people that had worked for us. And I just thought—and I understood that Congress was very interested in the topic, but I just didn't think that it was the right thing to do to say negative things about people who had worked for us, you know. Their service had ended, and we were trying to—or at least my understanding was that we were trying to give them the opportunity to leave quietly and peacefully and to have a bright future. And I didn't want to do anything to damage that.

Ms. BALDWIN. With regard to Mr. McNulty's Senate testimony, you had concerns that key aspects of his testimony were inaccurate. Did you tell Mr. McNulty that you had these concerns?

Ms. GOODLING. I don't think I did, no.

Ms. BALDWIN. Did you tell the Attorney General that you had these concerns?

Ms. GOODLING. No. He was on travel at the time.

Ms. BALDWIN. Okay. And you said that you told Will Moschella you thought the testimony would start this issue down a bad road. Did you tell Mr. Moschella about the inaccuracies that you outlined earlier for our Committee?

Ms. GOODLING. No, I don't think so.

Ms. BALDWIN. If not, why not?

Ms. GOODLING. You know, the conversation I had with him was right outside the hearing room. And you know, I was—my focus was that I was just thinking that this—I just didn't think this was going to be good. I thought it would be bad for the U.S. Attorneys involved and bad for the Department. I just didn't think it was a good road. And I was—my focus was on that. And so I heard other things that I thought weren't quite right, but my focus, I was so much more focused on the other thought. I did go back to the Department. I mentioned a few things to Kyle. But again, my focus was really on the direction we were going. And then Kyle had asked me, well, you know what does the Deputy think about how the testimony went? And I said I don't know. I didn't speak to him. And then the next morning, you know, I think my recollection is that the Deputy provided feedback at some point that day that he had spoken to some folks on the Senate side, and that they had basically indicated that they just needed a little bit more information and that the issue was going away. And I think we went through a period of time that we basically thought that it was over. And I think, you know, I think I just moved on to the next thing. I think I moved on to getting the Deputy ready for his private briefing. And I just—I think we thought we were on the way to resolving it. And I just forgot it, I guess. I don't have any other explanation other than that.

Ms. JACKSON LEE. The gentlelady's time has expired. Mr. Franks of Arizona is next, recognized for 5 minutes.

Mr. FRANKS. Well, thank you, Madam Chair. Ms. Goodling, I have been so impressed with the way that you have handled yourself here today. I think your testimony has been not only very credible and sincere, but just reflected a very conscientious attitude on your part. And I think we are all fortunate to have had your pres-

ence in the Justice Department. I was struck by your written testimony in that the motivation for coming into government and to the place that you came was to try to make a better world, to try to make things better for your fellow human beings. In a sense that should be the motivation for government in general, you know, as a protector of people's rights and as someone that is dedicated to justice in the human environment.

With that said, you know, I can't help but hear again and again the questions to you related to were some of these firings or were some of these considerations based on political considerations? Well, you know, I have to repeat what has often been repeated here, that that is certainly within the purview of the Department, and certainly within the purview of the President to do exactly that. And I think that if someone is dedicated and believes in what they believe in they actually sometimes can believe that it serves the cause of justice to appoint people or to maintain people of their persuasion, of their belief structure, because they believe that is best for humanity. So in a sense you would be doing something against your own conscience if you didn't consider their persuasion and what they believed in their common pathos with yourself.

With that said, the critical question for this Committee and for your Department is this thing about justice. And the real issue, if there is one here—and I have to think that Mr. Sensenbrenner is correct, I just don't see any fish in the pond here. But the real question is did you at any time at your stay at the Justice Department ever seek to prevent or interfere with or affect or influence any particular case or any effort to change the outcome of justice, that is the predicate for your agency, by hiring or firing or threatening to do so any person or any of these U.S. Attorneys that are under discussion?

Ms. GOODLING. I certainly did not.

Mr. FRANKS. Do you know of anyone in your Department or the Administration that did?

Ms. GOODLING. I don't recall anybody ever saying anything like that. I just don't. I can't say that—I can't testify to what other people were thinking. And I can't testify to what people may have been thinking that they didn't say. But you know, when we—we didn't talk about what the reasons were other than Mr. Bogden, at least in conversations I was in, until after it was in progress. And I never heard anybody say anything like that.

Mr. FRANKS. Well, I think again the reason I mentioned the questions in such direct terms is because that is really the only question that should be before this Committee, even though you have received every other kind imaginable. And I certainly have seen no evidence of any kind before this Committee that says that any of these attorneys were fired because of some effort to change the outcome of a case or to influence a case or to influence or thwart justice.

And with that, I just want to thank you for coming, thank you for your service to your country, and I hope the very best in life for you.

Ms. GOODLING. Thank you.

Mr. FRANKS. I yield back.

Ms. JACKSON LEE. The gentleman's time has expired. I recognize the distinguished gentleman from California, Mr. Schiff, for 5 minutes.

Mr. SCHIFF. Ms. Goodling, I would like to ask you about some of the criteria that you and others at the Justice Department used to put people on the list to be fired. I think you testified with respect to Mr. Iglesias that there was a discussion about the rationale for his being on the list. Someone mentioned he was an absentee landlord. Someone mentioned that there was an improper delegation of authority. I think the documents reveal that those justifications were not learned until after he was placed on the list, but I will cover that later. Let me assume for the moment that that is a legitimate consideration.

If a U.S. Attorney delegated too much of his authority to the first assistant U.S. Attorney, that might be a reason to place him on a list to be fired. Is that right?

Ms. GOODLING. It could be.

Mr. SCHIFF. So if he delegated some of the most important decisions in the office, decisions over hiring key people, like the head of a corruption section, and delegated that away, that might be a reason to put him on the list?

Ms. GOODLING. I think that you would look at the totality of circumstances in every case. But that might be a factor you would consider.

Mr. SCHIFF. And if you remove someone who is doing a corruption investigation in his office without good reason, in a way that interfered with the investigation, that would be a good reason to put him on a list to be fired.

Ms. GOODLING. I don't know the specifics of what you may be referring to.

Mr. SCHIFF. I am just asking you generally. That would be a good reason to be put on a list?

Ms. GOODLING. I don't know.

Mr. SCHIFF. The U.S. Attorney sets the tone in the office. If the U.S. attorney's mismanagement of his office results in low morale, and that morale affects the quality of the work done by the office, the reputation of the office, that might be a legitimate reason to put him on a list to be fired, right?

Ms. GOODLING. In some cases morale can be improved. In some cases, you know, you do need to make a change. But again, it is going to be the totality of the circumstances.

Mr. SCHIFF. If Mr. Iglesias or any other U.S. Attorney came before Congress and testified incompletely or inconsistently or lacked credibility, that might be a reason to put him on a list to be fired. Right? Certainly if someone testifies incompletely or inconsistently or not fully truthfully, that would be a reason to be fired, wouldn't it?

Ms. GOODLING. I mean I think you would have to look at the circumstances. It is not easy to sit here and answer questions and try to give you complete answers. But, you know, I don't know. It may be—I mean obviously it would be something that you would have to look at.

Mr. SCHIFF. If in the case of Mr. Iglesias or any other U.S. Attorney the Senators from that State, or even Senators of the same

party expressed a loss of confidence, as the Attorney General testified, that might be a reason to place them on the list to be fired?

Ms. GOODLING. I think that that could be a factor you would consider in some cases.

Mr. SCHIFF. And if a U.S. Attorney or any other key Justice Department official demonstrated an excess of loyalty, loyalty more to the person that hired them or responsible for their job than to uphold the laws and faithfully execute their office, that might be a reason to put them on a list to be fired, right?

Ms. GOODLING. I am not sure that I understand.

Mr. SCHIFF. Well, you said the totality. Letus add up the totality of circumstances. You have a U.S. Attorney or a top law enforcement official at the Department who improperly delegates his authority, whose actions cause morale in the office to plummet, whose testimony before Congress is incomplete and inconsistent, who has lost the confidence of Senators of even of his own party, and who creates the impression that his loyalty takes a higher priority than his duty to uphold the laws and the Constitution. The totality of those circumstances would certainly warrant the position on the list to be fired, wouldn't it?

Ms. GOODLING. That wouldn't be my call to make.

Mr. SCHIFF. By that standard, Ms. Goodling, shouldn't someone have placed the Attorney General himself on the list to be fired?

Ms. GOODLING. That wouldn't be my decision to make.

Mr. SCHIFF. That would be the President's decision, correct?

Ms. GOODLING. Yes.

Mr. SCHIFF. But morale has plummeted in the Department, hasn't it?

Ms. GOODLING. You know, I have left the Department. I am not in a position to be able to answer the question.

Mr. SCHIFF. The Attorney General's testimony was inconsistent with his prior statement that he was not in any meeting or involved in any discussion of the firings. Wasn't that inconsistent?

Ms. GOODLING. I do think there were some inconsistencies.

Mr. SCHIFF. Senators of the Attorney General's own party have lost confidence in his performance, haven't they?

Ms. GOODLING. I have seen newspaper accounts, but I have no firsthand knowledge other than that.

Mr. SCHIFF. The Attorney General has certainly created a perception, if not a reality, that his loyalty to the President is a higher priority to him than faithfully executing the duties of his office. Wouldn't you agree?

Ms. GOODLING. I don't know what my perception of that would be. I worked for him, and I thought he was a good man, and I thought he tried hard. I just don't know that I can express an opinion on that. I just—I don't frankly know what I think about the topic.

Mr. SCHIFF. I have no further questions.

Ms. JACKSON LEE. The time of the gentleman has expired. I recognize the distinguished gentleman from Alabama. The gentleman is recognized for 5 minutes.

Mr. DAVIS. Thank you, Madam Chairwoman. If the mike will work. Ms. Goodling, I apologize for that. Let me pick up on my colleague's questions.

As you know, you are no longer at the Department. Mr. McNulty is no longer at the Department. The person who remains at the Department is, frankly, Attorney General Gonzales. And as you may or may not be aware, Mr. Schiff and I have introduced a no confidence resolution for the House to vote on considering Mr. Gonzales. As you also may be aware, there is a similar resolution in the United States Senate. So I want to pick up on his focus on the person who is still there, the Attorney General of the United States.

Going back to your testimony earlier today, Ms. Goodling, General Gonzales testified that he never saw the U.S. Attorneys list, the list of terminated U.S. Attorneys. Is that accurate to your knowledge, Ms. Goodling?

Ms. GOODLING. I believe he did see a list.

Mr. DAVIS. So if General Gonzales testified that he didn't see the list, you believe that would be inaccurate testimony on his part, don't you?

Ms. GOODLING. I believe he saw a list.

Mr. DAVIS. So therefore you believe it would be inaccurate testimony?

Ms. GOODLING. Yes.

Mr. DAVIS. If General Gonzales testified that he had never been briefed about the list, do you believe that would be accurate or inaccurate testimony?

Ms. GOODLING. I believe it would be inaccurate.

Mr. DAVIS. Are there any other inaccuracies in the testimony that General Gonzales gave the Senate that you are able to share with us?

Ms. GOODLING. I don't know that I saw all of it.

Mr. DAVIS. Let me help you a little bit with one other one.

Ms. GOODLING. Yeah.

Mr. DAVIS. The Attorney General testified that he was not involved in any discussions about the U.S. Attorney firings. Do you believe that to be accurate or inaccurate?

Ms. GOODLING. He was certainly at the November 27th meeting.

Mr. DAVIS. So you believe that to be another piece of inaccurate testimony, don't you, Ms. Goodling?

Ms. GOODLING. Yes.

Mr. DAVIS. And when did you first become aware that the Attorney General had made inaccurate statements to the United States Senate?

Ms. GOODLING. Actually, I should clarify. I think those were statements that he made in a press conference, not in testimony.

Mr. DAVIS. Well, I have actually represented to you some of it came in testimony. But I don't want to waste valuable time quibbling over that. When did you first become aware there were inaccuracies in General Gonzales' public account? You mentioned three.

Mr. DOWD. Can she see the testimony?

Mr. DAVIS. Mr. Dowd, as I understand, you are not a participant in these proceedings. Ms. Goodling, would you like me to repeat the question?

Mr. LUNGREN. Ms. Chairwoman, he has been asking her specific questions about testimony allegedly made by the Attorney General. We know he has testified several occasions.

Mr. DAVIS. Madam Chairwoman, I would ask for a ruling and I be allowed to continue my questions.

Mr. LUNGREN. I will make my point of order first. My point of order is——

Ms. JACKSON LEE. The gentleman may proceed.

Mr. LUNGREN. The point of order is the witness has been asked questions purportedly to ask her opinion concerning testimony allegedly given by the Attorney General. He has cited testimony here in the House and testimony in the Senate. The witness has said——

Mr. DAVIS. Madam Chairwoman, I ask for a ruling on the point of order.

Mr. LUNGREN [continuing]. That she was—it was her understanding——

Mr. DAVIS. Madam Chairwoman, I ask for a ruling on the point of order.

Ms. JACKSON LEE. If the gentleman would suspend to allow the gentleman to continue.

Mr. LUNGREN. She just stated that she believed the comments she was referring to went to a press conference that the Attorney General made, not in testimony. Now, in the manner of fairness, if the gentleman is going to press his question, the witness has the right to look at the documents.

Mr. DAVIS. Madam Chairwoman, I ask for a ruling or a statement of a point of order.

Ms. JACKSON LEE. The gentleman from California has not made a parliamentary inquiry. I think the line of questioning of the gentleman—on the point of order, the line of questioning of the gentleman from Alabama is an appropriate line of questioning, and I would allow the gentleman to proceed.

I would also indicate that I appreciate the role that you play, but you are to counsel the witness. You are not a participant in the hearing, and I thank the gentleman.

The gentleman from Alabama may proceed.

Mr. DAVIS. Madam Chairwoman, can my time be restored?

Ms. JACKSON LEE. It has been suspended, and your time has been restored. The gentleman, Mr. Davis.

Mr. DAVIS. Thank you——

Mr. LUNGREN. Madam Chairwoman, I appeal the ruling of the Chair.

Ms. JACKSON LEE. The ruling of the Chair has been——

Ms. GOODLING. I would like to consult with my attorney.

Mr. DAVIS. I move to table.

Ms. JACKSON LEE. The question is on the move to table. Question is on the move to table.

All those in favor, say aye.

All those opposed, no.

The ruling of the Chair, the ayes have it.

Mr. LUNGREN. I ask for a recorded vote.

Ms. JACKSON LEE. Recorded vote has been called. The Clerk is not present. This Committee stands in recess.

Mr. LUNGREN. Until what time?

Ms. JACKSON LEE. Until such time as the Chair recalls or calls the Committee.

Mr. LUNGREN. What do we tell the witness under——

Ms. JACKSON LEE. The witness has asked for consultation time with her lawyer. That will be granted at this time, and we will call the Committee in recess at this time.

Mr. LUNGREN. Well, I object.

Mr. DAVIS. Madam Chairwoman, may I proceed with other questions and move on and allow the Chair to take up this issue and have a separate vote later?

Ms. JACKSON LEE. Gentleman suspends. We have to suspend at this time. So the hearing is now in recess.

Mr. FORBES. Point of parliamentary inquiry, Madam Chairman.

Mr. LUNGREN. The motion on the floor is for a recorded vote on the motion to table.

Mr. FORBES. Madam Chair, parliamentary inquiry.

Ms. JACKSON LEE. Yes.

Mr. FORBES. Madam Chairman, you stated that we are in recess, but it is my understanding we couldn't go in recess if there was an objection, and there was an objection to the recess.

Ms. JACKSON LEE. The Chair has ruled that we are in the process of finding the Clerk, and so we are recessing for that purpose. I have heard the objection. The objection is heard.

Mr. LUNGREN. You cannot recess. Under the rules of this house, you cannot recess unilaterally. We can't stop the business of the House because a Clerk is not here. Members are here. We have asked for a vote on the motion to table.

Mr. GOHMERT. Point of order. This was a recorded vote that was requested. You can't recess. That is nondebateable. You go to it.

Ms. JACKSON LEE. Is the gentleman seeking recognition? Mr. Schiff?

Mr. SCHIFF. Yes, Madam Chair.

Ms. JACKSON LEE. Are you seeking recognition?

Mr. SCHIFF. I am seeking recognition.

Ms. JACKSON LEE. You are recognized.

Mr. SCHIFF. Since there is no one to record the vote——

Ms. JACKSON LEE. The Clerk is now here.

Mr. SCHIFF. That answers my question.

Ms. JACKSON LEE. The question is now on the motion to table, and the Clerk will call the roll.

The CLERK. Mr. Conyers.

[no response.]

The CLERK. Mr. Berman.

Mr. BERMAN. Yes.

The CLERK. Mr. Berman votes aye.

Mr. Boucher.

[no response.]

The CLERK. Mr. Nadler.

[no response.]

The CLERK. Mr. Scott.

Mr. SCOTT. Aye.

The CLERK. Mr. Scott votes aye.

Mr. Watt.

Mr. WATT. Aye.

The CLERK. Mr. Watt votes aye.

Ms. Lofgren.

Ms. LOFGREN. Aye.
The CLERK. Ms. Lofgren votes aye.
Ms. Jackson Lee.
Ms. JACKSON LEE. Aye.
The CLERK. Ms. Jackson Lee votes aye.
Ms. Waters.
Ms. WATERS. Aye.
The CLERK. Ms. Waters votes aye.
Mr. Meehan.
[no response.]
The CLERK. Mr. Delahunt——
Mr. LUNGREN. Point of order, Madam Chairman. The photographers in the well are interfering with the witness' opportunity to consult with counsel. I would ask that we——
Mr. DAVIS. Madam Chairman, I ask that the vote continue. I would ask that the vote continue.
Ms. JACKSON LEE. I would ask that the gentleman from California would suspend, and I would ask that the vote continue. And I would ask that if counsel are disturbed by any photographers please advise the clerks or officials, and we will address that question.
Would the vote proceed, please? Thank you.
The CLERK. Mr. Delahunt.
[no response.]
The CLERK. Mr. Wexler.
[no response.]
The CLERK. Ms. Sánchez.
Ms. SÁNCHEZ. Aye.
The CLERK. Ms. Sánchez votes aye.
Mr. Cohen.
[no response.]
The CLERK. Mr. Johnson.
Mr. JOHNSON. Aye.
The CLERK. Mr. Johnson votes aye.
Mr. Gutierrez.
Mr. GUTIERREZ. Aye.
The CLERK. Mr. Gutierrez votes aye.
Mr. Sherman.
[no response.]
The CLERK. Ms. Baldwin.
[no response.]
The CLERK. Mr. Weiner.
[no response.]
The CLERK. Mr. Schiff.
Mr. SCHIFF. Aye.
The CLERK. Mr. Schiff votes aye.
Mr. Davis.
Mr. DAVIS. Aye.
The CLERK. Mr. Davis votes aye.
Ms. Wasserman Schultz.
Ms. WASSERMAN SCHULTZ. Aye.
The CLERK. Ms. Wasserman Schultz votes aye.
Mr. Ellison.
Mr. ELLISON. Aye.

The CLERK. Mr. Ellison votes aye.
Mr. Smith.
[no response.]
The CLERK. Mr. Sensenbrenner.
[no response.]
The CLERK. Mr. Coble.
Mr. COBLE. No.
The CLERK. Mr. Coble votes no.
Mr. Gallegly.
[no response.]
The CLERK. Mr. Goodlatte.
[no response.]
The CLERK. Mr. Chabot.
[no response.]
The CLERK. Mr. Lungren.
Mr. LUNGREN. No.
The CLERK. Mr. Lungren votes no.
Mr. Cannon.
Mr. CANNON. No.
The CLERK. Mr. Cannon votes no.
Mr. Keller.
Mr. KELLER. No.
The CLERK. Mr. Keller votes no.
Mr. Issa.
[no response.]
The CLERK. Mr. Pence.
[no response.]
The CLERK. Mr. Forbes.
Mr. FORBES. No.
The CLERK. Mr. Forbes votes no.
Mr. King.
Mr. KING. No.
The CLERK. Mr. King votes no.
Mr. Feeney.
[no response.]
The CLERK. Mr. Franks.
Mr. FRANKS. No.
The CLERK. Mr. Franks votes no.
Mr. Gohmert.
Mr. GOHMERT. No.
The CLERK. Mr. Gohmert votes no.
Mr. Jordan.
[no response.]
Ms. JACKSON LEE. Are there other Members in the chamber who wish to cast their vote?
The gentleman from Florida.
Mr. FEENEY. No.
Mr. WEXLER. She meant this gentleman.
Ms. JACKSON LEE. Gentleman from Florida did you cast——
The CLERK. Mr. Wexler votes aye.
Ms. JACKSON LEE. Gentleman from California.
Mr. GALLEGLY. I vote no.
The CLERK. Mr. Gallegly votes no.
Ms. JACKSON LEE. The other gentleman from California.

Mr. SHERMAN. Votes aye.

Mr. DELAHUNT. How am I recorded, Madam Chair?

Ms. JACKSON LEE. Gentleman from Florida.

That is Mr. Lungren. He gave the wrong information. Listening to the Ranking Member—yes, sir.

Mr. DELAHUNT. Madam Chair, I am the gentleman from Massachusetts; and how am I recorded?

Ms. JACKSON LEE. How is the gentleman recorded?

The CLERK. Mr. Delahunt is not recorded.

Mr. DELAHUNT. I vote aye.

The CLERK. Mr. Delahunt votes aye.

Ms. JACKSON LEE. Any other Members in the chamber?

Mr. MEEHAN. I am the younger gentleman from Massachusetts. I vote aye.

Ms. JACKSON LEE. Any other Members wishing to vote that have not cast their vote?

The Clerk will report.

The CLERK. Seventeen Members voted aye; eight Members voted nay.

Ms. JACKSON LEE. And the motion fails.

The motion to table passes. The gentleman's motion does not pass.

The CLERK. Excuse me, it was 17 aye and 9 nay.

Ms. JACKSON LEE. Thank you. The Clerk has corrected, and the motion to table passes.

Mr. DAVIS. May I resume, Madam Chairwoman?

Ms. JACKSON LEE. That you may, and your minutes are 2 minutes and 19 seconds. We suspended the clock.

Mr. DAVIS. And that is restored time, Madam Chairwoman?

Ms. JACKSON LEE. That is restored time.

Mr. DAVIS. Thank you, Madam Chairwoman.

Ms. JACKSON LEE. Thank you.

Mr. DAVIS. Ms. Goodling, I apologize for the interruption. Let me get back to you. And I will give the Clerk a chance to leave so you can get set up.

Ms. Goodling, when did you first become aware that the Attorney General made public statements that you thought weren't accurate?

Ms. GOODLING. I am not sure. I think I saw the press conference that day, and it struck me that it wasn't right, but I couldn't put my finger on it right away.

Mr. DAVIS. Did you communicate to the Attorney General that you felt his statements weren't right?

Ms. GOODLING. I don't think I did. I can't remember what day it was, but I don't remember that I did.

Mr. DAVIS. Did you read any of the newspaper accounts of the Attorney General's testimony to the United States Senate?

Ms. GOODLING. I saw some of his Senate testimony, yes.

Mr. DAVIS. Were there aspects of his Senate testimony that you thought weren't accurate based on what you read?

Ms. GOODLING. I have read so many things trying to prepare for today that I am afraid some of it is pretty muddled. If you have a particular statement to ask me about, it may help me.

Mr. DAVIS. Let me come at it this way. Did you communicate to Mr. McNulty that you felt the Attorney General's public statements, whether to the press or the Committee, were not accurate?

Ms. GOODLING. No, definitely not to Mr. McNulty.

Mr. DAVIS. Well, did you communicate to anyone that you felt the Attorney General's statements either to the Committee or to the public were not accurate?

Ms. GOODLING. No. I think that was right toward the end of my time at the Department, and I don't think I was really——

Mr. DAVIS. When is the last time you spoke to the Attorney General, Ms. Goodling?

Ms. GOODLING. I spoke to him the Thursday or Friday of my last full week at the Department, and then I took leave the following——

Mr. DAVIS. Do you have a good memory of that conversation, Ms. Goodling?

Ms. GOODLING. I have a memory of some of it.

Mr. DAVIS. Was there any part of that conversation that made you uncomfortable?

Ms. GOODLING. Yes.

Mr. DAVIS. Would you tell the Committee about it?

Ms. GOODLING. I had decided that I couldn't continue working on his staff. Because of the circumstances, I felt that I was somewhat paralyzed. I just felt like—I was distraught, and I felt that I wanted to make a transfer. So Iwent back to ask him if it would be possible for me to transfer out of his office.

He said that he didn't—that he would need to think about that; and I think he was, you know, trying to, you know, just trying to chat. I was on his staff. But he then proceeded to say, let me tell you what I can remember. And he kind of—he laid out for me his general recollection.

Mr. DAVIS. Recollection of what, Ms. Goodling?

Ms. GOODLING. Of some of the process.

Mr. DAVIS. Some of the process regarding what?

Ms. GOODLING. Some of the process regarding the replacement of the U.S. attorneys. And he just—he laid out a little bit of it, and then he asked me if I thought—if I had any reaction to his iteration. And I remember thinking at that point that this was something that we were all going to have to talk about, and I didn't know that it was—I just—I didn't know that it was maybe appropriate for us to talk about that at that point. And so I just didn't—as far as I can remember, I just didn't respond.

Ms. JACKSON LEE. The time of the gentleman has expired.

We now recognize the distinguished gentleman from Illinois, Mr. Gutierrez, for 5 minutes.

Mr. GUTIERREZ. Thank you very much. I would like to yield my time to Mr. Davis.

Mr. DAVIS. Thank you, Mr. Gutierrez.

Had you finished your answer, Ms. Goodling, regarding your conversation with the Attorney General?

Ms. GOODLING. I think there was a little bit more to the discussion, but I am having trouble remembering it.

Mr. DAVIS. Let me try to help you a little bit. I know it has been a long day. So let me try to help you a little bit.

You said that you thought part of the conversation was inappropriate with the Attorney General? Did you say that, Ms. Goodling.

Ms. GOODLING. I don't know if I said—if I meant to say "inappropriate". I said it made me a little uncomfortable.

Mr. DAVIS. What was it that made you uncomfortable about your conversation with the Attorney General, Mr. Gonzalez?

Ms. GOODLING. I just did not know if it was appropriate for us to both be discussing our recollections of what had happened. I just thought maybe we shouldn't have that conversation, and so I didn't respond to what he said.

Mr. DAVIS. Why did you think it might be inappropriate for you to have this conversation with the Attorney General?

Ms. GOODLING. I just knew that at some point we would probably all have to talk about our conversations, and I just—I am not saying that—I am not saying that I definitely thought it was inappropriate. I think, in all fairness, that he was just talking to someone on his staff. And I was distraught, and I was asking for a transfer. And I think, you know, he was—he was being kind. He is a very kind man. But I just didn't know that—I thought that maybe this was a conversation that we shouldn't be having.

Mr. DAVIS. Ms. Goodling, did you tell the Attorney General that you felt that part of his testimony or part of his public statements were not fully accurate?

Ms. GOODLING. No, I didn't.

Mr. DAVIS. And was there a reason why you didn't share with the Attorney General that part of what he has said to the Committee or the public might not be accurate?

Ms. GOODLING. I just—I feel like it—I feel like after he had the press conference people came out fairly soon and said that they thought the statements were inaccurate. I don't think that I needed to do that. I think that other people had already raised questions about that.

Mr. DAVIS. Do you think the Attorney General appreciated that he had made statements that were not accurate?

Ms. GOODLING. I don't know.

Mr. DAVIS. Did you ask him?

Ms. GOODLING. No, I didn't.

Mr. DAVIS. Do you think the Attorney General would have been concerned about making public statements that were not accurate?

Ms. GOODLING. I don't know what he—I know that he—I know that he testified before the Senate and he clarified his remarks from his press conference, so I believe he cared about the fact that he didn't express everything in the best way that he could. And I think he has already apologized for that and tried to clarify that.

Mr. DAVIS. Let me ask you this, Ms. Goodling. During the conversation that you said made you somewhat uncomfortable with the Attorney General, did the Attorney General discuss the circumstances around any of the terminations of the U.S. attorneys?

Ms. GOODLING. He discussed a little bit. As I recall, he just said that he thought that everybody that was on the list was on the list for a performance-related reason and that he had been upset with the Deputy because he thought that the Deputy had indicated that, by testifying about Mr. Cummins, that there was—that the only reason there was to relieve him was in order to give Mr. Griffin

a chance to serve. He said that he thought, when he heard that, that that was wrong, that he really thought that Mr. Cummins was on the list because there was a performance reason there, too.

And I think there was more to the discussion. That is the part I am remembering right now. But I think he just kind of laid out what he remembered and what he thought and then he asked me if I had any reaction to it.

Mr. DAVIS. Do you know—let me ask it this way. You say the Attorney General asked if you had any reaction to what he said. Do you think, Ms. Goodling, the Attorney General was trying to shape your recollection?

Ms. GOODLING. No. I think he was just asking if I had any different——

Mr. DAVIS. But it made you uncomfortable.

Ms. GOODLING. I just did not know if it was a conversation that we should be having, and so I just—just didn't say anything.

Mr. Davis, I don't know that I have anything to add to that point, but I do want to clarify to the extent that, at the beginning of your questioning, I indicated answers based on testimony. I want to be—I want to clarify that I think that the statements you were referencing were press accounts, and I didn't mean to indicate that——

Mr. DAVIS. Well, Ms. Goodling, if you notice what I have done in my questions, I have consistently said "either or". I have referred either to public statements or to testimony.

Let me ask you one final question in my limited time about the Attorney General. Do you think that it is important that the Attorney General of the United States give truthful, accurate, complete testimony to the United States Congress?

Ms. GOODLING. Of course.

Mr. DAVIS. And if you were to discover, Ms. Goodling, that you left something out of your testimony inadvertently today, would you come back and correct it to the Committee?

Ms. GOODLING. I certainly would try to.

Mr. DAVIS. Would that be a good practice for a witness who discovered that——

Ms. JACKSON LEE. The gentleman's time has expired. The gentleman's time has expired.

Let me recognize the gentlelady from Florida, Ms. Wasserman Schultz, for 5 minutes.

Ms. WASSERMAN SCHULTZ. Madam Chair, I would like to yield 1 minute of my time to Mr. Davis.

Ms. JACKSON LEE. Gentleman is recognized 1 minute.

Mr. DAVIS. Let me repeat the question, Ms. Goodling. You said that if you discovered there was something incomplete or not accurate about your testimony, you would come back and correct it, is that correct?

Ms. GOODLING. I will need to consult with counsel on a question like that.

Mr. DAVIS. Would it be a good practice for any witness who discovered that he had made an inaccurate statement before the Congress to come back and correct it?

Mr. LUNGREN. Madam Chair, she asked to consult with counsel. The Chairman said that she would have the right to consult——

Ms. JACKSON LEE. This is not a point of order——

Mr. LUNGREN. Point of order——

Ms. JACKSON LEE. The gentleman is out of order.

Mr. LUNGREN. Point of order. The Chairman said at the beginning of the hearings that she would have a chance to confer with counsel.

Ms. JACKSON LEE. If the gentleman would suspend. If the witness wishes to consult with counsel, she has the opportunity to ask——

Mr. LUNGREN. Madam Chair, she just said she did. She just said she did, and she's been interrupted.

Mr. DAVIS. Madam Chairwoman, the witness said that——

Ms. JACKSON LEE. If the gentleman from Alabama would suspend, Ms. Goodling, could you state for the record, do you need to consult with counsel at this time?

Ms. GOODLING. I wasn't asking to consult at this second. I was saying that if when I go back and review this transcript I think that there will be a lot of things that maybe I didn't get the opportunity to address, but——

Ms. JACKSON LEE. I thank the gentlelady. So your answer is you are proceeding with your answer to Mr. Davis' question. Therefore, you have answered Mr. Lungren's question that you did not ask to consult at this time.

Gentleman may proceed.

Mr. DAVIS. Thank you.

One question about Mr. McNulty. Did Mr. McNulty make any attempt to go back and correct the record regarding any aspects of his testimony to the Senate, to your knowledge?

Ms. GOODLING. I don't know.

Mr. DAVIS. Do you know of any?

Ms. GOODLING. I don't know of any.

Mr. DAVIS. And did Mr. McNulty, to your knowledge, make any attempt to correct the record regarding any aspects of his statements and closed briefings with the United States Senate?

Ms. GOODLING. I don't know of any.

I remember at the end of my time at the Department, I remember there was a discussion that the Department was going to prepare answers to address statements that may not have been accurate. So I remember hearing that the Department was going to work on answers to do that. But I don't know if it occurred.

Mr. DAVIS. My time has expired, Madam Chairwoman.

Ms. WASSERMAN SCHULTZ. Madam Chair, I yield 2 additional minutes of my time to Mr. Davis.

Ms. JACKSON LEE. Gentlelady is recognized.

Mr. DAVIS. Thank you, Ms. Wasserman Schultz.

Let me shift to another area, Ms. Goodling. You have been an assistant U.S. attorney for a period of time in your own career, is that right?

Ms. GOODLING. I was a special assistant U.S. attorney, yes.

Mr. DAVIS. Did you prosecute cases at some point?

Ms. GOODLING. I did some cases. Actually, I did not end up doing any felony trials. They all pleaded out. But I did some work.

Mr. DAVIS. Are you familiar with the rules and professional rules of responsibility that govern U.S. attorneys and members of the Department of Justice?

Ms. GOODLING. I am familiar with some of them. I wouldn't claim to be an expert.

Mr. DAVIS. Let me ask you a few questions about it. In your opinion, from what you know of the professional rules of responsibility, would it be appropriate for a United States Senator to contact a prosecutor about a specific case?

Ms. GOODLING. The Department got inquiries about cases all the time, and there was an appropriate—there is an appropriate way to address them.

Mr. DAVIS. Would it be appropriate for a Senator to call the U.S. Attorney and ask about the specifics of a particular case?

Ms. GOODLING. In some cases, it may be okay. If they were just calling to ask something that is in the public record, it might be okay. Although, of course, the Department protocol would be that that question would go to the Office of Legislative Affairs.

Mr. DAVIS. What if they weren't calling about the public record but they were calling about information known only to the U.S. attorney and the Department of Justice? Would that be appropriate?

Ms. GOODLING. I don't really know the rules in this area very well——

Mr. DAVIS. Do you know of any circumstance, Ms. Goodling, in which it would be appropriate for a United States Senator to call a United States attorney to ask about information known only to that U.S. Attorney's office?

Ms. GOODLING. I can't think of one, but, again, I am not an expert in this area.

Mr. DAVIS. Similar question. Would it be appropriate for a Member of the United States House to call the United States attorney to ask questions about the specifics of a particular case involving facts known only to the U.S. Attorney?

Ms. GOODLING. I am not an expert in this area, Mr. Davis; and I hesitate to answer questions that I don't know the answer.

Mr. DAVIS. Let me ask another question. Do you know of any instance in which it would be appropriate for a politician to call a U.S. Attorney to ask him or her to prosecute anyone?

Ms. GOODLING. I don't think that would be appropriate. Unless, of course, the person had evidence of wrongdoing, in which case they should take it to the FBI——

Mr. DAVIS. And if person didn't have evidence of wrongdoing and simply called and made the inquiry, you agree that would be inappropriate, wouldn't it?

Ms. GOODLING. If someone called and said go prosecute this person because I don't like them and didn't have evidence, that would clearly be a problem.

Mr. DAVIS. Let me ask you a question about that. To your knowledge, based on everything that you have learned about these facts in your previous position, was there a phone call from a Member of the United States Senate to David Iglesias regarding prosecution of particular cases?

Ms. GOODLING. I have seen press accounts, but——

Mr. DAVIS. Would that be appropriate for Senator Domenici to call——

Ms. JACKSON LEE. The Chair would remind Members that they must allow the witness to answer the question and—I ask the Members be reminded that witnesses must be able to answer the question.

Ms. GOODLING. I don't know if the call happened, and I don't know the specifics of the call if it did. And I can't address a hypothetical or something that I don't know anything about. I am not an expert in this area. I just—frankly, I think it raises questions, but I don't know the rules in this area well enough to say.

Mr. DAVIS. Final question, Ms. Goodling. During your briefing session with Mr. McNulty for his testimony, did the Domenici call to Iglesias come up?

Ms. GOODLING. I don't think that—I am trying to remember the date of the call. Do you remember the date of the call?

Mr. DAVIS. Well, I am asking you, Ms. Goodling. You participated in the briefing.

Ms. JACKSON LEE. Gentleman's time has expired.

Ms. GOODLING. I can't remember the time sequence. I am sorry. I did address the call, or the call was something that was discussed in the Deputy Attorney General's Office. But I don't remember when that was.

Ms. JACKSON LEE. I now recognize the gentleman from Minnesota, Mr. Ellison, for 5 minutes.

Mr. ELLISON. Do you know Thomas Heffelfinger, ma'am?

Ms. GOODLING. I have met him, yes.

Mr. ELLISON. Before he resigned, was there any conversation about problems with his performance?

Ms. GOODLING. I believe I did hear a few.

Mr. ELLISON. What were they?

Ms. GOODLING. There were some concerns that he spent an extraordinary amount of time as the leader of the Native American Subcommittee of the AGAC. And clearly people thought that was important work, but I think there was some concern——

Mr. ELLISON. Excuse me. Thank you. You have answered.

Mr. LUNGREN. Madam Chair, she is answering the question——

Mr. ELLISON. Ma'am, excuse me, can you tell me, please, Was there concerns about whether or not he was allowing members of Native American tribes to use tribal IDs in order to vote?

Ms. GOODLING. I don't remember anything subject specific. The concern that I heard raised was just that he spent an extraordinary amount of time on the Subcommittee business.

Mr. ELLISON. Did anything about voter tribal IDs ever come in up in that discussion with problems about Thomas Heffelfinger?

Ms. GOODLING. I don't have any recollection of it.

Mr. ELLISON. Did you receive any communications from Secretary of State Mary Kiffmeyer regarding Thomas Heffelfinger?

Ms. GOODLING. I don't have any recollection of ever seeing anything like that.

Mr. ELLISON. Did you have—interview Joan Humes?

Ms. GOODLING. Yes.

Mr. ELLISON. When did you interview her?

Ms. GOODLING. It would have been—it would have been after Tom Heffelfinger notified us he was going to leave.

Mr. ELLISON. Now you know she was a 1990 graduate of the University of Minnesota right?

Ms. GOODLING. I don't remember her resume.

Mr. ELLISON. Do you recall she is chief of civil in the U.S. attorney's office in Minnesota?

Ms. GOODLING. Yes.

Mr. ELLISON. And you understand that she had clerked for Judge Rosenbaum, who was a Minnesota Federal judge, right?

Ms. GOODLING. I don't remember her resume.

Mr. ELLISON. Do you recall that she at least had a good solid resume, had worked for the U.S. attorney's office and had been practicing law for some 15, 16 years? You know that?

Ms. GOODLING. I remember she was the civil chief. That was my recollection.

Mr. ELLISON. She didn't get the job, did she?

Ms. GOODLING. No, she didn't.

Mr. ELLISON. You knew she was Democrat, right?

Ms. GOODLING. I actually didn't hear she was a Democrat. I heard she was a liberal.

Mr. ELLISON. You heard she was a liberal. Was that a factor in your decision to bypass her?

Ms. GOODLING. I think it was a factor in some ways, but it wasn't the overarching factor.

Mr. ELLISON. Now the person you did hire was Rachel Paulose, is that right?

Ms. GOODLING. There was a panel of people involved, but, yes.

Mr. ELLISON. Rachel Paulose was hired. Now you know that four assistant U.S. attorneys have quit because she is so inadequate in management in the U.S. attorney's office in Minnesota. You know that today, right?

Ms. GOODLING. I read press accounts that they went back to AUSA——

Mr. ELLISON. You know that is true, don't you?

Ms. GOODLING. I don't believe they resigned. I believe they went back to their positions as AUSA——

Mr. ELLISON. No, they quit their——

Mr. LUNGREN. Let her answer the question.

Mr. ELLISON. They quit their leadership positions.

Ms. JACKSON LEE. Gentleman will suspend. Gentleman will suspend. Remind Members to please allow the witness to answer the question.

Mr. ELLISON. They quit their leadership positions, is that right?

Ms. GOODLING. Yes, then——

Mr. ELLISON. Then went back to line positions, is that right?

Ms. GOODLING. That is what I understand from the paper.

Mr. ELLISON. So Ms. Paulose—and you know Ms. Paulose personally, is that right?

Ms. GOODLING. I met her during the interview process.

Mr. ELLISON. She described you as a friend of hers. Would you use that term "friend" as well?

Ms. GOODLING. We became friends after the hiring process.

Mr. ELLISON. And you are friends today, right?

Ms. GOODLING. I haven't spoken to her in some time, but, yes.

Mr. ELLISON. How much time have you—how much time has gone by since you spoke to her?

Ms. GOODLING. Maybe February—February, maybe early March.

Mr. ELLISON. So you spoke to her as early as March '07?

Ms. GOODLING. Maybe. Maybe. Maybe the first week of March. I can't recall.

Mr. ELLISON. Did you ask Ms. Humes if she was a member of the Federalist Society?

Ms. GOODLING. No.

Mr. ELLISON. Did you ask her about her religious affiliation?

Ms. GOODLING. No.

Mr. ELLISON. Did you ask her specifically about her party affiliation?

Ms. GOODLING. I don't believe that we did. The interview was conducted by Mr. Margolis, Mike Battle and myself——

Mr. ELLISON. Excuse me.

Ms. GOODLING. All three of us were in the room——

Mr. ELLISON. That is not responsive to my question, but we will move ahead.

Did Ms. Paulose ever lead a department in any office of the U.S. attorney?

Ms. GOODLING. I don't believe she had.

Mr. ELLISON. And Ms. Joan Humes had led the Civil Division, is that right?

Ms. GOODLING. Yes.

Mr. ELLISON. So you all bypassed a chief of civil and went to somebody who had no experience in management simply because they were a liberal.

Ms. GOODLING. No, not at all. There were other——

Mr. ELLISON. Now——

Ms. GOODLING [continuing]. Reasons involved in the decision.

Ms. JACKSON LEE. I remind the witness's being allowed to answer the question.

Mr. ELLISON. Now——

Ms. GOODLING. To clarify, we——

Mr. ELLISON. I don't need a clarification.

Ms. GOODLING. I would like to complete my answer.

Mr. ELLISON. I don't need an answer.

Mr. LUNGREN. Parliament inquiry, the rules we started with——

Mr. ELLISON. Madam Chair——

Ms. JACKSON LEE. Would the Member suspend?

Mr. ELLISON. I have the authority to control my question. I got an answer to my question, and I would like to proceed——

Mr. LUNGREN. You are a Member of this Committee, and those——

Mr. ELLISON. Madam Chair——

Mr. LUNGREN [continuing]. Are not the rules——

Mr. ELLISON [continuing]. This deleterious—

Mr. LUNGREN [continuing]. The Chairman announced——

Mr. ELLISON [continuing]. Tactic——

Mr. LUNGREN [continuing]. At the beginning——

Ms. JACKSON LEE. Point of order——

Mr. LUNGREN [continuing]. Of this hearing.

Ms. JACKSON LEE. I ask the gentleman to suspend.

I am very, very sensitive and sympathetic to the lawyers that are on this Committee in their questioning form, but it is the rules of this Committee that Members allow witnesses to answer the question. You can ask them to abbreviate.

Ms. Goodling, because of the shortness of the time, I would ask you to be more precise in your answers to the gentleman. The gentleman may continue.

Mr. ELLISON. Madam Chair, I would like to ask for at lead 2 minutes of my time to be restored. I have been interrupted here.

Mr. LUNGREN. I object.

Ms. JACKSON LEE. The time has been suspended on each of the times. I thank the gentleman.

Mr. ELLISON. Thank you, Madam Chair.

Ms. GOODLING. Could I complete——

Mr. ELLISON. Now——

Ms. GOODLING [continuing]. My answer?

Mr. ELLISON [continuing]. Did you ask——

Ms. JACKSON LEE. Will the gentleman proceed?

Mr. ELLISON. There is no question before the witness.

Ms. GOODLING. I didn't finish my answer.

Mr. LUNGREN. There is a question before the witness. She should be permitted to answer.

Ms. JACKSON LEE. Regular order. Regular order.

The Chair will rule. The gentleman will proceed. You can include your answer that you want to complete as the gentleman finishes his other question. Would the gentleman proceed?

Mr. ELLISON. Did Rachel Paulose's political affiliation play any role in her hiring?

Ms. GOODLING. Yes, it did.

Mr. ELLISON. And that would be that she is a Republican?

Ms. GOODLING. Yes.

Mr. ELLISON. Did her religious affiliation play a role in her hiring?

Ms. GOODLING. No, it did not.

Mr. ELLISON. Do her membership in the Federalist Society play a role in her hiring?

Ms. GOODLING. I don't remember that was something we talked about.

Mr. ELLISON. Did the fact she never tried a case to a jury impact your thinking on her hiring?

Ms. GOODLING. She had 2 to 3 years prosecution experience as an AUSA, which is a lot more than some of the U.S. attorneys that we hire. And that was significant experience and——

Mr. ELLISON. How did that experience compare to Joan Hume's experience?

Mr. LUNGREN. The time of the gentleman has expired.

Ms. JACKSON LEE. Chairman will suspend.

Ms. GOODLING. As I recall, Rachel's experience was some civil and some criminal.

Ms. JACKSON LEE. Gentleman's time has expired, and she can complete her answer.

Ms. GOODLING. Rachel Paulose was selected based on her qualifications overall, and we did include the fact that she might be able

to be a candidate for the Presidential nomination. We sometimes thought if we had somebody that we could put into to be an interim U.S. Attorney who also had the opportunity to be a considered both a Presidential nomination then that was a factor.

Mr. ELLISON. Nonresponsive.

Ms. JACKSON LEE. The gentleman's time has been expired. We have been summoned to the House floor for votes. We will take a short recess and reconvene as promptly as we can after we vote for a second round of questioning.

The Committee stands in recess.

[Recess.]

Mr. CONYERS. [Presiding.] Members of the Committee, our first round of questioning, our first round of questioning has concluded.

There is one exception. As we have discussed with Lamar Smith, rather than have an entire second round of questioning, we have decided to move, pursuant to clause (j)(2)(b) of Rule 11, for 30 minutes of extended questioning by Members, to be divided equally between the majority and the minority. First, one Member of the minority, who will be recognized by the Ranking Member for 15 minutes or more—or more people, not more minutes; and then one Member of the majority will be recognized for 15 minutes to recognize other Members.

Without objection, the motion is agreed to.

So we will suspend for a moment until our witness and her counsel arrive, and we will begin.

We conclude the afternoon by offering our deepest thanks for the cooperation of Monica Goodling and her counsel for the length of time that this has taken. As you see, we have been interrupted by requests for recorded votes on the floor, but we are grateful to you, and we can assure you we will not keep you very long at all.

We have already—we have discussed with Lamar Smith and myself, and rather than have a second round of questioning we have decided to dispense with that and move, pursuant to clause (j)(2)(b), Rule 11, to have questioning for the last 30 minutes to be divided between the majority and the minority.

Each will be recognized for 15 minutes, and without—first, one Member of the minority whom the Ranking minority Member may designate will be recognized for 15 minutes, then one Member of the majority will be recognized for 15 minutes.

Without objection, so ordered.

To begin the questioning, I recognize the Ranking Member, Lamar Smith, to designate a Member on his side for 15 minutes of questioning; and I yield to the gentleman.

Mr. SMITH. Thank you, Mr. Chairman. I am glad we were able to come to agreement on how to divide the time and how much time to divide, and our time will be—the person I am going to designate for our time is going to be Chris Cannon, the gentleman from Utah and Ranking Member of the Administrative Law Subcommittee.

Mr. CONYERS. Thank you. We will designate Adam Schiff, the gentleman from California, to control our 15 minutes; and, obviously, whoever is controlling time can yield to others if he so chooses.

I would ask the gentleman from Utah, Mr. Chris Cannon, to begin his 15 minutes, please.

Mr. CANNON. Thank you, Mr. Chairman. I thank the Ranking Member as well.

And I would just like to say on the record, Mr. Chairman, that I appreciate the way you handled the lobby reform bill and my amendment that I spent some time with the Rules Committee just before coming down here. They have that all straight and appreciate your involvement in that.

We would like to begin by yielding so much time as he may consume to the gentleman, Mr. Keller.

Mr. KELLER. I thank the gentleman for yielding.

Ms. Goodling, I have been here and listened to you carefully all day; and I believe the gist of all your testimony can be summarized as follows:

You had no major role in assembling the list or firing the U.S. attorneys, you wish there were some questions you hadn't asked of Civil Service employees on a political level, and while you agree with Mr. McNulty that the firings by the Attorney General were not for an illegal or improper purpose you have some disagreement with other aspects of his testimony. Is that a fair summary?

Ms. GOODLING. I wouldn't want to say I didn't have a major role, because certainly I was a part of the circle of people that reviewed the list and made recommendations, and I was a part of that. I wouldn't want to say I wasn't a major part. I certainly was part of the core.

I think I would summarize just by saying that, as far as I know, the dismissals were made for appropriate reasons. But the handling of it and the explanation of it was poorly managed and not always as accurate as it could have been.

Mr. KELLER. So you agree with two of my three summaries, but you would say you had a major role.

Let's turn, if you would, to your packet of documents there, Number 5, which is tabbed; and that is an e-mail. At the top of this—and this is for those following—this is tab Number 5, Office of Attorney General, number 22 Bates stamp. That is an e-mail dated May 11, 2006, from Kyle Sampson to William Kelly. Do you see that?

Ms. GOODLING. Yes, I do.

Mr. KELLER. And you were, in fact, the senior counsel and White House Liaison at that time, right?

Ms. GOODLING. Yes, I was.

Mr. KELLER. Were you even aware of this e-mail at that time?

Ms. GOODLING. I don't remember learning about it at the time, no.

Mr. KELLER. And the reason I say that is because I think your testimony to me earlier was you weren't even aware of a particular list until January of 2006. And here is a list from May 11, 2006, from Kyle Sampson. So that is how I get the point that you really weren't a major player in all the—because here you were liaison at the time, and you weren't even aware that this list was starting to be compiled.

Ms. GOODLING. The list I saw I believe was January, 2006, so it would have predated this e-mail.

Mr. KELLER. This e-mail here is what the other side and some have called the "smoking gun". As you see, it says, among other things, the real problem we have right now with Carol Lam leads me to conclude that we should have somebody ready to be nominated on November the 18th, the day after her 4-year term expires.

Now according to comments made by John McKay and the *Los Angeles Times* on May 18, 2007, that is powerful circumstantial evidence of a crime. I believe we will see a criminal investigation, he says, because the day before, May 10th, Carol Lam supposedly sent some notice to the Justice Department that she was going to be seeking certain search warrants related to the Duke Cunningham investigation; and that must be what triggered it, this particular document. This is their smoking gun, this memo dated May 11th.

So I would like you to look at the bottom of this same memo; and is it in fact true that there is also a memo on the same page dated April 14, 2006, from Kyle Sampson saying that a month before that one of the people DOJ recommends terminating is Carol Lam, is that correct?

Ms. GOODLING. Yes, and I believe she was on the January memo as well.

Mr. KELLER. That is right.

And one final point, just in case anyone is not clear about where the Attorney General stood on this issue. He testified before this Committee on April the 6th—and I specifically brought up the situation to Carol Lam with him, and the Attorney General said to me—I am looking for his testimony—that he was aware of the problem in San Diego and that they were taking steps to do something about it.

And I don't have his testimony right in front of me, but the gist of it is he knew then that there was a problem and in April of 2006. And I believe your testimony earlier today is that you had heard conversations back in 2003, 2004, that there were concerns within the Justice Department relating to Carol Lam's failure to prosecute certain gun crimes and as early as 2005 regarding concern about certain immigration crimes prosecution, is that true?

Ms. GOODLING. Yes, that is true.

Mr. KELLER. And I would yield the gentleman the balance of my time.

Mr. CANNON. Mr. Chairman, how much time do we have remaining? Counsel might be——

Mr. CONYERS. Nine minutes and 59 seconds.

Mr. CANNON. I yield 4 minutes to Mr. Lungren and would appreciate if the Chair would let me know when that time——

Mr. CONYERS. Your time has—oh no, you have 4 minutes.

Mr. LUNGREN. Thank you, Mr. Chairman.

Ms. Goodling, you mentioned in your testimony that you were concerned about statements that might come out that might hurt the U.S. attorneys that were to be relieved, correct?

Ms. GOODLING. Yes.

Mr. LUNGREN. And as I understand it, your feeling was that even though there were justifiable reasons for letting these people go, they are otherwise honorable folks who had done good jobs in some

areas of the law, and there was no reason to hurt their reputation as they went off to pursue another job, is that correct?

Ms. GOODLING. That's correct. They had served, you know, more than their 4-year terms in most cases; and although the decision was made that maybe a change would be appropriate, I didn't think that we needed to do anything to damage their reputations.

Mr. LUNGREN. There has been cited a report from the Congressional Reference Service that never in the history of United States have we let people go for performance, and yet I am personally aware of at least one occasion in which that occurred somewhere in California while I was an Attorney General. But every effort was made not to penalize the person who was leaving, not to articulate the reasons why the individual was gone, not to make a big deal about it, but to make that change.

And I guess my question is to you, was that part of how you viewed it in the situation that you were a part of in this particular matter, that is, with the eight who were being relieved of their positions?

Ms. GOODLING. I thought it was within the President's authority to make those personnel changes if he wanted to do so.

Mr. LUNGREN. Now some things have been said about Mr. Iglesias. Were you aware of any complaints from local law enforcement, including prosecutors at the local level or sheriffs, of what they thought was a failure to timely respond to their requests for assistance by Mr. Iglesias and his office?

Ms. GOODLING. I don't remember hearing anything like that.

Mr. LUNGREN. Someone said a little earlier about whether you ever considered that secret society called the Federalist Society. Are you aware of the Federalist Society?

Ms. GOODLING. Yes.

Mr. LUNGREN. Who are they?

Ms. GOODLING. It is an organization based in Washington, D.C., that advocates open debate, but they are largely comprised of conservatives.

Mr. LUNGREN. And they believe in a study of the Constitution?

Ms. GOODLING. I believe they do.

Mr. LUNGREN. And they believe that perhaps like-minded individuals who have a constant—a view of the Constitution and fidelity to the Constitution might practice law, be in our court systems, be even assistant U.S. attorneys and U.S. attorneys?

Ms. GOODLING. Yes.

Mr. LUNGREN. Do you find it any problem with learning whether or not someone is in the Federal Society when you were considering whether they ought to be hired at the Justice Department?

Ms. GOODLING. No.

Mr. LUNGREN. Excuse me, I have so many more questions, but I have to yield back.

Mr. CANNON. I think the Chairman has since forgotten us over here in the time.

Mr. CONYERS. The yellow light goes on when 3 minutes have been—oh, wait a minute, you now have 26 seconds. It was 27.

Mr. CANNON. I yield. So we have a total of—what—5 minutes left, Mr. Chairman, now?

Mr. CONYERS. Six.

Mr. CANNON. I interrupted a long stream of questions. I apologized a half a minute early, and I thank the Chairman for his diligence in this regard.

Following up on the Federalist Society, I note you have been a career-long member of that left-leaning organization, the American Bar Association.

Ms. GOODLING. I have been a member of the American Bar Association longer than I have been a member of the Federalist Society.

Mr. CANNON. Has that impeded your career at the Department of Justice?

Ms. GOODLING. It hasn't seemed to, at least while I was there.

Mr. CANNON. Thank you. I jest, having been a member myself of that organization.

Mr. Davis raised questions about Senate referrals of legal matters in connection to an investigation, and it goes too far to say that Members shouldn't or can't communicate with Federal prosecutors who refer matters for prosecution. Rule 19 of the Senate Subcommittee on Investigations explicitly states a referral methodology, and Senator Feinstein and Representative Issa both encouraged Carol Lam to engage in certain activities with regard to immigration in particular and those referrals.

So, as we said numerous times, referrals themselves or discussions are not inappropriate with Federal prosecutors, but it really is the responsibility of the U.S. attorney to communicate that communication to the Department, is it not?

Ms. GOODLING. Yes. As I mentioned, it was a Department policy that contacts with Members should be reported to the Department for appropriate handling for everyone's protection.

Mr. CANNON. Are you familiar with Mr. Iglesias's failure to communicate with the Department about the contacts that had been made to his office?

Ms. GOODLING. I understand he confirmed that he didn't report the contact.

Mr. CANNON. Actually, no, he told this Committee that he did report the contact using not the telephone or e-mail but through the medium of the press. I don't know if you are aware of that or not, but, personally, I think that the reasons for his replacement are self-manifest and probably don't need to be gone into much more.

But we will discuss the President's power, involvement of appointing these really at will employees.

I would like to read into the record a succinct description of the job security for U.S. attorneys by Mr. David Margolis. I love this line.

If Senator Kerry were elected after the 2004 election these people would be out on the street anyway, so it is not like we are, you know, taking the jobs out from under them.

Do you think that is a fair representation of the expectations of tenure by U.S. attorneys?

Ms. GOODLING. It certainly is an accurate statement.

Mr. CANNON. Thank you.

Now there has been some question about the importance of your role in all of these activities, Ms. Goodling. Referring back again to Mr. Iglesias, who said to Mr. Matthews, on Hardball, I think Monica Goodling holds the keys to the kingdom. I think if they get

her to testify under oath with a transcript and have her describe the process between—the information flow between the White House counsel, the White House and the Justice Department, I believe the picture becomes a lot clearer.

Now we have a transcript being developed today. You have been here with us quite a while and answered many questions and only a few more, we would hope. I want you to know that in this particular and very narrow case I agree with Mr. Iglesias that it couldn't be clearer. You don't have much to show or you are not a link to—what someone called it—the political corruption, the partisan political corruption that is going on. That just does not seem to be here. At least I haven't seen any evidence of that.

And I suspect that at the end of this hearing the only thing we are going to hear more about is where all the momentum from this investigation dissipated to, using none other than our hero, Mr. Iglesias, to guide us through there, that——

Oh, Mr. Gohmert, would you like to take a—what time remains?

Mr. GOHMERT. If you don't mind.

Mr. CANNON. How much time do we have remaining, Mr. Chairman?

Mr. CONYERS. There is 2 minutes and 20 seconds remaining, sir.

Mr. CANNON. I yield to the gentleman the 2 minutes that remain.

Mr. GOHMERT. I thank the gentleman from Utah.

We have heard our friend from California mention about other U.S. attorneys who may have departed perhaps not completely voluntarily, but it is my understanding from people who have worked the system and have seen U.S. attorneys come and go that before this Attorney General's office this was normally handled by letting people know it might be a good idea to find other employment, we'll give you time, but we want to replace you.

As you have indicated, you said, I thought it was the President's power to make such changes. Isn't it true? It is the President's power to make such changes, correct?

Ms. GOODLING. Yes.

Mr. GOHMERT. It is. And you can do it for political purposes.

When Bill Clinton fired 93 U.S. attorneys, it was all for political purposes, and they said that. But they had the good judgment to say, you guys did a good job, fine, this is purely political purposes. We want our own people in there, people that think like we do. So, goodbye. We will help you any way we can. And that is what most attorneys general have done until this one.

So it seems to be more of a political witch hunt we are about, when really what is at the bottom of it all is bad personnel management by this Attorney General's office. Instead of quietly saying find other employment, they said, and we think it is job related, it relates to job performance. As a result, they had people that lashed back, that naturally they are going to have to defend themselves in their job performance, which gave fuel to the political debate to come into here. So that now we have polls indicating a majority of Americans think that this was done for political purposes.

Well, hello, that is why they—Bill Clinton changed his—that is why——

Mr. CANNON. Will the gentleman yield back?

Mr. GOHMERT. Yes.

Mr. CANNON. I would like to make a point in the last few seconds. That while Bill Clinton—President Clinton did this to 93 U.S. Attorneys, one of them was investigating the Clintons at the time; and there is certainly the odor of corruption in that circumstance.

Now, Ms. Goodling, we are done on our side pretty much. We appreciate your testimony and your being here.

Mr. Schiff I think is going to take the time from here. You have 15 more grueling minutes, and we will see if he can come up with something worthy of the hours and hours that we have spent on the subject up until now and the money and the $250,000, et cetera.

Thank you, Mr. Chairman. I yield back.

Ms. LOFGREN. Mr. Chairman.

Mr. Chairman? Mr. Chairman.

Mr. CONYERS. Who seeks recognition?

Ms. LOFGREN. Ms. Lofgren. If I could just interrupt for a brief announcement. The minority has asked under the rules for a separate hearing on an immigration matter that was noticed for 5:30 upstairs, and I would just like to notice that that hearing will begin after we have concluded here. And I thank the gentleman for recognizing me.

Mr. CONYERS. I thank the gentlelady, and I thank the gentleman from Utah. The Chair now recognizes the distinguished gentleman from California, Mr. Adam Schiff, to conclude the hearings.

Mr. SCHIFF. Thank you, Mr. Chairman. I am going to begin by yielding myself 10 minutes. So if you would let me know when that elapses.

Mr. CONYERS. I will.

Mr. SCHIFF. Ms. Goodling, you testified about a meeting you had with the Attorney General in which you felt uncomfortable. When did that meeting take place?

Ms. GOODLING. It was the Thursday before the Monday that I took leave. I can't remember the date. But it would have been in March.

Mr. SCHIFF. And where was the meeting?

Ms. GOODLING. It was in his office.

Mr. SCHIFF. Who was present during the meeting?

Ms. GOODLING. It was just him and I. It wasn't scheduled. I had just called back and asked if I could see him for a few minutes.

Mr. SCHIFF. And during the course of the meeting he raised his thoughts on the firing of some of the U.S. Attorneys with you?

Ms. GOODLING. He did.

Mr. SCHIFF. And you felt uncomfortable about this. Is that right?

Ms. GOODLING. Yes.

Mr. SCHIFF. In part because you realized this would be the subject of some controversy or dispute later?

Ms. GOODLING. I thought it was likely, based upon where we were at that point.

Mr. SCHIFF. And that you might be asked to testify and he might be asked to testify?

Ms. GOODLING. Yes.

Mr. SCHIFF. And you felt uncomfortable about being put in a situation where your testimony might be compromised?

Ms. GOODLING. I just didn't know if it was a good idea for the two of us to be discussing it. I don't know that I thought it was inappropriate. I just remember feeling I don't know if we should be having this discussion.

Mr. SCHIFF. But the top law enforcement official in the country didn't raise any concern about the propriety of your discussing this issue?

Ms. GOODLING. No.

Mr. SCHIFF. Was part of what made you uncomfortable the fact that the Attorney General's statement about why certain U.S. Attorneys were fired was not consistent with your understanding of the facts?

Ms. GOODLING. No. I don't think I was thinking that at the time.

Mr. SCHIFF. Did the Attorney General tell you that he thought that Mr. Cummins, the U.S. Attorney in Arkansas, was fired for a reason owing to his performance?

Ms. GOODLING. I am sorry, can you repeat that?

Mr. SCHIFF. Did the Attorney General tell you in this conversation that he thought that Mr. Cummins had been fired for good reason, that his performance was somehow unsatisfactory?

Ms. GOODLING. Yes. He thought that they were all in the same category, that there was some reason—I don't know if he used the word "performance"—but there was a reason.

Mr. SCHIFF. You understood that the reason Mr. Cummins was placed on the list to be fired was because there was a desire to make room for Mr. Griffin. Is that right?

Ms. GOODLING. Yes. Yes.

Mr. SCHIFF. So what the Attorney General told you was not consistent with the facts as you know them?

Ms. GOODLING. Right.

Mr. SCHIFF. Didn't that make you uncomfortable?

Mr. SCHIFF. No. In some cases, we—where we moved other U.S. Attorneys on, obviously the downstream effect of that is to allow someone else to serve. The fact that we wanted Mr. Griffin to serve in Arkansas was not necessarily exclusive of the fact that Mr. Cummins may have been rated one way or the other.

Mr. SCHIFF. But you understood that what the Attorney General was telling you, that there was a cause reason owing to the performance of Mr. Cummins, and that was the reason he was being fired, you understood that that was not true?

Ms. GOODLING. I think what he was saying was that he thought Kyle put Mr. Cummins on the list because there was a performance-related reason. And so when he heard that there wasn't, or that the Deputy had said that there wasn't, he was surprised by that. What he was trying to say was I thought Kyle put him on the list because there was a reason. And so I didn't——

Mr. SCHIFF. More than that, he was angry with Mr. McNulty for suggesting that someone was fired who was doing a good job, wasn't he?

Ms. GOODLING. He said he was upset with the Deputy.

Mr. SCHIFF. Now, you also mentioned a staff meeting—and I want to see if I heard you correctly—with the Deputy AG, I thought you said the AG as well, in which a question was asked

about how Iglesias was put on the list. Did I understand your testimony correctly about that?

Ms. GOODLING. Yes. And in one of the last 2 weeks that I was at the Department the group of people that had been working on this issue had a meeting. And I think it was after Mr. Sampson left. I think that is about as close as I can get it in time.

Mr. SCHIFF. And the Attorney General was present for that meeting?

Ms. GOODLING. To the best of my recollection I think everybody involved was in the room. I just remember feeling like the room was full, and that meant everybody was there, but I don't—I don't remember any particular seat being empty.

Mr. SCHIFF. And someone during the course of that meeting asked how did Mr. Iglesias get on the firing list, correct?

Ms. GOODLING. I asked.

Mr. SCHIFF. You asked the question?

Ms. GOODLING. Yes.

Mr. SCHIFF. And then somebody responded that has been addressed?

Ms. GOODLING. Yes.

Mr. SCHIFF. Who was it that said that?

Ms. GOODLING. I don't remember.

Mr. SCHIFF. Were you there for the whole meeting?

Ms. GOODLING. I came in a few minutes late, I think.

Mr. SCHIFF. Was it your sense that it had been addressed in that meeting or it had been addressed privately?

Ms. GOODLING. I don't know.

Mr. SCHIFF. Well, Mr. McNulty, when you were preparing for testimony, struck the reference that Mr. Iglesias didn't move cases from the document you prepared, didn't he?

Ms. GOODLING. He didn't strike it from the document I prepared. It was—he asked that—or said that he didn't think it should be included on a chart that I had prepared for his private briefing on the Senate side. So it was a comment someone made in a prep session in his office, but then he indicated he didn't think it should be included because he thought the Senator would prefer to address those concerns privately with his colleagues. And he wanted to give him the opportunity to do that.

Mr. SCHIFF. So then if the Deputy Attorney General was asked about why Mr. Iglesias was put on the list to be fired, the primary reason that the Attorney General testified about, the calls he got from Senator Domenici wouldn't appear anywhere, would it?

Ms. GOODLING. I am not familiar with what the Attorney General testified to. Could I see that?

Mr. SCHIFF. Well, we will be happy to supply that to you later. But Mr. McNulty made it clear he was not going to discuss with the Senate, even if he was asked, the reasons why Mr. Iglesias was fired. He was not going to discuss the Domenici calls or the comment about moving cases, was he?

Ms. GOODLING. There was a little bit more to the conversation. What he said was—or somebody else in the room I think made the suggestion—there was a conversation back and forth between the DAG and one other person, and I don't remember who the other person was, but the conversation was that maybe somebody should

place a call to his Chief of Staff and see if he wanted to address the concerns with his colleagues before the briefing took place. So presumably, if the Chief of Staff had indicated that he didn't mind the Department briefing it, then, you know, the DAG may have done so. But all I heard was the discussion about maybe we shouldn't put that—shouldn't brief that because it is really the Senator's place to do that privately. And somebody suggested a phone call be made to the Chief of Staff to see if they wanted to do that on their own.

Mr. SCHIFF. You testified about a meeting in which Mr. Rove was present where someone said we need to have a reason why all these people were fired, or something to that effect. Correct?

Ms. GOODLING. I believe someone made a comment more along the lines of you need to be clear in explaining your decisions or what you did or something. It was more a matter of being clear in explaining, not necessarily——

Mr. SCHIFF. And then someone at that meeting said, yes, that's right, and—well, you said that Karl Rove at some point emphasized the point someone earlier had made. Is the best of your recollection what he was emphasizing was the point that they needed to have a good explanation for why people were fired?

Ms. GOODLING. I can't remember what it was that he said. To the best of my recollection, he only spoke one time. And that is my memory, and I don't even know if it is right, but my memory is he spoke one time. And it was kind of a follow-on comment to someone else. But I don't remember what the originating comment or his was.

Mr. SCHIFF. But someone emphasized that there needed to be a clear explanation for why these people got fired?

Ms. GOODLING. To the best of my recollection, yes, that was something——

Mr. SCHIFF. And then during your conversation with the Attorney General, that private conversation, he was trying to supply a reason why Mr. Cummins got fired?

Ms. GOODLING. No, he wasn't trying to—he wasn't trying to——

Mr. SCHIFF. Well, he was emphasizing to you his belief that everyone had been fired for a good reason, that is for cause, right?

Ms. GOODLING. He was just saying this is what I remember. And it was in the course of that stream.

Mr. SCHIFF. Now, Mr. McNulty testified in answer to Senator Schumer, when Senator Schumer asked, can you give us some information about how it came to be that Tim Griffin got his interim appointment? Who recommended him? Was it someone within the U.S. Attorney's office in Arkansas? Was it someone within the Justice Department? Mr. McNulty answered under oath, yeah, I don't know the answer to those questions. That was a false statement, wasn't it?

Ms. GOODLING. I believe that he had some information. I don't know if he remembered it at that point. But I believe he had some information.

Mr. SCHIFF. So when he was asked further, did anyone from outside the Justice Department, including Karl Rove, recommend Mr. Griffin for the job? Again, I am not saying there is anything illegal about that, but I think we ought to know. And McNulty said, okay,

and Senator Schumer said, okay, but you don't have any knowledge of this right now, and Mr. McNulty testified under an oath, I don't. That was a false statement, too, wasn't it?

Ms. GOODLING. I believe that he had some information on it. Or that he had been given some information. I can't speak to what he knew or remembered that day.

Mr. SCHIFF. And when he was further asked——

Mr. CONYERS. The gentleman has how many seconds left? 4:50. So you have nearly used your 10 minutes.

Mr. SCHIFF. Thank you. I will now yield the remaining 4:50 to Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman. Mr. Chairman, may I proceed?

Ms. Goodling, this is the final 5 minutes of the testimony today, so we will try to get through it quickly. On behalf of this side of the Committee, let me thank you for your courtesy today and let me thank you for your candor today.

Mr. CONYERS. Mr. Davis, could I just remind you to please let the witness finish her questions?

Mr. DAVIS. Certainly.

Mr. CONYERS. Okay.

Mr. DAVIS. I am going to put in front of you a document, Ms. Goodling, that is a transcript of the Attorney General's testimony to the United States House based on a hearing that occurred a short time ago, May 10th. Would you look at page 18 of the document and let me know when you found it, Ms. Goodling?

Ms. GOODLING. I am on page 18.

Mr. DAVIS. Look, if you would, at the portion that is marked Attorney General Gonzales. And I am going to read it for the record. And if you would follow along with me. This is a statement on page 18 of the transcript from Attorney General Gonzales:

Mr. Chairman, if I may respond to that, as I have indicated, I have not gone back and spoken directly with Mr. Sampson and others who are involved in this process in order to protect the integrity of this investigation and the investigation of the Office of Professional Responsibility and the Office of Inspector General. I am a fact witness. They are fact witnesses. In order to preserve the integrity of those investigations, I have not asked these specific questions. What I am here today, and then there is a hyphen as he stops.

Ms. Goodling, based on your knowledge, is that statement by Attorney General Gonzales, is that testimony sworn under oath by Attorney General Gonzales fully accurate?

Ms. GOODLING. I don't know what period he is referencing. Certainly earlier in this process there were a lot of conversations between a lot of people who were involved in this process. At some point it is clear that the Attorney General stopped talking to people, but it must have been—I assume that it is after the point that I left the Department or took leave.

Mr. DAVIS. Do you agree that this says I am a fact witness, they are fact witnesses, and in order to preserve the integrity of those investigations I have not asked those specific questions? You agree that it says that, Ms. Goodling?

Ms. GOODLING. I agree that it says that. I don't know what specific questions——

Mr. DAVIS. Ms. Goodling, did the Attorney General have a conversation with you regarding the terminations of the United States Attorneys?

Ms. GOODLING. Yes, he did.

Mr. DAVIS. And when did this conversation happen?

Ms. GOODLING. It was in March, before I left the Department.

Mr. DAVIS. Did you know you might be a fact witness at that point, Ms. Goodling?

Ms. GOODLING. Yes.

Mr. DAVIS. Had there been substantial news coverage, Ms. Goodling, about the eventuality of your being a fact witness?

Ms. GOODLING. Yes.

Mr. DAVIS. Do you believe the Attorney General knew you were going to be a fact witness?

Ms. GOODLING. I think he knew it was likely. At that point actually he had told me that they were having conversations to see if I would need to be a witness, because he said that he understood my involvement was much more limited. He was going to see if he and Kyle Sampson could address the Congress, and he said perhaps I wouldn't need to.

Mr. DAVIS. Did the Attorney General indicate he would take steps to help prevent you from being a witness?

Ms. GOODLING. No. He just said that the Office of Legislative Affairs was talking to the Hill at that point, and that there were discussions that were ongoing about who they would actually need and when.

Mr. DAVIS. Let me direct you to page 17 of the transcript in front of you. If you would look at the portion, Chairman Conyers. I am going to read what Chairman Conyers said, page 17, line 341, Ms. Goodling.

You are the one that we talked to, as the Judiciary Committee regularly communicates with the head of the Department of Justice. I approve and congratulate you on all those hearings and investigation, but just tell me how the U.S. Attorney termination list came to be and who suggested putting most of these U.S. Attorneys on the list and why. Now that should take about three sentences, but take more, but tell me something.

Answer from Attorney General Gonzales. Mr. Chairman, it is my understanding that what Mr. Sampson engaged in was a process of consulting with the senior leadership in the Department about the performance of specific individuals, and that toward the end of that process and in the fall of 2006 what was presented to me was a recommendation that I understood to be the consensus recommendation of the senior leadership of that Department.

Was that sworn testimony under oath by the Attorney General fully complete with respect to Mr. Gonzales's role, Ms. Goodling?

Ms. GOODLING. I don't know that I see anything inaccurate in it.

Mr. DAVIS. What did you understand the Attorney General's role to be? Was he briefed by Mr. Sampson, for example, about the preparation of the list? Did you understand the Attorney General to have been briefed by Mr. Sampson about the preparation of the list?

Ms. GOODLING. I don't know that I knew about briefings, but he was in the November 27th meeting.

Mr. DAVIS. Was that referenced in the portions of the sworn statement that I just identified?

Mr. CONYERS. The gentleman has 6 seconds remaining.

Mr. DAVIS. Was the Attorney General's presence at the November meeting referenced in the sworn testimony I just identified, Ms. Goodling? Yes or no.

Ms. GOODLING. Yes, he said it was presented to him. It doesn't say the date. But it says it was presented to him in the fall. I can take that to be that November date.

Mr. CONYERS. The time of the gentleman has expired. You may finish your answer, Ms. Goodling, if you choose. Is there anything further you would like to add?

Ms. GOODLING. It doesn't identify a date. It says—he says that it was presented to him, or that the list was presented to him. So that could be a reference to that meeting. I don't really know. I can't explain it more fully than what is there.

Mr. CONYERS. The time of the gentleman has expired. All time has expired. And our morning and afternoon and almost evening questioning of Ms. Goodling comes to a conclusion.

I would like to thank you on behalf of the Committee, and many Members have already, and your counsel, Mr. Dowd, for being with us today. Your testimony has been of help in getting us closer to the truth of the serious matters we have been investigating, both what you have been able to tell us about what you know and what you have told us about the matters that you don't know.

And without objection, Members will have 5 legislative days to submit any additional written questions for you, which will be requested that you promptly return your answers. And the record, without objection, will remain open for 5 legislative days.

Members of the Committee, the matters we are investigating are of the utmost seriousness, and today's hearings have been beneficial. There remain basic unanswered questions about how and why the termination list was created, how it was compiled, how it was revised, and how it was finalized. But Ms. Goodling's testimony will enable us to clarify our focus as we move forward to find answers. We thank you for your cooperation, and I would yield to the counsel for a remark.

Mr. DOWD. Mr. Chairman, thank you. Do I understand that any answers to the questions submitted by Members of the Committee would be of the same compulsion of the subpoena and the order that you have given the witness? Is that correct?

Mr. CONYERS. Yes. The questions and the answers will still be under those same concerns.

Mr. DOWD. Mr. Chairman, I also want to thank you for your courtesy and how you treated us, and the staff of both the majority and minority. We appreciate the accommodations. Thank you.

Mr. CONYERS. Well, Lamar Smith and I and all the Members of this Committee have only one purpose in mind, and that is to get to as thorough an understanding as is humanly possible about these circumstances. Again, my thanks to you. And this hearing is adjourned.

[Whereupon, at 5:38 p.m., the Committee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND MEMBER, COMMITTEE ON THE JUDICIARY

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AFRICA AND GLOBAL HEALTH
MIDDLE EAST AND SOUTH ASIA

SENIOR WHIP
DEMOCRATIC CAUCUS

WHIP
CONGRESSIONAL BLACK CAUCUS

CHAIR
CONGRESSIONAL CHILDREN'S CAUCUS

CO-CHAIR
PAKISTAN CAUCUS

CONGRESSWOMAN SHEILA JACKSON LEE, OF TEXAS

STATEMENT BEFORE THE COMMITTEE ON THE JUDICIARY

OVERSIGHT HEARING: "CONTINUING INVESTIGATION INTO THE U.S. ATTORNEY CONTROVERSY AND RELATED MATTERS" WITNESS: MONICA GOODLING

MAY 23, 2007

Mr. Chairman, thank you for holding this very important hearing regarding this Committee's continuing investigation into the U.S. Attorney controversy. In recent years the reputation of the Department of Justice, which has done so much to advance the cause of justice and equality for all Americans through the years under the leadership of such great Attorney Generals as Robert Jackson, Robert

F. Kennedy, Nicholas Katzenbach, Herbert Brownell, Harlan Fiske Stone, Francis Biddle, Tom C. Clark and his son Ramsey, and Elliot Richardson, has been tarnished. And that is putting it charitably. This Committee has no greater challenge and obligation to the nation than to help restore the Department of Justice to its former greatness. But before we can begin to set it right we have to get to the bottom as to how it went wrong.

It is in that spirit that I welcome our witness, Ms. Monica Goodling, the former Senior Counsel to Attorney General Alberto Gonzalez and DOJ liaison to the White House. Welcome Ms. Goodling.

Mr. Chairman, I would be remiss if I did not note out at the outset that the credentials Ms. Goodling brought to her position as Senior Counsel to the Attorney General of the United States are, to put it mildly, underwhelming. And they certainly do inspire confidence in her judgment when it comes to determining who should hold, or continue to hold, the critically important position of United States Attorney for the nation's 93 judicial districts.

Ms. Goodling graduated from Messiah College in Grantham, Pennsylvania in 1995 and Pat Roberston's Regent University Law School in 1999. After law school, she worked as an opposition

researcher under Barbara Comstock at the Republican National Committee (along with Tim Griffin, who Goodling helped place as an interim US Attorney in the Eastern District of Arkansas), and ultimately followed Comstock to the Justice Department's Public Affairs office in 2002.

In September 2004, Ms. Goodling began a two-year training detail as a working prosecutor in the Eastern District of Virginia (under then US Attorney for that district Paul McNulty). She lasted in that capacity for only six months and handled fewer than a half dozen felony cases, none of which were taken to trial.

After her detail, Ms. Goodling returned to Main Justice as Deputy Director of the Executive Office of United States Attorneys under Mary Beth Buchanan. She moved into the Attorney General's office as Senior Counselor in October 2005, and later (it is not exactly clear when) became White House Liaison.

As Senior Counsel to the Attorney General and Departmental Liaison to the White House, Ms. Goodling participated in efforts by the Attorney General's Chief of Staff, Kyle Sampson, to draw up the list of U.S. Attorneys to be replaced. She likely has information about the process that was used and the decisions that were made. Ms. Goodling also participated in the preparation of Deputy Attorney

General Paul McNulty (who recently announced his resignation) and Principal Associate Deputy Attorney General William Moschella to testify before the Senate and House Judiciary Committees on this matter, and may be able to shed some light on the inaccurate statements that were made by those officials. Finally, Ms. Goodling has more recently been identified as a central figure in the apparent politicization of Department of Justice hiring and personnel practices as to career prosecutors, Honors program applicants, and a wide range of other Senior Justice Department personnel.

Ms. Goodling resigned her positions on April 6, 2007, as the firestorm over the U.S. Attorney firings erupted, having previously stated that she would assert her Fifth Amendment privilege against self-incrimination rather than cooperate with the Committee's investigation, and having been on administrative leave for two weeks.

Mr. Chairman, excluding changes in Administration, it is rare for a United States Attorney to not complete his or her four-year term of appointment. According to the Congressional Research Service, only 54 United States Attorneys between 1981 and 2006 did not complete their four-year terms. Of these, 30 obtained other public sector positions or sought elective office, 15 entered or returned to private practice, and one died. Of the remaining eight United States

Attorneys, two were apparently dismissed by the President, and three apparently resigned after news reports indicated they had engaged in questionable personal actions.

Madam Speaker, in the past few months disturbing stories appeared in the news media reporting that several United States Attorneys had been asked to resign by the Justice Department. It has now been confirmed that at least seven United States Attorneys were asked to resign on December 7, 2006. An eighth United States Attorney was subsequently asked to resign. And we learned on May 10, the day the Attorney General testified before the House Judiciary Committee, we learned that a ninth United States Attorney had been asked to resign as part of the purge. The names of the fired United States Attorney are as follows:

- H.E. ("Bud") Cummins, III, U.S. Attorney (E.D. Ark.);
- John McKay, U.S. Attorney (W.D. Wash.);
- David Iglesias, U.S. Attorney (D. N.M.);
- Paul K. Charlton, U.S. Attorney (D. Ariz.);
- Carol Lam, U.S. Attorney (S.D. Calif.);
- Daniel Bogden, U.S. Attorney (D. Nev.);
- Kevin Ryan, (N.D. Calif.);
- Margaret Chiara, (W.D. Mich.); and
- Todd P. Graves (W.D. Mo.).

Madam Speaker, on March 6, 2007, the Judiciary Committee's Subcommittee on Commercial and Administrative Law held a hearing

entitled, "Restoring Checks and Balances in the Confirmation Process of United States Attorneys." Witnesses at the hearing included six of the eight former United States Attorneys and William Moschella, Principal Associate Deputy Attorney General, among other witnesses.

Six of the six former United States Attorneys testified at the hearing and each testified that he or she was not told in advance why he or she was being asked to resign. Upon further inquiry, however, Messrs. Charlton and Bogden were advised by the then Acting Assistant Attorney General William Mercer that they were terminated essentially to make way for other Republicans to enhance their credential and pad their resumes. In addition, Messrs. Iglesias and McKay testified about inappropriate inquiries they received from Members of Congress concerning pending investigation, which they surmised may have led to their forced resignations.

It is now clear that the manifest intention of the proponents of the provision in the USA PATRIOT ACT Reauthorization regarding the appointment of interim U.S. Attorneys was to allow interim appointees to serve indefinitely and to circumvent Senate confirmation. We know now, for example, that in a September 13, 2006 e-mail to former White House Counsel, Harriet Miers, Attorney General Chief of Staff, Kyle Sampson wrote:

> "I strongly recommend that, as a matter of Administration policy, we utilize the new statutory provisions that authorize the Attorney General to make U.S. Attorney appointments."

Mr. Sampson further said that by using the new provision, DOJ could "give far less deference to home-State Senators and thereby get (1) our preferred person appointed and (2) do it far faster and more efficiently, at less political cost to the White House."

Regarding the interim appointment of Tim Griffin at the request of Karl Rove and Harriet Miers, Mr. Sampson wrote to Monica Goodling, Senior Counsel to the White House and Liaison to the White House on December 19, 2006 the following:

> "I think we should gum this to death: ask the Senators to give Tim a chance, meet with him, give him some time in office to see how he performs, etc. If they ultimately say, 'no never' (and the longer we can forestall that, the better), then we can tell them we'll look for other candidates, and **otherwise run out the clock**. All of this should be done in 'good faith,' of course."

We now know that after gaining this increased authority to appoint interim U.S. Attorneys indefinitely, the Administration has exploited the provision to fire U.S. Attorneys for political reasons. A mass purge of this sort is unprecedented in recent history. The Department of Justice and the White House coordinated this purge. According to an Administration "hit list" released on Tuesday, U.S.

Attorneys were targets for the purge based on their rankings. The ranking relied in large part on whether the U.S. Attorney "exhibit[ed] loyalty to the President and Attorney General."

Mr. Chairman, until exposed by this unfortunate episode, United States Attorneys were expected to, and in fact did exercise, wide discretion in the use of resources to further the priorities of their districts. Largely a result of its origins as a distinct prosecutorial branch of the federal government, the office of the United States Attorney traditionally operated with an unusual level of independence from the Justice Department in a broad range of daily activities. That practice served the nation well for more than 200 years. The practice that was in place for less than two years served the nation poorly. It needed to end. That is why I was proud to have voted for its repeal and the restoration of the status quo ante.

Mr. Chairman, at the center of these disturbing events is our witness, Ms. Goodling. I believe she has a heavy burden in defending what appears to be indefensible conduct. But I am willing to listen and keep an open mind. As I stated at the outset, this Committee has no greater challenge and obligation to the nation than to help restore the Department of Justice to its former greatness. But before we can begin to set it right we have to get to the bottom as to how it went

wrong. It is for that reason I supported granting Ms. Goodling use immunity for testimony before this Committee, provided it is *truthful* testimony. We have addressed adequately Ms. Goodling's concern that her testimony may incriminate her. Now it is for her to help the Committee, and by extension, the Congress and the American people, understand how the once proud, distinguished, and venerable Department of Justice has been brought low and apparently turned into patronage mill for political cronies, apparatchiks, and ideologues. That is not the history of the Department of Justice and we must not let that be its future.

Again, thank you Mr. Chairman for holding this hearing. I yield the remainder of my time.

QUESTIONS SUBMITTED FOR THE RECORD BY THE HONORABLE JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND CHAIRMAN, COMMITTEE ON THE JUDICIARY, AND THE HONORABLE ROBERT C. SCOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA, AND MEMBER, COMMITTEE ON THE JUDICIARY

QUESTIONS FOR THE RECORD

APPEARANCE OF MONICA GOODLING
BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY

May 23, 2007

PRELIMINARY NOTES

Where these questions refer to "communications," "conversations," "discussions," or any similar terms, they should be read to ask for any information regarding any form of communication such as in-person discussion, telephone conversations, emails, instant messages, exchange of written documents, or any other form of communication.

Where the questions below refer to "the firings" or the "fired US Attorneys," please give complete answers with reference to the nine US Attorneys we know to have been forced to resign in 2006, including Todd Graves, Bud Cummins, and the seven US Attorneys phoned by Mike Battle on December 7, 2006.

QUESTIONS POSED BY THE HONORABLE JOHN CONYERS, JR.
CHAIRMAN OF THE HOUSE COMMITTEE ON THE JUDICIARY

REASONS FOR THE USA FIRINGS

General

1. Do you know of any US Attorneys other than the 9 publicly identified to date who were asked to resign during President Bush's second term? Please identify each additional US Attorney and your understanding of why they were asked to resign.

2. Your written statement says that you "cannot guarantee" that the reasons you and others discussed for the firings are "the same as those contemplated by the final decisionmakers."

   a. Who were you referring to as the "final decisionmakers"? Please list each such individual.
   b. Did you ever ask the Attorney General or any other individual you considered a "final decisionmaker" what their reasons were for approving the firings of any of these US Attorneys? Please describe what each such individual said.
   c. Why would the reasons for the firings that you heard in preparing Congressional testimony on this subject not be the same as the reasons relied on by the final

decisionmakers? Please list each factor.

3. Did you ever ask anyone to identify US Attorneys or US Attorneys' offices to be considered for possible replacement? Please describe each such conversation, including the location, participants, duration, and contents of each.

4. You testified that you had learned of the US Attorney replacement plan in mid-2005 from Mary Beth Buchanan and Mike Battle.

   a. Please describe what each of these people told you about their conversations with Mr. Sampson about the idea of replacing US Attorneys.
   b. Did either Mr. Battle or Ms. Buchanan indicate to you that the White House had any role with respect to that idea? If so, what did they say.
   c. Did either of them mention any specific US Attorney or US Attorneys that were under consideration for replacement? If so, which US Attorney or US Attorneys?
   d. Mike Battle has told this Committee that he first learned of the plan to replace a group of US Attorneys when, in the fall of 2005, you informed him about it and asked if he knew of any US Attorneys or US Attorney's offices that raised concerns or where new people could be given an opportunity to serve. Did you have such a conversation with Mike Battle? If so, please describe the conversation and how you came to have it. Does learning about Mr. Battle's testimony refresh your recollection about how and when you learned of the replacement plan and, if so, please explain.

5. You testified with respect to Karl Rove and Harriet Miers that "Although I did have discussions with certain members of their staffs regarding specific aspects of the replacement plan, I never recommended to them that a specific US attorney be added to or removed from Mr. Sampson's list, and I do not recall that they ever communicated any such recommendation to me."

   a. Do you have any information whether Mr. Rove, Ms. Miers, or anyone on their staffs communicated any recommendation regarding adding or removing a US Attorney from Mr. Sampson's list to anyone? If so, please describe each instance.
   b. What "specific aspects of the replacement plan" did you discuss with members of Mr. Rove's and Ms. Miers' staff" and with whom? Please identify all such aspects of the plan that you discussed with staff of Mr. Rove or Ms. Miers, as well as the staff members involved, the date, and the contents of the discussions.

<u>Todd Graves</u>

6. You testified that you recalled Todd Graves being asked to resign because he was "under investigation by the inspector general and that there were some issues that were being looked at there."

a. Please describe all discussions you can recall regarding the possibility of Mr. Graves being asked to resign, including but not limited to all of the possible reasons and factors relevant to the decision to seek his resignation and the timing of when he was told to resign. Please list all people who participated in each of those discussions, either within or outside the Department of Justice.
b. Did you ask Mike Battle to call Mr. Graves and request his resignation? If so, please describe each conversation on this subject between yourself and Mr. Battle.
c. Do you recall any issues other than the IG investigation that contributed to the Department's decision to ask Mr. Graves to resign? If so, what were they?
d. Do you recall if that IG investigation involved Mr. Graves' attendance at a political fundraiser, as Mr. Graves has testified? If not, what was the general subject matter of the IG investigation?
e. Do you know the outcome of the IG investigation? If so, please describe your understanding.
f. Putting aside the IG investigation, did you know about any concerns or complaints about Mr. Graves, either from within the Department (e.g., from Brad Schlozman or Hans Von Spakovsky or others) or from outside (e.g. from Mark Thor Hearne or the White House or from Missouri state or federal officeholders or political figures)? If so, please describe each such concern or complaint and from whom and when you heard or learned of it.

7. During your time at the Department, did you ever hear of or learn about a lawsuit against the state of Missouri and its Secretary of State regarding maintenance of its voting rolls? Please describe what you know or have heard about that lawsuit, including but not limited to how you obtained information, whether you were aware that Mr. Graves did not support that lawsuit but that Brad Schlozman did, and any information concerning any relationship between the lawsuit and the decision to ask Todd Graves to resign.

8. During your time at the Department, did you ever hear of or learn about a lawsuit against voter registration workers brought in the Western District of Missouri while Brad Schlozman was the interim US Attorney? Please describe what you know or have heard about that lawsuit, and when you learned the information.

9. Please describe the process by which Brad Schlozman was selected to replace Mr. Graves.

a. When did you first hear Brad Schlozman's name suggested as a candidate for US Attorney?
b. Were any other candidates interviewed for this position? If so, please describe those interviews and the reasons why Mr. Schlozman was ultimately selected over any other candidates.
c. Who made the decision to select Mr. Schlozman and who was consulted in the

process? Please name each individual you know or believe to have been involved.

d. Did anyone outside of the Department recommend Mr. Schlozman for the position? If so, please list every individual you know or believe to have been involved.

e. Did you ever discuss Mr. Schlozman with anyone outside the Department of Justice? If so, please describe each such conversation and with whom you had it.

Paul Charlton

10. Your written statement says that you recommended Paul Charlton be included on the termination list "based on complaints I had heard regarding his violation of Department policy in having unauthorized discussions with Members of Congress."

a. From whom did you hear about the referenced discussions with Members of Congress? Please describe each instance in which you heard about any such discussions. Did you tell anyone else about the discussions or have any further conversations about them? If so, please describe.

b. What were the unauthorized discussions that you heard Mr. Charlton had with Members of Congress? Please describe any information you have about the number, participants, and contents of each of these discussions, including who initiated them and which Members of Congress or congressional staff were involved.

c. To the extent that these discussions involved contacts with Senator Kyl about resource needs, did you ever hear or learn that Senator Kyl regularly asks his home state US Attorney about resource needs? Did that or would it affect your view about whether Mr. Charlton violated Department policy?

11. Did anyone inside or outside of the Department ever raise any concerns, other than these congressional contacts, to you about Mr. Charlton anytime before January 2006? If so, who and what concerns?

12. When, if ever, did you learn that Mr. Charlton's office had opened an investigation into a land deal involving Congressman Renzi? When, if ever, did you learn that Mr. Charlton's office had requested search warrant authority from Main Justice?

Jim Vines

13. You testified that you had heard concerns about office management issues regarding Mr. Vines from Robin Ashton.

a. Did you hear about those office management issues from anyone other than Ms. Ashton? If so, who did you hear this from and when?

b. Did you ever hear any other criticisms or concerns about Mr. Vines? If so, please

describe them and state from whom you heard them and when.

c. Were any other facts relevant to your conclusion that Mr. Vines's district was a "problem district"? If so, please provide them.

Dan Bogden

14. According to your written statement, you recall "that Mr. Bogden had received criticism for one incident in his district involving the USA PATRIOT Act." During your testimony, you further stated that you mentioned this incident at the November 27, 2006, approval meeting as one that had gotten "messy"?

a. Who criticized Mr. Bogden for this incident, and when and under what circumstances did you learn of the criticism?

b. Please describe the incident, and why you felt it indicated that Mr. Bogden should be replaced. What did you mean when you said at the November 27, 2006, meeting that the incident had become "messy."

Thomas Marino

15. On a copy of Mr. Sampson's January 1, 2006, memorandum to Harriet Miers, you identified Thomas Marino's district as "Quiet/not sure about" along with Mr. Bogden's district. (OAG 1141)

a. What did you mean in describing Mr. Marino's district this way?

b. Did you ever discuss Mr. Marino with Kyle Sampson, the Attorney General, or the Deputy Attorney General? If so, please describe each such discussion.

c. Did you ever discuss Mr. Marino with anyone outside the Department of Justice? If so, please describe each such discussion.

d. Were you aware at any time before December 7, 2006, that Mr. Marino's office was evaluating possible perjury charges against Dover, PA school board members for lying at their depositions in the Dover Intelligent Design litigation?

e. Did concerns about Mr. Marino's actions in the aftermath of the Intelligent Design case have any bearing on your recommendation that he be considered for replacement?

f. Mr. Marino was removed from the termination list some time between November 7 and November 15, 2006. Do you have any information or belief as to why he was removed? If so, please provide all such information, or explain the basis for such belief.

Thomas Heffelfinger

16. You testified at the hearing that you had heard concerns about the amount of time that Thomas Heffelfinger spent serving as Native American subcommittee chair of the Attorney General's Advisory Committee.

    a. From whom did you hear these concerns?
    b. Other than concerns about the amount of time he spent on his subcommittee duties, did you ever hear any other concerns about Mr. Heffelfinger, including concerns about the quality or substance of his AGAC work, concerns about his policies or priorities, or any other types of concerns? If so, please describe those concerns.
    c. Did you ever discuss Mr. Heffelfinger with anyone outside the Department of Justice? If so, please describe each such discussion.
    d. Do you have any information or belief regarding whether Mr. Heffelfinger's resignation was entirely voluntary? If so, please provide such information or explain the basis for such belief.

Carol Lam

17. You were asked at the hearing if the fact that Ms. Lam had tried two of her own cases in front of juries was a factor in her firing and you responded "It was something I heard discussed." Who did you hear discuss this aspect of Ms. Lam's performance, and please describe in full when this occurred and what you heard.

David Iglesias

18. Documents show that you were involved in two calls between the Attorney General and Senator Domenici's office. One call was on January 31, 2006 (OAG66) and the other was on April 6, 2006 call (OAG185).

    a. Please describe the two calls referenced in the documents cited above, including the duration, location, participants, subject matter and contents, and your role.
    b. Did these calls concern the need for more resources in New Mexico?
    c. Were you involved in any other calls or meetings between Senator Domenici (or anyone in his office) and the Attorney General (or anyone in the Department) regarding Mr. Iglesias or the U.S. Attorney's office in New Mexico? If so, please describe each such call or meeting, including the duration, location, participants, subject matter and contents, and your role.
    d. Did the Attorney General ever give you any indication, during or following any of these calls, that Senator Domenici had lost confidence in Mr. Iglesias? If so, please describe.
    e. Did the Attorney General ever give you any indication, following any of these

calls, that he personally had lost confidence in Mr. Iglesias? If so, please describe.

19. Documents produced to the Committee show you exchanged e-mails with Scott Jennings on June 20, 2006, about a meeting that Mr. Jennings wanted you to arrange with Mickey Barnett. (OAG112) The e-mail says the meeting was about "the ineffectiveness of the United States Attorney" and was considered to be "sensitive." In addition, Matthew Friedrich, then at the Criminal Division, has told Committee staff that you took Mr. Barnett and Pat Rodgers to meet with him that same day.

    a. Please describe any meeting or phone call you participated in with Mr. Barnett or Mr. Rodgers concerning Mr. Iglesias, including its location, duration, participants, and subject matter and contents of the discussions, and whether you took any notes, drafted a summary memo or email, or made any record of the discussion during each such meeting, and if so, please provide them or, if you cannot obtain access to them, please describe them to the best of your recollection.
    b. Did anyone at any such meeting request or suggest that David Iglesias be removed or that he be considered for replacement? If so, please describe each conversation, who made the request or suggestion, any concerns expressed about Mr. Iglesias, and who expressed those concerns.
    c. Why did you arrange the meeting on June 20, 2006, with Mr. Friedrich?
    d. Did you learn of the contents of the discussion with Mr. Friedrich? If so, please describe.
    e. Had you ever arranged for or been present at any other meeting between an individual involved with a State political party and a Department official? If any such meeting at which there was a discussion of concerns or issues related to any of the fired US Attorneys? If so, please describe each meeting, including duration, location, participants, and the subject matter and contents of the discussion.

20. Did you ever learn during your time at the Department that Mr. Rodgers, Mr. Barnett, or any other New Mexico Republican had contacted Karl Rove regarding David Iglesias?

    a. If so, please state when and from whom you learned about each such contact, and please describe each conversation that you were involved in regarding any such contact.
    b. Please describe anything you heard or learned during your time at the Department about Karl Rove's or any other White House official's views concerning Mr. Iglesias.

21. A justification given in a chart you prepared on the firings, and that was testified to by Mr. Moschella, was that Mr. Iglesias is "perceived to be an 'absentee landlord' who relies on the FAUSA (First Assistant US Attorney) to run the office." (OAG1169)

a. When and from whom did you first hear the idea that Mr. Iglesias might have been an "absentee landlord"? Please describe how you came to believe that this might be a reason that could be used to support the firing of Mr. Iglesias.
b. You testified that Mr. Sampson may have heard this statement from William Mercer. Please explain, including when and under what circumstances you heard from Mr. Sampson that Mr. Mercer had raised this concern, and when you believe Mr. Mercer raised it with Mr. Sampson.

22. You testified at the hearing that "[t]he other reasons that I heard discussed was that it was a very important border district, that people just didn't think that he was doing as good of a job as we might have wanted to expect" and that "I know at one point I heard someone say that he had been kind -- and this is a quote -- 'kind of a dud on the AGAC' -- that's the Attorney General's Advisory Committee."

a. Who did you hear say that Mr. Iglesias had been "kind of a dud" on the AGAC, and when did you hear that?
b. Do you have any information or belief as to why that person thought Mr. Iglesias had been "kind of a dud" on the committee? If so, please explain.
c. Did anyone other than that person ever express any concern to you about Mr. Iglesias' performance on the AGAC?
d. When did you hear it discussed that "it was a very important border district" and that people "just didn't think [Mr. Iglesias] was doing as good of a job as we might have wanted to expect." Who participated in this discussion?
e. In what areas was Mr. Iglesias allegedly not doing "as good of a job as we might have wanted to expect"?

23. You testified at the hearing that, when the Deputy Attorney General said that the reference to Senator Domenici's concerns should be taken off the chart prepared for his Senate briefing, "the conversation was that maybe somebody should place a call to [the Senator's] chief of staff and see if he wanted to address the concerns with his colleagues before the briefing took place." Who made that suggestion? If you are aware or believe that such a call did occur, please describe what you know or heard about its participants, duration, and content.

<u>Bud Cummins</u>

24. You testified at the hearing that "in 2005, I had a social call at some point with Tim Griffin, who indicated to me -- and he was working at the White House at the time -- that he may have the opportunity to go back to Arkansas because some U.S. attorneys may be replaced and if Mr. Cummins was one of them he might get a chance to go home."

a. When in 2005 did this conversation occur, to the best of your recollection? Was it before or after you discussed the US Attorney replacement plan with Mary Beth

Buchanan and Mike Battle?

b. Where did the conversation occur, and was anyone else present?
c. Please describe the contents of this conversation as fully as you are able to recall.
d. Please state what you know or believe about how and from whom Mr. Griffin had learned of the idea to replace US Attorneys.
e. Did you have any other discussion with Mr. Griffin regarding the US. Attorney position in the Eastern District of Arkansas? If so, please describe, to the best of your recollection, each such discussion and when it occurred.
f. Did you ever have any other discussion with Mr. Griffin about the plan to replace US Attorneys, other than discussions that were limited to the specific situation in the Eastern District of Arkansas? If so, please describe each such discussion to the best of your recollection, and state when it occurred..

25. In June 2006, when Mr. Cummins was called and told to resign, did you understand that he had any performance problems or that the decision to request his resignation was based in any way on his job performance?

a. Who was involved in the decision to request Mr. Cummins resign?
b. Did anyone within the Department object to or question the decision to request that Mr. Cummins resign? If so, who, and what did they say? Did anyone within the Department object to or question the decision to replace Mr. Cummins with Mr. Griffin? If so, who, and what did they say?

26. Documents produced by the Department of Justice reflect that you received drafts of the February 23, 2007, letter to the Senate by Mr. Hertling stating that "the Department is not aware of Karl Rove playing any role in the Attorney General's decision to appoint Griffin" (OAG 298-305).

a. Please describe your role in the drafting or editing of this letter.
b. Please state who else you know or believe to have played a role in drafting or editing this letter, and the role each played.
c. Did you believe that the statement regarding Mr. Rove's lack of any involvement was accurate? If not, did you suggest that sentence be removed or revised? If you did not so suggest, why not?

27. After Mr. Griffin was installed as interim U.S. Attorney, Department documents reflect that you received an email from Kyle Sampson to the White House suggesting that, to deal with concerns of the Arkansas Senators, "we should gum this to death" and rely on the new interim appointment authority granted through the USA PATRIOT Act reauthorization to circumvent the confirmation process. (OAG127-9)

a. What was your reaction to Mr. Sampson's suggestion?
b. Were you open to the idea of an Attorney General appointment for Mr. Griffin

that would allow him to serve indefinitely as US Attorney in the Eastern District of Arkansas without Senate confirmation, as Kyle Sampson has testified you were?

c. Do you have any information on the views of the following White House personnel regarding this suggestion: Harriet Miers, Bill Kelley, Chris Oprison, Sara Taylor, and Scott Jennings? If so, please provide all such information.

d. Did you discuss this idea with anyone in the Justice Department or the White House and, if so, what was their reaction?

e. When the Attorney General stated in January 2007 that the administration did not intend to circumvent the confirmation process, did the Attorney General know about the plan that you and Mr. Sampson had discussed to install Mr. Griffin? Please describe any discussions you had on this subject with the Attorney General. To your knowledge, did the Attorney General ever explicitly state that he would not allow Mr. Griffin to serve indefinitely without Senate confirmation? If so, when, and to whom?

Patrick Fitzgerald

28. Kyle Sampson testified in the United States Senate that he once raised the idea of replacing Patrick Fitzgerald to Harriet Miers and Bill Kelley.

a. Did you ever hear Mr. Sampson raise the idea of replacing Patrick Fitzgerald? If so, please describe the circumstances, participants, contents, and approximate date of that conversation.

b. Did you ever hear anyone else raise the idea of replacing Patrick Fitzgerald as a US Attorney for any reason? If so, please describe the circumstances, participants, contents, and approximate date of that conversation.

CONCERNS ABOUT MCNULTY TESTIMONY

29. Your written statement indicates that you briefed Deputy Attorney General McNulty "nearly every week for a year" on individual US Attorney appointment issues. You further write that you do not remember specifically raising Mr. Sampson's work on the US Attorney replacement plan until late 2006.

a. Please describe the general format and contents of the briefings to which you are referring. Did any of those briefings involve any of the nine US Attorneys who were forced to resign in 2006? If so, please describe what you can recall of the briefings on those nine.

b. When in 2006 did you first discuss the issue of the US Attorney replacement plan with the Deputy Attorney General? Please describe that discussion.

c. Was he already aware of the replacement plan at the time you discussed it with him, or was it new information to him? If the idea was new to him, what was his

reaction to the plan? If he already had heard of the plan, what did he say about it?

d. Did you discuss individual candidates for removal at that time? If so, which ones did you discuss and what was said about them?

e. How many conversations about the US Attorney replacement plan did you have with the Deputy Attorney General between this first one you describe in your testimony and December 7, 2006? Please describe those conversations, including but not limited to all discussions of individual candidates for removal.

30. You stated that, after hearing Deputy Attorney General McNulty's Senate testimony, you were concerned about aspects of that testimony and you told Kyle Sampson and possibly others that parts of the testimony were inaccurate.

a. Your written remarks state that the Deputy's Senate testimony on White House involvement was "not a complete statement of what the Deputy knew about White House involvement," and you reference several emails that would have alerted the Deputy to the substantial White House role. Please describe any basis other than those emails for your statement that the Deputy's testimony on this issue was not complete.

b. Did you have conversations with the Deputy or his staff prior to the Deputy's testimony that included any discussion of the White House role in this process? If so, please describe each such discussion.

c. Are you aware of anyone else having conversations with the Deputy or his staff prior to the Deputy's testimony that included any discussion of the White House role in this process? If so, please describe what you know about each such discussion.

d. Your written remarks state that "As the plan was approved and implemented, the Deputy was involved and kept updated." Please describe what you are referring to in this quoted statement.

31. **(This question is posed by Chairman Conyers and Representative Lofgren)**
You state in your written remarks that you informed Deputy Attorney General McNulty that the issue of Mr. Griffin allegedly "caging" black voters could arise at the February 6 Senate hearing and that you provided information to Deputy Attorney General McNulty on "caging" that you had received from Mr. Griffin before that hearing.

a. What was the basis for your belief that the "caging" issue could arise at the hearing?

b. Please describe what you told the Deputy about the issue, and also describe any conversations you had with Kyle Sampson, Mike Elston, Will Moschella, or anyone else at the Department about the issue.

c. What information did you receive from Mr. Griffin and provide to the Deputy? Do you still possess any such information, or documents reflecting that information? If so, please provide that information or those documents to the

Committee.

d. Other than the preparation for the Deputy Attorney General's appearance before the Senate Judiciary Committee, did you have any discussions with Mr. Griffin in which the issue of "caging" arose? Please describe those discussions.

e. Do you have any other information about any conduct of Mr. Griffin that might be considered "caging"? If so, please describe, including but not limited to naming the States in which those activities may have occurred or had an impact.

32. You state in your written remarks that, prior to his February 14, 2007, briefing at the United States Senate, "The Deputy suggested that if someone recognized me as the White House Liaison, the Members would be more likely to ask questions about the White House."

a. What do you understand or believe was the reason for the Deputy's concern about questions being asked about the White House?

b. Was there any discussion during the Deputy's preparation about avoiding or minimizing questions about the White House? If so, please describe fully, including who raised this issue and who participated in the discussions.

c. Did you share the Deputy's concern or have any other concern about questions being asked about the White House? If so, please explain.

33. Documents produced to the Committee show that you were substantially involved in helping Will Moschella prepare for the briefings and testimony he gave to the Commercial and Administrative Law Subcommittee of this Committee in early March 2007.

a. Knowing that the Deputy had previously given inaccurate testimony, and knowing that Mr. Moschella was preparing to give testimony on this subject and had heard the Deputy's prior inaccurate testimony, did you share your concerns about the Deputy's prior testimony with Mr. Moschella? If so, when, and how did he respond? If not, why not?

b. Please describe any actions you undertook to help Mr. Moschella in his preparation, including any actions to help him avoid repeating the inaccurate testimony by Mr. Mcnulty.

CLARIFICATION OF YOUR WRITTEN REMARKS

34. On page 5 of your written remarks, you state "I am not aware, however, of anyone within the Department ever suggesting the replacement of these attorneys in order to interfere with a particular case, or in retaliation for prosecuting or refusing to prosecute a particular case, for political advantage."

a. Are you aware of *anyone* ever suggesting removing *any* US attorney for these

improper reasons? If so, please identify each such person and describe the circumstances and relevant facts completely.

b. Are you aware of anyone ever suggesting removing any US attorney in order to interfere with a particular case for any reason, whether or not you believe that reason may have had something to do with "political advantage"? If so, please identify each such person and describe the circumstances and relevant facts completely.

c. Are you aware of anyone ever suggesting removing any US attorney based on concerns about prosecution or non-prosecution of vote fraud cases (as a group or any particular vote fraud case, and regardless of whether or not you believe they may have intended to do so for "political advantage")? If so, please identify each such person and describe the circumstances and relevant facts completely.

d. Are you aware of anyone ever suggesting removing any US attorney based on concerns about prosecution or non-prosecution of political corruption cases (as a group or any particular political corruption case, and regardless of whether or not you believe they may have intended to do so for "political advantage")? If so, please identify each such person and describe the circumstances and relevant facts completely.

35. Your written statement says that "I do remember attending meetings and other events at which Karl Rove was present and spoke – including a March 5th meeting regarding the US Attorney replacement plan."

a. Did any of these meetings other than the March 5 meeting involve discussion of US Attorneys, including but not limited to any mention of any US Attorney who appeared on any of Mr. Sampson's lists that you have seen? If so, please describe the circumstances, participants, and contents of each such meeting.

b. Did any of these meetings address issues of vote fraud or enforcement of ballot integrity laws? If so, please describe the circumstances, participants, and contents of each such meeting.

ATTORNEY GENERAL CONVERSATIONS

36. Other than during the November 27, 2006 approval meeting and the meeting just before you went on leave, described during your testimony, in which the Attorney General went over his recollection of the relevant facts with you, did you have any conversations, however brief, with the Attorney General about the plan to remove US Attorneys? Please describe each such conversation, including the location, participants, duration, and contents of each such conversation.

37. During your testimony, you described a conversation you had with the Attorney General on the Thursday or Friday before you took leave.

a. Several times in your testimony on this subject, you indicated that you could not recall all the details of the conversation and at one point you stated that "I think there was more to the discussion." Please search your memory and provide any further information that you can regarding the contents of this discussion, including the subjects addressed even if you cannot remember all the details of the discussion.
b. You testified that, after you raised the issue of transferring from his office, the Attorney General tried to chat and then said something along the lines of "let me tell you what I can remember". Did he say anything further or give you any further indication why he was telling you the things he was able to remember? What did you think at the time was or might be his reason for telling you the things he could remember?
c. Were any US Attorneys in addition to Bud Cummins mentioned during this conversation? If so, which ones? Please describe what was said about them.
d. Was there any discussion of the White House role in replacement of US Attorneys or of any person who works or worked for the White House? If so, please describe.
e. You testified that, after he recited his recollection of the events, the Attorney General asked "if I had any reaction to it." What was your response to the facts as he recited them?

POST-TERMINATION ACTIVITIES

38. Documents produced by the Department show that, in February 2007, you got an email from Chris Oprison at the White House Counsel's office asking for information that could be given to Peter Wehner and Mark McKinnon, and that you supplied some fact sheets and talking points that could be given to them. (OAG 1613-16)

    a. Did the Administration use Mr. McKinnon's consulting firm or any other outside consultants in responding to the US Attorney controversy? If so, please name each of them you are aware of.
    b. Did you have any other dealings with Mr. McKinnon or Mr. Wehner regarding the US Attorney controversy? If so, please describe.

39. On February 28, 2007, Senator Domenici's Chief of Staff called Scott Jennings at the White House and reported that Mr. Iglesias was going to publicly acknowledge the calls he had received from the Senator and a New Mexico Congressperson. In an email chain discussing this, Brian Roehrkasse asked "My question is why would members of Congress and a US Attorney be discussing the timing of a criminal indictment?" Mr. Roerhrkasse asked you to call him and you told him to come up to you to discuss this. (OAG 1621).

    a. Please describe the discussion you had with Mr. Roerhkasse, including the

contents, the participants, and the duration of the discussion.

b. Did you discuss with Mr. Roerhkasse whether Senator Domenici's concerns about Mr. Iglesias had played a role in the Attorney General's decision to fire him? If so, please describe the discussion.

c. Did you discuss with Mr. Roerhkasse the Deputy's prior decision that the Domenici calls should not be included in his briefing materials? If so, please describe the discussion.

d. Did you discuss whether the prior testimony and briefings by Paul McNulty to the US Senate which did not mention Senator Domenici had been accurate? If so, please describe the discussion.

e. Did you discuss what Will Moschella should or would say on this issue during his upcoming House briefings and testimony. If so, please describe the discussion.

40. On February 26, 2007, you received an email from Chris Oprison at the White House stating "I need to chat about the 'performance evaluations' for the departing US Attorneys. Time sensitive issue for Tony." (OAG 1617)

a. Who is the "Tony" referenced in this email?

b. Did you have this "chat" with Mr. Oprison? If so, please describe the discussion.

c. What did you understand Mr. Oprison to mean in putting 'performance evaluations' in quotation marks?

41. You received an email from Chris Oprison on February 16, 2007, forwarding a New York Times article and stating "please call me when you have a minute re: the article below and the statement attributed to the DAG." About 40 minutes after receiving this email, you forwarded the same article to Kyle Sampson with a note "Got a phone call this am – call me when you're able." (OAG 1279-32)

a. Did you call Chris Oprison as he had requested, or did you otherwise talk to him about the article? If so, when?

b. Please describe the conversation, including what was said and whether Mr. Oprison asked you to do anything, and anything you did afterwards, including any follow up discussions with Mr. Oprison or others.

c. What statement attributed to the DAG did Mr. Oprison wish to discuss? Please describe.

d. Did you discuss the following statement from the article: "At the briefing, Justice Department officials denied that the White House had been involved in any of the other dismissals, suggesting that the department had acted on its own after advising the White House of its intention to remove incumbents."? If so, please describe the discussion.

e. Please describe the call you referenced in your email to Mr. Sampson.

f. Did you discuss with Kyle Sampson that morning, or at any time, the subject of this email from Mr. Oprison? If so, please describe the discussion and state

whether you did anything after that discussion or had any follow up discussions with anyone else, and if so, with whom.

42. On February 12, 2007, you circulated fact sheets to Kyle Sampson, Michael Elston, Will Moschella, and others in preparation for Mr. McNulty's briefing. The cover e-mail you sent said "Please delete prior versions." (OAG1366)

    a. Were you aware of a document preservation order concerning this matter when you made that request?
    b. Did anyone at any time ever transmit to you or discuss with you your obligations to preserve documents relating to the US Attorney controversy?
    c. Are you aware of any documents relevant to the US Attorney controversy that have been deleted or destroyed by any person? If so, please state what you know.

DISCOVERY THAT DEPARTMENT STATEMENTS WERE INACCURATE

43. Committee investigators have been told by some DOJ witnesses that it was first learned by them on March 8, 2007, that some of the information provided to Congress was inaccurate. In particular, these witnesses stated that on March 8, Kyle Sampson showed or read them documents indicating that the White House was involved in the firing process much earlier than Fall 2006, and that the process had been going on much longer than two months. There have also been statements to investigators that, on the evening of March 8, you were very upset and broke down in David Margolis' office.

    a. Did you learn anything about the US Attorney replacement plan on or around March 8, 2007, that you had not previously known? If so, what did you learn and from whom?
    b. Did you have any conversations about the US Attorney replacement plan or the unfolding controversy with Kyle Sampson on March 8, 2007? If so, please describe them.
    c. Please describe what happened in Mr. Margolis' office on March 8, 2007.
    d. Did you talk to anyone else about the US Attorney controversy on that day? Please describe each such conversation.

DELEGATION ORDER

44. On March 1, 2006, the Attorney General issued Order No. 2808-2006 entitled "Delegation of Certain Personnel Authorities To The Chief of Staff To The Attorney General And The White House Liaison of the Department of Justice." You testified that at the time the order was issued, you were not the White House liaison.

    a. The Committee understands that this order was not signed personally by the Attorney General, but by autopen. Do you have any information or belief as to

whether the Attorney General was personally aware of this order at the time it was signed by autopen? Did you discuss the order with him prior to its being issued?

b. You testified that Kyle Sampson was supposed to inform the Deputy Attorney General of the delegation order. Do you have any information or belief that Sampson ever discussed the order with the Deputy or anyone in the Deputy's office – and, if so, when, and what were the contents of their discussion?

c. Who was the White House liaison at the time the order was issued?

d. Do you believe it was known to anyone in the Department at the time the order was issued that you would be assuming the role of White House liaison, even if you had not yet done so? If so, who do you believe knew that?

e. Please describe your role in the development or issuance of the order.

f. On January 19, 2006, you emailed Paul Corts and asked him to prepare the delegation order and "to send it directly up to me, outside of system." (JMD 002) Please explain what "system" the order was to be delivered outside of, why you directed Mr. Corts to deliver the order outside that system, and who approved the delivery of the order outside the system.

g. On February 16, 2006, Mike Allen emailed you and asked for "a few minutes to explain one piece of it." (JMD 009) Did you have a conversation with Mr. Allen about the delegation order? If so, please describe the content of that conversation.

h. On February 22, 2006, Mari Santangelo told Mike Allen that you had said to pass on to him that the order should be informal and unnumbered and that the cover memo "needs to go through OLC, not DAG or OASG." (JMD 12) Was the final order informal and unnumbered ? If not, please describe how and why that was changed. Why did the cover memo need "to go thru OLC, not DAG or OASG"?

45. In exercising your authority to supervise, remove, and manage the compensation of non-political employees under the order, did you ever consider political factors or otherwise "cross the line" as you have acknowledged doing in other circumstances in your testimony? If so, please describe all the circumstances in which you did so.

HONORS AND SUMMER LAW INTERN PROGRAMS

46. In your written testimony, you stated that you had a few conversations with Michael Elston in which you passed on the views of others about the Honors Program.

a. Who were the "others" whose views you passed on to Mr. Elston and what were their views?

b. Did any of the views you passed on to Mr. Elston address the extent to which it was necessary or appropriate to consider the political loyalty or political views of Honors Program candidates in the hiring process?

c. What does it mean for an Honors Program candidate to be "supportive of the Attorney General's philosophy," as you state in your written remarks? Please describe fully.

d. Did you ever share your own views of the Honors Program or its candidates with Mr. Elston or anyone else in the Department? If so, please describe each such conversation, and with whom you had it, to the best of your recollection.
e. Did you ever provide recommendations for Honors Program candidates or other input into the hiring process, even if you were not "review[ing] candidates"? If so, what input did you provide?

47. Did you have any role in selecting, reviewing, or providing any input regarding, candidates for the Department's Summer Law Intern Program?

a. If so, what factors did you consider in evaluating candidates for the program?
b. Did you ever consider political factors or political loyalty in assessing, reviewing, or providing input regarding candidates for the program?
c. Are you aware of anyone in the Department considering political factors or political loyalty in assessing or reviewing candidates for the program? If so, who and in what circumstances? Were such factors routinely considered, often considered, occasionally considered, or rarely considered?
d. Have the criteria for accepting candidates into the program been changed or reviewed during the two terms of the Bush Administration, to your knowledge. IF so, please describe the changes?
e. Who were the individuals responsible for assessing and reviewing candidates for the program during your tenure at the Executive Office of US Attorneys or at the Attorney General's office?

HIRING PRACTICES

48. In the process of interviewing or evaluating candidates for any position as an immigration judge, a Board of Immigration Appeals member, a detailee in a leadership division, an Assistant US Attorney, or any other non-political position at the Department of Justice, did you or any of your staff or assistants ever use a written questionnaire or application form that contained questions about politics or voting?

a. Please describe the contents of each such questionnaire or form.
b. What questions concerning politics or voting were on each such questionnaire or form and, in particular, which if any questionnaires or forms asked candidates who they had voted for in the past?
c. Did you or any of your staff or assistants ever tell the candidate that the questionnaire or form had been accidentally given to them when in fact it had been provided on purpose? Please explain in detail.

49. Your written remarks state that, in reviewing resumes and soliciting applications for immigration judge and Board of Immigration Appeals positions you "sometimes took political considerations into account." You testified that Kyle Sampson told you that

there was an opinion or guidance that the Department could take political considerations into account in hiring for these positions, but that the Civil Division later contradicted that opinion or guidance. In addition, you explained that the Department of Justice placed a freeze on immigration judge hiring for a period of time.

a. Who, in addition to Mr. Sampson, knew or approved of taking political considerations into account in these recruiting and employment decisions?
b. Please describe the nature and substance, and approximate timing, of any guidance or opinion, whether made verbally, in writing, or otherwise, issued by the Department of Justice or any of its employees, officials, or components at any time to the effect that immigration judge or BIA hiring decisions were or were not subject to civil service rules or that the Department of Justice could or could not take political considerations into account when making such hiring decisions.
c. To your knowledge, have any other current or former Department employees taken political considerations into account in immigration judge or BIA hiring decisions? Please describe in full.
d. Please describe the details of the freeze on immigration judge hiring you referred to in your testimony, including but not limited to who recommended or participated in the decision to freeze, and when, if ever, it was lifted and for what reason.
e. Of the individuals who applied for immigration judge or BIA member positions during your tenure at the Department of Justice, how many, to the best of your knowledge or belief, were rejected as candidates or not hired based on political affiliation, party loyalty, party donations or other similar considerations? Please describe in as much detail as you can each case in which political considerations were a factor in any decision to reject or not hire a candidate for an immigration judge or BIA member position.
f. Did you personally interview any immigration judge or BIA member candidates during your tenure at the Department? If so, please describe each such interview and the outcome.
g. Are you aware of the Department of Justice ever hiring an individual for an immigration judge or Board of Immigration Appeals position that the Department of Justice did not post or advertise? If so, please describe each such case in detail.
h. In response to a question from Representative Nadler, you stated that "Later, concerns were raised as a result of some litigation and the Civil Division came to a different conclusion. As a result of that, we actually froze hiring late in December of last year." Please describe the litigation to which you referred, the "conclusion" reached by the Civil Division, and any discussions of this issue that you participated in or learned of.

50. Your written statement says that you believed that leadership division detailees with policy-making authority could have been hired as political positions.

    a. Did anyone tell you that these positions could have been political hires? If so, who told you, what did they say, and when?
    b. Did anyone tell you or suggest to you in any way that political factors could be considered in evaluating detailees for these positions? If so, who told you, what did they say, and when?
    c. Roughly how many detailees did you interview during your tenure at the Justice Department?
    d. When you interviewed detailees, did you do so alone or were other Department officials present? Please describe the interview process and include a complete list, by name or position, of who would have been present during interviews you conducted for each of the leadership division detailee positionss identified in your written testimony.

51. Your statement says that you generally conducted internet research on detailees and that you "may have asked the wrong questions at times." What were the "wrong questions" that you may have asked at times, and please identify all persons who you believe would have known about your asking these questions or conducting inappropriate political research, and describe what, if any, statements each made to you or others about those actions.

52. Please identify all persons you believe knew that you sometimes considered inappropriate factors in evaluating Assistant US Attorney hiring waiver requests and describe what, if any, statements each made to you or others about your actions in this regard.

53. In each of the following quotations from your testimony, you describing actions that people you describe as "we" took or might have taken in making hiring decisions. For each quotation, please identify each person who took or might have taken such actions:

    a. "And I do know that we did research them. And in some cases, we learned political information in the research process." (Responding to a question posed by Representative Lofgren)
    b. "I don't think we asked [who a candidate voted for] of career appointees. But I can't be sure. Sometimes people would come in and would actually apply for both positions at the same time." (Responding to a question posed by Representative Lofgren)
    c. "In some cases, when the -- relating to immigration judges, when I started my position as White House liaison, I was informed that the Office of Legal Counsel had said that because those were positions under a direct appointment authority of the attorney general, that we could consider other factors in those cases." (Responding to a question posed by Representative Nadler)

d. "In other cases like immigration judges and Board of Immigration appeals, I thought that we could consider other factors because I had been told that, in relation to immigration judges -- and I think my assumption was that that applied to the BIA as well." (Responding to a question posed by Representative Goodlatte)

e. "But, yes, we did in some cases check those [political contribution] records." (Responding to a question from Representative Sherman)

TESTIMONY OF PAUL MCNULTY BEFORE THE HOUSE JUDICIARY COMMITTEE SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW

54. On June 21, 2007, Deputy Attorney General Paul McNulty testified before the House Judiciary Committee Subcommittee on Commercial and Administrative Law, and substantial portions of his testimony responded to your testimony that, in four specific areas, you did not agree with the substance of Mr. McNulty's prior testimony before the Senate Judiciary Committee. Do you have any response to the testimony offered on June 21 by Mr. McNulty?

QUESTION POSED BY THE HONORABLE BOBBY SCOTT (VA-3)

1. In a written document obtained by this Committee, you stated that U.S. Attorney Anna Mills Wagoner "bends over backwards for AG visits." According to your hearing testimony, you made this statement in the context of a recommendation that Ms. Wagoner be removed from the list of U.S. Attorneys to be dismissed. Are you aware of the circumstances that caused Ms. Wagoner to be placed on the list of U.S. Attorneys to be dismissed? Are you aware of who recommended her dismissal? Outside of the e-mail communications obtained by this Committee, were you a part of any conversations about the removal of Ms. Wagoner from the list? If so, what was the content of that conversation?

LETTER TO THE HONORABLE JOHN CONYERS, JR., DATED JUNE 28, 2007, FROM JOHN M. DOWD, ATTORNEY FOR MONICA GOODLING REGARDING ANSWERS TO QUESTIONS SUBMITTED FOR THE RECORD

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June 28, 2007

VIA COURIER AND FACSIMILE

Hon. John Conyers, Jr.
Chairman
Committee on the Judiciary
United States House of Representatives
2426 Rayburn Building
Washington, DC 20515

Re: Responses to Additional Written Questions

Dear Chairman Conyers:

We have received your June 22, 2007 letter enclosing additional written questions from members of the Judiciary Committee to our client, Ms. Monica M. Goodling, regarding the firings of certain U.S. Attorneys and related matters.

Ms. Goodling wishes to cooperate with the Committee's inquiry, but we are concerned because the official commentary to House of Representatives Rule XI states that "the authority conferred in [this rule] to require information 'by subpoena or otherwise' has not been interpreted to authorize depositions and interrogatories. That authority must be conferred by separate action of the House." H.R. Rule XI, cl. 2(m)(1)(B) cmt; see also H.R. Rule XI, cl. 2(h)(3) cmt. ("Authority for a committee to conduct depositions or interrogatories before one member or staff of the committee must be specifically conferred by the House"). This commentary suggests that the Committee lacks the authority to propound – and compel responses to – written interrogatories in the absence of a resolution by the full House of Representatives. It follows that Ms. Goodling's answers to the interrogatories attached to your June 22, 2007 letter would not be given under compulsion, and therefore would not be immunized under the District Court's May 11, 2007 order of immunity, which only immunizes information that she is compelled by the Committee to provide.

We cannot advise Ms. Goodling to jeopardize the immunity afforded her by the District Court by providing voluntary answers to the Committee's non-compulsory written questions. We hope you understand that Ms. Goodling is proceeding in good faith upon our legal advice, and that we will do everything we can, consistent with our responsibilities to our client, to

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United States House of Representatives
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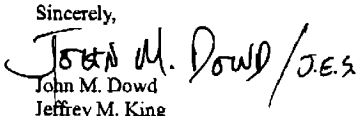
resolve this issue in a manner that advances the Committee's inquiry while preserving and protecting Ms. Goodling's constitutional rights.

Consistent with the official commentary, the House of Representatives in the past has, in connection with specific investigations, passed formal resolutions authorizing its committees and subcommittees to gather evidence by the use of depositions and interrogatories. See, e.g., H.R. Res. 167, 15th Cong., 143 Cong. Rec. H4091-03 (June 20, 1997) (authorizing Committee on Government Reform to order depositions and propound interrogatories). Ms. Goodling would of course answer written interrogatories if compelled to do so pursuant to a resolution empowering the Judiciary Committee to propound such interrogatories, or pursuant to any other proper legal compulsion available to the Committee. Without such compulsion, however, we cannot advise her to provide what would amount to voluntary and non-immunized responses.

We are confident that the Committee will continue to respect Ms. Goodling's assertion of her constitutional rights and our advice to her to proceed only under properly immunized compulsion by the Committee. We remain appreciative of the respectful and courteous treatment that Ms. Goodling received from the Committee when she testified before it on May 23, and we are willing to work with the Committee to find a way to provide the answers to its questions in a way that does not jeopardize Ms. Goodling's immunity. Accordingly, please contact us with any questions or to discuss this matter further. Thank you.

Sincerely,



John M. Dowd
Jeffrey M. King
James E. Sherry

cc: Monica M. Gooding
Hon. Lamar Smith, Ranking Member
Elliot Mincberg
Daniel Flores