

**Moschella, William**

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**From:** Moschella, William  
**Sent:** Monday, March 05, 2007 10:02 AM  
**To:** Roehrkaase, Brian; Scolinos, Tasia; Sampson, Kyle; Goodling, Monica; Hertling, Richard; Elston, Michael (ODAG)  
**Subject:** Opening statement  
**Attachments:** Hearing1.doc



Hearing1.doc (34 KB)

<b>Tracking:</b>	<b>Recipient</b>	<b>Read</b>
	Roehrkaase, Brian	Read: 3/5/2007 10:33 AM
	Scolinos, Tasia	
	Sampson, Kyle	Read: 3/5/2007 10:22 AM
	Goodling, Monica	
	Hertling, Richard	Read: 3/5/2007 10:04 AM
	Elston, Michael (ODAG)	Read: 3/5/2007 10:43 AM

William E. Moschella  
Opening Statement

Madam Chairman, Mr. Cannon, and Members of the Subcommittee, I appreciate the opportunity to testify today on H.R. 580, and although this hearing is styled as a legislative hearing, I am sure that most questions will focus on the circumstances surrounding the Department's request that eight U.S. Attorneys resign. It is to these issues I will address my opening comments.

At the outset, I want to say that the Attorney General appreciates the service of all eight US Attorneys who were asked to resign. They are all professionals, and we have no doubt they will achieve success in their future endeavors.

Given the comments in the papers, these political appointees, who served at the pleasure of the President, disagree with the Attorney General's and Deputy Attorney General's explanation that they were selected because of performance reasons. Both the AG and DAG used the word performance broadly, and depending on the circumstances, performance could encompass issues relating to policy, priorities, management, and leadership.

Given the reaction, I agree with the Washington Post's editorial over the weekend that this situation was handled poorly. The US Attorneys who were asked to resign were not told the reasons simply to avoid protracted debate about the decision and not to prejudice negatively their future employment prospects. A decision was made to let them down easy; in fact, it seems, just the opposite happened. Human nature being what it is; many of them wanted to be told the reasons and in retrospect we should have. The Department's failure to tell them led to wild speculation about our motives and that is unfortunate because faith and confidence in our justice system is more important than any one individual.

That said, the Department stands by its decision. It is clear to us that after our closed door briefings with House and Senate members and staff, some agree with our decisions and some disagree – such is the nature of subjective judgments. Just because you might disagree with a decision, does not mean it was made for improper political reasons – there were reasons for each decision.

It is important to recognize, that one of the most important responsibilities the Attorney General has is to effectively manage the Department of Justice and that requires being willing to make tough decisions. Furthermore, it is the Attorney General's responsibility to ensure that the priorities that he sets and those of the President are carried out. The Attorney General has announced specific priorities and has every expectation that they will be followed. U.S. Attorneys and other political appointees in the Department, like all other departments under all other Presidents, understand that they are charged with carrying out those policies and that they serve at the pleasure of the President.

Let me say a word about the EARS evaluations. Several have made the point that these evaluations indicate good ratings for the US Attorneys. That is not so. The EARS evaluations

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are evaluations of the office. The US Attorneys supervisors are the AG and Deputy AG. They are not asked about the U.S. Attorneys as part of these evaluations.

Finally, we are all privileged to have the opportunity to serve the nation at the Department of Justice, and yes, job security is not the same as if I were a member of the career civil service. No one is entitled to stay in these positions forever. Each US Attorney who was asked to move on served more than their entire four year term

One troubling allegation that has been made is that certain of the U.S. Attorneys were asked to move because actions they took or didn't take relating to public corruptions cases. These charges would be funny if they weren't so serious. Such charges are dangerous, baseless, and irresponsible. This Administration has never removed a United States Attorney in an effort to retaliate against them or interfere with or inappropriately influence a public integrity investigation.

The Attorney General and the FBI director have both made public corruption a very high priority. Integrity in government and trust in our public officials and institutions is paramount. The record of this Justice Department is without question one of great accomplishment and unmatched in recent memory. We have not pulled any punches and shown favoritism. Public corruption investigations should not be rushed or delayed for improper purposes.

In public corruption cases, the professionals at the Department know it is an area that will be scrutinized and we can take the criticism. For example, we have recently been criticized for the plea agreement entered into with President Clinton's former National Security Advisor and or executing search warrants in a particular matter close to an election. No Democrats criticized us for either. Now, however, there is a chorus of partisan criticism for events that have not occurred. There has been no retaliation for the Cunningham case. We applaud it; main Justice has assisted with it; and it continues. And there has been no retaliation for not proceeding fast enough in a public corruption case in New Mexico. According to Mr. Iglesias's comments reported it the press, that matter also continues. Let me make clear what the Attorney General has stated, [insert statement].

Some, particularly in the other body, claim that our reasons for excusing these U.S. Attorneys was to make way for preselected Republican lawyers or to circumvent the Senate's advise and consent role. The facts, however, prove otherwise. Setting aside the situation in Eastern Arkansas, which we have said is different from the rest, we did not have any lawyers identified for these positions. We worked with home state Senators only after we asked the seven to move on. The facts are that since March 9, 2006, the date the new appointment authority went into effect, the Administration has nominated 16 individuals to serve as US Attorney and 12 have been confirmed. Furthermore, 18 vacancies have been created since March 9, 2006. Of those 18 vacancies, the Administration has nominated candidates to fill six of these position (3 have been confirmed), we have interviewed candidates for 8 more, and are waiting to receive names for the remaining four positions – all in consultation with home-state Senators.

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Let me repeat what we have said repeatedly and what the record reflects, in every single case it is the goal of the Bush Administration to have a U.S. Attorney that is confirmed by the Senate.

In conclusion, in hindsight, although the Department continues to believe our decision to remove these individuals was the correct one, it would have been much better to have addressed the relevant issues up front with each U.S. Attorney. Second, no decision was made for inappropriate political reasons and we have never taken [finish conclusion].

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The Department remains focused on making sure that the good work being done by the career lawyers in all of those offices across the country continues uninterrupted and that qualified candidates are nominated as soon as possible for those positions.

DAG000001070

**Moschella, William**

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**From:** Moschella, William  
**Sent:** Monday, March 05, 2007 12:51 PM  
**To:** Goodling, Monica; Sampson, Kyle; Elston, Michael (ODAG); Hertling, Richard; Scott-Finan, Nancy; Roehrkasse, Brian; Scolinos, Tasia  
**Subject:** Opening Statement Revised  
**Attachments:** Hearing1.doc



Hearing1.doc (34 KB)

<b>Tracking:</b>	<b>Recipient</b>	<b>Read</b>
	Goodling, Monica	
	Sampson, Kyle	Read: 3/5/2007 12:52 PM
	Elston, Michael (ODAG)	Read: 3/5/2007 1:22 PM
	Hertling, Richard	Read: 3/5/2007 12:57 PM
	Scott-Finan, Nancy	Read: 3/5/2007 6:05 PM
	Roehrkasse, Brian	Read: 3/5/2007 12:54 PM
	Scolinos, Tasia	Read: 3/5/2007 12:52 PM

**Moschella, William**

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**From:** McNulty, Paul J  
**Sent:** Monday, March 05, 2007 3:39 PM  
**To:** Sampson, Kyle; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** RE:

I can take 4 others in my car and there would be no need for WAVES info.

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:49 PM  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** RE:  
**Importance:** High

Okay -- two things:

1. We are set for 5pm at the White House. I need WAVES info from each of you: DOBs and SSNs.
2. Kelley says that among other things they'll want to cover (1) Administration's position on the legislation (Will's written testimony says that we oppose the bill, raising White House concerns); and (2) how we are going to respond substantively to each of the U.S. Attorney's allegations that they were dismissed for improper reasons.

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 2:30 PM  
**To:** McNulty, Paul J; Moschella, William; Hertling, Richard; Scolinos, Tasia; Battle, Michael (USAEO)  
**Cc:** Elston, Michael (ODAG); Roehrkasse, Brian; Goodling, Monica; Washington, Tracy T  
**Subject:** FW:  
**Importance:** High

All, please see the below. I propose to you all that I propose 5pm to Bill -- I assume they'll want us to go over there. Thoughts?

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**From:** Kelley, William K. [mailto:William\_K\_Kelley@who.eop.gov]  
**Sent:** Monday, March 05, 2007 1:57 PM  
**To:** Sampson, Kyle  
**Subject:**

Kyle--We've been tasked with getting a meeting together with you, Paul, Will, DOJ leg and pa, and maybe Battle -- today -- to go over the Administration's position on all aspects of the US Atty issue, including what we are going to say about the proposed legislation and why the US Attys were asked to resign. There's a hearing tomorrow at which Will is scheduled to testify, so we have to get this group together with some folks here asap. Can you look into possible times? Thanks, and sorry to impose.

**Moschella, William**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 7:27 PM  
**To:** McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Goodling, Monica; Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian  
**Subject:** FW: Moschella Oral Testimony  
**Importance:** High  
**Attachments:** Moschella Oral Statement.doc

Gang, I just sent the below draft Moschella Oral Statement to the White House. Let me know if you have any comments (though I wouldn't mind giving the pen up at this point; let me know).

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 7:25 PM  
**To:** 'Kelley, William K.'  
**Cc:** 'Oprison, Christopher G.'  
**Subject:** Moschella Oral Testimony  
**Importance:** High

Bill, can you forward this on to Dana and Cathie (and whomever else in the White House you deem appropriate) for review and approval? Thanks!



Moschella Oral  
Statement.doc (...)

Kyle Sampson  
Chief of Staff  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
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(202) 305-5289 cell  
kyle.sampson@usdoj.gov



William E. Moschella  
Opening Statement

Madam Chairman, Mr. Cannon, and Members of the Subcommittee, I appreciate the opportunity to testify today.

Let me begin by stating clearly that the Department of Justice appreciates the public service that was rendered by the seven U.S. Attorneys who were asked to resign last December. Each is a talented lawyer who served as U.S. Attorney for more than four years, and we have no doubt they will achieve success in their future endeavors – just like the 40 or so other U.S. Attorneys who have resigned for various reasons over the last six years.

Let me also stress that one of the Attorney General's most important responsibilities is to manage the Department of Justice. Part of managing the Department is ensuring that the Administration's priorities and policies are carried out consistently and uniformly. Individuals who have the high privilege of serving as presidential appointees have an obligation to carry out the Administration's priorities and policies.

U.S. Attorneys in the field (as well as Assistant Attorneys General here in Washington) are duty bound not only to make prosecutorial decisions, but also to implement and further the Administration and Department's priorities and policy decisions. In carrying out these responsibilities they serve at the pleasure of the President and report to the Attorney General. If a judgment is made that they are not executing their responsibilities in a manner that furthers the management and policy goals of departmental leadership, then it is appropriate that they be asked to resign so that they can be replaced by other individuals who will.

To be clear, it was for reasons related to policy, priorities and management – what has been referred to broadly as “performance-related” reasons – that these U.S. Attorneys were asked to resign. I want to emphasize that the Department – out of respect for the U.S. Attorneys at issue – would have preferred not to talk at all about those reasons, but disclosures in the press and requests for information from Congress altered those best laid plans. In hindsight, perhaps this situation could have been handled better. These U.S. Attorneys could have been informed at the time they were asked to resign about the reasons for the decision. Unfortunately, our failure to provide reasons to these individual U.S. Attorneys has only served to fuel wild and inaccurate speculation about our motives, and that is unfortunate because faith and confidence in our justice system is more important than any one individual.

That said, the Department stands by the decisions. It is clear that after closed door briefings with House and Senate members and staff, some agree with the reasons that form the basis for our decisions and some disagree – such is the nature of subjective judgments. Just because you might disagree with a decision, does not mean it was made for improper political reasons – there were appropriate reasons for each decision.

One troubling allegation is that certain of these U.S. Attorneys were asked to resign because of actions they took or didn't take relating to public corruption cases. These charges are dangerous, baseless and irresponsible. This Administration has never removed a U.S. Attorney

DAG000001074

to retaliate against them or interfere with or inappropriately influence a public corruption case. Not once.

The Attorney General and the Director of the FBI have made public corruption a high priority. Integrity in government and trust in our public officials and institutions is paramount. Without question, the Department's record is one of great accomplishment that is unmatched in recent memory. The Department has not pulled any punches or shown any political favoritism. Public corruption investigations are neither rushed nor delayed for improper purposes.

Some, particularly in the other body, claim that the Department's reasons for asking these U.S. Attorneys to resign was to make way for preselected Republican lawyers to be appointed and circumvent Senate confirmation. The facts, however, prove otherwise. After the seven U.S. Attorneys were asked to resign last December, the Administration immediately began consulting with home-state Senators and other home-state political leaders about possible candidates for nomination. Indeed, the facts are that since March 9, 2006, the date the Attorney General's new appointment authority went into effect, the Administration has nominated 16 individuals to serve as U.S. Attorney and 12 have been confirmed. Furthermore, 18 vacancies have arisen since March 9, 2006. Of those 18 vacancies, the Administration (1) has nominated candidates for six of them (and of those six, the Senate has confirmed three); (2) has interviewed candidates for eight of them; and (3) is working to identify candidates for the remaining four of them. Let me repeat what has been said many times before and what the record reflects: the Administration is committed to having a Senate-confirmed U.S. Attorney in every single federal district.

In conclusion, let me make three points: First, although the Department stands by the decision to ask these U.S. Attorneys to resign, it would have been much better to have addressed the relevant issues up front with each of them. Second, the Department has not asked anyone to resign to influence any public corruption case – and would never do so. Third, the Administration at no time intended to circumvent the confirmation process.

I would be happy to take your questions.

DAG000001075

**Moschella, William**

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**From:** Moschella, William  
**Sent:** Monday, March 05, 2007 7:58 PM  
**To:** Sampson, Kyle; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica; Hertling, Richard; Scolinos, Tasia; Roehrkassee, Brian  
**Subject:** RE: Moschella Oral Testimony

In the second graph, replace "the President's and the Attorney General's priorities and the Department's policies" with "the Administration's policies and priorities".

In the last graph, I suggest replacing "taken any action" with "asked anyone to resign".

This is really good. Thanks everyone for the collaboration.

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 7:27 PM  
**To:** McNulty, Paul J; Moschella, William; Elston, Michael (ODAG); Goodling, Monica; Hertling, Richard; Scolinos, Tasia; Roehrkassee, Brian  
**Subject:** FW: Moschella Oral Testimony  
**Importance:** High

Gang, I just sent the below draft Moschella Oral Statement to the White House. Let me know if you have any comments (though I wouldn't mind giving the pen up at this point; let me know).

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 7:25 PM  
**To:** 'Kelley, William K.'  
**Cc:** 'Oprison, Christopher G.'  
**Subject:** Moschella Oral Testimony  
**Importance:** High

Bill, can you forward this on to Dana and Cathie (and whomever else in the White House you deem appropriate) for review and approval? Thanks!

<< File: Moschella Oral Statement.doc >>

Kyle Sampson  
Chief of Staff  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
(202) 514-2001 wk.  
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Tracking:	Recipient	Read
	Sampson, Kyle	Read: 3/5/2007 7:59 PM
	McNulty, Paul J	Read: 3/5/2007 8:38 PM
	Elston, Michael (ODAG)	Read: 3/5/2007 8:23 PM
	Goodling, Monica	
	Hertling, Richard	Read: 3/5/2007 8:00 PM
	Scolinos, Tasia	Read: 3/5/2007 8:10 PM
	Roehrkassee, Brian	Read: 3/5/2007 7:59 PM

**Moschella, William**

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**From:** Moschella, William  
**Sent:** Monday, March 05, 2007 7:59 PM  
**To:** Hertling, Richard; Scolinos, Tasia; Scott-Finan, Nancy; Goodling, Monica; Roehrkaske, Brian  
**Cc:** Silas, Adrien; Sampson, Kyle  
**Subject:** RE: Revised testimony

I agree with the first point and would leave the examples in. When a court does something stupid down the road, it will serve as an "I told you so."

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**From:** Hertling, Richard  
**Sent:** Monday, March 05, 2007 7:46 PM  
**To:** Scolinos, Tasia; Scott-Finan, Nancy; Goodling, Monica; Moschella, William; Roehrkaske, Brian  
**Cc:** Silas, Adrien; Sampson, Kyle  
**Subject:** RE: Revised testimony

Yes, we can edit the opening graf per your suggestion. Am ambivalent about removing the examples that help to explain why our position is not a far-fetched one. I am trying to get the Senate to pass the Feinstein bill tomorrow night in wrap-up if at all possible, so I think our testimony will be secondary. Still, if people want them out, I will not fight to keep them.

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**From:** Scolinos, Tasia  
**Sent:** Monday, March 05, 2007 7:44 PM  
**To:** Scott-Finan, Nancy; Goodling, Monica; Moschella, William; Roehrkaske, Brian  
**Cc:** Hertling, Richard; Silas, Adrien; Sampson, Kyle  
**Subject:** RE: Revised testimony

Can we edit this first graph to read:

"As previously noted by the Attorney General and the Deputy Attorney General in their testimony, the Department of Justice has some concern about H.R. 580, the "Preserving United States Attorneys Independence Act of 2007"; however, the Department is willing to work with the Committee in an effort to reach common ground on this important issue."

I also am not sure that I would keep in the examples. It reads to me like we are continuing to dig in on the legislation and at this point we just want it to move. The press will be focused on the other action at the hearing and since we are going to go along with the legislation we don't get much out of continuing to argue it is a bad idea at this point.

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**From:** Scott-Finan, Nancy  
**Sent:** Monday, March 05, 2007 7:27 PM  
**To:** Goodling, Monica; Moschella, William; Scolinos, Tasia; Roehrkaske, Brian  
**Cc:** Hertling, Richard; Silas, Adrien  
**Subject:** RE: Revised testimony

<< File: DRAFT Moschella Testimony4.wpd >> This version has all of Monica's edits from Friday. Do we have any other comments? Going once, going twice??????

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**From:** Goodling, Monica  
**Sent:** Monday, March 05, 2007 7:01 PM  
**To:** Scott-Finan, Nancy; Moschella, William; Scolinos, Tasia; Roehrkaske, Brian  
**Cc:** Hertling, Richard; Silas, Adrien  
**Subject:** RE: Revised testimony

I'll defer to others on whether this is still too leg heavy, but I had a few fixes from Friday that didn't make it into this draft. Please correct the below three paragraphs. Thanks!

Since January 20, 2001, 124 new U.S. Attorneys have been nominated by the President and confirmed by the Senate. On March 9, 2006, the Congress amended the Attorney General's authority to appoint interim U.S. Attorneys, and 18 vacancies have occurred since that date. This amendment has not changed our commitment to nominating candidates for Senate confirmation. In fact, the Administration has nominated a total of 16 individuals for Senate consideration since the appointment authority was amended, with 12 of those nominees having been confirmed to date. Of the 18 vacancies that have occurred since the time that the law was amended, the Administration has nominated candidates to fill six of these positions, has interviewed candidates for nomination for eight more positions, and is waiting to receive names to set up interviews for the remaining positions—all in consultation with home-state Senators.

Also:

Two examples demonstrate the shortcomings of the previous system and the system contemplated in H.R. 580. During President Reagan's Administration, the district court appointed in the Southern District of West Virginia an interim U.S. Attorney who was neither a Justice Department employee nor an individual who had been subject of a FBI background review. The court-appointed U.S. Attorney, who had ties to a political party, sought access to law-enforcement sensitive investigative materials related to the office's most sensitive public corruption investigation, which was targeting a state-wide leader of the same party. The problem was that the interim U.S. Attorney had no clearances or had then undergone a background investigation so that the Attorney General and the Federal Bureau of Investigation could have complete confidence in the individual or her reasons for making inquiries into the case. The appointment forced the Department to remove the case files from the U.S. Attorney's office in order to protect the integrity of the investigation and prohibit the U.S. Attorney from making any additional inquiries into the case. In addition, the Department expedited a nomination for the permanent U.S. Attorney and with the extraordinary assistance of the Senate, he was confirmed to replace the court-appointed individual within a few weeks.

In a second case, occurring in 2005, the district court attempted to appoint an individual who similarly was not a Department of Justice or federal employee and had never undergone the appropriate background check. As a result, this individual could have no access to classified information. This individual could not receive information from his district's anti-terrorism coordinator, its Joint Terrorism Task Force, or its Field Intelligence Group. In a post 9/11 world, this situation was unacceptable.

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**From:** Scott-Finan, Nancy  
**Sent:** Monday, March 05, 2007 6:38 PM  
**To:** Moschella, William; Goodling, Monica; Scolinos, Tasia; Roehrkasse, Brian  
**Cc:** Hertling, Richard; Silas, Adrien  
**Subject:** Revised testimony

Attached is the revised testimony. Please get back to me with any changes or comments ASAP << File: DRAFT Moschella Testimony4.wpd >>

Tracking:	Recipient	Read
	Hertling, Richard	Read: 3/5/2007 8:00 PM
	Scolinos, Tasia	Read: 3/5/2007 8:06 PM
	Scott-Finan, Nancy	Read: 3/5/2007 8:02 PM
	Goodling, Monica	Read: 3/5/2007 8:02 PM
	Roehrkasse, Brian	Read: 3/5/2007 8:01 PM
	Silas, Adrien	Read: 3/5/2007 8:07 PM
	Sampson, Kyle	Read: 3/5/2007 8:00 PM

**Moschella, William**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 8:16 PM  
**To:** Moschella, William  
**Subject:** FW: Moschella Oral Testimony

**Importance:** High

**Attachments:** Moschella Oral Statement.doc

Will, I have made the changes below that you suggest, but now am handing the pen to you (I will be in late in the morning; need to accompany Noelle to a doctor's appointment). I will feed any additional comments that I get to you.



Moschella Oral  
Statement.doc (...)

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**From:** Moschella, William  
**Sent:** Monday, March 05, 2007 7:58 PM  
**To:** Sampson, Kyle; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica; Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian  
**Subject:** RE: Moschella Oral Testimony

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**Sent:** Monday, March 05, 2007 7:25 PM  
**To:** 'Kelley, William K.'  
**Cc:** 'Oprison, Christopher G.'  
**Subject:** Moschella Oral Testimony  
**Importance:** High

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Kyle Sampson  
Chief of Staff  
U.S. Department of Justice  
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Washington, D.C. 20530

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**Moschella, William**

---

**From:** Moschella, William  
**Sent:** Monday, March 05, 2007 8:31 PM  
**To:** Scott-Finan, Nancy  
**Subject:** Testimony

One more change -- I am testifying before the subcommittee.

**Tracking:** Recipient  
Scott-Finan, Nancy

**Read**  
Read: 3/5/2007 8:36 PM



**Moschella, William**

---

**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 8:43 PM  
**To:** 'Oprison, Christopher G.'  
**Cc:** Moschella, William  
**Subject:** RE: Moschella Oral Testimony

Thx, Chris. Will now has the pen, so please send the comments to him directly (but cc me, if you would). Thx!

---

**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 8:40 PM  
**To:** Sampson, Kyle  
**Subject:** RE: Moschella Oral Testimony

we are gathering comments and should have this back to you shortly

---

**From:** Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
**Sent:** Monday, March 05, 2007 7:25 PM  
**To:** Kelley, William K.  
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**Moschella, William**

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**From:** Moschella, William  
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**To:** Elston, Michael (ODAG); McNulty, Paul J  
**Cc:** Sampson, Kyle  
**Subject:** FW: Moschella Oral Testimony  
**Attachments:** Moschella Oral Statement - MYS (2).doc

**Tracking:**

Recipient	Read
Elston, Michael (ODAG)	Read: 3/6/2007 7:58 AM
McNulty, Paul J	Read: 3/6/2007 6:43 AM
Sampson, Kyle	Read: 3/5/2007 10:24 PM

Thoughts. I have no problems with the changes.

---

**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 9:33 PM  
**To:** Moschella, William  
**Cc:** Sampson, Kyle; Kelley, William K.; Scudder, Michael Y.; Fielding, Fred F.; Gibbs, Landon M.  
**Subject:** RE: Moschella Oral Testimony

Will - attached please find a redlined version with suggested edits. Thanks

Chris

---

**From:** Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
**Sent:** Monday, March 05, 2007 8:43 PM  
**To:** Oprison, Christopher G.  
**Cc:** Moschella, William  
**Subject:** RE: Moschella Oral Testimony

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**Subject:** RE: Moschella Oral Testimony

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**Sent:** Monday, March 05, 2007 7:25 PM  
**To:** Kelley, William K.  
**Cc:** Oprison, Christopher G.  
**Subject:** Moschella Oral Testimony  
**Importance:** High

DAG00001088

Bill, can you forward this on to Dana and Cathie (and whomever else in the White House you deem appropriate) for review and approval? Thanks!

<<Moschella Oral Statement.doc>>

Kyle Sampson  
Chief of Staff  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
(202) 514-2001 wk.  
(202) 305-5289 cell  
kyle.sampson@usdoj.gov

DAG000001084

William E. Moschella  
Opening Statement

Madam Chairman, Mr. Cannon, and Members of the Subcommittee, I appreciate the opportunity to testify today.

Let me begin by stating clearly that the Department of Justice appreciates the public service that was rendered by the seven U.S. Attorneys who were asked to resign last December. Each is a talented lawyer who served as U.S. Attorney for more than four years, and we have no doubt they will achieve success in their future endeavors—just like the 40 or so other U.S. Attorneys who have resigned for various reasons over the last six years.

Let me also stress that one of the Attorney General's most important responsibilities is to manage the Department of Justice. Part of managing the Department is ensuring that the President's and the Attorney General's priorities and the Department's policies are carried out consistently and uniformly. Individuals who have the high privilege of serving as presidential appointees have an obligation to carry out the Administration's priorities and policies.

Deleted: But

U.S. Attorneys in the field (as well as Assistant Attorneys General here in Washington) are duty bound not only to make prosecutorial decisions, but also to implement and further the Administration and Department's priorities and policy decisions. In carrying out these responsibilities they serve at the pleasure of the President and report to the Attorney General. If a judgment is made that they are not executing their responsibilities in a manner that furthers the management and policy goals of departmental leadership, then it is appropriate that they be asked to resign so that they can be replaced by other individuals who will.

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Deleted: ing  
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Deleted: - but that responsibility does not change or alter in any way the fact that  
Deleted: in the discharge of their offices  
Deleted: Nor does it change or alter the fact that if  
Deleted: To be sure,

To be clear, it was for reasons related to policy, priorities and management—what has been referred to broadly as 'performance-related' reasons—that these U.S. Attorneys were asked to resign. I want to emphasize that the Department—out of respect for the U.S. Attorneys at issue—would have preferred not to talk at all about those reasons, but disclosures in the press and requests for information from Congress altered those best laid plans. In hindsight, perhaps this situation could have been handled better. These U.S. Attorneys could have been informed at the time they were asked to resign about the reasons for the decision. Unfortunately, our failure to provide reasons to these individual U.S. Attorneys has only served to fuel wild and inaccurate speculation about our motives, and that is unfortunate because faith and confidence in our justice system is more important than any one individual.

That said, the Department stands by the decisions. It is clear that after closed door briefings with House and Senate members and staff, some agree with the reasons that form the basis for our decisions and some disagree—such is the nature of subjective judgments. Just because you might disagree with a decision, does not mean it was made for improper political reasons—there were appropriate reasons for each decision.

One troubling allegation is that certain of these U.S. Attorneys were asked to resign because of actions they took or didn't take relating to public corruption cases. These charges are dangerous, baseless and irresponsible. This Administration has never removed a U.S. Attorney

to retaliate against them or interfere with or inappropriately influence a public corruption case. Not once.

The Attorney General and the Director of the FBI both have made public corruption a high priority. Integrity in government and trust in our public officials and institutions is paramount. Without question, the Department's record is one of great accomplishment that is unmatched in recent memory. The Department has not pulled any punches or shown any political favoritism. Public corruption investigations are neither rushed nor delayed for improper purposes.

Deleted: of Justice

Some, particularly in the other body, claim that the Department's reasons for asking these U.S. Attorneys to resign was to make way for preselected Republican lawyers to be appointed and circumvent Senate confirmation. The facts, however, prove otherwise. After the seven U.S. Attorneys were asked to resign last December, the Administration immediately began consulting with home-state Senators and other home-state political leaders about possible candidates for nomination. Indeed, the facts are that since March 9, 2006, the date the Attorney General's new appointment authority went into effect, the Administration has nominated 16 individuals to serve as U.S. Attorney and 12 have been confirmed. Furthermore, 18 vacancies have arisen since March 9, 2006. Of those 18 vacancies, the Administration (1) has nominated candidates for six of them (and of those six, the Senate has confirmed three of them); (2) has interviewed candidates for eight of them; and (3) is working to identify candidates for the remaining four of them. Let me repeat what has been said many times before and what the record reflects: the Administration is committed to having a Senate-confirmed U.S. Attorney in every single federal district.

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In conclusion, let me make three points: First, although the Department stands by the decision to ask these U.S. Attorneys to resign, it would have been much better to have addressed the relevant issues up front with each of them. Second, the Department has not taken any action to influence any public corruption case—and would never do so. Third, the Administration at no time intended to circumvent the confirmation process.

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Deleted: not

I would be happy to take your questions.

DAG000001086

**Moschella, William**

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**From:** Sampson, Kyle  
**Sent:** Monday, March 05, 2007 10:24 PM  
**To:** Moschella, William; Elston, Michael (ODAG); McNulty, Paul J  
**Subject:** Re: Moschella Oral Testimony

No concerns here, though I would add your comments in.

-----Original Message-----

**From:** Moschella, William  
**To:** Elston, Michael (ODAG); McNulty, Paul J  
**CC:** Sampson, Kyle  
**Sent:** Mon Mar 05 21:37:13 2007  
**Subject:** FW: Moschella Oral Testimony

Thoughts. I have no problems with the changes.

---

**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 9:33 PM  
**To:** Moschella, William  
**Cc:** Sampson, Kyle; Kelley, William K.; Scudder, Michael Y.; Fielding, Fred F.; Gibbs, Landon M.  
**Subject:** RE: Moschella Oral Testimony

Will - attached please find a redlined version with suggested edits. Thanks

Chris

---

**From:** Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
**Sent:** Monday, March 05, 2007 8:43 PM  
**To:** Oprison, Christopher G.  
**Cc:** Moschella, William  
**Subject:** RE: Moschella Oral Testimony

Thx, Chris. Will now has the pen, so please send the comments to him directly (but cc me, if you would). Thx!

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**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 8:40 PM  
**To:** Sampson, Kyle  
**Subject:** RE: Moschella Oral Testimony

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Kyle Sampson  
Chief of Staff  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
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**Moschella, William**

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**Sent:** Monday, March 05, 2007 10:24 PM  
**To:** Moschella, William; Elston, Michael (ODAG); McNulty, Paul J  
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Chris

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<<Moschella Oral Statement.doc>>

Kyle Sampson  
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U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
(202) 514-2001 wk.  
(202) 305-5289 cell  
kyle.sampson@usdoj.gov

**Moschella, William**

---

**From:** Oprison, Christopher G. [Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Tuesday, March 06, 2007 7:11 AM  
**To:** Sampson, Kyle; Moschella, William; Hertling, Richard  
**Cc:** Scudder, Michael Y.  
**Subject:** RE: Letter For Tomorrow's Hearing from HJC

Hey gents - is the department going to be drafting responses to these questions prior to the hearing today? For number 4, can we discuss? Also, are there any other communications (other than Mike Elston's) that are potentially responsive to number 5?

---

**From:** Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
**Sent:** Monday, March 05, 2007 6:45 PM  
**To:** Oprison, Christopher G.  
**Subject:** FW: Letter For Tomorrow's Hearing from HJC

fyi

---

**From:** Cabral, Catalina  
**Sent:** Monday, March 05, 2007 6:26 PM  
**To:** Moschella, William; Elston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO); Roehrkasse, Brian; Scolinos, Tasia; Hertling, Richard; Burton, Faith; Battie, Michael (USAEO); Margolis, David

**Subject:** Letter For Tomorrow's Hearing from HJC

<<LettertoWEMfromHJCreUSA3.5.07.pdf>>

Catalina Cabral  
U.S. DEPARTMENT OF JUSTICE  
Office of Legislative Affairs  
Catalina.Cabral@USDOJ.gov  
(202) 514-4828

DAG000001091

**Moschella, William**

---

**From:** Sampson, Kyle  
**Sent:** Tuesday, March 06, 2007 7:16 AM  
**To:** 'christopher\_g\_oprison@who.eop.gov'; Moschella, William; Hertling, Richard  
**Cc:** 'Michael\_Y\_Scudder@who.eop.gov'  
**Subject:** Re: Letter For Tomorrow's Hearing from HJC

No. If asked, Will will note that the request came in late last night and that the Dep't will work as quickly as possible to respond to it. Will/Rich, correct me if I'm wrong.

-----Original Message-----

**From:** Oprison, Christopher G. <Christopher\_G\_Oprison@who.eop.gov>  
**To:** Sampson, Kyle; Moschella, William; Hertling, Richard  
**CC:** Scudder, Michael Y. <Michael\_Y\_Scudder@who.eop.gov>  
**Sent:** Tue Mar 06 07:11:29 2007  
**Subject:** RE: Letter For Tomorrow's Hearing from HJC

Hey gents - is the department going to be drafting responses to these questions prior to the hearing today? For number 4, can we discuss? Also, are there any other communications (other than Mike Elston's) that are potentially responsive to number 5?

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**Sent:** Monday, March 05, 2007 6:45 PM  
**To:** Oprison, Christopher G.  
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fyi

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**To:** Moschella, William; Elston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Nowacki, John (USAEO); Roehrkasse, Brian; Scolinos, Tasia; Hertling, Richard; Burton, Faith; Battle, Michael (USAEO); Margolis, David  
**Subject:** Letter For Tomorrow's Hearing from HJC

<<LettertoWEMfromHJCcreUSA3.5.07.pdf>>

Catalina Cabral  
U.S. DEPARTMENT OF JUSTICE  
Office of Legislative Affairs  
Catalina.Cabral@USDOJ.gov  
(202) 514-4828

**Moschella, William**

---

**From:** Moschella, William  
**Sent:** Tuesday, March 06, 2007 7:18 AM  
**To:** Sampson, Kyle; 'christopher\_g.\_oprison@who.eop.gov'; Hertling, Richard  
**Cc:** 'Michael\_Y.\_Scudder@who.eop.gov'  
**Subject:** Re: Letter For Tomorrow's Hearing from HJC

That is the answer.

-----  
Sent from my BlackBerry Wireless Handheld

-----Original Message-----

**From:** Sampson, Kyle  
**To:** 'christopher\_g.\_oprison@who.eop.gov' <christopher\_g.\_oprison@who.eop.gov>; Moschella, William; Hertling, Richard  
**CC:** 'Michael\_Y.\_Scudder@who.eop.gov' <Michael\_Y.\_Scudder@who.eop.gov>  
**Sent:** Tue Mar 06 07:16:18 2007  
**Subject:** Re: Letter For Tomorrow's Hearing from HJC

No. If asked, Will will note that the request came in late last night and that the Dep't will work as quickly as possible to respond to it. Will/Rich, correct me if I'm wrong.

-----Original Message-----

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**CC:** Scudder, Michael Y. <Michael\_Y.\_Scudder@who.eop.gov>  
**Sent:** Tue Mar 06 07:11:29 2007  
**Subject:** RE: Letter For Tomorrow's Hearing from HJC

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**Subject:** Letter For Tomorrow's Hearing from HJC

<<LettertoWEMfromHJCcreUSA3.5.07.pdf>>

Catalina Cabral  
U.S. DEPARTMENT OF JUSTICE  
Office of Legislative Affairs  
Catalina.Cabral@USDOJ.gov  
(202) 514-4828

**Moschella, William**


---

**From:** Moschella, William  
**Sent:** Tuesday, March 06, 2007 9:48 AM  
**To:** 'Oprison, Christopher G.'  
**Cc:** Sampson, Kyle; Kelley, William K.; Scudder, Michael Y.; Fielding, Fred F.; Gibbs, Landon M.; Scolinos, Tasia; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica  
**Subject:** RE: Moschella Oral Testimony  
**Attachments:** moschellafinal.2.doc; moschellafinal.1.doc

**Tracking:**

Recipient	Read
'Oprison, Christopher G.'	
Sampson, Kyle	Read: 3/6/2007 10:06 AM
Kelley, William K.	
Scudder, Michael Y.	
Fielding, Fred F.	
Gibbs, Landon M.	
Scolinos, Tasia	Read: 3/6/2007 10:48 AM
McNulty, Paul J	Read: 3/6/2007 10:41 AM
Elston, Michael (ODAG)	
Goodling, Monica	Read: 3/6/2007 9:48 AM

All, attached is the final document. We accepted all of Chris's proposed changes. I have made some other small minor tweaks and those are tracked so that you can see them in "moschellafinal.1.doc" and the clean version is "moschellafinal.2.doc".

---

**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 9:33 PM  
**To:** Moschella, William  
**Cc:** Sampson, Kyle; Kelley, William K.; Scudder, Michael Y.; Fielding, Fred F.; Gibbs, Landon M.  
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---

**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 8:40 PM  
**To:** Sampson, Kyle

DAG000001094

**Subject:** RE: Moschella Oral Testimony

we are gathering comments and should have this back to you shortly

---

**From:** Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
**Sent:** Monday, March 05, 2007 7:25 PM  
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Bill, can you forward this on to Dana and Cathie (and whomever else in the White House you deem appropriate) for review and approval? Thanks!

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DAG000001095

William E. Moschella  
Opening Statement

Madam Chairman, Mr. Cannon, and Members of the Subcommittee, I appreciate the opportunity to testify today.

Let me begin by stating clearly that the Department of Justice appreciates the public service that was rendered by the seven U.S. Attorneys who were asked to resign last December. Each is a talented lawyer who served as U.S. Attorney for more than four years, and we have no doubt they will achieve success in their future endeavors – just like the 40 or so other U.S. Attorneys who have resigned for various reasons over the last six years.

Let me also stress that one of the Attorney General's most important responsibilities is to manage the Department of Justice. Part of managing the Department is ensuring that the Administration's priorities and policies are carried out consistently and uniformly. Individuals who have the high privilege of serving as presidential appointees have an obligation to carry out the Administration's priorities and policies.

Deleted: President's and the Attorney General's

Deleted: the Department's

U.S. Attorneys in the field (as well as Assistant Attorneys General here in Washington) are duty bound not only to make prosecutorial decisions, but also to implement and further the Administration and Department's priorities and policy decisions. In carrying out these responsibilities they serve at the pleasure of the President and report to the Attorney General. If a judgment is made that they are not executing their responsibilities in a manner that furthers the management and policy goals of departmental leadership, then it is appropriate that they be asked to resign so that they can be replaced by other individuals who will.

To be clear, it was for reasons related to policy, priorities and management – what has been referred to broadly as “performance-related” reasons – that these U.S. Attorneys were asked to resign. I want to emphasize that the Department – out of respect for the U.S. Attorneys at issue – would have preferred not to talk at all about those reasons, but disclosures in the press and requests for information from Congress altered those best laid plans. In hindsight, perhaps this situation could have been handled better. These U.S. Attorneys could have been informed at the time they were asked to resign about the reasons for the decision. Unfortunately, our failure to provide reasons to these individual U.S. Attorneys has only served to fuel wild and inaccurate speculation about our motives, and that is unfortunate because faith and confidence in our justice system is more important than any one individual.

That said, the Department stands by the decisions. It is clear that after closed door briefings with House and Senate members and staff, some agree with the reasons that form the basis for our decisions and some disagree – such is the nature of subjective judgments. Just because you might disagree with a decision – does not mean it was made for improper political reasons – there were appropriate reasons for each decision.

One troubling allegation is that certain of these U.S. Attorneys were asked to resign because of actions they took or didn't take relating to public corruption cases. These charges are dangerous, baseless and irresponsible. This Administration has never removed a U.S. Attorney

DAG00001096

to retaliate against them or interfere with or inappropriately influence a public corruption case. Not once.

The Attorney General and the Director of the FBI have made public corruption a high priority. Integrity in government and trust in our public officials and institutions is paramount. Without question, the Department's record is one of great accomplishment that is unmatched in recent memory. The Department has not pulled any punches or shown any political favoritism. Public corruption investigations are neither rushed nor delayed for improper purposes.

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Some, particularly in the other body, claim that the Department's reasons for asking these U.S. Attorneys to resign was to make way for preselected Republican lawyers to be appointed and circumvent Senate confirmation. The facts, however, prove otherwise. After the seven U.S. Attorneys were asked to resign last December, the Administration immediately began consulting with home-state Senators and other home-state political leaders about possible candidates for nomination. Indeed, the facts are that since March 9, 2006, the date the Attorney General's new appointment authority went into effect, the Administration has nominated 16 individuals to serve as U.S. Attorney and 12 have been confirmed. Furthermore, 18 vacancies have arisen since March 9, 2006. Of those 18 vacancies, the Administration (1) has nominated candidates for six of them (and of those six, the Senate has confirmed three); (2) has interviewed candidates for eight of them; and (3) is working to identify candidates for the remaining four of them. Let me repeat what has been said many times before and what the record reflects: the Administration is committed to having a Senate-confirmed U.S. Attorney in every single federal district.

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In conclusion, let me make three points: First, although the Department stands by the decision to ask these U.S. Attorneys to resign, it would have been much better to have addressed the relevant issues up front with each of them. Second, the Department has not asked anyone to resign to influence any public corruption case – and would never do so. Third, the Administration at no time intended to circumvent the confirmation process.

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I would be happy to take your questions.

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DAG000001097



William E. Moschella  
Opening Statement

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Let me begin by stating clearly that the Department of Justice appreciates the public service that was rendered by the seven U.S. Attorneys who were asked to resign last December. Each is a talented lawyer who served as U.S. Attorney for more than four years, and we have no doubt they will achieve success in their future endeavors – just like the 40 or so other U.S. Attorneys who have resigned for various reasons over the last six years.

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DAG000001098

to retaliate against them or interfere with or inappropriately influence a public corruption case. Not once.

The Attorney General and the Director of the FBI have made public corruption a high priority. Integrity in government and trust in our public officials and institutions is paramount. Without question, the Department's record is one of great accomplishment that is unmatched in recent memory. The Department has not pulled any punches or shown any political favoritism. Public corruption investigations are neither rushed nor delayed for improper purposes.

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I would be happy to take your questions.

DAG000001099

**Moschella, William**

---

**From:** Elwood, Courtney  
**Sent:** Tuesday, March 06, 2007 10:11 AM  
**To:** Moschella, William; Sampson, Kyle; Hertling, Richard; Goodling, Monica  
**Subject:** Call from Bill Kelley on QFR responses on USA firings

**Importance:** High

Bill called this morning and spoke to me in Kyle's absence. Chris Oprison told Bill that DOJ was preparing QFR answers that addressed contacts between WH, Hill, and DOJ on USAs. He wants to make sure that he is given, in advance, whatever DOJ plans to say in response to these questions. I told him that QFR responses are always circulated through OMB and WHCO, and I am sure that happen in this case.

I know nothing 'bout this, so I pass this along to those of you who may.

I suggest that Kyle or someone else give Bill a call for clarification, if necessary.

*Courtney Simmons Elwood  
Deputy Chief of Staff and  
Counselor to the Attorney General  
U.S. Department of Justice  
(w) 202.514.2267  
(c)  
(fax) 202.305.9687*

**Moschella, William**

---

**From:** Hertling, Richard  
**Sent:** Tuesday, March 06, 2007 10:12 AM  
**To:** Elwood, Courtney; Moschella, William; Sampson, Kyle; Goodling, Monica  
**Subject:** RE: Call from Bill Kelley on QFR responses on USA firings

Yes, and nothing is moving very quickly. I emailed Oprison about that subject this morning.

---

**From:** Elwood, Courtney  
**Sent:** Tuesday, March 06, 2007 10:11 AM  
**To:** Moschella, William; Sampson, Kyle; Hertling, Richard; Goodling, Monica  
**Subject:** Call from Bill Kelley on QFR responses on USA firings  
**Importance:** High

Bill called this morning and spoke to me in Kyle's absence. Chris Oprison told Bill that DOJ was preparing QFR answers that addressed contacts between WH, Hill, and DOJ on USAs. He wants to make sure that he is given, in advance, whatever DOJ plans to say in response to these questions. I told him that QFR responses are always circulated through OMB and WHCO, and I am sure that happen in this case.

I know nothing 'bout this, so I pass this along to those of you who may.

I suggest that Kyle or someone else give Bill a call for clarification, if necessary.

*Courtney Simmons Elwood  
Deputy Chief of Staff and  
Counselor to the Attorney General  
U.S. Department of Justice  
(w) 202.514.2267  
(c)  
(fax) 202.305.9687*

**Moschella, William**

---

**From:** Moschella, William  
**Sent:** Tuesday, March 06, 2007 10:13 AM  
**To:** Hertling, Richard  
**Subject:** RE: Oral statement

**Attachments:** moschellafinal oral.doc



moschellafinal  
oral.doc (38 KB...

**Tracking:**

**Recipient**  
Hertling, Richard

**Read**  
Read: 3/6/2007 10:14 AM

**Moschella, William**

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**From:** Gibbs, Landon M. [Landon\_M.\_Gibbs@who.eop.gov]  
**Sent:** Tuesday, March 06, 2007 10:16 AM  
**To:** Silas, Adrien  
**Cc:** Green, Richard E.; Simms, Angela M.; Hertling, Richard; Moschella, William; Scott-Finan, Nancy  
**Subject:** FW: Moschella Oral Testimony  
**Attachments:** moschellafinal.2.doc; moschellafinal.1.doc



moschellafinal.2.doc  
c (31 KB)



moschellafinal.1.doc  
c (32 KB)

The oral testimony attached that Will just sent has been cleared by the EOP. We are still holding on the prepared testimony.

Thanks,

Landon

**Moschella, William**

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**From:** Scolinos, Tasia  
**Sent:** Tuesday, March 06, 2007 10:49 AM  
**To:** Moschella, William  
**Cc:** Roehrkasse, Brian  
**Subject:** RE: Moschella Oral Testimony

can you send me the talking points on each of the US Attorneys that you are going to use? thanks

---

**From:** Moschella, William  
**Sent:** Tuesday, March 06, 2007 9:48 AM  
**To:** 'Oprison, Christopher G.'  
**Cc:** Sampson, Kyle; Kelley, William K.; Scudder, Michael Y.; Fielding, Fred F.; Gibbs, Landon M.; Scolinos, Tasia; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica  
**Subject:** RE: Moschella Oral Testimony

All, attached is the final document. We accepted all of Chris's proposed changes. I have made some other small minor tweaks and those are tracked so that you can see them in "moschellafinal.1.doc" and the clean version is "moschellafinal.2.doc".

---

**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 9:33 PM  
**To:** Moschella, William  
**Cc:** Sampson, Kyle; Kelley, William K.; Scudder, Michael Y.; Fielding, Fred F.; Gibbs, Landon M.  
**Subject:** RE: Moschella Oral Testimony

Will - attached please find a redlined version with suggested edits. Thanks

Chris

---

**From:** Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
**Sent:** Monday, March 05, 2007 8:43 PM  
**To:** Oprison, Christopher G.  
**Cc:** Moschella, William  
**Subject:** RE: Moschella Oral Testimony

Thx, Chris. Will now has the pen, so please send the comments to him directly (but cc me, if you would). Thx!

---

**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Monday, March 05, 2007 8:40 PM  
**To:** Sampson, Kyle  
**Subject:** RE: Moschella Oral Testimony

we are gathering comments and should have this back to you shortly

---

**From:** Sampson, Kyle [mailto:Kyle.Sampson@usdoj.gov]  
**Sent:** Monday, March 05, 2007 7:25 PM

DAG000001104

**To:** Kelley, William K.  
**Cc:** Oprison, Christopher G.  
**Subject:** Moschella Oral Testimony  
**Importance:** High

Bill, can you forward this on to Dana and Cathie (and whomever else in the White House you deem appropriate) for review and approval?. Thanks!

<<Moschella Oral Statement.doc>>

Kyle Sampson  
Chief of Staff  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
(202) 514-2001 wk.  
(202) 305-5289 cell  
kyle.sampson@usdoj.gov

DAG000001105



**Moschella, William**

---

**From:** Oprison, Christopher G. [Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Tuesday, March 06, 2007 11:37 AM  
**To:** Gibbs, Landon M.; Silas, Adrien  
**Cc:** Green, Richard E.; Simms, Angela M.; Hertling, Richard; Moschella, William; Scott-Finan, Nancy  
**Subject:** RE: US Atty - ODAG Tstmny

Note on page 3 of the redline a question regarding the characterization of "approximately half of the U.S. Attorneys."

-----Original Message-----

**From:** Gibbs, Landon M.  
**Sent:** Tuesday, March 06, 2007 11:35 AM  
**To:** 'Adrien.Silas@usdoj.gov'  
**Cc:** Green, Richard E.; Simms, Angela M.; 'Richard.Hertling@usdoj.gov'; 'William.Moschella@usdoj.gov'; 'Nancy.Scott-Finan@usdoj.gov'; Oprison, Christopher G.  
**Subject:** FW: US Atty - ODAG Tstmny

The EOP approves the attached version of the testimony.

Thanks,

Landon Gibbs  
Deputy Associate Director  
Office of Counsel to the President  
(202) 456-5214

**Moschella, William**

---

**From:** Hertling, Richard  
**Sent:** Tuesday, March 06, 2007 12:50 PM  
**To:** 'Oprison, Christopher G.'; Gibbs, Landon M.; Silas, Adrien  
**Cc:** Green, Richard E.; Simms, Angela M.; Moschella, William; Scott-Finan, Nancy  
**Subject:** RE: US Atty - ODAG Tstmny

The number is a little under 50 percent (44 percent). I think we are changing the testimony to read "more than 40 percent."

-----Original Message-----

**From:** Oprison, Christopher G. [mailto:Christopher\_G.\_Oprison@who.eop.gov]  
**Sent:** Tuesday, March 06, 2007 11:37 AM  
**To:** Gibbs, Landon M.; Silas, Adrien  
**Cc:** Green, Richard E.; Simms, Angela M.; Hertling, Richard; Moschella, William; Scott-Finan, Nancy  
**Subject:** RE: US Atty - ODAG Tstmny

Note on page 3 of the redline a question regarding the characterization of "approximately half of the U.S. Attorneys."

-----Original Message-----

**From:** Gibbs, Landon M.  
**Sent:** Tuesday, March 06, 2007 11:35 AM  
**To:** 'Adrien.Silas@usdoj.gov'  
**Cc:** Green, Richard E.; Simms, Angela M.; 'Richard.Hertling@usdoj.gov'; 'William.Moschella@usdoj.gov'; 'Nancy.Scott-Finan@usdoj.gov'; Oprison, Christopher G.  
**Subject:** FW: US Atty - ODAG Tstmny

The EOP approves the attached version of the testimony.

Thanks,

Landon Gibbs  
Deputy Associate Director  
Office of Counsel to the President  
(202) 456-5214

**Moschella, William**

---

**From:** Scott-Finan, Nancy  
**Sent:** Tuesday, March 06, 2007 12:54 PM  
**To:** Goodling, Monica; Sampson, Kyle; Moschella, William; Elston, Michael (ODAG); Hertling, Richard  
**Subject:** FW: US Atty - ODAG Tstmny  
**Attachments:** Moschella Testimony.doc



Moschella  
stimony.doc (86 KB)

Do we want to accept the changes from OMB? Thanks.

-----Original Message-----

**From:** Gibbs, Landon M. [mailto:Landon\_M.\_Gibbs@who.eop.gov]  
**Sent:** Tuesday, March 06, 2007 11:35 AM  
**To:** Silas, Adrien  
**Cc:** Green, Richard E.; Simms, Angela M.; Hertling, Richard; Moschella, William; Scott-Finan, Nancy; Oprison, Christopher G.  
**Subject:** FW: US Atty - ODAG Tstmny

The EOP approves the attached version of the testimony.

Thanks,

Landon Gibbs  
Deputy Associate Director  
Office of Counsel to the President  
(202) 456-5214

**Moschella, William**

---

**From:** Hertling, Richard  
**Sent:** Tuesday, March 06, 2007 12:55 PM  
**To:** Scott-Finan, Nancy; Goodling, Monica; Sampson, Kyle; Moschella, William; Elston, Michael (ODAG)  
**Subject:** RE: US Atty - ODAG Tstmny

I already directed Adrien to accept all WHCO changes. We have no time to dicker over these.

-----Original Message-----

**From:** Scott-Finan, Nancy  
**Sent:** Tuesday, March 06, 2007 12:54 PM  
**To:** Goodling, Monica; Sampson, Kyle; Moschella, William; Elston, Michael (ODAG); Hertling, Richard  
**Subject:** FW: US Atty - ODAG Tstmny

Do we want to accept the changes from OMB? Thanks.

-----Original Message-----

**From:** Gibbs, Landon M. [mailto:Landon\_M.\_Gibbs@who.eop.gov]  
**Sent:** Tuesday, March 06, 2007 11:35 AM  
**To:** Silas, Adrien  
**Cc:** Green, Richard E.; Simms, Angela M.; Hertling, Richard; Moschella, William; Scott-Finan, Nancy; Oprison, Christopher G.  
**Subject:** FW: US Atty - ODAG Tstmny

The EOP approves the attached version of the testimony.

Thanks,

Landon Gibbs  
Deputy Associate Director  
Office of Counsel to the President  
(202) 456-5214

### U.S. ATTORNEY ASSESSMENT

**Kevin Ryan (NDCA):** Appointed Aug. 2, 2002; term expired Aug. 2, 2006  
*EOUSA General Counsel Scott Schools was appointed interim USA; 11 years as career federal prosecutor/First Assistant/manager w/ 9 months as interim USA in SC; plus 5 years in private practice*

- Significant management problems have manifested during his tenure.
- The district has become one of the most fractured offices in the Nation.
- Morale has fallen to the point that it is harming our prosecutorial efforts.
- The USA has lost the confidence of many of his career prosecutors.
- The problems here have been so significant that it has required multiple on-site visits by management and personnel experts from EOUSA.
- Although our Evaluation and Review Staff (EARS) reports are not an evaluation of the performance of a United States Attorney by his or her supervisor – in this case, we had two office-wide evaluations that detailed the problems within the management of this office, which dictated the need for a change.

Sensitive/ Personnel: Not for distribution  
PRIVACY ACT PROTECTED

**Carol Lam (SDCA):** Appointed Nov. 18, 2002; term expired Nov. 18, 2006  
*Executive AUSA Karen Hewitt is interim USA; 6 years as career federal prosecutor/manager; 8 years as government litigator; 3 years in private practice*

- This is one of our largest offices in the country. In addition to all of the complex legal issues that occur in these extra-large districts, San Diego also faces a tremendous responsibility to effectively manage a border.
- She continually failed to perform in relation to significant leadership priorities – these were priorities that were well-known within the Department. They were discussed at our annual mandatory USA conferences, in speeches by Department leaders, in memos, in conference calls, and in a host of other ways.
- First, the President and Attorney General have made clear that border enforcement is a top priority. It's important to our national security and to our domestic security. Regardless of what was done by the office in this area, she failed to tackle this responsibility as aggressively and as vigorously as we expected and needed her to do. At the end of the day, we expected more.
- Ex: The President has made clear that he expects strong immigration enforcement efforts, but SDCA has only brought a fraction of the cases that other significant border districts are doing. While some good numbers on alien smuggling:
  - Only 422 illegal re-entry cases in 2005 where AZ did 1,491 and NM did 1,607;
  - Only 470 illegal entry cases in 2005 where AZ did 3,409 and NM did 1,194;
  - In June 2006, Sen. Feinstein wrote a letter to the AG complaining about the high prosecution guidelines which kept these numbers low.
- Writing about her concern for Ms. Lam's "restrictive prosecutorial guidelines," Sen. Feinstein stressed "the importance of vigorously prosecuting these type of cases so that California isn't viewed as an easy entry point for alien smugglers because there is no fear of prosecution if caught."
- More than 18 other members of Congress complained about her "catch and release" policies and her failure to let alien smugglers back out onto the street by raising prosecution guidelines too high.
- Second, the President and both Attorneys General in this Administration made clear that, after terrorism, gun crime is the top priority and an important tactic to fighting violent crime.
- SDCA has only brought a fraction of the cases of other extra-large districts. Despite its size and population, it ranks 91 out of 93 districts in terms of average numbers of firearms cases since FY 2000 (doing only an average of 18 cases).

DAG000001111

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PRIVACY ACT PROTECTED

- Third, rather than focusing on the management of her office, this USA spent a significant amount of her time trying cases – this is discouraged in extra-large districts, because these are offices that require full-time managers.

**John McKay (WDWA):** Appointed Oct. 30, 2001; term expired Oct. 30, 2005  
*Criminal Chief Jeff Sullivan was appointed interim USA – 5 years as a career federal prosecutor after 27 years as the county prosecutor and 3 years in private practice.*

- Demonstrated a pattern of poor judgment in relation to the tactics he used to push for policy changes that were not in the best interest of the Department and without regard to the Department's appropriate channels and methods of evaluating policy.
- Placed extensive focus, and engaged in a significant amount of travel outside of the district to advocate policy changes, rather than focusing on running the office.
- The Department was aware that his district had a bad record with downward departures, failure to appeal downward departures, and that his policy focus was distracting him from the work of the office.

**Paul Charlton (AZ):** Appointed Nov. 14, 2001; term expired Nov. 14, 2005  
*Chief AUSA Daniel Knauss was appointed interim USA; 32 ½ years as a career federal prosecutor, including 2 months as interim USA in that office in the past*

- Repeatedly took actions contrary to DOJ policy and procedure.
- Failed to implement the AG's instruction on a death penalty case, when federal law places the decision with the AG.
- Like McKay, Charlton demonstrated a pattern of poor judgment in relation to the tactics he used to push for policy changes without regard to the Department's appropriate channels and methods of evaluating policy. He tried to mandate the FBI to institute a new policy to videotape all interviews with suspects without regard to the national policy taken by the FBI or all of the many reasons why this raises significant concerns that require substantial discussion.
- Despite the national focus the Attorney General requested for offices to focus on the federal crime of obscenity, which coarsens society, McKay failed to support the Department's prosecution of a case that was developed within his district.
- Worked outside of proper channels in seeking resources, without regard to the process or the impact his action would have on our other USAOs.

DAG000001112

Sensitive/ Personnel: Not for distribution  
PRIVACY ACT PROTECTED

- [Contrary to guidance from Main Justice that it was poor judgment, he put an employee on "leave without pay" status so she could become a paid press secretary for a Republican running in the 2002 gubernatorial campaign against Governor Napolitano, the former U.S. Attorney. (Shortly thereafter, the employee left the USAO permanently.)]

**David Iglesias (NM):** Appointed Oct. 17, 2001; term expired Oct. 17, 2005  
*First AUSA Larry Gomez is Acting USA; 27 years as career federal prosecutor/manager plus 2 years as local prosecutor*

- One of our large offices, New Mexico is a critically-important border district.
- Again, the President and Attorney General have made clear that border enforcement is a top priority. It's important to our national security and to our domestic security. Regardless of what was done by the office in this area, he failed to tackle this responsibility as aggressively and as vigorously as we expected and needed her to do.
- There was a perception that he traveled a lot, but that even when he was in the office he still delegated a vast majority of the management to his First Assistant. We expect our U.S. Attorneys, particularly those in critical districts, to be hands-on managers working hard to advance the work of the Department.
- Quite simply, now that Mr. Iglesias finished his four-year term (and then some) this was an area where we thought we could make a change to bring more dynamic leadership to the office.

**Dan Bogden (Nevada):** Appointed Nov. 2, 2001; term expired Nov. 2, 2005  
*First AUSA Steve Myhre is Acting USA; 9 years as federal prosecutor/manager plus 5 years of private sector litigation and 8 years in the Marine Corps Judge Advocate*

- Similarly, Nevada is what we consider to be a very important district that was underserved.
- Given the large tourist population that visits each year, it's well-known that Las Vegas could present a target for terrorism. It has also struggled with violent crime, drugs, and organized crime. This is an office where we have the right to expect excellence and aggressive prosecution in a number of priority areas.
- Despite the national focus the Attorney General requested for offices to place on the federal crime of obscenity, which coarsens society, the USA failed to support the Department's prosecution of a case that was developed within his district.

DAG000001113



Sensitive/ Personnel: Not for distribution  
PRIVACY ACT PROTECTED

- This is another district where, now that Mr. Bodgen has finished his four-year term (and then some), we thought we could make a change to bring more dynamic leadership to the office.

**Margaret Chiara (WDM):** Appointed Nov. 2, 2001; term expired Nov. 2005  
*Decision pending on who will lead the office until a new Senate-confirmed USA is identified.*

TRY TO AVOID SINCE NO PUBLIC STATEMENTS FROM CHIARA:

- We have briefed privately the reasons for the change in this district; however, Ms. Chiara has not made any public statements at this time, and out of respect for her silence, we'd say only that this office presented some management issues.

IF PUSHED:

- Under the USA's tenure, the office has become fractured, morale has fallen, and the USA has lost the confidence of several members of the leadership team and some career prosecutors.
- The problems here have required an on-site visit by management experts from our EOUSA to visit and mediate with members of the leadership team, and in the end, it was decided that new leadership would be appropriate to unite the office.

DAG000001114

## FACT SHEET: UNITED STATES ATTORNEY APPOINTMENTS

### NOMINATIONS AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

Since March 9, 2006, when the Congress amended the Attorney General's authority to appoint interim United States Attorneys, the President has nominated 15 individuals to serve as United States Attorney. The 15 nominations are:

- Erik Peterson – Western District of Wisconsin;
- Charles Rosenberg – Eastern District of Virginia;
- Thomas Anderson – District of Vermont;
- Martin Jackley – District of South Dakota;
- Alexander Acosta – Southern District of Florida;
- Troy Eid – District of Colorado;
- Phillip Green – Southern District of Illinois;
- George Holding – Eastern District of North Carolina;
- Sharon Potter – Northern District of West Virginia;
- Brett Tolman – District of Utah;
- Rodger Heaton – Central District of Illinois;
- Deborah Rhodes – Southern District of Alabama;
- Rachel Paulose – District of Minnesota;
- John Wood – Western District of Missouri; and
- Rosa Rodriguez-Velez – District of Puerto Rico.

All but Phillip Green, John Wood, and Rosa Rodriguez-Velez have been confirmed by the Senate.

### VACANCIES AFTER AMENDMENT TO ATTORNEY GENERAL'S APPOINTMENT AUTHORITY

Since March 9, 2006, there have been 13 new U.S. Attorney vacancies that have arisen. They have been filled as noted below.

For 4 of the 13 vacancies, the First Assistant United States Attorney (FAUSA) in the district was selected to lead the office in an acting capacity under the Vacancies Reform Act, *see* 5 U.S.C. § 3345(a)(1) (first assistant may serve in acting capacity for 210 days unless a nomination is made) until a nomination could be or can be submitted to the Senate. Those districts are:

- **Central District of California** – FAUSA George Cardona is acting United States Attorney
- **Southern District of Illinois** – FAUSA Randy Massey is acting United States Attorney (a nomination was made last Congress for Phillip Green, but confirmation did not occur);

DAG000001115