



DAG000001171

Biography for Representative Jim Jordan
Representative's Official Biography

Jim Jordan

Jordan was raised in Champaign County, Ohio, graduating from Graham High School in 1982, where he was a four-time state champion in wrestling with a career record of 150-1. He went on to earn a Bachelor's Degree in Economics from the University of Wisconsin, where he was a two-time NCAA wrestling champion. He later earned a Master's degree in Education from the Ohio State University and a Law Degree from Capital University in Columbus, Ohio.



Jordan is a fiscal conservative who believes that families and taxpayers, rather than government, know best how to make decisions with their money. In the past ten years, Jim Jordan has led the fight against efforts to raise taxes, including tax increases proposed by leaders of his own political party. Jim Jordan believes that cutting taxes and letting families keep more of what they earn helps build strong communities and a vibrant economy.

Jim Jordan was named Pro-Life legislator of the Year from United Conservatives of Ohio and won the Defender of Life award from Ohio Right to Life for his unwavering commitment to protecting the sanctity of human life. He is a trusted leader on family issues like defending traditional marriage and giving parents the tools they need to help build a brighter future for their children.

Jim and his wife Polly are the parents of four children. The Jordan family lives near Urbana and attend Grace Bible Church.

1)

2)

3)

DAG000001173

**The Honorable Ric Keller
United States Congressman (R-FL)**

Biography

Congressman Ric Keller, 42, was re-elected in November of 2006, to his fourth term in the U.S. House of Representatives. He represents the people of the 8th Congressional District, which covers the greater Orlando area and stretches from Celebration to Ocala.

Congressman Keller has served as the chairman, and now ranking member, of the House higher education subcommittee. As the only Floridian in Congress to serve on the House Education and Labor Committee, Congressman Keller is the state's point man on education issues in Washington.

Congressman Keller also sits on the House Judiciary Committee, where he has been a leading advocate of the COPS (Community Oriented Policing Services) program to put more law enforcement officers on our streets.

Congressman Keller was raised in Orlando, and graduated from Boone High School. He received his bachelor's degree from East Tennessee State University, where he graduated first in his class. He received his law degree from Vanderbilt University.

Ric resides in Orlando with his wife, Dee Dee. He has three children, Nick, Christy, and Kaylee.

DAG000001174



DAG000001175

Representative Tom Feeney - Biography

Representative Tom Feeney is proud to represent the 24th District of Florida, which covers portions of Brevard, Orange, Seminole, and Volusia counties. Feeney, elected in 2002, was previously Speaker of the Florida House of Representatives and was Governor Jeb Bush's running mate in his first race for governor in 1994.



Representative Feeney graduated in 1980 from Penn State University with a B.A. in Political Science and obtained his law degree from the University of Pittsburgh in 1983. Feeney made Central Florida home 23 years ago and in 1990, was elected to the Florida House of Representatives, where he served two terms before being chosen as Governor Bush's running mate.

As a young legislator, one of Feeney's primary goals was to expand choice and opportunities in kindergarten through 12th grade education. He quickly became one of Florida's leading advocates for educational choice. In August of 1992, the American Legislative Exchange Council (ALEC) voted him National Outstanding Legislative Member of the Year for his work on education reform.

In a special election in 1996, Feeney was returned to the Florida House of Representatives where he continued his activism on education and became one of the state's leading legislators on tort reform and welfare reform. His ideas on welfare reform have dramatically altered Florida's welfare system, resulting in over 500,000 Floridians leaving the state's welfare rolls and joining the workforce. Education reforms include increased spending on public education (52.5% of Florida's current budget) and a successful "A+ Education Plan."

On November 21, 2000, Tom Feeney was sworn in as Speaker of the Florida House of Representatives and in 2001 was ranked among the most effective legislators of the year by the Miami Herald. Tom Slade, past Chairman of the Republican Party of Florida said "Feeney is the most philosophically disciplined and principled member of state government that I've ever known."

In Congress, Feeney serves on the powerful Financial Services and Judiciary committees as well as the Science committee which oversees NASA, and serves as an Assistant Whip. In his first term in Congress, Feeney brought

DAG000001176

commonsense principles from his service in Florida to the U.S. House of Representatives. His six principles: less government, lower taxes, personal responsibility, individual freedom, stronger families, and national defense gained popularity on Capitol Hill and became the guiding principles for the Republican Study Committee (RSC), the largest organization in the House of Representatives.

In his first term, Feeney successfully passed an amendment to the PROTECT Act to ensure tough sentences for child predators. Additionally, he led a reform of the tax code to allow Florida taxpayers to deduct the amount of sales tax they pay. To help restrain irresponsible spending, Representative Feeney co-founded the Washington Waste Watchers, a working group formed to combat waste, fraud, and abuse in federal government.

In his second term, Rep. Feeney introduced the COMPETE Act, legislation to restore America's lead in world capital markets and reduce the burdens of Sarbanes-Oxley on small businesses. In response to Florida's homeowners' insurance crisis, Feeney also introduced Catastrophe Savings Accounts which will empower homeowners to put away money tax-free to save and prepare for a disaster.

Feeney's most proud accomplishment of his second term was securing a Veterans Administration hospital for Central Florida, an area long underserved.

Rep. Feeney is a committed champion for NASA, fighting to protect Kennedy Space Center, space exploration and NASA funding. He fought to secure funding for the Crew Exploration Vehicle and Crew Launch Vehicle.

Representative Tom Feeney is consistently named a "Taxpayer Superhero" and "Taxpayers' Friend" by the Citizens Against Government Waste and the National Taxpayers Union respectively. For his stance on immigration and commitment to securing America's border, Feeney has been named to the U.S. Border Security Hall of Fame.

Tom is married to the former Ellen Stewart and they are the proud parents of two sons, Tommy and Sean Patrick. The Feeney family calls Oviedo, Florida home.

DAG000001177

DAG000001178

Congressman Trent Franks

Trent is a conservative Reagan Republican, and he has spent most of his life working on children's issues and trying to build a better future for all children.

He is a former Member of the Arizona State House of Representatives where he was Chairman of the Subcommittee on Child Protection and Family Preservation. He was a high-profile sponsor of numerous bills designed to protect the family including the "Child Obscenity and Pornography Bill" (which survived major challenges in the U.S. Federal District Court) and the "Dangerous Crimes Against Children Bill". Both became nationally recognized.

Trent later oversaw all of Arizona's state programs for children when he became the Cabinet level Director of the Arizona Governor's Office for Children. This office is the equivalent of the Department for Children in other states. He was also Chairman of the Arizona State Children's Cabinet as well as Chairman of the Inter-Agency Study Committee on Children and AIDS.

Trent founded and served four and a half years as Executive Director of the Arizona Family Research Institute which is a non-profit organization associated with Dr. James Dobson's Focus on the Family for the purpose of advocating and advancing public policy to protect children and families in Arizona.

Trent Franks is serving his third term in Congress, representing the Second District of Arizona. He serves on the Armed Services Committee and the Judiciary Committee, where he is the ranking member of the Constitution Subcommittee. He chairs the House Republican Conference Voter Values Public Affairs Team and is a member of the Republican Study Committee, the House Working Group on Judicial Accountability, the Education Freedom Caucus, the House Working Group on Waste, Fraud and Abuse, the Congressional Hispanic Conference, the Liberty Caucus, the Human Rights Caucus and the India Caucus, the Anti-Terrorism Caucus, and is co-founder of the Israel Allies Caucus (IAC).

Representative Franks has committed his life to protecting children. He is passionate in his commitment to protecting innocent life, including that of unborn children.

Congressman Franks has a longstanding commitment to providing parental empowerment and educational choice for families. In 1997, he authored and was the leading advocate for the Arizona Scholarship Tax Credit. This incredibly successful program has helped provide scholarships for over 50,000 children in its 8 year history. In order to build on this success, Rep. Franks has introduced the Children's Hope Act in Congress. This act would encourage states to create their own scholarship tax credit by providing an additional federal credit for individuals who participate in a state scholarship tax credit of \$250 or more.

Representative Franks has received numerous honors since his arrival in Washington, including the Family Research Council's "True Blue Award," given to those who have "demonstrated extraordinary integrity and character in their defense of the family and the sanctity of human life...and hold perfect voting records on issues of importance to the American family," the "Spirit

DAG00001179

of Enterprise" award from the U.S. Chamber of Commerce, the "Legislative Achievement Award" from the Seniors Coalition, the "Guardian of Seniors' Rights Award" from the 60 Plus Association, the "Constituent Communication Award" from National Write Your Congressman, the "2004 Medicare Choices Leadership Award" from the Coalition for Medicare Choices, a "Presidential Citation" from the President of the Philippines Gloria Macapagal-Arroyo, the "Thomas Jefferson Award" from the Food Industry, the "Tax Fighter Award" (100% rating) from the National Tax Limitation Committee, was named a "Small Business Advocate" by Americans for Tax Reform, 2004's "Lawmaker of the Year" by Independent Electrical Contractors, Inc., "Taxpayer Hero" by the Council for Citizens Against Government Waste, "Champion of Property Rights" (100% rating) by the League of Private Property Voters, "Friend of Farm Bureau" by the American Farm Bureau Federation, and he received the "Friend of Education Award" from the Education Freedom Coalition.

Mr. Franks and his wife Josephine have been married since 1980 and are members of North Phoenix Baptist Church.

DAG000001180

DAG00001181

MOSCHIELLA ORAL
STMT.

DAG000001182

William E. Moschella
Principal Associate Deputy Attorney General
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 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.

MOSCHELLA TESTIMONY

DAG00001188

DRAFT
Department of Justice



STATEMENT
OF
WILLIAM E. MOSCHELLA
PRINCIPAL ASSOCIATE DEPUTY ATTORNEY GENERAL
UNITED STATES DEPARTMENT OF JUSTICE
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES
CONCERNING
"H.R. 580, RESTORING CHECKS AND BALANCES IN THE NOMINATION
PROCESS OF U.S. ATTORNEYS"

PRESENTED ON
MARCH 6, 2007

**Testimony
of**

**William E. Moschella
Principal Associate Deputy Attorney General
U.S. Department of Justice**

**Committee on the Judiciary
United States House of Representatives**

**"H.R. 580, Restoring Checks and Balances in the Nomination Process of U.S.
Attorneys"**

March 6, 2007

Chairman Conyers, Congressman Smith, and members of the Committee, thank you for the invitation to discuss the importance of the Justice Department's United States Attorneys.

The Department of Justice opposes H.R. 580, the "Preserving United States Attorneys Independence Act of 2007" as presently drafted for the reasons set forth herein.

As the chief federal law-enforcement officers in their districts, our 93 U.S. Attorneys represent the Attorney General and the Department of Justice throughout the United States. U.S. Attorneys are not just prosecutors; they are government officials charged with managing and implementing the policies and priorities of the President and the Attorney General. The Attorney General has set forth key priorities for the Department of Justice, and in each of their districts, U.S. Attorneys lead the Department's efforts to protect America from terrorist attacks and fight violent crime, combat illegal drug trafficking, ensure the integrity of government and

the marketplace, enforce our immigration laws, and prosecute crimes that endanger children and families—including child pornography, obscenity, and human trafficking.

United States Attorneys serve at the pleasure of the President. Like any other high-ranking officials in the Executive Branch, they may be removed for any reason or no reason. The Department of Justice—including the office of United States Attorney—was created precisely so that the government's legal business could be effectively managed and carried out through a coherent program under the supervision of the Attorney General. Unlike judges, who are supposed to act independently of those who nominate them, U.S. Attorneys are accountable to the Attorney General, and through him, to the President—the head of the Executive Branch. This accountability ensures compliance with Department policy, and is often recognized by the Members of Congress who write to the Department to encourage various U.S. Attorneys' Offices to focus on a particular area of law enforcement.

The Attorney General and the Deputy Attorney General are responsible for evaluating the performance of the United States Attorneys and ensuring that they are leading their offices effectively. It should come as no surprise to anyone that, in an organization as large as the Justice Department, U.S. Attorneys are removed or asked or encouraged to resign from time to time. However, in this Administration U.S. Attorneys are never—repeat, never—removed, or asked or encouraged to resign, in an effort to retaliate against them, or interfere with, or inappropriately influence a particular investigation, criminal prosecution, or civil case. Any suggestion to the contrary is unfounded, and it irresponsibly undermines the reputation for impartiality the Department has earned over many years and on which it depends.

Turnover in the position of U.S. Attorney is not uncommon and should be expected, particularly after a U.S. Attorney's four-year term has expired. When a presidential election results in a change of administration, every U.S. Attorney leaves and the new President nominates a successor for confirmation by the Senate. Moreover, U.S. Attorneys do not necessarily stay in place even during an administration. For example, approximately half of the U.S. Attorneys appointed at the beginning of the Bush Administration had left office by the end of 2006. Of the U.S. Attorneys whose resignations have been the subject of recent discussion, each one had served longer than four years prior to being asked to resign.

Given the reality of turnover among the United States Attorneys, our system depends heavily on the dedicated service of the career investigators and prosecutors. While a new U.S. Attorney may articulate new priorities or emphasize different types of cases, the effect of a U.S. Attorney's departure on an existing investigation is, in fact, minimal, and that is as it should be. The career civil servants who prosecute federal criminal cases are dedicated professionals and an effective U.S. Attorney relies on the professional judgment of those prosecutors.

The leadership of an office is more than the direction of individual cases. It involves managing limited resources, maintaining high morale in the office, and building relationships with federal, state, and local law enforcement partners. When a U.S. Attorney submits his or her resignation, the Department must first determine who will serve temporarily as interim U.S. Attorney. The Department has an obligation to ensure that someone is able to carry out the important function of leading a U.S. Attorney's Office during the period when there is not a presidentially-appointed, Senate-confirmed United States Attorney. Often, the Department looks

to the First Assistant U.S. Attorney or another senior manager in the office to serve as U.S. Attorney on an interim basis. When neither the First Assistant nor another senior manager in the office is able or willing to serve as interim U.S. Attorney, or when the appointment of either would not be appropriate in the circumstances, the Department has looked to other, qualified Department employees. For example, in the District of Minnesota and the Northern District of Iowa, the First Assistant took federal retirement at or near the same time that the U.S. Attorney resigned, which required the Department to select another official to lead the office.

At no time, however, has the Administration sought to avoid the confirmation process in the Senate by appointing an interim U.S. Attorney and then refusing to move forward—in consultation with home-State Senators—on the selection, nomination, confirmation and appointment of a new U.S. Attorney. Not once. In every single case where a vacancy occurs, the Bush Administration is committed to having a United States Attorney who is confirmed by the Senate. And the Administration's actions bear this out. Every time a vacancy has arisen, the President has either made a nomination, or the Administration is working to select candidates for nomination. The appointment of U.S. Attorneys by and with the advice and consent of the Senate is unquestionably the appointment method preferred by the Senate, and it is unquestionably the appointment method preferred by the Administration.

Since January 20, 2001, 125 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 16 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 15 individuals for Senate consideration since the appointment authority was amended, with 12 of those nominees having been confirmed to date. Of the 16 vacancies that have occurred since the time that the law was amended, the Administration has nominated candidates to fill five of these positions, has interviewed candidates for nomination for seven more positions, and is waiting to receive names to set up interviews for the remaining positions—all in consultation with home-state Senators.

However, while that nomination process continues, the Department must have a leader in place to carry out the important work of these offices. To ensure an effective and smooth transition during U.S. Attorney vacancies, the office of the U.S. Attorney must be filled on an interim basis. To do so, the Department relies on the Vacancy Reform Act ("VRA"), 5 U.S.C. § 3345(a)(1), when the First Assistant is selected to lead the office, or the Attorney General's appointment authority in 28 U.S.C. § 546 when another Department employee is chosen. Under the VRA, the First Assistant may serve in an acting capacity for only 210 days, unless a nomination is made during that period. Under an Attorney General appointment, the interim U.S. Attorney serves until a nominee is confirmed the Senate. There is no other statutory authority for filling such a vacancy, and thus the use of the Attorney General's appointment authority, as amended last year, signals nothing other than a decision to have an interim U.S. Attorney who is not the First Assistant. It does not indicate an intention to avoid the confirmation process, as some have suggested.

H.R. 580 would supersede last year's amendment to 28 U.S.C. § 546 that authorized the Attorney General to appoint an interim U.S. Attorney to serve until a person fills the position by

being confirmed by the Senate and appointed by the President. Last year's amendment was intended to ensure continuity of operations in the event of a U.S. Attorney vacancy that lasts longer than expected. H.R. 580 would not permit the Attorney General's authority under current law to be tested in practice.

Prior to last year's amendment, the Attorney General could appoint an interim U.S. Attorney for the first 120 days after a vacancy arose; thereafter, the district court was authorized to appoint an interim U.S. Attorney. In cases in which a Senate-confirmed U.S. Attorney could not be appointed within 120 days, the limitation on the Attorney General's appointment authority resulted in recurring problems. Some district courts recognized the conflicts inherent in the appointment of an interim U.S. Attorney who would then have matters before the court—not to mention the oddity of one branch of government appointing officers of another—and simply refused to exercise the appointment authority. In those cases, the Attorney General was consequently required to make multiple successive 120-day interim appointments. Other district courts ignored the inherent conflicts and sought to appoint as interim U.S. Attorneys wholly unacceptable candidates who lacked the required clearances or appropriate qualifications.

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 a cleared individual. The new U.S. Attorney sought access to law-enforcement sensitive investigative materials related to the office's most sensitive public

corruption investigation. 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. The appointment forced the Department to remove the case files from the U.S. Attorney's office and bring them to Washington. In the end, the Department expedited the nomination of the permanent U.S. Attorney and appointed him to replace the court-appointed individual pending his confirmation.

In a second case, occurring in 2005, the district court appointed as interim U.S. Attorney in South Dakota an individual who similarly was not a Department of Justice or federal employee and had never undergone the appropriate background check. As a result, the interim U.S. Attorney could have no access to classified information. The U.S. Attorney 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.

Despite these two notorious instances, in most cases, the district courts have simply appointed the Attorney General's choice as interim U.S. Attorney, revealing the fact that most judges have recognized the importance of appointing an interim U.S. Attorney who enjoys the confidence of the Attorney General. In other words, the most important factor in the selection of past court-appointed interim U.S. Attorneys was the Attorney General's recommendation. By foreclosing the possibility of judicial appointment of interim U.S. Attorneys unacceptable to the Administration, last year's amendment to Section 546 appropriately eliminated a procedure that created unnecessary problems without any apparent benefit.

The Department's principal objection to H.R. 580 is that it would be inappropriate, and inconsistent with sound separation of powers principles, to vest federal courts with the authority to appoint a critical Executive Branch officer such as a United States Attorney. We are aware of no other agency where federal judges—members of a separate branch of government—appoint on an interim basis senior, policymaking staff of an agency. Such a judicial appointee would have authority for litigating the entire federal criminal and civil docket before the very district court to whom he or she was beholden for the appointment. This arrangement, at a minimum, gives rise to an appearance of potential conflict that undermines the performance or perceived performance of both the Executive and Judicial Branches. A judge may be inclined to select a U.S. Attorney who shares the judge's ideological or prosecutorial philosophy. Or a judge may select a prosecutor apt to settle cases and enter plea bargains, so as to preserve judicial resources. *See Wiener, Inter-Branch Appointments After the Independent Counsel: Court Appointment of United States Attorneys*, 86 Minn. L. Rev. 363, 428 (2001) (concluding that court appointment of interim U.S. Attorneys is unconstitutional).

Prosecutorial authority should be exercised by the Executive Branch in a unified manner, consistent with the application of criminal enforcement policy under the Attorney General. Court-appointed U.S. Attorneys would be at least as accountable to the chief judge of the district court as to the Attorney General, which could, in some circumstances become untenable. In no context is accountability more important to our society than on the front lines of law enforcement and the exercise of prosecutorial discretion, and the Department contends that the chief prosecutor should be accountable to the Attorney General, the President, and ultimately the people.

H.R. 580 appears to be aimed at addressing a problem that has not arisen. The Administration has repeatedly demonstrated its commitment to having a Senate-confirmed U.S. Attorney in every federal district. As noted, when a vacancy in the office of U.S. Attorney occurs, the Department typically looks first to the First Assistant or another senior manager in the office to serve as an acting or interim U.S. Attorney. Where neither the First Assistant nor another senior manager is able or willing to serve as an acting or interim U.S. Attorney, or where their service would not be appropriate under the circumstances, the Administration has looked to other Department employees to serve temporarily. No matter which way a U.S. Attorney is temporarily appointed, the Administration has consistently sought, and will continue to seek, to fill the vacancy—in consultation with home-State Senators—with a presidentially-nominated and Senate-confirmed nominee. The Department, therefore, does not believe a case has been made to repeal the current authority for appointing interim U.S. Attorneys.

Thank you again for the opportunity to testify, and I look forward to answering the Committee's questions.

MARKERS -
Changes to HR 580

DAG000001199

Changes to H.R. 580

- We would urge the Committee consider the following suggestions:
- First, the 120-day period in the prior statute proved to be far too short. Congress has itself determined in the Vacancies Reform Act that **210 days is a more appropriate length of time** to permit an official already with an agency to serve in an acting capacity in an office subject to Senate confirmation.
- We urge that, if the Committee wishes to restore some authority to the district courts to appoint interim U.S. Attorneys, it confer this authority on the district court only after 210 days have elapsed on the Attorney General's appointment, and not the 120 days as contemplated in H.R. 580.
- The reality is that between the selection of U.S. Attorneys and the confirmation process in the Senate, it now takes an average of more than 300 days to fill an open U.S. Attorney position with a confirmed individual.
- Second, to avoid problematic cases such as the two noted in my testimony, we request that the law **permit the district to appoint as interim U.S. Attorney only an individual who is a current Justice Department employee or has been cleared for or eligible to obtain a clearance for access to classified information.**
- Finally, we request that the law **contain a requirement that the district court consult with the Attorney General prior to making the appointment.** This last requirement will permit the Attorney General to advise the district court on whether the individual has been cleared or is qualified to receive a security clearance and whether the individual, if he or she is a current Justice Department employee, is the subject of an investigation by the Office of Professional Responsibility or the Inspector General.
- If H.R. 580 were amended to include these provisions, the Department would not interpose an objection to the legislation.

DAG000001200

H.R. 580

DAG000001201

HR 580 IH

110th CONGRESS

1st Session

H. R. 580

To amend chapter 35 of title 28, United States Code, to provide for a 120-day limit to the term of a United States attorney appointed on an interim basis by the Attorney General, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

January 19, 2007

Mr. BERMAN (for himself, Mr. CONYERS, and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 35 of title 28, United States Code, to provide for a 120-day limit to the term of a United States attorney appointed on an interim basis by the Attorney General, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INTERIM APPOINTMENT OF UNITED STATES

ATTORNEYS .

Section 546 of title 28, United States Code, is amended by striking subsection (c) and inserting the following new subsections:

(c) A person appointed as United States attorney under this section may serve until the earlier of--

(1) the qualification of a United States attorney for such district appointed by the President under section 541 of this title; or

(2) the expiration of 120 days after appointment by the Attorney General under this section.

(d) If an appointment expires under subsection (c)(2), the district court for such district may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.

DAG000001202

DAG000001203

TALKING POINTS
AND FACT SHEET

DAG000001204

TALKING POINTS: U.S. ATTORNEY NOMINATIONS AND INTERIM APPOINTMENTS BY THE ATTORNEY GENERAL

Overview:

- In every single case, it is a goal of the Bush Administration to have a U.S. Attorney that is confirmed by the Senate. Use of the AG's appointment authority is in no way an attempt to circumvent the confirmation process. To the contrary, when a United States Attorney submits his or her resignation, the Administration has an obligation to ensure that someone is able to carry out the important function of leading a U.S. Attorney's office during the period when there is not a presidentially-nominated, senate-confirmed (PAS) U.S. Attorney. Whenever a U.S. Attorney vacancy arises, we consult with the home-state Senators about candidates for nomination.
- Our record since the AG-appointment authority was amended demonstrates we are committed to working with the Senate to nominate candidates for U.S. Attorney positions. Every single time that a United States Attorney vacancy has arisen, the President either has made a nomination or the Administration is working, in consultation with home-State Senators, to select candidates for nomination.
 - ✓ Specifically, since March 9, 2006 (when the AG's appointment authority was amended), the Administration has nominated 16 individuals to serve as U.S. Attorney (12 have been confirmed to date).

U.S. Attorneys Serve at the Pleasure of the President:

- United States Attorneys are at the forefront of the Department of Justice's efforts. They are leading the charge to protect America from acts of terrorism; reduce violent crime, including gun crime and gang crime; enforce immigration laws; fight illegal drugs, especially methamphetamine; combat crimes that endanger children and families like child pornography, obscenity, and human trafficking; and ensure the integrity of the marketplace and of government by prosecuting corporate fraud and public corruption.
- The Attorney General and the Deputy Attorney General are responsible for evaluating the performance the United States Attorneys and ensuring that United States Attorneys are leading their offices effectively.
- United States Attorneys serve at the pleasure of the President. Thus, like other high-ranking Executive Branch officials, they may be removed for any reason or no reason. That on occasion in an organization as large as the Justice Department some United States Attorneys are removed, or are asked or encouraged to resign, should come as no surprise. United States Attorneys never are removed, or asked or encouraged to resign, in an effort to retaliate against them or interfere with or

DAG000001205

inappropriately influence a particular investigation, criminal prosecution or civil case.

- Whenever a vacancy occurs, we act to fill it in compliance with our obligations under the Constitution, the laws of the United States, and in consultation with the home-state Senators. The Senators have raised concerns based on a misunderstanding of the facts surrounding the resignations of a handful of U.S. Attorneys, each of whom have been in office for their full four year term or more.
- The Attorney General and the Deputy Attorney General are responsible for evaluating the performance the U.S. Attorneys and ensuring that they are leading their offices effectively. However, U.S. Attorneys are never removed, or asked or encouraged to resign, in an effort to retaliate against them or interfere with or inappropriately influence a particular investigation, criminal prosecution or civil case.

The Administration Must Ensure an Effective Transition When Vacancies Occur:

- When a United States Attorney has submitted his or her resignation, the Administration has -- in every single case -- consulted with home-state Senators regarding candidates for the Presidential nomination and Senate confirmation. The Administration is committed to nominating a candidate for Senate consideration everywhere a vacancy arises, as evidenced by the fact that there have been 124 confirmations of new U.S. Attorneys since January 20, 2001.
- With 93 U.S. Attorney positions across the country, the Department often averages between 8-15 vacancies at any given time. Because of the important work conducted by these offices, and the need to ensure that the office is being managed effectively and appropriately, the Department uses a range of options to ensure continuity of operations.
- In some cases, the First Assistant U.S. Attorney is an appropriate choice. However, in other cases, the First Assistant may not be an appropriate option for reasons including that he or she: resigns or retires at the same time as the outgoing U.S. Attorney; indicates that he/she does not want to serve as Acting U.S. Attorney; has ongoing or completed OPR or IG matters in their file, which may make his/her elevation to the Acting role inappropriate; or is subject of an unfavorable recommendation by the outgoing U.S. Attorney or otherwise does not enjoy the confidence of those responsible for ensuring ongoing operations and an appropriate transition until such time as a new U.S. Attorney is nominated and confirmed by the Senate. In those cases, the Attorney General has appointed another individual to lead the office during the transition, often another senior manager from that office or an experienced attorney from within the Department.

DAG000001206

The Administration Is Nominating Candidates for U.S. Attorney Positions:

- Since March 9, 2006, when the appointment authority was amended, the Administration has nominated 16 individuals for Senate consideration (12 have been confirmed to date).
- Since March 9, 2006, when the appointment authority was amended, 18 vacancies have been created. Of those 18 vacancies, the Administration nominated candidates to fill 6 of these positions (3 were confirmed to date), has interviewed candidates for 8 positions, and is waiting to receive names to set up interviews for the remaining positions – all in consultation with home-state Senators.

The 18 Vacancies Were Filled on an Interim Basis Using a Range of Authorities, in Order To Ensure an Effective and Smooth Transition:

- In 7 cases, the First Assistant was selected to lead the office and took over under the Vacancy Reform Act's provision at: 5 U.S.C. § 3345(a)(1). That authority is limited to 210 days, unless a nomination is made during that period.
- In 1 case, the First Assistant was selected to lead the office and took over under the Vacancy Reform Act's provision at: 5 U.S.C. § 3345(a)(1). However, the First Assistant took federal retirement a month later and the Department had to select another Department employee to serve as interim under AG appointment until such time as a nomination is submitted to the Senate.
- In 10 cases, the Department selected another Department employee to serve as interim under AG appointment until such time as a nomination is submitted to the Senate. In 1 of those 10 cases, the First Assistant had resigned at the same time as the U.S. Attorney, creating a need for an interim until such time as a nomination is submitted to the Senate.

Amending the Statute Was Necessary:

- Last year's amendment to the Attorney General's appointment authority was necessary and appropriate.
- We are aware of no other federal agency where federal judges, members of a separate branch of government and not the head of the agency, appoint interim staff on behalf of the agency.
- Prior to the amendment, the Attorney General could appoint an interim United States Attorney for only 120 days; thereafter, the district court was authorized to appoint an interim United States Attorney. In cases where a Senate-confirmed United States Attorney could not be appointed within 120 days, the limitation on the Attorney General's appointment authority resulted in numerous, recurring problems.

DAG000001207

- The statute was amended for several reasons:
 - 1) The previous provision was constitutionally-suspect in that it is inappropriate and inconsistent with sound separation of powers principles to vest federal courts with the authority to appoint a critical Executive Branch officer such as a United States Attorney;
 - 2) Some district courts – recognizing the oddity of members of one branch of government appointing officers of another and the conflicts inherent in the appointment of an interim United States Attorney who would then have many matters before the court – refused to exercise the court appointment authority, thereby requiring the Attorney General to make successive, 120-day appointments;
 - 3) Other district courts – ignoring the oddity and the inherent conflicts – sought to appoint as interim United States Attorney wholly unacceptable candidates who did not have the appropriate experience or the necessary clearances.
- Court appointments raise significant conflict questions. After being appointed by the court, the judicial appointee would have authority for litigating the entire federal criminal and civil docket for this period before the very district court to whom he was beholden for his appointment. Such an arrangement at a minimum gives rise to an appearance of potential conflict that undermines the performance of not just the Executive Branch, but also the Judicial one. Furthermore, prosecutorial authority should be exercised by the Executive Branch in a unified manner, with consistent application of criminal enforcement policy under the supervision of the Attorney General.
- Because the Administration is committed to having a Senate-confirmed United States Attorney in all districts, changing the law to restore the limitations on the Attorney General's appointment authority is unnecessary.

DAG000001208

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 16 individuals to serve as United States Attorney. The 16 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;
- Rosa Rodriguez-Velez – District of Puerto Rico; and
- Jeffrey Taylor – District of Columbia.

All but Phillip Green, John Wood, Rosa Rodriguez-Velez, and Jeffrey Taylor have been confirmed by the Senate – 12 of 16 nominations.

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

Since March 9, 2006, there have been 18 new U.S. Attorney vacancies that have arisen. They have been filled as noted below.

For 7 of the 18 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

DAG000001209

- **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);
- **Eastern District of North Carolina** – FAUSA George Holding served as acting United States Attorney (Holding was nominated and confirmed);
- **Northern District of West Virginia** – FAUSA Rita Valdrini served as acting United States Attorney (Sharon Potter was nominated and confirmed);
- **Southern District of Georgia** – FAUSA Edmund A. Booth, Jr. is acting USA;
- **District of New Mexico** – FAUSA Larry Gomez is acting USA; and
- **District of Nevada** – FAUSA Steven Myhre is acting USA.

For 1 vacancy, the Department first selected the First Assistant United States Attorney to lead the office in an acting capacity under the Vacancies Reform Act, but the First Assistant retired a month later. At that point, the Department selected another employee to serve as interim United States Attorney until a nomination could be submitted to the Senate, *see* 28 U.S.C. § 546(a) (“Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant”). This district is:

- **Northern District of Iowa** – FAUSA Judi Whetstone was acting United States Attorney until she retired and Matt Dummermuth was appointed interim United States Attorney.

For 10 of the 18 vacancies, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate, *see* 28 U.S.C. § 546(a) (“Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant”). Those districts are:

- **Eastern District of Virginia** – Pending nominee Chuck Rosenberg was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Deputy Attorney General (Rosenberg was confirmed shortly thereafter);
- **Eastern District of Arkansas** – Tim Griffin was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Columbia** – Jeff Taylor was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Assistant Attorney General for the National Security Division (Taylor has been nominated to fill the position permanently);
- **District of Nebraska** – Joe Stecher was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Chief Justice of Nebraska Supreme Court;
- **Middle District of Tennessee** – Craig Morford was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Western District of Missouri** – Brad Schlozman was appointed interim United States Attorney when incumbent United States Attorney and FAUSA resigned at the same time (John Wood was nominated);

DAG000001210

- **Western District of Washington** – Jeff Sullivan was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Arizona** – Dan Knauss was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Northern District of California** – Scott Schools was appointed interim United States Attorney when incumbent United States Attorney resigned; and
- **Southern District of California** – Karen Hewitt was appointed interim United States Attorney when incumbent United States Attorney resigned.

**ATTORNEY GENERAL APPOINTMENTS AFTER AMENDMENT TO -
ATTORNEY GENERAL'S APPOINTMENT AUTHORITY**

The Attorney General has exercised the authority to appoint interim United States Attorneys a total of 14 times since the authority was amended in March 2006.

In 2 of the 14 cases, the FAUSA had been serving as acting United States Attorney under the Vacancies Reform Act (VRA), but the VRA's 210-day period expired before a nomination could be made. Thereafter, the Attorney General appointed that same FAUSA to serve as interim United States Attorney. These districts include:

- **District of Puerto Rico** – Rosa Rodriguez-Velez (Rodriguez-Velez has been nominated); and
- **Eastern District of Tennessee** – Russ Dedrick

In 1 case, the FAUSA had been serving as acting United States Attorney under the VRA, but the VRA's 210-day period expired before a nomination could be made. Thereafter, the Attorney General appointed another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. That district is:

- **District of Alaska** – Nelson Cohen

In 1 case, the Department originally selected the First Assistant to serve as acting United States Attorney; however, she retired from federal service a month later. At that point, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. That district is:

- **Northern District of Iowa** – Matt Dummermuth

In the 10 remaining cases, the Department selected another Department employee to serve as interim United States Attorney until a nomination could be submitted to the Senate. Those districts are:

- **Eastern District of Virginia** – Pending nominee Chuck Rosenberg was appointed interim United States Attorney when incumbent United States Attorney

DAG000001211

resigned to be appointed Deputy Attorney General (Rosenberg was confirmed shortly thereafter);

- **Eastern District of Arkansas** – Tim Griffin was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Columbia** – Jeff Taylor was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Assistant Attorney General for the National Security Division;
- **District of Nebraska** – Joe Stecher was appointed interim United States Attorney when incumbent United States Attorney resigned to be appointed Chief Justice of Nebraska Supreme Court;
- **Middle District of Tennessee** – Craig Morford was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Western District of Missouri** – Brad Schlozman was appointed interim United States Attorney when incumbent United States Attorney and FAUSA resigned at the same time (John Wood was nominated);
- **Western District of Washington** – Jeff Sullivan was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **District of Arizona** – Dan Knauss was appointed interim United States Attorney when incumbent United States Attorney resigned;
- **Northern District of California** – Scott Schools was appointed interim United States Attorney when incumbent United States Attorney resigned; and
- **Southern District of California** – Karen Hewitt was appointed interim United States Attorney when incumbent United States Attorney resigned.

DAG000001212

120 DAYS
NOT REALISTIC

DAG000001213

WHY 120 DAYS IS NOT REALISTIC

- One hundred twenty days is not a realistic period of time to permit any Administration to solicit and wait for home-state political leaders to identify a list of potential candidates, provide the time needed to interview and select a candidate for background investigation, provide the FBI with adequate time to do the full-field background investigation, prepare and submit the nomination, and to be followed by the Senate's review and confirmation of a new U.S. Attorney.
- The average number of days between the resignation of one Senate-confirmed U.S. Attorney and the President's nomination of a candidate for Senate consideration is 273 days (including 250 USAs during the Clinton Administration and George W. Bush Administration to date). Once nominated, the Senate has taken an additional period of time to review the nominations of the Administration's law enforcement officials.
- The average number of days between the nomination of a new U.S. Attorney candidate and Senate confirmation has been 58 days for President George W. Bush's USA nominees (note - the majority were submitted to a Senate that was controlled by the same party as the President) and 81 days for President Bill Clinton's USA nominees (note - 70% of nominees were submitted in the first two years to a Senate controlled by the same party as the President, others were submitted in the later six years to a party that was not).
- Simply adding the two averages of 273 and 58 days would mean a combined average of 331 days from resignation of one USA to confirmation of the next.
- The substantial time period between resignation and nomination is often due to factors outside the Administration's control, such as: 1) the Administration is waiting for home-state political leaders to develop and transmit their list of names for the Administration to begin interviewing candidates; 2) the Administration is awaiting feedback from home-state Senators on the individual selected after the interviews to move forward into background; and 3) the Administration is waiting for the FBI to complete its full-field background review. (The FBI often uses 2-4 months to do the background investigation -- and sometimes needs additional time if they identify an issue that requires significant investigation.)

DAG000001214

DIFFICULT
TRANSITIONS

DAG000001215

Examples of Difficult Transition Situations

Examples of Districts Where Judges Did Not Exercise Their Court Appointment (Making the Attorney General's Appointment Authority Essential To Keep the Position Filled until a Nominee Is Confirmed)

1. **Southern District of Florida:** In 2005, a vacancy occurred in the SDFL. The Attorney General appointed Assistant Attorney General of the Civil Rights Division, Alex Acosta, for 120 days. At the end of the term, the Court indicated that they had (years earlier) appointed an individual who later became controversial. As a result, the Court indicated that they would not make an appointment unless the Department turned over its internal employee files and FBI background reports, so that the court could review potential candidates' backgrounds. Because those materials are protected under federal law, the Department declined the request. The court then indicated it would not use its authority at all, and that the Attorney General should make multiple, successive appointments. While the selection, nomination, and confirmation of a new U.S. Attorney was underway, the Attorney General made three 120-day appointments of Mr. Acosta. Ultimately, he was selected, nominated, and confirmed to the position.
2. **Eastern District of Oklahoma:** In 2000-2001, a vacancy occurred in the EDOK. The court refused to exercise the court's authority to make appointments. As a result, the Attorney General appointed Shelly Sperling to three 120-day appointments before Sperling was nominated and confirmed by the Senate (he was appointed by the Attorney General to a fourth 120-day term while the nomination was pending).
3. **In the Western District of Virginia:** In 2001, a vacancy occurred in the WDVA. The court declined to exercise its authority to make an appointment. As a result, the Attorney General made two successive 120-day appointments (two different individuals).

This problem is not new ...

4. **The District of Massachusetts.** In 1987, the Attorney General had appointed an interim U.S. Attorney while a nomination was pending before the Senate. The 120-day period expired before the nomination had been reviewed and the court declined to exercise its authority. The Attorney General then made another 120-day appointment. The legitimacy of the second appointment was questioned and was reviewed the U.S. District Court for the District of Massachusetts. The Judge upheld the validity of the second 120-day appointment where the court had declined to make an appointment. See 671 F. Supp. 5 (D. Ma. 1987).

DAG000001216

Examples Where Judges Discussed Appointing or Attempted to Appoint Unacceptable Candidates:

1. **Southern District of West Virginia:** When a U.S. Attorney in the Southern District of West Virginia, David Faber, was confirmed to be a federal judge in 1987, the district went through a series of temporary appointments. Following the Attorney General's 120-day appointment of an individual named Michael Carey, the court appointed another individual as the U.S. Attorney. The court's appointee was not a DOJ-employee at the time and had not been subject of any background investigation. The court's appointee came into the office and started making inquiries into ongoing public integrity investigations, including investigations into Charleston Mayor Michael Roark and the Governor Arch Moore, both of whom were later tried and convicted of various federal charges. The First Assistant United States Attorney, knowing that the Department did not have the benefit of having a background examination on the appointee, believed that her inquiries into these sensitive cases were inappropriate and reported them to the Executive Office for United States Attorneys in Washington, D.C. The Department directed that the office remove the investigative files involving the Governor from the office for safeguarding. The Department further directed that the court's appointee be recused from certain criminal matters until a background examination was completed. During that time, the Reagan Administration sped up Michael Carey's nomination. Carey was confirmed and the court's appointee was replaced within two-three weeks of her original appointment.

2. **South Dakota:**

In 2005, a vacancy arose in South Dakota. The First Assistant United States Attorney (FAUSA) was elevated to serve as acting United States Attorney under the Vacancies Reform Act (VRA) for 210 days. As that appointment neared an end without a nomination having yet been made, the Attorney General made an interim appointment of the FAUSA for a 120-day term. The Administration continued to work to identify a nominee; however, it eventually became clear that there would not be a nomination and confirmation prior to the expiration of the 120-day appointment.

Near the expiration of the 120-day term, the Department contacted the court and requested that the FAUSA be allowed to serve under a court appointment. However, the court was not willing to re-appoint her. The Department proposed a solution to protect the court from appointing someone about whom they had reservations, which was for the court to refrain from making any appointment (as other district courts have sometimes done), which would allow the Attorney General to give the FAUSA a second successive, 120-day appointment.

The Chief Judge instead indicated that he was thinking about appointing a non-DOJ employee, someone without federal prosecution experience, who had not been the subject of a thorough background investigation and did not have the

DAG000001217

necessary security clearances. The Department strongly indicated that it did not believe this was an appropriate individual to lead the office.

The Department then notified the court that the Attorney General intended to ask the FAUSA to resign her 120-day appointment early (without the expiration of the 120-day appointment, the Department did not believe the court's appointment authority was operational). The Department notified the court that since the Attorney General's authority was still in force, he would make a new appointment of another experienced career prosecutor. The Department believed that the Chief Judge indicated his support of this course of action and implemented this plan.

The FAUSA resigned her position as interim U.S. Attorney and the Attorney General appointed the new interim U.S. Attorney (Steve Mullins). A federal judge executed the oath and copies of the Attorney General's order and the press release were sent to the court for their information. There was no response for over 10 days, when a fax arrived stating that the court had also attempted to appoint the non-DOJ individual as the U.S. Attorney.

This created a situation where two individuals had seemingly been appointed by two different authorities. Defense attorneys indicated their intention to challenge ongoing investigations and cases. The Department attempted to negotiate a resolution to this very difficult situation, but was unsuccessful. Litigating the situation would have taken months, during which many of the criminal cases and investigations that were underway would have been thrown into confusion and litigation themselves.

Needing to resolve the matter for the sake of the ongoing criminal prosecutions and litigation, after it was clear that negotiations would resolve the matter, the White House Counsel notified the court's purported appointee that even if his court order was valid and effective, then the President was removing him from that office pursuant to Article II of the Constitution and 28 U.S.C. § 541(c). Shortly thereafter, Mr. Mullins resigned his Attorney General appointment and was recess appointed by President Bush to serve as the U.S. Attorney for the District of South Dakota. The Department continued to work with the home-state Senators and identified and nominated a new U.S. Attorney candidate, who was confirmed by the Senate in the summer of 2006.

3. **Northern District of California:** In 1998, a vacancy resulted in NDCA, a district suffering from numerous challenges. The district court shared the Department's concerns about the state of the office and discussed the possibility of appointing a non-DOJ employee to take over. The Department found the potential appointment of a non-DOJ employee unacceptable. A confrontation was avoided by the Attorney General's appointment of an experienced prosecutor from Washington, D.C. (Robert Mueller), which occurred with the court's concurrence. Mueller served under an AG appointment for 120 days, after which the district court gave him a court appointment. Eight months later, President Clinton nominated Mueller to fill the position for the rest of his term.

DAG00001218

U.S. ATTORNEY
STATISTICS

DAG000001219

UNITED STATES ATTORNEYS' PROSECUTION STATISTICS

This Administration Has Demonstrated that It Values Prosecution Experience. Of the 124 Individuals President George W. Bush Has Nominated Who Have Been Confirmed by the Senate:

- 98 had prior experience as prosecutors (79 %)
 - 71 had prior experience as federal prosecutors (57 %)
 - 54 had prior experience as state or local prosecutors (44%)
- 104 had prior experience as prosecutors or government litigators on the civil side (84 %)

In Comparison, of President Clinton's 122 Nominees Who Were Confirmed by the Senate:

- 84 had prior experience as prosecutors (69 %)
 - 56 had prior experience as federal prosecutors (46 %)
 - 40 had prior experience as state or local prosecutors (33 %)
- 87 had prior experience as prosecutors or government litigators on the civil side (71 %)

Since the Attorney General's Appointment Authority Was Amended on March 9, 2006, the Backgrounds of Our Nominees Has Not Changed. Of the 15 Nominees Since that Time:

- 13 of the 15 had prior experience as prosecutors (87%) – *a higher percentage than before.*
 - 11 of the 15 had prior experience as federal prosecutors (73%) – *a higher percentage than before the change*; 10 were career AUSAs or former career AUSAs and 1 had federal prosecution experience as an Assistant Attorney General of the Civil Rights Division
 - 4 of the 15 nominees had experience as state or local prosecutors (27%)

Those Chosen To Be Acting/Interim U.S. Attorneys since the Attorney General's Appointment Authority Was Amended on March 9, 2006, Have Continued To Be Highly Qualified. Of the 16 districts in which new vacancies have occurred, 17 acting and/or interim appointments have been made:

- 16 of the 17 had prior experience as federal prosecutors (94%)

DAG000001220

UNITED STATES ATTORNEYS STATISTICS

Average Ages of U.S. Attorneys:

- Average age of President George W. Bush U.S. Attorneys: 44.82 years
- Average age of President Bill Clinton U.S. Attorneys: 44.67 years

Status of Our U.S. Attorneys' Four-Year Terms:

- 43 districts are currently being led by a U.S. Attorney nominated by President George W. Bush and confirmed by the Senate in 2001 or 2002. All of these U.S. Attorneys have completed their four year terms and continue to serve at the pleasure of the President (5 of the 43 have announced their resignations).
- Only 6 districts are currently being led by the first U.S. Attorney nominated by President Bush and confirmed by the Senate -- but who are still serving their four year terms.
- 44 districts are either being led by their second Presidentially-nominated and Senate-confirmed U.S. Attorney, or are currently awaiting a nomination. These U.S. Attorneys have not completed their four year terms.

This Administration Has Demonstrated that It Values Prosecution Experience. Of the 124 Individuals President George W. Bush Has Nominated Who Have Been Confirmed by the Senate:

- 98 had prior experience as prosecutors (79 %)
 - 71 had prior experience as federal prosecutors (57 %)
 - 54 had prior experience as state or local prosecutors (44%)
- 104 had prior experience as prosecutors or government litigators on the civil side (84 %)
- 10 had judicial experience (8%); 13 had Hill experience (10%)
- Of the 10 who had worked at Main Justice in the George W. Bush Administration before being nominated for a U.S. Attorney position, please note that 8 were either career AUSAs or former career AUSAs.

In Comparison, of President Clinton's 122 Nominees Who Were Confirmed by the Senate:

-
- ~~84 had prior experience as prosecutors (69 %)~~
 - 56 had prior experience as federal prosecutors (46 %)
 - 40 had prior experience as state or local prosecutors (33 %)
 - 87 had prior experience as prosecutors or government litigators on the civil side (71 %)
 - 12 had judicial experience (9 %); 10 had Hill experience (8 %)

DAG000001221

Since the Attorney General's Appointment Authority Was Amended on March 9, 2006, the Backgrounds of Our Nominees Has Not Changed. Of the 15 Nominees Since that Time:

- 13 of the 15 had prior experience as prosecutors (87%) – *a higher percentage than before.*
 - 11 of the 15 had prior experience as federal prosecutors (73%) – *a higher percentage than before the change*; 10 were career AUSAs or former career AUSAs and 1 had federal prosecution experience as an Assistant Attorney General of the Civil Rights Division
 - 4 of the 15 nominees had experience as state or local prosecutors (27%)

Those Chosen To Be Acting/Interim U.S. Attorneys since the Attorney General's Appointment Authority Was Amended on March 9, 2006, Have Continued To Be Highly Qualified. Of the 14 districts in which vacancies have occurred, 15 acting and/or interim appointments have been made:

- 14 of the 15 had prior experience as federal prosecutors (93%)

DAG000001222

ARKANSAS/
GRIFFIN

DAG000001223

**TIMOTHY GRIFFIN AS INTERIM UNITED STATES ATTORNEY
FOR THE EASTERN DISTRICT OF ARKANSAS**

- The Attorney General appointed Tim Griffin as the interim U.S. Attorney following the resignation of Bud Cummins, who resigned on Dec. 20, 2006. Since early in 2006, Mr. Cummins had been talking about leaving the Department to go into private practice for family reasons.
 - Timothy Griffin is highly qualified to serve as the U.S. Attorney for the Eastern District of Arkansas.
 - Mr. Griffin has significant experience as a federal prosecutor at both the Department of Justice and as a military prosecutor. At the time of his appointment, he was serving as a federal prosecutor in the Eastern District of Arkansas. Also, from 2001 to 2002, Mr. Griffin served at the Department of Justice as Special Assistant to the Assistant Attorney General for the Criminal Division and as a Special Assistant U.S. Attorney in the Eastern District of Arkansas in Little Rock. In this capacity, Mr. Griffin prosecuted a variety of federal cases with an emphasis on firearm and drug cases and organized the Eastern District's Project Safe Neighborhoods (PSN) initiative, the Bush Administration's effort to reduce firearm-related violence by promoting close cooperation between State and federal law enforcement, and served as the PSN coordinator.
 - Prior to rejoining the Department in the fall of 2006, Mr. Griffin completed a year of active duty in the U.S. Army, and is in his tenth year as an officer in the U.S. Army Reserve, Judge Advocate General's Corps (JAG), holding the rank of Major. In September 2005, Mr. Griffin was mobilized to active duty to serve as an Army prosecutor at Fort Campbell, Ky. At Fort Campbell, he prosecuted 40 criminal cases, including *U.S. v. Mikel*, which drew national interest after Pvt. Mikel attempted to murder his platoon sergeant and fired upon his unit's early morning formation. Pvt. Mikel pleaded guilty to attempted murder and was sentenced to 25 years in prison.
 - In May 2006, Tim was assigned to the 501st Special Troops Battalion, 101st Airborne Division and sent to serve in Iraq. From May through August 2006, he served as an Army JAG with the 101st Airborne Division in Mosul, Iraq, as a member of the 172d Stryker Brigade Combat Team Brigade Operational Law Team, for which he was awarded the Combat Action Badge and the Army Commendation Medal.
 - Like many political appointees, Mr. Griffin has political experience as well. Prior to being called to active duty, Mr. Griffin served as Special Assistant to the President and Deputy Director of the Office of Political Affairs at the White House, following a stint at the Republican National Committee. Mr. Griffin has also served as Senior Counsel to the House Government Reform Committee, as an Associate Independent Counsel for *In Re: Housing and Urban Development Secretary Henry Cisneros*, and as an associate attorney with a New Orleans law firm.
 - Mr. Griffin has very strong academic credentials. He graduated *cum laude* from Hendrix College in Conway, Ark., and received his law degree, *cum laude*, from Tulane Law School. He also attended graduate school at Pembroke College at Oxford University. Mr. Griffin was raised in Magnolia, Ark., and resides in Little Rock with his wife, Elizabeth.
-
- The Attorney General assured Senator Pryor that we are not circumventing the process by making an interim appointment and that the Administration intended to nominate Mr. Griffin. However, Senator Pryor refused to support Mr. Griffin if he was nominated. As a result of the lack of support shown by his home-state Senators, Mr. Griffin has withdrawn his name from consideration.

DAG00001224

- While the Administration consults with the home-state Senators on a potential nomination, however, the Department must have someone lead the office – and we believe Mr. Griffin is well-qualified to serve in this interim role until such time as a new U.S. Attorney is nominated and confirmed.

DAG000001225

BIOGRAPHIES OF U.S. ATTORNEYS FROM ARKANSAS

EASTERN DISTRICT

Attorney General Appointment of Tim Griffin (37 years old at appointment)
Appointed 12/20/2006

Educational Background:

- B.A. from Hendrix College in Arkansas in 1990
- Graduate school at Pembroke College, Oxford University in 1991
- J.D. from Tulane Law School in 1994

Prosecution & Military Background:

- Officer— currently a major— in the U.S. Army Judge Advocate General's (JAG) Corps (over ten years), including service as a Brigade Judge Advocate, U.S. Army JAG Corps., Operation Iraqi Freedom, 101st Airborne Division (Air Assault) May-Aug 2006 (approx. 3 months)
- Special Assistant U.S. Attorney, Eastern District of Arkansas, Sept 2001-June 2002 (9 months)
- Special Assistant to the Assistant Attorney General for the Criminal Division, U.S. Department of Justice (approx. 15 months)
- Senior Investigative Counsel, Committee on Government Reform, U.S. House of Representatives, 1997-1999 (approx. 2 ½ years total)
- Associate Independent Counsel, U.S. Office of Independent Counsel David Barrett (16 months)
- Associate Attorney, Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P. (approx. one year)
- Military Honors: Army Commendation Medal with Five Oak Leaf Clusters; Army Achievement Medal with Four Oak Leaf Clusters; Army Reserve Components Achievement Medal with Two Oak Leaf Clusters; National Defense Service Medal; Iraq Campaign Medal; Global War on Terrorism Service Medal; Armed Forces Reserve Medal with Bronze Hourglass and "M" Devices; Army Service Ribbon; and Army Reserve Overseas Training Ribbon with "3" Device; and Combat Action Badge.

Political experience:

- Special Assistant to the President & Deputy Director, Office of Political Affairs, The White House (approximately 5 months; then on military leave)
- RNC Research Dir. & Dep. Communications Dir., 2004 Presidential Campaign (approx. 2 ½ years)
- RNC Dep. Research Director, 2000 Presidential Campaign (approx. 1 ½ years)

George W. Bush USA: H.E. "Bud" Cummins (42 years old at nomination)
Nominated 11/30/2001; confirmed 12/20/2001

DAG000001226

Talkers:

- Unlike Mr. Griffin, he did not attend top-rated universities.
- *However, like Mr. Griffin, he had political experience.* In 2000, he served as Arkansas Legal Counsel to the Bush/Cheney campaign, was part of the GOP Florida Ballot Recount Team in Broward County, and was an Arkansas Elector. He was also the Republican nominee for the U.S. Congress 2nd Congressional District in 1996.

Background:

- B.S./B.A. from University of Arkansas in 1981
- J.D. from University of Arkansas Little Rock School of Law in 1989

- Private Law Practice and State Director, NFIB/Arkansas (approximately 3 years)
- Chief Legal Counsel for the Arkansas Governor (approximately one year)
- Private Law Practice 1993-1996 (approximately 3 years)
- Clerk to Chief Judge, United States District Court, Eastern District of Arkansas (approximately one year)
- Clerk to United States Magistrate Judge, United States District Court, Eastern District of Arkansas (approximately 2 years)
- Five separate gubernatorial appointments as Special Justice to Supreme Court of Arkansas

Clinton USA: Paula Jean Casey (42 years old at nomination)

Nominated 8/6/93; confirmed 9/21/93

Talkers:

- Unlike Mr. Griffin, she did not attend top-rated universities.
- Unlike Mr. Griffin, she did not have military or federal prosecution experience.
- *However, like Mr. Griffin, she had political experience.* She volunteered on the political campaigns of the President who nominated her and was a former student of his. In addition to owing the President her job, then-Governor Clinton had also appointed her husband to a state agency position. She was also a law student of then-Professor Bill Clinton. (See *Associated Press*, 11/10/93)

Background:

- B.A. from East Central Oklahoma University in 1973
 - J.D. from University of Arkansas Law School in 1976
-
- Staff attorney for the Central Arkansas Legal Services (approximately 3 years)
 - Deputy Public Defender (less than one year)
 - Supervisor of Legal Clinic at University of Arkansas Law School (approximately 2 years)

DAG00001227

- Professor at the University of Arkansas Law School (approximately 8 years)
- Chief Counsel & Legislative Director to Senator Dale Bumpers (approximately 3 years)
- Lobbyist for the Arkansas Bar Association (approximately 1 year)

WESTERN DISTRICT

George W. Bush USA: Robert Cramer Balfe, III for WDAR (37 years old at nomination)

Nominated 6/1/2004; confirmed 11/20/2004

Talkers:

- While he had local experience as a prosecutor, he did not have federal prosecution experience. Also, he did not attend top-rated universities.

Background:

- B.S. from Arkansas State University in 1990
- J.D. from University of Arkansas School of Law in 1994
- Prosecuting Attorney for the 19th Judicial District West (approximately 3 years)
- Deputy Prosecuting Attorney for the 19th Judicial District West (approximately 5 years)
- Secretary/Treasurer of the Arkansas Prosecuting Attorney's Association

George W. Bush USA for WDAR: Thomas C. Gean (39 years old at nomination)

Nominated 8/2/2001; confirmed 10/23/2001

Talkers:

- While he did have local prosecution experience, he did not have any federal prosecution experience.

Background:

- Bachelor degree from University of Arkansas
 - J.D. from Vanderbilt University Law School
-
- Prosecuting Attorney for the Sebastian County District Attorney's Office (approximately 4 years)
 - Attorney with Gean, Gean, and Gean in Fort Smith, Arkansas (approximately 4 years)
 - Attorney with Alston and Bird in Atlanta, Georgia (approximately 4 years)

DAG00001228

Clinton USA for WDAR: Paul Kinloch Holmes, III (42 years old at nomination)
Nominated 8/6/1993; confirmed 9/21/93

Talkers:

- *Unlike Mr. Griffin, he did not have any military or federal prosecution experience. He also did not have any state or local prosecution experience. He also did not attend top-rated universities.*
- *Like Mr. Griffin, he had political experience. He served as chairman of the Sebastian County Democratic Party and Sebastian County Election Commission from 1979-1983. (See Arkansas Democrat-Gazette, 10/19/00)*

Background:

- B.A. from Westminster College in 1973
- J.D. from University of Arkansas in 1978
- Attorney for Warner and Smith, Fort Smith, Arkansas (approximately 15 years)

J. TIMOTHY GRIFFIN

EDUCATION

Louisiana State University Law School. New Orleans, Louisiana. Juris Doctor, *cum laude*, May 1994. Cumulative G.P.A.: 3.25/4.00; Rank: 80/319, Top 25%. Common law and civil law curricula. Legal Research and Writing grade: A.

- Senior Fellow, Legal Research and Writing Program. Taught first year law students legal research and writing.
- Volunteer, The New Orleans Free Tutoring Program, Inc.

Oxford University, Pembroke College. Oxford, England. Graduate School, British and European History, 1990-1991.

- Under-secretary and Treasurer, Oxford University Clay Pigeon Shooting Club.

Hendrix College. Conway, Arkansas. Bachelor of Arts in Economics and Business, *cum laude*, June 1990. Cumulative G.P.A.: Major 3.79/4.00, Overall 3.78/4.00; Rank: 22/210, Top 10%.

- Oxford Overseas Study Course, September 1988-May 1989, Oxford, England.

LEGAL EXPERIENCE

U.S. Attorney (Interim). Eastern District of Arkansas, U.S. Department of Justice. Little Rock, Arkansas. December 2006-present.

- Served as a Special Assistant U.S. Attorney, Eastern District of Arkansas, September-December 2006.

Trial Counsel, U.S. Army JAG Corps. Criminal Law Branch, Office of the Staff Judge Advocate. Fort Campbell, Kentucky, September 2005-May 2006; August-September 2006.

- Successfully prosecuted U.S. v. Mikel, involving a soldier's attempted murder of his platoon sergeant.
- Provided legal advice to E Co., 1st and 3rd Brigade Combat Teams, 101st Airborne Division (Air Assault)(R)(P).
- Prosecuted 40 Army criminal cases at courts-martial and federal criminal cases as a Special Assistant U.S. Attorney, Western District of Kentucky and Middle District of Tennessee, and handled 90 administrative separations.

Brigade Judge Advocate, U.S. Army Judge Advocate General's (JAG) Corps. Operation Iraqi Freedom. Task Force Land of Brothers. 501st STB, 101st Airborne Division (Air Assault). Mosul, Iraq, May-August 2006.

- Served on the Brigade Operational Law Team (BOLT), 172d Stryker Brigade Combat Team, FOB Marez, Iraq.
- Provided legal advice on various topics, including financial investigations, rules of engagement, and rule of law.

Special Assistant to the Assistant Attorney General. Criminal Division, U.S. Department of Justice. Washington, D.C. and Little Rock, Arkansas. March 2001-June 2002.

- Tracked issues for Assistant Attorney General Michael Chertoff and worked with the Office of International Affairs (OIA) on matters involving extradition, provisional arrest and mutual legal assistance treaties (MLATs).
- Prosecuted federal firearm and drug cases and served as the coordinator for Project Safe Neighborhoods, a strategy to reduce firearm-related violence through cooperation between state and federal law enforcement, as a Special Assistant U.S. Attorney, Eastern District of Arkansas, in Little Rock, September 2001-June 2002.

Senior Investigative Counsel. Committee on Government Reform, U.S. House of Representatives. Washington, D.C. January 1997-February 1998; June 1998-September 1999.

- Developed hearing series entitled "National Problems, Local Solutions: Federalism at Work" to highlight innovative and successful reforms at the state and local levels, including: "Fighting Crime in the Trenches," featuring New York City Mayor Rudolph Giuliani, and "Tax Reform in the States."
- Pursuant to the Committee's campaign finance investigation, interviewed Johnny Chung and played key role in hearing detailing his illegal political contributions; organized, supervised and conducted the financial investigation of individuals and entities; interviewed witnesses; drafted subpoenas; and briefed Speaker of the House Newt Gingrich.

Associate Independent Counsel. U.S. Office of Independent Counsel David M. Barrett. In re Henry G. Cisneros, Secretary of Housing and Urban Development (HUD). Washington, D.C. September 1995-January 1997.

- Interviewed numerous witnesses with the F.B.I. and supervised the execution of a search warrant.
- Drafted subpoenas and pleadings and questioned witnesses before a federal grand jury.

DAG00001230

Associate Attorney. General Litigation Section. Jones, Walker, Waechter, Poitevent, Carrere & Denege, L.L.P. New Orleans, Louisiana. September 1994-September 1995.

- Drafted legal memoranda and pleadings and conducted depositions.

ADDITIONAL WORK EXPERIENCE

Special Assistant to the President and Deputy Director. Office of Political Affairs, The White House. Washington, D.C. April-September 2005. On military leave after mobilization to active duty, September 2005-September 2006.

- Advised President George W. Bush and Vice-President Richard B. Cheney.
- Organized and coordinated support for the President's agenda.

Research Director and Deputy Communications Director. 2004 Presidential Campaign, Republican National Committee (RNC). Washington, D.C. June 2002-December 2004.

- Briefed Vice-President Richard B. Cheney and other Bush-Cheney 2004 (BC04) and RNC senior staff.
- Managed RNC Research, the primary research resource for BC04, with over 25 staff.
- Worked daily with BC04 senior staff on campaign and press strategy, ad development and debate preparation.

Deputy Research Director. 2000 Presidential Campaign, Republican National Committee (RNC). Washington, D.C. September 1999-February 2001.

- Managed RNC Research, the primary research resource for Bush-Cheney 2000 (BC00), with over 30 staff.
- Served as legal advisor in Volusia and Brevard Counties for BC00 Florida Recount Team.

Campaign Manager. Betty Dickey for Attorney General. Pine Bluff, Arkansas. February 1998-May 1998.

SUMMARY OF MILITARY SERVICE

Major. JAG Corps, U.S. Army Reserve. Commissioned First Lieutenant, June 1996.

- Served on active duty in Mosul, Iraq with the 101st Airborne Division (Air Assault), and at Fort Campbell, Kentucky, September 2005-September 2006.
- Authorized to wear 101st Airborne Division (Air Assault) "Screaming Eagle" combat patch.
- Medals, Ribbons and Badges: Army Commendation Medal with Five Oak Leaf Clusters; Army Achievement Medal with Four Oak Leaf Clusters; Army Reserve Components Achievement Medal with Two Oak Leaf Clusters; National Defense Service Medal; Iraq Campaign Medal; Global War on Terrorism Service Medal; Armed Forces Reserve Medal with Bronze Hourglass and "M" Devices; Army Service Ribbon; and Army Reserve Overseas Training Ribbon with "3" Device; and Combat Action Badge.

ACTIVITIES AND ASSOCIATIONS

Arkansas Bar Association. Little Rock, Arkansas. Member, 1995-present. Annual Meeting Subcommittee on Technology, 2002. Admitted to Arkansas Bar, April 26, 1995.

Friends of Central Arkansas Libraries (FOCAL). Little Rock, Arkansas. Life Member.

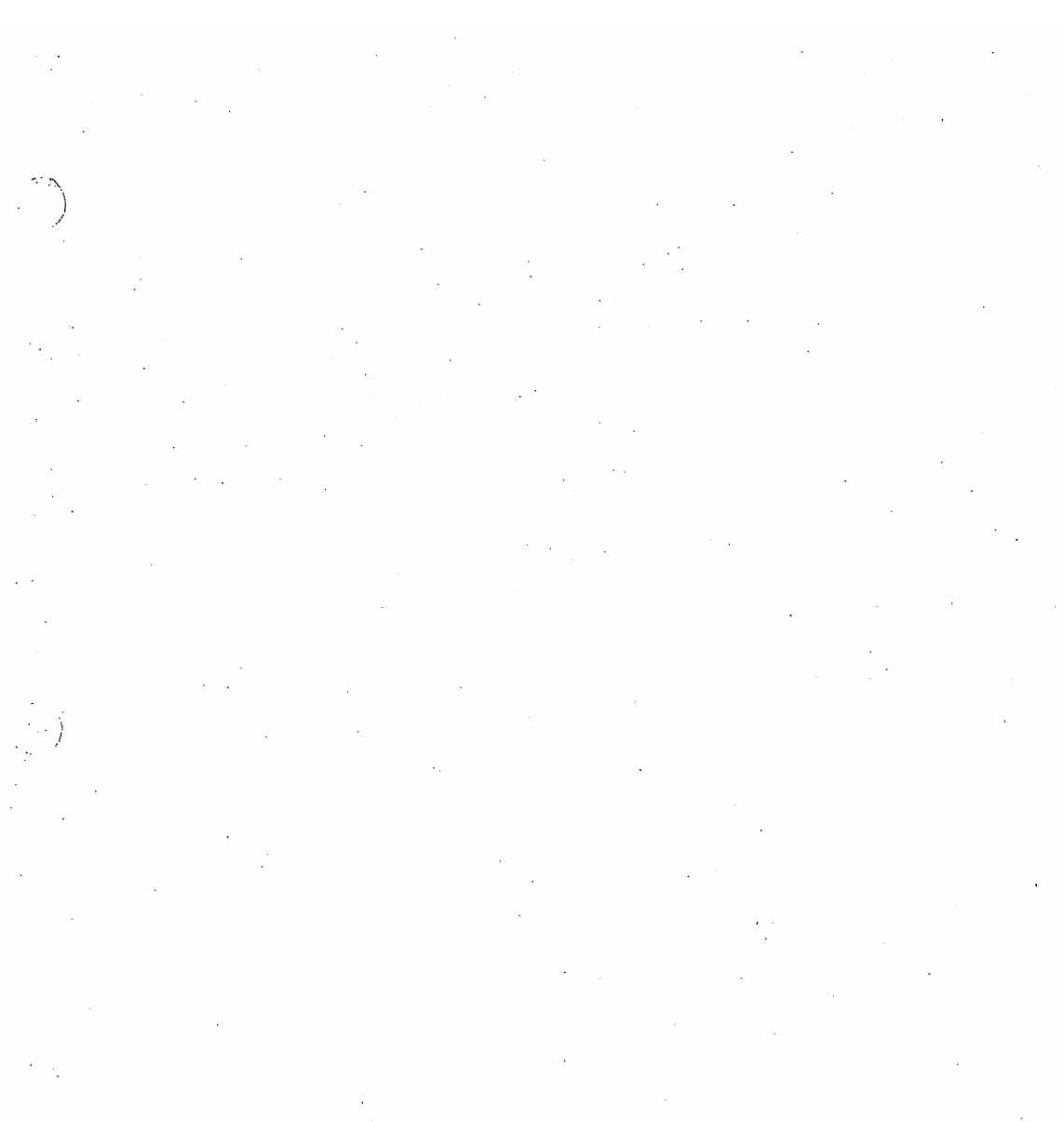
Florence Crittenton Services, Inc. Little Rock, Arkansas. Member, Board of Directors, 2001-2002.

Louisiana State Bar Association. New Orleans, Louisiana. Member. Admitted October 7, 1994. Currently inactive.

The Oxford Union Society. Oxford, England. Member, 1990-present.

Pulaski County Bar Association. Little Rock, Arkansas. Member, 2001-2002. Co-chair, Law School Liaison Committee, 2001-2002.

Reserve Officers Association. Washington, D.C. Life Member.



DAG000001232



U. S. Department of Justice

United States Attorney
Eastern District of Arkansas

Post Office Box 1229
Little Rock, Arkansas 72203

Tele. (501) 324-5342
Fax Nos. Civil (501) 324-7199
Criminal (501) 324-5221

August 13, 2002

Tim Griffin
Research Director and
Deputy Communications Director
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

Dear Tim:

I want to formally thank you for your service to me and to the U.S. Attorney's Office, Eastern District of Arkansas for the year you served here as a Special Assistant United States Attorney. You performed at the highest level of excellence during your time here.

Overall, you served the office extremely well. I believe you indicted more people during your time here than any other AUSA. You were a real workhorse, and the quality of your work was excellent.

But I am particularly grateful for the work you did in developing and launching our Project Safe Neighborhoods (PSN) program. With minimal supervision, you took the initiative to plan, organize and implement an awesome PSN program. I am not aware of a better PSN program in the country. You should be pleased to know that our PSN program was highly recognized and commended in a recent department evaluation.

You are missed by your friends and colleagues here in the USAO, ED AR. Thanks for everything, and good luck.

Sincerely,

H.E. (Bud) Cummins
United States Attorney

DAG000001233



DAG000001234

http://www.arktimes.com/Articles/ArticleViewer.aspx?ArticleID=1d6008ff-5b23-4871-b95d-4825be0256d6

The Insider Dec. 30
Arkansas Times Staff
Updated: 12/30/2004
Holiday schedules

Among the Arkansas congressional delegation, constituent service during the holiday season is something that senators can't be bothered with. Then again, they only have to run for re-election every six years, so who cares?

Calls to the Little Rock and Washington, D.C., offices of U.S. Sens. Blanche Lincoln and Mark Pryor yielded recorded messages informing us that no one would be available from Dec. 23-Jan. 3.

The House members had varying policies. U.S. Reps. Vic Snyder and John Boozman kept their Arkansas offices open through the holidays except for Christmas Eve and New Year's Eve. U.S. Rep. Marion Berry operated his Jonesboro office from 10 a.m.-2 p.m. most days, but closed it on Dec. 23-24 and 30-31.

Perhaps the loftier ambitions of U.S. Rep. Mike Ross are evident in his senatorial decision to shutter his offices from Dec. 23-Jan. 3

Clark, the TV series

A New York Post gossip column recently reported that retired Gen. Wesley Clark, the former presidential candidate from Arkansas, is "working on a sitcom."

Clark's office told us that the Post exaggerated his role in the project, especially by saying that Clark was "writing" the TV show and would "pitch" it to networks next year. In reality, Clark's associates insist that he is merely serving as a consultant in the development of the idea.

"General Clark is contributing to a show concept of an officer returning to his hometown after a career in the military," Clark's office said. "Gen. Clark is primarily focused on his business but continues to be involved in numerous other projects." That would include plotting a future political career, of course.

Legal action

It's a low-priority public issue, but tens of millions of dollars are at stake in plans to establish tax increment finance districts in, among others, Fayetteville, Rogers, Bentonville, Lowell, Johnson, North Little Rock, Sherwood and Jonesboro. They will divert local property taxes to subsidize private developments in already prosperous areas. Schools, but not other local tax units, will be made whole by the Arkansas legislature, meaning Arkansas taxpayers.

Columnist Max Brantley has been griping about this at some length recently. We hear he may soon have a valuable ally. There's solid indication a lawsuit could be filed shortly against the whole TIF scheme in Arkansas. TIF projects already underway have no guarantee they'd be grandfathered.

: more years?

We were talking to U.S. Attorney Bud Cummins a while back on another subject and happened to ask about his plans, now that George W. Bush is set to serve another four years as president. Cummins (we forgot to mention earlier) said he went into the election with no