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# United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
MICHAEL O'NEILL, *Republican Chief Counsel and Staff Director*

April 9, 2007

The Honorable Alberto Gonzales  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Gonzales:

We are writing to follow up on the hearings held by the Senate and House Judiciary Committees, and to seek your assistance in working with the Committees so that we may conduct a thorough investigation into the circumstances surrounding the Administration's removal and replacement of so many U.S. Attorneys appointed by President Bush.

While the Department of Justice has produced some documentation, we are concerned that additional documents relevant to the Committees' investigations are missing or have been withheld. For example, according to an April 2, 2007, article in *The American Spectator*, "a series of files and documents that could prove critical to the congressional investigation into the firings of eight U.S. Attorneys remain in the office of the Deputy Attorney General (DAG) and the Executive Office for the U.S. Attorneys (EOUSA), but have not been produced by the Department." According to the article, these "files include overviews and evaluations of at least a dozen current and now-former U.S. Attorneys," and briefing materials provided to you and the Deputy Attorney General for a meeting early last December. These materials are reported to contain information about the status of each U.S. Attorney for an early December meeting in Washington, D.C. for all 93 U.S. Attorneys, including material about why particular U.S. Attorneys "might be on his or her way out." In addition, testimony provided in public hearings and private interviews raises questions about the thoroughness of the production to date and with regard to documents that have not been turned over to the Committees.

Among the documents that have not been turned over to the Committees are relevant e-mails, attachments to e-mails and other documents not produced or produced in full. By way of example, an e-mail dated February 12, 2007, indicates that Monica Goodling provided a chart to Mike Elston and Kyle Sampson that apparently you requested however, that chart was not provided to the Committee.

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Given that this was a process that extended over more than two years and involved staff from both the Department of Justice and the White House, and involved consideration of a number of U.S. Attorneys, there would seem to be other documents that would comment upon the reasons some U.S. Attorneys were chosen for removal and others were not. For example, there are press reports that the former U.S. Attorney in San Francisco had multiple evaluations and was the subject of significant discussions. Documents reflecting those multiple evaluations and significant discussions have not been produced to date. This raises a question about whether we have seen all similar documents about others selected for replacement or left in place.

The Department has produced only one ranking of the 93 U.S. Attorneys, that from February 24, 2005. If there were additional rankings or lists, as some e-mails and testimony have indicated, the Committee requests copies of all such lists and evaluations created.

In addition, we ask for a timely response to the following requests and questions:

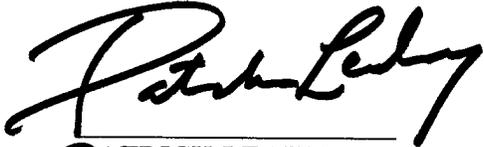
- What was the precise scope of the document productions that have occurred thus far? Have all requested documents been produced, including all documents related to the Administration's evaluation of, and decisions to remove and replace, U.S. Attorneys since President Bush's re-election, as well as the selection, discussion and evaluation of possible replacements and interim appointments? What was included and what was excluded?
- How was the precise scope of the production determined? What precise directions were given to staff to locate, identify, and preserve relevant documents? Please identify the person or persons who were responsible for making that determination with respect to scope and who were responsible for issuing instructions to staff. Please provide all instructions given to staff.
- What process did the Department follow for determining that all relevant documents had been located and produced, including e-mails from governmental and non-governmental accounts and documents stored in electronic archives?
- What, if any, documents remain that may be relevant to the Committees' investigations? Why have those documents not been produced?

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- Have you provided the Committees with all documents you have been reviewing in preparation for your April 17, 2007 appearance before the Judiciary Committee, including the “thousands of pages of documents related to [your] upcoming testimony” you were reported to be reviewing in an April 5, 2007 article in *The Washington Post*? If not, please provide those documents prior to your appearance before the Committee and please explain the reasons why they were withheld.

While the Committee will be considering at its next markup an authorization providing subpoena power to the Chairman to require the Department to turn over all relevant documents in its possession custody and control, we hope subpoenas will not be necessary to compel cooperation with the Committee’s investigation. Please provide the requested information by Wednesday, April 11, 2007. That way it will be available to us to review in time for your testimony before the Committee to testify on April 17, 2007.

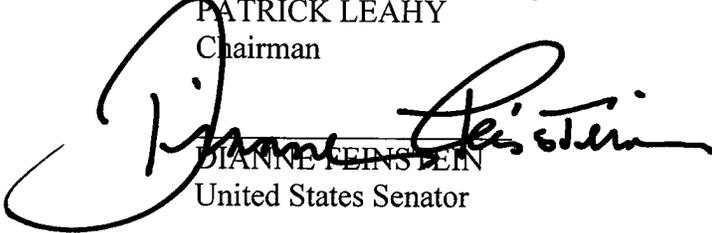
Sincerely,



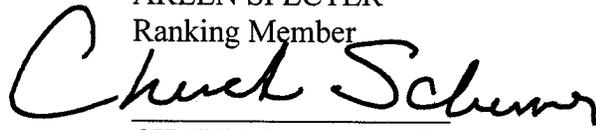
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Ranking Member



DIANNE FEINSTEIN  
United States Senator



CHARLES SCHUMER  
United States Senator