

PATRICK J. LEAHY, VERMONT, CHAIRMAN

EDWARD M. KENNEDY, MASSACHUSETTS  
JOSEPH R. BIDEN, JR., DELAWARE  
HERB KOHL, WISCONSIN  
DIANNE FEINSTEIN, CALIFORNIA  
RUSSELL D. FEINGOLD, WISCONSIN  
CHARLES E. SCHUMER, NEW YORK  
RICHARD J. DURBIN, ILLINOIS  
BENJAMIN L. CARDIN, MARYLAND  
SHELDON WHITEHOUSE, RHODE ISLAND

ARLEN SPECTER, PENNSYLVANIA  
ORRIN G. HATCH, UTAH  
CHARLES E. GRASSLEY, IOWA  
JON KYL, ARIZONA  
JEFF SESSIONS, ALABAMA  
LINDSEY O. GRAHAM, SOUTH CAROLINA  
JOHN CORNYN, TEXAS  
SAM BROWNBACK, KANSAS  
TOM COBURN, OKLAHOMA

# 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*

June 13, 2007

Fred Fielding, Esq.  
Counsel to the President  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

Dear Mr. Fielding:

I have sent you a half dozen letters in the past three months seeking voluntary cooperation from the White House with the Judiciary Committee's investigation into the mass firings and replacements of U.S. Attorneys and politicization at the Department of Justice. It is now clear from the evidence gathered by the investigating Committees of the Senate and House that White House officials played a significant role in originating, developing, coordinating and implementing the plan and the Justice Department's response to Congressional inquiries about it. Yet, to date the White House has not produced a single document or allowed even one White House official involved in these matters to be interviewed.

In the two and half months since Democratic and Republican members of the Committee rejected your "take it or leave it" offer of off-the-record, backroom interviews as unacceptable, you have not made any effort to work with us on a voluntary basis. In response to our efforts to narrow our dispute by gaining access to documents you agreed to produce as part of your offer for off-the-record interviews or to information that forms the basis of the President's conclusion that no wrongdoing has occurred, you have merely restated your initial, unacceptable offer.

The White House cannot have it both ways -- it cannot withhold documents and witnesses and thereby stonewall the investigation and, at the same time, claim that the facts about the White House's improper influence over federal law enforcement have not been revealed in detail. The White House's continued stonewalling leads to the obvious conclusion that the White House is hiding the truth because there is something to hide. Because the White House has continued its refusal to provide the requested information to the Senate Judiciary Committee on a voluntary basis, I am issuing subpoenas.

Mr. Fred Fielding, Esq.  
June 13, 2007  
Page 2 of 2

Enclosed please find a subpoena for all documents in the possession, custody or control of the White House related to the Committee's investigation into the preservation of prosecutorial independence and the Department of Justice's politicization of the hiring and firing of United States Attorneys. The documents compelled by the subpoena include documents related to the Administration's evaluation of and decision to dismiss former U.S. Attorneys David Iglesias, H.E. "Bud" Cummins, John McKay, Carol Lam, Daniel Bogden, Paul Charlton, Kevin Ryan, Margaret Chiara, Todd Graves, or any other U.S. Attorney dismissed or considered for dismissal since President Bush's re-election, the implementation of the dismissal and replacement of the dismissed U.S. Attorneys, and the selection, discussion and evaluation of possible replacements. Among these documents are documents related to the involvement of Karl Rove, Harriet E. Miers, William Kelley, J. Scott Jennings, Sara M. Taylor, or any other current or former White House employees or officials in the firings and replacements as well as documents related to the testimony of Justice Department officials to Congress regarding this matter.

The subpoenaed documents include those related to communications between the White House and the Department or any third parties. These are documents that you previously agreed to produce in conjunction with the unacceptable off-the-record interviews in your March 20, 2007, letter to me, Chairman Conyers, Ranking Member Specter, Ranking Member Smith, and Congresswoman Sanchez of March 20, 2007. The subpoena also includes documents related to the "reviews by White House staff" that led the President to publicly conclude as of March 20, 2007, that there was no wrongdoing in the mass firings and replacements of U.S. Attorneys, including any information that has led the President to discount evidence gathered by the investigating Committees.

I am disappointed that I have to turn to this subpoena in order to obtain information needed by the Committee to learn the truth about these firings and the erosion of independence at the Justice Department. However, the evidence that White House officials were deeply involved leaves me no choice in light of your lack of voluntary cooperation. I look forward to your compliance with the Judiciary Committee's subpoena by the June 28 return date.

Sincerely,

A handwritten signature in black ink that reads "Patrick Leahy". The signature is written in a cursive, flowing style with a large initial "P".

PATRICK LEAHY  
Chairman

# UNITED STATES OF AMERICA

## Congress of the United States

To Joshua Bolten, White House Chief of Staff, or appropriate custodian of records, **Greeting:**

Pursuant to lawful authority, YOU ARE HEREBY COMMANDED to appear before the Committee on the Judiciary of the Senate of the United States, on June 28, 2007, at 10:00 o'clock a.m., at their committee room 226 Dirksen Senate Office Building, then and there to testify what you know relative to the Committee's inquiry into the preservation of prosecutorial independence and the Department of Justice's politicization of the hiring and firing of United States Attorneys, and to bring with you the documents described in Attachment A under the terms and conditions stated therein. A personal appearance at the above-referenced date and time will not be necessary if the documents described in Attachment A are delivered to the Committee's offices prior to the scheduled return.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To any Committee staff member or U.S. Senate Sergeant at Arms to serve and return.

Given under my hand, by authority vested in me by the Committee, on this 13th day of June, 2007.

  
\_\_\_\_\_  
Senator Patrick Leahy  
Chairman, Committee on the Judiciary  
United States Senate

## Attachment A

### Documents Subpoenaed

1. Complete and unredacted versions, including complete paper and electronic versions, of any and all documents in the possession, custody or control of the White House related to the Committee's investigation into the preservation of prosecutorial independence and the Department of Justice's politicization of the hiring and firing of United States Attorneys, including possible misrepresentations to Congress and other violations of federal law. The documents produced shall include:
  - A. Any and all documents the White House Counsel agreed in the March 20, 2007, letter of Fred F. Fielding, Counsel to the President, to Chairman Leahy, Chairman Conyers, Ranking Member Specter, Ranking Member Smith, and Congresswoman Sanchez to produce in conjunction with off-the-record interviews, including documents consisting of or relating to all communications between any official or employee of the White House and any official or employee of the Department of Justice or any third party "concerning the request for resignations of the U.S. Attorneys in question."
  - B. Any and all documents related to the: 1) evaluation of or decision to dismiss former U.S. Attorneys David Iglesias, H.E. "Bud" Cummins, John McKay, Carol Lam, Daniel Bogden, Paul Charlton, Kevin Ryan, Margaret Chiara, Todd Graves, or any other U.S. Attorney(s) dismissed since President Bush's re-election (hereinafter "dismissed U.S. Attorneys"); 2) evaluation of any U.S. Attorney(s) considered for dismissal since President Bush's re-election (hereinafter "U.S. Attorneys considered for dismissal"); 3) the implementation of the dismissal and replacement of the dismissed U.S. Attorneys; and 4) the selection, discussion and evaluation of any possible replacement or interim or acting appointment to fill any vacancy with respect to dismissed U.S. Attorneys and U.S. Attorneys considered for dismissal.
  - C. Any and all documents related to the involvement of Karl Rove, Harriet E. Miers, William Kelley, J. Scott Jennings, Sara M. Taylor, or any other current or former White House employee or official, in matters set forth in paragraph B, above.
  - D. Any and all documents related to the testimony of any official at the Department of Justice to the United States Congress regarding any of the matters set forth in paragraph B, above.

- E. Any and all documents related to the “reviews by White House staff” that led the President to conclude as of March 20, 2007, and to reiterate as recently as June 11, 2007, that there was no wrongdoing in the mass firings and replacements of U.S. Attorneys since President Bush’s re-election, including any information that has led the President to discount evidence obtained by the investigating Committees in documents and hearing testimony.

### **Instructions**

1. In complying with this subpoena, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agent, employee, or representative acting on your behalf. You are also required to produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control or any third party.
2. No documents as defined herein called for by this request shall be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee. If you have knowledge that any subpoenaed document as defined herein has been destroyed, discarded, or lost, identify the subpoenaed document and provide an explanation of the destruction, discarding, loss or disposal and the date at which then document was destroyed, discarded or lost.
3. This subpoena is continuing in nature. Any document not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto with an explanation of why it was not located or discovered by the return date.
4. If you believe any responsive documents are protected by a privilege, please provide a privilege log which (1) identifies any and all responsive documents to which the privilege is asserted, (2) sets forth the date, type, addressee(s), author(s) (and, if different, the preparer and signatory), general subject matter, and indicated or known circulation of the document, and (3) states the privilege asserted in sufficient detail to ascertain the validity of the claim of privilege.
5. Production with respect to each document shall include all electronic versions and data files from email applications as well as from word processing, spreadsheet, or other electronic data repositories applicable to any attachments, and shall be provided to the Committee where possible in its native file format and shall include all original metadata for each electronic documents or data file. Productions shall be provided on CD, DVD, or USB external hard drive.
6. Any draft, preliminary version, modification, revision, or amendment of a document, and any version that otherwise differs in any respect, such as having

marginalia, markings, other notations or attachments, or otherwise, shall be considered a separate document and shall also be furnished as responsive.

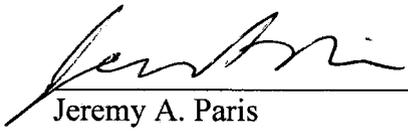
7. Documents shall be produced as they are kept in the usual course of your business, including with any file labels, dividers, or other identifying markers with which they were associated when this subpoena was served. Also identify to which paragraph from the subpoena such documents are responsive.
8. All documents shall be bates-stamped sequentially and produced sequentially, with an indication as to which paragraph of the schedule it is responsive.

### **Definitions**

1. The term “document” as used in this subpoena includes all emails, memoranda, reports, agreements, notes, correspondence, files, records, and other documents, data, information or memorialization in any form, whether physical or electronic, maintained on any digital repository or electronic media, and should be construed as it is used in the Federal Rules of Civil Procedure.
2. The terms “related” and “relating” with respect to any given subject, shall be construed broadly to mean anything that constitutes, contains, embodies, reflects, identifies, concerns, states, refers to, deals with or is in any manner whatsoever pertinent to the subject.
3. The terms “including” and “includes,” with respect to any given subject, shall be construed broadly so that specification of any particular matter shall not be construed to exclude any documents that you have reason to believe the Committee might regard as responsive.
4. The terms “Department of Justice” and “Department” includes without limitation, anyone presently or formerly employed there, suspended from employment there, or on administrative leave from employment there.
5. The term “White House” includes, without limitation, anyone presently or formerly employed there, suspended from employment there, or on administrative leave from employment there.
6. The terms “you” and “your” include you individually, in your capacity as Chief of Staff [or White House Counsel] or custodian of records, as well as the White House, and, without limitation, anyone presently or formerly employed there, suspended from employment there, or on administrative leave from employment there.

**PROOF OF SERVICE**

I, Jeremy A. Paris, Counsel to Senator Patrick Leahy, Chairman of the Senate Judiciary Committee, on June 13, 2007, made service of the attached subpoena for Joshua Bolten, White House Chief of Staff, or appropriate custodian of documents, by facsimile to Emmet Flood, Special Counsel to the President, Office of the White House Counsel, who agreed to accept service on behalf of Mr. Bolten.

  
\_\_\_\_\_  
Jeremy A. Paris  
Counsel to Chairman Patrick Leahy  
Senate Judiciary Committee

6/13/07  
Date