

Mercer, William W

From: Sampson, Kyle
Sent: Tuesday, December 05, 2006 10:51 PM
To: Mercer, William W
Subject: Heads up

Attachments: USA replacement plan.doc

Administration has determined to ask some underperforming USAs to move on (you'll remember I beat back a much broader -- like across the board -- plan that WHCO was pushing after 2004). Calls will go out on Thursday. Wanted you to know in case you get some calls from the field and so you can help manage the chatter that may result. See the attached for the details.



USA replacement
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PLAN FOR REPLACING CERTAIN UNITED STATES ATTORNEYS

STEP 1

Senator calls: On December 7, the following Republican home-state Senators or, where there is no Republican home-state Senator, the home-state "Bush political lead" are contacted:

- AG calls **Jon Kyl** (re Charlton)
- WHCO calls **John Ensign** (re Bogden)
- WHCO calls **Pete Domenici** (re Iglesias)
- WH OPA calls **California political lead** (re Lam and Ryan)
- WH OPA calls **Michigan political lead** (re Chiara)
- WH OPA calls **Washington political lead** (re McKay)

AG/WHCO/WH OPA inform the Senators/Bush political leads as follows:

- The Administration has determined to give someone else the opportunity to serve as U.S. Attorney in [relevant district] for the final two years of the Administration.
- [Relevant U.S. Attorney] has been informed of this determination and knows that we intend to have a new Acting or Interim U.S. Attorney in place by January 31, 2007.
- We will look to you, Senator/Bush political lead, to recommend candidates that we should consider for appointment as the new U.S. Attorney. As always, we ask that you recommend at least three candidates for the President's consideration. Importantly, we ask that you make recommendations as soon as possible.

STEP 2

U.S. Attorney calls: On December 7 (very important that Senator calls and U.S. Attorney calls happen simultaneously), Mike Battle contacts the following U.S. Attorneys:

- **Paul Charlton** (D. Ariz.)
- **Carol Lam** (S.D. Cal.)
- **Kevin Ryan** (N.D. Cal.)
- **Margaret Chiara** (W.D. Mich.)
- **Dan Bogden** (D. Nev.)
- **David Iglesias** (D.N.M.)
- **John McKay** (W.D. Wash.)

Battle informs the U.S. Attorneys as follows:

- What are your plans with regard to continued service as U.S. Attorney?
- The Administration is grateful for your service as U.S. Attorney, but has determined to give someone else the opportunity to serve as U.S. Attorney in your district for the final two years of the Administration.
- We will work with you to make sure that there is a smooth transition, but intend to have a new Acting or Interim U.S. Attorney in place by January 31, 2007.

STEP 3

Prepare to Withstand Political Upheaval: U.S. Attorneys desiring to save their jobs (aided by their allies in the political arena as well as the Justice Department community), likely will make efforts to preserve themselves in office. We should expect these efforts to be strenuous. Direct and indirect appeals of the Administration's determination to seek these resignations likely will be directed at: various White House offices, including the Office of the Counsel to the President and the Office of Political Affairs; Attorney General Gonzales and DOJ Chief of Staff Sampson; Deputy Attorney General McNulty and ODAG staffers Moschella and Elston; Acting Associate AG Bill Mercer; EOUSA Director Mike Battle; and AGAC Chair Johnny Sutton. Recipients of such "appeals" must respond identically:

- What? U.S. Attorneys serve at the pleasure of the President (there is no right, nor should there be any expectation, that U.S. Attorneys would be entitled to serve beyond their four-year term).
- Who decided? The Administration made the determination to seek the resignations (not any specific person at the White House or the Department of Justice).
- Why me? The Administration is grateful for your service, but wants to give someone else the chance to serve in your district.
- I need more time! The decision is to have a new Acting or Interim U.S. Attorney in place by January 31, 2007 (granting "extensions" will hinder the process of getting a new U.S. Attorney in place and giving that person the opportunity to serve for a full two years).

STEP 4

Evaluation and Selection of "Interim" Candidates: During December 2006-January 2007, the Department of Justice, in consultation with the Office of the Counsel to the President, evaluates and selects candidates for Attorney General-appointment (or candidates who may become Acting U.S. Attorney by operation of law) to serve upon the resignation of above-listed U.S. Attorneys.

STEP 5

Selection, Nomination, and Appointment of New U.S. Attorneys: Beginning as soon as possible in November 2006, Office of the Counsel to the President and Department of Justice carry out (on an expedited basis) the regular U.S. Attorney appointment process: obtain recommendations from Senators/Bush political leads and other sources; evaluate candidates; make recommendations to the President; conduct background investigations; have President make nominations and work to secure confirmations of U.S. Attorney nominees.

Mercer, William W

From: Sampson, Kyle
Sent: Thursday, December 07, 2006 3:06 PM
To: Mercer, William W
Subject: RE: Heads up

All Senators have been notified and are fine/no objections.
All USAs have been notified, except Iglesias and Chiara (Battle has left messages for them).
Who is calling you? Charlton? McKay?

-----Original Message-----
From: Mercer, William W
Sent: Thursday, December 07, 2006 1:58 PM
To: Sampson, Kyle
Subject: Re: Heads up

I have what I assume is my first call. Before I respond, do you have a status report?

-----Original Message-----
From: Sampson, Kyle
To: Mercer, William W
Sent: Tue Dec 05 22:50:48 2006
Subject: Heads up

Administration has determined to ask some underperforming USAs to move on (you'll remember I beat back a much broader -- like across the board -- plan that WHCO was pushing after 2004). Calls will go out on Thursday. Wanted you to know in case you get some calls from the field and so you can help manage the chatter that may result. See the attached for the details.

<<USA replacement plan.doc>>

Mercer, William W

From: Mercer, William W
Sent: Thursday, December 07, 2006 3:41 PM
To: Sampson, Kyle
Subject: Re: Heads up

Charlton

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

From: Sampson, Kyle
To: Mercer, William W
Sent: Thu Dec 07 15:05:31 2006
Subject: RE: Heads up

All Senators have been notified and are fine/no objections.
All USAs have been notified, except Iglesias and Chiara (Battle has left messages for them).
Who is calling you? Charlton? McKay?

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

From: Mercer, William W
Sent: Thursday, December 07, 2006 1:58 PM
To: Sampson, Kyle
Subject: Re: Heads up

I have what I assume is my first call. Before I respond, do you have a status report?

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

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To: Mercer, William W
Sent: Tue Dec 05 22:50:48 2006
Subject: Heads up

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Mercer, William W

From: Sampson, Kyle
Sent: Wednesday, December 13, 2006 2:25 PM
To: Battle, Michael (USAEO)
Cc: McNulty, Paul J; Elston, Michael (ODAG); Moschella, William; Mercer, William W; Goodling, Monica; Sutton, Johnny K. (USATXW)
Subject: USA replacements

Mike, Bill Kelley called to report that they are weathering two main complaints: in making the calls, Battle (1) wasn't clear whether the USAs in question would be permitted to resign, or instead were being fired; and (2) was too abrupt. Bill seemed nonplussed by the complaints, but nevertheless passed them on to me.

Perhaps a second round of calls from you, Mike, to the relevant USAs is in order? Talkers would be something like:

- I wanted to be sure you understood that DOJ intends not to say anything about your leaving, but instead allow you to announce your resignation and the reasons for it;
- We want to work with you over the next six weeks to ensure a smooth transition; and
- It's in our interest for you to land on your feet and maintain our good relations with the Department -- how can I help?

Perhaps this is a bad idea? Thoughts?

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

Sellers, Kiahna (OAG)

Subject: Phone Call with Senator Domenici

Start: Fri 9/23/2005 12:45 PM

End: Fri 9/23/2005 1:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

AG will call Senator Domenici

AG's Office

AO: Kyle Sampson DOJ: Will Moschella

Sellers, Kiahna (OAG)

Subject: Phone Call to Senator Domenici
Start: Tue 1/31/2006 5:15 PM
End: Tue 1/31/2006 5:30 PM
Recurrence: (none)
Meeting Status: Meeting organizer
Required Attendees: Sampson, Kyle; Moschella, William

AG's Office - We will call 202 224 7093
AO: Kyle Sampson DOJ: Will Moschella
POC: Jennifer Heath

Sellers, Kiahna (OAG)

Subject: PREP: Phone Call with Senator Domenici
Start: Thu 4/6/2006 3:50 PM
End: Thu 4/6/2006 4:00 PM
Recurrence: (none)
Meeting Status: Meeting organizer
Required Attendees: Sampson, Kyle; Moschella, William; Goodling, Monica

AG's Office
AO: Kyle Sampson DOJ: Will Moschella, Monica Goodling

Sellers, Kiahna (OAG)

Subject: Phone Call with Senator Domenici
Start: Thu 4/6/2006 4:00 PM
End: Thu 4/6/2006 4:15 PM
Recurrence: (none)
Meeting Status: Meeting organizer
Required Attendees: Sampson, Kyle; Moschella, William; Goodling, Monica

AG's Office
AO: Kyle Sampson DOJ: Will Moschella, Monica Goodling
POC: Jennifer