

Sampson, Kyle

From: Sampson, Kyle
Sent: Sunday, January 09, 2005 7:34 PM
To: 'David_G_Leitch'
Subject: RE: Question from Karl Rove

Judge and I discussed briefly a couple of weeks ago. My thoughts are:

1. As a legal matter, U.S. Attorneys serve a 4-year term and may holdover indefinitely thereafter (all at the pleasure of the President, of course). None of the President's U.S. Attorney appointees have served a full term yet -- the first were confirmed in September 2001, and many were confirmed during the 12 months thereafter. Although they serve at the pleasure of the President, it would be weird to ask them to leave before completing at least a 4-year term.
2. As an historical matter, U.S. Attorneys served at least until the expiration of their 4-year term, even where an election changed the party in power -- until President Clinton fired the Bush41-appointed U.S. attorneys in 1993, nearly all of whom were in the midst of their 4-year terms. In 2001, President Bush43 fired the Clinton-appointed U.S. Attorneys, some of whom were in the midst of a 4-year term, but many of whom had completed their 4-year terms and were serving in holdover status.
3. As an operational matter, we would like to replace 15-20 percent of the current U.S. Attorneys -- the underperforming ones. (This is a rough guess; we might want to consider doing performance evaluations after Judge comes on board.) The vast majority of U.S. Attorneys, 80-85 percent, I would guess, are doing a great job, are loyal Bushies, etc., etc. Due to the history, it would certainly send ripples through the U.S. Attorney community if we told folks they got one term only (as a general matter, the Reagan U.S. Attorneys appointed in 1981 stayed on through the entire Reagan Administration; Bush41 even had to establish that Reagan-appointed U.S. Attorneys would not be permitted to continue on through the Bush41 Administration) -- indeed, even performance evaluations likely would create ripples, though this wouldn't necessarily be a bad thing.
4. As a political matter, each of our U.S. Attorneys has been recommended by one or more political leaders in their home State. I suspect that when push comes to shove, home-State Senators likely would resist wholesale (or even piecemeal) replacement of U.S. Attorneys they recommended (see Senator Hatch and the Utah U.S. Attorney). That said, if Karl thinks there would be political will to do it, then so do I.

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

From: David_G_Leitch
Sent: Thursday, January 06, 2005 12:34 PM
To: Sampson, Kyle
Subject: Fw: Question from Karl Rove

Let's discuss

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

From: Newman, Colin
To: Leitch, David G.
Sent: Thu Jan 06 12:30:17 2005
Subject: Question from Karl Rove

David -- Karl Rove stopped by to ask you (roughly quoting) "how we planned to proceed regarding US Attorneys, whether we were going to allow all to stay, request resignations from all and accept only some of them, or selectively replace them, etc." I told him that you would be on the hill all day for the Judge's hearing, and he said the matter was not urgent. Please let me know if you have any questions. Thanks, -Colin

Colin M. Newman
Office of Counsel to the President