

QUESTIONS FOR THE RECORD
FOR BRADLEY SCHLOZMAN

On June 11, 2007, you wrote the Committee to revise your June 5, 2007 testimony regarding whether the Elections Crime Branch “directed” you to file indictments prior to the November 2006 election.

- What prompted you to revise your testimony?
- Specifically when did you realize that your prior testimony was incorrect or needed clarification?

I had already clarified my testimony in questioning from Senator Whitehouse at the hearing to note that U.S. Attorneys’ Offices are required to consult with the Public Integrity Section before initiating grand jury investigations or pursuing indictments of election-related crimes, but that the Public Integrity Section does not direct U.S. Attorneys’ Offices as to the substance or timing of such charges. I realized upon my return to the office that it would be useful to further clarify that, although the director of the Public Integrity Section’s Elections Crimes Branch had suggested when the charges should be brought, the responsibility for doing so was mine.

Prior to obtaining indictments against the four employees of the Association of Community Organizations for Reform Now (ACORN) in advance of the November 2006 election, had you read the manual Federal Prosecution of Election Officials (6th ed. Jan. 1995)?

I was familiar with certain sections of the manual, including the chapter on prosecuting voter registration cases and the need to consult with the Public Integrity Section before doing so.

Prior to obtaining those indictments, were you aware of the following admonition from that manual, which is written in underscored type: “Thus, most, if not all, investigation of an alleged election crime must await the end of the election to which the allegation relates.”

Yes. But the director of the Public Integrity Section’s Election Crimes Branch (who authored the Department’s Election Crime Manual) advised my Assistant U.S. Attorney that the policy of postponing certain election crime indictments did not apply in this case because the charges pertained to voter registration fraud (which examined conduct during voter registration), not fraud during an ongoing or contested election.

According to a May 31, 2007 *Los Angeles Times* story, “one of the first acts” of former U.S. Attorney Tom Heffelfinger’s replacement, Rachel Paulose, was to remove the Assistant United States Attorney (AUSA) “who had written the 2004 e-mails to

Washington expressing concern about Native American voting rights. . . from overseeing voting rights cases.”

- Did you, whether directly or indirectly, complain about the AUSA’s actions or otherwise request that the AUSA who wrote the 2004 referral be removed from overseeing voting rights cases? If so, to whom were the complaints or requests directed?

No.

- Did anyone do so at your request? If so, to whom were the complaints or requests directed?

No.

- To your knowledge, did anyone else in the Civil Rights Division make such a request or complain about him? If so, to whom were their complaints or requests directed?

I have no knowledge of any such complaint.

Did you, in any way, criticize former U.S. Attorney Tom Heffelfinger, his staff, or his office for raising concerns about the State of Minnesota ruling on the question of the validity of tribal identification for Native American voters who cast votes outside of tribal reservations?

I do not recall registering any criticism of Mr. Heffelfinger regarding this incident. Nor would I have any reason to do so.

Regardless of accuracy of the Minnesota Secretary of State’s legal analysis underlying her decision regarding the use of tribal identification cards for Native American voters casting ballots outside of tribal reservations, did Tom Heffelfinger or his staff do anything improper in raising a possible voting rights issue in the fall of 2004, including in the timing or manner in which it was raised?

I have no basis for believing that Mr. Heffelfinger acted improperly in any way on this issue.