

Statement of
The Honorable Russ Feingold

United States Senator
Wisconsin
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Senate Committee on the Judiciary
Hearing on "Department of Justice Oversight"
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Even the appearance of impropriety can harm our judicial system by undermining our citizens' confidence in its integrity. We are here today to discuss a Department of Justice so deeply compromised that Americans are losing faith in it.

According to a Washington Post/ABC poll released on April 16, sixty-seven percent of Americans believe--contrary to what the Attorney General and others from his agency have told Congress--that these U.S. Attorneys were not fired on the basis of their performance. That means that sixty-seven percent of Americans believe that the Attorney General has not been straight with the American people. We are here today to hear from an Attorney General whose failures are so great that I am compelled to conclude that there is no alternative for him but to step down.

I am particularly distressed by the recent events concerning the case of U.S. v. Thompson in my own state of Wisconsin. In that case, just a week and a half ago, the Seventh Circuit was so troubled by the insufficiency of the evidence against Georgia Thompson that it made the highly unusual decision immediately after oral argument to issue an order reversing the conviction and releasing Ms. Thompson from custody. Implicit in that decision, and explicit at the oral argument, was the three judge panel's view that this case should never have been brought at all. Many in my state have taken the further step of questioning the impartiality of the U.S. Attorney's office and the motivation for pursuing the prosecution. The very fact that Wisconsinites are expressing such concerns shows just how far reaching and toxic this U.S. Attorneys scandal is.

When questions were first raised about the firings of seven U.S. Attorneys, it appears that the Department of Justice purposely misled Congress and the public and attempted to delay the release of vital information. These tactics are disappointing coming from the federal agency whose first responsibility is to the rule of law and the interests of justice, not the self-interest of its leaders. The Department of Justice and the White House continue to refuse to be fully forthright in this matter. They are trying to limit the scope of this investigation and the manner in which it will take place. Each day brings a new revelation of missing emails, or new evidence of questionable behavior, or testimony that casts doubt on previous testimony. There seems to be a fundamental disregard for the integrity of the criminal justice system and for the legitimate oversight role of the legislative branch.

I join my colleagues in being dismayed at the manner in which the firings were handled, but that is not the only problem here. This situation should not have arisen at all. Simply put, it was the Attorney General's responsibility to prevent this. Once it happened, it was the Attorney General's responsibility to correct it. Instead, the Department of Justice gave inaccurate testimony to Congress to try to cover up its mistakes, or, as one public affairs officer put it, to "muddy the coverage up a bit."

Even more astounding, as those untruths have come to light, the Attorney General has not taken steps to hold those involved accountable--least of all himself. Instead of owning up to the incredible damage he has done, he continues to repeat and recycle talking points that both shift accountability for the firings onto his subordinates and endorse the firings as appropriate. Instead of taking steps to protect the Department of Justice's reputation, the Attorney General has concentrated on protecting his own.

I voted against Alberto Gonzales to be the Attorney General because I was not convinced he would put the rule of law, and the interests of the country, above those of the President and the Administration. Unfortunately, those concerns have been realized over and over--not just in this scandal, but in the Department's handling of the NSA spying program and the Patriot Act reauthorization process. Whether this latest story is essentially one of improper, politically motivated firings and dishonesty, or is merely a story of incompetence and inattention, this Attorney General has not acted in a manner that upholds the best interests of law enforcement and the criminal justice system. This Attorney General does not have the confidence of Congress or the public. That is the "performance problem" of the biggest concern at the moment.