

QUESTIONS AND ANSWERS

**Responses to Questions for William Emil Moschella
Senator Richard J. Durbin
May 2, 2003**

1. Mr. Moschella, I have reviewed the materials you provided the Committee, and I am impressed with your background and qualifications. However, I have some serious concerns about the Justice Department's non-responsiveness to Congressional inquiries. If confirmed, this problem will fall under your purview. I am still awaiting answers to dozens of questions that I have submitted to Attorney General Ashcroft over the last year, and I know that other members of this Committee have experienced similar problems.

I understand that Attorney General Ashcroft and his staff are very busy, and I accept that they might not always be able to respond to the Committee's questions immediately. But I am still awaiting responses to questions that I submitted, following a hearing on July 25, 2002, concerning post-September 11 detainees and the NICS audit log. I'm also awaiting responses to questions, submitted on January 30, 2003, regarding the National Security Entry-Exit Registration System (NSEERS). These questions deal with counterterrorism, national security, and civil liberties, not trivial issues. This delay is unacceptable and demeans the importance of the Committee's oversight role. Congressional oversight of the Justice Department is vitally important. It is our responsibility to monitor closely DOJ's activities and hold the DOJ accountable to the American people.

If you are confirmed as Assistant Attorney General for Legislative Affairs, one of your primary responsibilities will be to facilitate Congressional oversight. How will you improve on OLA's poor track record of responding to Congressional inquiries?

Answer:

Congressional oversight is an important responsibility, and I appreciate the importance of Senate Judiciary Committee oversight. I served as the House Judiciary Committee's Chief Investigative Counsel for then Chairman Hyde and have participated in a number of oversight projects under Chairman Sensenbrenner. Congressional oversight is an important component of our federal system and the legislative process.

I do not have, at this time, a specific plan to improve on OLA's record of responding to inquiries such as those outlined in your question. I will, if confirmed, review the current system and make improvements if necessary. I also welcome any comments that you and others may have to improve the system.

2. According to a recent article in the *New York Times*, the Office of Legislative Affairs sent a memo to DOJ staff directing them to clear with OLA all "significant, substantive" contacts with Congressional staff and members. I understand that OLA's position is that the memo simply memorializes previously existing policy. Nonetheless, I am concerned

that it may have a chilling effect on interactions between DOJ and Congressional staff. This is particularly important because of DOJ's non-responsiveness to Committee inquiries. When the Attorney General does not timely respond to questions from Committee members, oftentimes our only source of information is DOJ staff. I am concerned about this memo. You worked for the House Judiciary Committee so I'm sure that you understand Justice Department oversight and the importance of honest, unencumbered interactions between DOJ staff and Congress.

A. If confirmed, what would your policy be on interactions between DOJ staff and Congress?

Answer:

As a long-time legislative attorney with more than 12 years of experience on Capitol Hill, I believe it is important that legislators have access to information in order to inform their decisions about critical public policy issues. Legislators need information to fulfill both their legislative and oversight responsibilities. One important role of the Office of Legislative Affairs is to coordinate the development of information in response to congressional requests. As I stated at my confirmation hearing, I agreed with the testimony of prior nominees for this position before the Senate Judiciary Committee, that the Department must speak with one unified voice to Congress.

B. Does the recent memo, in fact, represent a departure from previous policy?

Answer:

I am familiar with the memorandum to which you refer only through press reports and have not reviewed it. Therefore, I do not have an opinion with regard to whether this memorandum represents a departure from previous policy. I am familiar, as I indicated in my response to question 2(A), that the longstanding policy of the Department is to communicate with Congress with one unified voice.