

**From:** "Zev Safran \CFJ)" <zsafran@committeeofjustice.org>  
**To:** [REDACTED] P6/b(6)  
**Cc:** "Ed Rogers" <ed\_rogers@bgrdc.com>, "Boyden Gray" <boyden.gray@wilmer.com>, "William McGurn \WSJ)" <William.McGurn@wsj.com>, "Abigail Vacanti \CNN)" <abigail.Vacanti@turner.com>, "Adam Daifallah \NYSun)" <adaifallah@nysun.com>, "Alex Bolton \The Hill)" <alexb@thehill.com>, "Amy Fagan" <afagan@washingtontimes.com>, "Ann Klenk \MSNBC)" <ann.klenk@msnbc.com>, "Anne Gearan \AP)" <agearan@ap.org>, "Ben Wittes \WashPost ed)" <wittesb@washpost.com>, "Bennett Roth \H.Chron)" <bennett.roth@chron.com>, "Beth Goodman \CNN)" <beth.goodman@turner.com>, "Bill Gray \WBCK)" <billgray@clearchannel.com>, "Bill O'Reilly" <bill.oreilly@foxnews.com>, "Bill Walsh \NewOrlTimes-Pic)" <[REDACTED] P6/b(6)>  
[REDACTED] P6/b(6) "Bob Greenberger \WSJ)" <bob.greenberger@wsj.com>, "Brian Blomquist \NY Post)" <bblomquist@nationalpress.com>, "Byron York \NRO)" <byork@nationalreview.com>, "Carol Batchelor \KSRO radio)" <carol@ksro.com>, "Charles Frohman" <cfrohman@cato.org>, "Charles Hurt \WashTimes)" <churt@washingtontimes.com>, "Charles Lane \Wash Post)" <lanec@washpost.com>, "Charles Rousseaux" <crousseaux@washingtontimes.com>, "Chris Corish \Radio America)" <ccorish@radioamerica.org>, "Chris Shaw \NYPost-editorial)" <cshaw@nypost.com>, "Copley Service" <newseditor@copleydc.com>, "Craig Linder \States)" <[REDACTED] P6/b(6)>, "Curt Anderson \AP)" <canderson@ap.org>, "David Phinney \States)" <[REDACTED] P6/b(6)>, "Erich Eichman \WSJ)" <Erich.Eichman@wsj.com>, "Gary Andres \Dutko)" <Gary.Andres@dutkogroup.com>, "Hans Nichols \The Hill)" <[REDACTED] P6/b(6)>, "Heather Wingate \Citigroup)" <wingateh@citigroup.com>, "Helen Dewar \WashPost)" <dewarh@washpost.com>, "James Gabbert \KGO Radio)" <[REDACTED] P6/b(6)>, "James Rosen \Fox)" <james.rosen@foxnews.com>, "Jan Greenburg \ChiTrib)" <JGreenburg@tribune.com>, "Jason Riley" <jason.riley@wsj.com>, "Jeff Crouere \WTIX Radio)" <[REDACTED] P6/b(6)>, "Jeff Johnson \CNSNews)" <[REDACTED] P6/b(6)>, "Jennifer Dlouhy \CQ)" <JDlouhy@cq.com>, "Jesse Holland \AP)" <jholland@ap.org>, "Joan Biskupic \USA Today)" <jbiskupic@usatoday.com>, "John Fogarty" <jfogarty@bulletinnews.com>, "John McCaslin \Wash. Times)" <jmccaslin@washingtontimes.com>, "Julie Hirschfeld Davis \BaltSun)" <julie.davis@baltsun.com>, "Karen Schiffman" <[REDACTED] P6/b(6)>, "Kate O'Beirne \NatRev)" <kate@nationalreview.com>, "Kathryn Lopez" <klopez@nationalreview.com>, "Keith Perine \CQ)" <KPerine@cq.com>, "Kelley Beaucar \Fox)" <kelley.beaucar@foxnews.com>, "Keren Schiffman \CNN)" <Keren.Schiffman@turner.com>, "Kerri Forrest \MSNBC)" <kerri.forrest@msnbc.com>, "Lee Wang \MSNBC)" <Lee.Wang@msnbc.com>, "Linda Pina \KKLA radio)" <lpina@kkla.com>, "Luiza Savage \NY Sun)" <lsavage@nysun.com>, "Lynn Woolley \radio host)" <lynn@belogical.com>, "Marc Ambinder \ABC)" <marc.j.ambinder@abc.com>, "Mary Guthrie" <[REDACTED] P6/b(6)>  
[REDACTED] P6/b(6) "MeetThePress" <MEETTHEPRESS@LISTS.MSNBC.COM>, "Melanie Kirkpatrick \WSJ)" <Melanie.Kirkpatrick@wsj.com>, "Michelle Jaconi \NBC)" <michelle.jaconi@nbc.com>, "Mike Allen \WashPost)" <allenm@washpost.com>, "Mike Tirone \MSNBC)" <mike.tirone@msnbc.com>, "Neil Lewis \NYT)" <nelewi@nytimes.com>, "Norah O'Donnell \NBC)" <norah.odonnell@nbc.com>, "Paul Greenberg \ArkDemGaz)" <paul\_greenberg@adg.ardemgaz.com>, "Paul Kane" <pk@rollcall.com>, "Pilar Tejerina \CNN)" <Pilar.Tejerina@turner.com>, "Ramesh Ponnuru \Nat. Review)" <[REDACTED] P6/b(6)>, "Richard Gonzales \NPR)" <RGonzales@npr.org>, "Robert Bluey \CNS)" <rbluey@CNSNews.com>, "Robert Yoon \CNN)" <robert.yoon@turner.com>, "Robin Toner \NYT)" <roton@nytimes.com>, "Sam Dealey" <[REDACTED] P6/b(6)>, "Scott Bronstein \ABC)" <[REDACTED] P6/b(6)>, "Sean Gibbons \CNN)" <sean.gibbons@turner.com>, "Sean Hannity \off-air)" <flips@abc.com>, "Sean Hannity" <seanshow@abc.com>, "Shawn Taylor \KXL Radio)" <shawn.taylor@kxl.com>, "Silvio Carrillo \CNN)" <Silvio.Carrillo@turner.com>, "Siobhan Gorman \NatJrn)" <sgorman@nationaljournal.com>, "Stephen Dinan" <sddinan@washingtontimes.com>, "Tim Carney" <Carney@EvansNovak.com>, "Tim Griffin \RNC)" <tgriffin@rnc.org>, "Tim Starks" <tstarks@cq.com>, "Tom Brune \Newsday)" <tom.brune@newsday.com>, "Thomas Ferraro \Reuters)" <thomas.ferraro@reuters.com>, "Wade McKinney \CNN)" <wade.mckinney@turner.com>, "Andrea DeVito \Fox)" <andrea.devito@foxnews.com>, "Andrea Mackris \O'Reilly)" <andrea.mackris@foxnews.com>, "Brendan Miniter \WSJ)" <brendan.miniter@wsj.com>, "Brigitte Quinn \Fox)" <brigitte.quinn@foxnews.com>, "Cal Thomas \Columnist)" <[REDACTED] P6/b(6)>, "Charles Molineaux \CNN)"



<charles.molineaux@turner.com>,"Christine Hall \CNS" <chall@CNSNews.com>,"Connie Clark \ABC" <Constance.clarke@abc.com>,"Darren Mackoff \Fox" <darren.mackoff@foxnews.com>,"David Asman \Fox" <david.asman@foxnews.com>,"David Cassidy \Belo" <dcassidy@belo-dc.com>,"David Skinner \Standard" <dskinner@weeklystandard.com>,"Deroy Murdock"  
P6/b(6)"Dominic Bellone" <dominic.bellone@msnbc.com>,"Donald Lambro" <dlambro@washingtontimes.com>,"Donna Nelson \NBC News" <donna.nelson@nbc.com>,"Doug Adams \NBC News" <douglas.adams@nbc.com>,"Eamon Javers" <eamon.javers@nbc.com>,"Fred Barnes \Fox" <fred.barnes@foxnews.com>,"Georgia Witkin \Fox" <georgia.witkin@foxnews.com>,"Greg Headen \Fox News" <gregory.headen@foxnews.com>,"Jim Eldridge \Fox" <jim.eldridge@foxnews.com>,"Jody Seward \CNN" <jody.seward@turner.com>,"John Dimsdale" <dimsdale@marketplace.org>,"John Fund \WSJ" <John.Fund@wsj.com>,"Ken Rudin \NPR" <krudin@npr.org>,"Kendra Gahagan" <kendra.gahagan@abc.com>,"Kim Bel-Simensky" <simensky@foxnews.com>,"Kim Skeen \ABC News" <kim.r.skeen@abc.com>,"Kristin Lazure \FoxNews" <kristin.lazure@foxnews.com>,"Kristina Kendall \ABC-Stossel" <kristina.j.kendall@abc.com>,"Linda Douglass" <linda.d.douglass@abc.com>,"Marty Ryan \Fox" <marty.ryan@foxnews.com>,"Matt Pyeatt \CNSNews.com" <mpyeatt@CNSNews.com>,"Matt Singerman" <matt.singerman@foxnews.com>,"Michele Nunes \Cavuto" <michele.nunes@foxnews.com>,"Michele Remillard \Fox" <michele.remillard@foxnews.com>,"Nahedah Zayed \Fox News" <nahedah.zayed@foxnews.com>,"Naomi Karam \MSNBC" <naomi.karam@msnbc.com>,"Paul Bedard" <pbedard@usnews.com>,"Peter Roff \UPI" <PRoff@upi.com>,"Peter Zorich \O'Reilly Factor" <peter.zorich@foxnews.com>,"Quin Hillyer" <qhillyer@mobilereregister.com>,"Rich Gardella \NBC-Meyers" <rich.gardella@nbc.com>,"Richard L. Berke \NYT" <riberk@nytimes.com>,"Rick DiBella" <rick.dibella@foxnews.com>,"Rob Monaco \Fox" <rob.monaco@foxnews.com>,"Robert George \NY Post" <rgeorge@nypost.com>,"Ronit Mershon" <mershonr@mail.courtstv.com>,"Scott Spoerry \CNN" <scott.spoerry@cnn.com>,"Sean Hannity \Fox" <sean.hannity@foxnews.com>,"Steve Doocy \Fox" <steve.doocy@foxnews.com>,"Steve Shusman \CNN" <steve.shusman@turner.com>,"The Federalist" <Lists-CAGW@Federalist.com>,"Tom Young \MSNBC" <tom.young@msnbc.com>,"Tony Snow \Fox" <tony.snow@foxnews.com>,"Victorino Matus" <VMatus@weeklystandard.com>,"AJ Kelly \Ark GOP)" <aj.kelly@arkgop.com>  
P6/b(6)"Alex Dahl \Judiciary)" <Alex\_Dahl@Judiciary.senate.gov>,"Andrew Shore" <andrew.shore@mail.house.gov>,"Aron Griffin" <Aron.Griffin@mail.house.gov>,"Snee, Ashley", "Barbara Ledeen \SRC)" <barbara\_ledeen@src.senate.gov>,"Bill May" <bmay@yourcatholicvoice.org>,"Bill Wichterman \Frist)" <Bill\_Wichterman@frist.senate.gov>,"Kavanaugh, Brett M.", "Brian Benczkowski \DOJ)" <Brian.A.Benczkowski@usdoj.gov>,"Brooke Roberts \Craig)" <brooke\_roberts@craig.senate.gov>,"Brooken Smith \Rep. Northup)" <Brooken.Smith@mail.house.gov>,"Bruce Artim \Judiciary)" <Bruce\_Artim@Judiciary.senate.gov>,"Bryan Wilkes" P6/b(6)"Cherylyn Lebon \Jud Comm)" <cherylyn\_lebon@Judiciary.senate.gov>,"Chip Roy \Judiciary)" <Chip\_Roy@Judiciary.senate.gov>,"Christina Culver" P6/b(6)"Friedrich, Dabney", "David Codevilla \Judiciary)" <David\_Codevilla@Judiciary.senate.gov>,"Leitch, David G.", "Don Stewart \Cornyn)" <Don\_Stewart@cornyn.senate.gov>,"Drew Ryun \RNC)" <dryun@rnchq.org>,"Elizabeth Keys \SRC)" <Elizabeth\_Keys@src.senate.gov>,"Elizabeth Moser" <emoser@ij.org>,"James Ho \Cornyn)" <James\_Ho@Judiciary.senate.gov>,"James Swanson \Heritage)" <james.swanson@heritage.org>,"Jason Lundell \Judiciary)" <Jason\_Lundell@Judiciary.senate.gov>,"Jeffrey Mazzella \CFIF)" <jmazzella@cfif.org>,"Jennifer Oschal \PFA)" <joschal@progressforamerica.org>,"Jill Kozeny \Grassley)" <jill\_kozeny@grassley.senate.gov>,"Joe Cella \Ave Maria List)" <jcella@avemarialist.org>,"Joel Pardue \Fed Soc)" <jpardue@fed-soc.org>,"John Drogin \Cornyn)" <John\_Drogin@cornyn.senate.gov>,"John Gillies \Chambliss)" <John\_Gillies@chambliss.senate.gov>,"John Little \Sessions)" <john\_little@sessions.senate.gov>,"John Mallon" P6/b(6)"Jorge Martinez \OPA)" <Jorge.Martinez3@usdoj.gov>,"Kay Daly" P6/b(6)"Kerrie Rushton" <Kerrie@rnchq.org>,"Kristi Remington \DOJ)" <Kristi.L.Remington@usdoj.gov>,"Kyle Simmons \McConnell)" <Kyle\_Simmons@mccconnell.senate.gov>,"Leonard A. Leo" <lleo@fed-soc.org>,"Makan



Delrahim" <Makan.Delrahim@usdoj.gov>,"Manuel Miranda"  
<manuel\_miranda@frist.senate.gov>,"Margarita Tapia \(\Judiciary\)"  
<Margarita\_Tapia@Judiciary.senate.gov>,"Mark Corallo \(\DOJ\)" <Mark.Corallo@usdoj.gov>,"Mark  
Heilbrun \(\Specter\)" <mark\_heilbrun@specter.senate.gov>,"Matt Roche"  
<Roche@TaxFoundation.org>,"Smith, Matthew E.","Michael Brumas \(\Sessions\)"  
<michael\_brumas@sessions.senate.gov>,"Michael Thielen" <thielen@republicanlawyer.net>,"Nathan  
Diamant" <ndiamant@ou.org>,"Neil Bradley" <Neil.Bradley@mail.house.gov>,"Peter Reynolds"  
P6/b(6) "Pia de Solenni \(\FRC\)" <pds@frc.org>,"RenaJohnson Comisac  
\(\Judiciary\)" <Rena\_Johnson\_Comisac@Judiciary.senate.gov>,"Shane Costello"  
P6/b(6) "Shawn Reinschmiedt \(\RNC\)" <sreinschmiedt@rnchq.org>,"Stephen Duffield  
\(\RPC\)" <Steven\_Duffield@rpc.senate.gov>,"Steve Taylor \(\Judiciary\)"  
<Steve\_taylor@Judiciary.senate.gov>,"Tanya Green \(\Judiciary\)"  
<tanya\_green@Judiciary.senate.gov>,"Goeglein, Tim","Tom Jipping \(\Hatch\)"  
<Tom\_Jipping@hatch.senate.gov>,"Tom Readmond \(\ATR\)" <TReadmond@atr.org>,"Tracey  
Johnson" <tjohnson@wsf-dc.org>,"Tracy Ammons \(\PIFRAS\)" P6/b(6) "Grubbs, Wendy  
J.","Will Hart \(\Craig\)" <will\_hart@craig.senate.gov>,"William A. Hall Jr. \(\DOJ\)"  
<william.hall2@usdoj.gov>,"William Reynolds \(\Specter\)" <william\_reynolds@specter.senate.gov>  
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a pseudonymous blog at <http://egged.blogspot.com>

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

From: Sean Rushton [<mailto:SRushton@CommitteeforJustice.org>]  
Sent: Wednesday, December 03, 2003 2:58 PM  
Cc: Ed Rogers; Boyden Gray; William McGurn (WSJ); Abigail Vacanti (CNN);  
Adam Daifallah (NYSun); Alex Bolton (The Hill); Amy Fagan; Ann Klenk  
(MSNBC); Anne Gearan (AP); Ben Wittes (WashPost ed) ; Bennett Roth  
(H.Chron); Beth Goodman (CNN); Bill Gray (WBCK); Bill O'Reilly; Bill  
Walsh (NewOrlTimes-Pic); Bob Greenberger (WSJ); Brian Blomquist (NY  
Post); Byron York (NRO); Carol Batchelor (KSRO radio); Charles Frohman;  
Charles Hurt (WashTimes); Charles Lane (Wash Post) ; Charles Rousseaux;  
Chris Corish (Radio America); Chris Shaw (NYPost-editorial); Copley  
Service; Craig Linder (States); Curt Anderson (AP); David Phinney  
(States); Erich Eichman (WSJ); Gary Andres (Dutko); Hans Nichols (The  
Hill); Heather Wingate (Citigroup); Helen Dewar (WashPost); James  
Gabbert (KGO Radio); James Rosen (Fox); Jan Greenburg (ChiTrib); Jason  
Riley; Jeff Crouere (WTIX Radio); Jeff Johnson (CNSNews); Jennifer  
Dlouhy (CQ); Jesse Holland (AP); Joan Biskupic (USA Today); John  
Fogarty; John McCaslin (Wash.Times); Julie Hirschfeld Davis (BaltSun) ;  
Karen Schiffman; Kate O'Beime (NatRev); Kathryn Lopez; Keith Perine  
(CQ); Kelley Beaucar (Fox); Keren Schiffman (CNN); Kerri Forrest  
(MSNBC); Lee Wang (MSNBC); Linda Pina (KKLA radio); Luiza Savage (NY  
Sun); Lynn Woolley (radio host); Marc Ambinder (ABC); Mary Guthrie;  
MeetThePress; Melanie Kirkpatrick (WSJ); Michelle Jaconi (NBC); Mike



Allen (WashPost); Mike Tirone (MSNBC); Neil Lewis (NYT); Norah O'Donnell (NBC); Paul Greenberg (ArkDemGaz); Paul Kane; Pilar Tejerina (CNN); Ramesh Ponnuru (Nat. Review); Richard Gonzales (NPR); Robert Bluey (CNS); Robert Yoon (CNN); Robin Toner (NYT); Sam Dealey; Scott Bronstein (ABC); Sean Gibbons (CNN); Sean Hannity (off-air); Sean Hannity; Shawn Taylor (KXL Radio); Silvio Carrillo (CNN); Siobhan Gorman (NatJrnl); Stephen Dinan; Tim Carney; Tim Griffin (RNC); Tim Starks ; Tom Brune (Newsday); Thomas Ferraro (Reuters); 'Wade McKinney (CNN'; 'Andrea DeVito (Fox'; 'Andrea Mackris (O'Reilly'; 'Brendan Minitier (WSJ'; 'Brigitte Quinn (Fox'; 'Cal Thomas (Columnist'; 'Charles Molineaux (CNN'; 'Christine Hall (CNS'; 'Connie Clark (ABC'; 'Darren Mackoff (Fox'; 'David Asman (Fox'; 'David Cassidy (Belo'; 'David Skinner (Standard'; 'Deroy Murdock'; 'Dominic Bellone'; 'Donald Lambro'; 'Donna Nelson (NBC News'; 'Doug Adams (NBC News'; 'Eamon Javers'; 'Fred Barnes (Fox'; 'Georgia Witkin (Fox'; 'Greg Headen (Fox News'; 'Jim Eldridge (Fox'; 'Jody Seward (CNN'; 'John Dimsdale'; 'John Fund (WSJ'; 'Ken Rudin (NPR'; 'Kendra Gahagan'; 'Kim Bel-Simensky'; 'Kim Skeen (ABC News'; 'Kristin Lazure (FoxNews'; 'Kristina Kendall (ABC-Stossel'; 'Linda Douglass'; 'Marty Ryan (Fox'; 'Matt Pyeatt (CNSNews.com'; 'Matt Singerman'; 'Michele Nunes (Cavuto'; 'Michele Remillard (Fox'; 'Nahedah Zayed (Fox News'; 'Naomi Karam (MSNBC'; 'Paul Bedard'; 'Peter Roff (UPI'; 'Peter Zorich (O'Reilly Factor'; 'Quin Hillyer'; 'Rich Gardella (NBC-Meyers'; 'Richard L. Berke (NYT'; 'Rick DiBella'; 'Rob Monaco (Fox'; 'Robert George (NY Post'; 'Ronit Mershon'; 'Scott Spoerry (CNN'; 'Sean Hannity (Fox'; 'Steve Doocy (Fox'; 'Steve Shusman (CNN'; 'The Federalist'; 'Tom Young (MSNBC'; 'Tony Snow (Fox'; 'Victorino Matus'; Zev Safran; AJ Kelly (Ark GOP); Alex Dahl (Judiciary); Andrew Shore; Aron Griffin; Ashley Snee (WH); Barbara Ledeen (SRC); Bill May; Bill Wichtermanl (Frist); Brett M. Kavanaugh (WH); Brian Benczkowski (DOJ); Brooke Roberts (Craig); Brooken Smith (Rep. Northupl); Bruce Artim (Judiciary); Bryan Wilkes; Cherylyn Lebon (Jud Comm); Chip Roy (Judiciary); Christina Culver; Dabney Friedrich; David Codevilla (Judiciary); David Leitch (WH); Don Stewart (Cornyn); Drew Ryun (RNC); Elizabeth Keys (SRC) ; Elizabeth Moser; James Ho (Cornyn); James Ho (Judiciary); James Swanson (Heritage); Jason Lundell (Judiciary); Jeffrey Mazzella (CFIF); Jennifer Oschal (PFA); Jill Kozeny (Grassley); Joe Cella (Ave Maria List); Joel Pardue (Fed Soc); John Drogin (Cornyn); John Gillies (Chambliss); John Little (Sessions); John Mallon; Jorge Martinez (OPA); Kay Daly; Kerrie Rushton; Kristi Remington (DOJ); Kyle Simmons (McConnell); Leonard A. Leo; Makan Delrahim; Manuel Miranda; Margarita Tapia (Judiciary); Mark Corallo (DOJ); Mark Heilbrun (Specter); Matt Roche; Matthew E. Smith (WH); Michael Brumas (Sessions); Michael Thielen; Nathan Diamant; Neil Bradley; Peter Reynolds; Pia de Solenni (FRC); RenaJohnson Comisac (Judiciary); Shane Costello; Shawn Reinschmiedt (RNC); Stephen Duffield (RPC); Steve Taylor (Judiciary); Tanya Green (Judiciary); Tim Goeglein; Tom Jipping (Hatch); Tom Readmond

(ATR); Tracey Johnson; Tracy Ammons (PIFRAS); Wendy Grubbs (WH); Will Hart (Craig); William A. Hall Jr. (DOJ); William Reynolds (Specter)  
Subject: Memos

## Support Grows For Judicial Memo Whistleblower

By Jeff Gannon

Talon News

December 3, 2003

WASHINGTON (Talon News) -- A Republican staffer on the Senate Judiciary Committee was placed on administrative leave last week in the wake of a U.S. Capitol Police investigation into the release of memos describing strategies for Democrats to use regarding judicial nominees.

Committee Chairman Sen. Orrin Hatch (R-UT) told reporters he took the action because, "I am mortified that this improper, unethical and simply unacceptable breach of confidential files may have occurred on my watch."

Democrats on the committee have expressed outrage over the memos' release to the Wall Street Journal in which their strategy to delay and defeat President Bush's judicial nominees when they were in the majority was outlined. The memos detailed meetings with liberal groups like People for the American Way and NARAL who suggested which judges to block and the tactics to use against them.

Democrats have remained silent on the content of the memos, instead focusing on how they were obtained.

The unnamed staffer has denied the allegations to investigators. Some suggest that there may have been no criminal activity at all, depending upon when the memos were obtained and considering their content.

It is believed that the memos came from the committee's servers, but it was not until the Republicans took control of the Senate in 2003 that the computers were segregated according to party affiliation. When the Democrats ruled the panel, the servers were accessible to all staffers.

Kay Daly, President of the Coalition for a Fair Judiciary told Talon News, "If Kennedy and Durbin have heartburn over some of these things, they should go see Patrick Leahy."

She pointed out that it was Leahy who opened up the servers when Democrats took control.



She added, "Hatch changed it back. If these were accessed when the Democrats were still in charge, no crime has been committed."

Daly praised the actions of the staffer who blew the whistle on what she considers unethical conduct by Senate Democrats.

She said, "This guy should be given a medal -- he's a hero, he saw wrongdoing and did something about it."

Daly asserts that the content of the memos describes unethical conduct, the most egregious of which is the racial and sexual discrimination against certain judicial nominees. Equally troubling to her is the NAACP's successful attempt to convince Senate Democrats to delay confirming judges to the 6th Circuit to assure that the landmark University of Michigan affirmative action case was decided in their favor.

Jonathan Stein of the Hofstra University Law Review believes that firing the staffer may be unconstitutional under whistleblower laws. He cites several cases to support his argument that the staffer's actions were consistent with his First Amendment Rights.

Gary Aldrich, a former FBI agent and whistleblower on the Clinton White House agreed, but was less certain of the legal basis for such a defense. Still, he urges the staffer to contact the Patrick Henry Center for Individual Liberty, of which he is president and founder for assistance.

Both Aldrich and Daly expressed disappointment in the Republican leadership's capitulation to the Democrat demands on the matter. Democrats on the Senate Intelligence Committee have yet to apologize, disavow or discipline one of their staffers who authored a memo that Chairman Sen. Pat Roberts (R-KS) called an "attack plan" to use classified information against President Bush in the upcoming election.