

Congress of the United States

Washington, DC 20515

April 5, 2000

The Honorable Janet Reno
Attorney General
United States Justice Department
Washington, D.C. 20530

Dear Attorney General Reno:

As you know, over the past several years there has been intense public and congressional concern regarding the Department of Justice's handling of the campaign finance investigation, including (1) whether the Department used the independent counsel law to prevent law enforcement officials from investigating high level "covered" persons, (2) whether decisions regarding the appointment of an independent counsel and other key prosecutorial decisions were made by taking the most exculpatory view of all potentially damaging evidence, (3) whether such decisions were made based on untested factual assumptions that turned out to be false, (4) whether consistent and principled judgments were made regarding important legal issues, such as the legality of using federal property for fundraising purposes, (5) whether the Department failed to investigate credible allegations that might have implicated high level government officials, such as Common Cause's allegation of a conspiracy to violate campaign funding laws, (6) whether the Department failed adequately to consider the possibility that innumerable individual examples of campaign fundraising violations or improprieties reflected an overall scheme or pattern, (7) why high level government officials were never asked key questions about their knowledge regarding these violations and improprieties, (8) why lawbreakers such as Charlie Trie and John Huang were given plea agreements which were too lenient, (9) why the recommendations and views of distinguished and career law enforcement officials such as FBI Director Freeh and Charles La Bella, your handpicked prosecutor, were repeatedly overruled or ignored by senior officials at the Department, and why these officials were excluded from some aspects of the investigation and (10) why there are still no answers to important questions such as why Chinese government officials provided hundreds of thousands of dollars for contributions to an American political campaign. These concerns have not been alleviated by recent disclosures regarding the now famous Freeh and La Bella memoranda.

The House and Senate Judiciary Committees believe that Congress needs to be fully informed regarding these matters, and that your repeated assurance, however sincere, that relevant decisions were made "on the facts and the law," is simply not sufficient. Accordingly, we hereby request that you provide the records identified in

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Attachment A in accordance with the instructions contained therein. These records are necessary to assist the Committees with their constitutional oversight responsibility over the Department of Justice and will help inform the Congress as it wrestles with questions about whether to reauthorize the Independent Counsel law and reform the campaign finance system. Furthermore, a review of the operation of the Task Force and its relationship with other officers and agencies should assist the Congress in making decisions about how such investigations should be handled in the future. It will also help you, future Attorneys General and other DOJ officials to provide a management and operational structure that will ensure confidence in DOJ investigations of politically sensitive matters.

Recent reports in The Los Angeles Times and The New York Times highlight the need to fully explore the issues raised by Director Freeh and former Campaign Finance Task Force Chief La Bella. A recent New York Times editorial asserted that the Freeh and La Bella Memoranda are "further evidence of [your] politicized handling of the campaign fundraising issue and [your] dedication to protecting Democratic Party interests from start to finish." Editorial, *The Justice Department Memos*, The New York Times, March 11, 2000, A28. Public confidence in our system of justice is of paramount importance, and it remains a central responsibility of the Judiciary Committees to ensure confidence in that system. Public confidence requires more than mere conclusory assertions that the investigation has been vigorous and that you have applied the law to the facts. The Washington Post, in an editorial, stated, "In a post-independent counsel world, the department cannot just declare a bit indignantly that it has done its duty in a case involving the president and expect to be believed. For the sake of the public confidence it claims to deserve, it has to find a better way to make its case." Editorial, *Dan Burton's Question*, The Washington Post, December 19, 1999, B6. The editorial went on to state that "the attorney general should issue more than a press release . . . she should issue a report." It is long past time for a thorough accounting of the actions of the Justice Department. Both Committees will continue to review the Justice Department's activities and such review necessitates your turning over the requested documents.

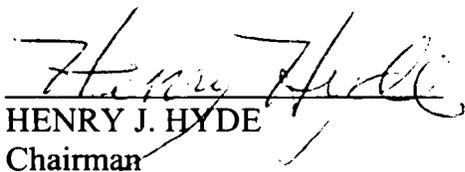
Recently, you refused to turn over the Freeh and La Bella memoranda to another committee because "the Department has a substantial interest in avoiding a chilling effect on the candor of future prosecutorial deliberations." *Letter from The Honorable Janet Reno to The Honorable Dan Burton*, March 21, 2000. This reason is not enough to justify your refusal to comply with constitutionally authorized congressional oversight.

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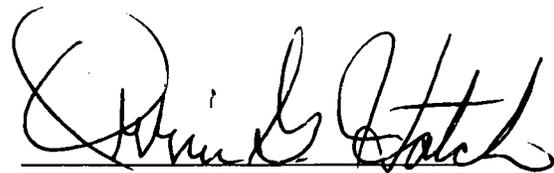
In short, this request is similar to requests for information with which the executive branch has historically complied. The requested documents were written by political appointees or senior managers whose decisions are clearly subject to congressional oversight. We seriously doubt that disclosure of such documents to Congress will have a "chilling effect" on political appointees and senior level managers. Also, except for a couple of sentences in the La Bella memorandum, the information contained in the requested documents is not protected by grand jury secrecy rules. The documents no longer relate to ongoing criminal investigations so your claim that you are fending off inappropriate political pressure is specious. Finally, you have already disclosed these documents to the House Judiciary Committee's Chief Investigative Counsel who reports that the matters contained in the memoranda address issues that will advise the Congress on pending legislative matters. It seems, at this late stage in the process, your sole reason for refusing to comply with requests for these documents is to insulate your decisions from further criticism. Ensuring that the laws are faithfully executed necessitates the review of decision making by cabinet secretaries like yourself and other governmental officials. You should welcome such scrutiny and the ability to justify your decisions.

We look forward to an expeditious response to this request.

Sincerely,



HENRY J. HYDE
Chairman
House Committee on the Judiciary



ORRIN HATCH
Chairman
Senate Committee on the Judiciary



CHARLES CANADY
Chairman
Subcommittee on the Constitution



ARLEN SPECTER
Chairman
Department of Justice Oversight
Investigation
Subcommittee on Administrative
Oversight and the Courts

Records Requested

1. All records received or relied upon by the Attorney General regarding the issue whether to seek the appointment of an Independent Counsel in the campaign finance matter or any matter related thereto;
2. Memorandum from the Director of the Federal Bureau of Investigation, Louis J. Freeh, to the Attorney General, dated November 24, 1997 (“Freeh Memo”);
3. Interim Report regarding the campaign finance investigation, dated July 16, 1998, along with an August 12, 1998 Addendum, submitted by the former head of the Campaign Financing Task Force, Charles LaBella, and James DeSarno, Assistant Director, FBI CAMPCON Task Force, to the Attorney General and the Director of the FBI (“LaBella Memo”);
4. Memorandum from Lee J. Radek, Chief, Public Integrity Section to James K. Robinson, Assistant Attorney General, Criminal Division, dated August 5, 1998, reviewing the LaBella and DeSarno Interim Report;
5. Memorandum by James K. Robinson, Assistant Attorney General, Criminal Division, dated August 25, 1998, analyzing the LaBella and DeSarno Interim Report;
6. Any record (excluding electronic mail) relating to the appointment of an independent counsel of a covered person within the meaning of 28 U.S.C. § 591(b)(1) in the campaign finance matter or any matter related thereto including, but not limited to, –
 - A. those to and from Judith Feigin, Robert Litt, the FBI, and the Public Integrity Section (including Jo Ann Farrington and Lee Radek),
 - B. those relating to records to or from Judith Feigin, Robert Litt, the FBI, and the Public Integrity Section (including Jo Ann Farrington and Lee Radek);
7. Any record (including electronic mail) relating to the documents listed in 1- 8 or the appointment of an independent counsel in the campaign finance matter or any matter related thereto from the Director of the FBI, Deputy Director of the FBI, any Assistant Director of the FBI, any Deputy Assistant Director of the FBI, General Counsel of the FBI, any Deputy General Counsel of the FBI, or the FBI Supervising Investigator of the Campaign Finance Task Force to the Department of Justice;
8. Any record (including electronic mail) relating to the documents listed in 1-7 or the appointment of an independent counsel in the campaign finance matter or any matter related thereto from the Department of Justice to the Director of the FBI, Deputy Director of the FBI, any Assistant Director of the FBI, any Deputy Assistant Director of the FBI, the General Counsel of the FBI, any Deputy General Counsel of the FBI, or the FBI Supervising Investigator of the Campaign Finance Task Force from the Department of Justice;

9. Any Office of Legal Counsel legal opinions –
 - A. related to fundraising phone calls or fundraising events made from or held in the White House or other government building,
 - B. related to the Pendleton Civil Service Act (excluding the 1979 OLC opinion relating to fundraising in the White House by President Carter),
 - C. relating to campaign funding laws issued since January 1, 1996;
10. Any communication to or from Lee Radek to or from Stephen Mansfield relating to the campaign finance investigation and any record related to any such communication to or from Lee Radek to or from Stephen Mansfield; and
11. All enclosures, attachments, or tabular material appended to the above referenced documents.

Instructions

1. Please provide the documents requested in 1-6, 9-10 and 11 (insofar as 11 relates to 1-6 and 9-10) by April 10, 2000.
2. Please provide the documents requested in 7 and 8 and 11 (insofar as 11 relates to 7 and 8) by April 24, 2000.
3. If you do not intend to provide any of the above referenced documents, please so inform both Committees no later than April 10, 2000, with a complete explanation of the legal basis and authority upon which you rely to withhold the documents in question.
4. If you refuse to provide any requested records, please provide a log listing each record by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate any privilege asserted with respect to each record. Such a log should be submitted to each Committee no later than April 24, 2000.