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January 14, 1998

CONFIDENTIAL

The Honorable Janet Reno
Attorney General of the United States
United States Department of Justice
10th Street & Constitution Ave., N.W.
Washington, D.C. 20530

Re: Prosecutorial Misconduct by the Office of
Independent Counsel in United States of America v.
Deborah Gore Dean, Crim. No. 92-181-TFH (D.D.C.)

Dear Attorney General Reno:

Enclosed is a letter I delivered to Inspector General Michael R. Bromwich on December 23, 1997, in which I requested an expedited investigation of the Department of Justice's handling of allegations of prosecutorial misconduct by attorneys of the Office of Independent Counsel Arlin M. Adams in the prosecution of United States of America v. Deborah Gore Dean, Crim. No. 92-181-TFH (D.D.C.), that I made in materials provided to the Department of Justice and White House Counsel Abner J. Mikva between December 1994 and March 1996. I had provided the materials to the Department and Judge Mikva in connection with requests for an investigation of the Office of Independent Counsel and for the removal of Assistant Attorney General Jo Ann Harris and other former Independent Counsel attorneys from positions in the Department of Justice.

In the letter to Mr. Bromwich, I contended that Department of Justice officials had failed to investigate the allegations of prosecutorial misconduct in good faith out of concern that an investigation would reveal that certain Independent Counsel attorneys who went on to hold high positions in the Department of Justice, including Assistant Attorney General for the Criminal Division, violated federal laws through their actions in the Dean case. As indicated in the letter to Mr. Bromwich, in a letter to Acting Assistant Attorney General John C. Keeney dated October 6, 1997, I had previously expressed my intention eventually to make such a claim to the Department's Inspector General, and in an

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extensive Freedom of Information Act request mailed to the Department on November 24, 1997, I had sought information relating to such claim. The announcement, also on November 24, 1997, of the retirement of Counsel for the Office of Professional Responsibility Michael E. Shaheen, Jr. caused me to submit the complaint to Mr. Bromwich before the end of the year, which I understood to be when Mr. Shaheen intended to leave the Department. Mr. Shaheen is one of the principal actors in the Department of Justice's earlier handling of my allegations.

In my letter to Mr. Bromwich, I also stated that I would shortly be requesting the Attorney General to again examine the conduct of the Office of Independent Counsel in the prosecution of the Dean case, both because Department officials did not previously consider the matter in good faith and because developments subsequent to the Department's last communication to me on the matter provide independent justification for reconsideration of the earlier determination. Within the next six weeks I will submit a detailed account of those developments.

Please regard this letter, however, as a formal request that you again consider whether there exist grounds for removal of Independent Counsel Larry D. Thompson, who succeeded Judge Arlin M. Adams in July 1995, and who has ratified the conduct of his predecessor. I also request that you commence an investigation of this matter immediately, without awaiting my further submission. The information in the letter to Mr. Bromwich provides ample basis for determining that the Department of Justice did not previously consider this matter in good faith and suggests that Department of Justice officials may themselves have become involved in Independent Counsel efforts to conceal the nature of the conduct of Independent Counsel attorneys in prosecuting the Dean case. The letter to Mr. Bromwich also outlines some of the developments subsequent to the Department's last communication to me on this matter.

Further, the defendant Deborah Gore Dean may be resentenced at any time in consequence of prosecutorial acts that most people would consider outrageous government misconduct and violations of federal law, notwithstanding Mr. Shaheen's representations that the Department of Justice did not so view them. The events described in the letter to Mr. Bromwich already suggest that the Department delayed in previously addressing my allegations, and later delayed in addressing the allegations of another individual, with the expectation that rulings of courts not fully

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informed of the facts would facilitate the Department's efforts to avoid addressing the allegations in a responsible manner.

In large measure, however, the nature of Independent Counsel conduct in the Dean case is not a matter about which reasonable people might differ. While I have previously discussed the matter in terms of the Department's failure to adequately investigate credible allegations, investigation was hardly an issue. The detailed materials I provided the Department in December 1994 and January 1995, assuming merely that the factual statements therein were correct, by themselves demonstrated that Independent Counsel attorneys, including persons who subsequently held high positions in the Department of Justice, deliberately and repeatedly violated their obligations as prosecutors and did so as part of a calculated effort to deceive the jury and the court concerning numerous issues. Those materials also indicated that in all probability those attorneys violated federal laws.

Further, I suggest that, fully informed of the facts, most members of the public would conclude that Independent Counsel attorneys, including Ms. Harris and former Deputy Independent Counsel Bruce C. Swartz who is now Counsel to Acting Assistant Attorney General John C. Keeney, endeavored to frame Deborah Gore Dean with regard to the central claim in the Superseding Indictment--that Ms. Dean conspired with former Attorney General John N. Mitchell to cause the funding of certain moderate rehabilitation projects in violation of HUD regulations. And they likely would reach that conclusion even if the events addressed at such length in my recent letter to Mr. Bromwich had never occurred. I suggest that most members of the public would also conclude that this was made clear to officials at high levels of the Department of Justice approximately three years ago. In any event, I suggest that the Department's prior actions in this matter will eventually be viewed as at least passive complicity in one of the viler episodes of abuse of power by federal law enforcement officials. Failure by the Department to act expeditiously at this time will only legitimate such perceptions.

As discussed in my December 23, 1997 letter to Mr. Bromwich, because of the involvement of the Office of Professional Responsibility, the Office of the Deputy Attorney General, and the Criminal Division in the Department's prior handling of the matter (as well as the involvement of Bruce C. Swartz in the underlying actions of the Office of Independent Counsel), I suggest that reexamination of whether there exist grounds for the

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removal of the Independent Counsel should be conducted by the Inspector General.

The December 23, 1997 letter to Mr. Bromwich may be found as Attachment 1 in the enclosed binder. At the end of the letter to Mr. Bromwich is a list that cross-references the 33 attachments to the letter to Mr. Bromwich to the same documents, either in hard copy or on diskette in WordPerfect 6.0, as Attachments 2 through 10 to this letter. Attachments 11 and 12 are recent letters by which I provided Mr. Bromwich corrections to the December 23, 1997 letter or its attachments.

Should the Department wish to discuss any aspect of this matter with me, I can be reached during the day at (202) 887-4453.

Sincerely,

/s/ James P. Scanlan

James P. Scanlan

Enclosures

cc: The Honorable Orrin G. Hatch
Chairman
Senate Judiciary Committee

The Honorable Henry J. Hyde
Chairman
House Judiciary Committee

Michael R. Bromwich, Esq.
Inspector General
(without enclosures)