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HAND DELIVERED

CONFIDENTIAL

Mark J. Hulkower, Esq.
STEPTOE & JOHNSON, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036

Re: United States of America v. Deborah Gore
Dean, Crim. No. 92-181-TFH (D.D.C.)

Dear Mr. Hulkower:

This letter addresses two matters. First, in my letter to you dated July 29, 1997, at pages 2 to 4, I made several references to materials provided in an enclosed binder as if the correspondence with the Department of Justice and White House Counsel Abner J. Mikva was maintained on under Tab 21 (when in fact it was maintained under Tab 22) and as if the more voluminous materials provided to the Department of Justice, White House Counsel Abner J. Mikva, and Independent Counsel Larry D. Thompson were maintained under Tab 22 (when in fact they were maintained under Tab 23). I hope the list of materials provided in the binder clarified the matter. I apologize for the error.

Second, one of the issues that I repeatedly discuss in the material and correspondence I provided you concerns the reasons to believe that Supervisory Special Agent Alvin R. Cain, Jr., gave false testimony as an Independent Counsel rebuttal witness and that Independent Counsel attorneys attempted to deceive the court in resisting discovery into whether Agent Cain committed perjury with the knowledge or complicity of Independent Counsel attorneys.¹ Agent Cain is the African-American agent who

¹ The matter is discussed at various places throughout the correspondence I previously provided you, probably most fully in my May 25, 1995 letter to Associate

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repeatedly denied any recollection of the call that Deborah Gore Dean testified she made to him in April 1989 in which she complained of the treatment of former Attorney General John N. Mitchell in the HUD Inspector General's Report. The Independent Counsel placed great weight on Agent Cain's testimony in repeatedly asserting during closing argument that Ms. Dean had lied on the stand. This is a matter of some importance since, if Independent Counsel attorneys acted in the manner the evidence suggests they did, those attorneys not only committed federal crimes, but acted in a manner that would shock the conscience of the average citizen.

For that reason, I thought it would be useful to provide you with a hard copy of the Cain Appendix (with some minor corrections) along with the attachments to that document. These materials are included in the enclosed binder. At page 38 of the document is an Addendum, added in September 1995, which addresses a point made by Associate Deputy Attorney General David Margolis in a meeting during the week of December 12, 1994, concerning whether it was possible that, even though Deborah Gore Dean did call Agent Cain in April 1989 as she testified, Agent Cain's testimony was literally true. At page 40 is a Second Addendum, added in December 1995, which cites portions of the transcript that make it clear that Independent Counsel Arlin M. Adams, and presumably Deputy Independent Counsel Bruce C. Swartz, were involved in the decision to call Agent Cain.

Deputy Attorney General David Margolis (at 6-12), my August 15, 1995 letter to Counsel for the Office of Professional Responsibility Michael E. Shaheen, Jr. (at 3-11), my September 18, 1995 letter to Independent Counsel Larry D. Thompson (at 5-14), my November 30, 1995 letter to Acting Assistant Attorney General John C. Keeney (at 5-14), and my March 11, 1996 letter to Mr. Shaheen (at 5-9). It is the principal subject of my June 10, 1997 letter to Claudia J. Flynn, Chief of Staff for the Criminal Division of the Department of Justice.

There are three things you should keep in mind in appraising this material. First, as with a number of issues that I addressed with Independent Counsel Larry D. Thompson commencing in September 1995, Mr. Thompson's subsequent actions must be considered in light of the facts that I had addressed those issues with him in great detail and that he therefore must be considered to be fully knowledgeable about the underlying facts.

Thus, as I have repeatedly pointed out to Mr. Thompson, if he has so far failed to investigate this matter through, among other things, an inquiry of Agent Cain and the involved Independent Counsel attorneys, he is already implicated in the underlying violations of the law.

Second, in considering the possibility that Agent Cain's testimony was literally, you may note that Associate Independent Counsel Robert E. O'Neill commenced the first of the three crucial questions with the words "At or about that date..." Tr. 3198. As I discuss in my June 9, 1997 letter to Claudia J. Flynn (at 4 n.1), the only specific date Agent Cain had mentioned was April 17, 1989, which he gave as the date of publication of the HUD Inspector General's Report. Tr. 3197. Though dated April 17, 1989, however, the report was not actually released to the public until April 26, 1989, when it was issued in conjunction with an audit report of the latter date. Ms. Dean's written request to Agent Cain for a copy of the report was also dated April 26, 1989. Thus, Ms. Dean did not call Cain to ask about the check until at least April 26, 1989. Some might consider April 26, 1989, not to be "at or about" April 17, 1989, and it is perhaps noteworthy that in the initial part of Associate Independent Counsel O'Neill's closing argument he described Ms. Dean's testimony thusly: "And the day the I.G. Report came out, she called Special Agent Cain..." Tr. 3419.

However, after giving April 17, 1989, as the date of publication of the report, Agent Cain testified that he provided Ms. Dean a copy of the report "at or about the time that it was published." Tr. 3197. Thus, the logical antecedent of "that date" in the questioning of Agent Cain concerning Ms. Dean's call about John Mitchell was the day that Agent Cain provided a copy of the report to her. This does not, however, rule out the possibility that Agent Cain gave the responses he did because Independent Counsel attorneys persuaded him that "that date" could be reasonably interpreted as April 17, 1989.

Be mindful, however, that even if Agent Cain's testimony was literally true, it would not materially affect the nature of the

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actions of Independent Counsel attorneys. Indeed, that Independent Counsel attorneys had some theory by which the testimony was literally true merely confirms that Independent Counsel knew that Ms. Dean had called Agent Cain when they sought lead the jury, the probation officer, and the court to believe that she had not called Cain, including when Deputy Independent Counsel Bruce C. Swartz did so in an effort to resist discovery on whether Cain had given false testimony.

Third, the material in the enclosed binder does not sufficiently address the reasons to believe that racial considerations were involved in the Independent Counsel's use of Agent Cain and in certain other Independent Counsel actions. Some of this is touched upon in the memorandum in support of Ms. Dean's recent motion for a new trial (at 18-22). A more complete presentation on the point may be found in the attached document styled "Part V, Independent Counsel Efforts to Prejudice the Jury Against Dean," which I have placed under the ninth tab in the binder containing the Cain Appendix and its attachments.

Sincerely,

/s/ James P. Scanlan

James P. Scanlan

cc: David L. Roll, Esq.
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Enclosures