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To: AskDOJ@usdoj.gov

Cc:

Date: Thursday, April 09, 2009 05:40 pm

Subject: Prosecutorial Misconduct

Please forward this e-mail to the Attorney General, the Chief of the Public Integrity Section, the Assistant Attorney General for the Criminal Division, the Director of the Executive Office United States Attorneys, and the Counsel for the Office of Professional Responsibility.

Dear Officials:

This follows on emails I sent to the Department on July 14, 2008, and July 17, 2008, both of which are available on the Prosecutorial Misconduct page of jpscanlan.com and accessible directly by means of these links:

http://www.jpscanlan.com/images/DOJ_e-mail_07-14-08.pdf

http://www.jpscanlan.com/images/DOJ_email_07-17-08.pdf

The emails brought to the Department's attention a web page devoted to prosecutorial misconduct issues in *United States of American v. Deborah Gore Dean*, the Department of Justice's handling of allegations of misconduct in that case, and the Department's own involvement with the perpetuation of the misconduct in the case when the prosecutorial role was assumed by the Public Integrity Section of the Criminal Division. The emails also sought to cause the Department to investigate whether the involvement of Bruce C. Swartz and Robert E. O'Neill in the misconduct in the *Dean* cases warranted their removal from their current positions as Deputy Assistant Attorney General and interim United States Attorney for the Middle District of Florida.

The page has been slightly modified by adding as separate sub-pages the content of two subsections of the main page. The subsections are:

B.1. Implications of the Literal Truth of the Testimony of Supervisory Special Agent Alvin R. Cain, Jr.; and

B8. The Department of Justice's Role in Perpetuating All Actions of the Independent Counsel.

The first subsection involves the conduct of Bruce C. Swartz and Robert E. O'Neill in pressuring a government agent into providing testimony intended to lead the court and the jury to believe things those attorneys knew to be false and later efforts of Independent Counsel attorneys in covering up such conduct. The second involves the Department of Justice's role in perpetuating the concealment of Independent Counsel conduct with regard to the matter just mentioned and various other matters.

I again urge the Department to consider whether the actions Mr. Swartz and Mr. O'Neill warrant their removal from their positions in the Department and warrant the scrutiny of Mr. O'Neill's conduct as Assistant United States Attorney and interim United States Attorney to determine whether the various tactics employed by Mr. O'Neill in the *Dean* were reflected in prosecutions he conducted for the Department of Justice.

I raise this matter at this point because I am aware that the conduct of Department of Justice prosecutors is receiving considerable scrutiny and that the Attorney General has represented to the public that he will take the necessary steps to ensure the integrity of federal prosecutions. I suggest that unless the Department gives attention to the issues raised in my earlier emails and addressed generally on the prosecutorial misconduct page, especially with regard to whether actions of the experienced Justice Department attorneys who served as Independent Counsel attorney in the prosecution of the *Dean* case are commonplace within the Department, those representations will not be taken seriously.

Sincerely,
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