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U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 10, 2009

The Honorable John Conyers, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your letter, dated May 7, 2009, which requested that the Department review allegations of prosecutorial misconduct with respect to the conviction of Mr. Peter Palivos. We are sending an identical response to Subcommittee Chairman Johnson, who joined in your letter to us.

Mr. Palivos was convicted of conspiracy to obstruct justice in the U.S. District Court for the Northern District of Illinois in October 2003. Since then, Mr. Palivos has filed more than a dozen post-trial motions, most of which allege that prosecutorial misconduct contributed to his conviction. His prior allegations of misconduct have been found to be without merit by the United States District Court in three separate opinions, as well as by the United States Court of Appeals for the Seventh Circuit. He referred the same misconduct allegations to the Office of Professional Responsibility (OPR) on two occasions. After carefully reviewing them, that office declined to conduct further inquiry because the courts had fully considered and rejected the allegations and there were no extraordinary circumstances present warranting further inquiry. Mr. Palivos' most recent effort to overturn his jury verdict both repeats prior allegations and is in significant part based upon the hearsay assertions of a fugitive from justice. The matter is currently pending in U.S. District Court in Chicago.

OPR has concluded that no additional inquiry is warranted at this time because Mr. Palivos' current allegations are substantially identical to his prior claims, which were decided against him by the District Court. OPR will determine upon the completion of the current litigation whether any additional inquiry is warranted at that time.

The Department has noted with some concern that Mr. Palivos has sought to support his allegations by submitting to the Court copies of letters from Members of Congress regarding this case. Mr. Palivos appears to be using the letters to suggest that the Judiciary Committee is investigating the allegations of prosecutorial misconduct and that some Members of Congress believe that prosecutorial misconduct has been committed, notwithstanding the judicial findings to the contrary. We will resist any efforts by Mr. Palivos to imply that the Committee or individual Members of Congress have taken a position on how the District Court should rule on his currently pending motion.

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Finally, your letter also asked the Department to make six current and former Assistant United States Attorneys and an agent from the Small Business Administration available for Committee interviews in connection with the matters that are the subject of the pending post-appeal application by Mr. Palivos. As you know, the Department has a long-standing policy of declining to provide non-public information about pending matters, particularly those that are awaiting judicial resolution. Even when those matters are concluded, we seek to accommodate congressional oversight needs for information through briefings by appropriate policy level officials, rather than line attorneys and agents. We believe that this separation of line level employees from direct contact with Congress is important to preserve the independence and integrity of our law enforcement efforts. As you may know, the Department has consistently expressed these views regarding pending matters and line level employees over many years, through changes in leadership in both the Executive Branch and Congress.

We hope that this information is helpful. Please do not hesitate to contact this office if you would like additional assistance regarding this or any other matter.

Sincerely,



Ronald Weich
Assistant Attorney General

cc: **The Honorable Lamar S. Smith**
Ranking Minority Member

The Honorable Louie Gohmert