

United States Senate

WASHINGTON, DC 20510

July 26, 2007

The Honorable Paul D. Clement
Solicitor General
United States Department of Justice
950 Pennsylvania Avenue
Washington, D.C. 20530

Dear Mr. Clement:

We write to you in your capacity as Acting Attorney General for matters where Attorney General Gonzales has recused himself. We ask that you immediately appoint an independent special counsel from outside the Department of Justice to determine whether Attorney General Gonzales may have misled Congress or perjured himself in testimony before Congress.

We do not make this request lightly. We believe a special counsel is needed because it has become apparent that the Attorney General has provided – at a minimum – half-truths and misleading statements about the removal and replacement of U.S. Attorneys, about his role in trying to circumvent Acting Attorney General Comey, and about the Administration’s position on the NSA wiretapping program. For example:

- Attorney General Gonzales testified on February 6, 2006 that within the Administration “there has not been any serious disagreement about the [Terrorist Surveillance Program].” Yet, Attorney General Gonzales indicated in his testimony this week that the purpose of the March 10, 2004 briefing for the “gang of eight” was to advise them “that Mr. Comey had informed us that he would not approve the continuation of a very important intelligence activity.” General Hayden stated in unclassified testimony on May 18, 2006, that the very same briefing for the “gang of eight” was on the “warrantless surveillance program.” Thus, Mr. Gonzales’s statements about the lack of disagreement regarding the surveillance program are deeply troubling.
- Attorney General Gonzales testified that the purpose of the March 10, 2004, meeting “was for the White House to advise the Congress that Mr. Comey had advised us that he could not approve the continuation of vitally important intelligence activities,” which the Attorney General later testified was “not” the NSA wiretapping program. This is contradicted by an unclassified letter from John Negroponte, then Director of National Intelligence, to then-Speaker of the House Dennis Hastert on May 17, 2006, describing the same “Gang of Eight” briefing as being “on the Terrorist Surveillance Program.”
- On April 19, 2007 when discussing his role in the U.S. Attorney investigation, Attorney General Gonzales testified, “I haven’t talked to witnesses because of the fact that I haven’t wanted to interfere with this investigation”; however, Monica Goodling testified before

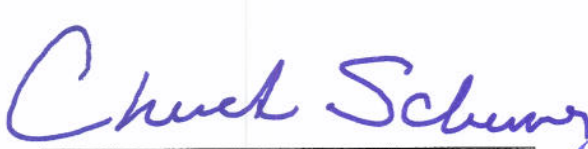
the House Judiciary Committee that she had an “uncomfortable” conversation with the Attorney General where he outlined his recollection of what happened and asked her for her reaction.

Unfortunately, these are only a few examples. As the nation’s top lawyer and head of the Department of Justice, the Attorney General should be held to the highest ethical standards. While we believe the investigations of the Inspector General and Office of Professional Responsibility (OPR) are important and must continue, we believe the question of the Attorney General’s truthfulness in testimony before Congress is sufficiently important to merit the appointment of a special counsel, and sufficiently distinct from internal Department matters the Inspector General and OPR are investigating. This matter is sufficiently integral to the Department’s relationship with Congress that we would hope you would find it prudent to proceed expeditiously with special counsel.

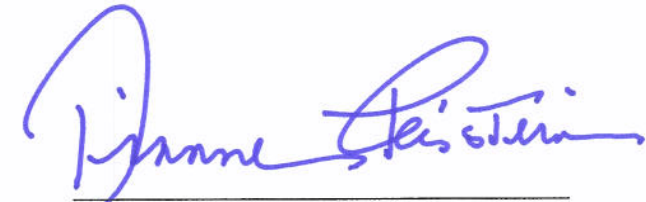
The special counsel should be an independent person of unimpeachable integrity, ability, and experience, who can approach this investigation without any hint of conflict of interest or question of character, and who can be read into classified programs sufficiently to perform these duties.

The scope of the special counsel’s jurisdiction should include the veracity of the Attorney General’s testimony before Congress related to issues including the replacement and removal of U.S. Attorneys, the implementation of the PATRIOT Act’s provisions relating to U.S. Attorneys, and the authorization for the NSA wiretapping program. It should examine whether misleading statements have been made to Congress and the public, and whether potential charges should be filed involving obstruction of justice, perjury, and false statements.

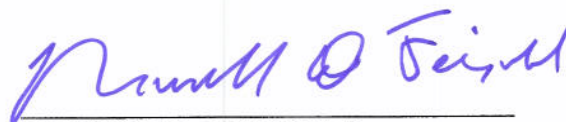
Sincerely,




CHARLES E. SCHUMER
United States Senator



DIANNE FEINSTEIN
United States Senator



RUSSELL D. FEINGOLD
United States Senator



SHELDON WHITEHOUSE
United States Senator