



U. S. Department of Justice

Office of Professional Responsibility

Washington, D.C. 20530

JUN 28 1995

James P. Scanlan
2638 39th Street, N.W.
Washington, D.C. 20007

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

Dear Mr. Scanlan:

Associate Deputy Attorney General Margolis has asked us to communicate to you the results of this Office's review of your allegations of prosecutorial misconduct by the Office of Independent Counsel in the matter of United States v. Deborah Gore Dean, Case No. 92-181-TFH (D.D.C.).

As you undoubtedly will appreciate, institutional concerns suggest that the Department of Justice not lightly initiate an investigation into the conduct of the activities of an Independent Counsel. We have closely reviewed your allegations to determine whether they involve instances of outrageous governmental conduct indicating that Ms. Dean stands unjustly or unfairly convicted, whether the District Court and the Court of Appeals had an adequate opportunity to address the alleged misconduct, and whether the allegations suggest systemic prosecutorial abuses by the Independent Counsel that are susceptible to repetition absent Department investigation and intervention. Despite the length and detail of your allegations, we have found insufficient evidence of misconduct to compel further action by the Department at this time.

We note that virtually all of the misconduct issues you raise were the subject of extensive motions filed with the District Court and that the misconduct issues that were addressed by the District Court and the Court of Appeals were of a type suitable for judicial resolution. The District Court and the Court of Appeals do not, moreover, appear to have been in any way limited in their ability to review the issues that were raised before them. While we are mindful that the Independent Counsel was criticized by the trial court with respect to certain specific discovery and trial issues, the fact that both the District Court and the Court of Appeals declined to find any due process violation supports our independent assessment that no outrageous government misconduct appears to have occurred.

ATTACHMENT 11

We further note that the principal Associate Independent Counsel about whom you complain are no longer employed by the Independent Counsel. Beyond the absence of evidence of systemic prosecutorial abuses by the Office of Independent Counsel generally, their departure suggests that the misconduct you allege to have occurred is unlikely to be repeated. In sum, further investigation by the Department of Justice into the investigative and prosecutorial activities of the HUD Independent Counsel is not likely to deter any improper or unlawful conduct.

We thank you for bringing this matter to our attention. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Michael E. Shaheen Jr.
Counsel

cc: The Honorable Abner J. Mikva

David Margolis
Associate Deputy Attorney General