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May 12, 2009

The Honorable Emmett G. Sullivan
United States District Judge
United States District Court for the
333 Constitution Ave, NW
Washington, DC 20001

Re: Web Pages on Prosecutorial Misconduct

Dear Judge Sullivan:

In light of your recently expressed concerns regarding the ethics of federal prosecutors, I am bringing to your attention two web pages that I believe contain revealing information about that subject as well as about the manner in which the Department of Justice has tended to evaluate issues concerning prosecutorial abuse.

The Prosecutorial Misconduct page of jpscanlan.com contains extensive materials, and links to materials, concerning (1) conduct of attorneys in the Office of Independent Counsel Arlin M. Adams in the prosecution of *United States of America v. Deborah Gore Dean*, Criminal. No. 92-181-TFH (D.D.C.); (2) my efforts between 1994 and 2000 to cause the Department of Justice to investigate that conduct and to cause the removal of certain involved attorneys from positions they later held in the Department of Justice, including Assistant Attorney General for the Criminal Division; and (3) the Department of Justice's own handling of the case when it assumed responsibility for the matter. While the case was initially an independent counsel matter, as discussed in Section B.8 of the introductory materials (which section also appears as a separate sub-page), the matters addressed may be as pertinent generally to conduct of federal prosecutors, and the Department of Justice's oversight of such conduct, as they are to a particular independent counsel matter.

The Misconduct Profiles page of jpscanlan.com contains four sub-pages that provide profiles of involved attorneys and descriptions of their conduct in the *Dean* case. All of those attorneys held positions in the Department of Justice either before or after they served as independent counsel attorneys, and two of them currently hold such positions (Bruce C. Swartz as Deputy Assistant Attorney General and Robert E. O'Neill as Chief of the Criminal Division of the Office of the United States Attorney for the Middle

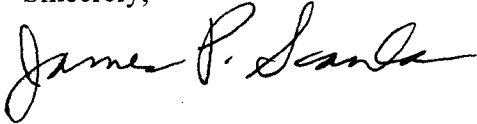
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District of Florida). As discussed on the profile page for Mr. O'Neill, which summarizes Mr. O'Neill's conduct in the *Dean* case, assuming the prosecutorial ethics that underlay that conduct continued to inform his behavior in the fifteen years he has since served as an Assistant United States Attorney (or interim United States Attorney), an untold number of federal prosecutions may be in some manner tainted.

Sincerely,



James P. Scanlan

cc:

The Honorable Eric Holder
Attorney General
United States Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

The Honorable Patrick J. Leahy
United States Senator
Chairman, Senate Judiciary Committee
433 Russell Senate Office Building
Washington, DC 20510

The Honorable Jeff Sessions
United States Senator
Ranking Member, Senate Judiciary Committee
433 Russell Senate Office Building
Washington, DC 20510

The Honorable John Conyers, Jr.
Member of Congress
Chairman, House Judiciary Committee
2426 Rayburn House Office Building
Washington, DC 20515

The Honorable Lamar Smith
Member of Congress
Ranking Member, House Judiciary Committee
2409 Rayburn House Office Building
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