

United States Senate  
WASHINGTON, DC 20510

August 1st, 2008

The Honorable Michael Mukasey  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Attorney General Mukasey:

We write regarding two reports released by the Department of Justice's Office of the Inspector General (OIG) and Office of Professional Responsibility (OPR) that document the improper and illegal hiring process used by senior Department officials to fill career positions throughout the Department. We are concerned that this process not only broke the law and the Department's own rules, but resulted in important positions throughout the Department being filled by unqualified, partisan attorneys.

The first joint report from OIG and OPR, released June 24, concluded that Department officials employed improper political and ideological screening tests for young attorneys hired into the Department's prestigious Honors Program and Summer Law Intern Program. According to this report, "many qualified candidates were deselected . . . because of their perceived political or ideological affiliations." This deeply flawed process calls into question whether those hired into two of the most important career employment programs at the Department were the most qualified candidates.

The second report, released earlier this week, documents the use of improper and illegal political and ideological considerations in the hiring of Assistant United States Attorneys, the placement of experienced attorneys in key detail and leadership positions, and the hiring of Immigration Judges and Board of Immigration Appeals members. In some cases, well-qualified applicants for these positions were passed over in favor of unqualified applicants who met a political litmus test. We find particularly troubling one case where a highly qualified counterterrorism detailee was rejected because of his wife's political affiliation. The candidate was a longtime Assistant U.S. Attorney who served as chief of the anti-terrorism unit in his U.S. Attorney's Office and had received the Attorney General's Award for Exceptional Service for his successful prosecution of a high profile terrorism case. Although the Director and staff at the Executive Office of U.S. Attorneys believed he was the best candidate, he was passed over in favor of a prosecutor with no counterterrorism experience and fewer than the minimum number of years of prosecution experience required by the Department's job announcement.

We are concerned that the people hired into important career positions throughout the Department using the unlawful, politicized process described in the reports remain in place. This raises the troubling possibility that those positions are held by unqualified, partisan individuals. With this possibility extant, we believe it is inadequate for the Department simply to commit to discontinue the

bad practices. There may be continuing consequences of the widespread illegal hiring process. We urge you to ensure that the people put in place via this illegal process meet the Department's high standard of qualifications, and do not undermine the Department's independence and ability to enforce the law without fear or favor.

Therefore, we request that you tell us 1) the steps you intend to take to assess what continuing effects may persist within the Department due to the illegal and improper hiring described in the two reports; and 2) how you will ensure that the unlawful process described in those reports did not result in the hiring of career attorneys, detailees, Immigration Judges, or Board of Immigration Appeals members who are unqualified, who have failed to uphold the standards of professionalism and political independence expected of all Department officials, or who were complicit in the unlawful process by which they were hired.

Finally, as we approach an important national election, we ask you to tell us what you have done to assure that the operation of the Civil Rights Division and law enforcement efforts related to the election are not affected by the people put into career positions by the flawed and illegal processes described in the reports.

We appreciate your prompt attention to this matter and look forward to your reply.

Sincerely,



PATRICK LEAHY  
Chairman



SHELDON WHITEHOUSE  
United States Senator



EDWARD KENNEDY  
United States Senator



DIANNE FEINSTEIN  
United States Senator



RUSS FEINGOLD  
United States Senator



CHARLES E. SCHUMER  
United States Senator



BENJAMIN L. CARDIN  
United States Senator