

# United States Senate

WASHINGTON, DC 20510

November 24, 2009

## Via Electronic Transmission

The Honorable Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Holder:

At the November 18, 2009, hearing "Oversight of the Department of Justice," Senator Grassley asked you for information regarding attorneys at the Justice Department who are advising you on terrorism and detainee policy. Senator Grassley's questions focused on what appear to be conflicts of interest arising from the prior representation of individual detainees, advocacy on behalf of groups of detainees, or advocacy on detainee policy by attorneys now employed at the Justice Department.

These questions follow public accounts of what appear to be conflicts of interest by current Justice Department employees. For example, *National Journal* reported that Principal Deputy Solicitor General, Neal Katyal, continues to work on high level terrorism and detainee policy despite his previous legal representation of Osama Bin Laden's driver and bodyguard. Further, *The New York Post* reported that Jennifer Daskal was hired to serve in the Justice Department's National Security Division and a to serve on a terrorist detainee task force despite having no prosecutorial experience and a long history of advocating for detainees. These public accounts of apparent conflicts of interest by those crafting terrorism and detainee policies raise serious concerns that need to be addressed.

To better understand the scope of these apparent conflicts of interest, Senator Grassley asked for the following information:

- (1) The names of political appointees in the Department who represented detainees, worked for organizations advocating on behalf of detainees, or worked for organizations advocating on terrorism or detainee policy;
- (2) The cases or projects that these appointees worked on with respect to detainees prior to joining the Justice Department;
- (3) The cases or projects relating to detainees that they have worked on since joining the Justice Department; and
- (4) A list of all political appointees who have been instructed to, or have voluntarily recused themselves from working on specific detainee cases, projects, or matters pending before the courts or at the Justice Department.

Unfortunately, your response to Senator Grassley's request was less than encouraging as you repeatedly stated you would merely "consider" the request. It is imperative that the Committee have this information so we can assure the American people that the Department is in fact formulating terrorism and detainee policy without bias or preconceived beliefs.

In addition to the information requested at the hearing, we ask that you also provide responses to the following related questions:

- (1) Have any ethics waivers been granted to individuals working on terrorism or detainee issues pursuant to President Obama's Executive Order dated January 21, 2009, titled "Ethical Considerations for Executive Branch Employees?"
- (2) What are the Department's criteria for recusing an individual who previously lobbied on detainee issues, represented specific detainees, worked on terrorism or detainee policy for advocacy groups, or formulated terrorism or detainee policy?
- (3) What is the scope of recusal for each of the political appointees who have recused themselves from working on specific detainee cases, projects, or matters? (e.g. is an individual who previously represented a detainee recused only from matters related to that individual or from other detainees?) Please provide a detailed listing of the scope of each recusal.

We ask that you provide the requested information in unredacted format as soon as possible. This information is important and will help to uphold the promise President Obama made to the American public to make his administration the most ethical and transparent ever. We trust that you share our concerns with avoiding conflicts of interest and promoting transparency at the Department.

Sincerely,

Chuck Grassley

Tommy

Blaine Loefer

Jeff Sessions

Orin Hatch

John Cornyn

Tom Coburn