

October 1, 2003

Dear Attorney General Ashcroft:

Earlier this week, I sent you a letter asking you to appoint a Special Counsel to conduct the investigation into allegations of senior administration officials committing a federal felony by leaking the identity of a covert CIA operative. The appointment of a Special Counsel is essential to ensuring that this investigation is conducted fully, fairly, and fearlessly.

The events of the past few days have only added evidence to the already persuasive case that we need a Special Counsel for this investigation.

According to the White House spokesman, Department of Justice officials contacted White House Counsel Alberto Gonzales on Monday evening and asked him to direct all White House staff to preserve all documents and other evidence relevant to this investigation. Mr. Gonzales asked whether that communication needed to go out immediately. DOJ officials told Mr. Gonzales it could wait until the morning and, in fact, Mr. Gonzales did not send an email to White House staff until the morning.

My office has spoken with several former federal prosecutors, all of whom have said that the first step in this type of investigation would be to ensure that all potentially relevant information is preserved. Thus, the sequence described by the White House raises several questions.

Why did Department of Justice lawyers tell Mr. Gonzales that he could delay issuing the order to White House officials to preserve all potentially relevant evidence?

You reported that the Department of Justice opened its investigation on Friday, September 26th. DOJ did not ask the White House to preserve all relevant evidence until Monday evening. Why did the Department wait four days to issue that request to the White House?

When did the Department of Justice learn from the CIA that the CIA believed a national security breach had occurred in connection with this leak and when did DOJ officials first have contact with White House officials regarding these leaks?

Has DOJ issued instructions to preserve evidence to all other offices within the federal government where individuals have access to the identities of covert CIA operatives? If so, when were those directives issued and when were they complied with? If those directives have not been issued, when will they be issued and why have they not yet been issued?

Should you believe that by answering any of these questions you will in any way compromise the investigation, I request that you contact me personally to explain why they cannot be answered.

Until a Special Counsel is appointed, questions will arise almost daily regarding the fairness and

completeness of how this investigation is being conducted. Any questionable action - or inaction - carries with it a conflict of interest taint. The easiest way to dispel that taint is to appoint a Special Counsel which I continue to urge you to do. In the interim, I look forward to your answers to these urgent questions.

Sincerely,

Charles E. Schumer
Ranking Member, Subcommittee on Administrative Oversight and the Courts
United States Senate