

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re: Motion to Disclose)
Intercepted Communications)
) No. 08 CR 1010
)
)
UNITED STATES OF AMERICA)
)
 v.) Chief Judge James F. Holderman
)
)
ROD BLAGOJEVICH and)
JOHN HARRIS)

NOTICE OF MOTION

To: Recipients on Attached Service List

PLEASE TAKE NOTICE that on Monday, January 5, 2009, at 2 p.m., I will present before Chief Judge James F. Holderman, in the Everett McKinley Dirksen Courthouse, 219 South Dearborn Street, Chicago, Illinois, the following:

**Motion to Disclose Intercepted Communications
to the Special Investigative Committee
of the Illinois House of Representatives**

in the above-captioned case.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By: /s/Edmond E. Chang
EDMOND E. CHANG
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604

Date: December 29, 2008

CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the Government's Notice of Motion was served on December 29, 2008, in accordance with FED. R. CRIM. P. 49, FED. R. CIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers, and also served by electronic mail and/or facsimile on the following counsel for the interceptees:

Mr. Edward M. Genson
Genson & Gillespie
53 West Jackson Boulevard
Suite 1420
Chicago, Illinois 60604
312.939.3654 (f)

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Kaplan & Sorosky
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Chicago, Illinois 60610
312.222.9541 (f)

Mr. Daniel Reinberg
Foley & Lardner
321 North Clark Street
Suite 2800
Chicago, Illinois 60610
312.832.4700 (f)

Mr. Michael Shepard
Hogan & Hartson LLP
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22nd Floor
San Francisco, California 94111
415.374.2499 (f)

Mr. Michael Ettinger
Ettinger Besbekos & Schroeder PC
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Mr. David W. Ellis
Mr. Matt O'Shea
Staff, Special Investigative Committee
(Via electronic mail)

/s/ Edmond E. Chang
EDMOND E. CHANG
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 886-1000

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**Motion to Disclose Intercepted Communications
to the Special Investigative Committee
of the Illinois House of Representatives**

The UNITED STATES OF AMERICA, by its attorney, Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, respectfully submits this Motion to Disclose Intercepted Communications to the Special Investigative Committee of the Illinois House of Representatives, and in support of the motion, states as follows:

Statement

1. On October 29, 2008, pursuant to Title 18, United States Code, Section 2518, this Court entered an order authorizing the interception of oral communications, for a thirty-day period, on the residential phone of Governor Rod Blagojevich. On November 26, 2008, this Court (through the then-acting chief judge) extended the authorization for another thirty-day period. In November 2008, this Court authorized the interception of oral communications on the cellular phone of Lobbyist 1. Special Agents of the Federal Bureau of Investigation monitored and recorded communications over these target phones.

2. On December 9, 2008, agents of the Federal Bureau of Investigation arrested Governor Blagojevich pursuant to a criminal complaint. The criminal complaint charges Blagojevich with two counts:

a. First, Blagojevich is charged with conspiring to defraud the citizens of Illinois of their right to his honest services, in violation of the mail and wire fraud statutes, 18 U.S.C. §§ 1341, 1343, 1346, and 1349. (08 CR 1010, Docket Entry No. 1.) Specifically, the complaint charges that Blagojevich, together with others, obtained and attempted to obtain financial benefits for Blagojevich, members of his family, and third parties including Friends of Blagojevich, in exchange for appointments to state boards and commissions, state employment, state contracts, and access to state funds. *Id.* ¶ 13(a), ¶¶ 16-68. It is also charged, as part of that continuing honest services fraud scheme, that Blagojevich conspired and attempted to use his authority to appoint a United States Senator for the purpose of obtaining personal benefits for Blagojevich, including, among other things, appointment as Secretary of Health & Human Services in the President-elect's administration, and alternatively, a lucrative job which Blagojevich and others schemed to induce a union to provide to him in exchange for appointing an individual whom Blagojevich believed the union officials favored. *Id.* ¶ 13(c), ¶¶ 86-116.

b. Second, Blagojevich is charged with corruptly soliciting and demanding the firing of Chicago Tribune editorial board members who had been critical of Blagojevich, in exchange for the awarding of millions of dollars in financial

assistance from the State of Illinois, 18 U.S.C. § 666(a)(1)(B) and § 2. *Id.* ¶ 13(b), ¶¶ 69-85.

3. The Illinois Constitution grants the state House of Representatives “the sole power to conduct legislative investigations to determine the existence of cause for impeachment” Ill. Const., Article IV, § 14. On December 15, 2008, the Illinois House of Representative adopted resolution HR1650 by a vote of 113 to zero. The resolution created a Special Investigative Committee “for the purpose of (i) investigating allegations of misfeasance, malfeasance, nonfeasance, and other misconduct of Governor Rod R. Blagojevich and (ii) making a recommendation as to whether cause exists for impeachment.”¹ The resolution requires the Committee, which is composed of 21 members of the House, to submit a report to the full House before the expiration of the 95th General Assembly at midnight on January 14, 2009.

4. The United States has received a bipartisan request from the Committee for the disclosure of various materials, including intercepted communications.² The Committee’s leadership and staff have represented to the government that they seek such disclosure in the interest of making a fully-informed investigation and report, but without interfering with the federal criminal investigation or prosecution.

5. After careful deliberation, the government applies for authorization to disclose a limited number of intercepted communications in redacted form. Although

¹The text of HR1650 is attached as Exhibit 1.

²A copy of the letter from the Committee is attached as Exhibit 2.

many relevant communications were intercepted, the government believes that, on balance, it is appropriate to seek the disclosure of four intercepted calls, in redacted form, to the Committee, and that disclosure of the calls by themselves would not interfere with the ongoing criminal investigation. These calls bear on a discrete episode of criminal conduct alleged in the complaint affidavit, specifically at Paragraph 68(e), and the calls are evidence of a criminal offense that the government was authorized to monitor under the wiretap order. Under separate cover and under seal, the government provides to this Court for its *ex parte, in camera* review, both a set of the full audio recordings of these four calls (Exhibit 3) and a set of proposed redacted recordings (Exhibit 4) omitting portions of the conversations not material to the episode described in Paragraph 68(e) of the complaint affidavit.³

6. The United States takes no position on whether or not the Committee should recommend impeachment, whether the House should file articles of impeachment, or, if articles of impeachment are filed, whether the Senate should convict on any charges. By filing this motion, the United States presents only questions of law for this Court's consideration and resolution, namely, whether the Special Investigative Committee is qualified to receive disclosure of, and thereafter to use, intercepted communications under 18 U.S.C. § 2517(1) and (2).

³Similarly, the government will also provide to the Court, *ex parte* (at least for the time being) and under seal subject to a protective order, draft transcripts of the full and the redacted calls when the drafts are completed.

Legal Analysis

7. As discussed more fully below, although Title 18, United States Code, Section 2510, *et seq.*, does not necessarily require the government to obtain judicial authorization before disclosing intercepted communications to other law enforcement or investigative officers, the government does so here out of an abundance of caution and in order to afford the interceptees in the recorded calls an opportunity to be heard and to object, if they so choose, under 18 U.S.C. § 2518(10)(A). Section 2518(10)(A) permits any “aggrieved person,” that is, an interceptee,⁴ to file a motion to suppress the contents of an intercepted communication.

8. As a threshold matter of procedure, the government requests authorization to disclose, under seal and subject to a protective order, the full and redacted versions of the four recordings to those interceptees who participated in the respective calls. *See* § 2518(10)(A) (empowering court to order disclosure of those intercepted communications that, “in the interests of justice,” are necessary to litigate suppression motion). If the Court were to grant such authorization, each interceptee would receive (under seal and subject to a protective order) only those calls in which

⁴The definition reads in full: “aggrieved person” means a person who was a party to any intercepted wire, oral, or electronic communication or a person against whom the interception was directed.” 18 U.S.C. § 2510(11).

he participated.⁵ The proposed protective order would be submitted to the Court via electronic mail pursuant to the Court's case management procedures.

9. Section 2517(1) of Title 18 authorizes an investigative or law enforcement officer to disclose the contents of intercepted communications to another "investigative or law enforcement officer" for the proper performance of his or her duties:

Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

18 U.S.C. § 2517(1).

10. Section 2510(7) defines "investigative or law enforcement officer" as "any officer of the United States or of a State or political subdivision thereof, who is empowered *by law to conduct investigations* of or to make arrests for offenses enumerated in this chapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses." 18 U.S.C. § 2510(7) (emphasis added).

11. For reasons firmly grounded in statutory text and case precedent, the government believes that state legislative officials and their staff who are investigating whether to recommend impeachment qualify as "investigative or law enforcement

⁵The government would have no objection to disclosing all four of the *redacted* versions of the calls to all of the interceptees, including those who were not a party to all four calls. If disclosure to the Special Investigative Committee is ultimately approved, the four calls will likely be viewed together as relating to one alleged criminal episode, and it may thus be appropriate for the interceptees on any one call to receive copies of all four redacted calls in order to respond to this motion.

officer[s]” to whom federal officers may disclose intercepted communications in the proper performance of their duties.

a. First, the text of § 2510(7) is broad, and includes not only those officers who have power “to make arrests,” but rather also includes those empowered “by law” – with no limitation to *federal* law – “to conduct investigations” of federal offenses. Exercising authority founded on the Illinois Constitution, the House of Representatives enacted – “by law” – the resolution which created the Special Investigative Committee and granted the Committee comprehensive authority to “investigat[e] allegations of misfeasance, malfeasance, nonfeasance, and other misconduct of Governor Rod R. Blagojevich.” The broad mandate of the Illinois Constitution and the House resolution encompasses the investigation of alleged federal crimes committed by Blagojevich.

b. Federal courts have construed the scope of an officer’s investigation as including federal offenses so long as the federal offenses may be the predicate for action by the investigatory authority. For example, the Eleventh Circuit affirmed an order permitting disclosure of intercepted communications to the federal House Judiciary Committee, which was investigating whether to recommend impeachment of a federal judge in Florida. *In re Grand Jury Proceedings*, 841 F.2d 1048, 1054 (11th Cir. 1988), affirming *In re Grand Jury 86-3 (Miami)*, 673 F. Supp. 1569, 1574 (S.D. Fla. 1987). The House Judiciary Committee was qualified to receive disclosure of intercepted communications because it was investigating possible impeachment of the judge, and impeachment may be based on the commission of a federal offense.

c. Similarly, the Sixth Circuit held that where an attorney disciplinary commission could disbar a lawyer for professional misconduct, including the commission of a federal offense, investigation of the federal offense is within the investigating commission's authority. *In re Electronic Surveillance*, 49 F.3d 1188, 1190 (6th Cir. 1995). So too with Pennsylvania State Police officers who were conducting, on behalf of the state's gaming control board, a background investigation of an individual who had applied to the gaming board for a gambling license. *In re Application of United States*, 431 F. Supp.2d 544, 547 (E.D. Pa. 2006).

12. Because the Special Investigative Committee impeachment investigators qualify to receive the disclosure of the four intercepted communications that the government seeks to disclose, the Committee may further "use" the communications "to the extent such use is appropriate to the proper performance of [their] official duties." 18 U.S.C. § 2517(2). Both this provision, as well as § 2517(3), permit further disclosure of the communications into the Special Investigative Committee's record, because such record is compiled as part of a "proceeding held under the authority . . . of any State or any political subdivision thereof." 18 U.S.C. § 2517(3).

a. The term "proceeding" is broad – indeed the term is modified by the word "any," which is itself a signal that Congress intended "proceeding" to take a broad meaning. The Seventh Circuit noted, in *dictum*, that § 2517(3) seems to be complementary to § 2515, which is the statutory provision that contains the general ban on the use of intercepted communications obtained in violation of Title III as evidence in "any trial, hearing, or *other proceeding* in or before any court, grand jury,

department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof . . .” 18 U.S.C. § 2515 (emphasis added) (quoted by *In re High Fructose Corn Syrup Antitrust Litigation*, 216 F.3d 621, 624 (7th Cir. 2000)). The Seventh Circuit labeled the two provisions “complementary,” stating that the word “proceeding” in § 2517(3) “seems merely a shorthand for the longer and unambiguous definition in the complementary section 2515.” 216 F.3d at 624.

b. Furthermore, the legislative history makes clear that the text means what it says, and that “proceeding” is not limited to criminal prosecutions. *In re Electronic Surveillance*, 49 F.3d at 1193 (attorney disciplinary commission is a covered proceeding) (citing Organized Crime Control Act of 1970, Pub.L. No. 91-452, § 902(b), 84 Stat. 947 (1970), and H.R.Rep. No. 91-1549, 1970 U.S.C.C.A.N. 4007, 4036)). As the Sixth Circuit explained, before 1970, the “disclosure of intercepted communications could only be made in connection with state and federal criminal proceedings. Congress amended the subsection (3) in that year to allow disclosure in *any* authorized proceeding.” 49 F.3d at 1193 (emphasis added).

c. Likewise, federal court decisions interpreting § 2517(1) in the context of disclosures to a federal House Judiciary Committee and a state gambling license commission give a broad definition to the term “any proceeding.” *See* 841 F.2d 1048, 1054; 431 F. Supp.2d 544, 547.

d. For the reasons stated above (broad statutory text, legislative history, and case precedent), the proceedings before the Special Investigative

Committee and any further impeachment proceedings should also be deemed to qualify as “any proceeding” in which the intercepted communications may be disclosed.

Conclusion

13. For all the foregoing reasons, the United States respectfully asks this Court to rule on the questions of law presented and to order that:

a. the United States is authorized to serve, under seal, copies of the full and redacted recordings on the respective interceptees, subject to a proposed protective order that the government will submit to the Court pursuant to its case management procedures;

b. the interceptees and the Special Investigative Committee shall be given an opportunity to respond;

c. after hearing from all parties, the United States is authorized to disclose to the Special Investigative Committee the four intercepted communications identified by the government and redacted as Exhibit 4; and

d. the Special Investigative Committee is authorized to use the intercepted communications as appropriate in the proper performance of official duties,

including to introduce the recordings into the proceedings of the Committee and at any further impeachment proceedings.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By: /s/Edmond E. Chang
DAVID A. GLOCKNER
EDMOND E. CHANG
Assistant United States Attorneys
219 South Dearborn Street
Fifth Floor
Chicago, Illinois 60604
(312) 886-1000

Date: December 29, 2008

CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following document:

Government's Motion to Disclose Intercepted Communications to the Special Investigative Committee of the Illinois House of Representatives,

was served on December 29, 2008, in accordance with FED. R. CRIM. P. 49, FED. R. CIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers, and also served by electronic mail and/or facsimile on the following counsel for the interceptees:

Mr. Edward M. Genson
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Mr. Daniel Reinberg
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Palos Heights, Illinois 60463
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Mr. David W. Ellis
Mr. Matt O'Shea
Staff, Special Investigative Committee
(Via electronic mail)

/s/ Edmond E. Chang
EDMOND E. CHANG
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 886-1000



HR1650

LRB095 23171 RCE 53817 r

1

HOUSE RESOLUTION

2

WHEREAS, Allegations have been raised regarding the
3 conduct of Governor Rod R. Blagojevich; and

4

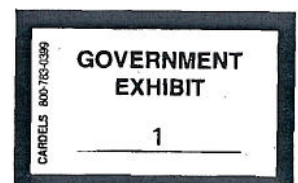
WHEREAS, Section 14 of Article IV of the Illinois
5 Constitution provides that the House of Representatives has the
6 sole power to conduct legislative investigations to determine
7 the existence of cause for impeachment and, by the vote of a
8 majority of the members elected, to impeach Executive and
9 Judicial officers; therefore, be it

10

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE
11 NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that a
12 Special Investigative Committee be created for the purpose of
13 (i) investigating allegations of misfeasance, malfeasance,
14 nonfeasance, and other misconduct of Governor Rod R.
15 Blagojevich and (ii) making a recommendation as to whether
16 cause exists for impeachment; and be it further

17

RESOLVED, That the Special Investigative Committee shall
18 consist of 21 legislative members, with 12 members of the House
19 of Representatives appointed by the Speaker of the House of
20 Representatives and 9 members of the House of Representatives
21 appointed by the Minority Leader of the House of
22 Representatives; and be it further



HR1650

-2-

LRB095 23171 RCE 53817 r

1 RESOLVED, That the Speaker of the House of Representatives
2 shall designate one appointee to serve as a chairperson; and
3 that the Minority Leader of the House of Representatives shall
4 designate one appointee to serve as minority spokesperson; and
5 be it further

6 RESOLVED, That the appointments of the members and the
7 designation of the chairperson and minority spokesperson of the
8 Special Investigative Committee shall be transmitted by the
9 appointing authority in writing to the Clerk of the House of
10 Representatives; and be it further

11 RESOLVED, That the Special Investigative Committee is
12 empowered to meet, upon the proper appointment of a majority of
13 the members, in accordance with the House Rules; that all
14 meetings shall be public; that advance notice of all meetings
15 shall be given to the public; and that the Special
16 Investigative Committee may gather evidence and hear testimony
17 at any location within the State of Illinois designated by the
18 chairperson; and be it further

19 RESOLVED, That the Special Investigative Committee is
20 empowered to adopt rules to govern the proceedings before it in
21 order to ensure due process, fundamental fairness, and a
22 thorough investigation; and that the Special Investigative

HR1650

-3-

LRB095 23171 RCE 53817 r

1 Committee shall have the power to administer oaths and to
2 compel the attendance and testimony of persons and the
3 production of papers, documents, and other evidence, under
4 oath, by subpoena signed by the Speaker of the House of
5 Representatives and attested by the Clerk of the House of
6 Representatives when the testimony, documents, or evidence is
7 necessary for or incident to any inquiry relevant to the
8 business or purposes of the Special Investigative Committee,
9 and to punish any person for the neglect, refusal to appear, or
10 failure to produce papers or documents or provide evidence
11 commanded by subpoena or who, upon appearance, either with or
12 without subpoena, refuses to be sworn or testify or produce
13 papers, documents, or evidence demanded of him or her; and be
14 it further

15 RESOLVED, That the Special Investigative Committee shall
16 submit a report to the House of Representatives prior to the
17 expiration of the 95th General Assembly by filing the report
18 with the Clerk of the House of Representatives and by providing
19 copies to the Speaker and Minority Leader of the House of
20 Representatives.



GENERAL ASSEMBLY

STATE OF ILLINOIS

HOUSE OF REPRESENTATIVES

SPECIAL INVESTIGATIVE COMMITTEE OF THE NINETY-FIFTH GENERAL ASSEMBLY

December 18, 2008

VIA FACSIMILE: (312) 353-8298

Patrick J. Fitzgerald
United States Attorney
Northern District of Illinois
219 S. Dearborn St., 5th Floor
Chicago, IL 60604

Re: Illinois House of Representatives Special Investigative Committee

Dear Mr. Fitzgerald:

As you know, the Illinois House of Representatives has convened a Special Investigative Committee (the "Committee") to investigate allegations of misconduct by Governor Rod Blagojevich. The purpose of this letter is both to request certain information from you and to make sure that our inquiry does not interfere with your criminal investigation into the Governor's office.

First, we would request that your office provide us with the following documents:

- 1) Copies of all electronic surveillance applications and supporting affidavits referenced in paragraph 14 of the affidavit of Special Agent Cain in support of the criminal complaint in *United States v. Blagojevich* ("Affidavit").
- 2) The identities of all individuals referenced in the Affidavit who are identified only by a descriptive title and a letter and/or number (e.g. "Lobbyist I," "Advisor A," etc.).
- 3) The identities of all witnesses who have information about alleged criminal activity of Governor Blagojevich who have been granted immunity or have a cooperation agreement with the government that would allow them to testify before the Committee.
- 4) Documents described in the Affidavit (e.g. the "targeted fundraising list" on page 32).
- 5) Recordings of any oral communications intercepted in the personal office of Rod Blagojevich or the conference room at Friends of Blagojevich, as detailed in paragraph 14a of the Affidavit, and recordings of any wire communications to and from a landline subscribed to the home address of Rod Blagojevich, as detailed in paragraph 14b of the Affidavit.

Second, the Committee has identified the following witnesses it may wish to call, either through subpoena or voluntary appearance, provided that hearing their testimony would not interfere with your ongoing criminal investigation. **We wish to emphasize here that, given that virtually every individual referenced in the Affidavit was identified by a descriptive title and not by name, we cannot and do not know with certainty that the individuals whose testimony we seek are indeed referenced in the Affidavit. Nor do we know, or suggest by their inclusion, that any of the individuals listed below are suspected to have engaged in criminal conduct themselves.**

We would respectfully request guidance from you as to the following categories of witnesses:

I. ALLEGATIONS CONTAINED IN THE AFFIDAVIT IN SUPPORT OF THE CRIMINAL COMPLAINT

A. Current and Former Members of the Governor's Staff. While no individual falling under this category (besides Mr. Harris) has been identified by name in the Affidavit, and we do not know with certainty that any person listed below is, in fact, referenced in the Affidavit by descriptive title, the Committee would be interested in any potentially relevant testimony from the following individuals:

- John Harris, former Chief of Staff
- Bob Greenlee, former Deputy Governor
- Louanner Peters, Deputy Governor
- William Quinlan, General Counsel to the Governor
- John Wyma, former Congressional Chief of Staff and lobbyist
- Lon Monk, former Chief of Staff and lobbyist
- Doug Scofield, former spokesman/advisor
- Bradley Tusk, former Deputy Governor
- Sheila Nix, former Deputy Governor
- Jill Hayden, former Director of the Governor's Office of Boards and Commissions
- Joseph Cini, former Director of Intergovernmental Affairs
- Victor Roberson, former Deputy Director of Intergovernmental Affairs
- John Filan, former Director, Office of Management and Budget
- Ginger Ostro, Director, Office of Management and Budget
- Chris Kelly, Special Advisor

B. Individuals who have Pleaded Guilty and Testified with Regard to Allegations Detailed in the Affidavit or Who Have Been Convicted of Allegations Contained in this Affidavit. These individuals, identified by name in the Affidavit, include:

- Ali Ata
- Joseph Cari
- Stuart Levine
- Antoin "Tony" Rezko
- Steven Loren

C. Individuals referenced in the Affidavit by Descriptive Title, either Because Your Office has Provided the Identity of those Individuals to the Committee or Because the Committee, Independently, has Reason to Believe that Certain Individuals Can Be Connected to Certain Descriptive Titles. Please be advised that the Committee would communicate with your office to confirm that the calling of any such witnesses is acceptable.

D. Allegations detailed in paragraphs 59 through 116 of the Affidavit. These paragraphs concern allegations of conduct taking place in and after October, 2008. While no individual listed below has been identified by name in the Affidavit, and we do not know with certainty that any person listed below is, in fact, referenced in the Affidavit by descriptive title, the Committee would be interested in any potentially relevant testimony from the following individuals:

- Patrick Magoon, Children's Memorial
- Nils Larsen, Tribune Company
- Bill Davenport, American Concrete Pavement Association
- William Grams, Illinois Road and Transportation Builders Association
- Jim Stumpf, Arlington Park Race Track
- Steve Brubaker, Harness Horsemen
- Jack Kelly, Maywood/Balmoral
- Ed Duffy, Hawthorne Race Track
- Betsy Mitchell, Thoroughbred Horsemen
- Brian Zander, Fairmont Race track
- All registered lobbyists of the horse racing industry

E. Allegations detailed in paragraphs 31 through 58 of the Affidavit. These paragraphs concern allegations of conduct taking place prior to October, 2008. While no individual listed below has been identified by name in the Affidavit, and we do not know with certainty that any person listed below is, in fact, referenced in the Affidavit by descriptive title, the Committee would be interested in any potentially relevant testimony from the following individuals:

- Jeffrey S. Mark, Executive Secretary, Health Facilities Planning Board
- Thomas Beck, Former Board Member, Health Facilities Planning Board
- David Carvalho, Deputy Director, Health Facilities Planning Board
- Imad Almanaseer, Former Board Member, Health Facilities Planning Board

F. Individuals Identified in a Chicago Tribune Article on April 27, 2008, by Jeffrey Meitrodt, Ray Long, and John Chase Entitled "The Governor's \$25,000 Club". Please be advised that if we are unable to contact these individuals, we would consider eliciting testimony from others who might simply present the results of the Tribune's investigation—for example, one of the reporters. We would appreciate your comment on that issue as well.

II. WITNESSES RELEVANT TO OTHER ISSUES PURSUED BY THE COMMITTEE.

The following categories of witnesses are unrelated to the Affidavit and criminal complaint filed against Governor Blagojevich. Because of the timing of our Committee hearings, we have already discussed with your office the individuals listed in Categories A, B and D below and understand that you have raised no objection to our calling of these individuals as witnesses.

A. The Governor's Expansion of the FamilyCare Program and Refusal to Recognize the Validity of the Joint Committee on Administrative Rules. The Committee is inquiring into the Governor's expansion of a State program known as FamilyCare without legislative authority or funding authority, as well as the Governor's circumvention of the Joint Committee on Administrative Rules in doing so. The Committee seeks relevant testimony from the following:

- Vicki Thomas, JCAR Executive Director
- Bob Rich, Institute of Government and Policy Affairs

- Claudette Miller, Partner, Ungaretti & Harris
- F. Thomas Hecht, Partner, Ungaretti & Harris
- Larry Blust, Partner, Barnes & Thornburg (Counsel for Governor and DHFS)
- Barry Maram, Director, Department of Healthcare and Family Services
- Tamara Hoffman, Chief of Staff, Department of Healthcare and Family Services
- Andy Morris, University of Illinois School of Law

B. Audits Conducted by the Illinois Auditor General. The Committee is inquiring into three areas that were the subjects of Audit Reports filed by William Holland, the Illinois Auditor General: (i) the Governor's purchase, and attempted import, of flu vaccines without FDA approval; (ii) the Governor's "efficiency initiative," including but not limited to the hiring of consultants and contractors related to that initiative; and (iii) the grant of \$1 million to the Loop Lab School and the pardon of its school administrator. The Committee seeks the testimony of William Holland, the Illinois Auditor General.

C. Fraud in the Governor's hiring and firing of State workers. The Committee is inquiring into whether the Governor engaged in a pattern of illegally hiring and firing State employees based on improper and illegal criteria. The Committee seeks relevant testimony from the following people, whom the Committee anticipates will testify that they were victims of, not the perpetrators of, illegal hiring practices:

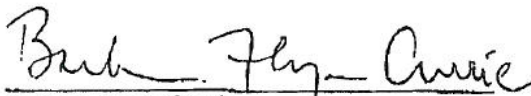
- Dawn DeFraities
- Michael Casey
- Maria Besbekos
- John Hegeler
- Jim Fragakis
- Matt Magalis

D. The Governor's Compliance with the Freedom of Information Act. The Committee is inquiring into whether the Governor repeatedly and willfully failed to follow the FOIA law, refusing to disclose information that was clearly permitted under the FOIA. The Committee seeks relevant testimony from the following:

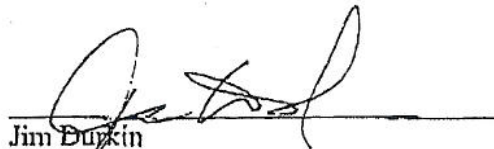
- Donald Craven, Donald M. Craven, P.C.
- Terry Mutchler, former Assistant Illinois Attorney General
- Jay Stewart, Executive Director, Better Government Association
- Ron Gidwitz, Americans for Prosperity Illinois
- Paul Orfanedes, Judicial Watch

We may be supplementing this list, but at the present time this would cover our request. Thank you for your prompt attention to this matter. Questions may be directed to David Ellis, Counsel to the Committee, at 217-782-3392.

Sincerely,



Barbara Flynn Currie
Chair of the Special Investigative Committee



Jim Dupkin
Minority Spokesperson

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