



GENERAL ASSEMBLY

STATE OF ILLINOIS

HOUSE OF REPRESENTATIVES

SPECIAL INVESTIGATING COMMITTEE OF THE NINETY-SEVENTH GENERAL ASSEMBLY

April 4, 2012

VIA EMAIL

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

Re: Illinois House of Representatives Special Investigating Committee

Dear Mr. Fitzgerald:

As we discussed over the phone, the Illinois House of Representatives has convened a Special Investigating Committee (the "SIC") to investigate allegations of misconduct by State Representative Derrick Smith. At its first meeting, the SIC unanimously concluded that its first course of action would be to communicate with your office. The SIC members are interested in obtaining as much information as possible but doing so without impeding your ongoing criminal investigation.

The purpose of this letter is twofold. First, we would request certain information from your office that is relevant to our investigation. Second, we would like to outline possible steps that we might take independently and receive guidance from you as to whether those steps would interfere with your ongoing investigation.

Information Obtained from your Office

First, we would request that your office provide us with the following information listed below. Where applicable, references to the "Butler Affidavit" mean the Affidavit of FBI Special Agent Bryan M. Butler dated March 12, 2012, that was attached to the Criminal Complaint in the matter of *United States of America vs. Derrick Smith* (the "Criminal Complaint"):

- 1) The identities of any individuals or entities who are identified only by descriptive title in the Butler Affidavit, including but not limited to the "Cooperating Source," or "CS-1," referenced in paragraph 11, the "Alderman A" referenced in paragraph 17, the "Daycare Owner" and "Daycare" referenced in paragraph 14, "Individual A" referenced in

paragraph 19, "Campaign Worker A" referenced in paragraph 30, and the fictional not-for-profit corporation registered with the Secretary of State referenced on page 12, footnote 5.

- 2) Any documents referenced in the Butler Affidavit, including but not limited to the official letter of support to the Capital Development Board from Rep. Derrick Smith on Rep. Smith's official letterhead referenced in paragraphs 38 and 39, and any text messages, facsimile messages, or any other written communication relevant to the Criminal Complaint.
- 3) The identities of all witnesses who have information relevant to the Criminal Complaint who have been granted immunity or have a cooperation agreement with the government that would allow them to testify before the SIC.
- 4) The identities of any other individuals with knowledge of information relevant to the Criminal Complaint.
- 5) Recordings of any intercepted communications involving Rep. Smith that are relevant to the Criminal Complaint, including but not limited to the many intercepted communications referenced or quoted in the Butler Affidavit.
- 6) Any other information, exculpatory or inculpatory, that is relevant to the Criminal Complaint, whether that information consists of documents or testimony from witnesses who would be available to testify.

Information Gathered by the SIC Independently

Second, the SIC may seek to obtain information from third-party sources (by subpoena, requests under the Freedom of Information Act, or otherwise) that we were unable to obtain from your office or that are not in your office's possession. **Because the SIC's first step was to contact your office, the SIC has not yet chosen any particular avenues of information to pursue.** The examples below are merely our best estimate of the routes we might pursue after receiving guidance from you:

- 1) The testimony of Rep. Derrick Smith, who will be invited (if not subpoenaed) by the SIC to testify.
- 2) The testimony of individuals referenced in the Criminal Complaint, including but not limited to "CS-1," "Alderman A," "Daycare Owner," "Individual A," and "Campaign Worker A," if the SIC were able to determine the identities of these individuals.

- 3) The testimony of staff who worked for Rep. Derrick Smith in his official capacity as State Representative or on his campaign for nomination to the office of State Representative in the March, 2012 primary election.
- 4) The testimony of elected officials who may have worked with Rep. Smith in either his official capacity as State Representative or campaign work.
- 5) The testimony of Special Agent Butler or any other federal agent with knowledge of facts relevant to the SIC's investigation.
- 6) Documents from the Illinois Secretary of State's Office, listing not-for-profit daycare centers that have registered with the Secretary of State, in an attempt to identify the "Daycare" facility referenced in the Criminal Complaint and to obtain documents from that facility and possibly witness testimony.
- 7) Documents from Rep. Smith's House District Office, including copies of documents transmitted by facsimile or U.S. mail and any other documents that may be relevant to the SIC's investigation.

Regarding this second category of information, the SIC will not act until we have received a response from your office. We are cognizant of the sensitivity of an ongoing criminal investigation and do not want to adversely affect it. Please let us know if any of the information we might seek would constitute interference with your investigation.

Thank you for your attention to this matter. We look forward to hearing from you. You may send any response by email to our counsel, David Ellis, and you may direct any questions to him as well.

Sincerely,



Rep. Elaine Nekritz, Chair
Special Investigating Committee
Illinois House of Representatives
97th General Assembly



Rep. Dennis Reboletti, Minority Spokesman
Special Investigating Committee
Illinois House of Representatives
97th General Assembly