

United States Senate

May 7, 2014

Hon. Eric H. Holder, Jr.
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

Dear Attorney General Holder:

On January 22, 2014, I asked you to continue the bipartisan tradition of standing up to political pressure from the White House and—like your predecessors in both parties—to appoint a special prosecutor to investigate serious allegations of wrongdoing, namely the Internal Revenue Service’s illegal targeting of conservative and religious organizations.

On March 10, 2014, exercising your “discretion,” you declined.

Since then, credible evidence has surfaced indicating that Lois Lerner, the former Director of the IRS’s Exempt Organizations Office, communicated directly with the Department of Justice. In a May 8, 2013 email to the former Acting IRS Commissioner’s chief of staff, Lois Lerner wrote:

“I got a call today from Richard Pilger Director Elections Crimes Branch at DOJ. . . . He wanted to know who at IRS the DOJ folk[s] could talk to about Sen. Whitehouse idea at the hearing that DOJ could piece together false statement cases about applicants who ‘lied’ on their 1024s—saying they weren’t planning on doing political activity, and then turning around and making large vis[ible] political expenditures. DOJ is feeling like it needs to respond, but want to talk to the right folks at IRS to see whether there are impediments from our side and what, if any damage this might do to IRS programs. I told him that sounded like we might need several folks from IRS.”¹

One day later, the Acting Commissioner’s chief of staff responded:

“I think we should do it—also need to include CI [Criminal Investigation Division], which we can help coordinate. Also, we need to reach out to FEC. Does it make sense to consider including them in this or keep it separate?”²

¹ Judicial Watch, *JW Obtains IRS Documents Showing Lerner in Contact With DOJ about Potential Prosecution of Tax-Exempt Groups*, Apr. 16, 2014.

² *Id.*

Lerner then “handed off” to another IRS employee the task of “scheduling” a meeting with DOJ Election Crimes Branch Director Richard Pilger.³

Based on these communications, it now appears that the Department of Justice may itself have been involved in illegally targeting citizen groups based on their political views.

Additionally, on January 29, 2014, just one week after I asked you to appoint a special prosecutor, you testified to the Senate Judiciary Committee that there was a significant “ongoing investigation” into the IRS’s illegal targeting:

“This is a matter that is presently being investigated, interviews are being done, analysis is being conducted.”

“I have faith in the career people who are handling this matter, to do so in a way that is free of any kind of partisan or ideological tint and to come to an assessment of the facts and law based only on the facts and on the law.”⁴

But just *four days later*, President Obama went on national television and stated categorically that there was “not even a smidgen of corruption” regarding the IRS targeting.⁵

These statements are facially inconsistent. If there was a significant “ongoing investigation,” then the President’s statement was without factual basis.

Was President Obama mistaken when he stated unequivocally on national television that there was “not even a smidgen of corruption” at the IRS?

Alternatively, if President Obama was correct, was your Judiciary Committee testimony materially false, when you said the “ongoing investigation” was “free of any kind of partisan or ideological tint and to come to an assessment of the facts and law based only on the facts and on the law”?

And in light of the new evidence of potential DOJ involvement in the illegal conduct—and public White House direction as to the desired outcome of any investigation—have you reconsidered appointing a special counsel in this matter?

In your judgment, at what point is the actual bias, or appearance of bias, too great? At what point does fidelity to law require a meaningful investigation—not led by a major Obama donor—to actually interview the victims, ascertain the facts, and determine who violated the law, including the extent to which White House political appointees may have been involved in illegal activities?

³ *Id.*

⁴ U.S. Senator Ted Cruz, [Attorney General Holder Says IRS Investigation Doesn’t Warrant Special Prosecutor](#), Jan. 29, 2014, at 6:50-6:54, 8:32-8:38, 11:05-11:24.

⁵ Erik Watson, [Obama: Not ‘even a smidgen of corruption’ behind Internal Revenue Service targeting](#), The Hill, Feb. 2, 2014.

As an alumnus of the Department of Justice, I ask you once again to step up and preserve the integrity of the Department. Rule of law demands as much.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ted Cruz', with a stylized flourish at the end.

Ted Cruz
U.S. Senator

CC:

Hon. Peter J. Kadzik
Principal Deputy Assistant Attorney General
Office of Legislative Affairs
U.S. Department of Justice