

## **DRAFT**

# **Plan to Prosecute Public Servants and Others and Provide Restorative Justice and Reconciliation Opportunities for Victims and Perpetrators of Crimes**

(Updated January 27, 2010)

Please provide suggestions and corrections to [DFPA@aol.com](mailto:DFPA@aol.com)

This plan provides strategies and documents to initiate and follow through with the investigation, arrest or summons, indictment and prosecution of civil and military government officials, legislators, members of the judiciary, corporation officials and others who have violated the law. It also provide opportunities for reconciliation and "restorative justice," to help heal/restore both the victims of crimes committed by the United States and the architects and perpetrators of these crimes.

## **WHAT IS RESTORATIVE JUSTICE AND WHY USE IT NOW?**

*Restorative justice is a natural, proven form of justice that seeks to restore victims and offenders to whole, contributing members of society. It emphasizes preventing additional harm and repairing the harm caused or revealed by criminal behavior. It is best accomplished through cooperative processes that include all stakeholders.*

From "Restorative Justice web site at <http://www.restorativejustice.org>."

Restorative justice is the right and proper thing to do.

The U. S. and its agents have violated and continue to violate the rights of many individuals.

Currently, the U.S. is continuing to illegally detain innocent individuals that the U.S. and its agents have abused and/or tortured, because certain U.S. officials believe that these individuals are threats.

If victims of crimes by U.S. officials participate in a restorative justice process and receive justice and sincere counseling, they are unlikely to be threats to the U.S. or turn to terrorism once released.

Normally restorative justice is utilized after a perpetrator is found guilty. By applying restorative justice techniques after an arrest or summons is initiated and before a grand jury is impaneled, the need for lengthy indictments and trials could be reduced. This would allow contrite perpetrators who make amends, and victims who are willing to forgive, get on with their lives sooner.

This restorative justice approach should not in anyway detract from the severity of crimes committed or excuse or exonerate anyone who has committed a serious crime.

## **BACKGROUND**

Congress and the new administration have failed to provide meaningful responses to numerous requests for investigations, hearings, impeachments, commissions and special prosecutors and are unwilling and unlikely to do anything meaningful about prosecuting and/or impeaching officials even though it is their legal duty to bring charges against the perpetrators of all crimes. Most of their talk about special prosecutors, commissions and investigations appears to be posturing.

If a special prosecutor is appointed, it will likely be months while they gather information and decide whether or not to prosecute. Meanwhile thousands more will die in Iraq, Afghanistan, Pakistan and Palestine and millions more will lose their homes and jobs.

Whether or not a special prosecutor is appointed, a task force of FBI agents and U. S. Attorneys should be formed to investigate and prosecute civil and military public officials, legislators,

members of the judiciary, corporation officials and others who have violated the law. Whether or not such a task force is formed, individual FBI agents, U. S. Attorneys and local and state prosecutors are paid to prosecute crimes that affect the people in their jurisdiction.

Attachment I, **Prosecuting Public Officials/figures for Corruption: the Approach in the United States**, by Michael Hatter, concludes with the statement that *“Federal prosecutors are given broad weapons to prosecute public corruption.”*

If the president, attorney general or other senior government official prohibits investigations and prosecuting of crimes for which there is probable cause, they will be guilty of obstruction of justice and misprision of a felony. If they believe someone has committed a crime, it is their legal duty to request that the crime be investigated.

There are many sources of information about prosecutions and organizations working on prosecutions

David Swanson has links to these sources and organizations and a myriad of tools to help with prosecutions on his web site, in particular, **Criminal Prosecution and Accountability** at <http://prosecutebushcheney.org>

The fact that United States Attorney Patrick Fitzgerald had the sitting governor of Illinois, now former Governor Blagojevich, arrested and indicted shows that it is feasible to arrest and indict sitting legislators, senior government officials, even presidents and judges.

Vincent Bugliosi's book, "The Prosecution of George W. Bush for Murder" makes a legal case, establishing jurisdiction and probable cause, for any state attorney general, most local district attorneys, and U.S. Attorneys to charge former president George W. Bush and his co-conspirators with murder on behalf of U.S. service members who have died in Iraq or as a result of the war in Iraq. The fact that there is no statute of limitations on murder makes this a powerful tool. Bugliosi's legal principles are applicable to many crimes other than murder. For example, a legislator who has appropriated funds for the Iraq war could be prosecuted for aiding and abetting in the murder of U.S. service members who have died in Iraq.

Attachment A, an article titled **How to Prosecute a President**, by Charlotte Dennett, provides answers to **frequently asked questions** (FAQs) regarding Bugliosi's Book. Dennett and Bugliosi put these FAQs together to assist those who want to encourage local district attorneys (DAs) to prosecute Bush for sending soldiers to Iraq under false pretenses. These FAQs describe the applicable law. The article and other relevant information are available on Charlotte Dennett's web site: <http://www.charlottedennettforattorneygeneral.com/index.htm>

Bob Alexander has information about Vince Bugliosi and his book and links to important web sites on his web site, <http://prosecutegeorgebush.com>. Bob led the efforts to mail a copy of Bugliosi's book along with a personal letter from Vince Bugliosi to every DA in every jurisdiction in the U.S. where a U.S. service member has died. All 50 state attorney generals have also been provided copies of Bugliosi's book. The next step in this process is to find DA's, state attorneys, FBI agents and U. S. attorneys willing to do their job.

No matter what the government does or doesn't do, it is obvious that the people must stay strenuously involved.

### **PLEASE VOLUNTEER TO HELP**

You need not be a lawyer or even a paralegal to begin helping immediately. You can:

Review the parts of this document and the information at **Criminal Prosecution and Accountability** at <http://prosecutebushcheney.org> in which you are interested.

Contact the offices of your local prosecutors, FBI and U,S, Attorneys and obtain their mail and email addresses and phone and fax numbers.

Contact WeThePeopleNow.org at [DFPA@aol.com](mailto:DFPA@aol.com) or 703-725-7849 if you would like to help

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with any of the following actions.

**ACTIONS.**

1. Use an existing or establish an office in the Washington DC area to prepare documentation and coordinate accomplishment of these efforts
2. Find attorneys/individual(s)/group(s) to work together physically or by email. In particular ask attorneys representing detainees who have been abused, tortured and/or detained without warrants or probable cause to help with criminal complaints.
3. Prepare and distribute sample educational materials and videos
4. Collect the information needed to establish probable cause and support a request that investigative authorities investigate and prosecutorial authorities arrest or summon, indict and prosecute specific individuals alleged to have committed a crime or crimes. The following, from a previous FBI web site, lists what should be included in a request for the investigation of an alleged crime (It is expected that other investigative authorities need similar information.)
  - a. The "**subject(s)**" of the requested investigation/prosecution with his/her identifying information including full name, address, phone numbers, and job/position as appropriate and available. Once an investigation is started on a subject he becomes a "**target**" of an investigation, once indicted by a grand jury a "**defendant**."
  - b. A **chronology of events** including date(s), time(s), and location(s) of incident(s). normally in numbered paragraphs with numbered exhibits and descriptions of other evidence as appropriate.
  - c. "**Victim(s)**" of the crime(s) with identifying information as appropriate and available.
  - d. "**Witness(es)**" to the crime(s) and those with knowledge of the crime(s) with identifying information as appropriate and available.
  - e. "**Attorney(s)**" for victims of the crimes with identifying information as appropriate and available.
  - f. Any "**report numbers and charges**" with respect to the incident.
  - g. The previous FBI website did not ask that actual alleged criminal offenses be provided with such requests. However, by providing a list of the "**criminal offenses**" that the subject of the investigation has allegedly committed, investigators and prosecutors are more likely to act. Please note that hearsay can be used to establish "probable cause".
5. Compile a prioritized list of subjects that should be prosecuted and lists of victims<sup>1</sup>, victim's attorneys, witnesses and criminal offenses. A relational data base of all this is being developed..
6. Beginning with the highest priority subjects, discreetly prepare criminal complaints, affidavits

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<sup>1</sup> Victims of U.S. crimes and potential witnesses to these crimes include past and present detainees in U.S. Prisons in Guantanamo Bay, at Bagram AFB, Afghanistan, in black sites and in the rendition programs and, in particular those who have not been treated humanely or who have been treated cruelly, tortured, abused or held without charges. Victims also include essentially all the people of Iraq and Afghanistan and in particular those who have been maimed and those who have lost their loved ones, livelihoods, homes and property. Victims also include U. S. Armed Forces personnel who have served in Iraq and Afghanistan, in particular those who have died or been maimed.

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in support of criminal complaints, applications for summons and forwarding letter as outlined in Attachment D, **Procedures for Preparing Documentation For Criminal Prosecutions**. These documents will be refined and can be modified to be used and reused by investigators and prosecutors throughout the United States.

7. Convert the requests for disbarment/disciplinary complaints filed with state bar licensing boards by attorney Kevin Zeese and the Velvet Revolution to criminal complaints and affidavits showing probable cause.

8. With the assistance of their attorneys as appropriate, identify victims and witnesses of torture, abuse, maiming, illegal arrests or detentions, property seizures or damage and other crimes by the U.S. and its agents. Subpoena and/or otherwise make available selected individuals as witnesses and victims. Those selected should include in particular those being held today in the prisons and programs outlined in footnote #2. These witnesses and victims will be expected to conference/meet with those who perpetrated crimes against them and to hopefully receive restitution and/or determine reasonable restitution for all victims from the perpetrators for all the victims and reasonable reparations from the U. S. Government.

9. Beginning in Washington DC, Fairfax County, Arlington and Alexandria Virginia and in particular with those who have received a copy of Vincent Bugliosi's book:

a. Call, fax, email and meet with local district attorneys, state attorney generals, FBI agents, U. S. Attorneys and other federal, state and local investigators and prosecutors and/or their staffs. Attachment C provides a draft sample letter of introduction

b. Exchange information with them about criminal justice procedures and documentation, jurisdiction, applicable laws, Bugliosi's book and related topics.

c. Provide them with copies of Attachments A and B.

d. Request they arrange for facilities for restorative justice and reconciliation efforts for the victims and perpetrators of crimes.

e. Request they investigate and arrest/summon those alleged to have committed serious crimes and have them confined while insuring all their rights are protected.

10. While proposed grand jury indictments are being prepared for the U.S. perpetrators of torture, subjects should participate in individual reading/study group discussions with the victims of the crimes, be educated on the severity of their alleged crimes, see the errors in their ways and learn about the the major elements of restorative justice. These major elements include *taking steps to repair harm* e.g. being contrite, apologizing to victims, paying restitution and providing assistance to victims. Attachment B provides general information about restorative justice.

11. Subjects should be encouraged, as appropriate, to apologize and pay restitution on their own instead of spending time and money on attorneys and before grand juries.

12. As lesson are learned in the Greater Washington DC area, correct the documentation and processes and find people from all over the country willing to contact state and local prosecutors.

13. Consider criminal complaints against specific senior military personnel under the UCMJ.

14. **Prepare and file law suits** as necessary to obtain restitution and justice.

15. Politely inform the FBI, U.S. Attorneys, DoJ officials, federal magistrates, judges, etc. that if enough information is provided to show that a felony has been committed, government officials having knowledge of this information who do not investigate it and do nothing about it will be in violation of 18 US Code Section 4, *Misprision of felony*, which requires: "*Whoever,*

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*having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.”*

16. If DoJ, the FBI, U.S. Attorneys and U.S. Courts refuse to act or act improperly on criminal complaints, injunctions, suits, etc. file applicable documents with the International Criminal Court.

17. Ask appropriate foreign governments whose citizens have been harmed by the actions of the U.S. to file similar complaints. Work with and support other nations. For example, support **Judge Baltasar Garzon**, a Spanish judge internationally known for trying to extradite former Chilean dictator Augusto Pinochet, is considering possible criminal action against six former Bush administration officials for the torture of Spanish citizens at the U.S. prison at Guantanamo Bay.

18. Continually refine this plan based on lessons learned.

Attachments:

A. How to Prosecute a President: Frequently Asked Questions about Bugliosi’s Approach by Charlotte Dennett

B. General Information About Restorative Justice

C. Sample Introductory Letter to Potential Investigators and Prosecutors

D. Preparing Documentation For Criminal Prosecution

E. Draft Sample Letter Requesting an Investigation, Indictment and Prosecution of an Individual by the FBI Agents and a U. S. Attorney

F. Draft Sample Letters Requesting an Investigation, Indictment and Prosecution of an Individual by a Police Department Investigator and Local District Attorney

G. Format for a Chronology of Events

H. Sample Combination Multi-Count Criminal Complaint, Affidavit in Support of a Criminal Complaint and Application for a Warrant

I. Prosecuting Public Officials/Figures for Corruption: the Approach in the United States by Michael Hutter

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Attachment A

How to Prosecute a President: Frequently Asked Questions

By Charlotte Dennett

<http://www.charlottedennettforattorneygeneral.com/faq.htm>

**How to Prosecute a President: Frequently Asked Questions**

By Charlotte Dennett

Dear Friends and Patriots:

These FAQs are based on questions that Vincent Bugliosi and I encountered during my campaign for Attorney General last fall and more recently, during interviews and public appearances.

After recently conferring with Mr. Bugliosi, I put these FAQs together to assist you should you want to approach a local DA and encourage him or her to prosecute Bush for sending soldiers to Iraq under false pretenses. Every DA in every county where a soldier died has now received a copy of Bugliosi's book, *The Prosecution of George W. Bush for Murder*. All 50 attorneys general have also received copies. Good luck, and if you have a story to report on your efforts, either via personal approaches, letters to the editor or petitions, please feel free to share them [here](http://www.charlottedennettforattorneygeneral.com/contact.htm), <http://www.charlottedennettforattorneygeneral.com/contact.htm>

We can all learn from each other as we let our prosecutors know that we demand justice and accountability from our elected officials.

**Q: What's the difference between petitioning an Attorney General and petitioning a District Attorney (or State's Attorney)?**

A: If you approach a DA, you will have to show that someone in his or her district lost a soldier/s to the war in Iraq. If you approach an Attorney General, whose authority covers the entire state, you simply have to show that soldiers in your state (regardless of district) lost a soldier/s in Iraq.

**Q: Is it necessary to have surviving family members request prosecution?**

A: No, it is not necessary. But it would have a greater impact.

**Q: Should survivors be asked if their loved ones were intentionally murdered by George Bush?**

A: They will most likely be asked this by the media, but in a court of law, the survivor's state of mind is legally irrelevant. The legal victim in a criminal case is not the lay person who suffered from the crime, but the people of the state.

**Q: How can you convince a prosecutor to take this on at a time of severe budget cuts?**

A: The cost of a prosecution can be supplemented by outside assistance from private sources. This is not without precedent. For

example, New Orleans District Attorney Jim Garrison sought and received outside funding to support his prosecution in the conspiracy to commit murder charge against Clay Shaw in the John F. Kennedy assassination.

**Q: Could this case be considered politically motivated?**

A: No. The political affiliation of the defendant in this case is irrelevant. If a prosecutor is presented with evidence that a crime has been committed, it is the prosecutor's legal duty to bring charges against the perpetrator.

**Q: What is the evidence?**

A: The evidence is laid out in Bugliosi's book. The most frequently cited example is Bush's lies to the American people on television on October 7, 2002, when he claimed, shortly before seeking Congressional support for his Iraq war, that Saddam Hussein was a "great danger to our nation."

Here is a transcript of Bugliosi's testimony before the House Judiciary Committee in July, 2008, which is viewable on YouTube.

*[Bush] was telling millions of unsuspecting Americans the exact opposite of what his own CIA had told [him] just six days earlier, in a classified report on October 1st, that Saddam Hussein was not an imminent threat.*

*But it gets worse. On October 4th, the Bush Administration put out an unclassified summary version of the classified report that they could give to Congress, which they called The White Paper. In this summary, the conclusion of U.S. intelligence - that Saddam Hussein was not an imminent threat-- was COMPLETELY DELETED. Every single one of these all important words was taken out.*

*So Congress and the American people never saw any of this...What could possibly be worse and more criminal than the Bush Administration deliberately keeping this all important conclusion from Congress and the American people?*

**Q: How can Bush be treated as a criminal if what he did in Iraq had the consent of Congress?**

A: Fraud vitiates consent. Bush led Congress into the war under false pretenses, as described above, thereby nullifying its consent.

**Q: What are some of the emotional arguments for prosecuting Bush for murder?**

1. No one is above the law.
2. We still live in a democracy, built around the rule of law. Surely the American president is not on a par with dictators, like Hitler, Stalin, and

Mussolini.

3. Over 4,000 soldiers, and well over 100,000 Iraqi civilians are lying in their cold graves because of this misbegotten war. Many soldiers died because of improper equipment. It is outrageous that they were misled into thinking they were dying to protect the U.S from Saddam Hussein, when he was not an imminent threat and had no involvement in 9/11.

4. The whole world is watching to see if the citizens of the United States hold Bush accountable for his crimes. Bringing a prosecution against him will improve our standing and reputation in the world.

**Q: Why is prosecuting Bush for murder even more critical - and strategically, more achievable -- than prosecuting him for war crimes?**

A: Granted, torture is absolutely despicable, but as The New York Times pointed out in a recent editorial, the number of Iraqi torture victims is in the neighborhood of two dozen. Even if that number were conservative, and the actual number could be as much as 100, the torture of 100 Iraqis pales in comparison to the suffering and death of over 4,000 American soldiers as well as the horrible violent deaths of over 100,000 innocent Iraqi men, women, children and babies. Strategically, Bush can be prosecuted for murder in any of the 50 states, whereas "war crimes" prosecutions, if done in the U.S., would most likely occur in Washington D.C. There, the "powers that be" can exert pressure on the Attorney General and members of Congress not to prosecute, even if Congress and the Presidency are controlled by Democrats.

**Q: What would be the steps to prosecute Bush in a state?**

A: The DA or Attorney General would assign a top prosecutor in his or her office, or hire a special prosecutor from outside his office, preferably Vincent Bugliosi (who knows the issues and has impeccable credentials -- see next question) to commence a criminal investigation to determine if George Bush took this nation to war under false pretenses. If the investigation confirms that Bush did do this, the prosecutor would then present this evidence to a Grand Jury and seek an indictment for murder and conspiracy to commit murder against Bush and co-conspirators such as Dick Cheney and Condoleezza Rice. If the Grand Jury returned an indictment, Bush's lawyers will likely make a motion to quash the indictment. They would make some legal arguments to prevent the trial from going forward. The U. S. Supreme Court

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might get involved, and could conceivably come up with some argument to prevent the case from going forward. But it may not, and under those circumstances, Bush would be made to stand trial in that state.

**Q: If Bush were at his ranch in Texas or in another state, could he be compelled to be present at his trial in another state?**

A: Yes, he would be compelled to do so, and if he refused, the state he was in would force him to comply with the out-of-state demand for his extradition under Article IV, Section 1 of the United States Constitution. This is the "full faith and credit clause, which is mandatory and not discretionary. It states: " Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state."

**Q: What are Bugliosi's credentials for being chosen Special Prosecutor?**

A: During his career in the LA District Attorney's Office, Bugliosi successfully prosecuted 105 out of 106 felony jury trials, including 21 murder convictions without a loss.

**Q: What have others said about him?**

Alan Dershowitz, professor at Harvard and noted appellate lawyer, says about Bugliosi: If you created a hall of fame of prosecutors, Vince would be in the entranceway. There is no prosecutor I'd fear more if I were guilty. He will get at the truth."

Lawrence Velvel, Dean, Massachusetts School of Law, says: Vince Bugliosi's book is a very serious book by a very serious author. It is rare that I've read a book that has as thorough a grasp of relevant facts as Bugliosi. For the first time, the need to use state murder statutes to punish presidential murder has now arisen, lest Bush and company get away with serious crimes."

**LEGAL ARGUMENTS**

**Q: How can you prosecute someone like the president when he didn't personally kill anyone?**

A: It is not necessary for a defendant to have personally killed someone to be guilty of murder. For instance, Bugliosi prosecuted and convicted Charles Manson when he didn't participate in any of the killings.

**Q: What if the potential prosecutor says that s/he does not have the authority to prosecute George W. Bush for murder, because the crime had to be committed in the state and because the victim had to be in the state?**

A: There are several ways that you can rebut this argument, which is essentially an argument that goes to the question of jurisdiction. Here

are the arguments, all documented in Bugliosi's book:

**I. Conspiracy to Commit Murder: The Underlying Crime that Confers Jurisdiction to your state**

The underlying crime that confers jurisdiction to your state courts in this case is the crime of conspiracy to commit murder, which does not require, as one of its elements, the death of an individual, whether in Vermont or any other state.

All that has to be shown is:

- a) an "agreement between two or more people" (i.e. George Bush and one or more other members of his administration) to conduct an unlawful war in Iraq, and
- b) an "overt act" (no matter how inconsequential) to "further the object of the conspiracy." To establish jurisdiction, this overt act must have taken place in your state.

In your state, as elsewhere in the nation, there were at least two such overt acts, each of which is equally important.

1) Bush's lies outside your state were carried by radio and television straight into the homes and cars of the American people, including into your state. These lies (that Saddam Hussein was an imminent threat to the security of this country, and that Saddam was involved in 9/11), both demonstrably false, were made by Bush to gain the support of the American people for his war in Iraq.

2) The Bush Administration's recruitment of young women and men in your state to fight Bush's war in Iraq.

**II. The Crime of Murder**

With respect to the separate crime of murder, the general rule is that a state only has jurisdiction over crimes physically committed in that state. However, although the killings in this case did not take place in your state, there is a well established exception to the rule. It is called the "effects doctrine." In instances where the crime occurs outside the territorial jurisdiction of the state, but the crime has a harmful effect on the people inside the state, then that state has jurisdiction.

Clearly the war in Iraq has had a harmful effect in your state, judging by the death of soldiers in your state. Moreover, your state has shared in the prodigious cost of the war to this nation -- hundreds of billions of dollars -- with no end in sight. Finally, the citizens of your state, as Americans, have endured the loss of prestige in the eyes of the world community as a result of America's unprovoked invasion of a sovereign nation.

This "effects doctrine" of the "law of nations" can

be applied to both federal and state courts, giving them extraterritorial jurisdiction. As stated on page 310 of Bugliosi's book, "The state can extend jurisdiction under the effects doctrine even where the conduct adversely affecting the state takes place within the territorial jurisdiction of another country. See State v Jack, 125 P.3d 311, 318?322 (2005), where the state was Alaska and the country Canada."

**Q: What if a potential prosecutor says that Bush did not have the requisite intent to kill American soldiers?**

A: Murder is defined as "the unlawful killing of a human being with malice aforethought." To successfully prosecute for murder, you simply have to prove two elements of the crime, the prohibited act, or actus rea, and the criminal intent, mens rea.

**B. Intent to Kill:** There are two types of malice aforethought: express and implied.

**1) Express malice**

While Bush never specifically intended to kill any American soldiers, he absolutely knew American soldiers would necessarily die in his war (unless he intended a war without casualties, which is of course absurd on its face). It is boilerplate law that if one willfully does an act, the natural tendency of which is to take another's life, then one must conclude that the destruction of such other person's life was intended.

**2) Implied Malice**

This does not require an intent to kill. It simply requires a showing that Bush intended to do an inherently dangerous act with wanton and reckless disregard for the consequences and an indifference to human life. This state of mind is certainly satisfied by Bush taking this nation into a deadly war and does not require further elaboration.

**Q: What defense does Bush have for the crime of murder?**

A: Bush's only defense would be what he has already locked himself into: that he took this nation to war in self defense, i.e. his so-called preemptive strike. But because evidence shows that Saddam Hussein was not a threat to our national security, and because Bush, knowing that, nonetheless sent troops to their deaths under false pretenses, Bush had no legitimate reason to invade Iraq, and therefore cannot persuasively argue that his defense was self defense. This answer is, in fact, the whole crux of the case.

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Attachment B

**General Information About Restorative Justice**

The following information in italics is from the Restorative Justice web site at <http://www.restorativejustice.org>. Information not in italics has been added by the compiler.

*“Justice is not justice unless it is restorative justice”*

**Introduction**

*Restorative justice is a natural, proven form of justice that seeks to restore victims and offenders to whole, contributing members of society. It emphasizes preventing additional harm and repairing the harm caused or revealed by criminal behavior. It is best accomplished through cooperative processes that include all stakeholders.* Restorative justice does include protecting society from individuals who are a threat to society.

**It is obvious that:**

1. Our current criminal justice, penal/punishment and parole systems are not working and in general are generating more perpetrators of crimes than they are correcting.
2. Most would agree that the war on drugs is a dismal failure and that we should treat drug offenders with counseling programs, not imprisonment.
3. Alfred Adler and Clarence Darrow both taught that a lack of self-confidence is one of the common characteristics of criminals and that we should treat perpetrators of crimes as if they have a mental illness while keeping in mind that a major purpose of our criminal justice system should be to protect the public from offenders.

*Practices and programs reflecting restorative purposes will respond to crime by:*

- *Identifying the harm,*
- *preventing additional harm,*
- *taking steps to repair harm e.g. being contrite, apologizing to victims, paying restitution and providing assistance to victims,*
- *involving and treating all stakeholders with dignity including the perpetrator and of course the victim,*
- *transforming the traditional relationship between communities and their governments in responding to crime.*

*Some of the programs and outcomes typically identified with restorative justice include:*

- *Victim offender negotiation*
- *Conferencing*
- *Circles*
- *Victim assistance*
- *Ex-offender assistance*
- *Restitution*
- *Community service*

*Three principles form the foundation for restorative justice:*

- *Justice requires that we work to restore those who have been injured.*

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- *Those most directly involved and affected by crime should have the opportunity to participate fully in the response if they wish.*
- *Government's role is to preserve a just public order, and the community's is to build and maintain a just peace.*

*Restorative programmes are characterized by four key values:*

- *Encounter: Create opportunities for victims, offenders and community members who want to do so to meet to discuss the crime and its aftermath*
- *Amends: Expect offenders to take steps to repair the harm they have caused*
- *Reintegration: Seek to restore victims and offenders to whole, contributing members of society*
- *Inclusion: Provide opportunities for parties with a stake in a specific crime to participate in its resolution*

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The following information in italics is from the Prison Fellowship International web site at <http://www.pfi.org/> Information not in italics has been added by the compiler of this plan.

#### ***Centre for Justice and Reconciliation***

*Throughout the world, offenders are subjected to inefficient and overburdened justice systems and victims receive little help recovering from the trauma of crime.*

*These problems confront all nations and economies. The United States, for example, imprisons the highest percentage of its citizens in the world. This has produced serious prison crowding and violence. Often the result is that rehabilitation and other programming lose funding and space within the prisons to operate.*

*In developing nations, countrywide problems of poverty and disease are intensified in prisons. Defendants may spend years there waiting for trial because of overburdened and corrupt law enforcement and courts. Little is done to prepare prisoners for life after release.*

*Crime victims continue to be the afterthought of justice systems. They are not provided what they need to find relief and a measure of healing.*

*PFI and its affiliates confront these issues around the world. PFI's Centre for Justice and Reconciliation (CJR) serves as a resource to its national affiliates by locating information, collaborating on projects, developing programmes, and building communication channels among them.*

*It also works to influence the "justice climate" around the world so societies become more restorative in their criminal justice policies. This requires taking the harm done to victims -- and their resulting needs -- more seriously. It also encourages offender responsibility to make amends.*

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***Restorative Justice***

*Restorative justice is a worldwide criminal justice reform movement that focuses on the harm crime causes. Restorative programmes emphasize the value of the people harmed by the crime meeting with those who caused the harm to talk about what happened and how to make things right. Sometimes the process has a transforming effect on their lives.*

*Prison Fellowship International has been a strong proponent of restorative justice, largely through activities of the Centre for Justice and Reconciliation (CJR). It has done this for several reasons:*

- 1. It lessens problems that threaten to overwhelm the criminal justice system, such as prison and court overload.*
- 2. It opens up a new and useful role for victims in the official justice system.*
- 3. It confronts offenders with the harm to real people that their crimes cause, while offering them a way to actively take responsibility.*
- 4. It reduces reoffending, reduces criminal justice costs, increases the number of cases brought to justice, helps victims recover from the trauma of crime, and leaves victims and offenders more satisfied that justice was done.*

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Attachment C  
**Sample Introductory Letter to Potential Prosecutors**

(adapted from the letter from By david swanson <http://www.afterdowningstreet.org/node/35994>)

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Dear \_\_\_\_\_,

Thank you for the phone conversation yesterday regarding the prosecution. I request a meeting with you and your assistants at your earliest convenience. I will call to arrange a time.

As we discussed yesterday

Former prosecutor Vincent Bugliosi, who successfully prosecuted 105 out of 106 felony jury trials, including 21 murder convictions without a single loss -- including Charles Manson's conviction, has published a book called "The Prosecution of George W. Bush for Murder." This book makes a legal case, establishing jurisdiction and probable cause for any state or local prosecutor to charge former president George W. Bush and his co-conspirators with murder on behalf of U.S. soldiers who died in Iraq or as a result of the war in Iraq.

By sending troops into war on false pretenses rather than in self-defense, Bush was knowingly and needlessly condemning some of them to death. The Iraqis who killed those soldiers in predictable and legally justifiable defense of their country fall into the legal category of "third-party innocent agent." This does not mean they are innocent, but rather that their actions do nothing to lessen Bush's guilt. In addition, Bugliosi argues, Bush could be found guilty of murder under the rule of "aiding and abetting," because he instigated the killing of American soldiers by ordering the invasion of Iraq.

Former Vice President Cheney, former National Security Advisor Condoleezza Rice, and others could be charged as conspirators as well.

Bugliosi is willing, if requested, to consult on any such prosecution, as is former federal prosecutor Elizabeth de la Vega, author of the book "U.S. v. George W. Bush et al."

ConvictBushCheney.org has consulted with Bugliosi and learned that, while he much prefers prosecuting for murder, a prosecution for attempted murder would be justified by an argument paralleling that in his book, and that Iraq War veterans are, by this argument, victims of attempted murder.

ConvictBushCheney.org has identified gold star families (those who lost loved ones in Iraq) and Iraq veterans all over the country who want to assist in a prosecution of this sort.

Attached are brief descriptions of

If you would like to learn more or to obtain a copy of Bugliosi's book, please contact us or contact ConvictBushCheney.org through that website.

Sincerely,

## Attachment D

**Procedures for Preparing Documentation For Criminal Prosecution.**

1. Collect the information needed to establish probable cause and support a request that investigative authorities investigate and prosecutorial authorities arrest, indict and prosecute specific individuals alleged to have committed a crime or crimes. Please note that hearsay can be used to establish “probable cause”. Although the following is no longer on the FBI web site, it is what they use to ask be included in a request for the investigation of an alleged crime (It is expected that other investigative authorities would ask for similar information.)

a. The "**Subject(s)**" of the requested investigation/prosecution with his/her identifying information including full name, address, phone numbers, and job/position as appropriate and available.

b. A **chronology of events** including date(s), time(s), and location(s) of incident(s). normally in numbered paragraphs with numbered exhibits and descriptions of other evidence as appropriate.

c. "**Victim(s)**" of the crime(s) with identifying information as appropriate and available.

d. "**Witness(es)**" to the crime(s) and those with knowledge of the crime(s) with identifying information as appropriate and available.

e. "**Attorney(s)**" for victims of the crimes with identifying information as appropriate and available.

f. Any “**report numbers and charges**” with respect to the incident.

g. The “**criminal offenses**” that the subject of the investigation has allegedly committed. The FBI does not normally ask that criminal offenses be provided with such requests. However, by providing them, investigators and prosecutors are more likely to act.

2. Prepare standard draft sample **Letters Requesting that Subjects be Investigated, Arrested, Indicted and Prosecuted** . Attachment E is addressed to an FBI field office and a United States Attorney. Attachment F is addressed to a county chief of police and a county attorney. Similar letters can be addressed to other local, state, federal investigators and prosecutors as well as the International Criminal Court and investigators and prosecutors in other countries whose people’s rights have been violated.

3. Rules 3 and 4 of the Federal Rules of Criminal Procedure require that a complaint, which is *a written statement of the essential facts constituting the offense charged, must be made under oath before a magistrate judge or, if none is reasonably available, before a state or local judicial officer. ... If the complaint or one or more affidavits filed with the complaint establish probable cause to believe that an offense has been committed and that the defendant committed it, the judge must issue an arrest warrant to an officer authorized to execute it.* Normally FBI agents investigate and prepare criminal complaints and affidavits in support of a criminal complaint. However, if drafts of these documents are prepared for the FBI agents there is a better chance that they will go forward with the complaint and it should speed up the process.

4. **Prepare Combination Multi-Count Criminal Complaints and Affidavits in Support of a Criminal Complaint.** Attachment H provides a Sample Format for such a document. Attachment H is modeled after the **Criminal Complaint & Affidavit Against Former Governor Blagojevich**, in PDF format at [http://www.wethepeoplenow.org/sample\\_complaint&affidavit.pdf](http://www.wethepeoplenow.org/sample_complaint&affidavit.pdf)

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### Action Plan to Prosecute Government Officials, Legislators and Others Who Have Violated the Law

This particular format combines the criminal complaint and affidavit into one document. It is proposed as a sample for preparing similar documents for other individuals.

5. Rule 7 of the Federal Rules of Criminal Procedure requires that *Felony offenses, which are offenses punishable by death or by imprisonment for more than one year, must be prosecuted by an indictment* [which is presented to a grand jury]. *In General. The indictment or information must be a plain, concise, and definite written statement of the essential facts constituting the offense charged and must be signed by an attorney for the government. It need not contain a formal introduction or conclusion. A count may incorporate by reference an allegation made in another count. A count may allege that the means by which the defendant committed the offense are unknown or that the defendant committed it by one or more specified means. For each count, the indictment or information must give the official or customary citation of the statute, rule, regulation, or other provision of law that the defendant is alleged to have violated.*

6. Normally prosecutors prepare proposed indictments to be used to go before a grand jury. However, if draft proposed indictments are prepared for the prosecutors, there is a better chance that they will go forward with indictments.

7. A sample one-count indictments that could be modified and presented to a grand jury is available in the outstanding book the **United States v Bush et al.** by Elizabeth de la Vega. It is also available on WeThePeopleNow.org as **Sample Proposed Indictment for a Grand Jury**, [http://www.wethepeoplenow.org/us\\_v\\_bush\\_et\\_al\\_sample\\_indictment.pdf](http://www.wethepeoplenow.org/us_v_bush_et_al_sample_indictment.pdf).

8. The multi-count indictment used to have former Governor Blagojevich: **Indictment of Former Governor Blagojevich et al** is available at [http://www.wethepeoplenow.org/blagovich\\_indictment.pdf](http://www.wethepeoplenow.org/blagovich_indictment.pdf).

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Action Plan to Prosecute Government Officials, Legislators and Others Who Have Violated the Law

Attachment E

**Draft Sample Letter Requesting an Investigation & Prosecution of an Individual**

April xx, 2009

Joseph Persichini, Jr  
Assistant Director in Charge  
Washington Metropolitan Field Office  
Federal Bureau of Investigation  
601 4th Street N.W.  
Washington DC, DC 20535-0002  
Phone: 202-278-2000 Fax: 202-278-2478

Neil H. MacBride  
U.S. Attorney, Eastern District of Virginia  
Justin W. Williams United States Attorney's Building  
2100 Jamieson Ave  
Alexandria, VA 22314  
Phone: (703) 299-3700 Fax (703)299-2584

**Subject:** Request for the Investigation and Possible Arrest, Indictment and Prosecution of Various Individuals.

Dear Mr. Persichini and Mr. MacBride:

I request that the Washington Metropolitan Field Office of the FBI and the United States Attorney for the Eastern District of Virginia investigate and as appropriate, arrest or summons, indict and prosecute:

1. Representative J. Doe for
  - a. Violation of 18 U.S.C. § 201(b)(1) making bribes
  - b. Violation of 18 U.S.C. § 201(b)(2) receiving bribes
2. Current and former executives, employees, lobbyists and agents of O. Doe, Mark Agne and the 119 others listed on attachment A, for violation of 18 U.S.C. § 201(b)(1), making bribes.

Representative J. Doe being a public official indirectly, corruptly received, accepted, and/or agreed to receive or accept \$4,600 from D. Doe and the amounts and others listed in attachment A all of whom are current or former executives, employees, lobbyists and agents of O. Doe or its affiliates, personally and/or for other persons or entity (anything of value), in return for being influenced in the performance of an official act, namely \_\_\_\_\_

A [draft] Statement of Probable Cause and draft Criminal Complaint are attached.

Knowledge of a crime, and the jurisdiction to pursue those responsible, thereby imposes upon you, the legal obligation to pursue this.

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I also request that the victims of the crime \_\_\_\_\_ and the attorney(s) for the victim(s) \_\_\_\_\_ be kept informed of the status of the investigation as required by crime victim laws.

Sincerely,

Attachments [as appropriate and available]

Draft Criminal Complaint, Affidavit in Support of a Criminal Complaint and Application for a Warrant

List of Exhibits and Descriptions of Other Evidence

Exhibits

A Draft Proposed Grand Jury Indictment

Identifying information for victim(s), witness(es), subject(s) with names, addresses, and telephone numbers

Chronology of Events with date and time of incident, location of incident and any report numbers and charges with respect to the incident.

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Attachment F

Draft Sample Letter Requesting an Investigation & Prosecution of an Individual

April xx, 2009

Colonel David M. Rohrer  
Chief of Police  
Fairfax County  
4100 Chain Bridge Rd.  
Fairfax, VA 22030  
Phone:      Fax:

Commonwealth Attorney Ray Morrogh  
Fairfax County Virginia  
Jennings Building Judicial Center  
4110 Chain Bridge Rd. #123  
Fairfax, VA 22030  
Phone: (703) 246-2776 Fax:

**Subject:** Request for the Investigation, Arrest or Summons, Indictment and Prosecution of

---

Dear Colonel David M. Rohrer and Commonwealth Attorney Ray Morrogh:

I request that the Fairfax County Police Investigate and the Fairfax Commonwealth Attorney arrest, indict and prosecute:

1. Representative J. Doe for
  - a. Violation of 18 U.S.C. § 201(b)(1) making bribes
  - b. Violation of 18 U.S.C. § 201(b)(2) receiving bribes
2. Current and former executives, employees, lobbyists and agents of O. Doe, Mark Agne and the 119 others listed on attachment A, for violation of 18 U.S.C. § 201(b)(1), making bribes.

Representative J. Doe being a public official indirectly, corruptly received, accepted, and/or agreed to receive or accept \$4,600 from D. Doe and the amounts and others listed in attachment A all of whom are current or former executives, employees, lobbyists and agents of O. Doe or its affiliates, personally and/or for other persons or entity (anything of value), in return for being influenced in the performance of an official act, namely \_\_\_\_\_

---

A draft **Criminal Complaint, Affidavit in Support of a Criminal Complaint and Application for a Warrant** are attached.

Knowledge of a crime, and the jurisdiction to pursue those responsible, thereby imposes upon you, the legal obligation to pursue this.

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I also request that the victims of the crime \_\_\_\_\_ and the attorney(s) for the victim(s) \_\_\_\_\_ be kept informed of the status of the investigation as required by crime victim laws.

Sincerely,

Attachments [as appropriate and available]

Draft Affidavit in Support of a Criminal Complaint

Draft Criminal Complaint

List of Exhibits and Descriptions of Other Evidence

Exhibits

A Draft Proposed Grand Jury Indictment

Identifying information for victim(s), witness(es), subject(s) with names, addresses, and telephone numbers

Chronology of Events with date and time of incident, location of incident and any report numbers and charges with respect to the incident.

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Action Plan to Prosecute Government Officials, Legislators and Others Who Have Violated the Law

Attachment G

**CHRONOLOGY OF EVENTS**

A chronology of events should normally include date(s), time(s), and location(s) of incident(s) , any report numbers and charges with respect to the incident, in numbered paragraphs with numbered exhibits and descriptions of other evidence as appropriate and available.

Hearsay may be used in this document.

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Action Plan to Prosecute Government Officials, Legislators and Others Who Have Violated the Law

Attachment H

Note:

A criminal complaint is a written statement of the essential facts constituting the offense charged made under oath before a magistrate judge or, if none is reasonably available, before a state or local judicial officer. Normally an FBI agent prepares and signs criminal complaints. However, anyone can prepare to sign it. The below complaint is modeled after the **Criminal Complaint & Affidavit Against Former Governor Blagojevich**, in PDF format at [http://www.wethepeoplenow.org/sample\\_complaint&affidavit.pdf](http://www.wethepeoplenow.org/sample_complaint&affidavit.pdf)

**Sample Combination Multi-Count Criminal Complaint,  
Affidavit in Support of a Criminal Complaint and Application for a Warrant**

**UNITED STATES DISTRICT COURT**

**\_\_\_\_\_ DISTRICT OF \_\_\_\_\_**

UNITED STATES OF AMERICA,

v.

CRIMINAL COMPLAINT

JOHN DOE and  
JANE DOE

CRIMINAL COMPLAINT

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

[PLEASE NOTE THAT NON-APPLICABLE COUNTS ARE TO BE DELETED]

Count One

From on or about \_\_\_\_\_ 2009 to the present, in \_\_\_\_\_ in the \_\_\_\_\_, defendants did, conspire with each other and with others to devise and participate in a scheme to defraud the United States and the people of the United States of the honest services of JANE DOE and JOHN DOE, in furtherance of which the mails and interstate wire communications would be used, in violation of Title 18, United States Code, Sections 1341,1343, and 1346; all in violation of Title 18 United States Code, Section 1349.

Count Two

Beginning no later than \_\_\_\_\_ to the present, in \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_, defendants JANE DOE and JOHN DOE, being agents of the United States, received federal benefits in excess of \$10,000, corruptly solicited and demanded a thing of value, namely, \_\_\_\_\_, intending to be influenced and rewarded in connection with business and transactions of the United States involving a thing of value of \$5,000 or more, namely, the provision of millions of dollars in financial assistance by the United States, including through the

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Department of XYZ, an agency of the United States, to the \_\_\_\_\_ company or individual \_\_\_\_\_; in violation of Title 18, United States Code, Sections 666(a)(1)(B) and 2.

Count Three

From on or about \_\_\_\_\_ 2009 to the present, in \_\_\_\_\_, in the \_\_\_\_\_, defendants JANE DOE and JOHN DOE directly or indirectly, corruptly gave, offered or promised something of value to a public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent, in violation of 18 U.S.C. 201(b)(1)

Count Four

From on or about \_\_\_\_\_ 2009 to the present, in \_\_\_\_\_, in the \_\_\_\_\_, defendants JANE DOE and JOHN DOE being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

c. being influenced in the performance of any official act;

d. being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

e. being induced to do or omit to do any act in violation of the official duty of such official or person; Directly or indirectly, corruptly demanded, sought, received, accepted, or agreed to receive in return for being influenced in the performance of any official act 18 U.S.C. 201(b)(2)

2. From on or about \_\_\_\_\_ 2009 to the present, in \_\_\_\_\_, in the \_\_\_\_\_, defendants JANE DOE and JOHN DOE conspired to commit the murder of the late \_\_\_\_\_ as well as several thousand other deceased U. S. service members, in violation of Title 18, United States Code, Section 1117.

3. From on or about \_\_\_\_\_ 2009 to the present, in \_\_\_\_\_, in the \_\_\_\_\_, defendants JANE DOE and JOHN DOE murdered the late \_\_\_\_\_ as well as several thousand other deceased U. S. service members, in violation of Title 18, United States Code, Section 1111.

4. From on or about \_\_\_\_\_ 2009 to the present, in \_\_\_\_\_, in the \_\_\_\_\_, defendants JANE DOE and JOHN DOE aided and abetted in the commission of the murder of the late \_\_\_\_\_ as well as several thousand other deceased U. S. service members, in violation of Title 18, United States Code, Section 1111.

5. Aided and abetted in a conspiracy to commit the murder of the late \_\_\_\_\_ as well as several thousand other deceased U. S. service members, in violation of Title 18, United States Code, Section 1117.

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6. Engaged in a conspiracy, to deprive \_\_\_\_\_ of his rights in violation of Title 18, United States Code, Section 241.

7. Deprived \_\_\_\_\_ of rights under color of law in violation of Title 18, United States Code, Section 242.

8. From on or about \_\_\_\_\_ 2009 to the present, in \_\_\_\_\_, in the \_\_\_\_\_, defendants JANE DOE and JOHN DOE violated the War Crimes Act of 1996, as amended, Title 18, United States Code, Section 2441.

9. From on or about \_\_\_\_\_ 2009 to the present, in \_\_\_\_\_, in the \_\_\_\_\_, defendants JANE DOE and JOHN DOE conspired to violate the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as implemented by Title 18, United States Code, Section 2340-2340A.

10. From on or about \_\_\_\_\_ 2009 to the present, in \_\_\_\_\_, in the \_\_\_\_\_, defendants JANE DOE and JOHN DOE engaged in a conspiracy to defraud the United States in violation of Title 18, United States Code, Section 371.

11. From on or about \_\_\_\_\_ 2009 to the present, in \_\_\_\_\_, in the \_\_\_\_\_, defendants JANE DOE and JOHN DOE Violated Title 18, United States Code, Section 4, Misprision of a Felony.

I further state \_\_\_\_\_ and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part here of:  Yes  No

\_\_\_\_\_  
JD stigator, Special Agent  
Federal Bureau of Investigation

IF PREPARED BY OTHER THAN AN FBI AGENT

Signature: \_\_\_\_\_  
Printed Name: Bill Doe  
Address:  
Phone No:

Sworn to before me and subscribed in my presence,  
Date \_\_\_\_\_ at \_\_\_\_\_ City \_\_\_\_\_ and \_\_\_\_\_ State \_\_\_\_\_

\_\_\_\_\_, United States Magistrate Judge \_\_\_\_\_  
Name & Title of Judicial Officer Signature of Judicial Officer

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Action Plan to Prosecute Government Officials, Legislators and Others Who Have Violated the Law

\_\_\_\_\_ District of \_\_\_\_\_

County of \_\_\_\_\_ City of \_\_\_\_\_ )

AFFIDAVIT IN SUPPORT OF APPLICATION

**I. INTRODUCTION**

IF PREPARED BY AN FBI AGENT

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) assigned to the \_\_\_\_\_ . I have been a Special Agent with the FBI for over \_\_\_\_\_ years. I am presently assigned to the \_\_\_\_\_ Agency of the FBI's \_\_\_\_\_ Field office. My duties include investigating corruption of public officials, mail fraud, wire fraud, and other white collar crimes. I have been involved in white collar crime investigations for a majority of my career as a Special Agent with the FBI.

2. I have participated in and am familiar with this investigation through interviews and analysis of reports submitted by other Special Agents of the FBI, the Internal Revenue Service (IRS), the U.S. Postal Inspection Service (USPIS), and the U.S. Department of Labor's Office of Inspector General (DOLIG); personal interviews conducted with witnesses; my review of consensually-recorded conversations; a review of pen register information, trap and trace information, and telephone toll record information; and a review of information derived from the interception of wire communications occurring to and from certain telephones. I also am familiar with information derived from the interception of oral communications occurring in the offices of \_\_\_\_\_ . In addition, I am familiar with testimony given during the trial of \_\_\_\_\_ from \_\_\_ to \_\_\_.

3. This affidavit is submitted in support of an application for a criminal complaint and corresponding arrest warrants charging JANE DOE and JOHN DOE, with:

IF PREPARED BY OTHER THAN AN FBI AGENT

I, BILL DOE, hereinafter referred to as "Affiant," being duly sworn, state as follows:

**I. INTRODUCTION**

1. I am a Citizen of the United States and a resident of Virginia.

2. This affidavit contains information necessary to support probable cause for a Criminal Complaint. It is not intended to include every fact or matter observed or known to the government or me. The information provided is based on my personal knowledge and observations, information conveyed to me by others, and my review of records, documents, and other physical evidence.

3. This affidavit is submitted in support of an application for a criminal complaint and corresponding arrest warrants charging JANE DOE and JOHN DOE, with:

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Action Plan to Prosecute Government Officials, Legislators and Others Who Have Violated the Law

[PLEASE NOTE: CHARGES HERE SHOULD MATCH THOSE INCLUDED IN THE CRIMINAL COMPLAINT AND IN PARAGRAPH 3 ABOVE.]

a. conspiring with each other and with others to devise and participate in a scheme to defraud the United States and the people of the United States of the honest services of JANE DOE and JOHN DOE, in furtherance of which the mails and interstate wire communications would be used, in violation of Title 18, United States Code, Sections 1341, 1343 and 1346; all in violation of Title 18, United States Code, Section 1349; and

b. being agents of the United States, received federal benefits in excess of \$10,000, corruptly solicited and demanded a thing of value, namely, \_\_\_\_\_, intending to be influenced and rewarded in connection with business and transactions of the United States involving a thing of value of \$5,000 or more, namely, the provision of millions of dollars in financial assistance by the United States, including through the Department of XYZ, an agency of the United States, to the \_\_\_\_\_ company or individual \_\_\_\_\_; in violation of Title 18, United States Code, Sections 666(a)(1)(B) and 2.

c. One or more of the following as shown under Count Three - Count \_\_\_\_ above:

(1) Conspired to commit the murder of the late \_\_\_\_\_ as well as several thousand other deceased U. S. service members, in violation of Title 18, United States Code, Section 1117.

(2) Murdered the late \_\_\_\_\_ as well as several thousand other deceased U. S. service members, in violation of Title 18, United States Code, Section 1111.

(3) Aided and abetted in the commission of the murder of the late \_\_\_\_\_ as well as several thousand other deceased U. S. service members, in violation of Title 18, United States Code, Section 1111.

(4) Aided and abetted in a conspiracy to commit the murder of the late \_\_\_\_\_ as well as several thousand other deceased U. S. service members, in violation of Title 18, United States Code, Section 1117.

(5) Engaged in a conspiracy, to deprive \_\_\_\_\_ of his rights in violation of Title 18, United States Code, Section 241.

(6) Deprived \_\_\_\_\_ of rights under color of law in violation of Title 18, United States Code, Section 242.

(7) Violated the War Crimes Act of 1996, as amended, Title 18, United States Code, Section 2441.

(8) Conspired to violate the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as implemented by Title 18, United States Code, Section 2340-2340A.

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(9) Engaged in a conspiracy to defraud the United States in violation of Title 18, United States Code, Section 371.

(10) Violated Title 18, United States Code, Section 4, Misprision of a Felony.

4. Defendant JANE DOE is \_\_\_\_\_. She was elected \_\_\_\_\_ in \_\_\_\_\_ and was reelected \_\_\_\_\_ in \_\_\_\_\_.

5. Defendant JOHN DOE is employed by \_\_\_\_\_ as the chief of staff to the \_\_\_\_\_.

6. As officials of \_\_\_\_\_, JANE DOE and JOHN DOE each owe a duty of honest services to the United States and the people of the United States in the performance of their public duties.

7. Because this affidavit is submitted for the limited purpose of securing a criminal complaint and corresponding arrest warrants, I have not included each and every fact known to me concerning this investigation.

**II. SUMMARY OF PROBABLE CAUSE**

[Normally a chronology of events including date(s), time(s), and location(s) of incident(s) in numbered paragraphs with numbered exhibits and descriptions of other evidence as appropriate. Hearsay may be used in this document.]

8.

9.

**III. FACTS ESTABLISHING PROBABLE CAUSE**

**A. Evidence Concerning the Solicitation and Receipt of Campaign Contributions in Return for Official Acts by JANE DOE Prior to October 2008**

\_\_\_\_\_ **1. Information Provided by JOE WITNESS**

**16. As described in more detail in the following paragraphs, JOE WITNESS testified \_\_\_\_\_**

**B. Evidence Concerning Corrupt Conduct by JANE DOE and JOHN DOE in and After October 2008**

\_\_\_\_\_ **1. Evidence Concerning Efforts to Obtain Campaign Contributions**

**In Exchange for Official Acts**

**a. Information Obtained From Individual A**

10. Since \_\_\_\_\_

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Action Plan to Prosecute Government Officials, Legislators and Others Who Have Violated the Law

III. CONCLUSION

11. Based upon the facts set forth in this affidavit, I believe that there is probable cause to believe that:

Please Note: Charges here should match those included in the Criminal Complaint and in paragraph 3 above. Counts One and Two are shown here as examples.

a. JANE DOE and JOHN DOE, and others have conspired with each other and with others to commit offenses against the United States, namely to devise and participate in a scheme to defraud the United States and the people of the United States of the honest services of JANE DOE and JOHN DOE, in furtherance of which the mails and interstate wire communications would be used, in violation of Title 18, United States Code, Sections 1341, 1343, and 1346; all in violation of Title 18, United States Code, Section 1349; and

b. JANE DOE and JOHN DOE, being agents of the United States, received federal benefits in excess of \$10,000, corruptly solicited and demanded a thing of value, namely, \_\_\_\_\_, intending to be influenced and rewarded in connection with business and transactions of the United States involving a thing of value of \$5,000 or more, namely, the provision of millions of dollars in financial assistance by the United States, including through the Department of XYZ, an agency of the United States, to the \_\_\_\_\_ company or individual \_\_\_\_\_; in violation of Title 18, United States Code, Sections 666(a)(1)(B) and

Signature \_\_\_\_\_  
Printed Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone No. \_\_\_\_\_

Or if completed by an FBI agent

\_\_\_\_\_  
Ivan Investigator  
Special Agent  
Federal Bureau of Investigation

Sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
(Signature of Judicial Officer)

HONORABLE \_\_\_\_\_

Magistrate Judge

\_\_\_\_\_ District of \_\_\_\_\_

**Attachment I**

**PROSECUTING PUBLIC OFFICIALS/FIGURES FOR CORRUPTION:  
THE APPROACH IN THE UNITED STATES**

By Michael J. Hutter

**I INTRODUCTION**

**A. Overview**

1) Public corruption in any form is the misuse of a public or government office for private gain. Its existence is an indication that something has gone wrong in the management of the government office, whether it be federal, state, or local. In that regard, it is a basic tenet that government is not to be used for personal enrichment and the extending of benefits to the corrupt.

2) The prevention of corruption is essential not only to make government work for its intended purpose, *e.g.*, ensure that public officials are using their office to further the public interest and not to enrich themselves or others, but also to preserve public confidence in the democratic process. As to the latter, the United States Supreme Court has observed: “[A] democracy is effective only if the people have faith in those who govern, and that faith is bound to be shattered when high officials and their appointees engage in activities which arouse suspicions of malfeasance and corruption.” (*United States v. Miss. Valley Generating Co.*, 364 U.S. 520, 562 [1961]).

**B. The Anti-Corruption Legacy of the United States Constitution**

1) The United States Constitution reflects its framers’ intent to deal with corruption which led to the adoption of a number of provisions in the Constitution itself limiting the opportunities for self-enrichment. As one commentator has observed: “The Constitution reflects a significant concern with preventing corruption in all levels of the government.” (Henning, 92 Kentucky L.J. 75, 84 [2003]).

2) Thus, the Constitution permits impeachment of any officer of the United States, including the President and Vice President, for “Treason, Bribery, or other high crimes and Misdemeanors.” (U.S. Const., art. II, §4). It also prohibits anyone holding “any Office of Profit or Trust . . . . without the consent of the Congress, [from accepting] any present, Emolument Office, or Title of any kind whatever, from any King, Prince, or foreign State.” (U.S. Const., art. I, §9, cl. 8). Members of Congress are prohibited from taking any public office created during their tenure or any public office whose compensation has been increased during their tenure. (U.S. Const., art. I, §6, cl. 2). The Constitution’s Appropriations Clause requires authorization from Congress before any funds could be spent by a federal officer. (U.S. Const., art. I, §9, cl. 7).

3) With respect to the possibility of corruption in the states, no specific provisions were included. However, certain structural protections were enacted, such as trial by jury to protect against corrupt judges, and the ability of state legislatures to enact legislation to combat corruption.

**II. PROSECUTING FEDERAL CORRUPTION**

**A. Introduction**

1) The United States Constitution through its grant of enumerated powers to Congress, including the postal power, the commerce clause power, the necessary and proper clause, and the spending power, provides the sources for Congress to enact specific legislation designed to combat

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corruption at the federal level. Notably, the anti-corruption legacy did not lead to a specific grant of power in the Constitution to Congress to enact anti-corruption legislation to cover areas beyond those specified in the Constitution.

2) As derived from these enumerated powers, the three basic approaches for combating corruption at the federal level are: criminal statutes, impeachment, and ethical proscriptions.

#### **B. Criminal Statutes**

##### **1) Bribery of Public Officials - 18 USC §201**

(a) This provision criminalizes both the offer and receipt of bribes and illegal gratuities by federal officials. It applies to every federal employee

irrespective of whether they occupy a supervisory position or exercise discretionary authority.

(b) This provision at its basic core recognizes that a bribe is any inducement intending to improperly influence the performance of a public function meant to be gratuitously exercised. It prohibits the giving of a “thing of value”, the definition of which is very broad, encompassing anything that has subjective value to the recipient.

(c) The crime of bribery is completed when there is shown that something of value was promised or offered, not that a bribe actually be paid.

(d) Significantly, where the prosecution has difficulty proving an express bribery, *i.e.*, specific intent to give or receive something of value in return for an official act, the prosecution may then merely charge a gratuities violation, *i.e.*, receipt of anything of value.

##### **2) Other Statutes**

(a) 18 USC §666 outlaws theft, fraud or bribery concerning programs receiving federal funds. (*See generally, Sabri v. United States*, 124 S. Ct. 1941 [2004]).

(b) There are numerous statutes which condemn specific conduct in specific areas, *e.g.*, bankruptcy, procurement, taxation.

#### **C. Impeachment**

1) Although it is not entirely clear, it would appear that the impeachment clause of the United States Constitution covers misuse of office that constitutes a “political crime,” even if it does not constitute a violation of any specific criminal statute.

#### **D. Ethical Proscriptions**

1) There is an extensive amount of regulations which governs the behavior of federal officials. (*See, United States v. Sun-Diamond Growers*, 304 U.S. 255 [1992]). These regulations state ethical proscriptions, and are not necessarily criminal in nature. However, their violation can lead to removal from office.

### **III. PROSECUTING STATE AND LOCAL CORRUPTION**

#### **A. Introduction**

1) All of the states and most local governments have criminal statutes or codes which criminalize various aspects of corruption.

2) While there is no federal statute which is aimed specifically at state and local corruption, there are three statutes which have been generally utilized by federal prosecutors to prosecute state and local officials for acts of corruption. They are the mail and wire fraud statute, the Hobbs Act, and the Racketeer Influenced and Corrupt Organizations Act (“RICO”).

**B. Hobbs Act – 18 USC §1951**

- 1) The Hobbs Act by its express language makes it a crime to obstruct, delay, or affect commerce by robbery or extortion.
- 2) However, the statute by a series of judicial decisions, including a United States Supreme Court decision (*See, United States v. Evans*, 504 U.S. 255 [1992]), has been extended to cover practices best characterized as bribery. In that regard, all that has to be shown is that a public official has obtained a payment to which he was not entitled, knowing that the payment was made in return for official acts. This results in making the Hobbs Act similar to 18 USC §201 insofar as it covers bribery of a federal official. However, the statute would not cover mere receipt of gratuities, as under 18 USC §201, which is covered by the mail and wire fraud statutes.
- 3) While the Hobbs Act is limited to conduct that “obstructs, delays or affects interstate commerce [commerce between two or more states],” this requirement is hardly any requirement at all since all that is needed is a small or practically negligible effect.
- 4) A Hobbs Act violation may serve as the foundation for RICO offenses.

**C. Mail and Wire Fraud – 18 USC §§1341 (Mail), 1343 (Wire)**

- 1) The mail and wire fraud statutes were enacted as anti-fraud statutes, designed to combat as criminal the common law crime of larceny by trick. Even though the statutes’ terms do not specifically embrace corruption, they are extensively used to prosecute acts of public corruption.
- 2) For mail fraud, the prosecutor must prove only (a) a scheme to defraud, and (b) the mailing of a letter for the purpose of executing the scheme; and for wire fraud, the prosecutor must prove only (a) a scheme to defraud, and (b) the use of interstate wire communications in furtherance of the scheme. For purposes of the statute, the requisite mailing can be done through the postal service or a private carrier, and the requisite wire communications include radio transmissions, telephone calls and e-mails. Significantly, the requisite mailing or wiring need not itself contain any fraudulent information and may be entirely innocent. However, they must be shown to be at least a “step” in the scheme. (*Schmuck v. United States*, 489 U.S. 705, 712 [1989]).
- 3) With respect to the statutes’ use in public corruption cases, a fraudulent scheme includes “a scheme . . . to deprive another of the intangible right of honest services.” (18 USC §1346). It is this definition which makes the statutes a flexible tool for prosecutors to prosecute public corruption at the state or local level.
- 4) A typical “honest services” corruption case arises in two situations. First, “bribery” where the public official was paid for a particular decision or action, which includes a pattern of gratuities over a period of time to obtain favorable action. Secondly, “failure to disclose” a conflict of interest, resulting in personal enrichment, which encompasses circumstances where the official has an express or implied duty to inform others of the official’s personal relationship to the matter at hand even though no public harm occurred or there was no misuse of office. As to the “conflict of interest” situation, the basis for its condemnation is that “[w]hen an official fails to disclose a personal interest in a matter over which he has decision-making power, the public is deprived of its right either to disinterested decision making itself or, as the case may be, to full disclosure as to the official’s potential motivation behind an official act.” (*United States v. Sawyer*, 85 F3d 713, 724 [1<sup>st</sup> Cir. 1966]). Notably, a person who holds no public office but participates substantially in the operation of government, *e.g.*, a

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political party leader, may be subject to prosecution under an “honest services” theory. (*See, United States v. Margiotta*, 688 F.2d 108 [2d Cir. 1982]).

5) While there is the need to show in a bribery case an intent to give or receive something of value in return for an official act, in a failure to disclose case, the failure is itself sufficient to show the requisite intent. Moreover, there is no need to show the scheme came to fruition or caused harm.

6) A public official may be charged with a separate count for each mailing or wiring in furtherance of the charged scheme.

7) In 2002, Congress amended the statutes to allow for a maximum sentence of up to 20 years imprisonment for each violation of the statutes.

8) A violation of the statute serves as the foundation for RICO offenses.

### **D. Racketeer Influenced And Corrupt Organizations Act**

#### **(“RICO”) – 18 USC §1962**

1) In 1970, Congress passed the RICO statute as part of the Organized Crime Control Act. It was designed “to seek the eradication of organized crime by . . . establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime.” (*United States v. Turkette*, 452 U.S. 576, 589 [1981]).

2) §1962 has four subdivisions. Subdivisions (a) and (b) have been invoked to combat the infiltration of legitimate business by organized crime, and subdivisions (c) and (d), also designed for that organized crime purpose, have been used as a tool against corrupt public officials.

3) §1962(c) makes it unlawful for any person, which includes a public official, “employed by or associated with any enterprise engaged in, or the activities of which affect interstate or foreign commerce, to conduct or participate . . . in the conduct of such enterprise’s affairs through a pattern of racketeering activity”; and §1962(d) makes it unlawful for a person to conspire to violate subdivision (c) as well as subdivisions (a) and (b).

4) The elements of a RICO violation as charged against a public official are that the official:

(a) through the commission of two or more chargeable or indictable or punishable predicate offenses,

(i) The requisite offenses include mail or wire fraud and Hobbs Acts offenses;

(b) constituting a “pattern of racketeering”,

(i) The statute requires that a pattern include at least two acts of racketeering activity, one of which occurred after the effective date of the statute (October 15, 1970), and the last of which occurred within ten years of a prior act of racketeering activity. The Supreme Court has held that a pattern “requires the showing of a relationship between the predicates, . . . and of the threat of, continuing activity . . .” “Criminal conduct,” the Court explained, “forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.” (*H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 239-240 [1989]).

(ii) “Racketeering activity” includes conduct that is “indictable,” “chargeable” or “punishable” under various state and federal criminal laws. The acts of racketeering activity are also referred

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to as predicate offenses, and the list incorporated into the statute covers a wide array of illegal activity, including mail and wire fraud, and Hobbs Act offenses.

(c) directly or indirectly invests in, maintains an interest in, participates in, conducts the affairs of, or acquires income used to acquire an interest in,

(d) an enterprise,

(i) An enterprise includes any individual partnership, corporation, other legal entities or group of individuals or entities associated in fact, which encompasses a government office through which the official(s) conducted the racketeering activities.

(e) The activities of which affect interstate or foreign commerce,

(i) This provision has been liberally construed so that nearly any interstate involvement would satisfy the statute.

(ii) It is difficult to conceive of a government office in the United States whose activities would not be construed as affecting interstate commerce.

5) When RICO is charged together with the crimes alleged to be the “racketeering activity” upon which the RICO charge is predicated, such as mail and wire fraud and Hobbs Act offenses, the public official faces much higher statutory penalties and the possibility of consecutive sentences.

6) RICO also provides for criminal forfeiture of any interest acquired or maintained in violation of §1962, any interest in any enterprise operated in violation of §1962, and any property constituting, or derived from, the proceeds of racketeering activity in violation of §1962. The prosecutor may also secure pretrial orders barring the public official from using available assets to obtain legal representation.

7) It must also be noted that it is well recognized that charging a public official with a RICO violation carries with it an adverse stigma that casts the official in a worse light than being a mere corrupt official, *i.e.*, the official is involved in organized crime.

## IV. CONCLUSION

Federal prosecutors are given broad weapons to prosecute public corruption, especially with respect to state and local corruption, where the pertinent statutes empowers them to challenge almost any unlawful, questionable or unethical conduct of a public official, subject to the prosecutor’s exercise of sound discretion. RICO prosecutions give prosecutors even more discretionary prosecution power.

### Attachment I

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