

September 4, 2025

Senator Chuck Grassley  
Chairman of the Judiciary  
135 Hart Senate Office Building  
Washington, D.C. 20510

Senator Ted Cruz  
Member Committee on the Judiciary  
167 Russell Senate Office Building  
Washington, D.C. 20510



**HAND DELIVERED**

**RE: Code of Silence**

Chairman Grassley and Senator Cruz,

As you and the Judiciary Committee are aware, I have been sounding the whistle on corruption dealing with the City of Chicago, Federal Bureau of Investigation (Dayton, Ohio, Chicago and Washington, D.C. field office), along with Assistant United States Attorney Brent Tabacchi (Southern District of Ohio). In my February 5, 2025 correspondence to the Committee, I outlined several illicit acts by high ranking government officials, to include:

- Prosecutorial Misconduct
- Subornation of Perjury
- Scheme to Defraud
- Procurement Crimes
- Protection of Sexual Predator(s)
- Presenting False Testimony to a Tribunal (Rule 3.3)

As I have continued my pursuit of justice exposing bad actors within the City of Chicago, to include former Mayor of Chicago Rahm Emanuel, Edward Siskel former Chicago Corporation Counsel along with the Chicago Police Department, covering up sex crimes against children. Additionally, I have found supporting documentation that suggest mandatory reporters ignoring pleas for an investigation into sexual predator(s) engaged in inappropriate contact with young children. The evidence will show that not only were pleas for accountability ignored, they were covered up.

Recently, I obtained an affidavit from Dayton, Ohio citizen journalist David Esrati, who attempted to sound the whistle against individuals engaged in this coverup. The additional individuals, include the administration of Illiana Christian High School in Dyer, Indiana. **SEE ESRATI AFFIDAVIT (TRANSCRIPT OF CONVERSATION(S) WITH SCHOOL ADMINISTRATORS - EXHIBIT A**

It should be noted, I recently filed a 2255 motion in my criminal case—exposing a compromised Assistant United States Attorney, engaging in prosecutorial misconduct in my criminal case (3:18-cr-00186 SD Ohio). AUSA Brent Tabacchi enlisted government witnesses to commit perjury along with witness tampering in my criminal proceeding (jury trial). Attached, you will find the recently filed motion, along with a Show Cause Order from the Court. **SEE 2255 MOTION - EXHIBIT B - SHOW CAUSE ORDER - EXHIBIT C**

In addition to this being a renewal of my Congressional Hearing/Investigation request, I am also requesting that Attorney General Pam Bondi appoint a special prosecutor to investigate Assistant United States Attorney Brent Tabacchi. Operation Demolished Integrity was the brainchild of AUSA Tabacchi et al. FBI led investigation, in which the AUSA allowed former Dayton City Mayor Nan Whaley to collect tens of thousands of dollars in bribe money from a City contractor. The FBI has traced Whaley accepting bribes dating back as far as 2013, while Whaley was a city commissioner. If that is not disturbing enough, it was AUSA Tabacchi who then allowed Mayor Whaley to run in the 2022 Ohio Democratic Gubernatorial election, knowing that Whaley was guilty of accepting bribes from City contractors dating back nearly a decade prior.

It is for the above reasons, I am renewing my request to investigate Assistant United States Attorney Brent Tabacchi and the Code of Silence.

Respectfully,



Brian E. Higgins

**WWW.CORRUPTGMEN.COM**

Cc: U.S. Senate Judiciary Committee

# **EXHIBIT A**

**DAVID ESRATI AFFIDAVIT**

**AFFIDAVIT**  
**DAVID ESRATI**

STATE OF OHIO

COUNTY OF MONTGOMERY

I David Esrati, being fully cautioned and sworn, deposes and states as follows:

- 1.) I am an adult over the age of 18 and competent to testify to the matter herein;
- 2.) I am a citizen journalist in Dayton, Ohio and have been publishing a blog [www.esrati.com](http://www.esrati.com), since 2005 exposing corruption, deceit and crimes in Dayton, Ohio. I also own an ad agency, The Next Wave, where I produce advertising and collateral for businesses across the country.
- 3.) I have personally and professionally known Brian Higgins, a Dayton businessman for over 15 years.
- 4.) Since 2011 Mr. Higgins has alleged public corruption in the Chicagoland area related to the Transportation of Deceased Bodies contract for the Chicago Police Department.
- 5.) Mr. Higgins has alleged that various elected officials, to include former Chicago Mayor(s) Rahm Emanuel, Lori Lightfoot, City of Chicago Inspector General Joseph Ferguson et. al have engaged in a coverup related to John W. Klaczak- former fire chief of Thornton, Illinois who is a convicted sexual predator.
- 6.) Mr. Klaczak's company (Allied Service Group) obtained the above-mentioned contract with the City of Chicago in September 2011. EXHIBIT A- CITY OF CHICAGO Ltr.
- 7.) The week of July 30, 2018, Next Wave assisted Mr. Higgins in composing evidentiary material related to the Code of Silence for Mr. Higgins' August 3, 2018 meeting with former Rahm Emanuel press secretary Tarrah Cooper.
- 8.) The week of January 7, 2019, Next Wave assisted Mr. Higgins in composing evidentiary material related to the Code of Silence for Mr. Higgins' January 10, 2019 meeting with Chicago Alderman Walter Burnett (27<sup>th</sup> Ward).
- 9.) The week of February 4, 2019, Next Wave assisted Mr. Higgins in composing evidentiary material related to the Code of Silence for Mr. Higgins' February 11, 2019 meeting with former Chicago Alderman Carrie Austin (34<sup>th</sup> Ward).

- 10.) The week of February 11, 2019, Next Wave assisted Mr. Higgins in composing evidentiary material related to the Code of Silence for Mr. Higgins' February 19, 2019 Meeting with Chicago Inspector General investigator Ken Unterberg.
- 11.) In March of 2019, my firm was retained by Mr. Higgins to create a video outlining the relationship between the City and Mr. Klaczak. This video was completed and uploaded to a YouTube channel- *What About The Children Rahm* on April 3, 2019.
- 12.) The week of April 22, 2019, Next Wave assisted Mr. Higgins in composing evidentiary material related to the Code of Silence- Chicago Public Corruption. The Dayton Federal Bureau of Investigation wanted Mr. Higgins to present and turn over documented evidence (over 3000 pages) of Rahm Emanuel and others committing egregious acts related to the Transportation of Deceased Bodies contract. Mr. Higgins was scheduled to meet at the Dayton resident office of the FBI (7747 Clys Road Dayton, Ohio), on April 30, 2019 where agents from Chicago FBI would conduct an interview with Mr. Higgins.
- 13.) April 30, 2019, Mr. Higgins was arrested in Dayton, Ohio- FBI led "Culture of Corruption" dealing with elected officials within the City of Dayton, dubbed *Operation Demolished Integrity*.
- 14.) April 30, 2019, I attended the formal Department of Justice press conference, where the indictments for 4 individuals were read, including Mr. Higgins indictment for mail and wire fraud. I asked the United States Attorney Benjamin Glassman if he were "Only prosecuting black people" as the first round of DOJ indictments were all African American individuals. **EXHIBIT B- [www.corruptqmen.com](http://www.corruptqmen.com) VIDEO**
- 15.) I personally covered the case and attended the trial involving Mr. Higgins- ultimately ending in his conviction (jury trial) in January 2022.
- 16.) Upon Mr. Higgins' release from federal prison in February 2024, I resumed assisting him in his pursuit of accountability of elected officials within the City of Chicago.
- 17.) Mr. Higgins has shared numerous documents related to several companies that Mr. Klaczak operates and owns (through shell companies, hiding his identity), including a company called Paw Palace- a pet grooming/boarding business located at 2739 Glenwood Dyer Road in Lynwood, Illinois. This address is also the private residence of Mr. Klaczak and another convicted sexual predator Stacy Gorgas (convicted in Florida in 2000). **EXHIBIT C- KLACZAK/GORGAS PREDATOR REGISTRY**
- 18.) During several meetings with Mr. Higgins, I learned that Illiana Christian High School in Dyer, Indiana was sending students, in school sanctioned events, to volunteer at Klaczak's property- caring for dogs at Paw Palace. **EXHIBIT D- FACEBOOK POST(S)- ILLIANA STUDENTS VOLUNTEERING ON KLACZAK PROPERTY**
- 19.) On September 3, 2024, after careful consideration of my moral responsibility, I elected to contact Illiana High School, to alert the administration that its students were participating in school sanctioned field trip(s) to the property of Mr. Klaczak and Mr. Gorgas. **EXHIBIT E- TRANSCRIPT OF CALL**

- 20.) I spoke at length with an Illiana High School staffer, who asked several questions related to how I had obtained information about the school's relationship with Mr. Klaczak and Paw Palace. I directed them to the site that was created on Mr. Higgins behalf. The staffer informed me that she would pass this information along.
- 21.) On September 4, 2024, I received a call from Sara Johnson Missions Director at Illiana High School, along with others; to include the schools resource officer. I was asked a series of questions related to Mr. Klaczak and how I had obtained this information about Mr. Klaczak and his shell companies.
- 22.) I explained that Mr. Higgins had been responsible for the Transportation of Deceased Bodies for the City of Chicago from 2004-2011; however, Mr. Klaczak's company was awarded the duties in September 2011. After the lengthy conversation, I was assured that the school would not send [any] more students to the property of Paw Palace as long as Mr. Klaczak and Mr. Gorgas were affiliated with the business. EXHIBIT F- TRANSCRIPT OF CALL

Further Affiant Sayeth Naught.



DAVID ESRATI

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial Seal at Montgomery County, Ohio, on this 15 day of July, 2025.



Alexis White  
Notary Public, State of Ohio  
My Commission Expires 03-12-2028



Notary Public

# Code of Silence Exhibit A



DEPARTMENT OF PROCUREMENT SERVICES  
CITY OF CHICAGO

MAY 08 2014

John Klaczak  
Allied Services Group, Inc.  
14150 S. Western Ave.  
Posen, IL 60469

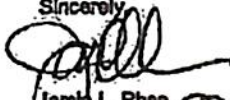
Subject: Transportation of Deceased Persons  
Specification Number: 78727  
Contract Number: 25160  
Modification Number: 90048  
Re: 365 Day-Time Extension

Dear Mr. Klaczak:

This is to advise you that the City of Chicago elects to extend the above-referenced Contract for 365 days under the same terms and conditions as the original Contract, all in accordance with the provisions in Article 4 Duration of Agreement, Section 4.3 entitled Agreement Extension Option. The extension will be effective September 1, 2014 through August 30, 2015. Your Agreement requires that you notify the City of any changes in ownership. Complete the online Economic Disclosure Statement (EDS) which includes a Disclosure of Retained Parties. Submit an electronically signed, one page EDS Certificate of Filing which validates that the EDS has been filed. Additionally, the Municipal Code of Chicago requires the disclosure of Familial Relationships with Elected City Officials and Department Heads. The web address to submit your EDS and Familial Relationships Disclosure is: <https://webapps.cityofchicago.org/EDSWeb>. Furthermore, transmit a current certificate of insurance naming the City of Chicago as an additional insured as required by your Agreement. Submit these documents within seven (7) calendar days of receipt of this letter.

If you have any questions concerning this matter, contact Larry L. Washington, Procurement Specialist at 312-744-8981, [larry.washington@cityofchicago.org](mailto:larry.washington@cityofchicago.org).

Sincerely,

  
Jamie L. Rhee  
Chief Procurement Officer  
JLR/lw

cc: File (Specification No. 78727)  
Monica Jimenez, Department of Procurement Services  
Zainab Adio-Saka, Department of Procurement Services  
Jero Medical Equipment Supplies  
C & O Auto Builders, Inc.  
Taylor Made Industries  
Joel Brown

121 N. DEARBORN AVENUE, ROOM 606 CHICAGO, ILLINOIS 60602

BH - 0041



DEPARTMENT OF PROCUREMENT SERVICES  
CITY OF CHICAGO

AUG 2 2 2011

Mr. John Stamps, President  
Allied Service Group, Inc.  
14150 Western Ave.  
Posen, IL 60469

Re: Notification of Award of Contract  
Specification No.: 78727  
Contract No.: 25150  
Contract Description: Transportation of Deceased Persons

Dear Mr. Stamps:

The City of Chicago is pleased to inform you that your firm has been awarded a thirty-six (36) month blanket agreement for 'Transportation of Deceased Persons' to be effective from September 1, 2011 through August 31, 2014. Attached please find a copy of the final Blanket agreement print. Please refer to the specification and contract numbers listed above when inquiring about the contract.

Please note that contracts are available for viewing and downloading on the City of Chicago's website: [www.cityofchicago.org/purchasing/](http://www.cityofchicago.org/purchasing/)

If you have any questions concerning this matter, please contact Larry L. Washington, Contract Administrator at 312-744-8981, [larry.washington@cityofchicago.org](mailto:larry.washington@cityofchicago.org), or in his absence Robert Kelly, Contract Negotiator, at 312-742-9473, [robert.kelly@cityofchicago.org](mailto:robert.kelly@cityofchicago.org).

Sincerely,



Jamie L. Rhee.  
Chief Procurement Officer

JLR/ilw

cc: File (Specification No. 78727)  
Molly Waller, CPD  
Larry L. Washington, DPS

PU000G - PO - DPS - Scheduled - DPS  
- Blanket - APSRPT.rep  
Run 06/27/2011 04:10 - Page 7 of 8

**CITY OF CHICAGO  
BLANKET PURCHASE ORDER**

**Original (DPS)**

Furnish the supplies and/or services described below in conformance with conditions set forth herein and in your offer.

DATE OF AWARD	DEPT #	PURCHASE ORDER	SPECIFICATION NUMBER	VENDOR NUMBER	SITE NAME	DELIVERY DATE	PO START DATE	PO END DATE	PAGE #
8/26/2011	57	25150	78727	54914034	A		9/1/2011	8/31/2014	1

**BUYER:**

50505 LARRY WASHINGTON 312-744-8981

**ORDERED FROM:**

ALLIED SERVICES GROUP, INC.  
14150 SOUTH WESTERN AVENUE  
POSEN, IL 60469

**PO DESCRIPTION: TRANSPORTATION OF DECEASED PERSONS**

**COMMODITY INFORMATION**

Line	Item	Item Description	UOM	Unit Cost
1	9618202515	TRANSPORTING DECEASED PERSONS - DRY RUN	Each	175.00
2	9618202124	TRANSPORTING DECEASED PERSONS - SINGLE	Each	350.00

Payment on this order will be made upon receipt of an original vendor invoice form referencing this order and associated Receipt(s). Submit the original invoice to the Office of the City Comptroller, Invoice Intake Division, 33 N. LaSalle, Room 700, Chicago, IL 60662.  
Mark all packages and papers with the purchase number. Any deliveries containing overshipments will be reflected unless otherwise authorized in this purchase. This purchase is subject to the City of Chicago General Conditions for Supplies, Work, or Professional Consulting Services; Special Conditions, Disclosures, Ownership, Acceptance Page, as applicable, which are attached hereto or incorporated herein by reference.


Code of Silence  
Exhibit B



<http://www.WhatAbouttheChildrenRahm.com>

# Code of Silence Exhibit C

Illinois Sex Offender Information	
Illinois Child Sex Offender	
Child Sex Offender Information	
<b>Name:</b>	JOHN W KLACZAK
<b>Date of Birth:</b>	7/23/1963
<b>Height:</b>	6 ft. 00 in. <b>Weight:</b> 243 lbs. <b>Sex:</b> M <b>Race:</b> W
<b>Address:</b>	2739 GLENWOOD DYER LYNWOOD , IL 60411
<b>Sexual Predator</b>	
Crime Information	
<b>VICTIM WAS 13 YEARS OF AGE</b>	
<b>OFFENDER WAS 35 AT THE TIME OF THE OFFENSE</b>	
<b>Crimes:</b>	AGGRAVATED CRIMINAL SEX ABUSE/VICTIM 13-18
<b>County of Conviction:</b>	COOK



**John W. Klaczak Sexual Predator**

**Florida Department of Law Enforcement - Sexual Offender / Predator Flyer**



**STACY MARK GORGAS**  
Date of Image : 10/16/2014

Primary Information	
<b>Designation :</b>	Sexual Offender
<b>Name :</b>	STACY MARK GORGAS
<b>Status :</b>	Released - Subject to Registration
<b>Dept of Correction# :</b>	Not Available
<b>Date Of Birth :</b>	09/26/1977
<b>Race :</b>	White
<b>Sex :</b>	Male
<b>Hair :</b>	Brown
<b>Eyes :</b>	Blue
<b>Height :</b>	5'09"
<b>Weight :</b>	208 lbs

STACY MARK GORGAS is a sexual offender under Florida law. Positive identification cannot be established unless a fingerprint comparison is made.

**Stacy M. Gorges Sexual Predator**

In the  
**United States Court of Appeals**  
**For the Seventh Circuit**

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No. 08-3766

STEPHEN J. WRAGG, JR.,

*Plaintiff-Appellant,*

*v.*

VILLAGE OF THORNTON, a municipal corporation,  
JOHN KLACZAK, individually and as a agent of  
Village of Thornton, and BOARD OF FIRE AND POLICE  
COMMISSIONERS OF THE VILLAGE OF THORNTON,

*Defendants-Appellees.*

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Appeal from the United States District Court  
for the Northern District of Illinois, Eastern Division.  
No. 02 C 7680—Robert M. Dow, Jr., *Judge.*

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ARGUED APRIL 5, 2010—DECIDED MAY 7, 2010

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Before EASTERBROOK, *Chief Judge*, and BAUER and  
WOOD, *Circuit Judges*.

BAUER, *Circuit Judge*. The Village of Thornton's fire  
chief John Klaczak molested Stephen Wragg, Jr., a sixteen-  
year-old in the Village's fire cadet program. Wragg  
sued the Village under 42 U.S.C. § 1983, asserting that

the Village violated his substantive due process rights under the Fourteenth Amendment by deliberately retaining Klaczak as fire chief despite knowledge of his prior improprieties with other minors. The district court granted summary judgment to the Village. We affirm.

### I. BACKGROUND

We begin our review of the district court's grant of summary judgment by reciting the factual background in the light most favorable to Wragg, construing all facts and reasonable inferences in his favor. *See, e.g., Ekstrand v. Sch. Dist. of Somerset*, 583 F.3d 972, 974 (7th Cir. 2009). We review only those facts whose substance would be admissible at trial under a form permitted by the Federal Rules of Evidence, although the form produced at summary judgment need not be admissible. *Celotex Corp. v. Catrett*, 477 U.S. 317, 324, 327 (1986); *Johnson v. Weld County, Colo.*, 594 F.3d 1202, 1209-10 (10th Cir. 2010); *Alexander v. CareSource*, 576 F.3d 551, 558-59 (6th Cir. 2009); *Macuba v. Deboer*, 193 F.3d 1316, 1323-24 (11th Cir. 1999). Neither party has suggested that the district court either considered evidence it shouldn't have or failed to consider evidence it should have, so we recite the facts as the district court has given them to us, *see, e.g., O'Neal v. City of Chicago*, 588 F.3d 406, 409 (7th Cir. 2009) ("[A]rguments not raised on appeal are waived."), and as we otherwise find them in the record.

The Village of Thornton is home to about 2,400 people and is organized under the Illinois Municipal Code, 65 Ill.

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Comp. Stat. 5, with six elected trustees and one elected president. At all times relevant to this appeal, the Village's president was Jack Swan.

President Swan learned in 1997 that the Village's police department had received a phone call from two anonymous parents claiming that Village police officer John Klaczak had molested their minor son. Five months later, Klaczak resigned his post as a police officer, seeking rehabilitation for cocaine addiction, a fact which Swan also learned.

Swan appointed Klaczak as the Village's fire chief in 1999. Later that year, Klaczak molested minor fire cadet Eric Bruinsma in a bathroom bar. During this act, another member of the fire department walked in on them. Klaczak molested Bruinsma on other occasions as well.

Stories of Klaczak's "propensity and his like for boys and oral sex and anal sex [and] booze parties" circulated throughout the fire department, R. 115-2 at 27, and on at least one occasion the stories were related to President Swan. *Id.* at 26-27. Fire department member Charlie Ryan once expressed to Swan that he should look into the fire cadet program, although he doesn't remember whether he asked Swan to investigate only Klaczak's hosting alcohol and drug parties that cadets attended, R. 115-3 at 36-39, or also "a rumor of [Klaczak] having sexual contact" with Bruinsma *Id.* at 79-80.

Klaczak molested Stephen Wragg in 2001, and was arrested about six months later; Swan removed Klaczak the same day he was arrested.

Wragg sued the Village (and others not relevant to this appeal) under 42 U.S.C. § 1983. He claimed that the Village deliberately retained Klaczak despite his known propensity to molest minors, and that the Village's deliberately indifferent employee retention policy caused a violation of Wragg's substantive due process rights.

The district court granted summary judgment to the Village, finding that the Village's final policymaker with respect to Klaczak's retention was the board of trustees, and that only one trustee had knowledge of Klaczak's sexual propensities. The court concluded that there could be no municipal liability for the isolated acts of only one member of a multi-member board. *Doe ex rel. Doe v. V. of T.*, No. 02-C-7680, 2008 WL 4450317, at \*\*7-8 (N.D. Ill. Sept. 30, 2008) (citing *Rasche v. Vill. of Beecher*, 336 F.3d 588, 601 (7th Cir. 2003)). Moreover, the district court found that even were President Swan the Village's final policymaker, Wragg could not show that Swan's inaction "rose to the level of deliberate or reckless indifference as is required for municipal liability." *Id.* at \*9.

## II. DISCUSSION

We review the district court's grant of summary judgment de novo. *Ekstrand*, 583 F.3d at 974. Summary judgment is proper if the pleadings, discovery materials, disclosures, and affidavits demonstrate no genuine issue of material fact such that the Village is entitled to judgment as a matter of law. Fed R. Civ. P. 56(c). We may affirm the district court's grant of summary judgment for any reason supported by the record. *See Capocy v.*

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*Kirtadze*, 183 F.3d 629, 632 (7th Cir. 1999); *Fairchild v. Forma Scientific, Inc.*, 147 F.3d 567, 577 (7th Cir. 1998).

The Fourteenth Amendment mandates that a state shall not “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend XIV. A state usually need not protect its citizens from “private actors,” *DeShaney v. Winnebago County Dept. of Soc. Servs.*, 489 U.S. 189, 195 (1989); cf. *Nabozny v. Podlesny*, 92 F.3d 446, 459 n.13 (7th Cir. 1996) (outlining factors indicating a custodial relationship in which states have an affirmative duty to protect from private actors), but it may not violate due process via one of its own actors. *Collins v. City of Harker Heights*, 503 U.S. 115, 126 (1992); *DeShaney*, 489 U.S. at 195; *Stoneking v. Bradford Area Sch. Dist.*, 882 F.2d 720, 723-24 (3d Cir. 1989). Klaczak was a governmental actor, not a private actor, as he undisputedly committed the abusive acts against Wragg in the line of his duty as fire chief. See Appellant’s Br. at 5-6. So Wragg had a substantive due process right not to be harmed by Klaczak. See *Stoneking*, 882 F.2d at 725 (citing *City of Canton v. Harris*, 489 U.S. 378 (1989)) (“Nothing in *DeShaney* suggests that state officials may escape liability arising from their policies maintained in deliberate indifference to actions taken by their subordinates.”).

The remainder of our inquiry concerns whether Klaczak’s violation of Wragg’s rights can impute liability to the Village. A village or other municipality may be found liable under § 1983 when it violates constitutional rights via an official policy or custom. *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658 (1978). (Or via a conspiracy, but

Wragg's evidence that a conspiracy occurred here is so lacking that we need not address it.) To establish an official policy or custom, a plaintiff must show that his constitutional injury was caused "by (1) the enforcement of an express policy of the [village], (2) a widespread practice that is so permanent and well settled as to constitute a custom or usage with the force of law, or (3) a person with final policymaking authority." *Latuszkin v. City of Chicago*, 250 F.3d 502, 504 (7th Cir. 2001) (citing *McCormick v. City of Chicago*, 230 F.3d 319, 324 (7th Cir. 2000)).

Wragg has pointed to no Village policy that was express. Nor has he established a practice so permanent, well-settled, and widespread as to constitute custom or usage, because the moving force behind Wragg's injury is at least as likely to be the Village's "one-time negligenc[e] . . . peculiar to" *Klaczak Bd. of County Comm'rs v. Brown*, 520 U.S. 397, 407-08 (1997) (citing *City of Canton*, 489 U.S. at 390-91); see also *Daniels v. Williams*, 474 U.S. 327, 328, 330 (1986) (finding that a denial of due process requires demonstrating a deprivation of liberty or property that is more than merely negligent); *Davidson v. Cannon*, 474 U.S. 344, 348 (1986) (same).

So Wragg is left with the third avenue of establishing municipal liability in which he must show that he was injured by a municipal official with "final policymaking authority." *City of St. Louis v. Prapotnik*, 485 U.S. 112, 123 (1988) (plurality opinion); *id.* at 142 (Brennan, J., concurring); *Latuszkin*, 250 F.3d at 504. Whether a particular official has final policymaking authority is a question of

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state law, *Jett v. Dallas Indep. Sch. Dist.*, 491 U.S. 701, 737 (1989) (citing *Prapotnik*, 485 U.S. at 123); *Rasche*, 336 F.3d at 600, including positive state law and “customs and practices having the force of [state] law.” *Valentino v. Vill. of S. Chicago Heights*, 575 F.3d 664, 676 (7th Cir. 2009).

The Village contends that neither in the district court nor here did Wragg present “any argument as to which individuals in the Village possess final policymaking authority,” *Doe*, 2008 WL 4450317, at \*7, and that therefore his *Monell* claim is waived. See, e.g., *Bus. Sys. Eng’g, Inc. v. Int’l Bus. Machs. Corp.*, 547 F.3d 882, 889 n. 3 (7th Cir. 2008) (“Arguments not raised before the district court are waived on appeal.”); *O’Neal*, 588 F.3d at 409 (“[A]rguments not raised on appeal are waived.”). Another way to interpret Wragg’s briefs, however, as he explained to us at oral argument, is that *all* the higher-ups he claims to have acted with deliberate indifference were final policymakers. We need not enter this debate about waiver because Wragg’s *Monell* claim fails for other reasons. But in any event, trying to accuse every Village official, as a strategy to establish municipal liability, is unhelpful; it distracts the parties and courts from focusing on the particular final policymaker whose actions are essential to the claim.

The district court found conclusively that the final policymaker on the decision to retain Klaczak was the board of trustees. In *Rasche* we held that the board of trustees was the final policymaker “concerning zoning policy and enforcement.” 336 F.3d at 600 (citing 65 Ill. Comp. Stat. 5/11-13-1). And we stated, “Generally, . . . the

policymaking authority in the city structure will be the city council, or here, the Board of Trustees." *Id.* at 601 (emphasis added) (citing *Auriemma v. Rice*, 957 F.2d 397, 399-400 (7th Cir. 1992)). But to cite *Rasche* for the proposition that the board of trustees, not the president, is the final policymaker on *every* policy decision is to miss the fact that we look to various factors in determining whether a certain individual or group has policymaking authority on any *particular* policy decision. They are: (1) lack of "constrain[ts] by policies" made by others; (2) lack of "meaningful review"; and (3) a "grant of authority" to make the policy decision. *Valentino*, 575 F.3d at 676, 677-78 (finding that the mayor, not the board of trustees, had final policymaking authority to hire and fire employees); see *Prapotnik*, 485 U.S. at 123; *Randle v. City of Aurora*, 69 F.3d 441, 448, 450 (10th Cir. 1995) (finding an issue of fact as to whether individual city officials or the city council had final policymaking authority in the area of personnel matters).

Although the board of trustees had final power to *appoint* and *remove* appointed officers, 65 Ill. Comp. Stat. 5/3.1-30-5, 35-10, there remains an issue of fact as to whether only President Swan had final power to *retain* appointed officers he had not removed. Swan's decision to retain Klaczak by not removing him was solely within his authority, 65 Ill. Comp. Stat. 5/3.1-35-10, and not subject to meaningful review. *Id.* So whether Swan had the final power to retain Klaczak turns on whether his non-removal of Klaczak was constrained by any policy made by others. *Prapotnik*, 485 U.S. at 123; *Valentino*, 575 F.3d at 676.

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We cannot tell from the record whether Swan was so constrained by the Village's policy against sexual harassment. *Cf. Auriemma*, 957 F.2d at 399 (finding that the city's anti-discrimination policy constrained executive action "unequivocally"). The policy states that those found to be offenders will face "appropriate disciplinary action," not necessarily removal. R. 99-3 at 2. Moreover, the Village does not argue that the policy required Swan to actively investigate Klaczak's behavior in lieu of retaining him. Nor can we tell from the written policy whether the duty to investigate fell on Swan or some other official(s) or whether such a duty was triggered by the information Swan received. *See id.* (requiring "the Village" to investigate "sexual harassment complaints"). If the Village's sexual harassment policy imposed a duty on Swan to investigate Klaczak after receiving the information he had learned, then the policy's enactor, the board of trustees, was the Village's final policymaker on the decision to retain Klaczak. If it imposed no such duty, Swan was thus unconstrained, so he was the final policymaker. *Prapotnik*, 485 U.S. at 123; *Valentino*, 575 F.3d at 676.

In any event, Wragg's claim fails. Wragg presents no evidence from which a reasonable jury could find that either the board of trustees or Swan *knew* that maintaining Klaczak in employment would pose a "substantial risk" of a constitutional violation. *Frake v. City of Chicago*, 210 F.3d 779, 782 (7th Cir. 2000); *see Bd. of County Comm'rs*, 520 U.S. at 407 (finding that municipal liability attaches only where the final policymaker acts "with deliberate indifference as to . . . known or obvious

consequences”) (internal quotation marks omitted); *Riccardo v. Rausch*, 375 F.3d 521, 526 (7th Cir. 2004) (noting that the “deliberate indifference” standard requires “subjective awareness. . . . It is not enough that the [defendant] ought to have recognized the risk.”) (emphasis in original).

As to the board of trustees, we agree with the district court that there can be no municipal liability for the isolated acts of only one member of a multi-member board. See *Mason v. Vill. of El Portal*, 240 F.3d 1337, 1340 (11th Cir. 2001); *Church v. City of Huntsville*, 30 F.3d 1332, 1343 (11th Cir. 1994). Wragg presents evidence relevant to the knowledge only of one trustee, and makes no effort to impute knowledge of Klaczak’s prior misbehavior to a quorum of the board. Such evidence is insufficient to find inaction by the board giving rise to the Village’s liability.

As to Swan, no reasonable jury could find that he acted with such knowledgeable, deliberate indifference that the Village could be liable for his inaction. Swan encountered various storm warnings about Klaczak, but none sufficiently alerted Swan such that Klaczak’s propensity to molest minors could be found “known or obvious” to him. *Bd. of County Comm’rs*, 520 U.S. at 407.

First, Swan heard about a complaint that Klaczak had molested a child while Klaczak was on the police force, but the parents remained anonymous, provided no specifics, and enabled no investigation. Cf. *Jones v. City of Chicago*, 787 F.2d 200, 207 (7th Cir. 1986) (finding no deliberate indifference where the city doubly inves-

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tigated a prior complaint). No reasonable jury could find that the anonymous parents' unsubstantiated accusation made Klaczak's tendencies known or obvious to Swan, who testified that he knew Klaczak his whole life, disbelieved that Klaczak was a child molester, and was unaware of any sexual misconduct between Klaczak and the Village's fire cadets until Klaczak was arrested.

Second, Swan witnessed various fire department members commenting to each other on Klaczak's propensity to molest young boys. But numerous witnesses testified that such stories circulated about other fire department members as well, and that the stories were generally understood to be nothing but banter, cruel humor, and typical firehouse antics. Wragg makes no effort to rebut this testimony, and so again no reasonable jury could find that Swan was actually aware of Klaczak's tendencies.

Third, Swan might have heard from Ryan that Klaczak engaged in sexual contact with cadets—Ryan doesn't recall whether he told Swan. *Compare* R. 115-3 at 36-39 *with id.* at 79-80. Moreover, Ryan admits that the basis of his knowledge of Klaczak's sexual misconduct was only "through rumors." *Id.* at 35:12-18. Ryan's deposition testimony is both too "ambiguous" and too "speculative" as to whether Swan actually knew about Klaczak's sexual misconduct, such that it cannot defeat summary judgment. *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 595 (1986).

Finally, Swan heard from Ryan about Klaczak's alcohol and drug-related misbehavior with cadets. However,

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Swan's knowledge of Klaczak's alcohol and drug-related misbehavior with cadets, coupled with his knowledge of Klaczak's prior cocaine addiction, do not give rise even to speculation about sexual misconduct, which is unrelated.

### III. CONCLUSION

The Village is not liable for retaining Klaczak because: (1) a quorum of the Village's board of trustees had no knowledge of his prior sexual misconduct; and (2) even if the Village's policy against sexual harassment lacked the teeth to constrain President Swan such that he wielded the Village's ultimate power to retain Klaczak, Wragg presented insufficient evidence for a reasonable jury to find that Swan knew that retaining Klaczak posed a substantial risk to Wragg. Swan might have acted negligently, but Wragg presented insufficient evidence to find that he acted more culpably as is required to find liability against the Village. Therefore, we AFFIRM.

# Code of Silence Exhibit D



**Illiana Christian High School Students at Paw Palace  
Lynwood, Illinois**



**Illiana Christian High School Counselor Mr. Zandstra at Paw Palace  
Lynwood, Illinois**



**Unidentified Law Enforcement Officer Working K-9 with Illiana Christian High School Students at Paw Palace Lynwood, Illinois**



**Illiana Christian High School Students at Paw Palace Lynwood, Illinois**



**Illiana Christian High School Students at Paw Palace  
Lynwood, Illinois**



**Illiana Christian High School Students at Paw Palace Lynwood, Illinois**



**Illiana Christian High School Counselor Mr. Zandstra at Paw Palace Lynwood, Illinois**



**Illiana Christian High School Students at Paw Palace Lynwood, Illinois**



**Illiana Christian High School Students at Paw Palace Lynwood, Illinois**



**Illiana Christian High School Students at Paw Palace Lynwood, Illinois**



**Illiana Christian High School Student at Paw Palace Lynwood,  
Illinois**

# Code of Silence Exhibit E



## ❖ Easy Read Transcript

This cleaned-up version omits filler words and extraneous conversation. Content may differ slightly from the unmodified transcript.

**Participants:** Saint John In, David Esrati, David Esrati (224-222-2222)

**Date/time:** Sep 3, 2024 at 5:00-5:15 PM EDT · Duration: 14m 47s

**Saint John In:**  
(219) 226-6301

Thank you for calling Illiana Christian High School. If you know your party's extension, dial it anytime. For the main office or to report an absence, press one. For questions about tuition, press two.

[after extension is pressed]

**Shelly:** Thank you for calling. This is Shelly. How can I help you?

**David Esrati:**  
Hi, is your principal available by any chance, or someone in that position?

**Saint John In:**  
He is, but may I ask what this is regarding?

**David Esrati:**  
I'm an independent journalist, and I've been following this story for a while. Yesterday, I found out that students might volunteer at a place where a registered sex offender lives.

**Saint John In:**  
At a place where one lives? Okay.

**David Esrati:**  
And he's involved in the business that they're working with. I'd rather talk to someone further up the chain, but I don't know what to do. If I wait and gather all this information to show you, I'm basically accusing the guy. But if I don't tell you, you won't investigate yourself.

**Saint John In:**  
Okay. What? No, no, no, I completely understand if you're stuck in the middle.

**David Esrati:**  
Someone could be abused, and I'm not happy about the situation.

**Saint John In:**  
No, no, no, I understand. You're stuck between a rock and a hard place. Unfortunately, the principal is in a meeting right now, and no one else is here. So, I'm the only person available at this time.

**David Esrati:**  
Yeah. I'll give you my number. It's 937-228-4433, extension two.

**Saint John In:**  
Yes, Gabriel.

**David Esrati:**  
Do you have a Mr. Gabriel as well? He took his students to this place called PA Powers and Lynwood

**Saint John In:**

Yes, okay. Are you talking about, okay, got it. Okay, perfect. Yes, keep going.

**David Esrati:**

There are two individuals. If you look them up as registered sex offenders, one is in Illinois. His name is John.

**Saint John In:**

Mm-hmm. How did you spell that?

**David Esrati:**

K-L-A-C-Z-A-K. I don't have all my notes with me right now.

**Saint John In:**

C-Z-A-K, or something like that?

**David Esrati:**

Yes.

**Saint John In:**

Okay.

**David Esrati:**

He's a registered sex offender in Illinois. He used to be an assistant fire chief and was caught molesting teens in the fire cadet program. This goes back to around 2005 or 2006. If you type in "John Clay Czak," you'll find information about him.

**Saint John In:**

Okay. No, no, no, you're fine. I'm looking it up.

**David Esrati:**

I'm spelling it wrong because I'm under pressure.

**Saint John In:**

Oh, I got it. Right. K-L-A-C-Z-A-K. Yes.

**David Esrati:**

You'll find that. He owns several companies and is registered and lives at 2739 Glenwood Dyer Road. He's non-compliant currently. The other one is from Florida.

**Saint John In:**

C-Z-A-K, yes.

**David Esrati:**

His name is Stacy Gorgas.

**Saint John In:**

What's the first name again? Stacy?

**David Esrati:**

Stacy.

**Saint John In:**

And?

**David Esrati:**

Garza. I'm doing this all from memory right now because I have too many things. G-O-R-G-A-S.

**Saint John In:**

Okay. Yes.

**David Esrati:**

All this information is located at the same address. There's a lake, a pool, and several shell companies. It seems like there's a lot of hiding behind these companies.

The Chicago Police Department was notified about this individual back in 2008 or 2009, and despite this information, they still awarded him a contract to collect deceased bodies in Chicago.

**Saint John In:**

Okay.

**David Esrati:**

It's likely because he paid a bribe to the alderman who is now presenting Edmond Burt.

**Saint John In:**

Okay, yes.

**David Esrati:**

I'm not prepared to handle all of this information, but it's all over your Facebook feed on September 28, 2023. These kids were at this location, and the post says that if they're supervised, it's okay for them to be around a sex offender. He has other people with different companies, but he runs a dog training service and also trains police dogs.

**Saint John In:**

Okay, but I might have my school resource officers look into this.

**David Esrati:**

This is just insane, and I can't understand how this has been going on for so long. There's an article about him in the Gorgas local police FOP journal. He has a company that cleans places where dead bodies are found, essentially crime scene cleanups. He's also listed at that address, which has six businesses registered to it.

**Saint John In:**

Okay.

**David Esrati:**

The crazy part is that they've been connected since at least 2004 or 2008. They've created these shell companies. There's a guy named Dan Newton. In these documents, they created a fake company with John Stamps, Charles Feld, Joseph McGowan, Dan, and Wanda Won-daal to get this contract with Chicago. They're all involved in this together.

They claimed their CFO was a guy who is the registered agent for about a hundred different businesses. His name is Mohammad Abo. I'm trying to process all of this information, but if I don't do something and just sit here and wait, I'd feel terrible if something happened.

**Saint John In:**

Right.

**David Esrati:**

So, I don't know what to do. The person who gave me all this information just said, "Start the ball rolling," and I was shocked. Going to the police won't work because he already has a contract with the Chicago Police Department. How did this happen?

**Saint John In:**

Right.

He's listed as a cleaning specialist. How did he pass the background check unless, like you said, he paid off someone? The address is 739 Glenwood Dier Road.

**David Esrati:**

Well, a \$20,000 bribe. Did you get that right?

~ . . . . .

**Saint John In:**

Okay, because it says the cleaning specialist is located at 739 Glenwood Dier Road.

**David Esrati:**

That's a different address. He has another company called Allied Services, Inc. They're all shell companies with different names. There are several different ones, including Pau Sake Rescue, which has another guy with a different name.

**Saint John In:**

Okay.

**David Esrati:**

Again, he has a different registered agent, but John Clay is the president at 2739 Glenwood Dier Road. I have all of this information from the business entity search from the Secretary of State. I also have the property tax information. It's in the shell company for Bank Registered Agent Mohammad Abaco. It's all the same players playing these games.

**Saint John In:**

Okay.

So you're saying he's not registered and should be?

**David Esrati:**

Yes, that's what this shows. If you look at the sex offender page for the state of Illinois, he's listed as non-compliant, which means he hasn't checked in to update his information.

**David Esrati (224-222-2222):**

Regarding the status of the individual at [illinoisdoit.sisp.illinois.gov](http://illinoisdoit.sisp.illinois.gov), the details show non-compliance as of September 24, 2024. He failed to maintain accurate registration records as required by law. The pictures are still from 2007.

**Saint John In:**

Okay.

**David Esrati (224-222-2222):**

He was convicted in Cook County of aggravated criminal sexual abuse of a victim aged thirteen to eighteen. The offender was 35 at the time of the offense, and the victim was thirteen years old.

**Saint John In:**

Okay.

**David Esrati (224-222-2222):**

The individual's name is John W. Lis, and his address is 2739 Glenwood Drive Road.

**Saint John In:**

Okay.

**David Esrati (224-222-2222):**

Another individual, Stacy Mark Gorgas, who runs CSI, is also a registered sex offender. He's from Florida and was released subject to registration. His last reported address was in Lynwood, Illinois, Cook County. His sex offense, criminal sexual assault, occurred in Rock Island, Illinois, in December 2000. There's a link there, but he's the one running that CSI business at the same address. I don't understand why he's not in the Illinois registry.

**Saint John In:**

I'm looking him up now. I found Stacy Gorgas in Lynwood. Let me see if I can find more information.

**David Esrati (224-222-2222):**

You'll find a newspaper article about him owning CSI. It's a positive piece.

**Saint John In:**

Okay. I'll definitely look into it.

**David Esrati (224-222-2222):**

They're also training police dogs. I understand that sex offenders are allowed to continue with their lives, but they shouldn't be allowed to have kids, especially teenagers, coming to their facility without anyone knowing about their past.

**Saint John In:**

Right. Without disclosing that information. Okay, I'll definitely look into it.

**David Esrati (224-222-2222):**

My name is David Roddy. My blog is esrati.com. I mostly write about dating and relationships, but there's a connection between dating, Chicago, and an FBI investigation that started this whole thing rolling. I just found this out yesterday and called you today because you weren't there yesterday.

**Saint John In:**

Okay, I understand. Thank you for bringing this to my attention. We'll look into it.

**David Esrati (224-222-2222):**

Thank you.

**Saint John In:**

You're welcome. Bye-bye.

**David Esrati (224-222-2222):**

Bye-bye.

# Code of Silence Exhibit F



## 🔗 Easy Read Transcript

This cleaned-up version omits filler words and extraneous conversation. Content may differ slightly from the unmodified transcript.

**Participants:** David Esrati, David Esrati (215) 999-9999, Sarah Johnson, David Esrati (+123456789), Saint John In

**Date/time:** Sep 4, 2024 at 3:09–3:24 PM EDT · Duration: 15m 55s

**David Esrati:**

Hi, this is David from Next Wave. How can I help you?

**Sarah Johnson:**

Hi David, I'm Sarah Johnson, the director of missions at Illana Christian High School. Shelly mentioned that you called yesterday about Papers, an organization we volunteered with in the past. I'm following up with some questions, and I have our school resource officer, David, here with me. We want to make sure we're doing everything correctly.

**David Esrati:**

Hi David.

Okay, I don't know what "everything correctly" means.

**Sarah Johnson:**

Yeah, we don't either.

**David Esrati:**

I'm not comfortable proceeding until I have all the necessary information.

**Sarah Johnson:**

Okay.

**David Esrati:**

I'm investigating shell companies, contracts, and various companies involved. At the center of it all are two registered sex offenders who, according to the websites, are non-compliant.

**Sarah Johnson:**

Yes, right. Can you tell me more about what you do, David? What is your company, Next Wave, about?

**David Esrati:**

I own an ad agency, but I'm also a political activist in Dayton, Ohio. Since 2005, I've been running a blog called roddre.com.

**Sarah Johnson:**

Okay.

**David Esrati:**

I've covered various corruption stories. For instance, I exposed a school board member who didn't live in the district, leading to their resignation. I also revealed the pepper spraying of inmates and restraint chairs in the jail, which the sheriff initially claimed happened only once. These investigations led to a press conference in 2019 by the Department of Justice, FBI, and state attorney general regarding four blackmail cases. Three of the individuals involved were elected or formerly elected officials, and the fourth is a client and friend of mine, a former prosecutor

former prosecutor.

They identified these individuals as the center of a culture of corruption.

**Sarah Johnson:**

Okay.

**David Esrati:**

I understand the culture of corruption in Dayton and what's going on. During the press conference, I was the first to ask a question. I pointed out that \$130 million had disappeared without anyone being held accountable, yet they were focusing on a case involving less than \$50,200 and indicting only Black men. I asked if they only targeted Black men, and the official's expression changed significantly.

**Sarah Johnson:**

Wow, that must have elicited a strong response.

**David Esrati:**

Yes, it did. Later that day, two more Black individuals and a white contractor, who is at the heart of all this, were indicted. This contractor is involved in demolition work and received a \$15,000 fine, which is a slap on the wrist considering the tens of millions of dollars he's received in demolition contracts.

One city commissioner had a \$40,000 patio built for him and received a year in prison, which was shortened due to COVID. Surprisingly, the one who served a three-year sentence, spending a year and a half in prison, was my friend.

**Sarah Johnson:**

Your friend?

**David Esrati:**

Yes, my friend. The night before his sentencing, we were working on information he planned to share with the Department of Justice about sex offenders in Chicago, where he used to have a contract to collect dead bodies.

**Sarah Johnson:**

Dead bodies of people or animals?

**David Esrati:**

People, dead people. My friend, Brian, lost his license and contract to collect dead bodies in Chicago around 2009 or 2010 because he refused to pay off Ed Burke.

**David Esrati (215) 999-9999:**

I've seen the bid documents and some of the protest documents. John Plaza, who got the contract, was hired by John Stamps. If you go to the website [whataboutthechildrenramrahm.com](http://whataboutthechildrenramrahm.com), you can see the video we put together explaining a lot of this and some of Brian's other stuff.

**Saint John In:**

Okay.

**David Esrati (215) 999-9999:**

We put that up a couple of months before they indicted these guys.

**Saint John In:**

Is that Joe CS, the owner of that company?

**David Esrati (215) 999-9999:**

He's the owner. It's questionable who owns Allied Services, which has the contract. But he's the owner or agent of the shell company that owns the property.

**Saint John In:**

We looked that up today.

**David Esrati (215) 999-9999:**

They put together a fraudulent business to bid on this. Multiple people were involved. They claimed to have experience picking up bodies. John Stamps didn't. He had a construction company. They had this woman, Thea Taylor, and some other people involved.

Brian Gans has a lot of tax liens and went to prison for mail fraud. I sat through the whole trial and watched how the feds left out a bunch of details. They prosecuted him for mail fraud because an insurance company thought they were defrauded on an insurance claim. That's a civil court matter, not a federal criminal court matter.

**Saint John In:**

Okay.

**David Esrati (215) 999-9999:**

Brian introduced these fake company guys to these public officials, and they all set up a company to do demolition on their own. It was fraudulent. They thought they'd make millions of dollars because the other guy had made millions of dollars. They got one contract and screwed it up.

Brian had investigators on Plaza when he still had money. Claire got caught in 2005. He was a deputy fire chief and molested some of the kids in the program. It was a young firefighters program.

Gorgas, on the other hand, shows up in county work. If you search "Clay sex of Fi, a fire chief guilty," you'll find the story from 2005. I don't remember the name. I've got all these records, I just don't remember. It's in the video on that site I told you about.

**Saint John In:**

Okay.

**David Esrati (215) 999-9999:**

We're working on another video.

**David Esrati (+123456789):**

On Monday, we're discussing a new video. The DOJ and FBI were called out by senators after the incidents at the University of Michigan and the gym, Ness. The DOJ stated they would swiftly pursue any known sex offenders, yet Brian had access to 3,000 pages of documents showing Clay, a sex offender, entering people's homes to pick up their loved ones.

**Saint John In:**

What's his connection to the Pa Palace?

**David Esrati (+123456789):**

He's a dog trainer. The Paul Palace is on the same property as the CSI firm run by Stacy Gorgas, also a sex offender. Lasa lives there, and we believe the Pa Palace is a front. They also have a non-profit shelter where they have children come to the property to help clean cages and care for dogs. These individuals should not be within 500 feet of a school.

**Saint John In:**

That's enough for us not to go back there. Thank you for the information. How did you connect us to them?

**David Esrati (+123456789):**

I saw you tagged the Pa Palace on your Facebook page when we were looking into them.

**Saint John In:**

That's helpful. We appreciate the work you're doing.

**David Esrati (+123456789):**

I don't know if this will lead anywhere or if I can build a solid case or embarrass the FBI and DOJ for their inaction. But if I were you, I wouldn't have any children on that property. I plan to contact the local police departments and the local newspaper once I compile all the information. I'm short-staffed right now. so I

haven't had time to do so.

**Saint John In:**

We won't send kids there again. The information you provided is all we needed. None of the people you mentioned were there on our service day, but we can't send kids there in good conscience.

**David Esrati (+123456789):**

I understand. I don't know if these sex offenders were there when your kids visited, but if children have a positive experience on that property, they might return on their own outside of school.

**Saint John In:**

That's the worst part.

**David Esrati:**

The part I can't control is, if it were up to me, I'd have a sign at the entrance of the driveway saying, "Registered sex offender lives here, and another registered sex offender runs this business out of here. No child should ever be allowed on this property without adult supervision, period."

**Saint John In:**

Yes, I agree. Well, thank you so much, David. We appreciate your time and talking to us today. You have my word that no more Illiana groups will go there until these men are no longer there.

**David Esrati:**

I would make sure that no kids have had any negative experiences there.

**Saint John In:**

Yes, I did that too. I already reached out to the teacher that went there.

**David Esrati:**

And I would also like... you know, what happens when the first kid comes out and says he was molested by this guy and it started when he went there with his school group? The whole thing blows up.

**Saint John In:**

Yes, yes. Well, thank you again, David. I will follow all the necessary paths with this.

**David Esrati:**

I'm sorry to be the bearer of bad news.

**Saint John In:**

No, I'm not sorry at all. I'm glad you called.

**David Esrati:**

I know this is a lot of work and a distraction from what you're supposed to be doing, but it's all about the safety of the kids.

**Saint John In:**

Absolutely, and there's no amount of work that's too much for that.

**David Esrati:**

Okay, well, thank you and good luck. You too. Bye-bye.

**Saint John In:**

Alright, you have a great day David. Bye-bye.

# **EXHIBIT B**

**2255 MOTION**

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>	District	<b>Southern District of Ohio Western Division</b>
Name <i>(under which you were convicted)</i> : <b>Brian Higgins</b>		Docket or Case No.: <b>3:18-cr-00186</b>
Place of Confinement: <b>Supervised Release</b>		Prisoner No.: <b>78259-061</b>
<b>UNITED STATES OF AMERICA</b>		Movant <i>(include name under which convicted)</i> <b>Brian Higgins</b>
V.		

MOTION

**FILED**

1. (a) Name and location of court which entered the judgment of conviction you are challenging:

**AUG 22 2025**

Southern District of Ohio Western Division

Richard W. Nagel  
Clerk of Court, Dayton OH

(b) Criminal docket or case number (if you know): 3:18-cr-00186

2. (a) Date of the judgment of conviction (if you know): May 25, 2022

(b) Date of sentencing: May 25, 2022

3. Length of sentence: 36 Months

4. Nature of crime (all counts):

Mail Fraud (3), Witness Retaliation (2)

5. (a) What was your plea? (Check one)

(1) Not guilty

(2) Guilty

(3) Nolo contendere (no contest)

6. (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

6. If you went to trial, what kind of trial did you have? (Check one)

Jury

Judge only

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes

No

8. Did you appeal from the judgment of conviction? Yes  No

9. If you did appeal, answer the following:

(a) Name of court: U.S. Court of Appeals for the Sixth Circuit

(b) Docket or case number (if you know): 22-3538

(c) Result: Affirm Convictions - Vacate and Remanded Restitution

(d) Date of result (if you know): 10/6/2023

(e) Citation to the case (if you know): \_\_\_\_\_

(f) Grounds raised:

- Sixth Amendment Right Violated - Counsel Motion to Withdraw
- Court Abused Its Discretion - Refused Expert Funds
- Court Abused Its Discretion - Limiting/Excluding Expert Testimony
- Court Errored by Admitting Inadmissible Recorded Statements (403/404)
- Cumulative Effect of Errors - Violation of Due Process
- Court Violated Sixth Amendment - Impartial Jury Selection
- Court Miscalculated Restitution - Wrong Method Calculation

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes  No

If "Yes," answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation to the case (if you know): \_\_\_\_\_

(5) Grounds raised:

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes  No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: U.S. Southern District of Ohio Western Division

(2) Docket or case number (if you know): 3:18-cr-00186

(3) Date of filing (if you know): 2/16/2024

(4) Nature of the proceeding: 2255 \_\_\_\_\_

(5) Grounds raised:

- Ineffective Assistance of Counsel
- Prosecutorial Misconduct (Brady Violation)
- Vindictive Prosecution

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes  No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket of case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes  No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes  No

(2) Second petition: Yes  No

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:  
District Court Ruling

- 12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** Assistant United States Attorney Brent Tabacchi led government witnesses to commit perjury (Subornation of Perjury) while testifying in my criminal trial.

---

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):  
On Direct Examination of the governments witness Michael Marshall, AUSA Tabacchi stated the following:

"In or around early 2014 did the FBI approach you...without getting into the details of what they approached you about..but did the FBI approach you and ask for information about a certain investigation?"

Mr. Marshall responded, "Yes."

AUSA Tabacchi then asked, "And did the FBI at [a]ny point when they approached you threaten to prosecute you for a crime?"

Mr. Marshall responded, "No."

AUSA Tabacchi then followed up asking, "Did they ever indicate that you had charges hanging over your head that you had to work off?"

Mr. Marshall responded, "No."

---

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

Recently discovered information shows that Assistant United States Attorney knew that Marshall's testimony was false. SEE KEPPLER AFFIDAVIT EXHIBIT A- "It should be noted that CHS-5 (Marshall) and CHS-8 (UKN) agreed to cooperate to minimize their individual exposure...in a scheme to defraud local government entities."

---

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes  No

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

---

(3) Did you receive a hearing on your motion, petition, or application?

Yes  No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes  No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes  No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

FBI Special Agent Lance Kepple filed a 2015 affidavit to U.S. Magistrate Sharon Ovington, which was not know to the defense, nor did AUSA Tabacchi turn it over in discovery in the criminal case 3:18-cr-00186.

**GROUND TWO:** Michael Marshall aka CHS-5 committed perjury while taking the stand in my criminal case. Mr. Marshall knew that his 2022 testimony as the governments key witness was false. FBI SA Kepple's September 14, 2015 clearly states that Marshall and others were working off potential charges.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE EXHIBITS: A - FBI SA LANCE KEPPLER 2015 WARRANT AFFIDAVIT

B - MICHAEL MARSHALL 2022 TRANSCRIPT

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

RECENTLY DISCOVERED MATERIAL

---

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes  No

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

---

(3) Did you receive a hearing on your motion, petition, or application?

Yes  No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes  No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes  No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

---

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

**GROUND THREE:** Ohio Organized Crime Investigations Commission agent Brent Kirkpatrick, serving as a FBI task force member committed perjury while taking the stand in my criminal case. Agent Kirkpatrick testified that Michael Marshall was [n]ot threatened with prosecution by the FBI for criminal activity.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE EXHIBIT C - AGENT KIRKPATRICK TESTIMONY

**(b) Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

RECENTLY DISCOVERED MATERIAL

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes  No

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes  No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes  No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes  No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

**GROUND FOUR:**

N/A

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

**(b) Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes  No

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes  No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes  No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes  No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

No grounds have been presented to this or any other court. This is recently discovered material that was disclosed to the defense.

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging?      Yes       No
- If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

- 
15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing:

N/A

---

(b) At the arraignment and plea:

Anthony Cicero 500 East Fifth Street Dayton, Ohio 45402

---

(c) At the trial:

Paul Laufman/Tamara Sack 4310 Hunt Road Cincinnati, Ohio 45242

---

(d) At sentencing:

Paul Laufman/Tamara Sack 4310 Hunt Road Cincinnati, Ohio 45242

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(e) On appeal:

University of Michigan Appellate Litigation Clinic Ann Arbor, Michigan 48109

---

(f) In any post-conviction proceeding:

2255 Filing Doc: 171 Filed on 2/16/2024

---

(g) On appeal from any ruling against you in a post-conviction proceeding:

N/A

- 
16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time?      Yes       No

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging?      Yes       No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

---

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future?      Yes       No

18. **TIMELINESS OF MOTION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\*

This filing is based upon new information that was recently discovered and not known to the defendant or counsel that represented the defendant. Only the Assistant United States Attorney and the witnesses in my criminal proceeding knew that they were giving false information to the jury.

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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief:

**VACATE THE JUDGEMENT HEREIN AND REFER THE MATTER BACK FOR A NEW TRIAL**

or any other relief to which movant may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on 8/22/2025.  
(month, date, year)

Executed (signed) on 8/22/2025 (date)

  
\_\_\_\_\_  
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

AO 106 (Rev. 04/10) Application for a Search Warrant

# UNITED STATES DISTRICT COURT

for the  
Southern District of Ohio

2015 SEP 14 11:11:19

In the Matter of the Search of  
*Briefly describe the property to be searched  
or identify the person by name and address.*  
1229 Sunnyview Avenue, Dayton, Ohio

Case No. 3:15mj-360

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *identify the person or describe the property to be searched and give its location.*

See Attachment A

located in the Southern District of Ohio, there is now concealed *identify the person or describe the property to be seized.*

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more):*

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. s. 666	(theft or bribery concerning programs receiving federal funds)

The application is based on these facts:

See Attached Affidavit of Special Agent Lance Kepple

- Continued on the attached sheet.
- Delayed notice of \_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

*Lance Kepple*  
Applicant's signature

Lance Kepple, Special Agent of the FBI

*Lance Kepple*  
Printed name and title

Sworn to before me and signed in my presence.

Date: 9-14-15

City and state: Dayton, Ohio

*Sharon L. Ovington*  
Judge's signature

Sharon L. Ovington, Chief US Magistrate Judge  
Printed name and title



EXHIBIT  
**A**

AFFIDAVIT

3:15mj-360

I, Lance R Kepple, being duly sworn, hereby state:

I.

INTRODUCTION

1. I am a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI"), United States Department of Justice, Cincinnati Division. I have been employed as a Special Agent with the FBI since September 1999. I have received training in organized crime, fraud, drug trafficking investigations and have participated in numerous related arrests and convictions, related surveillance, investigations involving the distribution of narcotics and conspiracy to distribute narcotics, money laundering offenses, supervised the activities of informants who have provided information and assistance which resulted in seizures, arrests, and convictions. Based on my training and experience, I am familiar with federal laws, and I am aware that it is a violation of federal law to commit bribery of public officials concerning programs receiving federal funds. Additionally, I have received training in the investigation and prosecution of public corruption offenses.

II.

PURPOSE OF THE AFFIDAVIT

2. I make this affidavit in support of an application for a warrant to search the following premises as there is probable cause to believe that evidence of a crime, contraband or fruits of a crime, and property designed for use, intended for use, or used in committing a crime - namely, violations of: 18 U.S.C. § 666 (theft or bribery concerning programs receiving federal funds) - exists and can be found at the following location:

a. The residence located at **1229 Sunnyview Avenue, Dayton, Ohio**, including any garages, vehicles, storage lockers, cabinets, sheds, closets or outbuildings at this location. 1229 Sunnyview Avenue, Dayton, Ohio is more fully described in Attachment A, and Attachment A is incorporated herein by reference.

3. This affidavit is intended to show that there is sufficient probable cause for the above-described search warrant and does not purport to set forth all of my knowledge of, or investigation into, this matter. The facts and information contained in this affidavit are based on my personal knowledge, my training and experience, my interviews of various witnesses, including law enforcement personnel who participated in the

investigation, and my review of certain records, documents, and audio-visual recordings. Moreover, the use of quotations to describe conversations herein either identify the actual words of the speaker or the interpretation of those words by law enforcement.

### III.

#### ITEMS TO BE SEIZED

4. A list of the specific items to be seized from the above-described premises is attached hereto as Attachment B, and Attachment B is incorporated herein by reference.

5. Based on my training and experience, as detailed above, I believe that there is probable cause to believe that the items listed in Attachment B will be found at the above-described premises.

### IV.

#### SUMMARY OF PROBABLE CAUSE

##### A. Introduction

6. With a population of approximately 141,527 as of the 2010 United States Census, the City of Dayton is a local political subdivision of the State of Ohio that receives annually millions of dollars in funding from the United States. For instance, based on information from the Ohio Auditor of

State, during 2012, the federal government provided the City of Dayton millions in federal funds, including: approximately \$23 million from the United States Department of Housing and Urban Development ("HUD"); approximately \$19.8 million from the United States Department of Transportation ("DOT"); and \$2.6 million from the United States Department of Justice. The United States provided the city with an additional \$28.8 million in funds during 2013, including approximately \$12.7 million from DOT and \$13.6 million from HUD. Although the Ohio State Auditor has not released its audit of the City of Dayton for 2014, the City Commission released a PowerPoint Presentation during January 2015 entitled: "Investing for Tomorrow: 2014 Investment Highlights City Manager's Recommended 2015 Investment Plan." According to this presentation, during 2014, the City of Dayton received approximately \$4.7 million in federal grants and \$1.4 million from HUD. During 2015, the presentation estimates that the City of Dayton will receive \$10.25 million in federal grants and \$1.8 million from HUD. Moreover, based on my training and experience, I know that city government's such as Dayton annually receive federal funding exceeding \$10,000.

7. Based on publicly available information, including the City of Dayton's own public website, a City Commission comprised of five members -- namely, the mayor (currently, Nan Whaley) and

four elected commissioners (currently, Joey Williams, Dean Lovelace, Matt Joseph, and Jeffrey Mims) -- governs the City of Dayton.

8. CityWide Development Corporation ("CityWide") is a non-profit entity that constitutes a component of the City of Dayton. According to the publicly available Independent Auditor's Report of the City of Dayton, prepared by Plattenburg & Associates, Inc., for the audit period January 1, 2013 through December 31, 2013, CityWide:

was established in 1972 as a private, non-profit development organization which supports the City in a number of ways - primarily as its development financing arm. CWDC's relationship with the City is established via its stated mission: fostering economic development through creating and retaining jobs for City residents, providing administrative support to assist in neighborhood development, increasing tax revenues, and improving the Dayton area economy. Because the City appoints all members of CWDC's Board of Trustees and is empowered to remove them at will, CWDC is a component unit of the City.

CityWide's public website further elaborates on its mission for the City of Dayton. In particular, "[o]ver the past three decades, CityWide has helped hundreds of businesses expand, renovate or open in Dayton. . . . CityWide has also participated in many programs and projects designed to strengthen Dayton's neighborhoods. These have involved the financing of the construction of new homes, the renovation of older homes and general home improvements." Given its role, CityWide routinely awards thousands of dollars in contracts to

private companies for the demolition of certain homes within the limits of the City of Dayton.

9. During early 2013, the FBI began investigating allegations that a Dayton-area businessman not only had engaged in fraud but also had bribed local officials in exchange for receiving federally funded demolition contracts in the Dayton metropolitan area. While investigating this matter, the FBI developed two Confidential Human Sources ("CHS"), identified hereinafter as CHS-5 and CHS-8. Operators of a private demolition company in the Dayton metropolitan area, CHS-5 and CHS-8 have proven reliable and have provided accurate, truthful information to the FBI in the past. For instance, the FBI has been able to verify from independent sources various statements and information that it has received from CHS-5 and CHS-8. ~~It should be noted that CHS-5 and CHS-8 both have agreed to cooperate with the FBI in part to minimize their individual exposure to potential criminal charges for their respective roles in a scheme to defraud local government entities. CHS-8 has sustained no criminal convictions. CHS-5 has been convicted of misdemeanor offenses in the state of Alaska during the 1980s. Additionally, CHS-5 and CHS-8 have received monetary payments from the FBI.~~

MARSHALL - DIRECT (Tabacchi)

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01:34:23 1 MR. TABACCHI: Your Honor, the United States would  
01:34:25 2 call Mike Marshall.

01:34:34 3 THE COURT: All right. Ladies and gentlemen, for  
01:34:35 4 your scheduling, or for my scheduling, however you want to  
01:34:40 5 look at it, we're going to go for about, till around -- we're  
01:34:46 6 going to try to split the afternoon for you. We're going to  
01:34:50 7 go till about 2:30, 2:45. Then we're going to break either at  
01:34:56 8 2:30 or 2:45, and then we are going to go on the rest of the  
01:35:00 9 way to 4 o'clock.

01:35:20 10 MICHAEL MARSHALL, PLAINTIFF'S WITNESS, SWORN

01:35:37 11 THE COURT: It's Mr. Marshall; is that correct?

01:35:40 12 THE WITNESS: Yes, sir.

01:35:40 13 THE COURT: All right. Mr. Marshall, you are behind  
01:35:42 14 Plexiglas. You are permitted to remove your mask, which I  
01:35:46 15 believe you already have done. Please try to keep your voice  
01:35:48 16 up so we can all hear your responses.

01:35:50 17 THE WITNESS: I will, Your Honor.

01:35:51 18 THE COURT: All right. You may inquire.

01:35:54 19 DIRECT EXAMINATION

01:35:55 20 BY MR. TABACCHI:

01:35:55 21 Q. Mr. Marshall, could you introduce yourself to the members  
01:35:57 22 of the jury?

01:35:58 23 A. Yes. Michael E. Marshall.

01:36:00 24 Q. Can you spell your first and last name?

01:36:02 25 A. M-I-C-H-A-E-L M-A-R-S-H-A-L-L.



MARSHALL - DIRECT (Tabacchi)

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01:36:08 1 Q. Mr. Marshall, can you tell the members of the jury a  
01:36:11 2 little bit about yourself? What's your background?  
01:36:13 3 A. I'm a contractor.  
01:36:14 4 Q. How long have you been in the contracting industry?  
01:36:16 5 A. Since I got out of the military.  
01:36:19 6 Q. And what years did you serve in the military?  
01:36:22 7 A. '84, '5, and '6.  
01:36:25 8 Q. You were, in fact, dishonorably discharged from the  
01:36:30 9 military?  
01:36:30 10 A. I was.  
01:36:30 11 Q. What was the basis of that dishonorable discharge?  
01:36:33 12 A. I purchased marijuana and was caught doing it.  
01:36:39 13 Q. Where have you done work as a contractor? And what I  
01:36:42 14 mean by that is what cities, what geographic area?  
01:36:46 15 A. Montgomery County, Cincinnati area.  
01:36:47 16 Q. In or around early 2014, did the FBI approach you --  
01:36:56 17 without getting into the details of what they approached you  
01:37:01 18 about -- but did the FBI approach you and ask for information  
01:37:05 19 about a certain investigation?  
01:37:07 20 A. Yes.  
01:37:08 21 Q. And did the FBI at any point when they approached you  
01:37:14 22 threaten to prosecute you for a crime?  
01:37:16 23 A. No.  
01:37:16 24 Q. Did they ever indicate that you had charges hanging over  
01:37:22 25 your head that you had to work off?

MARSHALL - DIRECT (Tabacchi)

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01:37:24 1 A. No.

01:37:24 2 Q. Did you agree to work as an informant for the FBI?

01:37:30 3 A. I did.

01:37:30 4 Q. And did you, as part of your agreeing to work with the

01:37:38 5 FBI, introduce them to an individual by the name of Scott

01:37:41 6 Waters?

01:37:41 7 A. I did.

01:37:42 8 Q. Who is Mr. Waters?

01:37:44 9 A. He was a friend, a coworker that he and I worked at

01:37:54 10 Steve Rauch, Incorporated, together.

01:37:57 11 Q. And did you also work in a business together in or around

01:38:01 12 the 2014 that you actually owned?

01:38:04 13 A. Yes.

01:38:04 14 Q. What was that business?

01:38:05 15 A. Demolition business.

01:38:07 16 Q. What was the name of it?

01:38:08 17 A. United Demolition.

01:38:10 18 Q. Now, during your time as an informant -- and, again,

01:38:18 19 without going into them -- did you work on a number of

01:38:21 20 investigations for the FBI?

01:38:22 21 A. Yes.

01:38:23 22 Q. And did you receive approximately about \$32,000 in

01:38:30 23 payments from the FBI for your work as an informant?

01:38:33 24 A. I did.

01:38:34 25 Q. Can you estimate how many hours that you worked on behalf

MARSHALL - DIRECT (Tabacchi)

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01:38:41 1 of the FBI?

01:38:44 2 A. 1,500, 2,000.

01:38:46 3 Q. And over how many years was that spread?

01:38:51 4 A. Five years.

01:38:52 5 Q. In or around August of 2014, did you meet Brian Higgins?

01:39:02 6 A. I did.

01:39:03 7 Q. Do you see Mr. Higgins here in the courtroom?

01:39:07 8 A. Yes.

01:39:07 9 Q. Okay. And can you describe what he's wearing?

01:39:10 10 A. A gray shirt, white face mask.

01:39:15 11 Q. When you met him in or around August of 2014, was that

01:39:19 12 the first time you had met him?

01:39:21 13 A. Yes.

01:39:21 14 Q. How was it that you came to meet Mr. Higgins?

01:39:24 15 A. We had a mutual friend, Robert Davis, and Brian had

01:39:31 16 a -- Robert called me and asked if I would assist Brian in

01:39:35 17 his residential insurance claim.

01:39:39 18 Q. And did you, in fact, meet with Mr. Higgins?

01:39:42 19 A. I did.

01:39:43 20 Q. Okay. At that time, when you went to meet with

01:39:46 21 Mr. Higgins, did you think that you were walking into a

01:39:51 22 situation where you might be stumbling upon some type of

01:39:58 23 criminal activity?

01:39:58 24 A. No.

01:39:59 25 Q. Did you have a recording device with you at that time?

KIRKPATRICK - DIRECT (Tabacchi)

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10:08:39 1 Q. So let's go back. Mr. Marshall had advised you of an  
10:08:53 2 alleged scheme. How is it that FBI developed Mr. Marshall as  
10:08:56 3 an informant? Sometimes we hear that people are flipped --  
10:09:01 4 well, I will just leave it at that.

10:09:02 5 How did FBI develop Mr. Marshall as an informant?

10:09:05 6 A. So as I explained earlier, there was another  
10:09:09 7 overarching investigation. Mr. Marshall was taking part in  
10:09:12 8 that investigation. We needed -- in that particular  
10:09:18 9 investigation we needed someone that had expertise in the  
10:09:20 10 area of excavation and demolition and had connections to  
10:09:25 11 individuals within the Dayton, Ohio, area.

10:09:28 12 Q. When FBI approached Mr. Marshall, did they suspect him or  
10:09:35 13 have information that he was engaged in criminal activity?

10:09:40 14 A. Not at that time.

10:09:41 15 Q. When FBI approached Mr. Marshall, were they threatening  
10:09:47 16 him with prosecution to get him to work as an informant?

10:09:50 17 A. No, they were not.

10:09:51 18 Q. Did Mr. Marshall, in fact, agree to help FBI?

10:09:57 19 A. He did.

10:09:58 20 Q. And in debriefing with -- well, I'll leave it at that.

10:10:03 21 Did Mr. Marshall then introduce FBI to someone else he  
10:10:09 22 believed might be also helpful in this larger investigation?

10:10:14 23 A. That's correct.

10:10:15 24 Q. And who was that individual?

10:10:17 25 A. That individual is Michael Scott Waters, but we know

KIRKPATRICK - DIRECT (Tabacchi)

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10:10:23 1 him more as Scott Waters.

10:10:27 2 Q. Did FBI approach Mr. Waters?

10:10:29 3 A. They did.

10:10:30 4 Q. At the time they approached Mr. Waters, did they believe

10:10:33 5 that he was engaged in criminal activity?

10:10:35 6 A. No.

10:10:36 7 Q. Did they threaten him with prosecution to get him to work

10:10:41 8 for the FBI?

10:10:41 9 A. They did not.

10:10:42 10 Q. Is it fair to say that Mr. Marshall and Mr. Waters had

10:10:52 11 worked as informants for FBI from late 2013, early 2014 at the

10:11:02 12 time that Mr. Marshall approached FBI with the information

10:11:04 13 concerning Mr. Higgins?

10:11:04 14 A. That's correct.

10:11:05 15 Q. Now, how long -- well, how long did Mr. Waters and

10:11:16 16 Marshall, approximately, work as informants for the FBI?

10:11:22 17 A. It was a number of years. At least three or longer.

10:11:28 18 Q. Is it fair to say that their primary work occurred

10:11:32 19 between 2013 and 2016?

10:11:33 20 A. That's a fair assumption, yes.

10:11:36 21 Q. During the time that they worked for FBI, approximately

10:11:44 22 how many hours individually did each of them work as an

10:11:49 23 informant?

10:11:50 24 A. It would be hundreds of hours. Possibly approaching

10:11:56 25 thousands.

KIRKPATRICK - DIRECT (Tabacchi)

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10:11:58 1 Q. Did them performing this work for FBI cut into time that  
10:12:03 2 they might have to work on other business activities?  
10:12:06 3 A. Absolutely.  
10:12:08 4 Q. Does FBI expect people like Mr. Waters and Mr. Marshall  
10:12:14 5 to do this work for free when FBI is cutting into their other  
10:12:19 6 business activity?  
10:12:20 7 A. No, we do not.  
10:12:21 8 Q. Did FBI pay Mr. Waters and Mr. Marshall?  
10:12:26 9 A. We did.  
10:12:27 10 Q. Is it a common practice for law enforcement to pay  
10:12:30 11 informants?  
10:12:30 12 A. It is.  
10:12:31 13 Q. So there is nothing unique or exclusive about this case?  
10:12:34 14 A. No, not at all.  
10:12:36 15 Q. Were there any payments that were made to Mr. Marshall or  
10:12:39 16 Mr. Waters as a direct result of them helping investigate  
10:12:44 17 Mr. Higgins?  
10:12:45 18 A. I'm sorry. Someone cleared their throat. Could you  
10:12:49 19 repeat the last part of that question?  
10:12:50 20 Q. Sure. Did FBI make any payments to Mr. Higgins directly  
10:12:55 21 for their work in helping investigate Mr. Higgins?  
10:12:58 22 A. Directly to Mr. Higgins?  
10:12:59 23 Q. Correct. No, no. Let me rephrase.  
10:13:03 24 A. I'm sorry.  
10:13:05 25 Q. Did the FBI pay Mr. Waters and Mr. Marshall any type of

KIRKPATRICK - DIRECT (Tabacchi)

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10:13:15 1 informant funds as a benefit, as a reward, as a quid pro quo  
10:13:21 2 for their work in this Higgins case?  
10:13:26 3 A. No.  
10:13:27 4 Q. So for the hundreds of hours of work that Mr. Marshall  
10:13:32 5 did between early 2014 up through 2016, FBI paid him \$32,000?  
10:13:42 6 A. That sounds correct.  
10:13:44 7 Q. And during that same period of time for the work that --  
10:13:48 8 hundreds of hours of work that Mr. Waters did, FBI paid  
10:13:53 9 Mr. Waters roughly \$13,000?  
10:13:55 10 A. That's correct.  
10:13:56 11 Q. Now, when individuals act as informants, are they  
10:14:05 12 participating -- do they have to drive to meetings?  
10:14:07 13 A. Yes.  
10:14:08 14 Q. Are they using their own vehicles?  
10:14:10 15 A. A lot of times, yes.  
10:14:11 16 Q. In this particular investigation involving Mr. Higgins,  
10:14:18 17 did Mr. Marshall and Mr. Waters have to use or obtain new  
10:14:23 18 office space or new -- let me rephrase. Were they using their  
10:14:26 19 own office space at various times to hold meetings with  
10:14:29 20 Mr. Higgins?  
10:14:30 21 A. Yes, they were.  
10:14:31 22 Q. Did FBI -- was FBI writing checks to Mr. Marshall and  
10:14:36 23 Mr. Waters, you know, "Hey, your mileage today was \$50.  
10:14:46 24 Here's \$50"?  
10:14:47 25 A. No.

Mary A. Schweinhagen, RDR, CRR (937) 512-1604

# **EXHIBIT C**

**ORDER TO SHOW CAUSE**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:18-cr-186

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

BRIAN HIGGINS,

Defendant.

:

---

**ORDER TO SHOW CAUSE**

---

This proceeding under 28 U.S.C. § 2255 is before the Court upon the filing of Defendant's renewed Motion to Vacate. Under the Rule 4 of the Rules Governing § 2255 Proceedings, each such motion is to be preliminarily reviewed by the assigned judge or a Magistrate Judge to whom the matter has been referred. If it plainly appears that the movant is not entitled to relief, the Court must dismiss the motion.

Higgins previously filed a Motion to Vacate under 28 U.S.C. § 2255 (ECF No. 158). When Higgins failed to file an amended motion complying with the Rules, the Magistrate Judge recommended and Judge Rose granted dismissal without prejudice (ECF Nos. 172, 173). Dismissal occurred on March 13, 2024. The renewed Motion to Vacate was filed August 22, 2025 (ECF No. 175).

The Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. No 104-132, 110 Stat. 1214)(the "AEDPA") imposed a one year statute of limitations on § 2255 motions which runs from the latest of (1) the date on which the conviction became final, (2) the date on which the impediment to making the motion "created by governmental action in violation of the Constitution or laws of the United States is removed if the impediment prevented making the motion, (3) the date on which the right asserted was recognized by the United States Supreme Court and made applicable retroactively to case on collateral review, or (4) the date on which the facts supporting the claim or claims could have been discovered through the exercise of due diligence. 28 U.S.C. § 2255(f).

Judgment became final in this case ninety days after the Sixth Circuit Court of Appeals affirmed the conviction on October 6, 2023, or on January 4, 2024, the last day on which Higgins could have sought review in the United States Supreme Court (See ECF No. 155). Thus his original § 2255 Motion was timely. However, there is no provision in § 2255 to toll the statute while a prior motion to vacate is pending such as the provision in 28 U.S.C. § 2244(d)(2). Even if there were, his original Motion to Vacate was dismissed March 13, 2024, well over a year ago.

When asked by the standard form for § 2255 motions why his renewed motion was not untimely, he answered

This filing is based upon new information that was recently discovered and not known to the defendant or counsel that represented the defendant. Only the Assistant United States Attorney and the witnesses in my criminal proceeding knew that they were giving false information to the jury.

(ECF No. 175, PageID 2928). This statement offers no explanation about how Defendant received this information or what efforts he made to obtain it. He is accordingly ordered to furnish that information in a sworn affidavit or declaration under penalty of perjury under 28 U.S.C. § 1746

not later than September 15, 2025, in order to show cause why his renewed motion should not be dismissed as barred by the statute of limitations.

August 25, 2025.

*s/ Michael R. Merz*  
United States Magistrate Judge

October 10, 2024

Honorable Mike Johnson  
Speaker of the House of Representatives  
568 Cannon House Office Building  
Washington, D.C. 20515

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

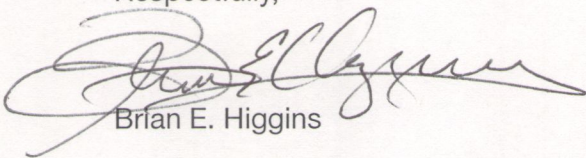
Speaker Johnson,

This writing comes as a request for Congressional Hearings into the Code of Silence. For well over 5 years, I have amassed a well documented dossier of a chain conspiracy being committed by high ranking government officials, to include Ambassador to Japan RHAM EMANUEL, White House Counsel EDWARD SISKEL, numerous Department of Justice and Federal Bureau of Investigations officials.

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Fully aware of the allegations that I am levying against high ranking government officials, I have attached a sampling of the evidence. The full dossier including audio recordings of government officials engaged in criminal activity can be found at the site below. This serves as my THIRD request for Congressional Hearings into the Code of Silence.

Respectfully,



Brian E. Higgins

[www.corruptgmen.com](http://www.corruptgmen.com)

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Richard Durbin  
Chairman Committee of the Judiciary  
711 Hart Senate Building  
Washington, D.C. 20510



**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Chairman Durbin,

This writing comes as a request for Congressional Hearings into the Code of Silence. For well over 5 years, I have amassed a well documented dossier of a chain conspiracy being committed by high ranking government officials, to include Ambassador to Japan RHAM EMANUEL, White House Counsel EDWARD SISSEL, numerous Department of Justice and Federal Bureau of Investigations officials.

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Respectfully,

A handwritten signature in black ink, appearing to read "Brian E. Higgins".

Brian E. Higgins

**[www.corruptgmen.com](http://www.corruptgmen.com)**

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Gary Peters  
Chairman Committee on Homeland Security  
& Governmental Affairs  
725 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Chairman Peters,

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Brian E. Higgins

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Sheldon Whitehouse  
Member Committee on the Judiciary  
530 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Whitehouse,

This writing comes as a request for Congressional Hearings into the Code of Silence. For well over 5 years, I have amassed a well documented dossier of a chain conspiracy being committed by high ranking government officials, to include Ambassador to Japan RHAM EMANUEL, White House Counsel EDWARD SISSEL, numerous Department of Justice and Federal Bureau of Investigations officials.

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Lindsey Graham  
Member Committee on the Judiciary  
211 Russell Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Graham,

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Brian E. Higgins

**[www.corruptgmen.com](http://www.corruptgmen.com)**

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

**NATIONAL  
INTEREST**

Senator Chuck Grassley  
Member Committee on the Judiciary  
135 Hart Senate Office Building  
Washington, D.C. 20510

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Grassley,

This writing comes as a request for Congressional Hearings into the Code of Silence. For well over 5 years, I have amassed a well documented dossier of a chain conspiracy being committed by high ranking government officials, to include Ambassador to Japan RHAM EMANUEL, White House Counsel EDWARD SISKEL, numerous Department of Justice and Federal Bureau of Investigations officials.

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Brian E. Higgins

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Amy Klobuchar  
Member Committee on the Judiciary  
425 Dirksen Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

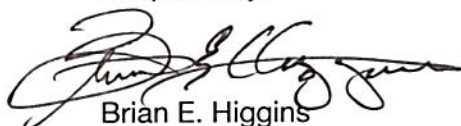
Senator Klobuchar,

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Brian E. Higgins

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Chris Coons  
Member Committee on the Judiciary  
218 Russell Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Coons,

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Respectfully,



Brian E. Higgins

[www.corruptgmen.com](http://www.corruptgmen.com)

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Richard Blumenthal  
Member Committee on the Judiciary  
706 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

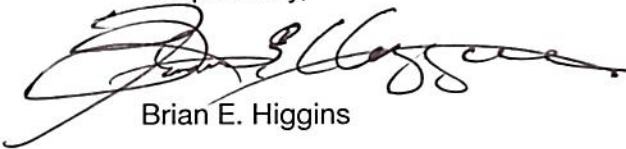
Senator Blumenthal,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Mazie Hirono  
Member Committee on the Judiciary  
109 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Hirono,

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Brian E. Higgins

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Cory Booker  
Member Committee on the Judiciary  
717 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Booker,

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Respectfully,



Brian E. Higgins

**[www.corruptgmen.com](http://www.corruptgmen.com)**

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Alex Padilla  
Member Committee on the Judiciary  
331 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

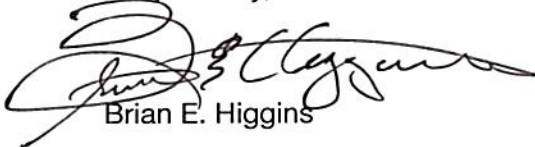
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Brian E. Higgins

[www.corruptgmen.com](http://www.corruptgmen.com)

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Jon Ossoff  
Member Committee on the Judiciary  
303 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Ossoff,

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Brian E. Higgins

**[www.corruptgmen.com](http://www.corruptgmen.com)**

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Peter Welch  
Member Committee on the Judiciary  
SR-124 Russell Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

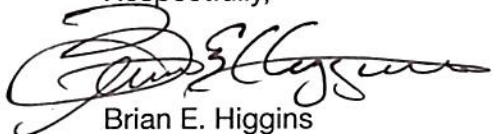
Senator Welch,

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Respectfully,



Brian E. Higgins

**[www.corruptgmen.com](http://www.corruptgmen.com)**

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Tom Cotton  
Member Committee on the Judiciary  
326 Russell Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

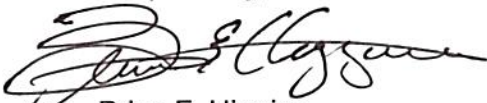
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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator John Kennedy  
Member Committee on the Judiciary  
437 Russell Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Kennedy,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Thom Tillis  
Member Committee on the Judiciary  
113 Dirksen Senate Office Building  
Washington, D.C. 20510



**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Tillis,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Marsha Blackburn  
Member Committee on the Judiciary  
357 Dirksen Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Blackburn,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator John Cornyn  
Member Committee on the Judiciary  
517 Hart Senate Office Building  
Washington, D.C. 20510



**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Cornyn,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Mike Lee  
Member Committee on the Judiciary  
363 Russell Senate Office Building  
Washington, D.C. 20510



**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Lee,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Ted Cruz  
Member Committee on the Judiciary  
167 Russell Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Cruz,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Josh Hanley  
Member Committee on the Judiciary  
115 Russell Senate Office Building  
Washington, D.C. 20510



**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Hanley,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Thomas R. Carper  
Committee on Homeland Security  
& Governmental Affairs  
513 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Carper,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Margaret Hassan  
Committee on Homeland Security  
& Governmental Affairs  
324 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Hassan,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

**NATIONAL  
INTEREST**

Senator Kyrsten Sinema  
Committee on Homeland Security  
& Governmental Affairs  
317 Hart Senate Office Building  
Washington, D.C. 20510

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Sinema,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Jacky Rosen  
Committee on Homeland Security  
& Governmental Affairs  
713 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Rosen,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Richard Blumenthal  
Committee on Homeland Security  
& Governmental Affairs  
706 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Blumenthal,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Jon Ossoff  
Committee on Homeland Security  
& Governmental Affairs  
303 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Ossoff,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Laphonza Butler  
Committee on Homeland Security  
& Governmental Affairs  
112 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

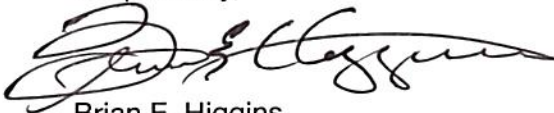
Senator Butler,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

**NATIONAL  
INTEREST**

Senator Rand Paul  
Ranking Member Committee on Homeland Security  
& Governmental Affairs  
295 Russell Senate Office Building  
Washington, D.C. 20510

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Ranking Member Paul,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Ron Johnson  
Member Committee on Homeland Security  
& Governmental Affairs  
328 Hart Senate Office Building  
Washington, D.C. 20510



**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Johnson,

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Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator James Lankford  
Ranking Member Committee on Homeland Security  
& Governmental Affairs  
316 Hart Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Lankford,

This writing comes as a request for Congressional Hearings into the Code of Silence. For well over 5 years, I have amassed a well documented dossier of a chain conspiracy being committed by high ranking government officials, to include Ambassador to Japan RHAM EMANUEL, White House Counsel EDWARD SISSEL, numerous Department of Justice and Federal Bureau of Investigations officials.

Attached, you will see a sampling of the crimes being committed, to include, the protection of an active sexual predator preying on children, multi-Billion dollar sledge fund related to the federally funded O'hare Modernization Program and a international ghosting scheme using the identity of the deceased on the black market- just to name a few. Soon, there will be a public release outlining the Department of Justice engaged in a betrayal of trust and the protection of sexual predators. I will make myself available for the next 10 days to appear before your committee- this will expire on October 20, 2024.

Fully aware of the allegations that I am levying against high ranking government officials, I have attached a sampling of the evidence. The full dossier including audio recordings of government officials engaged in criminal activity can be found at the site below. This serves as my THIRD request for Congressional Hearings into the Code of Silence.

Respectfully,



Brian E. Higgins

**[www.corruptgmen.com](http://www.corruptgmen.com)**

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Mitt Romney  
Ranking Member Committee on Homeland Security  
& Governmental Affairs  
354 Russell Senate Office Building  
Washington, D.C. 20510



**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Romney,

This writing comes as a request for Congressional Hearings into the Code of Silence. For well over 5 years, I have amassed a well documented dossier of a chain conspiracy being committed by high ranking government officials, to include Ambassador to Japan RHAM EMANUEL, White House Counsel EDWARD SISKEL, numerous Department of Justice and Federal Bureau of Investigations officials.

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Respectfully,

A handwritten signature in black ink, appearing to read "Brian E. Higgins".

Brian E. Higgins

**[www.corruptgmen.com](http://www.corruptgmen.com)**

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

**NATIONAL  
INTEREST**

Senator Rick Scott  
Ranking Member Committee on Homeland Security  
& Governmental Affairs  
101 Hart Senate Office Building  
Washington, D.C. 20510

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Scott,

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Respectfully,



Brian E. Higgins

**[www.corruptgmen.com](http://www.corruptgmen.com)**

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

Senator Josh Hanley  
Member Committee on the Judiciary  
115 Russell Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Speaker Hanley,

This writing comes as a request for Congressional Hearings into the Code of Silence. For well over 5 years, I have amassed a well documented dossier of a chain conspiracy being committed by high ranking government officials, to include Ambassador to Japan RHAM EMANUEL, White House Counsel EDWARD SISSEL, numerous Department of Justice and Federal Bureau of Investigations officials.

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Respectfully,



Brian E. Higgins

[www.corruptgmen.com](http://www.corruptgmen.com)

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

October 10, 2024

**NATIONAL  
INTEREST**

Senator Roger Marshall  
Member Committee on Homeland Security  
& Governmental Affairs  
479-A Russell Senate Office Building  
Washington, D.C. 20510

**HAND DELIVERED**

RE: Department of Justice - Code of Silence  
Third Request for Congressional Hearings

Senator Marshall,

This writing comes as a request for Congressional Hearings into the Code of Silence. For well over 5 years, I have amassed a well documented dossier of a chain conspiracy being committed by high ranking government officials, to include Ambassador to Japan RHAM EMANUEL, White House Counsel EDWARD SISKEL, numerous Department of Justice and Federal Bureau of Investigations officials.

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Respectfully,

  
Brian E. Higgins

**[www.corruptgmen.com](http://www.corruptgmen.com)**

Enclosure: Code of Silence Exhibits  
Senator JD Vance October 10, 2024 Ltr.

## **Code of Silence Exhibit(s)**

- A.) JD Vance Code of Silence October 10, 2024 Letter**
- B.) FBI 302(s) - April 18, 2019, February 5, 2020**
- C.) Biden - Harris Transition Team January 11, 2021 Code of Silence Letter**
- D.) Catherine Szpindor House of Representatives Chief Administrative Officer July 10, 2023 Letter**
- E.) Jennifer Olkiewicz Administrative Counsel Office of the Chief Administrative Officer - U.S. House of Representatives July 26, 2023 Letter**
- F.) Department of Justice Code of Silence August 10, 2020 Letter**
- G.) Assistant United States Attorney Brent Tabacchi January 26, 2021 Illinois Disciplinary Commission Complaint**
- H.) United States District Court (3:18-cr-186-TMR) July 14, 2020 Motion to Continue Transcript**
- I.) United States District Court (3:18-cr-186-TMR) January 8, 2021 Government Motion In Limine No. 1**
- J.) United States District Court (3:18-cr-186-TMR) May 24, 2021 Motion for Competency Evaluation May 24, 2021 Transcript**
- K.) Yiota Souras Chief Legal Officer National Center for Missing and Exploited Children August 7, 2023 Letter**
- L.) Request for Congressional Hearing(s) - Department of Justice Code of Silence Letters(s)**
- M.) Ohio 2022 Democratic Gubernatorial Candidate/Former City of Dayton Mayor Nan Whaley 2014 FBI Warrant Affidavit (Crimes in office- dating back to 2013 while a City Commissioner.**

The complete dossier of the Code of Silence along with Federal Bureau of Investigation audio recordings can be found at:

[WWW.CORRUPTGMEN.COM](http://WWW.CORRUPTGMEN.COM)



October 10, 2024

Senator JD Vance  
Great State of Ohio  
288 Russell Senate Office Building  
Washington, D.C. 20510

**NATIONAL  
INTEREST**

**HAND DELIVERED**

RE: Department of Justice - Code of Silence

Senator Vance,

As your constituent, I am reporting active crimes being committed by various Department of Justice and Federal Bureau of Investigation officials. Since April 2019, I have documented federal officials covering up crimes; to include, the protection of an active sexual predator preying on children, an international ghosting scheme using the identity of deceased- black market and a slush fund related to the 8.5 Billion dollar federally funded O'hare Modernization Program in Chicago, Illinois.

The DoJ and FBI co-conspirators, includes United States Attorney KENNITH PARKER (Southern District of Ohio), Assistant United States Attorney BRENT TABACCHI, United, FBI Special Agent LANCE KEPPLER (Day), FBI Special Agent TYLER FREEMAN (D.C.) et al. The above mentioned have engaged in a chain conspiracy while violated numerous DoJ policy(s)- should be noted, there is strong evidence that would suggest many of these government officials have committed federal RICO violations while carrying out their crimes.

On April 30, 2019, my presence was requested by FBI Special Agent ANDREW GRAGAN to turn over thousands of pages of documented evidence of City of Chicago elected officials- current Ambassador to Japan RAHM EMANUEL, current White House Counsel ED SISSEL (former Chicago Corporation Counsel) et al. turning a blind eye to corruption- I was told that agents from the Chicago field office wished to interview me. Upon my arrival- turning over evidence of crimes against children, I was immediately arrested- FBI Operation Demolished Integrity. Ultimately, I was convicted of Mail Fraud, Wire Fraud and Witness Retaliation in connection with a ruptured fish tank in my residence.

Fully aware of the gravity of these allegations, I am enclosing a sampling of the documented evidence of crimes, along with the website containing the full dossier. Additionally, I am renewing my request (THIRD) for Congressional Hearings into the Code of Silence.

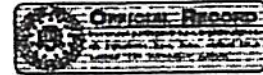
Respectfully,



Brian E. Higgins

[www.corruptgmen.com](http://www.corruptgmen.com)





FEDERAL BUREAU OF INVESTIGATION

Date of entry 04/18/2019

On 4/18/2019, Special Agent Patrick Gragan called (937 [REDACTED] 5, a number Brian HIGGINS had provided SA Gragan on 4/10/2019. SA Gragan left a voicemail requesting HIGGINS to call back.

On the same day, HIGGINS returned the call and spoke telephonically to SA Gragan. SA Gragan informed HIGGINS that the FBI was interested in talking to him and hearing what he had to say and wished to interview him again in the near future about his allegations regarding Ed Burke. HIGGINS advised that he would make himself available and be flexible for whenever the interview could be conducted.

[Agent Note: Attached to the 1A section of this document are the interview notes from the previous interview of HIGGINS on 4/10/2019 which was documented as Guardian Incident 538461\_CI]

Investigation on 04/18/2019 at Centerville, Ohio, United States (Phone)

File # [REDACTED] Date dictated 04/18/2019

by Patrick A. Gragan

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.





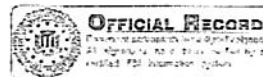
FEDERAL BUREAU OF INVESTIGATION

Date of entry 04/29/2019

On 4/25/2019, Special Agent Patrick Gragan made telephonic contact with Brian HIGGINS. SA Gragan scheduled an interview with HIGGINS for 0730 on 4/29/2019 at the Dayton Resident Agency in Centerville, Ohio.

Investigation on 04/25/2019 at Centerville, Ohio, United States (Phone)  
# [REDACTED] Date drafted 04/29/2019  
by Patrick A. Gragan

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



## FEDERAL BUREAU OF INVESTIGATION

Date of entry 02/05/2020

Brian Higgins, date of birth (DOB) 05/07/1971, was interviewed at the Dayton Office of the United States Attorney's Office. Higgins was accompanied by his attorney Tony Cicero. Higgins signed a proffer agreement provided to him by the United States Attorney's Office. After being advised of the identity of the interviewing Agents SA Lance Kepple and SA Tyler Freeman and AUSA Brent Tabacchi, and the nature of the interview, Higgins provided the following information:

Higgins, through his company GSSP Enterprises, previously had a contract with the city of Chicago to transport dead bodies. Prior to Higgins' contract the task had been accomplished by the city. Higgins had the first private contract. Higgins said the Chicago Police Department began to make accusations about his job performance. Higgins second contract with the city lead to more accusations of poor performance. Higgins had to meet with the city Inspector General. There were delays in Higgins being paid with outstanding balances up to \$1,000,000.00. Higgins had to meet with alderman's' offices, including Ed Burke.

Specifically, Higgins described meeting with Burke's office. Higgins was told he had to pay Peter to play. Burke's secretary gave Higgins a note with the name "Peter" on it. Higgins was also told by Chicago purchasing agent Mike Polumbo that the street tax on his contract was \$100,000. Higgins did not pay.

Higgins believes that Burke worked with another company, Allied Cleaning, and city departments to steer the next body hauling contract. Higgins believes that his company was the only one that met the requirements for the body hauling contract during the next bidding cycle. Higgins did not get the contract.

Higgins said that Allied Cleaners was run by John Klazack. Klazack was described as a sexual predator (pedophile) and a former police officer fired

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Investigation on 01/21/2020 at Dayton, Ohio, United States (In Person)

File # [REDACTED] Date drafted 01/30/2020

by Lance R Kepple, TYLER NORMAN FREEMAN

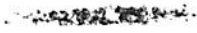


for cocaine use, and a former Fire Chief in Thornton, IL. Klazack continues to have little boys visit him at a farm or ranch he owns.

The minority component of Allied Cleaner's bid was filled by a convicted felon (ID fraud).

Higgins first contacted the Chicago office of the FBI in early 2019 and then the Dayton RA of the FBI in October 2019.

Higgins, through his attorney, provided a thumb drive to AUSA Brent Tabacchi. The drive purportedly contains documentation and proof of the above summarized claims and additional evidence. Higgins had mentioned numerous other high level Chicago politicians were involved in similar behavior.



January 11, 2021



President-Elect Joseph R. Biden  
Biden - Harris Transition Team  
1401 Constitution Ave. NW  
Washington, D.C. 20230

Vice President-Elect Kamala Harris  
Biden - Harris Transition Team  
1401 Constitution Ave. NW  
Washington, D.C. 20230

**SENT VIA FED EX 782534296378**

RE: Code of Silence

Dear President-Elect Biden and Vice President-Elect Harris,

First, I will start by congratulating you and your team on a historic presidential election. It is my hope that your administration can unite such a divided country as tension between American's is at such a low point. Unfortunately, my writing is not one of positive news. There is a crisis that your administration will inherit on January 20, 2021 when you take the oath of Office of the President.

For over 10 years, I have been exposing a vile and debasing cover-up that reaches the highest level of government, including, the Department of Justice and the Federal Bureau of Investigation. It is in this 10 year pursuit, I have been exposing crimes being committed by City of Chicago officials, to include former mayor RAHM EMANUEL and current mayor LORI LIGHTFOOT. The crimes being committed include the protection of a sexual predator and public corruption (procurement)- multi-billion dollar federally funded O'hare Modernization slush fund, led by Chicago Aviation Commissioner JAMIE RHEE. *SEE RAHM EMANUEL LTR*

Over the last 18 months, the government, led by Assistant United States Attorney BRENT G. TABACCHI (Southern District of Ohio) and the FBI (Special Agent LANCE KEPPLER) have been engaged in a cover-up that is certain to be of national interest. I recently met with AUSA TABACCHI along with SA KEPPLER, to discuss the above mentioned crimes currently taking place within the City of Chicago. It should be noted that I am currently awaiting trial in Dayton, Ohio in a public corruption dragnet operation, dubbed "Demolished Integrity," in connection with a ruptured fish tank in my residence. *SEE WILLIAM BARR/CHRISTOPHER WRAY LTR SEE CRIMINAL DISCOVERY*

In my last meeting with the government and the FBI on December 15, 2020, to discuss sex crimes against children, in a meeting that was to take place with agents from the Chicago FBI (nearly a year ago)- to date, no meeting has taken place. It was in this meeting that AUSA TABACCHI made a pivot and informed me that I had, "No right to meet with any law enforcement agency." In fact, AUSA TABACCHI represented that he



had spoken to Chicago FBI and that they had “No interest” in hearing what I had to say about sex crimes against children. *SEE 12/15/2020 RECORDING (12:07 MIN)*

Former mayor RAHM EMANUEL once was quoted, “Never avoid a good crisis, it is the opportunity to do the big things you never thought possible, and make them possible.” This is a crisis that is certain to land on the Resolute desk. It should further be noted that Assistant United States Attorney BRENT G. TABACCHI forged my signature on a January 20, 2020 alleged “proffer.”

It is my hope that someone looks into this sensitive matter, soon the country will see that the Federal Bureau of Investigation has no interest in the protection of sexual abuse against children.

Respectfully,



Brian E. Higgins

[www.whataboutthechildrenrahm.com](http://www.whataboutthechildrenrahm.com)

Cc: Chief of Staff Ronald Klain  
U.S. Senator Sherrod Brown  
U.S. Congressman Michael Turner

**NATIONAL  
INTEREST**

July 10, 2023

Catherine Szpindor  
House of Representatives  
Chief Administrative Officer  
U.S. Capitol  
Washington, D.C. 20515

U.S. SENT VIA U.S. POSTAL 7018 0040 0000 2831 4512

RE: Department of Justice - Code of Silence

Ms. Szpindor,

As the Chief Administrative Officer (CAO), you serve as the support system for our elected members of the House of Representatives and the steward of the day-to-day operations of the House. As governed by the Rules of the House of Representatives, One Hundred Eighteenth Congress, adopted on January 10, 2023, the CAO is tasked with the distribution, maintenance of documents, request(s) and reports deemed appropriate of the House.

Over the last several years, I have documented a cover-up within the Department of Justice, to include the Federal Bureau of Investigation. The concealment of crimes, reach the highest level of government, to include former Mayor of Chicago RAHM EMANUEL (current Ambassador to Japan), former FBI Chief of Staff (to Director CHRISTOPHER WRAY) COREY ELLIS and former White House Chief of Staff RONALD KLAIN, just to name a few. The crimes that have been unearthed, include the protection of a convicted sexual predator (actively preying on children), a procurement scheme related to the 8+ Billion Dollar federally funded Chicago O'Hare Airport Modernization Program, led by Chicago Aviation Commissioner JAMIE RHEE; and a bribery pay-to-play scheme of former City of Dayton Mayor and 2022 Ohio Democratic Gubernatorial Candidate NAN WHALEY.

In advance of what is certain to be contentious Judiciary and Oversight Committee Hearings into DOJ/FBI whistleblower complaints of Attorney General MERRICK GARLAND et al., I am enclosing a sampling of supporting documentation of the above mentioned crimes: FBI 1023, FBI 302, Warrant Affidavit (NAN WHALEY), DOJ Inspector General MICHAEL HOROWITZ Ltr., United States of America vs. Brian Higgins January 5, 2022 Transcript as well as Miscarriage of Justice Ltr. It is my hope that these documents will assist the Committee(s) in conducting a full and just investigation into the Department of Justice and the Code of Silence.

In your administrative capacity, I hereby, request that your office forward the enclosed documents to the appropriate House Committee(s), and the elected members of the House of Representatives.

Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

Cc: The Honorable Kevin McCarthy  
Speaker of the House of Representatives

WWW.CORRUPTGMEN.COM





July 26, 2023

Brian E. Higgins  
Inmate # 78259-061  
Federal Prison Camp  
P.O. Box 33  
Terre Haute, IN 47808

Dear Mr. Higgins,

Chief Administrative Officer of the U.S. House of Representatives Catherine L. Szpindor has requested that I respond to your letter dated July 10, 2023.

The matter you referenced within your letter is within the jurisdiction of the U.S. Department of Justice. As a U.S. House of Representatives Officer, I do not have jurisdiction over such matters.

For matters related to the U.S. Department of Justice, I recommend that you contact the U.S. Department of Justice Inspector General's Office. Their contact information is:

U.S. Department of Justice  
Office of the Inspector General  
950 Pennsylvania Avenue NW  
Washington, D.C. 20530  
(202) 514-3435  
<https://oig.justice.gov>

Sincerely,

Jennifer M. Olkiewicz  
Administrative Counsel  
Office of the Chief Administrative Officer  
U.S. House of Representatives





U.S. Department of Justice

Criminal Division

---

Washington, DC 20530-0001

August 10, 2020

Mr. Brian Higgins  
Code of Silence  
442 Corporation Aly  
Cincinnati, OH 45202-0989

Dear Mr. Brian Higgins:

Thank you for writing the Department of Justice. This is in response to your letter to Attorney General William P. Barr, dated May 29, 2020, requesting an investigation into alleged corruption of City of Chicago public officials. We assure you that the Department of Justice takes allegations of criminal conduct very seriously and will handle all such matters fairly and appropriately.

Again, thank you for writing the Attorney General. We hope this information has been helpful.

Sincerely,

Correspondence Management Staff  
Office of Administration

Reference Number: SB301209651

*For further correspondence please email [criminal.division@usdoj.gov](mailto:criminal.division@usdoj.gov). Should you wish to speak to a representative please call (202) 353-4641 and provide the reference number.*





ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
of the  
SUPREME COURT OF ILLINOIS

COMPLAINT FORM

Use this form to file a complaint about:

- 1) an Illinois lawyer;
- 2) a non-Illinois lawyer who has provided legal services in Illinois; or
- 3) a non-lawyer who you are claiming has engaged in the unauthorized practice of law in Illinois.

Return the completed form by e-mail, mail or facsimile to:

ARDC  
130 E. Randolph Dr., Ste. 1500  
Chicago, IL 60601-6219  
Phone: (312) 565-2600 or (800) 826-8625  
Fax: (312) 565-2320  
Email: [information@iarde.org](mailto:information@iarde.org)

or

ARDC  
3161 W. White Oaks Dr., Ste. 301  
Springfield, IL 62704  
Phone: (217) 546-3523 or (800) 252-8048  
Fax: (217) 546-3785  
Email: [information@iarde.org](mailto:information@iarde.org)

1. Your name: Brian E. Higgins  
Street address: 865 North Main Street  
City: Dayton State: Ohio Zip: 45405  
Home phone: \_\_\_\_\_ Work phone: \_\_\_\_\_ Cell phone: 937-671-1995  
Email address: brianehigginsceo@yahoo.com

2. Name of lawyer/person you want to be investigated: Brent G. Tabacchi - Illinois Bar # 6276029  
Name of law firm or business: United States of America  
Street address: 200 West Second Street Room 602  
City: Dayton State: Ohio Zip: 45402  
Phone: 937-512-1400  
Email address: brent.tabacchi@usdoj.gov

3. Have you previously contacted the ARDC regarding this matter? Yes \_\_\_\_\_ No X  
If yes, when and how did you contact us? \_\_\_\_\_

4. Did you employ the lawyer/person you are complaining about: Yes \_\_\_\_\_ No X

4a. If you answered yes to question 4:  
When did the employment start? \_\_\_\_\_  
What was the fee agreement? \_\_\_\_\_

How much have you paid the lawyer/person to date? \_\_\_\_\_  
over



4b. If you answered no to question 4 what is your connection to the lawyer/person? Criminal Prosecution

5. If your request relates to a court case or other proceeding, please provide the following:

Name of court or agency: United States District Court for the Southern District of Ohio

Name of case: United States of America vs. Brian Higgins


Case number: 3:18-CR-00186

6. Please explain your complaint(s). Include important dates and names of witnesses and others involved. Use additional pages if necessary. Attach copies of documents that support your complaint, such as fee agreements, receipts, checks, letters and court papers.

On April 10, 2019, I went to the Dayton, Ohio Resident Office of the Federal Bureau of Investigation to report elected officials in Chicago, Illinois committing crimes, to include the protection of a sexual predator actively preying on children as well as procurement crimes related to the federally funded O'Hare Modernization Program ran by Chicago Aviation Commissioner Jamie Rhee. I was asked by the FBI to return to the Dayton office on April 30, 2019 as there would be agents from Chicago FBI traveling to interview me.

Upon my arrival on April 30, 2019, with over 3000 pages of documented evidence of crimes being committed within the City of Chicago, I was immediately arrested- a public corruption dragnet operation, dubbed Demolished Integrity." Since my April 30, 2019 arrest, I have had several meetings with the FBI and AUSA Brent G. Tabacchi. In fact, on January 21, 2020, in a meeting with the AUSA and FBI Special Agents Lance Kepple and Tyler Freeman- I was asked by Mr. Tabacchi if I would wear a wire on the sexual predator (I declined) and testify against Chicago Alderman Edward Burke- I agreed as it was Ald. Burke who attempted to extort me out of 100K when I had a contract with the Chicago Police Department (Transportation of Deceased Bodies). I was told that there would be a meeting set up in Chicago within 2 weeks with FBI Chicago. To date, no meeting has taken place and in fact, Assistant United States Attorney Brent G. Tabacchi is engaged in a cover-up of the protection of an active sexual predator John W. Klaczak. Attached, you will see the FBI 302(s) and can view the full dossier of the Code of Silence.

WWW.CORRUPTGMEN.COM

Signature: 

Date: January 26, 2021

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA, ) CASE NO.: 3:18-cr-186

)

Plaintiff, ) (Judge Thomas M. Rose)

-vs- )

BRIAN HIGGINS, )

Defendant. )

)

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE, PRESIDING  
TUESDAY, JULY 14, 2020  
DAYTON, OH

APPEARANCES:

For the Plaintiff: MR. BRENT G. TABACCHI, ESQ.  
U.S. Attorney's Office  
200 W. Second Street,  
Room 602  
Dayton, Ohio 45402

For the Defendant: MS. TAMARA S. SACK, ESQ.  
130 West Second Street,  
Suite 310  
Dayton, Ohio 45402

Proceedings recorded by mechanical  
stenography, transcript produced by computer.

Jamie S. Hurley  
Court Reporter  
Britton & Associates  
201 Riverside Drive, Suite 2B  
Dayton, Ohio 45405  
\*\*\* \*\*



1 P-R-O-C-E-E-D-I-N-G-S 2:47 P.M.

2 THE COURT: We're before the Court  
3 this afternoon, the matter of United States of  
4 America versus Brian Higgins. This is Case Number  
5 3:18-cr-186 and we're here pursuant to a motion to  
6 continue that was filed by Mr. Higgins through  
7 counsel, Ms. Sack, requesting that the trial now  
8 scheduled to commence on July the 27th, 2020 be  
9 continued. Counsel enter their appearance for the  
10 record, please.

11 MR. TABACCHI: Good afternoon,  
12 Your Honor. Brent Tabacchi on the behalf of the  
13 United States.

14 MS. SACK: Good afternoon, Your  
15 Honor. Tamara Sack on behalf of Brian Higgins.

16 THE COURT: All right. And, Ms.  
17 Sack, this is your motion. Do you wish to  
18 supplement?

19 MS. SACK: Your Honor, at issue is  
20 that I recently came onboard to serve as  
21 Mr. Higgins' counsel. I believe my appointment was  
22 the end of April. At issue is I received a bulk of  
23 discovery concerning hundreds of pages of bank  
24 records. I've been able to get through some of  
25 them but it is necessary to fully understand any

1 forensic accounting associated with those records  
2 and, indeed, the records of Mr. Higgins. Your  
3 Honor, as well Mr. Higgins and I have been meeting  
4 regularly and in earnest. I'm sure he can attest  
5 to that. We are working earnestly to prepare for  
6 trial and the time is needed, is necessary to  
7 afford Mr. Higgins a full and fair trial and I  
8 discussed this with him and he agreed for me to ask  
9 for this continuance and he has signed this  
10 continuance as well.

11 THE COURT: All right. And you  
12 believe he understands the fact that any time from  
13 now until the new trial date, from the date of the  
14 motion until the new trial date is waived; is that  
15 correct?

16 MS. SACK: Yes, Your Honor.

17 THE COURT: All right. How about  
18 that Mr. Higgins; do you understand all this?

19 THE DEFENDANT: I do, Your Honor.  
20 I have a brief statement I would like to make to  
21 the --

22 THE COURT: Does it have to do  
23 with the continuance?

24 THE DEFENDANT: It does.

25 THE COURT: Okay.

1 THE DEFENDANT: It does.

2 THE COURT: Do you, I mean, are  
3 you in agreement with the motion to continue?

4 THE DEFENDANT: I am agreeing with  
5 the motion to continue; however, I'd like to  
6 address The Court.

7 THE COURT: About what?

8 THE DEFENDANT: Well --

9 THE COURT: I'm just trying to  
10 protect you, Mr. Higgins. Basically we're here for  
11 a very narrow thing. We're here for a narrow issue  
12 of whether or not the Court grants a motion to  
13 continue the trial.

14 THE DEFENDANT: Understood.  
15 Understood.

16 THE COURT: All right.

17 THE DEFENDANT: However, my  
18 counsel and I had a conversation which I was  
19 assured that I would be able to address the Court.

20 THE COURT: With regard to the  
21 motion to continue?

22 THE DEFENDANT: With regard to --

23 THE COURT: Well, no one agrees to  
24 what I hear.

25 THE DEFENDANT: Understood.

1 Understood.

2 THE COURT: All right.

3 THE DEFENDANT: With that being  
4 said, Your Honor. I cannot move forward with the  
5 continuance.

6 THE COURT: What does that mean?

7 THE DEFENDANT: I will not waive  
8 my right to a continuance.

9 THE COURT: What do you want to  
10 say about the continuance?

11 THE DEFENDANT: I don't know.  
12 Maybe, Ms. Sack, do you want to address, I thought  
13 this was already, I thought we had a --

14 (Counsel conferring with  
15 Defendant.)

16 THE COURT: I'll tell you what,  
17 hold on, Ms. Sack.

18 MS. SACK: Okay.

19 THE COURT: Mr. Higgins, Ms. Sack  
20 has indicated that I would hear what you had to  
21 say?

22 THE DEFENDANT: That is correct,  
23 Your Honor.

24 THE COURT: All right. Go ahead.

25 THE DEFENDANT: Thank you for the

1 opportunity to address this Court, by the way. For  
2 the past 412 days I have had the weight of the  
3 Government on my neck. For the past 412 days I  
4 have been included in what the Government has  
5 called Operation Demolished Integrity, a Dragnet  
6 Operation led by a questionable confidential  
7 informant in which I have been publicly tarred and  
8 feathered.

9           While my case involves a ruptured  
10 fish tank, I always took the precautionary measures  
11 to engage that I did not engage in any illegal acts  
12 in completing the repairs. In fact, I sought out  
13 legal advice from my previous counsel on how not to  
14 err. The mistake I made was allowing Mr. Marshall  
15 and United Demolition to enter my home, a case that  
16 I'm currently litigating in Montgomery County  
17 Common Pleas Court. For the past ten years I have  
18 dedicated my life to exposing public corruption  
19 having spent hundreds of thousands of dollars  
20 unearthing what may go down as one of the largest  
21 public corruption schemes in modern times. The  
22 crimes that I have unearthed are very disturbing  
23 and monumental in size and scope. The vile crimes  
24 include a convicted child sexual predator who is  
25 the ring leader of an international ghosting scheme

1 using the identity of the deceased for things to  
2 include passport, medical cards on the black  
3 market, just to name a few.

4 In addition, I have unearthed a  
5 multi-billion dollar procurement scheme on a  
6 federally funded program that is being carried out  
7 by numerous elected officials. Seeing no  
8 alternative, I went to the local FBI Resident  
9 Office three weeks prior to my indictment in which  
10 I was interviewed by a local field agent. After  
11 several conversations I was asked to meet again at  
12 the local field office to turnover 3,000 pages of  
13 evidence of the crimes that I had unearthed.

14 This meeting was confirmed and to  
15 take place at the Clyo Road location with members  
16 of the Chicago Field Office. Upon my arrival at  
17 07:30 hours on April 30th, 2019 I was arrested and  
18 shackled on the charges that are before this Court.  
19 Since my April 30th, 2019 arrest, the Government  
20 requested yet another meeting. On January 21st,  
21 2020 I was asked to wear a wire on the ring leader,  
22 I declined, as well as to testify against a  
23 powerful elected official in Chicago, which I  
24 agreed to.

25 I was informed by the prosecutor

1 that agents from the Chicago Field Office would,  
2 once again, be scheduling an interview with me and  
3 my counsel within two weeks. To date there has  
4 been no meeting. In fact, it's obvious that the  
5 Government is in on the above-mentioned crimes. To  
6 date the White House as well as the Attorney  
7 General, Christopher Wray, and my senator, Sherrod  
8 Brown, have been put on notice and are monitoring  
9 the case before this Court.

10 I humbly respect this Court and  
11 the process in which I am bound. After careful  
12 consideration and conferring with my counsel, I  
13 agree to waive my Sixth Amendment right for yet a  
14 fourth time. I pray that if the United States of  
15 America proves my guilt beyond a reasonable doubt  
16 and a preponderance of the evidence, this Court  
17 sentence me to the maximum allowed by law. Thank  
18 you, Your Honor. I rest.

19 THE COURT: All right. Thank you.  
20 So, Mr. Higgins, you do understand the waiver of  
21 the speedy trial rights and you are consenting to  
22 it; is that correct?

23 THE DEFENDANT: I am, Your Honor.

24 THE COURT: All right.

25 Understanding that, I believe that we're looking at

1 a trial date somewhere towards the end of the year;  
2 do you understand that?

3 THE DEFENDANT: I do, Your Honor.

4 THE COURT: All right. Thank you.  
5 Any objection from the Government?

6 MR. TABACCHI: No objection to the  
7 continuance.

8 THE COURT: All right. Well, the  
9 Court does find based upon the presentation of  
10 counsel with regard and the motion to continue this  
11 before the court that the discovery in this case,  
12 well, first, that counsel has just recently been  
13 brought on the case or within the recent past that  
14 discovery in this case is extensive, detailed,  
15 somewhat complex, and that additional time is  
16 necessary for counsel and the Defendant to examine  
17 those records in discovery and to prepare for  
18 trial.

19 The Court further finds that  
20 failure to grant a continuance as prayed for by  
21 Mr. Higgins would result in a miscarriage of  
22 justice and would deny Mr. Higgins as well as Ms.  
23 Sack on his behalf the necessary time to prepare  
24 for trial. So, therefore, the Court finds that  
25 within the factual and legal confines of this case,

1 the ends of justice in granting this continuance as  
2 prayed for by the Defendant and consented to by all  
3 parties outweigh the best interest of the public  
4 and the Defendant in the speedy trial.

5 So, therefore, the Court does find  
6 the motion well founded. The Court is going to  
7 continue the matter from the previously scheduled  
8 trial date of Monday, July the 27th, 2020 until  
9 Monday, November the 2nd, 2020 at 9 o'clock. We  
10 will be conducting a final pretrial conference then  
11 on October the 15th, 2020 at 2:30. Anything  
12 further to come before the court, Ms. Sack?

13 MS. SACK: No. Thank you, Your  
14 Honor.

15 THE COURT: Mr. Tabacchi?

16 MR. TABACCHI: No, Your Honor.

17 THE COURT: Do you understand  
18 everything, Mr. Higgins?

19 THE DEFENDANT: I do, Your Honor.

20 THE COURT: All right. Thank you  
21 very much.

22 THE COURTROOM DEPUTY: All rise.  
23 This court stands in recess.

24 (Proceedings concluded at 2:56  
25 p.m.)

C E R T I F I C A T E

1  
2  
3 I, Jamie S. Hurley, a Court Reporter  
4 and Notary Public do hereby certify that the  
5 foregoing is a full, true and correct transcript of  
6 my notes taken in the above-styled case and  
7 thereafter transcribed by me.  
8  
9  
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11 \_\_\_\_\_  
12 Jamie S. Hurley  
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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

<b>UNITED STATES OF AMERICA,</b>	: Case No.: 3:18CR186TMR
	:
<b>Plaintiff,</b>	: <b>MOTION IN LIMINE NO. 1:</b>
	: <b>EXCLUSION OF IRRELEVANT</b>
<b>vs.</b>	: <b>ARGUMENTS AND EVIDENCE</b>
	:
<b>BRIAN HIGGINS,</b>	:
	:
<b>Defendant.</b>	:

Plaintiff United States of America, by and through its counsel of record, the United States Attorney's Office for the Southern District of Ohio, hereby files this motion in limine to preclude the defense from presenting irrelevant and immaterial arguments and evidence at trial. This motion is based upon the attached memorandum of points and authorities, the files and records in this case, and any further evidence or argument as may be presented at any hearing on this motion.

DATED: January 8, 2020

Respectfully submitted,

DAVID M. DEVILLERS  
UNITED STATES ATTORNEY

s/Brent G. Tabacchi  
BRENT G. TABACCHI (6276029 IL)  
Assistant United States Attorneys  
Attorneys for Plaintiff  
602 Federal Building  
200 West Second Street  
Dayton, OH 45402  
Telephone: (937) 225-2910  
Fax: (937) 225-2564



MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

The United States seeks a pretrial order, precluding defendant Brian Higgins from presenting certain irrelevant and immaterial evidence or arguments to the jury at trial. Throughout this matter, Mr. Higgins has submitted documents to the Court and raised in correspondence a series of claims unconnected to the merits of the mail fraud and witness tampering charges pending against him.

The issues irrelevant to his case have included: (1) information that he claims to possess concerning politicians in Chicago awarding a contract to a convicted sex offender, which he variously has styled as "Code of Silence", "What About the Children", or "Save the Children"; (2) his efforts to compel law enforcement in Dayton to secure a proffer for him with FBI agents in Chicago concerning "Code of Silence"; (3) the penalties affixed to his charge; (4) the number of days that have passed from his arrest to his trial date; (5) circumstances surrounding his arrest at the FBI in spring 2019; and (6) disparaging, personal attacks on members of the prosecution team. None of these matters prove relevant to any issue in this case within the meaning of Federal Rule of Evidence 401 ("Rule

401"). Moreover, even if arguably material, these issues are excludable under Federal Rule of Evidence 403; whatever de minimis probative value they may have is substantially outweighed by the risk of unfair prejudice, confusing the issues, misleading the jury, and wasting time. Higgins therefore should be barred from raising each of these matters at trial through argument or evidence.

## II.

### BACKGROUND

#### **A. The Mail Fraud Allegations**

Through a series of indictments, a federal grand jury has charged Mr. Higgins with mail fraud and witness tampering. See R. 57, Second Superseding Indictment. In general terms, the most recent charging instrument alleges that, during 2014 and 2015, Mr. Higgins lived at, and held a property interest in a home at 7240 Meeker Creek, Dayton, Ohio ("Meeker Residence"). See *id.* ¶ 5a. The property was in financial distress with its mortgage holder. See *id.* Mr. Higgins had not made a mortgage payment on the home in years; the house additionally had thousands of dollars in liens on it. See *id.* The home effectively was "upside down". To protect its interest in the property, the mortgage company placed forced insurance on the Meeker Residence. See *id.* ¶ 5b.

During mid-2014, Mr. Higgins filed a claim on the insurance policy, alleging that a large fish tank had leaked at the residence and caused thousands of dollars in damages to the property. See *id.* ¶ 5c. The indictment alleges that, rather than using the insurance money to repair the Meeker Residence as both the mortgage and insurance companies expected, Mr. Higgins improperly diverted substantial portions of these insurance funds for improper purposes, including to fund the opening of a new restaurant, to gamble at a casino, and to travel during 2014 and 2015. See *id.* ¶¶ 5e - 5k. The charging instrument further explained that Mr. Higgins took affirmative steps, as well as omitted material facts, to conceal these fraudulent activities from the mortgage and insurance companies.<sup>1</sup> See *id.*

**B. Mr. Higgin's Arrest**

In or around December 2018, a federal grand jury returned an under-seal indictment against Mr. Higgins concerning the above-described activities. (R. 5, Indictment). The Court issued an arrest warrant for Mr. Higgins at that time. (R. 9, Arrest Warrant dated 12/13/18 at 23).

During April 2019, while the arrest warrant was outstanding, Mr. Higgins cold-called the Federal Bureau of

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<sup>1</sup> The indictment also alleges that Mr. Higgins attempted to tamper with and retaliate against, witnesses in this case. See R. 57, Second Superseding Indictment).

Investigation in Dayton, Ohio, and indicated that he wished to provide information to it concerning alleged public corruption in Chicago, Illinois. See Ex. A, Higgins 1/5/2021 Letter to Tamara Sack. Knowing the existence of the outstanding warrant, FBI requested that Mr. Higgins come to its offices ostensibly to discuss his allegations; in reality, the agency intended to arrest him at its facility, eliminating the need to locate him. See *id.*

On April 30, 2019, Mr. Higgins arrived at the FBI in Centerville, Ohio, with an attorney. Agents proceeded to arrest Mr. Higgins on the outstanding warrant. They did not either question him or obtain any statements from him at that time. Nor did they collect any physical evidence from Mr. Higgins. In sum, the arrest on the outstanding warrant occurred years after the conduct alleged in the indictment and yielded no evidence that the United States intends to introduce at trial. Despite that, Mr. Higgins has fixated on his arrest - apparently linking it to what he terms "Code of Silence" (discussed below) and expressing displeasure that he was not arrested at his personal residence.<sup>2</sup> See *id.*

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<sup>2</sup> Mr. Higgins oddly has complained that other "related" defendants were arrested at their homes. Assuming that Mr. Higgins was referencing, among others, RoShawn Wiburn, Joey Williams, Steve Rauch, or Joyce Cameron, none were arrested at their personal residence.

**C. Mr. Higgin's Repeated References to "Code of Silence",  
"What About the Children" and the "CHILDREN"**

Since his arrest, through documents filed with the Court and correspondence to the United States and various government agencies and officials, Mr. Higgins repeatedly has fixated on what he variously has termed "Code of Silence", "What About the Children" and the "CHILDREN" (collectively "Code of Silence"). See, e.g., Ex. A, Higgins 1/5/2021 Letter to Tamara Sack; Ex. B, Higgins 1/6/2021 Letter to Brent Tabacchi; Ex. C., Higgins 12/30/2020 Email to Tamara Sack (entitled "The Children" and indicating that he "will be forced to talk about the CHILDREN") (emphasis in original); R. 59-1, Higgins 12/28/20 Letter to Tamara Sack. Although his description of "Code of Silence" morphs, the gravamen of his allegations center on a contract that he claims the City of Chicago (and specifically now-indicted Alderman Edward Burke) awarded to businesses in the late 2000s or early 2010's apparently as a result of bribery; Mr. Higgins alleges that a former Thornton, Illinois, firefighter and convicted sex offender named John Klaczak was affiliated with one of the companies that received this contract.<sup>3</sup> Mr. Klaczak's criminal activity was well-documented

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<sup>3</sup> Notably, based on publicly available information as well as a video on a website that he has repeatedly referenced, it appears that Mr. Higgins (or a company that he owned) at one time held the contract that he claims the City of Chicago improperly awarded to this individual over a decade ago in a different

and received extensive attention in the mid-2000s to early 2010s. See, e.g., *Wragg v. Village of Thornton et al.*, 604 F.3d 464 (7th Cir. 2010) (detailing the section 1983 action filed by one of Klaczak's victims and the events giving rise to it). Based on his own statements, over the last decade, Mr. Higgins already has made these allegations public by, among other things: filing a civil action in Chicago concerning this matter, see Ex. A, Higgins 1/5/2021 Letter to Tamara Sack (explaining and attaching qui tam lawsuit that he filed against Klaczak and others, of which the Illinois Attorney General was aware and moved to dismiss); sending correspondence to various law enforcement and public figures concerning his claims; and maintaining a website detailing his allegations. See generally Exs. A - C.

Through his communications, Mr. Higgins now amorphously attempts to link these allegations of corruption in Chicago to a claim that he wishes to help the "CHILDREN". Hinting that he has information concerning, at a minimum, a victim of Klaczak's past sexual abuse, he has demanded that law enforcement in Dayton arrange a meeting with authorities in Chicago to discuss the matter. For instance, in correspondence, Mr. Higgins referenced by name one of the now-adult victims from Klaczak's

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jurisdiction.

mid-2000 conviction and tacitly questioned why the United States would not tell this person's story. See Ex. C, Higgins 12/30/2020 Email to Tamara Sack (entitled "The Children" and referencing one of Klaczak's victims). Notably, as detailed in published federal cases from the 2010s, law enforcement in the Chicago area has known the identity of this victim for over a decade, and his harrowing story previously has been made public; Klaczak, in fact, was convicted for his actions against this individual. See, e.g., *Wragg v. Village of Thornton et al.*, 604 F.3d 464 (7th Cir. 2010). Mr. Higgins has threatened to hire a "publicist" to generate negative coverage of what he falsely characterizes as government inaction concerning the already well known story of this victim; Mr. Higgins offered to refrain from doing so if the United States agreed to dismiss his case. Ex. C., Higgins 12/30/2020 Email to Tamara Sack (entitled "The Children" and indicating that his "final offer stands").

Whenever Mr. Higgins has been pressed concerning how these claims relate to the charges against him, he largely repeats a mantra that he wants to help the children. He has provided no explanation how these claims -- which relate to temporally and geographically distant events -- connect to his case.<sup>4</sup>

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<sup>4</sup> Mr. Higgins has now started referencing random meetings that he had with a priest in Chicago concerning Code of Silence and allegations directed now at that priest concerning child abuse. See Ex. B, Brian Higgins 1/6/2021 Letter to Brent Tabacchi.

**D. Mr. Higgins' Raises Additional Irrelevant Matters**

At various proceedings and through his correspondence, Mr. Higgins has raised a series of matters that prove irrelevant before a jury. He variously has emphasized: (1) the statutory penalties affixed to the charges against him; (2) the number of days that he has been pending trial - all based on continuances that he requested and to which he agreed; and (3) the unidentified members of the government and media were watching this case. He has further engaged in ad hominem attacks on the prosecution team, contending, for instance, that they have engaged in a coverup of the "Code of Silence".

**III.**

**ARGUMENT**

**A. General Principles**

"The accused does not have an unfettered right to offer testimony [or argument] that is incompetent, privileged, or otherwise inadmissible under standard rules of evidence." *Taylor v. Illinois*, 484 U.S. 400, 410 (1988). A "defendant's right to present a defense [therefore] is not absolute[;]"

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This new "disclosure" shares a common theme with all of Mr. Higgins alleged information. It concerns reports from another state about which he generally has no personal knowledge; rather, he collects and attempts to repackage as "secret" intel what, in reality, is long-known or otherwise publicly available reporting and media accounts concerning instances of alleged child abuse in Illinois - not Ohio.

criminal defendants do not have a right to present evidence [or argument] that . . . [is] irrelevant or immaterial.” *United States v. Humprey*, 608 F.3d 955, 962 n.3 (6th Cir. 2010); see also *United States v. Buendia*, 907 F.3d 399, 402 (6th Cir. 2018) (district court properly excluded evidence that defendant used ill-gotten funds to benefit others).

Any evidence or argument that he wishes to tender to the jury must comport with Federal Rules of Evidence 401 and 402; it must make a fact of consequence in determining the action more or less probable than without its admission. See Fed. R. Evid. 401; see also Fed. R. Evid. 402 (“Irrelevant evidence is not admissible”); *Buendia*, 907 F.3d at 402 (evidence is irrelevant and therefore excludable where it “made no fact of consequence more or less probable”). Typically, relevant evidence has some logical connection – whether temporal or spatial – to the charges against a defendant. See *United States v. Ozuna*, 561 F.3d 728, 738 (7th Cir. 2009) (excluding as irrelevant allegations of agent misconduct as they had no connection to charges against defendant that arose from a temporally distinct incident involving a different agent); *United States v. Hamid*, 143 Fed. Appx. 683, 686–87 (6th Cir. 2005) (irrelevant whether co-defendant was an informant and received favorable treatment from government as it had no bearing on defendant’s guilt or innocence); cf. *Tompkins v. Philip Morris USA, Inc.*, 362 F.3d

882, 900-01 (6th Cir. 2004) (discussing necessity of temporal link between evidence and point to be proven for it to be relevant).

Even if a piece of evidence proves relevant, it nevertheless must be admissible under Federal Rule of Evidence 403. Under that provision, a court should exclude otherwise relevant material if "its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, [or] wasting time." Fed. R. Evid. 403. Unfair prejudice arises when evidence "tends to suggest decision on an improper basis." *United States v. Schrock*, 855 F.3d 327, 335 (6th Cir. 1988). While this rule favors admissibility, it compels the exclusion of evidence when its de minimus value is eclipsed by the risk that it will cause a jury to act on a basis other than a defendant's guilt or innocence. See *United States v. Perez*, 86 F.3d 735, 736 (7th Cir. 1996) ("The defendant has no right to invite the jury to act lawlessly").

**B. Mr. Higgins' Should Be Barred from Presenting Evidence or Argument Concerning his "Code of Silence" Allegations as They Are Inadmissible at Trial**

Although Mr. Higgins has spent considerable time sending correspondence and submitting documents concerning what he has termed "Code of Silence", these matters are inadmissible under Rules 401 and 403. His allegations of corruption in Chicago

over a decade ago or his purported knowledge concerning Klaczac's offenses against minors have no connection to his guilt or innocence in this case. These claims are irrelevant to whether he engaged in mail fraud or witness tampering and, in any event, create a substantial risk of confusing the issues and misleading the jury even if they had some as-yet-explained nexus to this case.

The charges contained in the indictment bear no temporal, geographic, or substantive connection to his allegations regarding what he has named "Code of Silence." The grand jury has returned an indictment, alleging that Mr. Higgins engaged in mail fraud in Dayton, Ohio during 2014 and 2015. It further concluded that, after the return of the original charges and production of discovery to him, he engaged in efforts during 2020 to retaliate against witnesses through filings in Ohio state court.

Mr. Higgins' contention that officials in Illinois improperly awarded a Chicago-city contract over a decade ago to a registered sex offender in that state has no relevance to the charges in this case. His claims that he has information that will help the "CHILDREN" -- including a long-identified victim of this sex offender -- has no impact on his guilt or innocence of fraud and witness tampering. These matters have no bearing -- temporally, geographically, or substantively -- on his conduct

in Dayton, Ohio concerning an insurance claim in 2014-2015 and subsequent alleged efforts to tamper with witnesses in 2020. That plain fact renders irrelevant his decade-old information concerning alleged corruption and purported activities of sex offenders in another state. It makes no fact germane to the charges against him more or less likely. He should therefore be barred from presenting any evidence or argument concerning "Code of Silence" to the jury.

Even if these matters have some-as-yet-to-identified relevance to the charges against him, their de minimus probative value would be substantially outweighed by unfair prejudice, confusing the issues, misleading the jury, and wasting time. Mr. Higgins allegations are squarely designed to distract from his charged criminal conduct - the subject of this case - and to generate a visceral response from the jury unmoored from his guilt or innocence of fraud and witnesses tampering. Indeed, his own writings seem to acknowledge that his statements are designed to create a subterfuge diverting attention from the charges against him. Rule 403 prohibits such efforts, and his attempts to invoke "Code of Silence" before a jury should be prohibited.

**C. Mr. Higgins Should Be Barred from Presenting Evidence or Argument at Trial Concerning Not Only His Efforts to Provide Information/Cooperate with Law Enforcement Concerning "Code of Silence" but also the United States' Response to Those Overtures**

Mr. Higgins should be barred from presenting evidence or arguments to the jury concerning his efforts to compel law enforcement in Dayton to arrange a proffer with the FBI in Chicago concerning his allegations related to "Code of Silence". Nor should he be permitted to characterize as a "coverup" law enforcement's declination to do so. These allegations are irrelevant to whether he engaged in mail fraud or witness tampering and, in any event, create a substantial risk of confusing the issues and misleading the jury.

First, for the reasons largely described above, Mr. Higgins' attempts to cooperate or provide information to law enforcement concerning "Code of Silence" is irrelevant to this case. Indeed, his efforts to disclose to law enforcement in Dayton, Ohio, dated information concerning crimes over which they have no jurisdiction or venue is doubly irrelevant. They simply shed no light on whether he committed the crimes alleged in the indictment against him. Law enforcement's decision to meet or not meet with an individual equally lacks import concerning whether he has committed the crimes with which he is charged. Accordingly, Mr. Higgins' efforts to disclose alleged

information concerning other criminal activity and law enforcement's reactions thereto are irrelevant under Rule 401.

Second, any such claims are inherently misleading, create a risk of confusing the issues, and will waste time. Mr. Higgins' assertions improperly suggest that a defendant has the right to meet with law enforcement for the purpose of disclosing purported crimes. However, it is well-settled that a defendant has "no constitutional right to cooperate with" law enforcement. See *Nyhuis v. Kildow*, 19 F.3d 19 (Table), 1994 WL 84922, at \*1 (6th Cir. 1994); *United States v. Vargas*, 935 F.2d 1260, 1263 (10th Cir. 1991) (defendant has no absolute right to cooperate); *United States v. Jacobs*, 914 F. Supp. 41, 43 (E.D.N.Y. 1995) ("The defendant has no absolute right to cooperate or offer to cooperate"); cf. *Boss v. United States*, 2007 WL 1875864, at \*2 (W.D. Mich. June 28, 2007) (no constitutional right to cooperate). His efforts to suggest that law enforcement has an obligation to meet with him creates a false impression that authorities in Chicago and Dayton have acted improperly in declining his overtures; this is the exact type of evidence that Rule 403 seeks to bar.

For similar reasons, he should be precluded from characterizing his inability to obtain a meeting with law enforcement in Chicago as a "cover up." It once more improperly suggests that law enforcement has an obligation to meet with any

individual who makes random allegations of criminal activity - regardless of the age and reliability of the claims or an agency's jurisdiction over them. (As noted above, his allegations concern matters over which neither courts nor law enforcement in Dayton have jurisdiction; neither can compel agencies that might have authority over such matters to meet with him). In short, these allegations represent nothing more than an improper effort by Mr. Higgins to distract from the substance of the criminal allegations against him. Accordingly, he should be barred from raising at trial claims that he attempted to apprise law enforcement concerning "Code of Silence" as well as the United States' response to those overtures.<sup>5</sup>

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<sup>5</sup> Moreover, if Mr. Higgins were permitted to raise these issues, it would create a trial within a trial - one wholly disconnected from the charges against him. The United States would have to explain that Mr. Higgins is not making new claims; through his own correspondence, he tacitly concedes that he previously has raised these allegations in public filings and letters to other government officials over the past decade; that he keeps re-presenting these matters suggests that no one has deemed them credible. He hints at having information only known to him, but then reveals in correspondence information that he appears to have gleaned from public information, not personal knowledge. He has in this case been found in contempt, been alleged to have committed new crimes while on bond and made spurious allegations in court.

**D. The Circumstances of Mr. Higgins' Arrest are Irrelevant and Immaterial to His Case**

Mr. Higgins repeatedly invokes the circumstances surrounding his arrest, again suggesting that they were somehow linked to "Code of Silence." However, his arrest and the circumstances surrounding it - all of which occurred several years after the conduct giving rise to the indictment - are irrelevant under Rule 401. See *United States v. Kellar*, 394 Fed. Appx. 158 (5th Cir. 2010) (circumstances of arrest irrelevant to income evasion charges).

In certain situations, the circumstances of an arrest may prove relevant at trial. For instance, if police obtain incriminating statements from a defendant at the time of his arrest or obtain items of evidentiary value from him when executing an arrest warrant, this event might be germane to the criminal charges against him. See, e.g., *United States v. Ruiz-Chavez*, 612 F.3d 983, 987 (8th Cir. 2010) (cash and firearm recovered at time of arrest relevant to drug conspiracy charges). Mr. Higgins' arrest raises no such issues.

Here, the FBI arrested Mr. Higgins at its offices several years after the events giving rise to the fraud charges. It gathered no items of evidentiary value from him at his arrest. It obtained no statements that the United States intends to

introduce at trial. The circumstances of his arrest therefore provide no insight concerning his intent to defraud (or lack thereof) when he submitted his insurance claim several years earlier.

The Fifth Circuit's decision in *United States v. Kellar*, 394 Fed. Appx. 158 (5th Cir. 2010), is instructive. Charged with income tax violations between 2001 and 2008, the defendant sought to admit evidence at trial concerning the circumstances of her arrest by federal agents in 2008. See *id.* at 162. Specifically, according to the defendant, in executing her arrest warrant, agents "kicked in the door" to her home, "dragged her", refused to let her use the restroom unaccompanied, and allegedly touched her in an "inappropriate manner." *Id.* at 161. When she attempted to testify concerning the circumstances of her arrest at trial, the United States objected that the matter was irrelevant under Rule 401, and the district court agreed. In affirming the exclusion of the arrest evidence, the Fifth Circuit observed that the event had "no bearing on whether she willfully failed to pay her income taxes." *Id.* at 162. The court further noted that her arrest occurred after her indictment, and it therefore had no nexus to her state of mind at the time of the alleged offense. See *id.*

Like *Kellar*, the circumstances of Mr. Higgins' arrest have no bearing on the allegations against him in the indictment.

That event makes no more or less likely that he had an intent to defraud his mortgage company and insurer. Predating his alleged efforts to tamper with witnesses, his arrest provides no insight on his intent in filing a civil action against individuals who provided information against him. The circumstances of his arrest are wholly irrelevant to this case and should be excluded. See *Kellar*, 394 Fed. Appx. at 164 (circumstances of arrest irrelevant under Rule 401).

To be sure, Mr. Higgins has emphasized that agents lured him to FBI offices on a ruse. However, “[t]here is no constitutional mandate forbidding the use of deception in executing a valid arrest warrant.” *United States v. Michaud*, 268 F.3d 728, 733 (9th Cir. 2001) (proper for agents to engage in trickery to arrest someone); see also *United States v. Alejandro*, 368 F.3d 130, 137-38 (2d Cir.2004) (“There is no constitutional mandate forbidding the use of deception in executing a valid arrest warrant”). To permit him to raise his arrest merely to present evidence of this entirely proper ruse would confuse the issues, mislead the jury and waste time. It therefore inadmissible under Rule 403.

**E. Mr. Higgins Should Be Prohibited from Disclosing the Statutory Penalties to the Jury**

Mr. Higgins has repeatedly taken issue with the statutory penalties attached to the charges against him. However, those

penalties are irrelevant to a determination of his guilt, and therefore he should be prohibited from discussing them at trial.

"It is axiomatic that it is the exclusive function of juries to determine whether defendants are guilty or not guilty, . . . . [It] has no concern with the consequences of a verdict, either in the sentence, if any, or the nature or extent of it." *United States v. Davidson*, 367 F.2d 60, 63 (6th Cir. 1966). The Sixth Circuit Pattern Jury Instructions confirm this rule, advising: "Deciding what the punishment should be is [the] job [of the Court,] not [the jury.] It would violate [the jurors'] oaths . . . to even consider the possible punishment in deciding [their] verdict." Sixth Circuit Pattern Jury Instruction 8.05.

Given that jurors should base their verdict upon the evidence against an individual -- not the potential punishment that he confronts -- courts should foreclose a defendant from disclosing to a jury the potential penalties that he faces if convicted. *United States v. Bilderbeck*, 163 F.3d 971, 978 (6th Cir. 1999) (district court properly granted motion in limine limiting cross examination concerning potential penalties). Because this matter is irrelevant and creates a substantial risk of unfair prejudice as well as confusion of the issues, the Court should bar Mr. Higgins from disclosing to the jury. See *Bilderbeck*, 163 F.3d at 978.

**F. Mr. Higgins Should Be Barred From Raising the Delay Between His Arrest and Trial**

Mr. Higgins has repeatedly emphasized the number of days that have transpired between his arrest and trial date. That fact has no bearing on his guilt or innocence; it provides no information that impacts any material matter in the case. It is there irrelevant. Alternatively, such claims therefore appear intended to mislead; Mr. Higgins and his counsel have sought and received multiple continuances in this matter. He cannot now complain to the jury concerning time for which he asked.

**G. Mr. Higgins Should Be Barred from Making Personal, Ad Hominem Statements Concerning Members of the Prosecution**

A defendant - whether through testimony or serving as his own counsel - cannot make "personal attacks on the prosecutor" before a jury. *United States v. Young*, 470 U.S. 1, 8 (1983). Because a "criminal trial does not unfold like a play with actors following a script", "unfounded and inflammatory attacks on opposing advocate" have no place in such proceedings. *Id.* Expressing his "negative feelings about [the legal team] and the criminal justice system ha[s] nothing to do with any the facts needed to convict him." *United States v. Evans*, 908 F.3d 346, 354-55 (10th Cir. 2018) (court properly precluded defendant from making statements to jury complaining about the criminal justice system, counsel at trial, or the court). Accordingly, Mr. Higgins should similarly be barred from making such statements.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served on defendant's counsel this 8th day of January 2021 via the Court's ECF System.

s/Brent G. Tabacchi  
BRENT G. TABACCHI  
Assistant United States Attorney

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
AT DAYTON

-----		)
UNITED STATES OF AMERICA,		)
		)
	Plaintiff,	) CASE NO. 3:18-cr-186-TMR
		)
	-vs-	)
		)
BRIAN HIGGINS,		) MOTION FOR
		) COMPETENCY EXAMINATION
	Defendant.	)
-----		)

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE **THOMAS M. ROSE**,  
UNITED STATES DISTRICT JUDGE  
MONDAY, MAY 24, 2021  
DAYTON, OH

**For the Plaintiff:**           **BRENT TABACCHI, ESQ.**  
  **GEORGE ROBERT PAINTER, IV, ESQ.**  
  U.S. Attorney's Office  
  200 W. Second Street  
  Room 602  
  Dayton, OH 45402

**For the Defendant:**       **TAMARA S. SACK, ESQ.**  
  Attorney at Law  
  130 W. Second Street  
  Suite 310  
  Dayton, OH 45402  
  and  
  **PAUL M. LAUFMAN, ESQ.**  
  Laufman & Napolitano, LLC  
  4310 Hunt Road  
  Cincinnati, OH 45242

**Courtroom Deputy, Elizabeth Penski**

**Also Present: Brian Higgins, defendant**

Proceedings recorded by mechanical stenography,  
transcript produced by computer.

**Mary A. Schweinhagen, RDR, CRR**  
Federal Official Court Reporter  
200 West Second Street  
Dayton, OH 45402



01:59:14 1 requesting the evaluation be conducted of Mr. Higgins was  
01:59:20 2 somewhat long in coming. It was given substantial thought and  
01:59:23 3 consideration, and a lot of that has to do with how  
01:59:29 4 Mr. Higgins presents to Ms. Sack and myself and to the Court.

01:59:36 5 Honestly, Judge, this motion gave us pause. It gave us a  
01:59:40 6 lot of time and thought and consideration and, when filed, was  
01:59:43 7 filed with Mr. Higgins's approval and largely at his request,  
01:59:49 8 though we certainly do think it's supported and necessitated  
01:59:52 9 by the facts and circumstances surrounding this case, as we  
01:59:55 10 will discuss.

01:59:56 11 Judge, Mr. Higgins presents a very interesting dichotomy  
02:00:01 12 to the Court. In some ways he is extremely intelligent,  
02:00:07 13 certainly educated and thoughtful. This is not a circumstance  
02:00:10 14 which I think looks at the aspects of competency having to do  
02:00:14 15 with the awareness of the circumstance. We could even advise  
02:00:19 16 the doctors who evaluate Mr. Higgins, and we likely will, they  
02:00:23 17 need not bother with questions of who is the judge and what is  
02:00:27 18 a prosecutor and what are their roles. Those issues really  
02:00:30 19 aren't at play. There's no doubt that Mr. Higgins understands  
02:00:33 20 all of that.

02:00:34 21 What does give us concern, Judge, and we hope that both  
02:00:39 22 the Court, and perhaps even more importantly Mr. Higgins,  
02:00:42 23 understands that we are pursuing this motion in large part to  
02:00:45 24 protect him because Ms. Sack and I just don't fully comprehend  
02:00:50 25 or understand the forces, the psychological issues that are at

02:02:46 1 we just cannot ably represent him at significant times  
02:02:52 2 throughout this case. And whether it's by choice, which would  
02:02:56 3 be a critical distinction: You know, is this something that  
02:02:59 4 Mr. Higgins simply focuses or chooses to focus on? But  
02:03:03 5 honestly, Your Honor, my concern is that it's not by choice;  
02:03:07 6 that what we do have going on is a mental defect that results  
02:03:11 7 in a compunction, a compulsion, one that he simply can't  
02:03:16 8 resist to sort of keep his eye on the ball and understand what  
02:03:19 9 we are trying to talk about, and that issue raises very real  
02:03:23 10 and very legitimate concerns to my and Ms. Sack's abilities to  
02:03:28 11 represent him, our abilities to communicate him, our abilities  
02:03:31 12 to get him to focus on what's truly at issue in this case.

02:03:36 13 And, Your Honor, I understand that, you know, Mr. Higgins  
02:03:38 14 will certainly have an opportunity to speak. And I will say  
02:03:43 15 this is the first time, at least in my recent recollection,  
02:03:46 16 that I have argued in favor of a competency motion with  
02:03:51 17 someone who I thought was so fully in control of their at  
02:03:56 18 least, you know, mental capacities and functions to know  
02:03:59 19 what's going on and yet to sort of feel duty bound to say to  
02:04:03 20 the Court and to Mr. Higgins, we just need to find out what's  
02:04:07 21 going on here. Mr. Higgins could result in a prison term.

02:04:12 22 I feel it's necessary to fulfill my ethical obligations  
02:04:15 23 to Mr. Higgins and the Court to ensure that there is not a  
02:04:17 24 mental defect in place that is not significantly impairing his  
02:04:23 25 ability to be represented, and all I can share with the Court

02:06:10 1 he had a fixation, a concern, a nagging issue about things  
02:06:19 2 that happened in Chicago, particularly somebody who succeeded  
02:06:24 3 him in a contract he had with the city for body removal.  
02:06:29 4 Mr. Higgins forwarded me documents that are of public record,  
02:06:33 5 filings in Chicago, filings that Mr. Higgins proceeded in a  
02:06:38 6 qui tam claim and other claims regarding his association with  
02:06:43 7 the City of Chicago as a contractor, or a vendor as well.

02:06:48 8         Afterwards, Mr. Laufman joined me in my representation,  
02:06:55 9 and Mr. Higgins and I discussed that. I said I am going to  
02:06:59 10 seek through the Court to appoint co-counsel with me. There  
02:07:02 11 is a lot going on in your case, and I feel I would benefit  
02:07:04 12 from another attorney working and helping me.

02:07:08 13         And since that time, since the case has progressed,  
02:07:12 14 Mr. Higgins has filed some pro se filings of his own that the  
02:07:17 15 Court has subsequently stricken. Those filings concerned a  
02:07:22 16 plethora of filings and materials that have nothing to do with  
02:07:26 17 the case at hand.

02:07:29 18         As well, approximately in December of 2020, Mr. Higgins  
02:07:35 19 informed Mr. Laufman and myself that he was seeking to no  
02:07:40 20 longer have us as his counsel and he wanted to proceed pro se.  
02:07:46 21 Mr. Higgins was told about the Faretta hearing and the  
02:07:50 22 standards and criteria that the Court would have to use to  
02:07:53 23 allow someone to proceed pro se.

02:07:55 24         We showed up at the appointed date for the hearing -- it  
02:07:58 25 was the 22nd of January -- and Mr. Higgins had a change of

02:09:55 1 not stopped the wave of sidetracking and Mr. Higgins bringing  
02:10:00 2 up issues and things that have nothing to do with his criminal  
02:10:03 3 case.

02:10:05 4 I too echo the comments of Mr. Laufman that basic  
02:10:13 5 experiences with Mr. Higgins, he is highly intelligent and he  
02:10:17 6 has no problem knowing what our role is, what your role is,  
02:10:20 7 Your Honor, what the government's role is, but at issue is the  
02:10:28 8 ability to assist in his defense. That is our concern. And I  
02:10:32 9 think that all of these issues and concerns are best left to  
02:10:34 10 experts who can do a forensic mental health evaluation upon  
02:10:39 11 Mr. Higgins.

02:10:39 12 Your Honor, we respectfully move the Court to allow  
02:10:42 13 Mr. Higgins to have a competency examination. I have thought  
02:10:49 14 to seek private, outside psychiatrists to do the examination.  
02:10:55 15 I've had this experience for several years now since I've been  
02:10:59 16 an attorney. I've also had experience with the BOP conducting  
02:11:03 17 such analysis. I find the BOP to be the best possible place  
02:11:09 18 for Mr. Higgins to receive this analysis. I find that they  
02:11:12 19 have the experience, the staff, and the facility to do the  
02:11:18 20 most comprehensive evaluation of Mr. Higgins. Thank you.

02:11:22 21 THE COURT: Thank you.

02:11:25 22 Before I turn to the government, Mr. Higgins, do you want  
02:11:29 23 to say anything?

02:11:31 24 THE DEFENDANT: Yes, Your Honor. This whole thing  
02:11:36 25 kind of reminds me of a mentor of mine -- rest in peace --

02:13:39 1 days or whenever it is to proceed with the fish tank.

02:13:44 2 What I have informed my counsel this morning, or this  
02:13:47 3 afternoon, I should say, is that I have every intention on  
02:13:51 4 assisting them in my defense. I have every intention on  
02:13:57 5 giving them my undivided attention to talk about a fish tank.  
02:14:03 6 I realize now that the United States government has no  
02:14:06 7 interest in hearing anything about the children; therefore, I  
02:14:10 8 am not going to mention the children anymore, Your Honor.

02:14:14 9 Now, I know that as you sit there you have many decisions  
02:14:19 10 you could make. I don't know which one you're leaning toward.  
02:14:23 11 All I can tell you is that I wholly, truly hope and pray that  
02:14:32 12 this Court takes into consideration a lot of factors; namely,  
02:14:36 13 the fact that I was just informed on Friday that I needed to  
02:14:39 14 make reasonable -- I don't even think it was reasonable -- but  
02:14:45 15 make -- get my affairs in order.

02:14:47 16 Twenty-four hours to get my affairs in order, Your Honor?  
02:14:50 17 I just started a job last week. I have a 23-year-old son. I  
02:14:56 18 have an 83-year-old father. And I get a 24-hour notice to get  
02:15:00 19 my affairs in order because I will likely be remanded to the  
02:15:04 20 Bureau of Prisons.

02:15:08 21 You have often in past talked about miscarriage of  
02:15:12 22 justice. I've heard that reoccurring word or reoccurring  
02:15:16 23 phrase. Your Honor, I do believe that if it is your desire to  
02:15:27 24 send me away, I believe that that's God's will, and I will  
02:15:31 25 clearly go into the custody of these fine gentlemen back here.

02:17:25 1 complicated wire and mail fraud case. It involves claims of  
02:17:31 2 witness tampering. All of those things require Mr. Higgins's  
02:17:38 3 attention on the facts of this case, not events that happened  
02:17:40 4 decades ago, and I think unless and until there is an  
02:17:45 5 evaluation performed of him, I think there are going to be  
02:17:49 6 concerns, particularly in the appellate record.

02:17:52 7 And with regard to whether or not the evaluation should  
02:17:54 8 take place locally or at the BOP, I do think that there are  
02:17:58 9 three guiding points that I'd just like to highlight. First  
02:18:03 10 is, as a practical matter, the custom and practice of this  
02:18:08 11 Court, being the Southern District of Ohio, has generally been  
02:18:11 12 to remand people into BOP custody for an evaluation. Not  
02:18:17 13 every case -- it doesn't happen in every case, but by and  
02:18:21 14 large that has been the custom and practice of this district.  
02:18:27 15 And it's for a reason.

02:18:29 16 The second point, and the point that Ms. Sack I think  
02:18:31 17 very astutely brought up, is that the BOP is in the best  
02:18:36 18 position given their expertise in dealing with these type of  
02:18:39 19 issues and these type of concerns of making a full and  
02:18:42 20 complete evaluation of someone. The United States certainly  
02:18:47 21 does not want to be in the business of trying people who are  
02:18:50 22 incompetent. And the BOP has an excellent track record of  
02:18:57 23 giving a full, complete, and neutral evaluation in a setting  
02:19:00 24 that allows them to perform their analysis over a lengthy  
02:19:04 25 period of time as opposed to a two-hour sit-down.

02:20:57 1 continuances, mostly all moved by the defendant. And the  
02:21:02 2 Court does attempt to avoid any kind of miscarriage of  
02:21:06 3 justice.

02:21:07 4 Under the statute, at any time after the commencement of  
02:21:13 5 a prosecution of an offense, or at any time after the  
02:21:19 6 commencement of any type of supervision, a defendant -- which  
02:21:27 7 initially was part of this motion -- a defendant or the  
02:21:33 8 attorney for the defendant or the government may file a motion  
02:21:37 9 for a hearing to determine the competency of a defendant. And  
02:21:47 10 the Court also may grant such on its own motion.

02:21:54 11 I must state that in addition to what has been presented  
02:21:57 12 to this Court, the Court has an intimate knowledge of the  
02:22:03 13 proceedings in this matter, the bumps in the road that we have  
02:22:12 14 had, the lack of compliance that we have had.

02:22:15 15 And that -- based upon that and in addition to what has  
02:22:20 16 been presented to me, the Court also, if such a motion is  
02:22:26 17 filed, and if, upon the filing of that motion, if there is  
02:22:34 18 reasonable cause to believe that a defendant may presently be  
02:22:42 19 suffering from a mental disease or defect which may render him  
02:22:46 20 or her mentally incompetent for the -- to the extent that he  
02:22:55 21 is unable or she is unable to understand the nature and  
02:22:59 22 consequences of the proceedings and to assist properly in a  
02:23:07 23 defense, the Court may order an evaluation to be conducted  
02:23:15 24 before, of course, the hearing to determine competency is  
02:23:21 25 held.

02:25:30 1 placement, I have had clients previously seen at FCI Butner,  
02:25:39 2 B-U-T-N-E-R. They have reported positively to me regarding  
02:25:44 3 the treatment and facilities. If the Court would consider in  
02:25:48 4 its judgment entry making a recommendation that he be  
02:25:52 5 transferred to Butner --

02:25:53 6 THE COURT: I don't know about the marshals, but I  
02:25:56 7 can make that recommendation and will do so.

02:25:59 8 MR. LAUFMAN: Obviously. Thank you, Judge.

02:26:01 9 THE COURT: Mr. Higgins, I am asking you to  
02:26:03 10 cooperate with me. And we will get this evaluation. If  
02:26:05 11 indeed everything is fine, we'll get this matter back. We'll  
02:26:08 12 set this matter for trial as quickly as we can. I won't let  
02:26:12 13 it sit. However, I really, truly do believe that it's  
02:26:18 14 necessary to resolve this matter before we go any further, and  
02:26:22 15 that's based upon this Court's knowledge of the docket in this  
02:26:30 16 case and what has transpired in this case, as well as the  
02:26:33 17 presentations of counsel.

02:26:34 18 Anything further to come before the Court?

02:26:35 19 MR. TABACCHI: No, Your Honor.

02:26:36 20 THE DEFENDANT: May I, Your Honor, have a question?

02:26:38 21 THE COURT: Okay.

02:26:39 22 THE DEFENDANT: May I have a couple of minutes  
02:26:40 23 before I get remanded to give my belongings to Ledra?

02:26:47 24 THE COURT: I don't think there is any problem --  
02:26:49 25 Marshal, any problems with that?

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CERTIFICATE OF REPORTER

I, Mary A. Schweinhagen, Federal Official Realtime Court Reporter, in and for the United States District Court for the Southern District of Ohio, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

s/Mary A. Schweinhagen

\_\_\_\_\_ 19th of September, 2022

MARY A. SCHWEINHAGEN, RDR, CRR  
FEDERAL OFFICIAL COURT REPORTER

August 7, 2023

Ms. Yiota Souras, Esq.  
National Center for Missing & Exploited Children  
Chief Legal Officer  
333 John Carlyle Street, Suite 125  
Alexandria, VA 22314-5950

SENT VIA U.S. POSTAL 7018 1830 0001 4410 1517

RE: Department of Justice - Code of Silence

Ms. Souras,

Since 2019, I have been sounding the whistle to federal authorities, i.e. elected representatives, Federal Bureau of Investigation and the Department of Justice of a convicted sexual predator, actively preying on young boys in the Chicago Metropolitan Area.

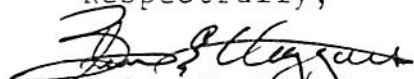
In 2018, I self funded a covert investigation into JOHN W. KLACZAK, a Chicagoland business owner, operating multiple shell companies, in an attempt to conceal his identity. Mr. KLACZAK was convicted in 2005 (sentenced to 5 years in prison) for molesting 14 year old boys in the fire cadet program, while serving as the Fire Chief for the Village of Thornton, Illinois. This investigation led me to a business owned and operated by KLACZAK- Paw Palace, a pet boarding and canine training business in Lynwood, Illinois- 2739 Glenwood Dyer Road, which is also Mr. KLACZAK's primary residence.

It is during one of my covert visits, I observed two young boys exiting KLACZAK's residence. Fully aware that KLACZAK is prohibited from being in the presence of children (lifetime condition of his conviction), I elected to intensify my efforts of catching this predator. This led to JOHN W. KLACZAK attempting to host a "birthday party" for dozens of 13-14 year old boys on his sprawling 20 acre compound that boasts wooded trails with 4x4 ATV's, a large fishing pond complete with boats and DJ equipment for the children to use. KLACZAK also extended to have a sleep-over for those that wanted a "camping experience," for the sum of \$750.00.

It is with this information in hand, I went to the Federal Bureau of Investigation to report this predator on the prey. After several weeks of the FBI leading me on a ruse, I was arrested, charged and ultimately convicted of mail fraud. I am currently serving a 36 month prison sentence in a Federal Prison Camp. Unwaved by my current situation, I have continued to seek justice for KLACZAK's victim(s) (KLACZAK has filed multiple bankruptcies to avoid paying civil judgements to his victims). My continued works have revealed that KLACZAK shares his residence with another convicted sexual predator STACY GORGAS. Mr. GORGAS who manages a crime scene cleanup company (CSI, Inc.) owned and operated by JOHN W. KLACZAK was convicted in 2000 for molesting a 13 year old boy in Rock Island, Illinois.

As the nations leading advocate for Child Sexual Exploitation, I request that you investigate my claims of JOHN W. KLACZAK et al.

Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

WWW.CORRUPTGMEN.COM



# FORMAL REQUEST FOR CONGRESSIONAL HEARING

Department of Justice – Code of Silence

August 10, 2023

**Honorable Kevin McCarthy**

Speaker, House of Representatives

H-232, U.S. Capitol

Washington, DC 20515

7018 1830 0001 4410 1692

**Representative James Comer**

Chairman, Committee on Oversight

2157 Rayburn House Office Building

Washington, DC 20515

7018 1830 0001 4410 1555

**Representative Jason Smith**

1011 Longworth House Office Building

Washington, DC 20515

7018 1830 0001 4410 1685

**Representative Jim Jordan**

Chairman, House Judiciary Committee

2056 Rayburn House Office Building

Washington, DC 20515

7018 1830 0001 4410 1678

**Representative Alexandria O. Cortez**

Member, Oversight & Reform Committee

250 Cannon House Office Building

Washington, DC 20515

7018 1830 0001 4410 1579

**Representative Marjorie Taylor Green**

Member, Oversight & Accountability

403 Cannon House Office Building

Washington, DC 20515

7018 1830 0001 4410 1548

**Ms. Jennifer Olkeiwicz**

Administrative Counsel

Office of the Chief Administrator

House of Representatives

Washington, DC 20515

7018 1830 0001 4410 1562

**Senator Mitch McConnell**

Senate Majority Leader

317 Russell Senate Office Building

Washington, DC 20510

7018 1830 0001 4410 1531

**Senator Lindsey Graham**

211 Russell Senate Office Building

Washington, DC 20510

7018 1830 0001 4410 1524

**Senator Ted Cruz**

Member, Judiciary

167 Russell Senate Office Building

Washington, DC 20510

7018 1830 0001 4410 1586

**Senator Ron Johnson**

328 Hart Senate Office Building

Washington, DC 20515

7018 1830 0001 4410 1593

**Elizabeth MacDonough**

Parliamentarian

Office of the Senate Secretary

U.S. Capitol

Washington, DC 20515

7008 1140 0001 7523 8579

July 10, 2023

Chairman Jim Jordan  
Chairman, House Judiciary Committee  
2056 Rayburn House Office Building  
Washington, D.C. 20515

**NATIONAL  
INTEREST**

SENT VIA U.S. POSTAL 7001 2510 0003 4711 6987

RE: Department of Justice - Code of Silence

Chairman Jordan,


In recent weeks, there has been a call for accountability within the Department of Justice and the Federal Bureau of Investigation. In fact, several whistleblowers have come forward to report misconduct within the DOJ and FBI. You and other members of the House, have been outspoken about holding Attorney General MERRICK GARLAND accountable for the actions and [inactions] of Department of Justice officials.

Over the last several years, I have documented a cover-up within the Department of Justice, to include the Federal Bureau of Investigation. The concealment of crimes, reach the highest level of Government, to include former Mayor of Chicago RAHM EMANUEL (current Ambassador to Japan), former FBI Chief of Staff (to Director CHRISTOPHER WRAY) COREY ELLIS and former White House Chief of Staff RONALD KLAIN, just to name a few. The crimes that have been unearthed, include the protection of a convicted sexual predator (actively preying on children), a procurement scheme related to the 8+ Billion Dollar federally funded Chicago O'Hare Airport Modernization Program, led by Chicago Aviation Commissioner JAMIE RHEE; and, a bribery pay-to-play scheme of former City of Dayton Mayor and 2022 Ohio Democratic Gubernatorial Candidate, NAN WHALEY.

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I hereby, make myself available to your Committee, in any formal or informal manner.

Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

WWW.CORRUPTGMEN.COM



August 10, 2023

Representative Jim Jordan  
Chairman, House Judiciary Committee  
2056 Rayburn House Office Building  
Washington, D.C. 20515

**NATIONAL  
INTEREST**

SENT VIA U.S. POSTAL 7018 1830 0001 4410 1678

RE: Department of Justice - Code of Silence  
Request for Congressional Hearings

Chairman Jordan,

This is a follow-up to my July 10, 2023 correspondence, in which I reported misconduct within the Federal Bureau of Investigation and the Department of Justice. I recently received a response to my concerns (FBI and DOJ cover-up of an active sexual predator) from the Office of the Chief Administrator, House of Representatives. SEE ADMINISTRATIVE COUNSEL 7/26/2023 LTR - SEE NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN 8/7/2023 LTR

As previously discussed, I have a well documented dossier- including audio recordings of the FBI and DOJ officials engaging in misconduct. In August 2019, I was asked to provide damning information on Congressman Michael Turner, Chairman of the House Intelligence Committee and other local (Dayton) elected officials. When I declined, I met the hammer of the DOJ- multiple superseding indictments. In fact, the Assistant United States Attorney, Southern District of Ohio BRENT G. TABACCHI allowed former City of Dayton Mayor NAN WHALEY to collect hundreds of thousands of dollars in bribe money from a City contractor (for over a decade), only to turn a blind eye- allowing WHALEY to become the 2022 Ohio Democratic Gubernatorial Candidate. Seems there are [two] tiers of justice.

As a result of your repeated pleas for a call to action (anyone with information of misconduct within the DOJ or FBI) to come forward and testify as to what they know to you and the Judiciary Committee; I hereby, accept your call. I am requesting full Congressional Hearings into the Department of Justice - Code of Silence.

I look forward to hearing from your office.

Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

Cc: Attached Congressional Hearing List

Yiota Souras  
National Center for Missing & Exploited Children

November 6, 2023

Russell Dye  
Communications Director  
2138 Rayburn House Office Building  
Washington, D.C. 20515

SENT VIA U.S. POSTAL 7017 0660 0000 5142 2962

REF: Department of Justice - Code of Silence  
2nd Request for Congressional Hearing(s)

Mr. Dye,

As Communications Director to Chairman Jim Jordan (House Judiciary Committee), you are probably aware of my previous communications to Chairman Jordan's office. In the unlikely event this is your first time, I will briefly describe the purpose of this writing.

For over the past decade, I have been sounding the whistle on crimes being committed within the City of Chicago and its elected officials. These crimes, include, ghosting the identity of deceased individuals on the black market (passports and medical insurance cards) along with procurement crimes (slush fund) related to the 10+ Billion Dollar federally funded O'hare Airport Modernization Program, led by Chicago Aviation Commissioner Jamie Rhee et al. Most disturbing however, is the City leaders protection of a convicted sexual predator, actively preying on young boys.

April 2019, I went to the Federal Bureau of Investigation (Dayton, Ohio) to report these crimes. Ultimately, I was indicted in an unrelated dragnet investigation (Operation Demolished Integrity)-related to a ruptured fish tank in my residence. I was convicted and sentenced to 36 months, a case that I am currently appealing. Since 2019, I have been able to document members of the Department of Justice and the FBI engaged in a cover-up that reaches the highest level of the federal government; to include, former White House Chief of Staff Ronald Klain and current White House Counsel Edward Siskel.

Recently, The Washington Post (October 22, 2023) did an article on Chairman Jordan's actions/inactions as it relates to the Ohio State sexual abuse scandal, while he was an assistant wrestling coach. It seems that coach Jordan intentionally withheld alerting university officials of the abuse Dr. Richard Strauss (athletic team physician) was inflicting on scores of male students and athletes that he was molesting. When given an opportunity to support his former players decades later, Chairman Jordan fell short. He seems to have no recollection of Dr. Strauss sexually abusing [his] wrestling players.

To be clear, it is not my intent to embarrass or put Chairman Jordan in peril. I am attempting to hold public officials, to include the Department of Justice and Federal Bureau of Investigation accountable

July 10, 2023

Representative Alexandria O. Cortez  
Member, Oversight & Reform Committee  
250 Cannon House Office Building  
Washington, D.C. 20510

SENT VIA U.S. POSTAL 7001 2510 0003 4711 6994

RE: Department of Justice - Code of Silence

Representative Cortez,

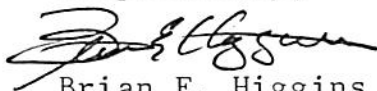
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I hereby, make myself available to your Committee, in any formal or informal manner.

Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

July 10, 2023

Senator Mitch McConnell  
Senate Minority Leader  
317 Russell Senate Office Building  
Washington, D.C. 20510

SENT VIA U.S. POSTAL 7018 1830 0001 4410 0725

RE: Department of Justice - Code of Silence

Leader McConnell,

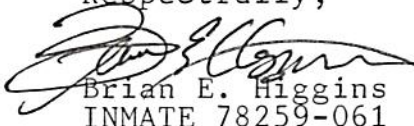
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Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

July 10, 2023

The Honorable Kevin McCarthy  
Speaker of the House of Representatives  
H-232, U.S. Capitol  
Washington, D.C. 20515

SENT VIA U.S. POSTAL 7018 0040 0000 2831 2952

RE: Department of Justice - Code of Silence

Speaker McCarthy,


In recent weeks, there has been a call for accountability within the Department of Justice and the Federal Bureau of Investigation. In fact, several whistleblowers have come forward to report misconduct within the DOJ and FBI. You and other members of the House, have been outspoken about holding Attorney General MERRICK GARLAND accountable for the actions and [inactions] of Department of Justice officials.

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Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

July 10, 2023

Chairman James Comer  
Chairman, Committee on Oversight  
2157 Rayburn House Office Building  
Washington, D.C. 20515

SENT VIA U.S. POSTAL 7001 2510 0003 4711 6963

RE: Department of Justice - Code of Silence

Chairman Comer,

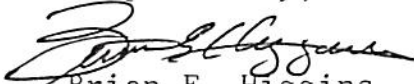
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Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

July 10, 2023

Representative Jason Smith  
1011 Longworth House Office Building  
Washington, D.C. 20515

SENT VIA U.S. POSTAL 7018 0040 0000 2831 3812

RE: Department of Justice - Code of Silence

Representative Smith,

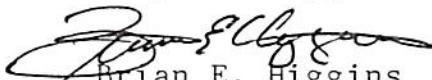
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Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

July 10, 2023

Senator Lindsey Graham  
211 Russell Senate Office Building  
Washington, D.C. 20510

SENT VIA U.S. POSTAL 7001 2510 0003 4711 6949

RE: Department of Justice - Code of Silence

Senator Graham,

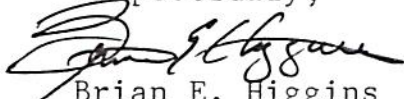
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Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

July 10, 2023

Senator Ted Cruz  
Member, Judiciary  
167 Russell Senate Office Building  
Washington, D.C. 20510

SENT VIA U.S. POSTAL 7001 2510 0003 4711 6956

RE: Department of Justice - Code of Silence

Senator Cruz,


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Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

July 10, 2023

Senator Ron Johnson  
328 Hart Senate Office Building  
Washington, D.C. 20510

SENT VIA U.S. POSTAL 7001 2510 0003 4711 6925

RE: Department of Justice - Code of Silence

Senator Johnson,


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Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

July 10, 2023

Representative Majorie Taylor Green  
Member, Oversight & Accountability  
403 Cannon House Office Building  
Washington, D.C. 20515

SENT VIA U.S. POSTAL 7001 2510 0003 4711 6970

RE: Department of Justice - Code of Silence

Representative Green,

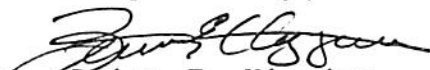
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Respectfully,

  
Brian E. Higgins  
INMATE 78259-061

UNITED STATES DISTRICT COURT

for the  
Southern District of Ohio

FILED  
MICHAEL J. NEWMAN  
2014 JUL -8 PM 4:44

In the Matter of the Search of )  
(Briefly describe the property to be searched )  
or identify the person by name and address) )  
Cellular telephone assigned call no.: (937) 416-7953 )  
)

Case No. 3:14mj 272  
MICHAEL J. NEWMAN

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):  
See Attachment A. This court has authority to issue this warrant under 18 U.S.C. sections 2703(c)(1)(A) and 2711(3)(A) and Federal Rule of Criminal Procedure 41.

located in the unknown District of unknown, there is now concealed (identify the person or describe the property to be seized):

See Attachment B.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section  
18 U.S.C. section 666;  
18 U.S.C. section 1061

Offense Description

The application is based on these facts:

See Attached Affidavit.

- Continued on the attached sheet.
- Delayed notice of 30 days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

*[Handwritten Signature]*  
Applicant's signature

Lance R. Kepple, FBI Special Agent  
Printed name and title

Sworn to before me and signed in my presence.

Date: 7/8/14

*[Handwritten Signature]*  
Judge's signature

City and state: Dayton, Ohio

Michael J. Newman, United States Magistrate Judge  
Printed name and title



IN THE UNITED STATES DISTRICT COURT  
FOR SOUTHER DISTRICT OF OHIO

**3 : 14 mj 272**

IN THE MATTER OF THE SEARCH OF  
THE CELLULAR TELEPHONE ASSIGNED  
CALL NUMBER (937) 416-7953

Case No. \_\_\_\_\_

Filed Under Seal

**AFFIDAVIT IN SUPPORT OF  
AN APPLICATION FOR A SEARCH WARRANT**

I, Lance R Kepple, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of an application for a search warrant under Federal Rule of Criminal Procedure 41 and 18 U.S.C. §§ 2703(c)(1)(A) for information about the location of the cellular telephone assigned call number (937) 416-7953 (the "Target Cell Phone"), whose service provider is Cellco Partnership DBA Verizon, a wireless telephone service provider headquartered at 180 Washington Valley Road, Bedminster, New Jersey. The Target Cell Phone is described herein and in Attachment A, and the location information to be seized is described herein and in Attachment B.

2. I am a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI"), United States Department of Justice, Cincinnati Division. I have been employed as a Special Agent with the FBI since September 1999. I have received training in violent crime investigations, bank robbery investigations, organized crime and gang investigations, drug trafficking investigations, and have participated in numerous organized crime, violent crime, gang, and narcotic related investigations, arrests, and convictions. I have participated in numerous investigations that involved wireless telephone related search warrants and court orders.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on the facts set forth in this affidavit, there is probable cause to believe that violations of 18 U.S.C. § 1031 and 18 U.S.C. § 666 have been committed, are being committed, and will be committed by Willis Blackshear and others (both known and unknown to law enforcement). There is also probable cause to believe that the location information described in Attachment B will constitute evidence of these criminal violations.

**PROBABLE CAUSE**

5. The United States government, including FBI SA Lance R Kepple, and other law enforcement agencies, including the Ohio Organize Crime Investigators Commission (“OOCIC”), is investigating the public corruption and fraud against the government activities of STEVE RAUCH (“RAUCH”). RAUCH is the owner of the demolition company STEVE RAUCH INCORPORATED (“SRI”), which does a large volume of contracts with the City of Dayton. The following information has been provided to the undersigned by SA Burkart. In April 2013, a former SRI Project Manager (hereafter referred to as Confidential Human Source One “CHS-1”) was interviewed. CHS-1 stated that former Dayton Mayor RHINE MCLIN (“MCLIN”) and RAUCH had a “tight” relationship and CHS-1 often heard jokes about them being “together.” CHS-1 saw pictures of RAUCH and MCLIN together in RAUCH’S office as well as gifts from MCLIN. RAUCH often threatened to “call the Mayor” when he faced issues on Dayton projects. CHS-1 also heard RAUCH state, “I’m going to call the Mayor” on multiple occasions when RAUCH thought SRI wasn’t the lowest bidder and therefore unlikely to get a

demolition contract. CHS-1 recalled a City of Dayton federally funded demolition contract in excess of \$1 million issued to one of SRI's competitors. RAUCH told CHS-1 the competitor had the lowest bid, but failed to meet the city of Dayton's minority subcontractor requirement. The City of Dayton subsequently reassigned the contract to SRI, which CHS-1 suspected occurred because of RAUCH'S relationship with MCLIN rather than the minority subcontractor requirement.

6. In July 2013, a former project estimator and manager (hereinafter referred to a Confidential Human Source Two "CHS-2") of a now defunct demolition company that directly competed with SRI was interviewed. CHS-2 stated that he began bidding on federally funded demolition projects from the City of Dayton in approximately 2009. At the time, SRI did the majority of demolition work for Dayton and it was "very hard to compete" with them in the bidding process. CHS-2 heard then Dayton Mayor RHINE MCCLIN was RAUCH'S girlfriend at the time. CHS-2 suspected MCCLIN used her influence to ensure RAUCH obtained federally funded demolition contracts because SRI won virtually all bids.

7. In August 2013, a second former SRI Project Manager (hereafter referred to as Confidential Human Source Three "CHS-3") recorded a meeting with SRI's current controller (who is currently cooperating and hereinafter referred to as Confidential Human Source Four "CHS-4"). During their conversation, CHS-4 stated RAUCH gave MCLIN a "shit ton" of money while she was the Mayor of Dayton. CHS-4 continued that MCLIN used an individual (later identified by CHS-4 as former City of Dayton Aide DAVID CLEAVENGER) to pick up the money at SRI's headquarters once every few weeks, "so she [MCLIN] didn't have to ever touch it." While MCLIN was mayor, CHS-4 estimated that RAUCH gave her \$100,000 a

year. CHS-4 recalled specific occasions when RAUCH would order him to leave money out for MCLIN as follows: “Steve would say, and you know, we need to get \$10,000 in cash. So we would get the money, put it in the envelope, seal the envelope, and put it on the front counter. Steve . . . front counter? You know this was at like 5:30 at night. You sure? And he goes, when the door makes the noise. . . or . . . you know, you hear the bell...we used to have a bell on the front door, and he goes, when you . . . when you hear the bell, he goes, let it go.”<sup>1</sup>

8. In September 2013, CHS-3 placed an outgoing recorded telephone call to CHS-4. During a pertinent portion of the conversation, CHS-3 asked CHS-4 the name of the individual who used to come to SRI and get money for MCLIN. CHS-4 reported that there were two individuals, and identified one of them as BLACKSHEAR<sup>2</sup> (the current Montgomery County Recorder). CHS-4 continued that MCLIN used BLACKSHEAR to pick up her money because he was not directly related to her office and, “she couldn’t come in herself.” CHS-4 stated that BLACKSHEAR still comes into SRI’s headquarters and “Steve still pays his campaign and gives him a little money.”

9. On September 21, 2013, the OOCIC Task Force conducted surveillance at the Town and County Shopping Center, Kettering, Ohio. The surveillance was based on CHS-3 information that RAUCH was hosting an annual party and attending guests would park at the

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<sup>1</sup> The voice identifications on the recorded interceptions are based upon agent review and analysis and are preliminary. Words that appear in quotations are the best transcription of what can be heard at this time during the communication. When words do not appear in quotations, they reflect a summary or interpretation of the words that can be heard in the recordings.

<sup>2</sup> In February 2014, CHS-4 was approached by OOCIC Agents and agreed to cooperate with Law Enforcement. During a subsequent interview, CHS-4 clarified that he/she only witnessed DAVID CLEAVENGER collect money from RAUCH on behalf of MCLIN. CHS-4 further clarified that he/she only witnessed WILLIS BLACKSHEAR collect money on behalf of WHALEY.

Town and County Shopping Center before being bused to his residence. For approximately two hours, agents photographed vehicles and individuals who arrived and were believed to be attending the party. Upon reviewing the photographs, agents observed an orange 2-door 2005 Chevrolet Cobalt (according to open source databases, Chevrolet replaced the Cavalier with the Cobalt in 2005), bearing Ohio License Plate FSY-8551 parked in the lot (hereinafter referred to as the "SUBJECT VEHICLE"). According to the Ohio Law Enforcement Gateway (OHLEG) database, Ohio License Plate FSY-8551 is currently registered to an orange 2005 Chevrolet Cobalt, in the name of Willis E. Blackshear Sr., 736 Argonne Drive, Dayton, Ohio (an address located in the Southern District of Ohio).

10. In October 2013, CHS-3 placed an outgoing recorded telephone call to CHS-4. During a pertinent portion of the conversation, the CHS stated he/she was driving and observed BLACKSHEAR driving an "orange Cavalier." CHS-4 responded, "Yeah, yeah that's what he drives dude." CHS-3 then asked CHS-4 if that is what BLACKSHEAR drives to get his "little pay-offs." CHS-4 responded, "Uh-ha . . . that's what he drives up here. Yeah, you're exactly right." Later in the conversation, CHS-4 stated, "What he [BLACKSHEAR] does is he acts as the intermediary, so NAN (a then-current City of Dayton Commissioner and then-mayoral Candidate, now presently City of Dayton Mayor, NAN WHALEY) doesn't have to come out here. You know, the City of Dayton Commission doesn't have to come out here. So he [BLACKSHEAR] does all the running. He [BLACKSHEAR] comes out here and collects all the money." Later CHS-3 asked if "even NAN WHALEY is in on that deal?" CHS-4 responded, "Oh yeah. Very much so." Later CHS-4 continued, "He [BLACKSHEAR] comes in here in his little orange Cavalier and he [BLACKSHEAR] takes the money to go to her [NAN WHALEY]."

11. On October 22, 2013, United States Magistrate Judge Michael R. Merz, signed a warrant (3:13-mj-463, filed under seal) authorizing the Affiant, together with other FBI special agents, the OOCIC Task Force, and other governmental and contract personnel acting on the supervision of such law enforcement officers, to install and monitor a GPS tracking device on the SUBJECT VEHICLE.

12. On November 1, 2013, OOCIC Task Force members were electronically notified that the SUBJECT VEHICLE was arriving at SRI Headquarters, located at 1550 Soldiers Home West Carrolton, Dayton, Ohio. At approximately 12:19 p.m., OOCIC Task Force members arrived at the location and observed the SUBJECT VEHICLE parked in the SRI Headquarters parking lot. At approximately 3:00 p.m., surveillance observed BLACKSHEAR exit SRI Headquarters and enter the SUBJECT VEHICLE. Moments later, the SUBJECT VEHICLE departed the SRI Headquarters parking lot and was followed to BLACKSHEAR's residence located at 736 Argonne Drive, Dayton, Ohio. Minutes later, the SUBJECT VEHICLE departed and was followed to the Donut Palace, located at 3950 Salem Avenue, Dayton, Ohio. At the Donut Palace, surveillance observed BLACKSHEAR meeting in the parking lot with an individual later determined to be MARLON C. SHACKELFORD. After meeting for several minutes, BLACKSHEAR returned to the SUBJECT VEHICLE and departed the Donut Palace parking lot.

13. On that same day, the SUBJECT VEHICLE was then observed parking on Ludlow Street, near the intersection of Ludlow Street and West 3<sup>rd</sup> Street, Dayton, Ohio. At approximately 3:51 p.m., BLACKSHEAR was observed walking into the front entrance of the City of Dayton's City Hall Building. Approximately five minutes later, BLACKSHEAR was

observed exiting the same entrance and returned to the SUBJECT VEHICLE. BLACKSHEAR unlocked the driver's door and leaned into the SUBJECT VEHICLE in a manner that indicated he was retrieving something. BLACKSHEAR then backed out of the vehicle and was photographed holding an unknown white object. After reviewing several photographs, OOCIC Task Force members determined that the white object appears to be folded once into an approximately 4x4 square. BLACKSHEAR then carried the above described white object in his left hand and entered the Montgomery County Courts Building, located at 41 North Perry Street, Dayton, Ohio. Approximately five minutes later, BLACKSHEAR was observed exiting the building from the same location and no longer carrying the above described white object. BLACKSHEAR then walked back to the SUBJECT VEHICLE and departed. At approximately 4:16 p.m., the SUBJECT VEHICLE was observed pulling into the Montgomery County Administration Building parking garage, located at 451 West 3<sup>rd</sup> Street, Dayton, Ohio. The parking garage had previously been determined to be BLACKSHEAR's employment parking and therefore the surveillance was terminated.

14. In November, 2013, FBI Forensic Accountant ("FA") Susan Sigler conducted open source database checks on MARLON C. SHACKELFORD. During the search, FA Sigler discovered that SHACKELFORD had an unrestricted Facebook page. FA Sigler reviewed SHACKELFORD's unrestricted Facebook page and discovered promotions and photographs from the political campaigns of various individuals, including the City of Dayton Mayor NAN WHALEY. In addition, FA Sigler discovered a post from Mayor WHALEY's unrestricted Facebook page thanking SHACKELFORD for his support.

15. In November 2013, pursuant to a Federal Grand Jury Subpoena, the FBI received subscriber and call detail records for a cellular phone number believed to be used by BLACKSHEAR identified as (937) 416-7953.

16. In March 2014, CHS-4 was interviewed. CHS-4 stated that in August 2009 he/she left SRI and returned in June 2012. When the CHS-4 returned, Montgomery County Recorder WILLIS BLACKSHEAR was “regularly” visiting SRI. In approximately June or July 2013, the CHS-4 attended a meeting in RAUCH’s office between RAUCH and BLACKSHEAR. During the meeting, RAUCH handed the CHS-4 a white envelope and asked CHS-4 to, “Give this to WILLIS (BLACKSHEAR)”. The CHS-4 believes the envelope contained a stack of cash based on the weight; the size of the object in the envelope was consistent with cash; and his/her previous experience in handling envelopes containing cash. In approximately October 2013 and just before the City of Dayton Mayoral election, the CHS-4 met with RAUCH and BLACKSHEAR in the front entrance area of SRI. During the meeting, RAUCH again handed the CHS-4 a white envelope and asked the CHS-4 to give it to BLACKSHEAR. CHS-4 believes the envelope contained a stack of cash based on the weight; the size of the object in the envelope was consistent with cash; and his/her previous experience in handling envelopes containing cash.<sup>3</sup> CHS-4 also believes the envelopes contained cash based on RAUCH’s previous statements. Specifically, RAUCH told CHS-4 he gave current City of Dayton Mayor NAN WHALEY \$50,000 in cash, and has ways to get the cash to WHALEY that is not detectable. On another occasion, RAUCH told CHS-4 he is using BLACKSHEAR as a “go between” to WHALEY. On two occasions, RAUCH was having an issue on a project and reported to CHS-4

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<sup>3</sup> See paragraph 12 for details regarding the November 1, 2013 surveillance of BLACKSHEAR.

that he (RAUCH) gave WHALEY money and she needs to take care of it. CHS-4 has never heard RAUCH state that any of the cash provided to WHALEY was a campaign contribution or a loan.

17. In March 2014, CHS-4 was again interviewed. CHS-4 stated that on Friday, March 21, 2014, at approximately 2:15 p.m., BLACKSHEAR arrived at SRI to attend a meeting that occurred in CHS-4's office. The purpose of the meeting between CHS-4, BLACKSHEAR, and STEVE RAUCH, was to discuss a variety of topics including recently issued City of Dayton Termination and Cure Letters. At the conclusion of the meeting, CHS-4 and RAUCH walked with BLACKSHEAR to the front entrance of the business. At the front entrance, BLACKSHEAR asked to speak with RAUCH alone and the two walked outside. CHS-4 observed BLACKSHEAR and RAUCH having a discussion through the front glass door of the business. At approximately 3:17 p.m., CHS-4 witnessed RAUCH reach into his front pocket and grab a roll of cash that was wrapped with a rubber band. RAUCH then removed an unknown amount of cash from the roll and handed the cash to BLACKSHEAR. BLACKSHEAR took the cash and placed it his front right pocket. Minutes later, CHS-4 observed the meeting conclude and BLACKSHEAR departed the SRI.

18. In March 2014, CHS-4 identified (937) 416-7953 as BLACKSHEAR'S cellular phone number. In April 2014, pursuant to a Federal Grand Jury Subpoena, the FBI received additional call detail records for a cellular phone number believed to be used by BLACKSHEAR identified as (937) 416-7953. A preliminary review of the requested call detail records indicated that (937) 416-7953 (*i.e.*, the Target Cell Phone) had approximately 6 contacts with (937) 604-2619 from November 29, 2013 to March 17, 2014. (937) 604-2619 has been

identified during the course of this investigation as a cellular telephone subscribed to and used by STEVE RAUCH. A preliminary review of the requested call detail records has also indicated that (937) 416-7953 had approximately 6 contacts with (937) 545-0304 from December 4, 2013 to February 21, 2014. According to the Experian Credit Agency, (937) 545-0304 was last verified to be associated with NANNETTE WHALEY on May 13, 2013.

19. In approximately July 2014, CHS-4 reported that RAUCH and BLACKSHEAR intend to meet on or about July 9, 2014. The meeting is expected to include a payment from RAUCH to BLACKSHEAR for BLACKSHEAR's involvement in SRI's City of Dayton contracts in furtherance of the above described violations of federal law. It is expected that this meeting will occur in the Southern District of Ohio.

20. The investigation relates to the public corruption and fraud against the government activities of WILLIS BLACKSHEAR and others (both known and unknown to law enforcement). Investigators believe that matters relevant to the offenses under investigation have been and continue to be discussed using Cellco Partnership DBA Verizon cell phone number (937) 416-7953 (*i.e.*, the Target Cell Phone). Cellco Partnership DBA Verizon is an electronic communication service provider doing business in Bedminster, New Jersey. The listed subscriber for this number is WILLIS E. BLACKSHEAR and investigators believe the phone is currently being used by WILLIS BLACKSHEAR, a target of this investigation.

21. In my training and experience, I have learned Cellco Partnership DBA Verizon is a company that provides cellular telephone access to the general public. I also know that providers of cellular telephone service have technical capabilities that allow them to collect and generate information about the locations of the cellular telephones to which they provide

service, namely: cell-site data, also known as “tower/face information” or cell tower/sector records. Cell-site data identifies the “cell towers” (*i.e.*, antenna towers covering specific geographic areas) that received a radio signal from the cellular telephone and, in some cases, the “sector” (*i.e.*, faces of the towers) to which the telephone connected. These towers are often a half-mile or more apart, even in urban areas, and can be 10 or more miles apart in rural areas. Furthermore, the tower closest to a wireless device does not necessarily serve every call made to or from that device.

22. Based on my training and experience, I know that Cellco Partnership DBA Verizon can collect cell-site data about the Target Cell Phone.

#### AUTHORIZATION REQUEST

23. Based on the foregoing, I request that the Court issue the proposed search warrant, pursuant to Federal Rule of Criminal Procedure 41 and 18 U.S.C. § 2703(c).

24. I further request, pursuant to 18 U.S.C. § 3103a(b) and Federal Rule of Criminal Procedure 41(f)(3), that the Court authorize the officer executing the warrant to delay notice until 30 days after the collection authorized by the warrant has been completed. There is reasonable cause to believe that providing immediate notification of the warrant may have an adverse result, as defined in 18 U.S.C. § 2705. Providing immediate notice to the subscriber or user of the Target Cell Phone would seriously jeopardize the ongoing investigation, as such a disclosure would give that person an opportunity to destroy evidence, change patterns of behavior, notify confederates, and flee from prosecution. *See* 18 U.S.C. § 3103a(b)(1). As further specified in Attachment B, which is incorporated into the warrant, the proposed search warrant does not authorize the seizure of any tangible property. *See* 18 U.S.C. § 3103a(b)(2). Moreover, to the extent that the warrant authorizes the seizure of any wire or electronic communication (as

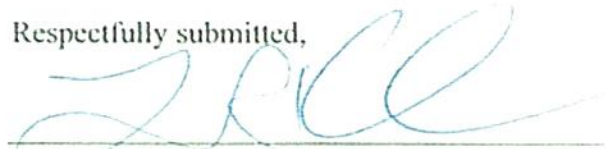
defined in 18 U.S.C. § 2510) or any stored wire or electronic information, there is reasonable necessity for the seizure for the reasons set forth above. *See* 18 U.S.C. § 3103a(b)(2).

25. I further request that the Court direct Cellco Partnership DBA Verizon to disclose to the government any information described in Attachment B that is within the possession, custody, or control of Cellco Partnership DBA Verizon. I also request that the Court direct Cellco Partnership DBA Verizon to furnish the government all information, facilities, and technical assistance necessary to accomplish the collection of the information described in Attachment B unobtrusively and with a minimum of interference with Cellco Partnership DBA Verizon's services, including by initiating a signal to determine the location of the Target Cell Phone on Cellco Partnership DBA Verizon's network or with such other reference points as may be reasonably available, and at such intervals and times directed by the government. The government shall reasonably compensate Cellco Partnership DBA Verizon for reasonable expenses incurred in furnishing such facilities or assistance.

26. I further request that the Court authorize execution of the warrant at any time of day or night, owing to the potential need to locate the Target Cell Phone outside of daytime hours.

27. I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

Respectfully submitted,



Lance R Kepple  
Special Agent  
FBI

Subscribed and sworn to before me on July 8, 2014



MICHAEL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE



**ATTACHMENT A**

**Property to Be Searched**

1. The cellular telephone assigned call number (937) 416-7953 (the "Target Cell Phone"), whose wireless service provider is Cellco Partnership DBA Verizon, a company headquartered at 180 Washington Valley Road, Bedminster, New Jersey.
2. Information about the location of the Target Cell Phone that is within the possession, custody, or control of Cellco Partnership DBA Verizon.

**ATTACHMENT B**

**Particular Things to be Seized**

All information about the location of the Target Cell Phone described in Attachment A for a period of thirty days, during all times of day and night. "Information about the location of the Target Cell Phone" includes all available GPS data, latitude-longitude data, and other precise location information, as well as all data about which "cell towers" (*i.e.*, antenna towers covering specific geographic areas) and "sectors" (*i.e.*, faces of the towers) received a radio signal from the cellular telephone described in Attachment A.

To the extent that the information described in the previous paragraph (hereinafter, "Location Information") is within the possession, custody, or control of **Cellco Partnership DBA Verizon** is required to disclose the Location Information to the government. In addition, **Cellco Partnership DBA Verizon** must furnish the government all information, facilities, and technical assistance necessary to accomplish the collection of the Location Information unobtrusively and with a minimum of interference with **Cellco Partnership DBA Verizon's** services, including by initiating a signal to determine the location of the Target Cell Phone on **Cellco Partnership DBA Verizon's** network or with such other reference points as may be reasonably available, and at such intervals and times directed by the government. The government shall compensate **Cellco Partnership DBA Verizon** for reasonable expenses incurred in furnishing such facilities or assistance.

This warrant does not authorize the seizure of any tangible property. In approving this warrant, the Court finds reasonable necessity for the seizure of the Location Information. See 18 U.S.C. § 3103a(b)(2).