

# FOIA Marker

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Presidential Personnel, White House Office of

Gregor, Joie

Stack:	Row:	Sect.:	Shelf:	Pos.:	FRC ID:	Location or Hollinger ID:	NARA Number:	OA Number:
W	13	7	5	3	12306	25169	12754	12739

Folder Title:

Bloch, [Scott]

# Withdrawn/Redacted Material

## The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Memorandum	[Memo] - To: POTUS - From: Joie Gregor	1	10/20/2008	P6/b6;
002	Email	FW: SB - To: Joie Gregor - From: Scott Stanzel	1	10/20/2008	P5; P6/b6;
003	Handwritten Note	Conf. Call	1	N.D.	P5; P6/b6;
004	Timeline	Draft Sequence [with attachments]	3	N.D.	P5; P6/b6;
005	Letter	[Letter] - To: Scott Bloch - From: Joie Gregor	1	10/20/2008	P6/b6;
006	Email	re - To: Samuel Conrad - From: G. Timothy Saunders	1	10/15/2008	P6/b6;
007	Handwritten Note	[Notes]	1	N.D.	P5; P6/b6;

**COLLECTION TITLE:**

Presidential Personnel, White House Office of

**SERIES:**

Gregor, Joie

**FOLDER TITLE:**

Bloch, [Scott]

**FRC ID:**

12306

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- P1 National Security Classified Information [(a)(1) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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**Records Not Subject to FOIA**

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The Special Counsel

**U.S. OFFICE OF SPECIAL COUNSEL**  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

October 20, 2008

President George W. Bush  
The White House  
Washington, DC 20500

Dear Mr. President:

"No one likes the bearer of bad news," wrote the Greek poet Sophocles. As the head of your executive branch watchdog organization, The Office of Special Counsel (OSC), I have often been required to be the bearer of bad news but also of good results. I write to thank you for the opportunity to serve in this important accountability role, and to announce that I will be resigning as of the end of my five-year term, January 5, 2009.

The OSC protects those who shine the light on illegality or wasteful management – whistleblowers or lamplighters of liberty. These "ordinary heroes" (as we have called them) take their jobs in their hands when they report the misconduct of officials, or disclose unsafe conditions. OSC proudly protects them when they experience reprisal.

I speak proudly of working with brave citizens like Anne Whiteman, Leroy Smith, Bobby Boutris, and Doug Peters--ordinary heroes who put their jobs and well being on the line. We gave these individuals our Public Servant of the Year award to recognize their superior service to our country at great expense to themselves and their families. And there are many other ordinary people who have made a difference with their brave disclosures, too numerous to mention here, though I have written about them to you in the last five years.

During this same time, the OSC has made unprecedented progress in eliminating case backlogs left by previous administrations, backlogs severe enough to have warranted a critical report from the General Accountability Office. Not only have we effectively processed these backlogs, but we have increased our caseload capacity, resulting in a 400 percent increase in substantiated whistleblower disclosures and stepped-up enforcement of job rights for military service members. As the proud father of a United States Marine who has served three tours of duty in Iraq, I am especially pleased that we have protected our service members from discrimination or loss of jobs and benefits simply because they were called to duty in the Reserve or Guard, and of the record twenty-five percent rate of full corrective action OSC obtained for them over the last few years.

**The Special Counsel**

Letter to the President

Page 2

The OSC has also recently completed investigations into the Federal Aviation Administration, resulting in much-needed oversight and changes for passenger safety and greater airline safety compliance, as well as significant oversight of our air traffic control system. Our work on defective New Orleans levee pumps prompted a new, independent investigation aimed at preventing another disaster like that of Hurricane Katrina. The OSC continues to investigate alleged violations of the Hatch Act -- the politicization of government functions -- and through our enforcement in this area government employees are more aware of their obligations to avoid bringing partisan politics into the workplace.

As you well know, doing the right thing can result in much criticism and controversy from every side. I am proud to have enforced your stated policy goal of upholding the rule of law, enforcing the law as it was written, not according to fads or special interest pressure. Most of all, I am proud of the professionals who work at OSC and who have made great strides to help government operate to the best of its ability and who continue to advocate for those who have no voice and nowhere else to turn.

It has been an honor to serve in your administration, to embrace the duties you entrusted to me and to carry out the oath I took before Justice Thomas and before God. With honesty, honor, and commitment, I have sought to execute the responsibilities of this office without regard to interest groups, partisan concerns or pressures from outside the law.

Thank you for this honor and opportunity; and I wish you and your family all the blessings of the Almighty and peace in the coming years.

Sincerely,



Scott J. Bloch  
Special Counsel



U.S. OFFICE OF SPECIAL COUNSEL  
1730 M Street, N.W., Suite 218  
Washington, D.C. 20036-4505

## FACSIMILE COVER SHEET

TO:

Name: The Honorable Frederick Fielding	
Title: White House Counsel	
Organization: Executive Office to the President	
Office / Location: 1600 Pennsylvania Ave, NW	
Telephone: (202) 456-2632	Fax: (202) 456-6279

FROM:

Name: Jacqueline Felton-Wilson <i>for Scott J. Bloch</i>	
Organization: U.S. Office of Special Counsel	
Office / Location: Washington	
Telephone: (202) 254-3611	Fax: 202 653-5161

Date: <i>October 20, 2008</i>	Number of pages, including this cover sheet: <i>3</i>
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Message:
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If you did not receive the total number of pages shown, please call (202) 254-3600.

THIS DOCUMENT IS INTENDED FOR THE USE OF THE PARTY TO WHOM IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL OR PROTECTED FROM DISCLOSURE UNDER APPLICABLE LAW. If you are not the addressee, or a person authorized to deliver the document to the addressee, you are hereby notified that any review, disclosure, dissemination, copying or other action based on the content of this communication is not authorized. If you have received this document in error, please immediately notify us by telephone and return to us at the above address by mail.

Scott Bloch  
Special Counsel, U.S. Office of Special Counsel

Term: For a term of five years expiring 12/12/2008

Date Appointed: 12/13/2003

Date term Expires: 12/12/2008

# Withdrawal Marker

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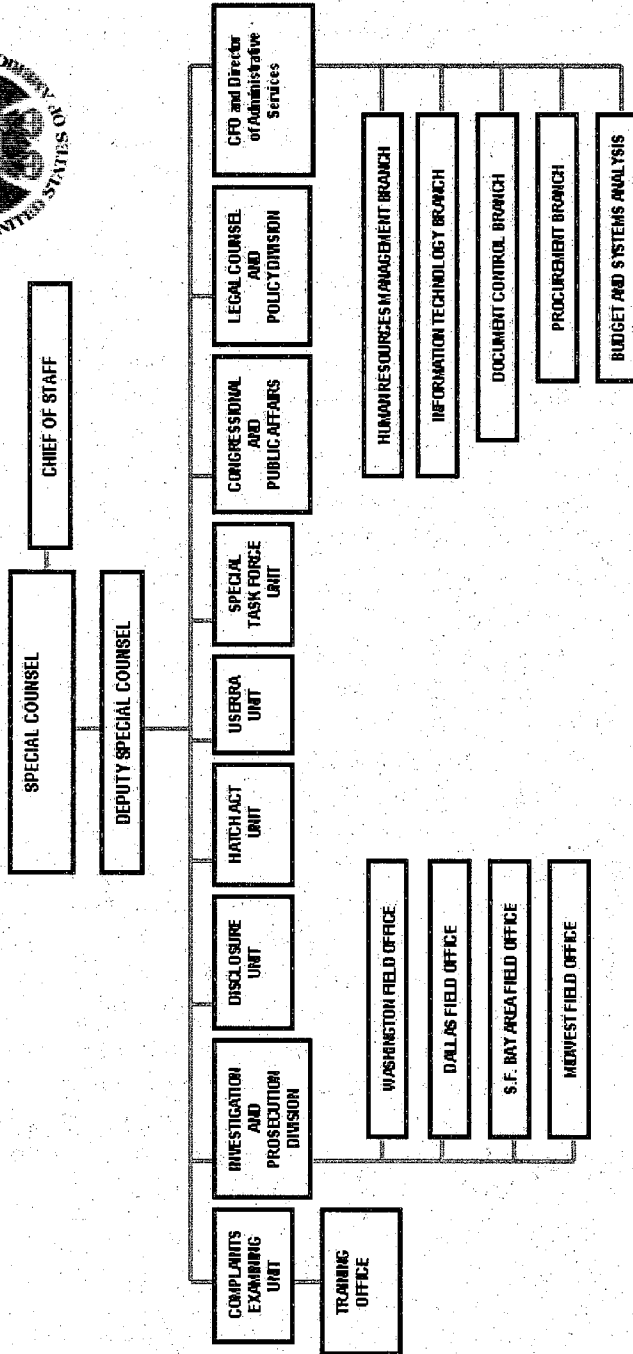
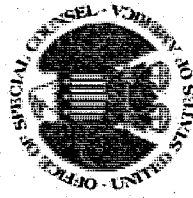
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- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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# Withdrawal Marker

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	[Letter] - To: Scott Bloch - From: Fred Fielding	1	08/01/2008	P6/b6;

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### COLLECTION:

Presidential Personnel, White House Office of

### SERIES:

Gregor, Joie

### FOLDER TITLE:

Bloch, [Scott]

### FRC ID:

12306

### OA Num.:

12739

### NARA Num.:

12754

### FOIA ID and Segment:

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### RESTRICTION CODES

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- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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## Appendix of Attached Material

1. Letter to White House Counsel Fred Fielding from Avi Kumin, Partner at Katz, Marshall & Banks (July 31, 2008)
2. Letter to Special Counsel Scott Bloch from Chairman Henry Waxman, Committee on Oversight and Government Reform (July 28, 2008)
3. Letter to Chairman Henry Waxman, Committee on Oversight and Government Reform, from Ranking Member Tom Davis (July 21, 2008)
4. Letter to White House Chief of Staff Josh Bolten from Danielle Brian, Executive Director, Project on Government Oversight (July 17, 2008)
5. Letter to Special Counsel Scott Bloch from James Byrne, Deputy Special Counsel for the Office of Special Counsel (July 10, 2008)
6. Letter to President George W. Bush from Debra Katz, Partner at Katz, Marshall & Banks (April 29, 2008)
7. Letter to President George W. Bush from Debra Katz, Partner at Katz, Marshall & Banks (November 28, 2007)
8. Letter to White House Counsel Fred Fielding from Debra Katz, Partner at Katz, Marshall & Banks (October 10, 2007)
9. Letter to Chairman Joseph Lieberman and Ranking Member Susan Collins, Senate Committee on Homeland Security and Governmental Affairs from Danielle Brian, Executive Director, Project on Government Oversight (October 10, 2007)
10. Letter to Chairman, Joseph Lieberman and Ranking Member Susan Collins, Senate Committee on Homeland Security and Governmental Affairs from Danielle Brian, Executive Director, Project on Government Oversight (January 10, 2005)
11. NPR article by Ari Shapiro, "FBI Raids Special Counsel Office, Seizes Records" (May 6, 2008)
12. NPR article by Ari Shapiro, "Special Counsel Case May Extend Far Beyond Bloch" (May 7, 2008)
13. Associated Press article, "Special Counsel's Office Amid Obstruction Probe" (May 6, 2008)
14. Los Angeles Times article by Richard B. Schmitt and Tom Hamburger, "Federal Agents Raid Special Counsel's Office" (May 7, 2008)



 **KATZ, MARSHALL & BANKS, LLP**

Avi Kamin, Partner  
kamin@kmblegal.com

July 31, 2008

Fred Fielding, Esquire  
White House Counsel  
The Office of Counsel to the President  
1600 Pennsylvania Ave.  
Washington, D.C. 20580

Re: Office of Personnel Management Office of Inspector General's  
Investigation of Special Counsel Scott J. Bloch

Dear Mr. Fielding:

I am writing to request that you instruct the Office of Personnel Management's Office of Inspector General (OPM IG) to issue a prompt and final determination to their investigation of the complaint filed in 2005 by my clients, a group of career employees of the U.S. Office of Special Counsel (OSC). As my law partner Debra Katz and I have previously advised you, our clients' complaint reported numerous instances of unlawful whistleblower reprisal, politically and religiously-based hiring for career positions, discrimination on the basis of sexual orientation or perceived sexual orientation, and other illegal acts by Special Counsel Scott Bloch. Despite the fact that OPM IG appears to have completed its investigation long ago -- no interviews or other investigation regarding my clients' underlying complaint have occurred for at least the past six months, and perhaps the past year -- OPM IG has still not released its findings.

As was widely reported in the media on Monday, July 28, the Department of Justice's Office of Inspector General recently concluded that political appointees at DOJ violated the law and DOJ hiring policy by using a pro-Republican political litmus test to hire for hundreds of non-political civil service positions. The DOJ IG investigation began in early- to mid-2007, after the firing of nine U.S. attorneys in December 2006, and completed within approximately one year. By contrast, my clients have now waited nearly three-and-a-half years for redress.

A final report of investigation in the OSC complaint is urgent not only for my clients, but for a full public understanding of the issues raised by the DOJ report, since many of the issues raised in my clients' complaints mirror what occurred at DOJ. Just as DOJ's Inspector General reported that political officials had hired numerous lesser-qualified attorneys because they attended the Christian, conservative Regent University Law School, my clients' complaint reported that OSC officials hired several career

**KATZ, MARSHALL & BANKS, LLP**

Fred Fielding, Esquire

July 31, 2008

Page 2

employees primarily because they attended the Christian, conservative (and at the time only provisionally accredited) Ave Maria Law School. Just as the DOJ IG report concluded that officials fired or refused to hire employees based on their sexual orientation or perceived sexual orientation, my clients reported years ago that Mr. Bloch fired them because of their perceived sexual orientation or perceived support for enforcing sexual orientation protections for federal government employees. Just as the DOJ IG report concluded that officials there had based their non-political hiring on their political loyalties, my client's complaint about OSC raised significant evidence that Mr. Bloch and his staff evaluated whistleblower and Hatch Act investigations based on partisan politics. Even one of Mr. Bloch's top deputies, James Byrne, in announcing his resignation earlier this month, concluded that "the independence and very existence of the Office of Special Counsel are - and shall remain - at risk" because of Mr. Bloch's "political agendas and personal vendettas." The lack of a final resolution from OPM IG thus harms not only the specific complainants in that case, but hinders the public's understanding of the scope of this problem in other federal agencies, and what must be done to appropriately address it.

Not only does the lack of a finding by OPM IG delay important remedial changes within OSC, it will hamper redress for DOJ employees, as well. The typical avenue of redress for federal career employees denied positions because of their political views or perceived sexual orientation, such as the hundreds of employees at DOJ, is to file a complaint with the OSC. This represents nothing more than a farce if their complaints are determined at OSC by officials who have themselves engaged in the same political litmus tests, discrimination on the basis of sexual orientation, and refusal to abide by federal civil service laws. Aggrieved employees at DOJ, OSC, and other federal agencies deserve to know whether their cases are in fact being determined on these unlawful grounds, and how the Bush Administration intends to address the matter. That can only be accomplished by release of OPM IG's final report.

While we understand that Mr. Bloch is currently being investigated by a grand jury regarding possible criminal conduct, there is no reason that such a proceeding should delay the issuance of a final resolution by OPM IG regarding my clients. The issuance of a final resolution to OPM IG's civil investigation would not adversely affect the criminal proceedings. Moreover, waiting for the end of the criminal investigation into Mr. Bloch would, if Mr. Bloch is indicted, seem to suggest that OPM IG should wait until after preparation for a trial, through the trial itself, and then until after possible appeals of the trial result before issuing its report of investigation - a delay of several years further, and an obviously unfair and completely untenable result.

As the Supreme Court and the federal Courts of Appeal have long recognized, "justice delayed is justice denied." Rohr Indus., Inc. v. Washington Metro. Area Transit Auth., 720 F.2d 1319, 1327 (D.C. Cir. 1983); accord Guardians Ass'n v. Civil Serv.


**KATZ, MARSHALL & BANKS, LLP**

Fred Fielding, Esquire  
July 31, 2008  
Page 3

Comm'n of City of New York 463 U.S. 582, 627 (1983). I appreciate your efforts to help bring my clients' long wait for justice to an end.

I look forward to hearing from you.

Sincerely,



Avi Kurnio

cc: Senator Joseph Lieberman, Chairman, Senate Homeland Security and Governmental Affairs Committee  
Senator Susan Collins, Ranking Member, Senate Homeland Security and Governmental Affairs Committee  
Senator Daniel Akaka, Chairman, Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia  
Senator Claire McCaskill, Senate Homeland Security and Governmental Affairs Committee  
Rep. Henry Waxman, Chairman, House Oversight and Government Reform Committee  
Rep. Tom Davis, Ranking Member, House Oversight and Government Reform Committee  
Rep. Dany K. Davis, Chairman, House Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia  
Rep. Kenny Marchant, Ranking Member, House Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia  
Clay Johnson III, Deputy Director for Management, Office of Management and Budget  
Patrick E. McFarland, Inspector General, Office of Personnel Management



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ONE HUNDRED TENTH CONGRESS

# Congress of the United States House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-8143

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BILL BALL, IOWA  
JIM JORDAN, OHIO

July 28, 2008

The Honorable Scott J. Bloch  
Special Counsel  
Office of Special Counsel  
1730 M Street NW, Suite 300  
Washington, DC 20037-1350

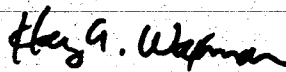
Dear Mr. Bloch:

I am writing to express my concern about the effectiveness of the Office of Special Counsel (OSC). OSC's primary mission is "to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, particularly reprisal for whistleblowing." I know that you have dedicated several years of your professional career to OSC and value the interests of the agency.

Over the past several months, however, it has become clear OSC's mission is not being served as effectively as it could be. Earlier this month, your top deputy, James Byrne, the most senior career official at OSC, resigned his Senior Executive Service position. In Mr. Byrne's resignation letter, he stated that "the mission, independence, and very existence of the Office of Special Counsel are — and shall remain — at risk." He also called for your replacement.<sup>1</sup>

The mission of the agency should be the paramount consideration. It is for this reason that I have concluded that OSC would be better served with new leadership and urge you to step down as the Special Counsel. Such a step would be in the best interests of the agency and federal employees it is charged to protect.

Sincerely,



Henry A. Waxman  
Chairman

cc: Tom Davis  
Ranking Minority Member

<sup>1</sup> Letter from James Byrne, Deputy Special Counsel, to Scott J. Bloch, Special Counsel, Office of Special Counsel (July 10, 2008).



M. DAVIS V. RONA  
RANKING MINORITY MEMBER

ONE HUNDRED TENTH CONGRESS

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
2157 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6143

July 21, 2008

The Honorable Henry A. Waxman  
Chairman  
Committee on Oversight and Government Reform  
2157 Rayburn Building  
Washington, D.C. 20515

Mr. Chairman:

I write to restate my request the Committee investigate the unethical, and quite possibly illegal, activities of U.S. Special Counsel Scott Bloch and that you join me in calling for Mr. Bloch's immediate resignation or removal from this critical position.

According to recent reports, Mr. Bloch's top deputy, James Byrne, resigned because, as he told the Associated Press, Mr. Bloch has taken to putting "political agendas and personal vendettas" ahead of the agency's mission and independence. In his letter of resignation, Mr. Byrne said, "Upon my departure, I am obligated to note that the mission, independence and very existence of the Office of Special Counsel are - and shall remain - at risk unless and until this agency is afforded a presidentially appointed, Senate-confirmed leader who is capable of putting OSC's mission and OSC's people ahead of political and personal vendettas." For those of us dedicated to an ethical, open government workplace in which employee rights are protected, that ought to be all that needs to be said to trigger an in-depth investigation and a call for new leadership at the OSC.

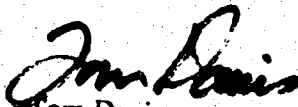
As you know, Mr. Bloch's second-in-command is just the latest in a long line those within the agency who are uncomfortable with their leader's policies and practices. A group of current and former agency employees filed a complaint against Bloch in 2005, accusing him of retaliation through intimidation and involuntary transfers. His office is under federal investigation reportedly for destroying evidence that he retaliated against his own staff. Officials also want to know why he brought in a private firm with no previous connection to government IT work to perform an extensive wipe on the hard drive of his computer. He also is accused of pursuing an anti-gay agenda, refusing to protect federal workers from discrimination based on sexual orientation.

*Hon. Henry A. Waxman  
July 21, 2008  
Page 2 of 2*

Mr. Chairman, with all due respect, I wonder if we are approaching the point where people will have to question why the Committee has turned a blind eye to Mr. Bloch's apparent transgressions when others have become targets of the Committee's investigative attentions based on far less substantial claims. Surely, his cooperation in the Committee's prosecution of GSA Administrator Doan should not earn Mr. Bloch permanent immunity from scrutiny of his own misdeeds. Notwithstanding what other committees may decide to do, this matter is under our direct jurisdiction. The Bloch cover-up is a lingering embarrassment and damages the Committee's credibility.

Please focus the Committee's oversight on restoring integrity to the Office of Special Counsel. I look forward to your response.

Sincerely,

  
Tom Davis  
Ranking Member



Exploring Solutions  
**Project On Government Oversight**



July 17, 2008

The Honorable Joshua Bolten  
Chief of Staff  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Via facsimile: (202) 456-0192

Dear Mr. Bolten:

I am writing to urge you to remove the U.S. Special Counsel Scott Bloch from his position. Last Friday, the Office of Special Counsel's (OSC) Deputy Jim Byrne resigned. His departure removes a vital barrier protecting the OSC's staff from further retaliation and intimidation by Mr. Bloch and signals a disturbing downward spiral for the agency, which is supposed to protect whistleblowers, prosecute Hatch Act violations, and perform other vital duties.

As you know, Mr. Bloch was subject to an unprecedented FBI raid involving two dozen agents earlier this year. My organization, the Project On Government Oversight (POGO), was party to the complaint filed three years ago that resulted in the Office of Personnel Management Inspector General (OPM IG) investigation into Mr. Bloch and now the related FBI investigation.

The Special Counsel has statutory protection from being dismissed from office in order to maintain his independence. However, he can be removed for malfeasance, neglect of duty, or inefficiency. I understand malfeasance and neglect of duty might be somewhat difficult to prove conclusively without the finalized OPM IG investigation. However, two federal judges in Washington, DC, and Virginia approved invasive search warrants, which have high standards of probable cause, indicating a strong belief by the judges that Mr. Bloch not only engaged in misconduct but that he committed a crime. These search warrants were executed to seize information from his office, his home, and his person.

Furthermore, it is quite simple to prove that Mr. Bloch's continued presence in the office is causing gross inefficiency at the OSC. To wit:

- Communications between Mr. Bloch and his staff are seriously impaired given that nearly 20 current and former staff members have been subpoenaed to provide evidence or appear before the Grand Jury considering Mr. Bloch's possible indictment. It is an untenable situation that witnesses continue to be subjected to the supervision of Mr.

666 11<sup>th</sup> Street, NW, Suite 900, Washington, DC 20001  
(202) 347-1122 [www.pogo.org](http://www.pogo.org)

Bloch while they are being called upon to provide evidence to the Grand Jury concerning his wrongdoing. As previous letters to White House General Counsel Fred Fielding from our attorney Debra Katz have documented, Mr. Bloch and his deputies have repeatedly attempted to interfere and intimidate witnesses involved in the OPM IG's investigation.

- Staff at the agency have expressed concern that Mr. Bloch's private attorney is poised to depose them. This undoubtedly has created a chilling effect on staff who must interact with Mr. Bloch on a daily basis.
- In yet another sign of how the agency is being harmed by Mr. Bloch's leadership, the OSC's reauthorization bill is being held up by Congress because Mr. Bloch remains as Special Counsel. This reauthorization bill is urgently needed to enact long-overdue reforms to the agency.
- Staff at the agency report that their ability to perform many of their duties has been harmed by the shadow cast by Mr. Bloch's leadership. Other agencies are reportedly refusing to respond to OSC inquiries, preventing the OSC from conducting its statutorily required investigations and oversight.

As a result, I am imploring that you recommend to the President that he remove Mr. Bloch from office. At the very least, Mr. Bloch should be put on administrative leave pending the outcome of the investigation and Grand Jury. This is the only fair course of action for the employees of the agency and for the taxpayers who depend on a functioning OSC to ensure that the government is honest and accountable.

Sincerely,



Danielle Brian  
Executive Director

cc: White House Counsel Fred Fielding





**U.S. OFFICE OF SPECIAL COUNSEL**  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4508

**The Deputy Special Counsel**

July 10, 2008

Scott J. Bloch, Special Counsel  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Dear Mr. Bloch:

This letter serves as notice that I am resigning my career Senior Executive Service position as Deputy Special Counsel, U.S. Office of Special Counsel (OSC), effective July 19, 2008. I am grateful for the opportunities I have been afforded, and I leave with a deep admiration for the men and women of OSC who dedicate their lives to safeguarding the merit system and to protecting federal employees from prohibited personnel practices.

Upon my departure, I am obligated to note that the mission, independence, and very existence of the Office of Special Counsel are – and shall remain – at risk unless and until this agency is afforded a presidentially appointed, senate confirmed leader who is capable of putting OSC's mission and OSC's people ahead of political agendas and personal vendettas.

This agency, and the people whom we serve, deserve no less.

Sincerely,

James Byrne  
Deputy Special Counsel

cc: OSC Director of Human Resources



 **KATZ, MARSHALL & BANKS, LLP**

By Telecopier and Hand-Delivery  
April 29, 2008

President George W. Bush  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Re: U.S. Special Counsel Scott Bloch

Dear Mr. President:

On March 3, 2005, my clients, a group of public interest organizations and current and former employees of the United States Office of Special Counsel (OSC), filed a complaint against Special Counsel Scott Bloch, seeking redress for his violations of federal personnel laws, as well as other abuses of authority and misconduct. After a seven-month delay, Clay Johnson, the Director of the President's Council on Integrity and Efficiency (PCIE) finally asked Office of Personnel Management's Inspector General (OPM IG) to investigate the complaint. Some two and a half years later, the investigation remains open.

In the intervening years since our original complaint was filed, I have written periodically to Mr. Johnson, to Harriet Miers, former White House Counsel, to Fred Fielding, White House Counsel, and to yourself to update you about Mr. Bloch's acts of misconduct and headline grabbing antics. These have included obstruction of the OPM IG's investigation, destruction of documents, false statements to Congress, misuse of official authority, pursuit of Hatch Act investigations for politically motivated reasons, destruction of computer files at OSC, and other improper and illegal activity. On several occasions I (as well as others, including members of Congress from both sides of the aisle), have asked that you exercise your authority to remove Mr. Bloch from his position for malfeasance and misconduct. See 5 U.S.C. §1211(b) (President may remove Special Counsel before the expiration of his term for "inefficiency, neglect of duty, or malfeasance in office").

Mr. Bloch has done lasting damage to OSC's reputation and credibility. My clients - who were among the first victims of Mr. Bloch's sorry tenure - have waited over three years for justice. This is just too long. Therefore, I am calling upon you to take appropriate steps to bring about the completion of the OPM IG's investigation. I am also renewing my request that Mr. Bloch be held accountable for his unbroken record of misconduct and malfeasance, recounted and summarized below, and that he be removed from office and not be permitted to finish out his term.

**A. Original Complaints**

1. Special Counsel Bloch took office on January 5, 2004. One month later, in one of his first official acts, Mr. Bloch ordered that all references to OSC's jurisdiction over complaints by federal workers alleging sexual orientation discrimination be "scrubbed" from OSC's web-site, and its official publications. Mr. Bloch took this action without conducting any legal review of whether OSC did, in fact, have jurisdiction over such complaints, and without consulting either the Office of Personnel Management or the U.S. Department of Justice.

Almost immediately after Mr. Bloch scrubbed the website, his actions were publicized and a heated public controversy erupted. The controversy triggered significant national media attention and bipartisan expressions of concern by members of Congress.<sup>1</sup> The controversy continued over the next month, reaching its zenith on March 31, 2004, when the White House issued a strongly-worded statement, which was widely interpreted as a rebuke of Mr. Bloch. The White House confirmed that "[l]ong-standing federal policy prohibits discrimination against federal employees based on sexual orientation. President Bush expects federal agencies to enforce this policy and to ensure that all federal employees are protected from unfair discrimination at work." See "Employees are protected from bias for sexual orientation, White House says," *Federal Times*, March 1, 2004, attached as Exhibit 2).<sup>2</sup>

<sup>1</sup> Among the Congressional inquiries was a February 19, 2004 letter from the Senate Committee on Governmental Affairs, signed by both Chairman Susan Collins (R-Maine) and ranking minority member Joseph Lieberman (D-Connecticut), among others; a March 4, 2004, letter from Rep. Shays (R-Connecticut), Rep. Greenwood (R-Pennsylvania), and Rep. Simmons (R-Connecticut); and a separate March 4, 2004 letter signed by 70 other Members of the House on the Democratic side. See Congressional letters, attached as Exhibit 1. The letter from Senators Collins and Lieberman expressed concern that Mr. Bloch's decision to remove all references to jurisdiction over sexual orientation discrimination complaints "appears inconsistent with... assurances" that Mr. Bloch had given to committee staff in written submissions and conversations during consideration of his nomination two months before, that he would continue OSC's policy of protecting federal employees against sexual orientation discrimination.

<sup>2</sup> Despite this rebuke, Mr. Bloch has refused to enforce this prohibition. Misstating applicable legal precedent, Mr. Bloch has frequently asserted that he is without legal authority to investigate and prosecute discrimination based on sexual orientation, notwithstanding the contrary position of the rest of the Executive Branch, including the Office of Personnel Management and the Department of Justice. Mr. Bloch's most recent misrepresentation of the legal precedent occurred before the House Subcommittee on July 12, 2007. During a hearing on OSC's Reauthorization, he claimed that the Merit Systems Protection Board (MSPB) had ruled that federal employees do not have statutory protection against discrimination based on their sexual orientation. Fortunately, the Chairman of the MSPB was present during Mr. Bloch's testimony and openly disagreed with Mr. Bloch's misrepresentation of Board precedent. See Hearing Before the House Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, July 12, 2007, at pp. 47-48 (observing that Mr. Bloch's reading of MSPB precedent was not reasonable), attached as Exhibit 3.

2. As noted above, Mr. Bloch's inept handling of the sexual orientation discrimination matter generated significant unfavorable press coverage and attention. Almost immediately, Mr. Bloch made known his belief - and his anger - that OSC staff had (in his words) "leaked" information to the press about his reversal of OSC's interpretation of the law. To avoid future "leaks," Mr. Bloch issued a gag order prohibiting staff from commenting on agency matters without his approval. Mr. Bloch's actions and his animus toward employees whom he assumed had spoken to the press were, of course, directly antithetical to the mission of OSC, which is, among other things, to promote transparency in government, and investigate and prosecute agency officials who retaliate against whistleblowers.

3. Mr. Bloch blamed career staff for the attention his actions had attracted. In subsequent months, Mr. Bloch doubled the size of his political staff and began increasingly to exclude OSC career staff from any participation in key agency management and policy decisions, as well as from hiring decisions. Mr. Bloch required that all complaints alleging sexual orientation discrimination be funneled through one of his political deputies. Mr. Bloch and his political staff also took charge of hiring and ended the prior practice of holding competitions for vacant attorney positions under which career managers would select the candidates they believed were the most qualified. Instead, Mr. Bloch and his political staff selected new career staff themselves, non-competitively.

In many instances, the employees whom Mr. Bloch and his political staff brought on board non-competitively were known to have a personal connection or affiliation to Mr. Bloch or his Deputy, James "Jim" Renne. In addition, Mr. Bloch abandoned OSC's practice of recruiting new lawyers from top tier local law schools such as the Georgetown Law Center or the George Washington University Law School. Instead, Mr. Bloch recruited and hired several new attorneys who were recent graduates of Ave Maria Law School. At the time, Ave Maria was a new and only provisionally accredited law school that was located in Michigan and whose purpose was to provide a legal education in the context of fidelity to the Catholic faith.<sup>3</sup>

During this time, Mr. Bloch also hired Alan Hicks, the former headmaster of a Pennsylvania boarding school attended by one or more of his children (St. Gregory's Academy). Mr. Hicks, who had no relevant experience whatsoever, was hired non-competitively to serve as a "consultant" or "expert" on an "intermittent" basis. Mr. Hicks

<sup>3</sup> According to its website, Ave Maria School of Law "offers an outstanding legal education in fidelity to the Catholic Faith as expressed through Sacred Tradition, Sacred Scripture, and the teaching authority of the Church." Ave Maria has been categorized as a Tier IV law school by U.S. News and World Report. The ABA recently sent a letter to Ave Maria threatening to withdraw its accreditation for failure to maintain a qualified faculty.

produced no work product. His employment was discontinued after Public Employees for Environmental Responsibility publicized Mr. Hicks' prior relationship with Mr. Bloch, and filed a suit under the Freedom of Information Act seeking information about his OSC duties.<sup>4</sup>

4. Mr. Bloch's efforts to purge existing career staff and bring in his own loyalists came to a head in January 2005 when he implemented a surprise "reorganization," whose centerpiece was the creation of a new field office in Detroit, Michigan. As part of the reorganization, Mr. Bloch directed the involuntary geographic reassignments of twelve career OSC employees to open and staff the new field office.

The involuntary geographic reassignments were announced at a staff meeting, with no advance notice whatsoever given to affected employees or, indeed, to any of the career staff, including career executives. Mr. Bloch did not solicit volunteers for the reassignments, as is customary in the federal sector, and did not conduct any management or cost-benefit analysis to support the new field office. Further, had the twelve affected employees accepted their reassignments, it would have imposed enormous relocation costs on OSC.

Mr. Bloch initially provided the reassigned employees only 10 days to decide if they would accept the reassignments, and indicated that their employment would be terminated if they did not agree to relocate. After an uproar ensued (again captured in the media and the subject of Congressional interest), Mr. Bloch extended the time to respond to 60 days.

In the end, not a single one of the employees accepted their reassignments and virtually all left the agency, which was exactly what Mr. Bloch intended in targeting them for reassignment.<sup>5</sup> OSC lost almost 20% of its legal and investigative staff at

<sup>4</sup> GAO conducted a limited investigation into whether there was any legal authority for Mr. Hicks' hiring. See GAO-06-16 (November 2005). It concluded that there existed regulatory authority to hire Mr. Hicks as an intermittent employee. It expressly declined, however, to determine whether Mr. Hicks was actually qualified to perform the tasks that were specified for him by OSC, which included reviewing and analyzing OSC programs for efficiency and to make recommendations regarding changes. It is hard to understand how Mr. Hicks could conceivably have been qualified for this task, given that his background consisted of 10 years as a headmaster at Mr. Bloch's children's boarding school.

<sup>5</sup> Both the surprise reassignments and the bizarre method chosen by Mr. Bloch to inform the twelve employees who were affected seems calculated to have instilled the maximum level of fear among the entire career staff. Thus, Mr. Bloch held a five-minute meeting for all OSC staff the afternoon when he announced the reorganization. During the meeting, at which no questions were solicited or asked, Mr. Bloch stated that certain unidentified career staffers would be reassigned to the Dallas and Oakland offices, and the newly-created Detroit office. To learn whether one's name was on the list for reassignment, Mr. Bloch directed employees to return to their offices and check the OSC Intranet. When employees did so,

headquarters, including a senior executive with over 20 years of relevant experience, several senior attorneys, and the Director of OSC's then highly successful ADR program.

The opening of the new field office and the forced reassignments were widely recognized as a pretext for purging career staff. A group of anonymous OSC career staff explained in a letter of January 13, 2005, to Senator Susan Collins that "directing reassignments to field offices, including the newly created Detroit office is completely unsupported and, at a minimum, constitutes gross mismanagement."<sup>6</sup> See Letter from OSC Staff to Sen. Collins, attached as Exhibit 4. The employees observed that the reasons Mr. Bloch provided for the reorganization, were "pretextual and nonsensical." Specifically they noted, "the manner in which [the reorganization] has been undertaken suggests a retaliatory motive and smacks of an attempt to purge existing career staff." Indeed, the employees noted, "the twelve employees were clearly targeted." They further noted that "Some have voiced serious concerns over with several of the Special Counsel's sweeping initiatives, including the decision to place a political appointee in charge of the Hatch Act Unit and his attempt to deny protection to federal employees suffering from sexual orientation discrimination." "Moreover," the employees explained, "all of the affected attorneys and investigators work for the reassigned senior executive who is unfairly viewed as aligned with the prior Special Counsel's politics and policies."

5. In the wake of the surprise reorganization and forced geographic reassignments, on March 3, 2005, my clients, who include several of the reassigned employees, filed a complaint against Mr. Bloch. See Complaint (Mar. 3, 2005), attached as Exhibit 5. Their complaint alleged, among other things, that Mr. Bloch:

- created a hostile work environment with a series of retaliatory acts against career OSC staff members, culminating in the involuntary reassignment of twelve career employees based on actual or perceived whistle blowing and/or sexual orientation;
- imposed non-disclosure policies on career staff in violation of the Anti-Gag statute and in violation of the Lloyd Lafollette Act, 5 U.S.C. Sec. 7211, which guarantees all federal employees the right to communicate with Congress;

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however, the information had not yet been posted, and considerable anxiety ensued over the next 30 minutes, before the names were finally posted, and employees learned their fates.

<sup>6</sup> Subsequent events have confirmed these employees' concerns regarding the pretextual nature of the justifications given for the new field office. That office has never had enough work to do to justify its existence; and even cases that should arguably be investigated by it have often been assigned to other offices where there are more experienced staff members.

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- abandoned merit-based competitive hiring for career positions and misused special hiring authorities;
- refused to enforce existing statutory prohibitions against sexual orientation discrimination in the federal workforce; and
- provided false statements to Congress.

In an amended complaint, filed on March 31, 2005, my clients further alleged that Mr. Bloch:

- hastened the termination date of the employees who refused the geographic reassignments in retaliation for perceived whistleblowing, First Amendment activity, and/or the assertion of their legal rights to hire counsel and challenge the illegal reassignments;
- declined to permit employees to remain on at OSC headquarters in positions they were qualified to hold, in retaliation for perceived whistleblowing, First Amendment activity, and/or the assertion of their legal rights to hire counsel and challenge the illegal reassignments; and
- abused his authority by affording disparate treatment to two high-profile Hatch Act complaints based on partisan political considerations.<sup>7</sup> See Amended Complaint (Mar. 31, 2005), attached as Exhibit 7.

6. On May 24, 2005, after the complaints were filed, an oversight hearing on

<sup>7</sup> One of the cases concerned a visit by Senator John Kerry to the Kennedy Space Center, and the other a complaint filed by Representative Conyers against then-National Security Advisor Condoleezza Rice for using government funds to travel around the country in the weeks before the election making speeches, which were alleged to be political. In the Kerry case, Special Counsel Bloch and Deputy Special Counsel Renne referred the complaint to the career staff and ordered an on-site investigation within days after the Kerry visit. On the other hand, when the Rice complaint came on October 21, Mr. Renne assigned it to Mr. Bloch and himself and then sat on the complaint, taking no action, until after the election, when he finally referred it to the Hatch Act Unit for investigation.

In a letter to Rep. John Conyers, dated July 7, 2005, as well as in response to post hearing questions posed by Senator Akaka, Mr. Bloch falsely denied that the complaint had ever been assigned to either himself or Mr. Renne. See Hearing, U.S. Senate Subcommittee on Oversight of Government Management (May 24, 2005) at p. 205, attached as Exhibit 6. To cover his tracks and in a clear act of obstruction of justice, Mr. Bloch directed the alteration of OSC's computerized case tracking system to eliminate any evidence that the Rice complaint had originally been assigned to himself and Mr. Renne.

the reorganization was held before the Senate Subcommittee on Oversight of Government Management. During that hearing, Mr. Bloch made a number of false statements to the Subcommittee. He falsely asserted that he had consulted senior career staff about his plan to open a new field office. *See* Hearing Before the U.S. Senate Subcommittee on the Oversight of Government Management (May 24, 2005) (Exhibit 6) at 9. Mr. Bloch lied when he stated that the senior executive that he assigned to the Detroit office praised the decision to open a new field office as a "creative" one. *Id.* at 16. Mr. Bloch also asserted (falsely) that he had offered the Director of OSC's ADR program the opportunity to stay on at headquarters, and that she had declined this offer. *Id.* at 30.<sup>8</sup> Finally, Mr. Bloch untruthfully denied that he had insisted that the reassigned employees agree not to communicate with Congress as a condition of any settlement of their claims against him. *Id.* at 24.

**B. Obstruction of Justice**

1. The complaints that my clients filed in March 2005 were referred to the Integrity Committee (IC) of the PCIE by Mr. Bloch's deputy, Jim Renne.<sup>9</sup> On April 14, the IC concluded that it did not have jurisdiction over the complaints, and referred them to former White House Counsel, Harriet Miers. *See* Letter from IC to H. Miers, attached as Exhibit 8. Two weeks later, Ms. Miers referred the complaints to the PCIE for investigation.

2. The complaints languished before the PCIE for over seven months, as Mr. Bloch waged an internal campaign to convince its Director, Clay Johnson, not to investigate the charges at all. We understand that while Mr. Bloch publicly claimed to welcome the opportunity to "clear" himself of the well-publicized allegations against him, behind the scenes he made every effort he could to torpedo the investigation.

Among other things, Mr. Bloch fiercely resisted the assignment of the investigation to the OPM IG. His objection was based on the ridiculous notion that – because OPM itself disagreed with Mr. Bloch regarding whether sexual orientation discrimination in the federal workforce was illegal – the OPM IG could not investigate the claims against Mr. Bloch impartially.<sup>10</sup>

<sup>8</sup> Both the senior executive and the Director of the ADR program provided affidavits to the committee refuting Mr. Bloch's statements.

<sup>9</sup> My clients had requested that their complaint be referred to the PCIE, not the IC, because the latter lacks jurisdiction over complaints against the Special Counsel. Despite this request, Mr. Renne forwarded the complaints to the IC, thus delaying any action on them for at least a month.

<sup>10</sup> Mr. Bloch has since repeated this claim publicly in response to more recent incidents in which his misconduct has been revealed.

3. On October 17, 2005, we were advised that the OPM IG had been assigned to conduct an investigation of the complaint. The long-delayed investigation was slow to get off the ground. For months Mr. Bloch, through his political staff, stubbornly resisted or delayed responding to the IG's requests for access to relevant documents and witnesses. Mr. Bloch's political staff asserted bogus claims of attorney client privilege in an effort to frustrate the inquiry. The assertion of these bogus claims continued throughout the investigation, thus hampering the OPM IG's ability to secure relevant testimony from key players, including Mr. Bloch's former deputies, Mr. Renne and James McVay.<sup>11</sup>

During this period, Mr. Bloch also sought to garner political support to assist him in squelching the OPM IG's investigation. As reported by the *Hill* newspaper in its June 13, 2006 edition, as the investigation began to pick up in intensity during the Spring of 2006, a group of individuals holding leadership roles in certain so-called "family values" organizations sent you a letter asking you to intervene and end the investigation.<sup>12</sup> See *The Hill*, June 13, 2006, attached as Exhibit 9. Ignoring the serious charges of misconduct and violations of federal personnel laws, the letter adopted Mr. Bloch's favorite ploy: attempting to divert attention from his own conduct by complaining that he had been targeted for investigation because of his stance regarding sexual orientation discrimination.

It is obvious that Mr. Bloch himself solicited this letter of support even as he publicly claimed that he was cooperating in the investigation and welcomed it. The effort to marshal political support to interfere with an official investigation was clearly improper, and again inconsistent with OSC's own good-government mission. Mr. Bloch's conduct once again betrayed his own failure to appreciate the very laws and policies that he was charged with enforcing.

4. Over the summer of 2006, as the IG began to interview the OSC complainants and other OSC employees, we became aware that Mr. Bloch was violating his promise to recuse himself from the investigation. Sources within OSC advised me that Mr. Bloch had discussed with senior staff his desire to compel employees who had

<sup>11</sup> "Federal officials have no attorney-client privilege that can be asserted against federal investigators with respect to consultations with government lawyers." See Simon, William, Propter Honoris Respectum: The Professional Responsibilities of the Public Official's Lawyer: A Case Study from the Clinton Era, 77 *Notre Dame L. Rev.* 999, 1012 (1998), citing *In re Lindsey*, 148 F.3d 1100, 1106 (D.C. Cir., 1998); *In re Grand Jury Subpoena*, 112 F.3d 910, 921 (8th Cir. 1997), cert. denied, 525 U.S. 1105 (1997).

<sup>12</sup> These organizations included, among others, the Family Research Council, the Christian Coalition, and the Traditional Values Coalition.

been interviewed by the IG to complete affidavits describing what they had been asked and what they had told investigators.<sup>13</sup> I was also informed that Mr. Bloch had insisted that interviews must be scheduled through one of his political deputies, Rebecca McGinley, whom Mr. Bloch had appointed to be OSC's "liaison" with the IG. Ms. McGinley's designation for this role was telling. Ms. McGinley was a relatively inexperienced attorney, with no relevant experience, to whom Mr. Bloch had delegated significant authority.<sup>14</sup> She was widely viewed by OSC career staff as a "spy" who was fiercely loyal to Mr. Bloch and who would report any perceived "disloyalty" by career staff directly to Mr. Bloch.

On September 7, 2006, I wrote a letter of protest to Clay Johnson regarding these matters, but received no response. See Letter from D. Katz to C. Johnson, attached as Exhibit 10. On January 30, 2007, Ms. McGinley continued her obstruction by sending a heavy-handed and misleading email to all OSC staff. See Email from R. McGinley to OSC staff, attached herein as Exhibit 11. In the email, Ms. McGinley mischaracterized the OPM IG's investigation as one being conducted "on our behalf." She instructed employees that if they were contacted directly by the OIG they must notify her of this contact. She also instructed staff that all interviews by the IG must be conducted at OSC headquarters, unless the employee being interviewed specifically requested otherwise.<sup>15</sup>

This episode, like others before it, garnered more unfavorable attention for Mr. Bloch in the press. Thereafter, James Byrne, Mr. Bloch's new deputy, withdrew Ms. McGinley's instructions to staff.

5. During this period, while Ms. McGinley was actively interfering with the OPM investigation, Mr. Bloch himself committed a blatant act of obstruction of justice. As reported by the *Wall Street Journal* (Nov 28, 2007 edition), Mr. Bloch hired "Geeks on Call" in December 2006 to do a sophisticated seven level "wipe" of his computer hard drive, and the hard drives of two of his political deputies. See *Wall Street Journal*, Nov 28, 2007, attached as Exhibit 12. Mr. Bloch initially claimed that he commissioned

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<sup>13</sup> Although Mr. Bloch was ultimately dissuaded from implementing this plan, his musings were widely known among OSC staff.

<sup>14</sup> Notwithstanding her inexperience, in 2006 Mr. Bloch gave Ms. McGinley the job of Acting Deputy Special Counsel (the number two spot at OSC), which she held for approximately one year.

<sup>15</sup> It bears noting that shortly after these events, Mr. Bloch provided Ms. McGinley, a political appointee, with a career appointment, thus permitting her to "burrow in" to the civil service. He also granted her a coveted six month detail to the U.S. Attorney's office, notwithstanding that he had routinely denied the requests for similar details by OSC career attorneys. McGinley was known to have boasted of her career appointment and detail to OSC staffers, explaining that Mr. Bloch had awarded these benefits to her because he "owed" her, presumably for her efforts to obstruct the OPM IG investigation.

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"Geeks on Call" to perform these services to eradicate a "virus" on his computer which had caused it to "crash." He later stated in a February 6, 2008, letter to Representatives Henry Waxman and Tom Davis, and during radio interviews that he called "Geeks" because he was also concerned about a possible "hacking" threat. See Letter from S. Bloch to Rep. Waxman and Rep. Davis, attached as Exhibit 13.

According to Mr. Bloch, all of the files on his computer were either "personal" or not relevant to the OPM IG investigation. Mr. Bloch had "Geeks on Call" transfer these files to a flash drive, which he has refused to turn over to the OPM IG, asserting his right to personal "privacy" in its contents.

Each and every one of the assertions that Mr. Bloch has made to explain his conduct is ludicrous. Mr. Bloch obviously enlisted the assistance of "Geeks on Call" to destroy evidence being sought by the OPM IG, not to eradicate a virus. As the head of operations for Geeks on Call in D.C. told the *Wall Street Journal*, the procedure it employed on Mr. Bloch's computer is used to render hard drives unreadable, not to address viruses or hacking threats. See Exhibit 12. In addition, Mr. Bloch has never provided a plausible explanation as to why he wiped the hard drives of his political deputies to address a virus on his own laptop.<sup>16</sup> Further, OSC has its own IT department, which would have been responsible for addressing any "virus" or hacking issue; OSC does not use "Geeks on Call" to service its computers. Mr. Bloch's assertion that "Geeks on Call" was more qualified to address computer problems than OSC's highly qualified IT staff is, to say the least, not plausible. Further, OSC policy precludes the use of outside vendors to reconfigure its computer equipments, as doing so constitutes a security threat.

Moreover, it is unclear how "Geeks on Call" could have transferred the "personal" and other files on Mr. Bloch's computer to a flash drive, if his hard drive had, in fact, "crashed" as he has asserted. It is also odd that Mr. Bloch would not have directed an examination of the security of the entire OSC network, given his claims that his laptop was infected by a virus, and/or had been hacked.

Finally, even if every file that Mr. Bloch transferred to the new flash drive were "personal," it is outrageous for Mr. Bloch to expect to be taken at his word on that matter. Federal policy (as well as OSC's own directives) provides that information that is stored on government computers is the property of the government, not the user. Having put the

<sup>16</sup> According to a December 7, 2007 article that appeared on [www.govexec.com](http://www.govexec.com), a spokesperson for Mr. Bloch made the astonishing statement that Mr. Bloch "also had the computers of former aides who had departed the agency wiped because the computer technicians arrived at the office while Bloch was not present and were billing the agency for their time." See *Government Executive*, Dec 7, 2007, attached as Exhibit 14.

files on a government computer, and used government funds to transfer them to a flash drive (also bought with government funds), Mr. Bloch cannot prevent the OPM IG from examining the flash drive to determine their relevance.<sup>17</sup>

**C. Abuses of Official Authority**

Throughout his tenure, Mr. Bloch has engaged in a pattern of abuse of official authority. This course of conduct began within months after he began his term, when Mr. Bloch employed OSC investigative authority to promote pet causes over which the agency lacked jurisdiction. It has since escalated into a full scale and widely publicized campaign by Mr. Bloch to employ OSC's investigative authority to protect himself against accountability for his violations of law and other misconduct.

**I. Misuse of Official Authority In Order to Promote Pet Causes**

**a. Mercury and Autism**

Shortly after his term began, Mr. Bloch abused the statutory authority OSC possesses under 5 U.S.C. § 1213 to refer whistleblower disclosures by federal employees for investigation. On May 20, 2004, Mr. Bloch sent a letter to Congressional oversight committees and issued a press release offering OSC's views on a controversial matter over which it lacked jurisdiction, not to mention any expertise - whether there is a causal relationship between the use of childhood vaccines containing mercury, and the incidence of autism. See OSC press release, attached as Exhibit 15.

The circumstances surrounding Mr. Bloch's letter are extremely suspicious. Apparently, a member of Mr. Bloch's political staff, Catherine Deeds, either had a personal interest in the issue of the relationship between autism and mercury or was doing a favor for individuals affiliated with certain advocacy groups interested in the issue. These groups gathered signatures on hundreds of identical form letters accusing the Center for Disease Control of colluding with pharmaceutical companies to cover up information revealing the dangers of mercury in the vaccine supply. They submitted the form letters to OSC. See Form Letter to S. Bloch, attached as Exhibit 16. Mr. Bloch then characterized these form letters as representing "hundreds" of whistleblower "disclosures" and forwarded them to Congress on OSC letterhead with a strong statement

<sup>17</sup> Remarkably, in several radio interviews, Mr. Bloch asserted that requiring him to give the OPM IG access to his "personal files" (stored on the government computer) would violate his right to privacy! This patently ludicrous assertion collides with OSC's routine requests to examine the government issued computers and emails of the subjects of its own investigations, including, among others, Karl Rove!

suggesting that the position of the groups was meritorious.<sup>18</sup>

Contrary to routine practice in disclosure cases, none of OSC's career staff was involved in the consideration of the form letters, the decision to transmit them to Congress or the drafting of Mr. Bloch's letter. Mr. Bloch's letter was released to the press and publicly touted by the interest groups as an authoritative government opinion to support their argument that there is a connection between the vaccines and autism, notwithstanding scientific opinion to the contrary. The collusion between Mr. Bloch and these groups is obvious, and is confirmed by the fact that the advocacy group "SAFEMINDS" issued its press release announcing Mr. Bloch's letter on May 19, 2004, the day before OSC publicly announced it.<sup>19</sup> See SAFEMINDS press release, attached as Exhibit 17. Further, Mr. Bloch's letter continues to be cited by these groups as evidence of the correlation between mercury and autism.

b. "Intelligent Design"

In August 2005, Mr. Bloch again used his official authority and government resources to promote a pet cause unrelated to OSC's mission. One of his political deputies, Mr. McVay, issued eleven single-spaced pages of detailed "findings" on behalf of Dr. Richard von Sternberg, a research associate at the Smithsonian. See Letter from J. McVay to R. Sternberg, attached as Exhibit 18. Mr. Sternberg claimed that he had suffered retaliation for publishing an article questioning evolutionary theory and supporting the concept of "intelligent design." OSC issued its eleven pages of findings notwithstanding its admission that it lacked jurisdiction over the entire matter because, as a research associate, Dr. Sternberg was not even an employee of the Smithsonian.

Equally outrageous, Mr. McVay issued these "findings" notwithstanding that OSC never even investigated Dr. Sternberg's complaint. The findings appear to be based entirely upon OSC's reading of emails and other documents Dr. Sternberg provided. OSC did not interview anyone at the Smithsonian, including the individuals whose emails it cited in support of its "findings."

The OSC letter was very widely publicized on the internet, and in the print and television media. See Sternberg articles, attached as Exhibit 19. It was routinely characterized as providing the results of a "government investigation" finding retaliation

<sup>18</sup> Mr. Bloch refers to having received "hundreds of disclosures from private citizens" on the issue. In fact, what Mr. Bloch received were not "disclosures" but form letters, obviously orchestrated by an interest group.

<sup>19</sup> The media contact for "SAFEMINDS" was Joe Giganti of Veritas Media Group. Mr. Giganti is a conservative commentator who, like Ms. Deeds, is affiliated with Pro-Life groups. It seems very likely that this personal connection was the source of the letter from Mr. Bloch.

by the Smithsonian against Dr. Sternberg.<sup>20</sup>

As in the case of the mercury/autism "disclosure," the Sternberg case was handled exclusively by Mr. Bloch's political staff, with no involvement by OSC's career employees. Once again, Mr. Bloch used his official authority and the imprimatur of his office to promote a personal agenda.

2. **Authorizing Leak of the Investigative Report Concerning the Lurita Doan Hatch Act Investigation and Lying to Congress About it**

As you know, OSC conducted an investigation of allegations that GSA Administrator Lurita Doan had violated the Hatch Act when she met with political appointees on GSA property to host a slide show given by the White House Office of Political Affairs. Mr. Bloch sent you a letter last June expressing his conclusion that Ms. Doan had in fact violated the Hatch Act.

Regardless of the validity of OSC's conclusions regarding Ms. Doan's actions, Mr. Bloch engaged in blatant misconduct in connection with this matter. First, in order to keep the public spotlight on himself and to deflect attention from the ongoing OPM investigation, he authorized the leak of OSC's findings to the press before Ms. Doan had the opportunity to respond to the report. Second, the report that OSC leaked with his approval was not redacted to protect the privacy of witnesses. Finally, and perhaps worst of all, Mr. Bloch attempted to shift the blame for the leak to Ms. Doan herself, and lied to Congress about his role in authorizing the leak.

The relevant events are as follows: On May 18, 2007, OSC delivered a copy of its investigative report (dated May 18) to Ms. Doan. On May 23, 2007, an article containing details from the report appeared on the *Government Executive* website.<sup>21</sup> See *Government Executive*, May 23, 2007, attached as Exhibit 22. Mr. James Mitchell, OSC's Director of Communications, advised Mr. Bloch of the article. Mr. Bloch was surprised and angry—not that the report had been leaked—but that it had been leaked to

<sup>20</sup> For example, the "Discovery Institute" a prominent advocate of the theory of intelligent design, issued a press release entitled "Office of Special Counsel Concludes Smithsonian Created a 'Hostile Work Environment' in Effort to Oust Biologist Skeptical of Darwinism." See Discovery Institute press release, attached as Exhibit 20. That press release was picked up by numerous publications, both nationally and internationally. The *Washington Post* ran a story citing OSC's investigative "findings." See *Washington Post*, Aug. 19, 2005, attached as Exhibit 21. Dr. Sternberg appeared on the popular television show "The O'Reilly Factor" and cited OSC's "findings" on his behalf. Indeed, OSC's findings continue to this day to be cited and published by critics of Darwinian theory, most recently in the feature length film "Expelled," which contains a segment on Dr. Sternberg.

<sup>21</sup> It is our understanding that *Government Executive* had obtained a copy of the report from someone within GSA who was hostile to Ms. Doan.

*Government Executive* (rather than some major media outlet). That same day, Mr. Mitchell, with the approval of Mr. Bloch, provided a copy of the report to the *Washington Post*, which placed it on the newspaper's website that very evening.

The version that appeared at the *Washington Post* website, however, was dated May 17<sup>th</sup> and contained some significant differences from the final May 18<sup>th</sup> report. As was later confirmed, the May 17<sup>th</sup> report that the *Washington Post* had put on its website was an earlier draft of the investigative report that Mr. Mitchell had supplied to the *Washington Post* in error, intending instead to supply the *Washington Post* with the final report.

When Mr. Mitchell became aware of his error the next morning, he quickly alerted the *Washington Post* and supplied it with the final report. In his haste, however, he neglected to redact the final report to protect witness privacy. On the morning of May 24, the *Washington Post* took down the earlier draft and replaced it with the final, unredacted report of May 18. Thus, the report that the *Washington Post* placed on its website included the names of witnesses, discussions of the performance evaluations of some of them, and extremely critical comments that Ms. Doan had made about one of her political appointees, Emily Taylor.

Immediately after Mr. Bloch authorized the leak and Mr. Mitchell effectuated it, both began to lie and dissemble about OSC's role. In a May 24<sup>th</sup> *Government Executive* article, which questioned OSC's involvement in the leak of the preliminary draft, Mr. Mitchell cited a non-existent policy under which OSC "does not comment on the process used to draft reports, or 'how specific versions may have been disseminated.'" See *Government Executive*, May 24, 2007, attached as Exhibit 23.

At the same time, Mr. Bloch was actively deceiving Ms. Doan's attorney, Michael Nardotti, concerning the circumstances of the leak. On May 24, 2007, Mr. Nardotti sent Mr. Bloch a very strongly worded letter, referring to a telephone conversation they had had the night before, complaining about the leak and pointing out that it obviously came from someone within OSC. Mr. Nardotti demanded that Bloch investigate the source of the leaks and hold the responsible individual accountable. He also stated that the leaking of the reports showed that OSC was biased and demanded that OSC turn the entire matter over to an independent investigator. See Letter from M. Nardotti to S. Bloch (May 24, 2007), attached as Exhibit 24.

Mr. Bloch, of course, did not institute any investigation of the leak. There was no need to investigate the leak because Mr. Bloch knew full well that he himself had directed his Communications Director to provide copies of the report to the press. Instead, he responded by letter the next day, stating that it was "false" to claim that OSC provided the press with the investigative report. Even more outrageously, Mr. Bloch

accused Ms. Doan herself of leaking the report as part of some "ruse" or effort to create "roadblocks" to OSC's official investigation. See Letter from S. Bloch to M. Nardotti (May 25, 2007), attached as Exhibit 25.

On May 30, Nardotti responded, pointing out inconsistencies in Mr. Bloch's letter, and his failure to directly address whether OSC had leaked the preliminary draft. Mr. Nardotti pointedly asked whether someone within OSC had leaked the May 17<sup>th</sup> draft or the May 18<sup>th</sup> final report. See Letter from M. Nardotti to S. Bloch (May 30, 2007), attached as Exhibit 26.

Later that day, Mr. Bloch sent a one-paragraph letter, this time attempting to dodge the issue in its entirety, by reminding Mr. Nardotti that the investigation was about Ms. Doan and resurrecting his blatantly false allegation that Mr. Nardotti's persistent questions about the leak of the report were not legitimate and were just an effort to divert attention from Ms. Doan's violations. See Letter from S. Bloch to M. Nardotti (May 30, 2007), attached as Exhibit 27.

Thus, Mr. Bloch clearly authorized the improper leak of the May 18, 2007 report to the press and then falsely claimed that he did not. Further, he cynically tried to shift the responsibility for the leak to Ms. Doan. Still worse, however, Mr. Bloch subsequently lied to a Congressional committee by professing to have no knowledge about how the Post came into possession of the report, by claiming that he did not authorize it, and by refusing to agree to investigate the source of the leak, supposedly on the grounds that to do so would somehow be perceived as violating the rights of the leaker! See Hearing Before the House Subcommittee on Federal Workforce, July 12, 2007, at 38-39, 76-77, 95-97 (Exhibit 3). Mr. Bloch's evasive and untruthful testimony regarding his knowledge of the leak and his role in authorizing it was clearly perjurious.

### 3. **Launching Investigations for Self-Protection: Iglesias/U.S. Attorney Investigation**

Perhaps Mr. Bloch's greatest abuse of official authority involves his recent efforts to protect himself against the consequences of his misconduct by instigating and then maintaining a series of baseless investigations of the White House. Thus, in April of 2007, Mr. Bloch made the rounds of the media announcing that he intended to investigate alleged violations of law in connection with the termination of former U.S. Attorney, David Iglesias, as well as alleged Hatch Act violations by your then-political advisor, Karl Rove. Mr. Bloch has since expanded his "investigation" to cover all of the U.S. Attorneys who were fired.

Mr. Bloch's motives for insinuating himself into these controversial and widely publicized matters were patently self-serving. The scope of the investigations Mr. Bloch

announced (not to mention the media blitz that accompanied his announcement), betrayed that it was largely an act of political grand-standing designed to give him cover against any actions that you might take to hold him accountable for his own long list of transgressions.<sup>22</sup>

For example, the OSC's "investigation" of a claim on behalf of Mr. Iglesias under the Uniform Service Employment Rights and Restoration Act (USERRA) (which OSC itself apparently solicited Mr. Iglesias to file) is clearly without any legal foundation. Presidential appointees who have been confirmed by the Senate are not entitled to claim statutory protection against decisions regarding their continued tenure, and Mr. Bloch knows this. Further, notwithstanding Mr. Bloch's grandstanding, there was never any basis for believing that a Hatch Act violation was committed by anyone in connection with Mr. Iglesias' firing or the firings of the other U.S. Attorneys.<sup>23</sup>

In fact, Mr. Bloch has rejected the repeated advice of career staff to stand down and/or limit the Iglesias/U.S. Attorney investigations. He has preferred to keep them open and as broad in scope as possible in order to keep himself in the public spotlight and to protect himself against any efforts by the Administration to hold him accountable for the serious acts of misconduct detailed above.

Most recently, Mr. Bloch accused the Department of Justice of impeding his investigation of the U.S. Attorney firings by declining to provide him with documents while the DOJ IG conducts its own investigation of these matters. In fact, it is standard procedure for OSC (or any other investigator conducting an administrative inquiry) to suspend its investigative activity while a potential criminal investigation is on-going. Further, in charging DOJ with obstructing his "investigation," Mr. Bloch is in conflict with the recommendations of OSC's career staff, which have counseled that OSC should stand down while the DOJ IG's investigation goes forward.

\* \* \* \* \*

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<sup>22</sup> Mr. Bloch recently tried to employ this device to defend himself from questioning about the "Geeks on Call" matter. In a letter of February 6, 2008 to Representatives Davis and Waxman, he urged the Members to "look closely at the facts and circumstances surrounding . . . the entirety of the OPM investigation which I believe is being misused to impede my statutorily mandated efforts to provide independent oversight of the Executive Branch." See Exhibit 13. Mr. Bloch has made similar claims in radio interviews and letters to the *Wall Street Journal* and the *Washington Post*.

<sup>23</sup> Remarkably, Mr. Bloch recently requested and secured additional funding for this sham investigation by representing that such funding was needed to hire computer forensics experts.

**KATZ, MARSHALL & BANKS, LLP**

President George W. Bush

April 29, 2008

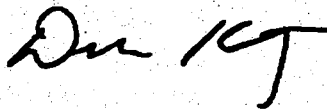
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As the foregoing summary makes clear, Mr. Bloch's continued tenure as Special Counsel has wreaked havoc within the agency, and destroyed its credibility. In fact, Mr. Bloch has been and continues to be an embarrassment to your Administration.

Federal sector whistleblowers serve a key function. In a very real sense, they are the eyes and ears of the public. The law provides them with clear protection. It is time to replace Mr. Bloch with a Special Counsel who cares about the mission of OSC and will devote his or her energies to protecting whistleblowers rather than devising scheme after scheme to try to preserve his position.

We have repeatedly asked that you take action to address this intolerable situation and restore integrity and leadership to OSC. At this point, continued inaction on your part can only lead the public to conclude that you prefer a discredited and toothless Office of Special Counsel to an effective one. Accordingly, for one more time, my clients request that you remove Mr. Bloch from his position and provide relief to the OSC employees who were injured by the illegal and pretextual reorganization that Mr. Bloch implemented in 2005.

Sincerely,



Debra S. Katz

Enc. (in hand-delivered copy)

cc: Fred Fielding, White House Counsel



# KATZ, MARSHALL & BANKS, LLP

Debra S. Katz, Partner  
Direct Dial: 202-299-1143  
[katz@kmblegal.com](mailto:katz@kmblegal.com)

By Telecopier and Hand-Delivery  
November 28, 2007

President George W. Bush  
White House  
1600 Pennsylvania Ave.  
Washington, D.C. 20580

Re: Malfeasance and Illegal Misconduct by Special Counsel Scott Bloch

Dear Mr. President:

For the last two and one half years, I have been representing a group of public interest organizations as well as a number of current and former employees of the United States Office of Special Counsel (OSC) in connection with a complaint filed against Special Counsel Scott Bloch, which is under investigation by the Office of Personnel Management's Inspector General (OPM IG). The initial complaint, filed in April of 2005, alleged violations of federal personnel laws, including retaliation against internal whistleblowers, the purging of existing career staff and their replacement with political cronies, illegal gag orders, and the wholesale dismissal of over 1000 whistleblower disclosures without investigation. I have since amended the complaint several times, as Mr. Bloch and/or his political staff have continually obstructed the IG's investigation, made false statements to Congress, and engaged in other improper and illegal activity, all of it directly antithetical to the mission of OSC, which is to protect the merit-based civil service, and to investigate and prosecute agency officials who retaliate against whistleblowers.

The OPM IG investigation has dragged on for several years, while Mr. Bloch has systematically destroyed OSC, and any credibility it once had. While Mr. Bloch has boasted of his efficiency in clearing out "backlogged" cases, the number of employees receiving relief from OSC has plummeted. Experienced career staff have left in unprecedented numbers and OSC is widely viewed as an ineffective, highly politicized, and even corrupt institution.

Today's *Wall Street Journal* contains a report confirming what my clients and other sources within OSC have been saying since the OPM IG investigation began: that Mr. Bloch and his political henchmen have continuously obstructed the investigators' efforts to get at the truth. Mr. Bloch apparently hired "Geeks on Call" in December 2006 to do a sophisticated, Department of Defense-level "wipe" of his computer hard drive, and the hard drives of two of his political deputies. He claims that he did so to eradicate "viruses" on the computers. This assertion is ludicrous; the procedure that "Geeks on Call" employed is used to wipe hard drives and delete all information previously stored,

**KATZ, MARSHALL & BANKS, LLP**

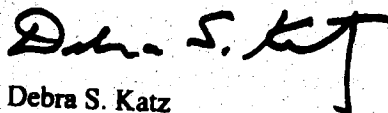
President George W. Bush  
November 28, 2007  
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not to address viruses. Further, OSC has its own IT department, which would have been responsible for addressing any "virus" issue; OSC does not use "Geeks on Call" to service its computers.

Tellingly, the *Wall Street Journal* article quotes Mr. Bloch as defending himself with a claim that the OPM IG has a "conflict of interest" in pursuing its investigation of Mr. Bloch while his office supposedly is conducting an investigation of White House. This claim by Mr. Bloch confirms what we have repeatedly pointed out in correspondence with the White House Counsel, with Clay Johnson, Deputy Director of OMB, and with members of Congress -- that Mr. Bloch launched his supposed investigation of the White House to insulate himself from the OPM IG investigation. (I am enclosing for your ease of reference a letter dated October 10, 2007, to White House Counsel Fred Fielding, outlining these concerns.) The fact that Mr. Bloch -- caught red-handed destroying evidence and obstructing justice -- has now himself openly attacked the ability of the OPM IG to conduct an impartial investigation speaks volumes. Mr. Bloch continues to cling to his strategy of using his "investigation" of the White House to insulate himself from his own misdeeds.

Enough is enough Mr. President. By law, you may remove the Special Counsel for neglect, inefficiency or malfeasance in office. 5 U.S.C. Sec. 1211. Obstruction of justice, making untruthful statements to Congress, retaliating against whistleblowers, purging career staff, using official authority for personal and political reasons, and the systematic destruction of OSC's effectiveness and credibility certainly constitute malfeasance. We urge you, therefore, to remove Mr. Bloch from his office, and to provide full relief to the talented and highly qualified employees that Mr. Bloch illegally drove out of the agency, who have brought his continued misconduct to light, and who continue to wait for justice.

Sincerely,

  
Debra S. Katz

Enc.

cc: Fred Fielding, White House Counsel  
Senator Joseph Lieberman, Chairman, Senate Homeland Security and  
Governmental Affairs Committee  
Senator Susan Collins, Ranking Member, Senate Homeland Security and  
Governmental Affairs Committee

President George W. Bush

November 28, 2007

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Senator Daniel Akaka, Chairman, Senate Subcommittee on Oversight of  
Government Management, the Federal Workforce, and the District of  
Columbia

Senator Claire McCaskill, Senate Homeland Security and Governmental Affairs  
Committee

Rep. Henry Waxman, Chairman, House Oversight and Government Reform  
Committee

Rep. Tom Davis, Ranking Member, House Oversight and Government Reform  
Committee

Rep. Danny K. Davis, Chairman, House Subcommittee on the Federal Workforce,  
Postal Service, and the District of Columbia

Rep. Kenny Marchant, Ranking Member, House Subcommittee on the Federal  
Workforce, Postal Service, and the District of Columbia

Clay Johnson III, Deputy Director for Management, Office of Management and  
Budget

Patrick E. McFarland, Inspector General, Office of Personnel Management



# KATZ, MARSHALL & BANKS, LLP

Debra S. Katz, Partner  
Direct Dial: 202-299-1143  
katz@kmblegal.com

October 10, 2007

Fred Fielding, Esquire  
White House Counsel  
The Office of Counsel to the President  
1600 Pennsylvania Ave.  
Washington, D.C. 20580

Re: PCIE Referral of Complaint Against Scott J. Bloch, Special Counsel,  
Office of Special Counsel (OSC) to White House Counsel

Dear Mr. Fielding:

I am writing on behalf of my clients, a group of career OSC employees and four public interest organizations, who filed a Complaint of Prohibited Personnel Practices Against U.S. Special Counsel Scott J. Bloch ("OSC Complaint") with President George W. Bush in March 2005. This OSC Complaint was assigned for investigation to Patrick McFarland, the Inspector General for the Office of Personnel Management, in April 2005. I am writing to request that you direct the OPM IG to provide you with an interim report or substantive briefing regarding what its investigation has uncovered to date, and to explain the reasons for its long delay in concluding this investigation.

It is our view that despite the diligent efforts of the OPM IG's staff, Mr. Bloch has succeeded in obstructing and delaying this investigation for over almost two and half years. He has done so repeatedly, as I believe the OPM IG would confirm, both personally and through members of his political staff, and most recently by directing his former and current political staff to refuse to answer questions about Mr. Bloch's various misdeeds. We understand that Mr. Bloch (though his political staff) has interposed frivolous claims of "attorney client" privilege in an effort to prevent the IG from getting at the truth.

Mr. Bloch has also greatly delayed this investigation by throwing up smoke screens to make himself "bullet proof," including the launching of a widely publicized investigation concerning alleged violations of law in connection with the termination of a former U.S.

Fred Fielding, Esquire

October 10, 2007

Page 2

Attorney, David Iglesias, and alleged Hatch Act violations by the President's political Advisor Karl Rove.<sup>1</sup>

In fact, our concerns about having Mr. Bloch lead these efforts were recently confirmed when OSC conducted a Hatch Act investigation of GSA Administrator Lurita Doan. Because of Mr. Bloch's involvement and actions, the focus was shifted from the allegations against Ms. Doan to Mr. Bloch's own credibility. Thus, in an act that could only have been motivated by Mr. Bloch's desire to protect himself, Mr. Bloch authorized James Mitchell, his Director of Communications, to leak OSC's investigative report to the press, before Ms. Doan had an opportunity to respond to it. Mr. Mitchell accidentally released a preliminary draft of the report, rather than the final one, to the *Washington Post* and the *Los Angeles Times*. Upon learning of his error (after the *Washington Post* had already published the preliminary report on its website), Mr. Mitchell gave the media copies of the final report, but failed this time to redact the names of employees whose work and competence Ms. Doan was said to have questioned in her interviews with OSC.

During OSC's Reauthorization hearing, Mr. Bloch did not own up to his actions under intense questioning by members of the House Subcommittee on the Federal Workforce, Postal Service and the District of Columbia. Instead, he testified (untruthfully) that he did not know whether OSC was the source of the leak. Contrary to his testimony, Mr. Bloch was well aware of how the report had been leaked because he himself authorized it. His untruthful testimony and evasive responses to questions asked by the Subcommittee further undermined the credibility of the Doan investigation. In fact, to date, the President has not taken any action in response to OSC's report; had a credible Special Counsel overseen this investigation it is far less likely that the President would have felt free to simply ignore OSC's findings.

Given OSC's critical role in protecting the merit system and enforcing the Hatch Act, it is unacceptable that after more than two years, the OPM IG has still not completed its investigation of the charges lodged against Mr. Bloch. We believe that to a large degree this is the result of Mr. Bloch's own obstruction of the investigation. For all of these reasons we believe the OPM IG should issue an interim report at this time. Mr. Bloch should not be permitted to benefit by his obstruction of the IG's investigation, including through the invocation of frivolous claims of privilege, and other high-profile gambits.

---

<sup>1</sup> At this point, Mr. Bloch cannot be trusted to oversee any investigation, much less a sensitive investigation of alleged Hatch Act violations by high level political appointees. Regardless of the outcome of those investigations, they will not be considered credible. As I explained in my letter to you dated April 25, 2007, multiple conflicts of interest preclude Mr. Bloch from being entrusted with responsibility for these important investigations, while he himself is also being investigated, essentially at the direction of the White House.

**KATZ, MARSHALL & BANKS, LLP**

Fred Fielding, Esquire

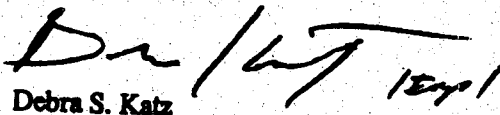
October 10, 2007

Page 3

Mr. Bloch's end-game here is obvious. He intends to play out the clock through the end of the President's term and avoid any responsibility or consequences for his misconduct. Is the White House content to let that happen?

I look forward to hearing from you.

Sincerely,



Debra S. Katz

Cc: **Senator Joseph Lieberman, Chairman, Senate Homeland Security and Governmental Affairs Committee**  
**Senator Susan Collins, Ranking Member, Senate Homeland Security and Governmental Affairs Committee**  
**Senator Daniel Akaka, Chairman, Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia**  
**Senator Claire McCaskill, Senate Homeland Security and Governmental Affairs Committee**  
**Rep. Henry Waxman, Chairman, House Oversight and Government Reform Committee**  
**Rep. Tom Davis, Ranking Member, House Oversight and Government Reform Committee**  
**Rep. Danny K. Davis, Chairman, House Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia**  
**Rep. Kenny Marchant, Ranking Member, House Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia**  
**Clay Johnson III, Deputy Director for Management, Office of Management and Budget**  
**Patrick E. McFarland, Inspector General, Office of Personnel Management**



October 10, 2007

Senator Joseph Lieberman, Chairman  
Senate Committee on Homeland Security and Governmental Affairs  
Senate Dirksen 340  
Washington, DC 20510

Senator Susan Collins, Ranking Member  
Senate Committee on Homeland Security and Governmental Affairs  
Senate Dirksen 344  
Washington, DC 20510

**Re: U.S. Office of Special Counsel**

Dear Senators Lieberman and Collins:

As you know, the U.S. Office of Special Counsel (OSC) has been lobbying Congress to appropriate an additional three million dollars to OSC for FY 2008, purportedly to fund Hatch Act investigations of allegations that the White House conducted improper political briefings on-site at a number of federal agencies. We write to you now to urge that you not support the provision of any additional monies to OSC for this or any other purpose, pending the completion of an investigation being conducted by the Inspector General for the Office of Personnel Management (OPM IG) into allegations of serious misconduct by Special Counsel Scott Bloch. We further ask that you require the OPM IG to provide you with an interim report or substantive briefing regarding what its investigation has uncovered.

Our organizations recognize the importance of ensuring the enforcement of the Hatch Act's prohibitions. But it is precisely because we value the Hatch Act's safeguards against mixing politics with governance that we urge you not to support additional appropriations to OSC while Mr. Bloch is the Special Counsel.

During the almost four years that Mr. Bloch has served as Special Counsel, OSC's credibility as an impartial investigative agency has reached an all time low. Mr. Bloch has developed a reputation for using the authority of his office to promote his own personal agendas, rather than OSC's mission. Beginning with the first few months of his term, Mr. Bloch has been a lightning rod for controversy. He has continuously faced allegations of mismanagement, misconduct, retaliation, and, ironically, politicization of OSC. These accusations have come from career OSC staff, from our groups, and from both sides of the aisle in Congress. As noted, Mr. Bloch has been the subject of an OPM IG investigation, ordered by the President's Council on Integrity and Efficiency (PCIE), for over two years. As we believe the OPM IG would confirm, Mr. Bloch has obstructed that investigation repeatedly either personally or through members of his political staff. In fact, his former and current political staff have refused to answer questions about Mr. Bloch's various misdeeds, because Mr. Bloch (though his political staff) has interposed

Senator Joseph Lieberman

Senator Susan Collins

October 11, 2007

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claims of "attorney client" privilege in an effort to prevent the IG from getting at the truth.

Moreover, there is no guarantee that any additional monies provided to OSC would be used for its intended purpose. Shortly before Special Counsel Bloch arrived at OSC, Congress approved five additional slots for career staff positions in OSC's Disclosure Unit (DU). The slots were authorized by Congress in order for OSC to better meet the demands of a post-September 11 increase in the number of whistleblower disclosures submitted to the agency. Mr. Bloch did not fill these positions, instead opting to double the size of OSC's political staff. Now, after failing for the entirety of Bloch's term to fill this unmet need, OSC asked that Congress increase the time period from 15 to 45 days for OSC to respond to disclosures of waste, fraud and abuse submitted to the DU.

In addition, OSC simply cannot take on any more responsibilities without further abandoning its primary constituency: government whistleblowers. A recent news article noted that "OSC reassigned eight of its staff to handle the [Hatch Act] investigation." With the number and percentage of federal employees helped by OSC already at all-time lows, the immediate effect of OSC's new "broad-based" investigation will be further deterioration of the quality of service that employees can expect when they turn to OSC for assistance.

At this point, Mr. Bloch cannot be trusted to oversee any investigation, much less a sensitive investigation of alleged Hatch Act violations by high level political appointees. Regardless of the outcome of those investigations, they will not be considered credible. As we explained in the attached letter of April 25, 2007 to White House Counsel Fred Fielding, multiple conflicts of interest preclude Mr. Bloch from being entrusted with responsibility for these important investigations, while he himself is also being investigated, essentially at the direction of the White House.

In fact, our concerns about having Mr. Bloch lead these efforts were recently confirmed when OSC conducted a Hatch Act investigation of GSA Administrator Lurita Doan. In that matter, because of Mr. Bloch's involvement and actions, the focus was shifted from the allegations against Ms. Doan to Mr. Bloch's own credibility. According to the enclosed letter from Attorney Debra Katz, who represents the OSC employees who initiated the PCIE investigation and our organizations in that matter, Mr. Bloch authorized James Mitchell, his Director of Communications, to leak OSC's investigative report to the press, before Ms. Doan had an opportunity to respond to it. This action would be a serious breach of Ms. Doan's rights and underscore the lack of professionalism which has permeated Mr. Bloch's tenure. During OSC's Reauthorization hearing, Mr. Bloch denied his action under intense questioning by members of the House Federal Workforce Subcommittee, testifying that he did not know whether OSC was the source of the leak.

Senator Joseph Lieberman

Senator Susan Collins

October 11, 2007

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As the foregoing discussion illustrates, given OSC's critical role in protecting the merit system and enforcing the Hatch Act, it is unacceptable that after more than two years, the OPM IG still has not completed its investigation of the charges lodged against Mr. Bloch. Despite the delays, it has refused to interview witnesses to Mr. Bloch's abdication of responsibility and has failed to keep pace with new developments at the Office. We believe that to a large degree this is the result of Mr. Bloch's own obstruction of the investigation.

For all of these reasons we believe Mr. Bloch should not be given more money or authority unless and until the OPM IG investigation has reached its conclusion.

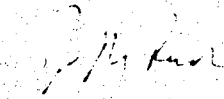
Finally, as is also explained in the attached letter to White House Counsel Fielding, for all of these reasons we believe the OPM IG should issue an interim report to you at this time. Mr. Bloch should not be permitted to benefit by his obstruction of the IG's investigation, including through the invocation of frivolous claims of privilege, and other high-profile gambits. Mr. Bloch's end-game here is obvious. He intends to run out the clock through the end of the President's term and avoid any responsibility or consequences for his misconduct. Neither the White House nor Congress should allow this to happen.

Thank you for your consideration of our concerns.

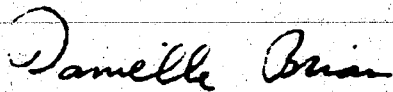
Sincerely,



Tom Devine, Legal Director  
Government Accountability Project



Jeff Ruch, Executive Director  
Public Employees for Environmental Responsibility



Danielle Brian, Executive Director  
Project On Government Oversight

**Senator Joseph Lieberman**

**Senator Susan Collins**

**October 11, 2007**

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cc:

**Chairman Henry Waxman and Ranking Member Tom Davis, House Committee on Oversight and Government Reform**

**Chairman Daniel Akaka and Ranking Member George Voinovich, Senate HSGAC Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia**

**Chairman Danny K. Davis and Ranking Member Kenny Marchant, House Oversight and Government Reform Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia**

**Chairman Richard Durbin and Ranking Member Sam Brownback, Senate Appropriations Subcommittee on Financial Services and General Government**

**Chairman Jose Serrano and Ranking Member Ralph Regula, House Appropriations Subcommittee on Financial Services and General Government**



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January 10, 2005

**Joint POGO, PEER, GAP letter to members of Congress regarding U.S. Special Counsel, Scott Bloch's retaliation against employees.**

Hon. Susan Collins, Chair  
Senate Committee on Governmental Affairs  
SD- 340 Dirksen Senate Office Building  
Washington, D.C. 20510-6250

Hon. Joseph Lieberman  
Ranking Minority Member  
Senate Committee on Governmental Affairs  
SH-604 Hart Senate Office Building  
Washington, D.C. 20510

January 10, 2005

Dear Senators Collins and Lieberman:

On behalf of our organizations, Public Employees for Environmental Responsibility (PEER), the Government Accountability Project (GAP), and the Project on Government Oversight (POGO), we are writing to alert you to the latest in a series of efforts by Special Counsel Scott Bloch that threaten to undermine the United States Office of Special Counsel's (OSC) vital mission. Taxpayers and public servants within the government depend on the OSC. As a practical matter, in many instances there is no alternative to defend the merit system against retaliation against whistleblowers; patronage, old boy networks and buddy system hiring practices; or any other threats to America's merit system, which has sustained a non-partisan, professional civil service in our nation for over 130 years. Unfortunately, Mr. Bloch's current pattern of leadership threatens to transform the OSC from an independent agency whose mission is to protect the merit system, into a role model for destroying it.

In light of Mr. Bloch's most recent actions, described in detail below, we strongly urge that you conduct oversight hearings and order an independent investigation of Mr.

Bloch's illegal personnel practices and the culture of fear he has created at OSC. We also believe Congress should consider whether continued efforts to amend the Whistleblower Protection Act should be modified to compensate for the weak link that the OSC has become under Mr. Bloch's anti-leadership. For all practical purposes, his office is the only remedy available for emergency interim relief, or any at all against common forms of harassment. For now, whistleblowers or others who need and deserve that support have nowhere to go.

On Thursday, January 6, 2004, without notice or warning, Mr. Bloch directed the involuntary geographic reassignment of twelve career OSC employees (approximately 20 percent of the legal and investigative team at headquarters, including two of the four career senior executives at OSC). Seven employees, including one of the two career senior executives, as well as the Director of OSC's alternative dispute resolution (ADR) program, have been directed to report to a newly created field office in Detroit, Michigan. Four others are being told that they are being transferred to fill vacancies in OSC's existing Dallas field office. The twelfth employee, a career senior executive who has been with OSC since 1983, has been reassigned to head the existing Oakland field office. Among other duties he has discharged over the last twenty years, with consistently outstanding performance appraisals, this career executive has served as Acting Special Counsel for extended periods of time during vacancies in that position. He has also been in charge of enforcement of the Hatch Act for many years, through the terms of several Special Counsels. The Oakland field office has a staff of only approximately six employees. Further, like the Dallas field, the Oakland field office has been headed successfully for many years by an experienced grade 15 manager.

Mr. Bloch advised the affected employees that they must to report to their new assignments within 60 days. He has advised them that they will be fired if they do not indicate their willingness to relocate within ten days.

In a January 7th press release filled with misleading statements, which Mr. Bloch issued as the media and others began making inquiries, he asserted that the new Detroit field office was created "after extensive discussions with staff and an outside assessment team's review of the Agency's structure." In reality, however, none of the affected staff, including the affected senior executives, was notified in advance, let alone a party to "discussions" about the move. Indeed, notwithstanding that he met privately with OSC's senior staff at the end of November and during the month of December, to discuss the possibility of making organizational changes, he never hinted that he intended to open a new field office, much less that two of OSC's career senior executives would be geographically relocated. Further, when Mr. Bloch announced the reassignments, he told the staff that office space had already been leased in Detroit, thus demonstrating that this move has been contemplated for at least a number of weeks, and likely a number of months, before it was announced to anyone outside Mr. Bloch's circle of political appointees.

Finally, contrary to the insinuation in the press release, the assessment team did not recommend the creation of a new field office in Detroit or anywhere else. In fact, the team effusively praised the work of the Oakland field office, which, as noted above, has been successfully run for over 20 years by a grade 15 employee who reported to the same senior executive in Washington, D.C. who is now being directed to relocate to Oakland. The assessment team also suggested reducing the layers of management in OSC's investigation and prosecution divisions; under Mr. Bloch's reorganization, the layers of management have been increased, as field offices headed by senior executives will now be reporting to yet another senior executive in headquarters.

There are still more reasons to question the bona fides of the management justification offered for this "reorganization." Under the new structure, assuming that they accept the

forced geographic reassignments to Detroit and Oakland, the two career senior executives with the most litigation experience will be reporting to the career senior executive at headquarters with the least litigation experience. OSC's Hatch Act Unit will, for the first time in OSC's history, report directly to a political deputy. Further, OSC's highly successful ADR program will inexplicably be run out of Detroit.

In fact, the way that the "reorganization" is being implemented leads to the inescapable conclusion that existing career staff are being purged. Mr. Bloch did not ask for volunteers to transfer to the new Detroit field office, or to the existing Oakland and Dallas field offices. Employees who have been ordered to relocate have been told that they are not permitted to switch assignments with others who might be willing to take their places. Further, there are at least eleven current vacancies at OSC headquarters. It is unclear why at least some portion of the staffing-up of the new and existing field offices could not be accomplished by moving those vacancies to the field and filling them there.

Indeed, the method Mr. Bloch has chosen to staff the new field office and fill vacancies in the Dallas field office is fiscally imprudent, if not an act of gross waste and mismanagement. Relocating a single employee can be quite expensive, much less moving a dozen of them. It would be less expensive to hire new staff to fill the vacancies in Dallas and to staff the new office in Detroit, than it is to move twelve incumbent employees halfway across the country for that purpose.

Moreover, Mr. Bloch has given the affected employees virtually no time to decide whether to accept the reassignment; nor has he given those employees who might decide (however, reluctantly) to do so, sufficient time to relocate. Many of the affected employees have homes, spouses and family in the Washington, D.C. area. It is completely unreasonable, cruel, and inconsistent with the practice at other agencies, to conduct a geographic reassignment in this absurdly short time frame.

Equally, if not more disturbing, there is every reason to believe that the employees directly affected by the "reorganization" have been deliberately targeted to make way for Mr. Bloch's own hand-picks. Virtually all of the employees affected are individuals who either work under, or have themselves dared to engage in even mild private discussions with Mr. Bloch over the advisability of management and policy decisions he has made over the last twelve months. Mr. Bloch has hired a number of career employees himself over the last year, but he has broken with past OSC practice by hiring them non-competitively, without even involving the career supervisors to whom they would report. Not a single one of Mr. Bloch's personal picks, so selected, is being forced to move.

As you may be aware, despite the fact that he has been in his position for only slightly over a year, Mr. Bloch has already received some very unfavorable attention (as well as a public rebuke by the White House) for suggesting that federal employees are not protected against discrimination based on sexual orientation, and for issuing a gag order to OSC staff, directing them not to speak to anyone outside of the agency about agency policies. In the wake of these incidents, Mr. Bloch (whose job it is to protect whistleblowers) has been publicly quoted as deriding what he calls "leakers" at OSC. Even before this latest purge, OSC staff, whose morale is now at an all-time low, were living in a culture of fear.

Thus, Mr. Bloch is widely perceived by his staff as a dictatorial figure that considers any dissent (even when expressed internally) to be an act of "disloyalty." A significant number of OSC employees are actively searching for new jobs. As a result of Mr. Bloch's management style, several months ago, OSC's long time Director of Human Resources, who was in charge of personnel issues and procurement, retired abruptly, with less than

a week's notice. A senior personnel management specialist who worked directly for her, resigned at the same time. These resignations, coming at around the time that Mr. Bloch appears to have been planning his "reorganization" appear to be highly suspicious.

As we hope the foregoing makes clear, something is desperately wrong at the Office of Special Counsel. Ironically, were these abuses of the merit system taking place at any other agency, the proper recourse would be to file a complaint with OSC. If an Inspector General were abusing his position, the proper recourse would be to file a complaint with the Integrity Committee of the President's Council on Integrity and Efficiency (of which Mr. Bloch is a sitting member). Because these remedies are not available for OSC's employees, it is imperative that Congress step in to direct that an outside review be conducted (perhaps by the Government Accountability Office). On behalf of our organizations, and the public interest we urge you to take whatever immediate action you can to secure such an outside review, to be completed before Mr. Bloch can go ahead with the forced reassignments.

Mr. Bloch's in-house betrayal of the merit system also illustrates why Congress should consider structural reform for civil service remedies as well. It goes to the heart of why his office exists. In 1976 a massive, blue ribbon report by the Ink Commission recommended the Office of Special Counsel's creation in response to the same type of scorched earth attacks on the merit system during Watergate era coverups that Mr. Bloch is now using against his own staff. Federal employees can hardly count on Mr. Bloch to prosecute others for using the same harassment tactics he is perfecting against his own staff.

A structural solution is imperative. For temporary relief or long-term harassment like loss of duties, federal employees realistically have nowhere to turn besides the Office of Special Counsel, or individual congressional offices. OSC employees literally have nowhere to enforce their rights against retaliation in this dispute. They would not even have technical jurisdiction at the MSPB until months after the purge reassignment was a completed fait accompli. Unlike EEO victims or corporate whistleblowers since passage of the Sarbanes-Oxley law, federal workers do not have access to court when there is no action at the administrative level.

The OSC is so fundamental for good government that the Special Counsel's commitment to the merit system must be beyond any credible challenge. By any credible standard, Mr. Bloch has flunked that test. This is not the first time the OSC has turned on its mission. The Whistleblower Protection Act was sparked by analogous purges from Alex Kozinski, whose abuses of power also directly caused 43 Senators to vote against his appellate court nomination. The current OSC fiasco illustrates why this remedies gap is an Achilles heel for the merit system. If the Office is to continue, Congress needs to consider structural reforms to impose accountability for the OSC, and fallback remedies such as those available for corporate workers and discrimination victims.

Sincerely,

Danielle Brian  
Executive Director  
Project on Government Oversight

Jeff Ruch  
Executive Director  
Public Employees for Environmental Responsibility (PEER)

Tom Devine  
Legal Director

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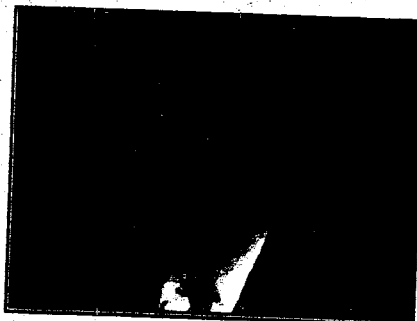
August 1, 2008

Nation

## FBI Raids Special Counsel Office, Seizes Records

by Ari Shapiro

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Scott Bloch has been special counsel since 2004. U.S. Office of Special Counsel

NPR.org, May 6, 2008 · FBI agents on Tuesday raided the offices of Special Counsel Scott J. Bloch, who oversees protection for federal whistle-blowers. The agents seized computers and shut down e-mail service as part of an obstruction of justice probe, as first reported by NPR News.

A grand jury in Washington issued subpoenas for several OSC employees, including Bloch, according to NPR sources who spoke on condition their names not be used. Bloch's home was also searched.

Those developments came about on a Tuesday morning that had seemed no different from any other weekday in the Washington headquarters of the Office of Special Counsel. But at 10 a.m., the OSC's national e-mail system went down, and the FBI arrived.

A half-dozen FBI agents swarmed into the OSC's Washington offices, grabbing documents and seizing computers. By 1 p.m., more than 20 agents had arrived in the agency's D.C. bureau.

One official close to the investigation said that today's action was "significant" and that other field offices would also be included in the investigation.

The focus of the probe appears to be Special Counsel Bloch, who was appointed by President Bush in 2004. Bloch has been a controversial figure ever since taking over the Office of Special Counsel, which, among other things, ensures that federal whistle-blowers get the protection they need.

One of Bloch's first official actions was to refuse to investigate any claims of discrimination based on sexual orientation. When the news of his refusal was leaked to the press, career employees in his office say, Bloch blamed them for the leak. He retaliated, the employees said, by creating a new field office in Detroit and forcing them either to accept assignments there or resign.

This morning, FBI agents in Washington took Bloch into a separate room at OSC to interview him, while additional investigators searched his office. They also arrived at his home in Alexandria, Va., with a search warrant.

The Office of Personnel Management's inspector general has been looking into allegations that Bloch retaliated against career employees and obstructed an investigation. Sources close to the probe said the FBI's raid this morning was related to work the inspector general had already done.

In addition to concerns about obstruction of justice, investigators are also looking into whether Bloch violated the Hatch Act, a congressional mandate that prohibits employees from using their offices for partisan political purposes.

Bloch has admitted to hiring Geeks on Call — a computer servicing company — to purge his computer and two of his deputies' computers, sources said. But he said the computers contained a virus, which necessitated a purge. Investigators are looking into whether the purge was meant to destroy evidence related to the current investigation.

OSC employees for months have called on President Bush to ask for Bloch's resignation. The White House today declined to comment on the developments, as did Bloch's lawyers and the FBI.

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August 1, 2008

Politics

## Special Counsel Case May Extend Far Beyond Bloch

by Ari Shapiro

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May 7, 2008

Federal Agents Investigate Whistleblower Agency

**Day to Day, May 7, 2008** · The federal inquiry into Special Counsel Scott J. Bloch, who oversees protection for federal whistle-blowers, appears to be broader than originally believed.

May 6, 2008

FBI Raids Special Counsel Office, Seizes Records

Sources close to the investigation tell NPR that subpoenas issued Tuesday sought documents and information on a wide range of subjects, including a 2004 investigation into Condoleezza Rice, who was then President Bush's national security adviser and is now secretary of state.

FBI agents raided Bloch's home and office on Tuesday morning. The agents seized computers and shut down e-mail service as part of an obstruction of justice probe, as first reported by NPR News.

Multiple sources say a grand jury in Washington issued 17 subpoenas, including several for Office of Special Counsel employees. The sources described the investigation on condition that their names not be used.

The first OSC employees to appear before the grand jury are scheduled to testify next Tuesday.

One subpoena demanded information about Bloch's 2004 investigation into whether Rice violated the Hatch Act by using federal money to campaign for President Bush's re-election. Bloch found no wrongdoing by Rice.

Another subpoena focused on Lurita Doan, who resigned last week as head of the General Services Administration. Bloch's office had been investigating Doan. The White House asked her to resign amid accusations that she gave contracts to friends and abused her office for political purposes.

The man handling the OSC inquiry has an unusual background for a federal prosecutor: NPR has learned that James Mitzelfeld is the man who signed off on the subpoenas.

In 1994, Mitzelfeld won a Pulitzer Prize as a reporter for *The Detroit News*, where he uncovered spending abuses at Michigan's House Fiscal agency. Mitzelfeld went on to work in Detroit's U.S. attorney's office; he is now at the U.S. attorney's office in Washington, D.C.

Mitzelfeld also subpoenaed information about a woman at OSC named Rebecca McGinley. According to sources, the subpoena refers to a problem with compensatory time that McGinley logged during a special assignment a year and a half ago.

Despite the stream of subpoenas, no one has been charged with a crime in the case.

Bloch has been a controversial figure ever since taking over the Office of Special Counsel in 2004. One of his first official actions was to refuse to investigate any claims of discrimination based on sexual orientation.

When the news of his refusal was leaked to the press, career employees in his office say, Bloch blamed them for

the leak. He retaliated, the employees said, by creating a new field office in Detroit and forcing them either to accept assignments there or resign.

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OSC employees for months have called on President Bush to ask for Bloch's resignation. The White House has declined to comment on the developments, as did Bloch's lawyers.

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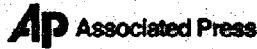
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## Special counsel's office raided amid obstruction probe

May 6, 2008 6:48 PM ET

WASHINGTON (AP) - Federal agents raided the



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and home of U.S. Special Counsel Scott Bloch

on Tuesday while investigating whether the nation's top protector of whistle-blowers destroyed evidence potentially showing he retaliated against his own staff.

Computers and documents were seized during the raid on the special counsel's downtown office, according to two law enforcement officials who spoke on condition of anonymity because of the ongoing inquiry. At least 20 agents were still on the scene as of mid-afternoon Tuesday.

Bloch's home, in a Virginia suburb of Washington, also was raided, the officials said.

FBI spokesman Richard Kolko confirmed that agents with the FBI and White House Office of Personnel Management executed "a number of court authorized federal search warrants today" but declined further comment.

Jim Mitchell, communications director with the Office of the Special Counsel, confirmed the search of Bloch's work area and computers. He said the office was cooperating with the investigation.

"We do not yet know what this is about," Mitchell said in a statement, adding that "we are continuing to perform the endent mission of this office."

The raids mark the latest twist in what critics describe as Bloch's bizarre tenure at the head of the federal agency responsible for protecting the rights of federal workers and ensuring that government whistle-blowers are not subjected to reprisals.

He has been on the hot seat since he took office in 2004, in part for closing hundreds of whistle-blower cases allegedly without investigating them.

"It's like finding out that your town fire chief is an arsonist," said Jeff Ruch, executive director of Public Employees for Environmental Protection, a whistle-blower group.

"It's just sort of jaw-dropping how bizarre this entire episode has been."

A group of current and former Office of Special Counsel workers filed a complaint against Bloch in 2005, accusing him of retaliating against those who opposed with his policies through intimidation and involuntary transfers. The employees also accused Bloch of refusing to protect federal workers from discrimination based on sexual orientation.

Those charges are being investigated by the inspector general at the Office of Personnel Management.

A year later, in December 2006, Bloch paid \$1,149 in taxpayer money to have an outside tech company, Geeks on Call, scrub his government laptop computer, according to transcripts of an interview he gave to House investigators in March. At that time, Bloch told the House Oversight and Government Reform Committee staff that the data wipe was done to protect government and personal information on the computer, not to destroy it.

Rep. Tom Davis of Virginia, the top Republican on the House panel, asked Democrats to subpoena Bloch for his sworn testimony and personal e-mails that could clarify what was destroyed. He suggested Bloch "misused his government

computer for personal business."

"The e-mails were essential in determining whether Mr. Bloch had used his computer for inappropriate purposes," Davis wrote in a letter Tuesday to House Oversight Committee Chairman Henry Waxman, D-Calif.

Jay's raids were done in connection to a criminal investigation of whether Bloch obstructed justice and, potentially, lied to Congress, according to the law enforcement officials.

Bloch has denied any wrongdoing. In the meantime, he has opened an investigation into whether former White House deputy political director and Karl Rove protege J. Scott Jennings violated the Hatch Act by making a presentation to political employees at the General Services Administration. The Hatch Act prohibits federal employees from engaging in political activities with government resources or on government time.

Last year, Bloch also recommended that then-GSA chief Lurita Doan be disciplined for engaging in illegal political activities and doling out no-bid awards. Doan abruptly resigned last week at the White House's behest.

Whistle-blower groups demanded that Bloch follow suit, and called on the White House to secure his resignation immediately. White House spokesman Tony Fratto declined comment.

"The fact is, this office is not functioning, this office does not protect whistle-blowers and this office is not meeting its mission," said Debra Katz, an employment lawyer representing the Special Counsel employees who filed the 2005 complaint. "President Bush needs to just tell this man that he needs to resign. There has been misconduct and he should not be allowed to continue his mission."

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## Federal agents raid special counsel's office

The Boston Globe

Computers, files seized About 17 others subpoenaed, too

By Richard B. Schmitt and Tom Hamburger, Los Angeles Times | May 7, 2008

WASHINGTON - Federal agents yesterday swarmed the home and office of the Bush administration official responsible for protecting government whistle-blowers as part of an investigation into whether the official retaliated against his employees and obstructed justice.

More than a dozen agents participated in the daylong raid, temporarily shutting down the e-mail and computer systems of the Office of Special Counsel, and confiscating several desktop computers, including that of Scott J. Bloch, the agency head. Bloch's home in suburban Virginia also was raided, and agents from the FBI and the Office of Inspector General for the Office of Personnel Management were seen carting off boxes of documents into unmarked government sedans.

The series of events made for another strange chapter in the career of a conservative lawyer loyal to President Bush who ended up defying expectations as well as his administration bosses.

Bloch came to Washington from Kansas in 2001 and worked on the president's faith-based initiatives in the Justice Department. Because of his background in employment law, he was later recommended for the Office of Special Counsel. He brought notoriety to the obscure government agency by raising questions about the rights of gay federal workers and alienating career staff through a series of policy and personnel moves.

The agency is charged with enforcing discrimination bans, whistle-blower protections, and the Hatch Act, the 1939 statute that limits use of government resources for campaign purposes.

The administration figures began raising questions about his management, he opened high-profile investigations of prominent figures at the White House and Justice Department. Now the process has come full circle with the FBI - an arm of the Justice Department - investigating him.

"The Bush administration has been unable to make up its mind whether to ignore him or to act against him," said Tom Devine, legal director for the Government Accountability Project, an advocacy group for whistle-blowers. "Mr. Bloch is finally being held accountable for the same cover-ups that he is supposed to be policing. It is a very positive step."

The FBI confirmed the raid, saying that agents yesterday had "conducted a number of court-authorized federal search warrants" related to the Office of Special Counsel, but declined to elaborate.

Bloch has denied any wrongdoing. His office issued a brief statement saying, "We are cooperating with law enforcement. We do not yet know what this is about. Meanwhile, we are continuing to perform the independent mission of this office."

The testimony of Bloch and other employees in the office is being sought by a federal grand jury.

Bloch, who grew up in Los Angeles and was the son of a television writer, has run the independent agency since 2003.

Since 2006, the Office of Personnel Management has been investigating allegations that he retaliated against employees at the agency who disagreed with his views on subjects such as whether federal law prohibits discrimination based on sexual preference. The probe was launched after a group of current and former Office of Special Counsel workers filed a complaint alleging that Bloch had retaliated against them through intimidation and transfers.

The probe gained traction late last year in the wake of a published report that he had hired a private computer repair company, Geeks on Call, to clean his office computer. Bloch has told congressional investigators that he called the company to eliminate a computer virus that was threatening the system. Critics have suggested that he might have been purging the system of information of potential interest to investigators - a charge he has denied.

Just a week ago, a lawyer representing public interest organizations and employees of the Office of Special Counsel wrote to President Bush asking that Bloch be removed because of "his unbroken record of misconduct and malfeasance." The 17-page letter by

**Federal agents raid special counsel's office - The Boston Globe**

**Page 2**

Debra S. Katz claimed that Bloch had launched high-profile inquiries against the administration to keep himself in the spotlight and insulate himself from administration efforts to hold him accountable.

In one of his first official acts, Bloch ordered his staff to remove references to the agency's jurisdiction over "sexual orientation discrimination" from its website and publications.

Complaints began to surface from the office that Bloch had used harassment and intimidation against employees who balked at his initiatives.

But Bloch's office also was credited for its handling of complaints from whistle-blowers at the Federal Aviation Administration. ■

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