

October 3, 2003

The Honorable John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Ashcroft:

Earlier this week, I sent you a letter asking questions regarding unusual delays in the investigation into allegations that senior administration officials committed a federal felony by leaking the identity of a covert CIA operative. I am writing today to ask why the Justice Department telegraphed its plan to notify employees of the Defense and State Departments to preserve any documents relating to this investigation.

Why, upon opening the investigation, did the Department of Justice not immediately send evidence preservation requests to the handful of agencies where individuals have access to this kind of sensitive classified information? If it was not the first step taken, at a minimum the evidence preservation requests to the State and Defense Departments should have gone out when the White House requests were issued. Every former federal prosecutor with whom I have spoken has emphatically stated that the first and most important step in this type of investigation is to protect against the destruction of evidence.

I am still anxiously awaiting an explanation from you regarding the four-day delay between the opening of this investigation and the request to the White House that evidence be preserved, to say nothing of the additional 11-hour delay that White House Counsel Alberto Gonzales requested and was granted.

Any questionable action – or inaction – in this investigation carries with it a powerful conflict of interest taint. There have been enough questionable decisions in the first week of this probe as to raise questions as to whether it is being mishandled to the point where authorities will be unable to prosecute those who committed this felonious breach of national security.

The easiest and best way to dispel many of these concerns is for a Special Counsel to be appointed and for you to recuse yourself from this investigation. I hope you will do so with all dispatch. In the interim, I look forward to your answers to these urgent questions.

Sincerely,

Charles Schumer
United States Senator