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2008-12-05 H. Thomas Wells, Jr. ABA Presidential Correspondence

H. Thomas Wells Jr.

University of Alabama School of Law

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CORRESPONDENCE LOG

H. Thomas Wells, Jr.

December 5, 2008

Origin	Correspondence	Date	Rcvd	Status (All suggested dispositions subject to review by TW)	CCs, (Informational copies)
IL	James F. Holderman, Chief Judge US District Court Northern District of Illinois Ltr – thanks for continuing support of judges in the U.S. federal court system	11/24	11/26	NRN	
AL	Jeremy Travis, President John Jay College of Criminal Justice The City University of New York Ltr – re the creation of a new office in the Dept of Justice to be called the Office of Justice Research	11/11	12/1	12/11 Curd emailed Mr. Travis acknowledging receipt. Forwarded to Jack Hanna and cc'd Tom Sussman. Jack forwarded to Committee for consideration.	
AL	Aaron Schildhaus, Chair Section of International Law Ltr – thanks for participation in conference commemorating the 60 th anniversary of the Universal Declaration of Human Rights	11/21	12/1	NRN	
AL	J. Mark White, President Alabama State Bar Ltr – re IOLTA Accounts	11/25	12/1	NRN	
AL	Jack L. Rives, Lieutenant General, USAF The Judge Advocate General Ltr – thanks for speaking at their 2008 Keystone Leadership Summit	11/21	12/1	NRN	
DC	Nicholas N. Owens, National Ombudsman and Assistant Administrator for Regulatory Enforcement Fairness U.S. Small Business Administration Form ltr – re availability of the U.S. Small Business Administration's Office of the National Ombudsman	11/19	12/1	NRN	
IL	Robin M. Maher, Director Death Penalty Representation Project Dear Friends, etc. letter – request to make a year-end, tax deductible financial contribution	11/20	12/1	NRN	

CORRESPONDENCE LOG

H. Thomas Wells, Jr.

December 5, 2008

Origin	Correspondence	Date	Rcvd	Status (All suggested dispositions subject to review by TW)	CCs (Informational copies)
DC	Elisabeth Wickeri, Secretary Committee to Support Chinese Lawyers Leitner Center for Int'l Law and Justice Fordham Law School Ltr – attached a copy of their letter to the Beijing Lawyers Association re reports of lawyers in China who are being intimidated	-	12/4	<i>Forwarded to Michael Pates - Center for Human Rights. NRN. Pates will inform us if status changes.</i>	
AL	Chief Justice Margaret H. Marshall Supreme Judicial Court Boston, MA Ltr – delighted you attended the US Supreme Court presentation of the Rehnquist Award to Presiding Justice Jonathan Lippman	11/28	12/4	<i>Drafted response for Tommy Wells.</i>	
AL	Keith B. Norman, Executive Director Alabama State Bar Ltr – thanks for speaking to the Kiwanis Club of Montgomery	12/3	12/4	<i>NRN</i>	

Response Status – Previous Correspondence

H. Thomas Wells, Jr., President

Date of Log	Correspondence	Disposition	Status
10/10/08	Shunsuke Marushima, Japan Federation of Bar Associations requesting advice on ABA video conference system	Forwarded to Gordon Kerr for response	12/1/08 emailed Kerr to send OP a copy of his response 12/15 emailed Kerr again for copy of response.
11/21/08	Kevin McCartney Boys & Girls Clubs of America Ltr - Congratulations on receiving 2008 Grant Award from the Office of Juvenile Justice and Delinquency Prevention	11/24, Forwarded to Krista Kauper w/note asking if letter needs a response	12/3, Krista advised NRN
11/14/08	Julio R. Barron, Dept of the Army and Air Force Wisconsin Nat'l Guard Letter re: Model Code of Military Justice for the National Guard	Forwarded to Jack Hanna and Sue Koz 11/21 – Sue will work w/Armed Forces Law chair to prepare a response	
12/05/08	Jeremy Travis, President John Jay College of Criminal Justice The City University of New York Ltr – re the creation of a new office in the Dept of Justice to be called the Office of Justice Research	12/11 Curd emailed Mr. Travis acknowledging receipt. Forwarded to Jack Hanna and cc'd Tom Sussman. Jack forwarded to Committee for consideration.	
12/05/08	Chief Justice Margaret H. Marshall Supreme Judicial Court Boston, MA Ltr – delighted you attended the US Supreme Court presentation of the Rehnquist Award to Presiding Justice Jonathan Lippman	12/11 - Drafted response for Tommy Wells. Ira will review with Tommy on 12.12.	

Libpres\communications\correspondence logs followup



UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

219 SOUTH DEARBORN STREET

CHICAGO, ILLINOIS 60604

CHAMBERS OF
JAMES F. HOLDERMAN
CHIEF JUDGE

November 24, 2008

H. Thomas Wells, Jr., President
American Bar Association
321 North Clark Street
Chicago, Illinois 60654-7598

Dear President Wells,

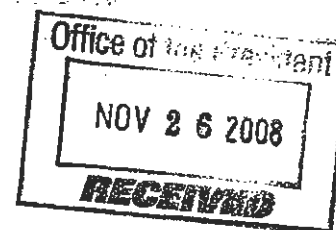
Thank you for your continuing support of those of us judges in the U.S. federal court system. There is no question that to maintain a strong and independent judiciary in our country, we must provide our judges' adequate compensation. Your continuing to get that message out is most important. As a citizen and a judge – Thank you.

Best personal regards,

A handwritten signature in cursive script, appearing to read "Jim", written over the typed name.

James F. Holderman
Chief Judge

JFH.gik





JOHN JAY COLLEGE
THE CITY UNIVERSITY OF NEW YORK
OF CRIMINAL JUSTICE

PRESIDENT
JEREMY TRAVIS

November 11, 2008

Mr. H. Thomas Wells Jr.
President
ABA- Criminal Justice Section
321 North Clark Street
Chicago, IL 60654-7598

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DEC 1 2008

Dear Thomas:

This week I released an Open Letter to the American Society of Criminology calling for the creation of a new office in the Department of Justice to house the National Institute of Justice and the Bureau of Justice Statistics. This office -- to be called the Office of Justice Research -- would be headed by an Assistant Attorney General, to be nominated by the President and confirmed by the Senate. I am writing to let you know about this proposal, and to solicit your support for this idea.

I have come to the conclusion that NIJ (which I headed from 1994-2000) and BJS would better serve the nation if they were no longer located within the Office of Justice Programs. Other federal agencies -- including the Department of Education, the Department of Agriculture, and the Environmental Protection Agency -- have taken similar steps to make their research and data collection activities more professional and independent. Now is the time for the Department of Justice to follow their lead.

The nation urgently needs a top notch research and development program to improve our understanding of, and responses to, the challenges of violent crime and the administration of justice. The systems now in place to support research, statistics and technology in this area are outmoded, under resourced, and unresponsive to the needs of practitioners and policy-makers. In my view, in order for the scientific activities of the Department of Justice to thrive to meet the nation's needs, they should be given greater independence and prominence. The creation of a new Office of Justice Research and would accomplish this purpose.

I hope that you will be able to support this proposal. Please feel free to contact me with any questions you may have.

With my best wishes,


Jeremy Travis
President



JOHN JAY COLLEGE
THE CITY UNIVERSITY OF NEW YORK
OF CRIMINAL JUSTICE

PRESIDENT
JEREMY TRAVIS

November 11, 2008

Open Letter to the American Society of Criminology:

The recent election of a new President and the advent of the 111th Congress present an unprecedented opportunity for the nation to rethink the federal role in promoting research on crime, society's responses to crime, and the administration of justice.

For the past forty years, the nation's research and statistics agencies – the National Institute of Justice and the Bureau of Justice Statistics – have been housed within the Office of Justice Programs of the Department of Justice. Having served as Director of the National Institute of Justice from 1994-2000, I have a firsthand understanding of the valuable role that NIJ has played in promoting research that has benefited our nation's criminal justice system. Yet I have come to the conclusion that the current structure of the Department of Justice, which places responsibility for criminal justice research and statistics in a program-oriented office, cannot provide the rigorous, objective, timely and relevant research on crime and justice to which our citizens, and the practitioners in the law enforcement and criminal justice professions, are entitled.

The purpose of this Open Letter is to urge members of the American Society of Criminology, as well as members of other associations of professionals in criminal justice, to support a new structure that would better carry out the research and statistical obligations of the federal government. Specifically, I propose that the Congress create, with support from the new Administration, a new office in the Department of Justice, called the Office of Justice Research, to be headed by an Assistant Attorney General for Justice Research. This office would be separate from the Office of Justice Programs, which would continue to administer the funding programs that support reform efforts by state and local law enforcement and criminal justice agencies. Other cabinet agencies – the Department of Education, the Department of Agriculture and the Environmental Protection Agency – have all recently created research and statistics offices that are more professional and independent. Now is the time for the Department of Justice to follow these examples.

The argument for creation of the new Office of Justice Research, separate from the Office of Justice Programs, is very straightforward: if the research, statistics, and scientific development functions of the federal government are located within an office that is primarily responsible for the administration of assistance programs, three risks are created. First, the scientific integrity of the research functions is vulnerable to compromise. Second, the research and development function will never be given the priority treatment that is needed to meet the enormous crime challenges facing the country. Third, the research agenda on crime and justice will more likely reflect short-term, programmatic needs rather than the long-term need to develop a better understanding of the phenomenon of crime in America and the best ways to prevent and respond to crime.

The rationale for this proposal exists independent of the level of funding for the statistics, research and development functions of the federal government. Clearly, the National Institute of Justice and the Bureau of Justice Statistics are woefully underfunded. The new Administration and new Congress should also focus squarely on ways to enhance these budgets substantially. Yet simply augmenting the budgets of NIJ and BJS does not address the risks to scientific integrity or the importance of developing a scientific understanding of crime and testing effective responses to crime. This proposal for a new structure should not be understood as a critique of the individuals who have served in the Office of Justice Programs. The nation has clearly benefited from the contributions of OJP and its predecessors, and the research and statistics agencies have promoted a level of empirical understanding of crime and our responses to crime that was unimaginable forty years ago. Rather, this proposal is grounded in the conclusion that the current structure has inherent limitations and, unless those limitations are addressed, we cannot make the significant advances in our scientific knowledge about crime that would substantially improve our ability to reduce crime and enhance the administration of justice.

The Challenges.

The crime challenges that face the nation are profound, complex and rapidly changing. Although the level of violence in America has fallen significantly since its peak in 1992, the rates of lethal violence in this country are between four and ten times higher than in other industrialized nations. Although the national rates of homicide and robbery have remained relatively constant over the past eight years, some cities have seen double-digit increases in these crimes, while others have experienced double-digit declines, and we have no solid research to help us understand why this is happening.

Our ability to track these crime trends, analyze patterns, develop theories about the changing nature of crime, and test the effectiveness of different interventions is hampered by a data collection system that is outdated, cumbersome and incomplete. The Uniform Crime Report data are released nine months after the crimes have been reported, even though some police departments release their crime data close to real time. The National Crime Victimization Survey is conducted once a year, and only on a national basis, making it nearly impossible to understand victimization at local levels. The Arrestee Drug Abuse Monitoring Program (ADAM), a quarterly survey of individuals arrested and held in police lockups, which provides timely data on trends in drug use, illegal gun use, gang activity, etc., exists in only ten cities, far short of the original plan for seventy-five. The ability to employ the differing capabilities of the UCR, the NCVS, and ADAM is limited by the fact that these three data collection systems on crime have been managed by three or four different agencies, the Federal Bureau of Investigation (UCR), the Bureau of Justice Statistics (NCVS) and the National Institute of Justice or the Office of National Drug Control Policy (ADAM), with little coordination. Tested methodologies for special analysis of crime, particularly "hot spots," and analysis of gang dynamics, have not been implemented widely or systematically. The nation has very little capacity to track cybercrime, identity theft, or white collar crime. The current data collection systems do not identify transnational crimes. Our statistics on drug crimes, particularly drug selling, mostly reflect arrest activity, not the actual incidence of the underlying criminal activity.

Our process for setting a research agenda on crime in America has been substantially compromised by the placement of the National Institute of Justice and the Bureau of Justice Statistics within the Office of Justice Programs. Because OJP is responsible for managing substantial federal assistance programs, the

culture of the office is geared, as it should be, to performing that function well. That culture is quite different from an organizational culture that supports scientific inquiry, the design and management of statistical programs, and the rigorous evaluation of interventions designed to respond to crime more effectively. The constituents of OJP are the criminal justice agencies of state and local government, and OJP is properly responsive to their needs for more grant-in-aid. An effective statistics, research and development entity should also be responsive to the needs of these agencies, but the relationship is a different one. The relationship is mediated by the scientific enterprise, of analyzing the crime phenomenon so that practitioners understand crime better, testing new interventions so they respond to crime better, and developing new scientific and technological tools so they can better prevent criminal activity, solve crimes and administer justice.

As a result of these differing priorities between the programmatic and scientific functions, NIJ has not been able to develop a multi-year research agenda that would build a deeper understanding of crime, and has not been able to test rigorously a range of interventions that reduce crime. Instead, the research portfolio of NIJ reflects a preponderance of small research projects conducted by large numbers of principal investigators, rather than long-term scientific inquiries into critical crime issues carried out by a consortium of researchers. The portfolio is weighted toward a large number of program evaluations, rarely employing the most rigorous methods, rather than a small number of rigorous research demonstration projects designed to test hypotheses rooted in sound theories.

Over the forty year history of the federal role supporting research and statistics on crime and justice, there have been numerous instances when the integrity of those functions has been compromised. Certainly one of the most troubling developments in this arena was the provision of the PATRIOT Act, inserted into that legislation without discussion, giving the Assistant Attorney General of the Office of Justice Programs final authority over the award of research grants and the publication of research findings and statistical reports. With this enactment, the autonomy granted NIJ and BJS Directors – a critical underpinning of the independence of the scientific enterprise – was eliminated. But the justification for the proposal advanced in this letter rests on not based on a concern about this statutory infringement, nor is it based on those instances when the integrity of NIJ and BJS was compromised. Rather, the core rationale for this proposal is that the nation should have a strong statistics, research and development capacity on the issues of crime and justice and that capacity cannot be realized as long as NIJ and BJS remain within the Office of Justice Programs.

The Office of Justice Research.

The new Office of Justice Research would be headed by an Assistant Attorney General, nominated by the President and confirmed by the United States Senate. The law creating this new position would specify that the holder of this office should be a scientist of national reputation, with significant experience conducting and overseeing research in this field. As with the directors of the National Science Foundation, the National Institutes of Health, or the Institute of Educational Services, it is expected that the Assistant Attorney General in this position would bring to the position a reputation for scientific integrity.

The Office of Justice Research would be comprised of three distinct offices – the Bureau of Justice Statistics, the National Institute of Justice, and the National Institute of Justice Technology. Although

more discussion is clearly required regarding the scope of these offices, the following abstracts provide a good starting point:

The **Bureau of Justice Statistics** would continue all of the functions currently carried out by BJS. But, as mentioned above, the current constellation of data collections systems on crime and justice are fragmented and incomplete. To remedy this situation – and to provide the nation the capability to track crime trends in a timely manner – the mandate of BJS should be expanded significantly. First, BJS should be authorized to work closely with the Federal Bureau of Investigation to improve the timeliness and completeness of the Uniform Crime Reports. Similarly, responsibility for the ADAM program should be transferred from ONDCP (it was originally housed at NIJ), and responsibility for the statistical series on juvenile justice should be transferred from the Office of Juvenile Justice and Delinquency Prevention (a component of OJP). But the new BJS would be more than a manager of existing statistical series. It should also develop new initiatives to track crime trends, drawing on the capabilities of police departments that now post crime trends close to real time. It would develop new protocols for tracking critical crime issues, such as the level of illegal drug selling activity, public confidence in the criminal justice system, the operations of the federal law enforcement agencies, etc. This expanded portfolio would clearly require additional funding, but there are compelling arguments for creating a robust national capacity to improve our understanding of crime trends.

The **National Institute of Justice** would serve as the social science research entity on issues of justice. NIJ would continue to conduct research on the nature of crime (property and violent crime), the effectiveness of the law enforcement and criminal justice agencies, the patterns of criminal behavior and desistance from crime, and the relationship between communities, civil society, and crime. The key difference is that NIJ would design research programs that would be multi-year and cumulative. This research agenda would be developed under the guidance of a research advisory council. Regarding program evaluations, NIJ would only conduct evaluations of a limited number of programs. These would be selected following a competitive process. Practitioners and researchers would be invited to nominate programs or other interventions that are ripe for evaluation. In consultation with the research advisory council, NIJ would select the programs for evaluation. The criteria for selecting the evaluation would include the potential contributions of an evaluation to our understanding of crime, the potential impact of the intervention, the rigor of the evaluation design, and the capabilities of the research team. In short, NIJ would be expected to place a small number of big bets, rather than evaluating a large number of small programs.

The **National Institute of Justice Technology** would perform the functions now carried out by the Office of Science and Technology of the National Institute of Justice. The Office of Science and Technology has been very successful in developing technologies that have provided new tools for law enforcement and criminal justice agencies. Included among these successes are the development of bullet-resistant vests for police officers, DNA and other advances in forensic science, and less lethal equipment for police officers and other emergency responders. The OS&T has developed productive relationships with the national network of defense laboratories, and the technology R&S functions of the federal law enforcement agencies. As a component of the new Office of Justice Research, the science and technology functions of the Department of Justice would be substantially elevated. This new office would be responsible for coordinating the technology programs of all components of the Department of Justice. In this way, the technology investments of the Department of Justice would be designed to yield

significant scientific results, and those results would be shared with all agencies that could benefit from them. The new National Institute of Justice Technology would also serve as the Justice Department's point of contact with other technology development entities in the federal government, such as the Department of Defense, NASA, and the Department of Energy. In this way, the law enforcement and criminal justice agencies would benefit from scientific developments in these other federal agencies.

Conclusion. If we were designing a federal research and development capacity on crime and justice today, we would probably not propose the current structure that houses NIJ and BJS within the Office of Justice Programs, three levels below the Attorney General, with a focus on state and local criminal justice. Rather, we would create a scientific branch of government that operates under scientific principles reporting directly to the Attorney General. We would recognize that crime is now a transnational phenomenon and we need to understand human trafficking, drug smuggling, immigration trends and terrorism. We would examine the many systems of justice – civil justice, immigration courts, the federal justice system, in addition to state and local justice systems. We would develop a modern capacity to understand local crime conditions using high-tech surveys. We would develop creative ways to measure non-traditional crimes, such as identity theft, corporate and white collar crime, and transnational crime. We would design a research and development program that would harness the power of technology so the agencies that enforce the law can benefit from the scientific and technological revolution. This ambitious agenda clearly requires additional resources. But it also requires a new structure within the Department of Justice, a structure that guarantees both scientific integrity and policy relevance.

Next Steps. It is my hope that this letter generates a lively debate within the justice policy and the academic community about how best to structure the nation's research and statistical programs in the criminal justice arena. I would expect that this debate will produce worthy modifications of this proposal. Yet I also hope there is consensus that we need to move beyond the status quo. Now is the time to engage these important issues and to improve our capacity to promote research on crime and justice.

Sincerely,



Jeremy Travis
President

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AMERICAN BAR ASSOCIATION

Section of International Law

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November 21, 2008

H. Thomas Wells, Jr.
Maynard Cooper & Gale
1901 6th Avenue N
2400 Regions/Harbert Plaza
Birmingham, AL 35203-2603

Dear Tommy:

I write on behalf of the Section of International Law to thank you again for your participation in our conference commemorating the 60th anniversary of the Universal Declaration of Human Rights. Your remarks and your reading of the ABA Recommendation had a strong impact on our audience and your participation served to underscore that the Universal Declaration is not just a historical document, but has a legacy that lives on in the present world of international law. The conference was a very special event for the Section, and we were honored and very happy that you were part of it.

Warm personal regards,

Aaron Schildhaus
Chair
American Bar Association
Section of International Law



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DEC 1 2008

J. MARK WHITE

2025 3rd Avenue North, Suite 500
Birmingham, AL 35203


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OFFICE OF THE PRESIDENT

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November 25, 2008

H. Thomas Wells, Jr., President
American Bar Association
Maynard, Cooper & Gale, P.C.
1901 6th Avenue North, Suite 2400
Birmingham, AL 35203-2618

RE: IOLTA Accounts

Dear Tommy:

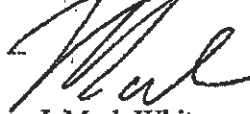
Even though I have personally expressed my appreciation to you for your efforts in the IOLTA "war," I wanted to formerly thank you on behalf of every lawyer in Alabama. Even more importantly, I want to thank you on behalf of all of the citizens of Alabama who benefit from the interest earned on these accounts.

The money earned on the IOLTA accounts funds a wide range of services for the people of Alabama who cannot afford access to our justice system. There is no service more basic or fundamental than this.

When Fred Gray was president of the Alabama State Bar he developed our motto, "Lawyers Render Service." The motto is even more important when I consider the unmitigated and continuing commitment and effort you have given to correcting the problems we face. We have been friends for a long time, and I never doubted your capability to provide leadership to the American Bar Association. You have truly rendered service at the highest level of commitment and zeal.

Thank you for all you do for the Bar and for the citizens of our country in this endeavor.

Very truly yours,



J. Mark White
President

JMW/cgs



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21 November 2008

Dear Tommy

Thanks so much for speaking at our 2008 KEYSTONE Leadership Summit. Your emphasis on the common core values of justice between civilian and military legal practices were well received by our JAGs and paralegals. I really appreciate you placing high value on the independent advice we provide our commanders.

Thank you for your continued friendship to the Corps and to me. I'm pleased that we were able to get together for dinner during the Summit. Marie and I always enjoy your company.

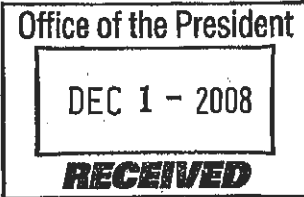
Sincerely

JACK L. RIVES
Lieutenant General, USAF
The Judge Advocate General

Mr. H Thomas Wells
American Bar Association
1901 Sixth Avenue North
2400 Regions Harbert Plaza
Birmingham AL 35203



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416



OFFICE OF THE NATIONAL OMBUDSMAN

November 19, 2008

Mr. William H. Neukom
President
American Bar Association
740 15th Street, NW, 11th Floor
Washington, DC 20005

Dear Mr. Neukom:

As we prepare to embark on a new year and a transition of our Country's leadership, I wanted to take the opportunity to thank you for your support of America's small businesses during my tenure as the National Ombudsman. I would also like to remind you of the ongoing availability of the U.S. Small Business Administration's Office of the National Ombudsman as an important resource for your small business members.

As you may know, the National Ombudsman and SBA's Regional Regulatory Fairness Boards were established by Congress through the Small Business Regulatory Enforcement Fairness Act. It has been my goal to ensure that your small business membership is met with regulatory fairness across the federal government. Unequivocally, America's small businesses should be empowered to do business in an environment which recognizes that regulation should be effective and not excessive.

We receive comments from small businesses regarding compliance or enforcement actions taken by federal agencies. If any of your members believe they have experienced unfair federal regulatory enforcement or compliance actions, they may submit their comments to our office. The Office of the National Ombudsman will request that the particular federal agency conduct a high-level review of the specific issues and respond to our office within a specified time period. In many instances the federal agency has reduced or waived particular penalties and/or compliance actions. At a minimum, the agencies take another look at the enforcement action(s) to ensure fairness.

The National Ombudsman and Regional Regulatory Fairness Boards receive testimony from small business concerns through hearings and roundtables conducted around the country each year. In the past, we have extended an invitation to your association to participate in testifying on the concerns of your membership regarding unfair or excessive regulatory enforcement issues at our National Hearing. I hope that you continue to consider this an opportunity to personally report back to federal agencies on their responsiveness to your small business membership. The Office of the National Ombudsman then annually submits a Report to Congress rating the responsiveness of federal agencies to the issues raised by small businesses.

The Mission of the Office of the National Ombudsman:
FOSTERING A MORE BUSINESS FRIENDLY REGULATORY ENFORCEMENT ENVIRONMENT.

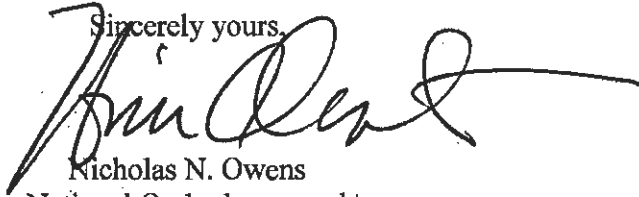
409 3rd Street, SW, MC 2120, Washington, DC 20416-0005 Toll Free: (888) 734-3247 Fax: (202) 481-5719
Website: <http://www.sba.gov/ombudsman> E-mail: ombudsman@sba.gov

I again thank you for your cooperation in sharing issues of concern from your small business members regarding federal regulatory enforcement or compliance assistance actions. It has enabled my office to be especially responsive to issues facing your membership as a whole. I encourage you to continue to refer your small business members to our office with questions or concerns that the Office of the National Ombudsman may assist with.

If the Office of the National Ombudsman may ever be of further assistance to you or your association, please do not hesitate to contact me at 202-205-2417 or ombudsman@sba.gov.

With best wishes and warmest regards, I am

Sincerely yours,

A handwritten signature in black ink, appearing to read "Nicholas N. Owens", with a long horizontal flourish extending to the right.

Nicholas N. Owens
National Ombudsman and
Assistant Administrator for Regulatory Enforcement Fairness

The Mission of the Office of the National Ombudsman:
FOSTERING A MORE BUSINESS FRIENDLY REGULATORY ENFORCEMENT ENVIRONMENT.

409 3rd Street, SW, MC 2120, Washington, DC 20416-0005 Toll Free: (888) 734-3247 Fax: (202) 481-5719
Website: <http://www.sba.gov/ombudsman> E-mail: ombudsman@sba.gov

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Fordham University School of Law

SENIOR LAWYERS DIVISION
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Maskaleris & Associates

STANDING COMMITTEE ON LEGAL
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State Public Defender
Louisiana Public Defender Board

YOUNG LAWYERS DIVISION
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Death Penalty Counsel
Southern Center for Human Rights

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Third Judicial Circuit Court
South Dakota

AMERICAN BAR ASSOCIATION

Robin M. Maher, Esq.
Director
MAHERR@staff.abanet.org
www.abanet.org/deathpenalty
www.probona.net/deathpenalty

Death Penalty Representation Project

740 Fifteenth Street, N.W. David Grossman
Washington, D.C. 20005 Staff Attorney
(202) 662-1738 GROSSMAND@staff.abanet.org

November 20, 2008

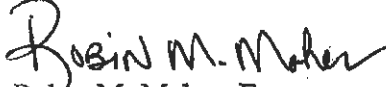
Dear Friends, Supporters and Volunteers:

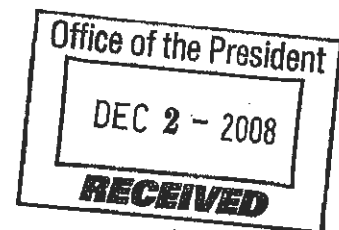
This year has once again marked successes for our Project and some exciting new developments. We have recruited many of our country's best lawyers to be champions for death row prisoners who were without counsel. We have seen state and federal courts embrace the ABA Guidelines for defense counsel, and in doing so make clear that the quality of capital defense must be improved. Our work to reform indigent defense systems expanded to include systemic litigation, and our small staff grew from two lawyers to three. You helped make this happen, and we are enormously grateful. When you review the enclosed brochure I hope you will feel as proud as we do about what we have accomplished this past year.

Recent months have brought bad news about the financial crisis that has affected us all. Many of us are tightening our belts and cutting back on expenses, and the same is true of organizations like ours. I come to you again this year with an understanding that contributions from supporters will be more difficult. But I ask for your continued support, in whatever amount you can contribute. The impact on our budget means we are facing the reduction or elimination of some of our most important programs. We have always done a lot with very little funding, and we will continue to find ways to conserve our resources and use them wisely. But we will need your help in the coming year.

I hope you will consider making a year-end, tax deductible financial contribution. We are so very grateful for your support.

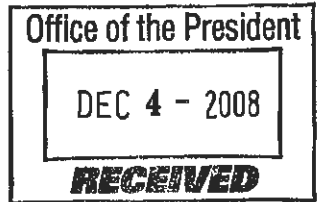
With thanks and best wishes for the New Year,


Robin M. Maher, Esq.
Director



COMMITTEE TO SUPPORT CHINESE LAWYERS | 中国律师之友

President H. Thomas Wells, Jr.
American Bar Association
740 15th Street, N.W.
Washington, DC 20005-1019
202.662.1000




Dear President Wells:

The Committee to Support Chinese Lawyers, housed at the Leitner Center for International Law and Justice at Fordham Law School, has cc'd the attached letter to you.

Thank you for your attention.

Sincerely,


Elisabeth Wicker
Secretary

COMMITTEE TO SUPPORT CHINESE LAWYERS | 中国律师之友

Beijing Lawyers Association
Director Li Dajin (李大进)
East Associates (Beijing)
Landmark Tower 2, 19th Fl., 8 N. Dongsanhuan Rd.
Beijing, 100004, People's Republic of China
Fax: (8610) 6590 6650 and 51
Via Email: hz@bmla.org.cn and dajin_li@ealawfirm.com

November 25, 2008

Dear Sir:

We write on behalf of the Committee to Support Chinese Lawyers to express our deep concern about reports of lawyers in China who are being intimidated after they called for the direct election of officials in the Beijing Lawyers Association (BLA). Our objective is not to support or oppose the direct election of the leaders of the BLA; that is entirely an internal matter between you and your members. We do, however, seek your assistance in investigating these reports and protecting any lawyers who are being intimidated for expressing their views.

The Committee to Support Chinese Lawyers is a group of independent lawyers from outside China whose goal is to support lawyers in China in their quest to strengthen the rule of law there. The Committee, which is housed at the Leitner Center for International Law and Justice at Fordham Law School in New York City, seeks to strengthen the role of lawyers and to promote their independence. We know that you share these objectives.

We understand the relevant facts to be as follows:

- On August 26, 2008, 35 lawyers in China published an appeal on the Internet calling for direct election of the officials leading your organization, the BLA. In their appeal ("An Appeal to All Beijing Lawyers, the Municipal Bureau of Justice, and the Municipal Lawyers Association: Keep Pace with the Course of History, Carry Out Lawyers Association Direct Elections" [顺应历史潮流实现律协直选——致全体北京律师、市司法局、市律协的呼吁]) these lawyers urged that independent candidates be allowed to run in the Association's elections to be held at the end of 2008. On September 1, 2008, the appeal, which also criticized the BLA for allegedly failing to represent the interests of lawyers, was sent to Xiao Lizhu (萧骊珠), the director of the Lawyers Management Department of the Beijing Bureau of Justice.

Committee to Support Chinese Lawyers | 中国律师之友 | www.csclawyers.org

Chair: Robert N. Hornick, Esq.

Vice Chair: Professor Martin S. Flaherty, Esq. | Vice Chair: R. Scott Greathead, Esq.

Leitner Center for International Law and Justice | Fordham Law School | New York City

- On September 5, 2008, the BLA responded with its own statement (“Stern Statement from the BLA Regarding the Appeal by a Small Number of Lawyers for So-called ‘Beijing Lawyers Association Direct Election’” [北京市律师协会关于少数律师呼吁所谓“北京律协直选”的严正声明]).
- On September 24, Tang Jitian (唐吉田), one of the signatories to the appeal, filed a complaint against the BLA charging that its September 5 statement was “libelous” insofar as it suggested that the appeal was “illegal” and a “total repudiation of China’s current lawyers’ administrative system, judicial system, and even political system.”
- Thereafter, a number of the lawyers who supported the appeal for direct elections were apparently intimidated and harassed. Several were dismissed from their law firms. For example, on October 30, 2008, lawyers Cheng Hai (程海) and Li Subin (李苏滨), both signatories to the appeal, were asked to leave their positions at the Beijing Yitong Law Firm following a visit to the firm by six or seven officials from the Haidian District Bureau of Justice (海淀区司法局), who took photographs and questioned the staff about cases that the firm has taken on. The firm’s director is said to have felt pressured to dismiss these lawyers because they had supported the August 26 appeal and also to drop a number of rights defense cases the firm had taken on. Tang Jitian, the lawyer who filed the case against the BLA, was asked to leave the Haodong firm in Beijing “for the sake of the future of the firm.” Other signatories or firm heads have been summoned by their district bureaus of justice to report on the motivation of the signatories and on any “hostile external forces” that backed the appeal. Firm heads were told that if lawyers in the firm who signed the appeal failed to withdraw their signatures, then their firms would face problems with their annual licensing inspection.

Our Committee is deeply concerned about these reports that local offices of the Bureau of Justice are pressuring law firms to dismiss lawyers because they have signed an appeal calling for the direct election of bar association leaders. Dismissing lawyers for speaking out about bar association governance is contrary to the rule of law and the development of a vibrant, independent bar.

Penalizing lawyers for taking positions on these issues is also inconsistent with international standards codified in the United Nations Basic Principles on the Role of Lawyers, which state that “Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law . . . and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.” Basic Principles on the Role of Lawyers, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 118 (1990), Article 23. These Principles further provide that, “Lawyers shall be entitled to form and join self-governing professional associations to

represent their interests The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.”
Article 24.

The Chinese Constitution also provides the right to freedom of association and freedom of speech for all Chinese citizens. Constitution of the People’s Republic of China [中华人民共和国宪法], adopted and in effect Dec. 4, 1982, amended by the National People’s Congress on March 14, 2004, Article 35.

We respectfully ask that you investigate these reports of intimidation and harassment, including dismissals of lawyers for advocating direct elections. If the reports are true, we ask that you vigorously denounce such dismissals and do all within your power to help these lawyers to be reinstated with their firms.

Thank you for your attention to this important matter.

Very truly yours,



Robert N. Hornick
Chair



Martin S. Flaherty
Vice Chair



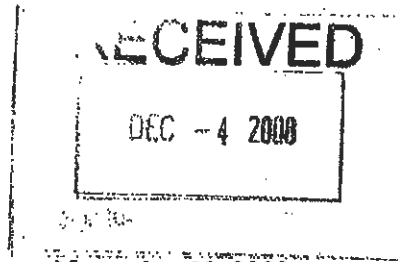
R. Scott Greathead
Vice Chair

Cc: Li Bingru (李冰如), BLA Secretary; Wang Xiaojuan (王笑娟), BLA Vice-Secretary; Liu Jun (刘军), BLA Vice-Secretary; Li Kai (李凯), BLA International Affairs Department; Wu Jing (吴静), BLA International Affairs Department; All-China Lawyers Association; Wu Yuhua (吴玉华), Beijing Bureau of Justice Head; Xiao Lizhu (萧璐珠), Beijing Bureau of Justice Lawyers Management Department Director; Dong Chunjiang (董春江), Beijing Bureau of Justice Vice Head, CCP of Beijing Bureau of Justice General Secretary; Ministry of Justice of the People’s Republic of China; Law Affairs Office of the State Council of the People’s Republic of China; Office of the Standing Committee of the National People’s Council of the People’s Republic of China; Beijing Judicial Bureau; Beijing Committee of Political and Legal Affairs; Leandro Despouy, United Nations Special Rapporteur on the Independence of Judges and Lawyers; Richard Goldstone, International Bar Association, Human Rights Institute Co-Chair; Patricia M. Hines, Association of the Bar of the City of New York President; H. Thomas Wells, Jr., American Bar Association President.



MARGARET H. MARSHALL
CHIEF JUSTICE

Supreme Judicial Court



November 28, 2008

Dear Tommy,

I was delighted that you took the time from your busy schedule to be with us at the United States Supreme Court for the presentation of the Rehnquist Award to Presiding Justice Jonathan Lippman. The participation of the President of the American Bar Association is a wonderful demonstration of the enduring support of the bar for the courts and the improvement of the administration of justice. Thank you. I look forward to seeing you at the Annual Meeting of the Conference of Chief Justices in Scottsdale in January.

Yours sincerely,

A handwritten signature in cursive script, which appears to read "Margaret H. Marshall".

Margaret H. Marshall

RECEIVED

DEC -4 2008

ALABAMA STATE BAR

15 Dexter Avenue • Post Office Box 671 • Montgomery, Alabama 36101
Telephone: 334/269-1515 • Fax: 334/261-6310
www.alabar.org

December 3, 2008

Mr. H. Thomas Wells Jr.
Maynard, Cooper & Gale, P.C.
1901 6th Ave N Ste 2400
Birmingham, AL 35203-2618

Dear Tommy:

I want to personally thank you for speaking to the Kiwanis Club of Montgomery last week. Your remarks concerning the scandalous amounts of money that are spent on judicial elections in Alabama were most appropriate. I had several members who told me after the meeting that they agreed with you about judicial campaigns. Unfortunately, Judge Greg Shaw, who is a member of the Kiwanis Club, was not present for that meeting.

Of course, Republicans are now opposed to any change. I remember well when Mr. John Caddell told me that during his year as bar president in 1952 one of his initiatives was to adopt a Missouri plan in Alabama. He said that his Democrat friends were not at all receptive to his call for a Missouri plan although his few Republican friends thought the idea to be a good one. Perhaps, as statewide judicial races results get closer, we may see fewer objections to the notion of making changes in the way we select judges.

Again, thank you for speaking to the Kiwanis Club. Best wishes for the upcoming holiday season. I hope you get a chance to enjoy the holidays at home!

Sincerely yours,



Keith B. Norman
Executive Director

KBN/dl



LAWYERS RENDER SERVICE

Lela Turner

From: John Earnhardt [JEarnhardt@maynardcooper.com]
Sent: Monday, December 15, 2008 2:57 PM
To: Audrey Iles; Lela Turner
Subject: FW: No. 08-16203; Tieco, Inc. v. USX Corporation - mediation and briefing scheduling

From: Donald_Hawbaker@ca11.uscourts.gov[SMTP:DONALD_HAWBAKER@CA11.USCOURTS.GOV]
Sent: Monday, December 15, 2008 2:56:41 PM
To: John Earnhardt
Cc: Audrey Iles; John Earnhardt
Subject: RE: No. 08-16203; Tieco, Inc. v. USX Corporation - mediation and briefing scheduling
Auto forwarded by a Rule

On the theory that USX would pay or indemnify your clients for any judgment that may ever be entered against them in this litigation, they are excused from participating in the mediation.

If they are at risk for any further liability or costs should the litigation be continued as a result of anything that the Court of Appeals might do, then they should plan to participate.

Donald F. Hawbaker, Esq.
Chief Circuit Mediator
U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth Street, NW, Suite 535
Atlanta, GA 30303
Tel (404) 335-6271
Mobile (404) 281-5465
Fax (404) 335-6270
Donald_Hawbaker@ca11.uscourts.gov

John Earnhardt <JEarnhardt@maynardcooper.com>

12/15/2008 02:46 PM

To "Donald_Hawbaker@ca11.uscourts.gov" <Donald_Hawbaker@ca11.uscourts.gov>
cc Audrey Iles <Alles@maynardcooper.com>, John Earnhardt
<JEarnhardt@maynardcooper.com>

Subject RE: No. 08-16203; Tieco, Inc. v. USX Corporation - mediation and briefing scheduling

Mr. Hawbaker:

I have just received your fax. Please confirm whether you will waive appearance of the two individual defendants (Mr. Hilton and Mr. Wager) at the telephone mediation as I mentioned in my earlier email below. They are both former USX employees. Their participation will not impact the mediation process as USX and its counsel will play the leading role for the defendants. I will participate as counsel for the individuals. If their attendance is going to be required, please let me know as soon as possible.

Thank you for your consideration.

Best regards,

From: John Earnhardt
Sent: Monday, December 15, 2008 11:14 AM
To: 'Donald_Hawbaker@ca11.uscourts.gov'
Cc: Audrey Iles; John Earnhardt
Subject: RE: No. 08-16203; Tieceo, Inc. v. USX Corporation - mediation and briefing scheduling

Mr. Hawbaker:

I will participate on behalf of the individual defendants (Mr. Hilton and Mr. Wager). My phone number is 205-254-1204.

At this time, I was not planning to have Mr. Hilton or Mr. Wager join the mediation call. They are both former employees of USX and it may prove difficult to have them available. Moreover, although named individually in this case (TIECO II) as defendants, their involvement in the underlying lawsuit (TIECO I) was only through their employment at the time with USX. Hilton and Wager will be relying on USX and its counsel to take the lead role in this mediation process, as will I.

Please let me know if you have any questions or need additional information. I will be forwarding our mediation statement later today.

Best regards,

From: Donald_Hawbaker@ca11.uscourts.gov [mailto:Donald_Hawbaker@ca11.uscourts.gov]
Sent: Monday, December 15, 2008 10:51 AM
To: aallen@whitearnolddowd.com; jwhite@lightfootlaw.com; lflipppo@whitearnolddowd.com; sford@lightfootlaw.com; Tommy Wells; juneann.sauntry@troutmansanders.com; john.dalton@troutmansanders.com; John Earnhardt; wmbowen@whitearnolddowd.com; mwhite@whitearnolddowd.com
Subject: Re: No. 08-16203; Tieceo, Inc. v. USX Corporation - mediation and briefing scheduling

Counsel:

After further review and discussions with some of you, I've determined that at this time the mediation of this appeal can be attempted, in the first instance, entirely by telephone instead of via an in-person conference in Atlanta. This revised format means that neither counsel nor parties need travel to Atlanta for next week's mediation. Please note that I reserve the right to require a subsequent in-person conference with clients and counsel if I feel that it would be productive to the objective of settling the issues and resolving this appeal.

Therefore, the mediation will proceed at 2pm Eastern time on Monday, December 22, 2008 as scheduled. I will initiate the telephonic mediation from here at the Court. At your earliest opportunity, and in any event no later than 1:30 p.m. Eastern time on December 22, please provide me with the exact telephone numbers at which you and anyone else participating with you in the telephonic mediation can be reached. I'll do all the dialing; you just need to be available to accept my call and provide me with accurate phone numbers.

For your information, my practice is to:

(1) connect each attorney with his/her client on separate phone lines and to not have a joint conference except when absolutely necessary. This means that there will be no opening, joint discussion about the case as is typical in most pre-trial mediations; and

(2) call the Appellant's counsel/clients first at 2pm Eastern and confer fully with them before calling the Appellee and its counsel. This means that the Appellee won't hear from me until in the range of 2:15 - 2:45pm, and should stand by until after I've finished my initial conference with Appellant.

I trust all counsel and clients will participate with the intention of giving it their best, good faith shot at settling the case on a basis that all sides can live with. Thank you.

Donald F. Hawbaker, Esq.
Chief Circuit Mediator

U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth Street, NW, Suite 535
Atlanta, GA 30303
Tel (404) 335-6271
Mobile (404) 281-5465
Fax (404) 335-6270
Donald_Hawbaker@ca11.uscourts.gov

Donald
Hawbaker/CA11/11/USCOURTS

To aallen@whitearnolddowd.com, lflippo@whitearnolddowd.com, wlightfoot@lightfootlaw.com, jwhite@lightfootlaw.com,
sford@lflaw.com, swarburton@lflaw.com

11/16/2008 02:01 PM

cc

Subject No. 08-16203; Tieco, Inc. v. USX Corporation - mediation and briefing scheduling

Counsel:

The pre-argument mediation of this matter is being tentatively scheduled for December 22, 2008 at 2pm here at the Kinnard Mediation Center in Atlanta. Written notice will be issued shortly. If this turns out to be an inconvenient date for either you or your client/settlement decisionmaker to attend, it can be rescheduled to a mutually convenient time.

However, I notice that Appellant's brief is due to be filed on or before December 10, 2008. If it would facilitate the prospects of settlement and/or a productive mediation session, I suggest that we defer the briefing schedule until after the mediation. I can cause that to happen if an extension on filing Appellant's brief is unopposed. I know the Judges certainly appreciate the professional courtesy of not opposing an extension as it allows the opportunity for mediation to work; reciprocity on the part of all parties is also assumed. To initiate the process of obtaining an unopposed briefing extension, please review the information set forth in Part 9, on page 5, of the Court's Mediation Guidelines and fax me the letter in the form described there with copies also going to all other case counsel. The Guidelines are available at this link:

<http://www.ca11.uscourts.gov/documents/pdfs/medguideAUG05.pdf>

In essence, please address a letter to me that states as follows concerning your specific case; either (1) fax it to me with copies going to all counsel affected by the extension - and I'd appreciate it if you'd indicate their fax numbers next to their names on the cc, or (2) sign and email me a .pdf version of the letter.

Re: [appeal number and caption]. This confirms that to facilitate settlement you have granted my unopposed request to extend the time to file the [appellant's/appellee's] brief from the current due date of [date] to the new due date of [date].

Upon receipt in that format (which is the format that the Clerk's office requires), I'll promptly attend to causing the extension to be granted so long as the new due date is no greater than 14 days from the date of the mediation. (If the mediation date needs to be adjusted, wait on submitting the brief extension letter until the new mediation date is specified.) Contrary to what the Guidelines say, you need not contact me to request prior approval of the new, agreed-upon brief due-date.

Thank you.

Donald F. Hawbaker, Esq.
Chief Circuit Mediator
U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth Street, NW, Suite 535
Atlanta, GA 30303

Tel (404) 335-6271
Mobile (404) 281-5465
Fax (404) 335-6270
Donald_Hawbaker@ca11.uscourts.gov