Congress of the United States
Washington, DC 20515

The Honorable Alberto R. Gonzales
Attorney General of United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Gonzales:

By the Army's own official count, there were 320 substantiated cases of what it calls "recruitment improprieties" in 2004, up from 213 in 2002, the year the Iraq War began.[1] There has been at least one case in which Army recruiters enlisted a man known to be mentally ill.[2] These actions do great damage to the U.S. Army and its readiness to do its job to protect our country. Army officials seem to agree since the "U.S. Army Recruiting Command" is conducting an Army Values Stand Down Day across the country on Friday, May 20, 2005 to retrain recruiters on how to properly do their jobs.

We are writing to request that you appoint a special counsel to investigate the extent of Army recruiting abuses and the role of military policy and military and civilian officials in either promoting or authorizing these illegal activities.

Under the Department of Justice regulations, the Attorney General must appoint a special counsel when (1) a "criminal investigation of a person or matter is warranted," (2) the investigation "by a United States Attorney Office or litigating Division of the Department of Justice would present a conflict of interest for the Department," and (3) "it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter."[3] In the present case, all three requirements have been met.

First, many of the actions that military recruiters are being accused of clearly violate the Uniform Code of Military Justice (UCMJ). Reports of military recruiters forging academic records and advising recruits on how to deceive drug tests would violate Articles 5, 84, 92 and 107 of the U.S. Manuel for Courts-Martial. These articles make it illegal for military personnel to conspire to commit a crime, effect an unlawful enlistment, fail to obey an order and make false official statements.[4]

Second, there is an obvious conflict of interest. A special counsel is necessary because high-ranking officials, including Cabinet members, could be involved in setting impossible recruiting targets, or ignoring or even possibly approving illegal recruiting techniques. The Army's unwillingness to investigate these practices and their lack of oversight is clear. To bring these tactics to light, it took

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[1] Cave, Damien. "Army to Spend Day Retraining Recruiters." May 12, 2005. New York Times.
[2] Cave, Damien. "Army Recruiters Say They Feel Pressure to Bend Rules." May 3, 2005. New York Times.
[3] 28 C.F.R. 600.1.2002
[4] Manual for Courts-Martial United States (2002).

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a high school student outside Denver to record two recruiters as they advised him on how to falsify his academic records and drug tests.[5]

This conflict of interest includes yourself and the Department of Justice since both have been intimately involved in formulating and implementing the War on Terrorism that greatly depends on recruiting new servicemen for the Army. Moreover, your previous position of General Counsel to the President and your role in providing him legal advice on the War of Terrorism further disqualifies you from independently carrying out this investigation yourself.

Third, this investigation is clearly in the public interest. Having a strong and effective military to protect the borders of the United States is imperative to keep Americans safe. Policies that attempt to trick and cajole Americans to enlist in the military under false pretenses and through illegal means ultimately undermines the effectiveness of this very important institution and could endanger American lives.

Our national security and the safety of every soldier serving in combat relies on recruiters conducting their business effectively and legally. Given the inability of the military to put an end to these transgressions and the conflicts that exist with the Department of Justice conducting the investigation, we respectfully request that you immediately appoint a special counsel to investigate these crimes.

Sincerely,

Pete Stark
Member of Congress

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[5] Cave, Damien. "Army Recruiters Say They Feel Pressure to Bend Rules." May 3, 2005. New York Times.