



U.S. Department of Justice

Office of Professional Responsibility

*950 Pennsylvania Avenue, N.W., Suite 3266
Washington, D.C. 20530
(202) 514-3365*

February 21, 2023

By Email

[REDACTED]

CREW

[REDACTED]

Re: OPR FOIA No. F22-00034 FEB 2023 Interim Response

Dear Mr. Sus:

This letter is in response to your January 30, 2022 Freedom of Information Act (FOIA)/Privacy Act (PA) request to the Department of Justice (DOJ) Office of Professional Responsibility (OPR) seeking the following records from January 1, 2010, to the date we began to process your request:

1. All complaints or other submissions to DOJ's Office of Professional Responsibility ("OPR") regarding possible professional misconduct by any federal court of appeals judge, district court judge, magistrate judge, or bankruptcy judge.
2. All referrals made by OPR to any judicial disciplinary authority, state bar, or any other external entity regarding possible professional misconduct by any federal court of appeals judge, district court judge, magistrate judge, or bankruptcy judge.
3. All OPR reports, conclusions, or findings relating to items 1 or 2 above.

OPR received your request on January 20, 2022. It has been assigned tracking number **F22-00034**. Please refer to this number in any correspondence pertaining to this matter.

For this FEB 2023 interim response, OPR conducted a comprehensive search and located a total of 66 pages responsive to your request. The first 62 pages (Bates-numbered F22 00001 to 00062) relate to one of three judges who were referred by OPR to disciplinary authorities.

After a careful review, OPR determined that 2 pages (Bates-numbered F22-00034 00001 to 00002) are appropriate for release with excisions made pursuant to Exemptions 6 and 7(C) of the FOIA, 5 U.S.C. § 552(b)(6) and (b)(7)(C). Exemption 6 pertains to information the release of

which would constitute a clearly unwarranted invasion of the personal privacy of third parties. Exemption 7(C) pertains to information compiled for law enforcement purposes which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties. Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.*

Because 31 pages of responsive records contained information of interest to the Federal Bureau of Investigation (FBI), OPR sent these pages for consult to the FBI (Bates-numbered F22-00034 00003 to 00033) pursuant to 28 C.F.R. § 16.4(d). Upon receipt of the FBI consultation responses, OPR will finalize and provide these pages, as appropriate, to you.

Because 27 pages of documents originated in the Executive Office for U.S. Attorneys (EOUSA) (Bates-numbered F22-00034 00034 to 00060), OPR referred these pages to EOUSA for processing and direct response to you.

Two pages (Bates-numbered F22-00034 00061 to 00062) were withheld in full pursuant to Exemptions 5, 6 and 7(C) of the FOIA. Exemption 5 pertains to certain inter- and intra-agency communications protected by the deliberative process privilege.

Finally, for the two other judges whom OPR referred, OPR determined that 4 pages (Bates-numbered F22-00034 00063 to 00066) are appropriate for release with excisions made pursuant to Exemptions 5, 6 and 7(C) of the FOIA.

Although I am aware that your request is the subject of ongoing litigation and that appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal with the Office of Information Policy.

Sincerely,

Carmen Smith Carter

Carmen Smith Carter
Assistant Counsel for the
Freedom of Information and Privacy Acts

Enclosures

cc: Taylor Pitz
Federal Programs Attorney

* For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.



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950 Pennsylvania Avenue, N.W., Suite 3266
Washington, D.C. 20530

SEP 26 2014

Peter L. Rotskoff
Chief of Litigation
Attorney Registration and Disciplinary Commission
3161 West White Oaks Drive, Suite 301
Springfield IL 62704

Dear Mr. Rotskoff:

The United States Attorney's Office for the Southern District of Illinois (USAO) notified the Office of Professional Responsibility (OPR) regarding a matter that arose during the investigation and prosecution of former St. Clair County Circuit Judge Michael N. Cook. *United States v. Cook*, Crim. No. 3:13-cr-30111-001-JBM (S.D. Ill.). You have advised the USAO that your office initiated proceedings involving former Judge Cook.

During the *Cook* investigation, the USAO interviewed witnesses who either admitted to illegal drug use and/or identified attorneys who had illegally used drugs. The USAO urged the attorneys to self-report to the Attorney Registration and Disciplinary Commission. We are providing the names of the following attorneys who admitted to the use of illegal drugs:

(b) (6), (b) (7)(C) We are enclosing information regarding their interviews during the investigation. In addition, witnesses implicated the following attorneys in illegal drug use: (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) The USAO has not verified this information, however, and we are providing it to you only at your request. Except for the admissions of illegal drug use, the USAO found no other potential misconduct by the named attorneys.

Should your office need additional information regarding this matter, please contact U.S. Attorney Stephen R. Wigginton, U.S. Attorney's Office for the Southern District of Illinois, 9 Executive Drive, Fairview Heights, Illinois 62208-1344 at (b) (6)

(b) (6) Please do not hesitate to contact me or OPR Senior Counsel Lyn Hardy at (b) (6) if OPR can be of further assistance.

Sincerely,



G. Bradley Weinsheimer
Deputy Counsel

Encl.

cc: Stephen R. Wigginton
U.S. Attorney

Andrew Simonson
Assistant U.S. Attorney



U.S. Department of Justice

Office of Professional Responsibility

950 Pennsylvania Avenue, N.W., Suite 3266
Washington, D.C. 20530

March 11, 2019

The Honorable Carl E. Stewart
Chief Judge, U.S. Court of Appeals for the Fifth Circuit
300 Fannin Street, Suite 5226
Shreveport, Louisiana 71101-3074

Re: Judicial Referral

Dear Chief Judge Stewart,

On behalf of the U.S. Department of Justice, I write to provide information concerning the conduct of U.S. District Judge Lynn Hughes of the Southern District of Texas that may implicate provisions of the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364, and may otherwise be prudent to report given the mission of Title VII of the Civil Rights Act.

Based on the facts and circumstances discussed below, the Department believes that Judge Hughes demeaned Assistant United States Attorney (AUSA) (b) (6) of the U.S. Attorney's Office for the Southern District of Texas (USAO) because of her gender, falsely accused AUSA (b) (6) and other members of the USAO of mischaracterizing his misconduct in an appellate brief, and improperly barred AUSA (b) (6) from his courtroom because the government revealed his misconduct to the Fifth Circuit Court of Appeals. The Department believes that Judge Hughes has engaged in conduct that is prejudicial to the effective and expeditious administration of the business of the courts and the government.

In 2017, Judge Hughes presided over (b) (6) (b) (6) in which (b) (6) was charged with two counts of mail fraud and two counts of wire fraud in violation of 18 U.S.C. §§ 1341, 1343. AUSA (b) (6), who prosecuted the case, produced some discovery late, prompting the defense to file a motion to dismiss. During the hearing on the motion, Judge Hughes criticized AUSA (b) (6) performance regarding discovery production and attributed the shortcomings to her gender, stating: (b) (6) (b) (6) One of the female agents in the courtroom, (b) (6), (b) (7)(C), responded, (b) (6), (b) (7)(C) Judge Hughes responded, (b) (6) This comment referred to AUSA (b) (6) and her co-counsel, AUSA (b) (6). See (b) (6) Transcript of Hearing on Motion to Dismiss in (b) (6), at 8-9. Judge Hughes then granted the defense motion and dismissed the indictment with prejudice.

The government appealed the dismissal order to the Fifth Circuit Court of Appeals, arguing, *inter alia*, that the court abused its discretion in dismissing the case with prejudice. In its

brief, the government accurately described Judge Hughes' improper remarks to AUSA (b) (6). The Fifth Circuit reversed the dismissal, finding, *inter alia*, that the prosecutor's "mishaps" were "benign mistakes," that did not warrant dismissal with prejudice. (b) (6)

(b) (6) The Fifth Circuit directed the case be reassigned to another judge, and characterized Judge Hughes' gender-based remarks as "demeaning, inappropriate, and beneath the dignity of a federal judge." *Id.* at 681 n.3.

On (b) (6), AUSA (b) (6) next appeared before Judge Hughes at a pre-trial conference in (b) (6) an unrelated matter. He promptly "excused" AUSA (b) (6) from the case, causing her to leave the courtroom without comment. Five days later, AUSA (b) (6) appeared before Judge Hughes at another hearing on the same matter, and again, Judge Hughes "excused [her] from the trial." When AUSA (b) (6) asked for an explanation for her dismissal, Judge Hughes refused to provide one. *See* Transcript of (b) (6) proceedings in (b) (6), at 3.

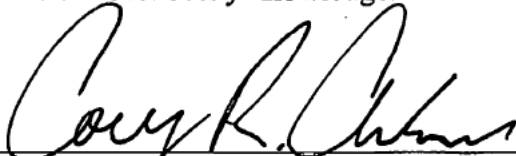
U.S. Attorney Ryan Patrick, who also attended the hearing, then asked Judge Hughes to explain AUSA (b) (6) dismissal. Judge Hughes responded that AUSA (b) (6) (b) (6) complaining that U.S. Attorney Patrick was (b) (6) *Id.* at 5, 7. Judge Hughes also accused the government of filing a (b) (6) and asserted that U.S. Attorney Patrick (b) (6) in the brief by failing to withdraw it. *Id.* at 5, 7. Judge Hughes claimed that his comment about dress was (b) (6) (b) (6) *Id.* at 5. After U.S. Attorney Patrick left the courtroom, the government sought a continuance to explore possible appellate options. Judge Hughes stated, (b) (6) (b) (6) (b) (6) (b) (6) *Id.* at 12, 13. Judge Hughes then criticized the Fifth Circuit's opinion in (b) (6) *id.* at 14-15, and denied the government's motion to continue the (b) (6) trial.

The government filed a petition for a writ of mandamus seeking Judge Hughes' recusal from (b) (6) and rescission of his order disqualifying AUSA (b) (6) from prosecuting the case. (b) (6) The government also filed a motion in (b) (6) requesting that Judge Hughes recuse himself. The Fifth Circuit denied the mandamus petition without comment and Judge Hughes denied the recusal motion. The government then filed a notice of appeal of Judge Hughes' denial of the recusal motion, which is pending. Trial proceeded on (b) (6), without AUSA (b) (6), after Judge Hughes refused to stay the proceedings pending appeal. The defendant was convicted, and the case is pending sentencing.

Enclosed please find copies of: (1) (b) (6) Transcript of Hearing on Motion to Dismiss in (b) (6); (2) July 3, 2018 Appeal from the U.S. District Court for the Southern District of Texas in (b) (6); (3) Fifth Circuit Opinion in (b) (6) (b) (6); (4) (b) (6) Transcript of Pretrial Hearing in (b) (6) (5) January 19, 2019 Government's Emergency Petition for Writ of Mandamus and Emergency Motion to Stay Proceedings in the District Court in (b) (6)

(b) (6); (6) January 19, 2019 Motion for Recusal in (b) (6); and (7-8) court dockets in (b) (6) and (b) (6). If you need additional information, please do not hesitate to contact me at (b) (6) (b) (6) or OPR Senior Counsel Lyn Hardy at (b) (6).

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

By: 

Date: MARCH 11, 2019

Corey R. Amundson
Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice

Enclosures

cc: U.S. Attorney Ryan K. Patrick (w/ encl.)

From: [Boykin, Evonne \(OPR\)](#)
To: [Sciortino, John \(OPR\)](#)
Subject: OPR Judicial Referral
Date: Friday, April 3, 2020 3:24:17 PM
Attachments: [OPR Judicial Referral to 5th Cir. Chief Judge Owens.pdf](#)
[Judicial Referral Exhibits \(1-14\).pdf](#)

Hello,

Attached is OPR's judicial referral and exhibits (1-14) regarding allegations concerning U.S. District Judge Robert Randall Crane. Thank you.

Evonne M. Boykin
Legal Administrative Specialist
Office of Professional Responsibility
Department of Justice
950 Pennsylvania Ave., NW
Room 3266
Washington, DC 20530