U.S. Department of Justice

Office of the Deputy Attorney General

Associate Deputy Attorney General

Washington, D.C. 20530

August 26, 2008

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

Re: OSC File No. DI-07-2160

Dear Mr. Bloch:

Pursuant to your request of November 19, 2007, to Attorney General Michael Mukasey, we have investigated allegations of mismanagement and abuse of authority against former United States Attorney (USA) Rachel Paulose, made by former First Assistant United States Attorney John Marti (USAO). As required by 5 U.S.C. §1213(c), attached is the report of investigation (ROI). Attorney General Mukasey delegated his authority to me to review and sign the ROI.

The investigation was conducted by two experienced and senior Assistant United States Attorneys from two different districts. As set forth in detail in the ROI, the only allegation that is sustained is the allegation that former USA Paulose improperly stored classified information in her personal office. We conclude, however, that appropriate action has already been taken. We are unable to substantiate by a preponderance of the evidence any of the remaining allegations of mismanagement and abuse of authority raised by Mr. Marti. Accordingly, we consider the matters raised by Mr. Marti and discussed in this ROI to be closed.

If you have any questions concerning the investigation or the ROI, please contact Jay Macklin, EOUSA General Counsel at 202-514-4024.

Sincerely,

David Margolis
Associate Deputy Attorney General

cc: Catherine McMullen, Chief, OSC Disclosure Unit
Jay Macklin, EOUSA General Counsel

Report of Investigation - District of Minnesota
August 26, 2008

I. Introduction

On November 19, 2007, pursuant to Title 5, United States Code, Section 1213(c)(1), Special Counsel Scott J. Bloch reported to Attorney General Michael Mukasey that the Special Counsel had found, on the basis of information reported to him by a former First Assistant United States Attorney (First AUSA) for the United States Attorney's Office for the District of Minnesota (USAO), "a substantial likelihood that USA [Rachel] Paulose has grossly mismanaged the USAO MN, and has engaged in abuses of her authority as a USA."

In light of the Special Counsel's determination and transmittal, pursuant to Section 1213(c)(1)(A), the Attorney General was obligated to "conduct an investigation with respect to the information and any related matters transmitted by the Special Counsel to [the Attorney General]."

Pursuant to further correspondence between counsel for the Department of Justice (DOJ) and the Office of Special Counsel (OSC), it was agreed that DOJ was required to investigate the following five allegations of gross mismanagement and abuse of authority by the former United States Attorney Rachel Paulose (USA Paulose), as well as any additional examples of gross mismanagement and abuse of authority made by the former First AUSA that relate to the five allegations listed below.

1. Several management officials resigned their position due to Ms. Paulose's heavy-handed and inappropriate management of the USAO.

2. Ms. Paulose delayed implementation of Project Safe Childhood in favor of planning and executing her investiture as United States Attorney.

3. Ms. Paulose directed management and staff not to communicate directly with DOJ officials or media, thus hampering the day-to-day operations of the USAO and adversely affecting the accomplishment of the USAO mission.

4. Ms. Paulose routinely requested to use agency funds to pay for receptions, meals, and other products not authorized to be purchased with federal funds.

5. Ms. Paulose routinely left classified information unsecured and unattended in her office.

The Department assigned two senior Assistant United States Attorneys to conduct an investigation of these allegations and prepare a report of their findings to the Attorney General or his designee. In the course of investigating the above

allegations, the complainant and former USA Paulose were personally interviewed. In addition, in-person interviews were conducted of the current United States Attorney, and numerous other current or former USAO supervisors and employees with knowledge of matters relevant to the allegations made by the complainant. Others were interviewed by phone. Numerous documents and office records provided by the witnesses have been reviewed as well as information previously provided to the OSC by DOJ. Public source information was consulted along with reports of evaluations previously conducted by various DOJ components. Finally, the investigation included a review of the pertinent statutes, regulations, and any relevant case law. The results of the investigation are discussed below.

II. Background

A. The United States Attorneys Offices

The United States Attorneys serve as the nation's principal litigators under the direction of the Attorney General. There are 93 United States Attorneys stationed throughout the United States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. United States Attorneys are appointed by, and serve at the discretion of, the President of the United States, with advice and consent of the United States Senate. One United States Attorney is assigned to each of the judicial districts, with the exception of Guam and the Northern Mariana Islands where a single United States Attorney serves in both districts. Each United States Attorney is the chief federal law enforcement officer of the United States within his or her particular jurisdiction.

United States Attorneys conduct most of the trial work in which the United States is a party. The United States Attorneys have three statutory responsibilities under Title 28, Section 547 of the United States Code:

- the prosecution of criminal cases brought by the Federal government;
- the prosecution and defense of civil cases in which the United States is a party; and
- the collection of debts owed the Federal government which are administratively uncollectible.

Although the distribution of caseload varies between districts, each district has every category of cases and handles a mixture of simple and complex litigation. Each United States Attorney exercises wide discretion in the use of his/her resources to further the priorities of the local jurisdictions and needs of their communities. United States Attorneys have been delegated full authority and control in the areas of personnel management, financial management, and procurement.

B. The District of Minnesota

The District of Minnesota is comprised of the entire state of Minnesota. The USAO for the district of Minnesota is staffed by approximately forty-five Assistant U.S. Attorneys (AUSAs) and approximately sixty staff, from paralegals and technology specialists to community relations professionals and personnel administrators. The office operates two litigating divisions. The Criminal Division, which employs about thirty-four lawyers, prosecutes violations of federal criminal law, including cases involving anti-terrorism, child exploitation, identity theft, major fraud, organized crime, bank robberies, counterfeiting, immigration violations, and violent crime involving gangs, guns, and drugs. The Civil Division, which employs about ten AUSAs, represents the United States in all civil actions brought in federal or state court in Minnesota in which the federal government is a party or has an interest.

In addition to litigating cases, employees collaborate with other law enforcement and crime prevention professionals across the state to develop comprehensive policies and initiatives to address the issues that may lead to criminal behavior. They work with representatives of the court system, school districts, social service professionals, and community activists to develop multi-disciplinary plans to address problems ranging from the growing use of methamphetamine, to child exploitation, to gun violence among youth.

United States Attorneys are assisted in the daily management and operation of the office and implementation of district priorities and initiatives by a team of senior managers. In the District of Minnesota, the senior management team consisted of the First AUSA, Criminal Division Chief, Civil Division Chief and Administrative Officer (AO), along with subordinate or deputy division chiefs for the litigating divisions. Attorney-manager positions are filled and serve at the discretion of the U. S. Attorney for renewable terms of one year. The AO is a permanent position.

C. United States Attorney Rachael K. Paulose

On December 9, 2006, Rachael K. Paulose was sworn in as the Presidentially-appointed United States Attorney for the District of Minnesota, following a nine-month appointment as the Interim United States Attorney. Prior to becoming the Interim U.S. Attorney on March 1, 2006, Ms. Paulose was employed in the Office of the Deputy Attorney General of the United States as a Senior Counsel and Special Counsel for Health Care Fraud. Prior to her appointment to the Deputy Attorney General's staff, she was in private practice at Williams & Connolly in Washington, D.C. and at Dorsey & Whitney in Minneapolis, Minnesota, with a focus on business litigation including health

care litigation. From May 9, 1999 through August 30, 2002 Ms. Paulose served as an AUSA in the District of Minnesota.

Ms. Paulose began her legal career as a law clerk to The Honorable James B. Loken, Chief Judge of the United States Court of Appeals for the Eighth Circuit. She is a graduate of Yale Law School and the University of Minnesota.

Ms. Paulose resigned as the United States Attorney on January 4, 2008, and returned to the Department as Counselor to the Assistant Attorney General, Office of Legal Policy.

III. Investigation and Findings

A. Legal Standards

The complaint in this matter was filed pursuant to Title 5, United States Code, Section 1213, which is part of the statute known as the "Whistleblower Protection Act." Under that Act,

> [T]he term "gross mismanagement" is more than de minimis wrongdoing or negligence. Thus, gross mismanagement does not include management decisions which are merely debatable, nor does it mean action or inaction which constitutes simple negligence or wrongdoing. There must be an element of blatancy. Gross mismanagement means a management action or inaction which creates a substantial risk of significant adverse impact upon the agency's ability to accomplish its mission.

Nafus v. Department of the Army, 57 M.S.P.R. 386, 395 (1993).

The term "abuse of authority " has been defined as:

> [A]n arbitrary or capricious exercise of power by a Federal official or employee that adversely affects the rights of any person or that results in personal gain or advantage to himself or to preferred other persons.

Embree v. Department of the Treasury, 70 M.S.P.R. 79, 85 (1996).

B. Discussion

1. RESIGNATION OF SENIOR MANAGEMENT OFFICIALS

The Complainant alleged that USA Paulose engaged in gross mismanagement and abuse of authority when:

> "several management officials resigned their position due to the U.S. Attorney's heavy-handed and inappropriate management of the USAO."

Factual Summary

When USA Paulose entered office on March 1, 2006, she was named the interim U.S. Attorney. She replaced a popular U.S. Attorney who had a wealth of experience, having served as U.S. Attorney in both the former and current Bush administrations. USA Paulose was appointed despite the preference of the previous U.S. Attorney that his former Civil Chief and recently designated acting First AUSA be named the interim U.S. Attorney.

A few months before USA Paulose took office, the First AUSA left the office to become a state court judge. The First AUSA had also been widely admired and was long-tenured in the office. The previous year, the popular and long-time Criminal Chief transferred to another district. The Civil Chief was named the acting First AUSA by the prior U.S. Attorney and another AUSA, a close colleague of the acting First AUSA, replaced her as Civil Chief.

Prior to USA Paulose entering on duty, EOUSA and other DOJ officials selected the Criminal Chief to assume the duties of First AUSA, along with his Criminal Chief duties, under USA Paulose. The Criminal Chief reported he had made clear his preference that the acting First AUSA be appointed the First AUSA. As a result of not being selected as the First AUSA, the acting First AUSA (former Civil Chief) returned to a non-supervisory line-AUSA position.

For the first several months, the new management team functioned without great difficulty. However, it soon became necessary for USA Paulose to make changes in her management team. The First AUSA was carrying responsibilities as both the Criminal Chief and First AUSA and requested that he be permitted to focus exclusively on his responsibilities as the Criminal Chief. The relationships between USA Paulose and the Civil Chief, and the former Civil Chief (now a line AUSA), were also strained.

In the fall of 2006, USA Paulose approached the complainant about becoming First AUSA, although the complainant had no previous supervisory experience in the office. The complainant eventually agreed, but did not officially become First AUSA until January 7, 2007. Nonetheless, while serving as a self-

described "shadow First AUSA," the complainant frequently counseled USA Paulose and others in the office and on the management team on matters ranging from office policy to personnel decisions. At one point in November 2006, when USA Paulose was allegedly frustrated over problems in the office, the complainant claims he encouraged her not to resign.

The former Civil Chief resigned in 2006 and took a job in the private sector. The Civil Chief soon followed, and resigned at the end of 2006, taking a job with the same corporation as the former Civil Chief. USA Paulose appointed a criminal AUSA with no prior supervisory experience in the USAO to serve as the next Civil Chief and according to an October 20, 2006, e-mail from the First AUSA to USA Paulose, the selection resulted from the "providence" of the then-Civil Chief who proposed a realignment which would permit the office to immediately move the criminal AUSA into the Civil Chief position.

The district had an experienced AO when USA Paulose entered office. In 2006, the AO received a DOJ Director's Award after being nominated by USA Paulose. The AO availed himself of the DOJ retirement incentive then being offered and retired at the end of 2006. In early 2007, the Human Resource Officer was named acting AO.

By February/March 2007, speculation was rampant in and out of the office that the former U.S. Attorney may have been forced out of office as part of the so-called U.S. Attorney "firing" controversy. The complainant and others in the office began to suspect that USA Paulose may have used her position in the Deputy Attorney General's Office to obtain the U.S. Attorney's position. USA Paulose had difficulty convincing them otherwise. By this time, internal management decisions were being discussed outside of the management team. Routine management functions became mired in an atmosphere of distrust. Non-public information was being leaked from within the office to the media.

On March 9, 2007, USA Paulose held a formal investiture ceremony at a local law school. The ceremony was more formal than that of previous U.S. Attorneys and was referred to as a "coronation" by many in the office.

USA Paulose contacted the Executive Office for United States Attorneys (EOUSA) the week of April 2, 2007, and shared her concern that she was facing a serious management challenge – her top four managers were threatening to step down from their positions. EOUSA dispatched its Chief of Staff to the district to assess the situation and provide assistance. The Chief of Staff interviewed USA Paulose, her management team, numerous members of the staff, and the Chief

District Court Judge. The Chief of Staff made recommendations to address his concerns, including accepting the First AUSA's expressed desire to resign his position; assigning USA Paulose a mentor and directing her to attend management training courses offered by the Department; and encouraging USA Paulose to work with the remaining members of the management team and a new First AUSA to address the problems.

Despite the efforts of the Chief of Staff, on April 5, 2007, all four supervisors – the First AUSA, Criminal Chief, Civil Chief, and acting AO – resigned their management positions in the U.S. Attorney's Office. Their individual resignation letters provided no explanation as to the reasons for the resignations, or the decision to time the resignations together.

USA Paulose immediately selected a new Criminal Chief and Civil Chief. The appointments were formally made effective at the end of April. An acting AO was also selected from within the administrative division. A new First AUSA was appointed in June.

The complainant and numerous witnesses interviewed described events leading up to the April 2007 resignations which depict a management team in distress – communications were limited, distrust was rampant and rumors abounded. They described a United States Attorney who was a micro-manager; she wanted to control the flow of information in as well as outside the office. She did not follow advice from her senior managers and was the final authority on all significant decisions - from determining which candidates to interview for vacant positions, to performance evaluations, pay increases and charging decisions. USA Paulose was described as hard on the support staff - particularly if she viewed their response to her requests as slow or contrary to what she wanted. Witnesses said she demanded "personal" loyalty and viewed negatively those she believed were not loyal to her. She demoted people she did not like from management or collateral duty positions in the office and was not trusted by her managers.

Former USA Paulose described a different climate. She described a First AUSA who was non-supportive and frequently insubordinate. She characterized a climate of growing distrust between her and her management team, and later between her and the staff. USA Paulose had previously worked in the office as an AUSA. Some members of the staff were concerned prior to her return to the office that USA Paulose would be difficult to work with – so much so that the then-First AUSA counseled people to keep an open mind and give her a chance.

Prior to USA Paulose's swearing-in ceremony, someone (presumably a member of the staff) leaked a draft copy of the investiture planning committee's notes to the press, prompting unfavorable comments in the media about the planned program. Management discussions and differences of opinion with USA Paulose, which should have been known only to the management team, were shared with the staff and added further to the climate of distrust in the office.

Witnesses differ on whether the problem lay with a U.S. Attorney who sought to micro-manage seasoned professionals, or a staff that was suspicious of an appointee sent from Washington, and with whom some employees had a previous difficult relationship. Regardless of the reason, however, it was clear that by April 2007, the relationship between USA Paulose and her management team was irreparably damaged.

The collective resignations of the management team and ongoing media leaks fueled the internal office controversy and broader interest in whether the former U.S. Attorney had been forced to resign. On April 6, 2007, the Minneapolis *Star Tribune* carried the resignations of the USAO managers as its top news story. USA Paulose refused to comment on the decisions. However, on April 7, 2007, the *New York Times* reported that USA Paulose's "defenders" at the Department of Justice attributed the resignations to "older lawyers who had difficulty dealing with a young aggressive woman who had tried to put into place policies important to [the Attorney General]."

On April 7, 2007, the complainant warned another colleague that if USA Paulose "goes negative" she's going to get "clobbered." According to the complainant, he had information about USA Paulose that, if he was forced to release, would mean USA Paulose "would never hold a government job again." The complainant made clear he did not want to be blamed in the press for the resignations.

Over the next few weeks, media attention intensified on USA Paulose, her performance as U.S. Attorney, and her possible connection to the U.S. Attorney firing controversy. She was characterized in the press as "too inexperienced to lead a major prosecutor's office." Her alleged "managerial incompetence . . . provoked a meltdown." "Several sources" within the U.S. Attorneys office were reported as being deeply dissatisfied with USA Paulose's management style which they described as "abrasive and, at times, disrespectful." USA Paulose acknowledged she'd made mistakes and "rankled some more experienced attorneys and staff, perhaps because they've had more autonomy under previous U.S. Attorneys."

USA Paulose was reported as having taken responsibility for the April resignations, and apologized to her office and "pledged to do better."

On April 24, 2007, a gossip columnist in the *Star Tribune* mused whether it was possible, "that an office dominated by people who don't look the way Paulose does could be filled with threatened, resentful types who are jealous of someone so young climbing where they probably never will?"

The complainant and other managers were incensed at the above comment and the comments of those quoted as supporting USA Paulose in the April 7 *New York Times* article. On April 27, 2007, the complaint wrote a letter he and the other managers signed and sent to USA Paulose demanding she issue a statement to the newspapers, "setting the record straight that our actions were not based upon bias or animus." USA Paulose did not respond. The letter was released to the press a few weeks later.

In early June, the complainant submitted his written, confidential, complaint to OSC.[1]

Things began to settle down in the office as the new management team took charge and USA Paulose became more publicly active. However, in November, an attorney and acknowledged friend of USAO Paulose commented in an Internet blog about a November 13, 2007, *New York Times* article. The *Times* article disclosed that USA Paulose was the subject of a whistleblower investigation by OSC that stemmed in part from the allegations made by the complainant. The article also mentioned that USA Paulose had been alleged to have used a racial epithet in reference to another employee. In commenting on the article, the blogger called the racial epithet allegation "absurd" based upon his familiarity with USA Paulose and purported to quote USA Paulose denying the allegation. The blogger further added that USA Paulose stated: "The McCarthyite hysteria that permits the anonymous smearing of any public servant who is now, or ever may have been, a member of the Federalist Society; a person of faith; an/or a conservative (especially a young, conservative woman of color) is truly a disservice to our country."

The complainant read the blog comments and responded by sending an e-mail on November 16, 2007, to the First AUSA, Criminal Chief, and others in the office complaining of USA Paulose's "hysterical public statements" and predicting "when the rest of the office becomes aware of this statement, [USA Paulose's] statements will continue to adversely affect the morale of the office." The

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[1] DOJ has not been provided a copy of the complaint to review.

complainant viewed USA Paulose's comments as intended to "continue to malign us" and as "unconscionable." The e-mail was signed by the complainant and by the former Criminal Chief. One of the supervisors who was part of the replacement management team reported that the complainant and the former Criminal Chief viewed the response of the current First AUSA and other replacement managers to this blog as a "litmus test" and pressured them to resign. Reportedly the complainant and former Criminal Chief believed if USA Paulose faced another mass resignation she would be forced to resign. Two of the attorney supervisors were ridiculed for supporting USA Paulose.

The next day, November 17, the allegations against USA Paulose and her denials to the blogger were reported in the *Star Tribune* and other media. The complainant sent an e-mail to the First AUSA, Criminal Chief, and Civil Chief attaching a copy of an online news report. The complainant's only comment was, "So, what next?"

On Monday, November 19, 2007, USA Paulose announced she would resign as U.S. Attorney for the District of Minnesota and return to a position in the Department of Justice. One unnamed staff member was quoted in press accounts as characterizing the office as "celebratory" when the staff learned of USA Paulose's resignation.

Findings

The evidence fails to support the allegation that USA Paulose abused her office and position, thereby resulting in the April 2007 resignation of her management team. The management team members were each in temporary positions and served at the discretion of the United States Attorney. Although the four supervisors resigned those positions, responsibility for the resignations cannot be attributed exclusively to USA Paulose's management style. A confluence of events and circumstances led to the resignation of the management team, including: the departure of an experienced presidentially-appointed U.S. Attorney, who was widely admired in the office and rumored to be on the list of U.S. Attorneys considered for removal; the U.S. Attorney "firing" controversy; the Department's decision not to select as the Acting U.S. Attorney, the then-Acting First AUSA, someone widely admired in the office; the selection of a senior attorney from Washington to be the interim and then the presidentially-appointed U.S. Attorney; a U.S. Attorney and management team largely inexperienced in running a U.S. Attorney's Office; and a U. S. Attorney whose personality and management style was not effective with her management team. In addition, USA

Paulose made decisions that were not popular with her management team. In one instance, over the objection of the First AUSA and Criminal Chief, she took disciplinary action (reviewed and approved by EOUSA General Counsel's Office) against an AUSA. In other instances, personnel were reassigned duties or denied opportunities for outside teaching. While others may have taken different actions, USA Paulose's actions were within her discretion.

USA Paulose and her management team, while very experienced attorneys, lacked prior significant management experience. The U.S. Attorney had some experience managing litigation teams in private practice and acknowledged that as the U.S. Attorney, she was learning how to manage, delegate, and trust her staff. The Criminal Chief (and initial First AUSA) had been Criminal Chief for less than a year and only assumed the First AUSA duties upon USA Paulose's entry into the office. The complainant had no prior management level experience in the U.S. Attorney's Office when he became the First AUSA. The Civil Chief selected by USA Paulose at the end of 2006 had no prior supervisory experience in the U.S. Attorney's office (though she had worked as a supervisor with a local county prosecutor's office prior to becoming an AUSA), had been working as a criminal attorney when named Civil Chief, and had been an AUSA less than five years. USA Paulose planned to attend a Department management training program with her team later in 2007. This was one of the recommendations of the Chief of Staff prior to the resignation of the management team.

USA Paulose's lack of experience managing an office and forging trust and confidence among her managers was clearly a factor in the break up of her management team. Witnesses viewed her efforts to be involved in all significant matters as micro-management and a lack of trust and confidence in them. She acknowledged that perhaps she failed to effectively communicate the reasons for some of her decisions. However, it was evident that the team's lack of experience was a factor as well. When interviewed, it was apparent that managers did not always understand Department protocol and lines of authority and attributed to USA Paulose decisions that were not within her authority (e.g., selection of the interim U.S. Attorney and Acting First AUSA); management disagreements which should have been kept confidential were shared with the staff by the managers (e.g., whether to discipline an employee; how to handle performance evaluations; what role the U. S. Attorney should play in day-to-day office management); the managers shared unfiltered criticism of employees with the staff (dissatisfaction with draft reports; suggestions that disciplinary action be taken; criticism of employee demeanor); they limited their communications with USA Paulose as relations became strained, thereby increasing suspicion and mis-communication. USA Paulose and the management team would have benefitted from attending

Department management training to better equip them not only to mange the office but to address the specific challenges which confronted them and ultimately resulted in the dissolution of the team.

The complainant, USA Paulose, and all the witnesses acknowledged that despite the difficulties they identified, the work of the office was successfully accomplished. The evidence supports this. To the credit of the entire office, despite the turmoil surrounding USA Paulose and the management team, which was aggravated by media coverage at the local and national level, the work of the U.S. Attorney's Office did not suffer. During USA Paulose's tenure, district productivity increased significantly as evidenced by the increase in work hours and the number of criminal cases filed. As reported in the office's 2007 Annual Report, the office prosecuted a record number of defendants, including a record 32 defendants for human trafficking and the largest Internet fraud case in the country. The office created new initiatives on mortgage fraud and bankruptcy fraud and tripled their child pornography initiations. USA Paulose closely tracked progress on these initiatives through regular point-of-contact meetings she initiated. These meetings were widely regarded by the staff as appropriate and positive. Relations with the law enforcement agencies were excellent during USA Paulose's tenure and she was praised by witnesses for her personal commitment to maintaining close communications with the heads of the various agencies.

When asked to identify instances in which the USA Paulose's conduct interfered with the ability to carry out the mission of the office, few witnesses were able to provide specific examples – instead referring generally to the impact on office morale and that personnel cannot be productive in a climate of fear and anxiety. When interviewed, the complainant acknowledged that as with most managers, USA Paulose had a ". . . tend[ency] to micro manage and that's not abuse of authority and that's not gross mismanagement. . . ." He stated that USA Paulose's conduct affected the mission of the office when she caused the administrative staff to shift their focus from the timely payment of office expenditures to planning for the swearing-in ceremony and that as a result, the office was late paying bills and the staff worked lots of overtime. While administrative personnel confirmed that the investiture planning taxed their resources and created resentment in the office, there was no indication that it caused the staff to neglect their responsibility to pay office expenditures. An audit of the office accounts in early 2007 found that accounts were being properly managed. There was no indication that the staff had been unable to meet pay obligations in a timely manner.

While office morale was adversely affected by this situation, the evidence

indicates that it did not impact upon the office's ability to carry out its mission. Indeed, there was evidence that USA Paulose was effective in her position and that the mission of the office – to prosecute federal crimes and defend the government's interests was effectively carried out. One witness stated that while interpersonal relations with subordinates was not USA Paulose 's strong suit, she did well in terms of the mission and running the office. The witness cited numerous examples, including that USA Paulose fostered great relations with agency heads; she held effective press conferences; she was always well-prepared and organized on the issues; she was a good decision-maker; she worked long hours and established an innovative point-of-contact program to provide for regular meetings with staff coordinators tasked to lead on priority issues.

The evidence failed to establish that USA Paulose's management style caused the resignation of the management team and thereby "create[d] a substantial risk of significant adverse impact upon the agency's ability to accomplish its mission." The overwhelming evidence indicates that the office effectively carried out its mission, despite the difficulties leading up to the resignation of the management team. The evidence further fails to support a finding that USA Paulose's actions in managing the office constituted an "arbitrary or capricious exercise of power." For these reasons, the claim of gross mismanagement and abuse of authority cannot be sustained.

2. DELAYED IMPLEMENTATION OF PROJECT SAFE CHILDHOOD

According to the Special Counsel's transmittal letter, the complainant alleged as an "example" of USA Paulose's gross mismanagement and abuse of authority that:

> "USA Paulose delayed the implementation of a top DOJ priority, Project Safe Childhood, in favor of planning and executing her investiture as USA. When approached by . . . the AUSA assigned to implement Project Safe Childhood, regarding missed deadlines for reporting to DOJ, Ms. Paulose directed repeatedly that [the AUSA] "hold off on that."

The complainant further alleged that several employees were assigned to work on plans for the investiture and,

> the commitment of these employees' time and effort to the investiture directly affected the implementation of the agency-wide priority to advance Project Safe Childhood . . . if Project Safe Childhood had not been delayed by work on the investiture, the USAO would have been prosecuting child exploitation cases much more aggressively at least one year earlier than actually occurred.

For the reasons discussed below, the complainant's allegations do not support a finding of gross mismanagement or abuse of authority.

Factual Summary

On February 15, 2006, Attorney General Alberto Gonzales announced a new initiative of the Department of Justice, "Project Safe Childhood" (PSC). As stated by the Attorney General, "[t]he goal of Project Safe Childhood is to prevent the exploitation of our kids over the Internet, to clean up this new neighborhood, just as we work to reduce gun violence on our city streets." (Transcript of Attorney General's One-Year Anniversary Speech, February 15, 2006, Washington, D.C.). "United States Attorneys, in full partnership with existing local Internet crimes against children task forces, will bring together community stakeholders and work closely with them to develop a strategic plan based upon the individual needs of their communities." *Id*.

On March 1, 2006, Rachel Paulose was appointed interim United States Attorney for the District of Minnesota. In August, 2006, Paulose was formally nominated by the President to serve as presidentially appointed United States Attorney.

One of the first tasks associated with PSC was to hire or assign an AUSA to prosecute PSC cases and to serve as the coordinator for PSC issues in the district. USA Paulose assigned an experienced and highly regarded AUSA from within the office to this position. The AUSA immediately began to meet with state and local agencies to discuss PSC. The AUSA and the state Internet Crimes Against Children (ICAC) task force commander continued to meet with agencies throughout the year to tell them about PSC and to solicit their cooperation.

One of the major objectives to be accomplished in the first year of PSC was to develop and implement a strategic plan. Each district was required to submit a strategic plan to the Department of Justice by September 1, 2006. The Minnesota USAO completed and timely submitted a strategic plan on August 31, 2006.

PSC had five specific objectives, including integrating the efforts of law enforcement partners in PSC, involving local law enforcement in national PSC

initiatives, providing appropriate training to law enforcement, and coordinating public awareness and education campaigns.

In October 2006, PSC training was provided to law enforcement officers at the Crime Prevention Conference in Minnesota. Efforts were also initiated to obtain nationally sponsored PSC training in Minnesota in April, 2007. In the first week of December, 2006, the first national PSC conference was held in Washington, D.C. USA Paulose, the PSC AUSA, and six federal and state PSC partners represented Minnesota at the conference. The conference focused in part on helping federal, state, and local PSC partners come together to plan and develop their PSC initiatives.

On December 9, 2006, USA Paulose was unanimously confirmed by the United States Senate. A formal investiture was held on March 9, 2007, at the University of St. Thomas School of Law.

By late 2006, USA Paulose convened monthly meetings with supervisors and points of contact for priority areas within the Department of Justice and within the office. PSC was one of the priority areas emphasized by USA Paulose. The points of contact (including the PSC AUSA) were required to submit at the meeting a written report outlining the progress of each initiative and any cases being prosecuted in the subject area. USA Paulose and attorney supervisors discussed in these meetings with the point of contact a variety of topics including the progress of any initiatives or cases; any limitations or problems that needed to be dealt with; any developments in the law; and opportunities for outreach events. PSC progress reports were prepared by and discussed with the PSC AUSA virtually every month until USA Paulose resigned in late 2007.

Semi-annual PSC reports were timely submitted to DOJ in March and September, 2007, as required. Those reports detailed the activities of the Minnesota PSC Coalition and showed that the coalition evolved into an active and vibrant group in 2007. According to the United States Attorneys' case management system, the District of Minnesota filed seven PSC cases in FY 2006[2] and 27 in FY 2007.

The USAO's PSC program was reviewed and found to be particularly effective. The USAO has continued to have an effective PSC program which addresses online child exploitation and sexual abuse problems. The USAO's PSC Coordinator is a capable and well-respected leader in child exploitation. Through his leadership and with the support of USA Paulose, the USAO developed strong partnerships with

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[2] As noted above, the PSC program was not implemented nationally until February 15, 2006, nearly half way into FY 2006.

appropriate federal, state, and local partners to ensure a uniform and comprehensive approach to the investigation and prosecution of child exploitation cases. Under USA Paulose's leadership, training and outreach programs were provided to law enforcement agencies as well as schools, businesses, and community groups throughout the district.

The PSC AUSA was interviewed during the course of this inquiry and stated that, overall, the implementation of PSC "was successful." The AUSA had met with USA Paulose in early 2007 to push for a formal "roll-out" of the PSC program but was told by USA Paulose that the formal roll-out would have to wait until after her investiture. The AUSA reported that during the two months between this meeting and USA Paulose's March 9 investiture, the ICAC was effective and the USAO continued to prosecute PSC cases. USA Paulose made very clear her passion and support for the PSC initiative even before her investiture.

The complainant was interviewed and claimed he had been told by the PSC AUSA that the office was "missing" reporting "deadlines" established by the PSC program because of the attention USA Paulose was giving to her investiture. The complainant could provide no specifics. The complainant acknowledged the district PSC program was successful but attributed that success solely to the work of the PSC AUSA. The complainant perceived that the office took resources from PSC and other areas to work on USA Paulose's investiture. No specifics were provided.

Others in the office who were interviewed acknowledged that PSC was a priority of USA Paulose and was an issue discussed regularly at management meetings. Those interviewed universally acknowledged that USA Paulose was held in high regard by law enforcement executives who led the agencies with whom the office worked.

Findings

The allegation that USA Paulose engaged in "gross mismanagement" or "abuse of authority" in relation to the implementation of PSC in the District of Minnesota is unfounded. While USA Paulose became personally more active in outreach and other activities of PSC after her formal investiture, she had made clear within her office and the law enforcement community that PSC was a priority for her office long before the investiture. USA Paulose met regularly with the PSC AUSA; attended the national PSC conference with several PSC partners in December, 2006; and was featured in an extensive March 4, 2007, front-page article in the Minneapolis Star Tribune which focused on the PSC initiative in Minnesota.

There was no evidence discovered to support the claim that PSC reporting deadlines were missed. To the contrary, all deadlines appear to have been met.

There was no evidence developed to support the claim that but-for the devotion of resources to planning USA Paulose's investiture, the district "would have been prosecuting child exploitation cases much more aggressively at least one year earlier than actually occurred."

As an initial matter, USA Paulose was not confirmed by the Senate until December 6, 2006. From interviews of those involved, and a review of pertinent documents, it does not appear that planning for the investiture began until early January, 2007. A January 10, 2007 entry in complainant's electronic calendar stated, "We expect a final date for the investiture to be announced today and need to get planning started immediately as we only have a few weeks to prepare." A checklist prepared to track progress of the investiture planning showed the earliest deadlines for progress were January 17, 2007. Among others, complainant was to deal with the budget for the investiture by January 17. Given that USA Paulose's investiture was held March 9, 2007, there could not have been a delay of "at least one year" in prosecuting PSC cases attributable to the investiture planning.

Second, the people involved in planning the investiture were primarily the administrative officer and her staff. Neither the PSC AUSA nor any other attorney or person responsible for PSC prosecutions was involved in any significant way in planning the investiture.

Finally, although PSC prosecutions dramatically increased in FY 2007 as compared to FY 2006, as reflected in the monthly point of contact reports and in the reports submitted to DOJ, the district had begun to increase its prosecutions well in advance of USA Paulose's investiture. The PSC coalition was evolving in 2006. Given that PSC was a new initiative announced in February 2006, it is not surprising that the number of prosecutions increased as the PSC coalition evolved.

In short, there is no evidence that USA Paulose's management of the planning for her investiture "create[d] a substantial risk of significant adverse impact upon the agency's ability to accomplish its mission." Nor is there evidence to support a finding that USA Paulose's actions in planning her investiture constituted an "arbitrary or capricious exercise of power." Therefore, the claims of gross mismanagement and abuse of authority cannot be sustained.

3. INTERFERENCE IN OUTSIDE COMMUNICATIONS

The complainant alleged as an "example" of U.S. Attorney Paulose's gross mismanagement and abuse of authority that the U.S. Attorney:

> directed management and staff not to communicate directly with DOJ officials or media, thus hampering the day-to-day operations of the USAO and adversely affecting the accomplishment of the USAO mission.

Factual Summary

The complainant was interviewed and explained that USA Paulose implemented a media policy more restrictive than DOJ policy concerning contacts with the media, in an effort to control all information flowing out of the office. This policy deviated from the past practice in the USAO, which according to the complainant permitted AUSAs to communicate directly with the media on individual cases and where appropriate to make comments on specific cases. According to the complainant, the policy outlined by USA Paulose in January or February 2007, required that all contacts with the media be through the office's media spokesperson.

On July 6. 2006, USA Paulose issued a memorandum to the management team advising that all contacts with the media are to be coordinated through the office's media spokesperson and that the USA Paulose was to be apprised of all significant events and inquiries, including communications with the DOJ.

DOJ has issued detailed guidance concerning press conferences and other media contacts in order to ensure that the public's right to know what its government is doing is balanced by an individual's right to a fair trial and the government's ability to effectively enforce the administration of justice. USAM 1-7.110; 1-7.401. DOJ policy concerning contacts with the media provides that responsibility for all matters in a U.S. Attorney's office is vested in the United States Attorney and each U.S. Attorney's Office is required to designate one or more persons to act as a point of contact on matters pertaining to the media USAM 1-7.210 and .220.

Findings

The district policy implemented by USA Paulose designating a media coordinator and requiring that all contacts with the media be through the media spokesperson was well within the discretion and authority of the United States Attorney and entirely consistent with DOJ policy as set forth in the USAM. When interviewed, USA Paulose explained that the decision to implement a district-wide policy concerning media contacts was based upon: practices implemented by other U.S. Attorneys; concern that inappropriate media comments were frequently the subject of internal DOJ misconduct investigations; and a desire to ensure that information was coordinated with other law enforcement agencies.

The complainant failed to provide any information to support the claim that USA Paulose prohibited communications with DOJ, thereby hampering the operations of the office and the mission of the Department. Indeed, when asked whether the office's media policy hampered the day-to-day operations in the office, the complainant responded "no," based upon his view that case work was the focus of the office.

While he outlined instances in which USA Paulose required her prior review and approval of responses to DOJ requests for information about pending matters in the office, U.S. Attorney Paulose explained her purpose in requiring such oversight was to ensure that she was apprised of all requests for information from the Department and in order to ensure that the information provided was accurate and complete. This is supported by a memorandum issued by USA Paulose to her "Leadership Team" on July 6, 2006, in which she emphasized that " . . . it is important for me to know what is going on in all divisions and sections of the Office." USA Paulose commended her managers for their good judgment in keeping her informed of significant events, issues, and case developments and provided them with a list of examples of the matters upon which she wished to be kept informed, including communications with the Department, contact with the media, kudos or complaints from judges, agencies or the community, and other matters. She concluded the memo with a request that the staff "tell me about anything that has significance to the Office or anything about which I may need to know in dealing with inquiries from the outside."

Based upon the foregoing information, the evidence fails to support the allegation that USA Paulose prevented personnel from communicating with the media and DOJ, thereby impairing office operations and adversely affecting the mission of the Department. Rather, the evidence shows USA Paulose enacted appropriate media and communication policies. Therefore, the claims of gross mismanagement and abuse of authority cannot be sustained.

4. IMPROPER USE OF AGENCY FUNDS

The complainant alleged as an "example" of USA Paulose's gross mismanagement and abuse of authority that USA Paulose:

> routinely requested to use agency funds to pay for receptions, meals, and other products not authorized to be purchased with federal funds

The complainant identified several specific instances in which he believed USA Paulose requested that official funds be improperly used: 1) to pay the expenditures for her swearing-in ceremony; 2) to purchase holiday cards and a Christmas tree; and 3) to purchase dishes and flatware for an in-house luncheon with a member of the governor's staff.

Factual Summary

a) Swearing-In Ceremony

While USA Paulose took the oath of office on the day her appointment was confirmed by the Senate, she held a public swearing-in ceremony in Minneapolis on March 9, 2007. The ceremony was carefully planned by USA Paulose and members of the office staff over the course of about two months and took place in the auditorium of the St. Thomas School of Law. The investiture was more formal than the ceremonies of previous U.S. Attorneys, who, according to personnel interviewed, would take the oath in the courthouse, followed by cake and punch. Invitations were issued for USA Paulose's investiture, there was a choir and color guard, and a reception following the ceremony. On January 12, 2007, the complainant e-mailed the U.S. Attorney regarding expenditures for the planned program and, quoting the Executive Handbook for U.S. Attorneys, explained that government funds may not be used to purchase meals or snacks for a swearing-in ceremony. The complainant noted that generally the budget for swearing-in programs is limited to $500. The complainant recommended that USA Paulose contact EOUSA to determine whether there is a "work around" on this and asked her to contact him if she wanted him to explore the issue further. USA Paulose responded the same day that she would handle the matter with EOUSA and according to complainant, from this point USA Paulose excluded the administrative section from making decisions about the appropriateness of expenditures for the ceremony. However, USA Paulose had already received advice from EOUSA, having sent an e-mail on January 10, 2007, requesting "guidance on what costs may or may not be appropriate for a USA's formal swearing-in ceremony."

The AO, who was a member of the committee that planned the ceremony, was interviewed concerning office expenditures for the swearing-in ceremony. She stated

the office expended $250 to video-tape the ceremony, $200 for photographs and $60-85 for paper to make the programs. The invitations were made by the office and mailed at government expense. A review of procurement records revealed that excluding the purchases of paper, the cost of postage, and the purchase of plants to be used in the office,[3] less than $500.00 was spent for the ceremony – $200 for photography and $250 for video. USA Paulose obtained an ethics opinion from EOUSA permitting her to accept donations of the use of the auditorium from the law school and refreshments for the reception from the Federal Bar Association.

Department policy regarding the use of official funds for swearing-in ceremonies is provided in The United States Attorneys' Executive Handbook (Handbook), a manual addressing the most common issues that United States Attorneys face during their tenure. The Handbook provides that "Generally, total expenses for the ceremony should not be expected to exceed $500." It further provides that, "[f]or an official event (e.g., change of command/swearing in ceremony), a reasonable number of invitations to the ceremony may be purchased using appropriated funds and charged to your office's budget" and that "United States Attorneys do not have statutory authority to purchase meals or snacks for a Swearing-In Ceremony, so meals or snacks may not be purchased using government funds." While as a general rule, the cost of photographs of individual government employees is a personal expense not chargeable to appropriated funds, the Handbook provides that "[f]or an official event (i.e., Swearing-In Ceremony, awards ceremony, visit by the Attorney General, etc.), though, a reasonable number of photographs of the ceremony may be charged to your office's budget."

b) Holiday Cards and Decorations

In December 2006, USA Paulose requested the office purchase a Christmas tree to "improve the office morale . . . .unless there is a specific rule or regulation which prohibits us from obtaining one." She also requested the purchase of holiday cards to send to agencies that have assisted the office in the past year "unless prohibited by rule or regulation." Administrative personnel contacted the financial management staff at EOUSA for guidance and were advised by e-mail on December 15, 2006 that the cost of seasonal greeting cards is a personal expense and may not be purchased with agency funds, nor may the seasons greetings be transmitted in the form of a letter, rather than a card. As to the holiday tree, EOUSA advised that seasonal decorations

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[3] These expenditures were excluded from the $500 allotted for the investiture because Department policy attributes expenses for items such as cardstock, postage, and office plants loaned for the reception to normal operating expenses not included in the modest amount permitted for swearing-in ceremonies.

may be purchased with agency funds when the purchase is for a work-related objective, such as improving office morale, if the purchase is not primarily for the personal convenience or satisfaction of a government employee and if in implementing the decision the agency is appropriately sensitive to the display of religious symbols. However, it was recommended that the office contact General Counsel's office for an ethics opinion. General Counsel's Office reviewed the request and e-mailed an opinion on the same day concluding that the purchase of a Christmas tree with appropriated funds would be inappropriate.

When interviewed, the complainant stated that USA Paulose was very angry that the administrative staff contacted EOUSA to inquire whether this was an appropriate expense. The complainant provided an e-mail from USA Paulose addressed to him on December 20, 2006. The subject was: "Got your messages, Grinch." In it USA Paulose acknowledges receipt of the e-mails from EOUSA and stated that she thought she disagreed with the complainant's interpretation but would discuss it with him when convenient. The substance and tone of the e-mail do not suggest that USA Paulose was angry and the complainant acknowledged that USA Paulose followed EOUSA's advice; the office did not purchase the holiday cards and Christmas tree.

(c) Place Settings and Flatware

The complainant related that in 2007, USA Paulose e-mailed him concerning a luncheon or breakfast she planned to host in her conference room with a senior staffer for the governor. USA Paulose allegedly wanted the office to purchase place settings and flatware for this occasion. The complainant explained that USA Paulose became very angry when he advised her that such expenditures are prohibited and provided her with a copy of Department policy on the subject. The complainant later learned that USA Paulose instructed the AO to purchase plates and flatware for the office because "every office should have these items." However, the AO reportedly decided to save time and simply bring in plates and flatware for office use. The complainant stated that USA Paulose became "livid" with the AO when she learned of this plan from her Legal Assistant. However, the office did not purchase the place settings and flatware.

When questioned regarding this matter, USA Paulose explained that she thought purchasing place settings (which could be re-used) from Target for $30 would be more cost effective and environmentally-friendly than using disposables and, although the purchase was never made, the AO told her it was permissible.

Findings

The evidence fails to support the claim that USA Paulose engaged in gross mismanagement and abuse of authority by constantly requesting that agency funds be

used to pay for receptions, meals, and other products not authorized to be purchased with federal funds. The complainant identified three separate instances in which the U.S. Attorney requested expenditures for what he believed were unauthorized purchases.

These requests were separate and distinct in time and nature and each purchase requested was for different items – holiday items in December 2006, swearing-in ceremony in January 2007, and reception serving items in 2007. Neither the timing nor the frequency of these requests suggest an effort to coerce or influence personnel to make unauthorized expenditures. Indeed, The Executive Handbook for United States Attorneys indicates that these are the types of issues that are "common for new U.S. Attorneys." When interviewed, the administrative officer stated that the U.S. Attorney would consistently ask if expenditures were in accordance with the rules and regulations. Moreover, U.S. Attorney Paulose sought advice regarding ethics and procurement restrictions as to as to each request and complied with the guidance -- even when she did not agree.

In two of the three instances identified by the complainant, no expenditures were made for the questioned items. As to the investiture ceremony, the USAO expenditures were consistent with Department guidance which generally limited expenditures to $500. While there were additional purchases which were related to the investiture (card stock, postage and office plants loaned for the reception), Department policy attributes these expenses to normal operating expenses not included in the modest amount permitted for swearing-in ceremonies.

There is no evidence that USA Paulose's requests that the office purchase items and services for her investiture, the Christmas holiday season, and an office reception "create[d] a substantial risk of significant adverse impact upon the agency's ability to accomplish its mission." As USA Paulose complied with the guidance provided concerning the use of agency funds for unauthorized purchases, and because no prohibited or unauthorized purchases were made, there is no evidence to support a finding that her actions in requesting these expenditures constituted an "arbitrary or capricious exercise of power." Therefore, the claims of gross mismanagement and abuse of authority cannot be sustained.

5. UNSECURED CLASSIFIED INFORMATION.

According the Special Counsel's transmittal letter, the complainant alleged that he discovered in March 2007:

> "that classified information had been routinely left unsecured and

> unattended in USA Paulose's office."

The complainant also alleged that classified information was kept in a binder that was:

> stored unsecured on a bookshelf in USA Paulose's office. Office employees, some without clearance, and building maintenance personnel, have access to this office.

The complainant alleged that "keys to USA Paulose's Secure Telephone Unit (STU) were kept in an unapproved file cabinet."

Finally, the complainant alleged that "no inquiry or investigation of the matter was done as required."

Security Requirements

Department of Justice requirements for safeguarding classified information and the storage of crypto-ignition keys (CIKs) (which control access to secure telephone units (STU III)) are contained in DOJ's "Security Program Operating Manual" (SPOM).

Chapter 6, Section 2, of the SPOM sets forth the requirements for the storage of classified information. At a minimum, any time classified material is not under the personal control of an authorized or appropriately cleared person, it must be guarded or stored in a locked security container or an open storage area approved by the Department Security Officer (DSO).

Chapter 9, Section 2, part 204, of the SPOM provides that a CIK must be removed from the STU III terminal when authorized persons are not present. When the CIK is stored in the same room as the STU III terminal, it should be stored in an approved security container. "The CIK may also be stored in an area apart from the terminal under the best conditions available (e.g., a locked cabinet or desk may be sufficient)."

Chapter 1, Section 3, of the SPOM, part 1-320(h), provides:

> Any incidents that indicate an employee knowingly or willfully violated security policies established for the protection of classified or sensitive information shall be reported.

Chapter 1 of the SPOM also requires that a preliminary inquiry of the alleged violation be conducted by DOJ's Security Program Manager (SPM). Where that inquiry confirms a violation involving classified information may have been committed by an attorney not

engaged in litigation, grand jury proceedings, or giving legal advice, the initial report of a suspected security violation is to be submitted to OIG and to the Department Security Officer (DSO) for adjudication.

Factual Summary

On about March 30, 2007, the district of Minnesota Intelligence Specialist (IS) reported to the complainant the IS's concern about the storage of a binder containing classified and unclassified material on a bookshelf in the U.S. Attorney's personal office. The IS thought the U.S. Attorney should be reminded that the binder should be kept in a locked container. About this same time, the complainant claims he discovered that the CIKs for the STU III terminal had been improperly stored in a file cabinet outside of USA Paulose's office, in the work area of the U.S. Attorney's legal assistant.

The following week, on April 2,[4] the complainant submitted a written security violation report to the SPM. Prior to the complainant submitting the report, the IS contacted the SPM by phone and discussed the discoveries. The SPM advised that the alleged classified information storage violation would most likely be considered a security "incident" rather than a security "violation," given the information was kept in USA Paulose's locked office and the risk of improper dissemination was low.

The binder stored in USA Paulose's office was appropriately marked as containing classified information. The binder contained briefing information gathered by the IS for the review of USA Paulose and generally related to homeland security or terrorism issues. The IS further described the material as follows:

> Most of the documents are daily intelligence briefs from government agencies. Most of the classified material is regarding overseas activity unconnected to the District of Minnesota. Much of the unclassified material is a duplicate of what top officials in [the U.S. Attorney's Office] receive via electronic mail from law enforcement agencies. Finally, much of the material is unclassified.

Since about the summer of 2006, each week, the IS hand-delivered the binder to the U.S. Attorney's legal assistant. For the first several months, the binder was stored

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[4] The complainant resigned his temporary promotion to First AUSA on April 5, 2007.

in a secure safe and given to USA Paulose to review when she requested.

At some later point in 2006, for easier access, each week the IS would hand-deliver the binder to the U.S. Attorney's legal assistant. The legal assistant would store the binder received from the IS in the bottom desk drawer in USA Paulose's personal office. The legal assistant would then hand the IS the binder from the previous week. This process was repeated each week. The drawer was routinely locked when not in use. USA Paulose was often present in her office when the IS exchanged binders with the legal assistant.

By late fall 2006, when the IS brought the binder to USA Paulose's office, it was placed on a bookshelf in the office. The previous week's binder was returned to the IS at the same time.

At virtually all times when USA Paulose's office was not in use, it was locked. If not locked, the office doors were closed and the legal assistant monitored access from outside the office. Access to the locked office was limited to those with keys — USA Paulose, her legal assistant, the Administrative Officer, and the First AUSA. When cleaning staff were in USA Paulose's office, they were monitored by USA Paulose or her legal assistant and were never observed to engage in inappropriate behavior.

USA Paulose had two different legal assistants during her tenure. The second legal assistant assumed the duties of first in about October 2006. During their service as legal assistants to USA Paulose, the CIKs to the U. S. Attorney's STU III terminal were stored in locked file cabinets outside of USA Paulose's office, where the STU III terminal was located. The legal assistants were well aware of the requirement that the CIKs needed to be secured when not in use.

On April 17, 2007, USA Paulose submitted a supplement to the security incident report submitted by the complainant. USA Paulose accepted full responsibility for any security violations.

On July 12, 2007, a report was submitted to the DSO in the Justice Management Division (JMD) by the Assistant Director of EOUSA who oversaw the SPM.

On September 21, 2007, the DSO decided to take no further action given that USA Paulose had been given a security briefing by the district IS and DOSM and there were no extenuating circumstances.

As noted in footnote 4 of the Special Counsel's transmittal letter, EOUSA also initiated the "required" inquiry with OIG. OIG has subsequently advised, in light of the remedial actions taken, no further action was necessary or taken.

Findings

The allegation that USA Paulose improperly stored classified information in her personal office is sustained. USA Paulose has admitted classified information was improperly stored in her office. Immediate action was taken to properly secure the classified information at the time of the discovery and in the future. Those responsible for the improper storage of classified information have admitted their involvement and accepted responsibility for their actions. They have also been briefed as to the proper procedures for handling and storing classified information.

There is no evidence to suggest that USA Paulose's legal assistants ever examined the contents of the briefing binders containing classified information. USA Paulose's first legal assistant had the appropriate security clearance. The second legal assistant did not have appropriate clearance until after the report was made by the complainant. The second legal assistant, who continues to serve as the legal assistant to the current United States Attorney, now has a top secret clearance.

Although the classified information was improperly stored and handled, the risk of improper dissemination was extremely low. The U.S. Attorney's Office took immediate remedial measures to ensure that classified information was properly stored and only handled by those with appropriate security clearances. The information was initially stored properly and it appears only over time that the storage failed to meet standards, due to a desire to make the information more readily accessible to the U.S. Attorney. There was no deliberate disregard of the security requirements; no damage done as a result of the improper storage and handling; nor was this part of a pattern of carelessness with regards to DOJ security requirements. Indeed, the matter was brought to the attention of the complainant by the IS for the purpose of raising the issue with USA Paulose and ensuring she was aware of the security requirements. USA Paulose accepted full responsibility and immediately agreed to the corrective measures taken to properly secure the classified information.

In light of the above, we conclude that appropriate action has already been taken.

The allegation that the CIKs for the STU III terminal were improperly stored is not founded. When not in use, the CIKs were stored in an appropriate locked container as required by the SPOM.

Finally, the allegation that "no inquiry or investigation" of the alleged security violations was conducted as required by "Chapter 1, Section 3" of the SPOM is also unfounded. The incident involving the alleged mishandling of classified information was reported to the DSO through the SPM. The SPM also reported the matter to OIG. The

DSO considered the matter to be a security "incident" rather than a security "violation." The SPM determined that no further action was warranted given the lack of extenuating circumstances and the remedial actions taken to heighten awareness of the security requirements. As noted above, the CIK allegations did not violate the security requirements for storage of a CIK. Given that neither of the matters reported by the complainant were considered to rise to the level of a "violation," the actions taken to report and investigate complainant's allegations exceeded what was required by the SPOM.

IV Conclusion

The evidence fails to support the claims that USA Rachel Paulose caused several management officials to resign due to her heavy-handed and inappropriate management of the office; that she delayed implementation of Project Safe Childhood in favor of planning and executing her investiture; that she directed staff not to communicate directly with the media and the Department of Justice, thereby hampering operations of the office and adversely affecting the mission of the office; and that she routinely requested the use of agency funds to pay for receptions, meals, and other products not authorized to be purchased with federal funds. While the evidence does support the claim that she improperly stored classified information in her personal office, we conclude that appropriate action has been taken.

As a result, the charge that Rachel Paulose grossly mismanaged the U. S. Attorney's Office for the District of Minnesota and engaged in abuses of her authority as the U.S. Attorney has not been substantiated by a preponderance of the evidence.

David Margolis
Associate Deputy Attorney General

V Appendix

Witness List
Exhibits and Attachments

Witnesses Interviewed
(Alphabetical Order with current titles)

Tracey Braun, Assistant U.S. Attorney, Western District of Texas
Gregory G. Brooker, Chief, Civil Division
Tamara A. Cuddihy, Legal Assistant
Nicole A. Engisch, Acting First Assistant U.S. Attorney
Anders Folk, AUSA, District Office Security Manager
James E. Lackner, Assistant U.S. Attorney
Frank J. Magill, Acting United States Attorney
Karen Malikowski, Legal Assistant
John R. Marti, Assistant U.S. Attorney
Ericka R. Mozangue, Assistant U.S. Attorney
Mary Nelson, Administrative Officer
Jeffrey S. Paulsen, Chief, Criminal Division
Rachael K. Paulose, Counselor to the Assistant Attorney General, Office of Legal Policy
Carl Wahl, Intelligence Specialist

Exhibits

Letter dated November 19, 2007 from Special Counsel Scott J. Bloch reported to Attorney General Michael Mukasey

Letter of resignation from Timothy Anderson to Rachael PAULOSE dated April 4, 2007

Letter of resignation from James Lackner to Rachael Paulose dated April 4, 2007

Letter of resignation from John R. Marti to Rachael Paulose dated April 5, 2007

Letter of resignation from Erika R. Mozangue to Rachael Paulose dated April 5, 2007

Letter to Rachel Paulose from USAO supervisors dated requesting USA Paulose issue a statement to the media to "set the record straight"

Section 1-7.00, U.S. Attorneys Manual, Media Relations

Extract from U.S. Attorneys Executive Handbook, Revised June 2006

2007 Annual Report of the U.S. Attorney's Office for the District of Minnesota

Memorandum dated July 6, 2006 from Rachael Paulose to U.S. Attorney's Leadership Team regarding Communications

Investiture Planning Checklist

Purchase Card Transaction form dated March 16, 2007 for purchase of USA Embossed Note cards and Envelopes

Purchase Card Transaction form dated February 28, 2007 for purchase of photos at U.S. Attorney Investiture Ceremony

Purchase Card Transaction form dated January 24, 2007 for purchase of cardstock.

Purchase Card Transaction form dated March 21, 2007 for rental of plants

Order for Supplies and Services dated February 14, 2007 for production of video of the investiture ceremony for the U.S. Attorney

Facsimile dated February 21, 2007 from Bob McNaney, Eyewitness News to Rachael Paulose Regarding Investiture Plans

E-mail from John Marti to Rachael Paulose dated October 20, 2006 Regarding Civil Division Realignment

E-mail from Allen Durand to John Marti dated December 15, 2006 Regarding Ethics Question Regarding the Purchase of Christmas Tree Using Appropriated Funds

E-mail from Rachael Paulose to John Marti Dated December 20, 2006 Regarding Purchase of Holiday Items

E-mail from John Marti to Rachael Paulose dated December 20, 2006 Regarding EOUSA Financial Management Manual Regarding Greeting Cards

E-mail from John Marti to Rachael Paulose dated January 3, 2007 regarding Question Regarding Purchase of Holiday Items

Electronic Calendar Entry for First AUSA John Marti, dated January 10, 2007, concerning need to start planning investiture

E-mail string from Rachael Paulose to General Counsel's Office regarding Investiture Guidance, beginning January 10, 2007 through February 26, 2007

E-mail from to John Marti to Rachael Paulose dated January 12, 2007 @ 4:40 p.m. Regarding Investiture

E-mail from Rachael Paulose to John Marti dated January 12, 2007 @ 6:13 p.m. Regarding Investiture

Email from DMN IS dated April 4, 2007, concerning discussions with DOJ Information Security Program Manager

Email from DOJ Director, Security and Emergency Planning, dated September 20, 2007, stating no further action to be taken on security incident report

Email from John Marti dated November 16, 2007, to supervisors complaining about statement in Scott Johnson Internet blog attributed to USA Paulose

Email from John Marti dated November 17, 2007, to supervisors attaching internet news account of USA Paulose's denials, and asking "So, what next?"

Star Tribune news story dated April 6, 2007, captioned: "3 federal prosecutors quit manger posts"

New York Times news story dated April 7, 2007, captioned: "Top Aides to U.S. Attorney Step Down"

Star Tribune column dated April 24, 2007, captioned: "About that lunch with Heffelfinger? "We"re friends," Paulose

Star Tribune news story dated March 4, 2007, captioned: "Getting Tough on Child Porn"

Powerline Blog, November 16, 2007 by Scott Johnson regarding allegations against USA Paulose

Star Tribune news story dated November 17, 2007, captioned: "Paulose breaks her silence"

Star Tribune news story dated November 19, 2007, captioned: "Paulose steps down, takes D.C. job"

Transcript of Attorney General Alberto Gonzales One-Year Anniversary Speech Announcing Project Safe Childhood, dated February 15, 2006

PSC Strategic Plan, August 2006

PSC Priority Point of Contact Report to USA Paulose – December 2006

PSC Priority Point of Contact Report to USA Paulose – January 2007

PSC Priority Point of Contact Report to USA Paulose – February 2007

PSC Priority Point of Contact Report to USA Paulose – March 2007

PSC Priority Point of Contact Report to USA Paulose – April 2007

PSC Priority Point of Contact Report to USA Paulose – May 2007

PSC Priority Point of Contact Report to USA Paulose – June 2007

PSC Priority Point of Contact Report to USA Paulose – July 2007

PSC Priority Point of Contact Report to USA Paulose – August 2007

PSC Priority Point of Contact Report to USA Paulose – September 2007

PSC Priority Point of Contact Report to USA Paulose – October 2007

PSC Semi-Annual Report, dated March 5, 2007

PSC Semi-Annual Report, dated September 17, 2007

Security Incident Report to EOUSA from John Marti, dated April 2, 2007

Supplemental Security Incident Report to EOUSA from USA Paulose, dated April 12, 2007

EOUSA Security Incident Report to DOJ Security Officer, dated July 12, 2007

DOJ Security Program Manual — Table of Contents and Chapter One – General Provisions and Reporting Requirements

DOJ Security Program Manual — Chapter Six – Safeguarding Requirements

DOJ Security Program Manual — Chapter Nine — Communications Security