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April 10, 2012

Rep. Elaine Nekritz, Chair
Rep. Dennis Reboletti, Minority Spokesman
Special Investigating Committee
Illinois House of Representatives
97th General Assembly

Re: Illinois House of Representatives Special Investigating Committee

Dear Representatives Nekritz and Reboletti:

We have received your letter dated April 3, 2012, regarding the Special Investigating Committee's inquiry regarding Illinois Representative Derrick Smith and the allegations contained in a federal criminal complaint filed by this office charging Representative Smith with bribery. Broadly speaking, you have requested that this office provide the Committee with certain documents and identifying information underlying the allegations in the criminal complaint, as well as our view on certain investigative steps the Committee wishes to pursue in conducting its own investigation of the same bribery allegations, including whether the Committee's interviewing Representative Smith would interfere with the federal investigation.

We appreciate the Committee's recognition of the sensitivity of our ongoing criminal investigation, and its forbearance in not engaging in any active investigation that would interfere with the federal criminal process. We also appreciate the Committee's constitutional obligation to conduct its inquiry of the allegations against Representative Smith in a timely manner.

However, it is our view that, at present, the requirements of the federal criminal process cannot be reconciled with a public disclosure of the government's evidence to the Committee or with a separate, but necessarily parallel, investigation by the Committee.

As you know, today a federal grand jury returned a one count indictment charging Smith with bribery. Although the allegation which underlay the federal complaint forms the basis of the indictment, I can tell you that our investigation of Representative Smith is continuing, and it is our strongly held belief that any disclosure of the government's evidence or active inquiry conducted by


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the Committee into the allegations of the federal indictment will likely interfere with our pending case and ongoing investigation.¹

As much as we understand the Committee's need to respond to the allegations concerning Representative Smith, the information that led to the current charges was entirely the result of our investigation, and this office must treat that criminal investigation and the charged case as our primary concern. We therefore find ourselves at this time unable to provide the Committee with the information it seeks or to agree that an investigation by the Committee would not adversely affect our investigation or prosecution.

Again, we greatly appreciate the Committee's deferential treatment of our investigation and your stated desire to avoid interfering with the federal criminal process. We assure the Committee that we will provide whatever assistance the law allows once we determine that such assistance will not materially jeopardize our prosecution.

Very truly yours,


PATRICK J. FITZGERALD
United States Attorney

¹We do not, however, believe that an interview of Representative Smith by the Committee will create any issues with the pending indictment or continuing federal investigation.