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08 September 2015

The Honorable Loretta Lynch
Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C 20530-0001

Re: Failed Response to Gang Leader's Death Threat to AUSA

Dear General Lynch:

We are writing to express our grave concern about information that has come to our attention regarding the manner in which a recent death threat against then Assistant United States Attorney Denise Walker was handled by United States Attorney Thomas Walker and First Assistant U.S. Attorney John Bruce in the Eastern District of North Carolina.

The information we have received, as set out below, indicates that there were potential breaches of the duty of candor to the court, violations of the duties and responsibilities imposed under the Victim's Rights Act, and the exercise of extraordinarily poor judgment, possibly constituting malfeasance. In raising these concerns, we emphasize that we have not conducted an exhaustive investigation of this matter, nor spoken with U.S. Attorney Walker or First Assistant U.S. Attorney Bruce. Nonetheless, the seriousness of their conduct, as told by unchallenged public accounts of the relevant events, obligates us to report this matter to you. We ask that a full investigation be conducted by the Department and that appropriate action be taken.

On 31 August 2015 the *Carolina Journal Online* published an article entitled "Gang Leader Sought Prosecutor's Murder."¹ We have corroborated much of what is contained in that article. The article reports that in March of 2013 then AUSA Denise Walker was the object of credible threats to her life by a particularly violent gang

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http://www.carolinajournal.com/exclusives/display_exclusive.html?id=12342&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%253A%2520cjexclusives%2520%2528JLF%2520%253E%2520CJ%2520Exclusive%2529

member—in fact, a gang member who had been hired by a high-level drug trafficking organization to kidnap, torture, and kill an underling to recover \$150,000 in drug proceeds.

The facts leading up to the threat against the AUSA are as follows. By early 2012 a federal task force was investigating a violent gang that specialized in home invasions, business robberies, and gun trafficking. The gang's leader was Reynaldo Calderon. The lead prosecutor in the investigation and ensuing prosecution was Denise Walker, an experienced, respected, and hard-working AUSA. During undercover meetings with an informant, gang members revealed that they had committed a murder. After the arrest of several gang members, AUSA Walker and the investigators—using mandatory minimum penalties—were able to persuade some of the gang members to cooperate with law enforcement authorities. As a result they learned that Reynaldo Calderon was hired by a high level drug trafficker to kidnap, torture, and kill an individual, Geniro Jamis, who the trafficker believed had stolen \$150,000 in drug proceeds.

To complete the kidnapping, the Calderon gang impersonated the police using blue lights to stop the victim while the victim was travelling with his wife and children. Seven masked gang members then kidnapped Jamis and one of his sons at gunpoint in front of the other family members. Eventually they released the son at a remote location and took Jamis to Calderon's property where they tortured him with a torch and then put him into an open hole, shot him in the head with a shotgun, and buried him.

Through cooperators and corroborating evidence, AUSA Walker was able to recover the victim's body and develop a solid prosecutable case against Calderon. Calderon was charged with and eventually pled guilty to conspiracy to interfere with interstate commerce by robbery, in violation of 18 U.S.C. § 1951; possession of a firearm in furtherance of a crime of violence and aiding or abetting the same, in violation of 18 U.S.C. § 924(c)(1)(b)(1), and 18 U.S.C. § 2; conspiracy to distribute and possess with the intent to distribute five kilograms or more of cocaine, in violation of 21 U.S.C. § 846; kidnapping resulting in death and aiding and abetting the same, in violation of 18 U.S.C. § 1201(a) and 18 U.S.C. § 2; and kidnapping and aiding and abetting the same, in violation of 18 U.S.C. § 1201(a) and 18 U.S.C. § 2. As a result of these convictions Calderon was facing a life term of imprisonment.

Those consequences apparently motivated Calderon to take action against AUSA Walker, who, as the lead prosecutor, had overseen and likely in Calderon's view prompted the coconspirators to assist the government and disclose the scope of his criminal conduct. Prior to sentencing, the United States Marshals Service (USMS) learned that Calderon had threatened AUSA Walker's life. The USMS quickly moved AUSA Walker and her family to a secret location where they were protected for over six weeks. Once it was determined that it was safe to do so, AUSA Walker was allowed to return home and to work at her office. Citing the threat and the potential conflict it created, however, the office removed her from the case.

The following events are what cause us to draw the case to your attention. After the threat, the issue was discussed between AUSA Walker and her superiors: U.S. Attorney Thomas Walker and FAUSA Bruce. According to AUSA Walker's on-the-record statement to the sentencing judge, FAUSA Bruce minimized the seriousness of the gang threat against Walker and said: "Well your family is from this area . . . so surely they all have guns anyway." Worse, the US Attorney responded, "Well perhaps if you weren't so aggressive, people would stop trying to kill

you.” Importantly, at no time did anyone tell AUSA Walker that any official determination had been reached undermining or discounting the credibility or seriousness of the threat.

Later, AUSA Walker learned that the office was considering giving Calderon favorable treatment and a reduced sentence. AUSA Walker was, of course, opposed this.

Over AUSA Walker’s objection, and without securing the assent of the investigative agents assigned to the case, the USAO allowed Calderon—a gang leader who had overseen the torture and execution of at least one person and who had threatened the life of an AUSA—to cooperate (that is, to provide information with the goal of receiving a more lenient sentence). The exact parameters of the post-plea agreement with Calderon have not been made public but apparently included a promise by the government to (1) file a motion for a downward departure under USSG § 5K1.1 (a motion representing that Calderon’s cooperation rose to the level of substantial assistance); (2) drop the life sentence in favor of a thirty year term of imprisonment; and (3) not disclose the threat against AUSA Walker to the sentencing judge.

Consistent with that agreement, the AUSA assigned to replace Walker and to represent the government at sentencing said nothing about the threat either to the U.S. Probation Officer assigned to collect the facts for the sentencing judge and write the presentence report or to the sentencing judge during the sentencing hearing. The information was ultimately included in the PSR as an addendum and raised at the sentencing hearing only because AUSA Walker, who had resigned in protest by then, insisted.

Additionally, despite the fact that the case was a kidnapping-torture-murder case with multiple victims, it has been reported that at some stage in the proceeding well before sentencing, the USAO victim witness coordinator was removed and at no time has former AUSA Walker been contacted or informed of the progress of the threat investigation or other legal proceedings in the Calderon case.

As noted at the outset, these facts raise a host of concerns. First, and this hardly needs elaboration, all attorneys have a duty of candor to the courts, and that duty is especially strong for representatives of a sovereign. By agreeing not to disclose a death threat — a fact that could not be more material in the sentencing of a violent gang member convicted of a kidnapping and execution killing—this duty was breached. The significance of this breach is highlighted by the fact that when AUSA Walker appeared at the sentencing hearing and revealed the relevant facts, the sentencing judge rejected the government’s thirty-year sentence recommendation and sentenced Calderon to life.

Second, removing the victim witness coordinator from the case—a case with several clearly identified victims—and leaving their rights unaddressed is a violation of the Victim’s Rights Act.

Third, negotiating with a gang member convicted of organizing and overseeing kidnappings and a murder-for-hire execution killing and who had threatened the life of an Assistant US Attorney is, at best, an extraordinarily poor exercise of judgment. When the government receives evidence that a criminal defendant has threatened the life of one of its prosecutors or agents, the only appropriate response is to terminate any ongoing cooperation and prosecute the individual to the full extent of the law. Here, the US Attorney and FAUSA instead shifted the blame to the

AUSA—“Well perhaps if you weren’t so aggressive, people would stop trying to kill you”—and essentially told her to deal with it herself—“Well your family is from this area . . . so surely they all have guns anyway.”

If accurate, this response is outrageous. Never in the long history of the Department of Justice has this been considered an appropriate response to a threat to kill a prosecutor. In fact, the Department has consistently made it clear, as it should, that threats are to be taken seriously. The actions taken here—negotiating with a murderous gang leader, agreeing to hide information from the sentencing judge, and blaming the AUSA—breach the Department’s most basic responsibilities to AUSAs and to the courts, and, if left unaddressed, will embolden criminals and jeopardize the integrity of the system and the lives and security of all AUSAs and agents.

We call on the Department to expeditiously conduct a full investigation into this case, gather the facts, and proceed appropriately.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. H. Cook".

Steven H. Cook
President, National Association of Assistant United States Attorneys