

**KOHN, KOHN & COLAPINTO, LLP**

ATTORNEYS AT LAW

3233 P STREET, N.W.

WASHINGTON, DC 20007-2758

TELEPHONE (202) 342-6980

WWW.KKC.COM

FACSIMILE (202) 342-6984

**URGENT MATTER - FOR THE IMMEDIATE ATTENTION  
OF THE ATTORNEY GENERAL**

April 26, 2004

**By Fax and First Class Mail**

**PRIVACY ACT PROTECTED**

Hon. John Ashcroft  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

**SUBJECT: URGENT MATTER REGARDING PROTECTION  
OF FEDERAL PROSECUTOR**

Dear General Ashcroft:

I am writing on behalf of my client, Assistant United States Attorney for the Middle District of Florida Jeffrey J. Del Fuoco. Since June 2001, Mr. Del Fuoco and his family have been subjected to improper and illegal harassment in violation of the Civil Rights Act of 1871, 42 U.S.C. 1985. This law prohibits individuals from using any form of "intimidation or threat" against Mr. Del Fuoco in retaliation for his serving as an AUSA and/or "discharging" his "duties" as a federal employee. The intimidation and threats facing Mr. Del Fuoco include, but are not limited to, the illegal surveillance of Mr. Del Fuoco and his family, a death threat against Mr. Del Fuoco, and retaliatory, on-the-job harassment against Mr. Del Fuoco after Mr. Del Fuoco undertook reasonable and lawful steps to protect himself and his family. We hereby request the immediate assistance of the U.S. Department of Justice in protecting Mr. Del Fuoco, Mr. Del Fuoco's family, and the witnesses within the State of Florida who have provided evidence that Mr. Del Fuoco was subjected to "intimidation and threats."

Given the extremely serious violations of federal law implicated in this case, my office hereby requests an opportunity to meet directly with responsible investigatory officials of the U.S. Department of Justice in order to coordinate a good faith plan for the protection of Mr. Del Fuoco and a full investigation into the serious violations of 42 U.S.C. 1985 already documented by Mr. Del Fuoco.

The DOJ has been provided with a significant amount of information documenting the 1985 violations. However, by way of background, the violations stem from Mr. Del Fuoco's role in prosecuting a major public corruption case in Manatee County, Florida. Beginning in 1998, FBI Agents, the Florida Department of Law Enforcement, and Mr. Del Fuoco began a high profile corruption investigation into the unlawful conduct of the Manatee County Sheriff's Office. In 2001, Mr. Del Fuoco was the Federal AUSA responsible for the successful prosecution of six members of the Manatee County "DELTA" Squad. After these convictions, and in an apparent attempt to retaliate and threaten the AUSA responsible for the prosecutions (and intimidate him not to continue with his investigation into public corruption within Manatee County), on or around June 6, 2001, Barry Colman, a Deputy Sheriff of the Manatee County Sheriff's Office, asked Lola Foy, an analyst for the Manatee County Sheriff's Office, to improperly access confidential or law enforcement sensitive information about Mr. Del Fuoco. This is extremely significant because Mr. Del Fuoco's investigation in Manatee County also included a review of the conduct of the Sheriff's Office. The Sheriff of Manatee County, Mr. Charles Wells, believed that he and persons he supported were the subject of potential criminal proceedings which Mr. Del Fuoco initiated. Based on our information, Mr. Colman intended to use this private information for an improper purpose (i.e. to harm, injure, harass, and invade the privacy of Mr. Del Fuoco and his family).

Ms. Foy then used her authority to access the electronic crime information systems known as the Florida Crime Information Center and the National Crime Information Center in order to obtain private information regarding Mr. Del Fuoco's home address, date of birth, vehicle information, driver's licence number, and insurance information. Ms. Foy proceeded to obtain this information despite knowing that she was not running the computer inquiry for a lawful law enforcement purpose.

The improperly accessed, confidential, and privileged information was used to conduct surveillance of Mr. Del Fuoco, his residence, his family and to assist other persons in conducting such activities for the purpose of harming, injuring, harassing and invading the privacy of Mr. Del Fuoco and his family. These actions resulted in death threats on Mr. Del Fuoco and his wife in retaliation for his successful prosecution of the "DELTA" Squad and for his attempted investigation of Sheriff Wells.

In response to the threats to him and his family, Mr. Del Fuoco reported the malicious activities to the DOJ. However, the DOJ ignored the situation, and refused to intervene and protect Mr. Del Fuoco from the death threats and privacy violations. Due to the DOJ's uncooperative action, Mr. Del Fuoco filed a civil lawsuit against Charles B. Wells, Lola Foy, and Barry Colman.

As a result, Carla Del Fuoco wrote a five-page letter on July 28, 2003 to Beverly Jones from the Employee Assistance Program of the Executive Office for United States Attorneys to reflect their ongoing conversations and concerns. In her letter, Mrs. Del Fuoco stated that no one from the U.S. Attorneys office or the DOJ, besides Ms. Jones, contacted her or Mr. Del Fuoco to discuss the measures that would be taken to insure their safety. She explained that the Government's inaction prompted Mr. Del Fuoco to hold a press conference to alert the public about permissive criminal activity was allowed to happen and to contact the U.S. Marshals to request protection.

Federal law strictly prohibits actions taken by any person - including employees of the Manatee County Sheriff's Office - which threaten any federal employee due to that employee's work. For example, the Civil Rights Act of 1871, 42 U.S.C.A. § 1985, makes it a federal civil

offense for "two or more persons in any State or Territory to conspire to prevent by force, intimidation, or threat any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof." The conduct prohibited under section 1985 also constitutes a federal criminal offense. See 18 U.S.C.A. § 372. In this matter, Mr. Del Fuoco was clearly "discharging" his "duties" as a federal employee when he prosecuted and assisted in the investigation of public corruption cases in Manatee County, Florida. The improper accessing of confidential and privileged information about Mr. Del Fuoco combined with the death threats he reported, unquestionably constitute acts of intimidation or threats forbidden under federal law.

Mr. Del Fuoco reported the threats and privacy issues to employees of the U.S. Department of Justice, who were in a position to "aid" Mr. Del Fuoco in "preventing" further misconduct. Unfortunately, these employees - including management within the United States Attorneys Office - failed to take any action to protect Mr. Del Fuoco; thereby violating federal law. Again, the Civil Rights Act of 1871 requires that all persons, including management within the DOJ, who have "knowledge" of violations of section 1985, and "who have the power to prevent or aid in preventing the commission of civil wrongs [prohibited under the 1871 law] are under an obligation to assist Mr. Del Fuoco. The failure to provide such assistance is strictly illegal. See 42 U.S.C.A. § 1986. The act explicitly states that private persons or state officials, "who have the power to prevent or aid in preventing the commission of civil rights wrongs, but neglect or refuse to do so are liable." It further states that every person who has "knowledge that any of the wrongs," (as mentioned in 42 U.S.C.A. § 1985), "conspired to be done, are about to be committed [and] neglects or refuses [to] prevent or aid in preventing" the act despite having the power to do so, "shall be liable to the party injured, or his legal representative, for all damages caused by such wrongful act."

Given failure of Mr. Del Fuoco's chain of command to undertake any action whatsoever to protect Mr. Del Fuoco, we hereby request that a special prosecutor be appointed to work directly with Mr. Del Fuoco in order to ensure that the DOJ and its employees properly discharge their duties under 42 U.S.C.A. § 1986. Please be advised that Mr. Del Fuoco has specific information relevant to this letter, some of which has been provided to the DOJ. Unfortunately, when Mr. Del Fuoco attempted to provide additional information to his chain of command, the chain of command was unresponsive to his concerns and did not receive all of the information.

In accordance with the mandates set forth under federal law, including, but not limited to, the requirements of the Civil Rights Act of 1871, *as amended and augmented*, we hereby request the following:

1. That the United States intervene in the civil law suit filed by Mr. Del Fuoco in order to assist Mr. Del Fuoco in prosecuting the violations of federal law which have harmed Mr. Del Fuoco and his family. The basis for this intervention is an action under 42 U.S.C. 1985 to protect federal employees, such as Mr. Del Fuoco, in the performance of his duties;
2. Appoint an independent special prosecutor who shall work directly with Mr. Del Fuoco in investigating violations of 18 U.S.C.A. § 372 committed both by employees of the Manatee County Sheriff's office and other persons, including employees of the U.S. Department of Justice, regarding the intimidation of Mr. Del Fuoco and his family as a result of Mr. Del Fuoco's investigation and prosecution of public corruption cases in Manatee County, Florida;

3. The immediate reinstatement of Mr. Del Fuoco as the lead United States prosecutor on the follow-up cases related to the 1998 investigation of the Manatee County Sheriff's Office referenced in this letter;
4. A full investigation by an independent special prosecutor into whether campaign contributions and/or the political support given to various state and federal elected officials by the Manatee County Sheriff (and/or his supporters) resulted in any interference or delay into the public corruption prosecution of Manatee County officials previously led by Mr. Del Fuoco; and
5. Strict compliance by all employees within the DOJ regarding the DOJ's obligations under section 1986 to provide full protection and support for Mr. Del Fuoco.

Thank you in advance for your prompt and careful attention to this letter. If you or your representative would like to discuss this matter with me, please do not hesitate to contact my office. For your information, a copy of this letter has also been sent to the Attorney General of the United States and other persons employed by the U.S. Department of Justice who are in a position to provide Mr. Del Fuoco with the support and assistance required under federal law.

We look forward to your prompt and immediate assistance in this very important matter.

Respectfully submitted,



Stephen M. Kohn  
Attorney for Mr. Jeffrey J. Del Fuoco