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January 29, 2013

Honorable Patrick J. Leahy  
United States Senator  
Chairman, Senate Judiciary Committee  
437 Russell Senate Bldg  
Washington, DC 20510

Re: Byron "B" Todd Jones,  
Nominee for Director, Bureau of Alcohol, Tobacco, Firearms,  
and Explosives

Dear Senator Leahy:

I'm writing you and the other members of the Senate Judiciary Committee to provide information for your consideration regarding the potential confirmation of B. Todd Jones, recently nominated by President Obama for Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). I recently retired from the Federal Bureau of Investigation (FBI) as the Special Agent-in-Charge (SAC) of the Minneapolis Division, where I was responsible for the FBI's investigative activities in Minnesota, North Dakota, and South Dakota. During my tenure as the SAC, my responsibilities included coordinating the FBI's investigative efforts with the three U.S. Attorneys (USAs) within the division's large territory. My personal interactions with USAs Timothy Q. Purdon (ND) and Branden V. Johnson (SD) were always congenial and productive, and their respective offices diligently worked to support the FBI with ongoing investigations and assertively prosecute cases. However, my experience with Mr. Jones, in his capacity as the USA for the District of Minnesota, was completely opposite- unproductive; so much so, I feel morally compelled to make your committee aware of Mr. Jones' atrocious professional reputation within the federal law enforcement community in Minnesota's Twin Cities area. As a retired FBI senior executive, I am one of the few voices able to publicly express our complete discontent with Mr. Jones' ineffective leadership and poor service provided to the federal law enforcement community without fear of retaliation or retribution from him. He was, and still remains, a significant impediment for federal law enforcement to effectively protect the citizens of Minnesota from violent gang, drug, and gun activities. I intend to provide compelling and verifiable facts in this letter which will expose Mr. Jones for his lack of team work and poor leadership. I, and many others, have concluded B. Todd Jones is substantially motivated by personal political gain and not by doing what's in the best interest of the citizens he is sworn to protect.

By way of background, I served as the FBI's SAC-Minneapolis from May 2, 2011 through May 2, 2012, after which I retired in good standing and relocated back to south Florida. During my tenure in Minneapolis, the ineffective support provided to the FBI by Mr. Jones and his office on violent crime, gang, and drug matters was a constant cause of complaints from hard working Special Agents and mid-level managers in my office. The morale of many Special Agents was negatively impacted by the constant inaction of the US Attorney's Office (USAO) under Jones' leadership.

I quickly learned the other federal law enforcement agencies in Minneapolis-Saint Paul were having the same issues with Mr. Jones and his office. All of us were very frustrated with Mr. Jones' ineffective leadership and his lack of concern about matters and issues brought to his attention by each of us. Our common dissatisfaction with Jones' poor leadership, pathetic interaction, and insufficient prosecution support was the theme of many discussions during my tenure. The reaction to our combined frustration is evidenced by the increase in significant gang and drug cases being referred by federal agencies to Dakota, Hennepin, and Ramsey counties for prosecution in state court. This trend is indicative of Mr. Jones' low-level support to federal law enforcement in the violent crime, gang, and drug arenas, and our frustration with the constant obstacles placed upon us by certain inefficient personnel in his office. The only time I reached a palatable solution to a problem was when I met with First AUSA John Marti, a man of integrity, and one who follows through on his word. Unfortunately, Mr. Marti, being true to his Marine Corp heritage, followed the orders of his boss and could only do so much.

The local federal law enforcement agency heads met with Mr. Jones as a group or alone on almost a monthly basis, during which our common issues of dissatisfaction were usually brought to his attention. He consistently reacted defensively and often spoke to us disrespectfully, and occasionally with disdain. For example, I recall one meeting at which I and another agency SAC expressed our concern regarding Assistant United States Attorney (AUSA) Carol M. Kayser, Mr. Jones' chief of the violent crime and drug section, who consistently declined to file federal charges in armed bank robbery cases and significant violent gang investigations impacting the safety and welfare of the citizens in the Twin Cities metropolitan area. I received constant complaints from Special Agents and managers in my office about Ms. Kayser's abrasive interactions with the Agents and supervisors, who often described her as antagonistic, and claimed her rationales for not filing cases were inconsistent. After many discussions with my federal counterparts about their significant frustration caused by Ms. Kayser's in-actions impacting Agents investigating violent crime, gang, and drug matters, I've come to believe Ms. Kayser is single-handedly responsible for the disenfranchisement and destruction of relationships between the USAO and the federal agencies involved with guns and drugs.

It was unfathomable to me why Mr. Jones would always vehemently defend the actions of Ms. Kayser, even when the facts presented to him were clearly alarming and would cause concern for any judicious executive manager. While researching Ms. Kayser's history with the USAO, I learned that immediately upon Jones taking office, he promoted Ms. Kayser to chief of the violent crime and drug section, when she had less

than a year in the office and had no previous management experience. I further learned, coincidentally, but not surprisingly, Ms. Kayser is the daughter of Thomas C. Kayser, a close friend of Mr. Jones, and Partner at Jones' previous employer, the law firm of Robins, Kaplan, Miller, and Ciresi. According to public records, Mr. Kayser is a huge financial contributor to the Democratic Party. Suddenly it became clear to me that Mr. Jones is motivated by personal political gain and not by advancing the safety and welfare of the citizens of the State of Minnesota. It's evident that Jones protects Ms. Kayser at all cost to ingratiate favor with others within the Democratic Party.

During my tenure as SAC, I also met many times with the Police Chiefs of significant local law enforcement partners to discuss the lack of federal prosecutions and support provided by the USAO on significant violent gang cases being investigated jointly by the Safe Streets Violent Crimes Task Force (SSVCTF). We all agreed that the U.S. Attorney's Office, under Mr. Jones' leadership, was incapable of producing the required results for our needs and we decided to refer certain cases for prosecution to state court. For example, I and other members of the SSVCTF executive committee authorized a significant drug/gang investigation involving a Hmong gang importing and distributing methamphetamine in the Twin Cities area to the Hennepin County Attorney's Office (HCAO). The HCAO provided great support to this investigation and is successfully prosecuting the case, which became one of the largest drug cases ever prosecuted in Hennepin County. The case netted 16.1 lbs of methamphetamine, the seizure of two hand guns and approximately half a million dollars in cash. This was certainly not a "street level" case of low importance to the community. To date, eleven defendants have pleaded guilty and seven more are set for trial. When media and others inquired with the USAO as to why the case was not taken federally, their reply was that the case had been "undersold" when it was presented by the case Agent and Supervisory Special Agent to AUSA Carol Kayser. The USAO response could not be further from the truth. This is just one example of Ms. Kayser's poor judgment when assessing cases for federal prosecution. I personally spoke to Mr. Jones about this matter, in the presence of another local agency head, and was told that if our Agents didn't like his prosecution guidelines, "tough shit."

The RICO prosecution in state court by Hennepin County of the Gustafson father and son team for their involvement in homicides, home invasions, extortion, drugs and gun violence is another example of an FBI case "passed" on by the USAO, yet successfully prosecuted by Hennepin County Attorney Michael Freeman in state court. These decisions by Mr. Jones and his "protected few" to decline the prosecution of dangerous criminals in the federal court system are inexcusable.

In a recent newspaper article in the Minneapolis *Star Tribune*, dated December 31, 2012, it was noted,

*[c]riminal prosecutions have dropped dramatically at the U.S. Attorney's office in Minneapolis under the leadership of B. Todd Jones, ranking some in law enforcement."*

My experiences with Mr. Jones absolutely concur with this statement. The article continues,

*"[a] Star Tribune analysis of federal prosecutions in Minnesota in the past six fiscal years shows that significantly fewer people are being charged – especially those involved in drug crimes."*

*Jones acknowledges that his prosecutors are rejecting some "street-level" cases they might have taken in the past, leaving them to county attorneys.*

Federal prosecutors are focusing on labor-intensive cases involving criminal organizations, complex white-collar crimes and international terrorism, as well as crimes that have exclusive federal jurisdiction such as bank robberies, Indian Country crimes and securities law violations. "If some elements in law enforcement disagree with that prosecutorial decision ... then I'm sorry," Jones said. "The worlds changed, and we have different priorities."

I obtained statistics from the official US Department of Justice (DOJ) website for the Minneapolis USAO which establishes the excuses Jones provided to *Star Tribune* reporter Dan Browning are completely disingenuous. The DOJ maintains statistical accomplishments for every USAO, in every criminal category, for each fiscal year (FY). I have charted relevant stats below for the Minnesota USAO during Mr. Jones' tenure and added some analysis and comment. Mr. Jones assumed office as USA for his second term in August 2009. The first chart depicts the number of defendants charged overall during each FY. Note the significant reduction overall in FY 2012 from FY 2011.

Defendants Charged by Minneapolis USAO	
FY 99	475
FY 00	525
FY 01	485
FY 02	516
FY 03	512
FY 04	637
FY 05	525
FY 06	649
FY 07	668
FY 08	653
FY 09	531
FY 10	482
FY 11	546
FY 12	329 ( <i>Down 40% from FY 2011</i> )

Note: By comparison, in FY 1999 the office had approximately 1/3 fewer AUSAs than it did in FY 2012. As each chart below shows, Mr. Jones' statistical accomplishments for FY 2012 are significantly down in every category.

The remaining charts show the number of defendants charged in each category:

<b>Counter-Terrorism</b>	
FY 09	15
FY 10	13
FY 11	2
FY 12	2 ( <i>No Change from FY 2011</i> )

In the referenced newspaper article, Mr. Jones claimed his new priority is focusing USAO resources on certain complex crimes, including terrorism cases. However, more accurately he has only two of approximately 54 AUSAs assigned to work full time on national security matters, which include counterterrorism, domestic terrorism, and foreign counterintelligence matters. Moreover, in April 2012, at the conclusion of a long term joint FBI / ATF undercover domestic terrorism investigation entitled "Operation Wrong Reich," Mr. Jones' office failed to charge one defendant claiming resource concerns. This investigation focused on a white supremacist group, who among other things, discussed plans to bomb the Mexican Consulate in Saint Paul. Defendant Teresa White, along with her husband, Sam Johnson- a convicted felon, and Joseph Thomas, also a convicted felon, were arrested on a multitude of federal charges. But suddenly, without concurrence from the FBI or ATF, Mr. Jones' office declined to pursue legitimate federal charges against Teresa White for an illegal straw purchase of a firearm, conspiracy to illegally transfer a firearm, and making false statements to federal law enforcement officials, claiming resource issues. Mr. Jones can't have it both ways- that is to say- he can't claim to be focusing USAO resources on terrorism matters, but fail to pursue established felony firearm charges against a domestic terrorism defendant.

<b>Drugs</b>	
FY 11	211
FY 12	122 ( <i>Down 42.2% from FY 2011</i> )

<b>Organized Crime Drug Enforcement Task Forces (OCDETF)</b>	
FY 11	124
FY 12	92 ( <i>Down 25.8 % from FY 2011</i> )

<b>Non-OCDETF Drugs</b>	
FY 11	87
FY 12	30 ( <i>Down 65.5% from FY 2011</i> )

<b>Guns and Violent Crimes</b>	
FY 11	125
FY 12	80 ( <i>Down 36% from FY 2011</i> )

<b>Public Corruption</b>	
FY 11	4
FY 12	0 ( <i>Down 100% from FY 2011</i> )

<b>Civil Rights</b>	
FY 11	4
FY 12	1 ( <i>Down 75% from FY 2011</i> )

<b>Government Regulatory Offenses</b>	
FY 11	19
FY 12	10 ( <i>Down 47% from FY 2011</i> )

<b>Immigration Matters</b>	
FY 11	37
FY 12	26 ( <i>Down 30% from FY 2011</i> )

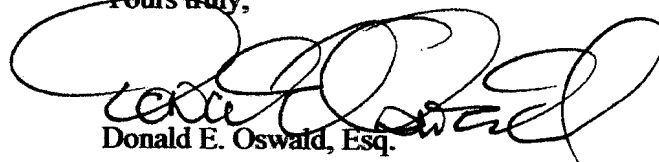
<b>Thefts</b>	
FY 11	14
FY 12	02 ( <i>Down 85.7% from FY 2011</i> )

<b>White-Collar Crimes</b>	
FY 07	94
FY 08	100
FY 09	68
FY 10	116
FY 11	125
FY 12	86 ( <i>Down 31.2% from FY 2011</i> )

<b>General Crimes</b>	
FY 11	4
FY 12	0 ( <i>Down 100% from FY 2011</i> )

In conclusion, I have no personal or political agenda for sending this letter other than speaking the truth. Ironically, I am a long-time registered Democrat and have supported President Obama in both elections. But I feel obligated to provide this information to your committee on behalf of many law enforcement professionals in the Twin Cities area unable to speak "on the record" out of fear of retaliation and retribution. The American public deserves the right to know the truth about the character traits of this nominee. I strongly believe Mr. Jones is neither a team player nor an effective law enforcement leader, but rather an individual who has used his power and influence for personal political gain. The only good that will come from his confirmation is the people of the State of Minnesota may get a new USA who will adequately fight violent crime in their state and support federal law enforcement to protect the safety and welfare of the citizens they are sworn to protect. I have many more examples of Mr. Jones' ineffective leadership and support, but will spare the readers of this letter any more pages to read. I urge your staff or the media to look into these concerns thoroughly. I have enclosed a copy of the FBI's news release when I was selected as the SAC, which summarizes my professional background and experience for your review. If I can be of any assistance to you or your committee, please do not hesitate to contact me.

Yours truly,



Donald E. Oswald, Esq.

CC: Members of the Senate Judiciary Committee  
 1-Senator Chuck Grassley  
 1-Senator Dianne Feinstein  
 1-Senator Orin B. Hatch

1-Senator Chuck Schumer  
1-Senator Jeff Sessions  
1-Senator Dick Durbin  
1-Senator Lindsay Graham  
1-Senator Sheldon Whitehouse  
1-Senator John Cornyn  
1-Senator Amy Klobuchar  
1-Senator Al Franken  
1-Senator Michael S. Lee  
1-Senator Christopher Coons  
1-Senator Tom Coburn  
1-Senator Richard Blumenthal

**MEDIA:**

Dan Browning, Minneapolis *Star Tribune*  
Amy Forliti, Associated Press





## U.S. Department of Justice

Federal Bureau of Investigation

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Washington, D.C. 20535-0001

**FOR IMMEDIATE RELEASE**  
**March XX, 2011**

**NATIONAL PRESS OFFICE**  
**(202) 324-3691**  
**[www.fbi.gov](http://www.fbi.gov)**

### **Donald E. Oswald Named as Special Agent in Charge of FBI's Minneapolis Division**

Director Robert S. Mueller, III appointed Donald E. Oswald the special agent in charge of the Minneapolis Division. In this role, he will oversee the FBI's operations in Minnesota and North and South Dakota. He most recently served as the chief inspector in the Office of Inspections.

Mr. Oswald entered on duty as a special agent in May 1992. He served in the Los Angeles Division and investigated bank robberies and street gang activities and also served as a division legal advisor. In 1994, he transferred to the New York Division, where he investigated complex multi-agency public corruption matters. Mr. Oswald also served for more than three years as associate division counsel in the New York Division.

Mr. Oswald was promoted in February 2000 to supervisory special agent in the Office of the General Counsel at FBI Headquarters and was assigned to the Investigative Law Unit. There, he provided advice and counsel concerning investigative operations and proposed undercover operations. Mr. Oswald's tour at FBI Headquarters also included an assignment as assistant inspector in the Office of Inspections.

In July 2003, Mr. Oswald was transferred to the Miami Division as a field supervisor for the South Florida Joint Terrorism Task Force squad, which was responsible for investigating matters related to state sponsors of terrorism. He also served as the division's International Terrorism Program Coordinator and was responsible for assisting with evaluating resource utilization and progress toward the goals and objectives of seven counterterrorism squads.

Mr. Oswald was promoted in December 2005 to assistant special agent in charge of the Miami Division's Field Intelligence Group, which included surveillance operations. Mr. Oswald also served as the chairman of the Southeast Florida Regional Domestic Security Task Force's Investigations and Intelligence Committee, and is distinguished as the first federal official to serve in such a capacity in the state of Florida.

During 2008, Mr. Oswald served on the FBI's Strategic Execution Team (SET), developing plans for the phased implementation of the Intelligence Operations portion of the SET mission, for which he received a Director's Award for Excellence in Intelligence Analysis.

In December 2008, Mr. Oswald was promoted into the FBI's senior executive service in the Inspection Division.

Mr. Oswald was born in Brick Township, New Jersey. He served in the U.S. Air Force and New Jersey Air National Guard and received his bachelor of science degree in criminal justice from Trenton State College in New Jersey. Later, he earned a juris doctorate degree from Nova University Law School and became a member of the Florida bar.

Before joining the FBI, he served as a police officer and detective in Brick Township and as a deputy sheriff and detective in Broward County, Florida. After graduating from law school, he practiced law and was appointed as a traffic magistrate for Broward County, where he presided in traffic court.

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