

April 7, 2025

Edward R. Martin, Jr.  
Interim United States Attorney for the District of Columbia  
601 D St. N.W.  
Washington, D.C. 20004

Dear Interim U.S. Attorney Martin:

I write in response to recent reports that you intend to revise your Office's "*Lewis List*" policy related to disclosure of information about law enforcement witnesses that may bear on their credibility.<sup>1</sup> Given your lack of prosecutorial experience, I am concerned you may not fully understand your duty to disclose this information or the damage that your proposed changes may do to people of Washington, D.C., and the credibility of your Office.

The Constitution, D.C. law, court rules, and the D.C. Rules of Professional Conduct require prosecutors to disclose information about a government witness that could undermine that witness's credibility.<sup>2</sup> These disclosures protect "the defendant's right to a fair trial" and "ensure that a miscarriage of justice does not occur."<sup>3</sup> Prosecutorial disregard for these requirements can result in mistrials, dismissal of charges, overturning of convictions, and sanctions against the prosecutor.<sup>4</sup> Outcomes like these waste taxpayer resources, diminish public confidence, and potentially let guilty offenders escape accountability.

To comply with these obligations, prosecutors track information that could undermine a law enforcement officer's credibility if the prosecutor called that officer as a witness. Known in D.C. as the *Lewis List*, this information helps prosecutors abide by their legal and ethical duties and present the strongest cases possible on behalf of victims and the public.

Although you have not announced what specific revisions you have in mind for your Office's *Lewis List* policy, you have said one of your motivations is to "stand up to judges."<sup>5</sup> As a former United States Attorney, I find this statement baffling. United States Attorneys are officers of the court whose job is to facilitate justice—not "stand up to judges." Statements like these, along with your inexperience handling criminal prosecutions, make me concerned that any policy changes under your leadership will result in flagrant violations of your legal and ethical

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<sup>1</sup> Keith L. Alexander & Spencer S. Hsu, *U.S. attorney in D.C. considers withholding police misconduct information*, Wash. Post (Mar. 25, 2025), <https://www.washingtonpost.com/dc-md-va/2025/03/25/martin-trump-prosecutors-misconduct-violations/>.

<sup>2</sup> *Giglio v. United States*, 405 U.S. 150, 154 (1972); *Lewis v. United States*, 408 A.2d 303 (D.C. 1979); D.D.C. LCrR 5.1; D.C. Super. Ct. Crim. R. 16(a); U.S. Dep't of Just., Just. Manual § 9-5.001(B); D.C. R. Pro. Conduct 3.8(e).

<sup>3</sup> *United States v. Agurs*, 427 U.S. 97, 107; *United States v. Bagley*, 476 U.S. 667, 675 (1985).

<sup>4</sup> *United States v. Bagley*, 473 U.S. at 678; *United States v. Pasha*, 797 F.3d 1122, 1139 (D.C. Cir. 2015); *In re Andrew J. Kline*, 113 A.3d 202, 215; D.D.C. LCrR 5.1(g).

<sup>5</sup> Alexander & Hsu, *supra* note 1.

responsibilities. These changes will do nothing but jeopardize the safety of the people of Washington, D.C., and the career of any attorney in your office who follows these policies.

I hope you take this advice to heart, proceed lawfully, and abandon this reckless distraction.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sheldon Whitehouse', with a stylized, cursive script.

Sheldon Whitehouse  
Ranking Member  
Senate Judiciary Subcommittee on  
Federal Courts, Oversight,  
Agency Action, and  
Federal Rights