

**Written Testimony
Before the U.S. Senate
Rules and Administration Committee
Of
David C. Iglesias
United States Attorney
For the District of New Mexico
2001-2007**

Executive Summary

I established an Election Fraud Task Force (EFTF) in September of 2004. It took referrals from citizens, law enforcement and the county clerk's office for approximately ten weeks. After examining the evidence, and in conjunction with the Justice Department Election Crimes Unit and the FBI, I could not find any cases I could prosecute beyond a reasonable doubt. Accordingly, I did not authorize any voter fraud related prosecutions.

Facts

In the months prior to the 2004 election, the local New Mexico media extensively covered apparent instances of voter fraud. For example, there were instances in which underage citizens received voter registration forms they did not ask for, and could not legally ask for. Another incident involved a drug raid done on a residence which revealed a large number of completed voter registration forms. Voter registration groups such as ACORN were under scrutiny by the media for allegedly registering persons who did not have the right to vote. Bernalillo County Sheriff Darren White, a Republican, and then Bernalillo County Clerk Mary Herrera, a Democrat, also asked me to investigate incidents of apparent voter fraud. Due to the high volume of suspected criminal activity, I believed there to be a strong likelihood of uncovering prosecutable cases. I also reviewed the hard copy file from the last voter fraud case my office had prosecuted which dated back to 1992.

As a result, I established an Election Fraud Task Force. On or about September 7, 2004, I held a well-attended press conference in Albuquerque to announce the formation of the EFTF. I was joined at the podium by then Special Agent in Charge, Andreas Steffans of the local FBI office and New Mexico Department of Public Safety General Counsel, John Wheeler. My task force consisted of my office--the United States Attorney's Office for the District of New Mexico, the Department of Justice's Public Integrity Section (Election Crimes Unit) in Washington, D.C., the local FBI field office, the New Mexico Department of

Public Safety which included the State Police, the New Mexico Secretary of State's office, New Mexico Department of Veterans' Affairs (Office of Inspector General) and the Bernalillo County Clerk's office. At the inception of the EFTF, my intention was to file prosecutions in order to send a message that voter fraud or election fraud would not be tolerated in the District of New Mexico.

I personally met with members of the EFTF several times during a two month period beginning in mid-September of 2004 and ending in mid-November of 2004. The task force publicized a hotline telephone number for citizens to call in information related to voter or election fraud. The number rang into the Albuquerque FBI office. Over the approximate two month period, the EFTF received about 108 complaints. When complaints were received they would either be referred to the State Police or the FBI. This initial bifurcation occurred since some allegations were potentially violative of state law and others were potentially violative of federal law.

I conferred with the Department of Justice's subject matter expert on election fraud, Craig Donsanto of the Public Integrity Section's Election Crimes Unit. We reviewed and discussed evidence of potential cases. Mr. Donsanto made it clear to me and my Executive Assistant, Rumaldo Armijo, that in keeping with long standing Department of Justice policy, we should not investigate or file any prosecutions before the election. This was to ensure that any such investigation or prosecution would not affect the outcome of the election. Mr. Donsanto made this point several times. This comported with the legal guidance given by the FBI's office of general counsel who advised SAC Steffans to be careful not to allow investigations to affect the election. I assured both Messrs. Donsanto and Steffans that I understood and supported this principle. I also met with the assigned FBI agent several times during the course of the EFTF and after it stopped taking referrals.

Most of the complaints made to the hot-line were clearly not prosecutable - citizens would complain of their yard signs being removed from their property and de minimis matters like that. Only one case of the over 100 referrals had potential. ACORN had employed a woman to register voters. The evidence showed she registered voters who did not have the legal right to vote. The law, 42 USC 1973 had the maximum penalty of 5 years imprisonment and a \$5000 fine. After personally reviewing the FBI investigative report and speaking to the agent, the prosecutor I had assigned, Mr. Armijo, and conferring with Mr. Donsanto I was of the opinion that the case was not provable. I, therefore, did not authorize a prosecution. I have subsequently learned that the State of New Mexico did not file any criminal cases as a result of the EFTF.

Conclusion

Based on the careful review of the evidence and upon consulting with the Justice Department's Election Crimes Unit, my EFTF did not file any prosecutions.

Biography

David C. Iglesias

David C. Iglesias is an Executive Advisor with a global consulting firm where he works on homeland security, law enforcement and border issues in the firm's Albuquerque, New Mexico office. Mr. Iglesias left the U.S. Justice Department in early 2007 when he left his position as United States Attorney for the District of New Mexico, and testified before the U.S. Senate and House concerning the U.S. Justice Department scandal. A member of the "Gonzales Eight", he has appeared on CNN, Fox News, ABC, NBC, C-SPAN, PBS, MSNBC, "Meet the Press with Tim Russert," "Hardball with Chris Matthews," "Larry King Live," CBS Evening News with Katie Couric, HDNET's "Dan Rather Reports" and many other television and radio venues. The story has been covered by hundreds of print media. Mr. Iglesias has written op-ed articles for the New York Times and Los Angeles Times.

Born in Panama to tri-lingual, tri-cultural missionary parents, Mr. Iglesias graduated from public high school in Santa Fe, New Mexico, from Wheaton College in 1980 and the University of New Mexico School of Law in 1984. Iglesias is married and the father of four children. He has written a book entitled "In Justice" which will be published in June, 2008 by Wiley and Sons.

Mr. Iglesias served on active duty as a U.S. Navy JAG officer between 1985 and 1988 at the Pentagon and Naval Legal Service Office, Washington, D.C. He was a defense counsel in a Guantanamo Bay, Cuba, court-martial that inspired the movie, "A Few Good Men." Then LT Iglesias also defended legendary Navy SEAL Team Commander Dick Marcinko, author of the "Rogue Warrior" books, in military legal proceedings.

Mr. Iglesias was selected as a White House Fellow for the 1994-1995 year. Iglesias was one of 17 Fellows selected from more than 1,250 applicants. He was a special assistant to the U.S. Secretary of Transportation. In 1998, Mr. Iglesias was the Republican nominee for New Mexico Attorney General.

Mr. Iglesias returned to active duty in late 1999 for two months where he served on staff at Fifth Fleet Headquarters in Bahrain, and onboard the aircraft carrier, USS John F. Kennedy in the Persian Gulf in support of Operation Southern Watch. Mr. Iglesias is a reserve Captain in the U.S. Navy where he serves as Staff Judge Advocate for Reserve Component of Region Southwest in San Diego. He was selected as "Reserve Officer of the Year, U.S. Special Operations Command, 2001."

In 2001, President Bush nominated Iglesias and the U.S. Senate confirmed him to become United States Attorney for the District of New Mexico. He was a member of the U.S. Attorney General's Advisory Committee and chaired the Attorney General's Border and Immigration Subcommittee. In 2004, Iglesias testified before Congress on Justice

Department enforcement actions on behalf of Guard and Reserve members experiencing employment issues. Since 1998, Iglesias has trained foreign military, intelligence and law enforcement personnel in South America, Eastern Europe, Africa and Asia regarding border security, law enforcement, counter-terrorism and rule of law issues on behalf of the Defense Institute of International Legal Studies, the Joint Special Operations University and the Justice Department. (21 FEB 08)