



U.S. Department of Justice

Office of Professional Responsibility

950 Pennsylvania Avenue, N.W., Suite 3266
Washington, D.C. 20530

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The Honorable Arlen Specter
United States Senate
Washington, D.C. 20510-3802

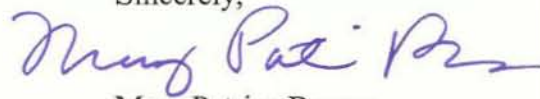
Dear Senator Specter:

This is to acknowledge receipt of your December 17, 2009 letter to Deputy Attorney General David W. Ogden, which enclosed a copy of a letter from your constituent, Jill Wallace McNeil, relating to the case of Alfred Trenkler. Your letter requests the Department to investigate Mr. Trenkler's claim of actual innocence and was referred to this office for review and for response to you, and through you, to Ms. McNeil.

This Office has jurisdiction to investigate allegations of misconduct involving Department of Justice attorneys that relate to the exercise of their authority to investigate, litigate or provide legal advice. However, it has long been the policy of this Office to refrain from investigating issues or allegations that were addressed, or that could have been addressed, in the course of litigation, unless a court has made a specific finding of misconduct by a Department attorney or there are present other extraordinary circumstances. Our review of Mr. Trenkler's *pro se* brief to the court of appeals indicates that Mr. Trenkler has reasserted his claim of actual innocence and has alleged that the government failed to provide exculpatory evidence in its possession in violation of its duty under the doctrine of *Brady v. Maryland*. See *Trenkler v. United States*, No. 09-1559 (1st Cir), Brief for Petitioner, filed Sept. 15, 2009. We understand that the government will file a responsive brief on or about January 12, 2010, and that the court of appeals ultimately will determine Mr. Trenkler's claims. Accordingly, we concluded that no action by this Office was warranted at this time. However, should the court of appeals make any finding of misconduct against any of the Department attorneys involved, we request Mr. Trenkler or Ms. McNeil to advise us of that determination.

Thank you for bringing this matter to the Department's attention. Please feel free to contact us in the future about this or another matter.

Sincerely,



Mary Patrice Brown
Acting Counsel