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July 4, 2010

Attorney General Douglas F. Gansler  
Office of the Attorney General  
200 St. Paul Place  
Baltimore, MD 21202

Patricia Coats Jessamy, State's Attorney  
Office of State's Attorney  
Courthouse West, Room 208, 100 North Calvert St.  
Baltimore, MD 21202

**Re:** Request For Prosecution Of James O'Keefe, Hannah Giles and Andrew Breitbart  
For Violating Maryland's Privacy Statute

Dear Attorney General Gansler and State's Attorney Coats Jessamy:

I am writing on behalf of Velvet Revolution, a Maryland based non-profit, non-partisan network of over 150 organizations representing more than a million members nationwide and dedicated to clean government, honest media and accountability.

In the summer of 2009, James O'Keefe and Hannah Giles visited the Baltimore office of ACORN and surreptitiously recorded a private conversation with two ACORN staffers, Shera Williams and Tonja Thompson.

I am writing to urge you to initiate criminal charges against Hannah Giles and James O'Keefe for clear violation of Maryland Law, Annotated Code of Maryland Courts and Judicial Proceedings Article §10-402, which requires two party consent for audio recordings. The case is clear felony according to the statute and both Giles and O'Keefe have freely admitted to secretly recording their conversations with the ACORN staffers. They did this with the clear intent to harm these staffers and ACORN and therefore criminal prosecution is clearly appropriate.

Under Maryland's Wiretapping and Electronic Surveillance Act, it is unlawful to tape record a conversation without the permission of all the parties. See *Bodoy v. North Arundel Hosp.*, 945 F.Supp. 890 (D. Md. 1996). Additionally, recording with criminal or tortuous purpose is illegal, regardless of consent. Disclosing the contents of intercepted communications with reason to know they were obtained unlawfully is a crime as well. Violations of the law are felonies punishable by imprisonment for not more than five years and a fine of not more than \$10,000.

I also call upon your office to bring the conspiracy charges against Andrew Breitbart for paying and directing O'Keefe and Giles and then directly carrying out the distribution of the illegally obtained tapes, also a felony under applicable Maryland law. Mr. Breitbart is the director of BigGovernment.com, an Internet website that pushes far right propaganda and he has used the ACORN tapes as a fundraising tool for his operations.

We believe that the case for criminal prosecution has been made stronger by the release of four official reports on the criminal conduct of these three individuals, which I have linked below, and by the recent arrest of Mr. O'Keefe in Louisiana for his illegal entry into Senator Landrieu's Senate Office in order to tamper with her telephone system. The House Judiciary Committee, the former Connecticut Attorney General, the California Attorney General and the General Accounting Office prepared these reports.

Each of these reports paints a damning picture of O'Keefe, Giles and Breitbart, who went on a multi-state crime spree, invading the privacy of ACORN staffers nationwide, taping their conversations and then editing them to create the appearance of illegality and impropriety by ACORN/staffers. Each of these reports makes clear that neither ACORN nor its staffers committed crimes but that O'Keefe, Giles and conspirator Breitbart did. In fact, the California Attorney General granted O'Keefe and Giles immunity in exchange for the unedited copy of their illegal tape, which showed that the tape was intentionally edited to portray a harmful picture of ACORN.

Mr. O'Keefe's crime spree did not end with the destructive release of the highly edited ACORN video. On January 26, 2010, O'Keefe and three other individuals were arrested during an illegal operation to enter Senator Landrieu's Senate offices in Louisiana with the intent to tamper with her official telephones. He was arrested on the scene and charged with a felony. He has pleaded guilty and been sentenced for that criminal activity.

Justice cries out for criminal prosecution of O'Keefe et al for their illegal conduct taping ACORN employees without their knowledge or consent. ACORN, a well established organization that worked with poor and minority citizens, was literally destroyed by the actions of O'Keefe et al after they used intentionally edited video to falsely portray ACORN as engaging in criminal activity. ACORN suffered opprobrium, lost federal funding and foundation funding, endured federal and state investigations, and as a result had to close down its operations assisting the most vulnerable citizens in America, the poor, homeless and disenfranchised.

Maryland's privacy statutes have been used to prosecute people for one party taping without any criminal intent. In fact, in a recent case, a motorist named Anthony Graber was charged for video taping a plainclothes policeman making a traffic stop. Mr. Graber's house was searched, his computers were seized and he was jailed after he posted the video on YouTube.

Thus it's up to you to ensure that justice is served in this case by taking immediate legal action against James O'Keefe, Hannah Giles and Andrew Breitbart, all of whom clearly violated Maryland law.

Sincerely,

Sincerely,  
  
Kevin Zeese  
Attorney at Law  
301-996-6582

## NOTES

**Excerpt from an Affidavit from FBI Agent Steven Rayes, Sworn to in New Orleans, Louisiana, January 25, 2010:**

[snip]

*11) Based on the above information, your Affiant believes there is probable cause to believe that FLANAGAN and BASEL by false and fraudulent pretense attempted to enter, and did in fact enter, real property belonging to the United States for the purpose of willfully and maliciously interfering with a telephone system operated and controlled by the United States of America. Your Affiant further believes that FLANAGAN and BASEL were aided and abetted by O'KEEFE and DAI to commit the entry for the purpose of interfering with the telephone system on January 25,2010; all in violation of Title **18**, United States Code, Sections 1036, 1362 and 2.*

[signature]

*Steven Rayes  
Special Agent  
Federal Bureau of Investigation*

SOURCE: <http://www.washingtonexaminer.com/opinion/blogs/beltway-confidential/FBI-affidavit-against-ACORN-filmmakeractivist-82723992.html>

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**CALIFORNIA ATTORNEY GENERAL REPORT**

"The **evidence illustrates that things are not always as partisan zealots portray them through highly selective editing of reality**, Sometimes a fuller truth is found on the cutting room floor." –Attorney General Jerry Brown  
April 1, 2010, Attorney General of California -- News Release  
<http://ag.ca.gov/newsalerts/release.php?id=1888&>

The California AG's Report echoed the findings of the Brooklyn D.A.'s office, which described them as a "**heavily edited splice job**"  
[http://www.nypost.com/p/news/local/brooklyn/acorn\\_set\\_up\\_by\\_vidiots\\_da\\_x16IroTf4AsXCI19nttFLL](http://www.nypost.com/p/news/local/brooklyn/acorn_set_up_by_vidiots_da_x16IroTf4AsXCI19nttFLL)

**Report of the Attorney General on the Activities of ACORN in California**  
April 1, 2010  
[http://ag.ca.gov/cms\\_attachments/press/pdfs/n1888\\_acorn\\_report.pdf](http://ag.ca.gov/cms_attachments/press/pdfs/n1888_acorn_report.pdf)

**CA AG Report -- Attachments**  
[http://ag.ca.gov/cms\\_attachments/press/pdfs/n1888\\_acorn\\_attachments.pdf](http://ag.ca.gov/cms_attachments/press/pdfs/n1888_acorn_attachments.pdf)

**Link to unedited ACORN video provided by O'Keefe:**  
<http://ag.ca.gov/newsalerts/multimedia/index.php>

## **MASSACHUSETTES ATTORNEY GENERAL REPORT**

[www.proskauer.com/files/uploads/report2.pdf](http://www.proskauer.com/files/uploads/report2.pdf)

## **GAO INVESTIGATION**

<http://www.gao.gov/products/GAO-10-648R>

PDF OF REPORT <http://www.gao.gov/new.items/d10648r.pdf>

## **JUDICIARY COMMITTEE INVESTIGATION**

[judiciary.house.gov/hearings/pdf/CRS-ACORN091222.pdf](http://judiciary.house.gov/hearings/pdf/CRS-ACORN091222.pdf)

## **BREAK-IN AT SENATOR MARY LANDRIEU'S OFFICE**

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*[signature]*

*Steven Rayes  
Special Agent  
Federal Bureau of Investigation*

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