

## Norton Letter to U.S. Attorney on Death Penalty Trial, Troubling Pattern - January 8, 2007

Norton Letter to U.S. Attorney Says Death Penalty Trial That Begins Today

Part of Troubling and Futile Pattern

January 8, 2007

Washington, DC-The Office of Congresswoman Eleanor Holmes Norton (D-DC) today released a strongly worded letter to Jeffrey Taylor, the new Interim U.S. Attorney for the District of Columbia, to raise her concern about "the apparent emergence of a new and troubling pattern by [his] office of repeatedly seeking the death penalty in this strongly anti-death penalty jurisdiction despite consistent failures with juries and the federal courts." At issue are the only three death penalty cases to proceed to trial, all moved during the terms of U.S. attorneys during the Bush administration, including the case of Larry Gooch, who faces a possible death sentence if convicted of the federal charges in a trial beginning today. Norton said that despite the serious nature of the crimes involved, insisting on the death penalty "shows neither a wise use of scarce resources nor a sensitivity" to the needs of the families of the victims and the communities involved where speedy convictions and resolutions have been jeopardized by insistence on the death penalty. D.C. residents overwhelmingly defeated a death penalty referendum in 1992.

"Repeatedly seeking the death penalty in the face of jury verdicts and court decisions to the contrary risks the appearance of an office seeking to show that it can get death penalty convictions even in the District of Columbia," Norton wrote. "I believe that your office will continue to find it exceedingly difficult to get a jury of District residents to order the death penalty here." However, she said that D.C. juries have not hesitated to impose incarceration without parole in appropriate cases.

During this session Norton will re-introduce her D.C. District Attorney Act to allow the city to elect its own district attorney rather having the U.S. attorney act as the city's top prosecutor. Until then, she asked that the U.S. attorney remember his role as district attorney and asked that he not proceed with death penalty cases on his watch.

The full text of Norton's letter follows.

January 8, 2007

Mr. Jeffrey A. Taylor

Interim United States Attorney for the  
District of Columbia  
United States Attorney's Office  
555 4th Street, NW  
Washington, DC 20530

Dear Mr. Taylor:

I write to bring to your attention my concern about the apparent emergence of a new and troubling pattern by your office of repeatedly seeking the death penalty in this strongly anti-death penalty jurisdiction despite consistent failure with juries and the federal courts. Only three death penalty cases here proceeded to trial, all during the current President's administration, representing a sharp break with predecessor administrations of both parties for nearly 30 years.

Recently your office failed for the second time in two years to obtain a death penalty conviction in this strongly anti-death penalty jurisdiction. I am aware of a federal decision last month to allow your office to proceed in a similar death penalty case against Larry Gooch, and that your office has found a basis in federal law under the Racketeer Influenced and Corrupt Organizations Act (RICO) for such cases, although underlying crimes such as murder and armed robbery are typically prosecuted by local jurisdictions. I have no quarrel with your vigorous prosecution of these cases alleging particularly serious crimes, including killings and drug trafficking, in this high crime city. However, a review of criminal activity since the District obtained home rule in 1974 shows that this period is by no means the worst for brutal murders here since the Supreme Court reinstated the death penalty in 1976. In fact, crime in the District, including homicides, is at a 21 year low, and the District's murder rate continues to fall, defying national statistics showing a 1.4 percent increase.

There are a number of reasons to question the stepped up death penalty prosecutions by your office. These repeated prosecutions show neither a wise use of scarce resources nor a sensitivity to the needs of the communities of the victims. Your office has persisted despite the unsurprising reluctance of juries here to agree to the death penalty, even in notorious federal cases, such as the Murder, Inc. gang case of Kevin Gray and Rodney Moore, where the jury deadlocked on the death penalty in 2005. In August, a federal district court disallowed your death penalty prosecution involving American tourists in Uganda because your office was unable to meet the required death penalty standards. In October, a federal court refused an untimely filing by your office of a notice of intent to seek the death penalty in the Antwan Ball, David Wilson et al. RICO case. Your determination in seeking to impose the death penalty by asking the court to remedy professional negligence of your office is further evidence of zeal to pursue the death penalty here against the odds and better judgment. Yet, prosecutors have been quick to use missed deadlines against death row defendants, notwithstanding the finality of the sanction. The persistence of your office in pressing death penalty cases in the face of these failures raises serious questions as to whether your office is sensitive to the families of the victims and residents in the neighborhoods, where these perpetrators were notorious predators, who have long awaited convictions and final resolution. Repeatedly seeking the death penalty in the face of jury and court verdicts to the contrary risks the appearance of an office seeking to show it can get death penalty convictions even in the District of Columbia.

I believe that your office will continue to find it exceedingly difficult to get a jury of District residents to order the death penalty here. Even in death penalty jurisdictions, Americans now support life imprisonment without parole over the death penalty when given a choice. D.C. citizens have shown a willingness to impose this sanction.

The District of Columbia eliminated the death penalty shortly after obtaining home rule and it has not been applied here since 1957. Mayor Adrian Fenty and I and every mayor or delegate of the District of Columbia and every member of the Council have opposed the death penalty since the city achieved home rule in 1974. Congress imposed a death penalty referendum on the District in 1992 in the midst of a seriously escalated homicide rate, but residents voted two to one against re-imposition of the death penalty. In 1997, the City Council again took action indicating it opposes the death penalty.

For the time being, District residents must depend on a U.S. attorney rather than a local prosecutor elected by local citizens directly affected by crime, as elsewhere throughout the United States. The local responsibilities of your office to prosecute local crimes particularly in a strong anti-death penalty jurisdiction, puts a special burden on your office, even in federal death penalty cases, to bring indictments and seek closure. As you embark on cases during your tenure, I ask that you consider the shortage of staff in your own office, of which I am well aware, and the issues I have raised in this letter before continuing to proceed with death penalty prosecutions.

Sincerely,

Eleanor Holmes Norton