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March 3, 2008

Re: Attorney General Mukasey – 2008 Commencement Speaker

Dear Fellow Overseer,

Boston College Law School continues to build a diverse community of students, faculty, administration and dedicated alumni to enhance our mission. But among the most valuable elements of diversity in our educational community is diversity of thought – and respect for those who express different points of view. Whatever your personal viewpoint on current political issues, the acceptance by U.S. Attorney General Michael Mukasey of our invitation to serve as our 2008 commencement speaker advances BC's diversity and strengthens our school.

Over the past weeks, I have heard criticism of our engagement of Mr. Mukasey to speak at commencement. Without fail, the criticism has been based on misperceptions of Mukasey's position on the use of "waterboarding" to interrogate suspected terrorists. As a lawyer familiar with Washington, I looked at Mukasey's own words, and I am not convinced Mukasey expressed a position on waterboarding. At his confirmation hearing, Mukasey said that torture is illegal, that the United States cannot engage in torture and, in response to a question from Senator Whitehouse, that "If it [waterboarding] amounts to torture, it is not constitutional." Relying on his judicial temperament, Mukasey reserved judgment on how to characterize "waterboarding" in general, knowing that he might be called upon to investigate specific circumstances of this activity as Attorney General. Further, Mukasey told the Senate that Congress has the power to pass legislation to outlaw waterboarding. As a sophisticated legal community, I hope we are capable of rising above the political emotions of an unpopular war to appreciate the realistic role of the Attorney General and the high character of the current office holder.

In a world where many accomplished lawyers shy away from public service, Attorney General Mukasey has devoted the substantial portion of his professional career to serving our country. He served as Assistant U.S. Attorney for the Southern District of New York (1972 – 1976) and Judge of the U.S. District Court for the Southern District of New York (1988 – 2006), including 6 years as Chief Judge of one of the nation's most important federal trial courts. Managing a large workload, Mukasey earned a reputation as a fair, intelligent, straightforward, and courageous judge, with an expertise in national security matters. He presided over the high-profile trial of plotters to blow up the World Trade Center and other landmarks in 1993. The hazards of his call to public service have encroached upon his personal life, where Mukasey and his wife have been protected around the clock by U.S.

marshals over the last 8 years. Throughout his career, Mukasey has been a fierce protector of judicial independence. Beyond public service, Mukasey has been a law school teacher, private practitioner and volunteer for charitable causes.

Less than 4 months ago, with controversy swirling around the Justice Department, President Bush and Democratic Senate leaders agreed that Mukasey was that rare and qualified person who could garner bi-partisan support as Attorney General. In today's world of partisan Washington politics, where many good men and women lack the courage to face scrutiny of their careers, Mukasey again left private law practice, faced the Judiciary Committee, and won bi-partisan Senate confirmation with a vote of 53-40-7.

As he returns to public service as Attorney General and head of the Department of Justice (DOJ), Mukasey supervises an historic organization, established by the Judiciary Act of 1789, that today operates as the largest law department in the world, with over 120,000 employees. The experience, leadership, management ability and personal integrity of Mike Mukasey are necessary to help the DOJ productively work through a number of complex and troubling issues. Mukasey has a difficult job, and for the sake of our country, we should pray for his success.

The U.S. Attorney General plays a role as a member of the President's team, as the chief law enforcement officer of the country, and as a lawyer sworn to uphold the principles of the Constitution. Whatever you may think of his handling of a particular issue in his first 4 months in office, I believe that the entirety of Mukasey's legal career exemplifies the ideals of professionalism, public service, scholarship and integrity that are the foundation of our law school.

I am excited that Boston College Law School will recognize Attorney General Mukasey at commencement this May. It is a mark of prestige among elite schools to attract a speaker who operates at the epicenter of American legal issues – regardless of whether the speaker's political views are liberal, moderate, or conservative. The reputation of our school is elevated by his participation – and our educational mission is enhanced by his expression of ideas and our openness to listen.

For these reasons, I commend John Garvey on his fitting and courageous selection. I encourage our entire Law School community to join me in welcoming Mike Mukasey to commencement and promoting this opportunity to exchange ideas - with respect for the man, the life he has led, and the office he holds.

Sincerely,

David C. Weinstein '75
Chair
Boston College Law School Board of Overseers