

Scolinos, Tasia

From: JCC
Sent: Sunday, March 04, 2007 2:25 PM
To: Scolinos, Tasia
Subject: RE: NYT - A New Mystery to Prosecutors: Their Lost Jobs

Got 'em (since xmt'd to the residence)!

V/r,

JCC

-----Original Message-----

From: Scolinos, Tasia
Sent: Sunday, March 04, 2007 2:00 PM
To: JCC
Subject: Fw: NYT - A New Mystery to Prosecutors: Their Lost Jobs

-----Original Message-----

From: White House News Update <News.Update@WhiteHouse.Gov>
To: Scolinos, Tasia
Sent: Sun Mar 04 09:09:04 2007
Subject: NYT - A New Mystery to Prosecutors: Their Lost Jobs

A New Mystery to Prosecutors: Their Lost Jobs

By DAVID JOHNSTON, ERIC LIPTON and WILLIAM YARDLEY, The New York Times

WASHINGTON, March 3 — After Daniel G. Bogden got the call in December telling him that he was being dismissed as the United States attorney in Nevada, he pressed for an explanation.

Mr. Bogden, who was named the top federal prosecutor in Nevada in 2001 after 11 years of working his way up at the Justice Department, asked an official at the agency's headquarters if the firing was related to his performance or to that of his office. "That didn't enter into the equation," he said he was told.

After several more calls, Mr. Bogden reached a senior official who offered an answer. "There is a window of opportunity to put candidates into an office like mine," Mr. Bogden said, recalling the conversation. "They were attempting to open a slot and bring someone else in."

The ouster of Mr. Bogden and seven other United States attorneys has set off a furor in Washington that took the Bush administration by surprise.

Summoning five of the dismissed prosecutors for hearings on Tuesday, the newly empowered Congressional Democrats have charged that the mass firing is a political purge, intended to squelch corruption investigations or install less independent-minded successors.

Interviews with several of the prosecutors, Justice Department officials, lawmakers and others provide new details and a fuller picture of the events behind the dismissals. Like Mr. Bogden, some prosecutors believe they were forced out for replacements who could gild résumés; several heard that favored candidates had been identified.

Other prosecutors may have been vulnerable because they had had run-ins with the Justice Department, not over corruption cases against Republicans, but on less visible issues.

Paul Charlton in Arizona, for example, annoyed Federal Bureau of Investigation officials by pushing for confessions to be tape-recorded, while John McKay in Seattle had championed a computerized law enforcement information-sharing system that Justice Department

officials did not want. Carol C. Lam of San Diego, who successfully prosecuted former Representative Randy Cunningham, had drawn complaints that she was not sufficiently aggressive on immigration cases.

Justice Department officials deny that the dismissals were politically motivated or that the action resulted from White House pressure.

Brian Roehrkasse, an agency spokesman, said, "These decisions were based on the individual concerns about each U.S. attorney's overall performance. This included performance concerns about ineffectively prosecuting departmental priority areas, failure to follow departmental guidelines, or just overall concerns about an ability to lead and effectively manage a U.S. attorney's office."

United States attorneys have four-year terms but can be removed at any time, and for almost any reason.

But across the country, legal and public officials have expressed dismay over the firings. In Western Michigan, for example, lawyers and a federal judge came to the defense of Margaret M. Chiara, the United States attorney there, saying she was well regarded.

"It just doesn't look right," said James S. Brady, who was United States attorney in Western Michigan during the Carter administration. "It compromises the credibility that justice is being dealt with fairly and impartially. There is a fear that politics have entered in life and death situations."

Discussions began in October at the Justice Department about removing prosecutors who were considered flawed or deficient in carrying out administration policy by law enforcement officials, lawmakers and others, several officials said. The White House eventually approved the list and helped notify Republican lawmakers before the Dec. 7 dismissals, officials said.

While Justice Department officials expected that top assistant prosecutors in each office would probably fill the jobs initially, the officials said they had not chosen permanent successors. However, officials knew that if the replacements were to have a substantial tenure before Mr. Bush left office, they needed to be named quickly.

The list of prosecutors who were targets was approved by Attorney General Alberto R. Gonzales and the deputy attorney general, Paul J. McNulty, the day-to-day manager of the Justice Department since he was appointed in the fall of 2005.

Under Mr. Gonzales, Mr. McNulty has become a powerful deputy with a wide-ranging portfolio. He was a United States attorney in Virginia, but he worked in Congress for more than a decade and was once legal counsel to the House majority leader. He is regarded in legal circles as more attuned to policy and politics than his predecessor, James B. Comey, a former career prosecutor in New York.

That leadership change may explain the removal of prosecutors who had mostly been in place since the start of the Bush administration.

"I and my colleagues are the same people in December of 2006 that we were in 2001," said one former prosecutor who would speak only on the condition of anonymity. "The only thing that has changed is the administration of the Department of Justice. We were making the same arguments and the same points before."

Justice Department officials, who would speak about the department's decision making only anonymously because they were not authorized to discuss personnel matters publicly, now acknowledge that the dismissals were mishandled. They failed to anticipate how much attention the highly unusual group firing would draw, and the agency's contradictory accounts about whether the dismissals were performance-related helped spur suspicions.

In one case, they said that they were unaware of concerns by United States Attorney David C. Iglesias of New Mexico, which he has expressed publicly in recent days, about being pressured by two Republican lawmakers to rush indictments before last November's elections in a contract kickback investigation involving a former state Democratic official. New Mexico has three Republicans in Congress; Representative Steve Pearce has said he did not call Mr. Iglesias, while aides to Senator Pete V. Domenici and Representative Heather A.

Wilson have said they would not comment.

The Justice Department still appears to have an uphill battle in convincing lawmakers that its actions were justified. Several Congressional officials who have been briefed on the decision making said they were not persuaded that the firings were a well intended if botched effort to oust a few problem prosecutors among the country's 93 United States attorneys.

Some said they suspected that the administration hoped to install its favorites in the jobs, as they did when J. Timothy Griffin, a prosecutor who had worked for Karl Rove, the White House political adviser, was chosen as the temporary replacement for H. E. Cummins III of Arkansas. Mr. Cummins was told last summer to step down after Harriet E. Miers, the former White House counsel, met with Mr. Gonzales's staff on Mr. Griffin's behalf.

Even Republicans who are generally supportive of the administration expressed skepticism about the Justice Department's explanations.

Former Senator Slade Gorton of Washington said, "The administration has a perfect right to ask people to leave and appoint other ones just because they want turnover."

But he said he was unhappy that Mr. McKay, the Seattle prosecutor, was dismissed. He was very effective, Mr. Gorton said, and it was a mistake for the Justice Department to characterize the firing as performance related.

Mr. McKay, who is among the ousted prosecutors who have been summoned to testify before Congress, has said little about his dismissal. In interviews this week, officials in Seattle said he was a strong advocate for the expansion of law enforcement powers under the USA Patriot Act and a determined prosecutor who reorganized the office and allowed senior assistants to focus on complex cases.

"Institutions need to go through a period of renewal to be energized," said Norm Maleng, the King County prosecuting attorney. "That's what John did. He took it to a higher level."

Jeffrey C. Sullivan, who served as chief of criminal investigations under Mr. McKay and hopes to succeed him, said he was asked by the Justice Department to describe how the office had enacted "the attorney general's priorities." He said he responded that Mr. McKay created drug and gang task forces and pursued antiterrorism initiatives.

Mr. McKay had led efforts to start a computer system allowing law enforcement officials in the Seattle region to collect and analyze crime data. The program helped make him popular in local law enforcement circles, but his associates believed that Justice Department and F.B.I. officials in Washington objected, believing that such efforts should be undertaken on the national level.

Many Republicans and law enforcement officials in Washington say they are puzzled about the dismissal of Mr. McKay, whose brother is a former United States attorney in Seattle who was the state vice chairman of Mr. Bush's 2004 campaign.

Chris Vance, a former chairman of the state Republican Party, said some conservative activists were upset when Mr. McKay did not pursue a voter fraud investigation after a close election for governor was won by a Democrat in 2004, but that none of them had influence with the White House. Mr. Vance said in consulting with national party leaders at the time, Mr. McKay was not mentioned.

"They never said to me, 'Why isn't John McKay doing something?'" he said. "That never came up."

Justice Department officials said they regarded Mr. Bogden as competent but insufficiently aggressive, although they acknowledge that his removal was a tough call.

Mr. Bogden, whose last day was Wednesday, remains bitter about his dismissal. A Justice Department official said Mr. Bogden's conversation with the agency official who told him he was being moved out to make way for someone new was an effort to express sympathy for his situation, not an indication that his successor had already been chosen.

"You would think that you would be evaluated on your record, what your office has been able to achieve and what you have been able to accomplish as a United States attorney," Mr. Bogden said. "You hear something like that, there is a sense of disbelief."

David Johnston and Eric Lipton reported from Washington, and William Yardley from Seattle.

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