

FIRST DOJ IG REPORT ON POLITICIZATION

Is here.

It shows that not just Monica Goodling, but Mike Elston and Bill Mercer and others at DOJ "crossed the line" into illegal behavior, using political affiliation in the hiring for a summer intern and AG's Honors programs.

I'll update as I read.

The report names Robert Coughlin—of the Abramoff corruption ring—as one of the people who may have used political affiliation in hiring—but the report ultimately does not conclude that he did.

Three career employees told us they were concerned that on one occasion Deputy Chief of Staff Robert Coughlin, a political official on the hiring committee, may have taken into account candidates' political or ideological affiliations. One career employee wondered whether Coughlin rejected one highly qualified candidate because of the candidate's liberal affiliations. Two other career employees wondered whether Coughlin voted to accept a less qualified candidate because of the candidate's conservative and Republican Party affiliations. The candidate with liberal affiliations was rated highly by the career employees who interviewed him, but he did not receive an offer. Conversely, the candidate with conservative and Republican Party affiliations was not rated highly by the career employees who interviewed him yet received an offer of employment.

The career employees also told us that when they questioned Coughlin about his

ranking of candidates during the group meeting in which the candidates were ranked, Coughlin stated that he was basing his recommendation on his reactions to the candidates' interview demeanor and interview skills.

In our interview of him, Coughlin told us he never considered political or ideological affiliations in evaluating Honors Program candidates. While Coughlin said he did not recall any details concerning the specific candidate with liberal affiliations, he recalled that he recommended the candidate with conservative affiliations because the candidate had received a strong recommendation from a previous internship with the Criminal Division and not because of the candidate's ideological affiliations.

We reviewed the two candidates' applications and determined both candidates had been ranked as having strong credentials, such as federal appellate clerkships or high grades that indicated the candidates were qualified. In addition, Coughlin's stated reasons to his colleagues and to us for his decisions – the strength of the candidates' performances in interviews and high recommendations from a previous internship with the Department – can be appropriate bases to choose between two otherwise qualified candidates. Further, our other witness interviews and our review of documents and e-mails did not reveal evidence that Coughlin considered political or ideological affiliations when making his recommendations. Accordingly, we did not conclude that Coughlin used inappropriate factors in choosing between the two candidates.

Shorter DOJ IG: Coughlin talked himself out of further legal problems, even though there were

six people who found his hiring decisions suspicious.

Here's a list of the people on the working group who originally changed the hiring practices in 2002: Andrew Hruska, then Senior Counsel to the Deputy Attorney General, Adam Ciongoli, then Counselor to the Attorney General; Paul Clement, then Principal Deputy Solicitor General; David Higbee, then Deputy Associate Attorney General; Howard Nielson, then Counselor to the Attorney General; and Christopher Wray, then Principal Associate Deputy Attorney General. A couple of names of interest there. Hruska, Higbee, and possibly Ciongoli and Nielson made up the screening committee that year.

This is no doubt why Bill Mercer was a candidate to be AAG:

My initial reaction is that the guy is probably quite liberal. He is clerking for a very activist, ATLA-oriented justice. His law review article appears to favor reintroduction of wolves on federal lands, a very controversial issue here which pits environmentalists against lots of other interests, including virtually all conservative and moderate thinkers.

Incidentally: any bet that we find Mercer making much more politicized comments in this IG report than we found in the emails turned over to HJC? Not that DOJ refused to turn over the really damning emails, of course, but if Mercer would say this about a new hire, I'm sure he'd say worse about a US Attorney.

Incidentally, DOJ IG considers ACLU a liberal organization. What would Bob Barr say?

Here are the results from just 2002, when DOJ IG said the hiring wasn't all that political as compared to 2006.

As the chart indicates, the Screening Committee deselected 80 (80 percent) of the 100 applicants with liberal affiliations, 4 (9 percent) of the 46 applicants with conservative affiliations, and 223 (29 percent) of the 765 candidates with neutral affiliations.

[snip]

The data indicates that the candidates with liberal affiliations were deselected at a much higher rate (15 out of 18) than candidates with conservative affiliations (0 out of 5) or candidates with neutral affiliations (11 out of 48), even though all candidates met the same criteria.

[snip]

We found that all 7 applicants who indicated that they were American Constitution Society members were deselected by the Screening Committee for interviews, while 2 of the 29 applicants who indicated that they were members of the Federalist Society were deselected.

Wingnut welfare at its finest.

And here's some data from 2006, when Mike Elston was in charge of the process:

Overall, based on the results of our data analysis, we found that Honors Program candidates whose applications reflected liberal affiliations were deselected at more than three times the

rate (55 percent) of candidates whose applications reflected conservative affiliations (18 percent) and more than twice the rate of candidates whose applications reflected neutral affiliations (23 percent).

We found a similar trend when we examined a subset of highly qualified candidates. Highly qualified candidates meeting the Fridman academic criteria whose applications reflected liberal affiliations were deselected at a substantially higher rate (40 percent) than highly qualified candidates whose applications reflected conservative affiliations (6 percent) or neutral affiliations (13 percent). In addition, candidates whose applications reflected a Democratic Party affiliation were deselected at a significantly higher rate (48 percent) than candidates whose applications reflected a Republican Party affiliation (27 percent) or who did not show any party affiliations (30 percent). Similarly, highly qualified candidates who had Democratic Party affiliations were deselected at a much higher rate (37 percent) than candidates who had Republican Party affiliations (7 percent) or who did not show any party affiliation (18 percent).

The kinds of candidates Mike Elston didn't want (or maybe he just wanted to piss off Carol Lam):

Elston replied by e-mail that most deselections were for poor grades. He acknowledged, however, that poor grades did not appear to be the issue with this candidate, and he offered to check into the application and let Lam know whether an appeal would be successful. Elston replied later that day: "I have reviewed her application materials, Carol. I do

not think an appeal will be successful. If it helps, she was not selected by the other components to which she applied.” Lam responded: “Thanks Mike. Just curious, though – I don’t see anything unacceptable in her online application that was made available to us. Do the other components see something that I don’t?” Elston replied: “Not that I know of, Carol.”

The Civil Division also attempted to obtain from Elston the rationale for the deselection of certain candidates with strong academic records before it submitted any appeals. Elston responded to the Civil Division that the “vast majority were cut for poor grades. I cannot speak to the individual applicants you named at this point.” However, when the Civil Division pointed out the excellent academic credentials of a deselected candidate who was sixth in his law school class and was currently clerking for a federal judge, Elston responded: “There was a committee (which was not made up of exclusively ODAG staffers) . . . so I am not in a good position to give you reasons others may have had for their decision.” This candidate had been an intern with the Public Defender Service and had written a paper on the detention of aliens under the Patriot Act. After this exchange, the Civil Division appealed the deselection of this candidate, along with other candidates. Elston denied the appeal of this candidate without explanation.

Because god forbid we have men and women who were sixth in their law school class working for the Federal Government.

Apparently, the destruction of the materials

related to the hiring process (noted in the thread below) occurred **after** a contentious December 5, 2006 meeting at which it became clear the politicized hiring was a problem.

We had difficulty reconstructing the decisions and reasoning of the Committee members with regard to specific candidates because virtually no written record of the Screening Committee members' votes and views remains. The Committee used paper copies of the applications on which Fridman and McDonald made handwritten notations about the applicants, but those documents were destroyed prior to the initiation of our investigation. Elston's staff assistant told us that her office did not have room to store the hundreds of applications and, because they contained personal information about the applicants, she placed them in the burn box for destruction shortly after the review process was completed in early 2007. The staff assistant said she did not recall consulting Elston or anyone else before destroying the applications.

And given the early 2007 timing, the destruction of these materials may well have taken place after HJC started asking for evidence of politicization at DOJ.

But I'm sure it's not related.

William Ockham pointed out this one below:

For example, Fridman recalled that one candidate was at the top of his class at Harvard Law School and was fluent in Arabic. McDonald's written notations indicated that she had concerns about the candidate because he was a member of the Council on American Islamic Relations and that she had placed the

application in the questionable pile. Fridman said he wrote on the application that this candidate was at the top of his class at Harvard and was exactly the type of person DOJ needed.

I hope this person recognizes himself and sues DOJ.

Jeebus! Talk about getting out of Dodge:

McDonald declined to be interviewed during our investigation. When we first contacted her in September 2007 for an interview, she was a Counsel to the Associate Attorney General. She initially agreed to a tentative date for her interview, but she later asked us to postpone the interview while she retained counsel. We agreed. After McDonald retained an attorney, and after allowing time for the attorney to familiarize himself with the matter, a new date for the interview was set, October 25, 2007. However, at 5:15 p.m. on October 24, McDonald's attorney e-mailed our investigators to advise them that his client was canceling the interview. The attorney added that McDonald was no longer employed by the Department.

We learned that McDonald had resigned from the Department, effective October 24. On the evening of October 23, she had told her supervisor, Acting Associate Attorney General Katsas, that the next day would be her last day at the Department.

Elston begins to realize he's in trouble when he realizes he was rejecting Arab speakers:

We asked Elston about another deselected Honors Program candidate who had graduated from Yale Law School, had been a member of the Yale Law Journal, graduated summa cum laude with a Bachelor of Arts degree from Yale College, was clerking for a judge on the U.S. Court of Appeals for the Second Circuit, had studied Arabic, and had worked with a human rights organization. Elston said he looked for people with Arabic language skills and that he also knew the judge this candidate was clerking for, so he believed he would have been enthusiastic about this candidate. Elston could not explain why the candidate was deselected and said he was "starting to get concerned that some 'yes' pile [applications] got in the 'no' pile."

Shorter Elston: "I'm all out of plausible excuses for rejecting these people."

OIG gets snarky:

We note that Elston's statement that the Criminal Division does not prosecute sex offenders is incorrect. The Child Exploitation and Obscenity Section of the Criminal Division prosecutes violations of federal law related to producing, distributing, receiving, or possessing child pornography, transporting women or children interstate for the purpose of engaging in criminal sexual activity, and traveling interstate or internationally to sexually abuse children. In addition, this Section has jurisdiction to prosecute cases of child sexual abuse on federal and Indian lands.

Of course, one of the reasons why Elston and the

rest of the clique claimed to have fired Daniel Bogden was because Bogden wasn't enthusiastic enough about prosecuting obscenity

Who could have imagined? I've been arguing for over a year that all the Hatch Act violations in the world will be just swept under the carpet now that everyone who committed those violations has left government.

However, because both McDonald and Elston have resigned from the Department, they are no longer subject to discipline by the Department for their actions. Nevertheless, we recommend that the Department consider the findings in this report should either McDonald or Elston apply in the future for another position with the Department.

See. it's okay to politicize hiring, so long as the people who do so are cycled into corporate sinecures after they've thoroughly reloaded the civil service with wingnuts.

So Mukasey, who was hired because the Department had obviously been politicized, took five months to get around to writing a memo to tell people to stop.

Attorney General Mukasey issued a memorandum on March 10, 2008, requiring all political appointees to acknowledge that they have read the Department regulations that hiring must be merit based and that political affiliations cannot be considered.

Nice job, Chuck.
