

AT SOME POINT, LANNY BREUER IS RESPONSIBLE FOR WILLIAM WELCH'S "JUDGMENT"

Shane Harris has a long profile of William Welch, the thuggish prosecutor in charge of Obama's persecution of whistleblowers. One of the things he did for the profile is review all of Welch's cases as an AUSA; he found three of them that, while not major, exhibit the same kind of abuses he has committed on the national stage.

The Washingtonian reviewed every case that Welch worked on when he was an assistant US Attorney in Springfield, from 1995 until 2006. It was during those years that Welch earned his chops as a prosecutor. His biggest victories were in a string of city corruption cases that became his steppingstone to the Public Integrity Section at Justice.

Most of Welch's cases in Springfield appear routine. But some raise questions. In three cases, defense attorneys filed motions claiming Welch hadn't turned over exculpatory evidence, sometimes after a judge had directed him to do so. One attorney accused Welch of mounting a vindictive prosecution against a woman who had refused to cooperate with one of his investigations. One suspected Welch of trying to prevent a witness favorable to the defense from testifying—an allegation that would surface against the prosecution years later in the Stevens case. (None of these complaints resulted in a case's being overturned.)

Perhaps the most telling part of the profile,

though, is DOJ Criminal Division head Lanny Breuer's effusive praise for the out-of-control prosecutor he put in charge of leak investigations.

Breuer, a prominent Washington attorney who once defended former national-security adviser Sandy Berger against charges that he'd stolen classified documents, looks to be Welch's biggest fan. "Bill is absolutely tenacious," Breuer says. "He'll follow every fact and research every legal issue, and he will be absolutely dispassionate in his conclusions."

Breuer sees Welch's doggedness as an asset in the Obama administration's efforts to stop national-security leaks, which rests on a complicated—some say dubious—interpretation of the Espionage Act. The administration has used the law to prosecute five people in leak-related cases, more than all previous administrations combined.

Breuer doesn't seem bothered that his lead prosecutor is under investigation. "The fact there's an allegation in and of itself is insufficient" to keep him from prosecuting, Breuer says. "In my mind, it would be absolutely unjust and crazy at this stage not to continue to let Bill Welch be the great prosecutor he is." Breuer adds, "I've grown to very much rely on his judgment, his acumen, his intellect, and his sense of justice, which I think is terrific."

What Harris doesn't mention in his article—I'm sure the publication schedule made it impossible—is the speech Breuer made yesterday to a bunch of prosecutors in Sun Valley. (h/t BLT) Breuer, you see, is miffed that defense attorneys are calling prosecutorial abuse what it is.

As I and others have detailed elsewhere, the Justice Department has taken a series of far-reaching steps in the past two years to ensure that all federal prosecutors consistently meet their disclosure obligations. These measures – such as providing guidance to federal prosecutors on gathering and reviewing discoverable information and making timely disclosure to defendants, or instituting a requirement that all federal prosecutors take annual discovery training – are important steps forward. And I think it's fair to say that, as a Department, we are in a better place today than we were two-and-a-half years ago. And I suspect that is true for many DA's offices across the country as well.

Certain defense lawyers nevertheless continue to want to try and turn honest mistakes into instances of misconduct. This kind of gamesmanship is unfortunate. The steps we have taken go further than what the Supreme Court requires. And they go well beyond what any prior Administration has done. That's a fact. Do we need to remain vigilant? Absolutely. At the same time, together, we cannot – and I know we will not – shy away from taking hard cases, or otherwise shrink from our obligation to investigate and prosecute criminal activity without fear or favor, because of the possibility that an opportunistic defense lawyer will try and make hay out of an honest mistake.

The time frame Breuer mentions—the two years during which DOJ has supposedly cleaned up its act—maps to the Ted Stevens case. So it's pretty likely he had poor maligned Welch in mind when he made these comments (though ethics was a focus of the conference).

Fine. Breuer thinks William Welch is the shit.

Maybe then Breuer will also take responsibility
the next time Welch puts aside all prosecutorial
judgment to pursue a minor case?