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## Another Blow To Justice

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By Jamie Gorelick

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Another stunning report has documented the bold and illegal influence of politics at the Justice Department over the past eight years. For decades, Republican and Democratic attorneys general had protected from political influence the hiring of career prosecutors and administrative judges. There was an unbroken rule, embodied in law, regulation and department policy, that no political questions would be asked of those who wanted to serve in career -- as opposed to political -- positions in the department. We demanded of our [Justice Department](#), in its core prosecutorial and adjudicative functions, that it be separate from politics. Until the Bush administration.

Last month, we learned that political functionaries deputized by Attorneys General John Ashcroft and [Alberto Gonzales](#) had screened the best and the brightest coming out of law schools, judicial clerkships and other positions to weed out those who appeared to be Democrats or who might hold liberal ideas; favor was shown to Republicans, members of the [Federalist Society](#), and those considered to be good and loyal conservatives. As the department's inspector general and its Office of Professional Responsibility noted, this is illegal. It also breaks the promise of justice that is above politics and undermines the department's best values.

Now, an equally graphic report by the same two offices concludes that in 2003, the apolitical process for selecting immigration judges and prosecutors was stood on its head. A chief aide to [Attorney General Ashcroft](#) (and later to Attorney General Gonzales) "outlined a new process for hiring [immigration judges] that listed the [White House](#) as the sole source for generating candidates."

Thus, immigration judges -- who, by law, are to be chosen without regard to their political pedigree -- were no longer picked by the nonpolitical office that is supposed to find and train the men and women who mete out justice to tens of thousands of immigrants. In the interview files for these candidates were such comments as "Cons[ervative] on 'god, guns + gays' " -- but not much about whether they understood immigration law or had the capacity for fairness.

Even more appalling, others, including a counsel to Attorney General Gonzales, illegally selected individual line prosecutors -- who wield tremendous power over the reputations, liberty and livelihood of Americans -- using Internet searches on such keywords as "Bush, Gore, Republican, Democrat, Clinton, spotted owl, abortion, gay, gun, and Florida recount" to assess their political and policy views.

Why does this matter?

In a long career counseling individuals being investigated by the Justice Department, I have had to explain to sometimes cynical citizens that politics are prohibited from influencing such inquiries. My ability to give that assurance has hinged on both the public perception -- and reality -- that the career assistant U.S. attorneys, line prosecutors and lawyers who work at the department are picked on their merits and proceed without regard to politics.

Until now.

During the Bush administration, we have seen U.S. attorneys fired under circumstances that have led many to conclude they paid the price because they wouldn't prosecute Democrats; honors program applicants screened for their political leanings; and now the process of hiring line prosecutors and

immigration judges similarly politicized. How do we reassure the American people that justice is being meted out fairly? Trust and respect lost are hard to win back.

Worse, the reports lay out evidence that the political appointees behind many of these missteps knew that what they were doing was wrong.

But responsibility does not end there. The department's senior leadership turned over hiring decisions to people with no history and no understanding of the institution, people who came from the [Republican National Committee](#) or White House political functions. The predictable result was that the department would have, in essence, political appointees in career positions. Thus was the department's fundamental promise to the American people -- which had been respected for decades -- broken.

Where were the career people on whom we count to keep the department honest? The latest report concludes that the two most senior people responsible for protecting immigration judges from political influence had "sufficient evidence . . . to have realized that political or ideological affiliations played a role" and that they should have spoken up to others who could do something. The same criticism was leveled at those who ran the office overseeing the honors program and lateral hiring. Where were they? It is disappointing that they failed to act forcefully to protect the department they served.

Attorney General [Michael Mukasey](#), himself a former career prosecutor and judge, pledges to fix these problems going forward. But more is required. The department needs to hold individuals responsible for their actions. It needs to offer opportunities to those who were improperly denied them. And it needs to make sure that this never happens again. Restoring the promise of unbiased justice will take the efforts of both this attorney general and his successors.

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