

Bush administration stacked Justice Department with right-wingers

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A report issued jointly by the Office of the Inspector General and the Office of Professional Responsibility, both of the US Justice Department, lifts the lid on one of the numerous efforts by the Bush administration to fill the American government with right-wing ideologues.

Political appointees in the Justice Department in 2002 and especially in 2006 screened candidates for its Honors Program, the only means by which the department hires law school graduates and judicial law clerks without prior legal experience, and its Summer Law Intern Program (SLIP), on the basis of political and ideological criteria, in violation of department rules and federal law. Alleged “leftists” and liberals were routinely excluded by two members of the screening committee in 2006, one of whom attended a fanatical Christian college in Florida.

The “politicization” of these hiring practices is entirely in line with Bush administration policy as a whole, and, specifically, the firing of eight US attorneys and the forced resignation of numerous others in 2005-2006 in what was clearly a politically motivated purge. The eight were dismissed because they prosecuted Republicans or failed to pursue charges against Democrats on various corruption charges. Attorney General Alberto Gonzalez and a number of subordinates were forced to resign in part because of this episode.

The Office of the Inspector General is conducting a separate investigation into the hiring practices of the Justice Department’s Civil Rights Division. Bradley Schlozman, a senior political official in the division from 2003 to 2006, including five months as its acting assistant attorney general, is accused of inappropriately considering the political loyalties of candidates for the voting and appellate sections.

A number of the same names, right-wing Bush administration appointees, come up in both the fired attorneys scandal and the Honors Program/Summer Law Intern Program controversy. A centrally organized plan is obviously at work. The overall aim of the administration’s hiring practices has been to flood the federal government with individuals who are hostile to civil and workers’ rights, pro-business and sympathetic to Christian fundamentalist and other right-wing currents.

The joint Office of the Inspector General (OIG)-Office of Professional Responsibility (OPR) report, issued June 24, was carried out in response to complaints that “political and ideological affiliations were considered as factors in evaluating candidates” for the Honors Program and SLIP from 2002 to 2006. One of the allegations came in the form of an anonymous letter to Congress signed by “A Group of Concerned Department of Justice Employees” in April 2007.

In 2002 the Honors Program and SLIP hiring process was fundamentally changed by an Attorney General’s Working Group “to enable the Department’s senior leadership to have more input into the selection of candidates,” according to the OIG/OPR study. (John Ashcroft was Attorney General at the time.) This was clearly the opening shot in the “politicization” of the process. Prior to that time, career employees within each of the Justice Department’s components administered the interview and selection process.

Beginning in 2002, a Screening Committee composed primarily of politically appointed employees from the department’s “leadership offices” had to approve all Honors Program and SLIP candidates for interviews by the various divisions. The various department components—Federal Bureau of Prisons, Drug Enforcement Administration, Executive Office for Immigration Review, etc.—would still do their own hiring, but the candidates would be centrally processed. The highly political Screening Committee thus could determine the pool out of which the various divisions chose their personnel.

As the report notes, it is permissible for the Justice Department to consider political and ideological affiliations when hiring for political positions. However, department policy and civil service law prohibit discrimination in hiring career positions on the basis of political ideology.

The analysis done by the OIG/OPR revealed that the 2002 Screening Committee ‘deselected’ (i.e., removed from the list of possible candidates) 80 percent of the applicants with liberal affiliations, but only 4 percent of those with conservative affiliations (and 29 percent of those with neutral affiliations).

All seven applicants who indicated they were members of the liberal American Constitution Society were struck from the list of possible candidates, while only 2 of the 29 applicants who indicated membership in the ultra-right Federalist Society were deselected.

Among the most highly qualified candidates, more than half of those with Democratic affiliations were thrown out, while none of the Republican-affiliated candidates were rejected.

Candidates for the summer intern program faced the same sort of political discrimination. Some 84 percent of the prospective interns with liberal affiliations were deselected, whereas only 3 percent of those with right-wing affiliations were rejected.

When interviewed recently by investigators, the four members of the 2002 screening committee indicated that the screening process “was a very small part of their work duties, and because of that and the passage of time ... they had difficulty recalling with specificity anything about their work on Honors Program and SLIP hiring.”

The OIG/OPR investigators note, “While we are unable to prove that any specific members made deselections based on the prohibited factors, the data indicated that the Committee considered political or ideological affiliations when deselecting candidates.”

For whatever reason, perhaps because the Bush administration was focused on the war in Iraq and other matters, there seems not to have been any political interference in 2003-2005. In 2006, however, officials in the Justice Department set about politically vetting candidates for jobs and the summer intern program with a vengeance.

Two of the three members of the 2006 screening committee (the third, David Fridman, apparently did his job conscientiously) had an obvious axe to grind.

The chair of the committee, Michael Elston, then Deputy Attorney General Paul McNulty’s Chief of Staff, has an impressive track record.

He reportedly worked on early drafts of the Patriot Act, the blueprint for an American police-state, and, as Assistant US Attorney, worked on the prosecutions of John Walker Lindh, the American youth who fought with the Taliban in Afghanistan, and Zacarias Moussaoui, the alleged Al Qaeda operative whose flight school training the FBI peculiarly refused to investigate in 2001.

Elston also helped carry out the firings of seven US attorneys in 2006 and “was accused of threatening at least four of the eight US attorneys to keep quiet about their ousters” (*Associated Press*, June 16, 2007). Both McNulty and Elston resigned from the Justice Department in 2007 as part of the fall-out from the US attorneys scandal.

The third member of the Honors Program/SLIP screening committee in 2006 was one Esther Slater McDonald. Like a number of other youthful Bush appointees at the Justice Department, McDonald is a graduate of one of the Christian fundamentalist ‘institutes of higher learning,’ in her case apparently the most repressive and extreme.

She attended Pensacola Christian College in Pensacola, Florida. The school, which is not accredited, has strict rules on male-female relationships, according to the *Chronicle of Higher Education*:

“At Pensacola any physical contact between members of the opposite sex is forbidden. ... There are restrictions on when and where men and women may speak to each other. Some elevators and stairwells may be used only by women; others may be used only by men. Socializing on particular benches is forbidden. If a man and a woman are walking to class, they may chat; if they stop en route, though, they may be in trouble. Generally men and women caught interacting in any ‘unchaperoned area’—which is most of the campus—could be subject to severe penalties.”

McDonald, explains Kate Klonick of *Talking Points Memo*, “who arrived at DOJ [Department of Justice] in September 2006, was part of the crowd of young DOJ hires who came in during the second Bush term after Alberto Gonzales moved from White House counsel to attorney general. They had limited experience, fierce loyalty to President Bush and sterling conservative credentials.”

McDonald was hired by Monica Goodling, another figure involved in the fired prosecutors scandal, who resigned from the Justice Department in April 2007. Goodling, at 33, served as the link between Attorney General Gonzalez and the White House. Also a product of Christian institutions, she was an undergraduate at Messiah College in Pennsylvania and obtained a law degree from Pat Robertson’s Regent University in Virginia.

According to Elston’s comments to the OIG/OPR investigators, when he told Goodling that the new hire, McDonald, was to be on the screening committee, Goodling “seemed pleased that Esther had been picked and said something to the effect ‘well, she’s had experience in this sort of thing.’”

It would be interesting to know what Goodling had in mind, because McDonald apparently spent much of her time checking the Internet to see if the prospective candidates were “leftists” of one sort or another.

The OIG/OPR inquiry observes, “We were able to determine that, among other things, McDonald searched for organizations to which candidates belonged, read blogs by or about candidates, and searched Westlaw, school websites, and school newspapers for articles by or about candidates.”

A November 29, 2006 email from McDonald about one candidate’s affiliations provides some flavor of her concerns: “Poverty & Race Research Council actively works to extend racial discrimination through increased affirmative action and, while there, [the candidate] helped draft document arguing that federal law requires recipients of federal funding to seek actively to discriminate in favor of minorities (racial, language, and health) rather than merely to treat all applicants equally; Greenaction is an extreme organization founded by Greenpeace members and promoting civil disobedience and engaging in violence in protests, and the

organization adheres to the Principles of Environmental Justice, which are positively ridiculous (e.g., recognizing ‘our spiritual interdependence to the sacredness of our Mother Earth’ and ‘oppos[ing] military occupation, repression and exploitation of lands, peoples and cultures, and other life forms’); [the candidate] also is/was a member of Greenpeace; [the candidate’s] essay is filled with leftist commentary and buzz words like ‘environmental justice’ and ‘social justice.’”

The third member of the committee, David Fridman, remembered McDonald objecting to one candidate because he was allegedly an “anarchist”; she would also circle or identify troubling items on a candidate’s application: having a clerkship with a liberal judge, or having worked for a liberal member of Congress or law professor. McDonald had concerns about one candidate because he was a member of the Council on American Islamic Relations, although he was top of his class at Harvard.

Candidates were rejected by McDonald and Elston who had had internships with organizations such as Human Rights Watch or the American Civil Liberties Union (ACLU), or who had assisted in defending someone held at Guantánamo Bay.

All in all, 55 percent of candidates whose applications indicated liberal affiliations in 2006 were deselected, compared with 18 percent of those with right-wing links. Forty percent of liberal-minded students with excellent academic qualifications were excluded, against only 6 percent of the conservative students with equivalent credentials.

Among the prospective summer interns, 82 percent of those with liberal affiliations were struck off the list, while only 13 percent of the students with conservative ties suffered the same fate.

The behavior of the majority of the screening committee in 2006 was so egregious that it caused something of an uproar in the divisions of the Justice Department who had had hundreds of their choices rejected. Accusations of political interference surfaced, culminating in the anonymous letter of April 2007. Elston resigned from the department over another scandal in June, McDonald quit one day before OIG/OPR investigators were to interview her in October 2007.

The investigation concludes: “We believe that McDonald’s and Elston’s conduct constituted misconduct and also violated the Department’s policies and civil service law that prohibit discrimination in hiring based on political or ideological affiliations.”

In fact, the Bush administration attempted, and succeeded in large measure, in transforming a major federal government department into an instrument for the pursuit of extreme right-wing policies.



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