

U.S. ATTORNEY ASSESSMENT

Kevin Ryan (NDCA): Appointed Aug. 2, 2002; term expired Aug. 2, 2006
EOUSA General Counsel Scott Schools was appointed interim USA; 11 years as career federal prosecutor/First Assistant/manager w/ 9 months as interim USA in SC; plus 5 years in private practice

- Significant management problems have manifested during his tenure.
- The district has become one of the most fractured offices in the Nation.
- Morale has fallen to the point that it is harming our prosecutorial efforts.
- The USA has lost the confidence of many of his career prosecutors.
- The problems here have been so significant that it has required multiple on-site visits by management and personnel experts from EOUSA.
- Although our Evaluation and Review Staff (EARS) reports are not an evaluation of the performance of a United States Attorney by his or her supervisor – in this case, we had two office-wide evaluations that detailed the problems within the management of this office, which dictated the need for a change.

Carol Lam (SDCA): Appointed Nov. 18, 2002; term expired Nov. 18, 2006
Executive AUSA Karen Hewitt is interim USA; 6 years as career federal prosecutor/manager; 8 years as government litigator; 3 years in private practice

- This is one of our largest offices in the country. In addition to all of the complex legal issues that occur in these extra-large districts, San Diego also faces a tremendous responsibility to effectively manage a border.
- She continually failed to perform in relation to significant leadership priorities – these were priorities that were well-known within the Department. They were discussed at our annual mandatory USA conferences, in speeches by Department leaders, in memos, in conference calls, and in a host of other ways.
- First, the President and Attorney General have made clear that border enforcement is a top priority. It's important to our national security and to our domestic security. Regardless of what was done by the office in this area, she failed to tackle this responsibility as aggressively and as vigorously as we expected and needed her to do. At the end of the day, we expected more.

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- Ex: The President has made clear that he expects strong immigration enforcement efforts, but SDCA has only brought a fraction of the cases that other significant border districts are doing. While some good numbers on alien smuggling:
 - Only 422 illegal re-entry cases in 2005 where AZ did 1,491 and NM did 1,607;
 - Only 470 illegal entry cases in 2005 where AZ did 3,409 and NM did 1,194;
 - In June 2006, Sen. Feinstein wrote a letter to the AG complaining about the high prosecution guidelines which kept these numbers low.
- Writing about her concern for Ms. Lam's "restrictive prosecutorial guidelines," Sen. Feinstein stressed "the importance of vigorously prosecuting these type of cases so that California isn't viewed as an easy entry point for alien smugglers because there is no fear of prosecution if caught."
- More than 18 other members of Congress complained about her "catch and release" policies and her failure to let alien smugglers back out onto the street by raising prosecution guidelines too high.
- Second, the President and both Attorneys General in this Administration made clear that, after terrorism, gun crime is the top priority and an important tactic to fighting violent crime.
- SDCA has only brought a fraction of the cases of other extra-large districts. Despite its size and population, it ranks 91 out of 93 districts in terms of average numbers of firearms cases since FY 2000 (doing only an average of 18 cases).
- Third, rather than focusing on the management of her office, this USA spent a significant amount of her time trying cases – this is discouraged in extra-large districts, because these are offices that require full-time managers.

John McKay (WDWA): Appointed Oct. 30, 2001; term expired Oct. 30, 2005
Criminal Chief Jeff Sullivan was appointed interim USA -- 5 years as a career federal prosecutor after 27 years as the county prosecutor and 3 years in private practice.

- Demonstrated a pattern of poor judgment in relation to the tactics he used to push for policy changes that were not in the best interest of the Department and without regard to the Department's appropriate channels and methods of evaluating policy.
- Placed extensive focus, and engaged in a significant amount of travel outside of the district to advocate policy changes, rather than focusing on running the office.

Paul Charlton (AZ): Appointed Nov. 14, 2001; term expired Nov. 14, 2005
Chief AUSA Daniel Knauss was appointed interim USA; 32 ½ years as a career federal prosecutor, including 2 months as interim USA in that office in the past

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- Repeatedly took actions contrary to DOJ policy and procedure.
- Failed to implement the AG's instruction on a death penalty case, when federal law places the decision with the AG.
- Like McKay, Charlton demonstrated a pattern of poor judgment in relation to the tactics he used to push for policy changes without regard to the Department's appropriate channels and methods of evaluating policy. He tried to mandate the FBI to institute a new policy to videotape all interviews with suspects without regard to the national policy taken by the FBI or all of the many reasons why this raises significant concerns that require substantial discussion.
- Despite the national focus the Attorney General requested for offices to focus on the federal crime of obscenity, which coarsens society, McKay failed to support the Department's prosecution of a case that was developed within his district.
- Worked outside of proper channels in seeking resources, without regard to the process or the impact his action would have on our other USAOs.
- [Contrary to guidance from Main Justice that it was poor judgment, he put an employee on "leave without pay" status so she could become a paid press secretary for a Republican running in the 2002 gubernatorial campaign against Governor Napolitano, the former U.S. Attorney. (Shortly thereafter, the employee left the USAO permanently.)]

David Iglesias (NM): Appointed Oct. 17, 2001; term expired Oct. 17, 2005
First AUSA Larry Gomez is Acting USA; 27 years as career federal prosecutor/manager plus 2 years as local prosecutor

- One of our large offices, New Mexico is a critically-important border district.
- Again, the President and Attorney General have made clear that border enforcement is a top priority. It's important to our national security and to our domestic security. Regardless of what was done by the office in this area, he failed to tackle this responsibility as aggressively and as vigorously as we expected and needed her to do.
- There was a perception that he traveled a lot, but that even when he was in the office he still delegated a vast majority of the management to his First Assistant. We expect our U.S. Attorneys, particularly those in critical districts, to be hands-on managers working hard to advance the work of the Department.

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- Quite simply, now that Mr. Iglesias finished his four-year term (and then some) this was an area where we thought we could make a change to bring more dynamic leadership to the office.

Dan Bogden (Nevada): Appointed Nov. 2, 2001; term expired Nov. 2, 2005
First AUSA Steve Myhre is Acting USA: 9 years as federal prosecutor/manager plus 5 years of private sector litigation and 8 years in the Marine Corps Judge Advocate

- Similarly, Nevada is what we consider to be a very important district that was underserved.
- Given the large tourist population that visits each year, it's well-known that Las Vegas could present a target for terrorism. It has also struggled with violent crime, drugs, and organized crime. This is an office where we have the right to expect excellence and aggressive prosecution in a number of priority areas.
- Despite the national focus the Attorney General requested for offices to place on the federal crime of obscenity, which coarsens society, the USA failed to support the Department's prosecution of a case that was developed within his district.
- This is another district where, now that Mr. Bogden has finished his four-year term (and then some), we thought we could make a change to bring more dynamic leadership to the office.

Margaret Chiara (WDMI): Appointed Nov. 2, 2001; term expired Nov. 2005
Decision pending on who will lead the office until a new Senate-confirmed USA is identified.

TRY TO AVOID SINCE NO PUBLIC STATEMENTS FROM CHIARA:

- We have briefed privately the reasons for the change in this district; however, Ms. Chiara has not made any public statements at this time, and out of respect for her silence, we'd say only that this office presented some management issues.

IF PUSHED:

- Under the USA's tenure, the office has become fractured, morale has fallen, and the USA has lost the confidence of several members of the leadership team and some career prosecutors.
- The problems here have required an on-site visit by management experts from our EOUSA to visit and mediate with members of the leadership team, and in the end, it was decided that new leadership would be appropriate to unite the office.

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