



New DOJ Unit Will Keep Eye on Prosecutors' Misconduct

February 4, 2011

The U.S. Department of Justice — possibly stung by several recent instances of prosecutorial misconduct, many of which were outlined in a *USA Today* investigation — has set up a new unit to review instances of intentional or reckless conduct by its attorneys.

The new Professional Misconduct Review Unit, announced last month, will be headed by Kevin Ohlson, former chief of staff to Attorney General Eric Holder Jr. It will examine misconduct findings made by the Department's Office of Professional Responsibility in order to ensure that federal prosecutors face swifter and more consistent punishment if the Office determines that they committed misconduct. In addition, the new internal unit will make referrals to state bar associations and disciplinary authorities.

The new unit was created amid widespread criticism of the Justice Department following several high-profile cases of discovery misconduct and ethical violations by prosecutors. We have previously reported on the Ted Stevens case [here](#) and [here](#), for example. In this case, the Department dismissed a seven-count corruption indictment against former U.S. Senator Ted Stevens following a guilty verdict in a jury trial during which the judge repeatedly rebuked prosecutors for failing to disclose evidence that was potentially helpful to the defense.



USA Today recently identified 201 criminal cases nationwide in which federal courts found that prosecutors had violated laws or ethical rules. In each of the cases, the judges overturned the convictions or rebuked the prosecutors for the misconduct. Despite the seriousness of these cases, the newspaper found that the Department often took years to investigate the alleged misconduct and that there was little risk that prosecutors would lose their jobs for misconduct.

Attorney General Holder said that the new unit was created because current procedures for resolving attorney discipline at DOJ “consume too much time, and risk inconsistent resolutions.” The new unit, he said, would provide “consistent, fair, and timely resolution of these cases.” Until now, the decision to discipline career prosecutors for ethics violations had been made by the prosecutors’ supervisors, most of them U.S. attorneys who were busy supervising their offices’ case loads. The new unit will have a staff devoted to investigating prosecutorial misconduct and will therefore be able to make disciplinary decisions more quickly.

It remains to be seen how much impact the new unit will have. It is certain, however, that DOJ has a long way to go in restoring faith in its prosecutors.

Crime in the Suites is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

The commentary and cases included in this blog are contributed by Jeff Ifrah and firm associates Rachel Hirsch, Jeff Hamlin, Steven Eichorn and Sarah Coffey. These posts are edited by Jeff Ifrah and Jonathan Groner, the former managing editor of the Legal Times. We look forward to hearing your thoughts and comments!