

Impact of DOJ blacklisting unclear, but definitely 'on our radar screen'



Pictured: Attorney General Michael Mukasey

By **Anna Pratt** Jul 25 2008 03:42PM | **1 Comment**

MnIndy reported **a month ago** on the **Office of the Inspector General's** findings that the **Department of Justice (DOJ)** had been rejecting candidates for its prestigious honors programs on the basis of their apparent liberal political leanings. It's unclear what impact the DOJ's actions are having on attorneys and aspiring attorneys who may want to work with leftist-labeled groups, but some members of the local legal community say it's cause for concern, especially if people are led to believe their careers will be undermined by their outside interests or political leanings. That would run counter to a long tradition in Minnesota, where attorneys are bound by a **professional code of responsibility** to perform at least 50 hours of pro bono work each year. Inspector General Glenn Fine will testify about the report in the Senate Judiciary Committee hearing on Wednesday, July 30.

The issue came to light through an investigation spearheaded by the Inspector General following the politically charged firings of eight U.S. attorneys, a chain of events that was highly publicized last year, and other areas of the DOJ are being examined as well. Investigators found that "fundamental changes" took effect within two programs in 2002 -- the Attorney General Honors Program and Summer Law Program -- under the direction of former Attorney General John Ashcroft. Those changes took place through a screening committee that weeded out candidates who exhibited a liberal bent at a far higher rate than their more conservative counterparts, the report states. Such practices stopped temporarily but resumed when Attorney General Alberto Gonzalez took the reins. (Since the report's release, Attorney General Michael Mukasey has agreed to adhere to the report's recommendations to level the playing field.)

According to the DOJ's website, selection for the two programs is based on "academic achievement, law review or moot court experience, legal aid and clinical experience, and summer or part-time legal employment...specialized academic studies (including undergraduate and post-graduate degrees), work experience, and extracurricular activities that directly relate to the work of the Department."

But that doesn't jibe with the blacklisting of organizations, big and small, that supply those kinds of credentials. MnIndy's Tom Elko broke the news that some Minnesota nonprofit organizations, among others, were blacklisted, including the American Civil Liberties Union, Planned Parenthood, Nature

Sen. Patrick Leahy, D-Vt., chairman of the Senate Judiciary Committee, said in a July 9 Senate Judiciary Committee hearing that the recent report "confirms our findings and our fears that the same Bush Justice Department officials involved with the firing of United States Attorneys were injecting partisanship into the hiring of young attorneys." Further, Leahy stated, "I expect further reports from the Inspector General will shed additional light on the extent to which the Bush administration has allowed politics to affect – and infect – the Department's priorities, from law enforcement to the operation of the Civil Rights Division to the Department's hiring practices."

Mukasey responded, "As I've said many times, to members of the public and to department employees, it's crucial that we pursue our cases based solely on what the law and the facts require, and that we hire career people without regard to improper political considerations," adding that he promises to keep politics out of it.

Meanwhile, the Minnesota State Bar Association is considering some type of response to the DOJ's actions, but what that might entail is unknown at this point, according to its executive director Steve Hirsch, who added that its decision-making body wouldn't weigh in until it meets in September.

John Keller, executive director of the Immigrant Law Center of Minnesota, said he's not aware of any employees, past or present, who may have been turned down for a spot in the DOJ programs as a result of their tenure with the organization, but he'd like to find out if it has played a part. "The focus should be on finding the most competent individuals and not a political litmus test. Never before has the DOJ been as political as it has under this administration.

"We do take it seriously," he said. "It cheapens the notion of fairness and due process."

Cindy Bielke, communications director at Hamline University's School of Law in St. Paul, echoed those thoughts. She and other staffers at the school are unaware of cases where students have been discriminated against for their affiliations, but "the issue is definitely on our radar screen," she said.

How it's influencing law students considering future employment with the DOJ is also difficult to gauge since school isn't in session right now, staffers say. Janine Laird, executive director of the Minnesota Justice Foundation (MJF), which has offices at area law schools, could vouch for one recent incident, however, where several students approached a career counselor with a question about revising their resumes so that they're less liberal-seeming.

Still, "it sounds like that was an isolated incident," she said. She maintained that students' interest in community service will remain steady: "I'm assuming the same number of students are applying for programs," she said, admitting that she had expected a fallout to ensue. Only half-jokingly, she said, "A lot of people viewed [the blacklisting] as a feather in their cap. They were proud to be part of something that was being scrutinized by the current administration."

Nevertheless, "It's disappointing. Jobs like that shouldn't be political. It's dangerous to say volunteering is a political act that is labeled as liberal or conservative," she said. Moreover, she said she's not sure how such experience ever rose to the DOJ's attention, since most students don't go into detail on that stuff. "I think it just confirms what people think about government and the idea that we don't deserve better. That's a shame," she said, attributing it to the lack of publicity on the issue plus the passage of time. "In some ways it's too bad there wasn't more outrage."

One Twin Cities law clerk, who declined to be named, underscored that point, saying, via e-mail, "Any fear or chilling effect has never come up in any conversation I've had with law school friends. We've discussed political party affiliation, and any political volunteer work, in terms of how to handle it on a resume. Other than that, nothing."

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Posted Jul 25 2008 07:24pm with +0 votes

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