

Justice Department: The corruption is in the permanent bureaucracy

by Edward Spannaus

In her April 14 letter to Sen. Orrin Hatch (R-Utah), the chairman of the Senate Judiciary Committee, Attorney General Janet Reno assured Hatch that the career prosecutors in the Justice Department could handle the Donorgate/Chinagate investigation just fine. Reno promised that the allegations of illegal campaign financing activities “will be thoroughly investigated and, if appropriate, prosecuted,” and added: “At this point it appears to me that the task should be performed by the Department of Justice and its career investigators and prosecutors.”

“It is neither unique nor unprecedented for the Department to receive information that foreign interests might be seeking to infuse money into American political campaigns,” Reno wrote. “The Department of Justice routinely handles such allegations, and because of its experience in reviewing and investigating these sensitive matters, embracing, among other things, issues of national security, is particularly well-equipped to do so.”

Reno’s refusal to seek a special prosecutor (technically, an “independent counsel”) was met with howls of outrage from Republicans on Capitol Hill and much of the news media. But despite all the displays of outrage, the truth of the matter is that many of the President’s adversaries are, in fact, perfectly happy with the fact that the Chinagate investigation is being run by a task force in the Justice Department made up of career prosecutors.

This Justice Department task force, to which Reno deferred, is located in the Department’s Criminal Division, and is headed by Deputy Assistant Attorney General Mark Richard—the Criminal Division’s top career official dealing with national security matters. Next in the chain of command are Lee Radek, who heads the Public Integrity Section (PIS), and Craig Donsanto, PIS’s election crimes specialist. Each of the three has been in the DOJ for over a quarter-century.

In terms of seniority, these three are mere upstarts compared to John C. Keeney, who has been acting Assistant Attorney General in charge of the Criminal Division for the past 18 months. Keeney joined the Department in 1951(!); he has recused himself from the campaign-fundraising investiga-

tion, because his son, John C. Keeney, Jr., an attorney in private practice at the Hogan & Hartson firm in Washington, represents current and former officials of the Democratic National Committee, including John Huang.

It has been obvious to any half-awake observer for months, that Mark Richard’s task force in the Justice Department was out to prove that it could be as brutal and zealous in going after the Clinton administration as any special prosecutor could be. Nobody who knows anything about Richard’s career, could think otherwise.

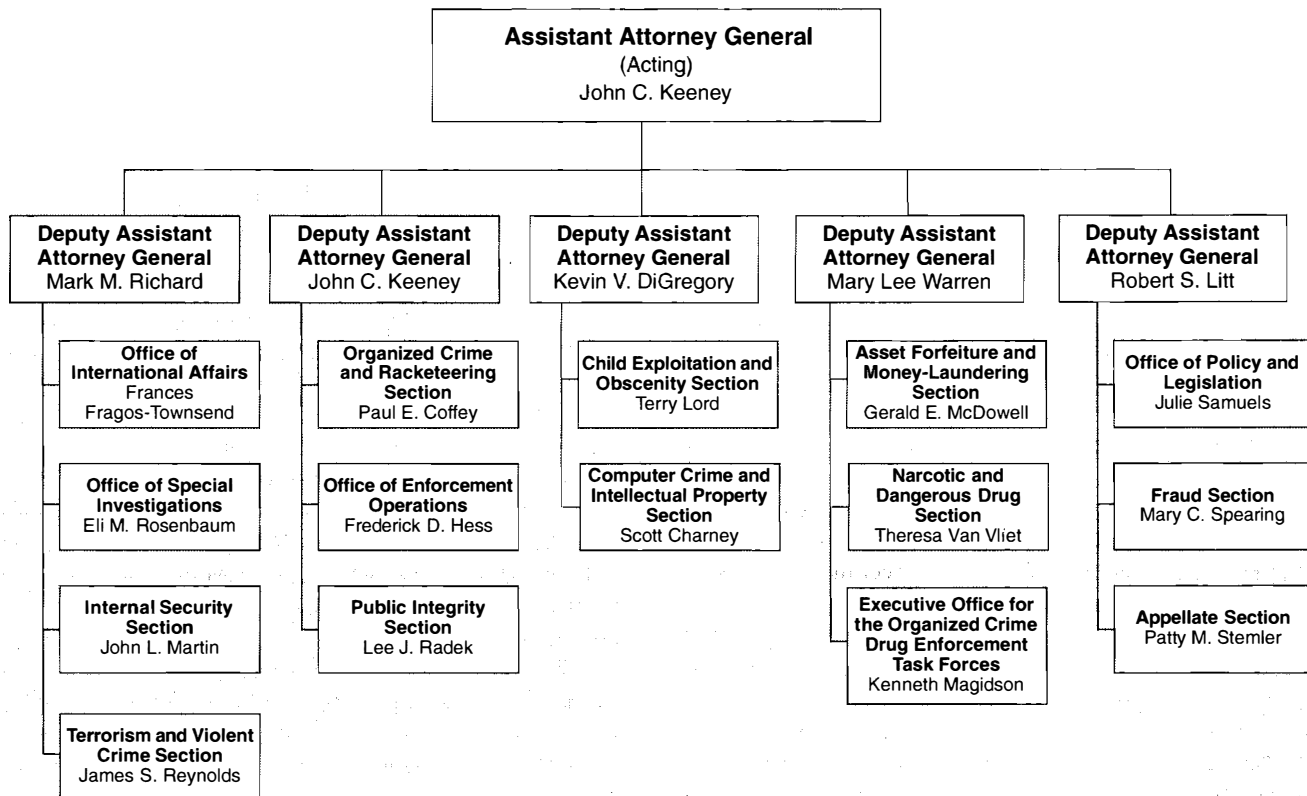
This was more-or-less acknowledged by an article in the *Wall Street Journal* of April 16, which implicitly undercut any claim—such as appears frequently on the *Journal*’s editorial page—that Reno and the DOJ are somehow “protecting” the President and the White House in the Chinagate probe. The article suggests that DOJ career prosecutors and the FBI, “who have been under mounting criticism for bungling other sensitive cases, are eager to restore their credibility with an aggressive probe.” The *Journal* article comments that this is one of the largest task forces ever assembled at the DOJ, with well over 25 FBI agents, at least a dozen DOJ lawyers, plus staff investigators. For the past five months, the task force has been calling dozens of witnesses before a Washington grand jury, and has used search warrants, which the article describes as unusual in so-called public corruption cases.

The *Journal* says that some defense lawyers who represent clients involved in the investigation almost wish Reno would hand it over to an independent counsel. “A lot of it is investigative puffery,” said one defense lawyer. “They’re trying to make a point, ‘We can do this.’ It’s designed to reinvigorate the Criminal Division, and I think they’re being more aggressive than they should be. This is where an independent counsel would be much fairer.”

On the other hand, some Republicans on Capitol Hill realize, as well, that they may better off *without* a special prosecutor. This was indicated recently by the spokesman for the Senate Governmental Affairs Committee, Paul Clark, who told a group of journalists that if there were an independent counsel conducting the investigation, the public would not know very much about it. Clark said that Sen. Fred

FIGURE 1

Political appointees and fixtures at the DOJ Criminal Division



Source: U.S. Department of Justice

All are members of the "permanent bureaucracy" except for DAAGs DiGregory, Warren, and Litt, who are political appointees.

Thompson (R-Tenn.), chairman of the Governmental Affairs Committee, believes that public hearings are needed to open the whole matter up for the public to see. This will require granting immunity from prosecution to witnesses, since few if any witnesses could be expected to testify otherwise.

"We have more power without an independent counsel," Clark said, explaining that an independent counsel would have much more "clout" to oppose immunity for Congressional witnesses than would the Justice Department. Any decisions about immunity in these hearings is likely to be heavily influenced by the experience of the Iran-Contra investigations, where immunity was granted to a number of witnesses over the strenuous objections of independent counsel Lawrence Walsh. Ultimately, Walsh was vindicated, when the convictions of both Oliver North and John Poindexter were thrown out by the appeals court, on the grounds that their immunized testimony at the Congressional hearings may have influenced the testimony of witnesses in their criminal trials.

Clark also said that he expects that the Justice Depart-

ment task force will issue at least one indictment "fairly soon." Clark suggested that this would be done for what he called "political" reasons, because the DOJ task force needs to show some results.

What is the permanent bureaucracy?

With respect to domestic matters, the U.S. Department of Justice is arguably the most powerful agency in the United States government. Almost anything that any other agency of government does, can be challenged or undone by the Department of Justice. During the 12 years of the Reagan-Bush administrations, the Department's budget quadrupled in size, from \$2.3 billion to \$9.8 billion when the Clinton administration took office. Under the Bush administration alone, from 1989 to 1993, the number of employees in the Justice Department went from 77,000 to 93,000.

As of 1995, the Department employed over 8,000 attorneys, over half of whom are spread out across the country in U.S. Attorneys' offices. The FBI employs another 1,400 attorneys as special agents.

The commonplace delusion afflicting the man-on-the-street, and purveyed through most of the news media, is that this mammoth law-enforcement apparatus is run by the Attorney General of the United States. Nothing could be further from the truth.

Within the Justice Department, its most powerful and influential component is the Criminal Division. Of the approximately 400 lawyers in the Criminal Division, the real power lies with a handful of “career professionals” who have been there for decades.

After all, Attorneys General come and go, as do the political appointees who normally head the Criminal Division and the other divisions. But the career professionals remain.

The inner circle of the Criminal Division, and their dates of appointment at the Justice Department, are:

John C. Keeney, 1951—the senior “career professional”; he has been acting Assistant Attorney General in charge of the Criminal Division, in between political appointees, nine times.

Mark M. Richard, 1967—Deputy Assistant Attorney General, the DOJ’s liaison to the intelligence agencies; founder of the Office of Special Investigations (OSI) and the Public Integrity Section (PIS).

David Margolis, 1965—started as organized crime prosecutor; headed Organized Crime and Racketeering Section (OCR) for many years; now Associate Deputy Attorney General under recently resigned DAG Jamie Gorelick.

Paul Coffey, 1967—started as organized crime prosecutor, now heads OCR section.

Gerald McDowell, 1967—started as organized crime prosecutor; headed PIS for 12 years; then headed Fraud Section, and now heads Asset Forfeiture and Money Laundering section.

Some describe this five-man cluster as the closest inner circle of the Criminal Division, but the group also includes:

Lee Radek, 1969—formerly headed Asset Forfeiture section, now heads Public Integrity section.

James S. Reynolds, 1967—previously in Criminal Division’s Special Litigation section, and General Litigation and Legal Advice section (both of whom handled national-security and sensitive cases), appointed to head the Terrorism and Violent Crimes section upon its creation in 1991.

John Martin, 1965—began with FBI; has headed the Internal Security section since 1980.

It sort of gives new meaning to the term, “the ’60s generation,” doesn’t it?

Among this hard core of the permanent bureaucracy, unquestionably, the most powerful are Jack Keeney and Mark Richard. By virtue of the sections which they control, they will have a say in *any* sensitive matter or major case, even if it technically falls under the jurisdiction of another Deputy. Their “superiors”—such as the Attorneys General—are merely temporary place-holders.

On matters bearing on national security, Richard is the most powerful official in the Department. He is the Department’s official liaison with the National Security Council, the State Department, and the CIA. Thus it is no accident that Richard showed up in almost every case involving national security or sensitive government operations during the 1980s and ’90s.

Keeney, the most senior Deputy in the Criminal Division, directly-supervises the following sections (in addition to his current position of heading the Criminal Division as a whole):

Organized Crime and Racketeering

Public Integrity Section, which supervises all investigations and prosecutions of elected officials, or of appointed federal officials. PIS conducts all preliminary investigations under the Independent Counsel statute, and makes the recommendation to the Attorney General as to whether she should request a special prosecutor (which has been done four times already against Clinton administration officials).

Office of Enforcement Operations, which supervises the employment and use of informants, of immunity for witnesses, and runs the Federal Witness Protection Program.

Mark Richard currently supervises the following four sections in the Criminal Division—all of which bear upon national security:

Office of International Affairs, which handles all liaison arrangements pertaining to mutual assistance in law enforcement, such as extraditions, joint investigations, requests for legal assistance from foreign countries, and the like.

Office of Special Investigations (OSI), which Richard personally created in 1979, handles deportations of alleged Nazi war criminals resident in the United States, and is responsible for a vast train of abuses, blackmail, and extortion.

Internal Security Section, which handles espionage and related national security prosecutions, including “trading with the enemy” and arms exports violations.

Terrorism and Violent Crimes Section, created in 1991, which directly oversaw the Waco and Ruby Ridge debacles, as well as all international and domestic terrorism cases and investigations.

Clinton’s problem

After the 1992 elections, hopes rose that the incoming Clinton administration would undertake a long-overdue cleanup of the Justice Department. *Time* magazine and a six-part *Washington Post* series chronicled major abuses perpetrated by the Department.

The *Washington Post* series, in January 1993, highlighted the vastly expanded powers which federal prosecutors had assumed over the previous decade. Departmental policies and U.S. Supreme Court rulings gave federal prosecutors “more flexibility than ever before in pursuing convictions,” and, the

Post said, made it almost impossible to “hold federal prosecutors accountable for tactics that once were considered grounds for case dismissal or disciplinary action.”

The type of disreputable tactics cited in the *Post* series were: manipulation of grand juries; failure to disclose evidence favorable to a suspect or a defendant; government intrusion into the relationship between defense attorneys and clients; intimidation of witnesses; and blitzkrieg indictments or threats of indictment designed to force capitulation without the need for trial. The series described numerous examples of such tactics, including entrapment situations where prosecutors induce a target to commit a crime, or set up a defendant to hire an attorney who is actually a government informant, or issue multiple, simultaneous indictments in different parts of the country to force a target to plead guilty or face bankruptcy.

Time magazine, in its Feb. 15, 1993 issue, described the DOJ as having gained a reputation, among both Democrats and Republicans, as “the most thoroughly politicized and ethically compromised department in the government.” What was interesting about the *Time* article, was that it focussed not only on the political appointees, but also on the permanent bureaucracy. The article noted: “Politics have invaded the Justice Department in many administrations. . . . What is different about the Justice Department that Clinton is inheriting is the depth to which politicization has seeped into the bureaucracy, which includes 92,300 people. . . .”

Time continued: “Traditionally, career bureaucrats at Justice formed a strong middle-management layer that protected the department against the excesses of political appointees. But under Reagan and Bush, even the lowliest attorney had to pass an ideological litmus test.” Among specific abuses cited were: misleading grand juries, withholding and tainting evidence, and entrapping defendants.

“The whole Justice Department building needs to be scrubbed down by the Clinton administration,” one specialist told *Time*.

As reported in the 1996 book *Main Justice* by reporters Jim McGee and Brian Duffy, the Clinton transition team put together a 120-person task force to review the Justice Department. The transition team report declared that the Department “now faces a crisis of credibility and integrity.” The report was particularly critical of the Criminal Division: “The image and authority of the Division have been badly tarnished in recent years by a perception that the Division’s handling of high-profile cases is politicized.”

But, doing something about it was more complicated. President-elect Clinton’s efforts to fill the Attorney General post were ill-fated. The first nominee, corporate attorney Zoe Baird, was forced out on “nannygate” allegations, and instead ended up on the President’s Foreign Intelligence Advisory Board. The second, Federal Judge Kimba Wood, was felled by similar allegations. It was in February, a couple of weeks

after the new administration had already taken office, that Clinton found somebody with no “nanny” problem: a spinster with law-enforcement experience, Janet Reno, the District Attorney for Dade County, Florida.

When Reno walked into the Attorney General’s office in March 1993, there was no political appointee designated to head the Criminal Division; Keeney was acting Assistant Attorney General again. She was immediately confronted with a series of crises. On Feb. 26, 1993, the United States had been hit with its first major terrorist bombing, that of the World Trade Center in New York City. She was also confronted by the the crisis in Waco, Texas, after the Feb. 28 shootout triggered by the Treasury Department’s Alcohol, Tobacco and Firearms division (ATF); everything for the Feb. 28 raid, including the authorization for the use of military equipment, had already been set up during the Bush administration.

Because federal officers had been killed at Waco, the DOJ and FBI took jurisdiction over the Waco siege, with direct responsibility assumed by the Terrorism and Violent Crimes section, under James Reynolds, and the supervisor of that section, Mark Richard. Richard personally went to Waco twice, and it was he who personally pressured Reno to go along with the FBI’s plan to insert CS gas into the Branch Davidian compound, after Reno initially resisted. As the Justice Department’s own internal report on Waco put it: “AG Reno relied a great deal on DAAG Richard during the latter days of the crisis.”

Reno was set up, and, after the fiery massacre in which 80 people died, she was for all intents and purposes trapped and captured by Richard and the permanent bureaucracy. Congressional Republicans and others targetted Reno—and even Clinton—as being personally responsible for the bloodshed; Mark Richard and the permanent bureaucracy gave Reno just enough cover, by indicating that she had been relying on the “career professionals” for advice, to keep her from being run out of town. This began the consolidation of the permanent bureaucracy’s control over the new administration.

This process accelerated after the 1994 elections, and more so after the 1995 Oklahoma City bombing. Gradually, the efforts to reform and clean up the Justice Department were shelved. Janet Reno has focussed her personal efforts on issues such as violent crime, gangs, and child abuse, and has given the permanent bureaucracy a free rein to continue their blatant cover-ups of prosecutorial misconduct.

This process has been most evident in the Lyndon LaRouche case, the John Demjanjuk case, and the “Lost Trust” prosecutions in South Carolina (see *EIR*, April 11, 1997, p. 70). In each of these cases, when confronted with evidence of gross prosecutorial misconduct and Justice Department abuses, Reno has protected the permanent bureaucracy and perpetuated the cover-up.