

NO CONSEQUENCES FOR THE WHOLESALE POLITICIZATION OF JUSTICE

Glenn Fine, DOJ's Inspector General, showed up before the Senate Judiciary Committee today to talk about the two reports showing pervasive politicization of the Department of Justice.

The big take-away from the hearing—which reinforced what was already evident from the reports—is that those who politicized DOJ have basically gotten away with it: Monica Goodling, Kyle Sampson, Mike Elston, and others will not be held accountable for their actions.

For example, when Chuck Schumer asks Fine about consequences, Fine says the lawyers involved (and not all of them were lawyers) may—possibly—face sanctions from their Bar.

Schumer: One of the most shocking conclusions in your report is that someone like Monica Goodling, who politicized the appointment of Assistant US Attorneys, Immigration Judges, and even Counter-Terrorism positions may not face any consequences for her actions. So let me ask you this, Mr. Fine. Should such blatant politicization and illegal activity be subject to some criminal punishment so there would be some ultimate accountability.

Fine: I'm not sure it's true to say she escaped any accountability and punishment. As I discussed with Senator Whitehouse earlier, she—people did leave the Department, so they can't be disciplined by the Department, but we've recommended that they never get a job with the Department again and hopefully with the federal government again and

that hopefully they consider this report if they ever do reapply. They have been exposed. Their conduct has been exposed in a transparent way for all to see. And then, there may be—I'm not saying there is but there may be appropriate Bar sanctions for—possibly—for attorneys who have committed misconduct and may have violated a Bar rule and so the Bar may look into that.

Sheldon Whitehouse follows up on Schumer's questions to ask for specifics, looking for some means to hold these guys accountable. Whitehouse seems to be pointing to something bma has talked about (update: see this comment)—the difficulty in identifying the Bar rule that such misconduct might have violated.

Whitehouse: Um, with respect to the consequences for the violation of federal law. Can you identify what Bar rules might have been broken. ... I did not see OPR making any referrals to the Disciplinary Council as a result, so I'm a little confused about what disciplinary consequences lawyers might face?

Fine: My understanding is, and I've had discussions with OPR about this, that OPR intends to, and we will participate in a notification to the Bars of individuals who are found to have committed misconduct, for them to review the conduct. Now I don't believe OPR has done a lengthy review of this and say which exact rule but it does intend to and I think it is appropriate to notify the Bars of the individuals who were involved and in fact I think some of them have already been notified; I think individuals have provided our reports to various Bars for the Bar to look at. In terms of the rules, I'm not an expert in the area, potentially Rule 8.4 which talks about the administration of

justice and acts going to the fitness to practice law. I'm not necessarily saying that does apply but I do think there are things that ought to be review and looked at and I think the experts in this area ought to do that.

As you might expect, that's not good enough for Whitehouse. He goes on to ask about stripping the civil service protection of people hired through politicized means, and asks why Fine didn't refer John Nowacki (though he doesn't name him by name), who lied to protect Monica Goodling, for false statements. As you can see from the video, Fine is underwhelmed with either of those ideas.

I noted almost a year ago that the exodus of those who conducted the politicization of the government in general effectively made the Administration immune for having done so.

There's nothing Glenn Fine said today that made me believe any differently with regards to the politicization of DOJ.