

*Alliance for Justice Statement*  
**House Judiciary Subcommittees on Crime, Terrorism and Homeland Security and  
Commercial and Administrative Law joint hearing on:  
"Allegations of Selective Prosecution: The Erosion of Public Confidence in Our  
Federal Justice System"**

Today's hearing presents a chance to shed light on a branch of government that has managed to escape oversight and operate in the shadow of the White House for many years. It offers an opportunity for Congress and the public to learn about the workings of a Justice Department which has evaded the law, misrepresented the truth, and imposed a veil of secrecy on a wide range of its activities. Alliance for Justice commends the Committee for holding this important oversight hearing and urges Committee members to continue their vigorous oversight of the federal justice system, which is currently in a shocking state of disrepair.

Politicization has run rampant in the Justice Department during the Bush administration, erasing the line between politics and federal law enforcement and eroding public confidence in a Department tasked to "ensure fair and impartial administration of justice for all Americans." Evidence has surfaced that politics infected not only hiring and firing but also federal prosecutions. Even more disturbingly, the allegations of misconduct surrounding selective and politically-motivated prosecutions do not stop at the Department of Justice. The prosecution of former Alabama Governor Don Siegelman raises a host of disturbing questions about partisanship in the judicial system, particularly concerning the involvement of three sitting federal judges: Mark Fuller, William Pryor and Noel Hillman. The impropriety allegedly occurred in some instances both prior to and after their confirmation to the federal bench, and only a handful of the allegations are described below.

Judge Mark Fuller was nominated by President George W. Bush to the U.S. District Court for the Middle District of Alabama in 2002. Judge Fuller had formerly served as district attorney for Alabama's 12<sup>th</sup> Judicial Circuit. When then-Governor Siegelman appointed Judge Fuller's successor, Gary McAiley, Mr. McAiley launched an investigation into Judge Fuller's accounting practices in the district attorney's office. This investigation revealed evidence that Judge Fuller had undertaken salary spiking with the purpose of defrauding the retirement system of Alabama. Judge Fuller dismissed these allegations, and the entire investigation, as "politically motivated." Judge Fuller then worked to defeat Governor Siegelman, a Democrat, in the next election, which Governor Siegelman lost in the closest gubernatorial election in Alabama state history. Shortly after his defeat, Mr. Siegelman was indicted in federal court. Judge Fuller was assigned the case, and he refused to recuse himself, despite motions by Mr. Siegelman's lawyers to remove him from presiding over the case. Serious allegations have arisen that Judge Fuller conducted the trial in a manner favoring the prosecution. Whether or not accusations of actual misconduct by Judge Fuller during the trial are borne out, it is clear that hearing a case against the man Judge Fuller accused of conducting a politically motivated investigation against him undermined the appearance of impartiality required by the federal rules of judicial conduct.

Judge William Pryor was nominated to the U.S. Court of Appeals for the Eleventh Circuit in 2004 and was confirmed by the Senate in 2005. Judge Pryor was formerly the Attorney General of Alabama. Recently, information has surfaced that Lanny Young, the same Alabama lobbyist and landfill developer who provided the information that sparked the Siegelman investigation, also gave federal prosecutors and investigators information about Young's illegal contributions to Judge Pryor's 1998 campaign for attorney general. Several of the lawyers on the Siegelman case who received this information were from Judge Pryor's office. It is standard practice for lawyers in such a situation to recuse themselves in order to avoid a conflict of interest, but it is alleged that in this situation they simply chose to ignore Young's allegations against their boss. In appealing his conviction, Mr. Siegelman is arguing that although Mr. Young provided similar information about donations to both himself and Attorney General Pryor, the allegations against Attorney General Pryor were not even investigated, demonstrating once again the selective nature of Mr. Siegelman's prosecution. Judge Pryor sits on the court that will hear Mr. Siegelman's appeal.

Judge Noel Hillman was nominated to U.S. District Court for the District of New Jersey in 2006. Prior to his confirmation, Judge Hillman was the head of the Public Integrity Section of the Justice Department—the section responsible for the federal prosecution of Mr. Siegelman. Former U.S. Attorneys in California and Arizona have cited lengthy delays and other problems in sensitive cases involving Republicans during Judge Hillman's tenure. And a recent study done by two University of Minnesota professors found that the Public Integrity Section opened seven cases against Democrats for every one opened against a Republican—a politicized ratio that is completely unparalleled by any other Public Integrity Section in recent history. Evidence has emerged that Karl Rove was in direct contact with Mr. Hillman and explicitly encouraged him to go after Mr. Siegelman.

The Bush administration has engaged in a campaign to turn the Department of Justice into an arm of the White House, but it has not stopped there. It has also attempted to stack the federal bench with ideologues who will further the administration's agenda in the courts. The American people cannot have confidence in the federal justice system unless both prosecutors and judges are free from political interference and ideology. This Committee's work is crucial to re-establishing faith in the independence and fairness of the federal justice system. The Department of Justice should cooperate fully with this Committee's investigation in order to speed along those efforts. Rebuilding this tattered Justice Department will be a monumental task. Without full disclosure of past misconduct and vigilant Congressional oversight of future Justice Department activities, the reputation of the federal justice system cannot be successfully restored.