

I left the Justice Department after it made a disastrous mistake. It just happened again.

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Opinion by Jonathan Kravis

Jonathan Kravis was a federal prosecutor for 10 years.

Three months ago, I resigned from the Justice Department after 10 years as a career prosecutor. I left a job I loved because I believed the department had abandoned its responsibility to do justice in one of my cases, *United States v. Roger Stone*. At the time, I thought that the handling of the Stone case, with senior officials intervening to recommend a lower sentence for a longtime ally of President Trump, was a disastrous mistake that the department would not make again.

Last week, the department again put political patronage ahead of its commitment to the rule of law, filing a motion to dismiss the case against former national security adviser Michael Flynn — notwithstanding Flynn's sworn guilty plea and a ruling by the court that the plea was sound.

Since my resignation, I have not commented on the Stone sentencing; it is not easy for me to do so now. Prosecutors are trained to make their cases in the courtroom and let the results speak for themselves.

But I feel compelled to write because I believe that the department's handling of these matters is profoundly misguided, because my colleagues who still serve the department are duty-bound to remain silent and because I am convinced that the department's conduct in the Stone and Flynn cases will do lasting damage to the institution.

First, Roger Stone. He was tried and convicted of obstruction of Congress, false statements and witness tampering, based on evidence that he had lied repeatedly to a congressional committee investigating Russian interference in the 2016 election, and then threatened a witness who could have exposed those lies.

In February, the Justice Department filed a sentencing memorandum, signed by all four prosecutors in the case, recommending a sentence of seven to nine years, within the range set by the U.S. sentencing guidelines. In my experience, the Justice Department staunchly defends sentences within the guidelines range, particularly for defendants (such as Stone) who are convicted at trial, and especially for defendants (such as Stone) who repeatedly demonstrate disrespect for the judicial system.

The next morning, the president posted a tweet criticizing the sentencing recommendation as a “miscarriage of justice.” Later that day, the Justice Department submitted a revised memo revoking the original recommendation and proposing that Stone receive a much shorter sentence. All four career prosecutors who had tried Stone withdrew from the case. I resigned because I was not willing to serve a department that would so easily abdicate its responsibility to dispense impartial justice.

Last week came an equally appalling chapter: the department’s motion to drop the Flynn case. Flynn pleaded guilty to the crime of making false statements in connection with lies he told in an FBI interview about his contacts with the Russian ambassador. Flynn twice admitted under oath that he had committed this crime, and the trial judge issued a lengthy opinion upholding the plea.

Nevertheless, after public criticism of the prosecution by the president, the department moved to dismiss Flynn’s case, claiming that new evidence showed that the plea had no basis. None of the career prosecutors who handled Flynn’s case signed that motion.

In both cases, the department undercut the work of career employees to protect an ally of the president, an abdication of the commitment to equal justice under the law. Prosecutors must make decisions based on facts and law, not on the defendant’s political connections. When the department takes steps that it would never take in any other case to protect an ally of the president, it betrays this principle.

Indeed, the department chose to assign these matters to a special counsel precisely to avoid the appearance of political influence. For the attorney general now to directly intervene to benefit the president’s associates makes this betrayal of the rule of law even more egregious.

The attorney general’s public comments worsened matters. William P. Barr gave nationally televised interviews in which he disparaged the work of prosecutors and agents who handled these cases, criticizing the Stone prosecutors for losing “perspective” and the Flynn team for becoming “wedded to a particular outcome.”

As the attorney general knows, those career prosecutors and agents cannot respond. The department prohibits employees from talking to the media about criminal cases without high-level approval. Department lawyers are ethically bound to protect the confidences of their client. Barr’s decision to excuse himself from these obligations and attack his own silenced employees is alarming. It sends an unmistakable message to prosecutors and agents — if the president demands, we will throw you under the bus.

The dedicated public servants who remain cannot respond publicly to those who claim that the department acted appropriately in these cases. But I can, and I say this. If the department truly acted because of good-faith commitments to legal positions, then where is the evidence of those commitments in other cases that do not involve friends of the

president? Where are the narcotics cases in which the department has filed a sentencing memorandum overruling career prosecutors? Where are the other false-statements cases dismissed after a guilty plea?

There are none. Is that because the only cases in the United States that warranted intervention by department leadership happened to involve friends of the president? Of course not.

The task of repairing this damage will fall to the department's career agents and prosecutors, and it is for them that I write this. Your work of investigating and prosecuting criminal cases is hard, and it becomes even harder when witnesses and jurors start to believe that the Justice Department's handling of these cases is infected by politics. Your service during these times is a credit to the department. And you will be at your posts, serving justice, long after this attorney general is gone.