Reno continues assault on McDade-Murtha bill

by Jeffrey Steinberg

Attorney General Janet Reno, on July 30, dispatched Associate Attorney General Ray Fisher to launch another hysterical and fraudulent attack against the McDade-Murtha bill, H.R. 3396, the Citizens Protection Act of 1998. The bill would create a Misconduct Review Board outside the Justice Department to take complaints of prosecutorial misconduct. The Board could, ultimately, recommend criminal prosecution of the prosecutors, if they break the law.

At the regular weekly press availability of the Attorney General, Fisher, standing in for Reno, devoted his prepared remarks to an assault on H.R. 3396:

"Before we begin, let me address one issue that is of great importance to the Department, and that is the McDade legislation," Fischer said. "In the next few days, the House of Representatives is going to consider the Justice Department's appropriations for the coming fiscal year. Included in the bill is a provision which purports to protect citizens from over-zealous prosecutions, but that would significantly hamper Federal investigations and prosecutions of multi-state cases."

Fisher complained that the bill "would require Justice Department attorneys, who, I must emphasize, already conform to the highest standards of ethical conduct, to comply with the various ethics rules of each and every state, no matter how much they conflict with each other or with Federal law." He fretted that it would "create an outside board to review allegations of attorney misconduct."

Echoing Reno's remarks on June 18, Fisher said that "this legislation is truly unnecessary," because DOJ attorneys are already subject to discipline from Federal judges and the Office of Professional Responsibility (OPR). He asserted that the effects of the McDade legislation "could be disastrous," and that it "would subject Federal attorneys to a haphazard patchwork of 50 sets of rules." He brought up the Singleton case in the 10th Circuit as an example, which, he said, "could prevent prosecutors from offering the testimony of cooperating witnesses."

In the Singleton case, the Tenth Circuit Court of Appeals ruled that when Federal prosecutors granted special favors, reduced sentences, and granted other privileges to criminals, in return for cooperative testimony, this constituted a form of bribery, which is illegal.

"Another important point," Fisher continued, "is that the provision would create a board composed of private citizens that would have access to files in open investigations, including grand jury, classified, and other confidential material. The board would be able to intervene in a case on the basis of vague allegations against Department attorneys and would enable the targets of investigations, and their attorneys, to obtain access to all of the evidence obtained by the government, including the identities of potential witnesses or confidential informants."

Referring to the entire McDade bill, Fisher stated: "We strongly urge members of the House of Representatives to delete this provision from the appropriations bill. And if the proposal is not removed, we are announcing today that the Attorney General will recommend that the President veto the appropriations bill"—an action which, a reporter later pointed out, Reno had already said in June that she would recommend.

One reporter asked Fisher if the McDade provisions were introduced as a defense lawyer's tactic, or, "are there bona fide complaints about over-zealous prosecutors out there?"

"I don't know the exact motivation," Fisher said, "and I don't want to speculate about it. But I do know that it would be a disaster if it were enacted."

Responding to a question about the Justice Department's "fight on the Hill" against the McDade-Murtha amendment to the DOJ appropriations bill, Fisher said that "the problem is, this legislation didn't go through any hearing process. It was attached to the appropriations bill, and so it's sort of stuck on, and I feel confident that most members of Congress probably haven't focussed on it."

Hearings needed

This argument by Fisher was particularly fraudulent. Before Rep. Joseph McDade (R-Pa.) introduced the bill as an amendment to the House Appropriations bill for the DOJ, McDade-Murtha was exclusively a self-standing bill, working its way through the House Judiciary Committee. At that time, the DOJ was hysterically opposed to the idea of public hearings on the bill—hearings that would expose the systemic pattern of prosecutorial abuse by Federal prosecutors, and might lead to a public Congressional airing of the railroad prosecution of Lyndon LaRouche. H.R. 3396, which has so far won the endorsement of 207 members of Congress, could still be the subject of House Judiciary Committee hearings, if the amendment form of the bill were to be voted down, eliminated in the House-Senate conference, or vetoed by the President.

Jake O'Donnell, a spokesman for Representative McDade, told the *Houston Chronicle* that the bill, especially the Misconduct Review Board provision, was "very important." He countered the Fisher statements to the press by noting that the internal oversight system at the Justice Department did not provide an adequate check on prosecutors' misconduct, and that a better safeguard was urgently needed.