

US attorneys must serve at the pleasure of the president

Alberto Gonzales, opinion contributor

Over the weekend, Preet Bharara, the U.S. Attorney in the Southern District of New York in Manhattan, was fired by President Trump after he refused to resign along with the 45 other remaining Obama-appointed U.S. attorneys. News of the firing has generated interest and raised questions presumably because the U.S. Attorney's Office in the Southern District of New York prosecutes many of our nation's major financial crimes and handles many of the high-profile cases involving Wall Street.

There are 93 Senate-confirmed U.S. attorneys appointed by the president. Each are supervised by the U.S. attorney general. Their job is to prosecute federal crimes within 93 geographic jurisdictions or districts in the United States.

Within his or her district, the U.S. attorney is the most visible representative of the Department of Justice, and is often the lead liaison for the U.S. attorney general when dealing with state and local officials and law enforcement personnel.

The replacement of most, if not all, serving U.S. attorneys is quite customary at the start of every new administration. An incoming president and attorney general will understandably want to have a person in place who will pursue the law enforcement priorities of the new administration. These priorities reflect the policies that the new president promised the American people during the presidential campaign.

This does not mean that the Trump administration intends to ignore certain



categories of federal crimes. Rather, Attorney General [Jeff Sessions](#) [Jefferson \(Jeff\) Beauregard Sessions](#) [Dems pick up deep-red legislative seat in Missouri](#) [Grassley to Sessions: Policy for employees does not comply with the law](#) [New immigration policy leaves asylum seekers in the lurch](#) [MORE](#) and the 93 U.S. attorneys who report to him intend to prioritize investigations and prosecutions based on budget constraints and the law enforcement agenda of President Trump.

By most accounts Bharara and his team did remarkable work on behalf of the American people and the Department of Justice. While his service and sacrifice

should be recognized, Bharara is not entitled to hold this position indefinitely.

Bharara served well beyond his statutory term of office. Furthermore, U.S. attorneys serve at the pleasure of the president. When the president no longer has pleasure in the service of a political appointee, the president has virtually unlimited authority and discretion to remove that individual.

Some have speculated that Bharara was removed because he may have been investigating, or was about to investigate, the previous business dealings of President Trump, the Trump Organization, or Trump's business friends and former associates. There is no evidence here of obstruction of justice. However, even if this was the motivation, attempts to derail an investigation would likely fail since the remaining experienced career investigators and prosecutors in the Southern District could move forward with a criminal prosecution, even in the absence of a confirmed U.S. attorney.

It may seem unfair to remove someone from their position without notice, particularly if they have done a good job. Whether fair or not, Washington custom is that the president is entitled to his team. There is no question he has the authority and discretion to make a change here.

There is nothing remarkable about a newly elected president asking for the blanket resignations of political appointees at the beginning of a new administration. What is remarkable is for one of those political appointees to refuse to resign, and force the president to fire him. Given his history with the investigation of the removal of seven U.S. attorneys by President George W. Bush, Bharara must know that elections have consequences, especially for political appointees who serve at the pleasure of the president.

Alberto R. Gonzales served as U.S. attorney general and White House counsel for six years in the George W. Bush administration. He is now the Doyle Rogers Distinguished Professor of Law and Dean of the College of Law at [Belmont University](#).

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