

Trump Continues Focus on State Prosecutorial Experience in United States Attorney Nominations



Article By
[Ripley Rand](#)
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On June 29, 2017, President Donald Trump made his second group of nominations of prospective United States Attorneys. With the eight lawyers he nominated earlier in June, this group brings the current number of Trump's United States Attorney nominations to seventeen - around 20% of the total number of positions. The nine lawyers he nominated last week are:

- Kurt Alme, the President and General Counsel of the Yellowstone Boys and Girls Ranch Foundation, to be the United States Attorney for the District of Montana.
- Donald Q. Cochran, a Professor of Law at Belmont University College of Law, to be the United States Attorney for the Middle District of Tennessee.
- Russell M. Coleman, a member of the Frost Brown Todd law firm, to be the United States Attorney for the Western District of Kentucky.
- Bart M. Davis, the Majority Leader in the Idaho State Senate since 2002, to be

the United States Attorney for the District of Idaho.

- Halsey B. Frank, an Assistant United States Attorney for the District of Maine, to be the United States Attorney for the District of Maine.
- J. Cody Hiland, the District Attorney in Arkansas's 20th Judicial District, to be the United States Attorney for the Eastern District of Arkansas.
- D. Michael Hurst, Jr., the director of the Mississippi Justice Institute and General Counsel for the Mississippi Center for Public Policy, to be the United States Attorney for the Southern District of Mississippi.
- William C. Lamar, an Assistant United States Attorney in the Northern District of Mississippi, to be the United States Attorney for the Northern District of Mississippi.
- R. Trent Shores, an Assistant United States Attorney in the Northern District of Oklahoma, to be the United States Attorney for the Northern District of Oklahoma.

So far, thirteen of Trump's seventeen nominees have come from states with two Republican Senators where the "blue slips" approving Presidential nominations are likely easier to come by. Thirteen of Trump's nominees are also from small or medium districts as DOJ categorizes them. Small and medium districts are those with fewer personnel resources (especially given the DOJ hiring freeze currently in effect), so adding Presidentially-appointed United States Attorneys to these districts will free up the acting United States Attorneys (career prosecutors who were already in the office) to return to prosecuting cases and other matters - no small addition in offices that may only contain twenty or thirty lawyers.

This batch of Trump nominees is very similar to his initial group, as well as similar to the Obama nominees as a whole:

- Trump's first batch of nominees had around 26 years of legal experience on average. Reverting to the mean, Trump's seventeen nominees as a whole average around 23 years of legal experience - the same as the average Obama nominee.
- Sixteen of the seventeen Trump nominees have prior state or federal prosecutorial experience (everyone but Idaho's Bart Davis), compared with the more than 80% of Obama nominees who had prosecutorial experience prior to nomination. Eleven of Trump's nominees have federal prosecutorial experience, consistent with the approximately 60% of Obama nominees who served as federal prosecutors prior to nomination.
- Two of Trump's seventeen nominees are former Congressional staff members: Donald Coleman for current Senate Majority Leader Mitch McConnell of Kentucky, and D. Michael Hurst, Jr., for former Representative Chip Pickering of Mississippi and for the House Judiciary Committee. This is also consistent with the Obama nominees, of which around 10% had service as staffers on the Hill. These types of relationships are thought to be helpful when issues involving

DOJ are being decided by Congress.

Despite the similarities, Trump continues to emphasize state prosecutorial experience in a way that Obama did not. While less than a third of the Obama nominees had state prosecutorial experience, over half of Trump's nominees to this point do. Furthermore, three of Trump's nominees are elected District Attorneys; while three of Obama's more than 100 total United States Attorney nominees had prior service as an elected District Attorney, none were serving in that capacity at the time of nomination. As noted before, studies have shown that violent crime is more often addressed by state courts than by federal courts. Trump's continued focus on lawyers with state prosecution experience is still in keeping with his recent executive order emphasizing DOJ efforts to fight violent crime.

A couple of stray observations:

In 2015, Donald Cochran wrote a research paper for the American Journal of Trial Advocacy about how Malcolm Gladwell's teachings in his book *The Tipping Point* can be helpful to lawyers during jury trials, which probably upped his "cool factor" among the law students he taught.

Shortly after Trump's inauguration, Halsey Frank wrote an editorial in the southern Maine newspaper *The Forecaster* arguing in part that "President Trump is appointing some able people" - a nifty coincidence, that (or maybe an indicator he thought he might get the nomination?).

And a final note: This batch of nominees puts the pace of Trump's United States Attorney nominations slightly ahead of Obama's - Trump began July 2017 with seventeen nominations, while at the end of June 2009 Obama only had nine. Given that Obama finished July 2009 with nineteen total United States Attorney nominations, it is not unlikely that Trump's nominations will continue to move along somewhat more quickly than Obama's, at least in the short to medium term.

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