



by Donald J. DeGabrielle  
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# A Federal Prosecutor's View

*You have often heard the ominous warning not to “make a federal case out of it”- which euphemistically refers to making something more serious, more complicated and frankly, just bigger than it needs to be. Well, that’s what we do for a living here at the United States Attorney’s Office. Many are familiar with the role of the federal prosecutor, but some may not be so familiar with the exact terminology and how we fit into the family of federal law enforcement agencies. Hopefully, this article will provide some illumination.*

## What is the United States Attorney’s Office?

The United States Attorney and Assistant United States Attorneys act as representatives of the United States in the federal courts whenever the United States is party to litigation. Most commonly that is when a person is charged with a federal crime. Perhaps as much as 80 percent of our appearances in federal court consist of criminal prosecution. We also represent the United States in the event it is sued because of something done by an employee or agency. Conversely, we will file a suit on behalf of the United States when appropriate and also provide affirmative representation whenever necessary to recover monetary or declaratory relief.

There are 94 Judicial Districts throughout the United States. Texas has four, referred to geographically as the Northern, Southern, Eastern and Western Districts. Each is led by a presidentially-nominated, Senate-confirmed United States Attorney, who serves the Department of Justice as the chief federal law enforcement official in the District. Some of the client agencies with whom we work include the FBI, ATF, ICE, DEA, EPA, USAID, Secret Service, Postal Inspection Service, Social Security Administration, Veteran’s Administration, Department of Defense, Department of Transportation, State Department, Customs and Border Protection, Housing and Urban Development, FDIC, and State Department Bureau of Diplomatic Security, to name a few.

Our mission, simply stated, is to investigate and prosecute on behalf of the United States, matters of significant federal interest. Our challenge is not as simple as it sounds. We rely upon a limited number of resources to handle a variety of Department of Justice priorities as established by the Attorney General (Alberto Gonzales) as well as local priorities which are unique to the community of a particular federal judicial district.

## Our Duty is to Seek Justice

My philosophical approach is [an adherence to] the age-old wisdom expressed by Justice Sutherland in the case of *Berger vs United States* (1935):

“(The prosecutor) is in a peculiar and very definite sense the servant of

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the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor—indeed he should do so. But while he may strike hard blows, he is not at liberty to strike foul ones.”

Former Justice Robert Jackson, while he was Attorney General of the United States said, when portraying the role of the prosecutor to an audience of United States Attorneys, that it is to “select those (cases) in which the offense is the most flagrant, the public harm the greatest, and the proof the most certain. If the prosecutor is obliged to choose his cases, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor...”

The work in our Civil Division is reflective of the same goal to seek justice - in that when the U. S. gets sued, we will vigorously defend, but will also recommend fair settlements whenever negligence and liability are apparently in favor of the plaintiff. We will also seek to recover on behalf of the U. S., money to which we are entitled and to arduously collect on the debts owed by others to the United States.

## **Department of Justice Priorities**

Attorney General Alberto Gonzales has announced that our highest priority is to stop the terrorists who seek to destroy the American promise of liberty and prosperity. Waging

the war on terror has been among the most difficult challenges that the Justice Department and our government have ever undertaken. But we have made great progress, as evidenced by the hundreds of convictions in terrorism-related investigations, and by the number of terror cells we have located and broken up from coast to coast. Still, we all know that al-Qaeda remains a dangerous force. The threat of terrorism is not going away, and neither is our commitment to do everything we can to stop it. Although the USA PATRIOT ACT represents a very powerful tool in the fight against terrorism, an integral part of our responsibilities includes the zealous protection of civil and constitutional rights for all people.

Every American deserves to live free from the fear of violent crime. The President's Project Safe Neighborhoods is taking criminals off the streets and reducing gun and gang crime. Our efforts are working – crime has plunged to thirty-year lows, resulting in more security and peace of mind for thousands of Americans who have been spared threats, harm, and violation by gangs with guns. We are prosecuting increasing numbers of violent felons who have possessed and used firearms during the commission of other violent crimes.

Illegal drugs poison children, destroy lives and threaten the safety and prosperity of our communities. Federal law enforcement agencies in partnership with the United States Attorney's Office have successfully dismantled some of the most deadly drug organizations that dump killer substances into our neighborhoods.

The Internet should be a safe, crime-free place for all Americans, especially our children. Our new Project Safe Childhood initiative is designed to complement our other efforts to secure for every child the most important gift that we can give – a safe environment in which to live, grow, and learn. Through this initiative we will identify, prosecute and lock up those who victimize our children by possessing, producing and distributing child

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pornography, and those who use the shadow of the Internet to lure minors into inappropriate activity.

There is no place for illegal discrimination. And the Attorney General has recently announced the prosecution of a record number of criminal civil rights cases in the last two-year period. We have also launched a new initiative, “Operation Home Sweet Home,” which expands our Fair Housing Act testing program. We are also focused on eradicating the modern-day slavery of human trafficking. Prosecutions of this crime have increased over 300 percent during this Administration. In the coming year, we will continue our efforts to locate and rescue the victims of this atrocity.

The Department of Justice’s fight is against government and corporate corruption. Honesty and integrity in government and in business are essential for a strong America. Prosperity cannot flourish if taxpayers and investors lose their confidence in these institutions.

## **Southern District Priorities**

Public corruption and the pursuit of those who commit healthcare fraud are two priorities in which we focus our resources here in the Southern District of Texas. Citizens within the Southern District of Texas must know that they can expect government and law enforcement that is free from the debilitating taint of corruption. As generations of citizens increase their life expectancy, the protection of the provision of medical care from fraudsters will help to ensure that those who need it most will be able to count upon assistance from the government.

Of course, we will continue to prosecute large numbers of drug-trafficking and money laundering violations as well as alien-smuggling operations and the offenders who run them.

The United States Attorney’s Office is committed to its role before the Courts, the Bar, the Agencies, and the public in the pursuit of professionalism, thorough preparation, and attention to detail. Through measured judgment and the balanced use of our authority in deciding which cases to pursue we remain ardently committed to ethical codes of conduct while promising zeal and enthusiasm for our commitment to public service.

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*Donald J. Degabrielle, Jr. became the twenty-first Presidentially appointed United States Attorney for the Southern District of Texas in March 2006. He previously served as the District’s First Assistant U. S. Attorney since January 2002, and has a total of 25 years in law enforcement, including three years as an FBI Agent. As an Assistant U.S. Attorney, Mr. DeGabrielle served in 2001 as the resident legal advisor to the South African National Directorate of Public Prosecutions. He has prosecuted hundreds of significant federal cases including those involving public corruption, white collar crime, bank fraud, violent crime, and criminal organizations involved in narcotics and human trafficking. He has worked extensively in training throughout the United States where he has presented lectures to law enforcement officers and prosecutors.*