

Outcomes mixed when prosecutors under fire

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McHenry County State's Attorney Lou Bianchi has predicted that an investigation into his administration will clear him.

But his future hardly will be clear-cut if the grand jury that special prosecutor Henry Tonigan III convened last month indicts him. Under state law, Bianchi would not become ineligible to hold office unless he was convicted of a crime or received a severe ethical sanction.

No public disciplinary proceedings are pending against Bianchi, and Tonigan has been tight-lipped about the direction of his investigation. The retired Lake County judge was appointed to investigate and, if necessary, prosecute "any and all persons involved relative to the allegations" that a former Bianchi secretary was required to perform political duties while logging hours as a county employee.

Bianchi denied those allegations, which were publicized last year while Amy Dalby was being prosecuted for copying and taking computer files that represented the work she did for Bianchi.

When Bianchi asked a judge to appoint a special prosecutor to investigate that alleged theft, his written request indicated that specific documents that a reporter had sought were found on Dalby's work computer. Bianchi did not tell the judge in court documents that the only documents the reporter had requested were political, such as records or databases for a "Festa Italiana" political fundraiser and correspondence to charities about donations from Bianchi's campaign.

Bianchi did not return a call for comment Friday, and his attorney, Terry Ekl, declined to comment.

County Board Chairman Ken Koehler, R-Crystal Lake, said the County Board would be responsible for appointing someone if Bianchi were unable to serve. Koehler said he never had been approached by anyone jockeying for the job, but he said but knew people interested in running when Bianchi's term expires in 2012.

"There's been no discussion about a replacement," Koehler said. "I'm assuming that the gentleman is innocent until proven guilty."

If criminal or ethical charges are filed against a sitting state's attorney, that will only be another step in a rather lengthy and time-consuming process.

If recent history is any indication, that is.

A former Kane County top prosecutor served an ethical sanction during the last year of her term for incidents that happened before she ran for office. Similarly, criminal and ethical cases are still pending against a then-Union County State's Attorney indicted about two weeks before the November 2008 election.

Gorecki finished term after suspension

Former Kane County State's Attorney Meg Gorecki did not serve a four-month suspension of her law license until four years after allegations surfaced that she implicated the County Board chairman in a fictional bribes-for-jobs scheme. She served the final six months of her term as state's attorney after the suspension but did not seek reelection.

In 1998, when she was a private attorney, Gorecki left three messages on a Kane County sheriff's deputy's private answering machine. The deputy, Jane Morrison, later testified that Gorecki told her in an unrecorded conversation that her boyfriend needed to funnel \$4,000 to \$6,000 into the County Board chairman's campaign fund if he wanted a job with the county highway department, according to an Illinois Supreme Court ruling.

Morrison kept the answering machine tape and turned it over to the sheriff's office in February 2000, when Gorecki was running for State's Attorney and Morrison's mother was supporting her opponent, according to the ruling.

When part of the allegations surfaced in the news media about a month later, Gorecki called them "ridiculous and slanderous" and "dirty politics at its worst," according to a Kane County Chronicle article. She was not forthright when the Illinois Attorney Registration and Disciplinary Commission asked her for information about the allegations in April 2000, but she won the election and ultimately admitted making the statements, according to the court ruling.

She said the statements on the tape were false, and a special prosecutor cleared her and the County Board chairman of any criminal wrongdoing without convening a grand jury. But, the Supreme Court decided to suspend her law license for four months, prompting an advisory opinion from Attorney General Lisa Madigan that Gorecki remained eligible to hold office because the suspension was less than six months. Madigan suggested that the chief judge appoint someone to fill in while she served the suspension.

And that's what happened, according to articles from the Kane County Chronicle. Chief Judge Philip DiMarzio appointed the chief of Gorecki's civil division, Katherine Moran, to fill the top prosecutor's spot for four months starting in February 2004. The Kane County Board voted, 14-10, that no vacancy existed in the State's Attorney's Office and did not consider a proposed resolution to appoint Moran permanently.

James unsure whether charges affected election loss

Farther south, in Union County, both criminal and ethical charges remain pending against former State's Attorney Allen W. James, who was indicted 13 days before he lost reelection by about 150 votes. James allegedly pulled a concealed pistol in the courthouse parking lot on a private investigator trying to serve him papers related to a federal employment lawsuit in March 2008.

A special prosecutor convened a grand jury that indicted James in October 2008 on felony counts of unlawful use of a weapon and disorderly conduct.

James, who now has a general private legal practice, maintained that he was legally allowed to carry the weapon concealed at his place of business, which he contended included the courthouse parking lot. He said he was advised to carry a weapon for personal protection after aggressive drug prosecution led to general threats against local officials.

The private investigator reported the incident to the ARDC, whose administrator formally filed ethics charges against James in September 2008. The administrator pushed for an ethics hearing in February 2009, which James said was unusual because little had happened with the criminal case. He ended up receiving an 18-month continuance to allow the criminal case to proceed first.

More than a year later, Allen said he was unsure whether the indictment cost him the election, which he said drew a large turnout in his Democratic county in light of the presidential election. But simply facing felony charges created a ripple effect throughout his life, which he said he expected most criminal defendants felt.

"I guess it makes me a better attorney, because I understand what people go through," James said. "It kind of takes the wind out of your sails for a while."

But James and his staff continued to do their jobs effectively after the March 2008 incident, he said.

"It's an obvious distraction, but the whole thing actually happened the week before we had a double-homicide trial," James said. "We don't have a lot of murders down here. In fact it was my first homicide trial, prosecuting or defending."

- Northwest Herald reporter Kevin Craver contributed to this report.