

# Ex-Judge to Probe Handling of BNL

## Barr Stops Short of Special Counsel

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Attorney General William P. Barr yesterday appointed a retired federal judge to investigate CIA and Justice Department actions in an international bank fraud case. But he stopped short of naming the type of independent counsel urged by congressional Democrats and the judge who presided over the case.

Barr said a "climate of distrust" has made it impossible for the department to put to rest allegations that it mishandled a criminal inquiry into the Atlanta branch of the Italian-owned Banca Nazionale del Lavoro (BNL). The branch gave Iraq more than \$4 billion in loans and loan guarantees for weapons and food that helped strengthen Saddam Hussein's regime before Iraq's 1990 invasion of Kuwait.

Critics have suggested administration officials held back investigators either to protect the Italians or to avoid potentially embarrassing revelations about the Bush administration's overtures to Iraq before the Persian Gulf War. In recent days, the CIA has acknowledged that it failed to give prosecutors some documents suggesting Italian complicity in the case.

Barr said he believes prosecutors acted properly in the BNL case, but the combination of election-year politics and "media sensationalism" convinced him that an internal review would not persuade anyone. Within the Justice Department, prosecutors complain their reputations are being smeared by Dem-



**WILLIAM P. BARR**  
... cites "climate of distrust" in case

ocrats who want to exploit a campaign issue.

Congressional Democrats had formally requested that Barr invoke the independent counsel statute, which requires a panel of judges to appoint the special investigator. Instead, Barr turned to obscure federal regulations allowing him to pick someone he wanted, a 72-year-old Republican named Frederick B. Lacey. Barr can fire him, but only for good cause.

In another significant move, Barr announced he is revamping the Atlanta-based prosecution team that handled the BNL case for the past three years and forming a new task force, to be led by a Justice Depart-

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ment attorney from another region. He said Lacey, as part of a broad charter, would keep him informed on the task force's efforts.

Lacey said he would quit before he would allow any administration official to interfere with his task. He also promised to publicly release his report on the BNL controversy. Stressing his reputation as a tough-minded prosecutor and judge who battled organized crime in New Jersey, he expressed confidence he could "get even the reluctant to cooperate."

Justice Department officials are hoping Barr's moves will muffle the drumbeat of criticism over the BNL case, but Lacey's appointment did not satisfy either the federal judge in Atlanta who oversaw the BNL case or Democrats who have led congressional probes into the matter.

Sen. David L. Boren (D-Okla.), chairman of the Select Committee on Intelligence, said the Justice Department should not "be in a position of appointing its own investigator."

Rep. Henry B. Gonzalez (D-Tex.), said Barr "has taken a side-step—better than nothing but not nearly enough."

U.S. District Judge Marvin H. Shoob, who until recently presided

### *The Atlanta-based prosecution team also is being revamped.*

over the BNL case, said he was disappointed Barr did not invoke the independent counsel statute. Lacey's appointment "might have been the right decision months ago. But at this late stage, it is certainly not the answer," he said.

Barr's news conference, the first in months, follows a nasty round of finger-pointing between the CIA and the Justice Department over which agency was responsible for giving Shoob a misleading and incomplete report in September about what the CIA knew. The department's relations with the FBI are also tense because department officials are investigating possible ethical and criminal violations by FBI Director William S.

Sessions and trying to fire a top Sessions aide.

Lacey, who knows Sessions, said he would look into whether the Sessions inquiry was leaked to the news media to divert attention from the BNL controversy, but he said Barr has assured him "there was absolutely no truth to this."

Barr said he has told Lacey to investigate the department's "entire handling of the BNL matter . . . from day one," including disclosures that the CIA failed to turn over relevant information to prosecutors. Lacey said he can, on his own power, use a federal grand jury to subpoena witnesses and documents and seek indictments.

Whether he would keep his appointment if President Bush is defeated is unclear. Presumably, that decision would be up to the new attorney general.

Barr's refusal to use the independent counsel statute is not surprising, given his oft-stated belief that the Justice Department can almost always investigate itself.

Since he became attorney general a year ago, he has denied many requests that he invoke the statute. Barr has complained about both the provision mandating selection by a panel of judges and the fact the independent counsel is not subject to supervision by the Justice Department.

He said he chose Lacey on Thursday and informed White

House Counsel C. Boyden Gray of his decision Thursday night. As a federal prosecutor in New Jersey, Lacey won recognition for fighting organized crime and political corruption. He served as a federal judge in that state from 1971 to 1986, then joined a law firm.

Since 1989, he has been a court-appointed administrator of the International Brotherhood of Teamsters. He forced several senior union officials to resign because he determined they had links to organized crime.

The new prosecution task force will take control of not only the BNL investigation, but other inquiries related to U.S. policy toward Iraq, including whether the Commerce Department altered documents on exports to Iraq before giving them to Congress in 1990, Barr said.

Barr said the group will be composed of Justice Department officials and prosecutors drawn from



around the country, and will be supervised by a U.S. attorney who he will pick with Lacey's advice.

Barr said that while he believes the Atlanta-based prosecution team has done nothing wrong, the new team may not include all members of the old one. He said Lacey will help decide who should participate as the special investigator "starts framing his views" about alleged mistakes or improprieties.

In a bow to critics, Barr said the task force will reexamine some of the Atlanta prosecutors' most-contested conclusions about how BNL officials made the off-the-book loans to Iraq.

A key issue is whether Christopher Drogoul, who ran BNL's tiny Atlanta branch, arranged the loans to Iraq on his own or had the approval of bank higher-ups in Rome. The prosecution of Drogoul has been based on the theory he was the most-senior official involved, but Barr insisted yesterday: "We have never closed the door to the possibility of complicity . . . by individuals in Rome. . . . Indeed, the prosecution of Drogoul is the logical step in the normal course of moving up the chain of a potential conspiracy."

Boren has said classified CIA documents, some of which were only recently provided to the Justice Department, suggest Drogoul acted not on his own but with the approval of some officials at BNL's Rome

headquarters.

In a September letter from the CIA that BNL prosecutors in Atlanta used to try to convince a skeptical Shoob that all leads in the case had been pursued, the intelligence agency said it had only public information suggesting any complicity by BNL-Rome.

In fact, the CIA had at least three classified documents, according to Boren and Sen. Frank Murkowski (R-Alaska), who rebuked CIA Director Robert M. Gates for allowing the agency to give an inaccurate account.

In their defense, senior CIA officials have subsequently told Boren's committee in closed-door testimony that they had wanted to correct the misleading letter but ran into resistance from the Justice Department. Justice Department officials have countered that they did not try to prevent the CIA from correcting the letter.

Barr said the task force will also look into whether Iraq used some BNL loans guaranteed by the U.S. Agriculture Department and meant for food to purchase weapons instead.

U.S. officials initially suspected such a diversion in 1989, when the Bush administration was considering whether to give Iraq another \$1 billion in loan guarantees for food purchases. But administration officials have since claimed there is no proof of any such diversion.