

BNL Special Counsel Unneeded, Report Says

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By Sharon LaFraniere
and R. Jeffrey Smith
Washington Post Staff Writers

A former federal judge who investigated how the Justice Department handled a case involving fraudulent loans to Iraq said yesterday prosecutors conducted a "virtually perfect" inquiry and no independent counsel is necessary to probe any criminal wrongdoing.

Frederick B. Lacey concluded that Justice Department and CIA officials blundered only in how they

handled certain classified information about the loans from Banca Nazionale del Lavoro (BNL). There, he said, he found a series of mistakes that amounted to "a fiasco."

Lacey's conclusion that the prosecutors' decisions were free of political influence was welcomed by Attorney General William P. Barr, who had appointed Lacey and who expressed hope yesterday that the 189-page report Lacey issued would end the intense criticism of the last six months. But congressional Democrats continued to in-

sist that only an independent counsel could establish whether federal officials hampered the investigation of BNL's massive and allegedly illegal loans to Iraq between 1985 and 1989.

Rep. Henry B. Gonzalez (Tex.) and other Democratic legislators have alleged that the Justice Department deliberately narrowed the BNL inquiry either to avoid embarrassing the Italian government, which owns the bank, or to suppress evidence that Iraq had abused

See BNL, A41, Col. 1

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a U.S. program that guaranteed BNL loans to companies that exported food to Iraq. Some congressmen have also speculated that the Bush administration may have been trying to conceal knowledge of the illicit loans or links to the bank.

Such charges gained force in early October, when the federal judge who then presided over the case, Marvin H. Shoob, said he believed prosecutors wrongly identified Christopher P. Drogoul, BNL's Atlanta branch manager, as the principal culprit. Shoob asserted that the prosecutors had failed "to investigate seriously" whether Drogoul's superiors at BNL's Rome headquarters knew of the more than \$4 billion in illegal bank loans made to Iraq.

Lacey, known for his aggressive pursuit of organized crime as a former federal prosecutor, said at a two-hour news conference that Shoob was misguided and the legislators' charges were so false as to be "libelous" if made by an ordinary citizen.

While Lacey said he was certain the prosecutors had not been influenced by any political ramifications of their case, he acknowledged that administration officials outside the Justice Department made their political concerns known.

He said State and Agriculture Department officials were clearly worried that the BNL case would jeopardize the food export program that formed a cornerstone of U.S. policy toward Iraq prior to Iraq's

1990 invasion of Kuwait. In fact, he said, two Agriculture Department officials tried to suggest "the Department of Justice should slow down a little bit" until the administration approved more loan guarantees for food exports to Iraq.

In a new disclosure, he said the chief prosecutor in Atlanta, Gale McKenzie, was advised in late 1989 that then-Secretary of State James A. Baker III "considered it very important to U.S. foreign policy toward Iraq that the [loan] program be approved." Baker "was most interested . . . and was receiving frequent briefings" about the BNL case, McKenzie's notes showed.

Lacey said the prosecutors "did not buckle" to the foreign policy concerns and passed on information about Iraqi abuses of the program to the Agriculture Department. Despite that evidence, an administration committee subsequently approved \$1 billion in additional loan guarantees to Iraq.

Lacey's report said there is no basis for a number of other charges made by either Shoob or congressional Democrats: that the BNL indictment, issued in February 1991—18 months after federal authorities raided BNL's Atlanta branch—was improperly delayed; that a key witness was not interviewed; that prosecutors missed important evidence by not traveling to Rome; and that they ignored evidence from Drogoul and other BNL officers pointing to the involvement of BNL higher-ups.

The basic premise of the govern-

ment's case—that Drogoul victimized the bank by giving Iraq loans on extremely generous terms without the approval of his superiors—"resulted from a careful analysis of the available evidence and sworn testimony of numerous witnesses



FREDERICK B. LACEY
... criticizes legislators' charges

before the grand jury," the report said. Asked if this theory still holds up, Lacey said, "I am certain the bank didn't know about" the unsecured loans made by the Atlanta branch.

While Lacey praised Shoob as a fine jurist, the 71-year-old Republican took issue with nearly all

Shoob's criticisms of the prosecutors, contradicting the Atlanta judge about what witnesses said and whether the government gave up any ground in its plea agreement with Drogoul. Both sides withdrew from the agreement in October, and Drogoul's case is expected to go to trial next year.

"Many decent people have had their careers tarnished and their reputations being stained by being charged with being corrupt, being part of a 'coverup,'" Lacey said. "These are baseless charges" and the press has "been taken [in] by them."

A second report by Lacey, not publicly released, dealt with the problems he found in how the CIA and the Justice Department handled classified cables about BNL. The cables were important because they suggested knowledge by BNL-Rome of the loans to Iraq, but both agencies treated them casually, with "carelessness . . . lack of accountability, and poor administration," Lacey said.

For example, Lacey said, he was unable to determine who at the Justice Department received certain CIA reports because they were not transmitted to a specific individual. He noted that CIA Director Robert

M. Gates has initiated an internal inquiry into why his agency failed to give prosecutors some cables from the CIA's Rome station chief and suggested that Barr start his own inquiry into how the Justice Department handles classified documents.

The Justice Department eventually received the CIA reports this fall, more than two years after they were requested. Lacey said prosecutors considered the information to be "thirdhand," but he also suggested they had developed "a mindset" that made them skeptical of information that did not fit in with their theory of the case.

Lacey did not explore whether the CIA was aware of the BNL loans before the criminal investigation began in August 1989. Critics have suggested that such knowledge could explain why the CIA was so slow to turn over information.

Nor did Lacey reach any conclusion on the propriety of alterations made to Commerce Department documents listing U.S. hi-tech exports to Iraq before the documents were given to Congress in 1990. Lacey said that matter was largely outside the scope of his inquiry and recommended the Justice Department continue investigating.

Hundreds of pages of supporting documents attached to Lacey's report were not made public yesterday.