

**EDITORIAL****The unending Perata probe**

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The U.S. attorney's office in San Francisco spent more than five years investigating the intricate business dealings of former state Sen. Don Perata, an Oakland Democrat, looking for evidence of political corruption. It concluded there was not enough evidence to indict Perata, his son or other targets of the investigation. Perata was informed of the prosecutors' decision in January.

Most students of American jurisprudence - familiar with the concepts of double jeopardy and statute of limitations - would assume the case was closed.

Not so. It turned out the U.S. attorney in Sacramento, McGregor Scott, had decided to take over the case after his counterparts in the San Francisco office decided to drop it. Lawrence Brown, the acting U.S. attorney who succeeded Scott, confirmed last week that the Sacramento office took over the case at the request of the FBI.

In plain terms, this does not seem like anyone's definition of fair play.

In a letter to the U.S. inspector general, Perata's lawyer, former U.S. attorney George Connell, raised the possibility that politics might have influenced the decision by Scott, an appointee of President George W. Bush. "As the entire country knows by now, the Bush administration has been the subject of several inquiries pertaining to the selective prosecutions and the unfair and highly politicized targeting of Democratic politicians," O'Connell wrote.

We're not in a position to judge the validity of the case against Perata. The evidence that has become public clearly suggested, at a minimum, that Perata used his political influence for the benefit of family members and business associates. These dealings were wrong. But an ethical violation is not necessarily a federal crime. In this case, after five years, a U.S. attorney's office determined there was not enough evidence to bring criminal charges.

Whether motivated by politics or swayed by frustrated FBI agents who couldn't make their case in San Francisco, the Sacramento prosecutor took an enormous detour from standard procedure when he summarily seized an investigation from another jurisdiction.

U.S. Attorney General Eric Holder, who has pledged to restore professionalism and fairness to the Department of Justice, needs to order an independent review of the handling of the Perata investigation.

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/03/13/EDB816E9UV.DTL>

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