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As Adams Case Teeters, A DOJ 'Ideal' Hangs In The Balance

By **Phillip Bantz**

Law360 (February 5, 2025, 2:41 PM EST) -- The public courtship between New York City Mayor Eric Adams and President Donald Trump is worrying some white collar legal experts, who say that Trump influencing the U.S. Department of Justice to drop Adams' corruption case would depart from over 40 years of policies aimed at keeping politics out of prosecutorial decisions.

Trump has publicly criticized Manhattan federal prosecutors for treating Adams "unfairly" and has said he would consider pardoning the mayor, who is seeking reelection while on track for an April trial in his criminal case. Prosecutors **allege** Adams accepted illegal foreign campaign contributions, including airline seat upgrades and luxury hotel stays. He has denied any wrongdoing.

Trump's senior Justice Department officials also have met recently with members of Adams' legal team, sparking speculation that Trump could be pushing Main Justice to pressure the Manhattan office to seek to have Adams' case thrown out.

Trump directing DOJ officials behind the scenes to turn the screws on Manhattan prosecutors could allow Trump to distance himself from the matter, offering a potentially cleaner, more hands-off approach than a pardon for Adams. It would also bolster Adams' argument that the charges should never have been brought.

"That's sort of a typical Trumpian tactic. He uses unofficial channels oftentimes rather than official ones," Kevin O'Brien, a partner at Ford O'Brien Landy LLP and former federal prosecutor for New York's Eastern District, told Law360.

It is not uncommon for defendants in high-profile criminal cases, through their counsel, to lobby the Justice Department to drop charges following a change in administration, hoping for a fresh look. But the blitz by Adams' team has raised concerns among some observers given that he and Trump have spoken directly, and because of what experts describe as the president's unusual level of willingness to get involved in DOJ business.

Last month, Adams made headlines and raised eyebrows in the legal and political communities when he met with Trump at the president's Mar-a-Lago compound in Palm Beach, Florida. A few days later, the Democratic mayor canceled his scheduled appearances at Martin Luther King Jr. Day events to attend Trump's inauguration in Washington.

Adams' legal team at Quinn Emanuel Urquhart & Sullivan LLP did not respond to requests for comment. The DOJ and Manhattan U.S. Attorney's Office declined to comment.

On the heels of Trump's first presidency, Attorney General Merrick Garland issued a **July 2021 memo** under then-President Joe Biden that reasserted traditional limits on communications about criminal investigations between the DOJ and White House.

"The success of the Department of Justice depends upon the trust of the American people," Garland's memo stated.

"That trust must be earned every day," it continued. "And we can do so only through our adherence to the longstanding Departmental norms of independence from inappropriate influences, the principled exercise of discretion, and the treatment of like cases alike."

The directive cemented Biden's vows to protect the DOJ's law enforcement functions from political considerations, after Trump privately and publicly sought to influence prosecutors' decisions on cases involving his associates and allies.

The so-called "no-contact" policy outlined in Garland's memo is rooted in a practice that dates back to 1979 during Jimmy Carter's presidency.

"There is a longstanding norm of DOJ independence from the White House with respect to individual cases," Jeffrey Bellin, who teaches criminal law and procedure at William & Mary Law School, told Law360.

He added, "One way the Department seeks to earn and maintain its legitimacy is to eliminate the reality or even perception that prosecutions are based on improper influences like politics. That is why the DOJ has traditionally strongly resisted White House interference in individual cases."

But that policy is, essentially, an "aspiration or an ideal," not a hard-and-fast rule, O'Brien said.

Trump, who has been casting aside presidential norms since his first term in office, may have support for ignoring the no-contact policy from the U.S. Supreme Court's **landmark decision** in July that granted presidents broad immunity from criminal prosecution.

Tucked within the majority's decision is a line that clearly permits communication between the White House and DOJ on criminal matters, according to Jon Sale, co-chair of the white collar practice at Nelson Mullins Riley & Scarborough LLP.

The opinion states, "The President may discuss potential investigations and prosecutions with his Attorney General and other Justice Department officials to carry out his constitutional duty to 'take Care that the Laws be faithfully executed.'"

"The language in the Supreme Court opinion is unambiguous," Sale said. "They said it's permissible."

If Trump-appointed DOJ officials successfully push the Manhattan office to seek a dismissal of Adams' case without good cause, it would "totally shatter" the independence of an office that is known as the "Sovereign District" due to its fierce opposition to outside influence, said Sale, an alum of the office.

On a Justice Department-wide scale, the move could usher in "a whole new ball game," Sale told Law360.

"It would bring influence peddling and who you know — it would put all that back on the table," he said, referring to connections influencing DOJ prosecutorial decisions. "It would go counter to the equal administration of prosecutorial discretion. It would undercut that. Those who are well-connected in certain cases would do better than people who don't have those connections, something we've always figured was off-limits."

U.S. District Judge Dale E. Ho, who is overseeing Adams' criminal case, would have to approve any dismissal motion from the Manhattan office, which is not a guarantee.

Judges tend to defer to the executive branch when seeking to dismiss criminal cases and routinely grant such requests, but not always.

In 2020, a trial judge **declined** to immediately grant a motion from Trump's DOJ to drop a criminal case against his former national security adviser Michael Flynn, who had admitted to lying to FBI agents about his contacts with Russia. But a divided D.C. Circuit panel ultimately ordered the case to be thrown out.

Trump, meanwhile, is embroiled in his own legal battle with Manhattan District Attorney Alvin Bragg's office, which secured a historic jury conviction against Trump in May on all 34 felony counts he faced for falsifying business records tied to hush money payments to a porn star.

Trump is seeking to overturn his conviction and has repeatedly lashed out at his prosecutors, calling

the New York state case a political "witch hunt," among other things.

If Trump's DOJ convinces the Manhattan U.S. Attorney's Office to drop Adams' federal case or if Trump pardons Adams, Bragg's office could step in and bring its own set of state charges against Adams.

That's what happened after Trump pardoned his former senior adviser Steve Bannon on federal charges alleging he defrauded donors during a campaign to raise funds to build Trump's wall along the U.S. southern border.

Bragg has said the pardon prompted his prosecutors to launch an investigation that resulted in money laundering and conspiracy **charges** against Bannon, who denies any wrongdoing and has argued that the case against him is politically motivated. His state trial is set to begin in early March.

The government is represented in Adams' case by Andrew Rohrbach, Derek Wikstrom, Celia Cohen and Hagan Scotten of the U.S. Attorney's Office for the Southern District of New York.

Adams is represented by Alex Spiro, Avi Perry, John Bash and William Burck of Quinn Emanuel Urquhart & Sullivan LLP.

The case is U.S. v. Eric Adams, case number 1:24-cr-00556, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Frank G. Runyeon, Elliot Weld and Jack Queen. Editing by Nicole Bleier.

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