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## U.S. attorney jobs filled at a slow pace

### Interim leader in Houston leaves next month with no nominee yet

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HOUSTON CHRONICLE

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President Barack Obama enters his second year in office having filled only a third of the 93 top federal prosecutor spots in the nation, and no one's even nominated for the four open positions in Texas.

A classic political stalemate pitting Texas' Democratic congressional delegation and Obama's administration against Texas' pair of Republican senators is partly to blame for the slowed process here. Similar fights in other states, as well as an especially cautious presidential nominating process, have left most of the nation without freshly appointed lead federal prosecutors, who direct law enforcement priorities and approve work on the big projects.

Instead, many of the seats have the same folks there when President George W. Bush was president or, as in Texas, the jobs are filled by someone bridging the gap.

In Houston, that gap stretched to about 14 months and interim U.S. Attorney Tim Johnson last week announced he's leaving next month for a private sector job. A second interim attorney has to be put in the Houston seat now.

"This is the slowest I've ever seen it. There's an

unnecessary fight between members of Congress and the Senate, and it's very disheartening. There's a cost to the people of South Texas," said Tony Canales, a Democrat who is the former Houston-based U.S. attorney and who joined a panel established by the GOP senators to help pick candidates.

Canales, who would like to see the White House move immediately and pick someone for Houston, said having a top prosecutor named by the president matters a lot in terms of office esprit de corps, big projects and resources.

"There's no real boss. It means what will be done is the routine. You need a guy who can move the team, and he has to be on the president's team," he said.

### History of big cases

Prosecutions in Houston federal courts in the last decade include the Enron white-collar crime trials, the cases against human smugglers who killed 19 in a tractor trailer abandoned in Victoria, charges against Gulf Cartel drug gang members and the prosecution of BP for pollution violations discovered in the investigation of 15 deaths in a Texas City refinery explosion.

"The U.S. attorney isn't just a figurehead, he or she is a decision-maker. The business of law enforcement isn't reaching its full potential here without a presidentially appointed U.S. attorney," said Philip Hilder, a defense attorney, former

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federal prosecutor and Democrat activist.

Houston and the other Texas seats aren't the only ones caught up in political snarls. Alabama and Pennsylvania are suffering with political splits and some states without this problem still don't have the jobs filled either.

The last presidential appointee in Houston was Don DeGabrielle, named by Bush. DeGabrielle left the office to his first assistant, Johnson, in November 2008.

The process to pick U.S. attorneys is frustrating to almost all involved. It got worse under ex-Attorney General Alberto Gonzales when candidates were blatantly screened for political leaning. Obama's attorney general, Eric Holder, said they'll fill the positions cautiously because of that.

### Nominee list gathered

But the Obama administration is well behind where presidents Bush and Bill Clinton were at this point.

What usually happens is that the senior U.S. senator in the president's party suggests a name to the White House. The nominees need Senate approval and by tradition — not by law — a home-state senator can block confirmation.

In Texas and some other Southern states with no Democratic senators, the leading congressional members were supposed to pick. But that riled Sens. Kay Bailey Hutchison and John Cornyn.

In March, the Texas Democratic congressional members developed a candidate list, while GOP senators started asking for their own applicants.

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The White House barked back that it would only nominate someone approved by the Democrats, who submitted four names for Houston: Larry Veselka, Eric Reed, Susan Strawn and Cedric Joubert.

The senators had their screening committee look at those four and others, and the committee's top two recommendations of Veselka and Ken Magidson were interviewed by Cornyn and Hutchison. The senators recommended only Magidson to the White House.

That produced a stalemate. The Democrats don't like Magidson because he was Gov. Rick Perry's appointee to fill out scandal-plagued Harris County prosecutor Chuck Rosenthal's term.

Spokesmen for Cornyn and Hutchison say they won't accept Veselka even though their committee ranked him second. Magidson is clearly the superior choice, they argue.

### Bragging rights

Dan Hedges, another former U.S. attorney in Houston who heads the GOP-heavy screening committee, said his group was very happy with Magidson and Veselka and he hasn't been a part of what's happened since.

"I just don't know the politics of the logjam," Hedges said.

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Publicly, all those involved in the process deny taking politics into account. Privately, though, most acknowledge this is a political fight for bragging rights and that either Magidson or Democratic pick Veselka could do the job.

A White House spokeswoman declined comment for this story.

Even when the White House names a Houston nominee, and even if Texas' two senators don't use their veto, the extensive background check can still take three or four months.

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