

Serving Justice

Paul Charlton's Mission Shifts in a New DOJ

The job of United States Attorney has changed.

Though that may be true of every profession and job, a massive shift of priorities is perhaps nowhere more evident than in the duties of the 93 lawyers who serve as district representatives of the U.S. Department of Justice. That shift occurred on Sept. 11, 2001.

Evidence for that stood on the corner of Central and Adams in downtown Phoenix on a warm September morning in 2003. There, a handful of protesters silently faced passers-by, while a town hall on the USA Patriot Act began 12 floors up, in the U.S. Attorney's office. Chances are good that, prior to 9/11, that office—and its work—would have been anonymous to even politically attuned citizens. Today, however, the U.S. Attorney's Office takes the point position on issues that are important and controversial.

Leading the district's approximately 240 employees and 120 lawyers is United States Attorney Paul Charlton.

Charlton's office itself suggests the tradition and responsibility the position inherits. Amid modern surroundings in the copper-colored high-rise, his wooden office furniture was salvaged, piecemeal, from the old Prescott courthouse, first by former USA Jose de Jesus Rivera and then by Charlton himself. Appropriately, the desk and other pieces have been burnished by time and the ponderings of countless lawyers and judges bent to their task.

Adding to the atmosphere is a large hand-painted wooden American flag mounted on the wall. Charlton says with pride that his two young sons, with their mother's help, created it themselves after hearing him say that he thought a flag would be most at home on his office wall.

A newer kind of Americana is suggested by Charlton's in-box, which includes a large envelope bordered in orange and headed with the words "TOP SECRET." World events, and the current administration, have created a new kind of DOJ.

Charlton's path to law began as a rocky one in his home state of Nebraska. His first summer clerkship was with an Omaha law firm; it was not a good fit.

"I can remember calling my father," Charlton says, "and telling him that I thought I'd made a mistake, that I didn't think I wanted to be a lawyer, that I wasn't enjoying what I was doing, and that I couldn't envision myself doing this for the rest of my life."

"My dad convinced me to stick it out. He said, 'You don't have to practice law. Having



a JD is good for a number of things.’”

Charlton stuck it out, and public service became his ticket to job satisfaction. He clerked at the Arizona Attorney General’s Office after his second year, where he was assigned what he calls “a very small part in a rather insignificant public corruption case.”

“I was hooked,” he says with a smile. “I was just enthralled. And I thought that this is something I can do; I really like this. There’s a sense of making just a little bit of difference, a sense that what you’re doing is worthwhile, has meaning.”

His passion for the work is evident as he discusses the broad range of cases handled by the office—from civil suits involving federal agencies and facilities to prosecution of white-collar criminals to the entire gamut of criminal cases on Indian reservations.

undermine criminal organizations that involve such activity. In December, the operation was a primary reason for the first Arizona visit of Homeland Security Secretary Tom Ridge, and Charlton was one of his hosts.

In fact, Charlton has been recognized nationally for championing the fight against human smuggling; he was quoted in a November *New York Times* story on the topic. He is careful to draw a distinction between human smuggling issues and overall immigration policy. The goal, he says, is to apprehend violent criminals, not undocumented immigrants.

That distinction is important to Charlton. As a prosecutor, he is comfortable speaking about the plight of victims, including immigrants who are harmed by smugglers. But the broader immigration policy has harsh critics. Among them is the *Arizona Republic*, which has lambasted it as “a policy of recycled farce.”

As U.S. Attorney General John Ashcroft barnstormed the country shoring up support for the Act, Charlton’s demeanor was perhaps the best face to put on the effort.

Encouraging conversation appears to be a signature of Charlton’s approach, one that seems to be deeply felt. Arizona’s first public experience with that style came at Mogollon High School in July. There, Charlton took it upon himself to tell residents that the woman who set a signal fire that led to the Rodeo-Chediski fires would not be prosecuted. Though many were angry and one man threw a charred log onto the floor toward Charlton, the chief federal prosecutor took personal responsibility: “Our decision—my decision—is not to prosecute.”

Months later, he recalls the meeting, but he focuses on those who lost their homes.

“I think it’s very important to address victims and pay attention to their concerns.

Those people who lost homes and property to those fires had a right to hear from the person who was making the decision personally about how it is I came to that decision.

“There were people who I think may have disagreed with me but were at least willing to listen. Those people showed a tremendous amount of courage.

Paul K. Charlton

UNITED STATES ATTORNEY, DISTRICT OF ARIZONA

EDUCATION:	JD, University of Arizona School of Law, 1989
EXPERIENCE:	1988-89, clerkship with Hon. Thomas C. Kleinschmidt, Arizona Court of Appeals; 1989-1991, Assistant Attorney General; 1991-2001, Assistant U.S. Attorney; November 2001, received his commission as United States Attorney.
FAMILY:	Wife Susan is an attorney with Gallagher & Kennedy PA; they have two young sons.
INTERESTS:	Flying as a private pilot: “If there’s a Walter Mitty side to me, it’s being a fighter pilot. Absent having reached that goal, I love to fly small planes.”

But when asked about his priorities, he doesn’t hesitate.

“We need to pay a significant amount of attention to the war on terror,” he says. “We embrace that priority. We have Assistant U.S. Attorneys who are assigned to work with the FBI on foreign counter-intelligence matters, which is an aspect of our job that we didn’t do prior to September 11, 2001. That would have to be far and away our number-one priority.”

Among other priorities is an increased focus on human smuggling. Locally, Charlton and his office have been at the forefront of a DOJ initiative dubbed Operation ICE Storm, which seeks to

It was in service to the priority of fighting terrorism that Charlton hosted town halls on the Patriot Act. More than 100 people attended the Phoenix event. The panel was balanced, but many of those attending were surprised and disappointed in a process that required the submission of written questions, which then would be read by the moderator. And the loudest applause may have occurred when a deputy public defender on the panel asked, “Isn’t it victimization when our government turns against us?”

But Charlton remained upbeat during the event, choosing to stay afterward to answer any and every citizen’s questions.

Listening to people with whom you disagree can be a very trying process, so I had a great deal of respect for those people. They may have come away with their opinions unchanged, but at least they were willing to hear me out.”

His words again emphasized the personal as he testified before the U.S. Sentencing Commission in September. Addressing the concern that federal judges may depart too often from the Sentencing Guidelines, Charlton made clear what the record in his district was: “I own those,” he said, stressing that the departures were related to his requests, not judicial discretion.

And during the Phoenix town hall, when attendees' anger flared, he sought to deflect barbs from the beleaguered moderator. He took personal responsibility for the venue, the questioning method—even the time of day the event was held. He earnestly appeared to want everyone to be able to speak their mind. And his approach went some distance toward quelling—if not eliminating—rancor.

A focus on terror, narcotics and smuggling requires global skills.

Charlton says, "I traveled to Colombia three times and to Mexico City a couple of times to make sure that we're paying very close attention to trampoline cases—cases that originate in Colombia, move through Mexico and then cross into Arizona."

Asked about having to follow foreign events and what his family thinks of his travel, Charlton laughs: "I follow Colombian politics the way some people follow baseball. My family understands that; they know it's important. They see it as something that needs to be done."

How important? Charlton notes that 80 to 90 percent of all cocaine and heroin intercepted in the United States is Colombian in origin; 40 percent of all counterfeit bills intercepted began in Colombia.

This focus also necessitates working closely with law enforcement, including the FBI. Charlene B. Thornton, Special Agent in Charge of the Phoenix Division of the FBI, speaks highly of Charlton.

As she says in written responses to questions, "Paul is aggressive without losing his compassion and his awareness of the political process, which requires building relationships with a variety of people."

"Paul has been a successful United States Attorney because he is bright, articulate and passionate about important issues. As a Spanish speaker, he is able to communicate at press conferences and at meetings with Mexican leaders."

That communication is appreciated by Fred Kay, the Federal Public Defender for the District of Arizona. Though Kay says he does not know Charlton well, he's been

pleased by aspects of his leadership.

"He's been very open in my dealings with him. In fact, since he's been U.S. Attorney, he's tried at least twice a year to have a meeting with criminal defense lawyers to hear what they have to say, and he's been pretty straightforward in his responses, whether he agrees or doesn't agree with them. I think there's a certain openness that's good there."

Home-grown criminal prosecutions also have been a high priority of the office, says Charlton. The pitch of his voice rises as he describes two cases—a hate crimes prosecution and a murder case that resulted in a rare federal capital punishment verdict; his inflection is that of a seasoned trial attorney. Though he speaks with authority about the process a death penalty case follows through the Department of Justice, his voice grows soft as he calls the facts of the death-penalty case "a terrible, terrible thing."

"It's a terrible tragedy, a horrible case. It left a lot of family members without very loved people in their lives."

But when he discusses another possible prosecution—of former Corporation Commissioner Jim Irvin—Charlton hesitates and his inflection changes. The case came to his office for federal review from the Maricopa County Attorney's Office, and, thus far, Charlton has declined to prosecute.

He speaks in measured tones about the report by special investigator—and former U.S. Attorney—Melvin McDonald that examined Irvin's actions during an attempted buyout of Southwest Gas Co. by Southern Union.

"Mel's report was well written," says Charlton. "He was very careful to say that his report addressed the issue as it relates to clear and convincing evidence." Charlton then recalls how the differing burdens of proof led to Senate impeachment of Gov. Evan Mecham but acquittal in superior court.

"I don't know if that's a good example in terms of how the facts would play out in the Irvin case," he says. Beyond that, Charlton says only that his office will look closely at McDonald's report.

Asked if there is any other initiative he'd like to mention, Charlton says without pause, "Operation Desert Risk."

The strategy involves urging undocumented immigrants who are determined to cross into the United States to not do so in the west desert, an area of harsh climate that has led to a large number of deaths.

Charlton's approach to this operation was similar to his approach in every other initiative. He wanted to talk to people, on the ground, to understand what motivated them. To do that, he traveled to a small border town where people prepare to cross. Speaking with them was eye opening, he says, because they had no idea of the dangers that lay ahead.

"When you're in a jungle area, when you're in a place with a mild climate, it's hard to imagine [the desert heat]. What's vivid and what's real to people in Central America or southern Mexico is much different than what they find to be a reality once they reach that desert. There's something to be said for reaching them with that message early on."

Not surprisingly, Charlton is unstinting in his praise of his office staff and the work they do. But he's also clearly enamored of his job, one that, ultimately, is a political one that ends more quickly than most.

"It's the best job in the law that you can have. One of the few downsides to this job is that I'll have to leave it. It will be a sad day when I have to leave the Department of Justice, because I don't think there's any better place to work."

In the meantime, Charlton feels lucky to be where he is.

"If you're going to be a federal prosecutor, I think this is the best place to be. You could end up [prosecuting] two lines in the water for fishermen out at Lake Powell one day, and the next day you can be doing a homicide off of the Navajo Indian Reservation. The diversity of cases is extraordinary. The quality of practice is very high. It's the kind of practice that you wouldn't get in any other district in the United States; it's really a terrific place to practice." ▀