

Investigator squabbling may have hindered Swallow probe

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Legislature • Some evidence didn't wind up in final House report.

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Utah-based investigators working for a special House committee were hot on the trail of some juicy evidence about then-Attorney General John Swallow when they abruptly backed away.

Why?

Part of the reason may have been an apparent rivalry and mutual disrespect that festered between the Utah investigators and their New York-based counterparts. And the trigger for a final blowup may have been an email that federal prosecutors mistakenly sent to an already-frightened St. George woman, who was cautiously cooperating with the Utah team.

The result: The final report of the committee's \$4 million probe didn't include:

- Information about further attempts to cover up Swallow's past dealings with Jeremy Johnson, the St. George businessman whose revelations helped spark the probe in the first place.
- Swallow's alleged bid to solicit more money from Johnson to help resolve a criminal investigation of the businessman (though it was part of a footnote).
- New questions about possible political conflicts facing the then-lead federal prosecutor in Johnson's criminal case.
- Additional witnesses in alleged "pay-to-play" activities within the Utah attorney general's office.

The bipartisan committee, set up to examine Swallow's alleged misconduct, hired Steven Reich, a New York attorney and veteran of political inquiries, as special counsel, with investigative help from the New York-based Mintz Group and Salt Lake City-based Lindquist & Associates.

About the time Swallow announced his resignation in late 2013 — after serving less than a year as attorney general — the Utah investigators, Pamela Lindquist and Richard Casper, had developed a relationship with St. George resident Karen Redd, who had been Johnson's executive assistant.

The investigators approached Redd about any evidence she had. She was eager to cooperate, she said in an interview, but feared being dragged into Johnson's legal quagmire.

Redd said Johnson did not know she was meeting with the Utah investigators, but added that she believed doing so would help her former boss, who faces 86 criminal counts and a civil lawsuit from federal regulators.

Redd said she provided some audio files — Johnson secretly recorded many of his meetings — and told the investigators that St. George attorney Travis Marker had met with Swallow in 2011 on Johnson's behalf and that Swallow had hinted he could help Johnson's legal troubles disappear for \$120,000.

Swallow, through his attorney, has denied any such offer was made.

The Marker allegation never made it into the main body of the final report, because, with Swallow's exit from office, lawmakers were winding down the increasingly pricey probe. In addition, the accusation had not been substantiated.

"I told Pamela and Rich to cease their work," said committee Chairman Jim Dunnigan, R-Taylorsville, "and we also told our other investigators not to do any more investigation."

Redd — who had been told that Dunnigan had dropped Lindquist and Casper from the case — said she was disappointed because the report lacked information she had provided or that she still had in her possession and had been willing to hand over.

In a Dec. 31 email, Redd told Lindquist a reporter had contacted her about providing recordings and other items.

"I feel like if the media gets all the records and evidence," Redd wrote, "it will make the legislative investigation look really bad (especially if they know the Legislature had the evidence at their fingertips ... but brushed it away)."

Lindquist forwarded the email to Dunnigan and, according to Redd, that got the Utah investigators reinstated.

Dunnigan said he was told Redd possessed information "that might be valuable and tie some pieces together," so he authorized Lindquist and Casper to pursue it.

Portions of those Johnson recordings, along with the Marker statement, then became part of a supplemental report that Lindquist and Casper presented to Dunnigan in mid-January.

Redd said she was willing to offer even more recordings, including copies of meetings Johnson had with Assistant U.S. Attorney Brent Ward and other prosecutors during plea negotiations, which ultimately collapsed.

So, on Jan. 14, Redd emailed Ward, who by this time had stepped down as lead prosecutor in the Johnson case after a failed bid to replace Swallow as attorney general. Redd wrote that she was "inclined" to give House investigators all the audio in her possession but warned that "several of the recordings are of you and others in your office, and I wanted to double-check before I do. Please let me know ASAP."

The next morning, Ward replied: "Thank you. Someone from our office will contact you in the next day or two."

He copied the email to other prosecutors along with Phil Viti, his boss in the U.S. attorney's office for Utah.

Ten minutes later, Redd received a message from Viti: "Please do not respond to this person either by phone or email until we discuss."

Redd interpreted that message to mean that she was not to cooperate any more with House investigators and said she began to worry she had made a mistake in contacting federal prosecutors.

"That's when I shut off my phone," Redd recalled, "and I went up and went to bed."

But Viti's message, explained U.S. attorney's office spokeswoman Melodie Rydalch, was meant for Ward and his fellow prosecutors, not for Redd. Viti had clicked "reply all," not realizing that the St. George woman would be included in the email chain. Later that morning, Redd told Viti that she had given some audio files to House investigators, but noted she "did not give them any of the recordings of people in your office and I am not planning on talking to them anymore."

Redd said no one from the U.S. attorney's office ever contacted her about her emails, the recordings or to say that Viti's reply was not intended for her.

As a courtesy, Viti forwarded Redd's emails to FBI supervisory special agent Michelle Pickens, Johnson attorney Ron Yengich and Reich, Rydalch said.

Reich subsequently had a phone conversation with Dunnigan, and the Taylorsville lawmaker then "fired" Lindquist and Casper, according to Redd.

Reich referred emails seeking comment for this story to Utah officials.

Dunnigan acknowledged investigators had their differences.

"I would say they just had different styles," he said.

Lindquist and Casper declined to speak for this story, citing contractual obligations.

But on his LinkedIn web page, Casper said his and Lindquist's contract with the House was "terminated by the committee chairman" on Jan. 15, and that he did not participate in the preparation of the final report.

Dunnigan and Legislative General Counsel John Fellows insist there was no firing and that the two Utah-based investigators simply were told no more money would be spent on investigations. The Lindquist contract cost about \$42,000.

Fellows also said that Lindquist had been asked to provide transcripts of the recordings she had obtained.

"We reviewed those transcripts and determined that they contained minimal information pertaining to John Swallow," Fellows said, and "were not relevant to our investigation."

Much of that information, however, might prove useful to the criminal investigation being conducted by two county prosecutors. —

About the House report

The Republican-dominated Utah House created a nine-member bipartisan committee to investigate then-Attorney General John Swallow. The probe, which cost about \$4 million, discovered that Swallow had lost or deleted untold volumes of electronic records — from hard drives, computers and hand-held devices. Investigators determined Swallow had fostered a pay-to-play culture in the attorney general's office. Their final report also alleged he fabricated documents and destroyed evidence as part of a frenzied scheme to cover up inappropriate and politically damaging ties to questionable donors.

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