



Written by [Bob Adelman](#) on January 31, 2017

Trump to Acting Attorney General Yates: You're Fired!

In a letter hand-delivered to her office Monday evening, President Donald Trump [relieved](#) acting Attorney General Sally Yates (shown) of her responsibilities. In a statement issued at the same time, the White House said that Yates “has betrayed the Department of Justice by refusing to enforce a legal order designed to protect the citizens of the United States.”



The statement added:

[Yates is] weak on borders and very weak on immigration. It is time to get serious about protecting our country. Calling for tougher vetting for individuals traveling from seven dangerous places is not extreme. It is reasonable and necessary to protect our country.

At issue was Yates’ decision not to support Trump’s order, and directing her staff attorneys not to defend it in court challenges. On Monday morning Yates said:

At present, I am not convinced that the defense of the executive order is consistent with these responsibilities of the Department of Justice, nor am I convinced that the executive order is lawful.

She also took exception to the Trump administration’s claim that her own department’s Office of Legal Counsel had adequately cleared the order beforehand, ruling that his order was “lawful on its face,” insisting,

[That ruling] does not address whether any policy choice embodied in an executive order is wise or just....

I am responsible for ensuring that the positions we take in court remain consistent with this institution’s solemn obligation to always seek justice and stand for what is right.

For as long as I am the acting Attorney General, the Department of Justice will not present arguments in defense of th[is] executive order, unless and until I become convinced that it is appropriate to do so.

Law professor Jonathan Adler at Case Western Reserve clarified that Yates didn’t rule on Trump’s executive order: “Yates did not claim she was convinced the order was unlawful, but only that it was not ‘wise or just.’” Adler said that he was “not aware of any instance in which the Justice Department has refused to defend a presumptively lawful executive action on this basis.”

Later Monday evening President Trump named Dana Boente, the U.S. attorney for the Eastern District of Virginia, to take the place of Yates. Said Boente: “At approximately 9 p.m., I was asked by the president to serve in the capacity of acting attorney general. After having dedicated the last 33 years of my life to this department, I am humbled and incredibly honored to serve as acting attorney general.”

Minutes later he reversed Yates’ directive:

I hereby rescind former acting attorney general Sally Q. Yates’ January 30, 2017 guidance, and direct the men and women of the Department of Justice to do our sworn duty and to defend the



lawful orders of our president.

Pushback against Trump's executive order "Protecting the Nation from Foreign Terrorist Entry into the United States," issued on Friday, was almost immediate. Confusion reigned at some airports, protests erupted, and even some career diplomats circulated a memo voicing their opposition to it. CEOs from Coca-Cola, Amazon, Ford, and Goldman Sachs expressed dismay at the order, and former President Obama came close to inciting riots with his statement that he "is heartened" by those protests.

One of the most hypocritical statements came from California Democrat Senator Nancy Pelosi. Yates was "fired for upholding the Constitution of the United States," she claimed, adding, "What the Trump administration calls betrayal is an American with the courage to say that the law and the Constitution come first." This is the same Nancy Pelosi who couldn't tell the difference between the Constitution and the Declaration of Independence. Speaking before an event sponsored by the Center for American Progress on September 13, 2013, she intoned: "To paraphrase what our founders said in the Constitution of the United States: they said the truths that are self-evident, that every man and woman — that men and women were created equal and that we must move forward in recognition of that." This is a rough paraphrase of what Thomas Jefferson wrote in the *Declaration of Independence*. At the time the Constitution was being debated in Philadelphia, Jefferson was abroad.

Of course, if Yates could not in conscience defend Trump's order in her capacity as acting attorney general, she could have submitted her resignation. That would have been the honorable thing for her to do. Instead, she clung to her position while embarking on a less-than-honorable course of action that was, in a sense, both "fitting" and "sad," as Senator Ted Cruz (R-Texas) pointed out in a statement:

After eight long years of a lawless Obama Department of Justice, it is fitting — and sad — that the very last act of the Obama DOJ is for the Acting AG to defy the newly elected President, refuse to enforce the law, and force the President to fire her. Sally Yates now joins the ignominious succession, from Eric Holder to Loretta Lynch, of Attorneys General who put brazen partisan interests above fidelity to law.

Trump's executive order pauses America's refugee program for four months and indefinitely bans all those from war-ravaged Syria. The order was later clarified Sunday evening, with the president writing on his Facebook page,

The seven countries named in the Executive Order are the same countries previously identified by the Obama administration as sources of terror. To be clear, this is not a Muslim ban, as the media is falsely reporting. This is not about religion this is about terror and keeping our country safe.

Trump did the right thing, twice. First, he invited Sally Yates to take on Loretta Lynch's responsibilities until his nominee, Jeff Sessions, is confirmed by the Senate. He wanted to give Sessions a free hand in choosing his own people.

Second, when Yates interjected her own personal opinion — not an official ruling — into the media-generated controversy, he did the right thing once again: He fired her.

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