



Eric Holder's Unfinished Business

While the attorney general's legacy is debated, advocates are looking toward the Justice Department's future.

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The legacy of Attorney General Eric Holder, the nation's first black top law enforcement official, is only beginning to crystallize. Holder, whose plans to resign were made public last week, has been both groundbreaking and a magnet for controversy in his nearly six-year tenure as chief of President Barack Obama's Justice Department. Naming his replacement will test whether Holder's approach to the position – one that riled conservatives and even liberals at times – will continue through the end of Obama's administration and beyond.

"Eric Holder is clearly a big believer in using the government to advance all sorts of policies," says Ilya Shapiro, a fellow at the libertarian-leaning Cato Institute. "People on the right might agree with him on some things, and people on the left might agree on the other things."

Some of Holder's efforts, including his push to curb the ballooning prison population in the U.S., have been supported by those on both sides of the aisle, while others – like his reluctance to aggressively prosecute individuals involved in the 2008 financial collapse – have brought the scorn of progressives and tea partyers alike. Often, Holder has been a focus of Republican criticism aimed at the Obama administration, for everything from *Fast and Furious* – the botched Bureau of Alcohol, Tobacco, Firearms and Explosives operation that eventually led House lawmakers to hold Holder in contempt of Congress – to some of the statements [Holder has made](#) about current U.S. race relations.

The ire he's faced may be partially the result of Holder himself. He's been described as [arrogant](#), [disrespectful](#) and [uncooperative](#), meaning his successor could bring about a change in tone, even without a substantial shift in policy.

"Even to the extent that similar policies are pursued, there will be a little less heat involved," Shapiro says. Among the [possible replacements](#) for Holder are former White House counsel Kathy Ruemmler, Labor Secretary Tom Perez and Solicitor General Donald Verrilli.

But before the Justice Department gets its new head, which could take weeks or months as the nominee Obama appoints will face a Senate hearing and vote, civil rights groups and

Justice watchers already have on their laundry lists a number of short-term measures Holder could finish before he leaves.

The event that marked one of the biggest moments of Holder's career – the shooting of unarmed teenager Michael Brown and the [outrage](#) it spurred in Ferguson, Missouri, and elsewhere – is still fresh and unresolved, as are lingering frustrations over the outcome of the 2012 Trayvon Martin shooting, in which shooter George Zimmerman was found not guilty. Two and a half years later, the Justice Department's civil rights probe into the Martin case is [ongoing](#), with the Justice Department staying mum on its status.

“There are many people across the country who would like to see the answer to that question: Will Trayvon Martin and his family get justice from this Justice Department?” says Cornell William Brooks, national president of the NAACP.

Holder's resignation announcement also comes a little more than a month before closely fought midterm elections begin. The contests mark the first national elections since the Supreme Court, in a decision [decried by Holder](#), struck down a key part of the Voting Rights Act that required certain state and local governments to get federal approval before changing voting laws.

Days after Holder's formal resignation announcement, the Supreme Court essentially blocked a lower court's ruling that struck down an Ohio law limiting the state's early voting period, in effect cutting the period by seven days. Challenges to other voting laws, such as those that require ID or prohibit same-day registration, likely will be litigated and monitored by the Justice Department through the end of Holder's tenure.

"In the months ahead – as we prepare for the upcoming elections – leaders from the Civil Rights Division's Voting Section will be coordinating with civil rights organizations, U.S. attorneys and others to dispatch federal election monitors to polling places around the country, just as we do routinely during every election season," Holder said [in a speech](#) last week at a Congressional Black Caucus Foundation forum. "We will never waver, and never rest, in our determination to ensure the integrity and impartiality of this vital process."

A hallmark of Holder's leadership was his emphasis on criminal justice reform. Advocates point to measures he still could take on that front in his final weeks, including setting new standards for how federal grants are doled out to local law enforcement agencies and changing incarceration-driven incentive guidelines for measuring the success of federal prosecutors – a move Holder nodded to in a [speech](#) just before his resignation announcement.

Such moves “can be done almost immediately and solely through the Department of Justice,” says Inimai Chettiar, director of the Justice Program at the New York University School of Law's Brennan Center for Justice.

Hand in hand with his efforts to tackle mass incarceration, Holder's Justice Department also has altered the federal government's approach to drug policy, allowing states to legalize

marijuana unchallenged and permitting banks to participate in the business of legal marijuana sales, while also extending clemency to drug offenders.

[In an interview before news of his resignation broke](#), Holder suggested he was open to the idea of rescheduling marijuana – meaning reclassifying it as a drug less dangerous than heroin or LSD, for example, and thus easing some of the federal regulations regarding its production and trafficking. Such a move could be done by Congress or independently by the Obama administration.

“It’s important for him to protect what he has already done [and to] do his best to make sure that what he already has done before he leaves is set in stone as much as possible and cannot be interrupted by future administrations or successors that may not follow his lead,” says Art Way, head of the Colorado office for the Drug Policy Alliance.

The nomination fight Obama may face will depend largely on election results and whether the president will choose to battle a lame-duck Congress at the end of the year or wait until the new term. In addition to continuing policies put forth by Holder and supported by the president, the successor will have to balance government surveillance and civil liberties – a sore spot on Holder’s resume for some civil rights organizations and an area that may see renewed scrutiny in light of the growing Islamic State group threat.

The next attorney general also will have to decide how aggressively to prosecute journalists and government whistleblowers, another oft-criticized aspect of Holder’s tenure. Holder once promised that no reporter would be prosecuted for "doing his or her job," but his Justice Department has seized Associated Press phone records as part of a leak investigation, obtained a warrant to search the email of Fox News reporter James Rosen and subpoenaed New York Times reporter James Risen in an effort to force him to reveal a source. Also waiting for Holder's successor is the president's long-standing promise to close the prison at Guantánamo Bay.

And then there's the political nature of the job, with whomever takes Holder's place inheriting his [combative relationship](#) with the GOP.

“While President Obama and the Senate should work expeditiously to find a replacement, time and care must be taken to ensure that our next attorney general recognizes and does not repeat Mr. Holder’s mistakes,” California Rep. Darrell Issa, a Republican who clashed with Holder as head of the House Oversight and Government Reform Committee, said following the resignation news.

Supporters of Holder’s policies, however, hope the president will do just the opposite and choose someone who continues Holder’s legacy, even at the cost of provoking Republicans.

The president "can’t be safe when it comes to naming a successor,” Way says. “He has to go big.”