

Austin-American Statesman

WE SAY: GOV. PERRY INVESTIGATION

Investigation into Perry veto is on the right track

By Editorial Board, Thursday, April 10, 2014

Back in June 2013, we objected to Gov. Rick Perry's threat to bar funds for the Public Integrity Unit from the state budget unless Travis County District Attorney Rosemary Lehmborg resigned. At the time, we called his threat political blackmail.

After months of looking into the matter, it appears investigators may not think too differently. At least, they have signaled significant apprehension about the case.

In a recent joint interview with Tony Plohetski and KVUE, the special prosecutor assigned to the investigation, Michael McCrum, stopped short of saying he thinks a crime was committed but made it very clear that Perry's actions in the case give reason to doubt.

"I cannot elaborate on what exactly is concerning me, but I can tell you I am very concerned about certain aspects of what happened here," said McCrum, a San Antonio attorney. He confirmed that the investigation was taking a close look at both Perry's threat and the veto he carried out.

Asked if his concerns pointed specifically at Perry or his staff, McCrum said, "Yes."

We support the seriousness with which McCrum appears to have taken the investigation.

In April 2013, Lehmborg was arrested by Travis County sheriff's deputies responding to a report of a Lexus sedan driving dangerously and crossing into the opposite lane of traffic. Deputies reported finding an open bottle of vodka on the passenger seat of the vehicle, which was Lehmborg's car. Her blood-alcohol level was nearly three times the legal limit for driving. Footage from dashboard cameras and jailhouse video showed Lehmborg acting inappropriately.

After the incident, Lehmborg quickly held herself accountable and apologized for her behavior. She then pleaded guilty to drunken driving and was sentenced to 45 days in jail, fined \$4,000 and had her license revoked for 180 days. After being released from jail, she entered a treatment program.

After the arrest, we asked that Lehmborg's step down. That would have been the right thing to do.

Lehmborg's decision to drive drunk tarnished her credibility and the credibility of her office. With a resignation, Perry would have had the power to appoint a replacement, a move that would not have been permanent. Travis County voters, who have historically backed Democratic candidates, would have had their say on Perry's appointment in a short 18 months. But that's not how things played out.

Instead, Lehmborg refused to step down, leaving Perry to play a much heavier hand with a very questionable ultimatum. The governor took it upon himself to handicap Lehmborg's agency, which is charged with the important task of pursuing state ethics violations.

Perry insisted that the people of Texas could no longer trust Lehmborg.

He is entitled to his opinion, but two wrongs don't make it right.

His decision to withhold funds was troublesome for a couple of reasons. For starters, though a Perry veto would not take away the unit's authority to investigate official wrongdoing, it would cripple it.

The Travis County district attorney's office is the most powerful in the state because the Public Integrity Unit is charged with policing the ethics of legislators and other state officeholders. The unit had 35 employees, and the state funding paid their salaries. It was scheduled to receive \$7.5 million from the state during the 2014-15 fiscal years.

Perry's veto changed all that.

Without the scheduled money, Travis County had to step up to help fund the unit. County commissioners voted in August to give about \$1.7 million to the office, allowing Lehmborg to keep 15 employees. It is also reported that Lehmborg used \$730,000 in money from forfeited property to keep about eight employees. Others sought jobs outside the agency, retired or were transferred within the district attorney's office. Two employees were laid off.

The governor's decision is also troubling because of what preceded the veto: a direct threat to veto funds.

It was this decision by Perry that led Texans for Public Justice, a government watchdog group, to file a complaint that helped launch the investigation. Fortunately, it is because of the investigation that a special-appointed judge is expected to seat a new grand jury by Monday.

What remains to be seen is how deep the investigation will be taken.

"My responsibility is to the citizens of Travis County, to the citizens of the state of Texas and to the people who lost their jobs at the Travis County district attorney's office as a result of this veto," McCrum said.

We couldn't agree more.