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Wild horses criminal case shut down

Prosecutor, grand jury chief wanted officials indicted

By Martha Mendoza, Associated Press writer

DEL RIO, Texas -- A federal grand jury has collected evidence that shows U.S. government officials allowed the slaughter of hundreds of wild horses taken from federal lands, falsified records and tried to prevent investigators from uncovering the truth.

The chief prosecutor and grand jury foreman in the investigation wanted to bring criminal indictments against officials of the U.S. Bureau of Land Management, but the case was closed down last summer after federal officials in Washington -- including officials outside the investigation -- intervened.

"I believe that my investigation was obstructed all along by persons within the BLM because they did not want to be embarrassed," the prosecutor, Alia Ludlum, wrote in a memo last summer. "I think there is a terrible problem with the program and with government agents placing themselves above the law."

Mrs. Ludlum's memo is among thousands of pages of grand jury documents in the case obtained by The Associated Press. Those documents also show that the grand jury foreman was incensed that federal officials were blocking the investigation and that his requests to indict them were ignored.

Mrs. Ludlum, 35, formerly an assistant U.S. attorney, is now a federal magistrate judge at the courthouse in Del Rio, which serves West Texas. She refused to be interviewed for this story, but she acknowledged the authenticity of documents obtained by the AP.

Spokesmen for the Departments of Justice and the Interior denied that their agencies had done anything wrong, but they refused to answer questions. Interior Secretary Bruce Babbitt, who oversees the BLM and by law is responsible for protecting wild horses, refused to be

interviewed.

Wild horses and burros, which compete with domestic cattle for forage, have been protected by federal law for 25 years. The BLM decides how many animals can survive on public lands, rounds up the excess animals and lets people adopt them for about \$125 apiece. After a year, an adopter can receive a title to an animal, if the BLM finds the animal is receiving proper care.

The law says it is a crime to kill a wild horse or burro taken from public land. It prohibits anyone who adopts one of the animals from selling it for slaughter.

Mrs. Ludlum wanted to indict BLM officials for allowing horses to be slaughtered.

Recent AP investigations have found that thousands of the horses are eventually sold for slaughter, and that the whereabouts of tens of thousands of adopted but never titled animals are unknown. The BLM has attacked the AP's reports, saying its investigations show that slaughter "is occurring to a far, far lesser degree than was alleged."

Although Mr. Babbitt refused to speak, the last person to serve as his chief at BLM said Mr. Babbitt has known all about problems in the wild horse program for a long time.

Jim Baca, who quit as BLM director in 1994 after a falling out with Mr. Babbitt, said in an interview that he discovered the program was in turmoil and wanted to take steps to correct it.

He said Mr. Babbitt told him to back off.

"The orders were: 'Don't make waves, we've got enough problems,'" Mr. Baca said, adding that his efforts to shake up the program went nowhere.

"Babbitt thought it might cause problems and he didn't want any controversy, he didn't want to make anybody unhappy, and so this program just festered," Mr. Baca said. "When they wanted me to leave BLM, that was one of the reasons they gave me: 'Why the hell are you raising problems about horses?'"

At the time, Mr. Babbitt attributed Mr. Baca's departure to "different approaches to management style and consensus-building." Meanwhile, the federal investigation in Texas had begun.

Records show that the grand jury saw evidence and heard testimony that:

- BLM agents placed 550 horses with dozens of people who were told they could do as they wished with the animals after a year, including sell them for slaughter to make money, which is against the law.
- The BLM ignored its own regulations and gave the Choctaw Indian Nation 29 newly born, unbranded colts to sell so the tribe could raise cash to pay the BLM for a mass adoption of 115 wild horses, which is against the law.
- A Texas BLM compliance officer, Don Galloway, arranged to keep 36 horses for himself and told two undercover investigators he planned to sell them for slaughter, which is against the law.
- BLM managers pressured employees not to talk to investigators. In one case, a BLM district manager tipped off the subject of a search warrant that law enforcement agents were about to visit his house, which is against the law.
- BLM officials falsified adoption documents and falsified computer records of brand identification numbers used to track adopted animals, which is against the law.

"We want these charges filed and we want to be notified of what was done, regardless of who these people are, please, ma'am," the grand jury foreman told Mrs. Ludlum, according to transcripts.

When the BLM in Washington realized the case was pointing in its direction, agency Law

Enforcement Chief Walter Johnson wrote a letter to the Interior Department's internal watchdog, the inspector general, to register his concern.

"As the investigation continued, the scope and complexity ... increased to include scores of individuals including allegations against private citizens, and middle and upper management of the BLM," he wrote.

Mr. Johnson also sought assistance from the FBI's public corruption unit. FBI officials refused to comment.

The Del Rio case was shut down in July 1996.

The whole affair had begun with an affable old cowboy as its central character: Mr. Galloway.

Federal law restricts horse adoptions to four per person, per year. With his managers' support, Mr. Galloway was approving adoptions of more than 100 horses at a time by having one person gather signatures from family, friends and neighbors.

Using this technique, Mr. Galloway had placed more than 5,000 horses with adopters over about seven years. His work was commended by his superiors.

"I was doing my job, I was moving horses. I followed the law," Mr. Galloway said in a telephone interview from his home in Colleyville, Texas.

People within the program carefully skirted the issue of what would eventually happen to the horses, Mr. Galloway said. "Intent. That's the big word. I didn't know anybody's intent."

Mr. Galloway figures nearly all the horses he found homes for have been slaughtered by now. "We'd wear out a new car looking for those horses and not find but 10," he said.

Bill Sharp, who worked for the BLM with Mr. Galloway before retiring in 1994, denies any wrongdoing but acknowledged in an interview: "If I really was worried about intent then I probably wouldn't have adopted out any horses, because I believe 90 percent of these horses go to slaughter."

Mr. Sharp said they were working under the direction of Steve Henke, now a BLM district manager in Taos, N.M. Mr. Henke refused to comment.

In 1992, Mr. Galloway arranged an unusual adoption -- for himself. He placed 36 horses on a Texas ranch. The ranch owner's daughter said her father told her Mr. Galloway planned to "keep them on our ranch and then sell them for 60 cents a pound for slaughter."

Mr. Galloway denied he planned to kill the horses. However, an investigator said in a sworn affidavit that Mr. Galloway told undercover agents he intended to "get rid of all of them in a year, probably to the killer (slaughterhouse buyer)."

This evidence, which surfaced in 1992, later launched Mrs. Ludlum's case, which quickly broadened when investigators learned Mr. Galloway's supervisor, Mr. Henke, had alerted him that agents were en route to his house.

"You didn't clean out your files?" an investigator later asked Mr. Galloway.

"Well, a little bit," he replied, according to a grand jury transcript.

Mr. Henke and Mr. Sharp pleaded with Mr. Galloway to keep quiet or "a lot of people would lose their jobs," according to an agent's summary of the case.

Evidence emerged that Mr. Henke had three stallions killed at a BLM sanctuary in 1992 and faked information on a horse adoption form to make it appear the horses were adopted by Choctaw Indians. He then ordered staffers to enter false information into the department's computer database of horse records.

Mr. Henke later said the horses had to be killed because they were breeding, had undescended testicles and could not be castrated easily. "Since my involvement with the program, I may be



guilty of poor judgment, but I have never knowingly done or approved any illegal activity for personal gain," he said in a memo.

As investigators probed more deeply, they found hundreds of discrepancies between BLM computer records and the brand numbers of horses the BLM had on hand. At one point, a top BLM manager tried to obtain investigators' records to update the BLM's computer so it would match the records held by investigators.

Mrs. Ludlum began assembling evidence for a grand jury in 1994. Within months, attorneys from the Justice Department became directly involved. They met in Washington to discuss the case. They flew to West Texas to interview people, study testimony and talk to Mrs. Ludlum.

"The rumor is spreading throughout the BLM that DOJ was called in to shut the case down," Mrs. Ludlum wrote in a memo after one meeting.

Mrs. Ludlum became especially concerned that one attorney in the Justice Department's Environment and Natural Resources Division in Washington, S. Jonathan Blackmer, wanted her to limit the scope of her case. She worried in a memo that Mr. Blackmer's section chief, James C. Kilbourne, wanted to "solve problems" with Anne H. Shields, then deputy solicitor at the Department of the Interior.

Ms. Shields had previously worked with Mr. Blackmer and Mr. Kilbourne in the natural resources division at Justice. She had left Justice to join Mr. Babbitt's new administration at Interior. Mr. Babbitt promoted her to be his chief of staff in 1995.

"Something smells fishy," Mrs. Ludlum wrote to her boss. "I am sure that 'stuff' is happening in Washington concerning my case that I surely don't know and can never hope to know."

"I just don't understand how 36 horses could cause such overwhelming governmental distress unless there are lots of problems and we are not supposed to find out what the problems are or to solve the problems. I don't like what is happening."

Mr. Blackmer, Mr. Kilbourne and Ms. Shields refused to comment.

In 1995, Mrs. Ludlum's grand jury issued subpoenas intended to inventory more than 1,200 horses at a BLM sanctuary in Bartlesville, Okla. They were on the trail of discrepancies between horse brands recorded in the BLM's computer and the horses actually on the range.

Then an Interior Department lawyer in New Mexico, Grant Vaughn, wrote a letter telling the prosecutor that his agency could not comply with the subpoenas.

Then a lawyer from the Interior Department in Washington, who worked for Ms. Shields, became directly involved.

Solicitor Tim Elliott said that while his involvement in such cases is rare, his supervisors wanted him to help establish who was in charge of the Del Rio probe and to clarify the adoption law.

"While I was there we did not talk about any of the specifics of the case, who were targets, who was under investigation," he said in an interview.

However, in letters to Justice Department officials obtained by the AP, Mr. Elliott argued that subpoenas should be dropped and he declared which BLM law enforcement agents would be allowed to assist with the case and which ones would not.

The investigator chosen by the BLM, Greg Assmus, re-interviewed witnesses and violated instructions from the prosecutor. "I will not deal with agents I do not trust," the prosecutor protested.

Mr. Assmus refused to comment.

At one point Mr. Galloway, still the main target of the investigation, was paid by the BLM to round up the very horses he'd earlier threatened to have slaughtered.

In January last year, Mrs. Ludlum's boss, acting U.S. Attorney Jim DeAtley, pressed Mrs. Ludlum to bring charges within 30 days. Then, in February, he said to wait while a Justice Department lawyer in Washington, Charles Brooks, prepared an analysis of the case. Mr. Brooks' memo, calling the case weak, came in April.

Mr. Brooks challenged Mrs. Ludlum.

He acknowledged that her investigation had uncovered long-standing problems with the horse adoption program and a "don't ask, don't tell" approach to slaughter.

However, Mr. Brooks said, it had already been decided a year earlier -- at a meeting of Justice Department, Interior Department and BLM officials -- that the Texas criminal investigation would be limited to Mr. Galloway and not "other possibly fraudulent adoptions and the widespread irregularities in the management of the horse adoption program."

The case against Mr. Galloway alone should be dropped, Mr. Brooks argued. "While the loose procedures here might be typical of what is happening in the adoption program everywhere, the particular facts here make this a poor case to make this point."

Mrs. Ludlum was angry.

"It is obvious that Charles and or his bosses do not want the case prosecuted, period, and will come up with any excuses to make it go away," Mrs. Ludlum argued in a memo to her boss.

Mr. Brooks refused to comment.

The U.S. attorney in San Antonio ordered the case closed in July. Several U.S. attorneys from around the country said that it is very rare for Washington officials to pressure local prosecutors to close any case.

Justice Department spokesman Bill Brooks would not discuss the Del Rio matter, saying only: "Any notion that Justice tried to quash a case is just not true. When we have evidence that supports bringing a case, we bring one."

Meanwhile, the Justice Department's Office of Professional Responsibility began a review of the way its attorneys behaved in the case after one BLM agent who worked on the investigation, John Brenna, complained there were conflicts of interest. Justice Department officials refused to release records of that inquiry, saying the case is still open.

"If you have ineffective enforcement and prosecutions, it's as if there is no law," said Steve Sederwall, a retired BLM agent who also worked on the Texas case.

Earlier news reports about the Del Rio investigation, based on occasional leaks, have understated its size. It also was not unique. Other records obtained by the AP show that criminal investigations involving horse adoptions have been dropped across the country:

- In Nevada, cases were dropped against two defendants suspected of shooting some 600 mustangs. Prosecutors said they "underestimated the difficulty" of prosecuting.
- In Oklahoma, prosecutors dropped a case against an adopter of 18 horses and burros, even though he had told inspectors he planned to "fatten 'em up, slaughter or sell 'em for rodeo."
- In Alabama, a case was shut down even though a family there sold eight horses for slaughter just days after receiving titles on their pledge that they'd be used for pleasure riding. Why no prosecution? In the midst of the probe, officials say, a BLM representative offered them more horses.

And with the closure of the Del Rio case, the slaughter continues.

The Choctaw Indian Nation claimed title to its wild horses a few months ago. Jack Ferguson,

who handles tribal herds, said he sold about a dozen of them to be killed.

"We honored our part of the bargain," he said. "We didn't dispose of them until we had title."

Associated Press national writer Christopher Sullivan and News Data Editor Drew Sullivan contributed to this report.