

# Experience, credibility may keep Kennedy as permanent U.S. Attorney

By [Phil Fairbanks](#) | Published July 22, 2017 | Updated July 22, 2017

James P. Kennedy Jr. in February pointed to his lack of political friends and allies, Republican or Democrat, to suggest his chances of becoming the top federal prosecutor in Buffalo were, at best, a long shot. Five months later, Kennedy's reputation as an independent, career prosecutor is being viewed as a plus, not a negative, and the primary reason why President Trump may keep his acting U.S. Attorney.

A registered independent, Kennedy would be an unexpected but not entirely surprising pick given his experience and reputation in the legal community. Kennedy, according to Republican sources close to the selection process, also fits what Attorney General Jeff Sessions wants in his top prosecutors.

More and more, they claim, Sessions is looking for experience and credibility in his U.S. Attorneys and finding it within the ranks of the Justice Department. "They have put a heavy emphasis on past or current federal prosecutorial experience," said one senior Republican close to the process. "It's a far less political process than it's been in the past."

Several Republicans said they were surprised by the lack of politics, but have grown to accept what they see as Sessions' imprint on the office. When asked if Kennedy's appointment was a done deal, one Republican said it would be except for the fact that Trump, not Sessions, will make the final call. He also pointed out that Trump's recent criticism of Sessions adds yet another dynamic to the process.

From Day One, local Republicans anticipated having a voice in picking the next U.S. Attorney, and that a Republican would end up filling the job. There also was an expectation that Trump and Sessions would seek the advice of three local Republicans - Rep. Chris Collins of Clarence, Erie County Republican Chairman Nicholas A. Langworthy and Buffalo businessman Carl P. Paladino.

Kennedy is not the only candidate for the vacancy created by the departure last year of then-U.S. Attorney William J. Hochul Jr., but he is believed to be one of only two people interviewed for the job. Sources say the other is Assistant U.S. Attorney Joseph M. Guerra III, head of the criminal division and second in charge of the Buffalo office.

Michael L. McCabe, a former federal prosecutor, is also believed to be interested in the post. McCabe is a Democrat and a lawyer at Delaware North, where he handles legal and regulatory affairs. Early on, Michael B.

Powers, a Buffalo lawyer and well-known Republican, was seen as the front runner to replace Hochul, but Powers later dropped out. One Republican source said the GOP was hoping one of its sitting state court judges might consider the U.S. Attorney's job, but none of them expressed an interest.

Kennedy, who has been serving on an interim basis since Hochul left, did not pursue the job initially but was approached later in the process and encouraged to apply, sources said. Back in February, as potential candidates began to line up, Kennedy pointed to his predecessors, who he said were both qualified and politically active. "Recognizing that and acknowledging that I am not politically active, I decided not to pursue the position," he said at the time.

A graduate of Hamilton College and the University at Buffalo School of Law, Kennedy was hired as a prosecutor in 1992 by then U.S. Attorney Dennis Vacco, a Republican. Kennedy spent his early years prosecuting a number of high profile drug, corruption and violent crime cases, and later became head of white collar crime prosecutions. In 2010, Hochul picked Kennedy to be his second in charge.