

George Washington Bridge-Gate Scandal Could Mean New Jersey Official Misconduct Prosecution

January 14, 2014 | by Matheu Nunn

By now you have all read about, or heard about, the controversy surrounding the Christie Administration and the closure of lanes on the Fort Lee side of the George Washington Bridge. What you may not know is that the participants (the planners) may face criminal prosecution based on New Jersey's "Official Misconduct" statute. I have previously written several blog posts regarding Official Misconduct in New Jersey, including a primer, which sets forth the elements of a prosecution in New Jersey and some additional supplements to that piece [here](#) and [here](#).

Under New Jersey's Official Misconduct law, N.J.S.A. 2C:30-2, a public servant can be prosecuted for acts committed in their official capacity and, if convicted, imprisoned for up to ten years. Under that statute, the state must prove the following five elements:

1. The defendant was a public servant;
2. The defendant acted with purpose to gain a benefit or to injure or deprive another of a benefit;
3. The criminal act committed by the defendant related to the public servant's (defendant's) office or position;
4. The act must be unauthorized; and
5. The defendant knew that the act was unauthorized.

If the "Time for some traffic problems in Fort Lee" e-mail, sent by Bridget Anne Kelly, Gov. Christie's deputy chief of staff for legislative and intergovernmental affairs, to David Wildstein, former director of

interstate capital projects for the Port Authority, was sent for the purpose to “injure or deprive” a benefit to another, anyone involved in the decision to close the lanes could be prosecuted (under theories of conspiracy). Think of it this way – why were the lanes closed? If the allegations are true, it was designed to hurt the Fort Lee Mayor (or one of the other many nefarious reasons speculated on by the media).

As part of the prosecution, the State would also need to prove that the act – the closing of the lanes – was related to the participants’ positions. That would be an easy one to establish. Think of it this way – could any of the individuals involved close the lanes by the George Washington Bridge absent their positions in the Christie Administration or with the Port Authority? Stated otherwise, could any of these individuals close the lanes as private citizens? Could a teacher close the lanes? Could the local store owner close the lanes? No. The lane closure would be something particularly related to the participants’ positions.

This will continue to unfold as the investigation progresses. But, if I were on any of those e-mail chains – I would obtain a lawyer experienced in these types of cases (apparently, Wildstein has already obtained one).

This entry was posted in Official Misconduct and tagged Matheu Nunn, Official Misconduct. Bookmark the permalink.