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November 23, 2011

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Dear Ms. Schnedar and Ms. Ashton:

On August 21, 2010 I first wrote to Attorney General Holder to express my concern over well documented media reports that career prosecutors and federal law enforcement officers were directed to discontinue their efforts to prosecute Bill Allen, the government's key witness in the case against the late US Senator Ted Stevens, on charges of transporting Paula Roberds, a minor, from Seattle to Anchorage for immoral and exploitive purposes.

At that time I asked the Attorney General to personally inquire into the circumstances and to provide a briefing to my staff at his earliest convenience. It is not evident that Attorney General Holder immediately initiated that searching inquiry. On October 21, 2010, Assistant Attorney General for Legislative Affairs Ronald Welch sent what seemed like a boilerplate response to my letter. His response attempted to assure me that the decision about whether or not to file federal charges in this case was determined solely by application of the *Principles of Federal Prosecution*. Mr. Welch was unwilling to go further noting, "As a matter of long-standing policy, we generally do not confirm or deny the fact of our investigations, nor identify individuals who may be involved in investigations, but are not charged and/or do not testify publicly."

I had the opportunity to question Attorney General Holder about this on March 10, 2011 when he appeared before the Senate Commerce, Justice and Science Appropriations Subcommittee. The Attorney General declined to explain specifically why the Justice Department chose not to pursue the Allen prosecution but attempted to assure Alaskans that it was not the result of Allen's cooperation with the government in the Stevens matter or other extraneous factors. The exchange can be viewed at <http://www.youtube.com/watch?v=BZy-c0kykG4>.

Subsequently, I learned that the Alaska Attorney General's Office had sought permission to prosecute Mr. Allen for violation of federal criminal statutes but the Justice Department denied the State's request even after chief state prosecutor Rick Svobodny made a special trip to Washington to ask. Justice Department officials would not explain to Svobodny why the federal government chose not to pursue Mr. Allen and would not let the State do so.

Quoted in the Anchorage Daily News on November 22, 2011, Mr. Svobodny said "They alluded to the fact he had been convicted and sentenced on another crime." This statement appears to run counter to Attorney General Holder's assurance to me on March 10, 2011 that "if a case can be made, a case would be brought."

Over the past several months I have frequently reflected on the Attorney General's defense of the Department's action and whether to seek further review. I would like to believe that Department of Justice personnel followed applicable laws and departmental policies in its handling of the sex abuse allegations against Mr. Allen just as US District Court Judge Emmet Sullivan expected that the Justice Department would follow the law in its decisions whether to release potentially exculpatory evidence to Senator Stevens' defense team.¹ However, we now know that the Justice Department did not live up to its solemn constitutional responsibilities in its handling of the Stevens matter and that failure may have been rooted in the fear that Mr. Allen's credibility as a witness would be undermined if activities like those he is alleged to have engaged in with Ms. Roberds were disclosed.

As Judge Sullivan recently noted in reporting on the findings of court appointed special prosecutors Henry Schuelke and William B. Shields:

*Based upon their extensive investigation, Mr. Schuelke and Mr. Shields concluded that the investigation and prosecution of Senator Stevens were "permeated by the systematic concealment of significant exculpatory evidence which would have independently corroborated his defense and his testimony and seriously damaged the testimony and credibility of the government's key witness [Mr. Allen]". *** Mr. Schuelke and Mr. Shields found that at least some of the concealment was willful and intentional, and related to the issues raised by the defense during the course of the Stevens trial.*²

In light of this troubling finding I find myself unable to defer to the Attorney General's representation that the Justice Department's decision not to prosecute Mr. Allen on charges involving Ms. Roberds was firmly rooted in the *Principles of Federal Prosecution*. This leaves me with no option other than to request that your offices initiate a formal inquiry into the Department's handling of the Allen investigation and prosecution.

¹ See, e.g., *In Re Special Proceedings*, Misc. No. 09-0198 (EGS) (D.D.C. 2011) (Order dated November 21, 2011 at 5).

² *Id.* at 4.

The question why the Justice Department not only declined to pursue sex abuse charges against Mr. Allen, but also denied the State of Alaska the opportunity to do so, remains a matter of great public interest in the State of Alaska. I call your attention to these words from the Anchorage Daily News editorial published November 23, 2011 entitled, *Our View: The Allen Case*.

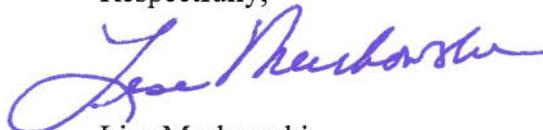
Yes, Allen is presumed innocent until convicted of any charges and yes, he just finished a three year prison sentence. But that doesn't mean he should get to walk away from the abuse case with no word as to why. Justice still demands that the Department of Justice either explain its decision to drop the case, reverse that decision or let the state pursue it.

The editorial suggested that I should “raise hell again” and other members of the Alaska congressional delegation should follow suit. In spite of my diligent efforts, the Attorney General and his staff have repeatedly declined to provide a specific explanation of the factors that led the Justice Department to conclude that prosecution of Mr. Allen on charges related to Ms. Roberds was unwarranted. I would respectfully suggest that fifteen months of “raising hell” has not brought closure to the questions that continue to perplex Alaskans. Only an objective, thorough and independent investigation whose conclusions are made public will bring closure to these questions. I seek your commitment to devote the full resources of your offices to such an investigation.

Before closing it is appropriate that I offer an additional observation about Judge Sullivan’s November 21 order. I was particularly struck by the sentence that reads, “Mr. Schuelke and Mr. Shields found evidence of concealment and serious misconduct that was previously unknown and almost certainly would not have been revealed – at least to the Court and to the public – but for their exhaustive investigation.”³ It is only a matter of time before Alaskans will demand to know whether your offices intend to act on the information that Judge Sullivan refers to. I encourage you to review the Schuelke and Shields report with all deliberate speed and let the people of Alaska know how your offices intend to address any new information that has come to light as a result of their investigation. You should do this sooner rather than later.

Nathan Bergerbest, my Senior Counsel in Washington, DC, is staffing these matters for me. Feel free to contact him directly at (202) 224-2839 if you require any further information.

Respectfully,



Lisa Murkowski
United States Senator

Enclosures

³ *Id.*