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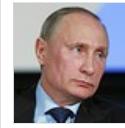


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Department of Injustice

Prosecutors in the Stevens case deserve severe sanctions.

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March 17, 2012

Something is very rotten at the U.S. Department of Justice. No other reasonable conclusion can be drawn from an independent report on the 2008 prosecution of then-Senator Ted Stevens.

According to the exhaustive study ordered by Judge Emmet Sullivan, government attorneys engaged in "systematic concealment" of "significant exculpatory evidence which would have independently corroborated Senator Stevens's defense and his testimony, and seriously damaged the testimony and credibility of the government's key witness."

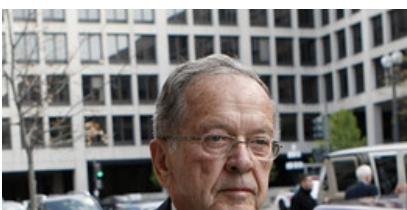
Most damaging to Justice's credibility is that, three years after Judge Sullivan set aside the guilty verdicts against Stevens, the department still hasn't disciplined the men and women involved. Nor has it instituted harsher penalties for future abuses. Attorney General Eric Holder told a Senate committee last week that a separate internal inquiry at Justice is almost done, but he would not promise to make all the results public.

Speaking of public scrutiny, you've probably never heard of Matthew Friedrich, Rita Glavin, Brenda Morris, Joseph Bottini, James Goeke or Edward Sullivan. But maybe more people should know them, and learn the various roles they played in a prosecution that not only trampled on the rights of the accused, but denied the people of Alaska a fair election and literally shifted the balance of power in the U.S. government.

The Justice lawyers were not all equally culpable—some withheld evidence; others failed to ensure that their subordinates honored the defendant's basic rights. And while prosecutors acknowledge the violation of Stevens's rights, they generally blame them on communication problems and other process errors rather than any intent to mislead the judge and jury.

Guilty verdicts against the Republican Stevens arrived less than two weeks before Election Day in 2008, causing the previously popular Senator to lose a close race to Democrat Mark Begich. Mr. Begich would go on to provide the 60th Senate vote to pass [ObamaCare](#) in 2009.

Virtually the entire case against Ted Stevens hinged on the testimony of the government's star witness, VECO Corporation CEO William Allen. To protect his credibility, prosecutors withheld from the defense evidence that he had suborned perjury in a separate criminal investigation. Nor did prosecutors say a word in court when, according to the report, Mr. Allen offered testimony that the prosecution knew to be false.



The government's seven-count indictment for false statements accused Stevens of accepting free home renovations from Mr. Allen's company and then not reporting these gifts on federal disclosure forms.

Mr. Stevens and his wife said they had paid



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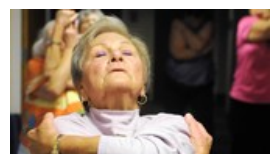
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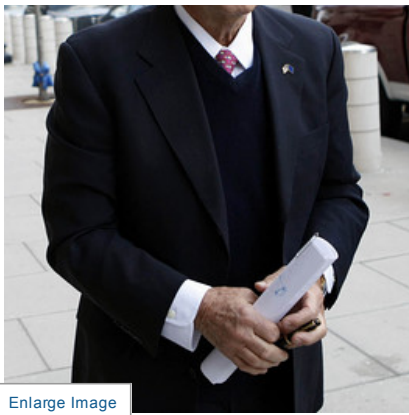
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Former Alaska Sen. Ted Stevens in 2009 Associated Press

\$160,000 for the renovations and as far as they knew that was the total cost of the work. What the prosecutors learned in interviewing witnesses—but never shared with the defense—is that even the foreman on the job site shared the Stevens' understanding that they had been appropriately billed for all the work. Instead of sharing this evidence supporting Stevens's defense, prosecutors selectively quoted the foreman to make it appear as if he had said the opposite, and they used his comments to falsely attack Stevens.

Stevens died in a 2010 plane crash so he never learned the full story that was

revealed this week, nor did he ever get a fair shot to win back his Senate seat.

The report found that the prosecutorial misconduct was "intentional," though it doesn't recommend criminal contempt prosecutions because at trial government lawyers were not specifically ordered to share all exculpatory evidence. They are of course already required to do so under the Supreme Court's Brady decision, and doing so ought to be a matter of basic legal ethics.

It would be nice to think these abuses were rare lapses. But we wonder what else we might learn if every DOJ prosecution was subjected to a review like the one Judge Sullivan wisely demanded.

What is certain is that Ted Stevens was not alone. Guilty verdicts against two Alaska state legislators were also overturned because Justice withheld evidence related to Mr. Allen. In recent years charges against executives at tech company Broadcom were also tossed out because federal prosecutors had improperly pressured and influenced key witnesses for the defense.

Americans hand prosecutors an awesome power—the power to destroy fortunes and futures, and in this case to reallocate national political power. We are seeing a pattern of abuse of this power, in order to win big cases. To help prosecutors remember that their job is to do justice and not simply to beat the defense team, there should be automatic and severe penalties for Brady violations. Prosecutors could also be required to turn over more raw data with potentially exculpatory evidence, except in cases where it threatens national security or endangers witnesses in a criminal case.

Mr. Holder claims to have addressed the problems in the Stevens case by expanding training programs and the like. But as the nation's chief law enforcer, he should know that harsh punishment is the appropriate response when anyone violates the rights of a citizen as badly as prosecutors did in the Stevens case.

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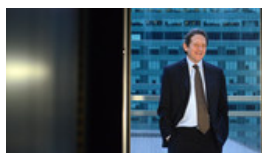
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