

Statement of

The Honorable Patrick Leahy

United States Senator
United States Senate
March 28, 2012

I have said many times and in many contexts that our criminal justice system is the envy of the world. Our constitutional framework provides that all individuals are guaranteed the right to fair treatment and a fair trial. In order for our criminal justice system to work, the courts must ensure adherence to the rule of law and defendants must be afforded vigorous and competent counsel. Prosecutors bear special responsibilities in this system because they wield so much power when it comes to charging decisions, plea bargaining, and trial. Prosecutors must uphold the law, adhere to the highest ethical standards, and seek justice. The integrity of our criminal justice system relies heavily on prosecutors.

Much of the country is focused on the killing last month of Trayvon Martin in Florida. This is a matter in which the police decided not to bring charges and the local prosecutor has since recused himself, while a special state prosecutor reevaluates the case. Last week, the Civil Rights Division of the U.S. Department of Justice announced that it had begun an investigation into the matter. I share the President's heartfelt feelings and sense that there needs to be a thorough investigation that gets to the truth. Only then will it lead to justice.

Last week, I chaired a Judiciary Committee hearing that focused on one pivotal component that supports the integrity of our criminal justice system - namely, the importance of collecting and retaining critical evidence like DNA that can be used both to convict the guilty and to exonerate the innocent. One of the witnesses at that hearing was the outstanding District Attorney in Dallas, Craig Watkins, who has established a team of prosecutors dedicated to reevaluating prior cases to ensure the integrity of those prosecutions and convictions. The Committee heard about the extraordinary work that Mr. Watkins and his Criminal Justice Integrity Unit are doing. It is an example and model of how prosecutors, judges, and defense attorneys can work together to ensure that all criminal defendants receive fair trials.

Today's hearing will focus on what went wrong in the trial of the late Senator Ted Stevens. We will hear testimony from Hank Schuelke, the special counsel appointed by Judge Emmett Sullivan to investigate allegations that the Federal prosecutors in the Stevens case engaged in intentional prosecutorial misconduct by not sharing critical exculpatory evidence with the defense. In fairness, I note that Mr. Schuelke's report is accompanied by lengthy rebuttal submissions on behalf of those he investigated, which challenge, in particular, the evidence of intentional misconduct.

This is a prosecution that took place before the election of President Obama and before his appointment of Attorney General Holder. In fact, it was Attorney General Holder who decided, based upon his review of the matter, to seek to dismiss the indictment and withdrew the case

after the jury's guilty verdict. The Justice Department has also taken recent steps to improve its training of prosecutors and has a senior official dedicated to this purpose. The Attorney General has sought a thorough internal investigation of what happened in the Stevens case by the Office of Professional Responsibility. He has said that he hopes to make that report public and awaits its results, as do I.

This hearing today is part of our important oversight responsibility. Prosecutorial misconduct cannot be tolerated. What happened in the Stevens case should not happen again, whether the defendant is prominent or an indigent defendant. Significant evidence was not disclosed to the defense and critical mistakes were made throughout the course of the trial that denied Senator Stevens a fair opportunity to defend himself. The sloppiness, mistakes, and poor decisions in connection with the Stevens case disturbed the Judge hearing the case and disturb me. The Justice Department needs to ensure that such a situation is never repeated.

Day in and day out, prosecutors across the Nation work tirelessly to seek justice and protect our communities. I speak often of my time as a prosecutor in Vermont because I am proud of the dedicated public servants - the prosecutors and law enforcement officers - with whom I had the privilege to work. In order for our justice system to work, good prosecutors know they must adhere without fail to the directive to seek justice for all parties, the government and the defendants, not just convictions.

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