

Delivered via email to the Governor's Chief of Staff, Tyson Gallagher ([tyson.gallagher@alaska.gov](mailto:tyson.gallagher@alaska.gov))

December 1, 2022

Governor Mike Dunleavy  
PO Box 110001  
Juneau, Alaska, 99811-0001

RE: Request for Resignation of Attorney General Treg Taylor

Dear Governor Dunleavy:

I am writing you today regarding the conduct of your Attorney General, Treg Taylor. I believe Mr. Taylor has committed multiple breaches of his ethical responsibilities under the Alaska Rules of Professional Conduct, as detailed below in three instances.

Mr. Taylor has continued to violate his ethical duties after they were specifically brought to his attention. His conduct evidences a lack of concern towards maintaining the public's trust in the legal profession. As the Preamble to the Rules states, "neglect of these responsibilities compromises the independence of the profession and the public interest which it serves".

Following your review of the three matters below, I believe it is your responsibility to request Mr. Taylor to tender a letter resigning as the Attorney General. I hope you will then strive to replace him with an individual who is committed to following the State's ethical rules and ensuring that all the State's lawyers do as well.

1. Hindering Grand Jury investigations by allowing them to be advised by Department of Law lawyers with a Concurrent Conflict of Interest pursuant to Rule 1.7:

On September 2, 2022, I sent a letter to Presiding Judge Amy Mead in Juneau requesting she impanel a special grand jury to investigate certain State agencies including the Department of Law ("DOL"), the Alaska Court System, the Office of Children Services, and the Alaska Judicial Council. The actions of certain DOL lawyers at its highest levels are a primary focus of the requested investigation. To screen prospective jurors for bias and to help advise the grand jury during their investigation, I requested the appointment of an independent special prosecutor from outside the State of Alaska.

Solid precedent for my request was established in 1985, in the investigation of then Governor Bill Sheffield and his administration by a Juneau Grand Jury. Former Watergate prosecutor George Frampton was hired to advise them.

On September 16, Judge Mead responded to my letter stating she had forwarded my letter to certain individuals including Mr. Taylor, the Deputy Attorney General, and the Juneau District Attorney. After a few subsequent letters were exchanged with Judge Mead, she wrote me on October 17, informing me an attorney from the Office of Special Prosecutions ("OSP") within the DOL would be advising the grand jury. In this letter, Judge Mead stated it was her belief she did not have the authority to appoint independent legal counsel.

I received Judge Mead's letter on the 19<sup>th</sup> and immediately replied, letting her know that the OSP reported directly to individuals who were subject to the investigation, constituting an egregious conflict of interest under the Alaska Rules of Professional Conduct. Furthermore, my letter stated that OSP's actions in a 2019 matter was a specific component of my requested investigation. My letter concluded by stating if any attorney from the AG's office attempted to advise the grand jury in the requested investigation, it appeared to be her duty under Rule 8.3 to report them for disciplinary action. Mr. Taylor was copied with this letter.

My requested grand jury investigation had been scheduled to commence on October 20, but at the last minute I received an email from the Area Court Administrator, Emily Wright informing me that Judge Mead had postponed it to consider and respond to my letter. On October 21, I sent a joint letter to Judge Mead and Mr. Taylor setting forth evidence summarized in Item No. 2 below, asking which of them was going to refer the responsible lawyers in the DOL for disciplinary action. In this letter I also brought Mr. Taylor's attention to his ethical obligations under Rule 3.8, discussed in Item No. 3 below. I copied your Chief of Staff, Tyson Gallagher, with this email.

One week passed without hearing from either Judge Mead or Mr. Taylor. On October 28, I sent a follow-up letter to them. Again, Mr. Gallagher was copied. Over a month has passed since Mr. Taylor received three letters from me but he has not bothered to respond to any of them.

Ms. Wright informed me that Judge Mead was out of the office on leave. The judge later sent me a letter dated November 10 stating that my requested grand jury investigation would commence on November 17. Regarding the DOL's conflict of interest, she felt it would violate the separation of powers doctrine for her to take any of the actions I had requested.

On November 18, I received an email from Ms. Wright informing me that my requested investigation was presented to the grand jury on the 17<sup>th</sup> and "the plan is to continue review the week after Thanksgiving." I sent a reply on the 18<sup>th</sup> asking for the name of the attorney advising the grand jury. Ms. Wright replied on the 18<sup>th</sup> "the case is an ongoing case being handled by OSPA".

I replied back, repeating my request for the specific name of the attorney for conflict-of-interest purposes. Ms. Wright replied on the 22<sup>nd</sup> that she wasn't in the room, inferring she didn't know which OSP attorney was advising the grand jury. She later sent me another email on the 22<sup>nd</sup>, providing me with the name of a DOL senior lawyer as the "best point of contact" and said she would update me when/if provided additional information. The point of contact she gave me is one of the DOL lawyers that my requested investigation covers. As of the date of this letter, I haven't received any further updates by Ms. Wright.

This egregious behavior by your administration regarding conflicts of interest in a grand jury investigation appears to have been repeated in Kenai. My understanding is that a Kenai grand jury is currently investigating concerns of corruption in the DOL, the ACS, and the Commission on Judicial Conduct ("CJC"). These concerns were brought to the Kenai grand jury through the efforts of David Haeg and other Kenai citizens.

In speaking with Mr. Haeg and his elected Representative Ben Carpenter, it is my understanding that Mr. Taylor promised the grand jury would be led by independent counsel without a conflict of interest. However, I am informed the grand jury was provided a former OSP lawyer who in that capacity previously investigated a person of interest at the CJC at Mr. Haeg's request and cleared the individual of any

wrongdoing. This lawyer, who now falls under the purview of Mr. Haeg's requested grand jury investigation, is the very person advising them!

2. Mr. Taylor's failure under Rule 8.3 to refer prosecutors and a judge for disciplinary action for Misconduct in forcing an unfair trial that violated Rule of Professional Conduct 8.4.

As referenced above, in my letter to Mr. Taylor on October 21, I laid out substantial evidence demonstrating that Thomas Jack Jr., of Hoonah was convicted at an unfair trial which the Comment to Rule 8.4 calls a perversion and a miscarriage of justice. Mr. Taylor has a duty to refer the responsible lawyers for disciplinary action under Rule 8.3. Evidence from court transcripts of the unfair trial was presented to Mr. Taylor in the following excerpt of my letter (certain names have been redacted):

Less than a month before Mr. Jack's second trial started, his newly appointed OPA attorney informed [the judge] and [the prosecutor] that:

There is absolutely no way that I could be minimally competent to try this case, a case of this complexity in the time frame set as is currently scheduled. I'm going to ask for a continuance, I don't intend to ask for a particularly long continuance, but into September, October if the Court has time. With that kind of time, I believe I can get down to Juneau a few times to meet with my client, interview witnesses, meet with the investigators who have worked on this case to this point, and be prepared to try this case and provide to Mr. Jack some level of effective assistance. (Emphasis added.)

A short time later, [the judge] and [the prosecutor] had the following exchange:

[Judge]: I don't relish the idea of litigating the issues of counsel's preparedness down the line in another proceeding, and I guess [the prosecutor], is the state willing to...

[Prosecutor]: Your Honor, we've discussed those issues, and it's sort of a double-edged sword for ourselves, recognizing that if we have to do a PCR in the future we're going to be potentially, you know, depending on what the Court decides, retrying a six-year-old case, give or take. I guess the state's position is we're willing to take those risks at this point. (Emphasis added.)

These statements by both [the judge] and [the prosecutor] evidence unconscionable Misconduct under Alaska Rule of Professional Conduct 8.4. The Comment to that Rule states:

One of the fundamental aims of our court rules, including the Rules of Professional Conduct, is to assure that adversaries have an equal opportunity to prepare and present their case, so as to advance the achievement of a just result. ... An attorney who knowingly engages in such conduct perverts advocacy, obstructs the proper administration of justice, and undermines public respect for, and acceptance of, our adversary system and the legal profession. (Emphasis added.)

[The prosecutor] knew the facts of Mr. Jack's case inside and out at the time of that hearing; she had been the lead prosecutor for about a year and handled the first trial. The new attorney needed 3-4 months just to have some level of effective assistance in a complex case; by his own admission there was no way he could be even minimally competent. It's unequivocally clear the two attorneys did not have an equal opportunity to prepare and present their case under Rule

8.4. The Comment itself labels what happened a perversion and an obstruction of justice. That Mr. Jack has so far lost more than 12 years of his freedom to this ongoing perversion and injustice is outrageous.

As noted above, Mr. Taylor has not responded with any indication that he intends on fulfilling his ethical obligations under Rule 8.3.

3. Mr. Taylor has violated Rule 3.8 by not disclosing new evidence of Mr. Jack's innocence to the appropriate court.

Alaska Rule of Professional Conduct 3.8 places special ethical obligations on all prosecutors, including Mr. Taylor. Rule 3.8(g) states in pertinent part:

When a prosecutor knows of new and credible evidence creating a reasonable likelihood that a defendant did not commit an offense of which the defendant was convicted, the prosecutor shall promptly disclose that evidence to the appropriate court...

With my October 21 letter, Mr. Taylor was provided with a copy of the Statement of Bob Barton, dated January 31, 2022. Mr. Barton was a key witness in Mr. Jack's case who was inexplicably avoided by the prosecutors who directed the investigation and was not called to testify at either of Mr. Jack's trials. An honorable individual who served his country for 25 years and then the Hoonah community as a minister and educator, his credibility is beyond reproach.

Mr. Barton's Statement provides new and credible evidence that, pursuant to Rule 3.8, creates a reasonable likelihood that Mr. Jack did not commit the offenses of which he was convicted. Some of this new evidence is set forth below:

1. "In the substantial amount of time that I observed the family together, never did I observe Thomas playing favorites with TT or doing things separately with her to the exclusion of ZT. Not once did I observe any inappropriate behavior by Thomas towards TT or ZT."
2. "When the 'shower incident' occurred, [Mr. Jack's wife] called me from the house that morning and asked me to call [the social worker] with the OCS. Thomas also called me up and told me what had happened. He was extremely upset and told me he had made a big mistake. The girls came to our house after school that day and that evening I took them to another house to spend the night. Not once did TT give Kay or me an indication that Thomas had ever sexually assaulted her."
3. "When Thomas was arrested, I was stunned by the news. I did not believe then, and I still don't believe that Thomas sexually assaulted TT in any manner. I expected that the charges against Thomas would be dropped as soon as TT's allegations had been properly investigated. I never expected Thomas' case to go to trial and can't imagine how he could be convicted in a fair trial by an impartial jury. Like Mr. and Mrs. Hanlon, I believe that Thomas is completely innocent of any type of sexual abuse of TT."
4. "Kay and I knew that [Mr. Jack's wife] typically stayed up late at night, sometimes as late as 3am. We also knew that she kept a close eye on anything that went on both inside and outside the house involving her family. It would have been impossible for the alleged sexual assaults to have occurred in such a small house at night without her knowing."
5. "Tom was usually at work every morning at 8am, and sometimes got there early around 7:30 when he worked for the local power plant. I would typically stop by the plant and see him when

he got to work. I observed that he was always well rested and alert, which would likely not have been the case if the allegations had any truth to them.”

6. “Following the girls’ placement into another home, I heard through kids at the school that TT had become sexually active with a boy her age. However, it was not until reading Mr. Ignell’s report that I learned TT was concerned she might be pregnant around the time she raised the allegations against Thomas. Knowing the girls’ background and how they had struggled at such an early age before arriving in Hoonah to stay with Tom and Angela, I can easily imagine the tremendous angst that a pregnancy would have generated in TT and for which I believe was likely the motivation for her to lie.”
7. “A few months after Thomas was arrested, my wife and I had to move temporarily to Texas to handle my brother’s estate and we were gone from Hoonah for about a year. Before our move I was not interviewed by any State authorities despite my close relationship to the family and my personal involvement following the shower incident. Law enforcement’s failure to interview me enforced my belief that there was no merit to the accusations and the case would be dismissed. If either of Thomas’ attorneys had asked me to testify, I would have readily agreed.”
8. “I recall that one day before leaving to Texas I encountered [the local Alaska State Trooper] at the Hoonah boat harbor and told him there was no merit to the charges. I also told him that I felt that the biological family was behind the false allegations.”
9. “I recall being stunned upon learning that Thomas was convicted of multiple counts of sexual assault of TT in the Juneau courtroom. I returned to Alaska from Texas to be present in court and testify on Thomas’ behalf at his sentencing hearing in the fall of 2010. I recall that when [the prosecutor] figured out who I was, she stopped asking me questions and that didn’t sit well with me. In my view, prosecutors are obligated to follow the truth regardless of the result it leads to.”
10. “If requested, I am willing to testify under oath that this statement is true and correct except as to those matters stated on information and belief, and as to those matters, I believe them to be true.”

Again, as noted above, Mr. Taylor has not responded to this information that was provided to him nearly 6 weeks ago. Mr. Taylor was potentially aware of this important new evidence as early as March 2022 when a copy of Mr. Barton’s statement was provided to a senior lawyer with DOL, who is part of the requested investigation and who also appears to have violated Rule 3.8.

Mr. Taylor’s conduct in the above matters evidences a callous disregard for the Rules of Professional Conduct. It adds to the growing contempt many Alaskans have expressed towards our legal system. This reaction is predicted in the Comment to Rule 8.4 which says attorney misconduct “undermines public respect for, and acceptance of, our adversary system and the legal profession”.

Governor Dunleavy, based on my observations and interactions with your administration over the last three years, I don’t have much confidence the right thing will be done without the public’s knowledge of these facts. Accordingly, certain media outlets will be receiving a copy of this letter.

Judge Mead is copied herein, along with Ms. Wright, the latter so she can provide a copy of this letter to the grand jury reviewing my requested investigation. I am also copying my elected Representative Sara Hannan, Mr. Haeg, and his elected Representative Ben Carpenter.

Please request Mr. Taylor’s immediate resignation and replace him with a new Attorney General who will adhere to these ethical rules and set a new standard for all State attorneys to follow. The lawlessness

that pervades Alaska's legal system needs to stop now, and as the elected leader of Alaska's executive branch, much of the responsibility lies on your shoulders.

Thank you,

David Ignell

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Public Advocacy And Justice For All Alaskans