

From: Kratz, Ken
Sent: Friday, November 13, 2009 1:25 PM
To: Fallon, Thomas J - DOJ; [REDACTED]
Subject: Perlman, David H - DOJ
How can we thank Ken for his service to DOJ and crime victims?

Tom, Dave W., Eric, Dave P:

For 25 years, I have dedicated myself not only to my job, but to help my fellow prosecutors (including doing various trainings for DOJ). I have been the single most zealous advocate of crime victim rights, having literally drafted CH 950 as part of the Crime Victim's Council; was appointed the very first, and only, Chairman of the Crime Victims Rights Board; have presided over and decided every complaint a crime victim has made since 1998; having spoken at national conferences on Victims rights issues. I have assisted my fellow DA's and DOJ in accepting high profile complex criminal prosecutions, that not only required me to devote time and effort, but to still do all my cases in my home county. I don't have to name these cases---you my friends know that NO other DA in the state has been as willing to help my brothers and sisters in the prosecution community.

So...if an embarrassing or potentially uncomfortable situation came to the attention of those very people I have worked so hard to help over 25 years (JB VanHollen; Kevin Potter; Roy Korte) which involved me, how would I be treated by my colleagues?

I am embarrassed to disclose to my friends that several weeks ago, I met a young domestic abuse victim (25), who engaged in some mild flirtation during our professional contacts. That flirtation prompted me to send a text message to the young single woman, asking if she would like to pursue a more personal relationship at some point. I made it clear that it would be AFTER the criminal case for which she may be a witness was concluded; that it was completely up to HER if we even communicated in the future; no vulgarity was used and no sexual behavior was suggested; and no additional personal contact of any type occurred other than the texts. However, I knew that my texting back and forth with her was not appropriate, since the case was still open.

This woman decided to report these text messages to the Kaukauna PD, who performed a criminal investigation. They asked for the assistance of DCI, and Pete Thelen was assigned the investigation from the Appleton office. With the direction of Roy Korte at least (and I assume Kevin Potter), they completed their investigation and forwarded the results to DOJ. No criminal behavior occurred...not even close!

Despite that conclusion, this potentially embarrassing event caused Roy and Kevin to call me, and we jointly agreed that I should relinquish prosecution authority of the case to avoid the appearance of any conflicts. Assurances were made to me that DOJ had no interest in making any of this public. I foolishly thought my prosecution brethren at DOJ would admonish my poor decision, and allow everyone involved to move on with their careers.

I was astounded to then hear Roy and Kevin suggest that my texting this woman now called into question my ability to serve as Chairman of the Crime Victims Rights Board and suggested my resignation was warranted. What? No crime, no Chapter 950 victim violation, and no "identifiable" SCR violation, but due to the "embarrassment" this could cause (presumably to the WDAA and DOJ) if this ever became public, the best course was for me to be removed from the Board!

Since DOJ Criminal Litigation and Legal Services does not determine who serves on the CVRB, and by design is supposed to have NO influence on that Board whatsoever, I disagreed with their conclusion.

A number of emails have exchanged since that "suggestion" was made to me. I have enclosed the text messages with "S.V." for your review. I have enclosed every email with DOJ, so you can read for yourselves what your department wishes to do with me. Bottom line, depending on what decisions I make (which should read if I agree to resign my position as Chair of the CVRB), it may be necessary to disclose information about your interactions with the woman to the WDAA Board (which should read, if you do not bow to our will, we will make this public with your peers, will likely go public in the media, and that will forever tarnish what you've built as a career-prosecutor reputation)...

Well, you say, that can't be...why would the very department that you have supported for 25 years throw you under the bus? It gets better...Mr. Potter then starts getting upset with my "tone" in my responses, and finally comes right out and threatens that "how we proceed with what we perceive to be ethical violations...depends on how you intend to proceed." Did I just read that if I do not resign, DOJ will file an OLR complaint? But that requires an identifiable OLR type violation, right?

So I ask DOJ to identify the violation (not what "could" have happen, but what violation DID I commit)! Mr. Potter, Mr. Korte, and Mr. Taffora (note when he starts to get involved) have not identified a violation. Probably because sexual contact/intercourse is prohibited by the SCR rules, not text messages telling a woman I think she is pretty.

So, I had the nerve to ask DOJ for what AUTHORITY they had to disclose this stuff to the CVRB or the WDAA? Their final response?---they intend to make this public now! They intend to tell my peers on the WDAA exec board of this indiscretion. Despite the lack of legal authority to do so, Mr. Potter cites his department's duty to the maintenance of public confidence as his reason to go public. As a final professional sledgehammer, due to the "counterproductive posture" I have taken (daring to resist these heavy-handed tactics), DOJ has now decided to report me to OLR. No violation can yet be identified, but that seems to no longer be a requirement to make an OLR complaint.

You will see that DOJ is willing to have me provide no more assistance on the Avery/Dassey cases, due to their department's embarrassment of working with me due to my treatment of victims! They are willing to have me provide no more trainings to prosecutors or cops on their behalf. They are willing to sacrifice my talents on the CVRB. And, this management team is willing to treat me this way, despite my professional reputation or accomplishments for 25 years.

I have no problem with you speaking with Mr. Korte (especially about what resources he is now prepared to devote to the Avery/Dassey case in my absence)...Mr. Potter, Mr. Taffora, or Mr. VanHollen (who must have sanctioned this course of conduct, since the others can't use the restroom without his permission).

I'm sorry to inform you guys of this. I am embarrassed at my poor decision to text a young woman before a case was concluded...this will become personally and professionally hurtful to me and my family when the DOJ mgt. team makes it public. Mostly, I am devastated by how this has been handled by my management colleagues at DOJ.

Your friend,



Text



Emails between

Ken Messages.doc DOJ and DA Ken...

Text Messages between S.V. and DA Ken Kratz
**(Exchanged after victim exercised right to confer, and before plea/sentencing
hearing—S.V. a single 25-year-old domestic abuse victim)**

10/20/09

KK (3:45pm): It was nice talking with you! Feel free to text me (between 8 and 4) if you are bored. You have such potential. See ya. KEN (your favorite DA).

SV: Don't worry about me. My motto is just keep going. And thanks for everything.

KK (3:55pm): I'm not worried...well maybe just a little. I'm more curious what made me text you???

SV: Cause you're a nice person.

KK (4:04pm): Ok. We'll go with that answer. Thanks for putting up with me so far. I wish you weren't one of this offices clients. You'd be a cool person to know!

SV: Thanks.

10/21/09

KK (10:48am): No text yet today? I'm feeling ignored. Are you even up yet?

SV: Yes, I have a fever. I hope its not h1n1.

KK (11:18am): Oh no. I hope you feel better. Do you need me to bring you some chicken soup?

SV: LOL. No I don't want anything to eat.

KK (11:23am): How about a margarita? That has some fruit juice in it!

SV: LOL. Too funny.

KK (11:32am): Seriously I hope you feel better soon. Please keep in touch. Its maybe not the wisest thing I can do, but you are awfully sweet. Just don't tell anyone, ok?

SV: I'm telling everyone. JK. HaHa. And thanks.

KK (11:37am): I know this is wrong. I am such an honest guy, and straight shooter...but I have to know more about you. Does that make sense to you? I bet you get this a lot!

KK (12:43pm): Are you the kind of girl that likes secret contact with an older married elected DA...the riskier the better? Or do you want to stop right now before any issues?

SV: Dono.

KK (1:35pm): I need direction from you. Yes you are a risk taker and can keep your mouth shut and you think this is fun...or you think a man twice your age is creepy so stop.

SV: I have to think about that.

KK (1:40pm): OK. No problem. Either way I think you are very nice. I am very smart, but know this is ALL up to you and really does depend how close to the edge you live!

SV: LOL.

KK (2:19pm): Still wondering if I'm worth it?

SV: Don't know.

KK (2:22pm): Can I help you answer any questions?

SV: No.

KK (2:24pm): You don't say much do you?

SV: Never really did.

KK (2:27pm): When you are that pretty, I guess you don't have to! (now the compliments start).

SV: Oh my.

KK (2:31pm): It's true. Why would such a successful, respected attorney be acting like he's in 7th grade? Are you worried about me?

SV: I won't lie. Yes.

KK (2:37pm): You should never lie to me! Obviously we have talents to offer that the other is intrigued by, or you would have called me creepy! You wanna accept.

SV: I don't know how good an idea that would be.

KK (2:44pm): Me either. It's stupid. Have u ever been spoiled by someone? I mean like being taken care of and spoil him with attention in return? Without ever saying no?

SV: I've been with a dick head for ten years. no I don't.

KK (2:57pm): Quite frankly I don't know what would happen. It would go slow enough for [REDACTED] case to get done. Remember it would have to be special enough to risk all.

SV: I don't know.

KK (3:01pm): If you are not worth that kind of passion we'll know it right away. For now I'm just suggesting we find out. Its either perfect or I'm not going to do it!

KK (3:34pm): Hey. Miss Communication, what's the sticking point? Your low self-esteem and your fear you can't play in my big sandbox? Or???

KK (4:14pm): I'm leaving for the day. Let me know after 8 tomorrow. You will either be excited or grossed out about the opportunity you have. But it will only come once!

10/22/09

KK (9:47am): What do you hope your life looks like in 5 yrs? What kind of residence? A job, making how much in the household? A relationship with what kind of guy? \$\$\$?

SV: No guy, just graduating from college, house that bought for [REDACTED] and I, doing part time work as a park ranger for high cliff maybe.

KK (9:59am): How are you feeling today. You stopped talking yesterday.

SV: Ok.

KK (10:33am): Are you serious? Ok? That's it? Are you in a Board meeting? You are beautiful and would make a great young partner someday. But I won't beg!

SV: Lol.

KK (11:16am): I'm serious! I'm the atty. I have the \$350,000 house. I have the 6-figure career. You may be the tall, young, hot nymph, but I am the prize! Start convincing.

SV: I think your wife would have something to say about that. I don't think I could be the other woman.

KK (11:51pm): Finally an opinion. I would not expect you to be the other woman. I would want you to be so hot and treat me so well that you'd be THE woman! R U that good?

KK (1:50pm): You forgot to write me for the last time saying you could never give me enough attention to steal me away, and you are so modest that you wouldn't know how to!

SV: Right.

KK (1:56pm): And that you may look good at first glance, but women that are blonde, 6ft tall, legs and great bodies don't like to be shown off or to please their men!

KK (3:25pm): When the case is over, if you change your mind and want to meet for a drink, please tell me. Otherwise I will respect your desire to be left alone.

Emails between DOJ and DA Ken Kratz (to date)

11/2/09 Email from Roy Korte to Ken Kratz (cc: Kevin Potter)

Just a few things in follow-up to our conversation of this morning.

1. Attached are the text messages we have been provided. If you have any comments or additional information to provide please feel free to contact DCI agent Pete Thelen at [REDACTED] If you have any information to provide I request that you do so by Wednesday (November 4th).
2. We agreed that WDOJ would take over the pending criminal case as special prosecutor and provide victim/witness services. In regard to DOJ taking over the case, could you email or FAX a copy of the complaint to me [REDACTED] I also ask that you mail us the entire case file [REDACTED]
3. After we have completed our review of the ethics issue we will let you know our conclusions and position.
4. Crime Victim's Right Board: I reiterate the department's position that based on the facts we believe it would be reasonable for you to resign as the WDAA's appointee from the Crime Victim's Rights Board. As we discussed, this is based in part on public perception. In addition, the situation could reasonably be viewed as compromising the victim's ability to exercise her constitutional and statutory rights as a victim.

Thank you for speaking with us this morning and we look forward to your continued cooperation.

11/2/09 Email from Ken Kratz to Roy Korte

From: Kratz, Ken [REDACTED]@da.wi.gov]
Sent: Monday, November 02, 2009 1:10 PM
To: Korte, Roy R.
Subject: Conflict matter

11/2

Thanks Roy.

I reviewed the text messages and responses.

First, other than providing a few compliments to this young lady, it does not appear to be sexual at all, nor does it suggest that course of conduct. No profanity or vulgarity is used. Quite the opposite...on several occasions I remind this young lady that if she does not want to communicate at all in a more personal way with me, all she needs to do is tell me. I even reiterate that I respect her desire to be not contacted further if that is her choice.

Other than the timing of the communication (during the criminal case), and noting that any future conversations with her would have to be after Shannon (the defendant)'s case is concluded, it remains a series of respectful messages, with responses of a positive or neutral nature.

Please note my career-long dedication to the rights of crime victims. My drafting Ch 950 (with assistance obviously from members of DOJ); my being appointed Chairman of the CVRB 11 years ago and having presided over every hearing or complaint ever filed before that body; my recognition by the AG for my years of service to crime victims. After all that, and noting the lack of sexual or otherwise disrespectful communication with this woman, it is still your belief that my resignation from the CVRB is required?

Please have Mr. Thelen contact me if there are further questions. I have reviewed CH 950; the Wisconsin criminal code; and the Wisconsin Rules of Professional Conduct, and fail to see any violation. If you disagree, please notify me immediately.

Ken

11/3/09 Email from Kevin Potter to Ken Kratz (cc: Roy Korte and Ray Taffora)

Ken,

Roy shared your email below with me and I felt a response was warranted since you asked that we notify you immediately if we disagreed with your conclusion that you have not violated Ch 950 or any Rules of Professional Conduct as a result of your interactions with S.V. As I indicated in our telephone conversation yesterday, we have concerns about your conduct on a number of different levels.

In your email below you indicate that your text message comments to S.V. were complimentary in nature and do "not appear to be sexual at all, nor does it suggest that course of conduct." Contrary to these assertions, your comments go well beyond mere compliments and cross the line into what could be construed as sexual harassment. Telling S.V. she is pretty is complimentary. Telling her several times she is "hot" or referring to her as a "tall, young hot nymph" certainly has sexual overtones as do your comments that "You are beautiful and would make a great young partner someday" or "I would want you to be so hot and treat me so well that you'd be THE woman! R U that good?" In your Nov. 2, 2009 email to SA Thelen, you indicated you would like to keep this out of the media if possible. I infer from this as well as other statements in your text messages (e.g. "Remember it would have to be special enough to risk all."), that you were

aware this conduct was inappropriate and that there could be consequences if it became public.

Over a 3 day period you sent S.V. approximately 30 text messages. She was disturbed enough about these communications with you that she contacted a local police department. In her statement to the department she expressed concerns that if she did not do what you wanted her to, you might throw out her case or possibly retaliate against her in other ways. She felt especially vulnerable because she had confided in you details of her relationship with her defendant boyfriend. Under these circumstances it is not surprising that she felt compelled to respond to you, albeit in a neutral manner.

As you well know, Ch 950 provides that in this state crime victims are to be treated with dignity, respect, courtesy and sensitivity and that prosecutors are to honor and protect the rights of crime victims. Wis. Stat. sec. 950.01. Making overtures to the victim in a case you are currently prosecuting could certainly be construed as a lack of respect and sensitivity for that person.

We also believe your conduct could constitute violations of certain Rules of Professional Conduct pertaining to conflicts of interest. Your communications with S.V. would certainly have materially limited your representation of the State of Wisconsin in several ways. First, you engaged in conduct which compromised your ability to fulfill your statutory obligation under Wis. Stat. sec. 971.095 of providing the S.V., the victim in her former boyfriend's case with the right to confer with you about that matter. S.V. has indicated she feels uncomfortable with your behavior and was worried that if she refused your overtures you might dismiss the case against her former boyfriend - in fact she was disturbed enough that she reported your conduct to the police. Your behavior clearly affected S.V.'s ability or willingness to fully consult with you pursuant to sec. 950.04(1v)(j).

For these same reasons, S.V. might have been hesitant to cooperate with your office for purposes of preparing or testifying at trial. If she felt uncomfortable with you or wished to avoid future contacts with you, it could easily have adversely impacted your ability to successfully prosecute this case on behalf of the state. Of equal concern is the fact that your text messages may have created a source of evidence that would have needed to be disclosed to defense counsel if S.V. testified at trial. A defense attorney could argue that a potential personal relationship between you and S.V. could affect S.V.'s credibility and reflect a bias on her part. If so, you, in urging S.V. to keep your communications secret, could have been considered to be suppressing evidence that might be required by law to be disclosed. These are just some of the problems which we believe could constitute rule violations.

We very much appreciate your willingness to step aside and allow a special counsel to be appointed once we brought these concerns to your attention. As I indicated to you during our conversation, had you continued to handle this case, you would have placed yourself in a very vulnerable position. If you had plea bargained this case, it could be construed by S.V. that you had done so because she would not respond to your overtures. If you

prosecuted the defendant to the fullest extent possible, you could be criticized for having been harsher on him than other defendants in similar circumstances due to the fact you wanted to ingratiate yourself to S.V. Or, had you plea bargained the matter, because of your statement in one of your messages that you and S.V. would have to proceed slowly enough for the criminal case to be completed, one could speculate that you wanted to resolve the case quickly so you could pursue a relationship with S.V.

With regard to your continued involvement on the Crime Victim Rights Board, that is not our decision to make. However, in the event you decide to continue to serve on the Board, we believe we have a responsibility to notify the Board members of this incident so they can make an informed decision on whether they wish to have you continue to represent them as the WDAA's designee. As I am sure you can appreciate, this could be potentially embarrassing for the WDAA if it became public that its member on the Board had acted in a manner inconsistent with the Board's mission.

11/3/09 Email from Ken Kratz to Kevin Potter

From: Kratz, Ke [REDACTED]@da.wi.gov]
Sent: Tuesday, November 03, 2009 3:09 PM
To: Potter, Kevin
Cc: Korte, Roy R.; Taffora, Raymond P.
Subject: RE: Kratz Conflict matter

Kevin:

So what has your office decided? What action, if any, is contemplated?

I'm sure you must be aware that this young woman's right to confer had already been exercised. Although I in no way mean to discount the "potential" problems that this matter may have caused, the fact is that none of that occurred.

Finally, I am interested under what authority you believe you are able to disclose anything to the Crime Victims Rights Board? I would be interested in what you believe your role at DOJ is at this point? As DOJ is purposely separate from the CVRB to avoid any influence upon that body whatsoever, your legal opinion on this issue will be enlightening.

I would also ask if there has been a decision as to what, if any, criminal determination has been made? Your current response fails to note that conclusion.

You should be well aware of my 25 year reputation in the prosecution community. It is disturbing that you have not noted that reality or my dedication to the rights of crime victims once in your contacts with me regarding this matter. You must remember back when you prosecuted cases, we do things not because we can, but because we should!

One of our common mentors Doug Haag taught me that... I'm asking what you have decided DOJ *should* do at this point?

11/3/09 Email from Kevin Potter to Ken Kratz (cc: Korte and Taffora)

Ken, I am leaving for the SPET conference shortly, but will respond in more detail when I return. Regarding any criminal decision, as we advised you yesterday, based upon the information available to us at this time we do not believe there is any criminal offense, nor do we intend to look into the matter further.

11/3/09 Email from Ken Kratz to Kevin Potter (cc: Korte and Taffora)

Kevin (and others):

Obviously this is difficult for me, personally and professionally. I never emailed Pete Thelen, so never asked him to avoid this becoming public. I'm hoping however that goal is shared by all.

The purpose of this last email is to recognize that this can't be easy for you guys either---I know that. Thanks for your professionalsim. Enjoy the conference...I have a sexual assault trial, so won't be attending.

Ken

11/9/09 Email from Kevin Potter to Ken Kratz (cc: Korte and Taffora)

Ken,

In looking at my prior email, I see I made a misstatement when I referred to a Nov. 2, 2009 email from you to Pete Thelen. That was the date of Pete's email to us describing his conversation with you.

With regard to your questions below, we do not have any intention of disclosing anything to the Crime Victims Rights Board. As I indicated previously, depending on what decisions you make, it may be necessary to disclose information about your interactions with S.V. to the WDAA Board. (I apologize if I was not clear that I was referring to the WDAA Board, not the CVRB.) Once the criminal matter involving S.V. has been resolved, all the reports relating to that matter are discloseable to the public. I am not aware of anything which would preclude the disclosure of that information under the public records law.

You are correct that S.V. had exercised her right to consult with you. However, that right continues and there certainly would have been an expectation that it would have been necessary for her to consult and work with you further for trial preparation, sentencing, etc. Your interactions with her could have very well had a chilling effect on her

willingness to work with you throughout the duration of that case. The fact that she expressed discomfort with your overtures, was concerned about what you might do if she rejected your advances and reported these contacts to an outside law enforcement agency, is a good indication that her willingness to work with you had been compromised. Had we not urged you to get off the case, these "potential" problems would likely have materialized.

I would again reiterate that based upon the information available, we do not see any criminal violations, nor do we intend to pursue any further review in that regard. How we proceed with what we perceive to be ethical violations again depends on how you intend to proceed. We would be happy to discuss with you what we see as being your options.

We all appreciate that this is a difficult situation for you. I can assure you we take no pleasure in the role we have been forced to play in it. We do recognize that you have had a long and successful career as a prosecutor. However, our ethical and professional obligations compel us to act in this manner regardless of your years of service or professional reputation.

11/9/09 Email from Ken Kratz to Kevin Potter

From: Kratz, Ken [REDACTED]@da.wi.gov]
Sent: Monday, November 09, 2009 12:58 PM
To: Potter, Kevin
Cc: Korte, Roy R.; Taffora, Raymond P.
Subject: RE: Kratz Conflict matter

Before you become too enamored with what "could have" happened in this case from an ethical standpoint, I ask that you provide me with what violation of SCR 20 your department believes I DID violate? I am surprised that you suggest that your course of action from this point forward depends on my response...in what regard? You obviously have all the facts you need to render your conclusion, therefore you should be able to identify a specific SCR violation to me, if one exists.

I would also ask what authority (or even practice) DOJ embraces for providing information to the WDAA Executive Board (a volunteer association) regarding the behavior, public or private, of elected DA's? I have been a member, and former president of the WDAA---I don't recall EVER receiving a "report" from any management of DOJ on a prosecutor's communications, accompanied by a specific recommendation as to some action the WDAA is urged to take. Perhaps you can point to another instance of your department involving yourself in WDAA appointment policy, or revocation of committee appointments.

You also indicate that all reports are "disclosable" to the public at the conclusion of the criminal prosecution. So what? I didn't know that DOJ had any intent to disclose

anything about this case (recall the assurances previously made by you and Roy that you had no intent to make any of this public)...

You also continue to allude to S.V.'s "feelings" about contacts she had with me, without ever disclosing the actual complaint she made. Are you really suggesting that this young woman, when given the opportunity by me to discontinue all contact, felt obligated to respond to text messages for fear of me dismissing the felony case against her former boyfriend? Perhaps you can share with me the reports generated in this case (by any agency) so that I may respond to you with the same specificity as you seem to be able to regarding the complaint.

You mention the "role that DOJ is forced to play" at this point---exactly what is that? After a determination that no criminal behavior is present, what is DOJ's Criminal Litigation Division, or Legal Services Director "forced" to pursue?

I assume if you believe that I am unfit to continue my volunteer work with the CVRB, you must agree that I am unfit to continue my official constitutionally protected role as elected DA of Calumet County. Are you suggesting that I resign from that position as well? I further assume that you would be too "embarrassed" by my continued involvement in assisting DOJ in the Steven Avery and Brendan Dassey post-conviction matters---I want to hear you ask me to step aside from those duties as well, and make sure that Roy is ready to appoint additional resources to assist Tom Fallon in the conclusion of this mamouth prosecution. In fact, please have your boss, JB VanHollen ask me to step aside from assisting DOJ in ANY future matters (being asked to train DA's, accepting any major special prosecutions, etc.) because DOJ is too "embarrassed" to have me linked to your department!

When your boss preaches about "supporting" elected DA's across the state, especially ones with my reputation and history of UNCONDITIONAL assistance to DOJ, I wonder if this is the kind of "support" he is referring to? Perhaps its time to have a meeting with you and JB...I would like to know what your department's official position is on this matter. I am confident you would never have taken the position you have up to this point without specific direction from the AG himself.

If there is no violation of law, and no specific violation of the rules of professional responsibility, I think it fair that questions be asked about what your department is trying to accomplish? Now that my treatment of crime victims (and reputation as a zealous advocate and ethical career prosecutor) has been called into question, I expect answers. I suggest if the history or intent of Ch 950, the Administrative Rules governing the CVRB, or victims rights generally are cited by you (or whoever else is weighing in on this matter), you find someone who was actually there 15 years ago drafting and advocating for these things (like me) who actually knows these answers...might I suggest Attorney Bruce Olsen, former DOJ Attorney Karen Timberlake, or even Mary Burke.

And if you believe that the CVRB is better off without such an embarrassing Chairman, ask Bruce Olson or Julie, two DOJ employees, their opinion on that position. I assume if

you are prepared to stand by that assertion, you will want to receive input from DOJ employees who actually know what is best for the CVRB!

You see, this is my life's work being jepordized, not yours! Time for a meeting.

11/12/09 Email from Kevin Potter to Ken Kratz (cc: Korte and Taffora)

Ken,

I understand that you have strong feelings about this matter, but the posture you are taking is counterproductive. We are willing to work with you in coming to the correct solution for this problem, however, you are making it hard for us to do so.

You ask what authority we rely upon to disclose information to the WDAA Executive Board. This is not a matter of legal authority. It is a matter of propriety and maintenance of public confidence in the crime victims rights system. We believe your actions have compromised your ability to sit on the CVRB. However, as I indicated previously, whether or not you remain on the Board is not our decision. In the event you choose to voluntarily step down, that would address this issue. If you do not do so, we believe the WDAA has the right to know about this incident so they can decide whether they wish you to remain on the Board as their appointee.

As to the ethical issues raised by this situation, we believe the matter needs to be reported to OLR. Again, we would be willing to discuss with you what we see as being your options and what we believe to be the best course of conduct for you to follow.

You have indicated you would like to have a meeting to discuss this further. To the extent necessary, we can use that forum to discuss your remaining comments below or any other issues you would like to cover. Please provide some dates and times early next week when you would be available for a telephone conference and I will attempt to get something scheduled.

11/13/09 Email from Ken Kratz to Kevin Potter

I asked you to identify what SCR violation WAS committed. To date, you have only suggested what violation COULD HAVE BEEN committed if I had not relinquished prosecution authority in the case. I was of the understanding that I enlisted a special prosecutor so there would NOT be any ethical problems? If I am incorrect, please advise.

I am willing to discuss what information you believe the WDAA Executive Board should be told.

You suggest that my position has become counterproductive...lets see, I was cooperative during your initial phone call to me, remorseful, immediately agreed to have a special prosecutor appointed, expressed willingness with DCI to participate in a mediation

session with S.V. to personally apologize for any additional angst she may have suffered. I reminded DOJ of my spotless record of ethical behavior in 25 years of serving this state, and my tireless advocacy of crime victims, both as part of my job and with various crime victim organizations. The response from DOJ??? We want you to resign from the CVRB; if you don't, we intend to make this matter public, which we know will tarnish your reputation at least with your peers, and possibly the public; AND, as an added bonus, we will report you to OLR (despite not having identified an SCR violation that you committed).

Remind me again how my "play nice with DOJ" attitude helped me???

From: Kratz, Ken
Sent: Friday, November 13, 2009 3:30 PM
To: Potter, Kevin C - DOJ
Subject: RE: Kratz Conflict matter

I was hoping for a personal mtg with you and the AG if possible....I am happy to travel there next Wed or Thur if that works. Let me know please.

Ken

From: Potter, Kevin ██████████@doj.state.wi.us]
Sent: Friday, November 13, 2009 1:30 PM
To: Kratz, Ken
Cc: Taffora, Ray P - DOJ; Korte, Roy R - DOJ
Subject: RE: Kratz Conflict matter

Ken,

Do you want to have a telephone conference or not? If so, please provide me some times and dates that will work for you.

From: Kratz, Ken ██████████@da.wi.gov]
Sent: Friday, November 13, 2009 8:22 AM
To: Potter, Kevin
Subject: RE: Kratz Conflict matter

I asked you to identify what SCR violation WAS committed. To date, you have only suggested what violation COULD HAVE BEEN committed if I had not relinquished prosecution authority in the case. I was of the understanding that I enlisted a special prosecutor so there would NOT be any ethical problems? If I am incorrect, please advise.

I am willing to discuss what information you believe the WDAA Executive Board should be told.

You suggest that my position has become counterproductive...lets see, I was cooperative during your initial phone call to me, remorseful, immediately agreed to have a special prosecutor appointed, expressed willingness with DCI to participate in a mediation session with S.V. to personally apologize for any additional angst she may have suffered. I reminded DOJ of my spotless record of ethical behavior in 25 years of serving this state, and my tireless advocacy of crime victims, both as part of my job and with various crime victim organizations. The response from DOJ??? We want you to resign from the CVRB; if you don't, we intend to make this matter public, which we know will tarnish your reputation at least with your peers, and possibly the public; AND, as an added bonus, we will report you to OLR (despite not having identified an SCR violation that you committed).

Remind me again how my "play nice with DOJ" attitude helped me???

From: Potter, Kevin ██████████@doj.state.wi.us]
Sent: Thursday, November 12, 2009 4:37 PM
To: Kratz, Ken
Cc: Korte, Roy R - DOJ; Taffora, Ray P - DOJ
Subject: RE: Kratz Conflict matter

Ken,

I understand that you have strong feelings about this matter, but the posture you are taking is counterproductive. We are willing to work with you in coming to the correct solution for this problem, however, you are making it hard for us to do so.

You ask what authority we rely upon to disclose information to the WDAA Executive Board. This is not a matter of legal authority. It is a matter of propriety and maintenance of public confidence in the crime victims rights system. We believe your actions have compromised your ability to sit on the CVRB. However, as I indicated previously, whether or not you remain on the Board is not our decision. In the event you choose to voluntarily step down, that would address this issue. If you do not do so, we believe the WDAA has the right to know about this incident so they can decide whether they wish you to remain on the Board as their appointee.

As to the ethical issues raised by this situation, we believe the matter needs to be reported to OLR. Again, we would be willing to discuss with you what we see as being your options and what we believe to be the best course of conduct for you to follow.

You have indicated you would like to have a meeting to discuss this further. To the extent necessary, we can use that forum to discuss your remaining comments below or any other issues you would like to cover. Please provide some dates and times early next week when you would be available for a telephone conference and I will attempt to get something scheduled.

From: Kratz, Ken [REDACTED]@da.wi.gov]

Sent: Monday, November 09, 2009 12:58 PM

To: Potter, Kevin

Cc: Korte, Roy R.; Taffora, Raymond P.

Subject: RE: Kratz Conflict matter

Before you become too enamoured with what "could have" happened in this case from an ethical standpoint, I ask that you provide me with what violation of SCR 20 your department believes I DID violate? I am surprised that you suggest that your course of action from this point forward depends on my response...in what regard? You obviously have all the facts you need to render your conclusion, therefore you should be able to identify a specific SCR violation to me, if one exists.

I would also ask what authority (or even practice) DOJ embraces for providing information to the WDAA Executive Board (a volunteer association) regarding the behavior, public or private, of elected DA's? I have been a member, and former president of the WDAA---I don't recall EVER receiving a "report" from any management of DOJ on a prosecutor's communications, accompanied by a specific recommendation as to some action the WDAA is urged to take. Perhaps you can point to another instance of your department involving yourself in WDAA appointment policy, or revocation of committee appointments.

You also indicate that all reports are "disclosable" to the public at the conclusion of the criminal prosecution. So what? I didn't know that DOJ had any intent to disclose anything about this case (recall the assurances previously made by you and Roy that you had no intent to make any of this public)...

You also continue to allude to S.V.'s "feelings" about contacts she had with me, without ever disclosing the actual complaint she made. Are you really suggesting that this young woman, when given the opportunity by me to discontinue all contact, felt obligated to respond to text messages for fear of me dismissing the felony case against her former boyfriend? Perhaps you can share with me the reports generated in this case (by any agency) so that I may respond to you with the same specificity as you seem to be able to regarding the complaint.

You mention the "role that DOJ is forced to play" at this point---exactly what is that? After a determination that no criminal behavior is present, what is DOJ's Criminal Litigation Division, or Legal Services Director "forced" to pursue?

I assume if you believe that I am unfit to continue my volunteer work with the CVRB, you must agree that I am unfit to continue my official constitutionally protected role as elected DA of Calumet County. Are you suggesting that I resign from

that position as well? I further assume that you would be too "embarrassed" by my continued involvement in assisting DOJ in the Steven Avery and Brendan Dassey post-conviction matters---I want to hear you ask me to step aside from those duties as well, and make sure that Roy is ready to appoint additional resources to assist Tom Fallon in the conclusion of this mamouth prosecution. In fact, please have your boss, JB VanHollen ask me to step aside from assisting DOJ in ANY future matters (being asked to train DA's, accepting any major special prosecutions, etc.) because DOJ is too "embarrassed" to have me linked to your department!

When your boss preaches about "supporting" elected DA's across the state, especially ones with my reputation and history of UNCONDITIONAL assistance to DOJ, I wonder if this is the kind of "support" he is referring to? Perhaps its time to have a meeting with you and JB...I would like to know what your department's official position is on this matter. I am confident you would never have taken the position you have up to this point without specific direction from the AG himself.

If there is no violation of law, and no specific violation of the rules of professional responsibility, I think it fair that questions be asked about what your department is trying to accomplish? Now that my treatment of crime victims (and reputation as a zealous advocate and ethical career prosecutor) has been called into question, I expect answers. I suggest if the history or intent of Ch 950, the Administrative Rules governing the CVRB, or victims rights generally are cited by you (or whoever else is weighing in on this matter), you find someone who was actually there 15 years ago drafting and advocating for these things (like me) who actually knows these answers...might I suggest Attorney Bruce Olsen, former DOJ Attorney Karen Timberlake, or even Mary Burke.

And if you believe that the CVRB is better off without such an embarrassing Chairman, ask Bruce Olson or Julie, two DOJ employees, their opinion on that position. I assume if you are prepared to stand by that assertion, you will want to receive input from DOJ employees who actually know what is best for the CVRB!

You see, this is my life's work being jeopardized, not yours! Time for a meeting.

From: Potter, Kevin [REDACTED]@doj.state.wi.us]
Sent: Monday, November 09, 2009 11:26 AM
To: Kratz, Ken
Cc: Korte, Roy R - DOJ; Taffora, Ray P - DOJ
Subject: FW: Kratz Conflict matter

Ken,

In looking at my prior email, I see I made a misstatement when I referred to a Nov. 2, 2009 email from you to Pete Thelen. That was the date of Pete's email to us describing his conversation with you.

With regard to your questions below, we do not have any intention of disclosing anything to the Crime Victims Rights Board. As I indicated previously, depending on what decisions you make, it may be necessary to disclose information about your interactions with S.V. to the WDAA Board. (I apologize if I was not clear that I was referring to the WDAA Board, not the CVRB.) Once the criminal matter involving S.V. has been resolved, all the reports relating to that matter are discloseable to the public. I am not aware of anything which would preclude the disclosure of that information under the public records law.

You are correct that S.V. had exercised her right to consult with you. However, that right continues and there certainly would have been an expectation that it would have been necessary for her to consult and work with you further for trial preparation, sentencing, etc. Your interactions with her could have very well had a chilling effect on her willingness to work with you throughout the duration of that case. The fact that she expressed discomfort with your overtures, was concerned about what you might do if she rejected your advances and reported these contacts to an outside law enforcement agency, is a good indication that her willingness to work with you had been compromised. Had we not urged you to get off the case, these "potential" problems would likely have materialized.

I would again reiterate that based upon the information available, we do not see any criminal violations, nor do we intend to pursue any further review in that regard. How we proceed with what we perceive to be ethical violations again depends on how you intend to proceed. We would be happy to discuss with you what we see as being your options.

We all appreciate that this is a difficult situation for you. I can assure you we take no pleasure in the role we have been forced to play in it. We do recognize that you have had a long and successful career as a prosecutor. However, our ethical and professional obligations compel us to act in this manner regardless of your years of service or professional reputation.

From: Kratz, Ken [REDACTED]@da.wi.gov]
Sent: Tuesday, November 03, 2009 3:09 PM
To: Potter, Kevin
Cc: Korte, Roy R.; Taffora, Raymond P.
Subject: RE: Kratz Conflict matter

Kevin:

So what has your office decided? What action, if any, is contemplated?

I'm sure you must be aware that this young woman's right to confer had already been exercised. Although I in no way mean to discount the "potential" problems that this matter may have caused, the fact is that none of that occurred.

Finally, I am interested under what authority you believe you are able to disclose anything to the Crime Victims Rights Board? I would be interested in what you believe your role at DOJ is at this point? As DOJ is purposely separate from the CVRB to avoid any influence upon that body whatsoever, your legal opinion on this issue will be enlightening.

I would also ask if there has been a decision as to what, if any, criminal determination has been made? Your current response fails to note that conclusion.

You should be well aware of my 25 year reputation in the prosecution community. It is disturbing that you have not noted that reality or my dedication to the rights of crime victims once in your contacts with me regarding this matter. You must remember back when you prosecuted cases, we do things not because we can, but because we should! One of our common mentors Doug Haag taught me that... I'm asking what you have decided DOJ *should* do at this point?

From: Potter, Kevin [REDACTED]@doj.state.wi.us]
Sent: Tuesday, November 03, 2009 2:46 PM
To: Kratz, Ken
Cc: Korte, Roy R - DOJ; Taffora, Ray P - DOJ
Subject: FW: Kratz Conflict matter

Ken,

Roy shared your email below with me and I felt a response was warranted since you asked that we notify you immediately if we disagreed with your conclusion that you have not violated Ch 950 or any Rules of Professional Conduct as a result of your interactions with S.V. As I indicated in our telephone conversation yesterday, we have concerns about your conduct on a number of different levels.

In your email below you indicate that your text message comments to S.V. were complimentary in nature and do "not appear to be sexual at all, nor does it suggest that course of conduct." Contrary to these assertions, your comments go well beyond mere compliments and cross the line into what could be construed as sexual harassment. Telling S.V. she is pretty is complimentary. Telling her several times she is "hot" or referring to her as a "tall, young hot nymph" certainly has sexual overtones as do your comments that "You are beautiful and would make a great young partner someday" or "I would want you to be so hot and treat me so well that you'd be THEwoman! R U that good?" In your Nov. 2, 2009 email to SA Thelen, you indicated you would like to keep this out of the media if possible. I infer from this as well as other

statements in your text messages (e.g. "Remember it would have to be special enough to risk all."), that you were aware this conduct was inappropriate and that there could be consequences if it became public.

Over a 3 day period you sent S.V. approximately 30 text messages. She was disturbed enough about these communications with you that she contacted a local police department. In her statement to the department she expressed concerns that if she did not do what you wanted her to, you might throw out her case or possibly retaliate against her in other ways. She felt especially vulnerable because she had confided in you details of her relationship with her defendant boyfriend. Under these circumstances it is not surprising that she felt compelled to respond to you, albeit in a neutral manner.

As you well know, Ch 950 provides that in this state crime victims are to be treated with dignity, respect, courtesy and sensitivity and that prosecutors are to honor and protect the rights of crime victims. Wis. Stat. sec. 950.01. Making overtures to the victim in a case you are currently prosecuting could certainly be construed as a lack of respect and sensitivity for that person.

We also believe your conduct could constitute violations of certain Rules of Professional Conduct pertaining to conflicts of interest. Your communications with S.V. would certainly have materially limited your representation of the State of Wisconsin in several ways. First, you engaged in conduct which compromised your ability to fulfill your statutory obligation under Wis. Stat. sec. 971.095 of providing the S.V., the victim in her former boyfriend's case with the right to confer with you about that matter. S.V. has indicated she feels uncomfortable with your behavior and was worried that if she refused your overtures you might dismiss the case against her former boyfriend - in fact she was disturbed enough that she reported your conduct to the police. Your behavior clearly affected S.V.'s ability or willingness to fully consult with you pursuant to sec. 950.04(1v)(j).

For these same reasons, S.V. might have been hesitant to cooperate with your office for purposes of preparing or testifying at trial. If she felt uncomfortable with you or wished to avoid future contacts with you, it could easily have adversely impacted your ability to successfully prosecute this case on behalf of the state. Of equal concern is the fact that your text messages may have created a source of evidence that would have needed to be disclosed to defense counsel if S.V. testified at trial. A defense attorney could argue that a potential personal relationship between you and S.V. could affect S.V.'s credibility and reflect a bias on her part. If so, you, in urging S.V. to keep your communications secret, could have been considered to be suppressing evidence that might be required by law to be disclosed. These are just some of the problems which we believe could constitute rule violations.

We very much appreciate your willingness to step aside and allow a special counsel to be appointed once we brought these concerns to your attention. As I indicated to you during our conversation, had you continued to handle this case, you would have placed yourself in a very vulnerable position. If you had plea bargained this case, it could be construed by S.V. that you had done so because she would not respond to your overtures. If you prosecuted the defendant to the fullest extent possible, you could be criticized for having been harsher on him than other defendants in similar circumstances due to the fact you wanted to ingratiate yourself to S.V. Or, had you plea bargained the matter, because of your statement in one of your messages that you and S.V. would have to proceed slowly enough for the criminal case to be completed, one could speculate that you wanted to resolve the case quickly so you could pursue a relationship with S.V.

With regard to your continued involvement on the Crime Victim Rights Board, that is not our decision to make. However, in the event you decide to continue to serve on the Board, we believe we have a responsibility to notify the Board members of this incident so they can make an informed decision on whether they wish to have you continue to represent them as the WDAA's designee. As I am sure you can appreciate, this could be potentially embarrassing for the WDAA if it became public that its member on the Board had acted in a manner inconsistent with the Board's mission.

From: Kratz, Ken [REDACTED]@da.wi.gov]
Sent: Monday, November 02, 2009 1:10 PM
To: Korte, Roy R.
Subject: Conflict matter

11/2

Thanks Roy.

I reviewed the text messages and responses.

First, other than providing a few compliments to this young lady, it does not appear to be sexual at all, nor does it suggest that course of conduct. No profanity or vulgarity is used. Quite the opposite...on several occasions I remind this young lady that if she does not want to communicate at all in a more personal way with me, all she needs to do is tell me. I even reiterate that I respect her desire to be not contacted further if that is her choice.

Other than the timing of the communication (during the criminal case), and noting that any future conversations with her would have to be after Shannon (the defendant)'s case is concluded, it remains a series of respectful messages, with responses of a positive or neutral nature.

Please note my career-long dedication to the rights of crime victims. My drafting Ch 950 (with assistance obviously from members of DOJ); my being appointed Chairman of the CVRB 11 years ago and having presided over every hearing or complaint ever filed before that body; my recognition by the AG for my years of service to crime victims. After all that, and noting the lack of sexual or otherwise disrespectful communication with this woman, it is still your belief that my resignation from the CVRB is required?

Please have Mr. Thelen contact me if there are further questions. I have reviewed CH 950; the Wisconsin criminal code; and the Wisconsin Rules of Professional Conduct, and fail to see any violation. If you disagree, please notify me immediately.

Ken

From: Kratz, Ken
Sent: Tuesday, November 17, 2009 10:16 AM
To: Fallon, Thomas J - DOJ; Gahn, Norm
Subject: RE: Dassey witness list

I had no idea I was given that task.....was I???

I know I will set up the interviews, but filing something?

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Tuesday, November 17, 2009 9:06 AM
To: Kratz, Ken; Gahn, Norm
Subject: Dassey witness list

Ken have you filed list with Dvorak et al? Do we have interviews lined up for next week? Tom

Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice
[REDACTED]

From: Kratz, Ken
Sent: Tuesday, November 17, 2009 10:17 AM
To: Fallon, Thomas J - DOJ; Gahn, Norm
Subject: RE: Dassey witness list

In fact I was the one guy missing from the conference call when you "finalized" the witness list (h1n1).

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Tuesday, November 17, 2009 9:06 AM
To: Kratz, Ken; Gahn, Norm
Subject: Dassey witness list

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Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice
[REDACTED]

From: Kratz, Ken
Sent: Tuesday, November 17, 2009 10:19 AM
To: Fallon, Thomas J - DOJ
Subject: RE: Dassey witness list

I am happy to interview the 3 attorneys by myself with a DCI agent...you guys don't need to be there!

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Tuesday, November 17, 2009 9:06 AM
To: Kratz, Ken; Gahn, Norm
Subject: Dassey witness list

Ken have you filed list with Dvorak et al? Do we have interviews lined up for next week? Tom

Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice
[REDACTED]

From: Kratz, Ken
Sent: Tuesday, November 17, 2009 10:30 AM
To: Fallon, Thomas J - DOJ; Gahn, Norm
Subject: RE: Dassey witness list

ok

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Tuesday, November 17, 2009 9:29 AM
To: Kratz, Ken; Gahn, Norm
Subject: RE: Dassey witness list

Look, we went over this before the last call you missed. In the previous call, I asked that you to take the lead on the witness list stuff because I was up to my ass in filing 81 pages of postconviction briefs due October 31 and Nov 13. Norm and I confirmed with Amanda our thoughts on the list on October 30-I think. I emailed you on Nov 9 that Dvorak emailed looking for our list which was due on November 2.

As for you interviewing alone with Fassbender, another witness in this case, is just not a good idea at all. I'll be there next week, just give me the schedule.

Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice



From: Kratz, Ken [REDACTED]@da.wi.gov]
Sent: Tuesday, November 17, 2009 9:17 AM
To: Fallon, Thomas J.; Gahn, Norm
Subject: RE: Dassey witness list

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Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice



From: Kratz, Ken
Sent: Tuesday, November 17, 2009 10:46 AM
To: Fallon, Thomas J - DOJ
Subject: RE: Dassey witness list

Tom:

I will send it today (easy). Amanda does not recall me being given that task, nor do I...I have written down that Ken to set up appointments with the 3 attys, and to decide if we need an "anti-GSS" witness or just use Salter and Armentrout.

I am very sorry for the confusion. I had no idea.

I have Wiegert, Fassbender, Skorlinski (or whoever meets with us and the lawyers), Buckley, Salter and Armentrout. Am I missing anyone. I will fax and send before noon!

Thanks.

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Tuesday, November 17, 2009 9:29 AM
To: Kratz, Ken; Gahn, Norm
Subject: RE: Dassey witness list

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Assistant Attorney General
Wisconsin Department of Justice
[REDACTED]

From: Kratz, Ken [REDACTED]@da.wi.gov]
Sent: Tuesday, November 17, 2009 9:17 AM
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Subject: RE: Dassey witness list

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From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]

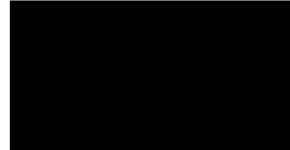
Sent: Tuesday, November 17, 2009 9:06 AM

To: Kratz, Ken; Gahn, Norm

Subject: Dassey witness list

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Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice



From: Kratz, Ken
Sent: Tuesday, November 17, 2009 11:05 AM
To: Fallon, Thomas J - DOJ; Gahn, Norm
Subject: RE: Dassey witness list

no surprisingly, I have directed Amanda to find her notes (not in those words).

I am so sorry guys...I would never purposely not do something I was assigned!

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Tuesday, November 17, 2009 10:01 AM
To: Kratz, Ken; Gahn, Norm
Subject: RE: Dassey witness list

It occurred in the first call between you, me and Norm -Amanda was not in that call. The purpose of the 2d call 7-8 days later (the one you missed in which Amanda participated) was to confirm our thoughts of who should be on the list. You were going to try and set up interviews and decide on who our investigator was to be. (I recommended Skorlinsky but after that you said there was a tiff between Kim and Tom and you were going to check on that.)

As for witnesses:

All 4 lawyers -- Norm and I think we should at least try and talk to Sczygelski, he will claim privilege and Fox will have to decide that one before the hearing.

- 5. Armentrout**
- 6. Salter tentative- (we keep trading voice mails and I have yet to confirm with her.)**
- 7. Name of Special Ed person from Brendan's school (testified at supp hrg)**
- 8. Fassbender**
- 9. Wiegert**
- 10. Buckley**
- 11. O'Kelly??? He might have a different take on all this (through his local attorney)**
- 12. Investigator for Edelstein and Fremgen?**

Norm, I'm blanking on the this, but it seems there might be one other?

What do Amanda's notes say?

Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice

From: Kratz, Ken [REDACTED]@da.wi.gov]
Sent: Tuesday, November 17, 2009 9:46 AM
To: Fallon, Thomas J.
Subject: RE: Dassey witness list

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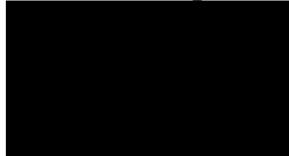
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Subject: RE: Dassey witness list

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Subject: Dassey witness list

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**Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice**



From: Kratz, Ken
Sent: Tuesday, November 17, 2009 11:15 AM
To: Fallon, Thomas J - DOJ; Gahn, Norm
Subject: RE: Dassey witness list

Susan Brandt was her name.

Amanda said you talked about Newhouse or Sturdevant???

The letter is being typed. I'll send the draft before I send the original.

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Tuesday, November 17, 2009 10:01 AM
To: Kratz, Ken; Gahn, Norm
Subject: RE: Dassey witness list

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Wisconsin Department of Justice
[REDACTED]

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**Thomas J Fallon
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Wisconsin Department of Justice**

[REDACTED]

From: Kratz, Ken [REDACTED]@da.wi.gov]
Sent: Tuesday, November 17, 2009 9:17 AM
To: Fallon, Thomas J.; Gahn, Norm
Subject: RE: Dassey witness list

In fact I was the one guy missing from the conference call when you "finalized" the witness list (h1n1).

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]

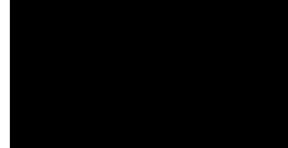
Sent: Tuesday, November 17, 2009 9:06 AM

To: Kratz, Ken; Gahn, Norm

Subject: Dassey witness list

Ken have you filed list with Dvorak et al? Do we have interviews lined up for next week? Tom

Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice



From: Kratz, Ken
Sent: Friday, November 20, 2009 12:04 PM
To: Fallon, Thomas J.
Subject: RE: Dassey witness list

Edelstein...Wed at 9

Kachinsky...Wed at 11

Fremgen...he gets to pick what time Tues AM

Kim Skorlinski will be sitting in with us.

From: Kratz, Ken
Sent: Friday, November 20, 2009 12:31 PM
To: Fallon, Thomas J - DOJ
Subject: RE: Dassey witness list

I have to hear from Fremgen...I will handle Wed with Skorlinski. I'll let you know as soon as I hear.

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Friday, November 20, 2009 11:29 AM
To: Kratz, Ken
Subject: RE: Dassey witness list

Where is the Kachinsky interview? You forget, I have court Wed AM; I will miss Edelstein as I have 90 minute hearing in Sheboygan with Szczygelski from 9-11. Here's something for you and Kim to think about: Ask Edelstein what kinds, type of information was passed on from Kachinsky; especially in terms of the "false confession" issue. Same question is critical for Kachinsky? If we can show that certain info was passed from Szczygelski to Kachinsky to Fremgen and Edelstein then we have a very good argument that the privilege claim that Ralph will assert has been waived by the claims of IAC against the other 3. I will approach Ralph when I am with him in Sheboygan.

On Tuesday, should I come to your office or meet you somewhere?

From: Kratz, Ken [REDACTED]@da.wi.gov]
Sent: Friday, November 20, 2009 11:04 AM
To: Fallon, Thomas J.
Subject: RE: Dassey witness list

Edelstein...Wed at 9

Kachinsky...Wed at 11

Fremgen...he gets to pick what time Tues AM

Kim Skorlinski will be sitting in with us.

From: Kratz, Ken
Sent: Tuesday, November 24, 2009 9:46 AM
To: 'Attorney Haag'
Subject: advice

For 25 years, I have dedicated myself not only to my job, but to help my fellow prosecutors (including doing various trainings for DOJ). I have been the single most zealous advocate of crime victim rights, having literally drafted CH 950 as part of the Crime Victim's Council; was appointed the very first, and only, Chairman of the Crime Victims Rights Board; have presided over and decided every complaint a crime victim has made since 1998; having spoken at national conferences on Victims rights issues. I have assisted my fellow DA's and DOJ in accepting high profile complex criminal prosecutions, that not only required me to devote time and effort, but to still do all my cases in my home county. I don't have to name these cases---you know that NO other DA in the state has been as willing to help my brothers and sisters in the prosecution community.

So...if an embarrassing or potentially uncomfortable situation came to the attention of those very people I have worked so hard to help over 25 years (JB VanHollen; Kevin Potter; Roy Korte) which involved me, how would I be treated by my colleagues?

I am embarrassed to disclose that several weeks ago, I met a young domestic abuse victim (25), who engaged in some mild flirtation during our professional contacts. That flirtation prompted me to send a text message to the young single woman, asking if she would like to pursue a more personal relationship at some point. I made it clear that it would be AFTER the criminal case for which she may be a witness was concluded; that it was completely up to HER if we even communicated in the future; no vulgarity was used and no sexual behavior was suggested; and no additional personal contact of any type occurred other than the texts. However, I knew that my texting back and forth with her was not appropriate, since the case was still open.

This woman decided to report these text messages to the Kaukauna PD, who performed a criminal investigation. They asked for the assistance of DCI, and Pete Thelen was assigned the investigation from the Appleton office . With the direction of Roy Korte at least (and I assume Kevin Potter), they completed their investigation and forwarded the results to DOJ. No criminal behavior occurred...not even close!

Despite that conclusion, this potentially embarrassing event caused Roy and Kevin to call me, and we jointly agreed that I should relinquish prosecution authority of the case to avoid the appearance of any conflicts. Assurances were made to me that DOJ had no interest in making any of this public. I foolishly thought my prosecution brethren at DOJ would admonish my poor decision, and allow everyone involved to move on with their careers.

I was astounded to then hear Roy and Kevin suggest that my texting this woman now called into question my ability to serve as Chairman of the Crime Victims Rights Board and suggested my resignation was warranted. What? No crime, no Chapter 950 victim violation, and no "identifiable" SCR violation, but due to the "embarrassment" this could cause (presumably to the WDAA and DOJ) if this ever became public, the best course was for me to be removed from the Board!

Since DOJ Criminal Litigation and Legal Services does not determine who serves on the CVRB, and by design is supposed to have NO influence on that Board whatsoever, I disagreed with their conclusion.

A number of emails have exchanged since that "suggestion" was made to me. Bottom line, depending on what decisions I make (which should read if I agree to resign my position as Chair of the CVRB), it may be necessary to disclose information about your interactions with the woman to the WDAA Board (which should read, if you do not bow to our will, we will make this public with your peers, will likely go public in the media, and that will forever tarnish what you've built as a career-prosecutor reputation)...

Well, you say, that can't be...why would the very department that you have supported for 25 years throw you under the bus? It gets better...Mr. Potter then starts getting upset with my "tone" in my responses, and finally comes right out and threatens that "how we proceed with what we perceive to be ethical violations...depends on how you intend to proceed." Did I just read that if I do not resign, DOJ will file an OLR complaint? But that requires an identifiable OLR type violation, right?

So I ask DOJ to identify the violation (not what "could" have happened , but what violation DID I commit)! Mr. Potter, Mr. Korte, and Mr. Taffora (note when he starts to get involved) at that time had not identified a violation. Proabably because sexual contact/intercourse is prohibited by the SCR rules, not text messages telling a woman I think she is pretty. In a recent conversation

with Kevin Potter and his Assistant, they explained that they presented this scenario to the DOJ Internal Ethics Committee, who "unanimously" determined that there was some ethics violation here, and were very critical of my behavior.

So, I had the nerve to ask DOJ for what AUTHORITY they had to disclose this stuff to the CVRB or the WDAA? Their response?---they intend to make this public now! They intend to tell my peers on the WDAA exec board of this indiscretion. Despite the lack of legal authority to do so, Mr. Potter cites his department's duty to the maintenance of public confidence as his reason to go public. As a final professional sledgehammer, due to the "counterproductive posture" I have taken (daring to resist these heavy-handed tactics), DOJ has now decided to report me to OLR, unless I "self-report" which would make me look better to OLR, and have a better chance with escaping with a private reprimand.

You will see that DOJ is willing to have me provide no more assistance on the Avery/Dassey cases, due to their department's embarrassment of working with me due to my treatment of victims! They are willing to have me provide no more trainings to prosecutors or cops on their behalf. They are willing to sacrifice my talents on the CVRB. And, this management team is willing to treat me this way, despite my professional reputation or accomplishments for 25 years.

I am embarrassed at my poor decision to text a young woman before a case was concluded...this will become personally and professionally hurtful to me and my family when the DOJ mgt. team makes it public. Mostly, I am devastated by how this has been handled by my management colleagues at DOJ.

DOJ wants my answer this week. I have decided to resign from the Crime Victims Rights Board---I cannot afford the public scrutiny by the WDAA or the public if DOJ makes good on their promise to go public. By the way, they remind me that this young woman may wish to disclose this to the media, which may in fact be why they feel it necessary to "look like they did something" even though they have no authority over me!

The bigger question is OLR. I have never had an ethical scrape in my professional life. The letters "OLR" terrify me, because my professional career is in the hands of some that may not be as thrilled with my career as I am. And if I self report, what violation do I suggest I caused??? I can phrase it as what "could have happened if I had stayed on the case" which of course is what DOJ would have to do should they choose to report this "violation".

I am so sad that my career has come down to this. When my "friends" at DOJ didn't have the integrity to say there was no criminal violation, no ethical violation, and this particular prosecutor remains an asset to our cause, and should not be thrown under the bus! Instead, they hand me the sword, and tell me I know what to do "or else."

Your input would be appreciated.

Your friend,

Ken

From: Kratz, Ken
Sent: Monday, December 7, 2009 11:13 AM
To: Perlman, David H - DOJ
Subject: Falling on sword

Contacts: Dave Perlman



olr.doc

**CALUMET COUNTY
DISTRICT ATTORNEY'S OFFICE**
Kenneth R. Kratz, District Attorney

Jeffrey S. Froehlich,
Assistant District Attorney
Julie L. Leverenz/Llonda K. Konrad
Victim/Witness Assistance Coordinators

206 Court Street
Chilton, WI 53014
(920) 849-1438
FAX: 849-1464

December 4, 2009

**Office of Lawyer Regulation
110 E. Main Street, Suite 315
Madison, WI 53703**

RE: Self Report of Attorney Ken Kratz

I serve as the Calumet County District Attorney, and have held this position since 1992. I was a prosecutor in LaCrosse before that, and have approximately 25 years of prosecution experience. I have never been the subject of Attorney discipline by OLR (or previously BAPR). I not only prosecute all cases in my county, but am often asked to handle complex high profile special prosecutions in the state (e.g. State v. Steven Avery) due to my years of trial experience.

Personally, I am separated from my wife of 9 years, and divorce proceedings are imminent. Several weeks ago, I was involved in the prosecution of a domestic abuse case for Calumet County, and had the opportunity to meet the case victim, 25-year-old S.V. We had two uneventful professional meetings in October, 2009, and S.V. took the opportunity to "confer" with me on October 20th. During that meeting, I perceived some flirtation by S.V., and believed this single woman to be quite interesting. The meeting concluded without incident.

Text Messages

During the meeting, we had discussed contact in the short term, and phone numbers were exchanged. I sent S.V. a "text message" on her cell phone, expressing that it was nice talking and inviting S.V. to contact me should she wish. [The full content of the text messages from 10/20/09 to 10/22/09 are included as Exhibit #1].

Over the next 2 days, several text messages were exchanged between S.V. and me. I sent 30 messages, while S.V. sent 23 messages. As prosecutor in the case, I suspected that personal contact with a crime victim, while the case was pending, could be problematic. In fact, during the course of our discussion of whether a more personal friendship would develop, I made it clear that it would only be AFTER the prosecution was concluded.

I made it clear that any attempt at developing a personal friendship would be up to HER, and that when the case was over, if we wished to meet for a drink she should contact me. I concluded the messages by noting that if she did not wish to do so, "I will respect your desire to be left alone."

No messages or personal communication occurred after 10/22. No personal contact ever occurred with S.V., other than in a professional setting.

Criminal Investigation

For whatever reason, S.V. (with the advice of her mother and friend), reported the series of text messages to the Kaukauna Police Department, which is where the young woman then resided. They forwarded the matter to the Wisconsin Department of Justice, Division of Criminal Investigation, who interviewed the woman, and completed their inquiry.

On November 2, 2009, DCI determined that there was NO criminal activity involved, and notified management at the Department of Justice of their findings [see Exhibit #2]. During my brief interview with DCI, I had expressed surprise in the complaint, and offered to personally apologize to the young woman for any misunderstanding or stress I may have caused. She and I were informed of the non-criminal nature of this matter, and no further action has been pursued.

Steps to Avoid Potential Conflict

Immediately upon being notified of S.V.'s discomfort, I engaged in a discussion with Roy Korte, Director of the Criminal Litigation Division, and Kevin Potter, Administrator of the Division of Legal Services, both with the Wisconsin Department of Justice. We agreed that to avoid any future conflict or potential ethical concerns, prosecution of the case would immediately be transferred to DOJ, and I would have no further connection with the matter. I submitted an order to the court, and a special prosecutor was immediately assigned.

Crime Victims Rights

The fact that S.V. was a crime victim, and had expressed an uneasy feeling in reflecting back upon our personal communication, has been particularly disturbing for me. Since 1998, I have served as Chairman of the Wisconsin Crime Victims Rights Board (CVRB), a statutorily created body designed to ensure the rights of crime victims in this state. This Board performs investigations into victim complaints, and if necessary, presides over hearings against District Attorneys, Judges, Police Officers, and other Victim Service Providers. We issue findings of fact, conclusions of law, and if warranted, a remedy for the victims rights violation. We remain the only body of its kind in the United States that sanctions criminal justice participants for violations. I have had the honor to preside over every meeting and hearing of the CVRB since my appointment in 1998.

Before that, I was actively involved in drafting the legislation that created specific victims rights in this state (1997 Act 181) and was presented with the pen used to sign this bill into law in recognition of my efforts by then Governor Thompson. As Chairman of the CVRB, I have presented many training sessions at local and national victims rights events, and have been recognized by the Wisconsin Attorney General for my career of advocacy for crime victims. Without modesty, I suspect my career has demonstrated that I have been the most zealous advocate of crime victims rights of any prosecutor in Wisconsin.

Naturally, a complaint from a crime victim about my professional conduct has been personally and professionally disconcerting.

Chapter 950 Violation?

Chapter 950 of the Wisconsin Statutes lists those specific rights that each crime victim is entitled to receive, and the procedure for enforcement of those rights. The right to receive notice of rights; the right to confer with the prosecution; the right to timely disposition of a case; the right to notice of hearings; the right to provide an impact statement at the time of sentencing; the right to dispositional information; and the right to be protected during participation in the process are all guaranteed by this law.

S.V. received all applicable notices, conferred with the prosecution, and otherwise enjoyed all rights that each crime victim is entitled. No violation of Chapter 950 has been identified. If there were a violation, Section 950.10 directs that complaint to the CVRB is the sole remedy for any such violation. No complaint is contemplated in this case, to my knowledge.

SCR Violation?

There are three areas of concern that I have identified regarding my inquiry of a personal relationship with a current crime victim (notwithstanding the condition that any relationship would be deferred until the conclusion of the criminal case).

1. Personal conflict (SCR 20:1.7(a)(2))---If the representation of my client (the State of Wisconsin) was materially limited by a personal interest of the lawyer (my hope to develop a personal relationship with a victim/witness of the case sometime in the future). This rule is easily applied if I had not removed myself from prosecution authority of the case immediately. A prosecutor could be viewed as treating a defendant more harshly (to curry favor with the victim); treating the defendant more leniently (to resolve the case in an expedited fashion, to allow the pursuit of the relationship); or otherwise having a general disinterest in the prosecution, in favor of attention paid to the victim.

As indicated, this violation never came to fruition, based upon my removal from the case without any official action having taken place after the communication with the victim. The special prosecutor will make whatever prosecution decisions, without regard for any potential future relationships, and therefore NO conflict materialized.

2. Sexual relations with a client (SCR 20:1.8(j)(2))---If sexual relations occurred during the course of the representation, it could be argued that while representing an "organization" (the State), a lawyer should not have sexual relations with a constituent of the organization (a victim or witness to the case).

As no sexual relations occurred (in fact no contact of any kind), this provision does not apply. Clearly, the prohibition against sexual relations does not extend to text messages.

3. General misconduct (SCR 20:8.4(i))---If a lawyer harasses another on the basis of sex in connection with the lawyer's professional activities, a violation could be present.

Although sexual harassment is usually a product of an employment relationship, this rule extends the prohibition to an attorney and other person (party, victim, witness) involved in the case. The theory, of course, is that the unwanted sexual advances of one person (usually an authority figure) on another (usually a subordinate) is general misconduct, and is of the type which should not be tolerated in any profession.

Sexual harassment is not an action for which criminal penalties apply, although violation of harassment injunctions are. In those instances, of course, notice is required to the respondent of the undesired behavior (usually accomplished by means of the injunction itself), and then continued violations of those stated desires give rise to a violation. Similarly in the employment setting, violation of any sexual harassment code requires the conduct be unwanted by the recipient, as evidenced by some words or correspondence demonstrating that desire.

Here, S.V. not only engaged in voluntary communication with me (sending 23 text messages herself), but NEVER suggested any communication was undesired. No vulgarity was ever used. No overt sexual activity was ever suggested. Other than a possible future relationship, nothing other than a friendship was contemplated. Moreover, the clear condition that it was HER decision whether any communication existed in the future, and if not desired, that decision would be RESPECTED by me demonstrates nothing more than a series of flirtations with this woman. Under no theory of sexual harassment does this course of communication apply.

Why Self Report?

As indicated, I truly believe that no violation of SCR 20 is present despite my lapse in professional judgment. Obviously, I in no way suggest or confess a violation. As a 25 year prosecutor, former President of the Wisconsin District Attorneys Association, and my life-long work ensuring the rights of crime victims, I am embarrassed and ashamed at my behavior. I hold myself to a higher standard than those minimally required by the professional rules. I have remained scrupulously honest in the performance of my duties, and despite involvement in perhaps the highest profile case in Wisconsin history (Avery), I remain proud of my professional demeanor at all times.

Crime victims come to the criminal justice process with a variety of needs---sometimes for attention; sometimes for mental health referrals; sometimes for zealous advocacy. But in all instances, they are entitled to be treated with fairness, dignity and respect. Given the vulnerability that S.V. may have been suffering from, she had a right to that treatment from me, of all prosecutors in the state. I violated that trust, and carry personal and professional remorse for those failings.

Self Imposed Disposition

Recognizing that my leadership role as Chairman of the Wisconsin Crime Victims Rights Board requires me to regularly sit in judgment of DA's, judges, officers, and others, I believe I have fallen short in my qualification to hold that position. Yesterday, December 3, 2009, I announced

my resignation as Chairman of the CVRB [see Exhibit #3]. In addressing the members of the Board, I candidly described my communication with this crime victim, and resigned under a cloud of shame and humiliation. Given my life work for the rights of victims, this was the most severe reminder I could provide myself for my recent lapse in judgment.

From the time I learned of the complaint, I have involved myself in private psychotherapy, with Linda Schwallie, professional therapist and President of Wisconsin's Association of Family Therapists. Ms. Schwallie has particular insight into matters of professional ethics, and we are working together to answer why a career prosecutor, with a spotless record and sterling reputation, would risk his professional esteem on such disrespectful communication with a crime victim. Therapy has already provided some insight into those factors that contribute to such actions. This treatment will continue until Ms. Schwallie believes it is no longer required.

Conclusion

Thank you for taking the time to consider this summary of behavior. Again, I am confident that no violation of the rules of professional conduct will be found. I am proud of my work not only as a prosecutor, but as advocate for crime victims. I intend to continue my pursuit of justice on behalf of the citizens of Calumet County.

Should you require further information to address this matter, please feel free to contact me.

Sincerely yours,

Kenneth R. Kratz
District Attorney

From: Kratz, Ken
Sent: Thursday, December 17, 2009 9:47 AM
To: Fallon, Thomas J - DOJ
Subject: RE: Brendan Dassey Materials

I have a motion hrg now, but will get on this before noon.

K

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Thursday, December 17, 2009 8:35 AM
To: 'Mark Wiegert'
Cc: Kratz, Ken; Fassbender, Tom J.
Subject: RE: Brendan Dassey Materials

As the excerpt below suggests, this would cover the time period roughly April 15-May 15 2006. If you can at least look that would be great. As for your own notes I understand, most places have a policy of destroying notes once the report is written. I think that is DCI's policy as well (Tom is that right?). So I think they are looking for email exchanges if any with Kachinsky and/or O'Kelly relating to setting up the May 13th meeting.

If there are no emails, notes or what have you, I suggest we send the official Calumet/DCI reports of the leading up to and memorializing the meeting. Thanks,

Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice



From: Mark Wiegert [REDACTED]@co.calumet.wi.us]
Sent: Thursday, December 17, 2009 8:27 AM
To: Fallon, Thomas J.
Subject: RE: Brendan Dassey Materials

Do they have any dates?? Our policy here is to destroy any notes after the reports...As far as e mails back then I dont think they were kept by the County as they are now....

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Wednesday, December 16, 2009 2:47 PM
To: Mark Wiegert; Fassbender, Tom J.
Cc: Kratz, Ken
Subject: FW: Brendan Dassey Materials

Defense inquiry: Do you guys have any notes, reports or emails between yourselves and say Kachinsky or O'Kelly re setting up the May 13, 2006? The defense believes there may be some as they apparently have Kachinsky/O'Kelly file suggesting an exchange? If you have email etc, please forward to Ken. Thanks much,.....

Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice



From: Laura Nirider [REDACTED]@law.northwestern.edu]
Sent: Wednesday, December 16, 2009 2:36 PM
To: Fallon, Thomas J.
Cc: [REDACTED]
Subject: Brendan Dassey Materials

These materials include witness summaries, including expert reports for expert witnesses, and any and all correspondence between the prosecution team (including but not limited to Ken Kratz, yourself, Norm Gahn, Mark Wiegert, Tom Fassbender, John Dederling, and Shirley Gregory) and any member of Len Kachinsky's defense team, including but not limited to Mr. Kachinsky and Michael O'Kelly.

Calumet County, WI



Calumet County CONFIDENTIALITY NOTICE Although CALUMET COUNTY makes reasonable efforts to protect the confidentiality of e-mail from clients, communications regarding highly confidential medical matters should be reserved for other forms of communication, such as telephone or personal visits. IN ADDITION, YOU SHOULD NOT USE E-MAIL FOR EMERGENCIES OR OTHER TIME-SENSITIVE MATTERS.

From: Kratz, Ken
Sent: Monday, January 4, 2010 9:44 AM
To: Fallon, Thomas J - DOJ
Subject: RE: Dassey

to be discussed tomorrow

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Monday, January 04, 2010 8:34 AM
To: Kratz, Ken
Subject: RE: Dassey

Did we get relief from Gag Order?

Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice
[REDACTED]

From: Kratz, Ken [REDACTED]@da.wi.gov]
Sent: Monday, January 04, 2010 8:32 AM
To: Fallon, Thomas J.
Subject: RE: Dassey

Hrg OFF

Phone conf on stipps Tues 11:30.

Gotta run to ct.

Ken

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Sunday, January 03, 2010 3:55 PM
To: Kratz, Ken
Subject: Dassey

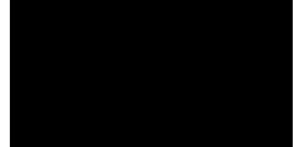
Motion to Compel is set for 9:45 AM before Judge Fox [REDACTED]

Bob Dvorak [REDACTED]

His cell [REDACTED]

- 1. We need relief from Gag Order on O'Kelly *et. al.*; it is interfering in the prep. Ex parte was probably illegal; was a record made? and we are at least entitled to an explanation on the record.....**
- 2. We need to set up phone conference re stips for certain witnesses; like Strang, Buting, yourself (your emails) etc. How about Monday afternoon? I am tied up Tuesday morning, free 11:30-1PM, and I am free again after 2PM on Tuesday.**

Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice



From: Kratz, Ken
Sent: Thursday, January 14, 2010 11:00 AM
To: [REDACTED]
Subject: Friday

I will be in Manitowoc Court all day Friday (on the Brendan Dassey murder post-conviction hearings)...it lasts through the 22nd. So I will not be playing any pin-the-tail on Brian that day. Have fun.

Ken

From: Kratz, Ken
Sent: Monday, January 25, 2010 11:30 AM
To: Gahn, Norm; Fallon, Thomas J - DOJ
Subject: AVERY POSTCONVICTION MOTION DECISION

Congratulations Boys! Good Job Tom!!!

Ken

From: Kratz, Ken
Sent: Wednesday, April 7, 2010 12:36 PM
To: Fallon, Thomas J - DOJ
Subject: RE: Dassey Transcript

good

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Wednesday, April 07, 2010 11:10 AM
To: Kratz, Ken
Subject: FW: Dassey Transcript

This seems reasonable.....I am all for accuracy. Your thoughts, Tom

Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice
[REDACTED]

From: Laura Nirider [REDACTED]@law.northwestern.edu]
Sent: Wednesday, April 07, 2010 11:03 AM
To: Fallon, Thomas J.
Subject: Dassey Transcript

Tom,

During my review of the Dassey transcript, I have noticed that the court reporter repeatedly erred in transcribing the "they got to my head" video clip from the 3/1/06 interrogation. Whenever it was played in court (several times), it was transcribed as "they got into my head" rather than "they got to my head." This is different from the police report transcription of the 3/1 interrogation (ex. 209, p. 672) and different from what you hear when you listen to the tape (ex. 209). It'd obviously be better for all of us if the appellate record is consistent on what was actually said.

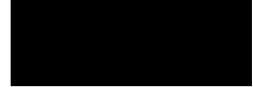
If you're agreeable, I'd like to file an agreed motion asking that this error in the transcript be corrected wherever it appears. So far, I've noticed the error in Dr. Leo's exam, 1/19/10 p. 189, and in Mark Fremgen's exam, 1/20/10 p. 193. I'd be happy to send you a complete list of the errors once we finish reviewing the transcript (and before filing the motion, of course). Would you have any objection to such a motion?

Thanks much. Hope you've had an enjoyable spring.

Regards,

Laura H. Nirider
Staff Attorney

Center on Wrongful Convictions of Youth
Northwestern University School of Law



www.cwcy.org

From: Kratz, Ken
Sent: Monday, April 26, 2010 4:21 PM
To: Collins, Winn
Subject: RE: Finalizing the Agenda for the Symposium

yes

From: Collins, Winn
Sent: Tuesday, April 13, 2010 11:04 AM
To: Kratz, Ken
Subject: Finalizing the Agenda for the Symposium

Ken,

I would like to finalize the agenda for the Green Lake Symposium (September 7th to 10th) before the end of the month, which means that I need to know the answers to the following questions from you (where I have included notes from our earlier discussions for your convenience):

1) What is the title of your presentation?

Proposed Title: "5th and 6th Amendments . . ." (Please Provide the Official Title)

2) How long is your presentation?

Proposed Length: 1.5 Hours

3) Do you have a preferred date/time slot?

Proposed Time Slot: Tuesday, September 7th, or Thursday, September 9th

In addition to the above information, I need to have a short biography for each presenter. Below is a proposed biography for you. Please let me know what changes/corrections you would like to make to this biography.

Winn

Ken Kratz has been the District Attorney (DA) for Calumet County since 1992 and previously worked as an Assistant District Attorney (ADA) in La Crosse County from 1985 to 1992. As a prosecutor, he has handled many complex criminal cases, including serving as a special prosecutor in the case State of Wisconsin vs. Steven A. Avery, Manitowoc County Case Number 05-CF-0381. He is a past-president for the Wisconsin District Attorney's Association (WDAA) and has worked as the chairperson for the Wisconsin Crime Victims Rights Board. He also has served the state as a representative to the Wisconsin Crime Victims Council from 1993 to 2001 and to the Wisconsin Judicial Council from 2004 to 2006. He has extensive experiences presenting at conferences and trainings throughout his career.

From: Kratz, Ken
Sent: Monday, June 21, 2010 1:13 PM
To: Fallon, Thomas J - DOJ
Subject: RE: Dassey

90 at the most!

From: Fallon, Thomas J. [REDACTED]@DOJ.STATE.WI.US]
Sent: Monday, June 21, 2010 11:36 AM
To: Kratz, Ken
Subject: Dassey

Ken:

Can you tell me how long the piece was from the May 13th phone call to Mom was? I'm thinking 60 seconds, 90 at most? I guess we used it twice...cross of Gordon and cross of Brendan. All this for 90 seconds.....?

Thomas J Fallon
Assistant Attorney General
Wisconsin Department of Justice
[REDACTED]

From: Kratz, Ken
Sent: Wednesday, August 11, 2010 3:00 PM
To: [REDACTED]@lawrence.edu
Subject: Resume: Professor of Government
Attachments: resume.doc; cover letter.doc

I have attached a resume and cover letter. I have mailed a hard copy. Thanks.

Ken Kratz
Calumet Co. DA

Kenneth R. Kratz

August 11, 2010

[REDACTED], Provost
Dean of Faculty
Lawrence University
711 E. Boldt Way
Appleton, WI 54911

RE: Assistant Professor of Government

Dear Dean [REDACTED]:

I wish to be considered to fill the vacant position of Assistant Professor of Government at your University. Enclosed, please find my resume.

I can be contacted at any of the listed numbers to schedule a personal interview. Thank you for your professional consideration.

Sincerely yours,

Kenneth R. Kratz
Encl./

Kenneth R. Kratz



OBJECTIVE

A qualified legal and governmental professional with more than 25 years experience in litigation and elective office seeks second career in undergraduate/graduate level education field.

QUALIFICATION HIGHLIGHTS

*Understanding of diversified educational needs of students and assist in development and implementation of projects designed to create positive and fulfilling personal and group results.

*Promote use of advanced technologies in daily activities, and employ superior knowledge to develop and implement instructional classroom applications and learning measurement tools.

*Effective researcher and mentor, with ability to review and select new teaching materials with focus on quantitative results.

EDUCATION

Juris Doctor granted by Marquette University (1985)
BBA-Finance granted by UW-Whitewater (1982)

TEACHING EXPERIENCE

Professional legal education presentations provided to: State Bar of Wisconsin; Wisconsin Department of Justice; Statewide Prosecutor Education Training; Wisconsin Department of Corrections; Office of Crime-Victim Services; Mid-Wisconsin Law Enforcement Symposium (senior faculty 1994-present); Fox Valley Technical College; Northern Lights Legal Forum; Office of Justice Assistance; Mothers Against Drunk Driving; Wisconsin Public Service Corporation; Crimes Against Woman Institute (Dallas, TX); National Crime Victim-Witness Conference (Portland, OR).

Areas of expertise in legal education include: 4th Amendment Search & Seizure; 5th and 6th Amendment Custodial Interrogations; Investigation and Prosecution of Major Homicide; Investigation and Prosecution of Child Sexual Abuse; Prosecution and Prevention of Domestic Terrorism; Crime Victim Rights Legislation and Enforcement; Wisconsin Criminal Justice System; Multi-disciplinary Investigation of Child Abuse and Use of Videotaped Evidence; Media Relations as a Public Official; Truth in Sentencing; Stalking; Legal Updates.

TRIAL AND APPELLATE PRACTICE

Calumet County District Attorney (1992-present)
LaCrosse County Assistant District Attorney (1987-1992)
City of LaCrosse Deputy City Attorney (1985-1987)

Hundreds of jury trials, trials to the court, evidentiary and other court hearings representing all governmental units including city, county and state.

Lead prosecutor in the largest homicide investigation and prosecution (and most watched jury trial) in State of Wisconsin history: State of Wisconsin v. Steven Avery (spring 2007).

I have written dozens of Appellate briefs on behalf of the State of Wisconsin, which include several published written Appellate decisions.

SELECTED APPOINTMENTS

***Wisconsin Crime Victims Council (1993-2001)**

Appointed as District Attorney Representative; personally drafted Wisconsin's Crime Victims Rights Law (1997 Wisconsin Act 181) and presided over state-wide hearings regarding the development and implementation of victims rights laws.

***Wisconsin Crime Victims Rights Board (Chair, 1999-2009)**

This 5-member Administrative Board was created by statute to enforce statutory and constitutional rights of crime victims in Wisconsin. The first and only Board of its kind in the United States, the CVRB ensured the protection and enforcement of victim rights; developed administrative rules; and established judicial and appellate review procedure. As Chair, I personally presided over all hearings held by the CVRB, examined all witnesses, rendered evidentiary rulings, and ultimately issued findings of fact and conclusions of law.

***Wisconsin District Attorneys Association (President, 1996)**

This organization represents and advocates for the interests of approximately 500 prosecutors in Wisconsin. I served in many leadership roles with the organization including Secretary-Treasurer, Vice-President, and President. I received special acknowledgement from the Wisconsin Attorney General for leadership and service to Wisconsin's Law Enforcement and Prosecution community.

RELEVANT FACTORS

In 25 years as a trial attorney and elected governmental official, I have dedicated my career to representing municipal, county and state government and its citizens. Elected prosecution efforts require superior knowledge of criminal and civil substantive law and procedure; a keen sense of demands and responsibility to the public; maintaining a professional relationship with governmental and judicial officials; and maintaining unwavering personal and professional integrity.

Elected governmental responsibilities and decisions require the implementation of skills developed over the years, ensuring quality representation of citizens. My unique experience and knowledge of the inter-relationship of governmental bodies, media relations, and legal problem solving well qualify me to educate those students in areas of Government, Political Science, Law Enforcement Services, and Law.

PROFESSIONAL REFERENCES

*Available immediately upon request.

From: Kratz, Ken
Sent: Tuesday, August 24, 2010 10:46 AM
To: [REDACTED]@uwgb.edu
Subject: future professor opportunity
Attachments: resume.doc

Provost [REDACTED]:

As a 25 year prosecutor, I am interested in pursuing a "2nd career" in the academic community, either at the undergraduate level or law school. I attach my resume for your consideration.

I would be looking to begin teaching in the spring of 2011, in the areas of criminal justice, political science, government, or related fields. I assume I am well qualified to be considered should your University have a desire to expand the faculty. Thank you.

Ken Kratz
Calumet Co. District Attorney

From: Kratz, Ken
Sent: Tuesday, August 24, 2010 10:50 AM
To: [REDACTED]@uwosh.edu
Subject: political science professor
Attachments: resume.doc

As a 25 year prosecutor, I am interested in pursuing a "2nd career" in the academic community, either at the undergraduate level or law school. I attach my resume for your consideration.

I would be looking to begin teaching in the spring of 2011, in the areas of criminal justice, political science, government, or related fields. I assume I am well qualified to be considered should your University have a desire to expand the faculty. Thank you.

Ken Kratz
Calumet Co. District Attorney

From: Kratz, Ken
Sent: Tuesday, August 24, 2010 10:52 AM
To: [REDACTED]@lawrence.edu
Subject: future professor position
Attachments: resume.doc

As a 25 year prosecutor, I am interested in pursuing a "2nd career" in the academic community, either at the undergraduate level or law school. I attach my resume for your consideration.

I would be looking to begin teaching in the spring of 2011, in the areas of criminal justice, political science, government, or related fields. I assume I am well qualified to be considered should your University have a desire to expand the faculty. Thank you.

Ken Kratz
Calumet Co. District Attorney

From: Kratz, Ken
Sent: Tuesday, August 24, 2010 10:56 AM
To: [REDACTED] marquette.edu
Subject: future faculty position
Attachments: resume.doc

[REDACTED]

As a 25 year prosecutor, I am interested in pursuing a "2nd career" in the academic community, either at the undergraduate level or law school. I attach my resume for your consideration. I am hoping you could forward it to the appropriate person with a brief recommendation.

I would be looking to begin teaching in the spring of 2011, in the areas of criminal justice, criminal procedure, trial practice, or related fields. I assume I am well qualified to be considered should Marquette have a desire to expand the faculty. Thank you.

Ken Kratz
Calumet Co. District Attorney

From: Kratz, Ken
Sent: Thursday, September 2, 2010 9:38 AM
To: Keith Ondrasek
Subject: RE: unpublished manuscript

No...thats cute

-----Original Message-----

From: Keith Ondrasek [REDACTED]@charter.net]
Sent: Tuesday, August 31, 2010 4:22 PM
To: Kratz, Ken
Subject: unpublished manuscript

Hey Ken,

Been a while. Hope "the river" is treating you well.

Are you aware of a 320 page yet to be published manuscript authored by a Manitowoc Co ADA concerning Avery in which you are referred to as "Ken 'I never saw a camera I didn't like' Kratz", among other things.

-----Interesting reading.

Regards, Keith

From: Kratz, Ken
Sent: Thursday, September 16, 2010 5:07 PM
To: Chris Rickert
Subject: RE: From Wisconsin State Journal

Did Mr. Buting say what statements I made that he disagreed with? That Avery did it?

From: Chris Rickert [REDACTED]@madison.com]
Sent: Thursday, September 16, 2010 12:37 PM
To: Kratz, Ken
Subject: From Wisconsin State Journal

Ken: Below is a copy of a fax I sent to your office today. I am working on a column about the texts you sent to [REDACTED].

I am also interested if knowing if you've been evaluated for any kind of mental illness that might have led to the behavior.

Thank you.

To: Ken Kratz

From: Chris Rickert, Wisconsin State Journal

Jerome Buting, Steven Avery's attorney in the Teresa Halbach case, told me that he did not find you to be "the most ethical prosecutor I've ever dealt with," largely because of some of the statements you made to the press about the Halbach murder before it went to trial. Buting alleged that you knowingly said things that weren't true about the case.

This fax is to provide you a chance to respond if you choose.

Chris Rickert
Metro Columnist
Wisconsin State Journal
[REDACTED]

From: Kratz, Ken
Sent: Thursday, September 16, 2010 5:20 PM
To: Chris Rickert
Subject: RE: From Wisconsin State Journal

Co-Def Dassey stated she had been stabbed in the bed, and shot in the garage. Forensic evidence and shell casings (and pathologist) rendered opinion about shooting.

I cannot comment on psychological matters...I'm sure you know that. I didn't know "might be the kind of job" was news???

From: Chris Rickert [REDACTED]@madison.com]
Sent: Thursday, September 16, 2010 4:14 PM
To: Kratz, Ken
Subject: RE: From Wisconsin State Journal

He said that before the trial you held a press conference claiming Halbach had been hog-tied to a bed and stabbed multiple times but later changed the story to the jury and said she had been shot. He said you were trying to poison the jury pool.

Also, since I e-mailed you, I spoke with a psychologist who described to me some work he's done on thrill-seeking, risk-taking personalities. He said being an elected DA might be the kind of job this type of personality might seek out. The down side is that sometimes these people cross an ethical line in their thrill-seeking, risk-taking behavior. Does that sound like your case?

Chris Rickert
Metro Columnist
Wisconsin State Journal
[REDACTED]

From: Kratz, Ken [REDACTED]@da.wi.gov]
Sent: Thursday, September 16, 2010 4:07 PM
To: Chris Rickert
Subject: RE: From Wisconsin State Journal

Did Mr. Buting say what statements I made that he disagreed with? That Avery did it?

From: Chris Rickert [REDACTED]@madison.com]
Sent: Thursday, September 16, 2010 12:37 PM
To: Kratz, Ken
Subject: From Wisconsin State Journal

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I am also interested if knowing if you've been evaluated for any kind of mental illness that might have led to the behavior.

Thank you.

To: Ken Kratz

From: Chris Rickert, Wisconsin State Journal

Jerome Buting, Steven Avery's attorney in the Teresa Halbach case, told me that he did not find you to be "the most ethical prosecutor I've ever dealt with," largely because of some of the statements you made to the press about the Halbach murder before it went to trial. Buting alleged that you knowingly said things that weren't true about the case.

This fax is to provide you a chance to respond if you choose.

Chris Rickert
Metro Columnist
Wisconsin State Journal
[REDACTED]

From: Kevin W. Davidson [REDACTED]@law-wi.us>
Sent: Wednesday, September 22, 2010 4:59 PM
To: [REDACTED]
[REDACTED]
Subject: Kratz, Ken
Calumet County Bar Association teleconference

I write to you in my capacity as President of the Calumet County Bar Association. Though it has been a quiet term, as I understand is typical, recent events within Calumet County have brought some perhaps unwanted attention to our local bar. My office has, as I'm sure many of yours have, been contacted by the media seeking comment and speculation on these events and possible implications.

Though we had declined comment, I have been advised that the Bar Association would be well served by discussing the situation and making a public statement of its position in that regard. To that end we will hold a teleconference to determine how best to proceed.

The teleconference will be held Friday, September 23, 2010 @ 8:00 am.

Jim Burnett's office will coordinate the conference call. Should you wish to participate, please notify Jim Burnett's office no later than 1:00 pm., Thursday,
at [REDACTED]

Best regards,

Kevin W. Davidson
Davidson Law Office LLP
[REDACTED]

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From: Kevin W. Davidson [REDACTED]@law-wi.us>
Sent: Friday, September 24, 2010 9:37 AM
To: [REDACTED]
Subject: RE: Calumet County Bar Association teleconference

Kratz, Ken

As discussed in our meeting this morning, here is an initial draft of the statement from the Calumet County Bar Association.

Please add your comments and/or edits. I would like to have a statement available by this afternoon.

- The Calumet Count Bar Association is concerned about the surprising and serious allegations and the impact this issue is having on the judicial system. We support the ongoing fact-finding process and expect that the matter will be resolved appropriately and expeditiously.

Thanks, everyone, for making time available to address this on such short notice.

Kevin W. Davidson
Davidson Law Office LLP
[REDACTED]

From: Kevin W. Davidson [REDACTED]@law-wi.us]
Sent: Wednesday, September 22, 2010 3:59 PM

To: [REDACTED]

Subject: Calumet County Bar Association teleconference

I write to you in my capacity as President of the Calumet County Bar Association. Though it has been a quiet term, as I understand is typical, recent events within Calumet County have brought some perhaps unwanted attention to our local bar. My office has, as I'm sure many of yours have, been contacted by the media seeking comment and speculation on these events and possible implications.

Though we had declined comment, I have been advised that the Bar Association would be well served by discussing the situation and making a public statement of its position in that regard. To that end we will hold a teleconference to determine how best to proceed.

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at [REDACTED]

Best regards,

Kevin W. Davidson
Davidson Law Office LLP
[REDACTED]

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