

FW: response to your inquiry from Loginsky

Andy Miller <Andy.Miller@co.benton.wa.us>

Wed 6/30/2021 2:48 PM

To: Andy Miller <Andy.Miller@co.benton.wa.us>

 2 attachments (571 KB)

Sheriff Hatcher Letter.pdf; image001.jpg;

From: Pam Loginsky <pamloginsky@waprosecutors.org>

Sent: Monday, February 8, 2021 11:20 AM

To: Jerry Hatcher <Jerry.Hatcher@co.benton.wa.us>; Andy Miller <Andy.Miller@co.benton.wa.us>

Cc: Jonathan Meyer (Lewis County) <jonathan.meyer@lewiscountywa.gov>

Subject: response to your inquiry

Dear Sheriff Hatcher—

Attached is a letter that responds to your inquiry.

Pam Loginsky
Staff Attorney
Washington Association of Prosecuting Attorneys
206 10th Ave. SE
Olympia, WA 98501

E-mail: pamloginsky@waprosecutors.org

Phone (360) 753-2175

Fax (360) 753-3943

From: Jerry Hatcher <Jerry.Hatcher@co.benton.wa.us>

Sent: Thursday, February 4, 2021 4:33 PM

To: Andy Miller (Benton County) <andy.miller@co.benton.wa.us>

Cc: Jonathan Meyer (Lewis County) <jonathan.meyer@lewiscountywa.gov>; Pam Loginsky <pamloginsky@waprosecutors.org>

Subject: RE: Three opinions tomorrow

[External Sender]

Andy,

Here is the additional information that I talked with you about being able to give to the prosecutors for review.

Prosecutors,

I am taking this opportunity to respond to your email string listed below that was presented to me by Mr. Miller as “unsolicited emails” from fellow prosecutors advising him to place me on the Brady list. After countless

attempts for me asking Mr. Miller if he had given you reviewing prosecutors all the facts and information need to make a proper PID determination, unfortunately I did not get that question answered. Mr. Miller subsequently sent me your email string that answered my questions and appears that you were not been provided all the facts and information needed to adequately. It was clear by your email string you had not been provided all the information, only very limited information. I hope this email and attached documents provide the additional facts and information that will give you a more complete understanding of the circumstances surrounding this PID decision. I have also attached some relevant document for your consideration.

- Letter providing additional information and facts (Titled Prosecutor)
- Letter written by my estranged wife (Titled Monica Hatcher)
- Letter written by Sheriff Raymond (Titled Raymond)
- I will make available the countless emails asking Mr. Miller for a fair, accurate and complete investigation
- I will make any other materials or documents available that you feel would better help you make a proper PID determination.

Please don't misunderstand my comments within your emails, I take this issue very seriously as we all should because if you let this stand you will altering the standards for drastically altering the PID decisions Thank you in advance for your consideration



Sheriff Jerry Hatcher

Benton County Sheriff's Office
7122 W. Okanogan Place, Bldg. A
Kennewick, Washington 99336
509-735-6555 ext. 3260
509-378-7950 Cell

From: Jerry Hatcher
Sent: Tuesday, January 26, 2021 15:31
To: Andy Miller <Andy.Miller@co.benton.wa.us>
Subject: RE: Three opinions tomorrow

Andy,

It appears as if someone cut out the content to your email dated Monday 1/25/2021 at 3:58??

Also is there more email strings other than the string listed below that discusses the my PID designation with other PA or is the string you referred to when you said unsolicited email you received



Sheriff Jerry Hatcher

Benton County Sheriff's Office
7122 W. Okanogan Place, Bldg. A
Kennewick, Washington 99336
509-735-6555 ext. 3260
509-378-7950 Cell

From: Andy Miller <Andy.Miller@co.benton.wa.us>
Sent: Monday, January 25, 2021 16:02
To: Jerry Hatcher <Jerry.Hatcher@co.benton.wa.us>
Cc: Andy Miller <Andy.Miller@co.benton.wa.us>; Ryan Brown <Ryan.Brown@co.benton.wa.us>; Ryan Lukson <Ryan.Lukson@co.benton.wa.us>
Subject: FW: Three opinions tomorrow

Jerry,

I earlier forwarded the latest public disclosure request to you

This email string is within the request. I thought I would forward to you first. I don't know when it will be released, I'm sure before you and I finish our conversation on the email strings between you and me

From: Andy Miller <Andy.Miller@co.benton.wa.us>

Sent: Monday, January 25, 2021 3:58 PM

To: Hope Houck <Hope.Houck@co.benton.wa.us>; Eric Andrews <Eric.Andrews@co.benton.wa.us>; Ryan Brown <Ryan.Brown@co.benton.wa.us>; Ryan Lukson <Ryan.Lukson@co.benton.wa.us>; Andy Miller <Andy.Miller@co.benton.wa.us>

Cc: Andy Miller <Andy.Miller@co.benton.wa.us>

Subject: FW: Three opinions tomorrow

From: Jonathan Meyer <Jonathan.Meyer@lewiscountywa.gov>

Sent: Wednesday, January 13, 2021 11:06 AM

To: 'Pam Loginsky' <pamloginsky@waprosecutors.org>; Andy Miller <Andy.Miller@co.benton.wa.us>

Cc: Russell Brown <rbrown@waprosecutors.org>

Subject: RE: Three opinions tomorrow

I always include language about not agreeing to it being admissible, addressing in pre-trial, etc.

Jonathan L. Meyer
Lewis County Prosecutor
345 W. Main, Fl. 2
Chehalis, WA 98532
(360) 740-2638 (Desk)



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From: Pam Loginsky <pamloginsky@waprosecutors.org>

Sent: Wednesday, January 13, 2021 11:03 AM

To: Jonathan Meyer <Jonathan.Meyer@lewiscountywa.gov>; Andy Miller (Benton County) <andy.miller@co.benton.wa.us>

Cc: Russell Brown <rbrown@waprosecutors.org>

Subject: RE: Three opinions tomorrow

I agree with Jonathan. The court's order and the resignation letter provides sufficient background.<<I'm certainly hoping there was more to the decision than a court order from a court that is required to take allegations as factual and a resignation letter that doesn't articulate any crime, this is not any sort of Due Process? I'm concerned that this would be considered as "sufficient background". I believe the Recall Courts own rules (no burden of proof required and all allegation have to be believed as truthful or factual) poses significant problems and concerns when used for a PID consideration. That Court Rule requirement coupled with a vague statement written in a resignation letter hardly seems like a justification for a PID determination?

Let's clarify what the facts are surrounding Mr. Miller's email that claimed the deputy "witness to a crime". This "crime" the deputy alleges is that I claimed to be innocent of the DV charges from 2017 while simultaneously being "with your accuser (meaning my wife) in Montana and what sounded like witness tampering that he wished he could unhear" Yes, my wife and I were working on our marriage and spending time together, This is certainly no crime by any standard. It's also very alarming to see it used to mislead prosecutors into thinking a deputy had actually witnessed a crime because that how it was presented by Mr. Miller to you and unfortunately that was one of the justifications you used when agreeing to place me on the PID list.

As for the dismissed charges, they are not admissible, but a defense attorney could question whether the possibility of their being refiled may lead the sheriff to try to curry favor with the prosecutor's office. Thus, there is impeachment value beyond that of a conviction.<< I want to be clear, I don't "curry favor" with the prosecutor's office, I do what is right as a citizen and as Sheriff so there is no "impeachment value beyond a conviction" as stated. Nobody is above the law and I fully cooperated with the investigation which led to the charges being dropped. In addition, how would I "curry favor" when the my case was moved to Spokane County, you might not be aware of that.

I would further ask you to look at my commitment to transparency and doing what is right by telling you I personally started an investigation of myself by an outside law enforcement agency when a deputy questioned my practice ammunition use. Only to later have Mr. Miller make the statement "you had your buddy investigate it" His statement was not only unprofessional and questions the integrity and professionalism of an elected Sheriff and his agency in another county. As I explain to Mr. Miller, Sheriff Raymond and I are not personal friend, we are professionals that work together as Sheriff's and as I do with all the Chiefs in our area. Having another LE agency do an internal investigation for an agency is common practice and designed to ensure neutrality and transparency (very much like prosecutors getting opinions from their fellow prosecutor like in this case) Mr. Miller know this but did not like the outcome of the investigation (because of his bias towards me)so he blamed an alleged friendship as to why the investigation conclusion were not to his liking. It should be noted that Sheriff Raymond assigned the investigation to Captains within his organization and was not investigated by him personally and Mr. Miller was aware of this. (See Letter from Sheriff Raymond)

From: Jonathan Meyer <Jonathan.Meyer@lewiscountywa.gov>

Sent: Wednesday, January 13, 2021 10:53 AM

To: Andy Miller (Benton County) <andy.miller@co.benton.wa.us>; Pam Loginsky <pamloginsky@waprosecutors.org>

Cc: Russell Brown <rbrown@waprosecutors.org>

Subject: RE: Three opinions tomorrow

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I think the ruling by the Court is such that a letter has to be issued. The Courts have forecasted a "better safe than sorry" approach. Given that the Court deemed they were legally sufficient to go forward shows that, at the very least, the claim is not baseless.<< The Courts ruling of "legally sufficient" under the Recall Court Rules is significantly different than any type of court determination of factual finding to an allegation. The Recall Court is required to take an allegation as the truth so it would be appropriate for the court to write their determination within the unique rules that govern a Recall court.

- Please think for a moment: If LE was required to follow this same rule being "required" to believe all allegations received against an officer were factual or truthful. Would this interpretation mean that all law

enforcement (meaning Elected Sheriff's) that faced a recall would automatically be placed on the PID list? Or all citizen complaints or internal investigations that LE handled would be considered PID? I say this because, In the Brady training given to Law Enforcement (slide 41) which states what is a LE agency's responsibility to promptly report "A disciplinary investigation or proceeding "results in a sustained finding of dishonesty, mishandling of evidence, or a similar matter". There is a clear burden of proof established in that statement vs a Recall Court Rule that all unsubstantiated allegations must be considered truthful.

Andy Miller wrote: "I should note that neither the Supreme Court nor the Superior Court made factual findings as to the truth of the allegations, just that if the allegations are true, they are the basis for recall.

Jonathan L. Meyer
Lewis County Prosecutor
345 W. Main, Fl. 2
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(360) 740-2638 (Desk)



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From: Andy Miller <Andy.Miller@co.benton.wa.us>
Sent: Wednesday, January 13, 2021 10:50 AM
To: Pam Loginsky <pamloginsky@waprosecutors.org>; Jonathan Meyer <Jonathan.Meyer@lewiscountywa.gov>
Cc: Russell Brown <rbrown@waprosecutors.org>; Andy Miller <Andy.Miller@co.benton.wa.us>
Subject: RE: Three opinions tomorrow

We also have this resignation letter from his Command Staff. Last week we received a copy of a retirement letter from a Deputy Sheriff who stated he was a witness to a crime< Mr. Harvey has delivered both letters mentioned above. What is not included in Mr. Miller's statement is that the Command staff member he was referring to inappropriately read a letter that indicated he would be a subject of a pending Internal review/investigation. This command level person elected to retire. Reference Mr. Miller statement that a Deputy "was a witness to a crime" I was shocked to hear Mr. Millers state this in his email to you with no explanation of facts. Facts are: When I attempted to address it with Mr. Miller by explaining to him the deputy was a lateral from Tennessee and had only been here approximately a year, I further explained I had only met him once when I swore him in, Miller mocked my management style when the purpose of my statement was simply trying to tell him that I had never had any type of negative interactions with the deputy and the deputies letter only stated things he had been told to him by Harvey and some other Guild members.

I further explain to Mr. Miller that I always greet my employees when I see them but as Sheriff I just don't always get to work alongside of them in the field. Now let's be clear on Mr. Miller telling you in his email the deputy "witness to a crime" with no explanation of what crime. While its alarming nobody asked, This "crime" the

deputy alleges is as follows; That had come to their rollcall “I claimed to be innocent of the DV charges while simultaneously being with your accuser (meaning my wife) in Montana and what sounded like witness tampering that I wished I could unhear” What is not said and important for you to know, is my wife and I were working on our marriage and spending time together, clearly this is no crime by any stretch of the law.

It’s also very alarming to see it used in a way that attempted to make you prosecutors think a deputy had actually “witnessed a crime” because that’s how it was written in the email sent to you by Mr. Miller. Unfortunately I see that is was actually considered or used as one of the justifications in your determination of placing me on the PID list. It also should be noted that this deputy had already made plans to return to Tennessee because his wife had gotten a good job there and they had already bought property before he and attorney Harvey wrote the letter. Mr. Miller was also aware of these facts but it appears he did not mention them to you.

The Deputies letter was delivered by Mr. Harvey and obviously with his assistance in crafting the letter to help further his groups agenda. Mr. Harvey is the FOP attorney made the original allegations against me, he is also the labor attorney for every deputy (to include my command staff) in my department besides me, and is the attorney on the Recall effort. Attorney Harvey has extensive credibility issues and I only bring those issues forward because he is the person that is making the claims in the Recall effort and strongly feel those facts are very relevant when evaluating PID considerations. Miller also was provided a letter from the Undersheriff explaining the facts and information pertaining to the deputy resigning and returning to Tennessee that again appears he did not share with you.

As mentioned above, Attorney (Allen Harvey) has extreme “credibility and truthfulness issues”. Mr. Harvey was fired for insubordination as a Clark County Deputy Prosecutor and was president of their Guild. When Mr. Harvey addressed his dismissal to the public he stated in his 15 years as a prosecutor “he had never been disciplined” however the elected Prosecutor pointed out that he in fact had been disciplined. “Mr. Harvey had received performance counseling for failing to properly advise police officers who were serving a search warrant and failing to notify in a timely manner the execution of a search warrant on a defense attorneys office. Mr. Harvey was also demoted from his position as senior deputy prosecutor after an investigation by Clark County Human Resources regarding his behavior toward some female employees. Other employees of the Prosecuting Attorney’s Office have said the investigation was into allegations that Harvey created a hostile work environment. When the local paper (the Columbian) tried to get the records related to the investigation Mr. Harvey filed an injunction in court temporarily stopping the prosecutor’s office from releasing the records.

Mr. Harvey was also warned about his professional conduct while interviewing a witness in a child sex abuse case. Clark county hired a Seattle attorney to conduct an independent investigation into the insubordination allegations against Mr. Harvey. Based on advice from the Clark County Prosecutors Guild, Harvey refused to answer questions. Currently Mr. Harvey is on probation from the Washington State BAR association for failing to represent a client after taking their money to do so.

Clearly Attorney Harvey lacks integrity and credibility and due to his position as the Guilds attorney and the Recall attorney he has motivation to miss lead the courts. Harvey intentionally chose the Recall process because he would not have to provide any proof to his reckless allegations.

From: Andy Miller <Andy.Miller@co.benton.wa.us>

Sent: Wednesday, January 13, 2021 10:42 AM

To: Pam Loginsky <pamloginsky@waprosecutors.org>; Jonathan Meyer (Lewis County) <jonathan.meyer@lewiscountywa.gov>

Cc: Russell Brown <rbrown@waprosecutors.org>; Andy Miller <Andy.Miller@co.benton.wa.us>

Subject: RE: Three opinions tomorrow

Thank you for reminding me about this. And I’m being sincere.

We have had discussions of whether we should put Sheriff Hatcher on our PID list. We did have one case where Sheriff Hatcher was close by when an inmate escaped the jail/courtrooms and was involved in the arrest. I followed up on that and learned that the deputy prosecutor verbally advised defense counsel of the issue and that defense counsel was already aware. It appears that there will be a guilty plea and that neither counsel was planning on calling Hatcher as a witness. However, I confirmed this today by emailing the Supreme Court order to

defense counsel with some additional explanation. < As Mr. Miller illustrates, there was no urgency other than agenda here. I should have been given the opportunity to provide you with the additional information and facts that should have been considered. I was not given that opportunity and you were not given all the information to aid in your decision.

I will note again from Mr. Miller: "I should note that neither the Supreme Court nor the Superior Court made factual findings as to the truth of the allegations, just that if the allegations are true, they are the basis for recall".

I wonder if this is an example of me being too close to the situation. Do you think I should make a determination of him being on our PID list? What do you think of me delegating that to another Prosecutor or team of prosecutors to review? Absolutely this should have been done but was not. You also should have been given the additional information and facts needed to have a fair evaluation. I certainly understand if the Defense asked to review the Supreme Court Ruling and ultimately decided it was not relevant or I was not needed for testimony as the case was pleaded out. What was the Rush to judgement and intentional leak to the Media after I was placed on the list?

BTW, Joe Brusica was appointed to give Hatcher a second legal opinion on an issue after he did not like what our civil division advised him. I'm not sure why this is provided as it was on a completely different topic and Mr. Brusica agrees with my interpretation of the requirement not the Benton County Civil PA that had given me the advice. Haskell charged Hatcher with DV and Witness Tampering and then dismissed to allow for further investigation. <the charges were at Mr. Miller's request on a two year old allegation filed by my wife when we filed for divorce (It is my understanding Mr. Miller has never done this before meaning filed on an allegation two year old DV4 case) and it should be noted my estranged wife made several allegations of prosecutor misconduct against Mr. Miller that are documented in her letter (And maybe that should be reviewed for Brady?) <I fully welcome a complete review of the case for all misconduct It should also be noted: Mr. Miller allowed a Benton County Commissioner to sit in on the interview of an alleged criminal complaint against me. And Sant and Nagle have worked with Hatcher on a number of local projects and I have enjoyed working collaboratively with them.

From: Pam Loginsky <pamloginsky@waprosecutors.org>
Sent: Wednesday, January 13, 2021 9:03 AM
To: Jonathan Meyer (Lewis County) <jonathan.meyer@lewiscountywa.gov>
Cc: Andy Miller <Andy.Miller@co.benton.wa.us>; Russell Brown <brown@waprosecutors.org>
Subject: RE: Three opinions tomorrow

More interesting to me is whether recall for such conduct will allow CJTC to strip Sheriff Hatcher of his law enforcement certificate so he cannot serve as a police officer for any Washington state law enforcement agency. This is the WAPA attorneys position based on the supreme court's ruling hearing a Recall Court case that requires the Recall Court to believe all unsubstantiated allegations are truthful? No offence, but jumping to the conclusion of "such conduct" of unsubstantiated allegations based on the Courts unique rules is a bit premature at best.

Andy Miller wrote: "I should note that neither the Supreme Court nor the Superior Court made factual findings as to the truth of the allegations, just that if the allegations are true, they are the basis for recall.

Why would a WAPA attorney make such a statement knowing the Recall Court does not require any burden of proof and is mandated to believe the allegation is true? Brady was created to ensure all information, facts or evidence that is favorable to the defense is shared with the defense. Brady is not intended to be used as a Black Ball list or to "strip a law enforcement officer of his certification" A Recall Courts information should be evaluated very carefully specifically because of the unique Rules to a Recall Court, reviewers should not use the Recall Courts Rules for something they were not intended to be used for.

From: Jonathan Meyer <Jonathan.Meyer@lewiscountywa.gov>
Sent: Wednesday, January 13, 2021 9:01 AM
To: Pam Loginsky <pamloginsky@waprosecutors.org>

Cc: Andy Miller (Benton County) <andy.miller@co.benton.wa.us>

Subject: RE: Three opinions tomorrow

[External Sender]

Just curious more than anything. However, your comment underscores why I support a statewide list.

Jonathan L. Meyer
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From: Pam Loginsky <pamloginsky@waprosecutors.org>
Sent: Wednesday, January 13, 2021 8:59 AM
To: Jonathan Meyer <Jonathan.Meyer@lewiscountywa.gov>
Cc: Andy Miller (Benton County) <andy.miller@co.benton.wa.us>
Subject: RE: Three opinions tomorrow

I assume you are asking whether a PID was done. Since Hatcher is not a state officer, WAPA would not have received a required legal disclosure notice, such as the ones issued by the WSP.

Pam

From: Jonathan Meyer <Jonathan.Meyer@lewiscountywa.gov>
Sent: Wednesday, January 13, 2021 8:50 AM
To: Pam Loginsky <pamloginsky@waprosecutors.org>
Subject: RE: Three opinions tomorrow

[External Sender]

On *Hatcher*, was a letter issued against him based upon the Court's findings? Mr. Miller advised me that he made the decision only after he had received "unsolicited emails" advising him that he should add me to the PID list. The first email shown below appears to be a staff attorney for WAPA just simple sending out what had occurred in the

Supreme Court on a given day. Mr. Meyers email clearly indicates the decision had already been made by Mr. Miller (It appears Mr. Miller's justification to me appears to be a bit misleading)

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From: Pam Loginsky <pamloginsky@waprosecutors.org>
Sent: Wednesday, January 13, 2021 8:47 AM
To: WAPA Appeals <WAPA_Appeals@waprosecutors.org>; WAPA SAU <WAPA_SAU@waprosecutors.org>; WAPA Police Advisors <WAPA_PoliceAdvisors@waprosecutors.org>; WAPA Elections <WAPA_Elections@waprosecutors.org>; Mary Robnett <Mary.Robnett@piercecountywa.gov>
Subject: Three opinions tomorrow

The Washington Supreme Court has announced that it may issue opinions in the following three cases tomorrow:

Sexual Assault Nurses and Confrontation Clause. *State v. Burke*, No. 96783-1. Argued May 14, 2020. Issue: Did admitting statements a victim made to a sexual assault nurse violate a defendant's right to confront witnesses? State represented by Pierce County DPA Theodore Cropley.

Recall of Sheriff. *In re Recall of Fortney*, No. 98683-5. Argued Sep. 10, 2020. [Order allowing recall to move to the signature gathering stage.](#)

Recall of Sheriff. *In re Recall of Hatcher*, No. 98968-1. Argued Nov. 5, 2020. [Order allowing recall to move to the signature gathering stage.](#)

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