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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2001-02

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Corrections and Courts (AC-CC)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (May/2012)

ASSEMBLY COMMITTEE ON CORRECTIONS AND THE COURTS

AGENDA

Wednesday -- Jan. 31, 2001

2 p.m.

Room 415 NW

~~I.~~ Call to Order

~~II.~~ Roll Call

~~III.~~ Public Hearing

~~A.~~ **Assembly Bill 42** (*Walker/Jauch*)

Relating to: the lease and operation of correctional facilities, making an appropriation, and providing penalties.

~~IV.~~ Announcements

A. Exec Session – Wed., Feb. 7

B. Meeting w/ Supreme Court – Tues., March 13 (before session)

V. Adjournment





CAROL OWENS

WISCONSIN STATE REPRESENTATIVE

P.O. Box 8953, State Capitol
Madison, Wisconsin 53708-8953
(608) 267-7990 • Toll-Free: (888) 534-0053
Fax: (608) 282-3653
Rep.Owens@legis.state.wi.us

144 County Road C
Oshkosh, Wisconsin 54904
(920) 589-4262

FEB 06 2001

MEMORANDUM

TO: Rep. Scott Walker, Chair

FROM: Rep. Carol Owens

DATE: February 6, 2001

RE: Executive Session
Committee on Corrections and the Courts

This is to inform you that due to unforeseen circumstances, I will be unable to attend the Executive Session of the Committee on Corrections and the Courts scheduled for 10:00 a.m. on February 7, 2001.

I apologize for not being at this session and I urge you to feel free to appoint a substitute for me for the duration of the executive session.

Please feel free to contact me if you have any questions. Thank you.

CO:ln



2001?

Feb. 7

Oscar

probably can't come
(husband's medical
appointment)



Mr. Harris, Cm 9 HM

WISCONSIN LEGISLATURE
LEGISLATIVE COUNCIL COMMITTEE ATTENDANCE FORM

Committee: Assembly Corrections & State Reform Date: Wed Mar 21 2007

Legislator Name: John J. Boyle



ASSEMBLY COMMITTEE ON CORRECTIONS AND THE COURTS

AGENDA

Wednesday – April 4, 2001

1 p.m.

Room 1210 – Health Resource Center
Medical College of Wisconsin

I. Call to Order

II. Roll Call

III. Public Hearing

A. Assembly Bill 291 (*Walker/Wasserman/Jauch*)

Relating to: time limits for prosecution of certain sexual assault crimes, preservation of certain evidence, and postconviction and post commitment deoxyribonucleic acid testing of evidence.

IV. Announcements

A. Public Hearing/Exec Session – Wed., April 18

B. Newton Correctional Facility tour – Thurs., April 19

1. Leave at 9 a.m. from Truax Field (Madison)

2. Return at 4 p.m. to Truax Field

V. Adjournment



Gilbert, Melissa

From: Ellis, Mary
Sent: Thursday, April 05, 2001 11:50 AM
To: Gilbert, Melissa
Subject: RE:

Thanks Missy. Info you should have and relay to your contacts in Iowa: Newton Municipal Air Port, Johnson Aviation, phone 641-792-1292. They're also on central time. Plane is schedule for 9:00 am departure; 4:00 p.m. return. All parties should be at WI Air Services, 3400 Miller St. (phone 266-0840) at least 20 minutes before takeoff.

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

From: Gilbert, Melissa
Sent: Thursday, April 05, 2001 11:12 AM
To: Ellis, Mary
Subject: RE:

At this point, those people would be:

Rep. Scott Walker
Rep. Don Friske
Rep. Carol Owens
Rep. Rick Skindrud
Rep. Larry Balow
Rep. Mark Pocan
Anne Sappenfield -- Leg Council
Melissa Gilbert -- Committee Clerk
Two reporters -- I don't have their names yet

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

From: Ellis, Mary
Sent: Thursday, April 05, 2001 10:55 AM
To: Gilbert, Melissa
Subject: RE:

I'll need a list to the 10 people who will be on that flight-

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

From: Gilbert, Melissa
Sent: Thursday, April 05, 2001 10:54 AM
To: Ellis, Mary
Subject: RE:

Sorry. Yes, it has been approved -- it has just been chaotic over here. I'll try to send the form over today.

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

From: Ellis, Mary
Sent: Thursday, April 05, 2001 10:43 AM
To: Gilbert, Melissa
Subject:

What's up with Newton, Iowa? I haven't received any approvals yet.



ASSEMBLY COMMITTEE ON CORRECTIONS AND THE COURTS

AGENDA

Wednesday – April 18, 2001

10 a.m.

Assembly Parlor

I. Call to Order

II. Roll Call

III. Public Hearing

A. Assembly Bill 212 (*Miller/Walker/M. Meyer*)

Relating to: participation in the programming of a youth report center as a condition of a juvenile disposition, sanction, deferred prosecution agreement or consent decree.

B. Assembly Bill 197 (*Albers/Hansen*)

Relating to: the payment of costs of persons in jails.

IV. Executive Session

A. Assembly Bill 291 (*Walker/Wassmerman/Jauch*)

Relating to: time limits for prosecution of certain sexual assault crimes, preservation of certain evidence, and postconviction and post commitment deoxyribonucleic acid testing of evidence.

V. Announcements

A. Newton Correctional Facility tour – Thurs., April 19

1. Leave at 9 a.m. from Truax Field (Madison)

a. All parties should be at WI Air Services, 3400 Miller St. (phone 266-0840), at least 20 minutes before takeoff.

2. Return at 4 p.m. to Truax Field

VI. Adjournment

Below → 715-832-2946





Scott Walker

Wauwatosa's Representative in the Wisconsin State Assembly

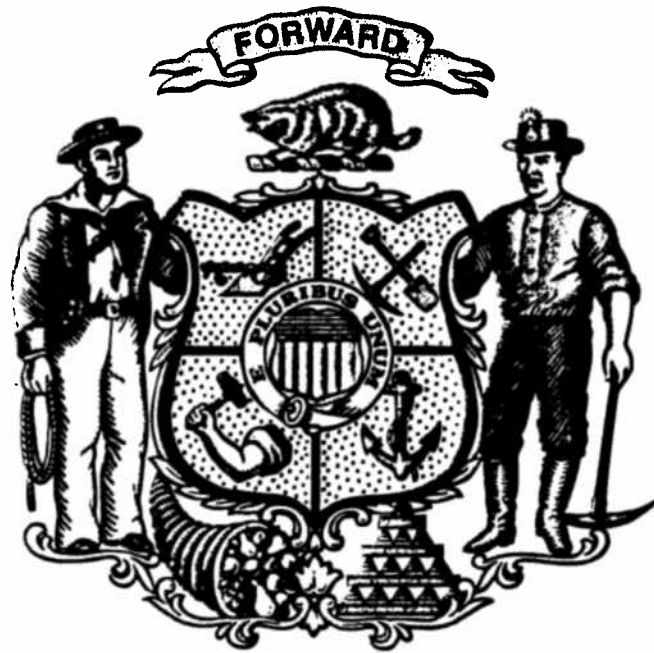
TO: Members of the Assembly Committee on Corrections and the Courts

FROM: Rep. Scott Walker, Chair

DATE: May 1, 2001

RE: InnerChange Freedom Initiative

Last month four of us flew to Iowa to view a faith-based pre-release program at Newton Correctional Facility. Specifically, we learned about the InnerChange Freedom Initiative and interacted with inmates involved in that program. Unfortunately, not all committee members could make the trip to witness first-hand this effort to rehabilitate inmates through spiritual and moral transformation. Similar programs in Texas and Brazil have yielded outstanding results, and the Iowa Department of Corrections also expects to significantly reduce recidivism among program participants. Accordingly, I hope you find the attached information about IFI interesting and insightful.



May 9, 2001

The Honorable Scott Walker
Chair, Assembly Committee on Corrections and the Courts
Room 308 North, State Capitol
Madison, WI 53703

Dear Chair Walker,

I am writing to be excused from the Assembly Committee on Corrections and the Courts on Wednesday, May 16, 2001.

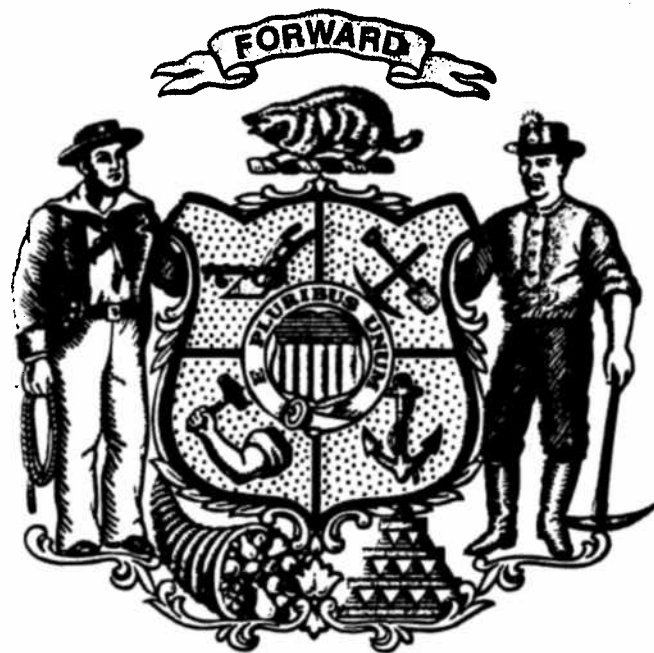
I will be in St. Paul, Minnesota for the Communicating Risk and Safety in Health Care Management from the 15 – 18 of May of 2001.

If you have any questions, please contact my office at 266-2254 and ask for Dagny.

Thank you for your consideration in advance.

Sincerely,

Gregg Underheim
State Representative
54th Assembly District



ASSEMBLY COMMITTEE ON CORRECTIONS AND THE COURTS

AGENDA

Wednesday – May 16, 2001

10 a.m.

Room 225 NW

- I. Call to Order
- II. Roll Call
- III. Public Hearing
 - A. **Assembly Bill 203** (*Walker/Darling*)
Relating to: probation, parole and extended supervision agents responsible for locating absconders.
 - B. **Assembly Bill 359** (*Walker/Boyle/S. Fitzgerald*)
Relating to: sexual assault of and sexual activity involving a person confined in an adult or juvenile detention or correctional facility and providing a penalty.
 - C. **LRB 2909/1** (*Walker/Jauch*)
Relating to: the place of confinement of a person on probation.
- IV. Executive Session
 - A. **Assembly Bill 212** (*Miller/Walker/M. Meyer*)
Relating to: participation in the programming of a youth report center as a condition of a juvenile disposition, sanction, deferred prosecution agreement or consent decree.
- V. Announcements
 - A. Next hearing/exec – 5/30/01
- VI. Adjournment



STATE OF WISCONSIN

To MG
Date _____ Time 3:14 p

WHILE YOU WERE OUT

M LINDE
of OWENS
Phone _____

Telephoned	<input checked="" type="checkbox"/>	Please Call	<input type="checkbox"/>
Called to See You	<input type="checkbox"/>	Rush	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>

Message CAROL OUT OF TOWN
ON MAY 30TH ←
SHE WILL NOT BE AT
COMM HEARING



Party Receiving Call

May 30
2001 ?

ASSEMBLY COMMITTEE ON CORRECTIONS AND THE COURTS

AGENDA

Wednesday – May 30, 2001

10 a.m.

Assembly Parlor

I. Call to Order

II. Roll Call

III. Public Hearing

A. Assembly Bill 418 (*Walker/Jauch*)

Relating to: the place of confinement of a person on probation.

B. Assembly Bill 382 (*J. Fitzgerald/S. Fitzgerald*)

Relating to: prisoner reimbursement to a municipality.

C. Assembly Bill 390 (*Freese/Moen*)

Relating to: the detention of state prisoners in county jails.

IV. Executive Session

A. Assembly Bill 418 (*Walker/Jauch*)

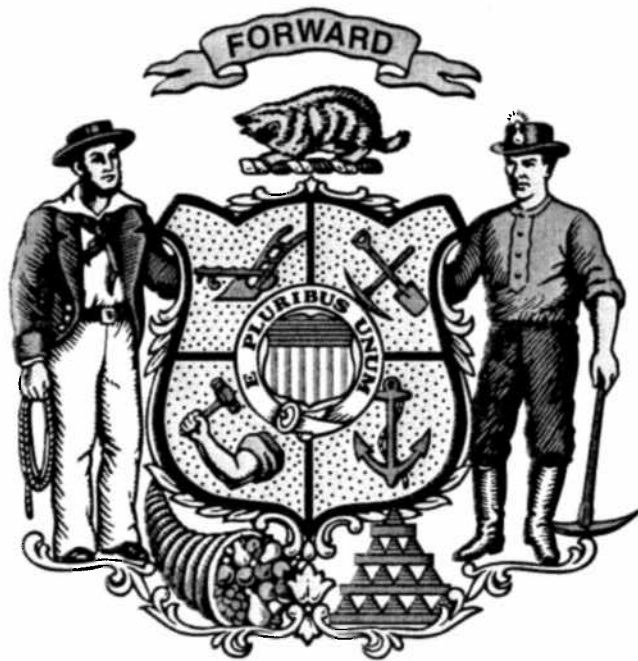
Relating to: the place of confinement of a person on probation.

B. Assembly Bill 359 (*Walker/Boyle/S. Fitzgerald*)

Relating to: sexual assault of and sexual activity involving a person confined in an adult or juvenile detention or correctional facility and providing a penalty.

V. Announcements

VI. Adjournment



CORRESPONDENCE/MEMORANDUM

DEPARTMENT OF JUSTICE

Date: August 27, 2001

To: James E. Doyle
Attorney General

Burneatta Bridge
Deputy Attorney General

Matt Frank
Administrator, Legal Services Division

From: Susan M. Crawford
Director, Criminal Appeals Unit

Subject: Investigative Report on
State v. Gogin, Appeals Case No. 00-2055-CR

This report provides a detailed summary of my factual findings and follow-up measures in response to the late filing of the petition for review in the *State v. Gogin* appeal.

FACTUAL FINDINGS

1. *Background information leading up to the filing of the petition.*

The *Gogin* case was assigned to Assistant Attorney General Kathleen Ptacek. She briefed the case in the Court of Appeals. Ms. Ptacek received a decision from the Court of Appeals dated and filed July 18, 2001. The Court of Appeals reversed Gogin's conviction on grounds of ineffective assistance of counsel and remanded the case for a new trial.

Ms. Ptacek reviewed the decision immediately and began to research possible grounds for a petition to the Wisconsin Supreme Court. I conferred with Ms. Ptacek on a daily basis from August 14 through August 17, 2001 to assist her in crafting issues and an argument in support of a petition for review. Ms. Ptacek completed the petition over the weekend of August 18-19 and filed the petition on Monday, August 20, 2001. Because she believed she was filing

James E. Doyle, Burneatta Bridge, Matt Frank
August 27, 2001
Page 2

the petition on the last day and knew that the deadline was jurisdictional, Ms. Ptacek walked to the clerk's office and personally filed the petition with the court.

On Tuesday, August 21, 2001, Ms. Ptacek received an order from the Court of Appeals dismissing the petition as untimely filed. Ms. Ptacek immediately brought the order to my attention.

2. *Investigative findings following receipt of the court order dismissing the petition.*

After I was informed of the late filing of the petition for review in *Gogin*, I undertook an investigation to determine how, why, and by whom the due date was erroneously calculated.

- The due date for the petition for review was originally calendared on the Unit Calendar as August 20, 2001.

All court due dates are calendared on the Unit Calendar, which is a password-protected Word document. All members of the unit have "read only" access to the Unit Calendar, and it is widely used by unit staff to check due dates. The unit's lead secretary, Glenda Taplick, is charged with the duty of maintaining the Unit Calendar. Only the lead secretary and the unit director have password access to make changes in the Unit Calendar.

The lead secretary also is responsible for making the initial determination of all court due dates, including due dates for petitions for review. The lead secretary receives decisions from the Court of Appeals as part of the daily mail. She identifies the attorney to whom the case is assigned. If the decision is adverse to the state, she determines a due date for a possible petition for review. According to court rule, petitions for review are due thirty days after the Court of appeals decision is filed. The lead secretary enters the due date on the Unit Calendar, which is organized by attorney. She then routes the decision to the assigned attorney's secretary. That secretary enters the due date for the possible petition on her personal calendar and places the decision in the attorney's in box. It is ultimately the attorney's responsibility to ensure that court documents are timely filed.

- I spoke with the lead secretary on Tuesday, August 21, 2001, about the *Gogin* petition for review. She confirmed that she had calculated the due date as August 20, 2001. I asked how she arrived at a due date of August 20, 2001, for the petition for review. She indicated that she believed she had erroneously added three days for mailing to the calculation. This is the correct procedure for calculating the 30-day due date for a *brief*. However, this method is incorrect when determining the due date for a *petition for review*. Additional days for mailing are *not* added when a

due date for a petition for review is calculated. By adding an extra three days, the lead secretary erroneously arrived at a due date of Monday, August 20, 2001. The correct due date should have been Friday, August 17, 2001. The lead secretary stated to me that she knows that mailing days cannot be considered in calculating the due date for a petition for review under court rules. She also said that she has not made this mistake in other petition for review cases.

- Ms. Ptacek informed me that she had double-checked the due date for the petition in accordance with her customary practice to ensure timely filing. She stated that she calculated the due date by using a desk calendar on which the days of the year are numbered. Her process was as follows: she noted that July 19, the date after the decision was filed, was the 200th day of the year. She added 30 to 200 and came up with 230. On her calendar, she identified the 230th day of the year, which was Saturday, August 18, 2001. Court rules provide that, if a due date falls on a weekend or state holiday, the actual due date is the next court business day. Because August 18 fell on a Saturday, Ms. Ptacek concluded that the due date was the next business day of Monday, August 20.

Ms. Ptacek's error was a mathematical one. I examined the calendar used by Ms. Ptacek and noted that it, like all state-issued calendars used in the unit, contains a notation for each day indicating the number of days so far that year and the number of days remaining in the year. To correctly count the due date using this method, Ms. Ptacek should have added thirty days to July 18, the 199th day of the year, which would then have resulted in a due date on the 229th day of the year. That date was August 17, 2001. By starting her calculation with July 19 instead of July 18, Ms. Ptacek's calculation mistakenly established a due date of August 18, thirty-one days after the July 18 decision.

- Ms. Ptacek also asked her secretary to call the court. Her secretary, after calling the court clerk, informed Ms. Ptacek that she had spoken with the clerk, that the time begins to run the day after the decision, and that the petition would be due August 20. Although Ms. Ptacek interpreted her secretary's response to mean that the clerk had, in fact, confirmed the due date as August 20, the clerk had not informed the secretary of the filing date for the petition. As discussed further below, subsequent review determined that the clerk had informed the secretary only that the date of filing of the Court of Appeals decision is not counted, and had not told her a specific due date for the petition.
- I spoke with Ms. Ptacek's secretary Mary Brennan on August 23, 2001. The secretary told me that Ms. Ptacek had consulted with her about the due date for the petition for review in *Gogin*. She indicated that Ms. Ptacek demonstrated how she

calculated the due date by adding 30 days to the 200th day of the year. The secretary did not independently calculate the due date, but agreed with Ms. Ptacek that thirty days ran to Saturday, August 18, making the filing deadline Monday, August 20. Thus, the secretary adopted Ms. Ptacek's mathematical error in calculating the due date as August 20.

Ms. Ptacek's secretary further informed me that she had called the Supreme Court Clerk's office to confirm that the date of the filing of the Court of Appeals decision is not counted. She reported to me that the clerk had informed her (correctly) that one begins counting with the day after the filing date of the decision. That is, the day after the decision is "1" when counting the days manually. However, as noted above, Ms. Ptacek's method of calculation added thirty-one days, rather than thirty, to the date the Court of Appeals decision was filed. The secretary further told me that the clerk had not told her the specific date the petition for review was due.

Notably, neither Ms. Ptacek nor her secretary added "mailing days" in calculating the due date for the petition. They made an unrelated error that coincidentally resulted in the same erroneous due date as that calculated by the lead secretary. If these independent errors had resulted in a *discrepancy* from the due date that was previously calculated, the error would almost certainly have been discovered.

- Ms. Ptacek has informed me that she was particularly focused on the due date for the petition because she needed as much time as possible to develop and refine the legal arguments presented in the petition. In addition to spending the majority of her time from August 7 through August 17 working on the petition, she worked on the petition on Sunday, August 19.

3. *Conclusions drawn from the investigation.*

Based on the foregoing, I drew the following conclusions:

- (1) The late filing of the petition in this case was the result of separate miscalculations by Ms. Ptacek and the lead secretary, who made different types of errors but who coincidentally arrived at the same erroneous date for the deadline. The miscalculation by Ms. Ptacek, which was adopted by her secretary, was mathematical in nature. The lead secretary's initial miscalculation resulted from an error in using a court rule for mailing days which applies to briefs but not to petitions for review.

James E. Doyle, Burneatta Bridge, Matt Frank

August 27, 2001

Page 5

(2) The above errors were made in good faith. All of the employees involved were properly focused on the need to accurately calculate the due date, to double-check the due date, and to timely file the petition.

(3) Assistant Attorney General Ptacek's late filing of the petition for review was not due to a lack of knowledge of or regard for the jurisdictional nature of the filing deadline. Ms. Ptacek was managing a heavy caseload of other appeals, but was appropriately concerned with the necessity of filing the petition in this case by the deadline imposed by the rules of appellate procedure. However, the error was compounded by the fact that Ms. Ptacek, in order to obtain the maximum amount of time to devote to the petition, filed the petition on what she believed was the last possible day.

4. Immediate Follow-Up Measures Taken.

(1) I provided very explicit written instructions to the entire Criminal Appeals Unit (distributed by email) for calculation of the deadline for petitions for review.

(2) I instructed all attorneys in the Criminal Appeals Unit to immediately re-calculate the due dates for all pending petitions for review and notices of appeal (both of which are jurisdictional) using the explicit instructions for date calculation that I provided. I instructed unit secretaries to independently calculate the due dates of any pending petitions for review or notices of appeal for their assigned attorneys. This independent calculation will be required for all future petitions for review and notices of appeal as well. I instructed unit attorneys and secretaries to compare these independent calculations and to report immediately to me any discrepancies between those independently calculated due dates or the due dates listed on the Unit Calendar. No discrepancies in the due dates for pending petitions for review were discovered.

(3) I distributed an online date calculator to all unit staff to assist in calculating deadlines and provided instructions as to proper use.

(4) I instructed the unit's former lead secretary to double-check all court due dates calculated by the current lead secretary, until further notice.

(5) As of August 23, I am personally calculating the due date for a possible petition for review when we receive adverse decisions from the Court of Appeals. I have asked the lead secretary to compare my calculation to hers and to report any discrepancies to me immediately.

James E. Doyle, Burneatta Bridge, Matt Frank
August 27, 2001
Page 6

In addition to implementing the above procedures, I intend to conduct additional review of all unit procedures relating to court due date calculation, calendaring, and filing of documents with jurisdictional deadlines, and will implement further checks and balances as are warranted by the review. With the assistance of unit attorneys, the lead secretary, technical staff and the division administrator, I will revise unit policies and procedures as needed to ensure that an error of this nature never recurs.



Statement by Attorney General Jim Doyle
August 28, 2001

My office has completed its investigation and action regarding the *Gogin* case. The purpose was to determine what happened to cause this mistake, how any similar occurrences can be prevented in the future, and whether discipline was appropriate. The full report on our investigation of this case is being released today.

First, as I have previously acknowledged, this was a serious mistake that never should have happened. I have offered my apology, as has the attorney involved, to the victim and to the Waukesha County District Attorney's office. My office has offered any assistance we can provide in bringing this case to a successful conclusion.

Our investigation determined that a miscalculation in counting days until the filing deadline was responsible for the petition being filed one business day too late. The attorney who handled the case has accepted responsibility and has been disciplined.

Assistant Attorney General Kathleen Ptacek, who handled this case, is a conscientious, hard-working attorney who prepared a 20-page petition in this case and delivered it personally to the Supreme Court the day she believed it was due. She is a good, skilled, productive member of our legal department and has never previously been disciplined. That does not excuse the mistake, although it clearly was an unintentional human error, and Ms. Ptacek has expressed her regret and remorse that it happened. The consequences of filing one day late were very serious. Ms. Ptacek has received a formal reprimand.

The head of the Criminal Appeals Unit, Susan Crawford, has investigated existing policies and procedures and has implemented several additional safeguards to make certain this does not happen again. This unit handles hundreds of legal cases each year in a very professional manner but each individual case requires our utmost care and attention.

CORRESPONDENCE/MEMORANDUM

DEPARTMENT OF JUSTICE

Date: August 27, 2001

To: James E. Doyle
Attorney General

Burneatta Bridge
Deputy Attorney General

Matt Frank
Administrator, Legal Services Division

From: Susan M. Crawford
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the petition on the last day and knew that the deadline was jurisdictional, Ms. Ptacek walked to the clerk's office and personally filed the petition with the court.

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3. Conclusions drawn from the investigation.

Based on the foregoing, I drew the following conclusions:

- (1) The late filing of the petition in this case was the result of separate miscalculations by Ms. Ptacek and the lead secretary, who made different types of errors but who coincidentally arrived at the same erroneous date for the deadline. The miscalculation by Ms. Ptacek, which was adopted by her secretary, was mathematical in nature. The lead secretary's initial miscalculation resulted from an error in using a court rule for mailing days which applies to briefs but not to petitions for review.

(2) The above errors were made in good faith. All of the employees involved were properly focused on the need to accurately calculate the due date, to double-check the due date, and to timely file the petition.

(3) Assistant Attorney General Ptacek's late filing of the petition for review was not due to a lack of knowledge of or regard for the jurisdictional nature of the filing deadline. Ms. Ptacek was managing a heavy caseload of other appeals, but was appropriately concerned with the necessity of filing the petition in this case by the deadline imposed by the rules of appellate procedure. However, the error was compounded by the fact that Ms. Ptacek, in order to obtain the maximum amount of time to devote to the petition, filed the petition on what she believed was the last possible day.

4. Immediate Follow-Up Measures Taken.

(1) I provided very explicit written instructions to the entire Criminal Appeals Unit (distributed by email) for calculation of the deadline for petitions for review.

(2) I instructed all attorneys in the Criminal Appeals Unit to immediately re-calculate the due dates for all pending petitions for review and notices of appeal (both of which are jurisdictional) using the explicit instructions for date calculation that I provided. I instructed unit secretaries to independently calculate the due dates of any pending petitions for review or notices of appeal for their assigned attorneys. This independent calculation will be required for all future petitions for review and notices of appeal as well. I instructed unit attorneys and secretaries to compare these independent calculations and to report immediately to me any discrepancies between those independently calculated due dates or the due dates listed on the Unit Calendar. No discrepancies in the due dates for pending petitions for review were discovered.

(3) I distributed an online date calculator to all unit staff to assist in calculating deadlines and provided instructions as to proper use.

(4) I instructed the unit's former lead secretary to double-check all court due dates calculated by the current lead secretary, until further notice.

(5) As of August 23, I am personally calculating the due date for a possible petition for review when we receive adverse decisions from the Court of Appeals. I have asked the lead secretary to compare my calculation to hers and to report any discrepancies to me immediately.

James E. Doyle, Burneatta Bridge, Matt Frank
August 27, 2001
Page 6

In addition to implementing the above procedures, I intend to conduct additional review of all unit procedures relating to court due date calculation, calendaring, and filing of documents with jurisdictional deadlines, and will implement further checks and balances as are warranted by the review. With the assistance of unit attorneys, the lead secretary, technical staff and the division administrator, I will revise unit policies and procedures as needed to ensure that an error of this nature never recurs.





Gilbert, Melissa

From: Coe, Dagny
Sent: Friday, August 31, 2001 10:39 AM
To: Wauwatosa Representative in the Wisconsin State Assembly
Gilbert, Melissa
Subject: RE: Revised Agenda for Sept. 5 committee hearing/exec

Importance: High

Scott Walker

Hi Melissa,

I hope that I told you Gregg is on vacation and will be unable to attend the hearing on the 5th of September and the tour on the 6th. On September 19 Gregg is the opening speaker for a health organization in Lake Geneva at 1:00p.m. that day. This had been planned for quite awhile already, before we knew for sure that there was going to be a hearing...(even though it is a regularly scheduled day). I hope Gregg will be excused from all three. Please advise. THANK YOU!

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

From: Gilbert, Melissa
Sent: Monday, August 27, 2001 4:48 PM
To: Adam Raschka; Andy Janssen; Anne Sappenfield; Anne Thompson; Bob Karius; Bob Margolies; Carol Owens; Dagny Coe; Daniel Lorentz; David de Felice; Donald Friske; Ed Eberle; Glenn Wavrunek; Greg Reiman; Larry Balow; Linda Junck; Linda Narveson; Mark Pocan; Nicole Boryczka; Pedro Colon; R.J. Pilot; Rick Skindrud; Robert Suls; Scott Suder; Scott Walker; Spencer Coggs; Tim Gary
Cc: Nussbaum, Jody; Krieser, Steve; Wawrzyn, James; 'Cory Mason'; 'Lisa Macaulay'; Fitzgerald, Jeff; Fitzgerald, Scott; Freese, Steve; Moen, Rod
Subject: Revised Agenda for Sept. 5 committee hearing/exec

<< File: Sept5.2001.doc >>

Melissa Gilbert
Research Assistant
Office of Rep. Scott Walker



Gilbert, Melissa

From: de Felice, David Patrick
Sent: Tuesday, September 04, 2001 1:11 PM
To: Gilbert, Melissa
Subject: Cmte. meeting

Melissa:

Due to a prior commitment, Rep. Coggs will be unable to attend tomorrow's meeting of the Corrections and the Courts Committee. However, a member of our staff will monitor the committee's deliberations.

Dave

Dave de Felice
Office of Rep. G. Spencer Coggs
David.deFelice@legis.state.wi.us
608-266-5580 phone
608-282-3617 fax





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Mary M. Hart
Kelly L. Hedge
Carl Jordan
Erik H. Monson
Jennifer M. Moton
Shelly J. Rusch

Representative Mark Gundrum
P.O. Box 8952
Madison, WI 53708

Representative Scott Walker
P.O. Box 8953
Madison, WI 53708

September 4, 2001

Dear Gentleman:

Your recent inquiries to state prosecutors was apparently in response to the recent unfortunate error of an assistant attorney general which resulted in the late filing of a petition for review. No member of this office can remember anything like that ever happening before. I therefore do not believe this one instance suggests the need for any further inquiry.

The prosecutors in this office have complete confidence in the staff of the Attorney General's Office. We recognize that they, like us, are operating under the tremendous pressure that naturally attends ever increasing caseloads with no equivalent increase in resources. Nonetheless, the members of this office have been consistently impressed with the very high caliber of advocacy skills possessed by our assistant attorney generals and exemplified in the hundreds of concise, thorough and persuasive briefs which they submit in a timely fashion every year.

We are also pleased that members of the legislature have sought the opinions and experiences of prosecutors on this issue. We invite you to use the State e-mail system in this fashion whenever you encounter an issue of importance to the criminal justice system. Thank you for providing us this opportunity to express our views on this important subject.

Sincerely,

Robert J. Jambois
District Attorney
State Bar #01002922

RJJ:tab



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September 4, 2001

Hon. Scott K. Walker
Room 308 North
State Capitol
P.O. Box 8953
Madison, WI 53708-8953

Dear Representative Walker:

I am writing because I know the Assembly Committee on Corrections and the Courts will soon be holding a hearing on the Criminal Appeals Unit of the Wisconsin Department of Justice in light of a recent case in which a petition for review was not timely filed. Inasmuch as I have significant experience litigating against that Unit, I thought you might be interested in my views.

Although I am Dean and Professor of Law at Marquette University Law School and Chair of the Appellate Practice Section of the State Bar of Wisconsin, I write in my personal and individual capacity as a lawyer who has litigated against the criminal appeals unit of the Wisconsin Attorney General's office for more than 30 years, going back to the time that Bronson LaFollette and Robert Warren were Attorneys General. Currently, I am doing twenty *pro bono* criminal appeals a year against the A.G.'s office, as well as several federal habeas corpus appeals involving that same unit in the United States Court of Appeals for the Seventh Circuit. In addition, over the last 20 years I have been involved in extensive appellate litigation against the attorneys general of Illinois, Indiana, Missouri, and Arkansas, as well as the United States Attorneys in the nine federal districts in those four states. So I do have some basis for comparison. Over the last 30 years I have handled in excess of 500 post-conviction cases in Wisconsin, and more than 200 in the other states. I believe that I have more criminal appellate experience than any other lawyer in the State, so I speak as an advocate rather than an academic.

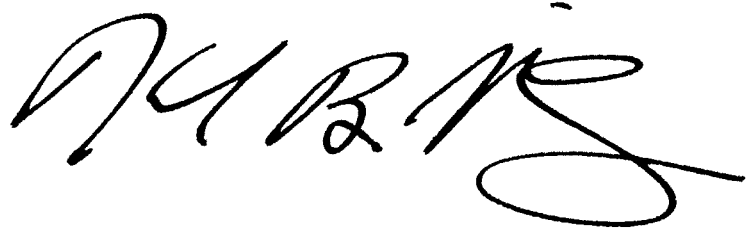
Over the years, the criminal appeals unit of the Wisconsin Department of Justice has been extremely professional, demonstrating a maturity of judgment that I do not see in other states. The quality, tone, and zeal of that unit has not varied from one Attorney General to the next. I have noticed no political motivation in the work at any time. Indeed, one constant has been an aggressive desire to get the appellate courts to uphold convictions. The work of the unit is high quality, aggressive, and zealous.

I have sometimes felt that the unit fought too hard to sustain convictions that I believed were procedurally tainted. But I have never doubted the lawyers' professionalism, motivation, nor the quality of their work or the zeal of the lawyers in that unit.

All of us who do appellate litigation worry about missing deadlines. Of course, it is unlikely that even had this petition for review been timely filed that it would have been granted, as the Supreme Court denies the overwhelming percentage of such petitions. Moreover, even if granted, the Supreme Court would still have to reverse the Court of Appeals. So it is misleading and inaccurate to say, as I have heard in the media, that because this petition was filed late that a retrial is required. The retrial is required because the Court of Appeals reversed the conviction. Perhaps the Supreme Court would have granted the petition for review and upheld the conviction, but the odds are they would not. Under such circumstances, the filing of such a petition would only have delayed the retrial of the defendant.

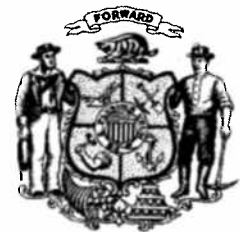
I hope this is helpful.

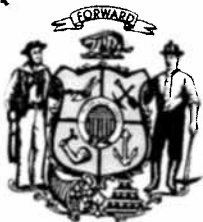
Yours very truly,

A handwritten signature in black ink, appearing to read "M. B. King". The signature is written in a cursive, flowing style with a large, sweeping flourish at the end.



WISCONSIN STATE LEGISLATURE





ERIC G. JOHNSON
DISTRICT ATTORNEY

ST. CROIX COUNTY DISTRICT ATTORNEY

St. Croix County Government Center ❖ 1101 Carmichael Rd. ❖ Hudson, WI 54016
Telephone: 715-386-4658 ❖ Facsimile: 715-381-4397

September 4, 2001

State Representative Scott Walker
Room 308 North
State Capitol
P.O. Box 8953
Madison, WI 53708

State Representative Mark Gundrum
123 West Washington Avenue
P.O. Box 7857
Madison, WI 53707-7857

Re: Criminal Appeals Unit/ Attorney General's Office

Dear Representatives Walker and Gundrum:

I am in receipt of your e-mail dated August 30, 2001 and after reflecting about it over the weekend I feel that it is important to reply. In order to give you some background, I have been a prosecutor for almost twenty years and a Republican elected District Attorney for eighteen years (nine elections). I have also been president of our Wisconsin District Attorneys Association on two different occasions (1989 and 1995) and have been involved in numerous statewide committees. I enjoy my job tremendously and take pride in being an aggressive but fair prosecutor.

During this time I have worked extensively with the Attorney General's office on numerous issues. My contacts with the Attorney General's office have involved dealings with people in both the criminal appeals and criminal litigation units. My professional working relationship with the individuals in criminal appeals and criminal litigation in the Attorney General's office has been excellent. I have the highest respect for their abilities. Specifically in the criminal appeals unit there have been a number of issues where I have had questions on legal issues or recently decided cases where they have been extraordinarily helpful. The provision in the criminal appeals unit has also been excellent. I have worked with Sally Wellman, Linda Berg, and Susan Crawford on a variety of issues and can not speak highly enough of their abilities and willingness to help local prosecutors. I believe my opinion is shared by most District Attorneys throughout the state. I note in your memo that you state the goal of your request is not to "embarrass anyone in the Attorney General's office, but to learn if there is a larger concern with how appeals in that office are being handled . . ." I believe that

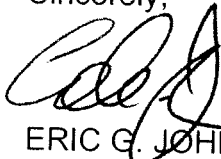
Francis D. Collins
Assistant District Attorney
Dennis W. Erickson
Assistant District Attorney
Kevin H. Gehler
Assistant District Attorney
David K. McQuillen
Assistant District Attorney
Scott A. Moller
Assistant District Attorney
Jane Esbensen Moore
Office Administrator

Ann Gustafson
Victim/Witness Coordinator
Michelle Laucke
Victim/Witness Specialist
Karn Rasmussen
Legal Advocate

currently criminal appeals are being handled in an exemplary manner and that the Assistant Attorney Generals who handle appeals not only have the trust and credibility of local prosecutors but also of the members of the bench in whom they argue in front of. I believe attempts to start or politicize this record could damage this credibility. I strongly believe that these partisan attacks are unfair for the hardworking Assistant Attorney Generals who are currently in the office and unfairly distort their record (which is exemplary). As a long time District Attorney I would request that these efforts stop. I believe that a simple explanation from these supervisors in the units could handle any questions or concerns that you may have.

I strongly support the individuals in the criminal appeals unit and believe their abilities and work ethic is second to none. I believe most District Attorneys in the State of Wisconsin share my view. I would ask that any efforts to attack this credibility or for partisan reasons be reconsidered. Thank you for your attention and if you have any questions or concerns feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric G. Johnson", written over a horizontal line.

ERIC G. JOHNSON
District Attorney
St. Croix County, Wis.