

# Wisconsin DOJ Division of Criminal Investigation

## ACISS Investigative Report

Report Number: DCIR13280/10

Report Date:

### Primary Information

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### Narrative

CASE ACTIVITY REPORT Wisconsin Department of Justice  
DJ-DCI-2 (Rev. 8/91) DIVISION OF CRIMINAL INVESTIGATION

1. Case Number

GC-13280

2. Date

10/29/2003

3. Case Title

STEVEN AVERY PROSECUTION

4. Activity

Interview/REESA G. EVANS

5. Date of Activity

10/27/2003

6. On Monday, October 27, 2003, at approximately 11:05 a.m., S/A Debra K. Strauss and S/A Amy A. Lehmann interviewed REESA G. EVANS, DOB 02/07/1949. EVANS currently resides at 200 Airport Drive, PO Box 213, Friendship, WI, 608-339-6875. EVANS stated she was moving from this location in approximately one month and she was not sure where she would be moving to.

This interview was conducted in a conference room in the Adams County Courthouse. For the past 13 months, EVANS has been working at the Adams County Land Conservation office.

The purpose of this interview was to obtain information EVANS may have regarding the events that occurred after the PENNY BEERNTSEN assault on July 29, 1985, through the arrest and conviction of STEVEN AVERY.

EVANS provided the following information:

EVANS stated she worked as a public defender in Manitowoc County from December 1983 through September 1987. In July 1985, EVANS said she was the only public defender in Manitowoc County. In July 1985, when AVERY was arrested for the assault on BEERNTSEN, EVANS was already representing AVERY for a crime AVERY had committed on January 3, 1985. (According to records previously obtained from the Manitowoc County Clerk of Court, these charges were for endangering safety by conduct regardless of life as a repeater and a felon in possession a firearm as a repeater.)

EVANS was asked if she recalled having any concerns about the way the AVERY case was handled. EVANS responded she recalls this case made her mad. EVANS explained that every day, the public defender's office would receive a "lock up list" from the sheriff's department. The day after AVERY had been arrested, EVANS received the lock up list from the sheriff's department but AVERY's name was not on the list. EVANS said she knew AVERY's name should have been

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on the list because she had already been contacted by LAURIE AVERY, STEVEN AVERY's wife and told that AVERY had been arrested for the BEERNTSEN assault. EVANS said she asked the jailer why AVERY's name was not on the lock up list. The jailer responded that it was the sheriff's orders. EVANS was told by the jailer that the sheriff indicated that AVERY was not to receive any phone calls, have no visitors and was not to have any contact with any attorneys. EVANS said that she had never seen this happen at the sheriff's department prior to this incident. Even though the sheriff had given written orders that AVERY could not have any visitors, the jailer allowed EVANS to see AVERY that day.

When EVANS saw AVERY, AVERY was being held in a jail cell by himself. EVANS said that this was not a common practice within the sheriff's department.

To the best of EVANS's recollection, the BEERNTSEN assault case was the only case that sheriff TOM KOUCEREC had ever personally investigated. EVANS believed that the sheriff investigated this case himself because BEERNTSEN and the sheriff went to the same church and they only lived a few houses apart from each other.

EVANS said she felt AVERY's Constitutional Rights were being violated by Sheriff KOUCEREC and Manitowoc County District Attorney DENIS VOGEL. Because of these concerns, EVANS filed a motion to dismiss the sheriff and the district attorney from the case. EVANS said she lost this motion.

After AVERY had been arrested, DA VOGEL placed AVERY in preventive detention. EVANS said this was the only time she had ever seen preventive detention used in Manitowoc County. When a person is placed in preventive detention, it means they are denied bail. EVANS said she did not think DA VOGEL would do a preventive detention hold on someone without a request being made by the sheriff's department because it creates a lot of paperwork for the district attorney's office.

During one of the preliminary hearings, when EVANS was questioning the sheriff, the sheriff was being evasive to EVANS's questions. For example, the sheriff would not answer EVANS when she asked the sheriff what his connection was to the victim. The sheriff would also not answer EVANS when she asked why he made a written order indicating AVERY was not to have contacts with anyone after he had been arrested. EVANS said she eventually asked the presiding judge (AL DEER) to order the sheriff to answer EVANS's questions. EVANS recalled that when she made this request to the judge, the judge responded, "What do you think he's trying to do woman?" EVANS said that the judge's tone was very demeaning. After the preliminary hearing, EVANS and DA VOGEL went into the judge's chambers and EVANS demanded an apology from the judge, which she did receive.

Another issue EVANS had with this case was the photo lineup. EVANS stated that when the victim was taken to the hospital, the victim was shown a photo of AVERY after the victim had given a verbal description of her assailant. The victim was shown the photo of AVERY because after the victim provided a verbal description, someone stated that the description sounded like AVERY. When EVANS was asked how she knew this information, EVANS stated that it was in the sheriff's department's reports. EVANS did not think the photo lineup shown to the victim was a fair photo lineup because it only showed the individuals from their shoulders up. EVANS did not think the complete physical description provided by the victim accurately described AVERY. For example, the victim stated that her assailant came from behind and picked her up off of the ground. Since AVERY and the victim are the same height, there was no way AVERY could have come from behind and picked the victim up.

EVANS said that after the victim had identified AVERY as her assailant, the sheriff's department used AVERY's uncle, ARLAND AVERY, to go into the house to get AVERY. ARLAND AVERY had previously indicated that when he saw STEVE AVERY the night of the assault, STEVE AVERY had cement dust on his shoulders. EVANS said the defense tried to get ARLAND AVERY to sign an Affidavit indicating AVERY had cement dust on his shoulders at the time of his arrest. ARLAND AVERY would not sign this Affidavit because it was made very clear to ARLAND AVERY by someone within the sheriff's department that if he signed such an Affidavit, his job at the sheriff's department would be in jeopardy.

Another motion made by EVANS was a motion to suppress the victim's positive identification of her assailant. EVANS said that she made this motion because EVANS did not think that the people in the live lineup matched the victim's

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physical description. EVANS stated she lost this motion.

EVANS was asked what she knew about a canvass being conducted by the sheriff's department. EVANS responded that when investigators for the defense went to interview people who lived near the site of the assault, the investigators learned these neighbors had been interviewed by members of the Manitowoc County Sheriff's Department. EVANS said that she did not think the people contacted as part of the canvass or their responses were reduced to writing. EVANS said she did not think it was put in writing because if it would have been, the prosecution would have had to give this information to EVANS as part of discovery.

EVANS said that she filed a lot of motions above the normal motions filed in a case such as this. EVANS again spoke about her motions to suppress the victim's positive identification. EVANS said that another reason she wanted to suppress the identification by the victim was because during the live lineup, EVANS was not able to attend. As a result, EVANS asked someone from the Green Bay office to attend this process. At a later date, the victim identified EVANS as the person who was at the live lineup from the Public Defender's office. EVANS said that she and the woman who went to the lineup on EVANS's behalf did not look alike in any way.

At one point, EVANS would have asked DA VOGEL for any exculpatory evidence. EVANS said that she did not receive anything as far as other suspects from the District Attorney's office. EVANS said she could not remember if she filed a specific request to obtain information about other sexual assaults in the Manitowoc area. EVANS said that she may have discussed this possible issue with DA VOGEL but she was never given access to this information.

If EVANS would have obtained information about other potential suspects, EVANS would have ordered reports from agencies such as NCIC and the local police departments. EVANS said that this was a routine procedure for her.

In mid to late October 1985, EVANS developed pneumonia and had to find another Public Defender for AVERY. EVANS said that because AVERY had been placed on preventive detention, the trial was scheduled to take place and there was nothing EVANS could do about postponing the trial.

The person eventually hired to represent AVERY in this trial was JIM BOLGERT. After the trial was over, EVANS said she read the transcript of the trial and EVANS did not think BOLGERT did a very good job. EVANS believed that BOLGERT had never been involved in a trial where the use of eye witness testimony had been used. As a result, BOLGERT did not emphasize the weaknesses of a case based largely on eye witness identification. EVANS said that approximately one week before the trial, EVANS saw BOLGERT in the courthouse. After a brief conversation, EVANS got the impression that BOLGERT was overwhelmed with this case. Prior to running into BOLGERT, EVANS said she did not have any conversations with BOLGERT about the case.

After AVERY was convicted, EVANS worked with JACK SCHEIER on AVERY's appeal. EVANS stayed involved in the AVERY appeal case until she went back to school in 1999. That is when EVANS quit working on the AVERY appeal and submitted the case to Project Innocence in New York. EVANS said she did not send the file to Project Innocence in Wisconsin because she did not know that Project Innocence of Wisconsin existed. EVANS said that by the time she went back to school in 1999, Project Innocence of New York had accepted AVERY's case. EVANS believed that this was AVERY's best chance to win an appeal.

During the time EVANS worked as a public defender in Manitowoc County, EVANS did not have any one-on-one interaction with the sheriff. The only time EVANS had contact with the sheriff was during the preliminary hearings. EVANS stated she had a good working relationship with DA VOGEL. Because EVANS was the only public defender in Manitowoc County for many years, EVANS had almost daily contact with DA VOGEL. EVANS was sure that as the AVERY case progressed, she was sure that she would have talked to DA VOGEL about the possibility that she felt DA VOGEL was hiding evidence. EVANS was unable to recall any specifics about such a conversation but stated that she would have notes of these conversations in her case file. In 1997, EVANS sent her entire case file to AVERY's parents. This would include EVANS's notes regarding conversations that she had with DA VOGEL.

EVANS could not remember ever hearing about an individual named, GREG ALLEN. EVANS said that she had a lot of clients while working in the Public Defender's office and she was not able to remember the name of every client she has

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had. EVANS stated that it was possible that ALLEN may have been represented by someone in the Manitowoc County Public Defender's office but she was not sure.

EVANS told the special agents that she never thought AVERY committed the BEERNTSEN assault. When EVANS was asked why, EVAN responded that AVERY's "intelligence was borderline." EVANS described AVERY as someone who was impulsive and would not be able to think out and plan a crime such as the BEERNTSEN assault. EVANS also described AVERY as a person who could not lie and, even though his actions may have been wrong, AVERY would admit to the crime. Because AVERY never admitted to the BEERNTSEN assault, EVANS was sure that he did not commit the crime.

*Did you?*  
EVANS suggested that the special agents contact JUDY VAN. VAN was a secretary at the Public Defender's office at the time EVANS was working there. EVANS said that VAN was still working as a secretary for the Manitowoc County Public Defender's office.

EVANS had no additional information and the interview concluded at approximately 12:00 noon.

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### System - Static Information

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