

4. INCIDENT
Sexual Assault

5. INCIDENT LOCATION
12928 Avery Rd.

6. NAME - LAST - FIRST - MI
Avery Donna M

7. D.O.B.
07/29/56

8. ADDRESS
12928 Avery Rd.

9. TX-HOME
755-2737

11. CITY STATE ZIP
Two Rivers WI

10. TX-BUSINESS

12. DETAILS
Reports juvenile sexually assaulted by [REDACTED]

18. ASSIGNED
Colborn 4132
Gill 4147
Sgt. Seim 4187
Det. Michel 2816

19. REC. BY
925 925

20. DIS. BY

21. HOW REC'D
1. 911
2. POLICE RADIO
3. PHONE
4. TTY
5. IN PERSON
6. ON VIEW
7. OFF. OFF DUTY
8. C.B. RADIO
9. OTHER

22. TYPE OF REPORT
1. INCIDENT
2. ACCIDENT
3. CITATION
4. NONE

23. STATUS
1. UNFOUNDED
2. PNL
3. OTHER
4. CLEARED
5. EXCEPT CLEARED

24. DATE CLEARED
0325/98

25. OFFENSE TYPE
1. ADULT NA
2. JUVENILE
3. UNKNOWN

MANITOWOC COUNTY SHERIFF
INCIDENT CARD

13. DAY
SUN 1 THU 5
MON 2 FRI 6
TUE 3 SAT 7
WED 4

14. REC'D
15. DISP
16. 10-23
17. 10-24

ACTIVE

39. (CODE S-SUSPECT W-WITNESS V-VICTIM O-OTHER)	40. NAME-LAST	FIRST	MI	41. D.O.B.	42. ADDRESS	43. TELEPHONE
V	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]ers	[REDACTED]
O	AVERY	DONNA	M	07/29/56	12928 Avery Rd, Two Rivers	755-2737
S	AVERY	CHARLES	E	07/13/54	12928 Avery Rd, Two Rivers	755-2737

02/28/98 @ 1829 Hrs.: I, Deputy A. Colborn, responded to the CENEX SERVICE STATION in the Village of Mishicot to take a complaint of assault. Upon arrival, I made contact with DONNA AVERY and her 16-year-old [REDACTED] who was identified by the first name, [REDACTED]

DONNA went on to state the reason she contacted MTSO is because she wished to report a sexual assault. DONNA stated [REDACTED] was the victim of the sexual assault and that her husband, CHARLES AVERY, who is also [REDACTED], is the suspect in this incident. At this point, I asked DONNA and [REDACTED] if they wouldn't mind sitting in the rear of my patrol car while I continued this interview. DONNA and [REDACTED] readily agreed to do this and sat in the rear of my patrol car which I parked in an unlighted area to afford [REDACTED] as much privacy as possible.

[REDACTED] then relayed the following information to me. [REDACTED] stated incidents of sexual nature began occurring with [REDACTED] when she turned 14. [REDACTED] stated the first incident happened while they were constructing a swimming pool. [REDACTED] stated, at some point during the construction of the pool, CHARLES asked [REDACTED] to remove her clothing. [REDACTED] stated she complied with [REDACTED] request and removed all her clothing with the exception of her bra and panties. [REDACTED] then stated CHARLES requested she sit on his lap for a period of time. [REDACTED] stated [REDACTED] told her she "has a nice body" and that she "should wear a 2-piece." [REDACTED] stated by 2-piece, [REDACTED] wanted her to wear a bikini-type swimsuit.

[REDACTED] stated the next incident with [REDACTED] occurred after she turned 15. [REDACTED] stated, on several occasions, [REDACTED] demanded she remove her pants and panties so he could check to see if she was wearing tampons. At this point, [REDACTED] another interjected and stated [REDACTED] was instructed to only wear sanitary napkins when she began menstruating, not to wear tampons. Apparently, CHARLES took it upon himself to make sure [REDACTED] was complying with this request.

[REDACTED] then stated another incident occurred with her father when her father demanded she come into the bathroom with him and weigh herself. [REDACTED] stated her father instructed her to remove all her clothing and step on the bathroom scale. [REDACTED] indicated she

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JUVENILE INFO REDACTED

3/24/98
DAL

45. IF COMPLAINANT DIFFERENT THEN CALLER, ENTER NAME, ADDRESS, D.O.B., TELEPHONE.

46. IF CODE O (OTHER) IS USED IN FIELD #39, EXPLAIN.

INCIDENT REPORT: NOTE: IF SECTION 22 ABOVE HAS NUMBER 4 CHECKED, DO NOT GO BEYOND THIS LINE WITHOUT RECORDS SECTION BEING ADVISED, OR NO RECORD ENTRIES WILL BE MADE BELOW THIS LINE.

PROPERTY VALUE	26. PROPERTY	A. CURRENCY	B. JEWELRY	C. FURS CLOTHING	D. VEHICLE (LOCAL)	E. OFFICE EQUIPMENT	F. RADIO, TV CAMERAS	G. FIREARMS	H. HOUSE-HOLD GOODS
	STOLEN	\$	\$	\$	\$	\$	\$	\$	\$
	RECOVERED	\$	\$	\$	\$	\$	\$	\$	\$
	26. PROPERTY	I. CONSUMABLES	J. LIVESTOCK	K. DRUGS	L. MARINE ITEMS	M. CONSTRUCTION ITEMS	N. LAWN AND GARDEN	O. SPORTING GOODS	P. MISC BICYCLE
STOLEN	\$	\$	\$	\$	\$	\$	\$	\$	
RECOVERED	\$	\$	\$	\$	\$	\$	\$	\$	

27. PROPERTY RECOVERED: LOCALLY ____ OTHER JURISDICTION ____ (INSERT O OR L)

PROPERTY ITEMIZATION	PROPERTY STOLEN/RECOVERED ITEMIZATION, USE THE FOLLOWING FORMAT				
	28. QUANTITY	29. ARTICLE NAME	30. BRAND NAME	31. SERIAL NUMBER	32. CODE
					S R <input type="checkbox"/> <input type="checkbox"/>
					S R <input type="checkbox"/> <input type="checkbox"/>
					S R <input type="checkbox"/> <input type="checkbox"/>
					S R <input type="checkbox"/> <input type="checkbox"/>
					S R <input type="checkbox"/> <input type="checkbox"/>

33. PROPERTY DAMAGE AMOUNT \$ _____

34. INSURANCE COMPANY _____

35. OFFICER ASSAULTED Y N

36. ARSON Y N

37. STRUCTURE CODE _____ 38. DAMAGE \$ _____

47. CIB ENTERED CANCELLED
 NCIC
 OTHER BROADCAST

48. TOTAL AMOUNT PROPERTY STOLEN \$ _____

49. TOTAL AMOUNT PROPERTY RECOVERED \$ _____

50. IS REPORT CONTINUED? YES NO

51. CAUTION INDICATORS, ATLS ETC.

52. DATA PROCESS INFORMATION:

COMPUTER ENTERED DATE 3/24/98
 MICROFILM INDEXED INITIAL AS

53. FILE APPROVAL

IS CASE CLASSIFICATION CORRECT? Y N
 IF N HAS CORRECTION BEEN MADE?

BY WRB DATE 10/30/98

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MANITOWOC COUNTY SHERIFF'S DEPARTMENT
FOLLOW-UP REPORT

Page: 2

CASE NUMBER: 598-01791 CLASSIFICATION: _____

INCIDENT: _____

DATE AND TIME: _____

REPORT CONTINUED:

was dressed in her bra and panties. After being weighed, her father attempted to unhook her bra. [REDACTED] stated she fought [REDACTED] off, and [REDACTED] did not get her bra unhooked at that time.

[REDACTED] stated the most recent incident occurred Thursday evening (02/26/98). [REDACTED] stated, on that evening, CHARLES insisted she lay down on the couch with him. [REDACTED] stated CHARLES was hugging and kissing her. [REDACTED] further stated CHARLES refused to allow her to get up and would not release her until [REDACTED] agreed to "hug him." [REDACTED] stated she then hugged her father briefly so he would release her, and he did. [REDACTED] stated she went into the kitchen to wash dishes and then went into her bedroom.

[REDACTED] stated, at some point, her father entered the bedroom and began making advances toward her. [REDACTED] interpreted these advances to be of a sexual nature and began yelling and screaming, "No, no, no!" [REDACTED] stated [REDACTED] instructed her to stop yelling before she "woke the whole house up." [REDACTED] stated she continued to yell, and this apparently enraged [REDACTED]. [REDACTED] stated CHARLES then hit her in the face, causing her nose to begin bleeding. [REDACTED] stated she responded to the bathroom to look for Kleenexes to stem the flow of blood from her nose.

[REDACTED] stated CHARLES followed her into the bathroom and again began making advances. [REDACTED] stated she again began yelling, "No, no, no," to which her father then began striking her and hitting her head against the sink.

At this point, MTSO afternoon Shift Commander, Sgt. Seim, arrived on the scene and informed me MTSO Detective Division would handle this investigation from this point on. I, Deputy Colborn, informed DONNA and [REDACTED] MTSO would do everything they could to help her in this situation and instructed her it would be in [REDACTED] best interest to respond to MTSO where they could be interviewed in a more private and comfortable setting by Det. Michel.

DONNA readily agreed to do so but first wanted to inform me that CHARLES made the statement, if law enforcement got involved in this incident, there would be a lot of empty squad cars sitting outside his house if they came to arrest him. Further, for officer safety information, DONNA informed me CHARLES has loaded weapons in virtually every room of the residence. DONNA further stated, when she asked CHARLES what he meant by his earlier statement, CHARLES stated he would "take care of matters."

DONNA asked if she could transport [REDACTED] to MTSO in their own vehicle. I informed her this would be fine. DONNA stated she was emotionally okay to drive and responded to MTSO. DONNA was followed to MTSO by Deputy Gill who was present during the interview with Deputy Michel.

I informed the night Shift Commander, Lt. M. Bushman, of this incident and of CHARLES' statements should they have to contact him this evening. No further action taken at this time. See Deputy Gill's and Det. Michel's additions to this incident.

AColborn *ajc* /bjc

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MANITOWOC COUNTY SHERIFF'S DEPARTMENT
FOLLOW-UP REPORT

Page: 3

CASE NUMBER: 598-01791 CLASSIFICATION: _____

INCIDENT: _____

DATE AND TIME: _____

REPORT CONTINUED:

02/28/98: I, Det. Michel, was notified of Patrol engaged in the investigation of a sexual assault. In response to Patrol's request for assistance, it was advised they should bring the victim to MTSO Detective Unit for an interview.

02/28/98 @ 1715 Hrs.: The victim, [REDACTED], along with [REDACTED] DONNA AVERY, arrived at the Detective Unit, escorted by Deputy Gill who also assisted in the investigation.

Initial interview with DONNA found she obtained knowledge of the incident involving [REDACTED], [REDACTED], and her husband, CHARLES, on Thursday (02/26/98). DONNA stated she works 2nd shift and noted a problem as something was wrong with [REDACTED] due to her being moody. DONNA stated she then badgered [REDACTED] until [REDACTED] told her CHARLES held her on the couch where it was required of her to give him a hug prior to him releasing her. Additionally, he entered [REDACTED] bedroom several times after that. She stated the conversation took place with [REDACTED] in the presence of CHARLES who stated [REDACTED] had been disciplined for running up and down the hall and for engaging in a water fight with their sons. DONNA also stated, this evening, she again confronted CHARLES with some of these issues. CHARLES became upset and began smashing things. It was during these discussion she stated she learned from [REDACTED] there had been other incidents as well. As CHARLES left shortly after this to go to Two Rivers reference one of their son's wrestling activities, DONNA decided to report this incident to MTSO. A Statement form was provided for DONNA, and she completed a written Statement which is attached to this report.

An interview was conducted in private with [REDACTED] by me and Deputy Gill. In interview, [REDACTED] stated, on Thursday (02/26/98) at approximately 2100-2200 hours, she was running back and forth with her brothers and that her dad, CHARLES, was lying on the couch apparently either sleeping or attempting to watch television. She also admitted to getting into a water fight with her brothers. She stated their normal bedtime is at approximately 2100 hours, and the brothers were sent to bed. Her father then held her by the arm, in her description what appeared to be him trying to restrain her from her current type of conduct. [REDACTED] also stated CHARLES then held her on the couch with his arms around her waist and one leg wrapped around her legs. He also told her at this point she would have to calm down before he left her go. [REDACTED] also stated, additionally, before she was left go from him holding onto her, he told her she had to give him a hug. [REDACTED] stated she did this and was then released.

[REDACTED] stated, when CHARLES released her, she went into the kitchen to finish the dishes. [REDACTED] were in bed at this time. [REDACTED] stated she went to bed around 2230 hours. CHARLES then came into her bedroom. She started yelling and screaming for him to get out. [REDACTED] stated CHARLES hit her because of her screaming and yelling. She obtained a bloody nose from this. CHARLES told her to get into the bathroom and get a Kleenex. [REDACTED] stated she went to the bathroom and went to get a Kleenex from the hamper. He also told her to put her head over the sink. [REDACTED] stated CHARLES additionally slapped her in the back of the head several times because she continued to cry and scream. He also at one point put his hand over her mouth to keep her quiet.

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MANITOWOC COUNTY SHERIFF'S DEPARTMENT
FOLLOW-UP REPORT

CASE NUMBER: 598-01791 CLASSIFICATION: _____

INCIDENT: _____

DATE AND TIME: _____

REPORT CONTINUED:

[REDACTED] was then questioned as to the prior events which happened between her and CHARLES. [REDACTED] relayed 3 other incidents which occurred between the two.

The first of these she related was an incident happening approximately during the summer of 1996. She stated, at the time, the family obtained a swimming pool; [REDACTED] went to the nearby pit to get some sand. CHARLES came into the house, into the living room, and told [REDACTED] to take her clothes off. She stated she did this, to the point where she was only wearing her bra and panties. She then stated CHARLES told her to unbutton his pants to which she told him no. At this point, CHARLES then had her sit on his lap on a chair and told her she had a nice body. He suggested she wear a 2-piece bathing suit rather than a 1-piece.

In further interview on this, [REDACTED] revealed the purpose of this happening was because CHARLES was attempting to describe to her that wearing a 2-piece bathing suit was identical to her wearing just her bra and panties, and there was nothing revealing or nothing to be ashamed of about this. She stated with the issue of unbuttoning CHARLES' pants, he never pressured her to do so after she told him no and that he had never unbuttoned his pants on his own. She also stated, as she sat on his lap, he did not touch her sexually or had he made any accusations or insinuations of any sexual conduct or advancements.

The next incident which [REDACTED] revealed was sometime after the above incident when CHARLES inquired if she was wearing a tampon. She stated she told CHARLES no and that he did not believe her. He attempted to check if she was by removing her underwear. [REDACTED] stated he made an attempt to remove her underwear; however, she held onto them and was able to prevent him from actually removing them. She stated, during this occurrence, he never actually got her underwear off and would not have been able to see anything other than possibly a bit of her front. She again stated, during this incident, there was no touching of any of her private parts by CHARLES, and there was no accusations or mention of anything to do with a sexual nature. Also, her refusal to voluntarily show him her private parts did lead CHARLES to discontinue his actions.

The next incident which [REDACTED] revealed was when [REDACTED] asked her to come into the bathroom to be weighed on the scale. She stated she had been wearing her nightgown as she had in the previous incident, and CHARLES asked her to take off her bra. He attempted to unfasten it for her. [REDACTED] stated she again refused to do this and attempted to push her away. CHARLES then, according to [REDACTED] made one more attempt to remove her bra. She again refused, and CHARLES dropped the issue. Again, [REDACTED] made no mention of there being any actual sexual contact or conversation of a sexual nature between the two.

After conclusion of in-depth interviews on all events, [REDACTED] was asked more directly if CHARLES ever had any contact with her on a private body part. [REDACTED] stated he did not but clarified there was one instance where she said the two of them had been voluntarily wrestling as a game play and that he accidentally, for a brief period of time, touched her on the breast. [REDACTED] did not consider this act to have been intentional or sexually related. Other than that, she stated there had been no touching of any private parts of her body. It was also learned [REDACTED] had been sexually assaulted previously in her life,

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MANITOWOC COUNTY SHERIFF'S DEPARTMENT
FOLLOW-UP REPORT

Page: 5

CASE NUMBER: 598-01791 CLASSIFICATION: _____

INCIDENT: _____

DATE AND TIME: _____

REPORT CONTINUED:

and she did know what sexual assault and sex was. She also confirmed nothing of this nature took place between her and her father (CHARLES).

Interview was then conducted jointly between [REDACTED] and DONNA. Additional findings during these lines of questioning found [REDACTED] happens to be a bit of a behavior problem. It is apparent the holding of [REDACTED] on the couch, which took place on 02/26/98, was conducted by CHARLES in an attempt to physically restrain [REDACTED] until she calmed down from her current disruptive behavior pattern.

It was also found out through questioning of [REDACTED] that is not unusual for CHARLES to enter the bedroom of [REDACTED], including her bedroom, to check each of them and say, "Good night," prior to the end of the evening. During the last entry reported of CHARLES entering the bedroom by [REDACTED] it is apparent she was struck by CHARLES as a disciplinary measure for her screaming and yelling. [REDACTED] gave no indications CHARLES entered the bedroom for any reasons of sexual purposes.

The incident involving CHARLES checking [REDACTED] for a tampon was found to have been related to a situation where [REDACTED] due to physical reasons, is not able to use tampons. Her mother stated they discovered the disappearance of several of her tampons and suspected [REDACTED] may have taken them. It is apparent the issue where CHARLES attempted to check if she had one was not related to a matter of sexual approach to [REDACTED] but as a matter of checking her for the theft of tampons.

The incident involving the weighing of [REDACTED] on the bathroom scale was found to be related to a period when [REDACTED] had been bulimic, and they had been keeping frequent records of her weight.

After a thorough interview of both [REDACTED] and DONNA, collectively and individually, and having been interviewed both by me (Det. Michel) and Deputy Gill, collectively and individually, the investigation failed to show clear evidence where CHARLES attempted to touch [REDACTED] in a sexual manner. Statements from [REDACTED] revealed CHARLES at no time ever touched a private part of her body. The findings of the investigation lead us to believe that none of the attempted contacts were of sexual nature but had some other underlying nature behind them.

Although, I consider the incidents revealed in this investigation to be extremely inappropriate contact between [REDACTED]. There are no definite statements or evidence at this time suggesting they are criminal nature. It was also found out these occurrences took place predominantly when DONNA was gone to work and related in manners unrelated to a sexual contact. DONNA stated there were instances where she went to the State of Michigan on vacations over a weekend, and CHARLES was the only person in the residence with [REDACTED] for extended periods of time. During this time, when opportunity seemed to be at its highest, no sexual advances were made on [REDACTED] by CHARLES.

Having been advised of the full nature of the contacts between [REDACTED] and CHARLES, it was DONNA'S feelings that although no sexual contact took place between the two, she was

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MANITOWOC COUNTY SHERIFF'S DEPARTMENT
FOLLOW-UP REPORT

CASE NUMBER: 598-01791 CLASSIFICATION: _____

INCIDENT: _____

DATE AND TIME: _____

REPORT CONTINUED:

concerned this was a strong indication contact may occur in the near future. It was DONNA'S decision to return to the residence with [REDACTED] as she was expected back at the residence by CHARLES, and her 2 boys still remained at the residence. DONNA stated she would remain at the residence with [REDACTED] on Sunday and again on Monday--she did not intend to go to work this day. Rather, her intentions were to obtain residence either in a friend's apartment or to obtain an apartment of her own and to move out of the residence during that time period. DONNA did not feel there was going to be any problems occurring this evening and refused officer assistance in removing herself and their items from the household this evening.

It was brought to DONNA'S attention that officers had some reservations as far as CHARLES' physical conduct upon learning of this situation. DONNA made it apparent to officers the conduct she had earlier related is quite normal for their household, and she is quite used to it. She also eluded to the fact she has been contemplating leaving this situation for some time and was waiting for an excuse such as this to give her the opportunity of justification for leaving.

After evaluation of this incident and conversations with DONNA and [REDACTED] it is not believed there was any danger in her or [REDACTED] returning to the AVERY residence this evening. All contacts which occurred between father and daughter took place in the past, the most recent being 2 days prior to the initiation of this report and the earliest being almost 2 years prior to the initiation of this report. At this point of the investigation, officers also could not find any justification for arrest of CHARLES for the offense of Sexual Assault. It was noted, however, CHARLES has been arrested on prior occasions for Sexual Assault and also that [REDACTED] has previously been a victim of sexual assault.

This incident will be reviewed with Det. Conrad who is the last investigating officer of assaults at the AVERY residence involving CHARLES. Also, the case, after investigation, will be forwarded to the DA's Office for the opinion of prosecution in this matter. A copy of this report, upon completion of the review, should be forwarded to HSD as the investigation may not have turned up criminal charges for the violation of Sexual Assault but does show that conduct displayed by CHARLES is extremely inappropriate and may require future monitoring or counseling. Also, with DONNA'S intent to vacate the AVERY household within the next day or two would effectively separate CHARLES and [REDACTED] and terminate future contacts of this sort. JMichel /bjc

This incident was reviewed with Det. Conrad who concurred with the findings and evaluation of the case by me. This report should be forwarded to the DA's Office for determination of possible charges and also forwarded to DHS for their review and information. JMichel /bjc

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