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Subject: Dassey Polygraph
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April 12, 2006

Len:

I was informed today that plans may be underway to have your client Brendan Dassey subjected to a polygraph examination. Several questions come to mind:

First, and most importantly, disclosing that a person has taken a polygraph, or disclosing the results of said polygraph is a crime (see 942.06). What then are your plans for the results?

Second, as the results of any polygraph examination are inadmissible in court (at any hearing where the rules of evidence apply), I can only assume the purposes of such a test, and any dissemination of results thereafter, would be for some impermissible reason, including prejudicial or ethically prohibited media release.

As the state will not consider the results in any pretrial settlement discussions, I am making my concerns about this development known to you at this time, so that you may consider the appropriate, legal and ethical course you wish to take, and how to advise your client.

If I have misunderstood your client's reason to engage in a polygraph examination, please disregard this email.

Until now, I have not commented about any pretrial publicity you have chosen to engage in. As you know, Rule 3.6 of the Rules of Attorney Professional Conduct limit the extent and type of extrajudicial statements that may be made. Unless you intend to summarize facts contained in a public document (like a criminal complaint), I would suggest that statements to the media about your client, or about this prosecution, cease.

As always, thank you for considering this correspondence.

Ken