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MONDAY

DECEMBER 12, 2016 | FDLREPORTER.COM | PART OF THE USA TODAY NETWORK



COLD, MOSTLY CLOUDY | HIGH 22 | LOW 2 | DETAILS, 5B

Debate rages on as to if Avery was framed

JOHN FERAK
USA TODAY NETWORK-WISCONSIN

MANITOWOC - Would a tightly connected group of small-town cops fabricate multiple clues to frame Steven Avery for murder?

Many of those who are convinced of Avery's guilt in Teresa Halbach's death scoff at the notion of evidence being planted. Critics of Avery's trial lawyers suggest it would be impossible to pull it off. To them, police officers would never engage in such reprehensible conduct.

"Obstruction of justice, that's felony behavior," special state prosecutor Tim Fallon argued in the courtroom in 2007. "Miscarriage of justice for a police officer, tampering with evidence, the list goes on and on. I'm going to risk my career over that. I think not."

On the other side are those who believe that evidence-planting in Avery's case isn't far-fetched. No more than a half-dozen law enforcement people may have been involved in a scheme to frame Avery, and evidence-planting doesn't require a wide-ranging, far-reaching conspiracy, they say. Lawyers Jerry Buting and Dawn Strang suspected four sheriff's employees at Manitowoc County of being involved in an evidence-fabrication scheme against Avery, overtrial court transcripts show. Two were detectives James Lenk and Dave Remiker. The others were then-Sheriff Ken Petersen and Sgt. Andrew Colborn.

The prosecution objected, arguing Avery should not even be allowed to raise an evidence-planting defense. In the end, the judge allowed the defense to proceed, but restricted it for trial purposes to Lenk and Colborn, two of the primary evidence technicians who interviewed Avery on separate occasions in early November 2005.

"In most of these evidence-planting cases, it's one or two guys," Buting recently told USA TODAY NETWORK-Wisconsin. "The whole idea that you would need to take almost the whole department is not borne out by the history of planting in other law enforcement cases that have been documented."

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Q IS FOR QUIT WHINING

Looking at our first winter blast, A-to-Z style



Veterans Park in downtown Fond du Lac sat under a layer of snow on Sunday evening. Winter is officially upon us.

ETHAN SAFRAN | USA TODAY NETWORK-WISCONSIN

It doesn't take much — just a couple inches of snow and a few hours of cold air.

Sure, the official start isn't until Dec. 21, but another Wisconsin winter is on our doorstep, with snow having fallen this past weekend and temperatures expected to dip into the single digits early next week. It's shaping up as our first significant jolt of winter in nearly nine months.

So, whether you're a hardened winter Wisconsiner or a first-timer, you need to brace yourself. Here's an A-Z guide to get you ready for the season.

A Appreciate it: OK, the white stuff gets to be a nuisance after a while, but who doesn't enjoy waking up on Dec. 25 to a winter wonderland? You live here. Bask in its beauty.

B Blizzard: What's the criteria against The National Weather Service issues a blizzard warning when wind gusts of at least 35 mph and blowing snow are imminent and expected to last for at least three hours.

C Carbon monoxide: Also known as CO, the

odorless, colorless gas is lethal. Found in stoves, fireplaces, furnaces and engines, the gas can build up indoors and poison people and pets. More than 400 Americans die each year from unintentional CO poisoning not linked to fires and more than 4,000 are hospitalized, according to the Centers for Disease Control and Prevention. CO detectors can help prevent against a fatal attack.

See WINTER, Page 5B

UW Band gets sick in midst of Big Ten title game

JEN ZETTEL
USA TODAY NETWORK-WISCONSIN

When the University of Wisconsin Marching Band lined up in the tunnel before the halftime show at last Saturday's Big Ten Championship game in Indianapolis, their ranks were short a few people.

"All of a sudden we noticed people were missing and word was spreading through the band that, 'Oh yeah, he threw up — he can't march. There are going to be holes in the formation,'" said Chandler

Schuetz, a UW junior from Appleton.

The excitement of the conference championship football game — the Badgers lost to Penn State, which rallied in the second half to win 38-33 — turned traumatic for the marching band, whose ranks depleted quickly as one band member after another began to fall to a still unexplained stomach illness, many of them needing to be treated with IVs at Lucas Oil Stadium after becoming ill.

Some of the students came down with nausea,

diarrhea and were vomiting before kickoff, according to a statement released by Curtis Olson, assistant director of bands at UW.

"As the game progressed, more members fell ill and were treated by on-site medical personnel. In all, about 60 students reported experiencing illness over the course of Saturday night and Sunday," Olson said. The students later filled out a survey that asked them what they ate before the game. The Marion County (Indiana)

Health Department is investigating the situation, but so far a cause has not been determined, Olson said.

As more of her band mates became ill, Schuetz, who plays trumpet, said her mind jumped to the week ahead and what she would do if she got sick.

"The first thing I thought was, 'Oh my goodness, I cannot get sick this week — I have Finals,'" she said. "When you're in that close of quarters,



Members of the University of Wisconsin Marching Band arrive last Saturday for the Big Ten Championship game at Lucas Oil Stadium in Indianapolis. The fun took a downturn as at least 60 of the band members fell ill during the game.

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Avery

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Between 2005 and 2012, there were at least 160 cases of police officials around the country who were charged with evidence tampering crimes, said Phillip Stinson, a Bowling Green State University criminal justice professor. At least 24 involved violent crimes such as homicides.

"It's not a huge number," Stinson said. "I believe we're dealing with rare exceptions, but that being said, I always wonder if we're just dealing with the tip of the iceberg."

This past June, an ex-Kenosha officer was given probation after pleading guilty to felony misconduct in office as part of an evidence-planting scandal. In 2014, officer Kyle Baars, a three-year officer, planted a murder suspect's identification card and a 22-caliber bullet inside of a backpack that Baars found inside the suspect's house during a police search. Baars kept quiet about his misconduct for several months before confessing to a detective.

Avery's post-conviction lawyer, Kathleen Zellner, has identified Lenk and Colborn in court documents as being her main targets of suspected police corruption. Zellner won't say whether she is also exploring others as well.

"Show me the evidence he was framed. There is not going to be any. It didn't happen," Sheriff Rob Hermann told USA TODAY NETWORK-Wisconsin after last December's release of the docs series "Making A Murderer." "I don't know why anybody in law enforcement would want to get him, that makes no sense."

Zellner faces an uphill climb in connecting the dots of her evidence-planting theory, Stinson said.

"It's already 11 years," he said. "These are cases that are damn near impossible to win when you're dealing with post-conviction appeals. It's very difficult. But that said, these kinds of proceedings have unearthed a number of examples of a police conspiracy to set somebody up."

On Dec. 1, Zellner engaged her more than 170,000 social media followers by tweeting that the cops planted evidence against Avery — just not in the way that Avery's trial lawyers theorize.

USA TODAY NETWORK-Wisconsin has revisited details behind the evidence-planting theory raised at Avery's trial, along with Zellner's court transcripts. She is now in the process of having nine pieces of evidence retested by independent scientists.

If Zellner uncovers proof of evidence-fabricating, it's more likely that a small number of people were engaged in misconduct rather than dozens.

USA TODAY NETWORK-Wisconsin found there was a tendency of Manitowish and Calumet counties to selectively reprocess a room, a garage or a vehicle — even after that location underwent an extensive evidence search previously.

It became a recurring pattern in the murder cases against Avery and his nephew Brendan Dassey that when a follow-up search was ordered, new forensic clues would emerge.

RAV4, AVERY'S BLOOD
Summary: Discovered on Saturday, Nov. 5, 2005, by volunteer searcher Pam Sturm, in the corner of Avery's Salvage Yard. The day before, then Calumet County Sheriff Jerry Pagel

and investigator Wendy Boldwin flew over the salvage yard and nearby quarries but did not locate the vehicle at Avery's property late in the afternoon.

Working theory: Manitowish County found the Halbach vehicle two days earlier, and moved it to Avery's property late at night on Nov. 4.

On Nov. 3, 2005, Officer Colborn discovered the victim's vehicle and called dispatch, on a personal line, to confirm the victim's license plate number. Zellner wrote in court filings "On November 3, 2005, according to the Manitowish County Sheriff's Department reports, Ms. Halbach's vehicle was seized."

Zellner contends that someone else, perhaps Lenk, was with Colborn at the time he called dispatch in the audio recording of Colborn's call, a man's voice can be heard shouting in the distance "the car's here! The car's here!"

When Sturm found the vehicle, the license plates were gone. Doors were apparently locked. The car battery was disconnected. If cops were planting blood and putting the vehicle at Avery's, they would take no chances that one of the Avery's would recognize it and try to move it.

"Mr. Avery contends that the blood evidence was planted in Ms. Halbach's car, by law enforcement, prior to the discovery of the vehicle on the Avery property on November 3, 2005, two days prior to it being planted on the Avery's property," Zellner wrote in court documents. "If Officer Lenk and/or Officer Colborn were connected to the discovery of each item of planted evidence."

SPARE KEY
Summary: Calumet County Lt. Brett Bower requested that deputy Dan Kucharaki, Colborn and Lenk return to Avery's

trailer to re-search it for evidence — even though the trailer had undergone a 26-hour search involving Colborn, Lenk, Benikler and Calumet Sgt. Bill Tyson three days earlier. Kucharaki's reports indicate they entered the trailer at 8:25 a.m. His report doesn't say what time they found the key.

"We all believe the key was dislodged from the back of the cabinet as we were tipping and hanging the magazines and binder in and out of the cabinet," Lenk wrote in his reports. From there, the key was sent to the state crime lab. There, analyst Sherry Culhane revealed it contained a full DNA profile for Avery. Prior to the key's discovery on the fourth day of the massive police presence of Avery

the police presence of Avery, authorities had found no forensic evidence inside Avery's trailer to tie him directly to Halbach's disappearance.

Working theory: Manitowish and Calumet deputies were under pressure to bring the Avery murder investigation to a quick close after the previous three days of searching at Avery's property were mostly a failure. The key that was trumpeted as crucial evidence, however, did not pressure to bring the Avery murder investigation to a quick close after the previous three days of searching at Avery's property were mostly a failure.

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LICENSE PLATES
Summary: The entire salvage yard — roughly 4,000 vehicles — was searched for signs of Halbach during daylight on Sunday, Nov. 6. No significant clues were found. Early the next morning, Colborn and

Lenk went back and rechecked a number of vehicles that were missed the day before. The following day, the command staff ordered that the massive junkyard be rechecked by the team of volunteer firefighters and Wisconsin state troopers. This time, a British volunteer firefighter alerted others to Halbach's crumpled license plates in the backseat of an old station wagon.

Working theory: Colborn or Lenk put the plates into the abandoned station wagon which was missing its windows and was within a short walk from Avery's red trailer.

"The license plates were removed from the victim's RAV4 and put into another vehicle at the time the victim's vehicle was deposited on the Avery property," Zellner's court filings show. In August, Zellner intended to obtain the fingerprint comparisons of Lenk and Colborn. At Avery's murder trial, special prosecutor Ken

Avery's murder trial, special prosecutor Ken Kennebeck testified that fact that none of the eight fingerprints found inside and outside of Halbach's RAV4 came from Avery. "If the unidentified fingerprints on the victim's vehicle match either Officer Colborn or Officer Lenk, it would be significant evidence of their involvement in moving the victim's vehicle onto the Avery property."

CHARRIED BONES
Summary: About five hours after the spare key from Halbach's farmhouse, otherwise, it could have been found somewhere in the RAV4.

BULLET FRAGMENT
Summary: When Dassey's attorney, George Tackes, drove to the Calumet County Sheriff's Department for processing there.

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Low or no fever	High fever
Sometimes a headache	A headache very common
Stuffy, runny nose	Clear nose
Sneezing	Sometimes sneezing
Mild, hacking cough	Cough, often becoming severe
Slight aches and pains	Often severe aches and pains
Mild fatigue	Several weeks of fatigue
Sore throat	Sometimes a sore throat
Normal energy level or may feel sluggish	Extreme exhaustion



AGNESIAN HEALTHCARE

