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Avery's blood could still be 'game changer'

DUKE BEHNKE
USA TODAY NETWORK WISCONSIN
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USA TODAY NETWORK WISCONSIN

The attorneys alleged that Avery's blood, which was found in murder victim Theresa Halbach's car, had been planted — and could have come from that vial kept in the Manitowish County Clerk of Courts' "Makings a Murderer" series focused on the moment defense attorney Jerome Buting found a vial of Steven Avery's blood with a pinhole in the top.

But an FBI agent testified that it wasn't the case, dealing a serious blow to Buting's argument that the blood had been planted.

Years later, Buting still doesn't trust the FBI's test method to prove his case. "It was rushed, the whole methodology was rushed," Buting told USA TODAY NETWORK Wisconsin. "It had never been validated by any other outside lab. To my knowledge it still never has been."

The FBI declined to comment on whether its EDTA test still is in use today, whether it has been refined or whether it has been replaced by a different test.

"We are not commenting on the Avery case," Dr. LeBeau's testimony is public record, FBI spokesman Christopher Allen wrote in an email.

The State Crime Lab also wouldn't divulge whether it is playing a role in the Avery or Dassey case today.

"There isn't anything we are able to share with you regarding the Avery or Dassey cases at this time, as they are both currently in the appeals process," Anne E. Schwarz, spokeswoman for the Wisconsin Department of Justice, wrote in an email to USA TODAY NETWORK Wisconsin.

Kelly Winters, the laboratory director at the Neff Forensic Laboratory in Arlington, Texas, said he had a defense attorney ask him last year to test a bloodstain from the Avery case.

"We don't do EDTA testing but we've been asked about it in the past," Winters said. "We couldn't find a good method to do that, and I think there are a few methods that we don't have the equipment for."

Winters said testing for EDTA isn't common in university laboratories but as much in commercial or crime laboratories.

Having watched the documentary, Winters said he wanted to know more about the techniques the FBI used and what their data looked like. But he said that the speed with which the FBI developed the test — in just weeks while Avery's trial was ongoing — was not in itself a red flag for him.

"It isn't that plausible," he said. "Sometimes, if we get asked to develop a new method or bring something new online, it's possible to get that done in a couple weeks if you dedicate the time to it."

Buting said he has received emails from scientists across the world about improvements in the science for chemical detection and ideas about other kinds of tests that could be just as useful — or maybe more so — than EDTA.

He declined to go into detail, saying he has not researched the issue or whether they would work in this case. That decision would be up to Avery's new appeal attorneys, he said.

Winters' lab doesn't usually work with bodily fluids, but he said he wouldn't be surprised if technicians have become more exact over time. "Science marches on," he said.



SCHOLAR OF THE WEEK

Elizabeth Thayer

AT A GLANCE

Elizabeth Thayer has always had an active role in Bay City Christian School. She has served in a variety of roles from teacher's aide to chairperson of the student council. In classroom discussions, she always shares her opinion while seeking to stretch her understanding. Elizabeth is preparing to attend Crown College in Menomonie, where she will major in psychology, so she can pursue a career counseling others. Thayer has won the Community Service Award for the past three years. Although she has helped the Salvation Army and the Special Olympics, her favorite was the weeks she spent on the kitchen crew at Camp Silver Birch. Elizabeth has enjoyed playing on three Wisconsin Association of Christian Schools state basketball championship teams.

Kaitlyn Ergish

AT A GLANCE

At Bay City Christian School, Kaitlyn Ergish is a diligent student and a talented musician. Kaitlyn's maturity is evident by her success. Academically driven and thorough in every assignment, Kaitlyn has earned a 2.41 grade point average. She is respected by her peers as the voice of reason in classroom discussions. Her dedication to excellence is most evident in her violin accomplishments. Last year, she competed in a national fine arts competition in South Carolina, performed solos for her church, played first violin in the Green Bay Youth Symphony and has volunteered by encouraging patients at the hospital. While further developing her violin interest by teaching beginning students, Kaitlyn is interested in pursuing a career in photography.

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State Crime Lab scientist Cheryl Gilbane talks to jurors about the integrity of buccal swab packaging while testifying at the Steven Avery trial in 2011.

COMMENTARY

Day in life at Brown County Citizens Academy

BRIAN P. CLARK
ret. U.S. Coast
guard aviator



Clark

I recently attended a 10-week, 25-hour long Citizens Academy at the Brown County Sheriff's Department. Filled attendees saw Sheriff John Gossage's in-person workshops of the department. They consisted of all walks of life, from teachers, legislators, to prior service military and possible new recruits. We were exposed to all of the department's best they had to offer. Everything from the K-9 unit, SWAT, divers, crisis intervention, Bomb Squad, courtroom and jail systems and firing range. The range of exposure from learning the physics of a car accident seems to knowing how they go about their

lengthy preparation of a drug bust. How would you like to have what it feels like to have 50,000 volts of electricity tasered into your body? I can tell you from personal experience that it is paralyzing and leaves lasting results. Also, knowing that the task force in charge of Internet Crisis against Children (ICAC) watches for trafficking and child pornography and development is something every parent should be aware of. We learned about the Drug Abuse Resistance Education (DARE) program, field training officers who are responsible for the training of all new officers, the Unified Tactical Training Unit referred to experts in their field, and the Crisis Negotiation Team, and of course the I/P/T task force. Specialty units include riot control, motorcycle, drive, field force. In writing this article, it is impossible to mention all the units within this division. Every presenting team, beginning with Lt. Jody Lemmens to team captain, answered every question posed to them. I had no idea how many aspects of the department were working/teaching in every day to aid in keeping Brown County citizens safe. Reaching out to children in school as early as eighth grade, spurring the way to the elderly with mental health conditions. Touring behind closed doors of the courthouse and jail system really

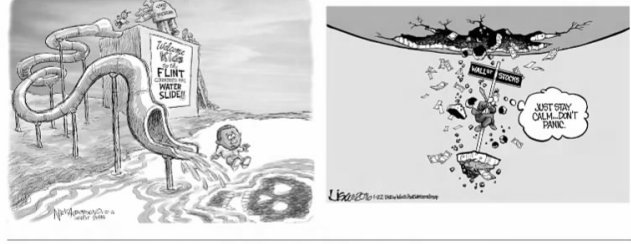
exposed behind the scenes how to help keep guards safe to the daily comings and goings of courthouse attendees. Listening to Judge Hammer talk about his mission on how to limit repeat offenders showed the compassion of his dedication in making things better as opposed to the perception of just processing criminals similar to checking out groceries at the check-out counter. Excessive force has been in the news a lot lately. One of the reasons for attending this academy is to know how this is handled by police officers. I had some direct involvement with this type of civilian treatment in 1992. It's been 23 years since my activation into the Los Angeles riots. I was based at the 49th Military Police Brigade

as a communications specialist when I was pulled into a conflict that had me locked and loaded at a mall, on the ground in a firing prone position with only a cement parking lot car stop to use for cover. I was aiming my M16 down range due to a firing range that was our way. All the time I was thinking, how did this situation come to this? Rodney King was reported to be wrongfully arrested by several officers when we were there and were acquitted of the attack, leading to a six-day fall-on riot that left 53 dead and multiple injured. I am happy to report that not a single shot was fired during that occurrence. The academy peaked with being able to fire handguns at targets in the 25-yard range after practicing multiple scenario simulations at

Northwest Wisconsin Technical College. I can tell you that the sensitivity training has improved over the years as well as the health and wellness of officers since my time with the military police. Now knowing the split-second decisions officers make every day in life-or-death situations in such a volatile world should warrant the utmost respect in an underspaid profession that is rarely understood and under budgeted. I recommend this Citizens Academy if you want to learn what it's like to live in the day of the life of a peace officer.

Brian P. Clark of Green Bay works for United Healthcare and owns "PFC" Photography. He served for 11 years with the U.S. Army National Guard in California.

A CARTOONIST'S VIEW



READER FEEDBACK ON AVERY, DASSEE CASES

LETTERS TO THE EDITOR

Poor police work caused this confusion
APPLETON - I have not watched the Netflix documentary "Making a Murderer." I did, however, follow the investigation of the murder on local TV and in the Post-Crescent. I don't know about whether these two were guilty or not. I thought both the investigation and trial were somewhat unprofessional as evidenced by the fact Avery spent 18 years in prison for a crime he did not commit and police chose to ignore another suspect really bothered me.

The fact that Brendan Dassee was a juvenile at the time and was clearly confused over what happened and then led down the road to guilt by statements to him by investigators was very troubling. Dassee should have been assigned to a mental facility and later assessed as to whether he should be released or placed in jail for a limited time.

If Avery guilty? A confused jury said yes. My heart goes out to the Halbach family for their loss and now having to relive her death all over again because of this documentary.

But as the police and investigators, the prosecutor's what with their shabby job in handling this murder that are responsible for the broadcast on Netflix.

Not proved 'beyond a reasonable doubt'
LELIGEVILLE - I don't know if Steven Avery is guilty or innocent, or not guilty (as in, guilty cannot be proved beyond a reasonable doubt). I didn't sit through the trial and I have read the trial transcript, so everything I say here is simply my opinion.

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The fact that Brendan Dassee was a juvenile at the time and was clearly in need of mental treatment and was clearly confused over what happened and then led down the road to guilt by statements to him by investigators was very troubling.

Dassee should have been assigned to a mental facility and later assessed as to whether he should be released or placed in jail for a limited time.

Why would he save the RAV4 when he had a crater on the floor?
Beyond that, why park it in the salvage yard? And then stuff the key in his pocket and throw it on the night stand?

I find it troubling that the Manitowish County Sheriff's Department was told to stand down on the investigation but continued to intercept themselves. And each time they did, new evidence was discovered. Either the Calumet County investigators were inept and the Manitowish County investigators were extraordinarily adept, or some things just don't add up.

All that being said, I don't know how there can be a finding of guilty when there are so many unanswered questions.

There is a doubt in my mind that Avery and Dassee were both guilty. So many factors show that to one side could have done this. Even if there were questions about the key and small traces of blood, there were more serious such as sweat DNA, where the SUV was located, her shoes in the fire pit and many other things only they could have done.

Liam Trutner: Initially I thought Steven Avery was guilty but after the trial I have no doubt he is innocent.

Anyone with a brain can figure that out except the police, prosecutors, judge and jury members of Wisconsin. His nephew Brendan should have had testing done to reveal his IQ and estimate his IQ due to his intellectual disability. It is frustrating that in the 21st century this level of injustice and bias is permissible.

President Obama is an intelligent man and should intervene on behalf of justice and fairness for all citizens of the USA. My heart goes out to the Avery family; their fortune and life's work is astounding. Many strong people would succumb to this despair.

Sunny McClaine: This man is not guilty. The guilty ones are the terrible cops who were involved. I am fully convinced that these cops murdered that woman and framed this poor man. The gall that these cops have to say that these cops lives and reputation are on the line. As well as it should be, Steve Avery, I feel truly sorry for him. Not that I would ever say this to his shoes there would be a noose around my neck after the decades of waste this community would have put on me, ruining my life. This further validates for me how sick our status are and how sick our governments are.

Dave Vincent: I used to think he was guilty since the media/news stories made it seem like he and nephew were cold blooded killers. Now after the Netflix series I have questions and I am interested how news stories shape our decisions and add pressure to convict. I don't really know if he is innocent or guilty like all of you, just have uncertainty of the verdict has not changed - he is guilty. My opinion of the media has changed drastically. Enough face time already. We are tired of all the publicity that the case is receiving. My heart goes out to the Halbach family as they are reliving the most devastating time of their lives.

Robert Miller: It's not a matter of guilty or not for me. What matters is the process that occurred, the judicial process in this case, it was beyond a poor and down-right pathetic use of what we call standards of investigation and court proceedings. Blasted officials, judges, lawyers, the Manitowish County police department, the Calumet County police department should be held accountable for the wrongdoings in this case as well as Steven Avery for the murder. Guilty or not this was a pathetic example if not scary example of our judicial system at work.

Sarah Ginter: I thought he was guilty then, and nothing in the series made me think otherwise now. The Halbachs need support, not to see their nephew's murderer on magazine covers everywhere they look.

Mad Hub: What is the harm in giving this man another trial in a different state? I am not saying the jury got it wrong or right but that to me there seems to be enough reasonable doubt to warrant another trial.