

MEDIA STATEMENT

From: Bill Douglas, Kootenai County Prosecuting Attorney
Date: July 3, 2007
Subject: Release of E-mails

I ACCEPT THE DECISION OF THE IDAHO SUPREME COURT WHICH DETERMINED IMPORTANT PUBLIC EMPLOYEE PRIVACY ISSUES AND DEFINED CERTAIN E-MAILS AS PUBLIC RECORDS

On May 4, 2007, the Idaho Supreme Court ruled that 597 e-mails exchanged during a 1 year period from March 2004, to March 2005, between myself and former Juvenile Drug Court Coordinator, Marina Kalani, are public records. The 597 e-mails, some now over 3 years old, were not disclosed on the advice of an experienced, neutral, outside trial attorney hired by Kootenai County because of strong concerns that the e-mails were not public records under Idaho law. That same independent legal advisor performed the 597 redactions now declared to be public records by the Idaho Supreme Court.

Release of the e-mails prior to a ruling by the Idaho Supreme Court would have subjected the county to civil liability. The appeal to the Idaho Supreme Court of the district court's decision was important to public agencies and the media. The appeal was a good faith effort to define for the first time in the "cyber age of computers," whether certain e-mails between public employees were "public records" under Idaho's 20 year old law.

I dismissed my portion of the appeal in October 2005, because I felt that the issue should be decided purely on "non-elected public employee privacy rights," rather than on my status as an elected public official. I stated in October 2005, that, although I was no longer appealing the district's court ruling, the e-mail could only be released until after the Court's decision, and that the release would occur by an orderly process. Mysteriously, 3 of the redacted e-mails were leaked to the media and published in March 2005, prior to a court determination whether they were public records. This leak led to frenzied, hysterical speculation, gossip, and a rush to judgment to which I could not respond because of the ongoing appeal.

I accept the Idaho Supreme Court's opinion and I will ensure that it is strictly interpreted with regard to future requests for e-mail public records requests. I have also asked the county to release the e-mails addressed in the Court's decision in an orderly fashion.

THE JET COURT PROGRAM WAS A SUCCESS DESPITE NEWS ACCOUNTS THAT IT "FAILED"

The stated purpose for the public records request for the e-mails between me and JET Court Coordinator Marina Kalani was to examine the operation of the Juvenile Education and Training (JET) Court program. The JET Court program was a success during its almost 3 years of existence. A review of all public records in this case, including e-mails, reveals a complete accounting of finances, time and personnel despite numerous

challenges that faced the program. This was an experimental, pilot program which began with a 3 year grant in March 2002. Under the terms of the non-renewable grant, the program was scheduled to end in March 2005. We were hopeful that federal funding would be available to extend the grant beyond March 2005, but this and many other programs were not renewed because of discontinuation of domestic funding nationwide.

The fact that Ms. Kalani was the third JET Court Coordinator hired by the JET Court team in only 2 years illustrated the major challenges of managing a complex, multi-agency program. These challenges were always met and numerous families thanked and praised JET Court for breaking the cycle of addiction in their children. They are the most important testaments to its successes.

I intend to work with our other criminal justice partners to resurrect the JET Court concept using our very successful Adult Drug Court as a model. However, it will take funding, manpower, and public support to make this happen.

THE E-MAILS BETWEEN MS. KALANI AND I ARE INFORMAL COMMUNICATIONS WHICH CONTAIN INNOCENT SARCASM AND HUMOR

While the instant efficiency of e-mails lends itself to informal conversation, my situation shows how casual communication can be preserved and misinterpreted forever.

I hope these 3 year old e-mails are reviewed in their full context. In the words of the Idaho Supreme Court, they are mere “informal communications between an employee and her supervisor.” Most of the 597 e-mails addressed by the Idaho Supreme Court are simple greetings, replies, and e-mails forwarded to my office by other public officials. Both the number and content of the e-mails have been grossly exaggerated.

Several of the e-mails are sarcastic exchanges and are only making fun of malicious gossip mongering. E-mail sarcasm and humor was a way to poke fun at and deal with cruel rumors and pettiness. Some of the e-mails express frustrations by Ms. Kalani and me about the JET program. They were never meant to be taken out of context. My wife, *Geri*, whom I have loved during 34 years of marriage, has reviewed these e-mails in their entirety, and long ago publicly stated that she had no concern. However, it was a mistake to use my e-mail in such an informal way and I sincerely apologize.

Neither my department nor I will use county e-mail again to send jokes, express sarcasm, or transmit anything that may be misinterpreted. As an elected official I take full responsibility and ownership for my own e-mail use and my department. In our busy office, I have sent tens of thousands of e-mails in the conduct of official business. A few *“will believe what they want to believe”* regardless of the e-mail content. When read in their full context, they contain nothing more than innocent sarcasm, humor to brighten the spirit of an employee, and joking conversation.

I am proud of my accomplishments as the elected Kootenai County Prosecuting Attorney for over 18 years administering several programs that serve our citizens and promote justice for all. I want to assure our community that they can have confidence in me and

the hard working men and women of our office. Throughout this 2 year chapter, the prosecution of criminal cases has remained aggressive, ethical, and successful. We work daily to give victims a voice in the criminal justice system and to hold criminals accountable. We prosecute society's worst offenders with a high success rate and have won convictions in some very high profile cases within the past year.

If any particular e-mail requires clarification or explanation as to intent or meaning, I would hope that I have the opportunity to provide it.