

MEMORANDUM

TO: *RPS File*

FROM: Dave

DATE: March 26, 2009 2:00-2:15 pm

RE: TELEPHONE CONVERSATION WITH SCOTT MARLOW, AAG

Marlow called me; I asked him if I could call back to which he agreed. When I called him, we spoke at the time mentioned above.

The overall message he imparted is that he is unhappy with what he regards as an effort by Tucker to secure political cover and that Tucker gave the AG's office both inadequate time to review the matter and an inadequately developed file. He also expressed his condolences.

1. AG/No original criminal jurisdiction: Scott went through this predictable explanation.
2. Status of investigation/review: He says he is in the process of completing his investigation but that he has not yet offered his opinion to Steve Tucker.
3. Observations by Marlow: As to specifics, Marlow made the following remarks recorded as closely verbatim as my notes permit.
 - 3.1 "I am not sure why the system has not worked well here and I appreciate that this adds to this tragedy for you and your family."
 - 3.2 "The AG's office only received a request to review the materials supplied to us." (Implying, of course, that the AG's office had not been engaged to prosecute.)
 - 3.3 "We were not given adequate time nor a well-developed file and I am mindful that the statute is about to run against a criminal prosecution for manslaughter."
 - 3.4 When he referred to "our client" I asked him who he had reference to which stopped him. He said "that's a good question." He said, "typically our client is the people of the state of Washington but here, I'm not sure, I guess I would have to conclude that our client is Steve Tucker."

- 3.5 He said "I am not proud of the position we (the Attorney General's Office) have been put in."
 - 3.6 He said "There is additional information we should have been provided." (I volunteered to provide him with more information but he declined, implying that his charge was limited to the materials provided by Tucker.)
 - 3.7 He said "This matter needed a more thorough review and robust development." He went on to say, "I do not understand why this matter has not been better handled."
 - 3.8 He also said I realize that this circumstance "further victimizes you and your family."
 - 3.9 He said I regard this as "an effort at political cover."
4. AG Contacts: I asked him if he had spoken with Bob Westinghouse or anyone at the U.S. Attorney's Office for the Western District and he said no, although he said he knows Westinghouse.
- He also said he received a request to confer from a female Spokane County Commissioner but had declined the contact.
- He also said he has received reams of paper from the retired law enforcement people in Washington who have been pushing for a prosecution.
5. DWS Suggestion: I told him that if he felt that his position and that of the AG's Office had been compromised by the way Tucker has handled this matter, that he could give Steve a direct letter finding probable cause for a prosecution.