



**John S. Foote, District Attorney for Clackamas County**

Clackamas County Courthouse, 807 Main Street, Room 7, Oregon City, Oregon 97045  
503 655-8431, FAX 503 650-8943, [www.co.clackamas.or.us/da/](http://www.co.clackamas.or.us/da/)

July 9, 2010

Chief Kim Yamashita  
City of Sandy  
38970 Proctor Blvd  
Sandy, OR 97055

RE: Detective Kalen Taylor

Dear Chief Yamashita:

This letter is a follow up to our conversation in late June in which I expressed my concerns about the actions of Detective Kalen Taylor during the criminal investigation of former CCSO deputy Braden Claggett. This investigation was conducted by Detective Brad Edwards of the Oregon City Police Department. Detective Taylor was interviewed as part of this investigation on May 7, 2009.

My concerns center on Detective Taylor's statements to Detective Edwards during the May 7<sup>th</sup> interview. Specifically, Taylor appears to minimize his relationship with Misty Burdine. Additionally, he does not report that Burdine told him of statements Claggett made to Burdine in which Claggett threaten his wife and another person. Ms. Burdine reports that she was well acquainted with Taylor and that she informed Taylor of specific threats made by Claggett.

I do not believe that Detective Taylor committed any criminal act. However, I am concerned that he may have been less than fully forthcoming in his statements to Detective Edwards. I am bringing this to your attention only as a matter that you may wish to pursue as an internal investigation. I have included two reports that pin point the specific interviews that I have referenced. This was an extensive investigation. There are hundreds of pages of reports that might assist you if you choose to follow up on this.

Please let me know if you have any questions or if there is anything I can do to assist you

Sincerely,

Gregory D. Horner  
Chief Deputy District Attorney  
Clackamas County

cc: enclosures



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October 26, 2010

Chief Kim Yamashita  
Sandy Police Department  
38970 Proctor Blvd.  
Sandy, OR 97055-8040

RE: Kalen Taylor

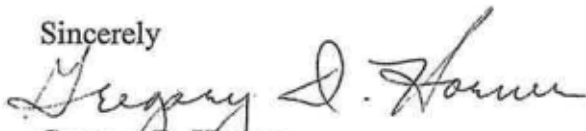
Dear Chief Yamashita

I have reviewed reports from Chief Jordan concerning the actions of Sandy Police Sergeant Kalen Taylor. As you know, Chief Jordan conducted a number of interviews as part of an investigation into the actions of Taylor. These reports are in addition to those reports generated by Detective Brad Edwards of the Oregon City Police Department. I have also reviewed recent case law that is relevant to the potential charge of Official Misconduct. I conclude that there is insufficient evidence to prove beyond a reasonable doubt that Sergeant Taylor committed a crime.

However, it is clear that Sergeant Taylor provided intentionally misleading statements during his interview with Detective Edwards. Taylor's actions taint him as a witness. It is the opinion of this office that he cannot be relied upon as a witness. As a result, the District Attorney's Office will no longer call him as a witness. This applies to current cases in which he is a witness, as well as any future case in which he may have been involved.

Feel free to contact me if you have further questions or concerns.

Sincerely

  
Gregory D. Homer  
Chief Deputy District Attorney  
Clackamas County

Cc: Mike Starpoli



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Chief Kim Yamashita  
Sandy Police Department  
38970 Proctor Blvd.  
Sandy, OR 97055-8040


October 11, 2011

Re: Kalen Taylor

Dear Chief Yamashita:

This letter is to confirm the position of the District Attorney's Office regarding Sergeant Kalen Taylor. As stated in my letter to you dated Oct 26, 2010, this office will not call Sergeant Taylor as a witness.

Sincerely,

  
Gregory D. Horner  
Chief Deputy District Attorney  
Clackamas County, OR



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November 9, 2004

Chief Jerry Geiger  
Molalla Police Department  
PO Box 248  
Molalla, Or 97038

RE: Lister Investigation

Dear Chief Geiger:

As you know the grand jury investigation of Detective Lister is now completed. The investigation focused on two sworn affidavits submitted by Detective Lister. These affidavits contained significant discrepancies with facts established by the investigation. The grand jury concluded that there was insufficient evidence to bring criminal charges against Detective Lister.

The investigation into Detective Lister's work did reveal mistakes in these affidavits that are not excusable or acceptable. Search warrants were issued by the court based upon Detective Lister's affidavits which were not completely accurate. Four defendants were indicted and convicted based upon evidence obtained from the execution of these search warrants. These convictions must now be vacated. This raises serious concerns about Detective Lister's creditability in future cases.

Therefore, the Clackamas County District Attorney's Office has concluded that Detective Lister can no longer appear as a witness in cases prosecuted by this office. This includes any and all court appearances, such as grand jury, applications for search warrants and at trial.

We want to express our appreciation for the full cooperation of your police department. We know that it was police officers in your department who first noticed problems with Detective Lister's work and brought their concerns to our attention. We appreciate their commitment to protecting the integrity of all of our work.

Sincerely,

Gregory D. Horner  
Chief Deputy District Attorney  
Clackamas County District Attorney

GDH:ac



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September 7, 2005

Steve Hyson  
President  
Clackamas County Peace Officers Association

RE: Ron Lister

Dear Steve:

Thank you for meeting with me recently to discuss the District Attorney's Office position on calling Ron Lister as a witness. I appreciate your comments and have given careful thought to your request that we reconsider our position. I have consulted with other senior members of this office. I also re-read the Arbitrator's Opinion. It is still my conclusion that this office will not call Officer Lister as a witness in any court proceeding.

There are a number of factors which are important in making this decision. First and foremost, Officer Lister's performance errors are directly related to his credibility. Even if one assumes that the errors in the affidavits were the result of only sloppiness and inattention to detail, it is impossible to ignore the fact that he filed numerous sworn affidavits that contained information that was not true. These inaccuracies were relevant and important to the cases and undermine Officer Lister's credibility before the court. Because his credibility has been compromised by this pattern of inaccuracies, the District Attorney's office would be obligated to provide potentially exculpatory information from this investigation to defense counsel. This would apply to all cases in which Officer Lister would be a potential witness. The accuracy and reliability of any future testimony from Officer Lister would be attacked with this information. One can easily predict that in any case in which he was called as a witness he would be vigorously attacked on cross examination. The District Attorney's office is not willing to sacrifice the integrity of a case because Officer Lister would be a potential witness.

You suggested the possibility of additional training for Officer Lister as a way to mitigate the damage from these performance errors. Under different circumstances this could be a helpful suggestion. However, it is my opinion that lack of training was not the issue. It is a matter of basic competence that all officers know that facts included in a sworn affidavit must be accurate. The lack of training was not the reason he submitted affidavits that contained information that was not true.

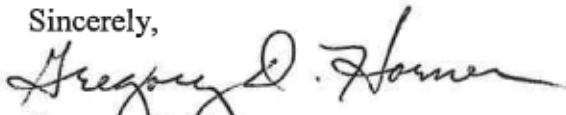
There was also concern expressed that the grand jury's decision to not indict served as an exoneration of Officer Lister. I respectfully disagree with that assessment. The issue before the grand jury was whether there was sufficient evidence which, if unexplained or uncontradicted

warrants a conviction. That is essentially the highest requirement for proof in the law. Just because there was insufficient evidence to charge Officer Lister with a crime does not mean that his behavior is acceptable for a police officer. Even though he was not charged with an offense his errors do impact his credibility.

In closing, I take very seriously the importance of protecting the integrity of the criminal justice system. As you know, all members of law enforcement are subject to attack by critics of the criminal justice system. Those attacks include claims that police officers present sworn testimony that is inaccurate or false. In almost every case those claims are false. Part of our job is to uphold the integrity of the officer and the system as a whole in the face of such claims. If Officer Lister were called as a witness, we would have to acknowledge that, at least in a limited way, some of those claims are true. This would have a devastating impact on the weight given to testimony provided by Officer Lister. This could result in a guilty person being acquitted. That is an outcome that is unacceptable.

Thank you for your thoughtful conversation on this difficult issue.

Sincerely,

A handwritten signature in black ink that reads "Gregory D. Honner". The signature is fluid and cursive, with the first name being the most prominent.

Gregory D. Honner  
Chief Deputy District Attorney

GDH:ac

From: "Foote, John" <JohnFoote@co.clackamas.or.us>  
To: Editor BradyCops.Org (editor@bradycops.org) <editor@bradycops.org>  
Subject: FW: Projects #2 & #3  
Date: Mon, 8 Dec 2014 13:55:11 -0800 (12/08/2014 04:55:11 PM)

Dear BradyCops.org,

Please find attached two letters our office has written to sworn uniform officers in two local police agencies after criminal investigations did not result in any charges, but in which we determined we would never use them in a case again. They have both been subsequently terminated by their agencies after a number of years of resistance in which they were forced to sit at a desk without handling any cases.

In addition, we have a number of officers that have also left employment after internal investigations and whom we have determined to never call as witnesses.

Finally, we are also in the process of dismissing a number of pending and closed cases after recent investigation of a Clackamas County Sheriff Deputy (Saffer) determined he had mishandled pieces of evidence by not putting them in the evidence room as per procedure. We are also notifying a number of defense attorneys that we will not be calling him as a witness ever again. And he has been dismissed from his agency as well.

In conclusion, there are not any officers or deputies currently working for any agencies that are on a Brady list in our office. All of the ones we have investigated have been terminated at some point.

John

From: Editor BradyCops.Org <editor@bradycops.org>  
To: "Foote, John" <JohnFoote@co.clackamas.or.us>  
Bcc: oldenuf@cfl.rr.com, fairview8712@gmail.com  
Subject: Re: Brady List - Public Record Request  
Date: Mon, 08 Dec 2014 12:56:58 -0500

Mr. Foote:

I really appreciate it - I want to be fair to your agency - while at the same time presenting the facts to my readers. This website is NOT being developed to be anti-law enforcement.

Some protest on the streets in peaceful ways, some don't - I guess this is my form of peaceful protest - that, in the end, will produce a national data base of Brady / Giglio cops - and identify those prosecutors that believe such information is important to a fair judicial system.

I would suggest the development of a "Brady / Giglio" List - it instills

to the public, and the LE community, a commitment by your agency to identify those LEOs that violate the public trust.

Regards;

BC

<http://bradycops.org>

On Mon, 2014-12-08 at 09:16 -0800, Foote, John wrote:

> We will get you something.

>

> -----Original Message-----

> From: Editor BradyCops.Org [mailto:editor@bradycops.org]

> Sent: Monday, December 08, 2014 9:15 AM

> To: Foote, John

> Subject: Re: Brady List - Public Record Request

>

>

> Mr. Foote:

>

> We hear you - however, documents always speak louder than words - especially when those words are coming from elected officials.

>

> Absent a "Brady List" - we (BradyCops.Org) would request (PRR) any documents that would support your statement that your agency has in the past "taken aggressive action to identify officers about which we have evidence of wrongdoing and taken appropriate action... - including permanently banning them from ever testifying in our cases again". One example would suffice.

>

> Regards;

>

> editor@bradycops.org

>

>

>

>

> On Mon, 2014-12-08 at 08:24 -0800, Foote, John wrote:

>> Dear Mr./Ms. BradyCopys.org,

>>

>> The Clackamas County District Attorney's Office does not keep what you call a "Brady list" but we believe we have an understanding of what you are asking for. However, it simply does not exist in that form in our office. Throughout our careers we have taken our responsibilities to provide any exculpatory evidence to each defendant very seriously. We think it has always been a part of our job as prosecutors.

>>

>> Our office has consistently taken aggressive action to identify officers about which we have evidence of wrongdoing and taken appropriate action in each case, including permanently banning



them from ever testifying in our cases again when that is appropriate. We have also initiated criminal investigations and prosecutions of officers if it is factually justified. But, that is done on a case by case basis.

>>

>> Sincerely,

>>

>> John Foote