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NEWS RELEASE

**DAKOTA COUNTY ATTORNEY'S RESPONSE REGARDING CLAIMS OF PRIOR
KNOWLEDGE OF ST. PAUL POLICE DEPARTMENT CRIME
LABORATORY'S DEFICIENCIES**

In response to the claims being made that the Dakota County Attorney's Office had prior knowledge of the extent of the problems with the St. Paul Police Department Crime Laboratory, the following is the explanation of the events leading up to the hearings in eight consolidated drug cases in Dakota County conducted during the week of July 16, 2012:

In February and March of 2012 the Dakota County Attorney's Office received extensive discovery requests on multiple drug cases pertaining to drug testing performed by the St. Paul Police Department Crime Laboratory. Upon further inquiry with the public defender's office it was learned that the public defender had concerns regarding the reliability of testing that was being performed by the lab. The public defender indicated that they could not provide our office with specific concerns until they could fully explore the policies, procedures, and information related to the testing procedures that were performed on each case through discovery requests.

Shortly after learning of the public defender's concerns my office reached an agreement with the public defender which called for the public defender to identify multiple "test cases" in which their office concerns could be addressed. It was agreed by both offices that consolidating cases would allow for full discovery of relevant information without unnecessary duplication of effort and the need for multiple hearings. It was also agreed that the public defender would be allowed to choose which cases it wanted to consolidate. An agreement was also reached with the public defender that defendants whose cases were not consolidated would still be allowed to preserve their ability to challenge any testing that had been performed by the lab. Once this agreement was reached a meeting was scheduled in April of 2012 before the Honorable Edward Lynch, Chief Judge of the First Judicial District, at which time the agreement was communicated to the Chief Judge Lynch, and with his approval, Judge Kathryn Messerich was assigned to the test cases. A pretrial evidentiary hearing was scheduled for July 16, 2012 in order to assure that lab personnel and defense experts would be available to testify at the hearing.

Minnesota Rules of Criminal Procedure require parties to disclose all information they intend to present at a future court hearing with reasonable time to allow the opposing party to review and prepare an appropriate response. For the next several weeks my office and the crime lab received multiple requests for information related to crime lab policies, procedures and protocols.

The public defender also requested opportunity to interview crime lab personnel. Assistant Dakota County Attorneys spent considerable time and resources in an effort to comply with these requests and facilitate meetings between the public defender and lab personnel. Despite these efforts, my office was not provided with any specifics regarding concerns the public defender had with testing procedures as required by the Minnesota Rules of Criminal Procedure. At a court hearing on June 25, 2012 my office raised the failure of the public defender to comply with the Criminal Rules of Procedure. At the hearing Judge Messerich advised the public defender that she expected the public defender to fully comply with the rules of discovery by a deadline of July 9, 2012.

On July 9, 2012, one week before the hearing, my office received over 2,700 pages of documents from the public defender. The public defender also provided the County Attorney's Office with the names of three experts (Glenn Hardin, Dr. Max Houck, and Dr. Jay Siegel). Written summaries of the opinions of these experts and the underlying factual bases for their opinions as required by criminal rules of procedure were not provided on July 9th as previously ordered by Judge Messerich. My office immediately renewed its request for the required discovery of the public defenders experts' opinions and bases for their opinions. My office received Glenn Hardin's written summary of his concerns later in the week of July 9th and immediately scheduled a hearing with crime lab personnel to review his written summary. When it became apparent that a full review of the 2,700 pages and Hardin's summary could not be completed by July 16th my office requested a continuance of the July 16th hearing. Judge Messerich denied the request for continuance and directed the prosecution to proceed with calling one analyst who would explain the specific testing process used in the test case. To address the failure to disclose by the public defender Judge Messerich further directed that the prosecution would have the option of proceeding with cross examination of the defense witnesses, or it could delay its cross examination until it had sufficient time to review the defendants' recently disclosed documents. Judge Messerich also ordered that the public defender make its experts available to be interviewed by the prosecution prior to testifying and if further cross examination would be needed that the public defender would be responsible for costs necessary to secure the attendance of their experts at future hearings. On Saturday, July 14, 2012, the public defender forwarded a written summary of Dr. Houck's concerns and the bases for these concerns to my office. On July 17, 2012 the public defender forwarded to the County Attorney's Office a written summary of Dr. Siegel's concerns and the bases for the concerns.

From the time the public defender's office raised their concerns about the St. Paul Police Department Crime Laboratory, my office has expressed a desire to work with the public defender's office to determine any deficiencies that may exist in the crime lab. The Dakota County Attorney's Office worked out an agreement with the public defender that would allow their office to fully explore the policies and procedures used by the crime lab in testing chemical substances. In addition my office reached an agreement with the public defender that would allow other defendants who may be affected by the court's decision to preserve their right to raise the issue in future hearings.

After hearing the testimony of defense experts in this hearing, and after reviewing some of the 2,700 pages of documents the defense disclosed just days before the hearing, some of which were disclosed after the court-imposed deadline, the Dakota County Attorney's Office recognized the seriousness of the problems with the St. Paul Police Department Crime Laboratory and took immediate steps to address them. One of the

first steps was to instruct the Dakota County Drug Task Force, which handles the drug cases throughout Dakota County, to stop sending cases to the St. Paul Police Department Crime Laboratory for analyses. This office is also seeking continuances in other affected cases in order to obtain testing from another laboratory. It has recently come to my attention that attorneys in the public defender's office have opposed requests by my office to continue cases to allow for retesting of the suspected drugs. This opposition to the requests to continue cases for further testing is contrary to previous agreements and understandings my office had reached with the public defender and communicated to the court. I can only assume that these objections to requested continuance are an attempt by the public defender to circumvent my office's previous agreements and understandings.

We remain committed to working with our colleagues in Ramsey and Washington Counties to address the impact of these problems in the St. Paul Police Department Crime Laboratory on cases in the criminal justice system, and we intend to do exactly that—address these problems and see that the outcomes of the affected cases are based on accurate results and achieve justice for all parties concerned.

James C. Backstrom
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