

STATE OF MINNESOTA
COUNTY OF CLEARWATER

DISTRICT COURT
NINTH JUDICIAL DISTRICT

Case Type: Criminal

State of Minnesota,

Court File No. 15-CR-19-540

Plaintiff,

vs.

**RULE 7.02 NOTICE OF
OTHER OFFENSES**

Neil Henry Dolan,

Defendant.

TO: The Honorable Eric P. Schieferdecker, Judge of District Court; and counsel for defendant, Rebecca L. Duren, Kelly & Lemmons, P.A., 2350 Wycliff Street, Suite 200, St. Paul, MN 55114.

Pursuant to Rule 7.02 of the Minnesota Rules of Criminal Procedure, the State of Minnesota, by its attorney, Erin R. Eldridge, Assistant Attorney General, hereby provides NOTICE of its intent to offer evidence of the following other crimes, wrongs, or acts, under Minn. R. Evid. 404(b), and *State v. Spreigl*, 139 N.W.2d 167 (Minn. 1965), and its progeny, and to cross-examine defendant and/or any defense witness as to the following specific instances of conduct at trial under Minn. R. Evid. 608(b) to the extent they are probative of truthfulness or untruthfulness of any witness:

A. Incidents Related to Bagley Students

1. Regarding defendant's conduct throughout his time as a football coach and School Resource Officer in the Bagley School District from approximately 2011 through on or about November 19, 2019:
 - a. Inviting various students to defendant's office for work periods;
 - b. Providing snacks, treats, drinks, gifts, and incentives to students;

- c. Closing and/or locking defendant's office door when students were with defendant;
- d. Placing paper, blinds, curtains, or other coverings over the windows in defendant's office in the school;
- e. Communicating with students, inside and outside of school, via digital, mobile, and/or telephonic platforms, including Snapchat;
- f. Giving students rides in defendant's squad car and/or personal vehicle;
- g. Wrestling with students and/or other physical horseplay; and
- h. Inviting students to defendant's home, fishing, and/or on excursions with defendant.¹

¹ For example, in addition to other conduct set forth herein, defendant engaged in conduct with Bagley students, including the following:

1. With respect to J.W.:
 - a. having J.W. and other students in defendant's office in the school, beginning approximately J.W.'s 7th grade year (school year 2015-2016);
 - b. In or about November 2019, putting defendant's arm around J.W. and reaching into J.W.'s back pocket at the school;
 - c. communicating with J.W. by phone and Snapchat;
 - d. taking J.W. to defendant's home in Duluth in or about fall 2019; and
 - e. visiting J.W. and J.W.'s grandmother at J.W.'s home.
2. With respect to I.S.:
 - a. developing a relationship with I.S. as I.S.'s football coach, beginning in or about the summer of 2017, prior to I.S. starting 7th grade;
 - b. In or about August 2017, when I.S. was approximately 13 years old, defendant took I.S. and I.S.'s brother fishing on the lake outside defendant's home;
 - c. communicating with I.S. via Snapchat beginning in approximately 2017, and sending I.S. photos of defendant; and
 - d. calling I.S. down to defendant's office in the school for work period and providing I.S. with food.
3. With respect to W.S.:
 - a. communicating with W.S. via Snapchat, in or about 2016-2017, when W.S. was in the 7th grade;
 - b. In or about 2018, when W.S. began 9th grade, defendant re-added himself to Snapchat on W.S.'s phone after W.S.'s mother had made W.S. remove defendant as a friend on Snapchat;
 - c. having W.S. in defendant's office in the school alone and providing W.S. with candy.
4. With respect to N.S.:
 - a. In or about 2018-2019, having N.S. in defendant's office in the school and providing N.S. with pop;
 - b. going ice fishing with defendant and another individual in or about 2017 or 2018; and
 - c. communicating with defendant via Snapchat.
5. With respect to J.J.H.:

(Footnote Continued on Next Page)

2. With respect to T.N.:

- a. In or about 2014 or 2015, when T.N. was in the 7th grade and 12 or 13 years old, defendant started to build a relationship with T.N., and would spend time with T.N. in defendant's office in the school. Defendant began to position himself in close proximity to T.N. when they were together, which made T.N. feel awkward.
- b. In or about 2016 or 2017, on approximately 2 occasions prior to June 1, 2017, when T.N. was in the 9th grade and 14 or 15 years old, defendant touched T.N.'s penis over the clothes in defendant's office at the school. Defendant would begin by touching T.N.'s knee area and would gradually move his hand closer and

(Footnote Continued from Previous Page)

- a. developing a relationship with J.J.H., beginning in or about 2016 to 2017, when J.J.H. was in 5th or 6th grade;
 - b. spending time with J.J.H. in defendant's office in the school;
 - c. touching J.J.H.'s head and shoulders; and
 - d. giving J.J.H. a ride home from football practice.
6. With respect to A.R.:
- a. Beginning in or about 2016-2017, when A.R. was in the 8th grade, having A.R. and other students in defendant's office in the school for work period; and
 - b. communicating with A.R. via Snapchat.
7. With respect to P.S.:
- a. developing a relationship with P.S. beginning when P.S. was 14 or 15 years old in or about 2013 or 2014;
 - b. going to P.S.'s house to visit P.S. and P.S.'s mother;
 - c. communicating with P.S. via cellphone and Snapchat;
 - d. signing tardy slips for P.S.;
 - e. having P.S. and P.S.'s brother at defendant's home to play video games;
 - f. taking P.S. to Minnesota Wild hockey games at the Xcel Energy Center in Saint Paul, MN;
 - g. having P.S. stay overnight alone at defendant's house.
8. With respect to A.O.:
- a. developing a relationship with A.O. beginning in or about 2011-2012, when A.O. was in approximately the 5th grade;
 - b. having A.O. and other students in defendant's office in the high school beginning in or about 2013-2014, when A.O. was in the 7th grade;
 - c. communicating with A.O. via Snapchat and sending A.O. photos via Snapchat (up to approximately two photos per day);
 - d. going fishing and hunting with A.O. and others;
 - e. having A.O. in defendant's house; and
 - f. going to a restaurant with A.O. on more than one occasion.

closer to T.N.'s primary genital area. T.N. would tell defendant to stop, push defendant's hand away, or attempt to change the subject.

- c. In or about 2016 or 2017, on one occasion prior to June 1, 2017, when T.N. was in the 9th grade and 14 or 15 years old, Defendant touched T.N.'s penis area under the clothes in defendant's office at the school while T.N. attempted to push defendant off. Defendant told T.N. not to say anything because T.N. could get defendant in trouble.
- d. T.N. and defendant communicated in person, by text message, and social media, including Snapchat. When T.N. attempted to stop communicating with defendant, defendant would ask T.N. why T.N. was not hanging out with defendant and would make T.N. feel bad for not talking to defendant.
- e. In or about 2017 or 2018, when T.N. was in approximately 10th grade, defendant sent T.N. a SnapChat image of defendant's erect penis, with the message: "Well fuck lol."
- f. Defendant sent T.N. images of defendant's penis on other occasions as well and would tell T.N. they were sent accidentally.
- g. Defendant asked T.N. to promise not to tell anyone what happened between them.
- h. Defendant would call T.N. down to defendant's office for T.N.'s work period, defendant provided T.N. with food, and defendant offered to pay T.N. to help with chores at defendant's house.
- i. In or about 2016 or 2017, when T.N. was in 9th or 10th grade, defendant invited T.N. to a Minnesota Wild hockey game.
- j. T.N. went to defendant's house alone on one occasion.

- k. When T.N. noticed that defendant was approaching other students, including in or about the fall 2019, T.N. would reinitiate conversation with defendant in an effort to get defendant to leave others alone.
 - l. Defendant told T.N. that defendant sent pictures to I.S. via Snapchat.
3. With respect to J.H.:
- a. Between the fall of 2017 (when J.H. was a 7th grade student) and the fall of 2019 (when J.H. was a 9th grade student), defendant communicated with J.H. via Snapchat. J.H. had been “friends” with defendant on Snapchat since August 27, 2017, the year J.H. began 7th grade. J.H. got to know defendant, beginning in J.H.’s 7th grade year, through football. Defendant was also the School Resource Officer and a Deputy Clearwater County Sheriff (until being placed on leave on November 19, 2019), while J.H. was a student at the Bagley Secondary School.
 - b. On November 19, 2019, J.H. received a photograph of defendant on Snapchat, which depicted defendant lying in bed, and partially showed defendant’s face. J.H. indicated that it was normal for defendant to send J.H. pictures of defendant’s face while defendant is in bed.
 - c. Defendant would call J.H.’s work period teacher to request J.H. come to defendant’s office during J.H.’s work period, and J.H. would often be in defendant’s office in the Bagley High School alone with defendant during J.H.’s work period. While in defendant’s office, defendant provided J.H. with snacks and Propel Water.
 - d. In approximately October or November 2019, J.H. went to Detroit Lakes, Minnesota alone with defendant to pick up a four-wheeler for defendant.

- e. In or about October 2019, J.H. visited haunted houses with defendant and two other juveniles near Fargo, North Dakota.
- f. Prior to November 26, 2019, defendant asked J.H., in person and through Snapchat, to “hang out” on approximately three occasions, which made J.H. feel “weirded out.”
- g. J.H. went fishing with defendant alone on Lake Minerva twice during the summer of 2019. J.H. went inside defendant’s house on one of those occasions.
- h. Between approximately September 2019 and November 2019, while J.H. was 14 or 15 years old and in the 9th grade, on approximately 5 occasions in defendant’s office at the Bagley High School, defendant touched J.H.’s penis, and defendant grabbed J.H.’s hand and made J.H. touch defendant’s penis.
- i. During the most recent incident, which occurred in or about November 2019, defendant started touching J.H.’s stomach. Defendant loosened J.H.’s belt and placed defendant’s hand down J.H.’s pants. J.H. stated that J.H. tried to pull defendant’s hand out of J.H.’s pants but defendant kept defendant’s hand inside J.H.’s pants on J.H.’s penis. When J.H. asked why defendant was doing that, defendant did not respond. While defendant’s hand was touching J.H.’s penis, defendant grabbed J.H.’s hand and placed J.H.’s hand on defendant’s penis. While J.H. was touching defendant’s penis, defendant had an erection, but defendant did not ejaculate. J.H. described feeling “weirded out.” The door to defendant’s office was almost fully closed, but not latched, with a small gap left open.

- j. The first sexual contact between J.H. and defendant occurred in the early fall of 2019, about a month into the 2019-2020 school year. J.H. described that defendant started touching J.H.'s stomach under J.H.'s shirt. Defendant then unbuckled J.H.'s belt and put defendant's hand down J.H.'s pants. Defendant also unzipped defendant's pants in order to place J.H.'s hand on defendant's penis. After the first sexual contact, defendant told J.H. not to tell anybody. J.H. further described defendant asking J.H. to give defendant a "blowjob," but J.H. refused.
 - k. Defendant sent J.H. pictures of defendant's penis on Snapchat on approximately 3 occasions between approximately the summer of 2019 and November 2019. Upon receiving a photo of defendant's penis on one such occasion, J.H. sent defendant a question mark in response; defendant either said nothing or apologized. Defendant asked J.H. if J.H. would tell anyone, and J.H. replied no. Defendant also requested that J.H. send a photograph of J.H.'s penis on SnapChat to defendant on approximately one or two occasions; J.H. refused.
 - l. On or about November 19, 2019, the day BCA agents came to the Bagley High School, defendant told J.H. via Snapchat that J.H. might not see defendant for a while.
4. With respect to G.N.:
- a. On or about March 22, 2018, in a boys' restroom at the Bagley High School, defendant, acting as the School Resource Officer, conducted a search of G.N. During the search, defendant pushed his body against G.N.'s body and touched G.N.'s penis and testicles through the clothes. Defendant's face was close enough

to G.N.'s ear that G.N. could hear defendant breathing. G.N.'s pants were pushed down but G.N.'s underwear remained on.

5. With respect to B.T.:

- a. While B.T. was a Bagley student, B.T. often spent time in defendant's office at the school. Defendant provided snacks to B.T. and offered gifts and incentives to B.T. including offering to buy B.T. a watch and offering to let B.T. shoot defendant's AR-15 rifle at defendant's house if B.T. received good grades.
- b. In or about 2011 or 2012, when B.T. was in approximately the 7th grade, a school employee opened the door to defendant's office and observed B.T. sitting on defendant's lap, straddling defendant. Defendant and B.T. were facing one another.
- c. Thereafter, defendant put paper up in his office windows. Defendant later moved his office to another part of school.

B. Incidents Related to Scout Camp Acquaintances

6. With respect to J.D.:

- a. J.D. first met defendant at the Many Point Scout Camp ("Camp") in Ponsford, Minnesota in the summer of 2013, when J.D. was 15 years old. J.D. reported that defendant was in a leadership position at the camp and served as the camp resource officer. J.D. knew defendant to be a police officer at the time.
- b. J.D. returned to the Camp as a staff member in the summer of 2014, when J.D. was 16 years old. Toward the end of the summer, J.D. noticed that physical contact between defendant and J.D. and other staff members increased, including defendant rubbing staff members' heads, giving staff members back and neck

massages, and J.D.'s observations of defendant brushing by staff members and making contact with the clothing covering staff members' groin and buttock areas on multiple occasions.

- c. In or about the winter of 2014, when J.D. was 17 years old, J.D. met up with defendant on approximately two occasions at a movie theater, when J.D. had expected other Camp staff to be in attendance, however, only defendant appeared. J.D. felt uncomfortable being alone with defendant. Following these occasions, J.D. would bring J.D.'s sister along when J.D. would meet up with defendant.
- d. J.D. returned to the Camp as a staff member in the summer of 2015, from on or about June 10, 2015 to on or about August 17, 2015. During the summer of 2015, defendant demonstrated restrictive holds and takedowns on J.D. that defendant had learned as a police officer. During the summer of 2015, defendant served as the Camp's Reservation Program Director. Throughout that time period, defendant was in a position of authority over J.D. at the Camp.
- e. Between June 10, 2015, and August 3, 2015, when J.D. was 17 years old, J.D. drove from Camp to a McDonalds near Park Rapids, Minnesota, and back to Camp, with defendant in the passenger seat. During the drive back to Camp, defendant grabbed J.D.'s penis, while J.D. was driving. Defendant initially touched J.D.'s penis through the clothing; defendant then unbuttoned J.D.'s shorts and progressed to touching J.D.'s penis under the clothes. Defendant told J.D. not to talk or there would be consequences.
- f. J.D. also served as a staff member at the Camp in the summer of 2016, from on or about June 15, 2016, to on our about August 22, 2016. During the summer of

2016, defendant served as the Camp's Reservation Program Director. Throughout that time period, defendant was in a position of authority over J.D. at the Camp. During part of the summer of 2016, J.D. was sleeping alone in a tent in a remote location at the Camp. Defendant learned that J.D. was tenting alone and surprised J.D. in J.D.'s tent one night. Defendant got on top of J.D., restricting J.D.'s movement; J.D. reported that J.D. could not move at all. J.D. stated that defendant is much bigger than J.D. Defendant removed J.D.'s shorts and attempted to penetrate J.D. anally with defendant's penis, while J.D. stated "no," "stop," "please," "I can't do this." J.D. indicated that defendant was unable to penetrate J.D.'s anus with defendant's penis at that time. Defendant then grabbed J.D.'s hand and placed J.D.'s hand on defendant's penis; defendant used J.D.'s hand to manually stimulate defendant. Defendant then ejaculated. J.D. indicated that, the next morning, J.D. disposed of the fabric items onto which defendant had ejaculated.

g. J.D. returned to the Camp as a staff member in the summer of 2018, from on or about June 13, 2018 to on or about August 20, 2018. During the summer of 2018, defendant served as the Camp's Reservation Program Director. Throughout that time period, defendant was in a position of authority over J.D. at the Camp. Toward the end of the summer of 2018, J.D. drove defendant back from a bar to defendant's residence at the Camp. Defendant had been drinking alcohol, and J.D. walked defendant into the residence because defendant was stumbling. Inside the residence, defendant pushed J.D. onto defendant's bed and got on top of J.D. J.D. reported that J.D. tried to push defendant off J.D., but J.D.'s hands were

pinned under J.D.'s body and J.D.'s movements were restricted. Defendant grabbed J.D.'s crotch (primary genital area) through the clothes. J.D. yelled "no" and "stop," in the hopes that someone else would hear J.D., but defendant's roommates were not at the residence at the time. J.D. estimated that the incident lasted two or three minutes; defendant eventually stopped, and J.D. left the residence and returned to J.D.'s assigned location at Camp. J.D. and defendant's clothing remained on during that incident.

- h. On or about September 7, 2019, J.D. attended a wedding in Otsego, Minnesota at which defendant was also a guest. J.D. had been drinking alcohol and could not recall portions of the event. J.D. recalled waking up naked in defendant's nearby hotel room with defendant, who was also naked, lying on top of J.D. J.D. bled from the anus for approximately 3 days thereafter.
7. With respect to A.F.:
- a. Meeting A.F. when A.F. was a counselor-in-training at the Many Point Scout Camp, in the summer of 2014, when A.F. was 15 years old, and developing a relationship with A.F. beginning in 2014 through 2019 when A.F. was a staff member at the camp;
 - b. Rubbing A.F. and other male staff members' shoulders;
 - c. Asking A.F. to spend time with defendant at defendant's cabin;
 - d. Visiting with A.F. at the Minnesota State Fair in or about August 2019;
 - e. Pressuring A.F. to stay overnight with defendant at defendant's hotel room on or about September 7, 2019, the night of a wedding in Ostego, Minnesota; and

- f. Communicating with A.F. via Instagram and Snapchat until the time of defendant's arrest.

Evidence of the specific acts listed above goes to the defendant's state of mind regarding all the charged offenses. It is admissible as proof of opportunity, intent, plan, and absence of mistake or accident. Defendant's conduct as set forth above will be offered to demonstrate a common scheme or plan, or modus operandi, and to refute allegations of fabrication. The State intends to offer evidence of the specific incidents described above primarily through testimony of the respective victims at trial, as well as other witnesses. *See State v. Kennedy*, 585 N.W.2d 385, 389-90 (Minn. 1998) (finding "no merit" to defense argument "that the clear and convincing standard was not met because the trial court did not hear [victim's] actual testimony concerning the *Spreigl* incident before deeming it clear and convincing"); *see also State v. Dengler*, No. A13-1042, 2014 WL 2683938, at *4 (Minn. Ct. App. June 16, 2014) ("The district court has "broad discretion" to make a pretrial ruling based on an offer of proof and decide, after the state presents its case, whether a hearing is required."). In addition, such evidence is relevant and material to the State's case and the probative value of such evidence is not outweighed by its potential prejudice to defendant. *See, e.g., State v. Ness*, 707 N.W.2d 676, 686 (Minn. 2006) (setting forth 5-step process for determining admissibility of *Spreigl* evidence). The State also intends to rely on these incidents to rebut any potential defenses and/or to cross-examine any possible defense witnesses.

No notice is required for any crime, wrong, or act:

- a. for which defendant has been previously prosecuted;
- b. that may be offered to rebut defendant's character evidence; or
- c. that arose out of the same occurrence or episode as the charged offense(s).

See Minn. R. Crim. P. 7.02, subd. 1. Moreover, “[e]vidence illuminating the relationship between a defendant and victim is relevant,” and “general relationship evidence” is admissible without notice to the defendant “and without being treated as *Spreigl* evidence.” *State v. McCurry*, 770 N.W.2d 553, 561 (Minn. Ct. App. 2009); see also *State v. Boyce*, 170 N.W.2d 104, 115–16 (Minn. 1969). To the extent that any of the behavior described herein provides context for the crimes charged, arose out of the same episode as the charged offenses, or otherwise constitutes non-*Spreigl* evidence for which notice is not required, the State has provided this notice out of an abundance of caution. By doing so, however, the State does not concede that the applicable rules require notice for such evidence, or any other non-*Spreigl* evidence the State may seek to introduce at trial.

Dated: May 19, 2020

Respectfully submitted,

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s/ Erin R. Eldridge

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