

## **Statement**

Stephen A. Avery  
Parole Hearing  
Women's Correctional Facility  
Grants, New Mexico  
December 19, 2005

## **Status**

### **History of the Crime**

This was not a crime of passion; the inmate's actions proved both deliberate and planned over time. According to the inmate's own statements to the undercover deputy posing as the second 'hit man', she considered methods for my murder for two years and actively planned for my death at least a week before her arrest.

- She placed ads on the internet,
- Exchanged emails with prospective 'hit men',
- Reported that a first hit man was on the way from Oklahoma City,
- And spent an hour with the second 'hit man', the deputy.
  - Eight times, the 'hit man' brought up the fact that the children would be in the house when I was murdered. A ninth time she brought this same fact up.
  - As planned by the inmate, it is 100% certain that my murdered body would be discovered by one of the children, most likely by our seven year old.
  - The inmate knew that a real chance existed that the children would confront the murder and thus be at risk for murder themselves

Our children are just as much, or even more a victim of their mother's action as I or any one else. If this crime had been filed in 2006 instead of 2004 it is likely that the inmate would face additional charges for child abuse.

Unfortunately, child abuse entered our family life long before the events of February 2004 that resulted in the arrest of the inmate. In December 2002, the State removed the two younger children after substantiating charges of child abuse. The Guardian Ad Litem removed our oldest child from her care a few months earlier. The children spent less than a hundred hours with their mother since 2002. Before and after this period, long periods elapsed where the inmate made no attempt to contact her children. Once, when confronted on this at a hearing on June 16, 2003 before the Honorable Angela Jewell, the inmate actually blamed the children. When the inmate decided to take our divorce to the

Court of Appeals, she fought over money and not the Court's denial of custody and visitation.

The inmate enjoys a long history of ignoring orders and directions from the Court and officers of the Court. This history is well established in the record. There is even a recorded incident where the inmate obtained a 'routine' Domestic Violence Temporary Restraining Order that moved the children back into her custody despite the actions of the Court and the State. The inmate's historical disregard for the law includes falsely obtaining welfare, Medicaid, food stamps, selling the family home illegally, and other actions.

Of course addressing this behavior is exactly one of the prime objectives of the Department of Corrections' work with the inmate over the last several months. It is necessary to review what I know of the inmate's behavior and actions since her incarceration with the Department of Corrections.

Since placed into the rehabilitative care of the Department of Corrections the State transported the inmate to Albuquerque twice for Domestic Violence hearings in Albuquerque. In the first case, her former in-laws of her second marriage received a finding of Domestic Violence against the inmate for actions undertaken while in the custody of the Department of Corrections. In the second case, I successfully obtained a finding of Domestic Violence against one her 'alleged' family members, her 'alleged' father, Joseph Sanders.

I need to spend a few moments discussing Mr. Sanders. The inmate testified in two separate hearings that Mr. Joseph Sanders is her biological father.

The story, as communicated by Mr. Sanders is simple. Born and raised in Albuquerque Mr. Sanders claims to have found himself in North Carolina during the spring of 1966 and had an affair with the inmate's mother, Edna Long. He then returned home to Albuquerque where twenty some odd years later, the inmate left North Carolina and moved across the country to, coincidentally, to the same town that this biological father lived in.

Mr. Sanders only admitted to the most remarkable coincidence under questioning in a hearing held by Commissioner Shepard last month, the miracle of the inmate's alleged 'half sister', the legal daughter of Joseph Sanders, a Rachelle Sanders, is serving here in this very prison with the inmate.

Naturally, Mr. Sanders is not the inmate's biological father, despite the testimony of the inmate in Court. The warden of this prison and the general counsel of the Department of Corrections are in receipt and responded to a letter from the inmate's mother denying the relationship. I brought a copy of this letter with me, as Ms. Garcia tells me that it is not in the Parole Board's file.

Additionally, Mr. Sanders was found to have committed an act of Domestic Violence against me when he threatened me and represented himself as a hit man. I have brought a copy of the relevant order and an audio copy of the hearing.

Imagine, my shock on learning last week, the Department of Corrections parole plan for this inmate included release to this 'biological' father, the very man found guilty of threatening me and representing himself as another hit man.

It is unclear if the inmate's second suicide attempt in custody occurred while in the custody of the Department of Corrections or in the custody of the Bernalillo County Detention Center. But there were at least two suicide attempts while in custody.

When the inmate first entered into custody, she falsely accused a guard of sexually assaulting her. Just last month, according to Ms. Frank, she accused another guard of assaulting her while in the temporary custody of the Bernalillo County Detention Center. I was present as she loudly threaten to make these charges.

Of course, all of this is public record or reported by correctional employees, the Board may have access to additional information.

## **Risk**

Although the State of New Mexico's risk assessment value assigns only a three percent (3%) chance of mental health issues impacting the success of an inmate's arrest, studies in Ohio and Washington State show the failure rate at over seventy percent (70%). This is twice the risk associated with an inmate without serious mental health issues.

The inmate's mental illness is well documented in both Family Court and Criminal Court. Indeed the severity of her mental illness formed the basis of her defense during the inmate's sentencing.

The inmate's mental health proved the focus of the Court's sentence. Six of the Court's ten Special Conditions addressed mental health. Two addressed standard fees and the remaining addressed the safety of our family.

Ms. Frank informs me that one of the proposed actions by the Department of Corrections is a thorough new evaluation of the inmate. Ms. Frank indicates this as an example of the Department's own ongoing concerns about the inmate's mental health.

Complicating the discussion of the inmate's mental illness is her gift of intelligence. As she told the undercover sheriff deputy, she graduated from college Phi Beta Kappa in the top thirty of over three thousand in her graduating class at UNM.

Dr. Yutzy, a few days before the inmate accused a correctional employee of sexual assault, noted to Captain Fosset that the inmate was a "manipulator and was not as mentally ill as she was leading".

Fortunately, the risk associated with the inmate's mental illness can be reduced to one issue – her status as a *victim* of domestic violence. As long as the inmate is supported in her delusion as a victim of Domestic Violence, she will fail rehabilitation and the danger to my family will continue.

Dr Zieman, the Court appointed 706 expert in Family Court, was unable to determine if the inmate was a victim of Domestic Violence in his testimony on November 15, 2002. In his written report he did note that the children denied that the inmate was a victim and the only incident he documented involved the *inmate* physically assaulting me while I was driving on the freeway with the inmate and the children in the car.

During a hearing the inmate requested before the State Protective Services in an attempt to regain custody or even visitation with the children, the inmate alleged that I was threatening the life of both her and her second husband.

Michelle Herrera, the Supervisor conducting the hearing, asked the inmate to provide a specific example of being a victim of domestic violence. Also present at the hearing was the children's GAL, now the Honorable John Romero.

The inmate told a story about sitting in the living room at some unspecified time during our marriage with me on the couch. Suddenly, I grabbed her and slammed her head against the cement floor. Ms. Herrera told the inmate that she was not credible and sustained the previous finding of child abuse against the inmate.

During her interrogation by the Bernalillo County Sheriff's Department, the deputy spent over a half hour attempting to find a justification by the inmate for seeking my death to allow the inmate to document her claims of abuse. During the half hour the inmate raised the following:

- Sometime during our fifteen years of marriage, the inmate had fled domestic violence and spent a couple of days at a shelter. She was not specific as to the time and shelter and the incident simply never occurred.
- Two years before her arrest, I had broken into the family home and damaged it. She neglected to tell the deputy that I was actually with an officer of the Court at the time following the orders of the Court and that she had just illegally sold the home in defiance of a Court Order. Both Judge Jewell and Commissioner Shepard heard this matter and cleared me of the allegations made by the inmate.
- That while raising the three children by myself, and running two businesses, I allegedly constantly parked across the street and honked the horn at her.
- That in 1993, I allegedly beat her while pregnant with our daughter Jessica. During this incident, I was suffering from pneumonia and still held the illusion that our family could maintain some dignity. The District Attorney's office later dismissed the charges when the inmate's subsequent actions indicated that the wrong person had been arrested.

The inmate's best friend for several years notes that the inmate made allegations about abuse by her family, specifically her late stepfather, that are eerily similar to the allegations she now makes about me. I confirm this statement. She further affirms that during her three years of close friendship that the inmate never made an accusation of domestic violence and she is confident that the inmate would have if such an event occurred.

Additionally, another of the inmate's best friend, from a previous period makes the same statements.

The Albuquerque Police Department once informed me that I was one of the most thoroughly investigated stalker and abuser in the unit's history and that my file was over a foot thick. Finally, they sent an officer to confront me, an attempt to trigger this infamous anger that the inmate filed report after report over. After I responded respectfully but with some strength, the officer asked me if the inmate had a mental health diagnosis.

Yet, the inmate continues to benefit from her representation as a victim of Domestic Violence. During a hearing before Commissioner Cosgrove, while incarcerated, the inmate told the Commissioner about the charges she faced: “Those concern my ex-husband who beat the hell out of me for sixteen years and I got a little sick of it and just lost my head over it”.

During her sentencing the inmate blamed her actions on complex post traumatic stress syndrome arising out of years of abuse.

During our recent appearance in Commissioner Shepard’s hearing room, the inmate began yelling at me to stop ‘staring’ at her.

Dr. Thomas Gross, the inmate’s primary care physician for over a decade made one insightful comment into the inmate’s mental health during one of the investigations -- “Patricia believes everything she says”.

Dr. Zieman, the aforementioned 706 expert, noted that the inmate seemed to enjoy and thrive on being the victim of domestic violence.

Time and time again, I have publicly stated that the actions of the inmate should not interfere with any of the necessary systems our society has established over the years for the protection of women and children from Family Violence. It was not surprising that advocacy groups dedicated to this issue initially provided the inmate with support as she made these allegations, until the extent of the inmate’s mental illness became clear to them. In one case, they asked the inmate to leave and not return when she beat our youngest child in front of some of the staff, claiming he was having an asthma attack and her striking him again and again on the back was allegedly ‘helping’ the child.

And I imagine the inmate continues to find new voices that listen to her, such as the social worker at her sentencing that described me as a rapist in front of my oldest child, my parents, and the media with no evidence beyond the inmate’s representation that I was a rapist.

Putting all of this together, the inmate’s extensive mental illness is well known to the Courts, the Department of Corrections, and the public. However, where the Courts have concluded that the inmate’s representation of herself as a victim of domestic violence is inaccurate and; in fact, a contributing factor to her mental illness, it is likely that the Department of Corrections has been treating the inmate for the *symptoms* of her mental illness post traumatic stress syndrome and not her actual mental health problems.

The first psychiatrist that treated her diagnosed Histrionics, which makes more sense to those familiar with the inmate. I tend to follow Dr. Gross’ comments and look toward a mild form of paranoid schizophrenia. I honestly believe the inmate believes what she says, that her mental illness results in her seeing and remembering events that never occurred. These imaginary events, by the inmate’s own statement, formed the foundation for her criminal actions.

But we will never know until someone decides to move past her brilliant mind and her representation as a victim and into the real problem.

Let me point out that I had had zero contact with the inmate for a full seven months before she sought my death. Zero. The question remains what horrible events occurred

within her own mind that necessitated my death and the terror is the realization that nothing has changed.

## **Concerns**

I rely on the Parole Board to provide the following assurances:

- All of the Special Conditions relative to the inmate's release outlined in the inmate's Judgment by the Court are met.
  - Specifically, the inmate successfully completed the Therapeutic Communities which Judge Murdoch stated could not be completed until over a year from today
  - That the inmate is participating in Mental Health treatment per her physicians at the University of New Mexico and taking any medications prescribed.
  - That the Bridges program accepted the inmate and she will be attending that program.

I respectfully remind the Board that New Mexico Corrections Department Policy CD-050200 requires the Parole Staff to return to the Court for alternatives if any of these three Special Conditions have changed and Court. New Mexico Statute 31-26-4(D) requires notice of such contact with the Courts to be provided to the victim.

- That the Department of Corrections proposed parole plan is reasonable and fulfills the stated objectives of successful rehabilitation and protection of the Community.
  - It is simply inconceivable that a plan that call for the release of an inmate convicted of attempting to hire a hit man to kill me can be paroled to an imaginary 'father' who has been found guilty of threatening me as a hit man. A man whose true relationship with the inmate arises out of association with other criminals, specifically Rachelle Sanders and the late Joseph A. Sanders Jr.
  - The Department of Corrections is in receipt of a letter written by the inmate's mother Edna Long denying that Joe Sanders is the biological father of the inmate. Initially, Ms. Frank reported that she had a copy of this letter. Now, I am told that the Parole Board does not have a copy. I am providing one.
  - It is also of great concern that Judge Murdoch is told in the pre sentence report and relies on in his sentence the knowledge that the Therapeutic Communities would require approximately two years at this facility for the inmate to complete. The current parole plan completely disregards this Special Condition.

These points raise serious concerns about the quality and reliability of the parole plan this Board is asked to adopt.

- All of these issues that I covered to this point, raise the issue about how the inmate managed to earn meritorious deductions.

Again, if the Board approves Parole today it is because: 1) all of the relevant Special Conditions have been met, 2) the care and competence of the proposed parole plan as reflected by the decision to parole an inmate looking for a hit man to a man convicted of threatening the victim as a hit man is adequate to the Parole Board and 3) the Parole Board is confident that the meritorious deductions the inmate received are correct.

If the Board is not sure but any of these issues, then I suggest they refer the proposed parole plan back to the Department of Corrections for clarification.

### **Legality**

I am also not convinced as to the legality of parole based on meritorious deductions. The Statue reads as follows:

#### **31-26-4. Victim's rights.**

A victim shall have the right to: (1). be informed by the court at a sentencing proceeding that the offender is eligible to earn meritorious deductions from the offender's sentence and the amount of meritorious deductions that may be earned by the offender

Ms. Frank has agreed that I received no such notice and in an email to me on December 14, 2005 she took the following position.

The state statute to which you have referred does provide that victims should be informed of the possibility of meritorious good time deductions for inmates; however, it does not provide a remedy in the event that such information is not provided. As a result it is in the class of statutes that is viewed more as "advisory" in nature. While we agree that you had every right to be, and should have been, informed, the fact that you were not, sadly, has no available remedy.

It appears that unless the Parole Board agrees with my position we will have to look toward the Court's for resolution. I included this matter in my filing before the sentencing judge last Friday. This was in addition to the apparent action proposed by the Department of Corrections in contradiction of their own policies and the sentencing judge's sentence. I have provided you with a copy of this motion.

## ***Conditions of Release***

I should emphasize that the family continues without peace. In the few months since the inmate was sentenced, she has filed two appeals with the Court of Appeals, six court motions, including several involving the children, and introduced this new ‘father’ who told me that if Patricia does not see the children he would. This aside, at some point and time the inmate will be released.

Again, I understand that the Department of Correction’s risk assessment form places almost no value on an established history of mental illness. With this in mind, I ask the Parole Board to consider the following additional Conditions of Release

- 1) In addition to no contact with the family, I ask the parole board to extend this to my extended family and the Honorable Judge John Romero.
- 2) Require advance approval of any change in residency.
- 3) Begin with intense supervision and notify me when she is removed.
- 4) I agree with the need for a through mental health evaluation but I ask the Parole Board to seek the following clarifications;
  - a. Complete a complete history of the inmate for the specific objective of forming an opinion about the inmate’s allegations of abuse and the impact to her mental health. This history should include comprehensive review of the inmate’s records and interviews with those knowledgeable to include the inmate’s family, myself, Judge Romero, Visitation Supervisors at APN, Dr. Zieman, Dr. Flammer, Dr. Gross, and nay other person necessary to reach an opinion. I will release any of my own records or the children’s records needed. Further, I will make the children available for interview
  - b. I am asking this for a simple reason. All of us familiar with the inmate feel there are only three possible futures for us – my death by the inmate, a suicide, by the inmate, or a breakthrough in the treatment of the inmate’s mental illness. It is obvious that the latter is in the best interest of all, especially the children. It is just as obvious that none of the valiant efforts by the Department of Corrections over the last year have made significant progress in addressing the inmate’s mental health.
  - c. Once this through mental health evaluation is complete, develop a treatment plan that deals with the actual underlying mental illness that plagues the inmate and endangers our family.

## ***Attachments***

1. Judgment – State v Patricia Long
2. Official Transcript of Sentencing Proceeding (copy)
3. “Mentally Ill Offender Treatment and Crime Reduction Act” oral testimony by Dr. Reginald A. Wilkinson, President of the Association of State Correctional Administrators before the United States Judiciary Committee (July 2003)
4. Police Report 2/17/04
5. Finding of Domestic Violence and Restraining Order Aver v. Sanders (November 2005)
6. New Mexico Department of Corrections Policy CD-050200
7. Letter from Edna Long to the General Counsel of the Department of Corrections (October 2005)
8. Motion for Reconsideration of Sentence (December 2005)

Stephen A. Avery

December 19, 2005.