

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCHENRY

NORTHEAST JUDICIAL DISTRICT

State of North Dakota, )  
Plaintiff, )  
vs. )  
Marget Dale Anderson )  
A.K.A. Maggie Anderson )  
Date of Birth: 08/13/1967 )  
Defendant. )  
  
Julie Patricia Leer )  
Date of Birth: 08/08/1963 )  
Defendant. )  
  
Jonathan Edward Alm )  
Date of Birth: 12/01/1976 )  
Defendant. )  
  
Laura Gotvaslee )  
A.K.A. Laurie Gotvaslee )  
Date of Birth: 01/16/1962 )  
Defendant. )  
  
Jennifer Lee Barry )  
Date of Birth: 09/01/1973 )  
Defendant. )

**Probable Cause Affidavit**

I, S/A Craig Zachmeier, being first duly sworn, depose and swear that I have a peace officer's license through the State of North Dakota, and that I am employed with the North Dakota Bureau of Criminal Investigation, a division of the North Dakota Attorney General's Office. I swear and affirm through the penalty of perjury that the following statements made in this affidavit are true and correct to the best of my knowledge, information and belief.

June 8, 2015

1. 3:15 pm-The McHenry County Sheriff's Department responded to the Velva city pool for a five-year-old, later identified as GA (date of birth 10/21/2009) that was located in the pool unresponsive. Upon arrival by the Sheriff's Department, resuscitation efforts were being conducted by lifeguards of the Velva city pool, the Velva ambulance service, and others.

2. GA was transported to Trinity Hospital in Minot and then airlifted to the Sanford Children's Hospital in Fargo, North Dakota. (On July 1, 2015, GA died as a result of the drowning at the Velva pool.)
3. Law Enforcement learned that GA was under the supervision of HEATHER TUDOR, who operated the KidQuarters daycare in Velva, ND on June 8, 2015, at the time of drowning.
4. McHenry County Deputy Sheriff Scott Bicknese contacted McHenry County Social Services Child Protection Worker Eileen Lindbo to advise Eileen Lindbo of the GA incident. Eileen Lindbo advised that she was unaware of any problems with the KidQuarters Daycare and that she was aware it was a licensed daycare. Eileen Lindbo advised she would need to talk with McHenry County Social Worker CHERYL JOHNSON in reference to the daycare as CHERYL JOHNSON was in charge of licensing daycares for McHenry County.
5. Deputy Zac Thiessen responded to HEATHER TUDOR's daycare, the KidQuarters Daycare in Velva, North Dakota. Deputy Thiessen requested a list of the names of the children who were at the pool on this day. Deputy Thiessen was given a list of seventeen (17) names. It was further learned that HEATHER TUDOR and employee MK (16 years old) took the seventeen (17) daycare children, including GA, to the Velva pool.
6. McHenry County Deputy Scott Bicknese conducted an interview with MK (date of birth 2/26/1999) in the presence of her parents Michelle Schmaltz and Ross Keller. MK advised that HEATHER TUDOR had to pay for some of the kids to enter the pool. (It was later learned that GA was one of these children.)
7. MK advised that eleven (11) children were assigned to HEATHER TUDOR and six (6) children were assigned to MK. MK was in the bigger pool while HEATHER TUDOR was in the wading pool. While at the pool the children would go back and forth between the two pools meaning the exact assignments of the children changed.
8. At the end of the interview, MK stated "all I know is that we were over kids."

July 15, 2015

1. S/A Zachmeier met with GA's mother, Lynne Aschenbrenner and Lynne Aschenbrenner's boyfriend David Reisenauer. Lynne Aschenbrenner and David Reisenauer described David Reisenauer as being GA's father as GA's biological father last saw GA in October 2012. Lynne Aschenbrenner and David Reisenauer have been together for three years.
2. Lynne Aschenbrenner advised that she signed GA up for the KidQuarters daycare in October 2014. Lynne Aschenbrenner met with daycare owner HEATHER TUDOR.
3. S/A Zachmeier asked Lynne Aschenbrenner about what took place on June 8, 2015. Lynne Aschenbrenner advised that she dropped GA off at the KidQuarters Daycare between 7:20 AM and 7:30 AM. Lynne Aschenbrenner explained that she did not know GA was going to be taken to the Velva public pool. Lynne Aschenbrenner was aware that GA took her swimsuit on June 8, 2015, but thought they were going to play in a sprinkler at the KidQuarters daycare, not go to a public pool. Lynne Aschenbrenner

reiterated that she did not give HEATHER TUDOR permission to take GA to the public pool.

4. David Reisenauer then advised that approximately one month prior to June 8, 2015, he went to the KidQuarters daycare to pick up GA. HEATHER TUDOR told David Reisenauer that in the future, GA needed a swimsuit to go to the pool. David Reisenauer advised HEATHER TUDOR that GA cannot swim and that they would need to talk about this before GA goes to the pool as she would need either floats and/or a lifejacket which were at the lake.
5. The KidQuarters' policy manual stated that the KidQuarters daycare is a privately owned childcare facility. The manual identified HEATHER TUDOR as the owner/ operator. The policy manual explained that the KidQuarters Daycare is a licensed daycare by the State of North Dakota Department of Human Services. HEATHER TUDOR stated that she has three (3) group licenses which allowed the KidQuarters Daycare to care for eighteen (18) children in the downstairs daycare, fifteen (15) children in the upstairs daycare and eighteen (18) children at the 2044 Street West site in ages from infants to twelve (12) years.
6. Under the preschool portion (GA was a pre-school child) of the policy manual it stated for children ages three (3) through five (5). These programs are designed to prepare your child for the learning environment. Children are encouraged to express themselves as they learn about the world around them in a safe, warm, and affectionate atmosphere.

August 17, 2015

1. S/A Zachmeier contacted McHenry County Social Worker CHERYL JOHNSON and requested CHERYL JOHNSON forward S/A Zachmeier the most recent Health Inspection form for the KidQuarters Daycare. Social Worker Johnson questioned S/A Zachmeier as to why S/A Zachmeier needed this form. S/A Zachmeier explained to CHERYL JOHNSON that S/A Zachmeier was preparing an affidavit for search warrant for the KidQuarters daycare and that HEATHER TUDOR would be criminally charged in reference to GA's death.
2. Chery Johnson asked S/A Zachmeier what HEATHER TUDOR would be charged with. S/A Zachmeier explained that it would most likely be a child neglect, reckless endangerment, negligent homicide charge and possibly for violation of North Dakota Century Code Chapter 50-11.1-02.1 which is titled "Number of children in program - How determined." CHERYL JOHNSON advised that HEATHER TUDER was well within her ratio of staff to child while at the pool, and barely needed a second person with at the pool.

August 19, 2015

1. S/A Zachmeier obtained a search warrant for the KidQuarters daycare in Velva, ND. The search warrant was executed. During the search warrant a daycare license for a group child care was located on the wall, on the upper floor certifying that The KidQuarters, LLC I, 12 2<sup>nd</sup> Street West, Velva, ND was licensed from June 2, 2015 through June 1, 2016 for a maximum of thirty (30) children. The license number was 25-82-3853-H. The license was issued through the North Dakota Department of Human Services.

2. During the search warrant a daycare license for a group child care was located on the wall, in the basement floor certifying that The KidQuarters, LLC II, 12 2<sup>nd</sup> Street West, Velva, ND was licensed from June 2, 2015 through June 1, 2016 for a maximum of twenty-seven (27) children. The license number was 25-82-3854-H. The license was issued through the North Dakota Department of Human Services.
3. HEATHER TUDOR admitted, after receiving her miranda rights, to S/A Zachmeier that she intermingled the children from the upstairs daycare with the children from the basement daycare, to maintain her ratio of staff to child. This included on June 8, 2015 when HEATHER TUDOR took the children to the Velva pool when the GA drowning and subsequent death occurred. HEATHER TUDOR took seventeen (17) children off of the KidQuarters property and took them to the Velva Public Pool. These seventeen (17) children ranged in age from two (2) to seven (7).
4. HEATHER TUDOR admitted to S/A Zachmeier that she did not have permission from Lynne Aschenbrenner or David Reisenauer to take GA to the pool on June 8, 2015. HEATHER TUDOR further stated she did not have liability insurance on the daycare since January 1, 2015. HEATHER TUDOR's policy manual, which was provided to S/A Zachmeier by Lynne Aschenbrenner, stated that HEATHER TUDOR does maintain liability insurance for the business.
5. After the search warrant, S/A Zachmeier conducted a search warrant debriefing. Child Protection Worker Eileen Lindbo reviewed an email sent to Eileen Lindbo by ALYSHA BERG with the North Dakota Department of Human Services dated June 9, 2015. Multiple persons with the Department of Human Services, including: Heather Steffle, Shari Doe, Rosalie Etherington, Russ Korzeniewski, MAGGIE ANDERSON, JULIE LEER, Thomas Solberg, LAURIE GOTVASLEE, Andrew McLean, Marlys Baker, LuWanna Lawrence, Cynthia McIntee, Brenna Thompson, JENNIFER BARRY, CHERYL JOHNSON, Scott Peterson, and Eileen Lindbo.
6. The email read:

"Ok, thank you all for your patience while I have tried to maintain an appropriate list of persons to notify of this incident during the time of many list changes. If you are new to this group message my apologies for not getting you the info sooner. If I am still missing someone, please do let me know! Additionally, if you are no longer to be on this email list, please let me know for future reference! Thanks!

I just visited with a supervisor at the Kids Quarters Child Care in Velva. Heather Tudor, director, is off today as is the other staff that was present with the children at the pool when this occurred.

GA attended the KidQuarters LLC I site in Velva. This is a group facility licensed for up to 18 children ages 0 to 12. The site is in the upstairs of a home. The basement is licensed as well, KidQuarters LLC II also for up to 18 children. Both licensed as group facilities. Heather Tudor is the owner of these facilities. The two facilities are separate but also fluid. The staff works at both sites. Heather was present yesterday and acting as group supervisor as well. Today Randi Kiser is acting as the group supervisor.

The initial license date for the facilities was June 2, 2008. The facilities license's expired June 1, 2015. I haven't yet received the renewal paperwork. Randi stated that licensing was out recently to complete the relicensing process with them. On June 1, 2015 the licensor informed me that she did the site visit for relicensing on May 27, 2015 but that she was waiting on a few things.

There have been no concerns with the facility and actually they were just looking at increasing the number of children they are licensed to care for. They have had one correction order, regarding expired CPR and first aid. Randi informed me that she and Heather Tudor renewed together recently but could not find the cards. She assured me they both our current with CPR\FA certification at this time.

Yesterday, there were 17 children that went to the Velva pool with Heather Tudor (operator) and MK (16-year-old staff). These children ranged in age from two years old to seven years old. The ratio for these 17 children is within child to staff ratio according to the Group Administrative Rules and their ages (1.67). Randi stated the younger children who did not go were back at the facility with 3 staff to 13 children. Yesterday there were 30 children present between the two facilities with five staff present.

I asked Randi to please complete the licensing forms affiliated with these types of incidents in that she please fax them to me at her earliest convenience as the licensor is out of the office today. She stated that staff or overall doing okay. They were hopeful yet that the child will not pass away although the prognosis is not good as the child is on life support at this time.

Such a very sad start to summer. Keep asking as you have questions. Thanks so kindly, ALYSHA BERG licensed social worker."

8. This was the first time Law Enforcement had heard that the KidQuarters' daycare license had expired on June 1, 2015 and that the daycare was not licensed on June 8, 2015.

August 20, 2015

1. S/A Zachmeier contacted via telephone ALYSHA BERG at her office at the North Dakota Department of Human Services. S/A Zachmeier questioned ALYSHA BERG in reference to if the KidQuarters daycare was legally licensed on June 8, 2015. ALYSHA BERG verified it was not and stated that the license had expired. ALYSHA BERG contacted licensing agent McHenry County Social Worker CHERYL JOHNSON on June 1, 2015 about the status of the KidQuarters daycare license reapplication. CHERYL JOHNSON advised ALYSHA BERG that HEATHER TUDOR had completed the relicensing application on May 27, 2015, but was waiting on the Fire Inspection and Health Inspection to complete the packet to forward to the State for relicensing.
2. ALYSHA BERG advised she did grant two daycare licenses to KidQuarters daycare, one for the upstairs and one for the basement. ALYSHA BERG advised that the daycare licenses were back-dated to June 3, 2015 (really June 2, 2015), but that was not the valid date. The licenses would not have been valid until June 22, 2015, when the Health Inspection was complete.

4. S/A Zachmeier asked ALYSHA BERG why the licenses were back dated. ALYSHA BERG stated that she works off the documents and recommendation provided to her by the local county licensing agent, in this case CHERYL JOHNSON. CHERYL JOHNSON requested the license be issued for June 3, 2015 (really June 2, 2015). ALYSHA BERG advised she used the documents provided by CHERYL JOHNSON to grant the relicensing, including relicensing the premises for a total of fifty-seven (57) children.

August 24, 2015

1. S/A Zachmeier and McHenry County Sheriff's Deputy Calise Linstrom met with Director of McHenry County Social Services Mary Hermanson. S/A Zachmeier asked Mary Hermanson who at the county level would recommend to the state to shut down the KidQuarters Daycare. Mary Hermanson stated that would come from CHERYL JOHNSON.
2. S/A Zachmeier asked Mary Hermanson how a daycare gets licensed by the state. Mary Hermanson advised it comes from a recommendation from the local Social Services, and in the case of the KidQuarters daycare from Social Worker CHERYL JOHNSON. CHERYL JOHNSON would forward the application packet to the state.
3. S/A Zachmeier and McHenry County Sheriff's Deputy Calise Linstrom met with Social Worker CHERYL JOHNSON in CHERYL JOHNSON's office at the McHenry County Court House. CHERYL JOHNSON advised:
  - A. She recommended the KidQuarters daycare for relicensing as without the daycare it would be a hardship for the community (meaning the community of Velva).
  - B. CHERYL JOHNSON verified that she was aware that the KidQuarters daycare licenses expired on June 1, 2015.
  - C. CHERYL JOHNSON admitted that she makes a recommendation of whether or not the daycare license should be approved or denied.
  - D. S/A Zachmeier asked CHERYL JOHNSON if she recommended the KidQuarters daycare for relicensing on the current daycare licenses. CHERYL JOHNSON responded "I do." CHERYL JOHNSON explained to S/A Zachmeier that the KidQuarters daycare is considered two (2) facilities.
  - E. S/A Zachmeier asked CHERYL JOHNSON how the KidQuarters daycare is getting licensed under two facilities. S/A Zachmeier explained that according to century code thirty (30) or less children are considered a group childcare center and thirty (30) or more children are considered a childcare center. CHERYL JOHNSON responded, "as I understand it they can't do it anymore, but the ones that were already licensed got to continue."
    1. North Dakota Century Code (NDCC) Chapter 50-11.1-02.1 is titled "Number of children in program - How determined." The Chapter states: For the purpose of determining the number of children

receiving early childhood services, all children present on the premises and under the age of twelve years must be counted. All children present are protected by this chapter regardless of whether money is received or goods or other services are received for their care.

2. North Dakota Century Code (NDCC) Chapter 50-11.1-03 titled "Operation of early childhood services program-License required-Fees"- The Chapter states:
  - A. A license for family child care is required if early childhood services are provided for four or more children ages twenty-four months and under, or six or seven children through age eleven at any one time which includes no more than three children under twenty-four months of age.
  - B. A license for group child care is required if early childhood services are provided for at least eight and no more than thirty children at any one time.
  - C. A license for a child care center is required if early childhood services are provided for more than thirty children at any one time.
3. North Dakota Administrative Code (NDAC) 75-03-09-07 titled- "Application for and non-transferability of group child care license"- the code states:
  - A. An application for license must be submitted to the authorized agent. (CHERYL JOHNSON is the authorized agent). Application must be made in the form and manner prescribed by the department.
  - B. A license issued under this chapter is nontransferable and valid only for the premises indicated on the license.
  - C. An application for a new license must be filed upon change of provider or location.
  - D. The department may not issue more than one in-home registration, self-declaration, or license per residence. A residence means real property that is typically used as a single family dwelling. A provider or operator with more than one in-home registration, self-declaration, or license in a single residence or two or more providers or operators operating under in-home registrations, self-declarations, or licenses out of the same residence prior to January 1, 2011, will be exempt from this subsection until January 1, 2016, after which time all operators will be subject to this subsection.

(Please note that the KidQuarters daycare was a church converted to a daycare. It was not used for a residence, was not commonly used as a single family dwelling, and it was obvious that no one lived there.)

- F. CHERYL JOHNSON indicated that KidQuarters Daycare was allowed a license as a double group."
  - 1. According to NDCC 50-11.1-03, NDAC 75-03-09-07 and NDAC 75-03-10-07 the KidQuarters Daycare was not allowed to be double grouped.
- G. S/A Zachmeier told CHERYL JOHNSON that CHERYL JOHNSON recommended the KidQuarters daycare for the two licenses. CHERYL JOHNSON stated "my understanding is that I have no way to stop that."
- H. S/A Zachmeier advised CHERYL JOHNSON that the KidQuarters daycare did not meet the criteria as they were intermingling the kids. CHERYL JOHNSON responded "oh well, I didn't mean oh well, but they are not supposed to intermingle, but we cannot know day-to-day what they are doing."

(Please note that it was obvious from a site visit that kids would be intermingled under the two (2) group licenses based on the setup, floor plan, policy, and operation of the daycare.)

- I. S/A Zachmeier asked CHERYL JOHNSON if CHERYL JOHNSON remembered speaking with S/A Zachmeier on Monday (August 17) when CHERYL JOHNSON told S/A Zachmeier that the KidQuarters daycare was within the acceptable ratio of staff to child on June 8, 2015 while at the Velva pool when GA drowned. CHERYL JOHNSON responded "yes, that was my understanding, I had a list of kids, they were within ratio, they barely needed two (2)." S/A Zachmeier asked CHERYL JOHNSON how many kids a daycare could have if it was not licensed. CHERYL JOHNSON responded "five."

(Please note that CHERYL JOHNSON was aware on June 8, 2015 at the time of the GA drowning and on August 17, 2015 when S/A Zachmeier spoke with her, that on June 8, 2015 that the KidQuarters Daycare was not legally licensed under NDCC 50-11.1, as the license expired on June 1, 2015. This meant on June 8, 2015 the KidQuarters Daycare was operating as an unlicensed daycare and according to 50-11.1-03 could have a maximum of seven [7] children.)

- J. S/A Zachmeier asked CHERYL JOHNSON if the KidQuarters Daycare was licensed on June 8. CHERYL JOHNSON sat quiet while thinking. CHERYL JOHNSON then responded "Well her license had lapsed."
- K. S/A Zachmeier again asked CHERYL JOHNSON if the KidQuarters Daycare was licensed on June 8. CHERYL JOHNSON responded "I'm not sure why that's considered, they are allowed to continue to operate it's not an unusual thing."

L. S/A Zachmeier asked CHERYL JOHNSON where she got that understanding from. CHERYL JOHNSON responded "I suppose from the state." S/A Zachmeier asked CHERYL JOHNSON from whom at the state. CHERYL JOHNSON responded "I don't know I've been doing this a while."

M. S/A Zachmeier asked CHERYL JOHNSON if she knew on June 1 that the license had lapsed. CHERYL JOHNSON stated "well sure."

N. S/A Zachmeier asked CHERYL JOHNSON why the daycare was not shut down at the county level. CHERYL JOHNSON responded "I actually don't have the authority to shut down the daycare." S/A Zachmeier advised CHERYL JOHNSON that it was an unlicensed day care. CHERYL JOHNSON stated "no, as I understand it, I wouldn't. CHERYL JOHNSON added "I wouldn't have made the recommendation anyway."

O. S/A Zachmeier explained to CHERYL JOHNSON that it was a misdemeanor for a daycare to operate without a license and that CHERYL JOHNSON was allowing the daycare to break the law. S/A Zachmeier asked CHERYL JOHNSON how she can allow somebody to break the law when it comes to the safety of kids. CHERYL JOHNSON responded "they are usually allowed to continue to operate pending documents, yes."

P. S/A Zachmeier explained that century code does not allow a grace period when it comes to the licensing of daycares. S/A Zachmeier asked CHERYL JOHNSON if she would still allow the daycare to operate and break the law. CHERYL JOHNSON stated "I suppose its unofficial policy." S/A Zachmeier asked CHERYL JOHNSON where that policy comes from. CHERYL JOHNSON responded "I don't know."

4. S/A Zachmeier reviewed state form 1425 which is a form which the authorized agent signs recommending relicensing for a daycare.

- A. The authorized agent signature has the signature of CHERYL JOHNSON.
- B. The document has a section that asked "Authorized Agent Recommends Denial:" The box for "No" was checked.
- C. In the section which reads "Report of abuse\neglect:" The box for "No" was checked.
- D. The section which reads "Date Application Packet Completed:" The word "Submitted" was written and dated June 16, 2015.
- E. The section for the "Maximum Number of Children allowed:" "30" was written.
- F. The section for "Recommended License Effective Date:" "06/02/15" is written.

5. State form 1276 which was titled the "Early Childhood Services Review" was attached to State Form 1425. This document contained the signature of CHERYL JOHNSON in the signature block titled "County Licensor Signature."
6. S/A Zachmeier believed that State Form 1425 contained three areas of false information to include:
  - A. In the section titled "Report of Abuse/Neglect," the "No" box is marked.
    1. Two(2) state form 960s for suspected child abuse or neglect were completed in reference to the GA death: one on June 8, 2015 by Trinity Hospital and one on June 9, 2015 by Sanford Children's Hospital.
  - B. The date the application packet was completed was not on June 16, 2015 as was indicated on form as the application packet was incomplete as the health inspection had not yet been completed and was not completed until June 22, 2015.
  - C. The section titled "Recommend License Effective Date June 2, 2015, was written. June 2, 2015 was used to show there was no lapse in licensing when there was a lapse in licensing from June 1, 2015 to June 22, 2015. (By licensing the KidQuarters Daycare as of June 2, 2015, prior to the GA drowning, no one would have known that the daycare was not legally licensed at the time of drowning.)
    1. CHERYL JOHNSON signed State Form 1425 as the "Authorized Agent."
7. S/A Zachmeier also reviewed State Form 1269 titled "Child Care Concern." This form is dated June 10, 2015 and in the section for the County Licensor Signature is the signature of CHERYL JOHNSON. This form indicates that child protection worker Eileen Lindbo reported to CHERYL JOHNSON that she had concerns in reference to the GA death. The form further states that the Bureau of Criminal Investigations and McHenry County Sheriff's office were investigating.
8. S/A Zachmeier advised CHERYL JOHNSON that the KidQuarters daycare should not have been licensed with two (2) licenses as the KidQuarters daycare was one premises. CHERYL JOHNSON responded "it is not viewed that way."
9. 9:00 am-S/A Zachmeier arranged through email for an interview to take place later on this day with ALYSHA BERG at her office at the North Central Human Services Center in Minot, North Dakota. ALYSHA BERG was willing to meet with S/A Zachmeier in reference to the investigation involving the Gracelyn Aschenbrenner death and the licensing of the KidQuarters daycare.
10. 12:15 pm-S/A Zachmeier contacted ALYSHA BERG's supervisor, Cynthia McIntee from the McHenry County Court House. S/A Zachmeier briefed Cynthia McIntee as on the Gracelyn Aschenbrenner investigation and advised Cynthia McIntee that it appeared the KidQuarters daycare was not legally licensed, that ALYSHA BERG backdated the licenses to show it was licensed at the time of the drowning, and that

CHERYL JOHNSON had forwarded forms to DHS containing false and misleading information. S/A Zachmeier further advised Cynthia McIntee that CHERYL JOHNSON was going to be charged for failing to perform her official duty and for tampering with public records. S/A Zachmeier informed Cynthia McIntee that S/A Zachmeier had a prearranged meeting with ALYSHA BERG at the North Central Human Service Center in Minot, North Dakota on this afternoon.

11. 2:00 pm-S/A Zachmeier and Deputy Linstrom arrived at the North Central Human Services Center in Minot, North Dakota.
12. 2:05 pm-A person came out of the secured door leading to the offices of the North Central Human Services Center. The person identified herself as Director LAURIE GOTVASLEE. LAURIE GOTVASLEE advised S/A Zachmeier that they had received legal advice and S/A Zachmeier would not be allowed to talk with ALYSHA BERG on this day. S/A Zachmeier, Deputy Linstrom and LAURIE GOTVASLEE then moved into a private meeting room off of the reception area.
13. LAURIE GOTVASLEE stated that DHS Attorney JULIE LEER had direct ALYSHA BERG not to speak with officers until JULIE LEER had a chance to talk with the Attorney General. S/A Zachmeier explained that S/A Zachmeier works for Attorney General Wayne Stenehjem and is conducting a child death investigation. S/A Zachmeier asked for JULIE LEER's phone number. LAURIE GOTVASLEE then contacted JULIE LEER and JULIE LEER refused to talk with S/A Zachmeier stating that she would talk to the Attorney General.
14. 2:10 pm-LAURIE GOTVASLEE left the meeting room with S/A Zachmeier and Deputy Linstrom sitting there and retreated back through the private-secured door to the offices.
15. (Please note that S/A Zachmeier went to the North Central Human Services Center to conduct an interview with ALYSHA BERG as she backdated a license for the KidQuarters daycare in reference to the Gracelyn Aschenbrenner death. S/A Zachmeier also had information to share with DHS in reference to the investigation and the safety of children. Furthermore, S/A Zachmeier went to the North Central Human Services Center as he was conducting a child death investigation in which two (2) state form 960s had been filed in reference to suspected child abuse or neglect involving the KidQuarters daycare. The records S/A Zachmeier went the Human Service Center to request and was told would be made available by ALYSHA BERG were releasable to S/A Zachmeier under NDCC 50-11.1-07 (b) and 50-25.1-11 (e).)
16. By LAURIE GOTVASLEE denying access to ALYSHA BERG and the documents that were releasable to S/A Zachmeier under century code, LAURIE GOTVASLEE committed the offense of obstruction of a government function by obstructing the investigation being conducted by the North Dakota Bureau of Criminal Investigations into the death of five-year-old Gracelyn Aschenbrenner and the tampering with public records.
17. 2:50 pm- S/A Zachmeier met with North Dakota Deputy Fire Marshal Jon Squires and reviewed the licensing of the KidQuarters daycare, photographs of the KidQuarters daycare and fire inspection of the KidQuarters daycare completed by

Velva Fire Chief Mike Heisler. Marshal Squires stated that the daycare should not have had two (2) group licenses issued and that the daycare was being operated as a child care center, not a group day care as it was licensed. Marshal Squires further stated that another inspection for fire safety should be completed after reviewing the photographs and diagrams as it appeared the daycare was violating fire safety codes, including adequate exits.

18. 4:45 pm- S/A Zachmeier and Deputy Linstrom met with Velva Fire Chief Mike Heisler in a closed office at the Velva City Hall. S/A Zachmeier showed Mike Heisler the fire inspection sheets (state form 115) signed by Mike Heisler for the KidQuarters daycare on June 4, 2015. There were two forms completed, one for the upstairs (KidQuarters I) and one for the downstairs (KidQuarters II). Mike Heisler admitted that he completed the inspections and signed the fire inspection sheets. Mike Heisler explained that he always takes a second fireman with him when completing a fire inspection. Firefighter Rob Goldade assisted Mike Heisler with the fire inspections on June 4, 2015 of the KidQuarters daycare.
19. Mike Heisler remembered that he did the inspection for the upstairs and that Rob Goldade did the inspection for the downstairs. Mike Heisler walked through the downstairs with Rob Goldade and signed off on the fire inspection. Mike Heisler asked S/A Zachmeier why Mike Heisler had to complete two (2) separate fire inspection forms. S/A Zachmeier explained because the daycare was being licensed under two (2) separate licenses as they (McHenry County Social Services and DHS) were treating each floor separately.
20. S/A Zachmeier asked Mike Heisler about the window being utilized and identified on the daycare diagram as being counted as a fire escape from the basement on the south side of the KidQuarters building. Mike Heisler explained that there are issues with this window in the winter as the window will freeze up. This is a crank out style window. Mike Heisler also admitted he did not measure this window to see if it met building code for fire rescue.
21. S/A Zachmeier asked Mike Heisler if he had received any training conducting fire inspections. Mike Heisler responded "No". Mike Heisler advised that his only training was as a Velva firefighter and as the Fire Chief of the Velva Fire Department.
22. S/A Zachmeier asked Mike Heisler if he noticed that the light in the office area was wired into the same circuit as the air-conditioners. Mike Heisler stated he did not. Deputy Linstrom asked Mike Heisler if he noticed the cord across the floor which people walked on going up the stairs that illuminated a Christmas tree. Mike Heisler stay he did not. S/A Zachmeier asked Mike Heisler if he noticed the main electric power coming into the KidQuarters building rubbing against the pine tree in the back yard. Mike Heisler stated he did not and if he would have, he would have noted this on the inspection.
23. S/A Zachmeier asked Mike Heisler what the maximum number of children Mike Heisler felt could safely exit the basement in case of fire. Mike Heisler advised that he would have to measure the facility. S/A Zachmeier asked Mike Heisler to give S/A Zachmeier his opinion as the Velva Fire Chief, based on the fire exits from the basement. Mike Heisler stated sixteen "16". S/A Zachmeier asked Mike Heisler how

about twenty-seven (27)? Mike Heisler stated that was too many children to safely exit the basement.

24. S/A Zachmeier then told Mike Heisler that the entire facility is now licensed for a maximum of fifty-seven (57) children. Mike Heisler became upset and stated that if he would have known that the KidQuarters daycare was going to be relicensed for a total of fifty-seven (57) children he would not have signed off on the fire inspection. Mike Heisler advised that the Velva Fire Department does not have the equipment to get that many kids out of the facility based on the fire exits.
25. 6:30 pm- Deputy Calise Linstrom verified that the KidQuarters daycare was going to reopen on the morning of August 25, 2015, as HEATHER TUDOR had only voluntarily shut down. McHenry County Social Services and DHS were allowing the KidQuarters daycare to open under the daycare licenses dated June 2, 2015 which were issued illegally. S/A Zachmeier believed that the KidQuarters daycare licenses were issued in violation of NDCC 50-11.1, and NDAC 75-03-09.
26. Based on the safety issues discovered by officers as the result of the Gracelynn Aschenbrenner death investigation, the noncooperation of DHS, and that the daycare licenses appeared to be issued in violation of NDCC 50-11.1, S/A Zachmeier felt that for the continued safety of the KidQuarters daycare children, the daycare should be immediately closed until the license issues could be further investigated and resolved to insure the safety of the children that attended the daycare and insure that the daycare is properly licensed with NDCC 50-11.1.
27. Because of DHS's directives to their employees and Director LAURIE GOTVALEE blocking access to DHS employee ALYSHA BERG, S/A Zachmeier was unable to provide information to DHS in reference to information obtained from CHERYL JOHNSON and the suspected false or misleading information supplied to DHS, the fire safety information obtained from Deputy State Fire Marshal Jon Squires that another fire inspection should be completed, and the statements made by Velva Fire Chief Mike Heisler that he did not have any training in conducting fire inspections and that he would not have signed off on the fire inspections knowing that the KidQuarters daycare was going to be relicensed for fifty-seven (57) children, it was decided that S/A Zachmeier would apply to the District Court for a cease-and-desist order against the licenses issued by DHS to the KidQuarters daycare.
28. 7:30 pm-S/A Zachmeier prepared a written affidavit in support of a cease-and-desist order being issued by the District Court for the KidQuarters daycare located at #12 2<sup>nd</sup> St. west, the upstairs and downstairs, and any other locations of daycares licensed by the North Dakota Department Human Services under owner HEATHER TUDOR, under the name of KidQuarters daycare or KidQuarters daycare LLC, located in the City of Velva, County McHenry, State of North Dakota, as it was now believed the daycare was operating in violation of century code 50-11.1.
29. 9:00 pm-The Honorable Judge John C. McClintock, Jr. issued the cease-and-desist order for the KidQuarters daycare. The cease-and-desist order ordered the KidQuarters daycare to immediately cease-and-desist from operating its group childcare facilities under any license issued to it by the North Dakota Department of Human Services, including but not limited to license numbers 25-82-3853-H and 25-82-3854-H.

August 25, 2015

1. 9:00 am- S/A Zachmeier met with North Dakota State Fire Marshal Ray Lambert to update Fire Marshal Lambert on the investigation involving the Gracelyn Aschenbrenner death and the KidQuarters daycare. S/A Zachmeier explained to Marshal Lambert that on August 24, 2015 S/A Zachmeier was told by CHERYL JOHNSON that the fire safety concerns and other safety concerns raised by S/A Zachmeier (and law enforcement) did not warrant the daycare being shut down.
2. Fire Marshal Lambert advised S/A Zachmeier that DHS had the authority to request Fire Marshal Lambert to conduct a second proper fire inspection of the KidQuarters daycare for the safety of children. Fire Marshal Lambert advised that Fire Marshal Lambert also had the authority to conduct a Fire inspection of the KidQuarters daycare if children were present on the premises, but since the cease-and-desist order was in place, the request would need to come from DHS. Fire Marshal Lambert advised S/A Zachmeier that he believed DHS would refuse to request Fire Marshal Lambert's inspection knowing that Fire Marshal Lambert would find that the KidQuarters daycare was improperly licensed.

August 26, 2015

1. S/A Zachmeier requested McHenry County State's Attorney Cassey Breyer contact DHS attorney JULIE LEER and request DHS to contact Fire Marshal Lambert and request a proper fire inspection based on observations by law enforcement and statements made by Fire Chief Heisler for the North Dakota Fire Marshal's Office to conduct a proper fire inspection of the KidQuarters daycare. States Attorney Breyer made the request to DHS through attorney JULIE LEER.

August 27, 2015

1. DHS attorney JULIE LEER emailed State's Attorney Breyer stating "I have confirmed that we do not make requests of the Fire Inspector or Fire Marshal to conduct an inspection. The process is as I explained to you and is as set forth in the administrative code. Same with the section on correction orders."
2. Please note that NDCC Chapter 50-11.1-07 is titled "Investigation of applicant, licensee, holder of self-declaration or registration document, and staff members - Inspection of programs and premises - Maintenance of records - Confidentiality of records." The chapter states:
  - A. The department or its authorized agent at any time may investigate and inspect an early childhood program, or a holder of a self-declaration or registration document and the conditions of their premises, the qualifications of a provider of early childhood services, of current and prospective staff members, of any in-home provider or applicant seeking or holding a license, self-declaration, or registration document under this chapter.
  - B. Upon request of the department or its authorized agent, the state department of health or the state Fire marshal, or the Fire marshal's designee, shall inspect the

premises for which a license or self-declaration is applied or issued and shall report the findings to the department or the department's authorized agent.

September 8, 2015

1. 9:00 am-S/A Zachmeier, Director Dallas Carlson, and Assistant Attorney General Jonathan Byers met with Attorney General Wayne Stenehjem in Attorney General Stenehjem's office located at the North Dakota State Capital. S/A Zachmeier scheduled the meeting with Attorney General Stenehjem in reference to the North Dakota Department Human Services' Obstruction of the investigation into the death of Gracelyn Aschenbrenner. NDCC 12-60-09 titled "Authorization of attorney general for investigations" reads: No investigation of the acts or conduct of any state agency or state official shall be investigated or made through or by the Bureau or any employee thereof, without the authorization of the Attorney General particularly specifying the office, department, or person to be investigated and the scope and purpose of the investigation.
2. S/A Zachmeier briefed Attorney General Stenehjem on the entire investigation as of September 7, 2015, to include:
  1. The fire safety issues observed at the daycare.
  2. Other safety issues affecting the safety of children observed at the daycare.
  3. Information obtained from ND State Fire Marshal Ray Lambert and Deputy State Fire Marshal Jon Squires in reference to the fire safety issues observed by law enforcement.
  4. That both Fire Marshal Ray Lambert and Deputy Fire Marshal Jon Squires stated that the group daycare licenses issued by DHS prior to June 1, 2015 and those currently issued are in violation of NDCC 50-11.1 as the daycare was licensed as a group daycare, yet were allowed in excess of thirty (30) children by issuing two (2) separate licenses for one premises.
  5. That S/A Zachmeier had obtained a second search warrant for the daycare to redo the fire inspection, after DHS refused to request the fire marshal conduct a proper fire inspection under 50-11.1-07 (2).
  6. That it appeared DHS and McHenry County knowingly allowed the KidQuarters daycare to operate unlicensed before and after the drowning of Gracelyn Aschenbrenner and intended to continue to allow it to operate under licenses that were issued outside of century code.
  7. That an email was sent on June 9, 2015 from ALYSHA BERG to multiple employees of DHS, including DHS legal staff and directors (including Executive Director MAGGIE ANDERSON and DHS attorney JULIE LEER,) stating that the daycare license expired on June 1, 2015 (prior to the drowning) and that DHS was waiting for the relicensing documents. (Indicating that supervisory staff and command staff at DHS knew the daycare was not licensed, yet allowed it to operate unlicensed until issuing new licenses after June 22, 2015.)

8. That two (2) group daycare licenses were issued to the KidQuarters daycare for a total of fifty-seven (57) children after the drowning of Gracelyn Aschenbrenner. The daycare was licensed for thirty (30) children upstairs and twenty-seven (27) downstairs even though there were no bathrooms located upstairs and only one exit/entry leading to the basement from the main front door shared with the upstairs.
9. That Director of North Central Human Services LAURIE GOTVASLEE blocked access to DHS employee ALYSHA BERG on August 24, 2015 when S/A Zachmeier went to the North Central Human Services Office in Minot to interview ALYSHA BERG, collect the licensing documents for the KidQuarters daycare which were releasable to S/A Zachmeier under NDCC 50-11.1-07 and 50-25.1- 11 (e) under a child abuse or neglect investigation and that DHS was still directing employees not to speak with S/A Zachmeier whom was investigating the death of a five (5) year old.
10. That the licenses issued to the KidQuarters daycare by DHS after the Gracelyn Aschenbrenner drowning (June 8, 2015) were backdated to June 2, 2015 to show that the KidQuarters daycare was licensed at the time of the Gracelyn Aschenbrenner drowning and to show there was no lapse in licensing. This was discovered by law enforcement, not reported by DHS or McHenry County Social Services, resulting in the backdated licenses not being seized from the daycare on August 19, 2015 at the time of the first search warrant on the daycare.

3. Attorney General Stenehjem interrupted S/A Zachmeier and stated "Please tell me this daycare is not open." S/A Zachmeier advised that DHS and McHenry County Social Services were going to allow the daycare to reopen on the morning of August 25, 2015 and that S/A Zachmeier was advised by Social Worker CHERYL JOHNSON that they did not observe anything at the daycare which warranted closing the daycare. S/A Zachmeier explained that S/A Zachmeier applied to the District Court for a cease-and-desist order against the daycare opening under the licenses issued by DHS which was granted by the District Court.
4. Present during the meeting was Executive Assistant to Attorney General Stenehjem, Liz Brocker. Liz Brocker then advised that she had received a written request from DHS Executive Director MAGGIE ANDERSON which Attorney General Stenehjem had not yet reviewed. In the letter, MAGGIE ANDERSON requested Attorney General Stenehjem to appoint attorney Lloyd Suhr as a Special Assistant Attorney General to advise DHS employees in reference to the criminal investigation to limit civil liability to DHS.
5. The letter was on North Dakota Department of Human Services letter head and read:

September 2, 2015

Honorable Wayne Stenehjem  
Office of Attorney General  
600 East Blvd. Ave Dept. 125

Bismarck, ND

RE: Request for Special Assistant Attorney General Appointment

Dear Attorney General Stenehjem,

The Department of Human Services (DHS) is contracting with Suhr and Lofgren, P.L.L.C. for the services of Lloyd C. Suhr to provide advice and represent DHS in responding to questions from a Bureau of Criminal Investigations Investigator conducting a criminal investigation into the death of a child who drowned while under the supervision of a licensed child care provider. The investigation has reportedly taken a turn toward possible liability of the early childhood services licensor in the County. Because of the relationship between DHS and the Counties in licensing early childhood services, DHS feels the need to obtain advice to ensure that DHS's responses to the investigator do not subject DHS to liability. Tom Trenbeath advised that DHS should retain a Special Assistant Attorney General to advise and represent DHS in this matter. Accordingly, DHS is engaging Lloyd C. Suhr and requests that he be appointed as a Special Assistant Attorney General for DHS in this matter.

The requested appointment would be limited to advising and representing DHS in this case through its conclusion. DHS will pay Mr. Suhr's fees and the expenses for his representation.

If you have any questions, please call JULIE LEER at 328-4034.

Sincerely,  
MAGGIE ANDERSON  
Executive Director

6. S/A Zachmeier noted that S/A Zachmeier is a criminal investigator, granted this authority under NDCC 12-60-07 and 12-60-08, and is not a civil litigation investigator. S/A Zachmeier was investigating possible criminal violations involving multiple government employees who are employed by both DHS and McHenry County Social Services to include MAGGIE ANDERSON and JULIE LEER. It is misappropriation of public funds for the tax payer to fund a criminal defense for anyone who is being investigated for or accused of committing a crime, whether a public employee or citizen. The crimes being investigated involving public employees include: tampering with public records, obstruction of a government function, hindering, making false statements to law enforcement, public servant refusing to perform duty, conspiracy, and violations of NDCC 50-11.1.
7. S/A Zachmeier searched the Suhr and Lofgren P.L.C.C. website-  
<http://suhrandlofgren.com>. The website states: Being accused of a crime can be scary. Let us help. Our firm focuses on one thing--criminal defense. Let us put our combined 20 years experience trying criminal cases to work for you. Call today for a free consult. Our firm focuses almost exclusively on one thing--criminal defense--in State and Federal Courts throughout North Dakota. The rights at issue and consequences at stake when charged with a crime leave little room for uncertainty. We want you to be certain you are in good hands. We handle:

- DUI cases, including administrative proceedings with the North Dakota Department of Transportation (for a number of frequently asked questions specific to DUI cases see the "DUI/DWI" tab under "Our Practice")
- Felony and misdemeanor cases of all types including:
  - Assault offenses and other violent offenses
  - Driving offenses
  - Drug offenses
  - Property offenses
  - Sex offenses
  - White-collar offenses
  - Probation revocation cases

Focusing on criminal defense allows us to concentrate our resources on doing one thing and doing it with excellence.

8. S/A Zachmeier noted that the Suhr and Lofgren law practice focuses on criminal defense. MAGGIE ANDERSON stated in her request "DHS feels the need to obtain advice to ensure that DHS's responses to the investigator do not subject DHS to liability." S/A Zachmeier noted that DHS employees were under criminal investigation.
9. S/A Zachmeier also noted in MAGGIE ANDERSON's request that she stated ".....a Bureau of Criminal Investigations Investigator conducting a criminal investigation into the death of a child who drowned while under the supervision of a licensed child care provider." The daycare provider, HEATHER TUDOR and the KidQuarters daycare, where not licensed as a child care provider at the time of the drowning as MAGGIE ANDERSON claimed. MAGGIE ANDERSON knew this from an email sent to her by ALYSHA BERG on June 9, 2015.
10. It appeared that MAGGIE ANDERSON's request to Attorney General Stenehjem contained false and misleading information when she claimed the request for attorney Lloyd Suhr's representation was for liability purposes and not criminal defense and claimed HEATHER TUDOR was legally licensed at the time of drowning when she knew the daycare was not licensed. (MAGGIE ANDERSON later admitted this to S/A Zachmeier during a phone call on September 18 2015, stating she wanted her employees to have representation.)
11. Attorney General Stenehjem directed S/A Zachmeier to continue the investigation into the death of Gracelyn Aschenbrenner and hold all persons accountable who may have violated NDCC, including the public employees.
12. Attorney General Stenehjem directed Executive Assistant Liz Brocker to contact attorney Lloyd Suhr in writing and advise him he is not authorized to provide legal counsel to DHS.
13. Attorney General Stenehjem directed Assistant Attorney General Jonathan Byers to meet with DHS attorney JULIE LEER and direct attorney JULIE LEER to inform DHS employees to cooperate with the criminal investigation into the death of Gracelyn Aschenbrenner.

September 9, 2015

1. 9:00 am-A second search warrant was served on HEATHER TUDOR to search the KidQuarters daycare. After reviewing the search warrant HEATHER TUDOR advised that the daycare licenses issued by DHS dated June 2, 2015 were in the possession of her attorney, Paul Probst.
2. Deputy State Fire Marshal Jon Squires initiated the fire safety inspection for the premises. Deputy Squires advised that state form number 115 titled Family/Group Childcare Facility Fire Safety Checklist was the proper fire safety form checklist to utilize for the facility. Fire marshal Squires advised that The KidQuarters daycare building did not qualify to be licensed as a child care center as the building did not have proper fire exits or proper fire suppression systems. Marshal Squires advised that the entire KidQuarters daycare building could not be licensed for more than thirty (30) children at any one time for the entire premises, with no more than eleven (11) children at any one time in the basement due to only one (1) doorway exit to the exterior which was a state building code requirement.
4. Marshal Squires also found that the basement nap room in the north east corner had a window that did not meet state building code for a minimum opening for emergency rescue and must not be used for nap or sleep. (Please note that on The KidQuarters daycare emergency exit diagram this window was identified as an emergency exit.)
5. Marshal Squires indicated that an extension cord used for the window air conditioner on the main level and the cord for a Christmas tree that passed through a doorway needed to be corrected before one (1) daycare license could be issued for a maximum total of thirty (30) children for the premises. Marshal Squires also made note that the main electrical power entering the building passed through a branch of a tree and Marshal Squires recommended having the tree branches trimmed and the wires inspected by the electrical company or an electrician.
6. S/A Zachmeier observed that the daycare licenses issued to The KidQuarters daycare for both the upstairs (KQ1) and downstairs (KQ2) were no longer displayed on the walls of the upstairs or downstairs as they were at the time of the first search warrant on August 19, 2015. S/A Zachmeier did locate daycare licenses issued to The KidQuarters daycare for both the upstairs (KQ1) and downstairs (KQ2) for the years (licensing periods) of June 2, 2012 through June 1, 2013, June 2, 2013 through June 1, 2014, and June 2, 2014 through June 1, 2015. These daycare licenses were photographed.
7. S/A Zachmeier noted that the June 2, 2012 through June 1, 2013 daycare licenses for both the upstairs (KQ1) and downstairs (KQ2) were issued by LAURIE GOTVASLEE. LAURIE GOTVASLEE was the Director of North Central Human Services in Minot, North Dakota who prevented S/A Zachmeier from meeting with ALYSHA BERG and obtaining DHS records on August 24, 2015 in reference to The KidQuarters daycare.
8. S/A Zachmeier did check for the medication that was stored in the kitchen area of The KidQuarters daycare which was expired. This was the medication which Cheryl Johnson told S/A Zachmeier on August 24, 2015 that she did not observe and

stated that HEATHER TUDOR must have gotten rid of this medication between the search warrant executed on August 19, 2015 and the inspection completed by CHERYL JOHNSON and ALYSHA BERG on August 21, 2015. (Please note that on September 21, 2015 S/A Zachmeier did speak with ALYSHA BERG and ALYSHA BERG confirmed that she and CHERYL JOHNSON both observed the medication at The KidQuarters daycare on August 21, 2015.)

September 11, 2015

1. S/A Zachmeier forwarded an email to ALYSHA BERG explaining what the BCI investigation had discovered in reference to the licensing of the KidQuarters daycare. S/A Zachmeier closed the email with:

"I let you know this because your name is on the licenses dated June 2, 2015. This does not address the concerns with the backdated licenses which I believe you could easily explain if you were allowed to. I'm hoping that you and DHS will finally correct any errors with the licensing of the KidQuarters daycare by revoking the licenses dated June 2, 2015 as they were issued outside of the guidelines set forth in an NDCC 50-11.1 and NDAC 73-03-09 and 73-03-10 and now we have a fire inspection report completed by the state fire marshal's office.

As the lead investigator I have been directed to inform and request that you and/or DHS will have until 12:00 PM, Wednesday, September 16, 2015, to notify me in writing that license numbers 25-82-3835-H and 25-82-3854-H are revoked\suspended. DHS could then consider issuing a license within the guidelines of 50-11.1 based on the fire Marshal's recommendations\report. Once this is done, I will complete an affidavit for the court to lift the cease-and-desist order.

September 14, 2015

1. 1:45 pm-S/A Zachmeier placed a phone call to Director of McHenry County Social Services Mary Hermanson. S/A Zachmeier explained that the two licenses for the KidQuarters daycare were issued outside of century code as the building utilized as the KidQuarters daycare was not a residence (it was a converted church).
2. Mary Hermanson explained that Mary Hermanson does not sit in on the daycare meetings (as this responsibility was assigned to social worker CHERYL JOHNSON). Mary Hermanson stated that she was unaware that the number of children allowed under group license had changed from eighteen (18) children to thirty (30) children.
3. S/A Zachmeier advised Mary Hermanson that the state (Department of Human Services) made mistakes in this case. S/A Zachmeier told Mary Hermanson that he did not understand why the Department of Human Services will not do the right thing in reference to the KidQuarters daycare licensing. Mary Hermanson stated that employees at the Department of Human Services are "spooked" and afraid they may be charged with something. Mary Hermanson advised that the Department of Human Services employees are "circling their wagons."
4. S/A Zachmeier explained to Mary Hermanson that HEATHER TUDOR only applied for one (1) license on May 27. Mary Hermanson explained that her understanding was that HEATHER TUDOR had applied earlier and that May 27 was when

CHERYL JOHNSON went and did the site visit. S/A Zachmeier explained that HEATHER TUDOR only applied for the relicensing on May 27, 2015. Mary Hermanson was surprised to learn that HEATHER TUDOR only applied on May 27, 2015 (the same day as when CHERYL JOHNSON completed the site visit). Mary Hermanson stated that was pretty late to be getting the application in and expecting to be licensed that quickly.

5. S/A Zachmeier told Mary Hermanson that the fire inspection was completed for the KidQuarters daycare on June 4, 2015 and the health inspection was completed on June 22, 2015 making the KidQuarters daycare licensable on June 22, 2015. S/A Zachmeier explained that the licenses were then backdated to June 2, 2015. S/A Zachmeier asked Mary Hermanson if this was a standard being followed across the state to backdate licenses.
6. Mary Hermanson stated that on an initial license the licenses are not backdated and are dated at the time the licensing packet is completed. On a renewal, Mary Hermanson was not sure and stated that it may be the common practice. Mary Hermanson advised that a large facility taking care of a lot of kids and parents affected "they try to accommodate."
7. S/A Zachmeier explained that after the search was executed on the KidQuarters daycare on August 19, 2015 officers noticed multiple safety concerns at the daycare. One of those concerns involved the number of adequate fire exits. S/A Zachmeier explained that S/A Zachmeier contacted the Department of Human Services to request a proper fire inspection from the State Fire Marshal and that the Department of Human Services refused. Mary Hermanson was surprised that the Department of Human Services would not request the State Fire Marshal and explained that years ago the State Fire Marshal complete all fire inspections in reference to daycares and foster care.
8. 2:30 pm-S/A Zachmeier placed a phone call to Melissa Wilson, an employee at First District Health in Minot, North Dakota. Melissa Wilson completed the health inspection (inspections) on June 22, 2015 at the KidQuarters daycare.
9. S/A Zachmeier asked Melissa Wilson who requested the health inspection. Melissa Wilson stated that HEATHER TUDOR had requested the health inspection and that McHenry County Social Services also contacted Melissa Wilson through email requesting the health inspection and to schedule the health inspection.
10. S/A Zachmeier explained that S/A Zachmeier believed that the KidQuarters daycare was improperly licensed. S/A Zachmeier stated that the KidQuarters daycare building was obviously not a residence. Melissa Wilson agreed.
11. Melissa Wilson stated that all licensing decisions rest with Social Services and that Melissa Wilson's only job was to complete the health inspection(s).
12. S/A Zachmeier explained to Melissa Wilson that there was a separate license issued for the upstairs of the daycare and a separate license issued for the downstairs of the daycare. Melissa Wilson again advised that any licensing questions rested with Social Services.

13. S/A Zachmeier explained that the daycare was licensed for thirty (30) children upstairs and for twenty-seven (27) children downstairs for a total of fifty-seven (57) children. S/A Zachmeier directed Melissa Wilson to the two (2) health inspection forms signed by Melissa Wilson for the KidQuarters daycare. The maximum number of children allowed as indicated on each form was eighteen (18) for each daycare (upstairs and down). S/A Zachmeier asked Melissa Wilson where Melissa Wilson got this number from. Melissa Wilson advised that the number of eighteen (18) children came from HEATHER TUDOR as when Melissa Wilson completes a health inspection, Melissa Wilson asks the daycare provider (HEATHER TURDOR) the maximum number of children the provider was licensed for. HEATHER TUDOR would have provided the number of eighteen (18).
14. (Please note that on the documents forwarded to the Department of Human Services by Social Worker CHERYL JOHNSON, CHERYL JOHNSON had changed the maximum number of children allowed in the upstairs daycare from fifteen (15) to thirty (30) and the maximum number of children allowed in the downstairs daycare from eighteen (18) to twenty-seven (27). Also please note that on HEATHER TUDOR's application signed May 27, 2015 that HEATHER TURDOR only applied for one (1) daycare license for the KidQuarters daycare for a maximum of eighteen (18) children. This application was then photocopied and submitted to the Department of Human Services as two (2) applications.)
15. S/A Zachmeier directed Melissa Wilson to the Health Inspection of the upstairs daycare where Melissa Wilson indicated "N/A" (Not applicable) written for no bathrooms upstairs and that S/A Zachmeier understands that this was written because there were no bathrooms located upstairs. Melissa Wilson acknowledged no bathrooms were located upstairs. S/A Zachmeier explained that S/A Zachmeier understands that there were bathrooms located downstairs and that the health inspection for the downstairs daycare indicated that there were bathrooms downstairs. S/A Zachmeier asked Melissa Wilson, referring to Social Services and the Department of Human Services, why they would issue a license for a daycare that did not have a bathroom (the upstairs daycare). Melissa Wilson responded "correct".

September 16, 2015

1. S/A Zachmeier received an email response from DHS attorney JONATHAN ALM to the email S/A Zachmeier forwarded to ALYSHA BERG. In the email JONATHAN ALM attempted to justify DHS's issuing of the KidQuarters daycare licenses as legal and attempted to justify why DHS will not revoke the licenses. (Please note that these licenses were issued outside of century code and were backdated.)
2. JONATHAN ALM wrote:
  1. DHS is legally entitled to issue two licenses for a single residence until January 1, 2016. A residence is defined as "real property that is typically used as a single-family dwelling." The operator is not required to use the residence as single-family dwelling. (Please note that the licenses backdated to June 2, 2015 were issued through June 1, 2016 past the January 1, 2016 date. Also note that the KidQuarters daycare was not typically used as a single-family dwelling as it was a converted church into a daycare.)

2. Each license deals with two separate premises. KidQuarters, LLC I is licensed for the upstairs and outdoor space premises. KidQuarters, LLC II is licensed for the downstairs and outdoor space premises. Licensed providers can share the same outdoor space. Premises is defined as ".....the indoor and outdoor areas approved for providing early childhood services." A single residence can be issued more than one licensed premises until January 1, 2016 if the provider operator, prior to January 1, 2011, had two or more licenses for the same residence per N.D. Admin. Code 75-03-09-07 (4). The two licensed group programs do not have to be legally licensed as a child care center. (Please note that DHS issued the two licenses for KidQuarters daycare for the same premises that was not used as a single-family dwelling and was not a residence. DHS by issuing the two licenses for each floor, circumvented century code by treating each floor as a separate daycare, even though they shared the same entry exit door, the same kitchen, same electrical, same roof, the same bathrooms, same employees, and the children were intermingled. D.H.S. issued the two licenses for a single premises for a maximum total of fifty-seven (57) children which by century code is a Child Care Center and not a group child care. The first floor daycare which was issued a license for a maximum of thirty (30) children, which was backdated to June 2, 2015 did not have any bathrooms on the floor. This meant that DHS approved the upstairs license for a daycare that was not equipped with bathrooms.)
3. If DHS revokes a license, the former operator cannot obtain a license for at least 12 months. N.D.C.C. 50-11.1-04 (1) (d). (Please note that it was not HEATHER TUDOR's fault that McHenry County Social Services and the Department of Human Services issued licenses to HEATHER TURDOR outside of century code and did not make HEATHER TURDOR adhere to century code or the standards defined in century code and the ND Administrative code.)
4. A licensed provider can voluntarily cease to operate by either turning in the license or simply deciding not to care for any children and letting the license expire. (Again the licenses were issued outside of century code and backdated.)
5. DHS did not request a second fire inspection as the Order is in place prohibiting childcare from occurring in the licensed premises. (DHS has the statutory authority to request the second fire inspection and in this case it was for the protection of children. The cease-and-desist order was obtained because DHS was not cooperating with the criminal investigation into the death of Gracelyn Aschenbrenner and was not cooperating with the criminal investigation into the licensing of the daycare. Attorney JONATHAN ALM referred to the KidQuarters daycare as a licensed premises. Again the licenses were issued outside of century code and backdated.)
6. If the order expires, DHS would review the most recent fire inspection and take appropriate action.
7. Not all licensing violations result in revocation. DHS has the ability to issue correction orders. Correction orders allow the provider sometime to correct the issues within a certain time period. (Please note that the licensing violations were committed by McHenry County Social Services and the Department of Human Services. Heather Tudor's licensing violations occurred as a result of being

allowed to operate without a license by DHS and McHenry County Social Services and as a result of being issued licenses outside of century code.)

September 17, 2015

1. 8:45 am- Attorney General Wayne Stenehjem held a telephonic meeting with S/A Zachmeier in reference to an investigative update of the Gracelyn Aschenbrenner death investigation. Also present were BCI Director Dallas Carlson, Deputy Attorney General Thomas Trenbeath, and Assistant Attorney General Jonathan Byers.
2. S/A Zachmeier reviewed the email sent to S/A Zachmeier by DHS legal advisor JONATHAN ALM on September 16, 2015, in which JONATHAN ALM attempted to justify DHS's handling of the KidQuarters daycare relicensing and revoking the illegally issued licenses. In the email JONATHAN ALM indicated the licenses were issued legally in reference to the two (2) licenses being issued for the same premises and that DHS had the authority to issue the licenses as they were issued. Attorney General Attorney General Stenehjem, Deputy Attorney General Trenbeath, and Assistant Attorney General Byers all agreed the licenses were issued illegally and it was not the legislative intent for two (2) group licenses to be issued to circumvent the licensing requirements defined in century code.
3. Attorney General Wayne Stenehjem directed S/A Zachmeier to continue the investigation into the death of Gracelyn Aschenbrenner and to hold all persons involved in the death of Gracelyn Aschenbrenner, the tampering with public records, and the public employees who did not perform their duties as public employees accountable related to the death of Gracelyn Aschenbrenner and the subsequent "cover-up."
4. Attorney General Wayne Stenehjem directed Deputy Attorney General Thomas Trenbeath and Assistant Attorney General Jonathan Byers to meet with DHS attorney JULIE LEER and DHS attorney JONATHAN ALM and direct them to provide proper legal advice within the directives of the Attorney General. Attorney General Stenehjem indicated that if an employee of the Department of Human Services is the suspect in a criminal offense, that employee is to request and retain their own personal attorney, not receive legal advice from an attorney with the State of North Dakota.

September 18, 2015

1. Cheryl Johnson was arrested for a public servant refusing to perform duty, false information to a law enforcement officer, tampering with public records, and conspiracy to tamper with public records.
2. A subsequent search was conducted of Cheryl Johnson's office in which it was verified that Heather Tudor only applied for one license for a total of eighteen (18) children on May 27, 2015 for the relicensing. The original license application was photocopied and then sent to the state as two (2) license applications (one [1] for the upstairs and one [1] for the downstairs) each for eighteen (18) children for a total of thirty-six (36). Cheryl Johnson took it upon herself to change the licensing number for the upstairs to thirty (30) children and the licensing number for the downstairs to twenty-seven (27) children for a total of fifty-seven (57). This number was forwarded to North Central Human Services on June 16, 2015.

3. The drowning report in reference to the Gracelyn Aschenbrenner drowning was also located in McHenry County Social Services file. The drowning report indicated that Gracelyn Aschenbrenner was taken to the pool on June 8, 2015 under the KidQuarters I (the upstairs) daycare license (license number 25-82-3853-H). The upstairs daycare license that expired on June 1, 2015 was for a total of fifteen (15) children, the license that was reissued and backdated was for a total of thirty (30) children, and the daycare was not legally licensed on June 8, 2015. The one (1) application for relicensing completed by Heather Tudor on May 27, 2015 was for a total of eighteen (18) children.
4. McHenry County State's Attorney Cassey Breyer issued subpoenas under the authority of a court ordered State's Attorney Inquiry. State's Attorney Breyer issued subpoenas for Department of Human Services employees Executive Director MAGGIE ANDERSON, Attorney JULIE LEER, Attorney JONATHAN ALM, Marlys Baker, Director of North Central Human Services LAURIE GOTSVALEE, ALYSHA BERG, and for all 2015 original licensing documents for the KidQuarters daycare stored at North Central Human Services in Minot, ND, North Dakota, to be released to law enforcement immediately.
5. 3:30 pm-S/A Zachmeier and Deputy Calise Linstrom arrived at North Central Human Services Center in Minot, ND, North Dakota. S/A Zachmeier and Deputy Linstrom were assisted by a uniformed Minot, ND police officer as employees at the Department of Human Services had not cooperated throughout the investigation into the death of Gracelynn Aschenbrenner and S/A Zachmeier anticipated the employees may chose not honor the subpoena for the 2015 original licensing documents and if that occurred they could be arrested.
6. Officers entered the North Central Human Services building in Minot, ND, North Dakota. S/A Zachmeier request the receptionist contact ALYSHA BERG and LAURIE GOTSVALEE. A short time later Cyndi McIntee came from the secured employee door at North Central Human Services. Cyndi McIntee advised S/A Zachmeier that ALYSHA BERG and LAURIE GOTSVALEE had left for the day. S/A Zachmeier advised Cyndi McIntee that S/A Zachmeier had subpoenas for ALYSHA BERG and LAURIE GOTSVALEE. S/A Zachmeier advised Cyndi McIntee that S/A Zachmeier would contact ALYSHA BERG and LAURIE GOTSVALEE next week as S/A Zachmeier would be in Bismarck during the week of September 21 (for BCI yearly in-service).
7. 4:15 pm-S/A Zachmeier received a phone call from a 328 prefix indicating it was from a State of North Dakota number. S/A Zachmeier answered the phone call and learned it was MAGGIE ANDERSON calling. MAGGIE ANDERSON questioned S/A Zachmeier why S/A Zachmeier was at the North Central Human Services Center in Minot, ND, North Dakota and what S/A Zachmeier had with Bismarck the following week.
8. S/A Zachmeier advised MAGGIE ANDERSON that MAGGIE ANDERSON and S/A Zachmeier should visit so S/A Zachmeier could inform MAGGIE ANDERSON on the investigation. MAGGIE ANDERSON refused, stating she didn't think it would be a good idea. S/A Zachmeier then began telling MAGGIE ANDERSON about the investigation. MAGGIE ANDERSON stopped S/A Zachmeier and advised S/A Zachmeier she did not call about the investigation and only wanted to know what S/A Zachmeier's business was the next week "with" Bismarck.

9. S/A Zachmeier advised MAGGIE ANDERSON that subpoenas were issued for MAGGIE ANDERSON and other DHS employees to appear and provide testimony in reference to a court ordered State's Attorney Inquiry. MAGGIE ANDERSON sat quietly on the other end of the phone.
10. S/A Zachmeier advised MAGGIE ANDERSON that the subpoenas were issued in reference to DHS not cooperating with the investigation into the death of Gracelyn Aschenbrenner. MAGGIE ANDERSON stated that it was not that DHS was not cooperating it was that MAGGIE ANDERSON wanted DHS employees to have representation. (Please note that this was a criminal investigation into the death of Gracelyn Aschenbrenner and employees with the Department of Human Services employees [and McHenry County Social Services] neglecting their duties as public employees, tampering with public records, and obstructing a government function.)
11. S/A Zachmeier again requested MAGGIE ANDERSON meet with S/A Zachmeier so S/A Zachmeier could brief MAGGIE ANDERSON on the investigative findings and that she as the Executive Director of the Department of Human Services needed to know what the investigation thus far uncovered. MAGGIE ANDERSON again denied this request and advised her only intention of the phone call was to learn what S/A Zachmeier "had with Bismarck" the next week.
10. During the phone call it was apparent to S/A Zachmeier that MAGGIE ANDERSON was not interested in the investigative findings (even though the findings uncovered DHS employees under the supervision of MAGGIE ANDERSON violating DHS policy, ND Administrative Code, and ND Century Code ).

September 21, 2015

1. 9:45 am-S/A Zachmeier received a phone call from ALYSHA BERG. ALYSHA BERG advised S/A Zachmeier that she wanted to cooperate and meet with S/A Zachmeier since the beginning of this investigation. ALYSHA BERG stated that she was directed not to talk with S/A Zachmeier in reference to this investigation on August 24, 2015 by DHS attorney JULIE LEER. ALYSHA BERG advised that she felt she was getting "the runaround by DHS."
2. S/A Zachmeier advised ALYSHA BERG that ALYSHA BERG was the first public official to cooperate and understood that ALYSHA BERG was directed not to cooperate by DHS management. S/A Zachmeier reminded ALYSHA BERG that the investigation was into the death of a five-year-old child.
3. S/A Zachmeier told ALYSHA BERG that on August 24, 2015 when S/A Zachmeier arranged to meet with ALYSHA BERG that S/A Zachmeier was going to inform ALYSHA BERG that McHenry County Social Worker CHERYL JOHNSON put false information on the application submitted to DHS and lied to S/A Zachmeier during an interview.
4. S/A Zachmeier voiced his frustration with DHS not cooperating as it had been almost a month and DHS still had no statement or no cooperation in reference to the licensing issues discovered as a result of the investigation into the death of Gracelyn Aschenbrenner. S/A Zachmeier advised ALYSHA BERG that S/A Zachmeier believed ALYSHA BERG wanted to cooperate and that it was a directive "from above" that ALYSHA BERG was not allowed to cooperate. ALYSHA BERG confirmed this was true.

5. S/A Zachmeier explained that the fire inspection completed by Velva Fire Chief Mike Heisler was improper and a new fire inspection was needed. S/A Zachmeier further explained that the cease-and-desist order was temporary. S/A Zachmeier advised ALYSHA BERG that attorney JULIE LEER was asked to request an inspection from the state fire marshal but DHS refused. ALYSHA BERG asked if when investigators talked with DHS in Bismarck if DHS in Bismarck refused to request a second fire inspection from the state fire marshal. S/A Zachmeier stated "yes." ALYSHA BERG seemed surprised and asked again "they refused?" S/A Zachmeier again responded "yes." S/A Zachmeier explained that a second search warrant was obtained as a result of DHS refusing to request a proper fire inspection from the state fire marshal.
6. ALYSHA BERG verified that the county level (McHenry County Social Services) would take an application for licensure from the daycare, would do the site visit, and would recommend the daycare for licensing. If county Social Services recommended licensing, DHS would then issue the daycare licenses.
7. S/A Zachmeier asked ALYSHA BERG if she was ever at the daycare prior to August 21, 2015. ALYSHA BERG stated she was not. ALYSHA BERG confirmed that the KidQuarters daycare was not a residence (as claimed by attorney JONATHAN ALM in JONATHAN ALM's September 16, 2015 email to S/A Zachmeier.)
8. S/A Zachmeier advised ALYSHA BERG that S/A Zachmeier attempted to get DHS to do the right thing and say that the KidQuarters daycare was illegally licensed. DHS refused to do this.
9. ALYSHA BERG verified that she was directed "from above" (referring to DHS management) not to cooperate with the investigation and was told not to talk with S/A Zachmeier.
10. S/A Zachmeier advised that a State's Attorney's Inquiry was ordered by the court and explained the State's Attorney Inquiry to ALYSHA BERG. S/A Zachmeier advised ALYSHA BERG that subpoenas had been issued for the State's Attorney Inquiry.
11. S/A Zachmeier advised ALYSHA BERG that HEATHER TUDOR took seventeen (17) children to the pool and that CHERYL JOHNSON and ALYSHA BERG stated that HEATHER TUDOR was within her staff to child ratio (on June 8, 2015 at the time of the Gracelyn Aschenbrenner drowning). ALYSHA BERG stated that HEATHER TUDOR was "sort of within ratio." S/A Zachmeier asked ALYSHA BERG what ratio ALYSHA BERG was referring to. ALYSHA BERG then stated that the ratio doesn't fit within any ratio (as the daycare was not licensed on June 8, 2015.)
12. S/A Zachmeier explained to ALYSHA BERG that on June 9, 2015 law enforcement was informed that the seventeen (17) children taken to the pool was "within ratio." S/A Zachmeier advised that law enforcement also asked McHenry County Social Services if there was anything law enforcement needed to know in reference to the KidQuarters daycare. Law enforcement was told the KidQuarters daycare was good.
13. S/A Zachmeier told ALYSHA BERG that HEATHER TUDOR's defense to the charges would be that the state knowingly allowed her to operate (even though HEATHER TUDOR did not have a daycare license.)

14. ALYSHA BERG stated she feels terrible for not being allowed to cooperate. ALYSHA BERG stated that ALYSHA BERG had plenty of things to talk about with S/A Zachmeier on August 24, but was unable to based on the directive given by DHS. S/A Zachmeier asked ALYSHA BERG who gave ALYSHA BERG the directive not to talk with S/A Zachmeier. ALYSHA BERG stated that it came from the legal department, attorneys JULIE LEER and JONATHAN ALM. ALYSHA BERG was advised not to cooperate or speak with S/A Zachmeier.
15. S/A Zachmeier asked ALYSHA BERG how LAURIE GOTVASLEE became involved. ALYSHA BERG stated that LAURIE GOTVASLEE came into ALYSHA BERG's office after being directed not to meet with S/A Zachmeier. ALYSHA BERG was upset and advised LAURIE GOTVASLEE that she did not feel comfortable not meeting with S/A Zachmeier in reference to the case. LAURIE GOTVASLEE then advised ALYSHA BERG that LAURIE GOTVASLEE would take care of it for ALYSHA BERG and volunteered to tell S/A Zachmeier that ALYSHA BERG was not allowed to speak with S/A Zachmeier.
16. ALYSHA BERG advised that last week ALYSHA BERG asked DHS management what was going on. ALYSHA BERG was advised "we are trying to get you an attorney." ALYSHA BERG stated that she was now told to cooperate. ALYSHA BERG stated "I wanted to all along and was being told no, wait for this or wait for that."
17. S/A Zachmeier asked ALYSHA BERG what license date is utilized on relicensing. ALYSHA BERG stated that they go back to the application date and date that the site visit occurred.
18. ALYSHA BERG stated she had issues with CHERYL JOHNSON in reference to the KidQuarters daycare, the relicensing, and the Gracelyn Aschenbrenner drowning. ALYSHA BERG understood that something needed to be done with the daycare in reference to the relicensing and the drowning. ALYSHA BERG talk to CHERYL JOHNSON about this and CHERYL JOHNSON was defensive of the daycare.
19. S/A Zachmeier told ALYSHA BERG about the child protection meeting and that child protection worker Eileen Lindbo was directed to change her assessment report and to take out any of the information related to the daycare including that the daycare wasn't legally licensed at the time of drowning. ALYSHA BERG stated "oh yeah that sucks, that has been an issue." ALYSHA BERG stated that as soon as she realized that the daycare was not licensed at the time of drowning ALYSHA BERG began freaking out and was wondering where the paperwork was for the relicensing.
20. S/A Zachmeier told ALYSHA BERG that the daycare should have been shut down or a correction order issued or something when the daycare wasn't licensed and the application was incomplete. ALYSHA BERG stated "right, yes."
21. S/A Zachmeier advised ALYSHA BERG that based on the daycare licenses not being issued properly, that the daycare was licensed based on information sent to DHS by CHERYL JOHNSON for relicensing (photocopied 2<sup>nd</sup> license application and recommendation with false information), and that the licenses were based on a fire inspection that had since been redone by the state fire marshal which identified deficiencies to include the improper licensing, that the licenses issued (the backdated licenses) should be voided. ALYSHA BERG stated "yes it has to be changed."

22. S/A Zachmeier told ALYSHA BERG that S/A Zachmeier and ALYSHA BERG talked on August 20 and S/A Zachmeier advised ALYSHA BERG of HEATHER TUDOR's mental state. ALYSHA BERG told S/A Zachmeier that DHS (ALYSHA BERG through DHS legal) was trying to get HEATHER TUDOR to shut down voluntarily. S/A Zachmeier asked ALYSHA BERG if ALYSHA BERG remembered telling S/A Zachmeier that the Gracelynn Aschenbrenner drowning could not be used to shut down the daycare because it was not licensed at the time of drowning. ALYSHA BERG responded "yes" and stated that "we got into tricky stuff because there was not a valid license at the time of incident."

1. NDCC 50-11.1-07 states; the department may:

- a. Suspend a license, self-declaration, or registration document at any time after the onset of a child abuse and neglect investigation alleging the owner or operator, the holder of a self-declaration, or the in-home provider has committed child abuse, including child sexual abuse, or has neglected a child and law enforcement has been involved, if continued operation is likely to jeopardize the health and safety of the children.

23. ALYSHA BERG again advised S/A Zachmeier that ALYSHA BERG wanted to talk to S/A Zachmeier on August 24 and since as ALYSHA BERG needed to explain further to S/A Zachmeier about the licensing process. ALYSHA BERG was directed not to by DHS.

24. S/A Zachmeier asked ALYSHA BERG why the KidQuarters daycare was allowed to stay open when DHS learned that HEATHER TUDOR did not have permission to take the kids to the pool. ALYSHA BERG claimed she did not know this. ALYSHA BERG stated that she only learned of this after visiting with S/A Zachmeier (August 19, 2015). S/A Zachmeier advised ALYSHA BERG that S/A Zachmeier notified McHenry County Social Services on June 11, 2015 and there was an email sent containing that information and that ALYSHA BERG was on distribution of this email. ALYSHA BERG again claimed she did not get this information or did not remember reading the email, but remembered being told that there were rumors that HEATHER TUDOR did not have permission to take the children to the pool.

25. S/A Zachmeier asked ALYSHA BERG about the expired medications which law enforcement observed at the KidQuarters daycare (on August 19). ALYSHA BERG stated that the medications were a big issue. S/A Zachmeier advised ALYSHA BERG that S/A Zachmeier asked CHERYL JOHNSON about the medications and that CHERYL JOHNSON stated she did not observe the medications at the daycare on August 21, 2015 when ALYSHA BERG and CHERYL JOHNSON went to the daycare for a site visit. ALYSHA BERG advised that the medication was still there and she observed it.

26. During the interview ALYSHA BERG became upset and stated "I didn't know what to do." (This was in reference to the licensing and the daycare not being licensed at the time of the Gracelyn Aschenbrenner drowning.)

27. ALYSHA BERG explained that it was not the practice of DHS to go to daycares and inspect them. This is the job of County Social Services. Licensing is based on the paperwork sent to DHS from County Social Services.

28. S/A Zachmeier asked ALYSHA BERG why the State wouldn't shut down the KidQuarters daycare based on the Gracelyn Aschenbrenner drowning and death and the subsequent violations discovered during the investigation. ALYSHA BERG advised that she wanted the state fire marshal to come in and redo the inspection. ALYSHA BERG was directed to just prohibit HEATHER TUDOR from being on the premises. ALYSHA BERG was told that they needed to keep the daycare open as the community needed child care.
29. ALYSHA BERG advised that she remembered questioning the fire entry exits during her and CHERYL JOHNSON's site visit on August 21, 2015. ALYSHA BERG talked to CHERYL JOHNSON about this. CHERYL JOHNSON felt that the fire safety concerns were fine. ALYSHA BERG stated that she felt CHERYL JOHNSON believed the KidQuarters daycare was fine because "it's the way it has always been done."
30. ALYSHA BERG explained that it's been frustrating for her to not be allowed to say anything. ALYSHA BERG reiterated that she wanted to talk and cooperate (with law enforcement).
31. S/A Zachmeier explained to ALYSHA BERG that there was a State's Attorney Inquiry issued by the court and that a subpoena for the KidQuarters day care licensing documents had been issued. S/A Zachmeier requested ALYSHA BERG copy these documents for law enforcement. ALYSHA BERG agreed to prepare these documents.
32. ALYSHA BERG stated she advised her supervisors that it was terrible (referring to not talking with or cooperating with law enforcement) and told them "we need to cooperate."

September 22, 2015

1. 8:30 am-S/A Zachmeier received a phone call from ALYSHA BERG. ALYSHA BERG advised S/A Zachmeier that ALYSHA BERG sent an email of the DHS policies related to the releasing of information. ALYSHA BERG advised S/A Zachmeier that when she is done redacting all the information from the licensing documents that there would not be much information for S/A Zachmeier.
2. S/A Zachmeier explained to ALYSHA BERG that there was a State's Attorney Inquiry subpoena that subpoenaed the original records and they are not to be redacted. S/A Zachmeier explained that DHS policy in reference to the releasing of the information was irrelevant as a State's Attorney Inquiry was a court order.
3. S/A Zachmeier explained to ALYSHA BERG that the records will be released in their entirety and there was to be no redaction. S/A Zachmeier further explained that the records were releasable without the subpoena, without the redaction anyway to S/A Zachmeier in their entirety based on title 50-11.1-07 and 50-25.1-11, as there were two 960's filed for suspected child abuse and neglect in reference to the Gracelynn Aschenbrenner drowning. ALYSHA BERG responded, I see, you're also going under the child abuse and neglect.
4. S/A Zachmeier explained to ALYSHA BERG that the DHS attorneys were providing poor legal advice and trying to go off other stuff to prohibit the release of the records.

ALYSHA BERG advised that "legal" wanted to review the subpoenas (the State's Attorney Inquiry subpoenas) because DHS policy indicates that employees are supposed to send the subpoenas to the legal department for review before any employees release anything. S/A Zachmeier again advised ALYSHA BERG that S/A Zachmeier did not care about the DHS policy procedure as the State's Attorney Inquiry subpoenas were issued under court order.

5. ALYSHA BERG became upset and stated that ALYSHA BERG was trying to figure out how ALYSHA BERG could keep her job as ALYSHA BERG did not want to do anything she shouldn't have done. (Please note that ALYSHA BERG had already back dated the daycare licenses to show the daycare was licensed at the time of drowning and DHS supervisors and management did nothing except to order ALYSHA BERG not to cooperate and retain ALYSHA BERG an attorney with public funds.)
6. S/A Zachmeier explained to ALYSHA BERG that the subpoena called for the immediate release of the licensing documents for the KidQuarters daycare. S/A Zachmeier advised ALYSHA BERG that if the documents were not immediately released, that someone will be arrested. S/A Zachmeier directed ALYSHA BERG to send everything in its entirety with no redaction.
7. ALYSHA BERG advised that she would let the DHS legal department know that ALYSHA BERG visited with S/A Zachmeier and the documents are to be released immediately without redaction.
8. S/A Zachmeier asked ALYSHA BERG if she wished for the KidQuarters daycare licenses to be voided. ALYSHA BERG stated "absolutely." ALYSHA BERG stated the licenses should not be in effect. ALYSHA BERG stated that DHS legal was hoping that HEATHER TUDOR would just turn in the licenses voluntarily. S/A Zachmeier advised ALYSHA BERG that the licenses were with HEATHER TUDOR's defense attorney, Paul Probst. ALYSHA BERG again stated that the licenses should not be in effect, "absolutely not." (Please note that ALYSHA BERG was the person who issued, signed, and backdated the licenses.)
9. S/A Zachmeier asked ALYSHA BERG who she was talking with at the DHS legal department. ALYSHA BERG stated that it was DHS attorney's JULIE LEER and JONATHAN ALM.
10. ALYSHA BERG advised that JENNIFER BARRY was the DHS State Administrator of Early Childhood Services at the time of the Gracelyn Aschenbrenner drowning. JENNIFER BARRY was the person who dealt with the legal department in reference to the Gracelyn Aschenbrenner drowning.
11. 3:40 pm-S/A Zachmeier received a phone call from McHenry County State's Attorney Cassey Breyer in reference to DHS attorney JULIE LEER not honoring the State's Attorney Inquiry subpoena.
12. 3:50 pm- S/A Zachmeier requested AAG Jonathan Byers contact JULIE LEER and request JULIE LEER meet with AAG Jonathan Byers and S/A Zachmeier on this afternoon. AAG Jonathan Byers agreed.

13. 4:30 pm-S/A Zachmeier and AAG Jonathan Byers met with DHS attorney JULIE LEER in AAG Jonathan Byer's office. S/A Zachmeier explained that McHenry County Sheriff Trey Skager requested the assistance of the Bureau of Criminal Investigations in reference to the Gracelyn Aschenbrenner drowning while Gracelyn Aschenbrenner was being resuscitated at the pool. S/A Zachmeier explained the investigation and some of the investigation findings to JULIE LEER.
14. S/A Zachmeier advised JULIE LEER that law enforcement only learned on August 19, 2015 that the daycare was not licensed on June 8, 2015, at the time of the drowning and learned on August 20, 2015 from ALYSHA BERG that ALYSHA BERG backdated the licenses. ALYSHA BERG explained why the licenses were backdated to June 2, 2015.
15. S/A Zachmeier stated to JULIE LEER that changes would have to be made (referencing DHS policy and state law) because of the reasoning ALYSHA BERG provided for backdating the licenses. JULIE LEER sat quiet. JULIE LEER did not volunteer that the Department of Human Services already had a policy in place, policy number 620-01-35-25. (This policy was revised on March 20, 2012. The policy is titled "Renewal of License Policy.' The policy reads "A license will not be backdated if a provider fails to submit all required licensing documentation prior to the expiration date.")
16. S/A Zachmeier advised JULIE LEER that JULIE LEER was contacted to request an updated fire inspection from North Dakota Fire Marshal (Ray Lambert). JULIE LEER stated that when DHS reads the cease-and-desist order, they believed it related to Heather Tudor and not the building. JULIE LEER explained that DHS was working towards an order of prohibition to keep Heather Tudor from the premises. JULIE LEER stated the information DHS had was the concerns were only about Heather Tudor.
17. JULIE LEER explained that DHS did not have the information from the investigation. S/A Zachmeier advised JULIE LEER that S/A Zachmeier passed on some of the information in "bullets." (This email was sent to August 21, 2015 to ALYSHA BERG. S/A Zachmeier was told on August 24, 2015 by Social Worker CHERYL JOHNSON that none of the concerns described in the bullets warranted closing the daycare.)
18. AAG Jonathan Byers advised JULIE LEER that the problem was that by S/A Zachmeier not being allowed to talk with ALYSHA BERG, S/A Zachmeier wasn't able to provide investigative findings and information to ALYSHA BERG or DHS.
19. S/A Zachmeier again advised JULIE LEER that a request was made to JULIE LEER to request the State Fire Marshal complete a second fire inspection. S/A Zachmeier advised JULIE LEER that the Fire Marshal cannot go into a daycare without the DHS request. JULIE LEER asked "why?" S/A Zachmeier explained that it was because there were no kids at the daycare (after the cease and desist order).
20. JULIE LEER explained that DHS's problem was that DHS doesn't ever make a request for the Fire Marshal to complete an inspection as DHS tells the applicant to make the request. JULIE LEER further stated that DHS doesn't have the authority to request the State Fire Marshal to complete an inspection under statute. S/A Zachmeier advised JULIE LEER that DHS does have that authority under title 50-11.1 which states DHS can request the State Fire Marshal to complete a fire inspection for a license. JULIE LEER responded "but it wasn't licensed." S/A Zachmeier advised JULIE LEER that it wasn't illegally licensed. JULIE LEER stated "but there is no one operating." S/A

Zachmeier advised JULIE LEER that the licenses were issued and were still dated June 2, 2015.

21. AAG Jonathan Byers than read NDCC 50-11.1-07 subsection (2) to JULIE LEER. The century code stated that upon request of DHS, the State Fire Marshal shall inspect the facility. S/A Zachmeier advised JULIE LEER that State Fire Marshal Ray Lambert stated he would do the inspection if DHS requested it.
22. JULIE LEER advised that when she talked with State's Attorney Cassey Breyer in reference to the request for the Fire Marshal's inspection, JULIE LEER advised State's Attorney Breyer that JULIE LEER would check on the process for that. JULIE LEER stated that Cassey Breyer did not point JULIE LEER to the century code in which DHS had the authority to request the Fire Marshal's inspection. JULIE LEER stated she had checked with people at DHS that deal with licensing in reference to requesting the State Fire Marshal inspection and no one pointed JULIE LEER to that century code. JULIE LEER advised that State's Attorney Cassey Breyer requested JULIE LEER request the State Fire Marshal so law enforcement would not have to do a search warrant. (Please note that S/A Zachmeier did obtain a search warrant for the fire inspection to be completed after JULIE LEER and DHS refused to request the State Fire Marshal.)
23. JULIE LEER claimed that DHS had never requested the State Fire Marshal complete a fire inspection before. (Please note that JULIE LEER and DHS responded to the Fire Marshal's request as State Fire Marshal Ray Lambert said DHS would.)
24. S/A Zachmeier told JULIE LEER that DHS Attorney JONATHAN ALM's email sent on September 16, 2015 and the arguments JONATHAN ALM put in the email would not hold up. S/A Zachmeier explained that the licenses backdated to June 2, 2015 were issued through June 1, 2016, past the January 1, 2016 date allowed in the administrative code for two (2) licenses for one (1) premises. This indicated that the licenses, if issued properly, would only have been valid for (6) six months. S/A Zachmeier explained that the KidQuarters daycare was not a residence, but was a converted church that JONATHAN ALM claimed that DHS could issue the two (2) licenses for as they were based on the building being a residence, which the building was not. S/A Zachmeier explained that the upstairs license was for thirty (30) kids even though there was no bathroom or kitchen in the upstairs daycare. S/A Zachmeier advised JULIE LEER that the licenses dated June 2, 2015 did not fit within century code.
25. JULIE LEER stated that DHS was under the impression that the KidQuarters daycare was in a residence and that DHS had the wrong information. (Please note that on August 21, 2015 ALYSHA BERG had inspected the KidQuarters daycare and knew it was not a residence and was a converted church. S/A Zachmeier sent the email to ALYSHA BERG on September 11, 2015 requesting ALYSHA BERG revoke the licenses by September 16, as they were issued outside of century code. On September 16, 2015, JONATHAN ALM wrote the email to S/A Zachmeier justifying why the licenses issued by DHS were legal and quoted the email S/A Zachmeier sent on September 11, 2015 to ALYSHA BERG.)
26. JULIE LEER advised that she came into the meeting with S/A Zachmeier and AAG Jonathan Byers and she was not going to defend the decision DHS made in August 2015 related to the KidQuarters daycare. JULIE LEER stated that DHS sought outside legal counsel on the August issues. JULIE LEER explained that whatever transpired,

DHS believed that they were acting within the guidance they had been provided. JULIE LEER request S/A Zachmeier keep this in mind. JULIE LEER stated that DHS employees and it was the understanding that it was not if we talked, it was when we talked. JULIE LEER believed that the DHS employees would talk the following week. That never transpired. (JULIE LEER was referring to August 24, 2015 when S/A Zachmeier was denied access to ALYSHA BERG, though ALYSHA BERG stated to S/A Zachmeier she wanted to talk but was forbidden by DHS management.)

27. JULIE LEER stated "I admit I'm the one that provided information to the Human Resources Center" (not to allow ALYSHA BERG to meet with law enforcement and for DHS employees not to talk with law enforcement). JULIE LEER stated that DHS acted in the way that DHS thought they were given the guidance to do. JULIE LEER stated "I don't want this to come back on the employees at North Central following the advice they received from DHS."
28. AAG Jonathan Byers stated to JULIE LEER that DHS wanted time to assess. AAG Jonathan Byers explained that the problem with DHS needing that time was that the daycare was going to reopen under the illegal licenses for the fifty-seven (57) children. JULIE LEER stated that by the time DHS was in the assessment mode the cease-and-desist order went into effect. Jonathan Byers explained the cease-and-desist order was obtained because the daycare was going to open the next morning (August 25).
29. JULIE LEER explained that DHS was on a parallel plane. DHS was looking at how the daycare could continue to operate and further explained "we're in North Dakota and we continue to talk about the child care crisis and their needs." We (DHS) were doing what we could based on the information we had at the time. AAG Jonathan Byers explained that the cease-and-desist order was obtained as law enforcement tried to go to DHS to solve problems, but DHS wouldn't meet with S/A Zachmeier.
30. S/A Zachmeier explained to JULIE LEER that the JONATHAN ALM email was defensive of DHS actions (even though the DHS actions were illegal). S/A Zachmeier explained that this investigation was about the safety of children. NDCC is black and white, with no gray area when it comes to the safety of children. S/A Zachmeier advised JULIE LEER that DHS circumvented the system (state law) that was put in place at the expense of the safety of children.
31. S/A Zachmeier explained that the original licensing records were evidence of a criminal offense and law enforcement needed to secure them. S/A Zachmeier advised that this would limit exposure for DHS and the impression that DHS may have changed records. S/A Zachmeier advised JULIE LEER that DHS was worried about liability, but the liability was already there.
32. S/A Zachmeier explained that S/A Zachmeier was told that the KidQuarters daycare was within their staff to child ratio in reference to the seventeen (17) daycare children taken to the pool at the time of the Gracelyn Aschenbrenner drowning. S/A Zachmeier explained to JULIE LEER and Jonathan Byers that the upstairs daycare license that expired on June 1, 2015 was for fifteen (15) children and that the incident report of the drowning completed by Heather Tudor indicated it was the upstairs daycare taken to the pool (seventeen (17) children), that on June 8, 2015 the daycare was not licensed, and that the relicensing for the thirty (30) children was backdated as the health inspection wasn't completed until June 22, 2015. AAG Jonathan Byers stated that under any of the

scenarios, the daycare was not within ratio as it was not licensed (as described by CHERYL JOHNSON and ALYSHA BERG).

33. S/A Zachmeier advised JULIE LEER that S/A Zachmeier needed the original documents for the daycare relicensing. S/A Zachmeier explained that the current impression is that DHS has not cooperated. JULIE LEER stated that DHS could give the original documents if there was something signed by the court (the State's Attorney Inquiry is a court order) but if not by the court DHS would not provide the original documents. (It was obvious to S/A Zachmeier that attorney JULIE LEER did not understand that the State's Attorney Inquiry was a court order ordering McHenry County State's Attorney Cassey Breyer to continue the investigation into the death of Gracelyn Aschenbrenner and the tampering of public records.)
34. AAG Jonathan Byers pointed out that NDCC 50-11.1-07 subsection (4b) indicated that the records are releasable to officers of the law without redaction. JULIE LEER indicated that that law still allows for redaction.
35. JULIE LEER told S/A Zachmeier that when she contacted Jonathan Byers earlier on this afternoon, she was asking AAG Jonathan Byers if AAG Jonathan Byers was aware of any impingement of a state agency providing original files. JULIE LEER explained that DHS's concern was that there could be multiple different actions that could arise: criminal and the potential for civil. DHS had a concern as to how DHS could respond to a civil action if DHS didn't have the original files. S/A Zachmeier reiterated to JULIE LEER that the original documents were evidence.
36. JULIE LEER stated that the level of redaction depends on the source request. S/A Zachmeier advised JULIE LEER that the redaction does not apply to law enforcement and all records, including medical, were releasable.
37. JULIE LEER again stated that she contacted AAG Jonathan Byers to see if there was any way for DHS to keep the original files. JULIE LEER was told "no." JULIE LEER stated that DHS was the custodian of the public record. S/A Zachmeier advised JULIE LEER that a receipt would be left as well as copies of the documents taken. JULIE LEER stated that DHS was "trying not to lose total control" and wanted to know what documents DHS would relinquish.
38. S/A Zachmeier asked JULIE LEER if it was common for DHS to allow daycare's to operate once their license expired. JULIE LEER stated she did not think it was common. JULIE LEER stated that something should have been done (in reference to the KidQuarters daycare) once the licenses expired such as a provisional license. (Please note that MAGGIE ANDERSON, JULIE LEER, JONATHAN ALM, JENNIFER BARRY, and LAURIE GOTVASLEE were on the email sent on June 9, 2015 by ALYSHA BERG informing them the daycare license had lapsed. The DHS response was an Intent to Deny the license dated June 19, 2015. The daycare was allowed to continue to operate.)
39. S/A Zachmeier advised JULIE LEER that the fire inspection completed by the State Fire Marshal was not that bad. JULIE LEER stated that she expected it to be a lot worse. (Please note that JULIE LEER was requested, as the DHS legal advisor and employee, to request the State Fire Marshal complete a second fire inspection which JULIE LEER refused, and now JULIE LEER admitted she thought the fire inspection would be worse than what it was.)

November 9, 2015

1. On September 17, 2015, S/A Zachmeier obtained a Search Warrant for the North Dakota Information Technology Department (ITD) for the following email addresses. All of the state DHS employees were on the email distribution of the June 9, 2015 email sent by ALYSHA BERG advising that the licenses for the KidQuarters daycare had expired on June 1, 2015 and had not been reissued as the relicensing packet had not yet been completed:

1. <a href="mailto:hsteffl@nd.gov">hsteffl@nd.gov</a>	Heather Steffl	Administrative Office-DHS
2. <a href="mailto:sedoe@nd.gov">sedoe@nd.gov</a>	Shari Doe	Children and Family services-DHS
3. <a href="mailto:rkorzeniewski@nd.gov">rkorzeniewski@nd.gov</a>	Russ Korzeniewski	Human Resources-DHS
4. <a href="mailto:manderson@nd.gov">manderson@nd.gov</a>	MAGGIE ANDERSON	Executive Office-DHS
5. <a href="mailto:tsolberg@nd.gov">tsolberg@nd.gov</a>	Thomas Solberg	Executive Office-DHS
6. <a href="mailto:lgotvaslee@nd.gov">lgotvaslee@nd.gov</a>	LAURIE GOTVASLEE	North Central Human Services Center-DHS
7. <a href="mailto:ajmclean@nd.gov">ajmclean@nd.gov</a>	Andrew Mclean	South East Human Services Center-DHS
8. <a href="mailto:mbaker@nd.gov">mbaker@nd.gov</a>	Marlys Baker	Children and Family services-DHS
9. <a href="mailto:lklawrence@nd.gov">lklawrence@nd.gov</a>	LuWanna Lawrence	Executive Office-DHS
10. <a href="mailto:cynmcintee@nd.gov">cynmcintee@nd.gov</a>	Cynthia McIntee	North Central Human Services Center-DHS
11. <a href="mailto:brethompson@nd.gov">brethompson@nd.gov</a>	Brenna Thompson	North Central Human Services Center-DHS
12. <a href="mailto:cherjohnson@nd.gov">cherjohnson@nd.gov</a>	Cheryl Johnson	McHenry County Social Services
13. <a href="mailto:wpeterson@nd.gov">wpeterson@nd.gov</a>	Scott Peterson	North Central Human Services Center-DHS
14. <a href="mailto:alyberg@nd.gov">alyberg@nd.gov</a>	ALYSHA BERG	North Central Human Services Center-DHS
15. <a href="mailto:reberhardt@nd.gov">reberhardt@nd.gov</a>	Rebecca Eberhardt	Children and Family Services-DHS
16. <a href="mailto:mehermanson@nd.gov">mehermanson@nd.gov</a>	Mary Hermanson	McHenry County Social Services

2. On September 18, 2015 the search warrant was served on ITD in Bismarck. ITD agreed to search the email accounts per the search warrant and then place the emails on a hard drive that fit within the search warrant parameters per their search query. Law Enforcement could then search this hard drive and seize the emails that law enforcement believed fit within the search warrant parameters.
3. On November 5, 2015, S/A Zachmeier was advised by ITD Deputy CIO and Director Dan Sipes that the ITD search is completed and the emails were secured for S/A Zachmeier to come to ITD and review the emails.
4. S/A Zachmeier reviewed the emails secured by ITD per the search warrant. Not all the emails fit within the parameters of the search warrant. S/A Zachmeier seized one hundred fifty-eight (158) emails from ITD on an electronic storage device that fit within the search warrant parameters.
5. The following emails were a sample of some of the emails seized:

1. June 9, 2015 CHERYL JOHNSON to ALYSHA BERG—"I'm supposing I shouldn't contact Heather since there is a criminal investigation underway? That feels not good. Also, if you remember her license is lapsed as she hasn't submitted all of her stuff. She was waiting on the health inspection. Didn't want to mention that, but thought I better. Is a criminal investigation done when a child drowns at a pool accompanied by their parents? I don't think I get how a child care provider has a higher degree of accountability than a parent does in a pool setting where

there are lifeguards. Assuming the child care provider is in compliance with day care rules."

2. June 19, 2015 ALYSHA BERG to CHERYL JOHNSON—"Also, Jennifer has mentioned to delete all e mail conversations regarding this case as due to the likelihood of legal action resulting from June 8 the lawyers will likely request our records and any correspondence. So just mentioning to you to also please delete all related e mails and print what you NEED and are ok with releasing to lawyers. Just wanted to spread the word...(: Thanks to you as well! LOTS!"
3. July 6, 2015 ALYSHA BERG to JENNIFER BARRY—"I received the requested info for these licenses. I am attaching it. Do I now issue regular licenses or where are we at with these? Thanks ladies!"
4. July 7, 2015 CHERYL JOHNSON to ALYSHA BERG—"The food program is wanting a license from Heather. Do we know anything? Thanks."
5. July 7, 2015 ALYSHA BERG to CHERYL JOHNSON—"You will have to let them know of the Intent to Deny but I did just hear from Jennifer asking if you verified that the health inspection violations had been corrected. I let her know Heather did. I asked her if this was ok or if I need to send you out or if I could just send you out for a drop in sooner than later. (; That was about 5 min ago...stay tuned..."
6. July 9, 2015 ALYSHA BERG to JENNIFER BARRY—"Ok, Cheryl went to KidQuarters and all looks good-go ahead and issue the licenses?"
7. July 9, 2015 JENNIFER BARRY to ALYSHA BERG—"Yes, go ahead! Thanks!"
8. July 13, 2015 ALYSHA BERG to CHERYL JOHNSON—"The licenses will be issued today."
  - A. (Please note that this was the first time law enforcement had learned that the Daycare was not licensed from June 2, 2015 through June 13, 2015. Law Enforcement was under the understanding the KidQuarters daycare was licensed at the time of the Health Inspection, June 22, 2015.)
9. July 23, 2015 CHERYL JOHNSON to ALYSHA BERG—"Have you been contacted by Craig Zachmeier with BCI? He has apparently been in touch with Mary Hermanson; it seems he is continuing to investigate the drowning of Gracelyn, in some capacity. Mary didn't seem to think criminal charges were a consideration, plus I understood that he had turned the criminal investigation over to the SO. But Mary was saying yesterday that he has talked to the family and they have told him that they did not sign any permission for Grace to go to the pool that day. They—Mom?—told Craig that when she enrolled Grace she asked if KidQuarters did swimming lessons and was told that they didn't and she says she told Heather she didn't want Grace going to the pool. Craig thinks that the family will be suing Heather and probably the pool. He was talking about how McKenzie took some of the kids to the bathroom, while leaving some in the pool and then again left kids at the pool to look in the bathroom for Grace when she couldn't be found. Also, that Heather left the group of kids with McKenzie while

she stepped away to call the mother. And the pool didn't have a sign in sheet and they were supposed to have had this. Craig has never talked to me, nor has anyone from law enforcement.

Are you aware of this continued activity? I told Mary it sounds like Craig is helping the parents prepare for a lawsuit and encouraging them. She got kind of a funny look on her face, but didn't acknowledge this was happening. I don't think KidQuarters did everything right, but if Craig is, in fact, assisting the parents toward a lawsuit, I think that is pointless unless they have medical bills they need to clean up, although Mary says Grace was insured. The policies of KidQuarters and the pool have already changed. I'm pretty sure that anyone who has been involved in this whole situation will never be same about kids and water again. Plus, are public employees allowed to assist in this manner? Maybe I'm inferring something that isn't happening."

10. August 18, 2015 CHERYL JOHNSON to ALYSHA BERG—"Craig Zachmeier called this morning to request the health inspection. I think that's what he wants; he didn't have a name, just wants something that addresses safety. That's everything we do. I'm assuming it is okay to send this, or other documents to him? Please let me know if it isn't. Thanks.

Craig says he is working with Cassey, the State's Attorney, and he's pretty sure there are going to be charges filed, because when McKenzie took the kids to the bathroom, Heather was left with too many kids and would have been over ratio. I don't know about that, they barely needed two staff at all—in terms of ratio. He also says that there is a text message that confirms that mom didn't give permission for Grace to go to the pool that day."

11. August 18, 2015 ALYSHA BERG to CHERYL JOHNSON—"I think the health inspection is a part of the open record. As far as we are concerned they were not "over ratio" in the daycare world. They can interpret this however they like and will have to defend it. You just remember our only concern was supervision--because of the environment the children were in with only two caregivers, NOT because they were over ratio etc.... I hope that helps!"
12. August 23, 2015 S/A Zachmeier to ALYSHA BERG—"Alysha, This is the affidavit for complaint to charge Heather Tudor. I'll be over Monday late morning, early afternoon to visit with you and provide our photographs from the SW. Thanks.....Craig"
13. August 23, 2015 ALYSHA BERG to S/A Zachmeier—"OK, I will be in until 3ish today, Monday."
14. August 23, 2015 ALYSHA BERG to S/A Zachmeier—"OK, I cannot meet with you though until I get approval from legal which will possibly be before then."

November 13, 2015

1. S/A Zachmeier placed a phone call to ALYSHA BERG. S/A Zachmeier advised ALYSHA BERG that S/A Zachmeier obtained a search warrant for ITD for DHS email accounts.

2. S/A Zachmeier advised ALYSHA BERG that he located an email from ALYSHA BERG to Cheryl Johnson from June 19, 2015 in which ALYSHA BERG advised Cheryl Johnson to delete emails related to the Gracelyn Aschenbrenner drowning. ALYSHA BERG advised that DHS Early Childhood Services Administrator, JENNIFER BARRY, advised ALYSHA BERG over the phone to delete emails and to let Cheryl Johnson know to delete emails.
3. S/A Zachmeier asked ALYSHA BERG about the July 13, 2015 email indicating that ALYSHA BERG would be issuing licenses to the KidQuarters daycare. ALYSHA BERG confirmed that JENNIFER BARRY directed ALYSHA BERG to issue the licenses. (This indicated that the KidQuarters daycare operated without a license from June 2, 2015 through July 13, 2015, and the licenses were backdated to June 2, 2015.)
4. S/A Zachmeier advised ALYSHA BERG that the KidQuarters daycare was allowed to operate unlicensed for approximately seven (7) weeks. ALYSHA BERG responded "right." ALYSHA BERG advised that DHS operated that if the application was in for a renewal, there was an unspoken grace period.
5. ALYSHA BERG stated that in reference to the KidQuarters licensing, ALYSHA BERG was aware that the administrators in Bismarck were meeting about what to do. ALYSHA BERG stated she does not know what the administrators in Bismarck were thinking and ALYSHA BERG felt it was a circus.
6. S/A Zachmeier asked ALYSHA BERG if ALYSHA BERG ever talked directly to JULIE LEER. ALYSHA BERG stated on August 24 JULIE LEER call ALYSHA BERG directly and that LAURIE GOTVASLEE was present. ALYSHA BERG was directed not to talk with law enforcement. ALYSHA BERG stated that she was nervous about going to the front desk to tell S/A Zachmeier she was not being allowed to talk to S/A Zachmeier when S/A Zachmeier arrived at North Central Human Services, so LAURIE GOTVASLEE said she would go and advise S/A Zachmeier. ALYSHA BERG stated that she knew she should have cooperated and it "didn't feel good to me."
7. ALYSHA BERG directed S/A Zachmeier to state form 380 which was an unlicensed child care provider affidavit. The document indicated that a daycare must be licensed if more than five (5) children were being cared for and this was the document utilized by DHS employees to forward to the states attorney for charges against and unlicensed day care.
8. S/A Zachmeier asked ALYSHA BERG why this document wasn't utilized in reference to the KidQuarters daycare and Heather Tudor. ALYSHA BERG stated that DHS would say it was because Heather Tudor had her application in.
9. ALYSHA BERG added that DHS allowed daycares to operate before they are licensed once they apply for an application. This includes on initial application process.
10. S/A Zachmeier asked ALYSHA BERG why the KidQuarters daycare was allowed to operate without a license and was going to be allowed to reopen on August 25, 2015. ALYSHA BERG stated "it was such a mess people wanted to cover it up." ALYSHA BERG stated that legal advised to allow the KidQuarters daycare to operate without a license after the June 8, 2015 drowning from either attorney JULIE LEER or JONATHAN ALM, or both, as the drowning was viewed as an accident. The attorneys also advised to

allow the daycare to reopen on August 25 as DHS saw it as a licensing air and knew this reflected bad on DHS.

November 22, 2015

1. S/A Zachmeier placed a phone call to JENNIFER BARRY. S/A Zachmeier advised JENNIFER BARRY of the email sent from ALYSHA BERG to Cheryl Johnson that stated to delete all emails. S/A Zachmeier advised JENNIFER BARRY that ALYSHA BERG stated that JENNIFER BARRY gave ALYSHA BERG the directive to delete the emails. JENNIFER BARRY stated she did not give ALYSHA BERG that directive.
2. JENNIFER BARRY explained it as JENNIFER BARRY was included in an email exchange between Cheryl Johnson and ALYSHA BERG. Cheryl Johnson stated "we should call her a hero" referring to Heather Tudor. JENNIFER BARRY stated she called ALYSHA BERG and advised ALYSHA BERG that ALYSHA BERG and Cheryl Johnson needed to quit the inappropriate email conversations. JENNIFER BARRY advised that she was aware that DHS was going to have scrutiny with this case (referring to the Gracelynn Aschenbrenner drowning). (Please note that the email to delete emails was sent on June 19, 2015, the date on the order to deny, and was prior to law enforcement discovering the licensing issues which DHS already was aware of.)
3. S/A Zachmeier asked JENNIFER BARRY why law enforcement was not notified in reference to the KidQuarters daycare license being expired and asked JENNIFER BARRY if it was a common practice for DHS to allow daycares to operate without a license. JENNIFER BARRY advised that daycare licenses have lapsed before and is was not the practice for DHS to shut them down.
4. JENNIFER BARRY advised in reference to the KidQuarters daycare case that DHS was not immediately aware that it was unlicensed. JENNIFER BARRY stated that once DHS realized that the KidQuarters daycare was unlicensed, they issued an attempt to deny informing Heather Tudor that she did not have a license and was not legal. (Please note that the intent to deny was issued on June 19, 2015 eleven (11) days after the Gracelyn Aschenbrenner drowning, and ten (10) days after ALYSHA BERG notified DHS management that the KidQuarters license had expired on June 1, 2015. This meant DHS was notified and allowed the KidQuarters daycare to operate without a license, including after the drowning of a child.)
5. S/A Zachmeier advised JENNIFER BARRY that DHS allowing a daycare to operate without a license was not allowed in century code or the administrative code. JENNIFER BARRY responded "right."
6. S/A Zachmeier asked JENNIFER BARRY if she is aware of DHS ever requesting the state fire marshal to inspect any daycares across the state. JENNIFER BARRY stated "yes." (This indicated that attorney JULIE LEER made a false statement to S/A Zachmeier on September 22, 2015.)
7. S/A Zachmeier asked JENNIFER BARRY about the DHS conversations in reference to allowing the KidQuarters daycare to operate without a license and why the KidQuarters daycare was allowed to keep operating? JENNIFER BARRY responded that it was hard for DHS as they did issue an attempt to deny which included notifying the provider that they had not approve the provider's licensing application and would not unless changes

were met. JENNIFER BARRY stated "we are not law enforcement and DHS did not view it is our job, we can say you don't have a license, it is illegal for you to operate, but charging them with a class B misdemeanor isn't something that the Department (DHS) has the authority to do. Should we have referred it to the states attorney? Probably, I guess, we should have."

8. S/A Zachmeier advised JENNIFER BARRY that DHS had a form for DHS to report unlicensed day cares. JENNIFER BARRY acknowledged this and added "but we rarely have, as rarely anyone responds, we usually don't hear from the state's attorney to investigate or about charges."
9. S/A Zachmeier advised JENNIFER BARRY that S/A Zachmeier was aware that DHS is under pressure to keep daycare's open. JENNIFER BARRY stated "that certainly plays a part, when she's the only daycare provider in town." JENNIFER BARRY advised that DHS looked at the licensing history of the KidQuarters daycare and believed the Gracelyn Aschenbrenner drowning was a tragedy but not an ongoing issue. JENNIFER BARRY stated DHS did not have the information that law enforcement had.
10. S/A Zachmeier placed a phone call to JONATHAN ALM. JONATHAN ALM admitted the KidQuarters daycare was not licensed properly. JONATHAN ALM further advised he was not aware the KidQuarters daycare was a converted church and not a residence. (Please review JONATHAN ALM's email sent to S/A Zachmeier on September 16 in which JONATHAN ALM indicates that the KidQuarters daycare was licensed properly.)
11. S/A Zachmeier asked JONATHAN ALM about the updated fire inspection (September 9, 2015). JONATHAN ALM stated that if DHS was to reissue licenses for the KidQuarters daycare building, the licenses would be issued within the new fire inspection guidelines.
12. S/A Zachmeier asked JONATHAN ALM about contacting attorney Lloyd Suhr. JONATHAN ALM advised that DHS attorney JULIE LEER had contact with attorney Lloyd Suhr. JONATHAN ALM was not sure what JULIE LEER all told Lloyd Suhr, but believed JULIE LEER told Lloyd Suhr the facts of the case. JONATHAN ALM confirmed that DHS had drawn up a contract for Lloyd Suhr to provide legal advice for DHS, but the contract was never sent off as Attorney General Wayne Stenehjem did not approve Lloyd Suhr.

December 1, 2015

1. S/A Zachmeier placed a phone call to LAURIE GOTVASLEE, the Director of North Central Human Services. S/A Zachmeier asked LAURIE GOTVASLEE about the 2012-2013 KidQuarters daycare licenses. S/A Zachmeier asked if LAURIE GOTVASLEE has ever physically been on the premises of KidQuarters daycare. LAURIE GOTVASLEE advised that it was Cyndi McIntee's unit that deals with the licensing of daycares. LAURIE GOTVASLEE stated "I have nothing to do with daycares."
2. S/A Zachmeier advised LAURIE GOTVASLEE that LAURIE GOTVASLEE signed the 2012 KidQuarters daycare licenses. LAURIE GOTVASLEE then advised that she probably signed the daycare licenses as the assistant director as the regional representative was not there. LAURIE GOTVASLEE stated "just because my name was on the licenses doesn't mean I had anything to do with the study."

3. LAURIE GOTVASLEE stated she would have signed the daycare licenses because of LAURIE GOTVASLEE's position, not because LAURIE GOTVASLEE had anything to do with the license.
4. S/A Zachmeier asked LAURIE GOTVASLEE about August 24, 2015 when LAURIE GOTVASLEE denied access to ALYSHA BERG from S/A Zachmeier. LAURIE GOTVASLEE stated that LAURIE GOTVASLEE and ALYSHA BERG had just gotten off the phone with "our attorney" who said that ALYSHA BERG wasn't to talk to S/A Zachmeier on that day. LAURIE GOTVASLEE was in the same room when ALYSHA BERG was on the phone. LAURIE GOTVASLEE stated she asked ALYSHA BERG if ALYSHA BERG wanted LAURIE GOTVASLEE to tell S/A Zachmeier that ALYSHA BERG was not allowed to talk to S/A Zachmeier. ALYSHA BERG indicated LAURIE GOTVASLEE should do this.
5. S/A Zachmeier asked LAURIE GOTVASLEE if she was aware that by blocking access to ALYSHA BERG, that LAURIE GOTVASLEE committed a criminal offense. LAURIE GOTVASLEE stated "I was not aware, I was following the advice of our attorney." LAURIE GOTVASLEE confirmed that the attorney was JULIE LEER.
6. S/A Zachmeier asked LAURIE GOTVASLEE what JULIE LEER exactly said in reference to ALYSHA BERG not being allowed to talk to S/A Zachmeier. LAURIE GOTVASLEE stated she did not recall the exact words.
7. S/A Zachmeier asked LAURIE GOTVASLEE if this was her only involvement. LAURIE GOTVASLEE stated "yes." S/A Zachmeier stated to LAURIE GOTVASLEE "getting told to do something....." LAURIE GOTVASLEE interrupted S/A Zachmeier and stated "I wasn't told to do it, I volunteered to do it because we were on the phone with MAGGIE ANDERSON and JULIE LEER and they didn't want Alysha (BERG) talking." LAURIE GOTVASLEE stated that MAGGIE ANDERSON and JULIE LEER were waiting to hear back from the Attorney General's Office.
8. LAURIE GOTVASLEE stated that ALYSHA BERG was nervous in reference to the directive from JULIE LEER and MAGGIE ANDERSON. LAURIE GOTVASLEE asked ALYSHA BERG "you want me to tell them since I'm the director?" S/A Zachmeier informed LAURIE GOTVASLEE that that is where the problem comes in as JULIE LEER and MAGGIE ANDERSON were telling an employee not to talk and that employee possibly broke the law (by backdating the daycare licenses). LAURIE GOTVASLEE responded "we were just following the advice of our attorney."

I (S/A Zachmeier) believe there is probable cause for the following charges:

ND vs. Marget "Maggie" Anderson

1.	Public Servant refusing to perform duty	12.1-11-06	Class A Misdemeanor
2.	Physical Obstruction of a Government Function	12.1-08-01	Class A Misdemeanor
3.	Criminal Conspiracy	12.1-06-04	Class A Misdemeanor

## ND vs. Julie Leer

1. Public Servant refusing to perform duty	12.1-11-06	Class A Misdemeanor
2. Physical Obstruction of a Government Function	12.1-08-01	Class A Misdemeanor
3. Criminal Conspiracy	12.1-06-04	Class A Misdemeanor

## ND vs. Jonathan Alm

1. Public Servant refusing to perform duty	12.1-11-06	Class A Misdemeanor
2. Physical Obstruction of a Government Function	12.1-08-01	Class A Misdemeanor
3. Criminal Conspiracy	12.1-06-04	Class A Misdemeanor

## ND vs. Laura Gotvaslee

1. Public Servant refusing to perform duty	12.1-11-06	Class A Misdemeanor
2. Physical Obstruction of a Government Function	12.1-08-01	Class A Misdemeanor
3. Criminal Conspiracy	12.1-06-04	Class A Misdemeanor

## ND vs Jennifer Barry

1. Public Servant refusing to perform duty	12.1-11-06	Class A Misdemeanor
2. Tampering with physical evidence	12.1-09-03	Class C Felony
3. Criminal Conspiracy	12.1-06-04	Class C Felony

Carrie Vallier  
Complainant

State of North Dakota      )  
                                  )ss.  
County of Pierce            )

Subscribed and sworn to before me this 9th day of February, 2016.

Carrie Vallier  
Notary Public, State of North Dakota

