AG: Secret deal violated victim’s rights

Agreement

Ex-Franklin officer: Concord police chief says he’s never seen such an agreement in 30 years.

By MARK HAYWARD
New Hampshire Union Leader

The Hillsborough County Attorney’s office violated the Victim Bill of Rights when it entered into a confidential agreement to drop stalking and trespass charges against a former Franklin police officer, Attorney General Gordon MacDonald wrote last month in a critique of the case.

In a March 14 letter, MacDonald wrote that the accuser of Christopher Ahern learned about the confidentiality portion of the agreement only after prosecutors had dropped the case, a violation of the Victim Bill of Rights. Prosecutors also told the unnamed accuser not to discuss the outcome with anyone.

On Thursday afternoon, Hillsborough County Attorney Michael Conlon disclosed terms of the deal, about a day after the Union Leader requested it. The deal called for Ahern to undergo a mental health evaluation, comply with any recommendations from a counselor, and have no contact with a person whose name was blacked out for victim privacy purposes, Conlon said.

The agreement also prohibits the accuser from disclosing the terms of the agreement, although she did not sign it.

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“It didn’t have to be confidential. These were the terms negotiated by the parties. They were not suggested by this office,” Conlon said. He said his office will not enter into such confidential agreements in the future.

The confidential agreement riled both MacDonald and Concord police, who originally arrested Ahern. The victim to remain silent and is, in essence, protecting the defendant from the public knowing what conditions he must abide by pursuant to the conditional (agreement to drop charges),” MacDonald wrote in the March 14 letter that recaps the meeting between Concord police and prosecutors.

An Epsom resident, Ahern was a part-time Franklin police officer who handled the city’s misdemeanor prosecutions. Concord in an election year that slanted Democratic. Conlon has no experience prosecuting criminal cases.

In an email, Conlon said Ouellette entered into the agreement in a good faith effort to support the victim and represent the state. He said Ouellette made quick decisions mid-trial.

“We have taken appropriate steps to address issues raised by the Attorney General in a letter sent to the

“It was only after the agreement was signed and the charges were nol prosed that the victim was told about the confidentiality provision and was directed not to discuss the terms of the agreement with any third parties,” MacDonald wrote. (Nol pros is legal shorthand for nolle prosequi, which signifies that prosecutors have dropped charges against a defendant before or during trial.) Concord police spoke to the victim after the agreement was
agreement was the subject of a meeting among Conlon, Concord police, MacDonald and his office’s top prosecutors.

In an interview, Concord Police Chief Bradley Osgood said he’s never seen such an agreement in his 30 years in police work. He questioned how his officers will know if Ahern is living up to the terms of any deal if they don’t know what it is.

“If you have these conditions, who’s enforcing them?” Osgood said. “If he’s told not to go 100 yards from the victim, and if I don’t know and the victim doesn’t know, how could it be enforced?”

Ahern’s arrest generated several newspaper articles in Manchester and Concord, given his status as a police officer.

“A confidentiality agreement such as this requires

police arrested Ahern last July on two counts of stalking, receiving stolen property and criminal trespass.

At the time, police said he twice tried to enter a woman’s home. Ahern had been with Franklin police for nine years when arrested. He was arraigned in Concord District Court.

The Hillsborough County Attorney took over the prosecution to avoid any potential conflict for local prosecutors, a typical practice when a police officer is charged with a crime.

A trial started, but on Feb. 26 Assistant County Attorney Andrew Ouellette, one of the few veteran prosecutors in Hillsborough County, dropped the charges.

His boss, Conlon, was elected in November after ousting a three-term Republican

Hillsborough County Attorney’s Office and remain steadfast in supporting victims of crime and upholding the Victim Bill of Rights,” he wrote in an email.

He said his office is looking to refine the wording of the agreement.

In a three-page letter to Conlon, MacDonald said he is unaware of any legal authority that would allow prosecutors to keep conditions confidential when they drop charges.

“Entering in the confidentiality provision based on the facts of this case violated a core tenet of our obligation to inform the public of the work we do as prosecutors,” MacDonald wrote.

MacDonald also noted that Ouellette failed to tell the victim the agreement was confidential.

reached, and she told police she would not have supported the decision to drop charges if she realized the agreement was confidential, MacDonald wrote.

The defense attorney in the case, Charles Keefe, was in trial and did not return a telephone message.

In the letter, MacDonald asked Conlon to do three things: ensure the conditional agreement complies with the law and the public’s right to know; ensure that an effective mechanism exists to enforce the agreement to drop charges; make Hillsborough County prosecutors fully aware of their obligations under the Victim Bill of Rights.

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