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Grant's confession

Release of data baffles lawyers

Experts worry jury selection will be difficult and judge may not allow key statements at trial.

Ronald J. Hansen / The Detroit News

MOUNT CLEMENS -- Lawyers across Metro Detroit seemed puzzled Friday about the public release of evidence in the Tara Grant murder case and questioned whether it was fair or even ethical to do so.

Responding to multiple Freedom of Information Act requests by the media, Macomb County Prosecutor Eric Smith voluntarily provided 230 pages of documents, ranging from Stephen Grant's alleged confession to listing evidence collected by investigators.

Smith and his office have said Stephen Grant, who is charged with killing his wife, pushed the case into the public spotlight with his many media interviews when she was considered missing.

Lawyers said they could not remember another case where so much information was so publicly disclosed and worried that it could complicate picking a jury and holding a fair trial. Grant's lawyer sought to block the information from being released, but Romeo District Judge Denis LeDuc overruled him.

"Whatever his motivation, (Smith) is guaranteeing the potential jury pool will have prejudged Mr. Grant," said Margaret Sind Raben, a Detroit lawyer and the incoming president of the Criminal Defense Attorneys of Michigan. "The prosecutor seems hellbent on ensuring that a fair trial won't happen."

Said Larry Dubin, a law professor at the University of Detroit Mercy and an expert on legal ethics: "On this issue I would side with the defense. I'm not aware personally of the public disclosure of a file that could likely

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contain inadmissible evidence made available for public consumption."

Smith defended releasing the documents, saying he only was complying with a records request with court approval. "The court ordered that I comply with (the records request) and that's what I did today," Smith told reporters.

The investigators are seasoned and have handled the matter as they have in other cases, Smith added.

But Sind Raben said the process should not play out like this.

"Justice flourishes in the arena of the courtroom," she said. "What justice is he talking about? Justice for whom?"

Oakland County Prosecutor David Gorcyca, who is president of the Prosecuting Attorneys Coordinating Council, could not be reached for comment.

The state's legal rules generally instruct lawyers not to disclose information that would suggest guilt or innocence or suggest someone confessed to a crime, Dubin said.

For now, Grant, 37, has not even had a preliminary examination on the murder charges. That hearing, scheduled May 15 in Romeo, will determine whether Grant must formally stand trial in the Feb. 9 strangulation of his wife. Investigators believe he killed his wife in their Washington Township home in a jealous rage.

Releasing the documents comes before key legal issues are decided in the case, lawyers said. Chief among them, is Grant's statements to investigators.

A judge could rule, for example, that the statements were improperly obtained and exclude them from the evidence at trial.

"That's an example of details that may or may not be admissible at trial but now will be potentially within the knowledge of prospective jurors," Dubin said.

Lawyers agree that moving a trial because of pretrial publicity is highly rare in Michigan, but the Grant case may be edging in that direction.

Whatever harm releasing the Grant information poses won't be clear until potential jurors are asked what they know about the case and whether they can fairly consider the evidence presented at trial, Dubin said.

In the end, Sind Raben said the release could violate judicial rules of conduct. "There's a reason it isn't done," she said.

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Charles V. Tines / The Detroit News
Prosecutor Eric Smith defends releasing the documents, saying he only was complying with a records request with court approval.
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