

File 97-089716

97-89716

**MEMORANDUM**

COUNTY ATTORNEY'S OFFICE  
GOVERNMENT CENTER  
2100 - THIRD AVENUE  
ANOKA, MINNESOTA 55303-2265

C.D. MEMO

C.D. # 132, 1997

**DATE:** June 24, 1997  
**TO:** Captain Leonard Christ, CID/Inv. Roger Foss, CID  
**FROM:** Kristin L. Day, Assistant Anoka County Attorney  
**RE:** **Potential Defendant: Kenneth Lee Sonnenfeld (d.o.b. 6/4/63)**  
Alleged Offense: Criminal Sexual Conduct - child  
Date of Alleged Offense: late 1996-May, 1997  
ICR No. 97-089716; 97-097255  
County Attorney File No. P97-302A; P97-302B  
"609.11, Subd. 10 (case involving firearms?)" - Yes \_\_\_\_\_ No X

**STATEMENT OF FACTS:**

On May 19, 1997, a report was made on behalf of K.A.M. (d.o.b. 9/2/86)(the initial complainant, hereinafter "IC") to police indicating that she had been the victim of sexual abuse perpetrated by Kenneth Lee Sonnenfeld (d.o.b. 6/4/63). Sonnenfeld, the potential defendant, is a fourth grade teacher at Lincoln Elementary and IC is one of his students. IC has been in the potential defendant's class since the beginning of the school year. Other female students in the potential defendant's class who are both friends of IC include T.E.B. (d.o.b. 8/11/86) and S.M.H. (d.o.b. 11/26/86)(the second complainant, hereinafter "SC").

IC was interviewed by Inv. Roger Foss on May 19th. She was able to identify body parts. She told Foss that, starting in December 1996, the potential defendant had been touching her boobs, vagina and butt while in class. This happened when IC was either at her desk (at the front of the classroom, directly facing the potential defendant's desk), or while she was at the computer (also in front of the classroom). She indicated that he touched her vaginal area over the clothing, and her boobs underneath her shirt and bra. The potential defendant never said anything while he was touching her, and never said anything to her about the touching. In response to questions about how often this has happened, she indicated "a lot"; however, she stated that she did not think that any of the other students in the room saw it happen. She was not able to describe the nature of the touching, other than to say that he did it with his hand. IC also said that another girl, T.E.B., had told her back in November 1996 that the potential defendant had been touching her inappropriately. She could not remember anything specific that T.E.B. said.

Inv. Foss interviewed T.E.B. on May 20th. She was able to identify body parts, and indicated that she is a friend and classmate of IC. She denied that anyone has ever inappropriately touched any of her private parts. She denied making any statements to IC indicating that the potential defendant had done so; she specifically denied that the potential defendant had ever touched her in a bad way.

On May 20th, Inv. Foss interviewed the potential defendant. He denied inappropriately touching IC. He said that he had no other remarkable experiences with IC, but that she had not been doing well in school lately and he had given her some incomplete grades or reports.

On May 21st, the father of IC called and was advised that T.E.B. had denied that the potential defendant had inappropriately touched her.

On May 23rd, the father of IC contacted Inv. Foss and stated that T.E.B. had not disclosed anything during her interview because she had been scared. He stated that T.E.B. had, in fact, disclosed some abuse to her mother and to her friend SC.

Inv. Foss immediately re-interviewed T.E.B. on May 23rd. T.E.B. again told him that she has never had any problems with the potential defendant. She said that on the previous day, IC played with her after school and told her to say that the potential defendant had touched her so that he would get suspended from teaching for the rest of the school year. IC had additionally disclosed that the potential defendant had been making her hide underneath his desk and was attempting to show her his private parts. According to T.E.B., IC has in the past complained about the potential defendant giving her "white slips" and has said that he is mean. T.E.B. has noticed both IC and SC being called to task by the potential defendant for "lollygagging" and "not using their time wisely".

On May 28th, an investigator for the school district contacted Foss and stated that a complaint about the potential defendant had been made on behalf of SC on May 23rd. On May 30th, Inv. Foss interviewed SC. SC was able to identify body parts. She said that the potential defendant has been touching both her breasts and vaginal area. She specifically said that, when she brought him a paper to correct at his desk, he stuck his right hand inside her underwear. She did not think that any other students had seen this happen, but stated that it had happened at least once per day since approximately December 1996. She stated that she had told her parents about this touching back in December and every single day that it happened. Both IC and T.E.B. had told her about talking to an investigator. SC said that both IC and T.E.B. had told her this type of touching had happened to them.

On May 29th, Inv. Foss interviewed the father of SC. He indicated that several months ago, SC told him that the potential defendant was standing close behind her in class and rubbing up against her. They did not make any report about this to the school at the time. He said that the allegation about putting his hand into her pants had only surfaced after SC had talked with IC and T.E.B.

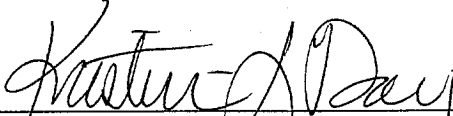
#### **REASON FOR C.D. MEMO:**

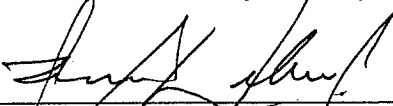
The investigation has not produced evidence which would be sufficient to convict the potential defendant of any criminal sexual conduct crimes. In order to prove that the potential defendant touched either IC or SC beyond any reasonable doubt, a jury would have to be convinced of the facts based solely upon the testimony of the two complainants. There is no corroborating evidence. The problems with the complainants' credibility would be obvious to the jury.

First, a jury would have great difficulty believing that the potential defendant could put his hand inside IC's shirt, touching her breasts, without any other student seeing it happen. This is especially true given her statement that it happened in front of the classroom and on many occasions. Likewise, a jury would wonder why no other students saw the potential defendant place his hand inside SC's pants on an

almost daily basis. Both IC and SC claim that T.E.B. was sexually victimized by the potential defendant, but T.E.B. adamantly denied this and claims IC tried to get her to lie. IC has an obvious motive to fabricate the claims of abuse, as she has apparently not been doing as well in school lately, has been disciplined by the potential defendant, and has told others that he is "mean" and that she wants to get him suspended. SC's credibility would further be challenged due to the fact that she claims to have told her parents about all of the abuse, yet her own parents indicate that she only made the disclosure about him touching her vaginal area after recently talking with IC. Finally, IC and SC are friends, and no other students who are not friends of these two girls have complained about the potential defendant's conduct.

For all of these reasons, no criminal sexual conduct charges could be proven beyond a reasonable doubt and such charges are hereby declined.

  
\_\_\_\_\_  
Kristin L. Day, #158161  
Assistant Anoka County Attorney

  
\_\_\_\_\_  
Approved and Concurred in  
James J. Weber, Jr., #115046  
Criminal Division Chief Attorney

KLD:prh

cc: Marti Gustafson  
Jodi Rick