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**STATEMENT OF ASHLAND COUNTY DISTRICT ATTORNEY DAVID MEANY
REGARDING JULY 22, 2022, FATAL ACCIDENT IN ASHLAND, WISCONSIN**

On July 22, 2022, a tragic vehicle accident occurred on US Hwy. 2 in the City of Ashland, Wisconsin, which resulted in the death of Alyssa Ortman and her minor daughter. The accident was thoroughly investigated by the City of Ashland Police Department and the Wisconsin State Patrol, and reports, including laboratory results, were forwarded to the Ashland County District Attorney's Office. Those law enforcement agencies have not referred any potential criminal charges to our Office, but as Ashland County District Attorney it is my responsibility to review independently the available evidence to consider whether any criminal charges against any involved party are appropriate.

Based on all the evidence submitted by law enforcement agencies regarding the accident, I have concluded that there is not a sufficient basis to believe that the State could meet its burden of establishing all the elements of a violation of a Wisconsin criminal statute beyond a reasonable doubt against a potential defendant. This Office therefore does not intend to file any criminal charges arising from the accident on July 22, 2022.

The following summarizes the evidence that has been presented to our Office, as it relates to the decision that no criminal charges will be filed in this matter.

The evidence shows that the accident occurred at approximately 12:26 p.m., on July 22, 2022. Ortman had borrowed her father's black Honda Civic, and left her father's residence in the City of Ashland with her daughter shortly before the accident. Ortman reached US Highway 2 in Ashland, and was travelling westbound from the intersection of Sanborn Ave. US Highway 2 in this area is situated in a general east/west direction. Heading westbound from Sanborn Ave. it

descends gradually and turns slightly to the right, towards the intersection of Turner Road, the Blue Wave Hotel, and Maslowski Beach. Turner Road intersects US Highway 2 from the south, the Blue Wave Hotel and Maslowski Beach are located on the north side of US Highway 2 at that intersection. The speed limit on US Highway 2 as it approaches the intersection with Turner Road is 45 mph.

Witness AB was also driving, with her son, westbound on US Highway 2 from Beaser Ave. shortly before the accident. She reported to an Ashland Police officer that she was travelling about 40 mph when a driver in a little black car zoomed past her, and that the car was “flying.” AB remarked to her son that she hoped the cops were ahead to catch the car. AB reported that she then observed that the black car was going to hit another car. AB thought the black car was going twice as fast as she was. AB also stated that she did not think she saw any brake lights from the black car before the accident, and that the black car swerved before hitting the front end of the other car, which she identified as a teal or blue SUV.

The available evidence shows that a green Volkswagen Golf driven by Janet Bewley pulled out from the access driveway located between the Blue Wave parking area and the Maslowski Beach parking area as the black Honda Civic driven by Ortman approached that location from the east. At that location, US Highway 2 is a four lane highway, with two lanes of travel in each direction, separated by a center turn lane. Bewley intended to cross the two eastbound lanes, and make a left turn onto the westbound lanes. For a vehicle entering or crossing US Highway 2 from that access driveway, there is a clear view to the east extending for approximately a half mile. When Bewley pulled out from the access driveway, her vehicle collided with Ortman’s vehicle, with contact occurring at the front of the Volkswagen Golf and the right front side of the Honda Civic. The Wisconsin State Patrol reports that the contact occurred when the vehicles were situated in the inner westbound lane of US Highway 2.

After the collision, the Honda Civic spun and travelled westbound in the eastbound lanes of traffic on US Highway 2, ultimately colliding with a SUV travelling eastbound, and resulting in the death of Ortman and her daughter.

Immediately before the accident, Bewley was parked in the Blue Wave parking lot, which is immediately to the east of the Maslowski Beach parking lot. Bewley stated to an officer at the scene of the accident that she was pulling out from Maslowski Beach to make a left hand turn to head eastbound on US Highway 2, and that she looked left, then right, and left again and thought she was clear. Bewley stated that she did not know where the black car came from and was unsure if she hit it or if it hit her. Bewley stated that the black car then spun across the roadway and was struck by the SUV.

Wisconsin State Patrol Sgt. Marquardt interviewed Bewley on August 3, 2022, regarding the accident. Bewley stated that she had travelled to Ashland that morning, and had stopped at the Sand Bar Cafe at the Blue Wave prior to a call with a reporter and a medical appointment. Upon leaving the Blue Wave parking lot, Bewley stated she was on the hands free phone in her Volkswagen Golf, speaking with the reporter. There is no evidence that Bewley was not on a

hands free connection or that she was distracted by speaking over the hands free phone at the time of the accident.

Bewley stated that she proceeded to the access driveway between the Blue Wave parking lot and Maslowski Beach, and prior to entering the roadway she looked left, right, and left. When looking left, or to the east, Bewley stated that she saw two black cars. Bewley further stated that, knowing the speed limit, the cars were far enough away that she had time to cross the westbound lanes. Bewley stated that she reached the median lane, and that when she started to pull onto the eastbound lane she was hit by the other car. Bewley reiterated that she did not know where the car came from.

The Wisconsin State Patrol conducted a forensic investigation of the electronic data stored in the Ortman Honda Civic. The retrieved data includes information as to the operation of the vehicle in the five seconds prior to the collision of the Honda Civic and the Volkswagen Golf. Five seconds before the collision, the Honda Civic was travelling at 94 mph, and that speed had increased to 100 mph 1.5 seconds before the collision, and remained at 100 mph until .5 seconds before the collision. The brakes on the vehicle were not activated until 1 second before the collision.

The Wisconsin State Patrol also obtained video of the accident from a business located on the south side of US Highway 2, just to the east of Turner Road. The video shows the Honda Civic travelling at a high rate of speed at the time of the collision, and the resulting force of the collision.

The law enforcement reports include a toxicology report of a blood sample taken from Ortman after the accident. The report indicates that Ortman had a detectable amount of a controlled substance, Delta 9 THC, in her blood at the time of the accident.

Bewley provided an evidentiary sample of her blood to law enforcement after the accident. At the accident scene, officers did not report any sign or indication that Bewley was impaired while driving her vehicle. The laboratory analyses of that sample did not show the presence of any ethanol, or the presence of any substance that could be assumed or proven to have impaired Bewley's operation of her vehicle.

As mentioned above, on July 22, 2022, Bewley was on the way to a medical appointment for a checkup after an eye operation the day before. The medical evidence shows that there were no restrictions placed on Bewley's activities after that operation, and there is no evidence that Bewley's eyesight was impaired at the time of the accident.

In light of this evidence, our Office will not file any criminal charge against the driver of the eastbound SUV that collided with the Ortman vehicle. With respect to the actions of Bewley in this incident, I have considered whether the State could establish beyond a reasonable doubt all elements of a criminal violation. Potentially relevant criminal violations would include: Homicide by Negligent Operation of a Vehicle (section 940.10(1) of the Wisconsin Statutes); Second Degree Reckless Homicide (section 940.06(1)); First Degree Recklessly Endangering

Safety (section 941.30(1)); Second Degree Recklessly Endangering Safety (section 941.30(2)); and, Reckless Driving Causing Great Bodily Harm (section 346.62(4)).

One element of both Homicide by Negligent Operation of a Motor Vehicle and Reckless Driving Causing Great Bodily Harm requires the State to prove beyond a reasonable doubt that the defendant operated a vehicle in a manner constituting “criminal negligence.” That term is defined in the relevant jury instruction as including the requirement that “the defendant should have been aware that (his) (her) conduct created the unreasonable and substantial risk of death or great bodily harm.” In addition, the jury instruction for “criminal negligence” further specifies that “for the defendant’s conduct to constitute criminal negligence, the defendant should have realized that the conduct created a substantial and unreasonable risk of death or great bodily harm to another.”

The crimes of Second Degree Reckless Homicide, and First and Second Degree Recklessly Endangering Safety, require the State, as one of the elements of each crime, to prove beyond a reasonable doubt that the defendant’s conduct was “criminally reckless.” Such conduct is defined in the relevant jury instructions as including the requirement that “the defendant was aware that (his) (her) conduct created the unreasonable and substantial risk of death or great bodily harm.”

With the State’s burden of proof, and based on the evidence submitted to this office, I cannot conclude that the State at trial would be able to establish beyond a reasonable doubt that Bewley acted in a “criminally negligent” or “criminally reckless” manner in this accident. First and foremost, a jury would be presented with evidence of the excessive speed that Ortman was travelling at the time of the accident, and testimony regarding the ability of another driver to perceive such an excessive speed by an oncoming vehicle when the driver is attempting to cross traffic lanes. Bewley stated to law enforcement officers that she observed vehicles in the distance to her left, but given the speed limit at that location she believed it was safe to cross the traffic lanes to make her turn to the east on US Highway 2. That statement is consistent with the evidence of the speed at which the Ortman vehicle was travelling.

The conclusion regarding the State’s ability to meet its burden of proof takes into account the difference between the physical evidence reported by the Wisconsin State Patrol and Bewley’s recollection of the precise location where the collision occurred. Whether Bewley’s vehicle reached the center turn lane before the collision, or whether the collision occurred in the inner traffic lane as reconstructed by the State Patrol, that difference does not change the significance of the excessive speed of the Ortman vehicle and the ability of Bewley to perceive that speed.

After the appropriate privacy redactions have been made in the investigative reports by the involved law enforcement agencies, those reports will be available to the public. The determination that this Office will not be filing any criminal charges related to this accident does not and cannot address the issue of whether any party involved in the accident is liable to another party in a civil action.