




J. Hanley

WINNEBAGO COUNTY STATE'S ATTORNEY

DATE: December 20, 2023
TO: The People of Winnebago County
FROM: J. Hanley, State's Attorney 

**JAIL INVOLVED DEATH
DECISION MEMORANDUM
DECEDENT: Kayla Dawn McGavran**

I. Introduction

On April 6, 2023, Kayla Dawn McGavran was found unresponsive in her jail cell at the Winnebago County Jail. She was later pronounced dead at UWHealth, Swedish American Hospital. The Winnebago-Boone County Integrity Task Force ("Task Force") conducted the investigation of McGavran's death. During the course of their investigation, investigators interviewed jail personnel, civilian witnesses, reviewed video evidence, and the results of an autopsy. The Task Force provided the Office of the Winnebago County State's Attorney its final report of investigation pursuant to the policies and procedures of the Task Force.

The purpose of this memorandum is to provide the community with an explanation of the facts of the incident, the legal principles involved, and this Office's decision as to whether any law enforcement officer, including jail personnel, should be charged criminally for their actions that night.

II. Review of Officer Involved Deaths

Pursuant to an agreement of the participating law enforcement agencies in Winnebago and Boone Counties, the Task Force may investigate any death occurring in the jail. When this occurs, the State's Attorney determines whether criminal charges are appropriate.

The State's Attorney does not make any determinations regarding whether an officer may have violated police department policy or civil (non-criminal) laws.

III. Prosecutorial Standard for Filing Criminal Charges

In making a charging decision, the State's Attorney makes a determination of whether there is sufficient admissible evidence to prove each element of an offense beyond a reasonable doubt.

This analysis is consistent with the American Bar Association Criminal Justice Standard 3-4.3 which provides: “A prosecutor should seek or file criminal charges only if the prosecutor reasonably believes that the charges are supported by probable cause, that admissible evidence will be sufficient to support conviction beyond a reasonable doubt, and that the decision to charge is in the interest of justice.”

This is the same standard that the Winnebago County State’s Attorney’s Office applies to all criminal prosecutions. This analysis also requires the State’s Attorney to evaluate whether there is sufficient evidence to overcome any affirmative defense that the accused is likely to raise.

IV. Facts

Unless otherwise noted, the following recitation of the facts is derived primarily from interviews of those working in the jail who interacted with McGavran and video evidence – including footage from McGavran’s cell.

On Wednesday, March 29, 2023, Kayla Dawn McGavran (F/W, DOB: 3/27/93) was remanded to the Winnebago County Jail from drug court. McGavran answered the medical intake questions which indicated she last used methamphetamine three days prior.

On Wednesday, April 5, 2023, at approximately 4:40pm, Corrections Officer Volden heard a crash on the upper tier of Pod 4A. Officer Volden responded and observed McGavran on the floor of her cell shaking as if she was having a possible seizure. Winnebago Jail Medical responded and McGavran “came to.” McGavran was then moved to Pod 2A, Cell 8 which was a single occupant, camera monitored cell.

At approximately 5:45pm, Officer Lisney was conducting a round on the inmates in Pod 2A and when she approached McGavran’s cell, McGavran advised her she had been using drugs that were provided to her by someone.

At approximately 6:18pm, Lieutenant Kirby and Sergeant Cox spoke with McGavran away from other inmates. McGavran advised that she had been provided a white powder from another inmate. McGavran told Lt. Kirby and Sgt. Cox that she believed the white powder was cocaine and that she had been using twice a day since she got to the jail. McGavran last ingested the substance just prior to dinner when she blacked out. McGavran indicated she had no history of seizures.

At approximately 7:19pm, Officer Yoder conducted rounds in Pod 2A. When she checked McGavran’s cell, McGavran tells Officer Yoder that she still has remnants of the substance she ingested in her shirt pocket. At approximately 7:21pm, Officer Yoder retrieved a new shirt and brought it to McGavran’s cell. When Officer Yoder arrived at the cell, she observed McGavran unresponsive on the floor of her cell. Officer Yoder called the medical code and jail medical staff and Rockford Fire and EMS responded.

While Rockford Fire and EMS were en route, McGavran sat up and became responsive. At approximately 7:26pm, her shirt was removed, and she was provided with a new shirt which she put on with the assistance of the jail staff. The original shirt pocket contained a white powder which later field tested positive for cocaine. Rockford Fire transported McGavran to UW Health Swedish American Hospital.

While at the hospital, McGavran tested positive for fentanyl and cocaine. McGavran was seen by hospital staff and released back to the jail.

As part of the investigation, members of the Task Force reviewed video from McGavran's cell, which showed the following:

Between approximately 11:20 p.m. on Wednesday, April 5, 2023 and 5:33 a.m. on Thursday, April 6, 2023, McGavran appears to be sleeping on her mattress. From approximately 5:33 a.m. until 6:57 a.m., McGavran is awake and moving around. From approximately 6:57 a.m. until 8:01 a.m., McGavran is out of her cell.

From approximately 8:26 a.m. until 8:33 a.m., McGavran moved to the toilet with a blanket wrapped around herself. She covered herself completely with the blanket and moved around while underneath it. She is seen with something in her hand that she put in the toilet water after flushing it. She put the object in a brown paper bag and moved around while under the blanket. She stood up and walked to the door of the cell with the blanket wrapped around her. Nothing could be seen at the door as the camera's field of view was obstructed.

At approximately 8:33 a.m., McGavran grabbed the brown paper bag and sat on the bed with her back to the camera. She is seen moving while under the blanket. At approximately 8:42 a.m., McGavran walked to the toilet and tossed what appeared to be a wadded up brown paper towel between the wall and the toilet.

At approximately 9:17 a.m., McGavran was sitting on the mattress with the blanket covering her. Her arms and legs appeared to be shaking uncontrollably. She stopped shaking and laid motionless until 9:23 a.m.

At approximately 9:23 a.m., McGavran sat on the mattress and read a book.

At approximately 9:55 a.m., McGavran's arms and legs began to shake uncontrollably. Her body shook uncontrollably before stopping approximately 14 times by 10:16 a.m.

On Thursday, April 6, 2023, at approximately 10:16 a.m., Officer Vurnovas was conducting her rounds and observed McGavran motionless under the blanket. Officer Vurnovas entered the cell and attempted to raise McGavran by yelling and shaking her. McGavran did not respond.

Officer Vurnovas then called the medical code over the radio and started chest compressions. Additional corrections and medical staff responded to McGavran's cell and continued performing life saving measures. At approximately 10:22 a.m., Rockford Fire/EMS arrived and assisted. McGavran was transported to Swedish American Hospital where she was pronounced dead.

The pathology report indicated the death of McGavran was attributed to hypoxic brain injury due to cardiopulmonary arrest caused by adverse effects of cocaine. Lacerated liver and hemoperitoneum were contributing factors.

Further investigation revealed Chelsea Bankord brought cocaine into the jail at the time of her arrest and provided it to multiple inmates including McGavran.

V. Application of the Facts to the Legal Standard

In order to charge a corrections officer criminally for McGavran's death, one potential applicable charge is involuntary manslaughter. To prove that charge, there would have had to be some action that caused McGavran's death. In order to prove involuntary manslaughter, the State would have to prove each of the following elements: (1) an act which causes death, (2) that act was likely to cause death or great bodily harm, and (3) that act was performed recklessly. *People v. Sexton*, 31 Ill.App.3d 593 (5th Dist., 1975). See *People v. Bolden*, 103 Ill.App.2d 377 (1st Dist., 1968) (The gist of the offense is the reckless performance of an act likely to cause death.)

With respect to all those involved, including Officer Vurnovas, the facts do not support the crime of involuntary manslaughter. McGavran was found unresponsive, life saving measures were taken, and despite those measures, McGavran died. There was no act, committed recklessly or otherwise that caused McGavran's death. Further, McGavran's cause of death was attributed to hypoxic brain injury due to cardiopulmonary arrest caused by adverse effects of cocaine. Lacerated liver and hemoperitoneum were contributing factors.

Next, as part of the recently passed "SAFE-T Act," the Illinois legislature created a "duty to render aid" for "law enforcement officers." 720 ILCS 5/7-15. The statute reads:

It is the policy of the State of Illinois that all law enforcement officers must, as soon as reasonably practical, determine if a person is injured, whether as a result of a use of force or otherwise, and render medical aid and assistance consistent with training and request emergency medical assistance if necessary.

A failure to render aid would subject a law enforcement officer to prosecution for the crime of "official misconduct." 720 ILCS 5/33-3(a)(1).

It is almost certain that the definition of "law enforcement officer" would not apply to corrections officers. Nevertheless, a detailed analysis of whether it applies to corrections officers is not necessary because Officer Vurnovas's actions did not violate the "duty to render aid"

statute. There is no evidence that prior to Officer Vernovas entering McGavran's cell, Vernovas, or any other Officer, knew that McGavran was in need of medical attention.

As detailed below, McGavran was alone in her cell and died as a result of "hypoxic brain injury due to cardiopulmonary arrest caused by adverse effects of cocaine. Lacerated liver and hemoperitoneum are contributing factors." Criminal charges are not appropriate and none will be filed

VI. Conclusion

Based upon the evidence reviewed and the applicable legal standards, no criminal charges will be filed in this case.