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On May 26 at approximately 1:50AM, police were dispatched to Helen DeVos Children's Hospital regarding the death of Susannah Murray. Susannah was three weeks old and had been brought to the hospital May 25 by ambulance after being bitten by a dog. Grand Rapids Police were not originally dispatched to the home where it occurred. Police are not dispatched to every dog bite call in the city, and, at the time the call came, Susannah was alive, crying; there was no indication as to the seriousness of the injuries to the child.

Through police investigation, it was discovered that the incident occurred at approximately 6PM at the home of Susannah on Kalamazoo Avenue. Michelle Murray, the mother of Susannah, had gone onto the front porch of the residence to smoke a cigarette. Her friend Bobbi Rodriguez accompanied her onto the porch. Susannah was asleep in a rocking/bouncy seat on the floor of the living room of the residence. This seat was no more than a foot off of the floor. Nobody else was in the room with the baby. The family had 3 Pitbull mix dogs: Rhino 2-years old, Devlin 2-3 years old, and Momma 3 ½ years old. The dogs were loose inside the home when the adults went out on the porch. There were other children in the home at the time this occurred, the children were in different rooms of the home and not in the living room with Susannah.

The two adults indicated they were only on the porch for five minutes before Ms. Rodriguez went inside to check on the baby. When she went into the home, she noticed Rhino licking Susannah's face. Momma was also in the room at this time, but this dog was not next to the baby. She kicked at Rhino to get him away from Susannah, and when the dog moved away she immediately noticed something was wrong with Susannah. Susannah was covered in blood and Ms. Rodriguez called for Ms. Murray to come inside the home. Neither of them had heard any screaming, commotion, or any signs of a problem while they were out on the porch. None of the children inside of the home indicated they heard any crying, screaming, or commotion that would indicate Susannah was in any trouble. None of the children were aware of anything happening until Ms. Murray came into the home and was calling 911. Susannah was taken to DeVos Children's Hospital where she underwent emergency surgery. She was pronounced dead at 1:50 AM on May 26 and the police were notified at that time. The medical examiner indicated the cause of death was craniocerebral trauma. Susannah had multiple lacerations, abrasion, contusions, and puncture wounds of the head consistent with dog bites.

There are no police reports regarding complaints against any of these three dogs. The Kent County Animal Shelter has no history of calls or complaints regarding any of these three dogs. Grand Rapids Police went out and canvased the neighborhood regarding any issues with the dogs. One neighbor indicated the dogs chased them one time but nothing further. Most other neighbors had no problem with the dogs. One neighbor described them as "friendly", "playful", and "big babies". Another neighbor said they had approached the dogs and petted them with no issue even though the dogs did

not know them. Ms. Rodriguez indicated to police that her 11 month old had been in the home with these dogs prior to this incident and there had never been any problems.

There is no way to conclusively prove which dog bit Susannah. Rhino, the dog that was found licking Susannah and was closest to the baby, was a support dog for one of Ms. Murray's children. Rhino completed a "Doggy Manners" course in November of 2016 through Happy Trails Dog Training, and had also been certified by the American Kennel Club as a "Canine Good Citizen" in February of 2017. There was a letter from a therapist that requested the child be allowed to use Rhino at a presentation in school due to anxiety issues, describing Rhino as an "emotional support dog". The other dog in the room, Momma, had been with the family for years and there were no reports of any issues with the dog, other than when animal control arrived on scene. Animal control was told that the dog "didn't like men". However there are no reports of Momma attacking or biting any men. All three dogs have been turned over to animal control and Ms. Murray surrendered control of the three of them to Kent County Animal Control for euthanasia.

Under these facts, no criminal charges will be issued against the mother of Susannah Michelle Murray. She alone is the person with a legal duty to care for this child and the only one who potentially could face any charges. The first potential charge would be involuntary manslaughter. The elements of this offense are: 1) The defendant had a legal duty to Susannah, 2) The defendant knew of the facts that gave rise to that duty, 3) The defendant willfully neglected or refused to perform that duty and her failure to perform it was **grossly negligent** (emphasis added) to human life, and 4) The death was directly caused by the defendant's failure to perform her duty. *CJ12nd 16.13* Gross negligence is further defined under the law.

"Gross negligence means more than carelessness. It means willfully disregarding the results to others that might follow from an act or failure to act. In order to find the defendant was grossly negligent, you must find each of the following three things beyond a reasonable doubt:

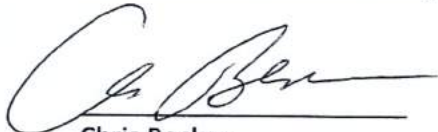
- 1) The defendant knew of the danger to another, that is, she knew there was a situation that required her to take ordinary care to avoid injuring another.
- 2) The defendant could have avoided injuring another by using ordinary care
- 3) The defendant failed to use ordinary care to prevent injuring another when to a reasonable person it must have been apparent that the result was likely to be serious injury." *CJ12nd 16.18*

The behavior of Ms. Murray by leaving Susannah in a rocking/bouncy seat on the floor of the living room does not rise to the level of gross negligence. It is impossible to state she "knew of the danger" to Susannah by leaving her where she did in her own living room. Nor would it be possible to show that "it must have been apparent" that the result of leaving Susannah in this situation, "**was likely** to be serious injury" There is absolutely no evidence that any of these three dogs were aggressive, violent, or would bite a baby with no provocation. Ms. Murray's friend indicated she had her 11 month old in the home without incident, there were no police reports or animal control reports on any of the dogs. The dog most likely to have done this, Rhino, had been trained and passed for appropriate behavior. There is absolutely no indication in the history of Rhino, or in any of the other two dogs, that they would bite a three week old baby in a seat on the floor. The law imposes culpability in situations where a person **knew** of a danger and could have prevented something from happening when it **must have been apparent** injury would result. Neither of these elements are present under these circumstances. Simply

having three dogs in the home, even if all of them are a pit bull mix, is not enough to hold a person criminally liable.

Similarly there can be no charges for child abuse. The only potential child abuse charges would be child abuse in the 2nd degree. The elements for 2nd degree child abuse are: 1) Defendant is parent of the child, 2) the defendant had care/custody of child when abuse happened, 3) the defendant did a reckless act causing serious physical harm (or) knowingly or intentionally did an act likely to cause serious physical harm. *CJ12nd 17.20 & 20a* As stated above, there is no way to show that the act of leaving Susannah on the floor in her seat is an act likely to cause serious physical harm. Is it possible? Yes; anytime you leave a child unattended harm is possible. However that is not the test; potential harm must be **likely** for someone to be held criminally responsible. Additionally it cannot be said her conduct was reckless. To show recklessness there would have to be evidence she knew of a potential for harm and ignored that danger. That also cannot be shown here.

This was a horrible tragedy for the family. The mother acted appropriately by calling 911, cooperating with authorities, and turning over the dogs to animal control to be euthanized as a precaution. There is no basis to file criminal charges in this case.



Chris Becker
Prosecuting Attorney

6-19-17

Date