

EXCLUSIVE: All Charges Dropped As West Allis Police Botch Fatal Auto Crash Case

I have learned all charges have been dropped against a 52-year old West Allis woman whose car struck and killed a 78-year old woman on her way home from church January 30. Deputy Milwaukee County District Attorney Kent Lovern tells me the decision was made because of mistakes made by West Allis Police at the scene. West Allis Police acknowledge the case was mishandled by their officers but say the errors were not willful.

Lovern said that audio from officers' body cameras indicates the officers on scene did not think the driver of the car was impaired. In addition, the woman can be heard repeatedly saying she did not want to consent to a breathalyzer test or blood draw. She did fail field sobriety tests and she acknowledged having several strong vodka drinks and taken prescription medication with the alcohol. But Lovern said the verbal statements made by the officers on the scene would have been used in court to argue she was not impaired and the statements meant there was no probable cause to require the taking of blood or breath tests.

The victim, 78-year old Kathy Deischer, was stopped at a stop sign at 92nd and Lapham at 3 pm on January 30. Her car was hit so hard that it was sent into a building. The vehicle was mangled. Deischer's family has filed a civil suit against the driver.

Lovern said West Allis police did persist in seeking the driver to agree to an alcohol test and even went to her home to try to talk her into it. Despite her later admissions of drinking and using pills, she never consented to a test, according to Lovern. A blood draw was eventually taken. West Allis police referred the case to the DA on charges of operating while intoxicated. She was ultimately charged for initially refusing to take the test. Given that officers are heard on the scene saying they didn't think the woman was impaired, Lovern said a judge would likely throw out the refusal charge because of lack of probable cause. Likewise, the verbal comments would have made the blood draw inadmissible. With the dismissal of the lone charge for refusing to submit to a sobriety test, the woman is now charged with nothing.

Deputy West Allis Police Chief Robert Fletcher acknowledged the case was mishandled by his officers and a supervisor. "As a result of the internal investigation, the West Allis Police Department instituted policy changes, provided additional training to the involved officer and discipline was imposed," Fletcher told me in an email. "The purpose of this corrective action is to help ensure the errors which occurred on January 30th are not repeated and that individuals violating OWI laws are held accountable for their actions," Fletcher said.

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