



Rod Underhill, District Attorney

1021 SW Fourth Avenue, Room 600
Portland, OR 97204-1193
Phone: 503-988-3162 Fax: 503-988-3643
www.mcda.us

MEMORANDUM

To: FILE
From: DDA Laura Rowan
Date: 10/14/2015
Subject: Jolene Friedow Crash Investigation

Date and Time: 05/27/2015 @ approximately 12:02 PM
Location: SE Cesar E Chavez Blvd. and SE Gladstone St.
Investigator: David Enz (PPB)
Victim: Mark Angeles
Suspect Driver: Jolene Friedow

On Wednesday, May 27th, 2015 at approximately 12:02 PM., Jolene Friedlow, DOB 12/09/1974, was driving a 2012 Ford F450 tow truck, with a car hitched to the back, eastbound on SE Gladstone St. When she reached the intersection of SE Gladstone and SE Cesar Chavez Blvd., she made a left turn on to SE Cesar Chavez Blvd. At that same time, Mark Angeles, DOB 11/20/1992, was riding his bicycle westbound on SE Gladstone St, approaching SE Cesar Chavez Blvd., and collided with the front passenger side of Ms. Friedlow's vehicle. The impact of the collision resulted in fatal injuries to Mr. Angeles.

SE Gladstone Street is an east/west residential street in Southeast Portland and is a designated "bike route." At the intersection of SE Gladstone and SE Cesar E Chavez, there is a gas station, restaurant, apartment complex, and Plaid Pantry. SE Cesar Chavez is straight and level at this location. SE Gladstone slopes slightly downhill from the east. The downhill slope (east to west) starts at SE 42nd and continues to the intersection with SE Cesar Chavez Blvd.

There are two travel lanes for SE Gladstone St., one lane for eastbound traffic and one lane for westbound traffic. The lanes are separated by a solid double yellow line. The east/west bound lanes are bordered by designated bike lanes. The bike lanes are separated from the travel lanes by a solid white line. Bordering both bike lanes on the north and south sides of the roadway are designated parking shoulders. There is not a turn lane or turn arrow designation on the traffic light on the east/west lanes of travel on SE Gladstone St at the intersection of SE Cesar Chavez Blvd. The intersection is equipped with two standard electronic traffic control devices in each direction, painted crosswalks, and electronic pedestrian crossing signals. SE Gladstone St. has a posted speed of 25 mph at this intersection.

Both the eastbound and westbound lanes of SE Gladstone St. have a designated "bike boxes," which are painted green with a white figure representing a bicycle rider and the words "WAIT HERE" painted on the roadway. The "bike boxes" are located directly behind the pedestrian crosswalk and the bike lanes extend approximately 7.5 feet into the intersection.

SE Cesar Chavez Blvd. is a main north/south through street in Southeast Portland. There are four lanes of travel for the roadway, two lanes for northbound travel and two lanes for southbound travel. The north/south lanes are separated by a painted double yellow line, down the middle of the road. The north lanes are separate from each other by a dashed white line, as are the southbound lanes.

Ms. Friedlow was driving a Ford F450 towing vehicle. The color of the vehicle is bright red. In tow was a 2006 Volvo sedan. The concentration of the damage to the tow truck was to the front passenger side. The damage was positioned between the passenger side front wheel well and the "F450" emblem along the passenger side front quarter panel. Visible on this part of the truck was a concaved area. The top of this concaved area measured approximately 50 inches from ground level. The bottom of the concaved area measured approximately 44 inches from the ground. In addition to the concaved area, Officer Enz noted multiple scuff marks, cracked plastic at the base of the wheel well, and a damaged passenger side exterior mirror. Officer Enz also observed damage to the lower portion of the door. He noticed a small dent approximately 30 inches from the ground and a dark line running along the running board. Officer Enz retrieved the front wheel of Mr. Angeles's bicycle and placed the wheel near the starting point of the line on the running board. He found that the damage to the wheel of the bicycle lined up with the marks to the running board.

Mr. Angeles was riding a silver colored custom built fixed gear bicycle. Officer Enz reports that a fixed gear bicycle is one that has a drivetrain with no freewheel mechanism. A fixed gear drivetrain has the drive sprocket threaded or bolted to the rear wheel hub, so that the rider cannot stop pedaling when the bicycle is in motion. On a fixed gear bicycle, if the rear wheel is turning, the pedals turn in the same direction. A rider of a fixed gear bicycle can apply breaking force with his legs and body weight by resisting the rotation of the cranks. Most fixed gear bicycles are single speed and are only equipped with a front brake. Mr. Angeles's bicycle was equipped with a common front cantilever brake. The cantilever is connected to a hand brake. The handbrake on Mr. Angeles's bike was positioned on top of the handlebars and in the center of the handlebars of the bicycle. The concentration of the damage to the bicycle was to the front end: the front wheel and yoke. The front wheel had two very distinct creases. The front forks, handle bars, and front brake had been torn away from the yoke. Officer Enz reports that the centroid of the damage to the front wheel was consistent with the damage observed to the passenger side running board of Ms. Friedlow's tow truck.

Officer Kile was driving south on SE Cesar Chavez Blvd approaching SE Gladstone. As he approached the intersection he saw a red tow truck parked in the east lane facing northbound. Officer Kile reports that he saw a female, later identified as Ms. Friedow standing by the driver's side door of the truck. He reports that she had her hands up to her face and was crying. Officer Kile looked toward the intersection and saw a bicyclist, later identified as Mark Angeles, on the ground next to a bike with two people sitting next to him. Officer Kile parked his car to investigate what happened and Ms. Friedow ran to his window and exclaimed, "I didn't even see

him!” Officer Kile broadcast over the radio that he had just driven up to a serious crash. Officer Kile ran over to Mr. Angeles and immediately noticed major head and face trauma. Officer Kile quickly realized that his medical equipment would not be helpful due to the natures of the injuries. A civilian doctor was on scene attempting to provide assistance. Officer Kile reports that he noticed Mr. Angeles was wearing a helmet but the injuries appeared to be below the protection of the helmet. Lying next to Mr. Angeles was a messenger bag which had a speaker in it that was playing music. It became clear this was a fatal collision and Officer Kile made proper notification over the radio. Officer Kile stayed with Mr. Angeles, held his hand, and spoke to him until medical arrived.

Officer Larson interviewed Gregory Parsons (DOB 06/12/1970), who reported that he was traveling southbound on Cesar Chavez Blvd. in the left lane and approached the intersection at Gladstone and stopped at the red light. He saw some vehicles travel westbound in front of him on Gladstone, but didn't know or recall how many cars passed by. At this time he noticed a red tow truck stopped on the west side of the intersection in the eastbound lane of Gladstone St. After the cars he saw went westbound, he saw the tow truck begin to pull away from the intersection and begin to turn left (northbound). As the tow truck turned, he tracked the tow truck. He then heard a crash and reported that the tow truck continued to make the turn. As the tow truck completed the turn he could see between the tow truck and the car it was towing and saw a bicycle go to the ground. After the tow truck cleared the intersection he saw Mr. Angeles on the roadway. He then rendered assistance to Mr. Angeles.

Officer Higginbotham interviewed LeeAnn Disanti (DOB 05/12/90) who reported she was having lunch at the restaurant Shut Up and Eat located on the southwest corner of the intersection of SE Gladstone St. and SE Cesar Chavez Blvd. Ms. Disanti reported that she observed a tow truck with a car hooked to it make the left turn from east bound SE Gladstone St. to north bound SE Cesar Chavez Blvd. As the tow truck reached the middle of the intersection, she heard a “horrible loud noise.” Ms. Disanti did not see Mr. Angeles until the tow truck pulled over. Ms. Disanti did not see which direction Mr. Angeles came from but assumed he was traveling westbound on SE Gladstone since it is a bike corridor.

Officer Staab interviewed Anthony Morales (DOB 05/23/1993) and Daniel Smith (DOB 06/25/1987), both were working at the Texaco gas station located on the northwest corner of the intersection. Mr. Morales and Mr. Smith reported that they did not see the accident but were aware from their peripheral vision that the red tow truck was turning from eastbound Gladstone on to northbound Cesar Chavez. Both witnesses reported that they looked up after the crash and Mr. Morales reports that he went to check on Mr. Angeles.

Officer Staab also interviewed patrons of Shut Up and Eat, none of the patrons he spoke to actually witnessed the collision. One woman reported that she was seated on SE Gladstone facing eastbound and remarked to Officer Staab that the sun was in her eyes.

Sergeant Smith reported that an ER doctor William Aurich (DOB 10/28/1958) was passing by as the collision occurred and attempted to render aid to Mr. Angeles until relieved by paramedics. Officer Smith interviewed Mr. Aurich who reported he was driving down the street when he came across the crash. Mr. Aurich did not witness the collision. However, when he saw Mr.

Angele he tried to give whatever medical assistance he could but he did not have any medical supplies with him. Mr. Aurich stated that Mr. Angeles was not breathing.

Officer Balzer arrived and made contact with Ms. Friedow. Officer Balzer described Ms. Friedow as sitting on the back of the tow truck, bent over, and crying hysterically into her hands. When Officer Balzer approached Ms. Friedow, Victor Bofill (DOB 04/25/1986) was comforting her. Officer Balzer quickly determined the nature of their relationship and learned that Mr. Bofill was a stranger but was offering support. Officer Balzer asked Ms. Friedow if she had been driving the tow truck and she stated "Yes." Officer Balzer asked Ms. Friedow for her license and insurance paperwork and noted that she remained very emotional and was crying throughout their contact. When Officer Balzer was recording Ms. Friedow's insurance information, Ms. Friedow received a phone call. Officer Balzer reports that he overheard Ms. Friedow state, "he was coming toward me, I don't know I didn't see him, I heard something and looked over and saw the mirror broke and saw him on the ground." Once off the phone, Ms. Friedow continued crying and said, "I didn't see him." As Officer Balzer waited with Ms. Friedow she received another phone call and asked Officer Balzer if he would talk to her boyfriend. Officer Balzer spoke with Derick Brown, who reported he was the owner of North Oregon Towing and was on his way to the crash location. Mr. Brown told Officer Balzer that there was a DVR system on the truck and that it runs any time the truck is running. He told Officer Balzer that the video is stored on a memory card. Officer Balzer informed Sergeant Smith and Officer Sorenson.

Officer Sorenson was paged out as a member of the Major Crash Team and was told to interview Ms. Friedow. Officer Sorenson has been a traffic officer for 26 years and has investigated over three thousands DUII related cases. Officer Sorenson has also been a Drug Recognition Expert (DRE) since 1995. Ms. Friedow told Officer Sorenson that she had picked up the car she was towing from Sharps Auto Body located at 4031 SE 26th Ave. Ms. Friedow told Officer Sorenson that she was driving eastbound on SE Gladstone St. Officer Sorenson's reports states that as Ms. Friedow approached the intersection of SE Gladstone and SE 26th Ave she made a left turn on to SE 26th Ave. However, I believe this to be a typographical error as the known location of the collision is SE Gladstone St. and SE Cesar Chavez. Ms. Friedow reported that as she made the left turn she heard something hit against her truck and as she looked she noticed her passenger side mirror was damaged. Ms. Friedow told Officer Sorenson she stopped immediately, turned on her emergency lights, and got out of her truck. At that point, Ms. Friedow saw Mr. Angeles on the ground. Ms. Friedow reported she was going to call 911 but was told a 911 call had already been made. Ms. Friedow reported that a crowd gathered around Mr. Angeles and her next thought was to notify her boss about the crash. Officer Sorenson asked how much sleep Ms. Friedow had the night before. She reported she went to sleep at 9:30 pm and awakened at 5:45 am. She reported she was not tired at the time of her interview. Officer Sorenson asked Ms. Friedow if she was on the phone at the time of the crash and Ms. Friedow stated that she was not. Later, Ms. Friedow consented to Officer Sorenson reviewing her call log. Officer Sorenson verified that Ms. Friedow was not on her phone at the time of the crash. The last call prior to the crash occurred at 11:14 am. Her next call was at 12:03, right after the crash. Ms. Friedow denied drinking alcohol or taking any drugs that day. Ms. Friedow stated that she does not drink or use drugs at all. She reported that she is prescribed a medication called "LIDIA" for ulcers. Ms. Friedow stated that the prescription bottle does not carry a driving warning. Officer Sorenson writes in his report that during his interview of Ms. Friedow he did not see any

indicator of impairment. However, it is common practice to ask the driver to take a breath test to verify there is no alcohol present. Mr. Friedow was asked if she would go to the police precinct and voluntarily take a breath test. Ms. Friedow consented and provided a breath sample. The result of the breath test was .00. The sample was provided at 1:05 pm. Officer Sorenson asked Ms. Friedow if she would consent to officers obtaining the video footage from her tow vehicle, and Ms. Friedow replied, "Of course."

Officer Close, a traffic officer with Portland Police Bureau's Major Crash Team, reviewed security camera footage from the Texaco service station. He reported that the camera footage did capture the collision and confirmed that Mr. Angeles was traveling westbound on SE Gladstone in the "bike lane" and Ms. Friedow was turning left (northbound) onto SE Cesar Chavez Blvd. from SE Gladstone St. Officer Close noted that due to the fact the camera is mounted on a building to the northwest of the intersection, it did not capture a full view of the impact because the tow truck obscures direct view of the impact. Officer Close was directed by Sergeant Smith to secure the video footage from the Texaco station and provide it to the lead investigator, Officer Enz. Officer Close also made contact with the owner of the tow truck company and learned that the tow truck was equipped with on board cameras. Officer Close secured the video from the tow truck camera and reviewed it.

Officer Close reports that from the gas station footage he could see the tow truck turning from SE Gladstone to SE Cesar Chavez. He also reports that the footage captured Mr. Angeles traveling west in the bike lane at a rapid rate of speed. It appeared to Officer Close that as Mr. Angeles approached the intersection he began to pedal faster. Based on his review of the tow truck camera footage, Officer Close reports that as the truck entered the intersection the traffic signal changed from green to yellow. Officer Close reports that as the light changed to yellow, the cyclist appeared from a shadow cast by a tree. It did not appear to Officer Close that Mr. Angeles made any attempt to slow down prior to the collision. Officer Close opined that Mr. Angeles may have seen the light change, lowered his head to pedal faster, and may not have noticed the tow truck turning.

Portland Police Bureau traffic Officers Glaske and Villanti arrived on scene with the Crash Team van. Officer Glaske and Villante utilized the Trimble machine to obtain two hundred and seven points for a crash scene diagram. Using the information obtained during the crime scene measurements; Officer Glaske completed his diagram and provided a copy for Lead Investigator, Officer Enz.

Officer Enz, the lead investigator and a member of Portland Police Bureau's Traffic Investigation Unit, responded to SE Gladstone St. and SE Cesar Chavez Blvd. While en route he noted that the temperature was approximately 76 degree and it was sunny. Officer Enz arrived at the intersection at 12:40 pm and was briefed by officers already on scene. After examining the tow truck, bicycle, and crash scene, Officer Enz obtained evidence collected by other officers. Officer Enz returned to the location of the collision on May 28th at 11:55 am and noted the weather conditions were similar to those on May 27th. He photographed the approaches to the intersection from the point of view of both parties involved. Officer Enz contacted the Portland Department of Transportation (PDOT) and requested the timing for the traffic control devices at the intersection of SE Cesar Chavez and SE Gladstone Street, specifically for the east/west bound traffic on Gladstone Street. Officer Enz contacted the Officer Miller from the Forensics

Division and requested Officer Miller to analyze the video footage from the Texaco service station to determine how many frames per second the video contained. Officer Enz drove to the storage facility that held the tow truck, where he took measurements of the damage and photographed the truck. Officer Enz met with Mr. Angeles's mother and had a phone conversation with Mr. Angeles's father.

Officer Enz reviewed the video captured from the on board camera in Ms. Friedow's vehicle. It starts recording as she leaves a lot on SE 26th Ave and then continues eastbound on SE Gladstone St. As she crosses SE 37th Avenue, Officer Enz reports that another eastbound vehicle makes a left northbound onto SE Cesar Chavez Blvd, which indicated to Officer Enz that the light for eastbound traffic on SE Gladstone was green. As Ms. Friedow approaches the intersection of SE Cesar Chavez Blvd, Officer Enz reports that the video shows the traffic light for eastbound traffic is a solid green. As she begins to enter the intersection the traffic light cycles from green to yellow. At the time the light cycles, Ms. Friedow's front bumper is east of the east crosswalk bar. Her vehicle was within the intersection at the time of the light change from green to yellow. Officer Enz reports that he slowed the video to half speed and was able to pause the video at the point when the light cycled from green to yellow. While the video was paused, Officer Enz was able to locate Mr. Angeles in the still frame. Mr. Angeles was in the westbound bicycle lane approaching the intersection from the east. At the time the light cycle changed, Officer Enz reports that Mr. Angeles appeared to be next to a parked red vehicle, which was parked facing westbound along the north curb line of SE Gladstone to the east of SE Cesar Chavez Blvd. The parked red vehicle was still at the scene and was included in the to-scale diagram prepared by Officer Glaske. By comparing the to-scale diagram to the video, Officer Enz was able to determine that Mr. Angeles was approximately 64.20 feet from the east crosswalk bar of the east crosswalk at the intersection of SE Gladstone and SE Cesar Chavez Blvd. While at the scene, Officer Enz visually checked the traffic signals for both directions of travel on SE Gladstone St. and observed that the traffic lights are in sync and were functioning properly. This information was confirmed by PDOT.

The videos from Ms. Friedow's vehicle and the Texaco service station were further analyzed by Officer Enz. Officer Enz reports he watched the videos numerous times at various speeds. He reports that the video from Ms. Friedow's vehicle shows Ms. Friedow entering the intersection prior to the traffic light turning from green to yellow. Officer Enz reports that while viewing the Texaco video it appears that Mr. Angeles does not attempt to slow or accelerate as he approached the intersection. He observed that Mr. Angeles does not appear to change his posture, head level, or adjust his steering as he approaches the intersection at what appears to be a constant speed. After watching both videos, Officer Enz reports that he did not observe any change in Mr. Angeles's speed, direction of travel, or body posture indicating that Mr. Angeles perceived any change in the traffic signal, other vehicles, or any impending hazards as he approached the intersection. Officer Enz reports that he did not observe any change in the movement of Ms. Friedow's vehicle, change in speed, sudden braking, or avoidance steering that would indicate that she perceived any oncoming traffic or impending hazards as she traveled through the intersection.

Officer Enz obtained the GPS device from Ms. Friedow's vehicle with Ms. Friedow's consent. Officer Koppang was able to image the information on the device and provide Officer Enz with a printout of the information he imaged from the GPS Device. The Garmin captured the speed of

Ms. Friedow's vehicle approximately every second. Per the time stamp on the Garmin device, Ms. Friedow was traveling approximately 10 mph on May 27, 2015 at 12:01:22 pm. The vehicle's speed was captured at 1.7 mph at 12:01:23 and 0 mph at 12:01:32 pm. Officer Enz believes that Ms. Friedow was traveling at approximately 10 mph at the time of the collision. To determine Mr. Angeles's speed, Officer Enz reviewed the Texaco service station video footage. Officer Miller analyzed the frames per second of the footage. Officer Enz was able to determine that Mr. Angeles traveled 158 feet in 3.8 seconds, which led Officer Enz to conclude that Mr. Angeles was traveling approximately 28 mph at the time of the collision. Per Officer Enz's report, Mr. Angeles was approximately 64.20 feet from the intersection when the traffic light turned from green to yellow. According to PBOT the light remains yellow for 3.6 seconds before cycling to red. At 28 mph, Mr. Angeles traveled the 64.20 feet in 1.56 seconds. The light was still yellow at the time of the collision.

The evidence shows that the light was green for Ms. Friedow as she entered the intersection. ORS 811.260(1) states "A driver facing a green light may proceed straight or turn right or left unless a sign at that place prohibits either turn. A driver shall yield the right of way to other vehicles within the intersection at the time the green light is shown." Ms. Friedow was required to yield to the right of way of other vehicles within the intersection at the time the green light was shown. At the time the light was green, Mr. Angeles was not within the intersection. The light turned yellow when Ms. Friedow was within the intersection and when Mr. Angeles was 64.20 feet east of the intersection. ORS 811.260(4) requires that "A driver facing a steady circular yellow signal light is thereby warned that the related right of way is being terminated and that a red or flashing red light will be shown immediately. A driver facing the light shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. If a driver cannot stop in safety, the driver may drive cautiously through the intersection." The vehicle code is silent as to the duties of a driver who enters an intersection on a green light when the light cycles to yellow before the driver clears the intersection. Both Ms. Friedow and Mr. Angeles were facing a steady green signal as they approached the intersection. The video shows that Ms. Friedow entered the intersection on a steady green light, which cycled to yellow after she entered the intersection. The evidence shows that Ms. Angeles entered the intersection on a steady yellow light. Per the Oregon Vehicle Code, Mr. Angeles's right of way had terminated prior to him entering the intersection and Ms. Friedow's right of way terminated as she entered the intersection.

Neither Mr. Angeles nor Ms. Friedow was traveling at excessive speed. The posted speed is 25 mph at that intersection and Ms. Friedow and Mr. Angeles were traveling at 10 mph and 28 mph, respectively.

Oregon law provides that a person commits criminal homicide constituting manslaughter in the first degree when it is committed recklessly under circumstances manifesting extreme indifference to the value of human life. Oregon law provides that a person commits criminal homicide constituting manslaughter in the second degree when it is committed recklessly. Reckless vehicular assaults usually include, but are not limited to, intoxication, excessive speed, and reckless driving.

A person acts recklessly if that person is aware of and consciously disregards a substantial and

unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

Oregon law provides that a person commits criminally negligent homicide when, with criminal negligence, the person causes the death of another person.

A person acts with criminal negligence or criminally negligent, if a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

There is insufficient evidence from which a trier of fact could reasonably conclude beyond a reasonable doubt that Ms. Friedow acted recklessly under circumstances manifesting extreme indifference to the value of human life or recklessly. No evidence supports that Ms. Friedow was aware of a substantial and unjustifiable risk that she would cause the death of another when entered that intersection and that Ms. Friedow consciously disregarded such risk. Additionally, the state cannot prove that the risk was of such a nature and degree that any disregard of that risk would constitute a gross deviation from the standard of care that a reasonable person would observe in the situation. Ms. Friedow was driving 10 mph, reported that she did not see Mr. Angeles, and nothing about her driving suggests that she did see him. Had Ms. Friedow observed Mr. Angeles and attempted to pass through the intersection before he entered, knowing she was towing a vehicle and that it would be difficult for her to safely clear the intersection, the situation would be different. If Ms. Friedow was speeding, intoxicated, or on her cell phone, the analysis would be different. The evidence in this case supports that Ms. Friedow entered the intersection with a green light and started his left turn to travel northbound on SE Cesar Chavez. She never saw Mr. Angeles during the course of the turn. Ms. Friedow only became aware of the collision after hearing it. Ms. Friedow stayed on scene and cooperated with police by providing a breath sample, her cell phone, and dash cam video for analysis. By all accounts Ms. Friedow was distraught and emotional about the tragic and fatal collision. The state cannot prove beyond a reasonable doubt that Ms. Friedow acted recklessly under circumstances manifesting extreme indifference to the value of human life or recklessly caused the death of Mr. Angeles.

Under the circumstances it is reasonable for a trier of fact to believe that Ms. Friedow did not become aware of an impending collision with Mr. Angeles until after the collision happened. Under the standard of recklessness the state would have to prove that Ms. Friedow became aware of a substantial risk of a collision, and she disregarded that risk and engaged in the risky behavior. Here, the evidence suggests that Ms. Friedow was never aware of the possible risk of a collision.

There is insufficient evidence from which a trier of fact could reasonably conclude beyond a reasonable doubt that Ms. Friedow acted with criminal negligence when she caused the death of Mr. Angeles. To prove criminally negligent homicide the state must prove that Ms. Friedow failed to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. Even if the state could prove that Ms. Friedow failed to be aware of the substantial and unjustifiable risk that her left turn would result in the death of Mr. Angeles, the

state would also have to prove beyond a reasonable doubt that her failure to be aware of that risk constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. Based on all the evidence in this case, the state cannot prove beyond a reasonable doubt that Ms. Friedow failed to be aware of a substantial and unjustifiable risk and that her failure to be aware of that substantial and unjustifiable risk was a gross deviation from the reasonable standard of care. For the reasons outlined above and based on the evidence presented, the state is unable to proceed with criminal charges.