THE BLURRING LINE CRIMINAL LIABILITY IN EMS

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SESSION OVERVIEW

1. **The Legal Landscape** – Different standards and principles in criminal law
2. **Key Cases:**
   a. Peter Cichuniec & Jeremy Cooper (Colorado)
   b. Peggy Finley & Peter Cadigan (Illinois)
   c. Deanna LaMere (Iowa)
3. Why **prosecutors** take on certain cases
4. Implications & Questions

INTRODUCTION – A SHIFTING LEGAL LANDSCAPE



- **Traditional View:** For decades, substandard care by EMTs and paramedics was almost exclusively a civil matter, handled in medical malpractice lawsuits.
- **The New Reality:** A series of recent, high-profile cases demonstrates a new willingness by prosecutors to apply criminal law to on-duty emergency responders.
- **From Mistake to Crime:** These cases force a re-examination of the line between a tragic medical error and a criminal act like negligent homicide, assault, or even murder.

HOLDING INDIVIDUALS ACCOUNTABLE

- **Employment actions** (discipline, termination)
- **Administrative actions** (licensing)
- **Civil liability**
- **Criminal liability**

GOALS OF PUNISHMENT

- **Retribution**
- **Deterrence**
- **Rehabilitation/Reform**
- **Incapacitation**

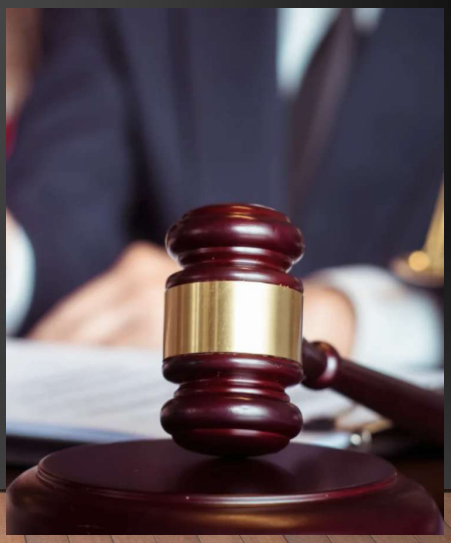


THE LEGAL FRAMEWORK – SPECTRUM OF CULPABILITY

Culpability Level	Definition	Legal Venue	Burden of Proof
Knowing / Intentional	Acting with an awareness that the conduct is practically certain to cause a result (Knowing) or having the conscious object to cause the result (Intentional).	Criminal	Beyond a Reasonable Doubt
Recklessness	A "gross deviation" from the standard of care where the provider is *aware of* a substantial risk but *consciously disregards* it.	Criminal	Beyond a Reasonable Doubt
Criminal Negligence	A "gross deviation" from the standard of care where the provider *fails to perceive* a substantial and unjustifiable risk of death.	Criminal	Beyond a Reasonable Doubt
Gross Negligence	An extreme indifference or reckless disregard for patient safety. A severe departure from the standard of care.	Civil	Preponderance of the Evidence
Ordinary Negligence	Failure to act as a reasonably prudent provider would. An unintentional mistake.	Civil	Preponderance of the Evidence

LEGAL PROTECTIONS FOR EMS IN MISSOURI

- **Sovereign Immunity**: This doctrine generally protects public entities (like an ambulance or fire protection district) from lawsuits for negligent acts.
- **Official Immunity**: This protects individual public employees (like paramedics) from liability for negligence during the performance of discretionary duties in an emergency.
- **Good Samaritan Law (Sect. 537.037)**: Protects medical professionals, including EMTs, who voluntarily provide emergency care outside of a hospital from civil liability, unless their actions constitute gross negligence or willful and wanton misconduct.



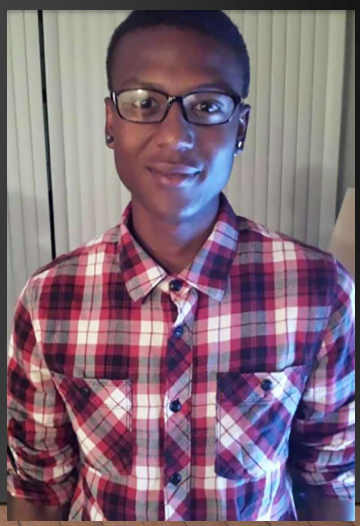
CHEMICAL RESTRAINTS

- No EMT/Paramedic shall be liable for:
  - Physically or chemically restraining at at-risk behavioral health patient… if such restraining is to ensure safety of patient or crew
  - If acting in **good faith** and **without gross negligence**.



CASE #1 – COLORADO V. CICHUNIEC & COOPER

- In August 2019, after a prolonged police restraint, paramedics Peter Cichuniec and Jeremy Cooper injected 23-year-old Elijah McClain with 500mg of ketamine.
- **Prosecution's Argument:**
  - The paramedics conducted no independent medical assessment, deferring to a police diagnosis of "excited delirium".
  - They administered a massive overdose for McClain's 140-pound frame without attempting to estimate his weight.
  - They failed to monitor McClain after the injection.



CHIEF CORONER MONICA BRONCUCIA-JORDAN



"[M]y review of all the body camera footage shows that Mr. McClain was extremely sedated within minutes of receiving a shot of ketamine. When he was placed on a stretcher, I believe he was displaying agonal breathing and respiratory arrest was imminent. Simply put, this dosage of ketamine was too much for this individual… I believe that Mr. McClain would most likely be alive but for the administration of ketamine."

CASE #1 – LEGAL ANALYSIS & MISSOURI COMPARISON

Colorado Law (Charges Filed)	Missouri Equivalent	Analysis
Criminally Negligent Homicide (C.R.S. § 18-3-105): Any person who causes the death of another person by conduct amounting to criminal negligence commits criminally negligent homicide which is a Class 5 felony.	**Involuntary Manslaughter 2nd Degree** (Sect. 565.027): A person commits the offense of involuntary manslaughter in the second degree if he or she acts with criminal negligence to cause the death of any person.	The statutes are functionally identical.
Second-Degree Assault (C.R.S. § 18-3-203): A person commits the crime of assault in the second degree if: (e) *For a purpose other than lawful medical or therapeutic treatment*, he intentionally causes stupor, unconsciousness, or other physical or mental impairment or injury to another person by administering to him, *without his consent*, a drug, substance, or preparation capable of producing the intended harm.	**Assault 2nd Degree** (Sect. 565.052): A person commits the offense of assault in the second degree if he or she:… (3) Recklessly causes serious physical injury to another person	Specific focus in Colorado law on the administration of a drug for **non-therapeutic** purpose without consent. Missouri standard for *reckless* action.

COLORADO V. CICHUNIEC & COOPER (CONT)



- **December 22, 2023 – Jury Verdict**
  - **Peter Cichuniec:** Convicted of Criminally Negligent Homicide and Second-Degree Assault.
    - Sentenced to 5 years in prison, later modified to 4 years probation.
  - **Jeremy Cooper:** Convicted of Criminally Negligent Homicide.
    - Sentenced to 4 years probation.

CASE #2 – ILLINOIS V. FINLEY & CADIGAN

(DEATH OF EARL MOORE JR.)



- On December 18, 2022, paramedics Peggy Finley and Peter Cadigan responded to a call for Earl Moore Jr., who was suffering from alcohol withdrawal hallucinations.
- **Prosecution's Argument**:
  - Body-camera footage shows Finley yelling at the patient, "I am not playing with you tonight!... I am seriously not in the mood for this dumb s--t".
  - The paramedics strapped Moore face-down (prone) on a stretcher. An autopsy determined the cause of death was "compressional and positional asphyxia".
  - Finley allegedly admitted to not taking vitals and sent texts stating it was her "f**k up".

CASE #2 – LEGAL ANALYSIS & MISSOURI COMPARISON

Illinois Law (Charge Filed)	Missouri Equivalent	Analysis
First-Degree Murder (720 ILCS 5/9-1(a)(2)): A person who kills an individual without lawful justification commits first degree murder if, in performing the acts which cause the death: (1) he or she either intends to kill or do great bodily harm to that individual or another, or knows that such acts will cause death to that individual or another; or (2) he or she knows that such acts create a strong probability of death or great bodily harm to that individual or another;…	**Murder 1st Degree (Sect. 565.020):** A person commits the offense of murder in the first degree if he or she knowingly causes the death of another person after deliberation upon the matter. **Murder 2nd Degree (Sect. 565.021)**: A person commits the offense of murder in the second degree if he or she: (1) Knowingly causes the death of another person or, with the purpose of causing serious physical injury to another person, causes the death of another person….	The Illinois charge does not require intent to kill, but rather a conscious awareness of the high probability of death. This aligns well with Missouri's Murder 2nd Degree statute. A First-Degree Murder charge would be unlikely to succeed in Missouri. The paramedics' actions, while callous, appear to be driven by anger and indifference, not cool, calculated deliberation.

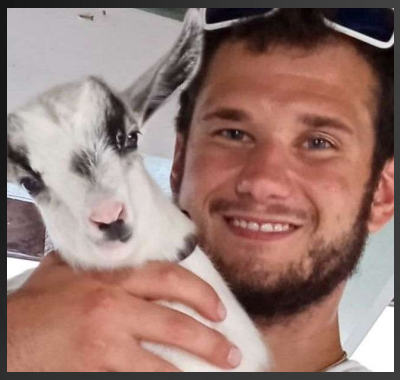
ILLINOIS V. FINLEY & CADIGAN (CONT)

(DEATH OF EARL MOORE JR.)



- **Status**: Both charged with First-Degree Murder.
  - They have pleaded not guilty and are awaiting trial.
- Next court date is September 8, 2025.
- **Jury trial** is scheduled for December 1, 2025.

CASE #3 – IOWA V. LAMERE
(DEATH OF JAMES FOSTER)



- On August 18, 2023, paramedic Deanna LaMere responded to a call for a disoriented man, James Foster Jr. sitting in the street, complaining of an injured arm.
- **Prosecution's Argument**:
  - LaMere intended to administer the sedative ketamine but mistakenly injected the paralytic drug rocuronium.
  - After realizing her error, LaMere allegedly failed to inform her colleagues, failed to take corrective action to protect Foster's airway, and misrepresented the drug given to the receiving hospital.
  - Foster went into cardiac arrest and died two days later from an anoxic brain injury.

CASE #3 – LEGAL ANALYSIS & MISSOURI COMPARISON

Iowa Law (Charge Filed)	Missouri Equivalent	Analysis
Involuntary Manslaughter (Sect. 707.5): A person commits involuntary manslaughter… when the person unintentionally causes the death of another person by the commission of an act in a manner likely to cause death or serious injury	**Involuntary Manslaughter 1st Degree (Sect. 565.024):** A person commits the offense of involuntary manslaughter in the first degree if he or she recklessly causes the death of another person.	Statues have same essential elements – • Reckless action • Resulting in death of victim

Prosecution's focus will be on the alleged cover-up, not negligence (which could be any medication error)

IOWA V. LAMERE (CONT)
(DEATH OF JAMES FOSTER)



- Deanna LaMere posted a surety bond of $2,000 on January 17, 2025.
  - She pled not guilty on February 3, 2025. The case is ongoing.
  - Pretrial conference is scheduled for September 19, 2025.
- A separate civil lawsuit has been filed against Sioux City, Sioux City Fire & Rescue, Police Department and ten individual employees.

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- Paramedic, Edward McClure, was arrested July 11, 2025 on manslaughter charges in the death of Jesus Barcenas.
  - Allegations of administering a drug without performing medical assessment.
  - Patient placed in prone position while handcuffed.



THE TIPPING POINT: FACTORS MOTIVATING PROSECUTION

- **The Power of Objective Evidence**: Body-cam footage is irrefutable.
- **Provider Demeanor & Apparent Indifference**: Hostile or callous statements help establish a culpable mental state.
- **Post-Error Concealment**: Actively hiding a mistake is the essence of recklessness.
- **Egregious & Compounded Errors**: A single mistake is often malpractice. A cascade of failures can be framed as a wholesale abandonment of the standard of care.

Joint Position Statement from NAMET, AAA, AAMS, NAEMSP:

- Were actions done in the course of EMS duties?
- Was there a deviation from the clinical standard of care?
- Were the action intentional verses reckless?
- Will criminal liability help serve justice?

IMPLICATIONS & KEY TAKEAWAYS

- **A New Era of Accountability**?
- **A Possible "Chilling Effect"**
- **The Peril of Deference**: The McClain case underscores the danger of abdicating medical judgment to law enforcement.
  - **The primary duty of a paramedic is always to the patient!**
  - **If there's not medical issue, walk away.**
- **Risk Mitigation is Crucial**:
  - **Professionalism** is a legal shield.
  - **Protocol** is paramount. A "gross deviation" from the standard of care is a key element in many of these criminal statutes.
- **Document everything**. In the age of video evidence, clear, concise, and ***honest*** documentation is more critical than ever.

CONCLUSION

- The line between civil malpractice and criminal liability for emergency responders is **blurring**, driven by factors like objective video evidence, provider indifference, and egregious deviations from protocol.
- Understanding the **spectrum of culpability**—from negligence to recklessness—is critical for every provider.
- **Jurisdictional differences** in criminal statutes can significantly impact how conduct is charged, but the underlying principles of duty and standard of care remain constant.
- The **ultimate defense** against liability is unwavering adherence to professional standards, patient advocacy, and compassionate care.

QUESTIONS?

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