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### TIME FOR SOME SECOND-GUESSING

To the Editor:

I was disappointed this morning to read The Hawk Eye's editorial<sup>1</sup> uncritically praising Des Moines County Attorney Amy Beavers' decision not to prosecute Ofc. Jesse Hill for fatally shooting Autumn Steele.

The Hawk Eye gives Ms. Beavers a great deal of credit for her transparency in releasing this report. They are correct—Ms. Beavers did not have to give us any insight into her thinking, and she deserves credit for releasing the report at all.

However, transparency, in and of itself, is no virtue. The Hawk Eye's editorial criticizes "second guessing" of Ms. Beavers' decision in the light of her report, but the opportunity for second guessing is the only reason that transparency has any value at all. The press has a duty not just to praise Ms. Beavers' transparency, but to *make use of it* by subjecting her findings to rigorous analysis—and where that analysis raises questions, to seek answers.

In this, the Hawk Eye has failed in its duties as surely as the Des Moines County Attorney has failed in hers. For even by the most generous reading, Ms. Beavers' report does not bear scrutiny; it describes not a search for justice but a clear attempt to bend the law and the facts to avoid charging Ofc. Hill.

In the most egregious example, Ms. Beavers trims the Iowa involuntary manslaughter statute, leaving the portion which most clearly applies to these facts on the cutting-room floor. In quoting the Iowa Code, Ms. Beavers cites only *felony* involuntary manslaughter, an unintentional killing in the course of a "commission of a public offense." She omits entirely the definition of *misdemeanor*

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<sup>1</sup> <http://www.thehawkeye.com/story/Lead-edit--for-Sunday-030915>

involuntary manslaughter, in which a person “unintentionally causes the death of another person by the commission of an act in a manner likely to cause death or serious injury”. This is the charge which best applies to these facts, and Ms. Beavers ignores it entirely. She does not explain why she believes that it does not apply to Ofc. Hill’s conduct, instead, she simply pretends that it does not exist.

Amy Beavers is the senior law enforcement official in Des Moines County. Her constituents have a right to depend on her, more than anyone else, to accurately represent the law. She owes them the truth. She should explain to them what the law—all of it—says. If she thinks it should not apply to Ofc. Hill, she should explain why.

Ms. Beavers also ignores any number of non-homicide crimes with which she absolutely could have charged Ofc. Hill. To take only one example, Iowa Code 724.30, Reckless Use of a Firearm, punishes “a person who intentionally discharges a firearm in a reckless manner” with a range of punishments, including a Class C felony where, as here, a serious injury occurs from the shooting. Does the County Attorney believe that Ofc. Hill was reckless when, defending himself from an alleged dog attack, he fired his gun in the direction of three people, including a four-year-old child? If not, why not?

A Reckless Use of a Firearm charge would also be a “public offense” under which Ofc. Hill could be charged with felony involuntary manslaughter. Does Ms. Beavers think this would be an appropriate charge? If not, why not? The only “public offense” Ms. Beavers discusses as a predicate for felony manslaughter is cruelty to animals, which, as she correctly points out, does not apply. Did Ms. Beavers consider any other “public offenses” as a basis for a felony manslaughter charge? If not, why not?

Throughout her report, Ms. Beavers’ analysis focuses entirely on those charges which she cannot bring, and goes to great pains not to discuss those which she can. Why is this? Is the County Attorney deliberately slanting her analysis to reach a predetermined goal, or is she simply unaware of these provisions of Iowa law? In either case, isn’t that a problem? Isn’t that something that the people of Des Moines County, and her hometown paper, should be concerned with?

A little second-guessing is called for. Ms. Beavers’ constituents deserve answers to these questions, and I implore the Hawk Eye and its staff to seek them. That is, after all, what transparency is for.

Sincerely,

A handwritten signature in blue ink, appearing to read 'A. Klein', with a stylized flourish at the end.

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Full text available at:

<http://adamkleinlaw.com/press/2015-03-08-HawkeyeLetter-TimeForSecondGuessing.pdf>

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