

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

STATE OF WISCONSIN

Plaintiff,

DA Case No.: 2018ML004020

Court Case No.:

vs.

CRIMINAL COMPLAINT

EVANS, NANCY LEE
949 NORTH 9TH STREET
MILWAUKEE, WI 53233
DOB: 10/26/1969

Defendant(s).

For Official Use

THE BELOW NAMED COMPLAINANT BEING DULY SWORN, ON INFORMATION AND BELIEF STATES THAT:

Count 1: OBSTRUCTING AN OFFICER

The above-named defendant on or about Monday, March 20, 2017, at 821 West State Street, in the City of Milwaukee, Milwaukee County, Wisconsin, did knowingly obstruct an officer, while such officer was doing an act in an official capacity and with lawful authority, contrary to sec. 946.41(1), 939.51(3)(a) Wis. Stats.

Upon conviction for this offense, a Class A Misdemeanor, the defendant may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than nine (9) months, or both.

Count 2: MISCONDUCT/OFFICE-ACT/INCONSISTENT DUTY

The above-named defendant, from April 24, 2016 to April 25, 2017, at 949 N. Ninth Street, City of Milwaukee, and other locations within Milwaukee County, Wisconsin, did, while acting in her capacity as a public employee, exercise a discretionary power inconsistent with the duties of her employment and with intent to obtain a dishonest advantage, contrary to sec. 946.12(3) & 939.50(3)(i) Wis. Stats.

Upon conviction for this offense, a Class I Felony, the defendant may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than three (3) years and six (6) months, or both.

Probable Cause:

1. I am an investigator and sworn law enforcement officer with the Milwaukee County District Attorney's Office.
2. I base this complaint upon my own personal knowledge, testimony and exhibits from the inquest into the death of Terrill Thomas, official City of Milwaukee Police Department reports, official Milwaukee County Sheriff's Office records and reports, official reports of the Milwaukee County Medical Examiner's Office, and official reports of fellow investigators of the Milwaukee County District Attorney's Office.

Summary

3. Defendant Nancy Evans is a sworn law enforcement officer and holds the rank of major with the Milwaukee County Sheriff's Office (MCSO). She served as the commander of the Milwaukee County

Jail throughout the time period alleged in this criminal complaint. Milwaukee County Jail is located in the Criminal Justice Facility, 949 N. Ninth Street, Milwaukee, WI.

4. Terrill Thomas was an inmate at the Milwaukee County Jail from April 16, 2016 until April 24, 2016. He died from dehydration in his locked cell during the night of April 23-24, 2016.

5. Within forty-eight hours of Mr. Thomas' death, defendant Evans directed her subordinate, Captain George Gold, MCSO, to watch video surveillance footage of Mr. Thomas' cell area. She ordered him to determine whether corrections officers had turned off the water to Mr. Thomas' cell. Capt. Gold reported back that the video surveillance footage showed, when Mr. Thomas was placed in Pod 4D subpod B on April 17, 2016, a corrections officer opened the water valve cabinet ("chase locker") for Mr. Thomas' cell. No corrections officer thereafter went back into the chase locker. This video surveillance evidence indicated Mr. Thomas' cell water was turned off at the start of his incarceration and never restored until he died.

6. Defendant Evans took no steps to preserve the video surveillance evidence. Her failure to act resulted in the footage for April 17-20, 2016 being overwritten and permanently lost.

7. In late June 2016, Inspector Edward Bailey, MCSO, learned from *Milwaukee Journal Sentinel* newspaper inquiries that Mr. Thomas's cell water may have been shut off. He told defendant Evans to determine what had happened with Mr. Thomas' cell water access. In response, defendant Evans did not tell Insp. Bailey that Capt. Gold had watched the footage for entire week Mr. Thomas was in Pod 4D subpod B. She did not tell Insp. Bailey that Mr. Thomas' cell water was shut off on April 17, 2016 and never turned back on.

8. On July 11, 2016, Lt. Eric Donaldson, Milwaukee Police Department (MPD), met with defendant Evans to inquire into Mr. Thomas' water access. Lt. Donaldson requested video surveillance footage for Mr. Thomas' entire incarceration. Defendant Evans provided video surveillance footage of April 21-24, 2016. The video surveillance footage for the first half of Mr. Thomas' incarceration had been overwritten. Defendant Evans did not inform Lt. Donaldson that Capt. Gold had watched the entire video surveillance footage including the April 17-20, 2016 segment that was now unavailable. She did not tell Lt. Donaldson that Mr. Thomas' cell water was shut off on April 17, 2016 and never turned back on.

9. On March 20, 2017, Inv. David Dalland, Milwaukee County District Attorney's Office (MCDA), and I interviewed defendant Evans. Defendant Evans repeatedly denied directing Capt. Gold to review Mr. Thomas' cell area video footage within forty-eight hours after Mr. Thomas' death. Defendant Evans' denials were lies and obstructed our investigation into Mr. Thomas' homicide. **COUNT 1**

10. Later that same day of March 20, 2017, defendant Evans reported to her superior, Inspector Richard Schmidt, MCSO. Defendant Evans repeated her lie that Capt. Gold did not watch the video surveillance of Mr. Thomas' cell area within days after Mr. Thomas' death.

11. On March 22, 2017, Inv. Ron LaGosh, MCDA, took possession of the MCSO computer hard drives used to watch and download jail video surveillance. He forensically examined the hard drives to determine when Capt. Gold watched the video surveillance footage of Mr. Thomas' cell area. Defendant Evans saw Inv. LaGosh take the computer hard drives.

12. After MCDA investigators took the computer hard drives, defendant Evans requested another meeting with MCDA investigators. That meeting occurred on April 10, 2017. Defendant Evans reversed her previous story. Defendant Evans now stated that she did have Capt. Gold watch the video surveillance footage shortly after Mr. Thomas' death. Defendant Evans claimed Capt. Gold reported back: "There's nothing there." Her claim, that Capt. Gold reported nothing significant, was a lie.

13. An inquest into Mr. Thomas' death was held on April 24-May 1, 2017 before Judge Francis Wasielewski in the Milwaukee County Courthouse. Defendant Evans testified on April 25. She repeated, under oath, this same lie that Capt. Gold reported "There's nothing there."

14. Defendant Evans' course of conduct, during the investigation into Mr. Thomas' death, of withholding information from her superiors, lying to her superiors, failing to preserve evidence, repeatedly lying to law enforcement investigators, and lying at the inquest, constituted Misconduct in Public Office. **COUNT 2**

Milwaukee County Sheriff's Office regulations.

15. Defendant Evans was subject to the following directives issued by the Milwaukee County Sheriff.

16. MCSO Directive 32-08 dated November 18, 2008, provides:

Members shall not fabricate, withhold, or destroy evidence of any kind.

17. MCSO Directive 27-08 dated November 4, 2008 provides:

Members shall be truthful in all aspects of their duties. Intentional omission of facts, either written or verbal, shall be considered untruthful.

18. MCSO Directive 16-04 dated November 29, 2004 provides:

Police officers will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

19. MCSO Directive 05-09 dated May 8, 2009 provides:

When sworn members of the Milwaukee County Sheriff's Office are called to or happen upon the scene of a crime...They shall exercise every precaution to avoid destroying evidence...

Captain Gold watches video surveillance footage.

20. On March 16, 2017, Inv. Anna Linden, and Investigator David Dalland MCDA, interviewed former Capt. Janet Borucki, MCSO. They recorded the interview. Capt. Borucki stated as follows. Within twenty-four hours of Mr. Thomas' death, Capt. Borucki saw Capt. Gold in the administrative offices of the Milwaukee County Jail. He was reviewing video surveillance footage of Mr. Thomas' cell area on his computer. Capt. Gold said that defendant Evans ordered him to watch footage for the entire week that Mr. Thomas was incarcerated. Capt. Borucki then directly watched footage showing Corrections Officer James Ramsey-Guy going into the cell chase where the valves are located to shut off Mr. Thomas' cell water.

21. The following is a transcription of a portion of Capt. Borucki's interview statement regarding Capt. Gold:

I came in and he was watching the video. I'm like - what's going on? We got this guy dead. Well what...what's going on? Well...I'm watching the video. Okay. Well...I was watching. Evans told me I got to watch this video and find out if his water was on. If his water was off. I need to watch the whole seven days or five days...however long he was in 4D. I have to watch this video...

22. Capt. Borucki confirmed the above facts in her sworn testimony at the inquest into Mr. Thomas' death.

23. On March 17, 2017, Inv. Anna Linden and I interviewed Capt. Gold. He stated as follows.

a. Within two days of Mr. Thomas' death, defendant Evans directed him to watch the video surveillance footage of Mr. Thomas' cell area. She specifically told him to determine when Mr. Thomas' water was shut off.

b. Capt. Gold watched the video surveillance on his computer in the administrative offices of the Milwaukee County Jail.

c. Capt. Gold watched the surveillance video footage for the period April 17 through April 24, 2016.

d. The footage showed, on April 17, 2016, a corrections officer open the chase locker accessing the valves for Mr. Thomas' cell water. From April 17 until April 24, no other corrections officer went into the chase locker for Mr. Thomas' cell.

e. Capt. Gold reported his findings to defendant Evans. He informed defendant Evans that Mr. Thomas' cell water was turned off on April 17, 2016 and that no one turned the water back on.

f. Defendant Evans did not instruct Capt. Gold to copy or preserve the video surveillance footage of Mr. Thomas' cell area.

24. Capt. Gold confirmed the above facts in his sworn testimony at the inquest into Mr. Thomas' death. He further testified that Capt. Borucki saw him watching the video surveillance footage of Mr. Thomas' cell area.

25. On December 6, 2017, Inv. Dalland and I interviewed Capt. Michael Hannah, MCSO. Capt. Hannah stated as follows. Within a few days of Mr. Thomas' death, Capt. Hannah saw Capt. Gold watching video surveillance footage of Mr. Thomas' cell area. Capt. Gold said that defendant Evans had ordered him to watch it. Capt. Hannah also attended a command staff meeting, one or two days after Mr. Thomas' death, where defendant Evans asked whether anyone knew about Mr. Thomas' water being shut off for seven days.

26. Milwaukee County Jail telephone calls on certain administrative lines are recorded. I obtained call recordings for the period of Mr. Thomas' incarceration and immediately after his death. On April 24, 2016 at 12:54 p.m., defendant Evans called jail operations looking for Capt. Gold. At 12:56 p.m., jail operations called Capt. Gold and transferred the call to defendant Evans. This pair of calls is consistent with Capt. Gold's account that, shortly after Mr. Thomas' death, defendant Evans contacted him and ordered him to watch video surveillance footage.

27. According to Milwaukee County Jail work schedules, Capt. Gold worked second shift on April 24, 2016. Capt. Borucki worked third shift on April 24-25, 2016. Their work schedules confirm Capt. Borucki and Capt. Gold would have encountered each other during shift change, and so, support their accounts that Capt. Borucki saw Capt. Gold watching video surveillance footage shortly after Mr. Thomas died.

28. Defendant Evans took remedial actions showing she knew, as Capt. Gold reports, that Mr. Thomas' cell water had been shut off. Shortly after Mr. Thomas' death, Milwaukee County Jail lieutenants were ordered to hold the keys to the chase lockers. If a corrections officer wanted to shut off an inmate's cell water, the corrections officer now had to obtain the key from a lieutenant.

Defendant Evans was seeking to avoid another water shut off error like the one she knew may have killed Mr. Thomas.

Capt. Hein watches video surveillance footage.

29. Inv. Dalland and I interviewed Capt. Paul Hein, MCSO. Capt. Hein stated as follows.

a. Capt. Hein attended two meetings about Mr. Thomas shortly after Mr. Thomas' death. Defendant Evans and DI Nyklewicz ran the meetings.

b. The first meeting was within one week of Mr. Thomas' death. At that meeting, defendant Evans asked what command staff knew about Mr. Thomas' death.

c. The second meeting was about one week to a few weeks after Mr. Thomas' death. There was discussion that CO Brent Van Wagoner saw Mr. Thomas' cell water was off after his death. Defendant Evans asked whether anyone knew about Mr. Thomas' cell water.

d. Defendant Evans ordered Capt. Hein to watch surveillance video footage of Mr. Thomas' cell area. She directed him to determine whether anyone went into the chase locker for Mr. Thomas' cell. She told Capt. Hein to watch the entire footage.

e. When Capt. Hein started watching the video surveillance footage, he was unable to go back to the beginning of Mr. Thomas' incarceration. The footage was being overwritten as he watched. The first two days were already unavailable. Capt. Hein's notified defendant Evans of this fact. She replied by telling him to watch the footage until someone goes in the pipe chase. Defendant Evans did not order Capt. Hein to copy or preserve the footage.

f. Capt. Hein told defendant Evans that video surveillance footage showed CO Van Wagoner entering Mr. Thomas' chase locker after Mr. Thomas died. No one went into the chase locker before Mr. Thomas' death. Mr. Thomas' cell water remained off during the entire period that Capt. Hein watched.

g. MCSO policy forbade Capt. Hein from copying or preserving video surveillance footage without command authorization.

30. Information Management Systems Department (IMSD), Milwaukee County, maintain the Milwaukee County Jail video surveillance system. IMSD technicians advised that the system automatically overwrites footage after approximately sixty days. This cycle means that Capt. Hein viewed the above video surveillance footage in late June 2016.

31. Defendant Evans later provided a compact disk, to MPD, containing video surveillance footage of Mr. Thomas' cell area. See paragraph 35(a) below. The compact disk contained footage from 6:33 a.m. on April 21, 2016 to 5:09 a.m. on April 24, 2016. Metadata on the compact disk show a creation date of June 30, 2016. The compact disk fails to contain the footage of CO Van Wagoner checking Mr. Thomas' chase locker on April 25, 2016. That footage was subsequently overwritten and destroyed. It would have been important to the homicide investigation.

Defendant Evans withholds evidence from Inspector Bailey.

32. I interviewed Insp. Bailey. He stated as follows.

a. In 2016, Insp. Bailey was defendant Evans' direct superior within MCSO.

b. In late June 2016, Insp. Bailey learned that inmates were telling *Milwaukee Journal Sentinel* reporters that Mr. Thomas was denied water. Insp. Bailey called defendant Evans and Deputy Inspector Kevin Nyklewicz, MCSO, to his office. He ordered them to determine what happened with Mr. Thomas' cell water.

c. Defendant Evans reported back that video surveillance footage of Mr. Thomas' entire period of incarceration was no longer available. The first three days, from April 17 through April 20, 2016, were overwritten.

d. During this meeting, defendant Evans did not disclose that Capt. Gold watched video surveillance footage of Mr. Thomas' entire incarceration before it was overwritten. She did not tell Insp. Bailey that Capt. Gold saw a corrections officer shutting off Mr. Thomas' cell water on April 17, 2016 and the water never being restored.

e. Defendant Evans did not disclose what Capt. Hein saw on the video surveillance footage during the latter half of Mr. Thomas' incarceration. See paragraphs 29(e) and (f) above. Rather, defendant Evans told Insp. Bailey that she did not know whether Mr. Thomas' cell water was functioning on the date he died.

Defendant Evans withholds evidence for Milwaukee Police Department.

33. Lt. Donaldson is a third shift commander of the MPD Homicide Unit. He led the law enforcement investigation into Mr. Thomas' homicide.

34. In late June 2016, Dr. Wieslawa Tlomak, MD, Milwaukee County Medical Examiner's Office, advised Lt. Donaldson that dehydration was a significant factor in Mr. Thomas' death. Upon receiving Dr. Tlomak's findings, Lt. Donaldson emailed MCSO requesting information about Mr. Thomas' water access and video surveillance footage of Mr. Thomas' cell area for the entirety of his incarceration.

35. In follow up to the above emails, Lt. Donaldson met with defendant Evans and DI Nyklewicz on July 11, 2016. The meeting lasted a full hour and centered on Mr. Thomas' water access.

a. Defendant Evans and DI Nyklewicz provided a compact disk comprising the video surveillance footage of Mr. Thomas' cell area for the final four days incarceration, April 21-24, 2016, in Pod 4D subpod B. Footage for the initial three days of incarceration, April 17-20, 2016, had been overwritten.

b. Defendant Evans did not inform Lt. Donaldson that Capt. Gold had watched video surveillance footage for the entire period of Mr. Thomas' incarceration. She did not inform Lt. Donaldson that Capt. Gold had watched the footage, for April 17-20, 2016, that was now destroyed.

c. Defendant Evans did not inform Lt. Donaldson that Capt. Gold reported Mr. Thomas' cell water was shut off on April 17, 2016 and never turned back on.

36. At the meeting, defendant Evans and DI Nyklewicz provided a memorandum replying to Lt. Donaldson's emailed questions about Mr. Thomas' cell water access. Lt. Donaldson's email asked: "Was the water continuously off or was it turned on intermittently?" Defendant Evans and DI Nyklewicz' memorandum answered:

"There is no documentation indicating this."

This answer was a nonresponsive dodge of the question. Defendant Evans knew, from Capt. Gold and Capt. Hein's findings, that Mr. Thomas' water was shut off for his entire incarceration in Pod 4D subpod B.

37. Lt. Donaldson testified, at the inquest into Mr. Thomas' death, that defendant Evans' withholding Capt. Gold's findings was "deceptive," "unconscionable," and "like you're hiding something."

Defendant Evans lies to Milwaukee County District Attorney's Office investigators.

38. On March 20, 2017, Investigator David Dalland, MCDA, and I interviewed defendant Evans at the Milwaukee County District Attorney's Office, 821 W. State Street, Milwaukee, WI. We recorded the interview. We repeatedly asked defendant Evans whether Capt. Gold watched jail video surveillance footage within forty-eight hours of Mr. Thomas' death. On at least fifteen separate occasions during the interview, defendant Evans specifically denied that Capt. Gold watched the full video surveillance footage (April 17-24, 2016) right after Mr. Thomas' death. Excerpts of that interview are transcribed below.

39. Minutes 19:17-19:47 (transcript page 11)

Stelter: One thing. I'm not completely clear. **So, did somebody ever get to watch the entire video? From when he was placed in the cell to when he died?**

Evans: **No.** By the time we went to retrieve...And it had always been customary, up until this point, to give all the investigators twenty-four hours of that inmate. And the DI gave them all that...everything we normally give in a death in custody.

40. Minutes 21:03-21:18 (transcript page 11)

Dalland: **So, the first time anyone went to look at that video covering that stay was when in relation to the death?**

Evans: **For me, and my knowledge of it, was after it went in the Journal Sentinel...**

41. Minutes 23:19-24:13 (transcript pages 12-13).

Stelter: **He's [Capt. Gold] saying that, within less than forty-eight hours of the death, you ordered him to look at the video.** And he watched the whole video. That when he watched the whole video, he watched it from when Terrill was put in the cell.

Evans: Yeah.

Stelter: He saw...He couldn't remember who the person was that went in, you know, going into the chase. And then he watched the whole video until Terrill was found dead. And nobody is seen going in the chase that whole time.

Evans: Right.

Stelter: **He said he came back within two days and reported that to you...of Mr. Thomas' death.**

Evans: **It's my recollection that that didn't happen until the Journal Sentinel story.** That's when I had them doing that. That's best that I can remember. But everything that was told to me, when it was told to me, was told to the DI who was dealing with the investigators. So, in no way would I have any reason to want to...

Stelter: I'm just telling you what Captain Gold told us.

42. Minutes 24:22-25:07 (transcript page 13)

Stelter: **Captain Gold said that he reviewed the whole thing...**

Evans: **No.**

Stelter: **...from start to finish.**

Evans: **He's lying.** You can check with MPD on that. They were never able to get before the twenty-first. If he reviewed that...that...he never told me that. Everything...When I had them checking, it was...**We couldn't look prior to the twenty-first.** And you can confirm that with the DI.

43. Minutes 30:06-30:34 (transcript pages 15-16)

Stelter: **So, to the best of your recollection, though, within forty-eight hours, you did not instruct Captain Gold to watch the video and have him watch the whole video?**

Evans: **No.** When I told him to...By the time I had told him to watch the video, I know it was too late to go back and get from the seventeenth through the twentieth. The best they were able to get was the twenty-first on. So, if it...It...It had to have be at that later time.

44. Minutes 30:40-31:13 (transcript page 16)

Stelter: And at no time did... as far as you remember...did Captain Gold let you know that he saw somebody go into the chase and turn the water...Well, what appeared to be someone going into the chase to turning the water off. And then for seven days nobody goes in the chase...

Evans: No. No.

Stelter: He never told you that?

Evans: He didn't tell me that or the DI that.

Stelter: So, he's lying then?

Evans: Yes.

Stelter: **I'm telling you right now, that's what he told me.**

Evans: **Yes. He's lying.**

Stelter: He told me that was within 48 hours.

Evans: The information we got...Then where is the tape? Why didn't he turn it over to us? When I had him do that...the seventeenth through the twentieth was lost.

45. Minutes 31:50-32:19 (transcript pages 16-17)

Stelter: Okay. 'Cause Captain Gold said he watched it from his computer which does not allow it to make copies...

Evans: He did not report that to me.

Stelter: ...So, he's only able to watch it, I don't want to say live, but he watched it. **He said it was definitely within forty-eight hours of Mr. Thomas dying.**

Evans: He never reported that to the DI because we would have given that information to MPD.

Stelter: **He said he reported it to you. Not to the DI...**

Evans: **No.**

Stelter: **Specifically to you.**

Evans: **No.**

Stelter: I'm just telling you what he said.

Evans: If I would have knowledge of that, I would turn it over.

46. Minutes 33:32-33:41 (transcript page 17)

Stelter: So, we're trying to get to the truth of the matter.

Evans: Me, too.

Stelter: **We talked to Captain Gold. And all I can tell you is what he told me.**

Evans: **Captain Gold is not telling the truth...**

47. Minutes 34:34-34:57 (transcript page 18)

Stelter: I'm just telling you. That's...That's what he's telling me.

Evans: **We had only information from the twenty-first on. You know, from the twenty-first on.** The last I knew...I thought something happened the night of the twentieth. Because it seemed to me that he had it on the twentieth. From all the reports, the court, the officers...I said, something happened on that night. And we can't see it...

48. Minutes 36:52-37:09 (transcript page 19)

Stelter: **Do you think, when you told him to do it, your recollection is that it was definitely around the Journal Sentinel article coming out first?**

Evans: **Yep. Yep.**

Stelter: When he did it, you recall that all that was left was, basically, the twenty-first to the twenty-fourth?

Evans: Yes. Yes.

49. Minutes 39:40-40:12 (transcript pages 20-21)

Dalland: So, you're unaware of anyone else looking about anything before the last twenty-four hours of his life, is what you're saying...

Evans: Before the last twenty-four?

Dalland: Yeah.

Evans: **From the twenty-first on, that's when we had...**

Stelter: He dies on the twenty-fourth.

Evans: He died on the twenty-fourth.

Dalland: Oh. Okay.

Stelter: So, Captain Gold...Your recollection is...Captain Gold reviewed from the twenty-first to the twenty-fourth and told you that nobody had gone in the chase in that timeframe...

Evans: No one in the chase in that timeframe, yes.

50. Minutes 43:30-43:52 (transcript page 22)

Stelter: 'Cause there are other captains we talked to said the same thing. **That Captain Gold was reviewing it within forty-eight hours. That it was either the day...or the day after the death.** So, we have other captains that are saying the same thing that Captain Gold said.

Evans: **That's not what I recall.** We would have had...We would have had and saved the video...

51. Minutes 45:30-45:39 (transcript page 23)

Evans: Everything I know about that video, is **no one was able to see...**

Stelter: Just the three days.

Evans: **...prior to the night of the twenty-first.**

52. Minutes 1:03:19-1:03:44 (transcript page 32)

Stelter: Um. But again, **I'll go back to what Captain Gold told me...That you're telling me never happened.**

Evans: **To my knowledge, no.** When the DI and I found out, we turned everything over. I would have no reason to not want to cooperate with everything. I know they have everything they're going to need. I don't...I have no...no...nothing to gain by doing that.

53. Minutes 1:08:10-1:08:23 (transcript page 34)

Evans: I don't know why Gold would say that right now. And he didn't say anything before. **The information I have from Gold and from Hein is from the twenty-first on.** And the DI is aware of that as well.

54. The *Milwaukee Journal Sentinel* news article, that defendant references in paragraphs 40, 41 and 48 above, was published on July 4, 2016.

55. Defendant Evans' above transcribed statements to the investigators were lies. In fact, within forty-eight hours of Mr. Thomas' death, defendant Evans ordered Capt. Gold to watch the video surveillance footage of Mr. Thomas' incarceration. Capt. Gold watched footage for the entire week, from April 17 through April 24, 2016, of Mr. Thomas' incarceration in Pod 4D subpod B. Capt. Gold promptly reported his findings back to defendant Evans.

56. Defendant Evans knew, at the time of the interview, that Inv. Dalland and I were law enforcement investigators with the Milwaukee County District Attorney's Office.

Defendant Evans lies to Inspector Schmidt.

57. After Inv. Dalland and I interviewed defendant Evans, later that same day of March 20, 2017, she met with her superior, Inspector Richard Schmidt, MCSO. She repeated the same lie that she had just given us. Defendant Evans emphatically stated Capt. Gold never watched the first three days of video surveillance footage of Mr. Thomas' cell area.

58. Inspector Schmidt wrote a memorandum, dated March 20, 2017, documenting his meeting with defendant Evans. That memorandum states as follows:

Major Evans stated emphatically in my office today, that she never told anyone to watch the video, and that all videos were turned over to the investigators. She dogmatically stated that Captain Gold NEVER told her anything about watching the video, which he now allegedly stated for the first time to investigators that he watched a CO turn off the water on the video and told Major Evans that he had watched it. (Emphasis in original.)

and,

Major Evans has emphatically stated to me, ever since the death investigation began, that she had NO KNOWLEDGE of the water in the deceased inmate's cell ever being turned off. (Emphasis in original.)

59. Inspector Schmidt, who now serves as acting Sheriff, provided direct access to his office computer. I obtained, from his computer, a copy of the digital file of the above memorandum. Inv. Ron LaGosh, MCDA, forensically analyzed the file. He confirmed the file was created on March 20, 2017 by user Richard Schmidt.

Investigators seize video surveillance computers.

60. During the interview on March 20, 2017, Inv. Dalland and I explained that Milwaukee County Jail video system computers would likely show when Capt. Gold watched surveillance footage. Inv. Dalland told defendant Evans as follows:

There's going to be an electronic record of...of that video being accessed...And, you know, my concern is...is that if this was accessed within...some people are saying it was twelve hours...the same day...or next day or whatever it is...if that video was accessed. And it also goes back to the beginning of his stay...

(Minutes 1:09:58-1:10:28; transcript page 35)

61. On March 22, 2017, at 12:30 p.m., Inv. LaGosh went to the administrative offices of the Milwaukee County Jail. He took the hard drives from Capt. Gold's computer and from the computer that jail staff use to download video surveillance footage. Inv. LaGosh brought the hard drives to his MCDA office and made mirror images for forensic analysis. He searched for digital evidence showing the date that Capt. Gold viewed video footage of Mr. Thomas' cell area.

62. Defendant Evans testified, at the inquest into the death of Mr. Thomas, that she saw MCDA investigators take the video system computers. She realized the investigators would forensically analyze the computers to determine when Capt. Gold first viewed the video surveillance of Mr. Thomas' cell area.

63. After seeing MCDA investigators seize the computers, defendant Evans called for a meeting with MCDA investigators. That meeting was scheduled for April 10, 2017.

Defendant Evans changes her story.

64. On April 10, 2017, defendant Evans and her attorney met with Inv. Linden, MCDA, Assistant District Attorney Kurt Benkley and I. At this meeting, defendant Evans changed her story. Defendant Evans now stated as follows.

a. Within one week of Mr. Thomas' death, she did order Capt. Gold to view the video surveillance footage of Mr. Thomas' cell area.

b. Capt. Gold did view the video surveillance footage for the entire week that Mr. Thomas was incarcerated in Pod 4D subpod B. That time frame spanned April 17 through April 24, 2016.

c. Capt. Gold did report back to defendant Evans. He said words to the effect: "There's nothing there."

d. Defendant Evans denied that Capt. Gold told her anything about Mr. Thomas' water being shut off.

65. On April 25, 2017, defendant Evans repeated this new version of events in her sworn testimony at the inquest into the death of Mr. Thomas.

66. Defendant Evans' new version of events is nonsensical. She claims as follows.

a. In late April 2016, defendant Evans had Capt. Gold watch the video surveillance footage of Mr. Thomas' entire incarceration in Pod 4D subpod B from April 17 through April 24, 2016. He reported back that he saw nothing significant.

b. Two months later, in late June 2016, defendant Evans had Capt. Hein re-watch the video surveillance footage. She specifically directed Capt. Hein to determine whether anyone went into the chase locker controlling the water to Mr. Thomas' cell.

c. Capt. Hein reported back that the first three days of Mr. Thomas' incarceration (April 17-20) in Pod 4D subpod B had been overwritten.

d. Defendant Evans nevertheless insists that she did not go back to Capt. Gold. She did not ask whether Capt. Gold saw, on the now overwritten first three days of footage, anyone going into Mr. Thomas' chase locker.

Obstructing Officer

67. The Milwaukee County District Attorney's Office, together with the Milwaukee Police Department, were investigating the homicide of Mr. Thomas. Capt. Gold's observations, on the Pod 4D video surveillance footage, were critical to that investigation. Capt. Gold saw CO Ramsey-Guy shut off Mr. Thomas' cell water at the start of his incarceration. I sought to corroborate Capt. Gold's account. When Inv. Dalland and I interviewed defendant Evans, she repeatedly lied to us about Capt. Gold's review of the video surveillance. She falsely claimed that Capt. Gold never watched the first three days of Mr. Thomas' incarceration in Pod 4D. Her lies obstructed our efforts to determine the facts surrounding Mr. Thomas's death.

68. Defendant Evans lied to cover up negligence and misconduct by Milwaukee County Sheriff's corrections staff. As jail commander, those failings reflected badly upon her management of the facility and potentially exposed her to discipline or legal liability. Defendant Evans' interview lies were part of a pattern of conduct, both by acts of omission and commission, impeding our investigation into Mr. Thomas' death.

Misconduct in Public Office

69. Defendant Evans served as commander of the Milwaukee County Jail. In that capacity, she exercised discretionary power over all aspects of jail function including the administrative investigation of Mr. Thomas' death and cooperation with the criminal investigation of Mr. Thomas' death. Defendant Evans abused her discretionary power by repeatedly violating Milwaukee County Sheriff's Office regulations during the investigation into Mr. Thomas' death. Despite her obligation to preserve evidence under MCSO Directive 05-09, defendant Evans allowed critical video surveillance footage to be overwritten and destroyed. Contrary to MCSO Directive 16-04, defendant Evans failed to cooperate with the law enforcement agencies investigating Mr. Thomas' death. Rather, she lied to investigators in violation of both criminal law and MCSO Directive 27-08, and, she withheld evidence in violation of MCSO Directive 32-08. She likewise lied to her own superiors within the Milwaukee County Sheriff's Office in violation of MCSO Directive 27-08. Defendant Evans engaged in this official misconduct to protect her career and professional reputation, to avoid potential discipline within the Milwaukee County Sheriff's Office, and to avoid potential civil and criminal liability.

****End of Complaint****

Electronic Filing Notice:

This case was electronically filed with the Milwaukee County Clerk of Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases. Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party. If you are not represented by an attorney and would like to register an electronic party, you will need to contact the Clerk of Circuit Court office at 414-278-4120. Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Criminal Complaint prepared by Kurt B. Benkley.

Subscribed and sworn to before me on 02/12/18

Electronically Signed By:

Kurt B. Benkley

Assistant District Attorney

State Bar #: 1021096

Electronically Signed By:

Investigator Robert G Stelter

Complainant