



**FINDINGS OF PROSECUTOR REVIEW OF  
THE INVESTIGATION INTO THE DEATH OF JOSHUA L MCLEMORE**

This written report serves as the Jackson County Prosecuting Attorney's findings regarding the death of Joshua A McLemore, an inmate at the Jackson County Indiana Jail.

**PROCEDURAL BACKGROUND**

1. At the time of his death on August 10, 2021, Joshua A. McLemore (hereafter "Mr. McLemore") had two pending criminal cases in Jackson County. It is necessary to discuss both of these cases in this report.

2. In Cause Number 36C01-2106-F5-49, Mr. McLemore was charged with count one, Battery Resulting in Bodily Injury to a Public Safety Official, a level five felony, count two, Resisting Law Enforcement, a level six felony, and count three, Leaving the Scene of an Accident, a class B misdemeanor, all with an offense date of May 25, 2021.

3. The State of Indiana (hereafter "the State") filed Cause Number 36C01-2106-F5-49 on June 2, 2021.

4. On June 3, 2021, the Jackson Circuit Court held an initial hearing in Cause Number 36C01-2106-F5-49 and set bail at \$1,000.00.

5. On June 25, 2021, the Defendant posted bail and was released from the Jackson County Jail.

6. On July 20, 2021, Mr. McLemore was arrested at Schneck Medical Center in Seymour, Jackson County, Indiana.

7. In Cause Number 36C01-2107-F6-324, Mr. McLemore was charged with count one, Battery Against a Public Safety Official, a level six felony, and count two, Criminal Mischief, a class A misdemeanor, both with an offense date of July 20, 2021.

8. The State filed Cause Number 36C01-2107-F6-324 on July 20, 2021.

9. On July 29, 2021, Mr. McLemore's attorney in cause number 36C01-2106-F5-000049 filed a Motion to Determine Competency and for Insanity Evaluation.

10. Mr. McLemore, not having bonded out of jail while his case was pending, was still in custody in the Jackson County Jail as of August 8, 2021.

11. On August 8, 2021, Mr. McLemore was transported from the Jackson County Jail, located in Brownstown, Indiana, to the Schneck Medical Center, located in Seymour, Indiana which is the closest hospital to the Jackson County Jail.

12. After Schneck Medical Center personnel determined that Mr. McLemore's medical condition was critical, Mr. McLemore was then transported to Mercy West Hospital in Cincinnati, Ohio.

13. Mr. McLemore passed away at the Mercy West Hospital on August 10, 2021.

14. On August 27, 2021, Jackson County Sheriff Rick Meyer requested that the Indiana State Police conduct the investigation into Mr. McLemore's death. The Jackson County Sheriff's Department had initiated the death investigation prior to turning over the investigation to the Indiana State Police.

15. During the period of his incarceration at the Jackson County Jail, Mr. McLemore spent virtually the entire time in a private, padded cell. Mr. McLemore's cell has a camera which recorded the interior of the cell whenever motion was detected. The Indiana State Police and the Office of the Jackson County Prosecuting Attorney viewed all video in Mr. McLemore's cell from July 20, 2021, until he left the jail on August 8, 2021. The Indiana State Police and the

Office of the Jackson County Prosecuting Attorney reviewed medical records, spoke with medical and laboratory personnel, and reviewed Jackson County Jail reports and records concerning Mr. McLemore.

16. After the Indiana State Police tendered the results of their completed investigation into the death of Mr. McLemore to the Office of the Jackson County Prosecuting Attorney, this office thoroughly reviewed the investigation.

### **COURT APPEARANCES**

Standard procedure in every criminal case calls for an initial hearing in court. At an initial hearing, the defendant appears in court. The Judge then reads the criminal files charged, explains to the defendant the possible range of penalties if convicted, explains to the defendant his or her rights, sets bail, and schedules future hearings.

On June 3, 2021, as previously stated, the Jackson Circuit Court held an initial hearing in Cause Number 36C01-2106-F5-49 and set bail at \$1,000.00.

No initial hearing occurred in cause number 36C01-2107-F6-000324, presumably due to the Defendant's mental state as discussed in this report.

### **TIMELINE OF EVENTS**

On May 25, 2021, Seymour Police Department law enforcement officers arrested Mr. McLemore for criminal offenses as alleged in cause number 36C01-2106-F5-49. During that incident, Mr. McLemore did speak with law enforcement officers and medical personnel. At times Mr. McLemore's responses were appropriate, and at other times his behavior was bizarre. Mr. McLemore did appear to be under the influence of drugs and made strange comments about gangsters chasing him and demons attempting to dismember him. This information is included to contextualize Mr. McLemore's behavior following his arrest on July 20, 2021.

Following is the investigation summary prepared by the Investigative Division of the Indiana State Police, Versailles Post, concerning the time frame that Mr. McLemore was incarcerated in the Jackson County Jail from July 20, 2021 to August 8, 2021. The investigation summary is reprinted verbatim, excepting minor grammatical changes, explanations enclosed in parentheses, and redaction of some witness names for privacy purposes.

### **Summary of Indiana State Police Investigation:**

On 7/20/2021, Officers with The Seymour Police Department (“SPD”) were dispatched to 390 S Jackson Park Dr, apt. # 210 in Seymour, Indiana. Their response was as a result of a 911 call made out of concern for Joshua McLemore. Upon arrival, shortly before 1:00 AM, Joshua McLemore was found to be naked and incoherent. After some convincing, SPD Officers transported Joshua McLemore to Schneck Medical Center for evaluation/examination. During his examination by medical staff, he assaulted one of the nurses that was treating him.

As a result of his actions Joshua McLemore was arrested by SPD for Battery. Joshua McLemore was acting erratic. His speech was rambling and not focused. During the transport to the Jackson County Jail (“JCJ”), he twice damaged an SPD police car. Upon arrival, Inmate McLemore was not photographed, finger-printed or asked any book-in/medical book-in questions. Video shows him be taken directly to padded cell #7. Inmate McLemore was never followed up with to be photographed, fingerprinted, or asked the medical book-in questions.

Joshua McLemore was brought into JCJ around 2:30 AM on 7/20/2021. He was transported to Schneck Medical Center on 8/08/2021 when staff became concerned for his health. Inmate McLemore was incarcerated at JCJ for 20 days. During his 20-day incarceration, inmate McLemore remained naked. He was not able to dress himself and jail staff was unable to dress him in the jail issued smock. Inmate McLemore remained in padded cell #7 during his incarceration.

Inmate McLemore's behavior was very erratic. He rarely slept, ate, or drank. Roughly estimated (from video review), inmate McLemore slept for approximately 15 hours of his 480 hour (20 days) incarceration. He moved less and appeared to sleep more the last few days of his incarceration.

From the video review of the camera inside his cell, it appears that during his incarceration, inmate McLemore retrieved approximately 32 meals from the tray pass in his cell door. The meals he did not retrieve from the tray pass were taken away by jail staff. Breakfast and lunch were offered in Styrofoam containers. Dinners were offered in brown paper bags. Bags would be placed on the tray pass or dropped into the cell through the tray pass. Inmate McLemore would usually destroy the dinner bags and dump the food on the cell floor. Inmate McLemore ate very little when he did eat. Inmate McLemore lost 44.8 lbs. during his incarceration.

From the video review of the camera inside his cell, it appears that during his incarceration, inmate McLemore retrieved approximately 19 drinks from the tray pass. Drinks were offered in Styrofoam cups or Gatorade bottles. Inmate McLemore retrieved less drinks from the tray pass than he did meals. Inmate McLemore drank very little when he did drink. He would accidentally and/or purposefully spill the majority of his drinks on himself and the floor. The drinks would mix on the floor with the food trash and his urine, causing the cell to be in a constant state of disarray.

In a conversation with (the Jackson County Jail) Commander at the JCJ on May 9, 2022, not recorded, I asked him about mealtimes for inmates, meal counts, and inmate counts for 7/20/21 through 8/08/21. The Jail Commander told me that inmates are served 3 meals a day with drinks. He told me that the typical windows for those meals are: Breakfast 6:15 AM - 6:45 AM. Lunch 11:50 AM- 12:20 PM. Dinner 4:30 PM - 5:20 PM. He went on to explain that inmate cooks in the kitchen check a computer before every meal to check the inmate count and make the corresponding number of meals. He also told me that if an inmate is out of the jail during a mealtime, the inmate will be offered that meal upon their return. The Jail Commander provided to me the JCSD ("Jackson County Sheriff's Department") SOP's ("standard operating procedures") for food service and the meal/inmate counts for every meal offered between 7/20/21 and 8/08/21.

In the Food Service chapter, Policy #IV, point H: "All inmates are provided 3 meals daily, including two hot meals, except for weekend and holiday variations. On weekends and holidays, the sheriff may authorize special brunch meals or other variations to provide variety to the food program or other activities." The documents will be added to the case file.

On one occasion during his incarceration, inmate McLemore was placed in the WRAP system (essentially a straitjacket) due to his erratic and self-harming behavior. He was left in it for several hours and monitored. Inmate McLemore's cell had 24 hour camera recording capabilities. Inmate McLemore's 20-day incarceration was recorded on video. The video recording system during the time of his incarceration, was set to record as long as a pre-determined, minimum movement threshold standard was met inside the cell. While watching the video, there are gaps in recording. This is due to the minimum movement standard not being met to trigger recording. The recording gaps are few and short, for the majority of inmate McLemore's incarceration. However, the last few days of inmate McLemore's incarceration the recording gaps are more frequent and longer due to his lack of movement.

During his incarceration, inmate McLemore was taken out of his cell 3 times. Those dates were: 7/25/2021, 7/31/2021, & 8/8/2021. On those dates, his cell was cleaned. Although it was cleaned, it did not stay clean for very long due to inmate McLemore's actions. There were two occasions that inmate McLemore was showered. Those dates were 7/31/2021 & 8/08/2021. They are also marked on the jail log entries.

Inmate McLemore's cell had a restroom attached to it, through a locked door. In jail staff interviews I was told that the door is locked and unlocked in the "control" area of book-in. I was also told it was kept locked for safety reasons and it is unlocked at the inmate's request to use the restroom or shower. Inmate

McLemore did not ever ask for access to the restroom or shower. He was given access to the restroom on one occasion during his 20-day incarceration for a few hours. Although he did venture into the restroom area, he did not use the restroom. Inmate McLemore frequently urinated in his cell. In reviewing the jail video, I did not see that he ever defecated in his cell.

Inmate McLemore's cell was in a state of constant disarray due to his actions. Inmate McLemore would spill and throw his food on the floor and walls. He would tear up the Styrofoam trays and cups his food and drinks were served in. He would also tear up the brown paper bags that his dinners were served in. In addition to the food, drinks and trash on the floor, inmate McLemore also frequently urinated on the floor of his cell. The cell was cleaned by jail staff on 3 occasions during his 20-day incarceration. However, within hours of it being cleaned, it was in a state of disarray again.

Inmate McLemore remained naked during his incarceration. He was consistently covered in food, drinks, trash, and urine. He would lie on the floor and roll around. Observations of Jail staff and EMTs ("Emergency Medical Technicians") said that both inmate McLemore and his cell smelled of urine.

Inmate McLemore was housed in padded cell #7 during his entire incarceration. He did not have contact with other inmates. Inmate McLemore did not ask to make any phone calls or video calls or to have any visits from friends or family. He had no visits from friends or family during his incarceration.

The video evidence revealed that he was not sexually assaulted at the JCJ during his incarceration. The video does show inmate McLemore, on multiple occasions, appear to insert 2 different Gatorade bottles into his butt. One of the bottles was intact (not crushed). The other bottle was crushed, flattened prior to it appearing to be inserted into his butt.

8/08/2021 it became apparent to jail staff that inmate McLemore was not well. They requested an ambulance to take inmate McLemore to the hospital. He was initially transported to Schneck Medical Center in Seymour, Indiana. Schneck medical staff decided to transport Inmate McLemore to Mercy West Hospital in Cincinnati, Ohio. Once this was communicated to JCJ staff, they, in turn, communicated it to the Jail Commander and Sheriff. The Sheriff instructed the Jail Commander to place inmate McLemore in an "O.R." status (this means that Mr. McLemore was ordered released from the Jackson County Jail). The paperwork was delivered to Schneck and presented to a nurse.

A Schneck doctor was familiar with Joshua McLemore and recalls seeing him as a patient in the ER (Emergency Room) at Schneck Medical Center on multiple occasions. The doctor said that Joshua McLemore had a history of illegal narcotics use. In the Schneck Medical Center ER Discharge patient instructions on 5/25/2021 and 7/20/2021, the doctor warned Joshua McLemore to stay away from methamphetamine. On 5/25/2021 she wrote, "Please stay away from methamphetamines because it makes you paranoid and seems to get you in a lot of trouble". On 7/20/2021 in all capital letters she wrote, " PLEASE STOP USING METH IT IS GETTING YOU IN A LOT OF TROUBLE". On July 20, 2021, she recalled that Joshua McLemore told her that he had used methamphetamine that day.

On 7/20/2021, the doctor recalled that Joshua McLemore had voluntarily come to the Schneck ER by ambulance. He was being evaluated for abnormal behavior. She recalled that day Joshua McLemore was difficult to get a medical history from. The doctor said that Joshua McLemore presented to the ER in a state of agitation, consistent with methamphetamine use and/or altered mental status not associated to methamphetamine use. The doctor recalled on 7/20/2021, Joshua McLemore became increasingly agitated. At one point, while a nurse was assisting with his medical care, Joshua McLemore yanked the nurse's hair. The doctor did not witness this. She was told after the incident. Due to Joshua McLemore's assault on one of the medical staff, he was arrested and taken to the Jackson County Jail. No labs were able to be completed on Joshua McLemore during this visit.

On 8/08/2021 when inmate Joshua McLemore was brought to the Schneck Medical Center ER, the same doctor saw him again. She recalled that night in the ER as an extremely busy night she also explained that it was during the height of the COVID pandemic. The doctor said inmate McLemore presented to them as lethargic. The doctor said that inmate McLemore was able to maintain his own airway and would withdraw from painful stimuli. The doctor said that labs were completed on inmate McLemore. The doctor said the labs revealed the critical nature of his condition. The doctor explained that due to inmate McLemore's critical condition, she contacted surrounding critical care hospitals to send inmate McLemore to. The doctor explained that Schneck Medical Center was not equipped to care for inmate McLemore as he needed. None of the surrounding hospitals in Indiana had a bed available for inmate McLemore. The doctor said they were ultimately successful finding Inmate McLemore an open bed at Mercy West Hospital in Cincinnati, Ohio.

Inmate McLemore was transported from Schneck and arrived at Mercy West Hospital in the early morning hours of 8/09/2021. During Joshua McLemore's care at Mercy West, he was attended to by dozens and dozens of medical staff. He was administered a battery of tests and examinations across multiple, different specialties. It is noted in the medical documents from Mercy West Hospital that, medical staff was in contact with Joshua McLemore's mother, about his care and his wishes. It was documented that the family advocated for Joshua McLemore, stating that he would not want to pursue further aggressive measures and would desire the withdrawal of care. With this information, as his condition continued to deteriorate, life-sustaining treatment was discontinued, and palliative medications were administered. Joshua McLemore was pronounced dead 8/10/21 at 5:38 PM.

Both Schneck Medical Center records and Mercy West Hospital records indicate that inmate McLemore had numerous, serious health issues. Those records are summarized in another narrative. Those documents have been added to the case file.

The autopsy report stated, THE CAUSE OF DEATH was due to:

- A. Multiple organ failure - The approximate interval between onset and time of death: DAYS
- B. Refusal to eat or drink with altered mental status - The approximate interval between onset and death: DAYS

C. Unrelated Schizophrenia - The approximate interval between onset and death: MONTHS

Also listed as significant conditions contributing to death but not related to the terminal disease condition listed in part (A) is, a history of methamphetamine withdrawal.

MANNER OF DEATH was listed as natural. The report details Joshua McLemore's health history prior to his death. Joshua McLemore had a history of mental illness (bipolar disorder and schizophrenia), illegal narcotics abuse and numerous, serious health conditions. The toxicology report states that Joshua McLemore's blood was drawn at Schneck Medical Center in Seymour, Indiana on August 8, 2021 prior to him being transferred to Mercy West Hospital in Cincinnati, Ohio. That blood was examined, and the toxicology results show that no drugs of abuse, no ethanol, and no ethylene glycol were detected. See attached report. It has been added to the case file.

Throughout this investigation I have been in contact with McLemore family attorney, Edwin Budge and Jackson County Prosecutor Jeff Chalfant to keep them updated on the status of this investigation.

This case will be presented to the Jackson County Prosecutor's Office for their review and a formal summary of findings.

That concludes the investigation summary prepared by the Indiana State Police.

### **MEETING WITH INDIANA STATE POLICE INVESTIGATOR**

At a meeting with the Jackson County Prosecutor, the Indiana State Police investigator shared the following additional observations and opinions. In the opinion of the Indiana State Police Investigator, there was no evidence of a knowing, intentional, or reckless act. No single person committed an act or omission that constituted a crime. Mr. McLemore most likely died due to a prolonged lack of attention by Jackson Jail staff as a group.

The Indiana State Police investigator explained that one and sometimes two Jackson County Jail employees (in booking and/or control sections of the jail) were responsible for watching a video screen that sometimes showed the camera view of the inside of Mr. McLemore's cell. According to the Indiana State Police investigator, the Jackson County Jail is equipped with video screens that show a split view of between nine and 36 camera views. The jail employee watching the video screen has the ability to watch any of the 96 camera views in the Jackson County Jail by selecting and displaying up to 36 camera views on a video screen.



The jail employee who would typically watch the video screen that would most likely show the interior of Mr. McLemore's cell typically had between 24 and 36 camera views showing. Each of the camera views were approximately 2-4 inches diagonally, and each camera view showed a different portion of the Jackson County Jail.

The jail employees responsible for watching the video screens typically also were responsible for responding to call box communications from all inmates in the jail, locking and unlocking all doors in the jail, booking in and booking out inmates, processing paperwork, and other assorted daily responsibilities. The jail employees also rotated among watching the video screen and other duty assignments throughout their work shifts. Every four hours a jail employee would shift duty assignments. This means that anyone watching the video screen that showed the inside of Mr. McLemore's cell would be watching for four hours and would have no knowledge of what happened in Mr. McLemore's cell before and after their four duty assignment of watching the video screen.

The Indiana State Police investigator stated that lots of jail employees saw Mr. McLemore every day and did not see a change until near the end.

The Indiana State Police investigator noted that jail employees kept logs of information that the employees thought was important. Examples:

1. On July 22, 2021, jail employees created a log entry that stated that they asked Mr. McLemore if he wanted a shower and for jail staff to clean his cell. Mr. McLemore tried to push his way out of his cell and said that he did not want a shower.

2. On July 25, 2021, jail employees noted that Mr. McLemore was striking himself in the back of his head, they placed him in the WRAP restraint system, heard him make suicidal comments about jumping off a bridge, and cleaned his jail cell.

3. On July 27, 2021, the jail commander logged that he spoke with Mr. McLemore's mother in an attempt to learn Mr. McLemore's medical history. Mr. McLemore's mother said that Mr. McLemore suffered from manic episodes that were drug induced, had some mental health issues, and had been in a mental institution four times in Mississippi.

4. On July 31, 2021, jail employees logged that Mr. McLemore's cell had trash and food all over and that Mr. McLemore was rolling around in the refuse. They asked if he wanted to shower and eat but stated that he was not able to respond and was not speaking clearly. They removed him from the cell, gave him a shower, and cleaned his cell.

5. On August 8, 2021, jail employees logged that Mr. McLemore needed a shower, gave him a shower, and then realized that he needed medical attention. This led to hospitalization and removal from the jail.

The Indiana State Police investigator said that, due to the four hour blocks of time that jail employees monitored the video screen, with the many camera views on the video screen, individual jail employees did not realize that Mr. McLemore never asked to use the bathroom and that he rarely ate or drank.

Included in the Indiana State Police investigation is a summary of an interview with Mr. McLemore's court appointed attorney. Mr. McLemore's attorney stated that he met with Mr. McLemore at the jail on July 29, 2021. During this meeting, the court appointed attorney sat outside Mr. McLemore's cell and spoke through an opening used to pass food and drink to Mr. McLemore. The court appointed attorney asked Mr. McLemore if he was Joshua McLemore, and Mr. McLemore responded with a soft, "yes." The court appointed attorney asked additional questions, but Mr. McLemore did not answer and instead paced around the jail cell.

## **ANALYSIS OF EVENTS AS POSSIBLE CRIMES**

A duty of a Prosecuting Attorney in reviewing a death investigation is to determine if the death is the result of a criminal homicide. If, and only if, the death is determined to be the result of a criminal homicide, then to determine if sufficient evidence exists to charge a specific person(s) with an applicable criminal homicide. Setting aside vehicular homicides (which are inapplicable to this investigation), there are four (4) criminal homicides that are reviewed: murder, voluntary manslaughter, involuntary manslaughter, and reckless homicide.

The Indiana State Police investigation did not uncover any evidence indicating that Mr. McLemore was knowingly or intentionally killed by another person, nor any evidence that his death was caused by a knowing, intentional, or reckless act. Therefore, there is no evidence that Mr. McLemore was the victim of murder, voluntary manslaughter, involuntary manslaughter, or reckless homicide.

“Intentional,” “knowing,” and “reckless” culpability are very different from the civil law concept of “negligence.” “Negligence” is essentially a breach of a reasonable duty of care owed by a person or entity to another person.

Both the Indiana State Police investigator and the Jackson County Prosecutor watched video of Mr. McLemore from the time he was placed in the padded cell on July 20, 2021 until he was removed and taken to the hospital on August 8, 2021. Continuous viewing of Mr. McLemore in his cell during this time frame clearly shows that he was mostly not eating, mostly not drinking, mostly not sleeping, never asked to use the bathroom, and was in a dissociative mental state.

Jackson County jail staff, however, did not have the opportunity to continuously view Mr. McLemore in his cell. The jail staff had many other duties, and they were only in a position to view Mr. McLemore in four hour blocks while they were performing their other duties.

During his stay in the jail, jail staff did periodically observe Mr. McLemore and did note that he was not eating, that his cell was a mess, that he was dirty, and that he was largely non-responsive when they spoke to him. Jail staff did not connect this information together and infer that Mr. McLemore needed medical attention.

Whether a person or entity had a duty of reasonable care towards a person, and if that care was sufficient or a breach of that duty of reasonable care are matters of civil law and not criminal law. The Jackson County Prosecutor agrees with the Indiana State Police investigator that there was no evidence of a knowing, intentional, or reckless act. The Jackson County Prosecutor also agrees with the Indiana State Police investigator that no single person committed an act or omission that constituted a crime, and that Mr. McLemore most likely died due to a prolonged lack of attention by Jackson County Jail staff as a group.

#### **PROSECUTOR FINDINGS**

The Office of the Jackson County Prosecuting Attorney finds that no crimes were committed by employees of the Jackson County Jail related to the death of Joshua A McLemore.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Jeffrey A. Chalfant', is positioned above a horizontal line.

Jeffrey A. Chalfant  
Prosecuting Attorney  
Jackson County