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**NO CHARGES FILED IN ONE VEHICLE ROLLOVER
THAT RESULTED IN TWO DEATHS AND INJURIES
OF LAKEVILLE SOUTH HIGH SCHOOL STUDENTS**

Dakota County Attorney James Backstrom announced today that his Office will not be filing any criminal charges in connection with the December 4, 2015 one vehicle rollover accident in Eureka Township involving students from Lakeville South High School. The rollover occurred after school resulting in the ejection and death of two Lakeville South students, Jacob Christian Flynn, age 17, and John Ashton Price, IV, age 18, who were passengers in the vehicle. The driver of the vehicle was a 17-year-old male student who was seriously injured in the crash. A fourth occupant, an 18-year-old male, who was the only individual in the vehicle at the time of the crash who was wearing a seatbelt, was not ejected from the vehicle, and suffered minor injuries.

The investigation into this incident revealed the following facts:

All of the passengers and the driver of the vehicle were voluntary participants in a "Nerf War" game which they were playing after school on December 4th. The rules of this game involve shooting opposing team players with a Nerf bullet for points. Points can be doubled if the shooting of the opposing player is caught on camera. The game rules prohibit this activity from occurring on school property. As part of the game, students are routinely "kidnapped" and taken to locations away from school grounds where they are then shot with a Nerf bullet. On December 4th, Jacob Flynn was surrounded by the vehicle's driver and the other two passengers and placed inside of the vehicle involved in the crash which was a 2005 Toyota Tundra (hereafter referred to as the "truck"). Witnesses to this event indicated that Jacob Flynn first resisted being placed in the truck, aided by two friends, but these friends soon left and he entered the truck.

The 17-year-old driver was the only occupant in the front seat of the truck. The three passengers were in the back seat at the time they left with Jacob Flynn seated in the middle, John Price sitting to Flynn's left and the other 18-year-old passenger sitting to Flynn's right. The truck then left the school parking lot, turning south on Jacquard Avenue, then east on 215th Street West, and then south on Dodd Boulevard. Initially, another vehicle containing the two other students who had initially tried to prevent Flynn from being placed in the truck followed the truck, but executed a U-turn and proceeded north on Dodd Boulevard when the truck turned west on 225th. Consequently, the occupants of the second vehicle did not witness the crash. The driver of the second vehicle indicated that at all times in which he was following the truck, speed limits and other traffic rules were being followed.

As the truck travelled west on 225th Street West, approximately one-half mile west of the intersection of Dodd Boulevard in Eureka Township, a witness driving a car in the opposite direction that the truck was travelling, told investigators that when she initially observed the truck, it was approaching her in the wrong lane of traffic and then it swerved into the other lane and then back again when it started to roll over. The witness estimated that the truck rolled three to four times and she saw two young men ejected while it was rolling. The witness immediately stopped and called '911'. At the time of the crash, this witness said there were no other vehicles behind the truck.

When law enforcement and paramedics arrived at the scene, it was determined that Jacob Flynn and John Price, had been ejected from the truck during the rollover, and were deceased. The 17-year-old driver of the truck suffered serious head and back injuries and was transported by helicopter to Hennepin County Medical Center. The only seat-belted passenger was transported to Hennepin County Medical Center by ambulance with minor injuries.

The 17-year-old driver suffered serious injuries and has not provided a statement to investigators in this case. The injured 18-year-old passenger did provide multiple statements to investigators, both the day of the incident and at a later time. He indicated that John Price jumped from the back seat to the front passenger seat approximately 30 seconds to one minute prior to the crash. He said Price was in the front seat when the crash occurred. Jacob Flynn remained in the back seat center position. He thought the driver was nudged somehow as Flynn leaned forward. He acknowledged that Flynn may have been attempting to avoid being shot with a Nerf gun, or he may have been attempting to gain possession of a Nerf gun from the front seat, but he was unable to see what was happening. At this time, one of these individuals bumped the driver, who then veered off course and over-corrected in his attempt to return the truck to the proper lane. The surviving passenger told investigators that no one was using a phone and that the driver had both hands on the steering wheel at the time he was bumped and lost control of the truck.

Investigation into this matter was conducted by the Dakota County Sheriff's Office and the Minnesota State Patrol which completed an accident reconstruction of the crash. The findings of this investigation were that there was no suspicion of impairment by the driver and that the truck was travelling at or near the posted speed limit at the time of the crash. The investigation revealed that two photographs found on the driver's cell phone were taken around the time of the crash. The images are too blurry to determine what is depicted. However, the surviving 18-year-old passenger told investigators that no cell phones were being used at the time of the crash, that the driver had both of his hands on the wheel when he left his lane of traffic and over-corrected causing the truck to roll over multiple times. Consequently, it cannot be determined beyond a reasonable doubt, who was in the possession of this cell phone at the time this crash occurred.

County Attorney Backstrom indicated that his Office reviewed the following crimes in connection with this incident: Kidnapping (a felony), False Imprisonment (a felony), Criminal Vehicular Homicide (a felony), Criminal Vehicular Injury (a felony, gross misdemeanor or misdemeanor depending on the extent of the injuries), Reckless Driving (a gross misdemeanor if death or great bodily harm results, otherwise a misdemeanor), Careless Driving (a misdemeanor), Failure to Exercise Due Care (a misdemeanor), and Failure to Drive in a Single Lane (a misdemeanor). Based upon his Office's review of the law and facts related to this incident, Backstrom said he has decided not to file any criminal charges in connection with this case. Details of these crimes and the facts related thereto are set forth below:

1. Kidnapping and False Imprisonment require intentionally confining, removing, or restraining someone without consent. All of these youth were voluntarily involved in a "Nerf War" game, which allowed participants on one team take control of opponents of another team and transport them to locations where they could be shot by a Nerf bullet consistent with the games rules.

Consequently, the youth involved in this game in essence consented to this activity and the elements of these crimes cannot be proved beyond a reasonable doubt.

2. Criminal Vehicular Homicide or Injury require proof of gross negligence when no evidence exists of impairment of the driver of a vehicle involved in a crash resulting in death or injury. Gross negligence is defined as driving with very great negligence or without even scant care. Under the facts of this incident, this element cannot be proved beyond a reasonable doubt.
3. Reckless Driving is defined as consciously disregarding a substantial and unjustifiable risk that may result in harm to another person. Careless Driving is defined as operating a vehicle carelessly or heedlessly in disregard of the rights of others or in a manner that endangers, or is likely to endanger, any person or property. There is insufficient evidence to meet the elements of these crimes in this instance as the driver of the vehicle was not speeding and could not necessarily have known there would be a risk of him being bumped by other passengers in the truck involved in an altercation, nor is there sufficient evidence the driver was using a cell phone at the time of the crash.
4. Failure to Exercise Due Care involves driving a vehicle at an unreasonable speed or failing to become and remain aware of actual and potential hazards on a highway and exercising due care in light of these hazards while driving. There is insufficient evidence to meet the elements of this crime in this instance as the driver of the truck was not speeding and could not necessarily have known there would be a risk of him being bumped by other passengers in the truck involved in an altercation, nor is there sufficient evidence the driver was using a cell phone at the time of the crash.
5. Failure to Drive in a Single Lane involves the driver failing to drive in a single lane so as to endanger or likely to endanger person or property. This offense requires an intentional act or negligence of the driver. There is insufficient evidence to meet the elements of this crime in this instance as the driver of the truck was not speeding and could not necessarily have known there would be a risk of him being bumped by other passengers in the truck involved in an altercation, nor is there sufficient evidence the driver was using a cell phone at the time of the crash. It was the bumping of the driver by another which caused him to leave his lane of traffic.

Backstrom and Sheriff Tim Leslie both expressed their deep sympathy the families and friends of Jacob Flynn and John Price who died in this tragic truck crash and their hopes that the truck's driver who was seriously injured fully recovers.

Backstrom commented: *"While no criminal charges are being filed in this case, I hope that all youth take notice of how quickly tragedy can occur while operating a motor vehicle. Games such as "Nerf War" have no place in a moving motor vehicle as they can lead to distractions to or interference with the driver with deadly consequences as occurred in this preventable incident. In fact, these types of games which can involve aggressive behaviors among youth have no place in our schools and communities and should end."*

Sheriff Tim Leslie commented: *"What this tragedy shows us is that seemingly innocent games such as "Nerf War" can have deadly consequences. Schools, law enforcement and parents should do all they can to prevent these types of games which can lead to aggressive behaviors by the youth involved and the students involved should step up and agree not to participate in these type of activities."*

Sheriff Leslie also repeated his plea for all drivers, especially young drivers, to use seat belts: *"The importance of wearing seat belts cannot be overstated. Seat belts save lives. This tragedy is a clear reminder of how one moment can impact so many lives. While other factors can contribute to the likelihood of a crash, such as impairment, recklessness, and negligence, we cannot predict when or how accidents will happen. Seat belts give us the best chance to survive those unpredictable moments."*

Lakeville Area Public Schools Superintendent Dr. Lisa Snyder expressed the district's deep sympathy for the families and friends of the two young men. *"This tragedy has deeply affected our school community as well as the families and friends of John Price and Jake Flynn. We know grief has no specific timeline. We continue to provide support to our students and staff as needed."* Lakeville Area Public Schools Student Support Services staff will be available to talk with students who are experiencing grief. Please call 952-232-3333 or email angela.schultz@isd194.org.

Dr. Snyder echoed Sheriff Leslie's plea for exercising care while driving. *"The education and safety of our students are of utmost importance. Following this crash, our students told us they made the decision to discontinue "Nerf Wars" and to our knowledge, they have not resumed playing it. We continue to encourage our families to talk about safe driving behaviors with their students, including always wearing seatbelts and avoiding driving while distracted."*