

Breaking silence in Wienckowski's death

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By Lou Michel

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A retired Buffalo police detective says he and fellow investigators never agreed that Amanda Wienckowski died of a drug overdose.

Amanda Wienckowski was missing five weeks before her body was discovered in a garbage tote.

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A just-retired Buffalo homicide detective who investigated the death of Amanda Wienckowski is breaking his silence about the troubling case of the young woman whose frozen body was found stuffed inside a garbage tote in 2009, revealing publicly for the first time that he and fellow investigators never agreed with the Erie County Medical Examiner's determination that Wienckowski died of a drug overdose.

They believed the most likely scenario was that a large person accidentally choked the petite, 20-year-old Kenmore woman during a paid sexual encounter, retired Buffalo Homicide Detective Mark J. Lauber said.

Previously, Lauber had not been allowed to speak to reporters because of Buffalo Police Department policy.

But now that he has retired, he talked to The Buffalo News to clear up "misinformation" about the case and to show that police thoroughly investigated the case.

"We realized right away the cause of death was not from a lethal amount of opiates for someone who used heroin every day," Lauber said.

On Jan. 9, 2009, Wienckowski's body was discovered naked and upside down in a garbage tote across the street from the residence of Antoine J. Garner, where she had gone to provide sexual services.

Though not charged in her death, the 300-or-more pound Garner has been identified as the last person to see her alive and as a person of interest in her death.

But the cause of Wienckowski's death has been a matter of contention ever since the county medical examiner ruled she died of a drug overdose.

The detectives disagreed with that conclusion.



“So we called the medical examiner’s toxicologist, and he agreed with us but said they could not find another cause of death and went ahead and listed it as an accidental drug overdose,” Lauber said.

The detectives didn’t believe there was enough heroin in her system to cause an overdose.

Since the medical examiner’s report was issued in 2009, at least three other pathologists also have issued reports.

Wienckowski’s family sought the assistance of attorney Steven M. Cohen of the Amherst law firm Hogan Willig and had a second autopsy done by a West Coast pathologist who concluded that Wienckowski’s cause of death was strangulation.

But Lauber said he and the other detectives on the Homicide Squad weren’t sure about that conclusion either.

The detectives’ opinion that there were not enough drugs in her blood to cause death supports a medical opinion released late last month at a Buffalo Common Council meeting. Albany-area pathologist Michael Sikirica determined that the amount of opiates in Wienckowski’s system was “a relatively innocuous level.”

Sikirica sided with the results of the second autopsy – conducted at the request of the family – that determined the cause of death was strangulation.

Cohen sought assistance from Sikirica on behalf of Wienckowski’s family, which has been trying to get the county medical examiner to amend the cause of death to homicide.

“The Buffalo police have always maintained this was a homicide,” Cohen said. “Whether it’s murder or manslaughter is a question for a jury to decide, but the medical examiner’s findings prevent District Attorney Frank Sedita from prosecuting the case because the listed cause of death creates reasonable doubt.”

Lauber, in challenging the medical examiner’s determination, said he and other detectives assigned to the case were told by a county toxicologist that the accidental overdose was selected as the cause of Wienckowski’s death because they could not find any other explanation. The “logical” way to handle the cause of death, Lauber said, would be to list it as “undetermined.” The former detective pointed out that yet another pathologist, Scott F. LaPoint, hired by Sedita last year, issued an opinion that the cause of death should be undetermined.

Sedita sought the outside, expert opinion because of the two conflicting autopsies. The case seemed puzzling right from the beginning, Lauber said.

When the Homicide Squad requested a copy of the county autopsy report in 2009, he was told a written request would have to be submitted. That was a first, he said.

Even more puzzling, he recalled, was that when the county report arrived, it was signed by four pathologists in the Medical Examiner's Office.

In the past, the only pathologist to sign an autopsy report was the pathologist who conducted the autopsy, said Lauber, who worked 11 years as a homicide detective and frequently attended autopsies.

Cohen also noted that it was odd for four pathologists to sign an autopsy report. But a county spokesman for the medical examiner disagreed, saying many autopsy reports are signed by more than one pathologist.

Lauber said he and the other detectives believe that Wienckowski died during rough sex and dismisses the strangulation ruling. Pressure marks found on Wienckowski's neck and internal neck injuries, he said, could have occurred when her body was shoved down into the garbage tote.

As for what appear to be defensive wounds on her arm, he said, those also could have occurred when her body was being discarded.

Marks on Wienckowski's face by her jawline, he said, were caused by a large earring she was wearing that ended up pressed against her flesh.

Lauber interviewed Garner for two hours, just hours after Wienckowski's body was found in a garbage tote across the street from his home on Jan. 9, 2009, outside a church at Spring and Clinton streets. The garbage tote previously had been reported stolen by one of Garner's neighbors.

Garner told detectives that Wienckowski arrived at his house Dec. 5, 2008, after he had called her for paid sex in response to an advertisement, Lauber said. That part of the story detectives do not dispute.

But detectives were skeptical of Garner's claim that she left the home that evening.

Lauber and other police officials say they believe positional asphyxiation killed Wienckowski while she was having sex. They believe Wienckowski was grabbed from behind and an arm was placed against or around her neck while her assailant's full weight pressed against the slight woman.

“There were opiates in her system and that could slow her heartbeat, and with his arm on her neck, there was some compression to her throat,” Lauber said of the factors that detectives believed caused Wienckowski’s death. But, he added, he does not believe her death should result in a charge of second-degree murder.

“We don’t believe this was a classic depraved indifference to life, which is the definition of second-degree murder,” Lauber said. He said a lesser charge of criminally negligent homicide or second-degree manslaughter might be more appropriate.

Garner has repeatedly denied that Wienckowski died in his presence.

But Lauber said police remain suspicious because of other occurrences. Among them:

- Garner last week was convicted in Erie County Court of choking and assaulting a prostitute during a paid sexual encounter. He faces up to seven years in prison when he is sentenced in March.
- During an extensive search of Garner’s home after Wienckowski’s body was found, Lauber said he went through the garbage tote for Garner’s residence and discovered an earring that belonged to Wienckowski.

“The earring was wrapped in an ATM bank withdrawal slip that Garner had made three days earlier, and the earring had a strand of blond hair on it,” Lauber said.

But DNA testing to determine if the hair belonged to Wienckowski, a blond, was never conducted, he said. Lauber said he does not understand why a test was not completed, especially since homicide detectives in 2009 put in a specific request for the test.

DNA tests did determine, however, that a hair found on Wienckowski’s body belonged to Garner, he said.

The garbage tote in which Wienckowski’s body was found was reported missing by its owner weeks before it turned up next to the church, Lauber said. And investigators suspected that if Wienckowski was dead, she was probably inside that missing container.

“We conducted surveillance of Garner’s home, conducted numerous interviews and went up in the Erie County sheriff’s Air One helicopter searching for the tote. That tote was not across the street from Garner’s home in the days before she was found,” he said.

So where was Wienckowski’s body in the five weeks from early December when her family reported her missing to its discovery on Jan. 9, 2009?

That is a question police have not been able to answer, Lauber said. But now, as individuals such as Council Member Darius G. Pridgen try to get to the bottom of Wienckowski's death with its conflicting pathology reports, Lauber said, the public should be aware that homicide detectives worked diligently on the case.

Pridgen, whose Ellicott District includes the location where Wienckowski was found, is working with County Legislature Chairwoman Betty Jean Grant to arrange for a county hearing where Chief Erie County Medical Examiner Dianne R. Vertes would be urged to attend and explain the county autopsy.

Vertes, one of the four pathologists to sign Wienckowski's autopsy report, declined Pridgen's request that she attend his Legislative Committee meeting two weeks ago.

Peter Anderson, a county spokesman, said Vertes' findings in the Wienckowski death are self-explanatory and have already been widely reported.

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