

## Chief: 2 officers got no favors

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### *Delayed arrest not typical, lawyers say*

Metro Police Chief Ronal Serpas yesterday said two Metro police officers involved in a near-fatal accident last week received no special treatment from investigators afterward.

Some local lawyers experienced in DUI cases, however, said that average people would not have been given the same concessions as Sgt. Kim Gooch and Officer Marsha Brown, who were arrested Wednesday, five days after the incident.

Police yesterday defended their handling of the case after Gooch's vehicle struck Micah Jones, 23, as she crossed Division Street on foot July 9. Brown, a passenger in Gooch's car who was charged by police with driving under the influence, told police that she moved Gooch's car after the accident.

Gooch, 41, was shown in television news footage after the crash drinking bottled water and moving about freely. Serpas said Gooch had the water before police arrived.

"It's not necessarily true that Joe Six-pack would have been arrested the night of the incident," Serpas said. "Accidents are just what they are. They're not intentional. Nobody intended to do what happened" on Friday morning.

Neither Gooch nor Brown was arrested until results of their blood tests were returned by the Tennessee Bureau of Investigation and the two turned themselves in.

Gooch's blood alcohol level was .16%, twice the legal threshold for intoxication. Brown's was .13%.

"The average person isn't allowed to drink, to smoke, to eat" in such a circumstance, said Nashville attorney Michael Fox, nicknamed "DUI Mike." "If they're not arrested at the scene, that's unusual."



JEN CORDLE  
*The 1999 Nissan Maxima that Sgt. Kim Gooch was driving last Friday when she hit Micah Jones, a Middle Tennessee State student, sits in the Metro police tow-in lot.*

Franklin-based lawyer Lee Ofman said that in his 23 years of experience, he had never encountered a case in which, after a very serious accident, a suspect was not arrested after showing "clues of impairment" during field sobriety tests, as both officers did.

Police, however, said several factors were behind the decision not to arrest the officers that night and not to give them breath alcohol tests:

- They knew the officers had consumed alcohol and therefore did not need the field tests or breath tests to determine whether they had been drinking.
- In cases involving serious injury or death, police can force the driver to give a blood sample after arrest. Gooch voluntarily submitted to the blood test, so an arrest was not needed to compel her to give one.
- Blood tests are more accurate and have more weight in court than a breath test.
- Neither woman posed a risk of flight or was a danger to the community.
- Police consulted with the district attorney's office about the case.

In cases in which there are multiple witnesses and in which conflicting accounts indicate that the facts aren't entirely clear, police will often delay making an arrest, said Gooch's attorney, David Raybin.

Police policy on DUI says that officers must arrest suspects after a field sobriety test, before a breath test is given, if there is cause to believe they are under the influence.

Police Department spokesman Don Aaron agreed that Brown's case fit the circumstances laid out in the policy calling for arrest, but said that her case couldn't be considered apart from the other circumstances.

Aaron said the policy on DUI didn't apply to Gooch because it is mainly for traffic-stop arrests and because she later was charged with vehicular assault, a charge for which a suspect can be compelled to give blood.

District Attorney General Torry Johnson said he couldn't comment on whether police should have filed charges against the officers immediately after the accident. Shortly after the accident, police consulted with an assistant district attorney, who advised the officers to handle the case as they would any other, Johnson said.

While police are "generally charged with the responsibility of charging people when crimes have been committed," Johnson said, they have discretion based on the facts in any case.

Prosecutors later review cases to see whether any additional charges should be presented to the Davidson County grand jury, Johnson said.

Serpas urged anyone with information about the accident to contact the Police Department at 862-7729.