

S.D. Guardsman Dies Before Deployment

HOT SPRINGS (AP) — Authorities say a South Dakota National Guard soldier who was preparing to deploy to Afghanistan died after diving off a boat in the southeast part of the state.

The Fall River County Sheriff's Office tells the Rapid City Journal that 19-year-old Jared Roe of Rapid City likely drowned in Angostura Reservoir, though the finding is not yet official.

Authorities say Roe's friends called authorities about 1:15 a.m. Monday. They say Roe dove off a boat and was pulled from the water by the friends after he did not surface immediately. They drove the boat to a resort, where an ambulance took Roe to a hospital. Doctors were unable to save him.

Roe was with the Guard's 200th Engineer Company, which leaves the state Monday.

Group Criticizes Neb. Prosecutor After Audit

WAHOO, Neb. (AP) — A citizens group wants the Saunders County attorney to temporarily step aside following a state audit that showed he received nearly \$5,000 in improper expense payments.

The Lincoln Journal Star says the Saunders County Citizens for Responsible Government on Tuesday urged the county board to ask Scott Tingelhoff to take a leave until state investigators resolve a complaint. Board member Darren Martin says the board took no action, primarily because it lacks authority over other elected officials.

State Auditor Mike Foley released the audit of Tingelhoff's office last week. Tingelhoff has repaid the county.

Foley has filed a complaint with the state Accountability and Disclosure Commission and referred the matter to the state attorney general's office. The Nebraska State Patrol is investigating.

Neb. Lawmakers Advance Abortion Bill

LINCOLN, Neb. (AP) — Nebraska lawmakers have advanced a bill that would require a physician to administer abortion drugs to patients in person.

The proposal by Lincoln Sen. Tony Fulton is designed as a pre-emptive move against telemedicine systems that allow doctors to administer drugs remotely, after consulting with patients through a webcam.

Planned Parenthood of the Heartland has established a program in Iowa to serve women in rural areas.

Fulton's bill (LB521) would require doctors to be in the same room as a patient when she receives the abortion drug. Omaha Sen. Brenda Council tried to strip the "same room" requirement out of the bill, but her amendment was defeated.

Lawmakers advanced the legislation, 34-9, through its first required vote. Two more votes are needed before it reaches Gov. Dave Heineman.

Gov. Asks For Presidential Disaster Declaration

PIERRE (AP) — Gov. Dennis Daugaard has asked for a presidential disaster declaration to help South Dakotans recover from widespread spring flooding.

The request covers 28 counties where preliminary assessments show more than \$7.1 million in damage to roads, culverts, bridges and other public infrastructure.

The governor in his letter to President Barack Obama says soil in many parts of the state already was saturated before getting hit with winter snowfall ranging from 50 to 100 inches.

The counties covered in the request are: Aurora, Beadle, Brookings, Brown, Buffalo, Clark, Codington, Day, Edmunds, Faulk, Grant, Hamlin, Hand, Hughes, Hyde, Jackson, Jerauld, Kingsbury, Lake, Marshall, Miner, Moody, Perkins, Potter, Roberts, Sanborn, Spink and Sully.

If the president grants the declaration, up to 75 percent of eligible infrastructure costs could be reimbursed.

Sioux Falls Bicyclist Hit By Vehicle Dies

SIoux FALLS (AP) — A bicyclist who Sioux Falls police say was hit by a vehicle Sunday has died.

Police spokesman Sam Clemens says 23-year-old James McInnis III was declared brain dead Monday night.

Prosecutors will be deciding whether to file new charges against 55-year-old David Kinner. He was charged after the incident with driving under the influence of a prescription drug and vehicular battery.

Police accuse Kinner of running a red light or not waiting for traffic to clear before making a turn on a green light and hitting McInnis, who was in or near a crosswalk.

KDLT-TV and the Argus Leader report that Kinner has a lengthy record of driving infractions. A judge set bond at \$1,000 Monday. It was not immediately clear if Kinner had obtained an attorney.

Man Accused Of Biting Omaha Police Officer

OMAHA, Neb. (AP) — Omaha police say a man suspected of biting an officer was taken to a hospital after he allegedly swallowed drugs during a struggle with police.

Police say officers noticed a man acting suspiciously behind an apartment complex late Monday. Police say a struggle broke out when the officers tried to talk to him. Authorities say several people came out of the apartments and starting throwing rocks at the officers, who called for additional help.

The man allegedly bit an officer on the hand and swallowed suspected crack cocaine. Officers used a stun gun on the man and took him into custody. The man was taken to a hospital for his injuries and ingestion of a controlled substance.

Murder Trial Starts For Huber

Former South Dakota Police Chief Being Tried For Second Time

BY CHET BROKAW
 Associated Press Writer

HURON — A prosecutor told jurors Tuesday that evidence would prove it was no accident when Highmore's former police chief fatally shot his wife as she lay on a bed in their home.

In an opening statement to the jury of six men and nine women, Assistant Attorney General Patricia DeVaney said Ken Huber intended to kill his wife, Pam, on Oct. 28, 2007. She urged the jury to use common sense in evaluating evidence of a troubled marriage, Huber's abuse of his wife, his extramarital affairs and the way Pam Huber was shot.

"You'll be left without any reasonable doubt that what happened here is the defendant murdered his wife," DeVaney said.

But defense lawyer Mike Butler of Sioux Falls said the jury should focus on the events of the day Pam Huber died, not the arguments and other troubles earlier in the marriage. The prosecution's evidence does not prove Huber shot his wife on purpose, Butler said.

Butler said no one would stage an accidental killing of a wife by shooting her from 8 feet as she lay on a bed.

"Who would stage an accident that way?" Butler said.

Huber is on trial a second time on alternate charges of first-degree murder and first-degree manslaughter. A conviction of first-degree murder carries a mandatory sentence of life in prison without parole, while a

manslaughter conviction would allow a sentence of up to life in prison.

Huber was sentenced to life without parole after a jury convicted him in December 2008.

But the South Dakota Supreme Court ordered that Huber be given a new trial because he was not allowed to present a witness to support his argument that the shooting was accidental.

Huber told investigators that his Glock .40-caliber pistol fired accidentally as he moved it from a bedroom dresser to a gun safe in the hallway just outside the bedroom. The bullet stuck his 46-year-old wife in the forehead as she lay next to one of her daughters on a bed. She died several days later in a Sioux Falls hospital.

Butler told the jury that two expert witnesses for the defense will testify that even experienced law officers can accidentally fire their guns. One will explain how someone can accidentally pull a trigger after being startled, losing balance or experiencing other problems, and another will tell of other incidents where officers involuntarily fired weapons, he said.

But DeVaney said Huber was an experienced officer, a firearms expert and instructor for gun safety classes. Prosecution experts will testify about the gun and the path of the bullet that killed Pam Huber, she said.

"The only way this gun will discharge is when you pull the trigger," DeVaney said.

The prosecutor said Huber argued with

his wife over finances in their 14-year marriage, abused her verbally and physically, and had several affairs. At the time of the shooting, Huber was having an affair with Hyde County State's Attorney Jennifer Lowrie, who was Pam Huber's friend.

A few months before the shooting, Huber left his police job in Highmore to become police chief in the nearby town of Miller. But he lost that job after he was accused of spending too much time with a woman going through a divorce.

DeVaney said at the time of the shooting, Huber had no job and was drinking heavily and taking prescription drugs. He was depressed and knew if he got a job elsewhere his wife and two daughters would not move with him, she said.

Butler countered that Huber was worried about getting another job and remaining certified as a law enforcement officer.

"How is killing his wife going to solve any of those problems?" Butler said.

Butler said the daughter who was sleeping next to her mother will testify that after the shot was fired, Huber ran into the room screaming that the shooting was an accident. Huber then gave emergency medical care to his wife, he said.

The couple's daughters said their parents had not been fighting in the week or so before the shooting, and Pam Huber told her sisters in an email that she was standing by her husband as he dealt with problems, Butler said.

Neb. Lawmakers Advance New DUI Laws

BY GRANT SCHULTE
 Associated Press

LINCOLN, Neb. — Lawmakers advanced an overhaul of Nebraska's driving-under-the-influence laws Tuesday that would expand the use of ignition-based breath sensors, clamp down on intoxicated boating and make driving drunk with a child a standalone crime.

The proposal by Speaker of the Legislature Mike Flood sailed through a first-round vote, 41-0. It would create opportunities for offenders drive to attend substance abuse programs, or meet their probation requirements. It also would create a fund to help pay for ignition interlock devices for drivers who cannot afford one. Tampering with the device would become a felony.

Current law allows motorists with interlock devices to drive to work, school, community service obligations and other activities.

"At the end of the day, it's not that we want to make sure these people aren't driving," said Flood, of Norfolk. "We want them to get to work. We want them to

get to their drug and alcohol education classes. We want them to pick their children up. We want them to pay child support. We want them to be productive members of society."

Current law allows authorities to take the licenses of motorists charged with drunken driving, and give them a temporary 30-day license. Drivers can use the 30-day license until they appear at an administrative license revocation hearing before the Department of Motor Vehicles.

Flood said his bill would instead grant suspected offenders a 15-day temporary license. First-time offenders could avoid a license suspension if they waive their right to an administrative license revocation hearing and agree to use an ignition interlock device for 180 days.

For second and subsequent offenses, the offender would face a 45-day suspension, instead of the current 60 days, if they waive their right to a hearing and request to use the device.

Nebraska recorded 13,000 driving-under-the-influence arrests in 2009, with an 86 percent

conviction rate, according to the group MADD Nebraska. Simer Reynolds, the group's executive director, said the state only required interlock ignition devices on 1,800 vehicles that year.

Nebraska was one of the first states to require interlock devices for motorists convicted of drunken driving, with a law that took effect in 2009. The dashboard-mounted devices, generally installed at the driver's expense, require a breath test to start the engine.

Reynolds called the bill a "solid compromise" that requires the consistent use of the ignition-based devices.

The bill would extend current boating-while-intoxicated laws to personal watercraft, and make it a crime to refuse a blood, breath or urine test if the officer has "reasonable suspicion" to believe a person was under the influence while manning the controls.

Some senators raised concerns about the boating proposals, which lawmakers may try to address before the second vote.

Ogallala Sen. Ken Schilz said he supported the bill, but wanted

to make sure it included probable cause requirements, such as erratic boating, before an officer could stop someone on the water.

"I just wanted to let everybody know we need to be careful with how far afield we go on this," said Schilz, whose district includes Lake McConaughy.

Lawmakers also granted first-round approval to legislation that would increase penalties for repeated drunken driving offenses. The bill introduced Omaha Sen. Pete Pirsch, LB 675, would create a new offense for anyone convicted of felony drunken driving who is caught with a blood-alcohol content of .02 or higher. Current state law requires a .08 blood alcohol content for first-offense driving while intoxicated.

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Inmate Who Walked Away Apprehended

PIERRE, (AP) — The state Corrections Department says an inmate who walked away from a minimum security unit in Sioux Falls last week is back in custody.

The DOC says Lincoln Williams was picked up in Lyman County on May 9.

The Lyman County Sheriff's Office responded to a report of a burglary in progress south of Reliance on May 8. A resident confronted the suspect, but the suspect left the scene in a vehicle reported stolen in Minnehaha County.

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