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March 11, 2026

Lt. Clay Allred
Utah Highway Patrol
181 DL Sargent Dr.
Cedar City, UT 84721

RE: OICI Sgt. Gary McNelly Use of Force
Case No. CI25-0003
Incident Date: July 31, 2025
Incident Location: I-15 northbound MP72, Iron County, Utah

Lt. Clay Allred:

Pursuant to Utah Code Section 17-18a-401, I am charged and authorized to "conduct, on behalf of the state, all prosecutions for a public offense committed with [the] county." Additionally, pursuant to the Iron/Garfield/Beaver Critical Incident Task Force Protocol (hereinafter referred to as the "Protocol"), after completion of the Protocol investigation, I will "analyze the facts and the Incident as well as relevant law to determine if violations of criminal law exist." *Protocol Section (8)(a)(2)*

After independently reviewing the Iron County Critical Incident Task Force (CITF) reports, the Iron County Attorney's Office has completed its review regarding Highway Patrol Trooper, Sgt. Gary McNelly's use of deadly force against (hereinafter referred to as "the suspect") on July 31, 2026, in Cedar City, Utah.

The opinions and conclusions set forth in this letter are based upon the following facts obtained from the investigation conducted by the CITF. Should additional or different materials or facts subsequently come to light, the opinions and conclusions contained herein may be materially different.

STATEMENT OF MATERIAL FACTS

On July 31, 2025, Trooper Gary McNelly responded to a call after hearing radio traffic that an Iron County deputy was attempting to stop a white Chevrolet Silverado that was failing to

yield, traveling at high speed, and had already been involved in a hit-and-run type collision during the pursuit. Once he caught up, McNelly moved into the second position behind Deputy Ford and took over radio traffic, calling out speeds and locations for pursuing units. His actions during the pursuit were to assist in coordination, monitor the suspect's driving, communicate the escalating danger, request permission for intervention, and, once authorized, carry out the PIT maneuver. After the PIT, he stopped, turned toward the crash scene, maintained cover, remained behind his patrol vehicle with his rifle while officers treated the scene as high risk, and later coordinated radio traffic while SWAT approached.

Before the PIT, the suspect vehicle was being driven in an increasingly dangerous and aggressive manner. The Silverado was traveling roughly 95 to 99 miles per hour, failed to yield to emergency lights and siren, crossed lane markings repeatedly, straddled lane lines, drifted onto the shoulder, tailgated motorists, nearly struck multiple vehicles, forced motorists off the roadway, forced a motorcycle with two occupants onto the shoulder, rear-ended a red passenger car, nearly rear-ended a pickup towing a trailer, and appeared to intentionally swerve toward the rear of other vehicles. Near mile marker 71, the suspect also moved toward the area where a deputy was positioned on the right shoulder for spike deployment, creating a direct threat to that deputy as well.

The danger posed was substantial and immediate to both the public and law enforcement. The suspect was driving at interstate speeds while showing no intention of stopping, and his conduct endangered ordinary motorists by forcing them onto the shoulder, nearly causing additional collisions, and actually striking another vehicle. Officers also perceived him as creating danger intentionally, especially when he swerved toward vehicles and toward the deputy positioned with spikes. Captain Riches specifically noted that, because of the suspect's erratic and intentional actions toward other vehicles, the motoring public was at high risk. The pursuit also created danger to officers positioned ahead to deploy spikes and to those actively involved in the chase.

Several steps were taken to try to stop the suspect before the PIT was approved. Deputy Ford first attempted a routine traffic stop with emergency lights, then added his siren when the Silverado failed to pull over. Officers coordinated the pursuit over radio, with McNelly calling out speeds and locations. Other officers were positioned ahead to deploy spike strips, and spike deployment was attempted near mile marker 71. Earlier, when McNelly first asked for permission to PIT around 14:17:40, Captain Riches told him to hold off because officers were still trying to use spikes. The spikes were ultimately unsuccessful. Only after the Silverado continued driving erratically, moved toward the deputy on the shoulder, and then slowed behind a truck pulling a trailer to about 70 miles per hour did Captain Riches authorize the PIT, saying in substance that if McNelly could PIT the vehicle there, as it slowed behind the truck, they should get it done.

McNelly then moved onto the right shoulder, closed the distance, and at approximately 14:19:19 used the left front corner of his patrol vehicle to contact the right rear corner of the Silverado. The PIT caused the Silverado to rotate off the roadway, roll, and come to rest on its side. The suspect driver was ejected, suffered severe injuries, and later died at the hospital.

RELEVANT LAW

Utah law defines an “officer-involved critical incident” in Utah Code § 76-2-408. Under this statute, the term includes situations involving an officer’s use of deadly force as well as certain incidents involving the use of a motor vehicle while the officer is on duty that result in death or serious bodily injury. The statute provides that an officer-involved critical incident encompasses events where an officer’s actions—such as the intentional use of force capable of causing death or the operational use of a vehicle during the performance of official duties—lead to a fatality or serious injury. The purpose of the statute is to ensure that incidents involving potentially deadly force by law enforcement are treated as critical events requiring formal investigation and review under established protocols. *Utah Code Ann. § 76-2-408.*

Additionally, Utah Code § 76-2-402 states, in part:

“An individual is justified in threatening or using force against another individual when and to the extent that the individual reasonably believes that force or a threat of force is necessary to defend the individual or another individual against the imminent use of unlawful force . . .

In determining imminence or reasonableness, the trier of fact may consider:

- (a) the nature of the danger;
- (b) the immediacy of the danger;
- (c) the probability that the unlawful force would result in death or serious bodily injury;
- (d) the other individual's prior violent acts or violent propensities;
- (e) any patterns of abuse or violence in the parties' relationship; and
- (f) any other relevant factors.”

This reasonable belief standard is compatible with cases examined by the United States Supreme Court. The Court stated “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene. . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgment – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” Graham v. Connor, 490 U.S. 386, 396-397 (1989).

ANALYSIS

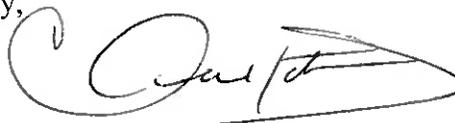
Utah law recognizes that a law enforcement officer may use force when it is reasonably believed to be necessary to protect the officer or others from imminent danger. *Utah Code Ann. § 76-2-402* provides that an individual is justified in threatening or using force when, and to the extent that, the individual reasonably believes such force is necessary to defend against the imminent use of unlawful force. In determining whether the use of force was reasonable, the trier

of fact may consider factors including the nature and immediacy of the danger, the probability that the unlawful force could result in death or serious bodily injury, and any other relevant circumstances.

In this incident, Trooper Gary McNelly was confronted with a suspect vehicle that had already refused to yield to emergency lights and siren, was traveling at speeds approaching 100 miles per hour, had struck another vehicle, forced multiple motorists off the roadway, nearly rear-ended other vehicles, and was driving erratically in a manner that posed an immediate and significant danger to the motoring public and officers involved in the pursuit. Attempts to stop the vehicle through conventional means, including emergency lights and siren and the deployment of spike strips, were unsuccessful. As the pursuit continued, the suspect vehicle nearly struck additional motorists and moved toward an officer positioned on the shoulder to deploy spikes, further escalating the risk of serious bodily injury or death. When the suspect vehicle slowed behind another vehicle near mile marker 71, Trooper McNelly requested and received supervisory authorization to conduct a Pursuit Intervention Technique (PIT) maneuver in order to terminate the pursuit. Under these circumstances, a reasonable officer could conclude that immediate intervention was necessary to prevent further harm to other motorists and law enforcement personnel. This conclusion is consistent with the standard articulated by the United States Supreme Court, which instructs that the reasonableness of an officer's use of force must be judged from the perspective of a reasonable officer on the scene, recognizing that officers are often required to make split-second decisions in tense, uncertain, and rapidly evolving circumstances. *Graham v. Connor*, 490 U.S. 386, 396-397 (1989). Considering the nature of the danger posed by the suspect's conduct, the immediacy of the threat to the public, and the failure of less intrusive measures to stop the vehicle, Trooper McNelly's actions in performing the PIT maneuver were objectively reasonable and justified under Utah law.

If you have any questions or concerns regarding the foregoing, please contact me for further discussion.

Respectfully,

A handwritten signature in black ink, appearing to read "Chad E. Dotson", written over a horizontal line.

Chad E. Dotson
Iron County Attorney