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September 13, 2022

Chief Kyle Whitehead  
St. George Police Department  
265 North 200 East  
St. George, Utah 84770

Re: August 3, 2022, Critical Incident at the Utah Port of Entry

Dear Chief Whitehead:

The Critical Incident Task Force has concluded its investigation into the use of deadly force by St. George Police Department Officer [REDACTED] which resulted in the death of [REDACTED]. I have carefully reviewed the pertinent information and conclude that the use of deadly force was justified in this incident.

The Washington County Attorney's Office has the legal responsibility to determine whether an officer's use of deadly force was lawful. The CITF assists our office in this responsibility. The Task Force is chaired by the County Attorney Investigations Chief, Terry Taylor, and is comprised of experienced investigators from multiple law enforcement agencies who act under the direction of the County Attorney's Office to conduct an independent investigation.

Use of Deadly Force Standard

To determine whether an officer's use of deadly force was legally authorized, his actions must be examined in light of Utah law, specifically Utah Code Section 76-2-404(2)(c), which states that a peace officer is justified in using deadly force when "the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person."

Description of the Incident

On August 3, 2022, around 7:00 a.m., Mr. [REDACTED] (age 83) was traveling alone, northbound on Interstate 15. He exited the freeway at the Utah Port of Entry, which is in St. George City limits and managed by the Utah Department of Transportation (UDOT). Mr. [REDACTED] drove around the Port of Entry without any clear direction or purpose. UDOT employees approached him to check on him. At their request, Mr. [REDACTED] moved his vehicle to a parking area and away from traffic entering or leaving the Port. He continued to speak with the UDOT employees from inside his vehicle. Their interaction lasted about 30 minutes. Mr. [REDACTED] did not leave his vehicle or give his name. He appeared to be confused, and the UDOT employees were concerned enough that they contacted law enforcement to perform a welfare check.



Around 7:40 a.m., two Utah Highway Patrol troopers arrived and engaged Mr. [REDACTED] in conversation through the open window of his vehicle. Soon afterwards, Mr. [REDACTED] brandished a handgun. The troopers backed away from the vehicle, called for additional assistance, and continued talking to Mr. [REDACTED], but from a distance. Mr. [REDACTED] did not follow commands to put the gun away or to step out of his vehicle. Instead he continued to brandish the firearm and demonstrated suicidal behavior including pointing the firearm at himself.

By 7:55 a.m., several St. George Police officers had arrived and Officer [REDACTED], a trained crisis negotiator, became the primary communicator with Mr. [REDACTED]. The negotiating officer spent approximately 45 minutes communicating with Mr. [REDACTED]. Mr. [REDACTED] would not speak over the phone with the negotiator, put the firearm away, or exit his vehicle. Consequently, their communications were made from a distance by using elevated voices, which were necessary to hear one another.

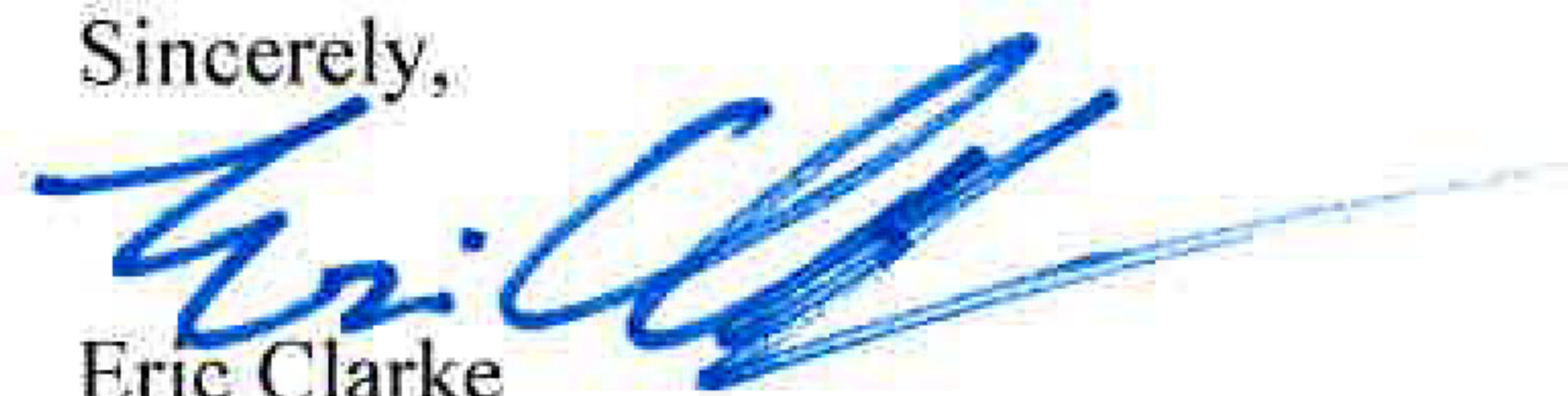
Toward the end of the negotiations, Mr. [REDACTED] became more agitated and aggressive. As he did this, the negotiating officer moved back to a more defensible position. This officer and others, including the officer that fired the shot, shouted commands and plead with Mr. [REDACTED] comply with officers' directions. However, Mr. [REDACTED] opened the car door, turned his body and legs towards officers. He placed his feet on the ground and held his firearm using both hands in a grip and position that would have allowed him to fire the gun. Mr. [REDACTED] pointed his gun toward officers and a St. George Police Officer shot and killed him.

There is no video camera footage of the shooting. UDOT has several cameras on the property, and one of these captured much of the interaction between Mr. [REDACTED] and the various people he interacted with. However, the camera was far enough away that it is difficult to make out Mr. [REDACTED]'s actions. The UDOT cameras are all motion activated. When Mr. [REDACTED] became more agitated, the officers on the scene took positions that protected themselves and held still. There was not enough movement to activate the onsite camera because the only person moving was Mr. [REDACTED] and he was too far away to trigger the camera. The body-worn-cameras from officers on the scene also did not capture the shooting because their bodies were behind protective barriers such as vehicles or buildings. Cameras worn by officers consequently did not capture a view which showed Mr. [REDACTED]'s actions immediately prior to him being shot or upon being shot due to where the officers were located.

### Conclusion

One of the most difficult and dangerous situations we ask our law enforcement officers to deal with is when someone decides to "commit suicide by cop." In these very dangerous situations, officers must both try to convince the person to choose another course of action while being ready to protect themselves, citizens, and their fellow officers at any moment. The use of deadly force was clearly justified in this incident. It was reasonable for the officer that fired the shot to conclude that peace officers on the scene were at risk of death or serious bodily injury. It was also reasonable for officers at the scene to conclude that Mr. [REDACTED] was suicidal and knew that officers would use deadly force if he posed an immediate threat to their safety his actions escalated the situation which caused the use of deadly force. The shooting officer's timely action prevented Mr. [REDACTED] from opening fire. Officers negotiated with him for an extended period of time, but took appropriate action when he gave them no choice but to use deadly force.

Sincerely,



Eric Clarke

Washington County Attorney