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January 27, 2023

Sheriff Nate Brooksby  
Washington County Sheriff's Office  
620 South 5300 West  
Hurricane, UT 84737  
nbrooks@washeriff.net

Chief Lynn Excell  
Hurricane City Police Department  
90 South 700 West  
Hurricane, UT 84737  
lexcell@hcpd.utah.gov

Re: December 26, 2022, Critical Incident in Hurricane City

Dear Sheriff Brooksby and Chief Excell:

One of the most difficult and dangerous situations we ask our law enforcement officers to deal with is when someone is experiencing an extreme personal crisis, is possibly suicidal and in possession of a weapon, and is willing to harm others. In these dangerous situations, officers must first and foremost protect the public, fellow officers, and themselves from serious bodily injury and death. They also take all reasonable steps to deescalate the situation and get the person in crisis the help they need.

All of the officers involved in the December 26 incident that involved the death of [REDACTED] appropriately balanced these responsibilities. The use of deadly force was clearly justified. After seeking to help Mr. [REDACTED] for an extended time, the officer and deputy that used deadly force found themselves in situation where Mr. [REDACTED] was charging at them with a knife after stabbing a police dog. It was reasonable for both the Hurricane Officer and the County Deputy to conclude that peace officers on the scene were at risk of death or serious bodily injury.

Critical Incident Investigation Process

The Critical Incident Task Force (CITF) has concluded its investigation into the use of deadly force by Washington County Deputy [REDACTED] (County Deputy) and Hurricane City Officer [REDACTED] (Hurricane Officer) 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 a deputy or 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.



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 December 26, 2022, around 7:20 pm Mr. [REDACTED] and a member of his household called 911. Mr. [REDACTED] reported he felt threatened by unknown people and was afraid. Mr. [REDACTED] said he was waiting at a gas station. He then said a police officer had arrived and he ended the call.

Hurricane officers were dispatched to the call and could not initially locate Mr. [REDACTED] so they stopped at the gas station in that vicinity and were still looking for him. Mr. [REDACTED] then pulled his vehicle up near the officers, honked at them, stepped out and began yelling at them in Spanish. They attempted to communicate with him and get him to park his vehicle so it would not impede traffic. Mr. [REDACTED] spoke almost exclusively Spanish to the officers, who did not understand him. The County Deputy was dispatched to assist at the scene because he speaks Spanish.

Mr. [REDACTED] did not obey verbal commands or hand signals from the officers, who continued to attempt to get him to park and exit his vehicle. Instead he repeatedly yelled at the officers in Spanish from his open window. He eventually left the scene. Officers pursued him with lights and sirens activated, but Mr. [REDACTED] continued to drive slowly with periodic bursts of acceleration. He would not pull over. He also repeatedly swerved and made sudden U-turns. Officers stopped their efforts to pursue Mr. [REDACTED] due to his erratic driving and their concerns for public safety. Officers continued to follow Mr. [REDACTED] from a distance but lost sight of him. They also attempted to call Mr. [REDACTED] but he did not answer his phone.

Around 8:10 pm Mr. [REDACTED] caused a multi-vehicle accident on State Street at approximately 2260 West by swerving into oncoming traffic. Mr. [REDACTED]'s vehicle and two others were damaged, but the occupants only suffered minor injuries. Mr. [REDACTED] fled the scene on foot before officers arrived.

Within minutes of the accident, someone called 911 and reported that a stranger had walked into their home and would not leave. From their description, it was clear that the invader was Mr. [REDACTED]. There were two minor children, an adult male, and an adult female in the home. Mr. [REDACTED] entered the two-story townhouse through the back door. Mr. [REDACTED] followed a minor child upstairs as he went to tell the adults that someone was in the home. Mr. [REDACTED] communicated in Spanish with the adult male resident who also spoke limited Spanish that the "Mexican mafia" was after him and he was in danger and needed help. The children went into a bedroom and hid in a closet. The adult male was able to get Mr. [REDACTED] to sit down on the floor at the top of the stairs and stayed near him. The adult female went downstairs and called 911.

About 8:20 pm, officers arrived at the home. The adult female let them in and advised the officers that her children were upstairs and the male intruder was at the top of the stairs. The adult female stayed outside and four officers, including the County Deputy and Hurricane Officer entered the home along with a police dog. When the officers reached the foot of the stairs they were able to make eye contact with Mr. [REDACTED] and told him to show them his hands. The officers were approximately twenty-one feet from Mr. [REDACTED]. As soon as he saw the police, Mr. [REDACTED] jumped up holding a six-inch fixed blade knife in his right hand and charged down the stairs towards the officers. The police dog was given the command to bite Mr. [REDACTED]. The dog moved towards Mr. [REDACTED] and the two came into contact about half way down the stairs, which was approximately ten feet from the officers. The dog bit Mr. [REDACTED]'s ankle, and [REDACTED] aggressively stabbed the dog in his neck. Every indication was that Mr. [REDACTED] intended to continue charging towards the officers while brandishing the knife. The Hurricane Officer and the County



Deputy had drawn their service weapons when Mr. [REDACTED] started charging towards them, and they shot him. After he was shot, Mr. [REDACTED] fell down the stairs and dropped the knife. Mr. [REDACTED] died as a result of being shot by the officers.

#### Additional Information

There are four additional points worth mentioning in this findings letter.

Through the course of the CITF investigation, it became clear that Mr. [REDACTED] suffered from some kind of paranoia involving members of a Mexican drug cartel threatening him and wanting to torture him. He also believed that our law enforcement officers were working with the cartel. He had immediate family members that suffer from schizophrenia.

In June of 2022, Mr. [REDACTED] was charged with crimes due to an incident of entering a gas station and behaving erratically due to an unsubstantiated fear that the "Mexican mafia" was after him. At that time, he was uncooperative with employees and, later, the police. Mr. [REDACTED] had to be arrested and physically removed from the property.

In this incident, there is bodycam footage and audio of the officers' interactions with Mr. [REDACTED] from their initial contact, their attempts to pull him over and their encounter with him inside the residence. It is clear that Mr. [REDACTED] was dealing with a personal crisis and was not in his right frame of mind. He was convinced the police were working in connection with the "Mexican mafia." He was sure that someone or a group of people were coming after him to do him harm. He was afraid and acted out in ways that put others at risk.


Lastly, the police dog's name is [REDACTED]. Initially, it was assumed his injury was fatal. But due to excellent care that included a blood transfusion from another police dog, [REDACTED] survived.

#### Conclusion

The use of force in this instance was justified. The County Deputy and Hurricane Officer appropriately concluded that they and their fellow officers were at risk of death or serious bodily injury at the time they discharged their firearms.

This was an extremely tragic occurrence. Please convey to your Officer and Deputy our gratitude for the brave and caring ways in which they serve our community.

Sincerely,



Eric Clarke  
Washington County Attorney