



SIM GILL
DISTRICT ATTORNEY

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Chief Deputy
Civil Division

Jeffrey William Hall
Chief Deputy
Justice Division

Bridget Romano
Chief Deputy
Civil Division

Anna Rossi Anderson
Chief Deputy
Justice Division

Lisa Ashman
Chief of Administrative
Operations

December 19, 2023

Chief Jason Mazuran
Unified Police Dept. of Greater Salt Lake
3365 S. 900 W.
Salt Lake City, Utah 84119

Colonel Michael Rapich
Utah Highway Patrol
4501 Constitution Blvd.
Taylorsville, UT 84129

RE: Utah Highway Patrol Custodial Death
Incident Location: ~4800 South State Street, Murray, Utah
Incident Date: August 12, 2022
UPD Case No.: CO22-81740
UHP Case No.: 162200317
DA Case No.: DAINV-2022-1384

Dear Chief Mazuran and Colonel Rapich:

This letter addresses the August 12, 2022, death of Barry Spencer Young following his detention and arrest by Utah Highway Patrol (“UHP”).¹

After learning of Mr. Young’s death, UHP initiated the “Salt Lake County Law Enforcement Officer Involved Critical Incident (“OICI”) Investigative Protocol,” an agreement among participating law enforcement agencies designed to ensure compliance with Utah state law for OICI investigations. *See* Utah Code § 76-2-408(2)-(3). Pursuant to the protocol, an investigative task force was called in to investigate the OICI. The task force was led by the Unified Police Department (“UPD”) protocol team and comprised of law enforcement officers employed by agencies other than UHP. After the investigation, on September 30, 2022, the task force’s findings were presented to the Salt Lake County District Attorney’s Office (“DA’s Office”), which has the constitutional and statutory mandate to screen such matters for possible criminal charges.² The DA’s Office has independently reviewed the facts developed from the OICI protocol investigation and reached its findings and conclusions in this matter.

¹ Investigators determined that four UHP officers were on scene during the incident—Trooper Jeremy Bertram (the initial officer), Trooper Alexander Agin, Corporal Brock Ernsten, and Sergeant Andrew Pollard.

² Utah Const. Art. VIII, section 16; Utah Code §§ 17-18a-203; *see also id.* at § 77-2-2(4) (defining “screening” as the “process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted”). “Commencement of prosecution” is further defined as “the filing of an information or an indictment.” *Id.* at § 77-2-2(1).

SUMMARY OF RELEVANT FACTS

The following facts were developed from the OICI protocol investigation.³ Should additional or different facts subsequently come to light, the opinions and conclusions contained in this letter may likewise be different.

On August 12, 2022, UHP Trooper Bertram conducted a traffic stop on Barry Spencer Young in the area of 4800 South State Street in Murray for a headlight violation.⁴ During the stop, Trooper Bertram suspected that Mr. Young was under the influence of a stimulant, and after returning to his vehicle and running checks, requested Trooper Agin to assist.⁵

Trooper Bertram returned to Mr. Young's vehicle, informed him that the vehicle would be impounded due to no insurance, and, after Mr. Young repeatedly denied being on any drugs, had him exit the vehicle so that it could be impounded (Trooper Agin arrived on scene before Mr. Young exited the vehicle).⁶ Mr. Young continued to deny using any drugs and gave consent for Trooper Bertram to administer field sobriety tests.⁷ As field tests began, Trooper Agin, who also suspected that Mr. Young was inebriated by stimulants, requested the assistance of additional DUI squad members due to Mr. Young's large physical stature.⁸

Throughout the field sobriety tests, Mr. Young remained cooperative (but was unable to perform several tests). At the conclusion of the tests, Trooper Bertram arrested Mr. Young for driving under the influence and placed him in handcuffs.⁹ Mr. Young, whose legs began visibly shaking, denied needing medical assistance, but Trooper Agin requested medical anyway. Two additional troopers, Sgt. Pollard and Cpl. Ernstsens, arrived on scene. Mr. Young then developed severe muscle twitching, troopers assisted him to a seated position on the curb lost his balance, and Trooper Agin requested that medical be expedited.¹⁰

³ During the protocol investigation, investigators interviewed Trooper Agin and Sgt. Pollard regarding the incident. Notably, Trooper Bertram and Cpl. Ernstsens refused to be interviewed by protocol investigators or make a statement about the incident, as is their constitutional right (they have the right to remain silent and be presumed of criminal wrongdoing). Investigators also collected and examined physical evidence, including but not limited to body-worn camera recordings (from all four officers), the dispatch radio recording and call log, medical records, and the autopsy findings.

⁴ The traffic stop began at approximately 1:18 a.m.

⁵ Trooper Bertram, as well as the other officers who responded, are members of the DUI squad. During the initial contact, Mr. Young produced a driver's license but was unable to produce evidence of insurance. After returning to his vehicle, Trooper Bertram learned that Mr. Young's license was valid but there was no insurance on file for the vehicle.

⁶ Trooper Bertram re-contacted Mr. Young at approximately 1:28 a.m., at which time Mr. Young was chewing on an empty pen casing. Trooper Agin arrived at approximately 1:29 a.m.

⁷ While Mr. Young denied having used any drugs, he stated that he used to use cocaine but had been clean for about a year. Field sobriety tests began at approximately 1:31 a.m.

⁸ Mr. Young was approximately 6'6" and 300 pounds.

⁹ Mr. Young was arrested at approximately 1:39 a.m. Notably, Mr. Young was compliant and no force was used.

¹⁰ Mr. Young complied with Trooper Agin's request to spit out the pen casing which was cutting his mouth. Mr. Young was then assisted to the curb at approximately 1:40 a.m.

As they waited for medical to arrive, Mr. Young's condition continued to worsen. After a few minutes, he fell over (while seated) and troopers responded to assist him.¹¹ Troopers continued rendering aid as Mr. Young's condition continued to deteriorate, he lost consciousness, and he appeared to experience several seizures.¹² Approximately 11 minutes after losing his balance, emergency medical personnel arrived and began rendering aid.¹³ Mr. Young was transported by ambulance to a nearby hospital where he received additional medical care but was ultimately pronounced deceased.¹⁴

Lily Marsden, M. D., with the Utah Office of the Medical Examiner performed an autopsy of Mr. Young's body and determined that Mr. Young died as a result of a cocaine toxicity.¹⁵ Dr. Marsden further found that natural disease would not have significantly contributed to Mr. Young's death and that there were no significant traumatic injuries that would have contributed to his death.

FINDINGS AND CONCLUSIONS

Under Utah law, an "officer-involved critical incident" includes the following:

- (i) an officer's use of deadly force;¹⁶
- (ii) an officer's use of a dangerous weapon¹⁷ against an individual who causes injury to any individual;
- (iii) death or serious bodily injury to any individual, other than the officer, resulting from an officer's:
 - (A) use of a motor vehicle while the officer is on duty; or
 - (B) use of a government vehicle while the officer is off duty;
- (iv) the death of an individual who is in custody,¹⁸ but excluding a death that is the result of disease, natural causes, or conditions that have been medically diagnosed prior to the individual's death; or

¹¹ Mr. Young fell over at approximately 1:43 a.m. Troopers then asked dispatch where medical was at approximately 1:44 a.m.

¹² Troopers observed seizures at approximately 1:46 a.m., 1:48 a.m., and 1:50 a.m., during which Mr. Young appeared unconscious but still breathing. During that time, they physically held Mr. Young to prevent injury.

¹³ Medical responders arrive at approximately 1:51 a.m.

¹⁴ Mr. Young was loaded into the ambulance at approximately 1:55 a.m. and taken to Intermountain Medical Center in Murray. At the hospital, Mr. Young was declared brain dead, but he remained alive until after organs were procured for donation. Mr. Young died later that evening at 8:55 p.m.

¹⁵ Dr. Lily Marsden's report is dated September 22, 2022. In her report, Dr. Marsden noted that toxicology testing (performed on blood obtained at the time of his presentation to the hospital) detected cocaine and benzoylecgonine (a metabolite of cocaine). At autopsy, Mr. Young was found to have three partially degraded clear plastic baggies in his stomach contents.

¹⁶ "Deadly force" is defined as "a force that creates or is likely to create, or that the individual using the force intends to create, a substantial likelihood of death or serious bodily injury to an individual." Utah Code § 76-2-408(1)(b).

¹⁷ "Dangerous weapon" is defined as "a firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury to an individual." Utah Code § 76-2-408(1)(b).

¹⁸ "In custody" is defined as "in the legal custody of a state prison, county jail, or other correctional facility, including custody that results from:

- (i) a detention to secure attendance as a witness in a criminal case;

(v) *the death of or serious bodily injury to an individual not in custody, other than an officer, resulting from an officer's attempt to prevent an individual's escape from custody, to make an arrest, or otherwise to gain physical control of an individual.*

Utah Code § 76-2-408(1)(f) (emphasis and footnotes added).

Based upon the available facts and evidence, we do not believe that this case falls within the statutory definition of an “officer-involved critical incident.” First, we are unaware of any evidence that any officer used deadly force or a dangerous weapon during the detention and arrest of Mr. Young. We are also unaware of any evidence that his death resulted from an officer’s use of a motor vehicle. Next, while Mr. Young’s medical condition deteriorated after being placed under arrest by UHP troopers, he was not “in the legal custody of a state prison, county jail, or other correctional facility.” See Utah Code § 76-2-408(1)(c), *supra*, footnote 18. As such, Mr. Young was not “in custody” within the definition provided by statute.

Lastly, we find that Mr. Young’s death was not “*resulting from*” any officer’s conduct. As described above, the medical examiner, Dr. Marsden, determined that Mr. Young died as a result of a cocaine toxicity and that no other factor contributed to his death. Based upon her findings, as well as the other available evidence, we also do not believe it likely that Mr. Young’s death resulted from any factor other than cocaine toxicity. In reaching our conclusion, we find that while Mr. Young’s condition deteriorated during his detention and arrest, there are no facts which would suggest that the officers’ actions contributed, in any way, to his deterioration and subsequent death.¹⁹

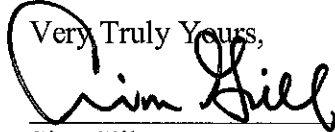
Even though this incident did not fall within the statutory definition of an officer-involved critical incident, we commend UHP’s decision to request a protocol investigation and submit the matter to us for our legal review. In doing so, UHP demonstrates its commitment to transparency and accountability, and fosters a spirit of good public service through its willingness to submit to an independent investigation and review. Likewise, we commend UPD and all the law enforcement agencies who personnel and resources to the protocol investigation of this matter.

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- (ii) an arrest for or charging with a crime and committing for trial;
 - (iii) committing for contempt, upon civil process, or by other authority of law; or
 - (iv) sentencing to imprisonment on conviction of a crime.” Utah Code § 76-2-408(1)(c).

¹⁹ Neither the body-worn camera recordings, nor the statements of Sgt. Pollard or Trooper Agin, indicate any unlawful use of force during the incident (we recognize that troopers physically held Mr. Young as his condition deteriorated and he suffered apparent seizures). Notably, Dr. Marsden also found that “[t]he body-worn camera footage shows that [Mr. Young’s] interaction with law enforcement did not result in any significant physical exertion or obstruction of breathing that would have caused or contributed to his death.”

As outlined in more detail above, we conclude the facts of this case do not fall within the statutory definition of an “officer-involved critical incident.” *See* Utah Code § 76-2-408(1)(f). Furthermore, we are not aware of any facts which would support a finding that the officers used any unlawful force during the detention or arrest of Mr. Young. Rather, we believe the facts in this case are consistent with lawful efforts to detain, arrest, and to provide emergency aid, and further believe that the officers responded reasonably based on the information known to them at the time and as the situation evolved. Accordingly, we decline to file a criminal charge in this matter.

Very Truly Yours,

A handwritten signature in black ink that reads "Sim Gill". The signature is written in a cursive style with a large, looping initial "S".

Sim Gill,
Salt Lake County District Attorney