

To: Mr. Michael O'Malley, Cuyahoga County Prosecutor
From: A. Steven Dever, Appointed Special Prosecutor
Date: September 17, 2025

Subject: Deputy Sheriff Motor Vehicle Pursuit I-90 Exit 178, Cleveland, Ohio on March 28, 2025

Dear Mr. O'Malley,

As the court-appointed Special Prosecutor, I have completed my investigation into a police chase involving Cuyahoga County Sheriff's deputies on March 28, 2025. The pursuit resulted in a collision that caused two fatalities, including the fleeing suspect and an innocent motorist who was struck by the fleeing vehicle.

During my investigation, I conducted a thorough review of all available evidence and materials. I visited the accident scene and drove the pursuit route to understand the circumstances firsthand. I examined all police reports and investigative files, reviewed body camera footage from the involved officers, ODOT, and street camera footage, and listened to the dispatch recordings of the entire pursuit. Additionally, I analyzed the evidence provided by the Cuyahoga County Medical Examiner, including the autopsy protocol, toxicology reports, and the medical examiner's verdict. I also consulted directly with Dr. David Dolinak from the Medical Examiner's office to discuss the case.

FACTS

On Friday, March 28, 2025, at approximately 9:50 pm, the Cuyahoga County Sheriff's Downtown Cleveland Safety Patrol initiated a police pursuit that ended when the suspect had a fatal collision at Eddy Road and I-90 in Bratenahl, Ohio. The pursuit began when Deputy Sheriff Kasey Loudermilk, the driver, and his partner, Deputy Sheriff Robert Piccola, were on patrol in a marked cruiser. They observed a black Dodge Neon make an illegal right turn on red and attempted a traffic stop. The deputies also discovered that the vehicle's registration had expired.

The deputies activated their overhead lights to initiate a traffic stop just outside the Galleria. The driver failed to comply with the deputies' request to stop and accelerated away, prompting the pursuit. The suspect's vehicle traveled north on East 9th Street, then entered eastbound I-90. After approximately 7 miles, the vehicle exited at Martin Luther King Jr. Boulevard (exit 177). The suspect then reentered I-90 eastbound and continued another 2.5 miles until his exit from I-90 at Eddy Road (exit 178). During the pursuit, the suspect's vehicle was reported by Deputy Piccola to be traveling at a high rate of speed and, in some instances, exceeding 98 miles per hour.

The evidence reveals that just over 4 minutes and 5 seconds elapsed from the beginning of the pursuit to the crash. The officers did alert radio dispatch of a pursuit and requested permission to use a Precision Immobilization Technique (PIT) maneuver to stop the fleeing vehicle. Permission was not given, and no PIT was attempted. Sergeant Daniel Comerford, the chase supervisor, requested updates on the car's location.

Deputy Piccola continued to report that the vehicle was traveling eastbound on Interstate 90 with light traffic at a speed of 92 mph. Piccola followed with another radio update describing traffic as light to moderate as the pursuit approached East 55th Street, with traffic conditions remaining light and speeds reaching 99 mph. Approximately 35 seconds later, the suspect's vehicle exited at MLK Boulevard but immediately reentered I-90 eastbound at about 60 mph, running a red light with six civilian vehicles in the area. Once the vehicle reentered I-90 eastbound, Deputy Piccola continued to broadcast and describe the fleeing vehicle traveling at a high rate of speed and exiting Interstate 90 at the Eddy Road exit. At 9:53 pm, the fleeing vehicle struck another car at the intersection of the I-90 exit ramp and Eddy Road.

At the moment of the high-speed collision, the suspect's vehicle was attempting to reenter I-90 at the east entrance ramp when it struck a 2020 white Range Rover operated by Tamyia Westmoreland. She was driving her vehicle south on Eddy Road. The impact launched her vehicle over the concrete barrier wall, causing it to fall more than 40 feet onto a grassy area between the highway entrance ramp and the CSX railroad tracks below. As a result of the collision, Ms. Westmoreland was ejected from her vehicle. Her Range Rover was completely engulfed in flames.

Following the collision, at 9:54 pm, Deputy Loudermilk immediately requested assistance from the fire department. Deputy Sheriff Cody Hutchinson arrived on the scene and observed that the suspect male driver of the Neon, Perry, was not breathing and that officers needed to extract him from the vehicle as the car was on fire. At 9:56 pm, Deputy Loudermilk indicated that he believed the male was deceased and that "he was a big guy and was stuck in the car". The body camera footage shows that the Dodge Neon initially had a small fire that went unattended for several minutes while deputies searched their patrol vehicles for a working fire extinguisher. The Cleveland Fire Department responded and extinguished both burning cars. The suspect driver, Nigel Perry, was extracted after the fire was extinguished and was pronounced dead at the scene.

At 9:57 pm, Deputy Piccola arrived at the crash scene and ran across the railroad overpass, down the embankment to search for the Range Rover's occupants. The vehicle was engulfed in flames. At approximately 9:59 pm, Deputy Piccola located the victim, Tamyia Westmoreland, below the roadway and ejected from her vehicle. She was conscious, breathing, and positioned on her stomach. Deputy Piccola attempted to provide comfort while making radio requests for EMS to respond along the railroad tracks and offer emergency assistance to Ms. Westmoreland. At 10:01 pm, Sergeant Comerford obtained a first aid kit from his cruiser and joined Deputy

Piccola in assisting Ms. Westmoreland. Cleveland firefighters and emergency medical services assisted the deputies in carrying Ms. Westmoreland up the steep embankment from the crash site below to a waiting ambulance on the roadway. She was transported to University Hospital in critical condition.

Multiple law enforcement agencies coordinated the response and investigation of this incident, including the Bratenahl Police Department as the primary jurisdiction, the Euclid EDGE Accident Investigation Unit for crash reconstruction, the Cuyahoga County Sheriff's Detective Bureau for the death investigation, the Medical Examiner's Office, and the Cleveland Fire Department. The EDGE Accident Investigation Unit processed the crash report, including crime scene documentation, drone footage, and 3D mapping of the collision site, all of which were provided for review.

Investigators collected extensive physical evidence, including tire marks, gouges in the concrete roadway, and patterns of debris. Ohio Department of Transportation traffic camera footage was obtained from the intersection area, specifically from cameras positioned at I-90 and Eddy Road, as well as at East 105th Street and Bratenahl Road. The Eddy Road camera footage, though taken from a distance, captured the actual collision, showing the white Range Rover traveling southbound on Eddy Road when it entered the intersection and was struck by the fleeing suspect vehicle. The video clearly shows the Range Rover being thrown into the air, followed by an explosion and the crash area becoming filled with flames, smoke, and emergency vehicle lights.

During the post-fire examination of the suspect vehicle, investigators recovered a partially burned wallet from the vehicle's remnants that contained an Ohio Identification card bearing the name and photograph consistent with Nigel Perry, with a date of birth of March 18, 2001. Due to the extensive fire damage and burns sustained by the deceased, identification required additional investigation through dental records via the Medical Examiner's Office. The vehicle had not been reported as lost or stolen. Ms. Westmoreland was a healthcare worker who was traveling at the posted speed and had the right of way at the time of the collision. She was alone in her vehicle and, for some time, was alert and responsive to safety workers who were trying to provide first aid and get her to the hospital.

MEDICAL EXAMINER FINDINGS

The Cuyahoga County Medical Examiner's Office completed comprehensive examinations of both parties involved in the fatal collision, Tamyia L. Westmoreland (victim) and Nigel Perry (suspect). Tamyia L. Westmoreland was the 48-year-old innocent victim from Cleveland, Ohio. The Medical Examiner determined that Ms. Westmoreland died because of complications from blunt force injuries sustained in the collision, and her manner of death was classified as homicide.

Nigel Perry, suspect, was a 24-year-old male from Cleveland, Ohio. Perry died from blunt force injuries, with his manner of death classified as an auto-sport utility vehicle-fixed object accident involving the driver. The autopsy findings for Nigel Perry revealed severe trauma consistent with the high-speed collision, including transections of the thoracic aorta with large bilateral hemothorax, rib fractures, and vertebral fracture with transection of the spinal cord, among other injuries. Perry was identified through a favorable palmprint comparison. The Deputy Medical Examiner determined that Mr. Perry was deceased prior to the vehicle fire.

Comprehensive toxicological analysis was performed on both victims' biological specimens. For Ms. Westmoreland, the medical and laboratory analysis found no evidence that Ms. Westmoreland was under the influence of any drugs or alcohol at the time of the collision. She was a completely innocent victim of the tragic crash.

In contrast, the toxicology report for the fleeing driver, Nigel Perry, revealed some substance use. Testing of femoral blood, heart blood, urine, vitreous humor, gastric contents, and liver samples showed positive results for multiple substances, including amphetamines (specifically pseudoephedrine/ephedrine at 48 ± 9 ng/mL), cocaine and diphenhydramine, multiple cannabinoids (Delta-9-THC, 11-OH-Delta-9-THC, and Delta-9-THCCOOH), and ethanol at 0.042 ± 0.003 g/dL.

Based on the toxicology results, the substances found in Nigel Perry's system raise essential questions about whether they reflect typical impairment levels or were influenced by post-mortem changes from the fire. The reported ethanol concentration was 0.042 g/dL. This level is below Ohio's legal limit for driving (0.08 g/dL), but alcohol can still interact with other drugs to create impairment, even at lower levels. The medical examiner's opinion was that the toxicology results likely provide an accurate picture of Perry's substance use at the time of the incident, rather than being skewed by the fire. The amount of alcohol and other substances indicates a level of impairment, but it is not conclusive to determine that Mr. Perry was legally impaired at the time of the collision.

SCOPE OF REVIEW

In my assignment as Special Prosecutor, I was tasked with providing a legal opinion on whether evidence existed to establish probable cause that the pursuing deputies violated any laws, which would justify presenting the case to the Cuyahoga County Grand Jury.

Several sections of the Ohio Revised Code dictate a police officer's duties with regard to pursuits. The Cuyahoga County Sheriff's Department maintains a comprehensive policy governing vehicle pursuits (Policy 307) and the Use of Force (Policy 300), which are directly relevant to this incident. In addition, these policies establish strict rules and guidelines for compliance. While law enforcement agencies are legally required to create such policies, the policies themselves are not laws.

Pursuant to my appointment from the Court, my scope of review does not include evaluating or making any determinations concerning the Cuyahoga County Sheriff's Office policies and procedures, such as officer training, vehicle pursuit policies, or the adequacy of their emergency and accident response.

APPLICABLE LEGAL STANDARDS

Beyond departmental policies, this incident implicates Ohio statutory provisions and legal standards that govern police pursuits and the duty to apprehend lawbreakers.

Ohio Revised Code § 2935.031 mandates that "each law enforcement entity shall adopt a written policy for the pursuit in a motor vehicle of any person who violates a law of this state or an ordinance of a municipal corporation." The statute requires agencies to consider "pursuit policy standards and best-practice recommendations as established by the Ohio collaborative community- police advisory board or a similar law enforcement accrediting entity" when developing their policies. While the statute establishes the requirement for written pursuit policies, it does not specify detailed content requirements such as supervisor authorization protocols or specific termination criteria. These detailed standards are typically derived from best practice recommendations and accreditation standards rather than the statute itself. The Cuyahoga County Sheriff's Department has adopted Policy 307 in compliance with this statutory mandate to have a pursuit policy.

Pursuant to ORC 2921.44(E), the crime of Dereliction of Duty requires a violation of an underlying statute that expressly imposes a duty upon the officer. In this case, the underlying law only requires the law enforcement agency to adopt a written pursuit policy. Failure to comply with the policy is not a Dereliction of Duty. *State v Gaul* 117 Ohio App 3d 839 (1995).

The Ohio Revised Code requires an officer to arrest and detain a person who is violating the law pursuant to ORC 2935.03(A)(1). The law also subjects an officer to potential criminal liability for negligently failing to do so, RC 2921.44(A)(2).

The Ohio Revised Code 2921.44 (a) provides that no law enforcement officer shall negligently fail to prevent or halt the commission of an offense or to apprehend an offender when it is in the law enforcement officer's power to do so alone or with available assistance. This is a legal duty established by law.

The United States Supreme Court has recognized that police officers are permitted to take action to stop a fleeing motorist. In *Scott v Harris* (2007), 550 US 372, the Court addressed the issues related to police officers in high-speed chases when a suspect engaged in reckless driving

and the officers' right to take action to stop the motorist's flight from endangering the lives of innocent bystanders.

Ohio Revised Code section 2921.44(E) provides that "No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office". Under the current law, a pursuit policy directive authored by the Cuyahoga County Sheriff is not a duty expressly imposed by law.

ANALYSIS

Upon reviewing the evidence and considering the totality of the circumstances, Mr. Perry failed to comply with a lawful order to stop and instead engaged in an extremely dangerous chase that placed officers and innocent bystanders at significant risk of death or injury. The suspect's intentionally reckless driving created the conditions that led to the fatal collision, killing both himself and an innocent driver. Mr. Perry made the decision to flee police at high speed and use evasive tactics, including exiting and reentering the highway. This conduct created an immediate threat of serious harm to anyone in the vicinity.

The initial stop by the officers for a traffic offense was justified based on the violation they witnessed. Nigel Perry's decision to fail to comply and pull over triggered the sequence of tragic events that followed.

The conduct of the deputies to become involved in the pursuit was not the direct or proximate cause of the fatal crash. The cause of the fatalities was the fleeing suspect, who, if he had survived the crash, would have been charged with several felonies, including aggravated vehicular homicide, murder, and failure to comply. Under these circumstances, in my judgment, there is insufficient evidence of probable cause to justify a presentation to the Cuyahoga County Grand Jury for any criminal charges.

Respectfully Submitted,



A. Steven Dever
Special Prosecutor for Cuyahoga County