

To: Mr. Michael O'Malley, Cuyahoga County Prosecutor

From: A. Steven Dever, Appointed Special Prosecutor

Date: March 27, 2026

Subject: Deputy Sheriff Vehicle Pursuit - August 24, 2025
Superior Avenue & Addison Road, Cleveland, Ohio

Dear Mr. O'Malley,

I am writing as the Special Prosecutor appointed to review a fatal event involving a Cuyahoga County Deputy Sheriff's pursuit of a fleeing suspect that occurred on August 24, 2025. I was appointed by the Common Pleas Court to review the matter and determine whether law enforcement personnel engaged in any criminal conduct. The incident resulted in the death of an innocent motorist, Sharday Denise Elder, whose stationary vehicle was struck by a fleeing suspect.

During my review, I was provided with the available evidence and related materials from law enforcement. I visited the crash scene and drove the pursuit route to understand the circumstances. Police reports, investigative agency files, and body camera footage from the officers involved were provided and reviewed. In addition, I examined street camera footage and store surveillance videos. Additionally, other relevant investigation videos related to the incident were reviewed including body camera recordings from witnesses and the arrested suspect, as well as additional surveillance footage. The Cuyahoga County Sheriff's dispatch records for the entire pursuit were provided, along with reports from the Cleveland Police Department's Accident Investigation Unit. I analyzed medical records of the parties treated at University Hospital in Cleveland. I also reviewed the autopsy protocol and the coroner's verdict related to the victim's death provided by the Cuyahoga County Medical Examiner.

FACTS

On Sunday, August 24, 2025, at approximately 1:15 a.m., Deputies Loudermilk and Monda were on patrol in downtown Cleveland, Ohio. The deputies were assigned to the Cuyahoga County Sheriff's Downtown Cleveland Safety Patrol. They were patrolling the bar district along St. Clair Avenue between East 12th and 13th Streets in a marked cruiser. While on patrol, deputies observed a black 2010 Ford Fusion with an Ohio license plate KRL9190 driving without headlights.

The officers reported that they began to follow the vehicle, then activated their overhead lights and siren behind the Ford Fusion to attempt a traffic stop. Deputy Loudermilk, the driver, reported the vehicle was traveling northbound on East 12th Street and then eastbound on St. Clair. The Ford Fusion began accelerating to avoid the officers. Loudermilk further advised that the vehicle was driving erratically and exceeding the posted 25-mile-per-hour speed limit. At 1:15 a.m., the deputies requested permission to pursue.

A LEADS inquiry confirmed the vehicle was registered to Yanae Johnson and that she had a suspended driver's license. The Sheriff's pursuit supervisor, Sgt. Schlegel approved the pursuit request at 1:16 a.m. The deputies reported light traffic at East 17th and St. Clair with a speed of 57mph.

Moments later, an additional sheriff patrol car (unit #65), occupied by Deputy Abuzahrieh and Deputy Engelhart, observed the Ford Fusion traveling in excess of 100 miles per hour and changing lanes rapidly near East 24th Street and St. Clair. They also observed that the vehicle was traveling without headlights. The deputies joined the pursuit near East 33rd Street and St. Clair Avenue. Deputy Engelhart broadcast that there was no pedestrian traffic and that automobile traffic was still light when passing East 51st Street.

Deputy Loudermilk additionally reported over the radio that the fleeing driver appeared to be intoxicated. He also reported that the driver rapidly changed lanes, ran through multiple intersections without signaling, and that the vehicle's headlights were turning on and off. Road conditions at the time were reported as dry.

At 1:17 a.m., Deputy Monda requested authorization to perform a Police Intervention Technique (PIT) maneuver to stop the fleeing vehicle. Permission for PIT was granted by the supervisor, Sargent Schlegel, who was monitoring the chase. Loudermilk never attempted the Police Intervention Technique (PIT) maneuver. He later advised that there was no safe opportunity to execute the maneuver during the brief chase.

The pursuit continued eastbound on St. Clair Avenue, past East 64th Street, then turned southbound onto Addison Road. The operator of the fleeing vehicle failed to follow a curve in the roadway, jumped the curb at a high rate of speed, traveled across a vacant lot, and then reentered Superior Avenue. At 1:18 a.m., the chase ended in a violent collision at Superior Avenue and East 71st Street when the fleeing Fusion collided with a black 2015 Subaru Crosstrek that was stopped, waiting at a red light. After the collision, both vehicles came to rest in the grassy area at the southwest corner of Superior Avenue and East 71st Street.

The Subaru Crosstrek was lawfully operated by its registered driver, Sharday Denise Elder, age 37. Ms. Elder was trapped in the vehicle with severe injuries. Seated in the passenger seat was Joshua Earnheart, age 33. He sustained injuries to his leg and back. Significant damage occurred to Ms. Elder's Subaru, and the point of impact was in the area of the driver's side door.

Ms. Elder was found by deputies unresponsive in the driver's compartment of the vehicle. Due to the condition of the wreckage, deputies requested assistance from the Cleveland Fire Department to free Ms. Elder from the vehicle. At 1:35 a.m. she was extracted from the vehicle and EMS Paramedics began emergency care at the scene. She was transported by ambulance to University Hospitals Cleveland Medical Center, where she arrived at 1:59 a.m. Despite treatment and drug therapy, she could not be stabilized. She was pronounced dead at 2:00 a.m.

The Medical Examiner later performed an autopsy and determined that Ms. Elder sustained severe blunt and sharp force injuries that resulted in the laceration of her aorta, diaphragm, and liver. In addition, there were multiple blunt impacts and sharp injuries to her head, chest, shoulder, arms, and legs. The Cuyahoga County Medical Examiner ruled the official cause of death as blunt and sharp injuries sustained in a motor vehicle accident. Toxicology reports were negative for alcohol. Her death was ruled a Homicide.

Following the collision, deputies approached the disabled Ford Fusion and identified the driver as Jaymone Lamar Whitaker II, age 24. They issued commands for him to exit. Whitaker attempted to crawl through a partially open rear passenger window but became stuck, and deputies had to assist him out of the vehicle physically. Deputies observed that Whitaker smelled of alcohol and his speech was slurred. Body camera video recorded Whitaker at the scene, calling out and apologizing to his companions that the collision was his fault and that he hoped he did not kill anyone. Mr. Whitaker sustained injuries to his left leg and right arm and was treated by EMS and transported to University Hospital.

The registered owner of the fleeing vehicle, Yanae Johnson, age 18, was initially found unconscious and unresponsive in the front right passenger seat of the Ford Fusion. Deputies safely removed her from the vehicle. She was propped up against a utility pole and kept away from the smoking vehicle by deputies until she was transferred to EMS care. Body camera video shows Ms. Johnson with extreme facial injuries and in painful verbal distress. She was transported to University Hospital, Cleveland Medical Center by paramedics.

The rear passenger in the fleeing Ford Fusion was a 16-year-old female. She was also injured and assisted by deputies. Paramedics provided first aid, and she was transported to University Hospital by EMS. She was listed in serious condition with a spinal injury.

In the Ford Fusion, deputies found a water bottle smelling of alcohol on the driver's seat, and an open bottle of Termana Tequila with liquid beneath the driver's seat. An Ice Mountain water bottle with an alcohol odor was found under the front passenger seat.

In the Subaru, deputies discovered a half-full bottle of reposado tequila on the front passenger floorboard, a three-quarters-full bottle of XXL Guava wine on the rear seat, and a loaded handgun in the glove box.

The deputies contacted the Cleveland Police Accident Investigation Unit, which was called to the scene to conduct a crash investigation. In the completed investigation report, the Accident Investigation Unit determined that the data recorder from the Ford Fusion indicated that the car was traveling at 83 miles per hour, 5 seconds before the crash occurred. The speed at impact was 77 miles per hour.

Mr. Whitaker was formally arrested at 8:00 a.m. on August 24, 2025, at University Hospital. He was indicted by a Cuyahoga County Grand Jury on November 5, 2025, and charged with Aggravated Vehicular Homicide (ORC 2903.06), Involuntary Manslaughter 2903.04a, three counts of Aggravated Vehicular Assault (ORC 2903.08), Failure to Comply with the Order or Signal of a Police Officer (ORC 2921.331), as well as Endangering Children (ORC 2919.22).

SCOPE OF REVIEW

In my assignment as Special Prosecutor, I was tasked with providing a legal opinion on whether probable cause exists to believe the pursuing deputies violated any criminal laws. Evidence of wrongdoing would justify presenting the matter to the Cuyahoga County Grand Jury for consideration of possible criminal charges.

Pursuant to my appointment from the Court, the scope of review does not include evaluating or making any determinations concerning the Cuyahoga County Sheriff's Office policies and procedures. This includes the adequacy of officer training on police pursuits, and the criteria for determining the necessity of pursuits.

APPLICABLE LEGAL STANDARDS

This incident implicates Ohio statutory provisions and legal standards governing police pursuits and the duty to apprehend lawbreakers, as well as departmental policies. Several sections of the Ohio Revised Code govern a police officer's duties regarding pursuits. Additionally, the Cuyahoga County Sheriff's Department maintains a comprehensive policy governing vehicle pursuits, Policy 307. Policy 307 is directly relevant to this incident. These policies establish strict rules and guidelines for compliance. While law enforcement agencies are legally required to create such a policy, the policy itself is not a law.

Ohio Revised Code § 2935.031 requires each law enforcement entity to 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. When developing their policy, agencies must consider pursuit policy standards and best-practice recommendations established by the Ohio Collaborative Community-Police Advisory Board or a similar law enforcement accrediting entity. The statute establishes that a written pursuit policy must exist, but does not specify requirements, such as factors warranting a pursuit, protocols for supervisor authorization, communication requirements, or criteria for terminating a pursuit. Those details are drawn from accreditation standards and best-practice recommendations developed outside the statutory framework.

The Cuyahoga County Sheriff's Department adopted Policy 307 to satisfy this statutory requirement, and that policy governs the conduct of deputies engaged in vehicle pursuits within the department's jurisdiction. It should be noted that the Cuyahoga County Council changed and updated its pursuit policy on October 6, 2025. The new policy has limited the types of traffic or criminal violations that are subject to pursuit and restricts when a pursuit may be initiated.

ORC 2935.03(A)(1) requires an officer to arrest and detain a person who is violating the law. This is an affirmative duty placed directly on the officer by statute. An officer may also face criminal liability under RC 2921.44(A)(2) for negligently failing to perform that duty. These provisions clarify that Ohio law does impose individual obligations on officers when they encounter someone actively breaking the law.

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 not a policy, it is a duty imposed by law. When a suspect flees from officers who have lawful grounds to apprehend them, that statutory duty becomes directly relevant to the officer's decision-making in the field.

The United States Supreme Court has recognized that officers may take action to stop a fleeing motorist. In *Scott v. Harris*, 550 U.S. 372 (2007), the Court addressed the rights of officers engaged in high-speed pursuits in which a suspect's reckless driving endangered innocent bystanders. The Court held that law enforcement is not required to abandon a pursuit simply because the chase itself poses some risk, particularly where the fleeing suspect poses a danger to the public. This decision supports officers' authority to continue and conclude a pursuit using reasonable means under the circumstances.

Ohio Revised Code § 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." The key phrase is that the duty must be expressly imposed by law. A pursuit policy directive issued by the Cuyahoga County Sheriff is an internal administrative document. It is not a legislative enactment, and noncompliance with it does not constitute a violation of ORC 2921.44(E). Criminal liability under this statute attaches to violations of legal duties expressly imposed by law, not by supervisors or departmental policies. Failure to comply with an internal policy does not constitute Dereliction of Duty. *State v. Gaul*, 117 Ohio App.3d 839 (1995). In this case, the deputies received permission to pursue.

ANALYSIS

I was appointed to determine whether the deputies' actions constituted evidence of criminal conduct sufficient for consideration by the Cuyahoga County Grand Jury. Based upon my review of the evidence, it appears that the deputies were properly conducting themselves in accordance with the law. The pursuit was authorized by the supervising officer and communicated in real time to all officers involved over police radio.

Upon reviewing the evidence and considering the totality of the circumstances, Mr. Whitaker failed to comply with a lawful order to stop. Instead, he engaged in an extremely dangerous chase that placed officers and innocent bystanders at significant risk of death or injury.

The suspect's reckless driving created the conditions that led to the fatal collision, killing an innocent driver, injuring 3 other people and himself.

The events that ultimately caused Ms. Elder's death were created entirely by the fleeing suspect. Mr. Whitaker chose to drive at extreme speed while intoxicated, with intentional disregard for the safety of the public and his own passengers, even as those passengers pleaded with him to stop as shown in the interview footage. It was Mr. Whitaker's conduct that was the direct and proximate cause of the fatal collision in the pursuit.

Considering the totality of the circumstances, there is insufficient evidence of probable cause to justify a presentation to the Cuyahoga County Grand Jury for any criminal charges against the deputies involved in the pursuit.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'A. Dever', written in a cursive style.

A. Steven Dever
Special Prosecutor for Cuyahoga County