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SIM GILL

**HAND DELIVER**

August 31, 2011

Colonel Daniel Fuhr  
Utah Highway Patrol  
5681 South 320 West  
Murray, UT 84107

**Re: Officer Involved Critical Incident – August 5, 2011**

Dear Colonel Fuhr:

After working in conjunction with the Utah Highway Patrol and the Salt Lake City Police Department, the Salt Lake County District Attorney's Office has completed its investigation concerning Utah Highway Patrol Trooper A. Colvin's use of deadly force against Josue Ramirez-Perez during an incident that occurred August 5, 2011 at the 700 North off-ramp on northbound I-215. The purpose of the review is to determine whether the force employed was lawful under Utah law.

On August 5, 2011 at approximately 7:00 am, Trooper Colvin was off-duty, driving northbound on I-15 in his marked patrol vehicle. As Trooper Colvin was entering onto westbound I-80, he noticed a dark blue Volkswagen Jetta passing him in the right lane. Trooper Colvin originally did not pay much attention to the Jetta, but saw the Jetta suddenly lock up its brakes as it approached another vehicle, causing the Jetta to skid forward with smoke emitting from its tires. As Trooper Colvin passed the Jetta, he noticed it spin out causing Trooper Colvin to believe that the Jetta may have hit a barrier or another vehicle.

Trooper Colvin pulled over to the right of the Interstate and began to back his vehicle to check on the safety of the driver. Trooper Colvin observed that the Jetta was perpendicular to the northbound traffic. As Trooper Colvin was backing up with his rear emergency lights activated, the driver of the Jetta flipped around in a loop and started to drive away northbound, passing Trooper Colvin. Trooper Colvin then activated his front emergency lights and his siren in an attempt to pull the driver over. The driver of the Jetta did not stop.

In the area of 900 West and westbound I-80, the Jetta was increasing in speed. Trooper Colvin believed the driver was fleeing from him and notified dispatch of the pursuit. The driver was traveling in and out of lanes and Trooper Colvin could see the driver looking into his side mirror several times, even wagging his finger back and forth at Trooper Colvin.

The Jetta turned onto northbound I-215 with Trooper Colvin following him. The driver's erratic driving caused Trooper Colvin to be concerned, and he thought it best to end the pursuit in the interests of public safety. Trooper Colvin wished to perform a Pursuit Interruption Technique ("PIT") maneuver on the Jetta, but speeds were too fast to make a successful PIT maneuver. Additionally, a PIT maneuver could cause harm to other drivers in the morning traffic commute, and therefore Trooper Colvin decided against it. Instead, Trooper Colvin closely trailed the Jetta.

The Jetta exited I-215 on the 700 North off-ramp, with Trooper Colvin closely following. Trooper Colvin believed that the off-ramp might be a good opportunity to stop the Jetta. Trooper Colvin slowed down and decided to push the Jetta with his vehicle into the concrete barrier along the eastside of the off-ramp. This maneuver successfully stopped the Jetta, which was positioned between Trooper Colvin's vehicle and the concrete barrier.

With his vehicle's passenger side wedged into the Jetta's driver side, Trooper Colvin looked out of his front passenger window to see the driver of the Jetta holding a gun, pointed at Trooper Colvin. The driver fired his gun twice at Trooper Colvin, causing the trooper's passenger window to explode. Subsequent investigation revealed that one of the bullets fired at Trooper Colvin lodged in the roof of the trooper's vehicle; the other bullet went through the roof of the trooper's vehicle, leaving an exit hole.

Having already drawn his weapon, Trooper Colvin returned fire, firing several shots while he was backing out of his vehicle. As he moved to the rear of his vehicle, Trooper Colvin noticed that the slide of his service weapon was locked back. He was able to remove the magazine and load his weapon with a full magazine. While behind his vehicle, Trooper Colvin peered over the rear of his vehicle and noticed the driver move to the left, as if he may swing around and fire over his shoulder. Trooper Colvin fired additional shots at the driver from the rear of his vehicle.

Trooper Colvin decided to move around his vehicle along the driver's side to gain a better position. He thought it best to move so that the driver was not aware of his location. As Trooper Colvin was near his driver's door, he loaded a new magazine into his firearm. Trooper Colvin moved to the front of his vehicle and saw the driver looking at him but could not see his hands. Not to be surprised again, Trooper Colvin fired additional rounds at the driver, and thought the rounds were better placed than the ones in the rear of the vehicle, giving Trooper Colvin had a greater assurance that the driver was incapacitated.

Trooper Colvin moved along the driver's side of his vehicle and saw the suspect looking forward. Trooper Colvin went to the rear of his vehicle, opened the trunk, and grabbed his AR-15 rifle. Trooper Colvin moved to the passenger side of the Jetta, looked into the vehicle, and

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saw that the driver was not moving. Trooper Colvin believed the driver to be dead and then radioed dispatch.

Multiple witnesses support Trooper Colvin's account of the dynamic situation. Specifically, a witness recalled seeing a blue Volkswagen vehicle driving in and out of lanes along I-80 and I-215 before being stopped by the trooper on the 700 North off-ramp. Additionally, several witnesses stated that after seeing the trooper stop the Jetta, they saw the driver of the Jetta shoot first at the trooper. Also, the dash-cam video and the dispatch audio recording corroborates Trooper Colvin's version of events.

Officers documented the scene and the vehicles. They determined that the suspect, later identified as Josue Ramirez-Perez, fired 2 rounds at Trooper Colvin. Trooper Colvin returned fire with 7 rounds while he was in his vehicle, 11 rounds while in the rear of his vehicle, and 15 rounds while in front of his vehicle.

Officers searched Ramirez-Perez's vehicle and found a .40 caliber semi-automatic firearm with a spent shell casing stuck in the slide, jamming the firearm. The firearm's magazine contained 4 additional rounds of ammunition. Additionally, a purple canvas bag was found in Ramirez-Perez's vehicle that contained 43 live rounds of .40 caliber ammunition. On Ramirez-Perez's person, officers located a small quantity of methamphetamine and \$9,315 cash.

This office has concluded the force employed by Trooper Colvin was legally justified under Title 76, Chapter 2, Part 4 (1953 as amended). Specifically, under 76-2-404 (1)(c).

If you have any questions or concerns regarding the determination made in this case, or otherwise wish to discuss the matter, please feel free to contact our office to set up a personal meeting.

Sincerely,

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SIM GILL,  
Salt Lake County District Attorney

SG/NJE/nje