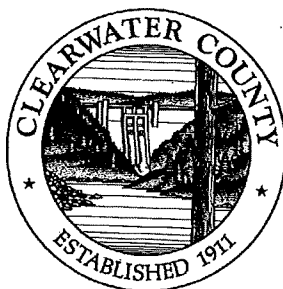


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August 26, 2022

Jan Bennet
Ada County Prosecuting Attorney
Via email

Colonel Kedrick Wills
Idaho State Police
Via email

Captain Fritz Zweigart
Idaho State Police
Via email

Mayor Lauren McLean
Via email

RE: Boise Police Department Chief of Police Lee Investigation

As you are aware, I have been asked to assist the Idaho State Police with an investigation into the October 12, 2021 events at a Boise Police Department staffing leading to a [REDACTED] to Sgt. [REDACTED] at the hands of Boise Police Chief Ryan Lee, and to provide a charging recommendation.

I believe this investigation has been taken as far as possible. Thank you to the Idaho State Police for your diligent efforts. After review and with the input of ISP investigators, I recommend at this point in time against filing a criminal charge. I will note that this was a very difficult decision, as I feel probable cause exists to support a felony criminal charge of aggravated battery, but have reservations as to the State's ability to prove the offense beyond a reasonable doubt. However, there is a five (5) year statute of limitations for an aggravated battery charge. In the event additional information arises, please contact me and I will re-open the case.

To prove a misdemeanor or felony battery, the State must be comfortable with its ability to prove "beyond a reasonable doubt" that Chief Lee unlawfully used force or violence upon Sgt. [REDACTED] (a misdemeanor battery), and as a result Sgt. [REDACTED] suffered great bodily injury (the extent of the injury elevates the offense to a felony aggravated battery). Sgt. [REDACTED] suffered a [REDACTED] at the hands of Chief Lee, so if an unlawful battery occurred, the element necessary to elevate it to felony aggravated battery exists.

The unlawful element of the offense means the battery must not have been in self defense, must have been as a result of a deliberate action (rather than accidental), must have been against the consent of the alleged victim, etc. It is not a requirement to prove that the perpetrator intended the injury, just the act.

All witnesses to the event indicate that during the usual morning staffing, Chief Lee was present to introduce the newly hired Deputy Chief. During the staffing a discussion began about the LVNR neck restraint, the use of

which remained against policy. During that discussion, other possible neck restraints were talked about, and in the context of that conversation, Chief Lee either asked or ordered Sgt. [REDACTED] to step forward for a demonstration.

Chief Lee performed two demonstrations. The first involved grabbing Sgt. [REDACTED] by the back of the neck to be able to manipulate his body position, and the second involved putting one hand on his forehead and pulling his head back and down. Some officers were familiar with the first technique. No one present in the room, other than Chief Lee, was familiar with or trained in the second technique. It seems clear that at no time was Sgt. [REDACTED] specifically warned as to what was going to happen.

However, both ISP investigators use of force experts I work with locally agree that, in the context of a police agency demonstration and the conversation occurring at the time, it is reasonable to assume that Sgt. [REDACTED] knew there was going to be some kind of demonstration, the demonstration was in the context of neck restraint discussions, and there would be some form of physical contact.

The question then, became one of the amount of force or violence that was used during that physical contact.

Sgt. [REDACTED] and many of the officers present provided statements indicating an excessive level of force. Several other officers, however, including Chief Lee and the newly hired Deputy Chief, indicated the use of force was minimal at best, or that nothing was seen which they considered out of line.

Chief Lee did other things in that meeting which would indicate aggressiveness. He is described as bragging about the number of hands-on use of force events he engaged in while at the City of Portland. He had a habit of condescendingly asking people if they were going to file a worker's compensation claim form after particularly forceful training exercises. He made the same comment to Sgt. [REDACTED] after the demonstration when Sgt. [REDACTED] appeared shaken while returning to his seat. He also was involved in a prior incident in Portland involving a violence with a co-worker.

It is also departmental policy that training involving any significant amount of physical contact be conducted in a special environment (called a mat room) under highly controlled direction and supervision, in order to prevent injury. This was clearly not a mat room environment. While Sgt. [REDACTED] reasonably might expect physical contact, significant forceful contact in a briefing environment would be wholly unexpected, and non-consensual.

A medical review was sought in an attempt to resolve the issue regarding the amount of force used. It was inconclusive. While both doctors who were interviewed concede that significant force as described by Sgt. [REDACTED] could clearly have caused the injury, and perhaps was more likely than not to have caused the injury, it is possible for this type of injury to manifest with slight force or at times even without any identifiable traumatic event at all. Neither felt comfortable testifying as to the amount of force required to cause this injury.

"More likely than not", for me, isn't sufficient. Unlike civil proceedings, the burden of proof I must consider is "beyond a reasonable doubt".

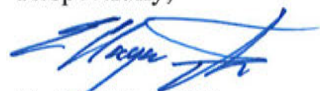
Given the variances in statements and the lack of supporting medical evidence, this isn't a case we feel comfortable proving beyond a reasonable doubt. This decision was not reached lightly nor without angst, as it truly is a close call.

August 26, 2022
Page 3

This letter speaks only to my recommendations for filing criminal charges. Breaches of policy and protocol within the Boise Police Department revealed by this investigation are left to the City of Boise to resolve, being outside the scope of my review. I have returned all investigation records to the Idaho State Police should you wish for a copy for your records.

Please call or write if you have any questions.

Respectfully,



E. Clayne Tyler
Clearwater County Prosecuting Attorney