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February 1, 2024

Corporal Anthony Sist
Troop H - Harrisburg
Pennsylvania State Police
8000 Bretz Drive
Harrisburg, PA 17112

**RE: Fatal Crash at S. 19th Street and Holly Street
In the City of Harrisburg on October 3, 2023**

Dear Corporal Sist,

I have completed my review of the fatal crash of October 3, 2023, that took the life of Marion T. Holmes. I limited my review to whether the actions of the persons involved violated the Pennsylvania Crimes Code or the Vehicle Code. I did not examine whether there could be civil liability by any person or whether departmental policy was followed by police personnel. I had the benefit of a comprehensive investigation by the Pennsylvania State Police.

This investigation produced comprehensive reports and detailed, recorded interviews. In my review, I had the benefit of all pertinent information including your crash report, Trooper Glen Knudsen's collision reconstruction report, the crash data retrieval report, interviews with the individuals involved, and the autopsy report. This involved a two-vehicle crash in which Mr. Holmes, a passenger in one of the vehicles, sustained his fatal injury. For the reasons which follow, I have determined that the facts do not support a charge of homicide by vehicle, 75 Pa. C.S. §3732. That offense requires proof that the perpetrator caused the death of another person by gross negligence—essentially recklessness. As a matter of law, the evidence does not demonstrate gross negligence.

The fatal crash occurred in the early morning hours, specifically 12:34 a.m. Marion Holmes was seated in the front passenger seat of a 2000 Mercury Sable, driven by Detrail T. Porter. There were two rear seat passengers in the Sable. Mr. Porter

drove the Sable southbound on South 19th Street. At Holly Street, traffic on 19th Street is governed by a posted stop sign. Mr. Porter proceeded through that intersection without stopping at the stop sign.

At the same time, Officer Brendan J. Kovach of the Harrisburg Bureau of Police traveled in a marked police car eastbound on Holly Street, using lights and sirens. Holly Street is a one-way street westbound, but Officer Kovach was responding to an emergency pursuant to 75 Pa. C.S. §3105. Specifically, Officer Kovach's response was to a call for "officer needs assistance", which is an urgent call. Section 3105 permits an emergency vehicle responding to an emergency call to exceed maximum speed limits and disregard regulations governing direction of movement. Mr. Porter entered the intersection of 19th and Holly Streets without stopping at the stop sign, just before Officer Kovach entered that intersection. As a result, the police car impacted the Mercury Sable right at the front passenger compartment. This impact caused the tragic death of Marion Holmes.

I reviewed the summary of your interviews with [REDACTED], the rear passengers in the Sable. Ms. [REDACTED] was the passenger who was seated directly behind Marion Holmes. These interviews occurred at UPMC—Harrisburg Hospital, on the morning of the crash. Ms. [REDACTED] was the girlfriend of Marion Holmes. Ms. [REDACTED] noted that Sable was moving fast before the crash. She observed the red and blue emergency lights from the police vehicle right before the collision. The other rear passenger, Ms. [REDACTED], related that she did not recall anything related to the crash.

The Pennsylvania State Police reviewed the dash camera footage from Officer Kovach's police vehicle prior to the fatal crash. The video established that the vehicle's emergency lights were activated throughout Officer Kovach's response to the request for assistance and at the time of the crash. The recording software documented that the police siren was activated during this period and on approach to the intersection where the fatal crash occurred.

Troopers interviewed Detrail T. Porter on October 3, 2023. In that recorded interview, he indicated that he did not know whether or not the police vehicle that struck the Sable had its emergency lights activated. At the time of the fatal crash, Porter's operating privilege was suspended. Prior to the fatal crash, Porter had 15 license suspensions. According to records of the Pennsylvania Department of Transportation, his operating privilege will be suspended until at least January 4, 2026. That record also reflects that Porter, who is a Pennsylvania resident, has never had a Pennsylvania driver's license. Porter has seven prior convictions for driving under suspension, 75 Pa. C.S. §1543(a).

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Based upon the above review, I have determined that Officer Kovach is not liable for any violation of the Crimes Code or the Vehicle Code. I have found that the facts warrant a prosecution against Detrail T. Porter for accidents involving death while not properly licensed, 75 Pa. C.S. §3742.1(a)(2), graded as a second-degree misdemeanor, careless driving, 75 Pa. C.S. §3714(b), driving under suspension, 75 Pa. C.S. §1543(a). Porter's act of running the stop sign was negligent and contributed towards causing the fatal crash. This supports the charge of accidents involving death while not properly licensed, 75 Pa. C.S. §3742.1(a)(2). In connection to the driving under suspension charge, please note in the criminal complaint that Porter has five prior convictions for that same offense. Notice of this fact is necessary as a sixth offense carries a higher penalty. 75 Pa. C.S. §6503(a.1).

I note that approximately two weeks before the fatal crash, Porter was involved in another serious driving offense in Cumberland County. On September 16, 2023, he was involved in an incident that resulted in charges against him for felony fleeing or attempt to elude police, reckless driving, and driving under suspension. After his preliminary arraignment on that case, he failed to appear for court. Police arrested him on a bench warrant on January 21, 2024. As he is currently in the Cumberland County Prison for that case, I request that the current charges proceed by arrest warrant rather than summons.

Sincerely,



Francis T. Chardo
District Attorney