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RE: Formal Charging Decision-Death of [REDACTED]

To Whom It May Concern:

The purpose of this correspondence is to memorialize my formal charging decision regarding whether criminal charges will be filed for an incident occurring on September 5, 2021 at the Glenwood Caverns Adventure Park resulting in the untimely and tragic death of a six-year old child- [REDACTED]

The Garfield County Sheriff's Office performed the primary investigation of the incident. The investigation was comprehensive and thorough. I have communicated and collaborated with the primary investigators through the course of the investigation and considered all information presented me relative to the criminal prosecution charging decision.

The National Prosecution Standards delineate the factors for consideration for the prosecutor making a charging decision. I took into consideration all of the relevant material factors commonly considered. In addition, I considered the burden of evidentiary proof incumbent upon a prosecutor when making a charging decision, which is proof "beyond a reasonable doubt". The standard considerations for the prosecutor when performing either the "screening" of potential criminal charges or the actual "charging" of criminal charges include: (1) what potential crimes were committed, (2) what actor or actors may have committed the potential crimes, and (3) whether sufficient admissible evidence exists that would result in a reasonable probability of conviction that a crime was committed and that the person or entity criminally charged committed the crime beyond a reasonable doubt.

Based upon my consideration of the information provided, I conclude that the potential crimes committed were either Criminally Negligent Homicide or Manslaughter. Furthermore, I considered what actor or actors may have committed the aforementioned crimes and whether there is sufficient admissible evidence that would yield a reasonable probability of conviction by fulfilling the evidentiary burden of proof-beyond a reasonable doubt. The primary elements of Criminally Negligent Homicide are that the person accused engaged in conduct or committed a "voluntary" act amounting to "criminal negligence" and that the voluntary act caused the death of another. For criminal prosecution purposes, "Criminal negligence" is defined, in part, as, "A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he or she fails to perceive an unjustifiable risk that a result will occur or that a circumstance exists." For criminal prosecution purposes, "Voluntary Act" is defined as, "A voluntary act means an act performed consciously as a result of effort or

determination.” The primary elements of Manslaughter are that the person accused recklessly caused the death of another person. In the criminal prosecution context, the term “reckless” is defined as, “A person acts recklessly when he or she consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.”

After considering all of the information provided to me, I conclude that the office of the district attorney cannot prove beyond a reasonable doubt any one person or entity acted with criminal negligence or was criminally reckless beyond a reasonable doubt. My conclusion is strictly based upon the standard of evidentiary proof applicable in a criminal prosecution (beyond a reasonable doubt) and it is not my intent to pronounce anything beyond a conclusion that that the office of the district attorney cannot prove criminal negligence or criminal recklessness was committed by a particular person or entity beyond a reasonable doubt in a criminal prosecution.

Respectfully submitted,


Jefferson J. Cheney