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March 5, 2025

Re: March 5, 2025 Item 2: *Discussion regarding concerns with Wasatch County Public Safety - Karl McMillan, Jeff Winterton, Todd Bonner*

Dear Council and Manager:

The March 5, 2025 agenda for the Wasatch County Council includes the following item:

Discussion regarding concerns with Wasatch County Public Safety - Karl McMillan, Jeff Winterton, Todd Bonner

It would not be good to allow this item to be heard on the agenda. Instead, the Council should ask any in the audience who desired to address the Council on Item (2) to submit their concerns to the Wasatch County Manager in writing. This recommendation is based on Utah Law, County Codes and policies, and how some other entities have handled related issues. One informative policy, though not binding on the County, is the United States Department of Justice *Confidentiality and Media Contacts* policy. In its purpose statement, it says:

The Policy . . . balances four primary interests: (1) an individual's right to a fair trial or adjudicative proceeding; (2) an individual's interest in privacy; (3) the government's ability to administer justice and promote public safety; and (4) the right of the public to have access to information about the Department of Justice.

Allowing these complaints to be first heard in a public meeting creates a substantial risk of violating principals (1) and (3). Publicly raising complaints may have criminal or civil implications, such as interfering with an investigation or tampering with a witness. Purpose (2) could be implicated by creating a forum where libel or slander might be possible, as well as putting people in a situation where confidential information might be relevant, but cannot be shared in a public setting. Purpose (4) could be served by allowing this item to go forward, but hearing these concerns in a public meeting does not comply with aspects of GRAMA governing public disclosure of records, which were crafted to balance public interest in transparency with the guidelines for restrictions on access to government records, which are "based on the equitable weighing of the pertinent interests and which are consistent with nationwide standards of information practices." For example, records are classified as private under GRAMA if they:

- (a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;
- (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing.

Allowing the complaints to be initially heard in a public forum would make public the information that the Government Records Access and Management Act (GRAMA) would otherwise protect, upsetting the purposes of GRAMA to prevent public disclosure from interfering with investigations. For this reason, this purpose (4) is not best served by allowing item (2) on the agenda to go forward.

The County is not interfering with the subject of these complaints being shared with the media, or with other law enforcement agencies or departments so they can fulfill their purposes. However, if you heard this item you are potentially facilitating interference with an investigation.

In making this recommendation, Sheriff Rigby's March 3, 2025 letter was considered, in which he says that he has asked Cache County Sheriff's office to consider these matters as a conflict case as a neutral, unbiased party. Neither the Council nor other County departments initiated this, but hearing the matter in a public meeting could potentially interfere with this investigation.

The Council should ask any in the audience who desired to address this Council on Item (2) to submit their concerns to the Wasatch County Manager in writing. These complaints can then be evaluated, and forwarded to appropriate agencies for investigation, such as possibly POST, or the Attorney General Office, or other appropriate agencies for issues that could be criminal violations. Civil matters may be considered internally pursuant to County policies, or we may ask for a neutral third party review of complaints that have a civil component. Without a clear record of what the complaints are, we cannot evaluate what agencies, departments, or persons may be needed to conduct necessary or prudent investigations. Once these agencies, departments, or third party investigators review the written complaints, the Council will be in a better position to determine if it would be good to take action outside of forwarding the issues to appropriate agencies and departments.

It is important that you as a council, upon receipt of this information, not use the information in a manner that could interfere with any necessary or prudent investigations.

This letter was written with the intent that you could share it with third persons, if you desire to do so.

/s/ Jon Woodard

Jon Woodard

Deputy County Attorney