



**PROSECUTING ATTORNEY
BONNEVILLE COUNTY, IDAHO**

RANDY NEAL
Prosecuting Attorney

LOU G. HARRIS
Chief Deputy Prosecuting Attorney

MEMORANDUM

September 12, 2025

*RE: Criminal Liability Review of Circumstances Related to
the Eastern Idaho Critical Incident Task Force
Investigation of Officer Involved Shooting August 19, 2025
(Derrand Zimmerman)*

TO: Bryce Johnson, Chief of Police, Idaho Falls Police Department
Dennis Wilkinson, Counsel for Sergeant Klepich and Officer Cook

FROM: Randolph B. Neal, Prosecuting Attorney

I have reviewed videos, the scene, and the interviews conducted in the investigation referenced above for the purpose of determining whether any criminal laws were violated by the Sergeant Gabe Klepich and Officer Dustin Cook employed by the Idaho Falls Police Department. I have received and reviewed the completed investigation (with the exception of the final autopsy report which is expected to take months to complete) from the Eastern Idaho Critical Incident Task Force. For the reasons described below, I find no evidence to suggest that either officer committed a criminal offense in relation to the investigation described above, and further find their actions were **JUSTIFIED** as an act(s) of self-defense.

STANDARD OF CRIMINAL REVIEW

Pursuant to Idaho Code § 18-109, “a crime or public offense is an act committed or omitted in violation of a law forbidding or commanding it, and to which is annexed, [an enumerated] punishment.” Pursuant to Idaho Code §§ 19-505 and 19-506, in order to charge a crime, there must be sufficient facts which tend to establish there is probable cause to believe that an offense has been committed and that the defendant committed it. In other words, there must be both a prohibited act and sufficient evidence to establish probable cause to believe that an individual violated a law, which requires or proscribes an act, and provides for a punishment for committing or omitting the act.

STATEMENT OF FACTS

The following Statement of Facts was developed from the final narrative of the Eastern Idaho Critical Incident Task Force investigation referenced above.

1. On August 19, 2025, at approximately 2210 hours, the Idaho Falls Bonneville County 911 Emergency Communications Center received a call from a female who resided at 105 Clubhouse Circle.
2. She said that a male by the name of Derrand Zimmerman had left her apartment and may be walking to Maverik on Woodruff, or he was possibly still outside.
3. She said that she needed someone to get there quick before he came back up her stairs.
4. She also reported that he had a gun and that he had made comments about suicide by cop and she did not want it to end badly.
5. She said that he was a friend that had been staying at her apartment.
6. Dispatch asked if the male was suicidal and she said that he was, and that he was intoxicated and would get very physical.
7. She also provided a description, which was that Mr. Zimmerman was black with long dreads and she thought he was wearing camo shorts.
8. Dispatch asked her what she thought Mr. Zimmerman would do if the police showed up there with their lights on.
9. The caller said that she was afraid he would pull the gun.
10. Dispatch informed the caller that they were sending officers to look for him and that she should lock her door.
11. She said that her door was locked.
12. She also said that she didn't know if Mr. Zimmerman was on something else and if it was alcohol or drugs he was on.
13. Dispatch asked if there were children in the apartment and she said that there were and that they were in the back bedroom.
14. Dispatch asked the caller if she knew where he had the gun and she said that it was in his pocket, and she did not know if it was loaded.
15. At approximately 10:37 p.m., the caller reported that Mr. Zimmerman came back to the apartment and was pounding on her door.
16. Officers were already on scene.
17. Dispatch again told her to keep her door locked.
18. The caller reported that her children were 15, 12, and 10 years old.
19. Dispatch asked what the gun looked like.
20. The caller said that it was a tan handgun.
21. The caller said that he was still pounding on the door and dispatch confirmed that she went into a back room away from the door with the kids and closed that door.
22. Reporting party said that she had only known Mr. Zimmerman for six months and she was just trying to help him because he had nowhere to stay.
23. At approximately 10:51 p.m., Reporting party started screaming and said that there were gunshots.
24. Dispatch confirmed that her and the children were okay and advised them to stay in that room.
25. While dispatch was on the phone with the caller, officers had responded to the area and were on scene.
26. The officers on scene included Officer Cook, Sgt. Klepich, four other IFPD officers and a state trooper.

27. They had obtained Mr. Zimmerman's phone number and tried contacting him but were unable to.
28. Officers started communicating with each other and setting up a perimeter and moving in position to contact Mr. Zimmerman.
29. They were deploying a less lethal shotgun and had asked for a reverse call to be put out to the residents nearby to shelter in place.
30. Once they got eyes on Mr. Zimmerman, they said that they observed the female come out and they yelled at each other for a moment and then she went back into the apartment.
31. They described him as stumbling around and at that time they did not see anything in his hands.
32. The apartment building was a four plex and Reporting party's apartment was on the second floor on the right side if you were looking at the front of the building.
33. Officers then reported that the reporting party and Mr. Zimmerman were arguing through the closed door and he was at the top of the stairs by the door.
34. Sgt. Klepich moved up toward the bottom of the stairwell to the right side with his K9 partner Rocky.
35. Other officers moved in closer as well.
36. At approximately 10:49 p.m., Sgt. Klepich announced "police" and gave the command to come out with his hands up or that he would send the dog.
37. The male did not comply, and the dog was sent.
38. The dog was not effective, and Sgt. Klepich moved in a little closer to get a better visual and told the male to keep his hands where he could see them.
39. Mr. Zimmerman, at this time, had a tan handgun in his right hand.
40. Mr. Zimmerman made the comment, "Are we gonna do this?" Sgt. Klepich told the other officers to move in.
41. Officer Cook moved in with his rifle to the left side of the stairwell.
42. Sgt. Klepich told Mr. Zimmerman to face away from them and keep his hands up.
43. He did not comply and then said, "Fuck it, let's die."
44. Mr. Zimmerman then raised the gun and gunfire was exchanged.
45. Mr. Zimmerman collapsed and officers went up and secured him and called for EMS.
46. They arrived and began life saving measures and transported him to Eastern Idaho Regional Medical Center where he was pronounced dead a short time later.

Interview with the Reporting Party

47. After the incident, the reporting party was interviewed by detectives with the Eastern Idaho Critical Incident Task Force.
48. The reporting party stated that Mr. Zimmerman's behavior had been rough for the past two days, due to his alcoholism and possible drug abuse.
49. She stated that Mr. Zimmerman is a friend she had been helping, allowing him to stay with her family in the apartment.

50. She explained Mr. Zimmerman is from Las Vegas, and doesn't have anyone around, so she thought she could help him until he found a place.
51. She stated that Mr. Zimmerman had recently lost a friend in Las Vegas and that the friend had been shot to death.
52. Mr. Zimmerman was upset and was continually drinking alcohol and abusing drugs.
53. The reporting party stated she told Mr. Zimmerman to leave their apartment, due to his abusive and erratic behavior.
54. She explained Mr. Zimmerman would argue with her and yell at her and her family, grab her, get in her face, and push her.
55. After being told to leave the first time on August 18, 2025, Mr. Zimmerman retrieved a handgun from a personal safe in one of his suitcases.
56. This suitcase was located in the closet of the master bedroom.
57. Mr. Zimmerman told the reporting party he would just kill her or kill himself, pointing the gun at her, then turning the gun on himself, against his head.
58. The reporting party stated Mr. Zimmerman pulled the trigger on the gun while it was against his head, but it never fired.
59. Mr. Zimmerman continued this behavior throughout the night, until he ultimately passed out on the floor of the bedroom.
60. The reporting party stated she found a box of 9mm bullets and hid them under the mattress of her bed.
61. The gun was also placed back in the safe in the suitcase.
62. The following day (August 19, 2025), Reporting party told Mr. Zimmerman they needed to talk about his behavior and would do so after she returned home from work.
63. The reporting party then took all of her children to her mother's residence and went to work.
64. The reporting party works close to her residence and, at approximately 11 a.m. to noon, she came home to check on Mr. Zimmerman, finding him still passed out on the floor.
65. The reporting party then returned to work.
66. After returning home from work at the end of her shift, the reporting party found Mr. Zimmerman still asleep on the floor and figured he didn't sleep much the night before and was most likely sleeping off the alcohol.
67. Since Mr. Zimmerman was asleep, the reporting party decided to take a nap as well, due to the lack of sleep the night before.
68. After waking from her nap, she and her family went to the swimming pool, coming home at approximately 10 p.m.
69. As the reporting party and her family entered the residence, she found Mr. Zimmerman highly intoxicated once again, and Mr. Zimmerman became irate once again, threatening her with the gun and threatening suicide by placing the gun against his head multiple times pulling the trigger, with the gun failing to fire.
70. The reporting party ultimately told Mr. Zimmerman he needed to leave, in order to keep her and her children safe.
71. Mr. Zimmerman continually asked the reporting party to give him a ride to buy more beer, to which she refused.

72. Mr. Zimmerman left the residence, and began walking eastbound toward Maverik, with the gun still in his possession.
73. The reporting party stated she was in fear of Mr. Zimmerman's mental state and was in fear that he might use the gun on someone or himself so she contacted 911.
74. The reporting party stated a short time later she could see law enforcement arriving to the area, attempting to find Mr. Zimmerman.
75. That was when she noticed Mr. Zimmerman walking back up to the apartment building.
76. Due to being in fear of Mr. Zimmerman possibly using the gun on one of the officers or himself, she quickly met him outside on the sidewalk of the apartment building, telling him to go with her and she would take him anywhere he wanted to go.
77. Mr. Zimmerman refused to go with her and began yelling at her and arguing with her.
78. Mr. Zimmerman then pulled the handgun out once again and put it to his head, dry firing the gun.
79. At that time, the reporting party returned to her apartment, locking the door behind her.
80. The reporting party then called 911 again, updating dispatch with Mr. Zimmerman's location and being in possession of the firearm.
81. She stated that as she was on the phone, Mr. Zimmerman began beating on the door and yelling at her to open the door.
82. She was advised by dispatch to take her children into a room together and to remain in that room and on the phone.
83. She took her children to the master bedroom and told them to stay on the bed.
84. The reporting party then entered the master bathroom, closing the door behind her to keep the children away from hearing her on the phone.
85. At that time, she stated she could hear yelling from outside and then a loud noise.
86. She stated that she recalled the drywall from the south bathroom wall hitting her as it was broken off of the wall.
87. She stated after that everything was quiet and then officers made contact with her and her children.

Interview with Sgt. Klepich

88. In the interview with Sgt. Klepich, with his attorney present, he stated the following, which is documented in a supplemental written by investigators.
89. As they approached, they began hearing yelling.
90. Officer Cook requested an ambulance to stage near the scene.
91. The suspect could be heard yelling to be let back into the apartment.
92. Sergeant Klepich expressed concern that if the male re-entered, a hostage situation could occur.
93. At this point, the officers present were Sergeant Klepich, Officer Cook, and another IFPD Sergeant.

94. They moved to vehicles parked in front of the apartment where the suspect was located.
95. From there, they could hear the suspect stating that police were present and that he knew they had a canine.
96. Sergeant Klepich gave a loud warning: "This is the police. Come out with your hands up, or I will send the dog."
97. The suspect did not comply.
98. Sergeant Klepich deployed his canine, but the dog became distracted and did not engage.
99. A second deployment was attempted, but no contact occurred.
100. Looking up the stairs, Sergeant Klepich observed the suspect standing with arms at his sides, holding a handgun in his right hand.
101. He gave commands to drop the weapon, turn around, and walk toward the sound of his voice.
102. The suspect looked at him and responded, "This is going to happen right now."
103. At this point, Sergeant Klepich realized he was the only officer in close contact and called for his team to move up to support him.
104. He again issued commands for the suspect to drop the gun.
105. Officer Cook also told the suspect, "Don't do this, man."
106. While recalling his canine from the stairs, Sergeant Klepich suddenly heard 4-5 gunshots.
107. He felt debris strike near him and described feeling heat pass across his arms, as if from a hairdryer.
108. Looking up, he saw the suspect leaning forward with the gun in hand, appearing to fire at the officers.
109. Believing that he and his fellow officers were under fire, Sergeant Klepich fired three rounds at the suspect.

Interview with Officer Cook

110. In the interview with Officer Cook, with his attorney present, he stated the following, which is documented in a supplemental written by investigators.
111. Officer Cook said he heard the call come out that a violent male left residence on foot and it is a potential suicide by cop and possibly intoxicated.
112. Heard the male is now back at the residence and it was reported the male pointed a gun at the reporting party who was a female.
113. Officer Cook said he drove to the east side of the complex.
114. Sgt. Klepich met up at the east side of the complex.
115. Officer Cook mentioned he could hear yelling but he couldn't tell what the two people were saying.
116. He could hear banging on the door.
117. Officer Cook said he could hear the radio traffic from the other officers giving out clothing description.
118. There was a man up in the stairwell banging on the door.
119. Officer Cook said he and Sgt. Klepich went up towards the stairwell and Sgt.
120. Klepich announced police and he will send the dog.

- 121. Sgt. Klepich sent the dog but the K-9 failed.
- 122. Officer Cook explained that he went to the left side of the stairwell where he could see the male and he saw a gun in his right hand.
- 123. Officer Cook says the male says "We're going to do this".
- 124. According to Officer Cook many commands had been given to the suspect by this point.
- 125. Officer Cook said "Don't do this" or something to that effect.
- 126. Officer Cook said the suspect raised the gun towards them and to protect himself and his partner he shot 4 times with his rifle.
- 127. The suspect fell down.
- 128. Officer Cook says that other officers pushed up to secure the gun and suspect.

The Eastern Idaho Critical Incident Task Force Investigation

- 129. During the autopsy it was confirmed that Mr. Zimmerman had an entry wound from what appeared to be a 9mm in his front right thigh, an entry wound from what appeared to be a .223 on the right side of the chest, and an entry wound from what appeared to be a .223 on the right forearm/elbow.
- 130. Idaho State Police Region 6 were responsible for the main crime scene documentation and evidence collection at the apartment complex.
- 131. Bonneville County Sheriff's Office were responsible for scene reconstruction and FARO Scan.
- 132. Detectives from Jefferson County were assigned to the body and to go to the hospital.
- 133. Madison County Sheriff's Office was tasked with documenting each Idaho Falls Police Officer involved and their equipment.
- 134. Investigators from Rigby Police Department, Idaho State Police Region 6, and Teton County assisted in contacting neighboring properties near the scene for potential witnesses.
- 135. Detectives from Rexburg Police Department were assigned to speak with the reporting party.
- 136. At the scene, detectives found three 9mm casings, and four .223 casings near the bottom of the stairwell where the officers were standing.
- 137. There was also a hole in the siding near the bottom of the stairs where it appears that the suspect's round went through, which was later found in the parking lot.
- 138. At the top of the stairs where the suspect was, there was a .40 caliber handgun and a .40 caliber casing located, along with a cell phone.
- 139. The autopsy of Derrand Zimmerman was performed on August 20, 2025, at the Ada County Coroner's Office in Meridian, Idaho.

STATEMENT OF THE LAW

An otherwise violent act is justifiable if a person was acting in self-defense and/or the defense of another.¹ In this case it appears that at the time of the shooting there was a present and imminent threat of death or serious bodily injury toward Idaho Falls

Police Officer Dustin Cook, Sergeant Gabe Klepich, and other Idaho Falls Police officers at the scene.

If an act involving asserted self-defense results in death, the analysis proceeds under Idaho Code § 18-4009, which states in pertinent part, “Homicide is justifiable when committed by any person when resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person.”² Essentially this permits self-defense with a deadly weapon only where the accused has reasonable cause to believe, and does believe, he (or a third person) is in danger of great bodily injury or death.³

Homicide is justifiable when committed by public officers when reasonably necessary in overcoming actual resistance in the discharge of any legal duty including preserving the peace. Use of deadly force is justified in overcoming actual resistance when the officer has probable cause to believe that the resistance poses a threat of death or serious physical injury to the officer or others.⁴

In order to find that a person acted in self-defense, all of the following conditions must be found to have been in existence at the time of the use of deadly force:

1. A person must have believed that they were in imminent danger of death or great bodily harm.
2. In addition to that belief, a person must have believed that the action they took was necessary to save themselves from the danger presented.
3. The circumstances must have been such that a reasonable person, under similar circumstances, would have believed that they were in imminent danger of death or great bodily injury and believed that the action taken was necessary.
4. A person must have acted only in response to that danger and not for some other motivation.
5. When there is no longer any reasonable appearance of danger, the right of self-defense ends.⁵

In deciding upon the reasonableness of a person’s beliefs, it should be determined what an ordinary and reasonable person might have concluded from all the facts and circumstances which existed at that time, and not with the benefit of hindsight.⁶

The danger must have been present and imminent or must have so appeared to a reasonable person under the circumstances. A bare fear of death or great bodily injury is not sufficient to justify a homicide or use of deadly force. The person must have acted under the influence of fears that only a reasonable person would have had in a similar position.⁷

Under the law of self-defense, a person has the right to defend himself from “the infliction of great bodily injury,” but “the exercise of that right must be grounded upon a reasonable apprehension of imminent harm, and a reasonable belief that the killing is necessary to protect against such injury.”⁸

The kind and degree of force which a person may lawfully use in self-defense is limited by what a reasonable person in the same situation, seeing what that person sees and knowing what that person knows, would believe to be necessary at that time. Any use of force beyond what is necessary is regarded by the law as excessive. Although a person may believe that they are acting, and may act, in self-defense, a person is not justified in using a degree of force clearly in excess of that apparently and reasonably necessary under the existing facts and circumstances.⁹

Bare fear alone is not a legally sufficient reason to act in self-defense. In addition to one’s perception of the situation, there must be circumstances sufficient to excite the fears of “a reasonable man.”¹⁰ The Idaho rule of self-defense is not premised upon a subjective test. It is grounded in the objective concept of the actions of a “reasonable person.”¹¹

The defense of self or of another does not require a person to wait until he or she ascertains whether the danger is apparent or real. A person confronted with such danger has a clear right to act upon appearances such as would influence the action of a reasonable person.¹²

In Idaho, no person shall be placed in legal jeopardy of any kind whatsoever for protecting himself by reasonable means necessary, from becoming the victim of aggravated assault, robbery, rape, murder or other heinous crime.¹³

In the exercise of the right of self-defense or defense of another, a person need not retreat from any place that person has a right to be. A person may stand his ground and defend himself or another person by the use of all force and means which would appear to be necessary to a reasonable person in a similar situation and with similar knowledge without the benefit of hindsight.¹⁴ This law applies even though the person being attacked might more easily have gained safety by flight or by withdrawing from the scene.¹⁵

The idea of a requirement of “retreating to the wall” or “retreating as far as he can, or disabling his adversary without killing him, if it be in his power” has never been the law of the land. A person placed under an apparently threatening and menacing danger is only expected to act as a reasonably prudent person would act under similar circumstances and surroundings. “Under such circumstances they ordinarily have but a moment for deliberation and decision. It might so happen that as a matter of fact they could have done any one of a number of other things, and thereby have avoided the danger and refrained from committing the homicide. After they have acted, they cannot be judged from the theoretical standpoint of the man who is resting in both apparent and real safety, confronted by no danger, and menaced by no threats or demonstrations

of sudden violence and felonious import. He must act quickly. He must act as a reasonable and prudent man would be likely to act under similar conditions and circumstances, and this is all the law, reason, or justice demands.”¹⁶

For centuries now, it has been the law of the United States that if a person is where he has the right to be, when someone advances upon him in a threatening manner, and with a deadly weapon; and if that person did not provoke the assault, and had at the time reasonable grounds to believe, and in good faith believed, that the deceased intended to take his life, or do him great bodily harm, he was not obliged to retreat, nor to consider whether he could safely retreat, but was entitled to stand his ground, and meet any attack made upon him with a deadly weapon, in such way and with such force as, under all the circumstances, he, at the moment, honestly believed, and had reasonable grounds to believe, were necessary to save his own life, or to protect himself from great bodily injury.¹⁷

The burden is on the prosecution to prove beyond a reasonable doubt that the asserted act of self-defense was not justifiable. If there is a reasonable doubt whether the asserted act of self-defense was justifiable, a person cannot be found guilty under the law.¹⁸

LEGAL ANALYSIS

This case is analyzed to determine whether Sergeant Klepich and Officer Cook’s actions were justified or conversely, if without justification, arise to the level of a crime, in this case some form of homicide or aggravated assault. A primary element of homicide is that the use of force was unlawful. In this case, as an element of the criminal prosecution, the State is required to prove beyond a reasonable doubt that Sergeant Klepich and Officer Cook were not justified under principles of self-defense in shooting and/or shooting at Mr. Zimmerman.

Justifiable Homicide. This case is being reviewed as a use of force that resulted in death due to the officers’ actions, and thus a homicide. To determine whether their actions were justified as an act of self defense, the standard in this case is whether Sergeant Klepich and Officer Cook were confronted with the present and imminent threat of death or serious bodily injury.

The officer’s action was within the discharge of the officer’s legal duty as a peace officer. Sergeant Klepich and Officer Cook were on duty and were responding to an urgent call for assistance by an individual who was being confronted by an armed intruder. In this case, it was reasonable and within the scope of their duties to respond to this call for assistance.

The officers were in a place where they had a right to be. Sergeant Klepich and Officer Cook were responding to an urgent call for assistance. The common areas of this apartment complex is open to the public. There is no basis to believe that Mr. Zimmerman had the right to exclude the officers from the premises.

The officers were resisting a public offense. During the contact, Mr. Zimmerman became agitated while exhibiting a semi-automatic firearm. Under Idaho law, assault is defined as “An unlawful attempt, coupled with apparent ability, to commit a violent injury on the person of another,” or an “intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.”¹⁹ An assault becomes defined as aggravated when it is committed with a deadly weapon or instrument without intent to kill; or by any means or force likely to produce great bodily harm.²⁰ Assault with Intent to Commit a Serious Felony is defined as an assault upon another with intent to commit murder, rape, mayhem, robbery, or lewd and lascivious conduct with a minor child.²¹ Therefore, in this case, whether or not Mr. Zimmerman actually intended to kill Sergeant Klepich and Officer Cook with his actions does not change the legal analysis of whether Sergeant Klepich and Officer Cook’s reaction was justified.

The officer did not provoke the threatening behavior. These concerns were justified and reasonable based on Mr. Zimmerman’s aggressive and threatening movements. Sergeant Klepich and Officer Cook responded to the scene and after Mr. Zimmerman fired at officers.

Prior to Mr. Zimmerman producing the firearm, the officers made no unlawful threatening or provocative statements (“fighting words”) and made no threatening gestures. Upon review of the video from the officers’ body worn cameras, I conclude all statements and acts by Sergeant Klepich and Officer Cook were reasonable and consistent with common law enforcement training for dealing with active shooting threats. I found nothing that Sergeant Klepich and Officer Cook said or did that would have reasonably provoked a rational person to react in the violent and threatening manner Mr. Zimmerman exhibited.

Objectively Reasonable Fear

The officers reacted to a reasonable appearance of danger. Mr. Zimmerman produced a firearm and actively shot at Sergeant Klepich and Officer Cook. Indisputably, a firearm can be used to cause serious bodily injury or death. Mr. Zimmerman was actively shooting in the officer’s direction, and the perception that Mr. Zimmerman constituted an immediate threat to the Sergeant Klepich, Officer Cook, other officers and the public was reasonable.

Mr. Zimmerman’s actions created a present and imminent danger of death or great bodily harm to the officers. Mr. Zimmerman was within a few feet when he fired at Sergeant Klepich and Officer Cook. Mr. Zimmerman presented not only a risk to these officers but to other officers in the area, the reporting party and her family and potentially other neighbors in the area.

Objectively Reasonable force

The officers were justified in using deadly force because the officer had probable cause to believe that Mr. Zimmerman’s actions posed a threat of death or serious physical

injury to the officers. There can be no dispute that shooting a firearm constitutes a threat of serious bodily injury or death. The officers were within a few feet of the firearm and heard a gunshot from the firearm, and its nature was easily recognizable. Once the assailant raised and fired a deadly weapon, Sergeant Klepich and Officer Cook had reasonable cause to believe that Mr. Zimmerman's actions in this case posed a threat of death or serious physical injury to the officers and others. As a matter of law, Sergeant Klepich and Officer Cook had a right to fire their weapons at Mr. Zimmerman after Mr. Zimmerman fired at the officers, and when it appeared that he was a further threat to themselves and other officers in the area.²² I find nothing excessive about their use of deadly force in response to Mr. Zimmerman's action.

The officer's action was necessary to save the officers from the danger presented. Sergeant Klepich and Officer Cook had to quickly act to stop the threat. Likewise, Sergeant Klepich and Officer Cook were shot at while in a vulnerable position at the bottom of the stairs. It was a reasonable perception by Sergeant Klepich and Officer Cook that Mr. Zimmerman made a movement and fired his gun which presented a threat. These threats justified the use of deadly force.

As described above, the law allows that Sergeant Klepich and Officer Cook were entitled to "meet any attack made upon [them] with a deadly weapon, in such way and with such force as, under all the circumstances, [they], at the moment, honestly believed, and had reasonable grounds to believe, were necessary to save [their lives], or to protect [themselves or another] from great bodily injury."²³ I find no evidence that Sergeant Klepich and Officer Cook "failed to react as a reasonable and prudent man would be likely to act under similar conditions and circumstances," and "this is all the law, reason, or justice demands."²⁴ I likewise find no reason based on the circumstances reviewed in this case to believe that any such reasonable alternatives to the use of deadly force even existed.

The officer's actions are judged on the facts and circumstances which existed at the time of the officer's actions. I find no evidence that Sergeant Klepich and Officer Cook misjudged the situation. Officer Cook's shot apparently occurred within a second of Mr. Zimmerman firing a round at the officers. From the distance and angle they saw Mr. Zimmerman, I find Sergeant Klepich and Officer Cook reasonably perceived Mr. Zimmerman's final movements as a potential threat to themselves and their fellow officers.

The facts and circumstances are legally conclusive and frankly difficult to dispute given the objective and irrefutable video recordings of the incident. I therefore find no reason to believe that anything learned through further investigation could change the legal analysis of Sergeant Klepich and Officer Cook's actions.

Final Considerations

There is no evidence that the officers were acting with any other motivation than self-defense.

Under Idaho law, Sergeant Klepich and Officer Cook cannot be placed in legal jeopardy of any kind whatsoever for protecting themselves by reasonable means necessary, from becoming the victim of aggravated assault or attempted murder.²⁵ As described above, I conclude that Sergeant Klepich and Officer Cook were protecting themselves and other officers from an aggravated assault and/or an attempted murder.

It is now the law in the United States, that the burden of proof is on the prosecution to prove beyond a reasonable doubt that an accused defendant did not act in self-defense. In this case, I conclude given the state of the evidence that to the contrary, it is beyond a reasonable doubt that Sergeant Klepich and Officer Cook in fact acted in self-defense. And further, I find Sergeant Klepich and Officer Cook's actions commendable and heroic, potentially saving the lives of officers and the public that were in the area.

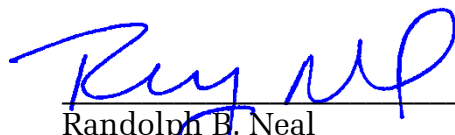
CONCLUSION

It is not within the purview of the Prosecuting Attorney under these circumstances to speculate about the effectiveness of other potential actions that might have been taken. I judge these circumstances on the decisions actually made by Mr. Zimmerman and the officers. It is tragic that Mr. Zimmerman was apparently in a distressed state of mind, but it appears he made a deliberate decision to endanger the officers, and in stating, "Fuck it, let's die," understood their likely response and the danger his actions presented to the officers ("Let's," plural). His firing his gun in the direction of the officers was a real, actual and significant threat of significant injury or death. I see no reasonable alternative to the officers' response.

For the reasons described above, it is my conclusion that Sergeant Klepich and Officer Cook's actions at 105 Clubhouse Circle Idaho Falls, Bonneville County, Idaho on August 19, 2025, were **JUSTIFIED** under Idaho law as an act(s) of self-defense. Further, I conclude that Sergeant Klepich and Officer Cook were protecting themselves and others by reasonable means necessary from an aggravated assault and/or attempted murder, and thus Idaho law prohibits placing the officers in "legal jeopardy of any kind whatsoever."²⁶ Therefore, any prosecution for their actions must be **DECLINED**.

I likewise commend these officers for their selfless bravery. I recognize how hard it must have been for Sergeant Klepich to command his K-9 partner Rocky to approach an armed suspect, given the obvious threat Mr. Zimmerman presented to K-9 Rocky. I believe the entire community is relieved that no harm came to any of the officers or to K-9 Rocky.

September 12, 2025



Randolph B. Neal
Prosecuting Attorney
Bonneville County, Idaho

Endnotes

¹ Idaho Criminal Jury Instructions (“ICJI”) 1517.

² Idaho Code (“I.C.”) §18-4009.

³ *State v. Wilson*, 41 Idaho 616, 243 P. 359 (1925).

⁴ ICJI 1515.

⁵ ICJI 1517.

⁶ *Id.*

⁷ *Id.*

⁸ *State v. Carter*, 103 Idaho 917, 655 P.2d 434, 436 (Idaho 1981) (citing Idaho Code § 18–4009; *People v. Pierson*, 2 Idaho 71, 3 P. 688 (1884)).

⁹ ICJI 1518.

¹⁰ *State v. Scroggins*, 91 Idaho 847 at 849, 433 P.2d 117 (1967).

¹¹ *State v. Baker*, 103 Idaho 43, 644 P.2d 365 (Ct.App.1982); *State v. Camarillo*, 106 Idaho 310, 313, 678 P.2d 102, 105 (Ct. App. 1984); *State v. Rodriguez*, 93 Idaho 286, 291, 460 P.2d 711, 716 (1969).

¹² *Id.*

¹³ I.C. §19-202A.

¹⁴ *Id.*

¹⁵ *State v. McGreevey*, 17 Idaho 453, 466, 105 Pac. 1047 (1909); *State v. Dunlap*, 40 Idaho 630, 637, 235 Pac. 432 (1925).

¹⁶ *McGreevey*, at 1051.

¹⁷ *Beard v. United States*, 158 U.S. 550, 564, 15 S. Ct. 962, 967, 39 L. Ed. 1086 (1895)

¹⁸ ICJI 1517

¹⁹ I.C. § 18-901(b).

²⁰ I.C. §§ 18-905(a) & (b).

²¹ I.C. § 18-909.

²² See i.e., *Kessler v. Barowsky*, 129 Idaho 640, 645, 931 P.2d 634, 639 (Ct. App. 1996), *aff’d* in part, vacated in part, 129 Idaho 647, 931 P.2d 641 (1997) (“As a matter of law, the officers had a right to fire their weapons at [the assailant] after [he] drew his gun on them.”).

²³ *Beard* at 564, 967.

²⁴ See endnote 18, *supra*.

²⁵ I.C. §19-202A.

²⁶ *Id.*