## FILED

## IN THE COURT OF COMMON PLEAS CUYAHOGA COUNTY, OHIO CRIMINAL DIVISION

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FEB 1 3 2024

Clerk of Courts Cuyahoga County, Ohio

IN RE: Investigation, Cleveland Ohio, 01/17/2024



## ADMINISTRATIVE JUDGE JUDGE BRENDAN SHEEHAN

STATE'S MOTION FOR APPOINTMENT OF SPECIAL PROSECUTOR

Now comes the State of Ohio, by and through Michael C. O'Malley, the Prosecuting Attorney for Cuyahoga County, and his assistant, Diane Russell, and herby applies to this Honorable Court for the appointment of Ohio Attorney General Dave Yost, and any of his designees, assistants or deputies, as special prosecutor to investigate and prosecute, if necessary, involving an alleged Use of Deadly Force ("UDF") investigation originating in the City of Cleveland (Slavic Village) in Cuyahoga County, Ohio on January 17, 2024. This investigation is being conducted by the Cuyahoga County Sheriff's Department.

Special prosecutors may be appointed by the Common Pleas Court in accordance with Revised Code Sections §309.10 and §2941.63. Moreover, the Court, under its inherent power, may appoint a special prosecutor whenever it comes to the Court's attention that the ability to administer justice in a fair and impartial manner could be called into question. Such a case exists when there is a conflict or appearance of conflict of interest between the parties. Where a special prosecutor has been appointed under the Court's inherent power, that special prosecutor acts independently of the duly elected prosecutor.

Wherefore, the Prosecuting Attorney respectfully requests this Honorable Court exercise its authority and appoint Dave Yost, Ohio Attorney General, and any of his designees, assistants or deputies, as special prosecutor to investigate and prosecute, if necessary, the matter involving the alleged use of deadly force investigation in Cleveland (Slavic Village), Ohio.

Respectfully Submitted,

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Diane Russell (0074674) Assistant Prosecuting Attorney Cuyahoga County Prosecutor's Office Justice Center, Court Towers 1200 Ontario Street, 9<sup>th</sup> Floor Cleveland, Ohio 44113 (216) 443-7800

## **CERTIFICATE OF SERVICE**

A true copy of the foregoing Application to Appoint Special Prosecutor has been

filed with the Clerk of Courts and served via regular U.S. Mail, postage prepaid, this

day of February,2024 upon the following:

Ohio Attorney General Dave Yost Ohio Attorney General's Office 615 West Superior Avenue, 11<sup>th</sup> Floor Cleveland, Ohio 44113

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Diane Russell (0074674) Assistant Prosecuting Attorney Cuyahoga County Prosecutor's Office Justice Center, Court Towers 1200 Ontario Street, 9<sup>th</sup> Floor Cleveland, Ohio 44113 (216) 443-7800