



TWIN FALLS COUNTY  
PROSECUTING ATTORNEY

GRANT P. LOEBS

425 SHOSHONE STREET NORTH  
P.O. BOX 126  
TWIN FALLS, IDAHO 83303-0126

**MEMO**

CRIMINAL  
DIVISION

PHONE  
208-736-4020

FAX  
208-736-4120

CIVIL  
DIVISION

PHONE  
208-736-4190

FAX  
208-736-4157

JUVENILE  
DIVISION

PHONE  
208-733-7899

FAX  
208-736-5325

DATE: August 3, 2023

TO: Lance Stevenson, Minidoka County Prosecuting Attorney

FROM: Grant Loeb, Twin Falls County Prosecuting Attorney

RE: May 27, 2023, Heyburn Police Department Interstate 84 incident in Minidoka County

Pursuant to a request from Minidoka County Prosecuting Attorney Lance Stevenson, and having received the complete file in this case, I have reviewed the investigation into the May 27, 2023, law-enforcement involved shooting of two dogs on Interstate 84. I was requested by Mr. Stevenson to make a single determination: Is there sufficient evidence to charge the Heyburn Police Officer involved in this incident with a crime under Idaho Code. My inquiry, therefore, was a limited one. Others will determine whether his actions were prudent and consistent with Heyburn Police Department policy.

**Conclusion:**

After reading the reports, reviewing the witness statements, and watching the dash-camera footage of the incident, I have concluded probable cause does not exist to support a criminal charge against the Heyburn Police Officer involved in this shooting. The officer's actions were justified under Idaho Code § 25-3514.

**Pertinent Facts:**

On May 27, 2023, at around 5:50 pm, Heyburn Police Department officers were dispatched to assist with two loose dogs that were wandering in the eastbound lanes of traffic on Interstate 84 near milepost 211. Conditions were rainy, which contributed to decreased visibility and increased the hazard of the situation. The large dogs had forced traffic to stop, causing a traffic jam on the freeway. It took the lead officer over two and a half minutes to get to the front of the 40-plus vehicle backup once he arrived.

After arriving at the front of the traffic jam, the Heyburn Officer attempted to retrieve the dogs by calling and whistling to them. A female passerby exited her vehicle and assisted in the attempt to catch the dogs by calling to them and offering them treats.

The dogs did not respond to these attempts and continued eastward in the lanes of travel on the interstate. As they did so they repeatedly wandered back and forth between the borrow pit, approaching westbound traffic, and back into the eastbound lanes of travel.

The Heyburn Officer on the scene feared the dogs posed an immediate danger to commuters in both directions. Law enforcement subsequently blockaded eastbound traffic and the officer, using the embankment as a backstop, shot each dog a single time with his rifle as they traveled on the south side of the eastbound lanes.

**Analysis:**

Idaho's prohibition against cruelty to animals states:

Every person who is cruel to any animal, or who causes or procures any animal to be cruelly treated, or who, having the charge or custody of any animal either as owner or otherwise, subjects any animal to cruelty shall, upon conviction, be punished in accordance with [the law]. . . .

Idaho Code § 25-3504.

Notwithstanding Idaho's criminal prohibition against animal cruelty cited above, the State legislature created several exceptions from criminal liability in Idaho Code Section 25-3514. The following exception is determinative to this analysis:

No part of this chapter shall be construed as interfering with or allowing interference with:

. . . .

(6) The killing of any animal, by any person at any time, which may be *found outside of the owned or rented property of the owner* or custodian of such animal and which is found injuring or *posing a threat to any person, farm animal or property*;

Idaho Code § 25-3514 (italics added).

In this case, although shooting and killing the dogs may seem to satisfy the cruelty definition in Idaho Code § 25-3504, the context of this situation and the statutory exemption under which the officer acted make it impossible to prove beyond a reasonable doubt that he committed a crime under Idaho law.

The evidence supports the material elements necessary for a justifiable killing pursuant to Idaho Code Section 25-3514(6):

--Law enforcement officers found the animals *outside of the owner's property* while they were wandering eastbound on Interstate 84.

--After observing and unsuccessfully attempting to retrieve the dogs, the lead officer believed the dogs *posed a threat to other persons and property* and outlined the following facts for this decision:

--The dogs repeatedly wandered into the borrow pit and onto the interstate lanes of travel;

--The dogs posed a threat to oncoming westbound traffic, which was traveling at freeway speeds;

- Weather conditions limited visibility, and;
- Eastbound traffic was backed up over a hillcrest, making the location of the traffic jam particularly hazardous both to those already stopped in traffic and to those traveling at high speeds toward the stopped traffic.

Other evidence supports the Heyburn Officer's belief that the dogs posed an immediate threat to other people and property. Dash camera footage shows the dogs repeatedly wandering toward westbound traffic, threatening a collision. Other law enforcement officers at the scene and third-party witnesses from both east and westbound traffic feared for their own safety or the safety of those driving vehicles in both lanes of travel.

Although the loss of beloved family pets is tragic, and it certainly would have been better if a different solution to this problem had been implemented, that tragedy would have been compounded had the dogs caused an accident on the freeway leading to the loss of human life.

Because the dogs posed a threat to persons and property as specifically and clearly defined in Idaho Code § 25-3514, probable cause does not exist to support criminal charges against the Heyburn Officer for shooting the dogs.