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September 22, 2020

Illinois State Police
c/o Agent Alex Colbrook
via electronic mail to Alexander.Colbrook@illinois.gov

Re: Case No. 20-3910080055

Agent Colbrook:

Thank you for your final report on the above-referenced investigation received September 15, 2020. My office has completed review of the investigation and determined there is insufficient evidence to prove a criminal offense beyond a reasonable doubt. Accordingly, we will not file a criminal charge at this time based upon the reports submitted and reviewed.

The relevant provision of the Illinois Fire Protection District Act ("FPDA") does not specify a mental state necessary to establish criminal liability for any violation. 70 ILCS 705/4. In cases related to statutes which impose felony liability, but do not specify a requisite mental state, the Illinois Supreme Court has required proof beyond a reasonable doubt that the alleged violation was undertaken with "criminal knowledge, in other words, knowledge plus criminal purpose." See *People v. Tolliver*, 147 Ill.2d 397, 403 (1992); *People v. Wright*, 194 Ill.2d 1, 28-29 (2000). Put another way, absent evidence of theft, an intent to defraud or deprive an owner of property by means of deception, or other criminal purpose, the State could not likely sustain a criminal charge under the facts reflected in the investigation submitted to my office. See e.g., *Tolliver*, 147 Ill.2d at 403. While there are no Illinois Appellate or Supreme Court decisions interpreting this issue in the context of the FPDA, the absence of a specified mental state or express statutory language creating an absolute liability offense is common between the FPDA and other statutes specifically addressed in the above cases. A Court would likely apply the same analysis and require a showing of "knowledge plus criminal purpose" in a case arising from the conduct documented in the above-referenced investigation.

The Illinois State Police investigation concluded that the alleged conduct did not appear to have been "undertaken with any criminal purpose, intended to defraud or intended to exercise unauthorized control over property..." This conclusion would preclude a successful criminal

prosecution for violation of the Illinois Fire Protection District Act under the foregoing Illinois Supreme Court decisions.

I am grateful for your diligent efforts to complete this investigation in the midst of operational limitations associated with the Covid-19 pandemic. Please do not hesitate to contact me should you have any questions.

Sincerely,

A large black rectangular redaction box covers the signature area.

Daniel K. Wright
Sangamon County State's Attorney