

September 23, 2026

VIA EMAIL AND FIRST-CLASS MAIL

Hon. Rachel Mitchell
Maricopa County Attorney
Maricopa County Attorney's Office
225 West Madison Street
Phoenix, AZ 85003
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Re: Matthew Mayich; Request to Open a Criminal Investigation

Dear Ms. Mitchell:

I represent Matthew Mayich and his parents, John and Christina Mayich. I write to ask that your office open a criminal investigation into the events of August 20, 2026, at Sun Angel Stadium on the Tempe campus of Arizona State University, where Matthew, a 21-year-old member of the ASU hockey team, collapsed from exertional heat stroke during a conditioning session and suffered a catastrophic brain injury. He remains hospitalized and is unlikely to recover from his incapacitated state.

The offense, if one occurred, was committed in Tempe, in Maricopa County. Your office is the public prosecutor of this county and is charged with conducting all prosecutions for public offenses committed within it and with instituting proceedings when it has information that an offense has been committed. This letter is intended to provide that information.

The facts, as reported by multiple witnesses we interviewed, as well as by the press, are as follows: The session took place on the first day of classes and of practice, outdoors, at a track-and-field stadium, in the sun. The exercises, several with direct ground contact (such as flutter kicks and push-ups), and the final weighted run (with a medicine ball) took place on and beside the grass infield. Matthew collapsed on the rubberized synthetic surface of the field-event area, the kind of colored, poured surface used for runways and aprons, which in direct sun runs far hotter than either grass or the air above it. The event was not led by a properly vetted University coach or strength staff as required by ASU policy, but by an outside instructor with a military background who had been brought in to run the players through a military-style regimen: repeated sprints, planks, push-ups, and bear crawls, with an emphasis on shouting instructions back to the instructor and keeping an exact count.

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Players who miscounted, failed to repeat an instruction, or fell behind their group were made to do additional sprints or exercises. At 8:31 a.m., Tempe Fire Medical Rescue was dispatched to the stadium for a heat-related illness. Ten minutes later a first responder radioed ahead to a hospital to prepare for a male with a serious heat emergency. Matthew's injury resulted from exertional heat stroke and nothing else; he had no underlying condition.

I am not writing to tell your office what to charge. That is your judgment, and I recognize that the line between a civil wrong and a criminal one is drawn by the mental state of the people involved, not by the severity of the result. But the result here is about as severe as it gets short of death, and the conduct that produced it was not a lapse or a misjudgment in the moment. It was a decision to run a punishing outdoor session in Arizona's August heat (and humidity—it had rained the day before) by people who were bound by the University's own heat policy, and who then skipped every safeguard that policy required. Arizona treats reckless conduct that causes serious physical injury as a crime, and the courts have upheld that treatment where managers with training and experience knew a recognized danger, had published safety standards in front of them, and proceeded without them. *See* A.R.S. §§ 13-1203(A)(1), 13-1204(A)(1); *State v. Far West Water & Sewer, Inc.*, 224 Ariz. 173, ¶¶ 58, 83 (App. 2010) (affirming aggravated-assault and negligent-homicide convictions). Whether that describes what happened on August 20 is what an investigation is for, but it appears that ASU did not follow its own guidelines on practicing outdoors or vetting outside parties before allowing them to interact with students. On what the University has now put in writing, it appears that the conduct of those responsible may have been criminally reckless.

On September 21, the University released an "Initial Report" on its internal review, with its outside-consultant policy, its Exertional Heat Illness Policy, and a timeline attached. You can find the report here, with attachments: <https://newsroom.asu.edu/statements/hockey>. Read against its own attachments, the report establishes from the University's side that the people running this session knew the standard and did not meet it. As the *Arizona Republic* has reported, the heat policy, signed by ASU's team physician, calls for "a cold tub half-filled with water" and prepared before the event, with three to four coolers of ice ready for immediate use; gradual acclimatization over seven to fourteen days; and, as the "first choice" of treatment for heat illness, "immediate cold water immersion." Robert Anglen, *No Contract or Vetting Before ASU Hockey Workout, Trainer Says*, Ariz. Republic (Sept. 15, 2026). The policy also calls for "[f]requent rest periods," with breaks "in the shade"; for training "within the same conditions that will occur during competition"; for a stricken athlete to be "placed out of direct sunlight"; for the team physician to be contacted "[o]nce heat illness is suspected"; and for a 911 call upon any "[a]ltered level of consciousness." The consultant policy, as the *Republic* also reported, applies to any outside consultant, volunteer or paid, and bars consultants from working with student-athletes "until all procedural steps are followed, the process is completed, and approval documentation is

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received.” *Id.* It requires consultants to carry first aid, CPR, and AED certifications, and it places on coaches the duty to ensure that consultants follow NCAA and ASU rules and health and safety guidelines. *Id.* The policy itself also prohibits consultants from providing “coaching instruction (as defined in the NCAA manual).”

The report’s own timeline then records the following. The instructor was introduced by a booster, had no contract, and was the subject of a request submitted eight days before the event with no written plan of training activities for review by ASU’s strength and conditioning coaches prior to the event. The report does not say the request was ever approved. The head coach chose him, ordered the shirts, reserved the stadium, and stood on the field while the instructor directed the players through circuits followed by a weighted run. ASU puts the circuits at 7:10 to 8:06 a.m.; the players’ accounts, and objective, time-stamped data in our possession, show that they ran from about 7:05 until just after 8:20. ASU says there was one water break, at about twenty minutes. The players say it came much later, and that only a limited number of them got water at all. Matthew was not among them. The only equipment on the field was water and a cooler of iced towels. Matthew had arrived from Ontario only days earlier, and, according to the report’s timeline, had spent a total of forty-five minutes outdoors, in fifteen-minute blocks, in the three separate preceding voluntary workouts, none of which was this *type* of workout. But again, our evidence shows much less time was spent outside than ASU has stated, at least as to Matthew. No heat-stress reading was taken on the field. The policy directs staff to identify heat-stress conditions through “regular measurements of environmental conditions,” and to “[u]tilize the wet-bulb temperature, dry-bulb temperature and globe temperature to assess the potential impact of humidity, air temperature and solar radiation.” It calls for the globe temperature, which captures solar radiation, because air temperature and humidity reported from a distant sensor do not describe conditions at ground level on a field in direct sun, where radiant heat from the surface is the dominant load on athletes doing bear crawls, planks, and push-ups. Yet the report points to exactly that kind of data. Its figures are an after-the-fact estimate from the Weather Underground sensor “closest to” the stadium, a privately owned station likely mounted well above the ground at another location and measuring no radiant component, run through an online calculator published by OSHA and adjusted downward by an assumption of cloud cover. That is not the measurement the policy required; it is an acknowledgment that the required measurement was never made.

The University did not need to guess at the difference; its own scientists measured it. Working across Sun Devil Athletics facilities, including the rubber track at Sun Angel Stadium, ASU researchers found that heat stress measured on the field averaged 2.5°C (about 4.5°F) higher than the values estimated from regional weather stations in August, and warned that relying on regional data could “significantly underestimate heat stress conditions for athletes.” H. Guyer et al., *Identifying the Need for Locally-Observed Wet Bulb Globe Temperature Across Outdoor Athletic Venues for Current and Future Climates in*

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a Desert Environment, 16 Env't Rsch. Letters 124042 (2021). ASU publicized the study's findings under the headline "Sports venues can be hotter than weather apps show" and further explained that the surface temperature of the athletic venues reached 152°F on a morning when the air temperature was about 90°F. M. Faller, *Research: Sports venues can be hotter than weather apps show* (ASU NEWS, 2022), <https://news.asu.edu/20220630-arizona-impact-research-sports-venues-can-be-hotter-weather-apps-show>. Yet the September 21 report relies on the very method the University's own researchers have shown understates the heat on its own fields, and Matthew collapsed on the same kind of rubberized surface they studied. Even though clearly understated, ASU's adopted figures—86 to 89 degrees at 46 to 51 percent humidity—track conditions the *Republic* found were approaching the high range of the policy's own heat-stress index when the workout began and had passed it by 8:00 a.m., a range in which the policy says "[o]nly fit and heat acclimatized athletes can participate." Anglen, *supra*. The conditions on the field were almost certainly hotter and more humid than those recorded by the weather station. The report states that while Matthew "was initially responsive, his condition deteriorated." Only then did the trainer call 911 and have players move him to shade, where she "continued applying iced towels and water from a hose while waiting for EMS." The players add that when Matthew stumbled, he fell, tried to rise, and fell again; that he was treated where he lay, in the sun, with towels; that he was sat and held upright; in the shade, he was sprayed with hose water from an outdoor spigot for about a minute. The report does not mention a tub, a core temperature, or contact with the team physician, all required by the University's own procedures as well as consensus safety standards.

The report also disposes of the account the head coach and the instructor have given of the session's length. The head coach has reportedly said the session was slated for ninety minutes and that he cut it short at forty-five. The instructor, through his lawyer, has put it at forty-five to fifty minutes. *Id.* By the University's own account, the players were on that field from 7:00 a.m. until Matthew collapsed between 8:20 and 8:30—with a single water break that, according to the players, Matthew never got. In Arizona in August. The session was not cut short. The forty-five-minute account is a fabrication, contradicted by the University's own timeline and by objective data, and it comes from the two people whose conduct is most directly at issue. When the subjects of an inquiry give a false account of a central fact, the inquiry cannot be left to a police department that answers to their employer.

The report omits what the players describe: that the session was run as punishment, with groups made to repeat sprints for a wrong count or for finishing behind, and that no one on the coaching or medical staff stopped it. It names no one as responsible for approving the consultant, monitoring conditions, or managing the emergency. A month after the event, the report identifies no one who has been suspended or disciplined. The University's recommendation is a blue-ribbon panel

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to study best practices. The best practices were already in the University's own binder. The question is why no one followed them, and that is a question for a criminal investigator, not a panel. The report also rests in part on the police investigation. It counts twenty individuals interviewed "either as part of this review or by the ASU Police Department," and states that the University "may consider their information in its administrative oversight of Sun Devil Athletics." A criminal investigation whose interviews are shared with, and relied on by, the institution's own administrative review is not independent of it. That is itself highly improper and a strong signal that your own investigation is necessary.

The danger of exertional heat stroke to athletes performing intense, sustained conditioning in the Arizona summer is not obscure. It is the subject of published NCAA, National Athletic Trainers' Association, and Korey Stringer Institute guidance that every Division I athletic department is expected to know and follow, and ASU's own policy recites it. Whether the people who designed, approved, and ran this session were aware of those risks and chose to disregard them, and whether the punitive structure of the session reflects exactly that disregard, are questions only an investigation with subpoena power can answer. The digital evidence has not been gathered. An ASU police officer has confirmed that he had not seen any text messages. We have heard that there are numerous photographs, videos, and digital messages showing that this session was run recklessly, including, I understand, warnings to the coaching staff that went unheeded. That evidence sits on the phones and accounts of the University's own students and employees, and neither an administrative review nor a police department that has not looked for it will secure it. The questions here extend well beyond the instructor. The head coach chose him, the athletic department let the session go forward without completing the approval its own policy required, and the staff on the field let it run; any inquiry that stops at the third-party instructor will miss the people who put him there.

On September 4, I wrote to the University's General Counsel asking that ASU transfer ASUPD's criminal investigation to an agency without an institutional stake in the outcome and asked for a response by September 11. The University did not respond. Its September 21 report instead states that ASUPD's findings, when complete, will be forwarded to your office for "independent review." The University itself thus recognizes your office as the independent authority; the only question is whether your office will accept the findings of the University's own police department or conduct its own investigation. The problem is not that ASUPD's officers lack skill or good faith. It is that ASUPD is a department of the University and answers to the administration whose athletic department, coaches, and outside instructor are the subjects of the inquiry, while that same administration conducts the internal review that produced the September 21 report. No agency in that position can credibly seek warrants directed at its own institution, secure evidence on its own institution's systems, or interview students and employees of its own institution free from any concern

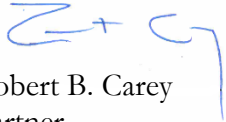
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about retaliation—particularly when the administration appears willing to overlook egregious violations of safety standards. The report itself notes that student-athletes were “invited” to be interviewed, that none were required, and that “several” have spoken to ASUPD. On a roster of more than two dozen, that is telling. You should give the student-athletes a space in which they can be honest.

Your office is the natural place for this matter. The family is not asking you to prejudge anyone. They are asking that the question of criminal responsibility for what happened to their son be answered by someone who does not report to the people who may bear it. We ask that your office not simply review ASUPD’s findings when they arrive, but open its own investigation, and secure the evidence that remains at risk: the consultant request form, its record in the Sun Devil Athletics compliance system, and whatever action was taken on it; the workout plan if one exists and all communications about the session; video and photographs from the field; the players’ and staff’s text and social-media messages about this event, before and after, including those on personal devices; any environmental or athletic-training log for that date; the athletic trainer’s treatment notes; and the CAD and dispatch records for the emergency response. Should Matthew not survive, the same facts could support further charges under Arizona law, and the evidence that would prove them is the evidence at risk now.

I would welcome the opportunity to meet with you or your staff at your convenience, and the family will cooperate fully with any inquiry your office undertakes.

Sincerely,
HAGENS BERMAN SOBOL SHAPIRO LLP



Robert B. Carey
Partner

RBC/cj