



Mike Schmidt, District Attorney

1200 SW First Avenue, Suite 5200
Portland, OR 97204-1193
Phone: 503-988-3162 Fax: 503-988-3643
www.mcda.us

M E M O R A N D U M

TO: Mike Schmidt
FROM: Nicole Hermann
DATE: September 28, 2023
SUBJECT: Officer Involved Shooting from November 19, 2022

Introduction

The purpose of this memorandum is to summarize the facts documented in Portland Police Bureau case #22-803367 and to review the applicable Oregon statutes associated with the use of deadly physical force. The incident documented in PPB case #22-803367 is regarding the use of deadly physical force by Portland Police Officer Christopher Sathoff on November 19, 2022 against Immanuel Clark-Johnson in Multnomah County, Oregon. The investigation of this case was conducted by the Portland Police Bureau's homicide detail and the East County Major Crimes team. Multnomah County District Attorney Mike Schmidt requested the assistance of the Department of Justice in the review and presentation of the investigation and pursuant to that request, the Department of Justice assigned two attorneys and an investigator to review the case. Multnomah County Senior Deputy District Attorney Nicole Hermann and Oregon Department of Justice Assistant Attorney General Kurt Miller and Senior Assistant Attorney General Dan Wendel presented this case to the grand jury for consideration of charges against Officer Sathoff. The grand jury determined Officer Sathoff's use of deadly physical force was authorized by Oregon law and returned a not true bill.

Pursuant to ORS 132.270, the Multnomah County District Attorney's Office will petition the Court to authorize the release of a grand jury transcript for public review. For a full accounting of this investigation, the transcripts will be available once produced. The intention of this memorandum is not to detail every fact addressed in the investigative reports. The following discussion of the facts does not contain all of the information but rather is a general summary.

Factual Summary

On November 19, 2022 at approximately 12:24 am, BOEC dispatch received a 911 call reporting a gunpoint robbery had just occurred in the parking lot of the Super Deluxe, located at 5009 SE Powell Boulevard. As Portland Police Officers responded to the location to investigate the robbery, dispatch broadcast initial information regarding the suspects and suspect vehicle to area

patrol officers. A Portland Police sergeant driving in the area observed what he believed to be a vehicle matching the description of the robbery vehicle pull away from him at a recklessly high rate of speed. The sergeant broadcast the path of travel of the vehicle and nearby air support tracked the vehicle as it continued at high rates of speed until it pulled into the back parking lot of the Reedwood Friends Church, located at 2901 SE Steele Street. Air support provided updates on movements of the occupants while officers responded to the area. Officers on scene believing the vehicle had just been involved in an armed robbery, developed a plan to perform a high-risk stop on the vehicle and its occupants. Officers, including Officer Sathoff, drove into the parking lot and parked as three of the four vehicle occupants exited the vehicle. At least one officer gave commands to stop or they would shoot as two of the occupants began to flee northbound on foot. Officer Sathoff saw Mr. Clark-Johnson as he ran from the vehicle and believed he was witnessing Mr. Clark-Johnson attempting to access a firearm and that he and his fellow law enforcement officers were about to be shot. In that moment, Officer Sathoff fired three rounds from his rifle. One round struck Mr. Clark-Johnson in the lower back. Mr. Clark-Johnson continued running for a short distance before falling to the ground. After the remaining occupants of the vehicle were taken into custody, Mr. Clark-Johnson was located and provided medical aid. Mr. Clark-Johnson was transported to OHSU and later died from his injuries on November 21, 2022.

Subsequent investigations determined that Mr. Clark-Johnson was not in possession of a firearm and after several hours on scene, investigators obtained video from the Super Deluxe, which confirmed that the suspect vehicle was not involved in the robbery. It was determined that none of those facts were known to Officer Sathoff at the time of the shooting. Further investigation also showed that Mr. Clark-Johnson had several warrants for his arrest and that the vehicle he was driving was reported stolen. Another occupant of the vehicle was found to be a convicted felon and a firearm believed to be in his possession was recovered at the scene. These facts were known only after the investigation was conducted and is provided as information only to explain the probable reason why the vehicle traveled at the speeds and manner in which it was observed to be driving and why at least some of the occupants fled the vehicle after being contacted by police. Under Oregon law, however, only the reasonable belief of the officer under the totality of information known to the officer at the time of the shooting is relevant to the analysis of the use of deadly physical force.

Applicable Law

The following is an overview of Oregon law that is relevant to the analysis of Officer Sathoff's use of force against Mr. Clark-Johnson:

Under Oregon Revised Statute (ORS) 161.195, conduct which would otherwise constitute an offense is justifiable and not criminal when it is authorized by law. ORS 161.209 establishes that a person is justified in using physical force upon another person for self-defense or to defend a third person from what the person reasonably believes to be the use or imminent use of unlawful physical force, and the person may use a degree of force which the person reasonably believes to be necessary for the purpose.

In conjunction with the requirements of ORS 161.209, ORS 161.219 limits the use of deadly physical force in defense to a situation in which a person reasonably believes another person is committing or attempting to commit a felony involving the use or threatened imminent uses of physical force against a person, or is using or about to use unlawful deadly physical force against a person.

For police officers and deputies, ORS 161.242 states that a peace officer may use deadly physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe that the person poses an imminent threat of death or serious physical injury to a person and the use of deadly physical force is necessary to defend the person from the imminent threat of death or serious physical injury.

ORS 161.242 goes on to state that prior to using deadly physical force upon another person, if the peace officer has a reasonable opportunity to do so, the peace officer shall consider alternatives such as verbal de-escalation, waiting, using other available resources and techniques if reasonable, safe and feasible, or using a lesser degree of force; and give a verbal warning to the person that deadly physical force may be used and provide the person with a reasonable opportunity to comply.

The facts and evidence in this case were presented to a Multnomah County grand jury for consideration of charges against Officer Sathoff. The grand jury determined that they could not find criminal culpability and returned a not true bill.