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TO: Residents of Deschutes County
FROM: John Hummel, Deschutes County District Attorney
DATE: August 1, 2018
RE: Law Enforcement Use of Force Incident on June 26, 2018

INTRODUCTION

On June 26, 2018, at approximately 11:34 P.M., in the parking lot of the Lowe's store on the north end of Bend in Deschutes County, Bend Police Officer Timothy Williams shot Timothy Bret Bontrager two times. Neither of these shots killed Bontrager; rather, Bontrager died from a self-inflicted gunshot wound to his head that occurred immediately prior to Williams shooting him. Williams' decision to shoot Bontrager was legally justified; therefore, my investigation into the use of force is concluded.

FACTS

Late on the night of June 26, 2018, Bend Police Officer Tim Williams was patrolling the northern part of Bend in his marked patrol car and in uniform. While patrolling, a car passed him going in the opposite direction. Officer Williams thought it odd that the car was driving slowly so he made a U-turn and followed the car. After Officer Williams completed his U-turn, the two cars were traveling north on Hunnell road. The lead car then turned right on Loco Road and Williams followed. The lead car eventually turned right on Highway 97, but the driver did not activate his turn signal prior to the turn. Officer Williams then turned right on Highway 97 and continued to follow the lead car, which continued to drive at speeds under 20 mph, with the intent to stop the driver for the traffic violation of failure to use turn signal (ORS 811.400 and 811.335). Officer Williams also suspected that the driver was impaired based on the driving he observed.

As the two cars approached the intersection of Highway 97 and Cooley Road, Officer Williams activated his overhead lights to initiate a traffic stop. Officer Williams waited until this moment to initiate the stop because he hoped the driver of the car he was stopping would turn onto Cooley Road which would be a safer place for the stop than the shoulder of Highway 97. However, the driver of the lead car passed Cooley Road and instead turned into a driveway entrance to the Lowe's Home Improvement store parking lot where he stopped his car. The time of the stop was 11:34 PM.

Officer Williams got out of his patrol car and approached the driver's side window of the car and spoke to the driver, and only occupant of the car, Timothy Bret Bontrager. Officer Williams advised Bontrager of the reason he was stopped and then asked for his driver's license, registration, and proof of insurance. At this point Officer Williams noticed Bontrager had slow and deliberate speech, and bloodshot and glassy eyes.

Bontrager produced his driver's license but not his registration or insurance. Bontrager was unable to produce proof of insurance and offered to show the officer his phone and an email with an insurance agent. During the time Bontrager was looking for his registration and insurance Officer Williams looked into the car and saw two opened 40-ounce bottles of malt liquor. At this point, Officer Williams believed Bontrager was possibly impaired from alcohol and he intended to ask him to step out of his car to perform field sobriety tests. Before doing so he radioed for a cover officer to provide back-up.

In response to the radio call for a cover officer Bend Police Officer Kevin Uballez quickly arrived on scene. He was also driving a marked patrol vehicle and in uniform.

Officer Williams again approached Bontrager's driver's side door and began audio-recording their conversation to document the DUII investigation. Officer Williams again asked Bontrager for his proof of insurance and asked him why he had been driving on Hunnell Road. Bontrager replied the Hunnell Road neighborhood was where he slept in his car at night. Officer Williams then told Bontrager he thought he was intoxicated and he asked him to submit to field sobriety tests; Bontrager refused. Bontrager also told Williams that he used his turn signal before turning onto Highway 97.

Officer Williams then walked to the back on Bontrager's car and conferred with Officer Uballez. Williams told Uballez the basis for the stop, his observations of Bontrager's impairment, and the fact Bontrager refused Williams' request to perform field sobriety tests. Williams told Uballez that he would read Williams "Rohrs"¹ and if he still didn't want to perform the tests he would arrest him.

Officer Uballez continued to act as the cover officer; the job of the cover officer is to keep the investigating officer safe during the investigation and specifically watching the hands of the subject of the investigation.

At that point Officer Williams again approached the driver's side window of Bontrager's car and spoke with him. Officer Uballez stood in a cover position on the passenger side of Bontrager's car near the door pillar, looking through the passenger window. Officer Williams was holding a flashlight and his police notebook. He removed a card from his notebook to read "Rohrs" to Bontrager (basically, that he was being asked to perform physical tests and his refusal to perform them may be used against him in court). After reading "Rohrs," Officer Williams asked Bontrager if he understood him.

Immediately after Officer Williams asked Mr. Bontrager if he understood "Rohrs" Bontrager turned away from Williams and reached for the glove compartment in his car while saying: "Here's my proof of insurance!" Due to where Officer Williams was standing and the position of Bontrager's back as he turned his body to reach for the glove compartment, Officer Williams could not see Bontrager's hands as he reached for the glove compartment so he began to backpedal for his own safety noting a distinct change in the demeanor of Mr. Bontrager and the quick and deliberate reach towards the glove box. Officer Uballez who was still standing in a cover position on the passenger side of the car had a direct view of Mr. Bontrager's hands and the glove compartment.

¹ "Rohrs" is shorthand for the 1998 Court of Appeals case State v. Rohrs in which the Court established the framework for what a police officer can say to a suspected impaired driver who has refused an initial request to perform field sobriety tests.

Officer Uballez saw Mr. Bontrager reach into the glove compartment and pull out a handgun. Officer Uballez immediately yelled: “Gun!” as he was trying to process what he could do with Officer Williams being directly across from him. As Officer Uballez was stepping back calling “Gun!” Mr. Bontrager grabbed the gun and quickly put the muzzle to his head and shot himself. Officer Williams had dropped his flashlight and notebook while retreating back and drew his firearm after hearing the gunshot and seeing the muzzle flash. Thinking that Bontrager was shooting at him or Officer Uballez, Officer Williams fired seven rounds into the car, striking Bontrager twice.

Officer Williams immediately radioed that shots were fired and requested medics. The officers then checked on Bontrager and it was readily apparent that he was deceased. The handgun² was still in Mr. Bontrager’s hand and his index finger was still in the trigger guard. EMTs responded to the scene to see if any aid could be rendered to Mr. Bontrager and moved the handgun out of his hand; no aid was rendered after a check of his vitals and consultation with a doctor.

The Oregon State Medical Examiner conducted an autopsy and determined that the cause of death as a perforating contact handgun shot to the head and the manner of death as self-inflicted. The Medical Examiner determined that the self-inflicted gunshot wound was first in time and the two other wounds occurred after. Neither of the two rounds that struck Mr. Bontrager after he shot himself would have been fatal.

LEGAL ANALYSIS

Oregon Revised Statute 161.219 is Oregon’s law regarding the use of deadly physical force. This law applies equally to law enforcement and the general public. This statute authorizes a person to use deadly physical force against another person if they reasonably believe that the other person is about to use unlawful deadly physical force against them or another person.

Officer Williams says that when Bontrager discharged his handgun that he thought Bontrager was trying to shoot him or Officer Uballez.

Based on all the available evidence, Officer Williams’ belief that Bontrager was about to use deadly physical force against him or Officer Uballez is objectively reasonable. Because of this, Officer Williams’ decision to shoot Bontrager was authorized by Oregon law. My investigation into the use of force is concluded.

WHY?

Why did Timothy Bret Bontrager shoot himself to avoid what at the worst would be prosecution for a misdemeanor driving while under the influence of intoxicants charge? The motivations of people experiencing suicidal ideation are complex, personal, and often unknown. While we don’t know, and won’t know, the exact constellation of events Mr. Bontrager was experiencing that led to his decision to take his life by suicide, we do know from the investigation that he was struggling personally, professionally, and with his family relationships.

² The handgun belonged to Mr. Bontrager and was lawfully purchased by him in September of 2017.

CONCLUSION

My thoughts are with Officer Williams and his family as they carry with them the trauma inherent with shooting at another human, regardless of the legality of the shooting.

My thoughts are with Officer Uballez and his family as they process this traumatic incident.

And my thoughts are with the family of Timothy Bret Bontrager as they grieve the loss of someone they loved.

The Tri-County Major Incident Team, led in this investigation by the Deschutes County Sheriff's Office and Detective Sergeant Jayson Janes, conducted a thorough and professional investigation. Agencies contributing to the team were the Bend Police Department, the Redmond Police Department, the Oregon State Police, and the Oregon State Police Forensic Services Division. Chief Deputy District Attorney Mary Anderson assisted me in my review and her experience and insight were invaluable.

Please contact me if you have questions about my decision.