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IN THE MATTER OF MICHAEL THOMAS VEATCH

This opinion addresses the death of Michael Thomas Veatch, date of birth November 15, 1985, of Cowlitz County, Washington. The purpose is to comply with the mandates of Columbia County's Deadly Physical Force Plan and report whether criminal charges should be filed or if the deadly use of force was justified under Oregon law. My final conclusion is that police were overwhelmingly justified in their decision to use deadly force in this case, because Veatch was actively trying to kill innocent civilians.

FACTS

I have been involved in this investigation from the beginning and have reviewed all investigative materials. The following is a summary of the facts as I find them to be.

On October 9, 2019, at approximately 5:00 am, St. Helens Police Department ("SHPD") Officer Elijah Merkwon ("Merkwon") and SHPD Sergeant Matthew Molden ("Molden") were on patrol in the City of St. Helens. At the time, Merkwon and Molden were the only officers on duty for the entire county. The case can be broken down into three incidents.

Incident 1

The first incident occurred at approximately 5:26 am, when a shooting was reported at the St. Helens Chevron Station located at 115 N Columbia River Highway. Witnesses reported that a subject, later identified as Michael Veatch ("Veatch"), parked a dark Chevrolet truck in the Chevron parking lot and entered a restricted area between the food mart and a storage shed. When an employee told him that he was not allowed in the area, Veatch responded that he was looking for his cat. The employee declined to engage him further and returned to the convenience store area of the station. However, immediately after returning to the store, Veatch confronted him in the doorway, pointed a black handgun at his chest, and yelled "I'm looking for my fucking cat!" Veatch then turned around and returned to his truck. Moments later, the employees and witnesses heard approximately 6 to 8 gunshots, the sound of glass shattering, and saw Veatch's vehicle proceed south on Highway 30. It appeared that Veatch was driving on a blown tire because the truck left groove marks in the asphalt as it drove away and sparks were observed emanating from the rear wheel.

This description of events was eventually corroborated by several witness interviews, surveillance video which showed the subject pointing the handgun at the employee, multiple bullet defects in the food mart and pump station structures, and bullet fragments recovered from the crime scene.

Incident 2

As Merkwon and Molden were responding in separate police vehicles to the first 911 call and attempting to locate the subject's vehicle, dispatch began receiving reports of additional gunshots near McBride Elementary School on Columbia Boulevard. Among the callers was Travis Sprinze ("Sprinze"), who reported that Veatch

shot at him while he was seated in his car. Sprinze said that he was commuting to work near the Chevron Station when he heard several popping sounds and then saw an "old Chevy truck" driving away with sparks emanating from his rear wheel. Sprinze decided to follow the truck as it turned right onto Columbia Boulevard and noticed that the subject inside was shooting a firearm randomly while driving. Sprinze was on the phone with 911 when the driver stopped his truck in the middle of the road, exited his vehicle, and began firing at him with an AK-47. Sprinze conservatively estimated that the subject shot seven to ten rounds before driving away but that it felt like a "whole clip." Moments after Veatch returned to his truck and fled the scene, Sprinze saw SHPD vehicles speed past him with their lights and sirens activated.

This description of events was subsequently corroborated by bullet damage to Sprinze's vehicle, reports from several residents who heard gunshots, and multiple shell casings that were recovered from the area marked "Tulammo" and "7.62 x 39". Investigating officers reviewed an area surveillance camera and heard the sound of 23 rapid-fire shots.

Continuing pursuit

Merkwan and Molden were able to catch up to the truck shortly after the second incident, as it proceeded down Gable Road towards the highway. Merkwan was the first to locate the truck, and radioed that the vehicle was driving on a rim as previously reported and turning north onto Highway 30 after running a red light. Merkwan reported that the vehicle was traveling northbound at approximately 55 miles per hour, often in the southbound lane, and that he believed he could see the subject handling a box of ammunition as if reloading his firearm. Molden was following behind Merkwan, advising Merkwan to maintain a safe following distance. As the truck approached milepost 35 north of Deer Island, Merkwan reported that it was emitting a considerable amount of smoke. Soon after the truck stopped in the middle of the road. Merkwan observed Veatch exit the vehicle, briefly return as if to retrieve something from the cab, and flee on foot along the west side of the highway. Merkwan subsequently lost sight of the subject through the smoke.

Incident 3

Shortly after losing sight of the subject, Merkwan reported over the radio that he heard multiple gunshots. It was later revealed that the gunshots were from Veatch's attempts to "car jack" and apparently murder two passersby who were beginning their morning commutes. The first of these victims was John Sickler ("Sickler"). Sickler reported that he was commuting to Portland in a large white work van when Veatch approached the front passenger-side door, pointed a black semi-automatic handgun directly at Sickler, and tried to enter his car. Sickler reacted by accelerating away from Veatch, who fired two rounds into Sickler's vehicle. The first bullet struck Sickler's dashboard console and the second bullet struck the front passenger seat. The second attempted carjacking victim was Neal Christopherson ("Christopherson"). Christopherson reported that he was driving south on Highway 30 when the van in front of him stopped in the road and Christopherson had to stop behind him. Moments later Veatch approached the hood of his car, pointed a gun at Christopherson's face through the windshield, and tried to open the front passenger door. Christopherson accelerated and Veatch fired one round into Christopherson's car as he fled. The bullet struck the center console and came to rest on the driver's side floorboard. Detectives interviewed Christopherson and Sickler and discovered bullet holes and bullets in their vehicles that were consistent with their reports.

Merkwan Use of Force

Merkwan's subsequent interview with Oregon State Police Detectives, coupled with dispatch traffic, body cam footage, Molden's interview, and physical evidence recovered from the scene provides the basis for the narrative leading up to Merkwan's decision to use deadly physical force.

At 5:26 am, Merkwan was dispatched to shots fired at the Chevron Station. While en route, dispatch informed him that a white male in his late 20s, armed with a 9mm handgun and driving a black truck, pointed a gun at the

reporting party and shot out the station's windows. Three minutes later, Merkwan broadcasted over the radio that he had found the truck, which was driving without a rear passenger tire. Dispatch responded that no other officers were on duty, so Molden and Merkwan would be without additional police assistance. As Merkwan followed the vehicle, he saw that the subject was intermittently driving northbound in the southbound lane, and appeared to have a box of ammunition in his hands. At 5:41, Molden reported over the radio that smoke was coming from the truck and shortly thereafter the truck stopped on the side of the road. According to dispatch records, Merkwan heard the first gunshots 16 seconds after Veatch exited his vehicle. Although momentarily losing sight of the subject, Merkwan reported moments later that he had observed the subject walking northbound and then heard two additional shots being fired. 13 seconds later Merkwan reported hearing more shots fired. In Merkwan's interview, he said that moments after those shots were fired he observed a vehicle without headlights with what he believed was a deceased driver slumped over the steering wheel. In the days that followed, detectives interviewed the driver of that car and learned that he had actually turned off his lights to make it easier for law enforcement to see the subject, but Merkwan reasonably believed that Veatch had killed the driver. At 5:43:51, Merkwan reported that the subject was continuing to shoot at vehicles. In his interview, Merkwan reported that he believed the subject was "going down the line of stopped traffic and he was shooting people." 9 seconds later, Merkwan responded over the radio that he intentionally struck the subject with his vehicle and that an ambulance was "needed ASAP."

The following is taken directly from the Oregon State Police Report that summarized Merkwan's interview with law enforcement:

Officer Merkwan told us he began driving north and saw the suspect walking directly toward another vehicle that was stopped in the southbound lane. He told us the suspect was 'not just sauntering,' but was 'walking intently.' He told us he knew he had a 'brief opportunity to intervene.' He told us he knew that engaging the suspect with his handgun was not a viable option for several reasons. He told us he knew that driving closer to the suspect, getting out of his vehicle and engaging the suspect with his handgun would take too much time and the suspect could have reached the vehicle and shot the driver in that time. He told us he knew that the stopped motorists north of the suspect were his (Officer Merkwan's) backdrop and he was concerned that if one of his bullets missed the suspect, or continued through the suspect, it might strike an innocent person. He told us he was also concerned that the suspect was close enough to the vehicle that he could take cover behind it and he would not be able to fire at the suspect because of the innocent person between them.

Supplemental Report, OSP #19361589. After handcuffing Veatch as he had been trained, Merkwan immediately began attempting to render lifesaving aid. Ultimately those attempts were unsuccessful and the subject died at the scene.

Crime Scene

When additional officers arrived, Merkwan and Molden were transported directly to SHPD where they engaged in the standard processing procedures that follow the use of deadly force, including the seizure of body worn cameras. Ultimately the cameras were of little evidentiary value, as they were affixed to their chests for most of the pursuit and were facing the dashboards of their patrol vehicles. SHPD vehicles are not equipped with dashboard cameras.

Members of the Oregon State Police, the Columbia County Sheriff's Office, SHPD, and the Oregon State Police Forensic Laboratory processed the scene. A 9mm semiautomatic pistol containing one unfired cartridge in the chamber and no magazine was located near Veatch's body, and a single bullet labeled "Tulammo 7.62 x 39" was located in the subject's pocket. An empty black pistol magazine that appeared damaged and a box of 9mm ammunition containing 35 unfired cartridges were also located near the body.

A total of five 9mm bullet casings were located along the roadway between the subject's body and his abandoned vehicle. The following evidence was located inside Veatch's truck:

- Pioneer Arms 7.62 caliber AK-47 rifle
- Mossberg 500A 12 g pump action shotgun
- Stevens Model 320 12 g pump action shotgun
- One black cloth zip case containing two empty rifle magazines
- One black rifle magazine containing unfired 516 cartridges
- One unfired cartridge bearing head stamp "Tulammo 7.62 x 39"
- One apparent rifle butt and rifle accessories
- One empty rifle magazine
- Five unfired cartridges observed in a pocket of a backpack, two bearing head stamp 380 Auto RP and three bearing head stamp "380 autom PMC"
- One box of federal brand ammunition containing 50 unfired cartridges, all bearing head stamp "FC 9mm Luger"
- One plastic box containing many types of unfired cartridges, to include, at a minimum, 16 12-gauge shot shells, a bag of apparent 22 LR caliber cartridges, multiple unfired rifle cartridges, and multiple 9mm Luger caliber cartridges

Subject information

The subject was identified as Michael Thomas Veatch, date of birth November 15, 1985. Medical examiners noted he had tattoos reading "White Power," "Aryan Nationalist Pride," "White Pride," and swastikas on both knees. Law enforcement contacted Veatch's associates, family members, and detectives who were investigating other matters in which Veatch was a suspect. Multiple associates disclosed that Veatch had stated he would rather die than return to prison. On the date in question, his girlfriend received a phone call from Veatch saying he was being chased by the police and was going to die. She reported hearing gunshots in the background of the phone call and believed it was Veatch shooting from his car. Veatch was also suspected of committing a drive-by shooting in Beaverton on September 6, which injured one person and killed a dog. Law enforcement recovered several 7.62 bullet casings from the Beaverton crime scene. On September 25, the subject's former employer reported that Veatch appeared to have broken into his truck and had stolen multiple items, including an H&K 9mm handgun similar to the one recovered near the subject's body.

APPLICABLE LAW

The basic law in Oregon dealing with the use of deadly force can be found in Oregon Revised Statutes (ORS) Chapter 161. There are several applicable statutes that justify using force in circumstances similar to this case. Generally, the use of physical force is justifiable and not criminal when the person "reasonably believes" they are defending someone from "the use or imminent use of unlawful physical force." ORS 161.209. Deadly physical force is justified when a peace officer reasonably believes that another person is "[c]ommitting or attempting to commit a felony involving the use or threatened imminent use of physical force against a person" or is "[u]sing or about to use unlawful deadly physical force against a person." ORS 161.219 and 161.239. I am also mindful of the principle set out in the United States Supreme Court case of *Graham v. Connor*, in which an officer's use of force is judged from the perspective of a "reasonable officer on the scene," and without the benefit of hindsight.

DISCUSSION

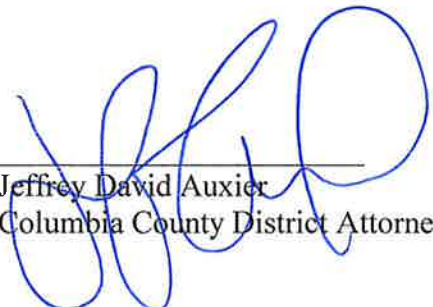
When Merkwan decided to drive his vehicle towards Veatch and intentionally strike him, he did so under the reasonable belief that the defendant was shooting people indiscriminately. Merkwan had been informed that Veatch had shot at several people in St. Helens at the Chevron Station, shot an AK-47 at another motorist on Columbia Boulevard, and was actively walking alongside Highway 30 shooting at motorists. Merkwan's belief of imminent danger to the public was not only reasonable, but also 100% accurate. Independent witnesses and physical evidence from the scene prove beyond any reasonable doubt that the defendant was intent on killing someone that morning and Merkwan's actions very likely saved innocent lives.

It is also worth noting that Merkwan told law enforcement he did not intend to kill Veatch when he struck him with his vehicle. This lack of intent to kill on Merkwan's part is corroborated by the evidence. One passing motorist told detectives that he was impressed with Merkwan and Molden's efforts to save the subject's life after he was struck. As soon as Merkwan and Molden secured the scene, they checked Veatch's pulse and called for an ambulance "ASAP." Merkwan administered CPR continuously until medics arrived while Molden radioed dispatch asking for updates on the status of EMTs. Further, as Merkwan and Molden were trying to revive Veatch, Veatch's brother approached the scene, became upset, and disregarded Merkwan's request that he remain by his vehicle. Under these circumstances, Merkwan and Molden would have been completely justified in ceasing their efforts to resuscitate Veatch and focus instead on detaining his brother for their own safety. Instead, Merkwan and Molden exposed themselves to additional danger, disregarded the threats, and selflessly continued trying to save Veatch's life.

CONCLUSION

Merkwan's killing of Veatch on October 9, 2019 was clearly justified under Oregon law. Further, Merkwan's split-second decision to strike Veatch with his vehicle was commendable and almost certainly saved the lives of innocent civilians.

The criminal investigation into this use of force is closed and I will take no further action on this matter.



Jeffrey David Auxier
Columbia County District Attorney

12/3/19
Date