



DISTRICT ATTORNEY FOR CROOK COUNTY

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TO: Residents of Crook County and media

FROM: Wade L. Whiting, Crook County District Attorney

DATE: November 23, 2020

SUBJECT: November 5, 2020 Officer Use of Deadly Physical Force

INTRODUCTION

On November 5, 2020, at approximately 2:30 P.M. the Central Oregon Emergency Response Team (CERT) attempted a high-risk traffic stop at NW Ryegrass Road near the Madras Highway. CERT had confirmed Donald Matthew Freauff, Jr. (age 25 of Redmond) was in Prineville. Freauff had an active state-wide felony warrant, a history of high speed eludes with police and is alleged to have pointed a firearm and threatened a police officer in Portland in late October.

During the high-risk traffic stop, three officers discharged weapons as Freauff refused to follow commands and attempted to flee the scene by ramming his truck into an armored vehicle and unmarked police car. Freauff's actions placed his occupants and multiple officers at risk of harm. Freauff sustained minor injuries as a result of being struck by a less-than-lethal munition (rubber bullet). Freauff received medical treatment at the hospital and was lodged at the jail following medical discharge shortly thereafter.

FACTS

On November 4, 2020, the Prineville Police Department received information that Donald Matthew Freauff, Jr. (age 25 of Redmond) would be visiting family in Prineville. Detectives were tracking Freauff's whereabouts because of an active state-wide felony parole warrant and recent officer safety alert about Freauff pointing a firearm and verbally threatening a police officer in Portland. Detectives also had information that Freauff was "always" armed with a firearm and had vowed he "was not going back to prison."

During the early afternoon of November 5, 2020, detectives conducted surveillance and were able to positively identify Freauff in a residential area in Prineville. CERT was activated due to officer and public safety concerns. CERT is a collaborative group of highly trained officers from various law enforcement agencies who respond to high-risk situations that call for special tactics and equipment. When deployed, CERT's overall mission is to isolate and contain the danger and then attempt a peaceful outcome.

As CERT members arrived and began discussing a tactical plan, Freauff and two individuals left the residence in a lifted Ford F350 truck with oversized 40-inch tires and dark tinted windows. CERT continued surveillance and tactical planning as Freauff made multiple stops in public places. CERT made a tactical decision to delay contact with Freauff until he was outside the presence of the general public. Freauff then drove north on US Highway 26 towards Madras.

At approximately 2:30 P.M., Freauff made a sudden turn onto Ryegrass Road, an isolated rural county road off the highway eight miles north of Prineville. According to a statement provided by an occupant of the truck, Freauff turned down the county road because he believed they were being followed by several unmarked police cars. As Freauff attempted to turn around and return to the highway, CERT moved in to conduct the high-risk traffic stop. An armored vehicle marked in bold letters "POLICE" activated red and blue flashing lights and blocked Freauff's lane of travel back onto the highway. Several other unmarked police cars with red and blue flashing lights moved in from behind to prevent Freauff from fleeing the scene. Freauff has a history of fleeing and attempting to elude police at high rates of speed.

As CERT members exited their vehicles, Freauff put his lifted truck in reverse, crashing into an unmarked police SUV causing heavy front-end damage. Fearing for his own safety, the officer quickly activated the parking brake and jumped out the vehicle. Freauff then put his truck into drive and accelerated forward ramming the armored vehicle. Freauff attempted to move the armored vehicle from his lane of travel. For approximately 12 seconds, the lifted truck and armored vehicle locked up front bumper to bumper and continually accelerated against each other.

The two heavy duty vehicles violently rocked back and forth as at least 11 officers stood ready in case the truck broke free. Several officers deployed flash bangs in an attempt to gain compliance from Freauff. Freauff continued to punch the accelerator against the armored vehicle sending exhaust from his engine and smoke from his tires into the air.

Officer Randy Zilk of the Bend Police Department exited the armored vehicle from the back and took cover alongside the armored vehicle. As the ramming between the two vehicles continued, Zilk fired several shots from his rifle into the engine block of Freauff's truck. Zilk was able to successfully disable the engine and eliminate the safety threat of the truck breaking free. None of these bullets struck any occupant of the vehicle. The armored vehicle was then able to pin the truck against the SUV Freauff hit earlier.

Several officers reported limited visibility into the interior of the truck due to the dark window tinting. Detective Anderson of the Jefferson County Sheriff's Office, positioned at a distance from the rear driver's side window, observed Freauff raise his arm in a manner that Anderson believed Freauff may be armed

with a weapon. Anderson fired one shot from his rifle towards Freauff's arm that went through the driver's window that exited out the front windshield. This bullet did not strike any occupant of the vehicle.

With the truck disabled, CERT members staged around the truck and gave verbal commands for the occupants to put their hands up and slowly exit the vehicle. Both passengers were able to safely exit the vehicle without incident or injury. Freauff began yelling expletives at the officers and demanding they kill him. As Freauff started to exit the vehicle, he stood on the running board and continued yelling at the officers. He refused to fully comply with commands. Corporal Kinsella of the Bend Police Department fired a less-than-lethal munition which struck Freauff in the arm. Freauff immediately went down to the ground and was placed into custody.

A search of the truck located two loaded firearms. A Springfield XD40 .40 caliber semi-automatic handgun with a 30 round magazine was on the floorboard of the driver's seat. A Kimber Custom LW .45 caliber handgun was located in the pocket of the passenger front door.

Freauff sustained minor injuries to his arm as a result of the less-than-lethal munition. Freauff received immediate medical treatment on scene and was transported to the hospital as a precautionary measure. Freauff was discharged and lodged at the Crook County jail on numerous charges. A Crook County grand jury has indicted Freauff for his role in this incident.

CONCLUSION

The district attorney is charged with the duty of reviewing incidents where deadly physical force is used by police to determine if the use of force met the standards required by Oregon law under ORS 161.219. 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 a person or that the other person is attempting to commit a violent felony involving the use of threatened use of physical force. This law applies equally to law enforcement and the general public.

Upon review of this incident, the evidence overwhelmingly supports the conclusion that Officer Zilk, Detective Anderson and Corporal Kinsella were justified in using deadly physical force under the circumstances they encountered and it was reasonable for them to believe that their lives and the lives of others were endangered. The careful and tactical use of force in this instance likely prevented injury to fellow officers and passengers in the truck. The use of less-than-lethal munitions likely prevented significant injury or death to Freauff.

The Tri-County Major Incident Team conducted a thorough and professional investigation. Agencies contributing to the team were the Oregon State Police, the Oregon State Police Forensic Services Division, Redmond Police Department, Prineville Police Department, Crook County Sheriff's Office and Deschutes County Sheriff's Office.

Any questions about the inquiry should be directed to the Crook County District Attorney's Office.