



DISTRICT ATTORNEY FOR CROOK COUNTY

CROOK COUNTY COURTHOUSE -- (541) 447-4158 • FAX (541) 447-6978
300 N.E. 3RD ST. PRINEVILLE, OREGON 97754

TO: Residents of Crook County and media

FROM: Kari Hathorn, Crook County District Attorney

DATE: March 25, 2022

SUBJECT: February 4, 2022 Officer Use of Deadly Physical Force

PRINEVILLE, OREGON – The Crook County District Attorney has determined that the February 4, 2022 shooting of Nicholas Rodin by Crook County Sheriff’s Deputy Steven Hatcher was justified under Oregon law. The investigation into the shooting, that occurred on Maphet Road near Davis Loop, south of Prineville, was independently conducted by the Central Oregon Major Incident Team, as led by the Oregon State Police and overseen by the District Attorney.

INTRODUCTION

On Friday morning, February 4, 2022, at approximately 4:44 a.m. Nicholas Rodin made two telephone calls to Crook County 9-1-1 dispatch during which he reported that he had a warrant for his arrest, that he was armed with a pistol and a knife, and that he needed to be picked up before he hurt somebody. Mr. Rodin further advised the dispatcher that he would be walking down Juniper Canyon. Mr. Rodin had two active felony arrest warrants, both for separate incidents of Assault with a dangerous weapon. Deputies’ attempts to locate Mr. Rodin that morning were unsuccessful.

On February 4, 2022, at approximately 1:30 p.m., Deputy Hatcher observed a male, he later identified as Mr. Rodin, in the area of SE Maphet Road. Mr. Rodin was under the influence of methamphetamine and refused to follow Deputy Hatcher’s repeated commands to lie on the ground and keep his hands where the deputy could see them. In response to the deputy’s commands, Mr. Rodin yelled, “I will shoot you first!” Mr. Rodin, who was 6’7” and weighed approximately 250 pounds, ignored Deputy Hatcher’s repeated commands to lie on the ground, stood up and began to approach Deputy Hatcher in an aggressive manner. Mr. Rodin stated to Deputy Hatcher, “I want to die!”

Mr. Rodin had been holding a cell phone and a plastic bottle of soda. As Mr. Rodin approached Deputy Hatcher, he quickly transferred the soda bottle from his right hand to under his left arm, freeing his right hand. Mr. Rodin then quickly reached toward his hip with his right hand. Deputy Hatcher discharged his firearm twice. Mr. Rodin sustained fatal injuries.

Pursuant to the Crook County Use of Force Policy, the Tri-County Major Incident Response Team was activated for the purpose of investigating the shooting of Nicholas Rodin and to determine the facts surrounding the police officer's use of deadly force. The Major Incident Response Team was directed by Oregon State Police and supervised by the Crook County District Attorney's Office.

CONCLUSION:

Oregon Revised Statute 161.219 defines the limitations for the use of deadly physical force. This statute applies to police officers and citizens alike. A person can use deadly physical force upon another person when that person reasonably believes that the other person is using or is about to use unlawful deadly physical force against a person. In addition, Oregon Revised Statute 161.242 governs the use of deadly physical force by a peace officer. As discussed in more detail below, the Crook County District Attorney has concluded that the use of deadly force by Deputy Hatcher was lawful and justified.

The District Attorney makes that determination based upon the facts in this matter and the applicable law. The facts are summarized as follows:

FACTS AND INVESTIGATION

(The following is a summary of relevant portions of the investigation submitted to the District Attorney).

On February 4, 2022, at approximately 4:44 a.m., Mr. Rodin called 9-1-1 and reported that he had a warrant for his arrest and needed to be picked up. The dispatcher advised Mr. Rodin to call the non-emergency number. Mr. Rodin immediately called 9-1-1 again and stated the following:

“Dispatcher: 9-1-1, what's the address of your emergency?

Nicholas Rodin: I don't know the address, but I have a warrant for my arrest. You need to come pick me up before I flip out and hurt somebody.

Dispatcher: What is your name?

Nicholas Rodin: Nicholas Rodin.

Dispatcher: Nicholas what?

Nicholas Rodin: Rodin, R-O-D-I-N.

Dispatcher: What's your date of birth?

Nicholas Rodin: [Mr. Rodin's date of birth has been redacted]

Dispatcher: Okay. I need to know where you are.

Nicholas Rodin: I'm on Juniper Canyon.

Dispatcher: Where on Juniper Canyon? I need some sort of a mile marker or a cross street.

Nicholas Rodin: I'll, I'll be, I'll be walking down the road. Don't worry about it. You

Dispatcher: What are you wearing?

Nicholas Rodin: I'm wearing blue jeans and a jacket, tan jacket.

Dispatcher: Do you have any weapons?

Nicholas Rodin: Absolutely.

Dispatcher: You do?

Nicholas Rodin: Yup.

Dispatcher: Like what?

Nicholas Rodin: Uh, I got a pistol, a 22 pistol, then, uh, a knife.

Dispatcher: Okay. What's going on tonight that you're gonna hurt somebody?"

Mr. Rodin then terminated the 9-1-1 call.

Mr. Rodin had an active felony warrant issued by the Oregon State Parole Board for the crime of Assault in the Second Degree with a dangerous weapon. The arrest warrant commanded law enforcement to arrest Mr. Rodin. The 9-1-1 call dispatch notes reflected the active warrant for Assault in the Second Degree. In addition, the warrant contained a safety warning to law enforcement to exercise caution with Mr. Rodin. The call notes further reflected that Mr. Rodin had

a second out of state warrant for Assault and Battery with a dangerous weapon, which was non-extraditable.

Deputies attempted to locate Mr. Rodin but were unsuccessful.

Deputy Hatcher started his patrol shift at 6:00 a.m. Prior to starting his shift, Deputy Hatcher reviewed the call notes detailing Mr. Rodin's 9-1-1 call at 4:44 a.m. Those call notes included Mr. Rodin's statement that he was armed with a gun and a knife and was going to hurt someone if law enforcement did not come arrest him. In addition, the call notes detailed the two arrest warrants for Assault and Assault with a dangerous weapon and safety warning to officers to exercise caution with Mr. Rodin. Deputy Hatcher also reviewed a DMV photo of Mr. Rodin. Based upon the information in the call notes and the unusual nature of the call, Deputy Hatcher was concerned both for the safety of officers looking for Mr. Rodin and for the safety of the community.

At approx. 1:30 pm, Deputy Hatcher, while on routine patrol on Lower Davis Loop, rounded a sharp corner and observed a male sitting on a stump in the area of Lower Davis Loop and Maphet Road. Deputy Hatcher continued around the bend to a location where he was out of sight of the man on the stump. Deputy Hatcher stopped and radioed dispatch, notifying them that he would be contacting a subject who matched the description from the earlier call. Deputy Hatcher turned around and drove back to the location where he had observed Mr. Rodin. However, Mr. Rodin was no longer sitting on the stump. Deputy Hatcher radioed dispatch that he was unable to locate the subject.

Deputy Hatcher drove his marked patrol vehicle down Maphet Road. At that time, the deputy observed Mr. Rodin walking down Maphet Road. Deputy Hatcher radioed for backup to respond to assist him but didn't want the responding patrol vehicles to arrive with their lights and sirens given his concerns regarding Mr. Rodin's earlier statements of being armed with a pistol and a knife. Therefore, Deputy Hatcher requested his backup respond "Code 1" (meaning no lights and sirens) but to "step it up." Deputy Hatcher intended to "slow play" the situation to allow time for the backup deputy to arrive.

Deputy Hatcher stepped out of his vehicle and casually called out, "Nick" to Mr. Rodin. In response, Mr. Rodin turned toward the deputy. Deputy Hatcher said, "Nicholas" to which Mr. Rodin responded, "No." Deputy Hatcher started to ask Mr. Rodin if he had seen anyone, but the deputy hadn't finished his question before Mr. Rodin volunteered that he'd seen a big guy walking "that way." When asked to identify himself, Mr. Rodin stated that his name was Michael Reece, that he lived on Maphet Road, and was getting his mail.

Deputy Hatcher returned to his vehicle where he radioed dispatch that the male identified himself as Michael Reece. However, dispatch advised Deputy Hatcher that Michael Reece's date of birth was in 1953, which was not consistent with Mr. Rodin's age. As Deputy Hatcher was in his patrol vehicle parked on Maphet Road, he observed Mr. Rodin quickly walking down Maphet Road and

erratically checking over his shoulder. Although Deputy Hatcher had previously viewed a photograph of Mr. Rodin, he pulled Mr. Rodin's photo a second time to confirm that the male walking away from him was indeed Mr. Rodin.

Deputy Hatcher intended to wait for his backup to arrive before arresting Mr. Rodin on the warrant for Assault in the Second Degree issued by the Oregon Parole Board. However, Deputy Hatcher observed Mr. Rodin was getting near the driveway of the first residence on Maphet Road. Based upon Mr. Rodin's earlier threat that he was armed with a pistol and a knife and that he was going to hurt someone, Deputy Hatcher believed Mr. Rodin may harm someone. Deputy Hatcher drove his patrol vehicle down Maphet Road toward Mr. Rodin.

As Deputy Hatcher was driving up behind Mr. Rodin, Mr. Rodin made a wide gesture with his hands, appearing to throw his hands up in the air. Deputy Hatcher believed he heard Mr. Rodin say, "We good?" Deputy Hatcher was still driving up behind Mr. Rodin, when he observed Mr. Rodin make a quick movement, quickly reach into a pocket or behind him, and spin around.

Deputy Hatcher believing Mr. Rodin was reaching for a weapon, quickly put his vehicle into park and jumped out of the vehicle. Deputy Hatcher believed in that moment that he was about to get shot and just hoped the gunshot would miss or would hit his bullet proof vest. Deputy Hatcher drew his duty weapon, a 9 mm pistol, and ordered Mr. Rodin to get on the ground.

Mr. Rodin dropped to his knees and Deputy Hatcher observed that the object Mr. Rodin had pulled from his pocket was a cell phone. Mr. Rodin initially had the cell phone in his right hand and a half full plastic two-liter soda bottle in his left hand, which he then dropped on the ground next to him. Although Mr. Rodin dropped to his knees, he remained very animated, continually reaching around behind himself, and picking up and dropping the items in his hands. Mr. Rodin also refused numerous commands to lie down on the ground. Deputy Hatcher at that time activated his body worn camera.

Deputy Hatcher, still believing Mr. Rodin had a firearm, ordered Mr. Rodin to put his gun on the ground. Mr. Rodin responded, "Kill me, motherfucker. What's up?" Deputy Hatcher advised Mr. Rodin several times that he would use deadly force. In response to Mr. Rodin's statement, "Kill me, motherfucker. What's up?" Deputy Hatcher stated, "You're Goddamn right I'll kill you. Keep your hands where I can see them."

Deputy Hatcher gave Mr. Rodin repeated commands to keep his hands where the deputy could see them, and to get on the ground. Nevertheless, Mr. Rodin refused to comply with the deputy's repeated commands to lie on the ground. Mr. Rodin yelled, "I will shoot you first." Deputy Hatcher again warned Mr. Rodin he would use deadly force, stating "I will blow your fucking head off." Deputy Hatcher continued to give Mr. Rodin commands to lie on the ground and to keep his hands where the deputy could see them. Nevertheless, Mr. Rodin continued to reach toward his pockets and move his hands out of Deputy Hatcher's sight.

Despite Deputy Hatcher's repeated commands to Mr. Rodin to get on the ground, Mr. Rodin suddenly stood up and approached Deputy Hatcher, stating "I ain't scared. I ain't scared of you, dude. What's up? Yeah, I want to die. I want to die, dude!"

Deputy Hatcher told Mr. Rodin, "Don't come towards me." Mr. Rodin replied, "I want to die, dude."

Mr. Rodin continued to approach Deputy Hatcher and came within feet of Deputy Hatcher. Mr. Rodin was 6'7" and weighed approximately 250 pounds. Deputy Hatcher is 5'7" and weighs approximately 165 pounds. Deputy Hatcher believed Mr. Rodin was armed with a pistol and a knife. Deputy Hatcher backed up, attempting to put space between himself and Mr. Rodin.

Deputy Hatcher advised Mr. Rodin, "Don't do it!" "Get on the ground," and to "Keep your hands where I can see them." Nevertheless, Mr. Rodin continued to approach Deputy Hatcher in a challenging manner, yelling, "You're shaking!" and "[unintelligible] Your hands...you're shaking, you scared-ass..." Deputy Hatcher stated to Mr. Rodin, "I'm pretty dang close, though, aren't I?"

Mr. Rodin responded, "What, what's up? Yeah, you are. So am I." At that moment, Mr. Rodin bladed his body to the side with the left side of his body toward Deputy Hatcher. Mr. Rodin quickly transferred the soda bottle he'd been carrying in his right hand to under his left arm, and suddenly reached with his now empty right hand toward his right hip. Deputy Hatcher reasonably believed Mr. Rodin was reaching for a weapon and fired two shots. Mr. Rodin died on scene from his injuries.

Deputy Hatcher immediately called for medics for Mr. Rodin. Deputy Hatcher and other officers who responded attempted lifesaving efforts until medics arrived.

Mr. Rodin's refusal to comply with the police officer's commands on February 4, 2022, is difficult to understand. Some facts may help explain his actions: Mr. Rodin's toxicology results revealed a high level of methamphetamine in his system—a substance that causes the user to behave irrationally even in small amounts.¹ Mr. Rodin also had amphetamine (a methamphetamine metabolite) and olanzapine (an anti-psychotic prescription drug) in his system. Mr. Rodin also suffered from schizophrenia and bipolar disorder according to statements made by his friends and family to law enforcement.

¹ <https://pubmed.ncbi.nlm.nih.gov/9456521/>
https://media.defense.gov/2019/Sep/09/2002180420/-1/-1/0/CG%20069%20_V1%20ANTEMORTEM-POSTMORTEM%20METHAMPHETAMINE%20BLOOD%20CONCENTRATIONS.PDF

According to interviews of Mr. Rodin's friends and family, Rodin had been taking medication for bipolar and schizoaffective disorders. Those close to Mr. Rodin related that he had a short temper and a history of hearing voices, but reported that Mr. Rodin had been "very level" recently.

Mr. Rodin was described as unpredictable, and one witness reported that Mr. Rodin had been using more drugs recently due to being stressed over his living situation and his ability to provide for his unborn child. In addition, the witness stated that Mr. Rodin hated police and hated going to jail.

Whatever his motivation, Mr. Rodin chose not to comply with very clear commands given to him by Deputy Hatcher, a clearly identified police officer. His statements and actions show that he understood the commands given. Nevertheless, his refusal to comply and his actions on February 4, 2022, justified the actions taken by Deputy Hatcher.

Deputy Hatcher responded to the threat posed by Mr. Rodin as he was trained to do. Mr. Rodin created a situation which caused Deputy Hatcher to reasonably believe that Mr. Rodin was reaching for a weapon, and therefore posed an immediate threat to Deputy Hatcher's life.

ANALYSIS

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 and ORS 161.242. As relevant to this case, under the law, a police officer may use deadly physical force on another person when it is objectively reasonable to believe, under the totality of the circumstances known to the officer, that the person poses an imminent threat of death or serious physical injury to the officer, and the use of deadly physical force is necessary to defend the officer from the imminent threat of death or serious physical injury. It is the conclusion of the District Attorney that the use of deadly force in this matter was legally justified.

Under the totality of the circumstances known to Deputy Hatcher at the time of the shooting, Deputy Hatcher believed that Mr. Rodin posed an imminent threat of death or serious physical injury to Deputy Hatcher. That belief was objectively reasonable. Deputy Hatcher knew that during Mr. Rodin's call to 9-1-1 earlier in the day, Mr. Rodin had said that he was armed with a firearm and with a knife. Deputy Hatcher knew that Mr. Rodin had also threatened to, "Hurt somebody." Deputy Hatcher knew that Mr. Rodin had a history of violence, as Mr. Rodin was on post-prison supervision for a conviction for Assault in the Second Degree. Assault in the Second Degree is a crime listed in Ballot Measure 11 and carries a minimum mandatory prison sentence. Deputy Hatcher also knew that Mr. Rodin was aware of the warrant for his arrest, as Mr. Rodin had said as much to the 9-1-1 dispatcher, and because Deputy Hatcher told Mr. Rodin about the arrest warrant. At the scene, Deputy Hatcher encountered a man who was about a foot taller and approximately 80 pounds heavier than himself. Through the course of the encounter, Mr. Rodin escalated his own behavior, becoming increasingly agitated, confrontational, and angry. Although

Mr. Rodin initially went to his knees when commanded, he refused to comply with further commands before finally standing back up and assuming an aggressive stance. Mr. Rodin taunted and threatened Deputy Hatcher, to the point of threatening to shoot Deputy Hatcher first. In the last instant before he was shot, Mr. Rodin turned his left side toward the deputy, emptied his right hand, and reached with his empty right hand to his right hip, exactly in the way that a person would draw a pistol or knife. In that instant, Deputy Hatcher, knowing the facts listed above, had an objectively reasonable belief that Mr. Rodin was about to use deadly physical force against Deputy Hatcher.

Deputy Hatcher's actions demonstrate that he considered alternatives to the extent he had reasonable opportunity to do so. Deputy Hatcher requested backup before initiating contact with Mr. Rodin. In order to avoid agitating Mr. Rodin, Deputy Hatcher asked that his backup not respond with lights and sirens. Deputy Hatcher himself did not activate his patrol lights or siren when he contacted Mr. Rodin. Only upon Mr. Rodin's approach to a residential driveway was Deputy Hatcher compelled to re-contact Mr. Rodin. Deputy Hatcher made the conscious decision to keep the contact as low key and as slow as possible, to give time for his backup to arrive. In fact, Deputy Hatcher didn't even get out of his patrol car until Mr. Rodin made sudden movements pulling an object out of his pocket, causing Deputy Hatcher to believe that he was about to be shot.

The Tri-County Major Incident Team, led by the Oregon State Police, conducted a thorough and professional investigation. Agencies contributing to the investigation include the Prineville Police Department, Jefferson County Sheriff's Office, Madras Police Department, Deschutes County Sheriff's Office, Bend Police Department, Redmond Police Department, County Medical Examiner, Oregon State Police Forensic Laboratory, Oregon State Medical Examiner, and the Oregon Department of Justice.

The scope of this investigation was limited to evaluating whether Deputy Hatcher's use of lethal force was legally justified under Oregon law. The investigation did not encompass a review of administrative, policy, or civil issues. The District Attorney makes no conclusions and offers no opinion as to those issues.

At the time this incident occurred, the District Attorney's Office was represented by then-acting District Attorney Dan Wendel, a Senior Assistant Attorney General from the Oregon Department of Justice. The investigation of this matter was transferred to District Attorney Kari Hathorn on February 28, 2022.

The District Attorney's Office understands that the time involved in conducting a thorough investigation and issuing this decision has caused hardship for the parties involved. However, it is important to take the time necessary to conduct a thorough investigation, including obtaining lab reports, interviewing witnesses, and ensuring a complete and thorough review of all evidence.

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