

Officer Involved Shooting: Gabriel Platz City of Bend Police Department

Bend Police Officer Wesley Murphy



Steve Gunnels

District Attorney

April 5, 2024

District Attorney's Determination: March 20, 2024, Lethal Force Incident

The Deschutes County District Attorney's Office has completed its review of the March 20, 2024, use of lethal force incident involving the Bend Police Department. I have concluded that Bend Police Officer Wesley Murphy acted lawfully in self-defense and in defense of others when he fired his weapon, shooting 18-year old Gabriel Platz. I further conclude that Gabriel Platz died from a self-inflicted gunshot wound, as more fully explained below.

The following analysis is based on investigative reports, recorded interviews, photographs, video evidence, autopsy findings and witness statements submitted to this office by Deschutes County Sheriff's Office (DCSO) Detective Brandon Porter. Officer Murphy's and Officer Lyter's voluntary statements were considered as part of this analysis.

Acknowledgements

I would like to acknowledge the professional investigation conducted by the Tri-County Major Incident Team, with the Deschutes County Sheriff's Office as the lead agency on this case, and DCSO Detective Brandon Porter serving as case agent. The Major Incident Team conducted a thorough and professional investigation and provided me all the evidence I required to conduct my review and legal analysis. The Redmond Police Department, Oregon State Police Forensic Laboratory, Oregon State Police, Sunriver Police Department, Black Butte Ranch Police Department, Crook County Sheriff's Office, Jefferson County Sheriff's Office, Madras Police Department and Prineville Police Department assisted with this investigation as contributing agencies. The City of Bend Police Department cooperated fully with the investigation and provided body worn camera video and equipment without hesitation. District Attorney Investigator Jake Chandler assisted me in my review and his experience and insight were extremely valuable.

Factual Analysis

Introduction

On March 20, 2024, at 8:17pm, a driver of a vehicle on highway 97 called 911 to report a motor vehicle crash on Highway 97 near mile post 136 (northbound Bend Parkway). Another witness called 911 at 8:21pm, reporting that a Lincoln Towncar had been traveling at speeds estimated to be over 90 miles per hour and had passed vehicles on the shoulder. That witness reported that he was with a driver (Gabriel Platz) who smelled of alcohol. This person took the keys from the driver. Another person called 911 stating a Lincoln Towncar had been speeding over 90 miles per hour and passing vehicles on the shoulder prior to a crash on the Parkway. On police arrival, officers made contact with Mr. Platz while he was still in his vehicle. Shortly after speaking with Mr. Platz, police saw a handgun on the floorboard of his car and repeatedly told him not to reach for it. Nevertheless, Mr. Platz picked up the firearm off the driver's side floorboard. Mr. Platz disregarded commands to drop the firearm. An officer-involved shooting ensued. During his interaction with police, Mr. Platz sustained a fatal self-inflicted gunshot wound and was simultaneously shot by the police. The incident was captured on Officer Murphy's and Officer Lyter's Body Worn Cameras.

The District Attorney's Office was notified of the shooting on March 20, 2024, at 8:30 p.m. District Attorney Steve Gunnels was present at the City of Bend Police Department on another

matter and was given a briefing regarding the circumstances surrounding the shooting as facts became known. The Major Incident Team, a multi-agency investigation team, was activated by the Oregon State Police Detectives Division. The Deschutes County Sheriff's Office was assigned to lead the investigation as the Sheriff's Office had no deputies involved in this incident prior to the shooting. This transfer of authority over an investigation is standard practice for officer-involved deadly use of force incidents and is part of the Deschutes County Deadly Use of Force Plan which has been adopted by all law enforcement agencies in Deschutes County.

The following outlines the facts and evidence gathered during this investigation:

Eyewitness Statement

An eyewitness told police that he was driving north on Highway 97/Parkway when a red vehicle (Gabriel Platz) passed him at a high rate of speed. Shortly after being passed, the witness drove upon the accident scene. The witness made contact with Mr. Platz, checking for injuries. The witness believed that Mr. Platz was under the influence of alcohol while talking with him. The witness stated that he told Mr. Platz to cooperate with the DUII investigation. Mr. Platz responded by stating he had other things going on besides a DUII. Out of concern for his and other motorists' safety, the witness asked Mr. Platz for his keys. Mr. Platz complied with the request and handed the witness his keys. Shortly thereafter, Officer Murphy and Officer Lyter arrived on scene. The witness spoke with Officer Murphy near Mr. Platz's car's passenger side and handed Mr. Platz's keys to Officer Murphy. The witness told Officer Murphy that there was a weapon in the vehicle. When Mr. Platz grabbed the firearm and began to manipulate it, the witness fled to cover behind his vehicle. The witness heard gunfire soon thereafter.

Transcript and Description of Incident from Body Worn Camera Footage

Officers Lyter and Murphy wore body worn cameras which were activated as they arrived at the location. The video shows Officer Lyter arriving at the crash location and talking with occupants of the vehicle Mr. Platz crashed into, as well as witnesses. It was well after sunset and the crash scene was dark except where it was illuminated by artificial lights of vehicles or flashlights. Officer Lyter walked toward Mr. Platz's vehicle as Officer Murphy was arriving in his vehicle. Officer Lyter approached the driver's side door of Mr. Platz's vehicle with his flashlight in his left hand. As he did so, Mr. Platz, in the driver's seat of his vehicle, raised both his hands up above the steering wheel in a surrender pose, his driver side window about three-quarters of the way down. Nobody else was in Mr. Platz's vehicle.

The following is a transcript and description of the one and a half-minute interaction between officers and Gabriel Platz, as recorded on body worn cameras:

Officer Lyter: Hello.

Gabriel Platz: Hey there.

Officer Lyter: I've got to tell you I'm recording, all right?

Gabriel Platz: Yep.

Officer Lyter: Were you driving?

Gabriel Platz: Yes, I was.

Officer Lyter: Are you injured?

Gabriel Platz No. I just hit my head a couple times. That's it. [Pointing to his forehead]

Officer Lyter: Hit your head? Okay. All right. Why don't you tell me what happened?

Gabriel Platz: I was coming on the Parkway past the Butler Market entrance for coming northside, ya' know?

Officer Lyter: 'Kay.

Gabriel Platz: And I tried to get over 'cause I was in the right lane and I caught a little bit of gravel and I kept it pretty straight. I was speeding. I'm going to admit that.

Officer Lyter: 'Kay.

Gabriel Platz: I lost control and I hit the thing and I also collided with another car. I'm not sure if it was just one. I don't think I hit a second one, I think I just actually collided to a second person, then I spun around and I crashed right here and I haven't moved since.

Officer Lyter: Okay. All right. Do you have any license or identification on you?

Gabriel Platz: [Feeling around his pants and around his seat, then between his legs down toward the driver's side floorboard]. Yes, I do.

Officer Lyter: [Holding flashlight in his left hand, shining flashlight into back seat and then onto driver's side floorboard]. And is that a real gun? [Pointing flashlight at handgun on driver's side floorboard].

Gabriel Platz: [Moves his head to the left of the steering wheel and looks down at the driver's side floorboard, reaches down toward gun with his left hand]. Uh. Yeah.

Officer Lyter: Don't reach for that.

Gabriel Platz: Sorry. [Pulls hand back and puts his hands up above his shoulders]

Officer Lyter: Go ahead and hop out for me.

Gabriel Platz: I can't. The door won't open. [Referring to driver's door]

Officer Lyter: Okay.

Gabriel Platz: And, uh, the guy [referring to another motorist who had taken Mr. Platz's keys after the crash] already took my keys and called the cops.

Officer Lyter: [Tries to open driver's door; appears stuck and unable to be opened]. Okay. Okay. Crawl out that side. I don't want you reaching for that gun. [Points toward passenger side door]

Gabriel Platz: [Starts to move across seat toward passenger side door]

Officer Lyter: You're not injured?

Gabriel Platz: No, I'm not injured. [Once he gets past the right side of the steering wheel, Mr. Platz reaches down toward the driver's side floorboard with his left hand and grabs the handgun]

Officer Lyter: Don't reach for that! Hey! Let me see it! [Starts to reach into car]

Gabriel Platz: [Brings the handgun up in his left hand, switches it to his right hand near his lap, holding handgun by its grip with his right hand. Mr. Platz moves his left hand to the top/slide of the handgun and starts to "rack" or manipulate the slide of the gun which puts a live round in the firing chamber]

Officer Lyter: [Flashlight remains in left hand, reaches in to grab the gun with his empty right hand, gets his right hand on top of Mr. Platz's left hand] Hey! Hey! Hey! Hey!

Officer Murphy: [On passenger side of Mr. Platz's car, moves to passenger window area – stays outside of passenger compartment of Mr. Platz's car] Drop the gun! Drop the gun!

Gabriel Platz: [Mr. Platz's body is turned or bladed toward passenger window, Officer Lyter's right hand is still on Mr. Platz's left hand. Mr. Platz frees his left hand from the top of the gun and that hand, with Officer Lyter's right hand on it, separates from the handgun as Mr. Platz moves his left hand toward the driver's side door. Mr. Platz raises his right hand, holding the handgun by the grip with his right hand, presses the point of the barrel against his right temple and shoots himself in the head. Officer Lyter, with his right hand, is still holding Mr. Platz's left hand at the moment that shot is fired. Officer Lyter had not yet drawn his firearm. Mr. Platz's right hand, still holding the handgun by the grip, drops to the seat on the outside of his right leg]

Officer Murphy: [Fires two rounds from his handgun from two to three feet away, the first being nearly simultaneous with the single round fired by Gabriel Platz and the second less than a second later. Officer Murphy's rounds were to Mr. Platz's right leg near the hip and to Mr. Platz's chest]

Officer Lyter: [Backing up and away from Mr. Platz's vehicle with firearm now drawn and held in his right hand. Officer Lyter's handgun with built-in flashlight is directed at Mr. Platz's vehicle. Radios Dispatch] Dispatch. Shots fired. We're Code 4. [Uninjured] Need Code 3 [Emergency] medics.

Officer Murphy: [Walks several feet, then sits on the ground. Stands up and walks to Officer Lyter's position].

Officers assessed the situation until responding units arrived to assist. They then approached the vehicle. Officer Lyter walked around to the passenger side of Mr. Platz's vehicle and entered through the passenger door. He leaned in and removed the handgun from Mr. Platz's right hand. Mr. Platz's right hand was wedged between his body, center armrest/console on the driver's seat next to Mr. Platz's right hip and leg.

Mr. Platz's body was then removed and life-saving efforts were made by multiple police officers on scene. Eventually, medics took over life-saving efforts and Mr. Platz was taken to St. Charles Hospital, Bend, where further efforts were made to save his life. He was soon declared dead.

Digital Evidence

Below are screenshots from Officer Lyter's and Officer Murphy's body worn cameras, as well as a photo of the .45 caliber handgun possessed by Gabriel Platz.



Officer Lyter spoke to Mr. Platz and asked for identification. While talking to him, Officer Lyter noticed a handgun on the driver's side floorboard near where Mr. Platz was reaching. Officer Lyter then told Mr. Platz not to reach for the gun.



The body worn camera photo shows Mr. Platz turning away from Officer Lyter and in the direction of Officer Murphy to move toward the passenger side of the vehicle.



The body worn camera photo shows Mr. Platz reaching toward the handgun on the driver's side floorboard with his left hand.



The body worn camera photo shows Mr. Platz holding the firearm by the grip with his right hand while manipulating the slide of the firearm with his left hand. The barrel is shown pointed in the general direction of Officer Murphy whose body worn camera captured this image. Officer Lyter's flashlight illuminates the interior of the car.



The body worn camera photo shows Gabriel Platz raising his handgun with his right hand while Officer Lyter pulled Mr. Platz's left hand from the firearm.



This body worn camera photo shows Gabriel Platz raising his handgun upward.



Photograph of Gabriel Platz's firearm.

Subsequent Investigation and Determinations

At autopsy, it was determined that Mr. Platz had three gunshot wounds to his body. Mr. Platz had been shot twice by Officer Murphy: One shot was through his right leg/hip. That bullet passed through his right leg. The second shot was to his chest. Per findings at autopsy, it is unlikely that the shot to Mr. Platz's legs would have proven fatal, but the shot to his chest would have likely been fatal if he had not received immediate medical care. One of these rounds was located within Mr. Platz's body at autopsy and the other was located in Mr. Platz's car to the left side of the driver's seat (B pillar).

The rounds fired by Officer Murphy were 9 millimeter handgun rounds. Officer Murphy's duty firearm is a 9 millimeter handgun and has a maximum capacity of 18 rounds. A round count after the shooting, which is standard after any officer-involved shooting incident, demonstrated that Officer Murphy had fired two rounds during this incident and had 16 rounds remaining in his handgun (15 in the magazine and one in the chamber), which is consistent with what is observed in the body worn camera footage.

The third gunshot wound to Mr. Platz's body was an entrance wound to his right temple. That wound was determined at autopsy to be a fatal contact wound. A contact wound is defined as a gunshot wound caused when a firearm is discharged while in direct contact with the skin. Contact wounds are apparent from observation and are typically characterized by the presence of a muzzle imprint on the skin of the person who has been shot, as well as gun powder stippling, which is burning of the skin by the gunpowder which fires out of the gun along with the bullet.

Mr. Platz's right temple bears the impression of the muzzle of the .45 caliber handgun that was in his right hand during this incident. The skin on his temple was burned by gunpowder in a classic stippling pattern. The .45 caliber round discharged during this incident passed through Mr. Platz's head and through the front windshield of his car. That round was not recovered despite search efforts. The .45 caliber round was fired simultaneously with Officer Murphy's first shot. A spent .45 caliber shell casing was located in the back seat area of Mr. Platz's car.

Mr. Platz's .45 caliber handgun has a maximum capacity of ten rounds (nine rounds in the magazine and one in the chamber). A round count after this incident revealed that the gun had seven rounds in the magazine and one in the chamber.

Officer Lyter did not discharge his firearm. He drew it after shots had ceased and while he was moving away from Mr. Platz's vehicle. A round count of his firearm confirmed that no rounds were missing. His 9 millimeter duty weapon has a maximum capacity of 18 rounds and all 18 were accounted for in his handgun during the count (17 in the magazine and one in the chamber).

The Oregon State Police Medical Examiner's Office conducted an autopsy of Mr. Platz on March 21st, 2024 and ascribed the cause of death as gunshot wounds to Mr. Platz's head and chest as either of those wounds would have been fatal, the head wound being immediately fatal and the wound to his chest being fatal due to eventual loss of blood.

Officers Murphy and Lyter both provided statements to investigators. Each described believing that Mr. Platz was about to shoot them or the other officer once he grabbed the handgun and intentionally manipulated it to prepare it to fire. This belief was reasonable and is supported by the evidence.

Officer Lyter was partly inside Mr. Platz's vehicle, trying to wrestle the gun out of his hands when Mr. Platz forcibly pulled the gun free from Officer Lyter's grasp and raised it up. Officer Murphy could see that Mr. Platz had moved his body into position to shoot out of the passenger window where Officer Murphy was standing when Mr. Platz "racked" the slide of the gun, broke free from Officer Lyter's grip and raised the gun up.

From their actions and from their statements, neither officer realized that Mr. Platz had shot himself. Importantly, the fact that Mr. Platz shot himself was not known to Officer Murphy at the moment that Officer Murphy fired his duty weapon. Officer Murphy's first shot is virtually simultaneous with Mr. Platz's shot. Officer Murphy's second shot comes a fraction of a second after the first shot. The speed with which Mr. Platz grabs the handgun, lifts it, "racks" it, raises it to shoot and fires is noteworthy (about four seconds). All of that was being observed from outside the car, in the dark, with limited artificial lighting.

Legal Analysis

Oregon's Self-Defense Law

Oregon Revised Statutes 161.209 and 161.219 constitute Oregon's law regarding the use of deadly physical force against another person. This law applies equally to law enforcement and the public. These statutes authorize a person to use physical force against a 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."

These statutes restrict the use of deadly physical force against another person to situations in which the person is reasonably believed to be "committing or attempting to commit a felony involving the use or threatened imminent use of physical force against a person; or[] using or about to use unlawful deadly physical force against a person."

In evaluating whether a police officer's use of force was reasonable, it is helpful to draw guidance from the objective standard of reasonableness adopted by the courts in previous cases. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight. The calculus of reasonableness must embody an allowance for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is necessary in a particular situation. *Graham v. Connor*, 490 U.S. 386, 396-397 (1989).

Officer Murphy and Officer Lyter responded to a dispatched call regarding an accident on Highway 97 near milepost 136. When they made contact with the reported at-fault driver, Gabriel Platz, Officer Lyter soon noticed a firearm was on the floorboard near Mr. Platz's feet. When he was asked for identification, Mr. Platz briefly reached toward the firearm. Officer Lyter initially asked Platz to exit the vehicle from the driver's door, but found that the door would not open due to the crash. Officer Lyter then told Mr. Platz to get out of the car using the front passenger door. Mr. Platz complied initially and started to move toward the passenger door. Mr. Platz then stopped and reached down to the driver's side floorboard, coming up with the firearm. Mr. Platz was holding the grip of the firearm in his right hand. His left hand was holding the barrel/slide of the firearm.

As Officer Murphy drew his firearm, Mr. Platz raised his firearm shooting himself in the right temple area of his head. After this gunshot, Mr. Platz's right hand that held the firearm dropped to the seat. Officer Murphy fired two rounds, the first of which was nearly simultaneous with the shot that Mr. Platz fired. One of the rounds fired by Officer Murphy struck Mr. Platz in the right thigh and the other struck him in the chest.

The gunshot wound to Mr. Platz's head was a fatal gunshot according to the autopsy findings. The gunshot to Mr. Platz's chest is also considered a fatal wound, but would have taken a longer amount of time to be fatal than the gunshot to the head.

Conclusion

I conclude that Gabriel Platz died from a self-inflicted gunshot wound to the head. Officer Murphy's use of deadly force was reasonable to defend himself, to defend Officer Lyter and to defend bystanders from Mr. Platz's firearm as it was being grabbed, manipulated and brought up into a shooting position (all despite multiple warnings to not grab the gun and to drop it) prior to Mr. Platz shooting himself. Officer Murphy would have been legally justified in shooting Mr. Platz from the time it became clear Mr. Platz had grabbed the gun from the floorboard of the vehicle after having been told multiple times not to do so.

Both officers in this situation acted admirably and according to their training. Officer Lyter was polite and professional with Mr. Platz. He provided clear instructions to Mr. Platz, but those instructions were disregarded. When Mr. Platz grabbed the handgun off of the floorboard despite being told multiple times not to, Officer Lyter would have been justified in shooting Mr. Platz at that time. Instead, Officer Lyter reached into the vehicle to close distance and to take the gun away or prevent it from being used. That act required a great deal of courage and it is extraordinarily fortunate that Officer Lyter was not struck by any of the three rounds fired during this incident.

Officer Murphy performed as he was required to. He reasonably perceived a deadly threat and reacted appropriately. He was aware that Officer Lyter was in harm's way and placed two shots as quickly and carefully as he could to avoid hitting his fellow officer. Once Mr. Platz no longer posed an immediate threat, Officer Murphy withdrew to a position of safety, near Officer Lyter.

Hindsight allows us to recognize that Mr. Platz acted with an intent to end his own life, but the officers who were charged with protecting the public at that moment did not have the benefit of hindsight. They had a duty to act within seconds to the threat that they reasonably perceived and they did so. They did not have the ability to wait and see what would happen.

Police officer deadly use of force incidents are taken very seriously and are investigated very thoroughly. These events represent a tragedy for those affected by them, including Gabriel Platz and his family. The involved officers carry the emotional burden of these events, as well, as do eyewitnesses.

Resources

If you or someone you know is in crisis, please reach out to Deschutes County Behavioral Health at (541) 322-7500, the National Suicide Hotline is at phone number 988, and the Deschutes County Stabilization Center, Crisis Services at (541) 585-7210.