



KEVIN BARTON
WASHINGTON COUNTY DISTRICT ATTORNEY

150 North First Avenue, Suite 300, MS 40, Hillsboro, Oregon 97124-3002
(503) 846-8671 / (503) 846-3407 (fax)
www.WashingtonCountyDA.org

July 25, 2023

Jim Coleman
Hillsboro Chief of Police
250 SE 10th Avenue
Hillsboro, Oregon 97123

Re: Lieutenant Neil Potter OIS

Dear Chief Coleman,

On August 19, 2022, Washington County's Major Crimes Team was activated to investigate an officer-involved shooting. Major Crimes Team detectives Brad Verboort and Chad Opitz were assigned to the case, and their investigation showed that Lt. Neil Potter shot Jose Mandujano-Aguilar near the Hillsboro Police Department headquarters on Washington Street.

After reviewing their investigation, I conclude that Lt. Potter acted in self-defense, and that his use of deadly physical force was justified. In addition to my review, this case was presented to a Washington County grand jury, and the grand jury returned an indictment against Jose Mandujano-Aguilar for Attempted Murder, Assault in the Second Degree and Assault on a Public Safety Officer.

Over the course of their investigation detectives spoke with Lt. Potter; interviewed civilian eyewitnesses; and seized video evidence, including video capturing Mandujano-Aguilar's initial attack on Lt. Potter. The following is a summary of their investigation.

Just before 1:00 p m on August 19, 2022, Lt. Potter drove eastbound on Washington Street and parked near the rear entrance of the Hillsboro Police Department. At the time, Lt. Potter was in full uniform and driving a marked patrol vehicle. As Lt. Potter parked, an adult male ran to Lt. Potter's driver's door and began assaulting him. The male, later identified as Mandujano-Aguilar, repeatedly punched Lt. Potter in the face, breaking Lt. Potter's nose and giving him a severe concussion.

Lt. Potter pushed Mandujano-Aguilar away and created several feet of space between himself and Mandujano-Aguilar by retreating towards the rear of his patrol vehicle. Mandujano-Aguilar ran after Lt. Potter and knocked him to the pavement.

On the ground, Mandujano-Aguilar continued to punch Lt. Potter in the face. During this part of the attack, Mandujano-Aguilar also reached for Lt. Potter's duty weapon, holstered in a belt on Lt. Potter's waist. To prevent Mandujano-Aguilar from taking his firearm, Lt. Potter used his right hand to push down on the holster. When he did so, he could feel Mandujano-Aguilar's hand on top of his, as Mandujano-Aguilar continued his effort to take Lt. Potter's firearm. At that moment, Lt. Potter summoned his remaining strength and turned his gun-side away from Mandujano-Aguilar. With the distance created by this action, Lt. Potter was able to draw his Glock 9mm handgun and fire three shots towards Mandujano-Aguilar. Mr. Mandujano-Aguilar was shot twice in the face and head.

Once free, Lt. Potter radioed for assistance. Officers Matthew Dodson, Matthew Schmidt, Jamal Jones, and Detective Dayanna Mesch were first to arrive on scene. Detective Mesch and Officer Dodson administered first aid to Mandujano-Aguilar while Officer Schmidt and Officer Jones attended to Lt. Potter. They could see that Lt. Potter, face, hands and uniform were covered in blood and that his nose was obviously broken.

Investigators interviewed Mackenzie Reisnaur and learned that Ms. Reisnaur was driving northbound on 10th Avenue and stopped at a red light near the intersection of 10th and Washington. Ms. Reisnaur had an unobstructed view of the fight through her front passenger window. She said that the altercation began at the officer's door, then moved to the rear of the police car. Ms. Reisnaur described an officer, "being attacked violently." Ms. Reisnaur believed, "the police officer was not going to win that one."

Investigators also spoke with Scott Morris, a City of Hillsboro IT worker. Mr. Morris was out for a walk on his lunch break and witnessed a portion of the assault. Mr. Morris witnessed a person he described as "the assailant" ruffing up an officer. Mr. Morris saw the assailant's hands make contact with the officer's face, as if punching the officer or pushing him back. The officer and assailant were standing near the driver's door of the patrol vehicle when Mr. Morris witnessed this contact. According to Mr. Morris, the officer appeared to be defending himself as he placed his arms up in front of his face while being pushed back by the assailant. The fight continued towards the rear of the patrol vehicle, and the two fell to the street. At this point, Mr. Morris' view was obstructed by a row of bushes. Mr. Morris then heard three gunshots.

Investigators also contacted administrators at the Briar Rose School, located on the north side of Washington Street, opposite from the Hillsboro Police Department. Briar Rose is a daycare center, whose backyard faces Washington Street. The manager confirmed that the Briar Rose School maintained video surveillance monitoring the daycare's back yard. Investigators seized and reviewed the surveillance video. The school's back yard is enclosed by a fence, which partially obstructs the camera's view of Washington Street. However, the video shows Mandujano-Aguilar approach and attack Lt. Potter near the driver's door. Next, Lt. Potter is seen retreating towards the rear of his patrol vehicle, followed by Mandujano-Aguilar. Both Lt. Potter and Mandujano-Aguilar then disappear beneath the fence line.

On August 26, 2022, investigators spoke with Lt. Potter. Lt. Potter explained that he was attacked and suffered a concussion and a broken nose. Lt. Potter further explained that he was knocked to the ground and could feel Mandujano-Aguilar's hand on his gun.

Next, Lt. Potter could feel Mandujano-Aguilar yanking on his hand as he attempted to prevent Mandujano-Aguilar from taking his gun. At that point, Lt. Potter explained,

“I really had no, no other options left. I felt like the only thing I could do, at that point, was if I could get to my gun and get it out, was, I had to use deadly force to end that scenario and save my life.”

ORS 161.219, Oregon’s self-defense statute, provides that a person is justified in using deadly physical force against another if the person reasonably believes that the other person is using or about to use unlawful deadly physical force. ORS 161.233 further requires that a peace officer consider alternatives to deadly physical force, if the officer has a reasonable opportunity to do so. I conclude that Lt. Potter used deadly physical force as a last resort, when he believed Mandujano-Aguilar was attempting to take his life. I find that the witness statements, video evidence and the grand jury’s Attempted Murder indictment confirm that Lt. Potter’s subjective belief was objectively reasonable. There is no doubt that Lt. Potter’s use of deadly physical force was entirely justified, and necessary to save his own life. Finally, given the sudden and violent nature of Mandujano-Aguilar’s attack, there was no reasonable opportunity for Lt. Potter to consider alternatives to his use of deadly physical force.

While it is our normal practice to issue a written decision after the criminal case is resolved, this case is now 11 months old, having been the subject of multiple defense resets, and it is time to officially close this investigation. This concludes my review of this event. All reports and materials will be made available for inspection, subject to Oregon’s public records law, at the conclusion of Mandujano-Aguilar’s criminal case.

Sincerely,



Bracken McKey
Chief Deputy District Attorney