

OFFICE OF THE PROSECUTING ATTORNEY  
JEFFERSON COUNTY

Michael F. Winchester  
Deputy

PAUL G. BUTIKOFER  
Prosecuting Attorney

Scott A. Madson  
Deputy

210 Courthouse Way, Suite 220  
P.O. Box 77  
Rigby, ID 83442  
(208)745-5888  
Fax: (208) 745-7342  
email: pbutikofer@co.jefferson.id.us

February 28, 2020

Detective Joshua Tuttle  
Idaho State Police  
1540 Foote Drive  
Idaho Falls, ID 83402

*Subject: Review of Charges for Shooting Death of Malachii Alexander Crane*

Detective Tuttle:

This memorandum reviews the actions of Idaho Falls Police Officers (“IFPD”) when they responded to a report of a suicidal subject that resulted in the shooting death of Malachii Alexander Crane (“Crane”).

The question before me is whether IFPD officers SGT Jed Lewis (“SGT Lewis”), Courtney Sato (“Sato”), and/or Stetson Belnap (“Belnap”) are criminally liable for their involvement in the shooting death of Crane. This opinion is limited to criminal liability and should not be taken as commentary on any other question of law or fact. After reviewing the evidence and relevant law, it is my opinion that the evidence does not support the conclusion that any of the abovementioned officers committed a criminal act.

FACTS

On October 21, 2019, the Bonneville County 911 Center received a call from R.D. McCall (“McCall”) reporting that Crane was suicidal. Officers from IFPD arrived in the area

of 25<sup>th</sup> Street and Higbee Avenue in Idaho Falls. Over the next 21 minutes, officers from multiple agencies arrived on scene.<sup>1</sup> Officers contacted Crane and asked him to exit the car so that they could verify that he was not intoxicated. Crane was not compliant and informed the officers that he had a firearm. All three officers received information that Crane was suicidal and knew that he was in possession of a firearm.

After multiple ignored verbal requests for Crane to exit the vehicle, officers then broke the passenger window to forcibly remove Crane. The dash camera video of SGT Lewis clearly shows Crane reaching for something with his right hand immediately after the officer breaks the window. As Crane's hand is raising, the video shows the officers raising their firearms from a low ready position to aiming at Crane. Crane's right hand is then visible holding a handgun. About the time the handgun is visible to the dash camera the three officers begin firing. It is difficult to discern if Crane fired his weapon in the video, but officers recovered Crane's .40 caliber handgun from the car and a single expended .40 caliber brass. The officers reported that they believed Crane was likely to use the handgun to harm law enforcement.

After the officers finished firing, the officers removed him from the car, searched his person, and secured him with handcuffs. First responders then began life saving care and transported Crane to Eastern Idaho Regional Medical Center where he was pronounced dead. On October 21, 2019, the Ada County Coroner performed an autopsy and concluded that Crane died from multiple gunshot wounds of the head/neck and torso. The report indicated multiple gunshot wounds to the head, neck, torso, and extremities, but only a non-penetrating grazing wound to the forehead was found to be fired at close range. This grazing wound was most

---

<sup>1</sup> For the purposes of this memorandum, the word officer(s) means "peace officer" as defined by Idaho Code unless otherwise stated herein.

likely fired by Crane himself. These facts support the conclusion that Crane most likely died as a result of gunshot wounds caused by law enforcement and not by a self-inflicted gunshot wound.

### LAW AND ANALYSIS

The question before me is whether any of the three officers violated the Idaho Criminal Code during the incident that resulted in the shooting death of Crane. Where all three of the firing officers knew the same relevant facts and the autopsy does not specify which gunshot wound caused Crane's death, this analysis applies to all three officers.

Idaho Code §66-326 allows peace officers to take a person into custody if the officer "has reason to believe that the person is gravely disabled due to mental illness or the person's continued liberty poses an imminent danger to that person or others, as evidenced by a threat of substantial physical harm..." In this case, the officers knew that Crane was reported to be suicidal, was not responding to commands or requests, and was in possession of a firearm. These facts support the conclusion that the officers' attempted detention of Crane was legal. Therefore, Crane did not have the right to legally resist the officer's attempts to detain him. Idaho Code §18-705; See *State v. Whelan*, 103 Idaho 651, 657 (1982). The question then turns to whether the officers were justified in using lethal force.

Idaho Code §18-4009(a) governs Justifiable Homicide by Any Person and states that homicide is justifiable "When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person." Idaho Code §18-4011(2) governs Justifiable Homicide by an Officer, and states that homicide is justifiable when committed by public officers:

2. When reasonably necessary in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty including

*suppression of riot or keeping and preserving the peace. Use of deadly force shall not be justified in overcoming actual resistance unless the officer has probable cause to believe that the resistance poses a threat of death or serious physical injury to the officer or to other persons; ...*

In this circumstance, probable cause means that a reasonable officer in the scrutinized officer's position would entertain an honest and strong presumption that a crime was being committed or about to be committed. Idaho Criminal Jury Instruction 1514 and *State v. McGreevey*, 17 Idaho 453 (1909), further explain the standard for the law of self-defense and states:

The law of self-defense does not require a defendant to wait until he or she ascertains whether the danger is apparent or real. A person confronted with great danger, or what would appear to a reasonable person as great danger, has a clear right to act upon appearances such as would influence the action of a reasonable person. Also, the defendant is not required to retreat or to do everything in his or her power to avoid the necessity of acting in self-defense. The defendant is only expected to act as a reasonably prudent person would act under similar circumstances and surroundings

This leaves the question of whether the officers reasonably perceived Crane's actions are threatening death or serious bodily injury. This is primarily a question of fact. In this case, the officers knew that Crane was suicidal, not complying with lawful commands, and armed with a firearm. The video evidence also supports the conclusion that the officers did not fire their weapons until they saw, or heard that other officers saw, Crane raise his own firearm. They did not know whether Crane intended to use the handgun to self-harm or to resist the officers' attempts to take him into custody, or that he intended to harm law enforcement personnel.

#### CONCLUSION

In order for my office to bring a charge, the charge(s) must be supported by probable cause. IRPC 3.8(a). Probable cause has been defined as information that would lead a man of

ordinary care and prudence to believe or entertain an honest and strong suspicion that a crime was committed. Given the rapid development of the situation and potentially lethal consequences of delayed decision making, the officers' perception that Crane's resistance posed a threat of death or serious bodily injury is supported by the facts.

Therefore, after considering the abovementioned law and all the facts provided to me in the Idaho State Police investigation, I do not believe that criminal charges against any of the officers involved could be supported by probable cause and I am declining charges at this time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul G. Butikofer', with a long horizontal flourish extending to the right.

Paul G. Butikofer  
Prosecuting Attorney

c: Bryce Johnson, Chief IFPD  
PGB/jm