

On September 20<sup>th</sup>, 2025, Portland Police Bureau officers Sammy Smith and Spencer Foster used deadly force against Bryan Velasco-Ruelas that resulted in serious physical injury to Velasco-Ruelas. The Portland Police Bureau, assisted by the East County Major Crimes Team, conducted an investigation into the officers' use of force. Multnomah County Senior Deputy District Attorney Brian Davidson reviewed the investigation and concluded the use of force was justified under Oregon law and therefore not criminal. The following is a summary of the investigation and the applicable law.

On the morning of September 20<sup>th</sup>, 2025, at approximately 8:38am, PPB officer Mychal Costanzo responded to a call at the Space Age gas station located at 8410 SE Foster. Officer Costanzo contacted gas station manager Aaryan Tran. Tran reported that a Hispanic male with full body tattoos has just pointed a gun at him and then left in a gray Nissan Murano with the license plate "858 PEN." Tran showed Officer Costanzo the gas station's surveillance video. In the video, Officer Costanzo observed the subject produce a semiautomatic pistol from his waistband and then point it at Tran from a short distance. The subject then puts the gun back in his waistband and leaves in the gray Nissan.

Shortly after that occurred, PPB officers were called to a second location on a similar call. PPB Officer Michelle Brown arrived at the Shell station located at 3515 SE 122<sup>nd</sup> Ave. Officer Brown contacted Shell station employee, Leslie Anzures-Ruiz. Anzures-Ruiz reported that she was working inside the Shell when a Hispanic male came inside and demanded that his gas tank be filled. Anzures-Ruiz refused, citing the station's policy that customers pay before they get gas. This upset the subject, and he began verbally threatening Anzures-Ruiz. The subject then walked out the doors and had interactions with other Shell employees outside. Anzures-Ruiz described the subject as a Hispanic male, with tattoos on his arms and neck. She reported that he left in a gray Nissan with the license plate "858 PEN."

Officer Brown then spoke with Martin Munoz-Mota. Munoz-Mota reported that the subject was having some kind of interaction inside the store with Anzures-Ruiz. The subject then came outside, produced a handgun, racked the slide and pointed it at Munoz-Mota's forehead and said, "Where would you like it?" Officer Brown also spoke with Gregorio Hernandez-Vasquez. Hernandez-Vasquez reported that the subject offered him an "8 ball of meth" to pump his gas. When Hernandez-Vasquez refused, the subject pulled up his shirt and flashed the handgun he had stuck in his waistband. The subject then got into the front passenger seat of the Nissan and departed.

PPB Officers Sammy Smith and Spencer Foster were on patrol in the area at the time. They were both wearing standard PPB patrol uniforms, displaying badges and operating a standard, fully marked PPB patrol unit equipped with the usual insignias as well as a light bar. Both officers were wearing bureau-issued body worn cameras. Officer Foster was driving. Officer Smith was sitting in the front passenger seat. The two officers heard first the Space Age incident and then the Shell station incident come out over the police radio. They understood from the calls that the subject had threatened multiple people with a gun at two nearby gas stations. They understood that there was probable cause to arrest the subject for the felony of Unlawful Use of a Weapon with a Firearm as well as misdemeanor Menacing. They understood that the subject was the front passenger in a grey Nissan with the license plate "858 PEN." They had the description of the subject as a Hispanic male with tattoos on his neck.

As the officers approached the intersection at 122<sup>nd</sup> and Division, Officer Smith observed a grey Nissan Murano with the license plate "858 PEN" parked at the fueling island at the Shell station located at 2450 SE 122<sup>nd</sup> Avenue. Officer Smith directed Officer Foster to pull in behind the Nissan. As the patrol vehicle came to a stop, both officers exited the vehicle and took cover behind the open doors. Officer Foster was armed with his service pistol. Officer Smith had removed his patrol rifle from its rack in the vehicle. Both officers' body worn cameras were active and recording at this time.

Per his written account, Officer Smith began giving loud and clear commands for the occupants of the vehicle to show their hands. He also gave loud and clear “force warnings.” Officer Smith observed the driver respond by putting his hands up. The passenger failed to put his hands up. Officer Smith followed up with additional commands for the passenger to show his hands. Suddenly and without direction, the driver and then the passenger exited the vehicle. Officer Smith was unable to observe a gun in either person’s hand at that point. Officer Smith then heard the passenger say he was going to get his phone from the car. In response, Officer Smith gave loud and clear direction to the passenger to not reach into the car. He also gave another force warning. Officer Smith wrote in his account that he believed that the passenger was the person who threatened people with a gun from the earlier calls. He believed that the passenger may try to retrieve a firearm from the car and if he did so, would shoot Officer Smith and/or Officer Foster, causing them death or serious physical injury.

The passenger did not comply with commands or force warnings but instead reached into the car while yelling “Fuck you!” and emerged with a pistol in his hand and immediately began firing at both officers. Officer Smith wrote in his account that he didn’t recall seeing the gun in the passenger’s hands until he was actively shooting at Smith, and Smith could see the muzzle flash coming from the passenger’s gun. Officer Smith wrote in his account that he feared for his life and the life of Officer Foster and therefore began firing at the passenger with his patrol rifle. Officer Smith could sense bullets “whizzing past me” as the passenger continued to fire. Officer Smith stopped shooting when he observed the passenger stop firing and fall to the ground. Officer Smith then called for medical for the passenger and held him at gunpoint until police officers could safely approach and begin rendering him aid.

Officer Foster’s written account was materially the same. He heard the same information come over the radio regarding the incidents at Space Age and Shell that Officer Smith did. Officer Foster indicated that he activated the patrol vehicle’s overhead lights as he pulled in behind the suspect vehicle. He heard Officer Smith give clear and repeated commands for the occupants to put their hands up as well as force warnings. Officer Foster also observed both driver and passenger suddenly and unexpectedly exit their vehicle. Officer Foster heard the passenger say he was going to go back into the car to retrieve his phone and Officer Smith repeatedly instruct the passenger to not do so and that force could be used against him if he did go back into the car. Officer Foster wrote that he was fearful the passenger would retrieve a gun from the car and shoot himself and Officer Smith.

Officer Foster heard the passenger yell something to the effect of “fuck you!” and quickly lunge back into the car. Officer Foster moved to the rear of the patrol vehicle for additional cover and trained his handgun on the passenger. Officer Foster observed the passenger emerge from the vehicle and then heard the distinct sound of multiple gunshots being fired in his and Officer Smith’s direction. Officer Foster then fired three rounds at the passenger. He stated that he fired at the passenger because he feared the passenger was going to kill Officer Smith or himself. Officer Foster stopped firing when the passenger fell to the ground and stopped firing.

A review of the body worn camera footage from Officers Smith and Foster materially corroborates their accounts of what occurred. The actual event of the passenger emerging from the vehicle with a gun was not captured on the body worn camera as the view was blocked by the patrol vehicle both officers were taking cover behind.

The passenger was taken to the hospital and treated for multiple gunshot wounds to the upper torso. He remains in the hospital at the time of the writing of this memorandum. The passenger was positively identified as Bryan Velasco-Ruelas. The driver was taken into custody and identified as Kenneth

Gutierrez-Maldonado. When interviewed he claimed to know little to nothing about anything that had occurred.

The investigation of the scene revealed that the patrol vehicle door Officer Smith was taking cover behind was struck by a round from Velasco-Ruelas' gun. The round was discovered still embedded in the sheet metal of the door. Additionally, another round fired from Velasco-Ruelas' gun flew past the officers and struck an occupied civilian vehicle that was travelling westbound on Division at the time of the shooting. The vehicle was damaged but none of the three occupants was injured.

Velasco-Ruelas' gun was located on the pavement near where he fell. The gun was a Sar 9 Sarsilmaz 9mm semiautomatic pistol. A casing was found jammed in the chamber. The magazine was found separate from the gun with 14 9mm rounds still inside. It was determined from a subsequent weapons countdown and shell casings recovered that Officer Foster fired 3 rounds from his 9mm pistol and that Officer Smith fired 10 rounds from his .223 patrol rifle. It is believed that Velasco-Ruelas fired at least two rounds.

Detectives were able to collect and review surveillance video from the Shell station where the incident occurred. The video has no audio. A review of the video shows the gray Nissan parked at the fuel pumps when Officer Foster and Smith pull in behind. The officers exit their respective doors and take cover behind them. Officer Foster has his pistol at low ready and Officer Smith has his patrol rifle pointed in the direction of the Nissan. Officer Smith appears to be attempting to give commands. Both drivers' side and passenger side doors open and the occupants emerge. Velasco-Ruelas appears to have a backpack in his hands. He is looking back towards the officer when he can be seen reaching back into the open car. Seconds later he can be seen emerging with a pistol in his hand. He points the pistol at the officers and begins firing. The officer can be observed firing back and Velasco-Ruelas falls to the ground, the gun tumbling from his grip.

A review of the surveillance video from Space Age and two Shell stations leaves no doubt that Velasco-Ruelas was the same individual involved in all three incidents.

The following is an overview of Oregon criminal law that is applicable to Officer Smith and Foster's use of force against Velasco-Ruelas:

Under Oregon Revised Statute (ORS) 161.195, conduct which would otherwise constitute an offense is justifiable and not criminal when it is authorized by law. ORS 161.209 establishes that a person is justified in using physical force upon another 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.

In conjunction with the requirements of ORS 161.209, ORS 161.219 limits the use of deadly physical force in defense to a situation in which a person reasonably believes another person is committing or attempting to commit a felony involving the use or threatened imminent use of physical force against a person, or is using or about to use unlawful deadly physical force against a person.

For police officers, ORS 161.242 states that a peace officer may use deadly physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe that the person poses an imminent threat of death or serious physical injury to a person and the use of deadly physical force is necessary to defend the person from the imminent threat of death or serious physical injury.

ORS 161.242 goes on to state that prior to using deadly physical force upon another person, if the peace officer has a reasonable opportunity to do so, the peace officer shall consider alternatives such as verbal de-escalation, waiting, using other available resources and techniques if reasonable, safe and feasible, or using a lesser degree of force; and give a verbal warning to the person that deadly physical force may be used and provide the person with a reasonable opportunity to comply.

In this case, the officers were attempting to apprehend Velasco-Ruelas, for whom probable cause existed for multiple violent firearms-related felony offenses. Velasco-Ruelas was armed with a loaded and functional semiautomatic pistol. When the officers encountered Velasco-Ruelas at the Shell station, Velasco-Ruelas was repeatedly warned by the officers to not reach back into the car or force could be used against him. Despite that warning Velasco-Ruelas did not comply with the commands. Instead, he yelled "Fuck you!", reached into the car to retrieve a gun and began firing at the officers. Both officers felt compelled to fire on Velasco-Ruelas in that moment because they reasonably believed, given everything that had occurred to that point, both officers would be shot and killed if they did not take that immediate action. The encounter occurred so quickly and was so close, there was no reasonable opportunity for either officer to consider alternatives such as verbal de-escalation, waiting, using other available resources or techniques. Further, no other weapons system available to either officer at the time would have been effective at addressing the threat they reasonably believed Velasco-Ruelas posed.

The facts and evidence in this case conclusively establish that Officers Smith and Foster reasonably believed that Velasco-Ruelas was an imminent deadly threat, and that they took action they reasonably believed to be necessary to defend themselves and others against that deadly threat. As such, Officer Smith and Foster's use of deadly physical force against Velasco-Ruelas is justified under Oregon criminal law and is not criminal.