

SN: Good morning, I'm Shane Nelson, the Deschutes County Sheriff. With me are Harney County District Attorney Tim Colahan and Malheur County's District Attorney Dan Norris, who is leading the investigation of the officer-involved shooting of Robert LaVoy Finicum on January 26, 2016, under Harney County's Plan Addressing Use of Deadly Force enacted under ORS 181A.775-ORS 181A.815. We are here to present the results of the investigation as we know them as of today.

Also here are United States Attorney Bill Williams, Special Agent in Charge for Oregon Greg Bretzing of the Federal Bureau of Investigation and Special Agent in Charge Michael Tompkins of the United States Department of Justice Office of the Inspector General.

We ask that you hold your questions until the end of this presentation.

The Deschutes County Sheriff's Office was contacted by the Oregon State Police to conduct an independent and impartial investigation of the use of deadly force. The Deschutes County Sheriff's Office then reached out to

members of our central Oregon Tri-county Major Incident Team for investigative resources. Detectives responded from the City of Bend Police, City of Redmond Police, Oregon State Police and forensic scientists from the Oregon State Police Crime Lab.

What you will see today is the FBI video, which I'm sure most of you have already seen. You will also hear the events of January 26th, which were recorded on the camera of Shawna Cox, an occupant in Mr. Finicum's truck at the time of the shooting. The Deschutes County Sheriff's Office has synchronized the FBI video and the Cox audio-video by matching significant visual cues in both videos.

We have considered this video footage, along with the statements given by the Oregon State Police officers and the FBI Hostage Rescue Team operators, the interviews given by Shawna Cox, Victoria Sharp, and Ryan Bundy in the vehicle, the physical evidence, and the crime scene reconstruction by the Major Incident Team investigators.

We have presented the investigation to Malheur County District Attorney Dan Norris, so he can review the actions

of the Oregon State Police troopers under applicable Oregon law governing the use of deadly force.

We have determined that eight shots were fired on that day, six of which have been attributed to the Oregon State Police, including the three shots that resulted in the death of Mr. Finicum, and two shots which were fired by the HRT operators.

You have heard a statement from Shawna Cox that “hundreds of bullets” were fired at the truck, and from Victoria Sharp that, “as many as a hundred bullets were fired at the truck”.

After Mr. Finicum was shot, numerous gas projectiles and flash bangs were deployed to get the remaining occupants of the truck, Ryan Bundy, Shawna Cox, and Victoria Sharp, to surrender peacefully but, again, only eight shots were fired.

DN: Of the eight shots fired, the six fired by the Oregon State Police were justified and, in fact, necessary. My legal obligation under Oregon law is to review the six shots fired by the Oregon State Police. The Inspector

General of the US Department of Justice will review the actions taken by the HRT operators.

SN: Throughout this presentation, we will be stopping the audio-video at specified points to supplement what you are seeing with information gathered during the course of the investigation, and to give you the laws which apply to those actions.

Prior to Ms. Cox's recording, the two vehicles carrying members of the unlawful armed occupation of the Malheur National Wildlife Refuge were stopped to arrest those members for federal felony charges based on the criminal acts arising from that unlawful occupation. The occupants of the first vehicle cooperated with the Oregon State Police and were arrested without incident. The occupation leader, Mr. Ammon Bundy, Brian Cavalier, and Mark McConnell were in this vehicle. Mr. Finicum was driving the second vehicle.

In Mr. Finicum's truck were Ryan Bundy, Ryan Payne, Shawna Cox and Victoria Sharp. None of them complied with commands with the Oregon State police to cooperate with the arrest process. The Oregon State

Police fired one less lethal OC round at the truck, to gain compliance. Mr. Payne then complied with commands from Oregon State Police troopers, got out of Mr. Finicum's truck and was arrested on federal charges. At that time, Ms. Cox turned on her camera and began recording. This video footage became valuable to the investigators of the Major Incident team.

DN: The truck was stopped to arrest Finicum, Payne, Bundy and Cox for federal felony charges based on criminal acts arising from the armed occupation of the Malheur National Wildlife Refuge. The occupants of the truck knew that the Oregon State Police had appropriately identified themselves and told them to get out of the truck. They had been given both visible and audible commands to stop by law enforcement personnel appropriately attired and with appropriately-marked police vehicles. At this point, the conversation in the truck shows an agreement existed between the occupants Finicum, Bundy, Cox and Sharp, to elude the police. Eluding the police in a vehicle is a felony in Oregon.

SN: The truck now accelerates away from the initial stop. We have determined that Mr. Finicum was driving over 70 mph as he approached the roadblock established by HRT operators and the Oregon State Police at MP 51, 1.5 miles from the initial stop.

SN: As Mr. Finicum rounded the curve in the road, he would have been able to see the roadblock, which was approximately 862 feet away, about the length of 3 football fields. Mr. Finicum continued driving over 70 mph as he approached the roadblock. An OSP SWAT van was following Mr. Finicum's truck at the same speed and was able to stop prior to the roadblock.

Mr. Finicum continued to travel at speeds in excess of 50 mph as an Oregon State Police trooper, who was standing at the roadblock, fired three shots into the truck in an attempt to stop it. This trooper was located by this truck on the diagram. Mr. Finicum continues to drive towards the roadblock and veers off the road and hits a 3' high snow bank and travels 105 feet before coming to a stop. As you will see, Mr. Finicum almost struck an HRT operator. We are going to replay the first two shots, as the second shot is difficult to hear. Two of the three

shots, the first and third shots, are distinct. The second shot is muffled due to the fact that it hit the engine compartment.

First shot strikes the sideview mirror

Second shot hits the front of the truck here

Third shot hits the truck at this angle as shown on the diagram

SN: At this point, two shots were fired which we have determined were fired by a FBI HRT operator.

Later in this conference we will discuss both the circumstances of those shots and how we discovered them.

Neither of these shots hit Mr. Finicum.

DN: Under Oregon law, Mr. Finicum was using his truck as a dangerous weapon. A dangerous weapon is defined as “any weapon, device, instrument, material or

substance which under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury.”An Oregon officer is justified in using deadly physical force when it is “necessary to defend the peace officer or another person from the use or threatened imminent use of deadly physical force.”

Any person is justified in using deadly physical force when they reasonably believe that another person is “using or about to use unlawful deadly physical force against a person.”

“Deadly physical force” means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

When Mr. Finicum drove his truck at a high rate of speed toward a roadblock where law enforcement were present, the Oregon State Police trooper was reasonable in believing that Mr. Finicum planned to crash through or otherwise evade the roadblock in a manner that would injure or kill law enforcement at the roadblock. In this case, after interviewing the Oregon State Police trooper,

that is, in fact, what he believed. Under these circumstances, these three shots into Mr. Finicum's truck are justified.

SN: Many of you have seen the social media photos of Mr. Finicum carrying a firearm on his left side. The Oregon State Police troopers had been briefed and were aware that Mr. Finicum carried a handgun on his left side. During the investigation of the scene, Major Incident Team investigators found a loaded 9mm handgun in the left hand interior pocket of Mr. Finicum's jacket. Detectives recovered the 9mm loaded handgun from that interior pocket and were able to determine that the handgun was a gift from a relative to Mr. Finicum.

SN: WE HAVE SELECTED THIS CRITICAL PART OF THE FOOTAGE AND WE ARE NOW GOING TO PLAY IT IN SLOW MOTION. I WILL BE POINTING OUT KEY POINTS IN THIS FOOTAGE.

SN: This transcript shows the statements by Oregon State Police troopers and Mr. Finicum during the attempt to arrest Mr. Finicum.

When you see this footage in real time you will see that Mr. Finicum rapidly gets out of his truck. He is commanded to “Get on the ground”. He does not get on the ground and comply with commands and continues moving away from his truck. He is commanded a second time to “Get on the ground”. Again, he does not comply and continues moving away. He reaches across his body with his right hand into his jacket in the area where his gun was found. The Oregon State Police do not shoot. He lifts his hands.

He looks down at his jacket and again reaches across his body with his right hand into his jacket in the area where his gun was found. The Oregon State Police do not shoot. It is important to note that our investigation has determined that at this point, Mr. Finicum has not been shot with any lethal rounds or less lethal rounds. Again, he lifts his hands.

Also note that the Oregon State Police trooper, who you see at the left side on this still photo, is armed with a taser and closing in to deploy it. He was attempting to take Mr. Finicum into custody with less lethal force after Mr. Finicum refused orders to get on the ground. Before that can happen, Mr. Finicum is ordered a third time to get on the ground. In the midst of that command, Mr. Finicum grabs his jacket with his left hand and again reaches with his right hand into area of his jacket where his gun was found, at which time the two Oregon State Police troopers behind Mr. Finicum, only one of whom you can see in the video, shoot a total of three shots, killing Mr. Finicum.

Both of these Oregon State Police troopers stated to Major Incident Team investigators that they shot Mr. Finicum because they believed he was reaching for a handgun and was about to use deadly force against them and or the trooper armed with the Taser. We have spent hours analyzing this frame-by-frame.

DN: Again, an Oregon officer is justified in using deadly physical force when it is “necessary to defend the peace

officer or another person from the use or threatened imminent use of deadly physical force.” Any person is justified in using deadly physical force when they reasonably believe that another person is “using or about to use unlawful deadly physical force against a person.”

Two OSP troopers fired a total of 3 rounds, all of which hit Mr. Finicum. The Oregon State Medical Examiner's Office conducted the autopsy of Mr. Finicum and found that he was struck by three bullets in the torso entering his back. The Major Incident Team has confirmed that these three bullets were fired by OSP troopers. The troopers knew that Mr. Finicum carried a weapon on his left side. Mr. Finicum was reaching for that loaded 9mm gun when the troopers lawfully used deadly force to protect themselves and others, *including the trooper armed with a taser.*

Under Harney County’s Plan Addressing Use of Deadly Physical Force protocol, my legal obligation is to review the evidence as it relates to the use of deadly force by the Oregon State Police trooper. I have concluded that all six shots fired by the Oregon State Police, the three

into the truck and the three that struck Mr. Finnicum, are justified.

SN: As a part of the major incident team investigation, Oregon State Police crime lab forensic scientists examined the truck driven by Mr. Finicum and found 4 distinct bullet holes, three of which we have already gone over with you.

In the early stages of the investigation we could not explain the 4th shot into the roof of the truck or its trajectory, given the placement of the Oregon State Police troopers at the time.

We had conclusive evidence that the Oregon State Police troopers fired 6 shots, the three that hit the truck and the three that hit Mr. Finicum.

During the course of our investigation, we discovered evidence that FBI HRT operators fired two shots as Mr. Finnicum exited the truck, and one shot hit the truck. The footage from Ms. Cox's camera confirms this. Neither of these two shots fired by HRT operators struck Mr. Finicum.

The HRT operators were interviewed on the evening of January 26 and again on February 5th and 6th during the investigation by the Major Incident Team. Of particular concern to all of us, is that the FBI HRT operators did not disclose their shots to our investigators. Nor did they disclose specific actions they took after the shooting.

The failure by HRT operators to disclose that they fired shots during this contact, and actions they took after the shooting are the subject of an ongoing investigation by both the Deschutes County Sheriff's Office and the Inspector General of the United States Department of Justice. The Inspector General is a separate department of the Department of Justice responsible for investigating misconduct by Department of Justice personnel.

Immediately upon discovering evidence of the HRT operators' actions, we contacted United States Attorney Bill Williams on February 17th. On February 18th in Bend, we thoroughly briefed Mr. Williams, who reviewed the evidence. He then contacted FBI Special Agent in Charge for the State of Oregon Greg Bretzing, who came to Bend and was thoroughly briefed on the 19th. The

Inspector General of the U.S. Department of Justice was notified the same day by the FBI.

The very next day, Saturday, February 20th, a Special Agent of the Office Inspector General of the U.S. Department of Justice and a team from the Inspections Division of the FBI flew from Washington, D.C. to Bend and were shown all of the evidence concerning the actions of the FBI HRT operators--including the actions of some operators during and after the shooting. We, the Deschutes County Sheriff's Office, the U.S. Attorney's Office and the Office of the Inspector General consider this part of the incident an ongoing investigation.

DN: In an effort to be as transparent as possible, we are releasing all of the evidence you've seen here today, including the extended footage from after the shooting of Mr. Finnicum until the truck's occupants were taken into custody.

We will not be releasing the names of any law enforcement officers involved in this matter due to concerns for their safety and the safety of their families.

We will not be releasing evidence that is being used in the continuing investigation. We want to acknowledge the prompt response of U.S. Attorney Bill Williams, FBI Special Agent in Charge Greg Bretzing, the FBI's Inspection Division, and the Office of the Inspector General. Additionally, I would like to publicly thank the Deschutes County Sheriff's Office and the Major Incident Team for their meticulous work in following the evidence wherever it led without fear or favor.

TC: Before we take questions, I want to be clear where the process goes from here. The investigation remains open and in the hands of the Deschutes County Sheriff's Office; the Inspector General of the U.S. Department of Justice is now also investigating. We deserve to know that our law enforcement officers at the local, state and federal level act appropriately, within the scope of the law. **We know without a doubt that the Oregon State Police troopers who shot Mr. Finicum did so as they moved to protect themselves and their fellow officers from imminent harm.** Mr. Finicum repeatedly and knowingly made choices that put him, Robert Lavoy Finicum, in this situation. It was not the outcome that any of us wanted, but one he, alone, is responsible for.

