VALLEY COUNTY PROSECUTING ATTORNEY'S OFFICE
BRIAN D. NAUGLE
PROSECUTING ATTORNEY

February 27, 2023

Detective Paul Jagosh
Violent Crimes Unit
Boise Police Department
[redacted]cityofboise.org

RE: CITF Investigation into Officer-Involved Shooting of Jeremy Banach

Dear Paul:

As you are aware, the Ada County Critical Incident Task Force recently conducted an investigation into the officer-involved shooting of Jeremy Banach in June of 2022. The Task Force investigation concluded that there was not probable cause to criminally charge any of the Officers involved. After a careful review of the investigation conducted by the Critical Incident Task Force (CITF) in this case, my office has determined that the shooting investigated by the CITF was justifiable under the law in the State of Idaho and I have thus declined to file criminal charges. A brief explanation of the facts and circumstances, as well as the legal framework that led to this decision follows.

An investigation conducted by the Critical Incident Task Force (CITF) and led by the Boise Police Department reveals that on June 15 of 2022 just after 8:00 A.M., several Deputies from the Ada County Sheriff's Office in Star were dispatched to a subject refusing to leave a residence at [redacted] Golden Rain Street in Star, Idaho. The calling party was [redacted], the [redacted] of Jeremy Banach, an adult male, 39 years old, who was refusing to leave [redacted] house despite multiple requests to do so. [redacted] advised that while his [redacted] was not being aggressive and had no weapons that he knew of, Jeremy was a drug addict believed to be using fentanyl, he did not live at [redacted] residence, and that [redacted] had made it clear to Jeremy that [redacted] wanted him to leave but Jeremy refused to do so.

At [redacted] request, four Deputies responded to the residence and after some searching, made contact with Jeremy Banach, who was hiding in the back yard of the residence behind a small out-building. Deputies made contact with Jeremy, during which time Jeremy advised that he

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had a gun in his hand. After several minutes of cajoling, the Deputies finally convinced Jeremy to leave the residence. The Deputies told Jeremy that he was welcome to take his duffel bag with him (which was lying next to him in the back yard as he spoke to the officers) and any other belongings. Jeremy declined to gather any of his belongings, choosing to take only the gun with him. Jeremy walked into the front yard where he stood for about 20 seconds, acting fidgety, nervous, and erratic. It was difficult for the Deputies to tell exactly what he was thinking, but despite being told multiple times that he was free to go, Jeremy remained in the yard, scratching his head, moving his hands, and refusing to leave despite being told multiple times that he was free to do so. Jeremy finally began walking out of the yard and down the street. As he did so, the gun he concealed in his waistband fell into the right leg of his pants. The Deputies allowed Jeremy to stop and reposition the gun in his waistband and leave the area on foot. At the time, Jeremy Banach was not a prohibited possessor nor did the Deputies know that the gun itself was stolen or otherwise possessed by Jeremy illegally.

Shortly after Jeremy departed the residence, [redacted] asked the Deputies why they were pointing guns at [redacted] The Deputies advised [redacted] that they had unholstered their weapons because Jeremy told them that he had a gun and was initially refusing to show them his hands. Surprised by this information, [redacted] explained that the gun Jeremy had in his possession was, in all likelihood, a black semi-automatic .45 caliber pistol that had gone missing from [redacted] home the day prior. This conclusion was corroborated by [redacted] description of the gun, which matched the Deputies observations of the gun in Jeremy's possession that day. [redacted] had reported the gun stolen the day before and it had already been entered into NCIC.

With this information, the Deputies on scene were reluctant to allow Jeremy to wander the streets of Star with a stolen gun, especially given the high likelihood that he was under the influence of drugs and extremely reluctant to cooperate with police or obey simple commands. A search for Jeremy Banach ensued.

Deputy Steele of the Ada County Sheriffs Department was the first to locate Jeremy walking toward the entrance of the Star Merc in downtown Star just after 9:30 A.M., about an hour after Jeremy walked away from [redacted] house. Not wanting Jeremy to enter the Star Merc with the stolen gun, Deputy Steele intercepted Jeremy just short of the entrance and engaged him in conversation, attempting to get Jeremy to give up the firearm and place his hands on his head. According to Deputy Steele, Jeremy said that he could not and would not give up the gun. Deputy

Steele attempted to physically grab the gun from Jeremy but Jeremy shifted away from him, possibly pointing the gun at Deputy Steele, and walked away from him, through the Star Merc parking lot, toward a residential neighborhood that included a daycare facility.

Just prior to Deputy Steele's attempt to wrest the gun from Jeremy, Deputy Woodcook arrived and approached Jeremy and Deputy Steele (Deputy Woodcook's body worn camera was running during the incident and recorded the following events). As Jeremy pulled away from Deputy Steele, Deputy Steele shouted multiple commands for Jeremy to "stop" and "drop the gun." Jeremy ignored the commands and continued to walk away from the Deputies, while manipulating something in his hands as he walked. As Jeremy continued walking away, Deputy Turner arrived on scene and joined Deputies Steele and Woodcook as they followed Jeremy across the parking lot and toward the daycare and residences across and further down the street, one of which had a citizen standing outside of the house in the front yard. Deputy Turner gave multiple commands for Jeremy to stop, show his hands, and cease walking toward the residential area. At one point, Deputy Turner told Jeremy that if he continued to choose to walk away toward the houses "it would go real bad" for him. Jeremy responded by saying, "I know it's gonna go really bad!" and continued to walk toward the residential area.

As Jeremy continued to walk away from the Deputies, he threw his hoody on the ground and with his right hand, pointed the pistol toward his head by bringing his right hand up toward the right side of his face or temple and turning to his left as he stepped out into the street. As Jeremy pointed the gun at his head, the gun was initially oriented so that the barrel was above his hand. In the next motion, Jeremy appeared to rotate the gun 180 degrees by rotating his arm and wrist counter-clockwise, resulting in the barrel of the gun being oriented under his hand and pointing either at or behind the back of the right side of his head. This resulted in the gun being pointed in the general direction of a house across the street and/or Deputy Turner, who was behind and to the left of Jeremy at the time. At that point, Deputy Woodcook fired five rounds at Jeremy. All five rounds struck Jeremy and caused injuries from which he died, despite Deputy Turner and Deputy Steele's life-saving efforts at the scene.

The firearm possessed by Jeremy and recovered by law enforcement at the scene was indeed the same black .45 caliber semi-automatic pistol reported stolen by [redacted] the day prior, as verified by the brand and serial number. The pistol had 4 rounds in the magazine and one in the chamber.

Idaho Code 19-610 dictates that when an "arrest is being made by an officer... without a warrant but is supported by probable cause to believe that the person has committed an offense, after information of the intention to make the arrest, if the person to be arrested either flees or forcibly resists, the officer may use all reasonable and necessary means to effect the arrest and will be justified in using deadly force under conditions set out in Idaho Code 18-4011." Under this section of the Idaho Code, the use of deadly force by an officer is justifiable in overcoming actual resistance where "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." I.C. 18-4011(2). In addition, the use of deadly force by a law enforcement officer is justifiable "[w]hen reasonably necessary... to prevent the escape of any person charged with or suspected of having committed a felony, provided the officer has probable cause to believe that... the person suspected of or charged with the commission of a felony poses a threat of death or serious physical injury to the officer or other persons." I.C. 18-4011(3).

In this case, once law enforcement officers learned that Jeremy was in possession of a stolen firearm, which was corroborated by their own observation of a firearm matching the description of the stolen firearm in Jeremy's hands, they had probable cause to arrest him for Felony Grand Theft by Possession under Idaho Code 18-2403(4) and Idaho Code 18-2407(1)(b)(6). The Officers knew that Jeremy was a drug addict who was showing signs of being under the influence at the time of their contact with him and that he was extremely reluctant to follow law enforcement commands, no matter what those commands were. The initial contact with Jeremy at his [redacted]home illustrated that the law enforcement officers involved in this incident understood that without information that Jeremy had committed a crime, they did not intend to use force to remove him, allowing him to leave the house despite possession of a gun that, at the time, officers believed Jeremy lawfully possessed.

But once they learned that he had stolen the gun, they were justified, given the totality of the circumstances, in believing that Jeremy presented a danger to the community. In addition to his unpredictable behavior at his[redacted]house, it was concerning that Jeremy was willing to leave all of his belongings, refusing only to part ways with the stolen semi-automatic pistol he concealed in his sweater or waistband. His refusal to obey simple commands from police, stand his ground in the front yard for 20 seconds as though considering whether to use the firearm, and ultimately

leave the home with nothing but a firearm, were all indications that justify a reasonable person in believing Jeremy posed a threat to the community.

This belief was further confirmed when Jeremy was confronted in front of the Star Merc, given ample opportunity to give up the gun and submit to police, and continued refusing to do so. Instead, Jeremy chose to walk away from police, voiced his refusal to give up the firearm, and walked toward a residential neighborhood, refusing commands to stop and to drop the gun. At that point, there was little doubt that Jeremy's possession of the gun was dangerous. Not only was it a felony for him to possess it on account of it being stolen, but it was obvious that Jeremy was not going to comply with the commands given by the officers and he was headed toward a residential area where there was a daycare and at least one citizen outside of her house in her front yard. To allow Jeremy to continue ignoring their commands to stop and simply let him continue walking toward a residential neighborhood at his leisure with a stolen gun would have been irresponsible and placed the neighborhood in significant danger.

Nevertheless, the Deputies allowed Jeremy to continue walking away from them until he produced the pistol in a threatening manner. At that point, whether Jeremy intended to shoot himself or someone else, the danger to others in the area was very real. Had Jeremy shot himself in the head, the bullet would likely have continued traveling across the street where there was a home not 50 feet way, not to mention Officer Turner, who was also in or very near Jeremy's line of fire after he rotated the pistol in his hand. From the time that Jeremy pointed the gun at his head to the time that Deputy Woodcook fired, approximately two seconds elapsed. As those seconds elapsed, while Jeremy turned the gun over in his hand, it appeared less as though Jeremy intended to shoot himself and more like he intended to fire behind his head in Officer Turner's direction. At that point, Deputy Woodcook reasonably believed Jeremy's actions to pose a threat of death or serious bodily injury to others and he fired his weapon, ending the threat that Jeremy's actions presented.[1]

While it is true that Jeremy was walking away from the Deputies, his actions threatened those around him regardless of their general direction in relation to Jeremy. When one has a firearm, they can, if they so choose, threaten another person in any direction. This case illustrates

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[1] It is worth noting that Deputies Turner and Steele, in interviews conducted after the incident, indicated that at the moment that Jeremy threw his hoody and brought the gun up, they began to release the slack from their triggers and prepare to fire, only deciding to refrain when Deputy Woodcook fired and Jeremy immediately fell to the ground.

that point. Law enforcement officers do not work in a clean and clear cut environment with ample time to make life or death decisions. While it seems clear that Deputy Woodcook and the other Deputies were reluctant to shoot Jeremy in the back as he walked away from them, they were presented with two seconds to decide just who Jeremy was planning on shooting when he raised the pistol toward his head. Jeremy was shot at a point when he could simply have pulled the trigger, firing behind or into his head, threatening the life of anyone in the path of that bullet. To suggest that one should be allowed to engage in whatever gunplay they wish so long as they have their back turned to the police would be nonsensical and place police officers and the public in unreasonable danger.

Based on my analysis of the evidence in this case, the actions taken by the Deputies, and the legal framework in the State of Idaho, I conclude that the actions taken by Officers Woodcook, Steele, and Turner in this case were reasonable and that probable cause existed to believe that Jeremy Banach's flight posed a real and immediate risk of death or serious injury to the Deputies and/or members of the public. The use of deadly force by the Deputies in this case was justifiable and thus, I have declined to file criminal charges against the Deputies involved. This letter serves as the final disposition in this matter and the Valley County Prosecutor's Office review of the incident is now closed.

Sincerely,

Brian Naugle
Valley County Prosecuting Attorney

cc: Scott Bandy, Ada County Prosecutor's Office