

November 17, 2014

Lt. John Ganske
Idaho State Police Investigations
2055 Garrett Way, Bldg. 1, Ste. 8
Pocatello, ID 83201

Chief Scott Marchand
Pocatello Police Department
P. O. Box 2877
Pocatello, ID 83206

RE: *Bryan Seward*

Gentlemen:

On or about November 3, 2014, the Bannock County Prosecutor's Office (BCPO) was contacted by Detective Tom Sellers from Idaho State Police Investigations (ISPI) which was conducting an investigation into an incident on October 4, 2014 involving a vehicle pursuit between the Pocatello Police Department (PPD) and an individual named Bryan Seward (Seward) which ended with Seward shooting and killing himself. Detective Sellers requested the BCPO review the results of the investigation to determine whether or not any criminal charges should be filed as a result of the incident.

This office agreed to make such a review and was subsequently provided by ISPI with the following information:

1. Written report (Sellers, pp.1-8)
2. Written report (Kempf, pp. 1-3) regarding interview with Patrolman Miller
3. Written report (Olson, pp. 1-2) regarding interview with Joni Rupe
4. Written report (Edgley, pp. 1-3) regarding interview with Patrolman Eborn
5. Written report (Barnes, pp. 1-2) regarding autopsy
6. Written report (Kempf, pp. 1-3) regarding interview with Sgt. McClure
7. Written report (Kempf, pp. 1-2) regarding inspection of firearms
8. Written report (Olson, pp. 1-2) regarding interview with De La Cruz

9. Written report (Kempf, pp.1-2) regarding in-car video from PPD
10. Written report (Sellers, pp.1-2) regarding crime scene observations
11. Drawings of scene by Trooper Aikele
12. In-car video recordings from PPD officers McClure, Eborn and Miller

After reviewing the above documentation it is my conclusion no criminal charges should be filed. None of the officers involved in the pursuit of Seward discharged their firearms or used any degree of force in their attempt to detain Seward, in spite of the fact Seward had fired his weapon at officers on two occasions during the pursuit.

On October 4, 2014 at around 9:30 p.m, Officer Miller was on patrol on the west side of Pocatello. With him was Manuel De Le Cruz, a cadet at the Idaho State University law enforcement program. Officer Miller noticed a vehicle that was similar to a vehicle associated with a felony fugitive. He ran the plates which did not match the fugitive vehicle. Miller attempted to stop the vehicle, however, for driving infractions he observed. The vehicle pulled to the curb then began to pull away. Moments later, Miller observed a hand holding a firearm out of the driver's window followed by a muzzle flash and the sound of a discharge. Miller continued to follow the suspect who fired two more times in the direction of Miller. Cartridge casings were found later in the area where the suspect had shot at Miller.

For the next fifteen minutes or so, numerous officers pursued the suspect through Pocatello. At one point, Officer Eborn reports he was behind the suspect who stopped briefly near the intersection of Washington and E. Maple. The suspect vehicle began moving again and Eborn observed the suspect with a pistol in his right hand followed by what appeared to be muzzle flashes. As the pursuit continued, Eborn observed the suspect run a number of stop signs and travel at speeds between 70-80 mph while on Yellowstone Avenue.

The pursuit ended at a trailer park at 845 Wilson. Officers stopped outside the trailer park and exited their vehicles. Eborn exited his vehicle and deployed his rifle. He then heard what he thought was the sound of a crash. Soon thereafter, he observed the vehicle he had been pursuing had crashed into a trailer. Officer McClure reported hearing a "pop" sound from inside the trailer park followed by the sound of a crash. McClure approached the vehicle and observed the driver slumped over with blood coming from both sides of his head. A pistol was observed by McClure on the front passenger floor of the vehicle.

ISP investigators searched the suspect's vehicle after the incident and recovered a Hi-Point .380 pistol with a Winchester round in the chamber and four Winchester rounds in the magazine. Two .380 Winchester shell casings were recovered from the area where the suspect had fired at Officer Miller.

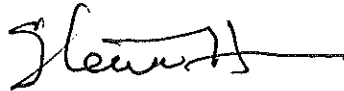
There is no evidence any of the officers involved in the pursuit discharged their weapons. In addition, ISP investigators inspected the firearms carried by Officers McClure, Eborn, Miller, Peterson and Stone and concluded they all appeared to be clean and not recently fired.

ISP Detective Barnes observed an autopsy performed by Dr. Garrison on Seward. At the conclusion of the autopsy, Dr. Garrison determined the cause of death was suicide by a self-inflicted gunshot wound.

Seward's actions put the safety of officers, citizens and property at tremendous risk. Any violations of the law by officers involved in the pursuit---such as exceeding the posted speed limit, failing to stop at a stop sign or driving the wrong way on a one way street---are excused under the defense of necessity. (*See State v. Hastings*, 118 Idaho 854 and Idaho Code §73-116)

I wish to express my thanks to Detective Sellers and the many other ISPI officers who assisted in this investigation for completing a comprehensive collection and presentation of the evidence.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen F. Herzog", with a long horizontal flourish extending to the right.

STEPHEN F. HERZOG
Bannock County Prosecuting Attorney