

MEMORANDUM

To: Ryan Joslin, District Attorney

From: Amie Matusko, Chief Deputy District Attorney

Date: 3/5/2026

Re: Recommendation as to Officer Involved Shooting of Maverick Lyon, BCSO 2026-00041

Mr. Joslin,

I've reviewed the materials and investigation in the Officer Involved Shooting (OIS) of Maverick Lyon. By every account this shooting was a tragedy. I believe the impacts on all those involved will resonate for years to come. However, despite the tragic impacts, I do not find the shooting amounts to a crime for prosecution in light of ORS 161.242 allowing a peace officer to use deadly force to defend the officer or third party from an imminent threat of death or serious physical injury. Based upon my review, ORS 161.190 and 161.195 make Officers Thomas' and Diaz's actions justifiable and not criminal.

INFORMATION AND EVIDENCE REVIEWED

Video (including body worn camera and dash camera):

Albany Police Department Officers who were involved:

Kenny	Allin
Brian	Corbett
Engle	Diaz
Gabe	Flores
Ben	Hatley
Tehya	Mayer
David	St. Pierre
Valerie	Stalford
Matt	Thomas
Corey	Turnbull
Mike	Wood
Jon	Wymore

Other Investigating Officers/Deputies

Derrick	Samuels
Rhoda	Krause
Bryce	Phelan

Chris Dale
Joshua Gordon
Brendan Fricke

Recordings of interviews with the following witnesses:

Floyd Collins
Laura Lyon
David Lyon
Dakota Lyon
Kevin Fandrem

Relevant Evidence:

Photos of the scene
Ring camera videos collected from Laura and David Lyon
Photos of ammunition, firearms, and clothing collected from law enforcement
Photos of evidence collected from the body of Maverick Lyon and clothing
Photos of Dakota Lyon's clothing and body
Scene entry/exit log
911 call
CAD log
Radio traffic
Photos of Laura Lyon's phone
Sketches of Lyon home
Property Report

Reports authored by Law Enforcement:

Brian Corbett
Jered McLain
Jason Camillo
Steve Corder
Ben Hatley
Skylar Tevepaugh
Gabe Flores
Timothy Trahan
Justin Henrick
Tehya Mayer
Chris Burbey
David St. Pierre
Tyler Schneider

Matt	Thomas
Engle	Diaz
Jon	Wymore
Kenneth	Allin
Valerie	Stalford
Dale	Raybould
Pete	Dunn
Bryce	Phelan
Derrick	Samuels
Rhoda	Krause
David	Iverson
James	Young
Brenden	Fricke
Eric	Glass
Chris	Dale
Doug	Seirup
Joshua	Gordon
Brian	Horn
Kim	Lovik
Brigg	Savage
Joshua	Hall

RELEVANT LAW

ORS 163.185. Assault in the first degree

(1) A person commits the crime of assault in the first degree if the person:

(a) Intentionally causes serious physical injury to another by means of a deadly or dangerous weapon; ...

ORS 161.190. Justification

In any prosecution for an offense, justification, as defined in [ORS 161.195](#) to [161.275](#), is a defense.

ORS 161.195

(1) Unless inconsistent with other provisions of chapter 743, Oregon Laws 1971, defining justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is required or authorized by law or by a judicial decree or is performed by a public servant in the reasonable exercise of official powers, duties or functions.

(2) As used in subsection (1) of this section, “laws and judicial decrees” include but are not limited to:

- (a) Laws defining duties and functions of public servants;
- (b) Laws defining duties of private citizens to assist public servants in the performance of certain of their functions;
- (c) Laws governing the execution of legal process;
- (d) Laws governing the military services and conduct of war; and
- (e) Judgments and orders of courts.

161.242. Use of deadly physical force by a peace officer

(1) 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 the peace officer or to a third person and the use of deadly physical force is necessary to:

- (a) Make a lawful arrest when the peace officer has probable cause to believe the person has committed a violent felony;
- (b) Defend the peace officer or a third person from the imminent threat of death or serious physical injury; or
- (c) Prevent the escape from custody of the person when the peace officer has probable cause to believe the person has committed a violent felony.

(2) Prior to using deadly physical force upon another person, if the peace officer has a reasonable opportunity to do so, the peace officer shall:

- (a) 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
- (b) Give a verbal warning to the person that deadly physical force may be used and provide the person with a reasonable opportunity to comply.

(3) Nothing in subsection (1) of this section constitutes justification for reckless or criminally negligent conduct by a peace officer constituting an offense against or with respect to innocent persons whom the peace officer is not seeking to arrest or retain in custody.

(4) As used in this section, “violent felony” has the meaning given that term in ORS 419A.004.

LEGAL ANALYSIS

Relevant circumstances:

On January 6, 2026, at approximately 10:50 AM, David Lyon called dispatch seeking help at his home at 1387 Twins Lane NW, Albany, Benton County, Oregon. He reported that his oldest son had a knife pulled on his youngest son. David Lyon was not present, but said he watched the incident through a camera in the home. He stated Dakota was shirtless and wearing pajama bottoms. He also reported Dakota was on drugs and parole. David Lyon indicated that both sons lived in the home.

Albany Police officers were immediately dispatched. While on route, additional information came over the radio that Dakota Lyon was a high-risk individual. Also, dispatch stated that Maverick Lyon had a cite and release warrant out of Benton County.

Officers Kenny Allin and Jon Wymore were the first two officers on scene at approximately 10:56 AM. They went to the front door to make contact but received no response to their inquiry. Officer Matt Thomas arrived shortly after and followed a driveway around to the back of the residence. At the back door Officer Thomas peered through a multi-paned upper window in the door. Officer Thomas saw two people inside, one was shirtless and the other in a grey top. At least one appeared to be holding a knife. This knife was a large, fixed bladed knife which Thomas estimated was at least five inches (the blade later measured approximately 8 inches). Officer Thomas said over his radio, "I've got a male back here still has a knife in his hand." Officer Thomas pulled out his Glock pistol, held it in a "low ready" position and attempted to open the door using the handle. In Thomas' body worn camera video at approximately 10:58:14, you can see two faces inside the home through the window pane. It appears that Maverick is behind Dakota.

After the door did not open, Officer Thomas stepped back a couple of feet from the door and radioed "He's inside the house, I can see him here." Officer Thomas proceeded to give commands, saying: "step away," "I see the knife, step away." He did not speak towards a particular person and did not call anyone by name. At this point Officer Diaz arrived in the backdoor area. Dakota Lyon replied "they are in a bad situation, a brotherly situation." Officer Thomas responded, "I know you're in a situation. Step out here. Step out here."

Officer Thomas called for a key, otherwise known as a battering ram. Another officer ran to obtain one. At that time, Thomas backed away from the door and raised his pistol higher. Officer St. Pierre arrived and stood outside a window to the left of the door and to the right of a basketball hoop. Both Thomas and St. Pierre were approximately 4 feet from the doorway. Officer Diaz drew his firearm at 10:58:20. Officer St. Pierre was between

Officer Diaz and the door. Officer Stalford was standing at the door on the north side of the residence with her firearm out.

At 10:58:31, twelve seconds after Officer Thomas' last command of step out here, Maverick opened the door using his left hand. Maverick Lyon wore a grey long sleeve shirt. He moved quickly towards the open doorway with his left arm moving straight outward, hand open, palm facing down. A knife was clearly visible in his right hand. As he moved quickly forward, he lowered his body and extended both hands. His right foot was on the door jamb, with his head, shoulders and arms outside the threshold. Maverick dropped the knife just as he crossed the plane of the door with his foot.

Officer Thomas shouted "drop it" and backed away from the door. As Officer Thomas backed away, he fired his gun two times and then began to fall backwards. Officer Wymore was behind and to the right of Officer Thomas. When the door began to open Officer St. Pierre was approximately 7 feet away. Officer St. Pierre pointed his taser toward Maverick. The knife was visible in Maverick's right hand with his left hand open. When Maverick quickly came out the door and began to drop the knife, Officer St. Pierre fired the taser towards Maverick. The taser probes did not stick and the taser deployment was unsuccessful. Maverick dropped the knife and it is seen in Officer Thomas' body worn camera hitting the brick walkway outside the door.

Officer Diaz's body worn camera, when played at an extreme slow speed, showed that at the time Thomas shot, the knife was out of Maverick's hand. Maverick appears hunched over, tucking his head. St. Pierre's taser probes were ineffective and St. Pierre moved to his right out of the line of Diaz. Upon freezing the camera at 10:58:33, two seconds after Maverick exited the door, Diaz has his pistol pointed at Maverick; Thomas's pistol is pointed at Maverick and he is in mid-fall to the ground; Maverick's right hand is on the ground and his left arm is bent 90 degrees with his forearm parallel to ground. Diaz fired his pistol as Maverick was hitting the ground. Diaz fired a second round as Maverick was on the ground and facing away on his side. Diaz then fired three more rounds. The knife was not visible in the body camera footage. Officer Wymore was loudly repeating "drop the knife," even after the shooting ended at 10:58:34. Dakota Lyon was standing in the doorway with a knife grasped in his right hand.

At 10:58:59, Officer Thomas stated "Let me see your hands man, get on your stomach." Other officers moved towards Maverick and instructed him to get on his stomach. There was some confusion as Dakota was inside the doorway on his stomach as well. Officer Thomas said "stop moving" pointing at Dakota. Officer Thomas then said "Hey, Maverick, get on your stomach." Maverick was conscious and talking. He said he

couldn't move because he was shot. Thomas told him to do his best. Maverick was placed into handcuffs, searched and medical aid was rendered. Dakota was also placed into custody. During the time of medical aid, Maverick was heard to say "you shot the wrong guy, he was holding me hostage" and that he was trying to get away from Dakota.

At 11:00:37, Officer Thomas told another officer "I feel like there was another knife or something nearby that he [Dakota] still has." Another knife was later found inside the door, just inside the closet area in proximity from where Dakota was laying inside the door.

Maverick Lyon suffered serious physical injury when he was struck by multiple rounds fired by Thomas and Diaz collectively. These injuries likely caused severe pain, required a number of surgeries, a lengthy stay in the hospital, and permanent damage to his internal organs and perhaps his face.

Application of the Law:

The crime of Assault in the First Degree (ORS 163.185) occurs when a person intentionally causes serious physical injury to another by means of a deadly or dangerous weapon. The shooting of Maverick Lyon by officers Thomas and Diaz was certainly done intentionally using a firearm (deadly weapon) and caused serious physical injury to Maverick Lyon.

However, there is a defense of "justification" under ORS 161.190 and ORS 161.195 that states the justifiable use of force renders conduct which would otherwise constitute an offense to not be criminal. ORS 161.242 provides the how and when officers may use deadly physical force. The statute sets out a three-part test to determine whether deadly physical force used by an officer is a defense. The first part of the test is:

(1) 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 the peace officer or to a third person and the use of deadly physical force is necessary to:

...

(b) Defend the peace officer or a third person from the imminent threat of death or serious physical injury;

The test under subsection one is both subjective and objective. It is subjective because it uses what is "known" to the officer at the time of the force. It is objective

because it considers whether the officer's actions were objectively reasonable in light of what they knew.

The salient facts to consider in this part of the test were what information was available to the officers prior to arrival on scene, the officers' observations and interactions with the persons on scene, the behavior of Dakota and Maverick Lyon, the time span of the events, and the location of individuals at the time the events unfolded.

Prior to arrival, officers were told that Dakota Lyon was a high-risk individual involved in drugs and on probation, who held his brother Maverick with a knife. There was information that Dakota was shirtless and wearing pajama bottoms. Lieutenant Iverson wrote in his report that initial reports to dispatch are used as informative information by law enforcement. Moreover, that an officer's understanding of the circumstances of a call change based on the real-time observations of the scene. Thus, while Dakota was reported as having a knife and without a shirt, in the five to six minutes from the time of report to arrival, it would not be unusual for clothing to change and for weapons to change. For this reason, such information must be considered in light of what the officer experiences at the scene and with an understanding that situations can evolve rapidly and change.

Officer Thomas encountered two males inside the residence and saw a knife. The men were partially concealed behind a wall and the knife was a large, fixed blade knife of which Thomas estimated was at least five inches (the blade later measured approximately 8 inches). One of the men was without a shirt and the other had a grey shirt. Thomas communicated to those inside to step away and that he saw the knife. Officer Thomas did not know who had the knife, what the situation was currently between the men, other than from Dakota that this was a bad situation and a brotherly situation. This is not meant to imply that either Maverick or Dakota should have communicated directly to Thomas, but only as to the element of what Thomas did and did not know in the situation.

Thomas announced that he knew they were in a situation and ordered "step out," but again did not address this to a particular person. When Maverick Lyon began exiting the home, Officer Thomas knew a person with a large knife in their hand was exiting quickly towards himself and several officers. This knife could reasonable cause serious physical injury or death to another person given its size and how it was held. While Maverick's exiting was in direct response to Thomas' directive to step out, Officer Thomas did not have sufficient reliable information beyond the actions of Maverick to know his intent. Moreover, Thomas and St. Pierre were within a reasonable striking distance of the knife given the quickness of actions and the ability to cross the approximate 7-8 foot distance in seconds.

Secondly, because this event happened in mere seconds, it is unreasonable for officers in that moment to know that Maverick dropped the knife before they fired. The event unfolded too quickly to see and process such information. Based upon Maverick's quick movements, possession of the large knife in his hand and the short distance between Maverick and Officers Thomas and St. Pierre, it is my opinion that Thomas was objectively reasonable to believe Maverick posed an imminent threat of death or serious physical injury to Officer Thomas or other officers. It was objectively reasonable to believe that use of deadly force was necessary to defend himself and other officers from the imminent threat of serious physical injury or death.

Officer Diaz knew a knife was involved at the residence against another person, he also knew Officer Thomas saw a person with a knife and directed a person or persons outside. Diaz observed a person armed with a knife quickly exit the home, well within an easy striking distance, towards Officers Thomas and St. Pierre. Officer Diaz could not have known the intent of the person exiting the residence based upon the reliable information available. Officer Diaz observed Officer Thomas retreat from the door, saw Officer St. Pierre deploy the taser without effect, and waited a very short time for St. Pierre to be out of the line of fire. Officer Diaz fired within seconds of Officer Thomas and as Officer Thomas was falling.

Given the mere seconds that transpired from Maverick beginning to exit until the point he dropped the knife, it was objectively reasonable for Officer Diaz to believe Maverick posed an imminent threat of death or serious physical injury to Officer Thomas or other officers. It was objectively reasonable to believe that use of deadly force was necessary to defend other officers from the imminent threat of serious physical injury or death.

There is the question of Officer Diaz firing multiple times in the situation, especially as Maverick was on the ground at the time of the shooting. The situation is somewhat analogous to Newton's first law of motion: that once an object is in motion, that object stays in motion with the same speed and in the same direction unless acted on by a force. Officer Diaz literally made a split-second decision that his fellow officers were in danger based upon what he saw coming out the door. Diaz's body responded to his brain's recognition for protection and carried out the actions necessary. Officer Diaz was unable to stop his actions as the decision was made and acted upon before his brain could reasonably understand a change in the situation.

The second part of the test to determine if an officer was justified in using deadly physical force is the consideration in subsection 2:

(2) Prior to using deadly physical force upon another person, if the peace officer has a reasonable opportunity to do so, the peace officer shall:

(a) 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

(b) 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 the present circumstances Officer Thomas did use commands directing the occupants to step away and step out. He also tried opening the door and called for a “key.” However, these alternatives were before any person acted in what the officers perceived was an aggressive manner towards themselves. First, I focused on subsection two on the words “[p]rior to using deadly physical force upon another person, if the peace officer has a reasonable opportunity to do so...” In my opinion, given the actions occurred in mere seconds, I do not believe the officers had a reasonable opportunity to use alternatives. Given the quickness of the exit and the manner and way in which Maverick held the knife, and the proximity to the officers, there was no reasonable opportunity to consider, let alone use an alternative method. There was insufficient time or space to reasonably wait to act. Not to mention, Officer St. Pierre did use a taser, but it was ineffective. Secondly, subsection 2(b)’s requirement that an officer direct a verbal warning also hinges on the reasonable opportunity to do so. Again, I do not believe there was such an opportunity.

The last test under ORS 161.242(3) states:

(3) Nothing in subsection (1) of this section constitutes justification for reckless or criminally negligent conduct by a peace officer constituting an offense against or with respect to innocent persons whom the peace officer is not seeking to arrest or retain in custody.

In hindsight, it is clear that Maverick Lyon was not a suspect in the action and was an innocent person and the victim of Dakota Lyon. We know now that he was trying to escape Dakota and seek help from the police.

However, the determination of whether something is recklessly or criminally negligent is in context of the conduct of a police officer. Applying the mental states of ORS 161.085 of reckless and criminal negligence they would be:

Reckless is when an “officer” is aware of and consciously disregards a substantial and unjustifiable risk that a result will occur or the circumstance exists. The risk

must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable “officer” would observe in the situation.”

Criminal negligence is that an “officer” failed to be aware of a substantial and unjustifiable risk that the result will occur or the circumstance exists. The risk must be of such a nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable “officer” would observe in the situation.

The situation is entirely tragic. Maverick Lyon was an innocent person who was shot trying to escape his brother who was threatening him with a knife. However, both Officer Thomas and Officer Diaz applied a standard of care that was objectively reasonable in their belief of serious physical injury to Officer Thomas or other officers. This is neither criminally reckless nor negligent under the circumstances.

CONCLUSION

In my opinion, this unfortunate event unfolded in a matter of seconds. Given the information both known and unknown to Officer Thomas and Officer Diaz, their use of deadly physical force was objectively reasonable as Maverick exited the residence holding a dangerous weapon, clearly capable of causing serious physical injury or death, in a manner and way that it was objectively reasonable to believe that use of deadly force was necessary to defend officers from the imminent threat of serious physical injury or death. Moreover, there was not a reasonable opportunity to use alternatives to the use of force or to give a verbal warning, and the officer’s actions were neither criminally reckless nor negligent.

In applying the facts to the law, I believe the use of force met the requirements of ORS 161.242, Officers Thomas’ and Officer Diaz’s use of force is a defense to the crime of Assault or any other crime and their actions were not criminal. I believe a jury would concur and presentation to a grand jury is not warranted.

Sincerely,



Amie Matusko
Chief Deputy District Attorney
Benton County District Attorney’s Office