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JULY 3RD, 2019 OFFICER INVOLVED SHOOTING – MURIEL IVERSON WILLIAMS WATERFRONT PARK

The decision to file criminal charges must always be driven by the evidence and by the law. Here, it must be guided by the provable facts of what occurred on July 3rd and not by assumptions, theories, or conjecture inflamed by unsubstantiated social media comments. The purpose of this review is to determine if the actions of Poulsbo Police Department Officer Craig Keller, in causing the death of Mr. Stonechild Chiefstick, were criminal or were justified. That is the limited subject and scope of this review. RCW 9A.16.040 provides that a “public officer” shall not be held criminally liable for using deadly force when the force used is justifiable under the law. While other questions outside of the application of RCW 9A.16.040 may exist, the prosecutor’s review is limited to the question of filing criminal charges. Other forums exist for the multitude of questions asked by the community that are outside of the application of RCW 9A.16.040.

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Investigation of the July 3rd shooting was completed in October of 2019 and then reviewed by the Office of the Kitsap County Prosecutor. In review of the case, we identified areas where we believed follow up or further investigation would be helpful to our decision-making process and we returned the matter to the investigative team with a request to provide us with the additional information. One such request was to seek any evidence (such as past employment records, etc.) that might reveal whether racial bias could have been a motivating factor behind the July 3rd shooting. All requested follow up investigation was provided to this office in March of 2020.

The conclusions in this case are driven by the statements made by the community members who saw what occurred on July 3rd, 2019.

The published charging standards of the Kitsap Prosecutor’s Office require “that a thorough factual investigation has been conducted before a decision to prosecute is made. The prosecuting attorney may delay charging pending a complete and full investigation by law enforcement.” Accordingly, this office has refrained from a final review and charging decision until all investigation and follow up materials were received and reviewed.

In the emotional aftermath of the July 3rd shooting, people turned to social media; sharing information about what they saw, heard or had been told. Many simply voiced their feelings about what they believed or understood took place based on what they were being told on social media and not on what they had personally witnessed. Some projected feelings about what would or should happen next. Others debated the facts as they perceived them and not as independent witnesses to the event. In the end, social media provided information, giving the public bits and pieces of an understanding of what had happened.

One's understanding of the truth should never be unalterable. This duty is grounded in the principle that our decisions must be based on evidence and on the law.

In the days and weeks that followed, however, and as the in-depth, independent investigation followed, eyewitnesses came forward. These eyewitnesses were questioned by investigators about what they independently witnessed on July 3rd.

Indeed, a significant portion of the investigation was to contact each individual who was believed to have *any* information, and to verify the source of that information. Many of these witnesses contradicted the information that had initially been expressed on social media.

An essential duty of any prosecutor, as with any ultimate fact finder, is to be unbiased and open-minded. It requires the ability to consider new evidence and change one's opinion. To be truly unbiased and open-minded, one's understanding of the truth can never be unalterable. For a prosecutor, this duty is grounded in the principle that our decisions must be based on evidence and on the law. As we hear and see new evidence, we must be prepared to change our view. We must be prepared to consider and weigh evidence, even if it contradicts what we originally believed. This is not only the duty of a prosecutor, but also the duty of our community, which has an obligation to examine the conduct of our public servants.

Use of force against a member of a minority community requires close scrutiny by those tasked with reviewing the conduct of law enforcement officers. Our inquiry into racial dynamics here is not because there is something peculiar or unusual about this case, rather it is an acknowledgment that national statistics show minority populations, including Native American populations, are disproportionately affected by officer involved shootings.

Additionally, this case has been viewed by many members of our public within the context of racial injustice that has occurred within our own community over generations. The pleas for this case to be considered within that history are heartfelt and sincere. The law, however, does not permit the conduct of others in the past to influence the decision regarding whether criminal charges should be filed today. The decision to file charges must always be driven by the evidence and the facts presented in the case at hand. Officer Craig Keller is entitled to the same rights and presumptions of any person who has been identified as the suspect of a crime.

In this case, as with every other case we consider, our analysis starts with the published charging standard of the Kitsap County Prosecutor's Office. This standard was originally created through a long process that involved extensive public input and has been the standard for charging criminal offenses by this office for two decades.

*“It is the policy of the Office of the Kitsap County Prosecuting Attorney to charge the crime or crimes that accurately reflect the defendant’s criminal conduct, taking into account **reasonably foreseeable defenses**, and for which we expect to be able to produce at trial proof **beyond a reasonable doubt.**”*

<https://www.kitsapgov.com/pros/Pages/ChargingSentencingStandards.aspx>

This standard appreciates that people are presumed innocent and should not be charged with a crime unless those prosecuting the case have a good faith belief that the evidence at trial would produce a unanimous verdict of guilt, beyond a reasonable doubt.

EVIDENCE

The conclusions in this case are drawn from the statements made by the community members who saw what occurred on July 3rd, 2019 and the corroborating physical evidence. These are witnesses whose only involvement was that they were present to observe the fireworks display. Below, you will find numerous direct quotes from independent witnesses. These witnesses have not sought public attention and did not ask or seek to be part of these events.

Mr. Stonechild Chiefstick had been attending the July 3rd celebration at the Muriel Iverson Williams Waterfront Park in Poulsbo, Washington. Mr. Chiefstick was killed when Poulsbo Police Officer Craig Keller fired two rounds at close distance, striking him in the chest and head. Mr. Chiefstick was a member of the Chippewa Cree Tribe of the Rocky Boy's Reservation in Box Elder, Montana, but he had become an active member of the Suquamish tribal community. Mr. Chiefstick is survived by his mother, three sisters, five children, and numerous friends, all of whom have been significantly impacted by his death.

A criminal investigation was conducted by the Kitsap Critical Incident Response Team (KCIRT). KCIRT is a regional investigating team consisting of detectives from several law enforcement agencies in and around Kitsap County. Over 25 investigators participated in this investigation. Poulsbo Police officers were present at the scene and provided immediate scene security. They also took initial statements from witnesses who remained at the park shortly after the incident. Poulsbo officers had no other involvement in the investigation after July 3rd. KCIRT detectives followed up with any witnesses who initially spoke with Poulsbo officers and took independent statements from those witnesses.

Mr. Chiefstick appears to have been attending the July 3rd celebration alone. Several witnesses reported unusual behavior from him which resulted in him being contacted by Poulsbo Police Officer Miulli earlier in the evening. This encounter was recorded on Officer Miulli's body camera. Miulli informed Mr. Chiefstick that people had complained about his behavior and that they were simply checking to see if he was okay. Mr. Chiefstick appeared to potentially be under the influence but was polite and cooperative with Officer Muilli. Toxicology results from Mr. Chiefstick later showed positive results for methamphetamine and alcohol.

The Suquamish Police Department subsequently reported to KCIRT that based on their experience, "when Chiefstick was intoxicated, he would be a two or three officer contact because he would [be] combative with law enforcement." Suquamish Police Department also reported to KCIRT that Mr. Chiefstick "would usually cooperate with Suquamish officers, but when a [Sheriff's] Deputy became involved Chiefstick would become more agitated as he viewed them as 'outsiders.'" However, Mr. Chiefstick's encounter with Officer Miulli on July 3rd appeared pleasant. (There is no indication that this information from Suquamish Police Department was relayed to anyone employed with the Poulsbo Police Department on the night of July 3, 2019, prior to this incident.)

Following that encounter with Officer Miulli, Mr. Chiefstick continued to interact with the crowd at the park. Michelle Boaz reports that she and her husband, Charles Boaz, were attending the fireworks show with their neighbor, Michelle Anderson. They were joined by Ryan Hodges and John Lecky. Michelle stated that they were seated in the grass near the "big rock" at the waterfront park.

A man came up to them and asked Hodges, "What did you say?" This man was later identified as Mr. Chiefstick. The group told Chiefstick that they were not talking to him. They believed that Mr. Chiefstick appeared to be under the influence and was "staring people down."

Mr. Lecky reported that Chiefstick had a screwdriver in his hand and lunged towards Mr. Hodges. Lecky explained that he could see Chiefstick's right hand go inside of his right pocket and remove an approximately 8-inch-long yellow and black handled Phillips head screwdriver which he held in his hand in a lower "stabbing" motion. (Note: A black and yellow handled, Phillips head screwdriver was recovered at the scene). Michelle then got up to locate a police officer. Hodges did not notice that Chiefstick had a screwdriver in his hand.

"Lecky explained that he could see Chiefstick's right hand go inside of his right pocket and remove an approximately 8-inch-long yellow and black handled Phillips head screwdriver which he held in his hand in a lower stabbing motion."

Michelle Boaz reported that she located a Poulsbo police officer nearby and advised him that Mr. Chiefstick had threatened them with a screwdriver. Assault in the Second

Degree is defined in RCW 9A.36.021 as occurring when one "assaults another with a deadly weapon." A screwdriver is a deadly weapon under RCW 9A.04.110(6). "Deadly weapon"

includes any device “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 substantial bodily harm.”

Felony assault does not require an actual injury, or even touching. It merely requires an attempt to cause injury or an attempt to cause fear or apprehension using a deadly weapon. Here, the witnesses reported that Mr. Chiefstick’s act of lunging towards them with a screwdriver caused fear. It was so frightening, that they chose to contact law enforcement.

Posters on social media have incorrectly reported that the body camera was “lost” and unaccounted for. There is no evidence to suggest that the body camera was ever “lost” by KCIRT.

Poulsbo Community Service Officer Nicholas San Gil advised that a person reported to him that Mr. Chiefstick had lunged at someone with a screwdriver. Officer San Gil shared that report with Officer Keller, who was standing nearby San Gil. Officer Keller radioed Kitsap 911 and requested assistance. Officer Keller, Officer San Gil, Reserve Officer David Lom and Detective Lee Wheeler then approached Mr. Chiefstick who was standing nearby at the park.

Officer Keller was equipped with a body camera that he activated prior to contacting Mr. Chiefstick. This camera was attached to his uniform by a magnet. The camera recorded a portion of his interaction with Mr. Chiefstick. Reserve Officer Lom was also equipped

with a body camera, however, he failed to activate his camera. A review of Reserve Officer Lom’s camera confirms that it was not activated and no recordings were made on July 3rd, 2019. An “audit trail” can be reviewed that will show a record of every activation of the body camera, regardless of whether a video was later deleted. It is clear from the audit trail that Officer Lom failed to activate his camera on July 3rd and no video was recorded or altered. Community Service Officer San Gil and Detective Wheeler were not equipped with body cameras.

Officer Keller, who was aware of the report that Mr. Chiefstick had threatened Mr. Hodges with a screwdriver, made direct contact with Mr. Chiefstick. Officer Keller had probable cause to arrest Mr. Chiefstick for assault on Mr. Hodges. He attempted to grab Mr. Chiefstick by the arm as he spoke to him. A scuffle ensued as Mr. Chiefstick attempted to flee. This initial part of the incident was visually and audio recorded by Officer Keller’s body camera. Unfortunately, the camera was dislodged during the initial struggle with Mr. Chiefstick and failed to visually record the scene at the moment that the decision to use deadly force was made. It remained on the ground and continued to record until it was collected by investigators. Social media posters have incorrectly reported that the body camera was “lost” and unaccounted for. There is no evidence to suggest that the body camera was ever “lost” by KCIRT.

Two shots are heard fired in the audio recording. Analysis by the Naval Criminal Investigative Service (NCIS) indicates that there was approximately 0.16 to 0.33 seconds between the gunshots. Analysis of Officer Keller’s firearm revealed that two rounds were fired, and the autopsy of Mr. Chiefstick confirms that he suffered two gunshot wounds.

WITNESS STATEMENTS

Those who have relied solely on the publicly released body camera footage to form an opinion in this case have missed what may be the most relevant moments for the consideration of criminal charges. For those who have only viewed the video, or who have relied on social media descriptions of events, I would urge you to read the witness statements in their totality before coming to a conclusion about what you believe occurred.

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Without video of the shooting, we are left to rely on the civilian witnesses to describe the moments before Officer Keller discharged his firearm. Witnesses' statements inevitably vary in detail. Witnesses each saw the shooting from different locations, different perspectives. As a result, the witnesses focus on different details and have statements that differ, sometimes on important facts. Many witnesses were present and in close proximity but did not see the moments

before the shooting and were unable to provide statements that shed light on what occurred. Some witnesses had obstructed views or turned away and did not see the details of Mr. Chiefstick and Officer Keller's interaction. Many witnesses may have chosen to not report what they saw, and their recollections could not be considered as part of our review. Many witnesses, however, did have a clear view and provided statements to investigators.

Ultimately, it is important to read each witness statement, view each video, and try to identify the commonalities in order to get the most accurate view of what occurred and not focus on a single witness or a single piece of evidence.

The following is what was witnessed by the people who were at Murial Iverson Williams Waterfront Park. Some may conclude that what follows is the "police version." It is not. This is what spectators saw in the moments after the body camera was dislodged and before Officer Keller made the decision to use deadly force. Many of the following statements are direct quotes from recorded interviews of witnesses or written witness statements. Others are quotes from investigative reports where witnesses were interviewed, but they were not audio recorded.

An opinion once established is hard to abandon. A conclusion once broadcast for the world to hear is hard to take back. I would challenge everyone who reviews these statements, as well as the analysis that follows, to commit to the principal that every conclusion must be open to challenge and revision in light of all the facts and evidence.

This is how the people who were at Muriel Iverson Waterfront Park described the shooting of Mr. Stonechild Chiefstick-

"Then the cop approached, and he was like hey, get your hands outta your pockets, and he like pulled out like a screwdriver out of his, either his pocket or his waistband. Um, and so I kinda like stepped in front of my wife to protect

them in case he like ran towards us ... He kinda like squared up to the cop with the screwdriver in his hand and kinda like thrust the screwdriver at him. I heard him yell he's got a screwdriver, um, and then as soon as he like thrust the screwdriver it looked like for the second time, that's when I heard the, the shots being fired."

"They were playing with stuffed animals and throwing them up in the air, um, so he easily, you know, could've swung whatever he had in his hand and, you know, stuck a child and then people would be upset that the officers didn't do any more."

-Rachael Salgado-Kelly

"The guy pulled the screwdriver out, tried to run, ran towards me and then the cop kinda like lunged and grabbed his arm and swung him the other direction towards the sidewalk ... I saw the guy kinda lunge the screwdriver towards the cop, and then hit the sidewalk, and then the guy kinda like postured up like he was gonna like fight the cop, like a fighting kinda stance with the screwdriver like a knife, and then he thrusts the screwdriver again, and that's when the cop shot him."

-Ryver Kallstrom

"There was a small scuffle between the two; very quick, very instantaneous, and the guy pulled something out of his pants pocket. And he was kinda swinging at it, and the next thing in a split second you hear two bang bangs ... I was more worried about if he (Chiefstick) had been down or he was still commin' at us . . . I saw him kind of just start waving it . . . just like he wanted to stab somebody."

-Lisa Michael

"I looked over, saw the police officer saying something to the man. Um, the man went to go reach for his pocket. The police officer embraced him. The man threw the police officer or pushed him, he wasn't on him anymore, and then he took something out of his pocket. Uh, people started yelling 'knife.' He ran...ran down the kind of the...hill where the tree was into a crowd of people and started waving whatever he had in his hand around. Um, I then yelled 'knife' as well and threw my son, um, kind of in front of me with the other family. Um, I went to go get on top of my son to cover him and looked back and went to go grab my husband. Um, the man started running and a cop knelt down, um, maybe a foot or so away from us and shot twice."

"There was a crowd of children right behind him where he was running towards, um, they had been there all day They were playing with stuffed animals and throwing them up in the air, um, so he easily, you know, could've swung whatever he had in his hand and, you know, stuck a child and then

people would be upset that the officers didn't do any more. Um, so I'm very glad that it got ended where it was in that same place and didn't escalate into something worse."

-Rachael Salgado-Kelly

"He started swinging the screwdriver and he took a step like he was going after one of the cops and I heard, at that time I turned my shoulder and heard pop, pop over my shoulder."

-Wesley Stallings

"I saw something silvery kinda flash. I don't know if it was a knife, I don't know what it was, but yes, I did see something in his hands."

-Andrew Stutz

"He broke away from 'em and uh, and then he, he started swinging the screwdriver and he took a step like he was going after one of the cops and I heard, at that time I turned my shoulder and heard pop, pop, over my shoulder."

-Wesley Stallings

"I saw him with a sharp object in his hand . . . It just looked like, everyone said it was a knife, so I thought it was a knife . . . it looked like a sharp object to me."

-Juquante Kelly

"At the point he busted loose from the policemen and they were trying to detain him, he turned to run, or he turned towards them as they were trying to get him to the ground. That's when he had the screwdriver uh, he was trying to uh, I guess stab the police officer. Uh, and then you heard, then we heard two gunshots um, and the suspect fell to the ground at my feet . . . I am very thankful that the officer reacted in the way that he did."

-Jessica Luster

"He started walking away [be]cause he saw the other officer and he turned around and he lunged at the other officer with a, with the screwdriver and that's when he went pop, pop . . . I felt the concussion when the bullets went off ... they approached him and he just started walking away and walking towards the parking lot and he noticed that officer there then he turned around and he pulled out that uh, screwdriver and he just lunged, you know, came at the, the other officer and that's when he, he, he shot him."

-Todd Juarez

“They tried to get control of the male, to tackle him. The guy challenged them screaming ‘let’s do this’ while pulling out a screwdriver from his pocket, swinging it around. The police were giving commands to ‘drop the weapon’, ‘get on the ground,’ and ‘put your hands up.’ He was getting close to civilians then turned and lunged at the police. One officer shot him twice.”

-KCSO Detective Jennifer Rice
interview of witness Charles Boaz

“Linne said when officers approached Chiefstick, they grabbed his shirt and said ‘something’ to him that Linne could not hear. Chiefstick grabbed something out of his pocket and took up a ‘fighting stance’ . . . Linne said the officers didn’t do anything wrong, and that Chiefstick was ‘going to hurt somebody.’”

“He turned around and he pulled out that uh, screwdriver and he just lunged, you know, came at the, the other officer and that’s when he, he, he shot him.”

-Todd Juarez

-Washington State Patrol Detective
Jason Roe interview of witness
Jefferey Linne

“Chiefstick spun around and pulled ‘something’ out of his pocket, then Melissa heard, ‘pop, pop’. . . Melissa said there were lots of kids in the area, and the ‘cop was 100% in the right.’”

- Washington State Patrol Detective
Jason Roe interview of witness
Melissa Linne

“Lecky reported that he heard the officers ask the male what was in his pocket and to stay still. The male moved away from them, removed the screwdriver and began wildly throwing it in the air, seemingly uncaring of kids and families and the safety of others in the area . . . the male charged at an officer at the same time, saying ‘let’s go.’”

- KCSO Detective Jennifer Rice
interview of witness John Lecky

“She recalls Stonechild initially complied and an officer tried to put Stonechild’s left arm behind his back but Stonechild pulled away. She described Stonechild slipped and tripped on blankets as he was trying to get away. Julie watched Stonechild turn clockwise as he was grabbing whatever it was out of his pocket. She witnessed Stonechild hopping and lunging towards the officers. She remembers hearing a “pop, pop” before Stonechild fell to the ground.”

“I took cover under my blanket because I thought the man might attack me.”
- Kelsie Newmann

-KCSO Detective Krista Kleinfelder
interview of witness Julie
Butterfield

“The police surrounded a man who appeared to be holding something. I took cover under my blanket because I thought the man might attack me. The man started running. When I looked up the man was on the ground a couple feet from me with multiple officers on his back. One officer yelled ‘I lost my body cam.’”

-Kelsie Newmann

“Ryan explained officers tried to control Stonechild’s movement, but a scuffle occurred and Stonechild pulled away from them. Ryan stated he saw Stonechild pull the screwdriver from his pocket and held it as if he was trying to go for someone. Upon seeing this, Ryan stated he ran from the area. Ryan stated as he was running, he looked over his shoulder and saw Stonechild running towards his direction. Ryan stated he continued to run away from the area hoping Stonechild was not following him. As he was running away, Ryan stated he heard the gun shots and stopped running.”

-Bremerton Police Department
Detective Jason Butler interview of
witness Ryan Hodges

“Heald said the officers tried to tackle Chiefstick, but he resisted and got back up. She said he was smiling oddly like it was a game or he wasn’t taking it seriously. Heald said she saw Chiefstick had something in his hand. She thought he moved his hand from his right side over toward his left but couldn’t describe that movement further. She heard 3 shots but didn’t see it. Heald felt that the officers were protecting everyone around there.” *[Note – evidence suggests only 2 shots were fired.]*

-KCSO Detective Jennifer Rice
interview of witness Sara Heald

“When the officers grabbed Stonechild she observed he had a yellow handled screwdriver in his hand. She witnessed Stonechild lunging at the police officer with the screwdriver and the officers were struggling to get him down. She recalls Stonechild was also tripping on the blankets on the ground. She estimates the officer who fired was between five and seven feet away from Stonechild when the shots were fired. She described Officer Keller as very professional, calm and controlled.”

- KCSO Detective Krista Kleinfelder
interview of witness Shellie
Kodrda

“Chiefstick tried to take off running. The officer grabbed his shirt and then Chiefstick’s arm like he was going to take him down to the ground . . . Scott saw Chiefstick with a screwdriver in the opposite hand from what the officer had grabbed on to. The officer let go of Chiefstick’s arm. Chiefstick lunged at the officer with the screwdriver and the officer drew his pistol and fired it. Scott said he heard one shot.” (Note- evidence suggests 2 shots were fired.)

-KCSO Detective Jennifer Rice
interview of witness William Scott

“They confronted him and were asking him what he had. He laughed and tried to run. He stopped in front of us. He had something like he was jabbing at the police who were trying to catch him. An officer fired at him and he fell to the ground.”

-Wendy Moore

“The officers yelled for him to get his hands out of his pocket at which time he pulled out a knife/screwdriver. The police then yelled for the man to drop the weapon. The man continued to hop around in semi circles holding the object close to his side. The officer then fired two shots ... this all happened within 10 feet of me.”

-James Moore

“The officers attempted to get the male to the ground. She described the male jumping around before pulling out a screwdriver. I inquired if she saw it to be a screwdriver or if she knows it to be a screwdriver because of media reports. Hailey explained she initially thought the item in the male’s hand was a knife but as she looked more realized it was a screwdriver because of the yellow handle. She witnessed the male waving the screwdriver around in an ‘up and down motion.’ The next thing she knew was the male was bleeding and the officers were trying to help him.”

-KCSO Detective Krista Kleinfelder
interview of witness Hailey
Hoeckendoref

This is not an exhaustive list of witnesses. Many other witnesses provided additional statements to KCIRT investigators, including the statements of Katherine Kilroy and her partner, Gabriel Kilroy. Ms. Kilroy reported on Facebook that:

“About ten feet away I saw a brown man, in a short sleeve, graphic, black shirt kind of side skipping down the sidewalk pathway with his arms outstretched and loosely opened hands . . . looked up hearing a stern, male voice shout ‘Hey!’ in his direction. The man looked back at the voice, a police officer, but continued on his path where I then saw a small cluster of other officers prepared to intercept him. Then I heard the pop-pop of fireworks. It wasn’t fireworks ... Maybe this man had a screwdriver and was behaving erratically, threatening some. Maybe that’s true. But not while I was watching. Not right before he was killed. Maybe it’s true that there had been a struggle with this man trying to contain him without gunfire. Maybe that’s true. But not while I was watching. Not right before he was killed.”

“If there was a struggle, we would’ve seen it! There was no struggle!”

-Katherine Kilroy

Ms. Kilroy noted in text messages to family that there was “no visible weapon at all. Short sleeve shirt and just walking briskly away from the cops and then the cop yelled and when he turned, about 4 feet from him, shot him in the face. . . it’s not right. Even if it was right you don’t shoot somebody in a crowd because they have a screwdriver! If there was a struggle, we would’ve seen it! There was no struggle!”

Officer Ryan Heffernan of the Bremerton Police Department notes that “I asked Katherine if she observed any of the officers draw their weapons. Katherine told me she did not observe anyone with their weapons drawn, including the first officer who she believed shot Chiefstick. Katherine was unable to describe the officer. Katherine was able to describe Chiefstick’s appearance and clothing. She confirmed she did not witness the shooting and noted that it took a moment to comprehend what transpired after hearing the shots.”

Gabriel Kilroy, Katherine's partner, agreed with her and stated that he didn't believe Mr. Chiefstick had a weapon. Although he did concede that "It is a hundred percent possible that he had a screwdriver in his hand. I will completely admit that. Um, my fo, my focus was on his face." Later he said, "I remember his hands being out like this, but I can't remember his hands... I ... I don't know if he had something in his hands."

While the Kilroy's did not see an object in Mr. Chiefstick's hands, the weight of evidence suggests he had a screwdriver. Along with the witnesses who saw an object, others reported that Mr. Chiefstick had begun carrying a screwdriver prior to the July 3rd event. Carey Webster and Trishandra Pickup were interviewed by Washington State Patrol Trooper Roe and confirmed that Mr. Chiefstick carried a screwdriver in his left front pants pocket. When discussing the screwdriver, Ms. Pickup noted that "white police like to kill brown people." Vincea Hibbits reported that she was aware that Mr. Chiefstick had been carrying a screwdriver and relayed to Bremerton Detective Martin Garland that Chiefstick had been at her house and she had seen a screwdriver fall from his pocket. She reported that she asked him why he was carrying around a screwdriver and he didn't give her a straight answer.

A screwdriver was found on the sidewalk near where Mr. Chiefstick was shot, and the audio of Officer Keller's body camera video reveals that someone yelled "screwdriver!" prior to the shooting. Both facts support witness accounts that Mr. Chiefstick had a screwdriver, contradicting the recollections of the Kilroys.

Ms. Kilroy is the only witness to describe Mr. Chiefstick as "skipping" prior to the shooting. Ms. Kilroy is also adamant that there was "no struggle" with law enforcement. The body camera video from Officer Keller confirms that a struggle did occur.

Ms. Kilroy's ex-husband, Joshua Kilroy, contacted the Bremerton Police Department on July 9th and spoke with Officer Ryan Heffernan on July 10th. He advised Officer Heffernan that he was a Lake Stevens police officer and that he was aware that his ex-wife was a witness to the July 3rd officer involved shooting. He provided a text message that Katherine had sent their daughter after the shooting that told their daughter to "please, please, please assume cops,

all cops, are incapable of being reasonable...Not bc that's necessarily true... but because I

AUTOPSY RESULTS

An autopsy was conducted by Dr. Emanuel Lacsina. The autopsy confirms Mr. Chiefstick was shot two times, once in the head and once in the chest. Both entry wounds were in the front of Mr. Chiefstick. The wound to the chest had a slight downward trajectory.

Gun powder was located around Mr. Chiefstick's facial wound. Based upon the presence of gun powder, analysis by the Washington State Patrol establishes the approximate distance between Mr. Chiefstick and Officer Keller's firearm was 2 feet at the time of the shooting. This distance would have limited the non-lethal alternatives available to Officer Keller.

don't have any reason to believe otherwise and it's not worth the risk to give them the benefit of the doubt."

Ms. Kilroy wrote an extensive description of events on Facebook shortly after the shooting. Her description of events became one of the primary sources of information for many people who were active on social media. We, however, must look at the totality of the evidence and whether we can corroborate statements with other evidence. The statements by the Kilroy's are valuable descriptions of the events, but they are inconsistent with most witness statements. Criminal charges will only be brought if a case can be proven "beyond a reasonable doubt." Substantial evidence raises doubt about the Kilroy's recollection of events and would not support criminal charges on their own.

RACIAL BIAS

RCW 9A.16.040 does not require or suggest that investigative authorities review cases for racial bias. However, given the nature of this case and historical data on officer involved shootings, the Office of the Kitsap County Prosecuting Attorney requested that additional investigation be conducted to determine if any evidence of bias was present.

Officer Craig Keller's law enforcement career began with the Port Gamble-Sklallam Tribal Police Department in February of 2014. He was hired by the Poulsbo Police Department in May of 2015. The KCIRT investigation revealed no instances of allegations or complaints of racially biased conduct in Officer Keller's employment history. Importantly, Officer Keller's name was made public as part of this investigation. No witnesses contacted KCIRT or the Office of the Kitsap County Prosecutor to report instances of racial bias involving Officer Keller.

It appears that Officer Keller participated in three recent trainings related to racial bias. He attended a course titled "Preventing Bias Policing" in January of 2017. He also attended a class presented by the Washington Cities Insurance Authority (WCIA) in 2018 titled "Anti Bias Training for LE: De-Escalation and Minimizing Use of Force." In 2019 he attended a WCIA training called "Ethics in Law Enforcement - Anti Bias Training in Law Enforcement."

There is also no evidence to suggest that Officer Keller had a specific bias against Mr. Chiefstick. The Kitsap County Prosecutor's Office was informed of rumors of prior contacts between Mr. Chiefstick and Officer Keller from attorneys associated with Mr. Chiefstick's friends and family. We requested additional investigation of those contacts from KCIRT.

There is no evidence to establish that Officer Keller had ever personally interacted with Mr. Chiefstick in the past. A review of records show only that Officer Keller had checked Mr. Chiefstick's name for warrants on February 1, 2016 at approximately 2:30 am. Evidence suggests that Officer Keller was on patrol and had been checking numerous license plates throughout the evening. No evidence suggests Mr. Chiefstick was pulled over, arrested or in any way contacted by Officer Keller that evening. His name was one of many names that were checked for warrants that morning.

We requested the names and contact information for people alleging prior incidents between Mr. Chiefstick and Officer Keller from attorneys associated with Mr. Chiefstick's friends and family. Additionally, a request for information about prior incidents between the two was made via social media. We received no names of anyone who claimed to have

knowledge of these encounters. Ultimately, there is no evidence of any prior encounters between Mr. Chiefstick and Officer Keller. We have received no evidence to conclude that this incident was racially motivated.

APPLICATION OF RCW 9A.16.040

Under RCW 9A.16.040, we are tasked with determining if an officer's use of deadly force was in "good faith." "Good faith" is an objective standard that considers "all the facts, circumstances and information known to the officer" at the time of the shooting to determine if a reasonably situated officer would believe that the use of deadly force was necessary to prevent death or serious physical harm to the officer or bystander. This, by definition, limits the scope of the following inquiry. While there are multiple factors that may, or may not, have factored into the events, only those known to Officer Keller, at the time of the shooting, are relevant to the analysis here. This defense applies to any crime resulting from the use of deadly force, including murder, manslaughter or reckless endangerment.

In many circumstances, this analysis will necessarily require the cooperation of the involved officer. The officer is generally the *only* witnesses who can provide insight on exactly what he or she knew at the time deadly force is used. It is not uncommon for an involved officer to decline to make a statement about what occurred, as they are the subjects of a criminal investigation.

Here, despite being the subject of a criminal investigation, Officer Keller gave a voluntary statement of what occurred. This statement, along with the statements by numerous witnesses, assisted us in our analysis of what facts Officer Keller knew at the time of the shooting. Without Officer Keller's statement, we would be left to speculate about what he knew based upon statements of other witnesses.

Officer Keller wrote that Mr. Chiefstick "attacked me with a weapon and attempted to stab me. He moved to attack me a second time and I fired my weapon in defense of my life and the lives of citizens around me." Officer Keller added that, "[H]ad I not shot Mr. Chiefstick, he would have severely injured or killed myself and/or other citizens."

RCW 9A.16.040(2)-

Among the circumstances which may be considered by peace officers as a "threat of serious physical harm" are the following:

- (a) The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or
- (b) There is probable cause to believe that the suspect has committed any crime involving the infliction or **threatened infliction** of serious physical harm (emphasis added).

RCW 9A.16.040(1)(c)(i) provides that the use of deadly force is permitted when “necessarily used by a peace officer meeting the good faith standard ... to arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony.”

In this investigation, the evidence establishes that Officer Keller reasonably believed Mr. Chiefstick had committed a felony assault based upon the report from Michelle Boaz that Mr. Chiefstick had threatened Mr. Hodges with a screwdriver. Witness John Leage also reported that he saw Officer Keller prior to the shooting, and Keller warned him to “be careful because there was a guy threatening people with a screwdriver.” Additionally, Officer Keller contacted Kitsap 911 and asked for additional assistance. The totality of the evidence suggests that Officer Keller reasonably believed Mr. Chiefstick had committed a felony. The requirements of 9A.16.040 subsection (1) are met.

Merely investigating a felony assault, however, is insufficient grounds to justify the use of deadly force under 9A.16.040. Further inquiry is required under subsection (2) to determine if the officer had “probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others.”

Subsection (2) provides circumstances that should be considered when determining whether a suspect poses a “threat of serious physical harm.” Specifically, we look at whether the suspect threatened others with a weapon, and if the suspect threatened the law enforcement officer with a weapon. See RCW 9A.16.040(2)(a) and (b).

Both circumstances are present in this case, supported by the statements of numerous witnesses. Ms. Boaz reported that Mr. Chiefstick lunged at Mr. Hodges with a screwdriver prior to Officer Keller contacting Mr. Chiefstick. Officer Keller was aware of those allegations at the time he contacted Mr. Chiefstick. Further, the majority of witnesses report that Mr. Chiefstick pulled out a screwdriver from his pants, turned to face Officer Keller, and lunged at him with the screwdriver.

It is particularly important to note that RCW 9A.16.040 does not require the suspect threaten an officer or others with a “deadly weapon.” Instead, the statute requires only that we consider whether the suspect threatened an officer or others with a “weapon.” There is no requirement that it be a “deadly weapon.”

However, a screwdriver, when threatened to be used as a stabbing instrument, is a deadly weapon under Washington law. Gun powder evidence suggests Mr. Chiefstick was within 2 feet of Officer Keller’s firearm at the time of the shooting. The requirements of RCW 9A.16.040 subsection (2) are met.

Finally, it has been argued that the fact that Officer Keller was the only officer to use deadly force is evidence that his conduct was unreasonable. The other officers present provided statements on this issue.

Community Service Officer San Gil reported that “I did not draw my firearm because Officer Keller had lethal cover. Had Officer Keller not had lethal cover, I would have drawn my weapon as well.”

Reserve Officer David Lom reports:

“I saw the male with his right arm up and over his head holding a screwdriver type object or an ice pick . . . I was immediately concerned for the safety of the citizens around us and for myself and the other officers in

attempting to disarm the male because there were so many people close to us and the suspect had a deadly weapon that placed everyone in danger. . . then put my hand on my holster but immediately moved it to the taser but did not pull it out. I didn't not draw my pistol because of the proximity of many citizens around us and because Officer Keller was very close to my line of sight with the subject . . . I started to open the retention lock holding that taser in its holster, I heard two shots."

Detective Lee Wheeler did not directly address why he did not draw a weapon. He wrote that "I could not get an unobscured view of the suspect ... his advancement and position of the screwdriver indicated to me he was going to attack and attempt to injure or kill Officer Keller. . .Officer Keller fired two shots from his weapon."

CONCLUSION

Based upon the entirety of the investigation and witnesses' statements, the evidence establishes that the deadly force used by Officer Craig Keller was legally justified under RCW 9A.16.040.



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