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March 9, 2022

Sent via U.S. and Electronic Mail

Chief Mike Zaro
MZaro@cityoflakewood.us
Lakewood Police Department
9401 Lakewood Drive SW
Lakewood, WA 98499

Re: Officer Involved Fatal Incident
Lakewood Police Department Incident No. 2012201890
Prosecutor Case No. 202104874

Dear Chief Zaro,

We have reviewed the investigation of the shooting death of Said Joquin by Lakewood Police Officer Wiley. The event was captured on an audio recording. Officer Wiley shot Mr. Joquin when he reached for a loaded handgun, after being repeatedly warned not to reach for the gun, during a traffic stop. Because reaching for a loaded handgun during this police encounter posed an imminent threat to both officers, we have determined that the use of deadly force was justified. What follows is a detailed analysis of the law and evidence.

On May 1, 2020 at approximately 1600 hours/4:00 p.m., Lakewood Officers Michael Wiley and Zachary Schueller conducted a traffic stop of a black 1997 Ford Thunderbird (hereinafter "the vehicle") at the 6400 block of Steilacoom Blvd SW. Officers Wiley and Schueller contacted the occupants of the vehicle; the driver of the vehicle would ultimately be identified as Said Asante Ray Joquin and the passenger as Angel Vargas. Officer Wiley contacted Mr. Joquin at the driver's side and Officer Schueller contacted the passenger side of the vehicle. At 1601 hours Officer Schueller announced over his radio that there was a gun in the vehicle; additional units were requested as backup.

Officer Wiley advised Mr. Joquin that he had observed the gun and to put his hands on his head and that if he reached for anything he would be shot. The passenger was also told to put his hands on his head and not to make any sudden movements. At 16:04:37 hours Officer Wiley called out shots fired; Officer Wiley fired his weapon four times, striking Mr. Joquin four times in the upper torso. Officer Wiley requested that Fire respond priority at 16:04:59 hours. Additional officers arrived very quickly and helped remove Mr. Joquin from the vehicle to begin lifesaving measures until West Pierce Fire & Rescue arrived. Mr. Joquin was transported to Tacoma General Hospital, where he was later pronounced deceased.



The view of the incident from Officer Schueller's in-car video was obstructed due to the position of Officer Schueller's patrol vehicle behind Officer Wiley's patrol vehicle. Officer Schueller's microphone did pick up some of the conversation between the officers and the occupants of the vehicle. Citizens in the area took some photographs and cell phone video of the scene immediately after the shooting but none captured the shooting itself. There was no other video located in the area and no witnesses who observed the shooting occur.

Photographs were taken at the scene, prior to the vehicle being moved, in which the grip of a gun can be seen protruding from under the driver's seat, such that the grip is visible on the floorboard and the remainder of the gun is under the seat. The vehicle was towed and searched pursuant to a search warrant and a loaded Browning Arms Company Model Buck Mark .22 caliber semi-automatic pistol, serial number 655NM29208, in a holster was located underneath the front of the driver's seat. DNA swabs were taken of the handgun and reference samples were taken from Mr. Joquin as well as from all officers present at the scene who may have had access to the firearm. The officers were excluded as contributors. The lab report indicates "very strong support" for the inclusion of Mr. Joquin as a contributor to the mixed DNA profile found on all of the swabs.

The independent investigation of Mr. Joquin's death was conducted by the Metro Crime Response Unit Investigation Team. After reviewing that investigation and other relevant materials, we conclude that the use of force was justified and lawful.

FACTS AND EVIDENCE

This summation of the facts and evidence will include discussion of both law enforcement and civilian accounts of the events that resulted in the death of Mr. Joquin. These reports will be discussed in separate sections. Other types of evidence from this comprehensive and thorough investigation – to include video, ballistic, forensic, and forensic pathology evidence – will also be discussed separately. Where statements or evidence are in conflict or include uncertainty, we will discuss the legal implications of such evidence in the analysis section of this letter.

1. Officer Statements

a. Involved Officer Wiley

On May 7, 2020 Officer Wiley provided a handwritten statement regarding the incident; the statement is summarized here. On May 1, 2020 at approximately 1600 hours Officer Wiley was working uniformed patrol for the City of Lakewood and was driving a fully marked SUV patrol vehicle equipped with overhead lights. Officer Wiley was driving eastbound on Steilacoom Blvd and Officer Schueller was following him in a similarly-marked SUV patrol vehicle. As Officer Wiley approached Whitman Avenue, he observed a Ford Thunderbird fail to stop for the stop sign at Whitman Avenue; it traveled through the stop sign and stopped in the middle of the eastbound lanes, blocking both eastbound lanes. Officer Wiley was forced to apply his brakes to avoid a collision with the vehicle. Officer Wiley observed two males in the vehicle, one in the driver's seat and one in the front passenger seat.

Officer Wiley initiated a traffic stop of the vehicle in the 6400 block of Steilacoom Blvd SW by activating his emergency signals and overhead lights. Officer Wiley also pointed to the driver of the car and motioned for him to turn left (westbound) onto Steilacoom Blvd and pull over. Officer Wiley observed the male driver quickly put on his seatbelt while the front seat passenger remained still. The vehicle turned left (westbound) and pulled toward the side of the roadway facing westbound on Steilacoom Blvd. The vehicle stopped right at the edge of the roadway, partially on a gravel area and a parking lot. Officer Wiley followed, making a very tight U-turn to get behind the vehicle with his patrol vehicle. Officer Wiley called out the traffic stop to South Sound 911 Radio. The tight U-turn resulted in Officer Wiley's patrol vehicle being somewhat perpendicular to the vehicle and the roadway, such that his patrol vehicle was behind and to the side of the vehicle and was partially or fully blocking westbound traffic on Steilacoom Blvd.

Officer Wiley observed the driver and passenger move about in the vehicle toward the center console, then look toward Officer Wiley and back. Concerned that the vehicle's occupants may attempt to flee, Officer Wiley stood by his patrol vehicle's driver's side door for a few seconds to watch the vehicle and occupants, then took steps forward toward the vehicle. Officer Wiley observed that the driver's window was open and he told the driver to move the vehicle so they weren't on the roadway and he could move his patrol vehicle to a safer position that was not blocking traffic. The driver moved the vehicle off the roadway into the edge of a small parking lot and stopped on a slight incline facing uphill toward a parking area off the side of the roadway. Officer Wiley was then able to pull his patrol vehicle directly behind the vehicle. Officer Schueller stopped behind Officer Wiley.

Officer Wiley approached the vehicle on the driver's side and Officer Schueller approached on the passenger side. Officer Wiley contacted the driver, whom he didn't recognize and had not had previous contact with to his recollection. The driver was identified as Said Asante Ray Joquin. Officer Wiley identified himself as a Lakewood Police officer and advised Mr. Joquin that he had stopped him for failing to stop for the stop sign. As Officer Wiley was identifying himself, Mr. Joquin provided his Washington State Identification Card. Mr. Joquin stated something to the effect that he didn't have a driver's license and that the car belonged to his girlfriend. During this contact, Officer Wiley stood toward the middle of the driver's door, between the A-pillar and the B-pillar. Officer Wiley then asked Mr. Joquin for the vehicle's registration and insurance documents. As Mr. Joquin looked for the paperwork, Officer Wiley looked around the immediate area of the driver's side of the car and observed a brown pistol grip that he recognized to be part of a handgun. The handgun was on the driver's side, partially underneath the driver's seat, between Mr. Joquin's feet.

Upon seeing the handgun, Officer Wiley looked over the roof of the vehicle and indicated to Officer Schueller that he had observed a handgun in the vehicle. Consistent with his training, Officer Wiley then withdrew his service weapon from its holster and held it in a Sul position,

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holding the pistol up near the chest against his external carrier vest but with the barrel pointed at the ground. Per Officer Wiley's training, this is considered a safe position to hold a firearm as it is pointed at the ground but available if necessary.

Officer Wiley told Mr. Joquin that he saw the handgun by his feet and warned Mr. Joquin not to reach for the handgun. Officer Wiley told Mr. Joquin that if he attempted to reach for it, he would be shot. Officer Wiley told both occupants of the car to put their hands on their heads. Officer Wiley told Mr. Joquin that due to his concerns about the handgun, other officers were being asked to respond and assist. Officer Wiley noted that Mr. Joquin appeared nervous and was speaking fast. Mr. Joquin told Officer Wiley that he found the handgun somewhere in Tacoma, that he did not have a concealed weapons permit for the gun, and that he had business dealings in Tacoma and needed the gun for protection.

Officer Wiley heard Lakewood officers over the radio calling out that they were responding to their location and heard sirens in the background. Officer Wiley moved from his initial position outside the center of the driver's side door, forward toward the front of the car where he stood at the driver's side A-pillar to maintain a better view of Mr. Joquin. Officer Wiley attempted to place Mr. Joquin's identification card on the hood of the vehicle, but it fell to the ground, where it remained; Officer Wiley intended to pick it up after other officers arrived.

While waiting for other officers to arrive, Mr. Joquin attempted to engage Officer Wiley in conversation, but Officer Wiley had difficulty understanding him due to the radio beeper, sirens in the background, and the road noise as traffic continued passing by on Steilacoom Blvd. Officer Wiley noted that Mr. Joquin appeared nervous and looked at Officer Wiley's pistol, which was still in the Sul position, commenting to the effect that it was a nice gun. Officer Wiley also noted that Mr. Joquin appeared to be looking around or behind Officer Wiley as though looking for someone or something. Officer Wiley did not know what Mr. Joquin was looking at but was aware that Mr. Joquin could have driven forward out of the lot and back onto the street. Mr. Joquin asked Officer Wiley if Officer Wiley was nervous; Officer Wiley stated that he was fine. Officer Wiley told Mr. Joquin that they were going to wait for a couple more officers to arrive, and that Mr. Joquin and Mr. Vargas were going to be detained so the officers could figure out what was going on with the handgun inside the vehicle.

While speaking with Mr. Joquin, Officer Wiley kept his voice and tone neutral to keep both occupants of the vehicle at ease. Officer Wiley continued to tell Mr. Joquin to keep his hands on his head and not reach for the handgun while continuing to wait for other officers to arrive. Officer Wiley contacted South Sound 911 to confirm backup officers were on their way and was told that they were.

A few seconds later, Officer Wiley saw Mr. Joquin suddenly and quickly remove his hands from his head and reach down with his right hand toward the handgun. Mr. Joquin shifted his

upper body and began to lean forward toward the steering wheel, allowing him easier access to the handgun, while saying something that Officer Wiley couldn't understand.

The handgun was within easy reach of Mr. Joquin and he had disobeyed clear, direct orders to keep his hands on his head. Officer Wiley believed Mr. Joquin was grabbing the handgun to shoot Officer Wiley or Officer Schueller and attempt to flee. Officer Wiley felt that his life and Officer Schueller's life were in danger based on Mr. Joquin's actions. Officer Wiley believed that Mr. Joquin was going to shoot, intent on either killing one or both of the officers, or at least inflicting great bodily harm. Due to the speed of the unexpected lunge by Mr. Joquin for the handgun, Officer Wiley believed he had no other choice than to fire his pistol at Mr. Joquin in order to stop the threat he posed and for his and Officer Schueller's protection. Officer Wiley followed his training and reported firing three to four rounds at Mr. Joquin from a distance of approximately three to four feet. Officer Wiley observed Mr. Joquin lean back into his seat and assessed that he appeared to no longer be a threat, allowing Officer Wiley to quickly look at Officer Schueller and Mr. Vargas to ensure that they were safe and unharmed. At this point, the vehicle began to roll back toward Officer Wiley's patrol vehicle and stopped when it hit the front push bar of the patrol vehicle. The vehicle remained in that position until Officer Wiley left the scene.

Officer Wiley immediately informed all units via radio that shots were fired, medical services were needed priority for Mr. Joquin, and that the officers on scene were okay. Additional officers arrived on scene very quickly and assisted in removing Mr. Vargas from the car and then moved directly to assist Mr. Joquin. Officers immediately started to render medical aid and treatment to Mr. Joquin. Officer Wiley went to the back of his patrol vehicle and retrieved two bags containing medical equipment for gunshot wounds and gave it to the officers who were actively rendering aid to Mr. Joquin pending the arrival of West Pierce Fire & Rescue.

Officer Wiley was directed to wait at the front of Officer Schueller's patrol vehicle and then was driven to the police station by another officer, leaving his vehicle at the scene.

b. Witness Officer Schueller

On May 8, 2020 Officer Schueller provided a handwritten statement regarding the incident; the statement is summarized here. On May 1, 2020 at approximately 1600 hours Officer Schueller was on duty as a Lakewood Police officer and was driving a fully marked SUV patrol vehicle and wearing a department-issued uniform. Officer Schueller was traveling eastbound on Steilacoom Blvd behind Officer Wiley. Officer Schueller witnessed Officer Wiley approach the intersection with Whitman Ave and the Thunderbird pull out into the intersection in front of Officer Wiley without stopping for the stop sign. Officer Schueller observed Officer Wiley take evasive measures and stop quickly to avoid a collision. Officer Schueller observed Officer Wiley initiate a traffic stop of the vehicle by activating his emergency lights and saw the vehicle pull into the business parking lot at 6405 Steilacoom

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Blvd SW. Officer Schueller observed Officer Wiley execute a U-turn and pull in behind the vehicle. Officer Schueller pulled in and stopped behind Officer Wiley's patrol vehicle to provide backup for Officer Wiley during the traffic stop. Officer Wiley approached the vehicle on the driver's side and Officer Schueller approached on the passenger side, walking up to the B pillar. Officer Schueller noted that the vehicle's brake lights and reverse lights were illuminated.

Officer Schueller contacted Mr. Vargas and engaged him in conversation, asking him some questions. Then Officer Schueller saw Officer Wiley look over the top of the vehicle and mouth the word "gun" to Officer Schueller. Officer Schueller heard Officer Wiley asking Mr. Joquin questions about the gun and asking if Mr. Joquin had a permit for the gun. Officer Schueller heard Officer Wiley tell Mr. Joquin that he needed to place his hands on his head and that he should not move. Officer Schueller informed dispatch that they had a car with a gun in the passenger compartment, and then he moved from the B pillar on the passenger side of the vehicle to the A pillar. Officer Schueller also withdrew his service pistol from its holster and held it in a Sul position and ordered Mr. Vargas to put his hands on his head and not to make any moves.

Officer Schueller reassured Mr. Vargas that everything would be fine and made sure Mr. Vargas understood why he and Officer Wiley had their firearms out. During his communication with Mr. Vargas, Officer Schueller attempted to visually locate the handgun in the vehicle from his position at the A pillar on the passenger side because he could not see it. Officer Schueller asked Officer Wiley where the firearm was located, which Officer Wiley did not hear, and as he did so, he continued to watch Mr. Vargas. From the periphery of his vision, Officer Schueller observed that Mr. Joquin had his hands up. Officer Schueller could not see Mr. Joquin's head or face. Officer Schueller heard a verbal reply from within the vehicle. From his periphery, Officer Schueller observed Mr. Joquin make a quick movement and his hands move from the up position toward his knees. Officer Schueller heard shots fired and then the vehicle began to move backward until it struck the front end of Officer Wiley's patrol vehicle, where it stopped.

Lakewood Police Sergeant Porche arrived on scene very shortly after the vehicle came to a stop and provided cover for Officer Schueller to remove Mr. Vargas from the passenger seat of the vehicle. Officer Schueller checked Mr. Vargas for weapons, then placed Mr. Vargas in the back of his patrol vehicle. More Lakewood officers arrived and Officer Schueller assisted them in removing Mr. Joquin from the driver's seat of the vehicle. Officer Schueller retrieved medical supplies from his patrol vehicle and assisted in providing aid to Mr. Joquin until West Pierce Fire & Rescue arrived. Officer Schueller then proceeded directly to Lakewood Police Department.

Officer Schueller did not recognize either Mr. Joquin or Mr. Vargas from any prior contacts.

2. Responding Officer Reports

All other officers arrived on scene after shots were fired. The officers wrote reports detailing their involvement. The reports summarized below are from those officers who had the most involvement with the scene itself, rather than officers who provided scene security or contacted potential witnesses.

a. Lakewood Sergeant Charles Porche

At approximately 1600 hours on May 1, 2020 Sgt. Porche was on duty for the City of Lakewood and heard via the radio Officer Wiley reporting a traffic stop on Steilacoom Blvd. Sgt. Porche heard Officer Schueller announce that he was with Officer Wiley and that the stop location was the 6400 block of Steilacoom Blvd SW. Very shortly after that, Sgt. Porche heard via radio that there was a gun in the vehicle and that the occupants were compliant. After another brief period Sgt. Porche heard dispatch check in on Officers Wiley and Schueller and heard Officer Schueller advise that they were waiting for additional units to arrive before detaining the occupants. Sgt. Porche advised that he was en route to assist. Sgt. Porche arrived at the scene within minutes and observed Wiley's and Schueller's patrol vehicles in the roadway. Sgt. Porche was just stopping his vehicle when he heard via radio that shots had been fired. As Sgt. Porche was parking his vehicle, he heard Officer Wiley request Fire priority, that the driver had been hit, and that the passenger and officers were okay.

Sgt. Porche observed Officer Schueller standing on the passenger side of the vehicle with his pistol directed toward the passenger compartment and observed Officer Wiley standing on the driver side of the vehicle with his pistol also pointed to the passenger compartment. Sgt. Porche observed two persons in the vehicle, one in the driver seat leaning slightly to his right and one in the passenger seat who had his hands raised out of the window. Sgt. Porche drew his pistol and approached on the right rear of the vehicle. Sgt. Porche directed the removal and detention of Mr. Vargas from the vehicle as other officers were arriving.

Sgt. Porche directed Officer Teclemariam to assist with removing Mr. Joquin from the vehicle and directed other arriving officers to close off the roadway to traffic. Sgt. Porche observed that Mr. Joquin was bleeding from the chest area and was not responsive to commands. Officers began to immediately render aid until West Pierce Fire & Rescue arrived to take over.

Sgt. Porche noted that the vehicle was resting on the front bumper of Officer Wiley's patrol vehicle and was still running. Officer James notified Sgt. Porche that the vehicle was in reverse and asking if he should put it in park; Sgt. Porche requested he do so. Sgt. Porche later requested Officer James turn off the vehicle, as it had still been running.

Sgt. Porche contacted the appropriate officers to begin the investigation by the Metro Crime Response Unit and assigned officers to act as peer support for Officers Wiley and Schueller. Sgt. Porche took photographs of the scene in advance of anticipated rain. Sgt. Porche remained on scene until the investigation was completed.

b. Lakewood Officer Nile Teclemariam

At 1602 hours Lakewood Officer Teclemariam responded to the call for priority backup for Officers Wiley and Schueller. While en route, Officer Teclemariam heard via radio that shots had been fired. Officer Teclemariam arrived on scene and parked blocking westbound traffic at the intersection of Lochburn Lane and Steilacoom Blvd. Officer Teclemariam approached Officer Wiley, who was standing near the front end of the vehicle. Officer Teclemariam observed that the vehicle's driver's side window was open and Mr. Joquin was slumped over toward the center console, with blood starting to seep from the front of his shirt. Officer Wiley told Officer Teclemariam that the firearm was near Mr. Joquin's feet. Officer Teclemariam noted that Mr. Joquin's position would have allowed him quick access to retrieve a weapon from underneath, so Officer Teclemariam approached the vehicle with his firearm in the "low ready" position. Officers gave Mr. Joquin the command to not move and Officer Teclemariam noted that Mr. Joquin was unresponsive and bleeding from multiple gunshot wounds. Officer Teclemariam noted that the driver's door handle was broken, requiring him to reach in through the window to open the door from the inside in order to extricate Mr. Joquin, who remained unresponsive but appeared to be breathing shallowly with increasing pallor noted to his skin

Officer Teclemariam and Officer Schueller worked together to remove Mr. Joquin from the vehicle. Officer Teclemariam assessed Mr. Joquin's wounds, noting two gunshot wounds to his left breast and one above his left clavicle. Officer Schueller cut Mr. Joquin's shirt off and Officer Teclemariam immediately applied pressure to the wounds, using one hand under the left breast and one to the clavicle. Officer Teclemariam noted another gunshot to Mr. Joquin's left forearm and lower left abdomen. Officer Teclemariam applied two chest seals to the chest wounds. Officer Teclemariam noted that Mr. Joquin was unresponsive and not breathing so he began chest compressions, observing that Mr. Joquin gasped at the start of chest compressions but did not otherwise show signs of life. Officer Teclemariam continued CPR until West Pierce Fire & Rescue arrived approximately 1-2 minutes later and took over. Officer Teclemariam then took photographs of the vehicle and observed the butt of a handgun, which appeared to be a black Browning 1911 handgun with wooden grips, sticking out from under the driver's seat.

c. Lakewood Officer Darrin Latimer

Lakewood Officer Latimer was on duty elsewhere in the city at approximately 1600 hours when he heard Officer Wiley announce via radio that he was on a traffic stop at the 6400 block of Steilacoom Blvd SW. Shortly thereafter, Officer Latimer heard via radio that there was a gun in the vehicle and the officers were waiting for additional units to arrive. At approximately 1604 hours Officer Latimer heard that shots were fired. Officer Latimer responded to the scene to assist. Officer Latimer arrived on scene and contacted Sgt. Porche, who directed Officer Latimer to contact Officers Wiley and Schueller in the role of peer support representative. Officer Latimer contacted Officers Wiley and Schueller at the driver's door of the vehicle. Officer Latimer observed Mr. Joquin lying on his back on the ground, and Officers Wiley and

Schueller were both performing life saving measures on Mr. Joquin. Officer Latimer noted several other officers on scene available to render aid and instructed Officers Wiley and Schueller to walk to his patrol vehicle where they remained with him. Sgt. Market arrived on scene and assumed peer support responsibility for Officer Schueller. At approximately 1627 hours, Officer Latimer was instructed by Sgt. Porche to transport Officer Wiley to Lakewood Police Department for further investigation and processing.

d. Lakewood Officer Jeremy James

Lakewood Officer James heard via radio at approximately 1600 hours that Officers Wiley and Schueller were on a traffic stop at the 6400 block of Steilacoom Blvd SW. Officer James heard that there was a gun in the vehicle and that the officers had requested additional units. Officer James responded to assist and, while en route, heard via radio that shots had been fired. Officer James arrived on scene at approximately 1603 hours and observed the Thunderbird backed into Officer Wiley's patrol car. Officer James observed Officer Wiley standing by the driver's side door of the vehicle with his firearm drawn. Officer James observed a male, Mr. Joquin, slumped over toward the passenger side of the vehicle. Officer James checked the passenger side of the vehicle to make sure Mr. Joquin did not have any weapons in his hands. Officer James observed a gunshot wound to Mr. Joquin's left forearm and left stomach areas.

Officer James located four shell casings; two were located toward the left front of the vehicle in the lane of travel and two were located just to the rear of the driver's side door post. Officer James also located a spent round directly under where medics were treating Mr. Joquin. Officer James noticed that the vehicle was in reverse and shifted it into park and turned off the ignition, then hung crime scene tape to protect and preserve the scene. Mr. Vargas was ultimately placed in Officer James' vehicle and transported to Lakewood Police Department to be interviewed.

e. Lakewood Officer Jordan Feldman

Lakewood Officer Feldman was in his office at Lakewood Police Department and heard via the radio at approximately 1600 hours that Officers Wiley and Schueller were on a traffic stop with an armed driver at gunpoint. Shortly thereafter, Officer Feldman heard one of the officers ask if additional units were coming, and shortly after that, heard that shots were fired, both officers were okay, and that they needed priority medical assistance. Officer Feldman responded to the scene a short distance from the station. When Officer Feldman arrived on scene, West Pierce Fire & Rescue personnel were loading Mr. Joquin into an ambulance. Officer Feldman approached the vehicle and observed the handgun on the driver's side floorboard. Officer Feldman was on scene for only a brief period and had no involvement with the vehicle or the handgun.

f. Lakewood Officer Brian Luttrull

At approximately 1600 hours Officer Luttrull heard via radio Officers Wiley and Schueller on a traffic stop and shortly after 1601 hours heard the announcement of a firearm in the vehicle and that the officers were waiting on additional units. At approximately 1604 hours Officer

Luttrull heard the announcement of shots fired. As Officer Luttrull proceeded to the scene he heard via radio that the driver had been the only one hit and heard Officer Wiley request that West Pierce Fire & Rescue respond priority. Officer Luttrull arrived on scene after several other Lakewood officers and observed Officers Teclemariam and Schueller performing medical aid on Mr. Joquin. Officer Teclemariam asked Officer Luttrull if he had a chest seal; Officer Luttrull did not, so Officer Schueller retrieved his medical kit from his patrol vehicle.

Officer Luttrull looked for gunshot wounds on Mr. Joquin that were not obvious. Officer Luttrull used his trauma shears to cut Mr. Joquin's right pant leg off and began on the left pant leg when West Pierce Fire & Rescue arrived and took over providing medical aid.

West Pierce Fire & Rescue personnel loaded Mr. Joquin into an ambulance and Officer Luttrull followed the ambulance to Tacoma General Hospital. Mr. Joquin was immediately taken into operating room number 28, where doctors attempted life saving measures. After a few minutes, Officer Luttrull heard doctors state that they were stopping and were not going to be able to save Mr. Joquin. A doctor contacted Officer Luttrull and advised him. Officer Luttrull waited with Mr. Joquin's body until the medical examiner arrived and relieved him, then left the hospital.

3. Civilian Witness Statements

Officers and detectives spoke with several potential civilian witnesses; however, none witnessed the shooting itself. A few individuals observed the scene immediately before shots were fired and a few observed the scene immediately after.

Lakewood Officer Johnson spoke with Mr. M, who had been standing at the corner of the building the traffic stop was in front of, the Dower Place, located at 6403 Steilacoom Blvd SW. Mr. M observed the traffic stop and one of the officers instruct the vehicle to pull forward more, and heard the officers giving instructions to the occupants of the car, but not what was being said. Mr. M saw the passenger in the vehicle with his hands up and the officer on the passenger side with his gun out, but Mr. M could not see the driver. Mr. M heard the gunshots.

In a follow up interview with Bonney Lake Detective Sean Scott, Mr. M again described his position when the incident occurred and that from his vantage point, he was only able to observe the actions of the officer on the passenger side of the vehicle and passenger of the vehicle; he could not see the officer on the driver's side of the vehicle, nor the driver. Mr. M stated that he heard multiple gunshots in rapid succession and fled for the cover of the building where he was standing. Mr. M advised that he did not hear anything immediately preceding the gunshots. Mr. M stated that he stayed behind the building for a short time, until he realized other officers were on scene. Mr. M took photos of the scene, which he shared with Detective Scott. The photos depict the suspect vehicle and associated Lakewood Police vehicles around the scene.

Officer Teclerian spoke with Mr. G, who stated he was mowing lawns on Lochburn Lane when the traffic stop occurred. Mr. G told Officer Teclerian that he observed the officers approach the vehicle. Mr. G stated that he continued mowing and he then heard gunshots, and when he looked back up he saw officers take the passenger out of the vehicle.

Sumner Police Detective Troy Nikolao spoke with a group that had been walking from the Shell station at Bridgeport and Steilacoom Blvd. Mr. D.G. told Detective Nikolao that as they were walking, he observed officers stopped with the vehicle. Mr. D.G. stated that he heard shots and believed that the officer on the passenger side of the vehicle had fired the shots. Mr. D.G. observed CPR being provided to one of the vehicle's occupants and observed several officers were on scene by that time. After the interview, Mr. D.G. let Detective Nikolao know that he was "really stoned from smoking marijuana." Two others with Mr. D.G., Ms. C and Ms. L, told Detective Nikolao that they heard the shots but did not observe the incident.

Fife Detective Tobin Volkman spoke with resident Mr. B who advised that he had been watching TV and heard a loud bang. Mr. B stated that he looked out his front window and observed police officers with their guns in their hands. Mr. B stated that he took a photograph, which he showed to Detective Volkman. The photograph depicts the officer on the passenger side of the vehicle pointing his firearm toward the occupants of the vehicle, and the back of the officer on the driver's side. Mr. B stated that once medical aid arrived his view was blocked.

A canvass of nearby residences and businesses revealed that some individuals heard gunshots but did not observe any of the incident, while others did not hear or see anything.

4. Angel Vargas Statement

Front seat passenger Angel Vargas was interviewed at the Lakewood Police Department by Puyallup Police Detective Shelby Wilcox and Bonney Lake Police Detective Brian Byerley. Mr. Vargas told the detectives that Mr. Joquin is his cousin's neighbor and that they had met a couple of months prior. Mr. Vargas stated Mr. Joquin called him earlier in the day and asked if he wanted to "roll around with him." Mr. Vargas stated that Mr. Joquin picked him up at home around 1730 hours. When Mr. Vargas was advised that the traffic stop occurred at 1600 hours, Mr. Vargas adjusted the time to 1530 hours. Mr. Vargas stated that they were on the way back to his house when the traffic stop occurred; he stated that Mr. Joquin ran a stop sign. Mr. Vargas said Mr. Joquin "slowed past a stop sign and there was a cop there," and that Mr. Vargas told him to reverse and get out of the way. Mr. Vargas told the detectives that the officers told Mr. Joquin to pull over, which he did. Mr. Vargas stated, "the cops seen a weapon on him," and Mr. Vargas told detectives that he also saw a weapon on Mr. Joquin, on his waist.

Mr. Vargas stated that the officers told them both to keep their hands on their heads and not to move. Mr. Vargas stated that he was looking at the officer to his right and then he heard shots. Mr. Vargas stated that he heard Mr. Joquin scream. Mr. Vargas also told detectives that when

they were pulled over, Mr. Joquin stated that he was going to jail. Mr. Vargas stated that Mr. Joquin was "off" and had been "driving kinda crazy" prior to being stopped by the officers. Mr. Vargas said that he did not know if Mr. Joquin had taken anything. When asked if the officers said anything before the shooting, Mr. Vargas stated that Mr. Joquin said to the officer that "it was pretty stupid to run that stop sign" and that the officer said to him "I'd advise you to shut up." Mr. Vargas told detectives that before the officers got up to the vehicle, Mr. Joquin stated that "he fucked up and was going to jail," and Mr. Vargas said he thought it was because of the gun. Mr. Vargas stated he had seen Mr. Joquin carrying a firearm on numerous occasions but was unable to explain why Mr. Joquin carried a firearm. Mr. Vargas described the weapon as a handgun, possibly a .22, and said he was not familiar with firearms.

Mr. Vargas stated that Mr. Joquin did not normally wear the gun on his waist and usually covered it up. Mr. Vargas stated that Mr. Joquin had had a gun every time Mr. Vargas had seen him. Mr. Vargas stated that Mr. Joquin told him that he had been pulled over with guns before. When asked if Mr. Vargas could see the gun, Mr. Vargas stated "I couldn't see it from where I was sitting, but I'm pretty sure the officer could see it." Mr. Vargas stated that he was not looking in Mr. Joquin's direction when the shots were fired and that Mr. Joquin "probably put his hands down or something." Mr. Vargas stated the officer on the driver's side of the vehicle drew his firearm and told the officer on the passenger side about a gun. Mr. Vargas did not think that Mr. Joquin said anything and that he looked scared, his eyes were wide. Mr. Vargas did not remember the officers asking any questions but remembered them saying to keep his hands on his head and to not make any movement. Mr. Vargas stated that Xanax would probably be found in the car and that Mr. Joquin was usually on Xanax. Mr. Vargas stated that he did not see the gun after the shooting and that when he looked at Mr. Joquin he saw a "flesh wound on his left arm" and a lot of blood. Mr. Vargas stated that he believed he heard four to five shots.

5. Audio Evidence

The audio from the microphone worn by Officer Schueller was transcribed. Officer Wiley said the following to Mr. Joquin:

So real quick, I see that there's a weapon in the [unintelligible] in the car. If you reach for anything, alright, you will be shot. Do you understand? Put your hands on your head. Do you have a permit for the weapon?

Mr. Joquin's response was unintelligible, but Officer Wiley's response to what he said was, "You found it on the street?" Mr. Joquin's response is again unintelligible, but Officer Wiley then tells him, "Keep your hands on your head. You're gonna get shot, dude." Mr. Joquin responded, "I don't want to get shot" twice.

The transcript also includes Officer Schueller telling Mr. Vargas, "Passenger, put your hands on your head. Thank you. You understand no sudden movements, right?" Mr. Vargas

responded, "Yeah." Officer Schueller told Mr. Vargas that they are going to be detained and he then identifies Mr. Vargas.

Officer Schueller engaged Mr. Vargas in conversation. He asked Mr. Vargas, "Do you understand why we have our guns out right now?" Mr. Vargas replied, "Yeah." Then Officer Schueller told Mr. Vargas, "Okay. Everything's going to be just fine, just don't make any sudden moves. Keep your hands up over your head [unintelligible]. Stay cooperative." Mr. Vargas then told Officer Schueller that his phone is off and Officer Schueller told him that's fine and to "just let it sit there."

The short conversation between Officer Schueller and Mr. Vargas is followed by a few seconds of what is referred to as radio noise and background noise. After the radio noise Officer Schueller directed a statement at Officer Wiley: "Hey Wiley, I can't see the gun from where I'm at. Where is it at?" Immediately after that statement gunshots can be heard. The gunshots are followed by the following exchange between Officer Schueller and Mr. Vargas:

SCHUELLER: Shots fired. Don't. Don't reach for shit! Do not reach for shit. Do not reach for shit.

VARGAS: Can I get out please?

SCHUELLER: No. You're staying right where you're at. Do not move. Do you understand? Do not move.

6. Video Evidence

Officer Schueller's patrol vehicle was equipped with a dash cam. However, due to the position of Officer Schueller's patrol vehicle behind Officer Wiley's patrol vehicle, the camera's view of the incident is obstructed.

During a canvass of the nearby residences and businesses, a few citizens were located who provided video that they had taken on their cell phones, but none of the videos depicted the shooting itself. One such video was provided to Puyallup Police Sergeant Kevin Gill by Mr. P, who stated that he heard the shots but did not see the shooting occur. The video begins after West Pierce Fire & Rescue arrived and is approximately 27 seconds in length. The video depicts the vehicle with the passenger side door open. An unidentified male's voice can be heard on the video stating "he had his hands up in the window." Mr. P told officers that the voice belonged to a male he did not know.

Another such video begins after the shooting, and depicts the officers removing Mr. Joquin from the vehicle and beginning to provide first aid. This video was provided by Mr. T, who told Detective Volkman that he had been looking out his window and he heard one of the officers tell the vehicle to pull further off the roadway. Mr. T told Detective Volkman that he heard the gunshots and observed the shooting; in a follow up interview, Mr. T clarified that he did not see the shooting itself.

Another civilian witness had taken a photograph that depicted the officer on the passenger side of the vehicle pointing his firearm toward the occupants of the vehicle, and the back of the officer on the driver's side. Detectives were unable to locate security or surveillance video of the incident.

7. Forensic Evidence

a. The Thunderbird

Photographs of the vehicle at the scene show the brown pistol grip visible on the driver's side floorboard. The following evidence items were collected from the vehicle when it was searched: a loaded Browning Arms Company Model Buck Mark .22 caliber semi-automatic pistol, serial number 655NM29208, in a holster located underneath the front of the front driver seat, an unfired .22 LR cartridge from the chamber of the firearm, the loaded magazine, two cell phones, a jacket, and a brown wallet.

b. DNA

The Washington State Patrol Crime Lab examined swabs taken from the Browning .22 caliber pistol found in the vehicle for DNA. A mixed DNA profile was obtained from the swabs, which were taken from the trigger, the slide, the grip, and the magazine. A reference DNA sample was taken from Mr. Joquin. The lab report indicates "very strong support" for the inclusion of Mr. Joquin as a contributor to the mixed DNA profile found on all of the swabs. Reference samples were also taken from all officers present at the scene who may have had access to the firearm; all were excluded as contributors.

c. Ballistic Evidence

Officer Wiley's duty firearm, a Glock 9mm caliber pistol, was collected as evidence and photographed. The cartridge casings recovered from the scene were tested by the Washington State Patrol Crime Lab and were determined to have been fired from Officer Wiley's duty firearm.

Three bullets were recovered from Mr. Joquin's body during the autopsy. The bullets were examined by the WSP Crime Lab and were determined to have been fired from Officer Wiley's duty firearm.

The Browning .22 caliber pistol from Mr. Joquin's vehicle was examined and test fired and was determined to be operable.

8. Forensic Pathology Evidence

The Medical Examiner's post-mortem examination report listed manner of death as "Homicide" and the cause of death was listed as "Multiple gunshot wounds." Mr. Joquin was struck by the four shots fired by Officer Wiley. The autopsy detailed the path of the gunshot wounds that resulted in Mr. Joquin's death. The gunshot wound findings can be summarized as follows:

- A gunshot wound to the upper left chest, the trajectory of the bullet is noted to be left to right, downward, and slightly front to back. A mushroom-deformed semi-jacketed bullet was recovered in the lateral right chest wall.
- Two gunshot wounds to the left lower chest, the trajectory of the bullet is noted to be left to right, downward, and slightly front to back.
- A gunshot wound to the left abdomen, the trajectory of the bullet is noted to be left to right, downward and slightly front to back. Two mushroom-deformed semi-jacketed bullets were recovered from the abdominal cavity.
- Three gunshot wounds to the upper left extremity. The path of these wounds is noted to be roughly back to front and downward through the left upper extremity, to exit the proximal forearm, where there are three separate but closely positioned exit wounds.
- The wounds on the lower left chest and abdomen could be re-entries of these three gunshot paths after first going through the left upper extremity.

Toxicology testing of Mr. Joquin's blood showed 25 ng/mL of Fentanyl and 5.9 ng/mL of Norfentanyl.

ANALYSIS

1. The Applicable Standards

The statute applicable to a law enforcement officer's use of deadly force is RCW 9A.16.040, which provides that homicide or the use of deadly force is justifiable:

(b) When necessarily used by a peace officer meeting the good faith standard of this section...in the discharge of a legal duty;

The statute defines the good faith standard and explicitly states law enforcement officers shall not be held criminally liable if the standard is satisfied. Subsection (4) provides:

(4) A peace officer shall not be held criminally liable for using deadly force in good faith, where "good faith" is an objective standard which shall consider all the facts, circumstances, and information known to the officer at the time to determine whether a similarly situated reasonable officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual.

"Necessary" is defined as "no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended." RCW 9A.16.010(1).

2. Non-Deadly Force and De-escalation

The officers were discharging a legal duty when they encountered Mr. Joquin. By all accounts, the traffic stop was initiated for the purpose of enforcing the civil infraction rules of the road.

Chief Mike Zaro

March 9, 2022

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Both Officer Wiley and Officer Schueller were on-duty patrol officers employed by the City of Lakewood, were in uniform and in city patrol vehicles, and were general authority peace officers pursuant to RCW 10.93.020.

The presence of an accessible firearm in a motor vehicle stopped by police creates significant risks for officers. A firearm has the capacity to inflict death or great personal injury in a fraction of a second. This reality is well-known to law enforcement officers. Officers Wiley and Schueller were aware of the danger posed by a gun in a stopped car. Their concern about the gun is reflected in the caution they employed once the firearm was spotted. The officers used non-deadly force and significant efforts to deliberately de-escalate the danger posed by the firearm. Their actions prior to the discharge of Officer Wiley's gun constitute de-escalation and the use of non-deadly force.

Officer Wiley's commands concerning the gun were delivered in a manner calculated to encourage compliance without creating desperation or panic. He and Officer Schueller advised both occupants that backup officers were being summoned to ensure that the gun could be safely secured while the investigation continued. Their tone of voice and choice of words were clear and direct but delivered calmly.

The de-escalation and non-deadly force used by both officers was reasonable and effective. Their efforts included actions, commands, and simple conversation. These were directed at both of the occupants of the Thunderbird. Both officers unholstered their duty weapons and positioned them in the visible, cautious, ready-to-respond Sul position, a department-approved position which is considered a safe position to hold a firearm as it is pointed at the ground but available if necessary. The officers' actions were calculated to prevent the need for the use of deadly force because they made themselves obviously ready to respond to any aggressive action by Mr. Joquin or Mr. Vargas toward the gun.

The actions the officers took with their guns were accompanied by commands. The commands, like the movement of their guns to the Sul position, were calculated to keep the situation under control. The commands were given in an authoritative manner and were clear and simple. They were repeated in the same tones during a several minute period of time when both officers continued to de-escalate.

The interaction between the officers and the occupants of the vehicle extended for more than three minutes, according to both the CAD and the transcript created from the open radio mic from Officer Schueller's radio. The officers engaged in back-and-forth dialogue with Mr. Joquin and Mr. Vargas about the gun. During the conversation, the officers told them that other officers had been summoned and were on their way for the purpose of assuring everyone's safety regarding the gun. From a position just outside the open window of Mr. Vargas' door, Officer Schueller used his radio to summon backup. It would have been apparent to both of the occupants of the car that there would soon be more officers present at the scene.

The officers' use of conversation, commands, and unholstered guns directed toward the ground as non-deadly force was a reasonable and effective response to the presence of an unsecured firearm in the possession of, and within easy reach of, two unknown subjects in a motor vehicle that was in gear with its engine running.

3. Deadly Force

The inherent characteristics of handguns include that they are intended to be quickly and effectively used for offensive or defensive purposes in close quarters. Although the handgun on the floorboard was not in the hand of either Mr. Joquin or Mr. Vargas, it was in a position that made it readily accessible to either of them in an extremely short period of time. Any analysis of necessity must take this circumstance into account.

It is well established that a person seated in a vehicle can retrieve, level, and fire a handgun in an extremely short period of time – fractions of a second. An officer's ability to perceive and react to a threat is not instantaneous – the time required for an officer to perceive the threat, decide what to do, and react to the threat would be longer. Under such circumstances, it is consistent with use of force research that sudden movement toward a handgun represented a scientifically-supported lethal threat.

The objective facts and circumstances represented a high degree of danger. Mr. Joquin, who was the driver of the Thunderbird, displayed unpredictable and dangerous behavior. He drove through a stop sign and came to a stop on a heavily-traveled arterial roadway at a time of day that was approaching rush hour. The unpredictability and dangerousness of his actions were heightened because his driving happened in front of, and in disregard of, the presence of two marked police cars.

Mr. Joquin's actions after the officers activated their emergency equipment gave them further reason for concern. Mr. Joquin successfully pulled into a nearby parking lot but not far enough off the road to be safe. He had to be directed to pull forward out of the Steilacoom Blvd lanes of travel. Although he complied with the directive, he did not render the Thunderbird safe by putting it in park. He left it in gear and thus in a condition in which it posed an immediate threat to the officers and any members of the public who might happen to be in the area. The facts, circumstances, and information known to both officers included the driving that led to the activation of their emergency equipment but also included that the Thunderbird remained in gear and could be used to facilitate escape or resistance to the officers' lawful traffic stop.

Initially during the stop, Mr. Joquin's and Mr. Vargas' response to the contact did not raise any alarms. This is reflected in the actions of the officers, when they for some period of time carried out routine tasks associated with a traffic stop with their weapons holstered. The evidence from the officers' statements, Mr. Vargas' statement, and the audio and video recordings show that the officers conducted this stop as a routine traffic infraction stop until

the gun was spotted. At that moment they reasonably engaged in de-escalation and used non-deadly force for their own protection and the protection of others.

It is apparent, from both the CAD and the transcript from Officer Schueller's radio mic, that Mr. Joquin and Mr. Vargas were compliant during most of the time the officers had contact with them. That abruptly changed. Officer Schueller let Officer Wiley know that he could not see the gun. That statement was followed by something said by either Mr. Joquin or Mr. Vargas. Mr. Joquin removed his hands from his head and moved them down toward the gun. Mr. Joquin's actions were sudden, unexpected, and against the explicit commands of an officer who was standing just outside the door with his own gun in the Sul position. Mr. Joquin reaching for the gun created a lethal threat to which Officer Wiley reacted.

The good faith standard explicitly requires consideration of "all the facts, circumstances, and information" known to the officer. The discussion above of the driving and stopping of the Thunderbird, the response of Mr. Joquin to the use of de-escalation and non-deadly force, and Mr. Joquin's decision to reach for the gun are all to be taken into account. Under these circumstances, there was no reasonably effective alternative to the use of deadly force when Mr. Joquin created an immediate and lethal threat.

Any reasonable officer who had observed the dangerous driving would have been concerned about the driver's unsafe actions and would have been gravely concerned about the danger of an accessible gun within reach of the vehicle occupants. A reasonable officer would have considered Mr. Joquin a lethal threat upon seeing him reach for the gun in express disregard of clear and direct commands by an armed officer not to do so. Officer Wiley's response was consistent with the applicable good faith standard.

In addition to the statutory standards defining permissible use of deadly force by law enforcement officers, officers also have the right like anyone else to act in self-defense and defense of others. RCW 9A.16.040, which governs the use of deadly force by law enforcement, specifically provides that the statute "shall not be construed as [a]ffecting the permissible use of force by a person acting under the authority of...RCW 9A.16.050."

Under RCW 9A.16.050(1), homicide is justified:

[I]n the lawful defense of the slayer...or of any other person in his or her presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished.

The foregoing analysis applies equally to this general self-defense statute. Officer Wiley reasonably believed there was imminent danger of Mr. Joquin shooting him or someone else in his presence. His actions are justified under RCW 9A.16.050.

4. Character Evidence

Character evidence has been submitted to us that is applicable to both Officer Wiley and Mr. Joquin. In each case the evidence consists of specific instances of past conduct.

Mr. Joquin's past conduct includes prior arrests and criminal convictions involving the possession or use of firearms.

Officer Wiley's past conduct involves a 2013 police shooting death. Officer Wiley was part of a SWAT team and his involvement was breaching the back door of the residence at the time the fatal shot was fired by another SWAT officer at the front of the house. Officer Wiley shot a family pet that was still alive but had been wounded by another officer. Officer Wiley was later found to be civilly liable for his involvement.

The rules of evidence in Washington generally prohibit the State from introducing character evidence in a criminal prosecution, but allow the accused to do so. Evidence Rule (ER) 404. Character evidence, including specific instances of conduct, is not admissible in a criminal prosecution to prove propensity: "Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith." ER 404(b). Officer Wiley's involvement in the 2013 SWAT shooting could not be used by the State as evidence in a prosecution against him.

A criminal defendant claiming justifiable use of force may lawfully offer character evidence as part of his defense. Such an offer would be adjudicated not only under the evidence rules but also under standards for the constitutional due process right to present a defense. In this case, Officer Wiley would likely offer evidence of Mr. Joquin's repeated prior encounters with police while armed with a firearm to show that Mr. Joquin knew what he was doing and intended to go for the gun when he suddenly moved his hands from the top of his head downward toward a loaded firearm on the floorboard of the car.

5. Credibility

There are significant issues of credibility that we have taken into account in our analysis. We will discuss and resolve those issues here.

The first is Mr. Vargas. Mr. Vargas' statements to the police are well documented and summarized above. However, the investigation turned up other subsequent statements attributed to him and disseminated via social media. Collectively they represent discrepancies in Mr. Vargas' account of the shooting compared to his detailed police statement.

The factual discrepancies in Mr. Vargas' social media account of the incident can be summarized as follows:

- That Mr. Joquin was reaching for his registration at the time the shots were fired.
- That Mr. Joquin was told to put his hands on his head, did so, then was told to stop talking, and was shot because he said something.
- That there were three officers at the scene of the traffic stop, not two, and that there were two officers on the passenger side of the car.

It is important first to note that a changed story by a key witness represents a weakness in any prosecution. For the sake of argument, if Mr. Vargas were to testify that the allegations summarized above are true whereas his statements to the police are false, his credibility in the eyes of an impartial jury would suffer significantly from the changed story alone.

But the damage would not end there. Mr. Vargas' changed statements are contradicted by both the open microphone radio evidence and the dashcam video. Those recordings do not support what Mr. Vargas has supposedly said about the incident after the fact. The audio and video evidence from two sources contradicts Mr. Vargas.

The recordings are not the only evidence that contradicts Mr. Vargas' changed statements. The forensic pathology evidence includes entrance wounds through Mr. Joquin's left arm and into his torso. The trajectory of the shots that caused these wounds is consistent with Mr. Joquin's left arm having moved down from atop his head to a position alongside his torso, which in turn is consistent with him moving his hands in the direction of the gun. The notion that he was following the command to keep his hands on top of his head at the time he was shot is contradicted by the autopsy evidence.

Lastly the obvious, if understandable, bias of Mr. Vargas would further undermine any attempt to rely on his changed statements. Mr. Vargas conveyed his changed story not to the police as a correction to his prior police statement, but to Mr. Joquin's grieving family. If he were to persist in claiming that his revised story is true, his bias would surely undermine any reliance on it by an impartial jury.

A second issue of credibility may also be related to Mr. Vargas. The independent investigators learned from media sources that there were claims that the handgun was planted by police. The audio and video recordings do not include any evidence that would support an allegation of the gun being planted. Neither Mr. Joquin nor Mr. Vargas made any statements or comments that would call into question the fact that there was a gun on the driver's side floorboard throughout the incident, nor do the statements of civilian bystanders support this suggestion. Nevertheless, the investigators took the allegation seriously. They had previously tested the gun for fingerprints and DNA. In response to the planted evidence suggestion, they collected reference samples from Officers Wiley and Schueller and from the backup officers. The DNA

testing had revealed that there was a “mixed DNA profile” from the trigger, the slide mechanism, the grip, and the magazine, all of which had “very strong support for the inclusion of Said Joquin.” By contrast, the samples from the officers were “all excluded as contributors to the mixed DNA profiles obtained from the grip, slide, trigger, and magazine samples...”

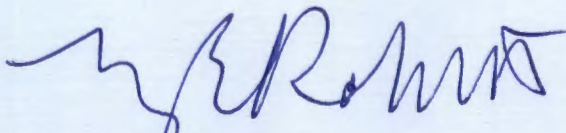
Mr. Vargas and Mr. Joquin’s family, in statements to the police, did not dispute that he regularly carried a gun. Mr. Vargas stated that Mr. Joquin was carrying it on his person the day of the incident. These statements are supported by the forensic evidence, and the suggestion that the gun was planted by the police has no support.

CONCLUSION

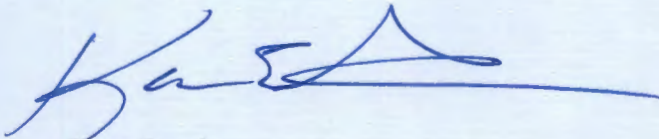
The necessity for Officer Wiley’s application of deadly force was driven by Mr. Joquin’s actions. Although Mr. Joquin had engaged in unpredictable behavior with respect to driving the car, the officers did not use force of any kind in their initial contact with him. It was the presence of the handgun within easy reach that prompted them to use reasonable, non-deadly force and de-escalation in an effort to keep themselves and others safe.

The non-deadly force and de-escalation proved unsuccessful because Mr. Joquin disregarded direct commands and reached for the gun. Under these circumstances, with an individual making a sudden move toward a gun, after being repeatedly warned not to do so, Officer Wiley subjectively believed deadly force was necessary to prevent death or serious physical harm to himself, Officer Schueller, Mr. Vargas, or others. In light of all the facts and circumstances and information known to Officer Wiley, any similarly situated reasonable officer would have made the same decision. Officer Wiley’s use of deadly force, in reaction to an immediate deadly threat, was justified and lawful.

Sincerely,



Mary E. Robnett
Pierce County Prosecuting Attorney



Kara Sanchez
Deputy Prosecuting Attorney
Pierce County Prosecuting Attorney’s Office

cc: John R. Connelly, Attorney at Law
Captain Ryan Portmann, Puyallup Police Department