



## **JULY 3, 2019 – USE OF FORCE FACT-FINDING REPORT**

**Requesting Agency:** Poulsbo Police Department  
**Requesting Official:** Dan Schoonmaker, Chief of Police  
**Involved Employees:** Craig Keller, Police Officer  
**Report Date:** June 16, 2020  
**Investigator:** Greg Wilson, Director of Investigations  
Terry Gallagher, Investigator

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### **REPORT CONTENT**

#### **1. Introduction/Background:**

On July 3, 2019, the City of Poulsbo hosted a community event along the Liberty Bay waterfront as part of a 4<sup>th</sup> of July celebration. This event included a variety of food and entertainment options, as well as an evening fireworks display. An estimated 30,000 visitors attended the event. The Poulsbo Police Department coordinated the security for this event. The Bainbridge Island Police Department, Port Orchard Police Department, Kitsap County Sheriff's Office, and the Washington State Patrol provided additional resources and personnel to assist the Poulsbo Police Department with security.

Prior to the event, the Poulsbo Police Department held an operational briefing for law enforcement personnel assisting at this event. During the briefing, the mission and objectives were identified.

Mission:

Provide a safe and fun environment for the Public

Objectives:

- Provide for responders' safety, health, welfare, and security.

- Provide for the public's safety, health, welfare, and security.
- Maintain civil order and provide security.
- Keep stakeholders, responders, and public informed of event activities (road closures, etc.).

Stonechild Chiefstick, a 39-year-old male, attended the July 3, 2019 event. Attendees reported witnessing Chiefstick exhibiting unusual behavior:<sup>1</sup>

- Jeffrey Linne said Chiefstick had been "looking through people's stuff," "doing crazy stuff," and that he "lunged at people on the ground." Linne reported hearing two males say that Chiefstick had said he was "going to stab someone with a screwdriver," and felt Chiefstick was "trying to start a confrontation."
- Jessica Luster said Chiefstick was swaying like he may have been intoxicated and seemed "out of his mind" and had "no understanding of boundaries." Luster said Chiefstick had a screwdriver in his pocket and kept "playing with it."
- Rebecca Erickson, Mayor of Poulsbo, reported to the police that she received a report that Chiefstick was "tweaking really badly," and asked police to handle the situation.
- Daniel Juarez reported Chiefstick had been "mugging" people as in glaring at them and giving them a "weird look."
- Wesly Stallings said he watched Chiefstick looking in people's bags and strollers and "seemed kinda nuts."
- John Lecky reported that Chiefstick had a screwdriver in his hand and lunged toward another attendee in a lower "stabbing" motion.

The Poulsbo Police Department has established policies governing the use of portable audio/video recorders. Before going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder. When activation of the audio/video recorders is required is identified in the policy.

Poulsbo Police received a report about Chiefstick acting "strange" and had been following groups of young girls who were attending the event. Poulsbo Police Officer Michael Miulli and Poulsbo Reserve Officer Tracy Powell contacted Chiefstick after receiving reports of Chiefstick being "possibly high on narcotics." According to Miulli's supplemental report:<sup>2</sup>

- "I had a hard time understanding him. I could smell an odor of an alcoholic beverage on his breath."

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<sup>1</sup> WSP Investigative Report Case No. 19-014819

<sup>2</sup> Poulsbo Police Department Case No. H19-001055

Miulli said he later received reports about a male, matching Chiefstick's description, "walking around the park and intimidating people."

Poulsbo Police Department personnel (Officer Craig Keller, Detective Lee Wheeler, Community Service Officer Nicholas San Gil, and Reserve Officer David Lom) approached Chiefstick following a report that Chiefstick had a screwdriver in his hand and had lunged toward another attendee. Keller and Wheeler contacted Chiefstick. Descriptions of that contact as observed by the four officers and by civilian witnesses are set forth below. During the contact, Officer Keller fired two rounds from his service pistol striking and killing Chiefstick.

A criminal investigation was conducted by the Kitsap County Critical Incident Response Team (KCIRT) and submitted to the Kitsap County Prosecutor for review. Kitsap County Prosecutor Chad Enright concluded:

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.<sup>3</sup>

## 2. Requested Scope of Investigation:

Review investigative reports, witness statements, and evidence associated with the July 3, 2019 death of Stonechild Chiefstick and interview Poulsbo Police Department personnel to identify facts, known at the time of the incident, to determine whether Officer Craig Keller's application of force complied with Poulsbo Police Department policy and organizational expectations.

## 3. References:

- a. Poulsbo Police Department Lexipol Policy
  - i. Law Enforcement Code of Ethics
  - ii. Mission Statement and Organizational Values
  - iii. Policy 102 – Oath of Office
  - iv. Policy 300 – Use of Force
  - v. Policy 301 – Use of Force Review
  - vi. Policy 302 – Handcuffing and Restraints
  - vii. Policy 303 – Control Devices and Techniques
  - viii. Policy 304 – Conducted Energy Device
  - ix. Policy 305 – Officer-Involved Shootings and Deaths
  - x. Policy 306 – Firearms
  - xi. Policy 308 – Officer Response to Calls
  - xii. RCW 9A.04.110(6) – Deadly Weapon
  - xiii. RCW 9A.36.021 – Assault in the second degree

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<sup>3</sup> Kitsap County Prosecuting Attorney – July 3, 2019 Officer Involved Shooting – Muriel Iverson Williams Waterfront Park.

- xiv. Lexipol – Reasonableness and Reaction Time in Police Use of Force Incidents, June 17, 209 – Michael Ranalli

#### **4. Other Evidence or Documents:**

- a. Poulsbo Police Department 3<sup>rd</sup> of July Celebration Operational Briefing
- b. Poulsbo Police Department Incident/Investigative Report No. H19-001055
- c. Kitsap County Sheriff's Office Incident/Investigative Report No. K19-006823
- d. Bremerton Police Department Incident/Investigative Report No. B19-004473
- e. Port Orchard Police Department Incident/Investigative Report No. D19-001639
- f. Suquamish Tribe Police Department Incident/Investigative Report No. J-19-000407
- g. Washington State Patrol Investigative Report No. 19-014819
- h. Officer David Lom Training Hours Record
- i. Officer Nicolas San Gil Training Hours Record
- j. Detective Lee Wheeler Training Hours Record
- k. Officer Craig Keller Training Hours Record
- l. Poulsbo Police Officer Association Collective Bargaining Agreement – January 1, 2019 – December 31, 2021.
- m. KCIRT Crime Scene Sketch

#### **5. Recorded and Transcribed Witness Statements:**

- a. David Lom – Reserve Police Officer, Poulsbo Police Department
- b. Nicholas San Gil – Community Service Officer, Poulsbo Police Department
- c. Lee Wheeler – Detective, Poulsbo Police Department
- d. Craig Keller – Officer, Poulsbo Police Department

#### **6. Investigation:**

**David Lom: Reserve Police Officer, Poulsbo Police Department**  
**Interview Date: May 28, 2020**  
**Interview Time: 1:30:16**

Before questioning, investigators read Lom his Garrity Warning on behalf of Chief Schoonmaker. Lom acknowledged he had received written notice outlining the nature of this investigation and had the opportunity to consult with union/legal representation. Lom was advised of and consented to the recording of the interview.

Lom is a reserve police officer with the Poulsbo Police Department and has served the department in this capacity since 1997. In 1997, Lom attended the reserve law enforcement police academy and has received what he described as “all kinds” of police-related training. Before joining the Poulsbo Police Department, Lom served 28 years in the U.S. Marine Corps (eight years active duty and twenty years as a reserve). In addition to Lom’s reserve police officer duties, Lom works full-time for Aramark Uniform and part-time as a security officer. Lom said he works approximately fifty to fifty-five hours a week for Aramark Uniforms.

Investigators asked Lom if he was familiar with the department's vision/mission statement and core values. Lom replied,

"I would not be able to recite that to you...I mean, but we have them printed up on the wall, and so I see them. It's...one of those where it, you know...I guess basic traits and qualities that come to law enforcement, you know, or that go with law enforcement...like I said...I read them, you know, as I, as I go down the hallway occasionally, but I...could not recite them to you."

Investigators asked Lom how the department implements and trains personnel on policy. Lom said the department utilizes the Lexipol policy manual system. Lom explained,

"[E]very time there's an update to...any policy, it's sent out, and...we have to review it...go through the entire policy and make sure, you know, that we understand it, and...once you get through the entire policy, you acknowledge that you've, you've read it and that you understand it...and we do that basically every time there's a...policy update...but I do know that every time there's...a change...but there is always that...review that we have to make as officers, and if we don't do it, then, you know, we'll...get notified by...a supervisor that said hey, you had some policy reviews that you had to go through...."

Lom said the culture of the Poulsbo Police Department mirrors that which is outlined in policy.

Investigators asked Lom how often personnel receive training on the use of force. Lom said personnel receive firearms training three to four times a year. Lom said prior to July 2019, he had attended "maybe two or three" defensive tactics courses since 1997.

Investigators asked Lom what is "reasonable force." Lom replied,

"[R]easonable force to me, I would define it as the least amount of force to...meet your objective...let's say a person...that you have probable cause to arrest starts to walk away, and, you know, the initial, the reasonable force at that point is to say hey, you, stop, come here, and you know...I need to talk to you. You're under arrest, whatever, and they comply, then I just used a reasonable...amount of force at that point...if they start to, you know, they come back, and they start to pull away, you know, uh, then you have to apply a little bit more force...at that point, I would still say it's still a physical force, you know? Maybe grabbin' onto them, holdin' onto them...I guess the basic definition to my, for myself in my own words is the, the least amount of force to, to meet your objective."

Investigators asked Lom what factors he considers when determining the type and amount of force used. Lom replied,

"[T]he person's size would be the first...their age...are they...a big person, a small person...a male, female...our surroundings...anybody else that would be,

any other officers that are there with me that would be able to assist...I think that's about it."

Lom was not able to define "compliance techniques."

Investigators asked Lom when deadly force is justified. Lom replied,

"If you're...met with...a situation where the other person...has a gun, for example, and they...point it at you or at another person...if they have a knife, and they're...runnin' at you...with a knife and...a knife that they're gonna stab you motion...it's a tough question to answer I guess...because I think the answers gonna be different for everyone, you know? Maybe...what one person perceives as a, as a deadly force, uh, situation another person may not...for me, like I said, the two examples that I just gave that would be, you know...."

Investigators asked Lom what control devices he carries while working as a reserve police officer. Lom said he carries a firearm (Springfield 45), an ASP, OC spray, and Taser. Lom was asked when these control devices can be used. Lom explained,

"[T]he OC would be the, outside of a...physical restrainin' force...use of force, the OC would be the...next one in line to...use on a person followed by the Taser followed by the ASP and then followed by the firearm...."

Investigators asked Lom in what situation would he deploy OC. Lom said,

"The OC would be like...a crowd control...For example, you know, if there was a...huge fight...out in the street...The easiest and, and most effective way at that point would be like the OC...you don't wanna use a Taser, because you only have one shot at it, and that's it, you know, and if you have multiple people fightin', you're now kinda stuck with, you know, with your Taser out, and not really able to do anythin' else...the OC would be more like...crowd control."

Lom said he received OC training while in the reserve police officer academy in 1997 and could not recall receiving additional OC training during his tenure at the Pousbo Police Department.

Investigators asked Lom about the training he has received on the use of the ASP. Lom recalled receiving department training on the use of the ASP sometime in late 2018. Lom was asked what factors he considers before using the ASP. Lom replied,

"I don't know if I even know that...only because I've never had to, I've never had to even pull out the ASP for anythin'...I guess...with the trainin' that we received, you know, if somebody's comin' at you and they're say a bigger person than you are and just to fight them off, you know...the tactics that we were taught on how to, you know...push somebody away with the ASP...I guess the...factor would be their size."

Investigators asked Lom the intent of carrying a Taser. Lom replied,

“[I]t's to physically restrain somebody just like every, you know, like everythin' else I think...if someone is not bein' compliant...and you don't want to...get up close to them for whatever reason, you know? It could be again back to their size...the Taser would be another option...to be able to...at least give that initial shock to that, you know, to that person to be able to...allow officers or yourself to jump in and...and arrest that person or whatever, whatever needs to be done.”

Lom said the department provides annual Taser training, which includes policy review, a written test, and firing the Taser at designated targets.

Investigators asked Lom about any de-escalation training he has received. Lom replied,

“I think there's...de-escalation trainin' with everything...I think part of the use of force, the, I forget the word for it when the...continuum of force...where basically...as it progresses up or down...you know if I pulled my Taser out and, you know, just showin' it, I'm not automatically gonna...tase somebody. I'm gonna now tell 'em that hey, if you don't stop doin' whatever you're doin', I'm gonna tase you...in the hopes that that'll de-escalate it, and then I don't have to use that force.”

Investigators asked Lom when he would use a Taser. Lom responded,

“[I]f a person is bein' aggressive...they're not necessarily comin' and, you know, tryin' to assault you or another person, but they're not complyin' with your...orders, you know....”

Investigators asked Lom if he has received practical Taser training involving multiple officers addressing a non-compliant subject. Lom replied,

“[Y]es...you wanna have...the lethal and nonlethal...options there out and ready, you know...you don't wanna have all lethal, and you don't wanna all have nonlethal. You know, you wanna have, you know, a combination of...I would say that the primary officer is more than likely gonna have the lethal...option dependin' on what he's facin', um, and so as a, as a secondary...I gotta see what this primary officer's doin', because...he or she's concentrated on what's goin' on....”

Investigators asked Lom about his duty firearm. Lom said his duty firearm and holster are personally owned, and he had received permission to carry the firearm by the Chief and range master. Ammunition for his firearm is provided by the department.

Investigators asked Lom about the training he has received related to identifying subjects under the influence of intoxicants/narcotics. Lom said he had received DUI, FST, and ARIDE training. Lom added,

"I actually do have...quite a bit of experience in...DUI enforcement here with the department over the years...I am very familiar with...dealin' with DUIs...."

Investigators asked Lom if he has received Crisis Intervention Training (CIT). Lom said he has received "the basic amount of training...police officers are supposed to receive," including the eight-hour state-mandated training and annual two-hour refresher. Lom said he had not received additional training outside of state requirements. Investigators asked Lom what he considers when contacting a subject under the influence. Lom replied,

"The initial consideration to me is that you don't want to start talkin' to them in a – I don't wanna say aggressive – but, uh, in an authoritative manner. You wanna kinda, more like a pleading, like hey, how's it goin'? You know, that kinda stuff...typically, if you start...in a more authoritative manner...it's probably gonna raise their...attitude...you're probably more than likely not gonna win...so it's kinda easier to, one of the more ease in' conversation, you know, like hey, how you doin'?"

Lom said he would use this same type of approach when approaching a subject in crisis. Lom explained sometimes subjects "do not take well to law enforcement," therefore, the uniform in and of itself may agitate the subject. Lom believes it is important to speak to subjects at their level.

Investigators asked Lom what factors he considers when making a physical arrest. Lom explained,

"[T]heir demeanor leadin' up to that point...are they gonna fight now? Now that you've decided to, now that you've told them you're under arrest, you know, put your hands behind your back and that kinda stuff...their size...if it's somethin' where you kinda get that feelin' that yeah, you know, this may not go good, before I even get to that point, I'm gonna call for another officer...."

Investigators asked Lom about the City of Poulsbo's July 3 event. Lom explained,

"[I]t's when Poulsbo has their fireworks...people from the community...They come to town. Usually, everyone gathers around Henderson Parkway...they sit out there, and they...watch the firework show. There's a smaller festival that happens. So, because...it's only a one-day festival...there's vendors that come out, but it's not a, not a full-blown...weekend festival...I think I've heard numbers up through maybe 30, 40,000...I know it's a lotta people...."

Investigators asked Lom what the police department does to prepare for this event. Lom replied,

"[T]hey have briefings...on what we're...gonna do, set up different patrol areas...partner up with...with somebody...it's all assigned...and so from this time to this time, you're gonna be patrollin' this area, and then you're gonna switch to a car, and then you're gonna, you know, patrol this side of the city or that side of



the city. After a certain time, I believe it's, I wanna say it's about 2130, so 9:30 p.m., we all shift away from downtown with the exception of a couple officers that stay in the downtown area so that we can go man...traffic control points throughout the city to get all the traffic outta town.”

Investigators asked Lom to describe the typical challenges police face during this event. Lom replied,

“I think...your typical...bar fights, that kinda stuff, initially, you know, durin' the festival dependin' if they have a beer garden. You know, all the bars are gonna be open on that night...so, you'll have...your bar fights...your drunk person that was bein' belligerent...into the night, it'll roll into possibly a, you know...a DUI or two....”

Lom said on July 3, 2019, he started his shift around 1700 hours and was assigned to work with Detective Wheeler. Lom explained due to his shift at this other job, he was unable to attend the department briefing on this event. However, Lom believes he was briefed on the event by personnel in “our trailer” or other personnel. Lom said the briefing included,

“[B]asically our duties...here's the number of people that we're expectin' in town...here's our patrol areas. Here's a map of the...patrol areas...so you know where you're supposed to be at...here's...your traffic control points. Here's...the times that you have to be at that traffic control point...it's basically just...if there's an emergency you...here's where the fire department's staged...if there's...a lost child, you know, here's, you know, where you take them and...that sorta stuff....”

Lom did not recall any specific threats discussed during the event briefing.

Investigators asked Lom what type of behavior at this event would result in the trespass of an individual. Lom replied,

“Someone who's just actin' very aggressively...you know, givin' somebody sort of a...death stare...just in general, you know, somebody walkin' around just – that to me would not be enough to, to say hey...you have to go, you know? That...would not amount to a trespass...there would have to be a little bit more than that...more like a specific threat....”

Lom said prior to the July 3, 2019, event, he had not had contact with Chiefstick.

Investigators asked Lom the reason Chiefstick was contacted by police. Lom replied,

“[M]yself and Officer Wheeler, we were in the parking lot part of Henderson Parkway, and we were talkin' to an older couple about...the fireworks...just very casual conversation with him and that's when the call came in about a, I believe it was a male who was threatenin' some people, and I can't remember now if they even said with a, with a weapon, and they said it was near...the large rock...myself and Officer Wheeler, we walked to the rock...we got to where the rock is, and we were lookin' around, and we didn't see anythin', so we moved a

little further down...So, I saw...Officer Keller...his...body language kinda showed me that...I found the person that we're lookin' for...

[W]hen I got there, Officer Keller...approached Mr. Chiefstick, and he said somethin'...it was to the effect of hey...you know, you're under arrest or, or I need to talk to you...I can't remember the exact words he said, but he said, you know, basically hey...I need your attention...So, when he went and grabbed...Mr. Chiefstick, he, I can't remember if he...spun around or he slid off or what he did, but anyway, he ended up, uh, he was sittin' down. He stood up, and he lost the grasp or...Keller lost the grasp of his wrist or whatever, whatever he would've had...so at that point, Keller was still in front of me...I remember seein'...Chiefstick...know, he raised his hand...I could see a screwdriver in his hand...my first thought initially was, you know, how're we gonna stop this? You know, he's, he has a weapon...

[M]y first thought...one of the, the several thoughts into my thoughts was that, you know, this is, it's deadly force here. You know...we have to shoot, and, and that's shoot. That's the only way that I saw that we were gonna be able to stop him...Because of the way he was holdin' the screwdriver, and I felt that there was no way...to stop him...I don't remember if he said anythin' or not...I can't remember...

I did not give any commands...I believe Keller was, but I don't know that for a fact...I think at some point I kinda, a little tunnel vision, you know, where I was just kinda concentrated on...the other factor with the, the deadly force is with the people that were around us. You know, at any time, he could've, he coulda, you know...stabbed...somebody else. So, that was also a huge factor...it was a huge factor in a lotta things...and, to me, and I can explain that as well.

[A]s we're shiftin', my first thought was deadly force...because of his threat. So, I initially did go to grab my gun, and then the second thought, the thought right after that that came to my...I never drew my, my gun. The next thought was there's way too many people here...I can't shoot him plus where Keller was, to me, I was not gonna have a clean shot...I thought, okay, the next best thing is a Taser. Then...I reached around for the Taser, and I don't ever remember even...liftin' the...the safety holder for the...Taser itself when I heard the two shots, and I heard two shots...My first thought was that that's the loudest Taser I've ever heard is when I, you know, right after that, I heard the shots, and then the way...Chiefstick grunted, and he kinda...covered his body, and then I thought, I'm like oh my God, you know...that wasn't a Taser. That was, he actually got shot...then, he fell to the ground...I didn't see the...screwdriver again...after we got down to handcuff him...myself, Wheeler, and San Gil, I looked back, and I could see the screwdriver was several feet behind...Stonechild Chiefstick.”

In Lom's July 15, 2019, report, Lom stated,

“I could tell from his demeanor that his action was one of non-compliance.”

Investigators asked Lom to explain. Lom replied,

“[W]hen he's initially told whatever Keller said to him, you know, like, hey, I need to talk to you or whatever, whatever it is Keller, that Keller had said to him, you know, him pullin' away, him raisin' his arm. You know, that would be...the noncompliance.”

In Lom's July 15, 2019, report, Lom stated,

“I saw the male with his right arm up and over his head holding a screwdriver-type object or an ice pick. We were in very close proximity to citizens who were sitting and walking around to watch the fireworks. I was immediately concerned for the safety of the citizens around us and for myself and the officers, and the other officer and attempting to disarm the male.”

Investigators asked Lom to expand on what caused him concern. Lom replied,

“The way he was holdin' the...screwdriver, which it turned out to be...concerned in that, you know, you're, I'm, I'm askin' myself, you know, how, and you know this is then...how're we gonna take the screwdriver away from him? You know, how do you, how do you do that? You know...to me, there was no way to physically engage him to do anythin'. You know, initially, like I said, my, the firearm was the first thing. I realized, I, I can't do that. You know, it's just, it's too much of a risk here for me, you know, where I was standin', so I went to the Taser, which I, I guess, kinda thinkin' back, that prob'ly woulda been, it prob'ly woulda been within range, but I also had, woulda had Keller...in front of me as well, so I woulda had to do somethin' more, you know, move or somethin' to be able to, to deploy that Taser.”

In Lom's July 15, 2019, report, Lom stated,

“I did 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.”

Investigators asked Lom if he considered other tactics. Lom replied,

“That Taser...it was the next best option at that point.”

Refer to the attached transcript of the recorded interview for additional details.

**Nicholas San Gil: Community Services Officer, Poulsbo Police Department**

**Interview Date: May 28, 2020**

**Interview Time: 1:17:57**

Before questioning, investigators read Officer San Gil his Garrity Warning on behalf of Chief Schoonmaker. San Gil acknowledged he had received written notice outlining the nature of this investigation and had the opportunity to consult with union/legal representation. San Gil was advised of and consented to the recording of the interview.

San Gil is a Community Services Officer for the Poulsbo Police Department and has served in this role for approximately a year and a half. San Gil defined his duties as a Community Services Officer as conducting arrest transports for the court, overseeing the electronic home detention program, and code enforcement for the city. Before being employed by the Poulsbo Police Department, San Gil served approximately three years as a corrections officer for the Department of Corrections. San Gil earned a Bachelor of Arts degree in psychology from Central Washington University.

Investigators asked San Gil if he is familiar with the department's mission/vision statement and core values, and how these are woven into the fabric of the agency. San Gil replied,

"I'm familiar with it...Well...familiar in a sense where...I'm aware of it, but...I don't acknowledge and remember...I can't cite it verbatim, no...I think it's kinda interesting that you mention that 'cause I mean now when I think about it where my office is I mean...the core values that Poulsbo has would be, you know, professionalism and integrity and respect. Those are the types of...values that we as a department have been trying to...work towards and achieve...I don't think that our officers or our department is, that we don't...do that, that we're not professional. I mean we...I haven't had any issues with Poulsbo since I've been here, and so it's been a...relatively positive experience."

Investigators asked San Gil about the implementation and training of department policy. San Gil said the department utilizes the Lexipol policy manual system. San Gil explained,

"[D]eputy chief or the...chief of police would send a...memo...to all the officers, uh, or to the em, to the police department...that are required to review these policies and to acknowledge or complete them."

San Gil said that outside of the Daily Training Bulletins, he is not aware of any additional training on the policy.

Investigators asked San Gil how often department members receive use of force training. San Gil replied,

"I believe that when it comes to, like, the policies and procedures and, as well as... daily training bulletins that those are just the types of...information that just kinda keeps, uh, keep, it's supposed to keep our minds fresh and just remind us of like what the use-of-force is and...I believe that's what we get on a...monthly basis and then in terms of actual training...I believe it, it's six months to a year for use-of-force and...since I've been with Poulsbo, I've only gone through one."

San Gil said the last use of force training, which included firearms, OC, and baton training, took place prior to the July 2019 incident.

Investigators asked San Gil to define reasonable force. San Gil said,

“[R]easonable force would be...any force necessary. I mean, it's the use of any kind of implement tool...to...get a person into compliance, reasonably effective way to detain a person.”

Investigators asked San Gil what factors he considers in the application of reasonable force. San Gil replied,

“It could be a person's, you know, age, race...medical condition, mental health condition. Those are the circumstances that we...as officers need to take into consideration when we're, we're making contact with a person...well, maybe it wasn't race that I was meaning, maybe, like...meaning more, like, ethnic cultural...you know, need to take those kinds of circumstances into consideration...if we weren't, um, being culturally diverse and we treated every person the same, then you're probably not gonna get the, the best kind of results because, you know, people grew up differently then others and so, so I, I apologize. It wasn't race that I was referring to. It was more racial ethnic cultures.”

Investigators asked San Gil to identify compliance techniques. San Gil explained,

“I would say verbal judo...using words primarily...giving people directives in...the best possible way to get them into compliance to comply with your orders...usually when, when verbal directives aren't being followed, then that's when we start to implement...other types of tools...whether that is...possibly OC or Taser...as well as...techniques like locks and, you know, straight wrist twists or, or something like that of that sort...a little bit of pain compliance, I believe...to get a person to get into compliance.”

Investigators asked San Gil to explain when deadly force is justified. San Gil said,

“[D]eadly force is justified when there is, you know, reason to believe that an officer's life is, uh, an officer is at risk of serious bodily injury or death...to protect other people.”

Investigators asked San Gil what control devices he was carrying on July 3, 2019. San Gil said he was carrying an ASP, Taser, and firearm. San Gil said he received ASP training sometime in the early summer of 2019. The Kitsap County Sheriff's Office provided the training. San Gil was asked what factors he considers prior to applying the ASP. San Gil replied,

“I would have to take a few things into consideration, like, what, what the person's disposition is, how they're presenting to me. Are they presenting to me in a, in a threatening or aggressive manner?”

San Gil added, he has never used or drew his ASP in the field.

Investigators asked San Gil the intent of carrying Taser, as well as training he has received. San Gil explained,

“[T]he intent of carrying a Taser...it's an additional...tool...on my belt that, you know, could assist me, less-lethal...use-of-force...to get a person into compliance...I believe our certification for Tasers is six months. I've received about three since I've been, since I've been with the department...we first start off with going over the uses of force...then we, we go into the functions of the Taser...we start off with directives and...they're not complying...or he's pulled a...weapon and, you know, you just so happen to have your Taser, then it's...your Taser drawn and then...we're basically giving...demands, they don't follow demands and so we fire our Taser....”

Investigators asked San Gil when he felt he could use a Taser on a subject. San Gil replied,

“[I] believe a good use of Taser would be...dependent on the presentation of a person...and then and the distance as well and if the person wasn't being aggressive towards you and that you had some space...and you were able to take your time and give them directives; and if they weren't...gonna follow...those directives and you explain to them if you don't do this, then I will have to...use my Taser on you and...ultimately it would be my decision whether or not I decide to tase that person.”

San Gil said some of the Taser training he has received has involved scenarios where multiple officers are contacting a subject. During this training exercise, officers discuss who will draw their Taser and who will provide lethal cover. San Gil said he has never used his Taser outside of training.

San Gil said on July 3, 2019, he was carrying a department-issued firearm, holster, and ammunition. Outside of qualifications, San Gil said he had not received practical firearm training while employed at the Poulso Police Department. However, San Gil stated that he had received practical firearm training through the Department of Corrections. This training included scenario-based training that incorporated the use of the Taser.

San Gil said he had not received training related to recognizing individuals who are under the influence of intoxicants/narcotics. San Gil said he had received some crisis intervention training while employed with the Department of Corrections and has worked with individuals in crisis while employed at a mental health facility. San Gil explained,

“I was that first person that they would meet with to like get admitted...for any type of services, and so kind of like listening to...what's going on. You know, they're telling me that they're feeling suicidal, and then I start asking a bunch of questions...and then from that kinda moment, it's just assessing that...this person is...actively in crisis, and they have a plan and so kinda referring them over to...a real mental health professional, someone...like a DMHP...designated mental health professional to...assess them to see if inpatient services would be appropriate for them...so a lot of the crisis intervention is just...it's active listening, listening to a person to see...what's goin' on and, and how we can

better assist them and get and refer them on to get the mental health...treatment that they need....”

Investigators asked San Gil if there is a certain way to approach individuals in crisis. San Gil explained,

“I work with...people in the court system...they get sanctioned to electronic home detention, and nobody's really happy about that...and so sometimes I get people who...clearly have mental health issues, whether it's known or unknown...I'm able to take into consideration and...figure out a way that I could best work with this person, and so it, it's a lot easier in...that type of scenario, but like out in the field if I'm making contact with somebody that I don't know...what they're predisposition is...then I mean making contact with a person just...creating space so...this person doesn't feel like they're being hovered or their...space being invaded and talking...to this person in...a nice calm demeanor and...asking them...what seems to be the issue, and...what can I do to help you, or is there any resource, any other person or a service do you feel like you need at this time? So, it's just actively listening and...helping that person in the best possible way.”

San Gil said on July 3, 2019, he “actually worked a pretty long day.” San Gil believed he worked from 0700 to 0200. San Gill added,

“[I] don't recall feeling tired or, or anything like that, but I...do recall it being a very long day for me...I will add it was a long day because I generally don't work...overtime; and so it was just one of those opportunities that, yeah, I definitely wanted to...be out there...and support the department in any way possible.”

San Gil said he had not reviewed his July 3, 2019, incident report “since I have written it.”

Investigators asked San Gil about the City of Poulsbo’s July 3 event and how the department prepares for this event. San Gil explained,

“[I] don't know approximately how many people attend the event aside from that it's one of the largest firework show events that we have in Kitsap County, and it's very crowded, and I mean that's pretty much what I can tell you about it...I know that they plan for weeks in advance...I am not typically a part of that planning process and like...their meetings...but I know from just like being with the sergeants....”

San Gil did not recall attending a briefing prior to arriving to assist at the event.

San Gil said prior to July 3, 2019, he had no previous contact with and was not aware of any bulletins/information on Chiefstick.

San Gil said he was present when Officer Miulli and Officer Powell contacted Chiefstick. San Gil explained,

“I was like with them when...the initial report...went out about...a suspicious person was called out on the radio, and they were complaining about him and...to be honest with you...I saw him since the beginning of being there at the park, and he was a nice guy. You know...he was friendly but...I knew that he was intoxicated because of his speech and...the way he was presenting himself to me. It was...pretty odd...and he just made people feel really uncomfortable...and I was with Officer Miulli and Officer Powell...when they were gonna go make contact but I stayed back, and then they went to go...make contact with him.”

San Gil said prior to this contact he observed Chiefstick near the “police department booth.” San Gil explained,

“I mean he was just walkin' around and...he approached the police department booth, and he was talking to the chief a little bit, and I mean there was, there wasn't any like concern at that time...he gave the officers fist bumps. I gave him a fist bump, and, you know, he went on his way. I mean...it was a positive contact.”

“[H]e appeared to be intoxicated. I mean he wasn't falling all over the place, but I mean just from his speech and...his mannerisms. That was my assessment. I didn't know anything about him being under the influence of, I didn't smell any alcohol on him...but I mean just his...body mannerisms, the way he carried himself. I knew that he was under the influence of something.”

Investigators asked San Gil why Chiefstick was not trespassed from the park for being under the influence. San Gil replied,

“I don't have the authority to kick him out. He wasn't committing any crimes. You know, he was making and...I didn't even know at that time, you know. I mean that was early on too and then even after the fact that there's nothing saying that he can't be intoxicated...at an event. We all, I mean I know that people go there and they drink, you know...and they have alcohol in cans and...in their own containers, and so it's, it'd be really hard to enforce that...And the chief was right there.”

San Gil said he did not receive complaints about Chiefstick or direction from any public officials to remove Chiefstick from the event.

San Gil said around 2100 hours, he received a report of a male who had threatened an attendee with a screwdriver. San Gil explained,

“I just so happened to...be present down...on Anderson Parkway and a person...approached me and...gave me a report that they were...being threatened with a screwdriver...since they were doing role call on the radio, I



didn't want to radio that in right away...and Officer Keller was close by...I...went to him to...ask for assistance.”

“I was on Anderson Parkway, uh, next to...the bathrooms and, uh, a man and a woman approached me, and they told me that...the guy's name was Jonathan Lecky...he reported to me that...a man was threatening him with a...screwdriver and, and so I mean that's how I, I was initially notified and notified of it and then that was the report that I got.”

“I got the report from...Lecky about...a man like threatening her with a, a screwdriver, that's when I went to Officer Keller, and we talked about it, and...what happened was Officer Keller was, I guess, trying to contact for more officers...and in the meantime, I was getting information, so I was getting Mr. Lecky's name and contact number and that type of information from him, and then that's when I went back to Officer Keller, and he was already closing in....”

“Lecky just told me that a man was threatening her with a screwdriver, and they were really concerned...for the safety of others and...to me seemed that it was...imminent...that somebody could get hurt. I didn't know about any previous reports about people being threatened. When hundreds of witnesses say that, you know, that he was threatening kids with screwdrivers and...acting odd and funny...I didn't know about that stuff at the time. All I knew is that from that initial report from Lecky, that he was being threatened by somebody with a screwdriver. That's when I made contact with Officer Keller.”

“I was familiar with him because when...Lecky had pointed him out, like oh he's over there yonder...I said oh I...recognized him from an earlier contact, but I didn't know his name.”

San Gil said as he and Keller were approaching Chiefstick, they did not discuss a plan on how they were going to contact Chiefstick. San Gil said Keller became the officer in charge and pointed out, “I'm not a patrol officer.” San Gil said he believed Keller called for additional units to respond. San Gil said as they reached Chiefstick's location,

“He's (Chiefstick) standing up...he's like hovering over people and like their, you know...their blankets and stuff. I...think that's the determination that Officer Keller made to why he felt like he needed to go in and make contact with him...Officer Keller tries to go hands-on...so he grabs Chiefstick, and I think he just tries to get his hands behind his back, or I mean I don't think the intent was even to...put handcuffs on him or to arrest him. It was just to, he just went hands-on to try to move him and when the struggle ensued...that's when I tried to grab the other hand, and that's when he, you know, got loose from the both of us and...presented the screwdriver...he flung away, and he...created distance between us initially, and then that's when, you know, he started to move in a little bit closer.”

San Gil described Keller was “speaking directly” to Chiefstick “to get his attention and to comply with whatever directive....”

Investigators asked San Gil to describe Chiefstick's reaction to Keller's direction. San Gil replied,

"His body language...he was defensive. I remember his hands being in his pockets and...I believe I may have indicated in my report, and that was from what the witnesses were saying, that he had a screwdriver in his right pocket, and so, you know, keeping, keeping an eye on his...hands were in his pockets, and so I mean I was concerned and...I went for his right arm, and when he flung away, he had it in his hand. You know, he pulled, it wasn't like he ran away...I recall him just flinging away from me, and then next thing I know is that he, he turns around, and he starts, he faces towards us, and he's got a screwdriver in his hand...It's presented in front of him...was gonna use it or that he was defending himself with it...it was upwards, it was facing up...I give him directives to get on the ground."

"I initially went for my firearm...I believe I made it to low ready before I realized that there was a lot of people around me and screaming kids. I mean...I was spooked, and I was afraid that if I were to, need to use my firearm that I would risk collateral damage, which is people around me and seeing that Officer Keller had already had lethal, he already had his firearm pointed at him, I re-holstered my firearm, went for my Taser and by the time that I had my Taser out I mean he was already shot."

Investigators asked San Gil what caused shots to be fired. San Gil replied,

"I believe Chiefstick had gestured and lunged forward...closing that distance, and that was perceived by Officer Keller as...a serious bodily injury or lethal behavior that warranted for that use of force...it happened so quick. I mean it wasn't, there was a lot going on."

Investigators asked San Gil if there was any conversation, direction, or yelling that took place prior to the shots fired. San Gil said,

"Prior to shots being fired...aside from the one that I gave...I recall Officer Keller saying he's got a screwdriver...I told him to get on the ground...and that's the extent of what I really remember."

Investigators asked San Gil if there was probable cause to arrest Chiefstick. San Gil said,

"No, because the report just says that there was a man with a screwdriver threatening somebody, and we didn't actively see...I think we had...reasonable cause to detain him because we didn't see him actively with a screwdriver in his hand threatening somebody...I believe that was our...intent was to make contact with him and...detain him and remove him from...the situation where...he could have been potentially assaultive with other people...that is an assumption that I am making."

In San Gil's incident report from the July 3, 2019, shooting, San Gil wrote,

“Officer Keller drew his firearm and gave multiple loud, clear verbal commands for the suspect, such as “drop the screwdriver.”

Investigators asked San Gil if he recalled this statement in his report. San Gil replied,

“I don't recall...I know I indicated that in my report, and I believe that was before I even, you know, watched the body cam footage and saw that or even heard that there was multiple directives...So in my report, I indicated that he, he gave multiple...commands and the ones that I can remember for sure is that he said he had a screwdriver, which was basically acknowledging that he has a weapon...and I recall saying that he needed to get on the ground. That was my directive...and you know...I think at the time of that writing...me writing that report; I believed that...Officer Keller had given multiple commands. I was hearing like drop the screwdriver or something like that. Maybe it didn't come from Officer Keller, but maybe it didn't happen at all, but I mean, that was from my recollection of the incident.”

Investigators asked San Gil why he did not fire his Taser. San Gil replied, “I didn't have time to...I had to re-holster my firearm and when I...pulled my Taser, and I had just turned it on, and it was at low ready and then...shots fired, I mean.”

Investigators asked San Gil where civilians were when the shots were fired. San Gil replied,

“I mean there were...really close. I mean they were within 5 to 10 feet depending. I mean it was even worse...when he...flung away from us because...he'd move to a different location...from where we were initially at 'cause...I think the citizens knew that we were already trying to make contact with him, so they were clearing that space where he was initially at, and he was kind of like on a hill and, where he ended up flinging up to was to the sidewalk...”

“[H]e wasn't trying to run away from us, but he was trying to get away from us by, like I guess from...us making contact with him, like physical contact with him because I mean...if that were to have been the case he would've had...the opportunity to actually run away. He'd created so much distance he could've booked it, but he turned and faced us and presented the screwdriver...It was presented like in...the midpoint of his body, and I think that his threatening...behavior was the fact that he moved forward. He attempted to close that distance between him and Officer Keller.”

Refer to the transcript of the recorded conversation for additional details.

**Lee Wheeler:**           **Detective, Poulsbo Police Department**  
**Interview Date:**       **May 28, 2020**  
**Interview Time:**       **1:10:02**

Before questioning, investigators read Detective Wheeler his Garrity Warning on behalf of Chief Schoonmaker. Wheeler acknowledged he had received written notice outlining the nature of this investigation and had the opportunity to consult with union/legal representation. Wheeler was advised of and consented to the recording of the interview.

Wheeler is a detective with the Poulsbo Police Department and has been employed by the department for approximately seven years. Prior to being hired by the Poulsbo Police Department, Wheeler served approximately 10.5 years with the Kitsap County Sheriff's Office. Wheeler's law enforcement career includes assignment, training, and experience in patrol, investigations, Aggressive Driving Apprehension Team, DUI enforcement, and firearms training. Before serving in the law enforcement profession, Wheeler spent approximately seventeen years in the medical field. Wheeler graduated from high school and earned approximately ninety college credit hours.

Investigators asked Wheeler about the department's mission/vision statement, core values, and how these are woven into the fabric of the agency. Wheeler replied,

"[H]onor, integrity...professionalism and teamwork is what we stand for...we developed it when Chief Schoonmaker got up here and...we essentially had the same values before...but...it was a lot more clearly defined...I think, in a lot better way, which, in the course of all of that, we upgraded our policies...which is the Lexipol Policy...which I think in turned, it gave us a lot better direction and, and now only, and I hate the word customer service, I really do...as far as law enforcement goes, but it's, I think we're doing better quality policing...the way we're set up now, as opposed to before...the way we're doing things now is...there's more accountability...they're holding it to a certain standard with the transparency and exactly what this, what I see as the shooting board, is we bring an outside agency in to make sure there's no...old boys club...or just oversights or pushing...anything under the rug...it's bringing outside agencies, showing the public that hey, we're a professional...we're upstanding with what our core values are."

Investigators asked Wheeler about the implementation of department policy. Wheeler said the department utilizes the Lexipol policy manual system. Wheeler explained,

"[W]e have, on our work cell phones, we have an app. It's the Lexipol App, and so we get alerts that way, and we also get email alerts...for the DTBs...and...training updates...and we have to keep up on those or our sergeants...will come talk to us and say, hey, make sure you get your stuff done and...for some of the things that we're instructors for...the deputy chief is pretty much the one who's been putting them out, but he'll come to us and say, hey, I need your input on this. I need you to go to this policy, what changes, what needs to be taken care of. Are we, are we up with what you're learning at the academies or in your training classes? Is this what we're teaching? So, they're

checking and double-checking, I guess, is the best way to put it...that the policies are not only meeting the Lexipol standards, but I would even venture to say a little bit higher to make sure we fall within that, and we're getting the best quality of training that we can...for exactly these kind of issues...on a smaller scale, we'll have our...all-hands meetings, and we'll go over policy changes....”

Investigators asked Wheeler how often department personnel are trained on the use of force. Wheeler replied,

“[T]here's certain things that...we have to do yearly, or annually...if there's any new policies or any updates...to something that came down from the State Legislation or anything like that...we get the DTBs, or we get a bulletin or we'll get a memorandum...through email....”

Investigators asked Wheeler to describe “reasonable force.” Wheeler replied,

“Affecting enough, a reasonable amount of force to stop the threat, to take somebody into custody...and nothing further than that. It's...what kind of force or what kind of actions do you have to do to reasonably detain, control the situation, stop the threat, and definitely not go overboard with it.”

Investigators asked Wheeler, what factors does he consider in determining the reasonableness of force. Wheeler explained,

“[I]t's not always a suspect...it's the suspect's actions is what determines how I'm reacting to them or how much force I need to use...whether it's having...multiple officers to detain 'em, fight with 'em, whether they're on drugs, the size...the conditions that we're in...there's a whole lot of factors, but it's, it's essentially stemmed from the suspect's actions or the person I'm interacting with....”

Investigators asked Wheeler to describe compliance techniques as outlined in department policy. Wheeler replied,

“Whether it be...either verbally, which that's not so much of a compliance, but...it could be the red dot of a Taser, lettin' 'em know, hey, you need to do this, etcetera...follow my commands...or you'll be tased...to going hands-on and doing counter locks, joint locks, wrist locks, arm bars...It's a compliance technique. So, you're not trying to hurt them. You're just controlling them for their safety and yours to make sure that everybody stays safe.”

Investigators asked Wheeler when deadly force is justified. Wheeler explained,

“When there's a perceived threat, imminent, imminent threat of death or serious injury to either the officers or the other folks around...where a substantial step needs to be taken to stop the threat....”

Investigators asked Wheeler what control devices he had on his uniform on July 3, 2019. Wheeler replied,

"I did not have any. I did not carry my ASP...I hadn't carried an ASP since I was in the sheriff's office. I've had three shoulder surgeries, and I can't swing it very well. It's not somethin' I carry...the pepper spray...I do carry it...but I have a high sensitivity and reaction to it...However, on that uniform, on that particular day because I haven't worn my patrol uniform for, probably since the previous Viking fest, so a year, um, my stuff is scattered everywhere...I pieced together, on that particular day...I took my gun belt...it doesn't have the pepper spray, and it doesn't have the ASP, and it doesn't have my Taser...."

Wheeler said on July 3, 2019, he was carrying a department-issued firearm, holster, and ammunition. Wheeler believes he qualified with his firearm in April/May of 2019.

Investigators asked Wheeler about his background and training associated with identifying and dealing with subjects under the influence of intoxicants/narcotics. Wheeler replied,

"[B]esides doin' the fieldwork for 13 years...I had additional FST...test class...in the academy itself...I did a number, probably in the neighborhood of...maybe 25 DUIs up to the point where I became an ADAT...member and in...2007 or 2008...I got the DUI MADD award. I did 100 DUIs that year...so I had a lot exposure...also incorporated with the...crisis intervention training...people, either mental disabilities or whether be a narcotic or hallucinogens and...learn how to communicate...definitely lookin' at the watery eyes, the driving habits, the speech, the walking, the mannerisms...lotta training, a lot of...one-on-one interaction, especially in that one year where I won the MADD award...."

Investigators asked Wheeler to describe the crisis intervention training he has received. Wheeler said,

"The crisis intervention training, it started when I was at the sheriff's office...the first round that the...the sheriff's office selected was primarily people who had good communication skills...who had a history of good communication skills workin' with people...I was a negotiator at the time...went through that training...kept doing that and then as it became more of a...department wide...mandate, and we're started gettin' more officers...Already had been through CIT school...I went to some of the other training 'cause it branched off into kids...learnin' to talk to kids and went into...different psychological facts...it was branching off into the veterans, more dealing with veterans with PTSD...I did a federal...class over in Seattle...and got all the other resources for avenues and things for the veterans and knowin' how to pass out information to them...."

Investigators asked Wheeler about the importance of de-escalation when dealing with someone in crisis. Wheeler explained,

"[A] big part of it is for me personally, I can't speak for anybody else, but me personally is the tone of my voice...I'm already a big guy, so that kind of against me in a lotta scenarios where people are already intimidated, and they think I'm just gonna be this big bull and rush in and take care of 'em. So a lot of it is my

officer presence with my tone of voice...moving slow, talkin' to 'em, lettin' 'em know, hey, I'm here to help you, not here to...hurt you or anything...try to get them thinkin' down the lines of what do they need for help? What, what's gonna help them? What, what it needs that they have or need or want...so just startin' to establish or tryin' to establish a...verbal dialect with them, and kinda see what is makin' their crisis. What, why are they acting the way they are, what are they on if they're on anything...looking at their, visually lookin' at them, finding out, you know, is there some other stimulus, is there something goin' on...."

Investigators asked Wheeler if the number of officers would have an impact on the subject in crisis. Wheeler replied,

"[I]t very well can...if they feel like they're bein' surrounded and we have the natural tendencies to split up...for officer safety and for attacking and then just avenues to go in further, to grab an arm or whatever we need to do...so when you work with more people on the shift, the same shifts more often...they get to know your working behavior...and movements and...you get to know theirs so you'll have your one primary officer that does the talkin'...if you're the secondary, you try not to talk to 'em, you try not to crowd in too much, but you get off to the side or where you need to be for the officer safety part of it, but you try to let the one officer handle it...."

Investigators asked Wheeler what factors he considers when making an arrest. Wheeler explained,

"[W]here I'm at, location. Am I by myself, do I have a partner, do I have multiple partners, are there a lot of people around...what's the terrain like...are they, do they appear to be on any type of, you know, stimulus drugs, alcohol, what's their mental wellbeing...do I have other threats out there, do they have other partners, other friends, their family members, you know, DV situation? It's...kinda take it all in. You...wanna take control of the situation the least impactful you can, but you also still need to affect what you're doin' and your job and if it is, if I made the decision to arrest, then you need to do that but it's so many, so many factors that go into it."

Wheeler said on July 3, 2019, his shift had been adjusted to accommodate his assignment at the city event. Wheeler said he felt he had received an adequate amount of sleep the night before the event.

Investigators asked Wheeler about the July 3, 2019, city event. Wheeler replied,

"[I]t's one of the bigger events that we have...we hold our fireworks, there's the parkway, Anderson Parkway is blocked off. We have food vendors there. There's people sellin' stuff...there's influx of, I've heard numbers of anywhere from 10,000 to 40,000 people that...come into the city to enjoy the fireworks...we do a lotta, I haven't done it 'cause I'm not on the sergeant level or...higher, but they do a lotta planning for traffic control...in and out, egress, what's gonna go where...aid stations are gonna be, communications on what channels, where

the...command post is gonna be...we get training and briefs and all that and between emails and handouts and flyers and contact numbers and...that's kinda how we get prepared for it.”

Wheeler said during previous events, police generally deal with “kids goofin around...stealing, the skateboarders,” and minor injuries due to falls. Wheeler said he could not recall any significant events from previous years.

Investigators asked Wheeler what type of behavior would get an individual trespassed from the event. Wheeler explained,

“[D]runk and belligerent...wantin' to start fights...so any type of a, should I say a risk to the safety of others or the disturbance...we're not out to make arrests if we can because we're so short-staffed and we don't have the staffing numbers. However, if there is a problem, to quickly remove that problem out and then bring 'em up to the PD and deal with them there and not have any commotion...quickly remove them and whether it's release 'em or just a family member, again, kinda depends on who we're dealin' with, if it's a juvenile...it all depends.”

Wheeler said prior to July 3, 2019, he had not had previous contact with or received information on Chiefstick. Wheeler explained he first became aware of Chiefstick's presence at the event after receiving information from another officer.

“When I had stopped at the...police trailer...I can't remember who...they said...there was a, there's a guy out here...he may be intoxicated...we've already talked to him once...he was contacted, and he has been 86'd from a couple of the bars...just know that he's around here and we've had a few complaints on him. I'm like, do you know a name? Do you know anything about him? They're like, no.”

Wheeler said he later received a report from Officer Miulli.

“[H]e had contacted...an Indian male...they got reports that he was menacing and...was kinda bein' aggressive towards some kids or at least a couple bystanders. So, they went and talked to him...just to kind of be aware...he was just bein' aggressive and menacing. And he was definitely 86'd from a couple of the bars.”

“But then, during that roll call, while I was waitin' for my number to be called...I definitely heard Officer Keller say he needed a second unit for, to help him out.”

Wheeler continued,

“[W]e get the parkway...and I heard "by the big rock"...And while we were going, kinda lookin' over the crowd to see if there was somebody fighting, to see if it was obvious of, oh, this is who we need to go tend to...we get to the rock...I see Officer Keller standing closer over to the bathrooms...He's definitely lookin' at something or somebody, and a citizen has their back to me, and he's, they're



talking. And they're kinda movin' around. And he sees me and kinda gives me a nod. So, he knows I'm there. And then he continues to talk. And, um, I start to, I go around the, the bench. I go around the bench. Officer Lom goes around...the other side of the bench, and we're makin' our way through the people, and I'm tryin' to get to the sidewalk. About the time I get to the sidewalk, Officer Keller's walkin' over...and he's lookin' at somebody to my right, kind of oblique to me...he calls my name, and he points...I look at, there's an Indian male standing there, or at least a dark-complected male. And as I now look at him, there's a...citizen steps in front of me. And I don't know who he was, but he steps in front of me, and he says, 'Hey, the guy you're lookin' for is right behind me. He's right, he's right there.' So, I look over his shoulder, and he's, there's a guy. And he's...focused on Officer Keller...I have no idea if he even saw me. I don't know if he even knew I was there. I have no clue. 'Cause he was very focused on Officer Keller. Officer Keller's...coming toward him, and the guy's...talkin' to me is standing in front of me, so I can see about this much of...Chiefstick. And he's up on the hill. It's not a very big hill...I hear Officer Keller tell him, 'Show me your hands. Show me your hands.' And I'm now trying to step around the guy who I'm talking to, and there's all kinds of stuff on the ground, blankets, chairs, food, coolers, and I'm tryin' to get my way to him as about this same time Officer Keller gets to Chiefstick. And I see...Chiefstick, turn like this to his right. And I hear him again, 'Show me your hands'...."

Wheeler continued,

"As I stepped around, I hear 'screwdriver', or what I believe I'm hearing 'screwdriver,' and Officer Keller grabs...Chiefstick's left arm. And as I am comin' around, I'm tripping on, tryin' to get people out of the way and tripping on stuff. And, but I grab...Chiefstick's right arm. And he has a screwdriver in his hand, and I believe I'm the one who said 'screwdriver' again. Which later on...when I finally got to hear the audio from the news, I, you hear two people say screwdrivers. And, and the one is kinda muffled the first time, but I believe I am the second one. And that was when...Chiefstick tried to stab Officer Keller, or at least lunge at him with that right arm which I have a hold of. I can't get my footing, I can't get a good grip, 'cause I wanted to bring his arm back around him (inaudible). I just wanted to get a hold of the screwdriver is what I wanted to do. And...Chiefstick was able to lunge again, and Officer Keller let go and, and backed off, and he missed. I still had his arm at that point...he lunged twice or made that motion twice."

Wheeler said that during the struggle with Chiefstick he became entangled in a lawn chair and lost his balance. Wheeler said,

"I...eventually...put it together of what had happened...and then...Chiefstick put his arms toward his chest...to suck himself in, to protect himself. And he did a couple of sweeping motions...or twisting motions. And that was to shake us off...."

I remember grabbing the lawn chair and throwing it...I was mad, because I...lost my footing and I fell, and I was caught up in this chair...And I get up about the time when...Chiefstick had, I didn't know at the time, but he fell too...Chiefstick ran toward where Officer Keller originally had come from...then he stopped and turned toward us, but more Officer Keller...I clearly can see the black and yellow part of the handle of the screwdriver. He's, he's holding it in the fashion where the point or the, the working end of the screwdriver is now up, from his thumb going up. And he's, and he turns, and he gets in a...I'm gonna call it a wrestling stance, a squatted stance. And he's got his hand out, and he's motioning like come on...I know Officer Keller had drawn his gun at that time...I know I moved back and forth at least twice 'cause Officer Keller's doing this...Chiefstick is standing in the...wrestler stance or the fighting stance, and I'm jockeying for position to be able to see help...and engage...as that's happening, I remember seeing the lady's head, there was a lady's head right next to the screwdriver, by his, by Chiefstick's right knee, and there's a baby laying on the blanket next, next to her. And that's, I looked at that, I look at him and he starts moving forward, and that's when I, I heard two shots...the first shot I...recall...Chiefstick kinda standing up a little bit more, up, more upright, and turning slightly to his right and a, a wince or a grimace, an expression on his face, and it stood him up, and then I heard another shot, and I saw his arms go down. I saw the screwdriver that was in his right hand fall down to the...to the ground and he kind, and Chiefstick kinda spiraled to the right and went down on the ground, landing on his right side and kind of his stomach, right, right side and stomach area...I remember people startin' to scatter at that time...people weren't even moving...during this incident...."

Investigators asked Wheeler why he thought Chiefstick was moving "forward" just prior to the shooting. Wheeler replied,

"To attack us...he was definitely in attack mode. He had every opportunity to continue running away...once I fell, and once Officer Keller had backed off, and Chiefstick ran toward the bathrooms, he had every opportunity to run. There was no other law enforcement officers that I at least remember or seen, that would have blocked his way. He would have continued to run."

Refer to the transcript of the recorded conversation for additional details.

**Craig Keller:**           **Officer, Poulsbo Police Department**  
**Interview Date:**       **June 4, 2020**  
**Interview Time:**       **1:37:02**  
**Others Present:**       **Mark Anderson, Attorney, Cline and Associates**

Before questioning, investigators read Officer Keller his Garrity Warning on behalf of Chief Schoonmaker. Keller signed in acknowledgment and understanding of this warning in the presence of Mr. Anderson. Keller acknowledged he had received written notice outlining the nature of this investigation and had the opportunity to consult with union/legal representation prior to the interview. Keller was advised of and consented to the recording of the interview.

Keller is a police officer with the Poulsbo Police Department and has been employed by the department for approximately five years. Prior to serving the City of Poulsbo, Keller served the Port Gamble S'Klallam Police Department for approximately fifteen months. Keller attended his basic law enforcement training at the Federal Law Enforcement Training Center in Artesia, New Mexico, and completed the Washington State Criminal Justice Training Center Law Enforcement two-week Equivalency Academy. Keller earned a high school diploma and approximately 89 college credit hours. In his law enforcement career, Keller has held assignments in patrol, marine program, and is currently assigned to the department's narcotics canine program.

Investigators asked Keller to share his understanding of the department's mission/vision statement and core values, and how these are woven into the fabric of the agency. Keller replied,

"I am familiar with them. I, I wouldn't be able to recite them...It's posted. We talk about it...Whether it's in meetings, all-hands meetings, just in, in general. It's somethin' that we do...on an everyday basis as...a cop."

Keller believes the culture within the department mirrors the vision, mission, and core values of the agency.

Investigators asked Keller about the implementation and training of department policy. Keller replied,

"Dependin' on the policy...it would...either be changed if it's, you know...if it's minor detail words, it could be changed. If it's a major policy change, it would go through the, the Guild...we log on daily trainin' bulletins. That's how it's really implement, implemented...goin' through those scenarios, havin' to answer those questions...If you were to fall behind, you would get an email, maybe from a sergeant, or talked to by a sergeant to get your daily trainin' done on that...how that gets to them I, I don't know."

Investigators asked Keller how often department members receive use of force training. Keller responded,

"That would be a department question...I wouldn't be able to recall...I'd have to check my records. It's, be through Lexipol policy in front of the computer...Firearms, defensive tactics...those two specifically, and then policy."

Investigators asked Keller to define reasonable force. Keller explained,

"The amount of force that's reasonable to...effect an arrest, that would be viewed as reasonable by another officer."

Investigators asked Keller what factors he considers in determining reasonable force. Keller said,

“Actions of the suspect, size of the suspect...intoxicants...severity of the crime...age of the suspect, my age... it's a pretty fluid situation that was, that was changed, so.”

Investigators asked Keller to define compliance techniques. Keller replied,

“[T]hose functions that we would use to get somebody to comply to our orders whether it'd be verbal or physical...wrist holds...you know...arm and wrist holds...those would be the main ones.”

Investigators asked Keller when deadly force is justified. Keller said,

“When there is a imminent threat of death or substantial bodily injury...that would cover it.”

Investigators asked Keller what control devices he was carrying on July 19, 2019, and when control devices can be used. Keller said in July 2019, he was carrying a Taser and OC. Keller explained he could use OC,

“If you have a suspect that is...violent...actively resistin' arrest...and you can't get compliance with either hands-on or – I don't think I've ever deployed OC.”

Keller said he has only received training on the use of OC in 2014 while attending the basic law enforcement academy.

Keller said a Taser could be used,

“[A]gain, when a, a suspect is physically resistin'...a violent, physical arrest...yeah. Let's just leave it at that. Or the, or I should say the threat of a violent – it could be verbal. It could be physical.”

Investigators asked Keller what Taser training he has received. Keller said,

“In the academy, and then I, I believe it's yearly with the Poulsbo Police Department...through trainin' whether it's a, a PowerPoint and then demonstration and then actually usin' it.”

Keller said Taser training he has attended with the Poulsbo Police Department, the use of force policy, target considerations, handcuffing, and transitioning to a firearm was covered during the training. Keller did not recall training on restraint techniques that do not impair respiration being covered during Taser training. When asked what special deployment considerations he considers when using a Taser, Keller said,

“Age, too young, too old, pregnant...target area, whether someone poses a deadly threat or not.”

Keller estimates he has deployed the Taser, outside of a training environment, five to ten times. Investigators asked Keller about tactics used when multiple officers are dealing with a single subject. Keller explained,

“Again, that's a pretty fluid situation dependin' on what you have...if there's a potential for...a deadly encounter, if it's reasonable, you have somebody that has Taser and somebody that has lethal force...but it depends on the situation.”

Keller said he carries a department-issued firearm, holster, and ammunition. Keller believes he attended firearms training in June 2019. Keller said the department conducts firearms training approximately four times per year. Outside of qualifications, Keller said he had attended practical firearms training put on by the department. This training included transition drills (long gun to pistol, pistol to long gun), cover, concealment, and moving while shooting drills. Keller did not recall receiving practical firearms training involving the use of or transition to a Taser.

Investigators asked Keller what training he has received prior to July 2019, and experience identifying persons under the influence of intoxicants and narcotics. Keller replied,

“So, my first trainin'...with field sobriety testin', DUI, was in the academy in 2014...I wanna say I had some sort of refresher in Suquamish at some point, but I don't recall...I've conducted my fair share of DUIs...Prior to July 3<sup>rd</sup>, 75 in the previous three years...of course, with the dog, tons of dope work, lots of people under the influence of methamphetamine, heroin, both, other intoxicants, couldn't, into the hundreds. Couldn't put a number on that though but a fair amount.”

Investigators asked Keller about crisis intervention training he has received in his law enforcement career. Keller said,

“I don't recall if we called it that in the academy or, or what it was...I think I conducted the 40-hour original, mandatory 40 hours of CIT. I believe that was in Suquamish, don't recall what, what year that was, and of course, we have the two-hour refresher every year. That's conducted online.”

Keller said he had read periodicals and law enforcement bulletins on crisis intervention. Keller was asked what factors he considers when approaching someone in crisis. Keller replied,

“[T]he main one with, because of the whole narcotics intoxication, that's always a factor and...most of the people that I deal with, so that is, that is the consideration...That depends on the situation...on what you're, what you're lookin' at. Some people are calm. Some people aren't. Whether you have probable cause to arrest, whether you don't...an intoxicated crisis is different than a mental health crisis...whether they're gonna have violent tendencies, nonviolent tendencies or somebody in a mental health crisis that, an elderly lady on the sidewalk talkin' to herself completely different on...how you approach

that...there's different factors that come in to play...whether they appear they're amped up on, on dope or again you have the elderly lady that's got her bag scattered all over the sidewalk...the intoxicants is if you suspect somebody's under the influence that's, you're gonna approach them differently...I can't say how I would approach 'em without physically seein' how they're actin', what the circumstances are around them, what the nature of the call.”

Keller said he had used de-escalation tactics in the field. Investigators asked Keller to describe examples of some of the de-escalation tactics. Keller replied,

“[D]e-escalation happens on every single thing that we do, from a traffic stop. I can't remember the last time somebody was really happy to see me on a traffic stop...just in talkin' with them...you just, just be calm, rational with people...it's just about communicatin'...the closer you get to somebody, the more dangerous it becomes. Like, I can talk to somebody from five or ten feet away if...I need to, but again, it depends on the situation.”

Investigators asked Keller what tactics he uses and the factors he considers when placing someone under arrest. Keller explained,

“I put that person into a position of disadvantage every time...position of their body, you know, spreadin' their feet, controllin' the hands, every, yeah, prob'ly almost every time...location, proximity to...a cover officer, again, size of the suspect, severity of the crime...yeah, my safety comes first with that. Have to be able to do it safely...size, age, my age, their age...intoxicants, all those come into play.”

Investigators asked Keller about the City's July 3<sup>rd</sup> event at Muriel Iverson Williams Waterfront Park. Keller said,

“That, the 3<sup>rd</sup> of July's an annual fireworks show...put on by the Viking Fest Corporation, I believe...I don't know the actual numbers on how many people attend. I've heard anywhere from 15 to 25,000 people...It is all hands for Poulsbo PD. We also ask for assistance from...outside agencies...local agencies, including the Washington State Patrol.”

Investigators asked Keller to describe the nature of police calls that might be generated during this event. Keller replied,

“[F]rom years past, I think I've been on the outside perimeter. I can't remember my assignment...I can't remember if I was downtown in...prior years. I'm sure I maybe was on foot patrol...the types of calls, lost kids...you know, maybe problems that, intoxicated people...outside of that, it's, you know, generally...business as usual.”

Keller said he has worked at this since 2015.

Keller said on July 3, 2019, he was scheduled to start his shift at the event at 1800 hours. However, Keller explained he had been called into work at around 1600 hours to assist the narcotics task force. Keller arrived at the event at approximately 1800 hours and signed into service via his vehicle's mobile data terminal. Keller said he was not informed of any special concerns or anticipated problems at the event. Keller believed he was assigned "to the boat" at the start of his shift to patrol the water. Keller said he was out patrolling the water until around 2130 hours.

Investigators asked Keller if, prior to July 3, 2019, if he has had any contact with Chiefstick. Keller replied,

"No. I didn't know who he was."

Keller said prior to the shooting, he had not received any reports from public officials expressing concern with Chiefstick's behavior at the event, nor received any direction from public officials to remove, trespass, or arrest Chiefstick.

Investigators asked Keller what drew his attention to Chiefstick at the event. Keller explained,

"I think I was standin' near the command post in the parkway. Officer San Gil, Nick San Gil was speakin'...with a lady...he then turned to me...and described that she or somebody had just been threatened with...a screwdriver...in the parkway...Nick and I walked...to the parkway. San Gil was...with me...I think he mentioned somethin' about they had had some prior contact with an individual. I didn't know who, and so we walked into the parkway, and that's where San Gil just started – there's a sea of people, started lookin' for the subject that she had described.

We walked into the area of the park and went to the south. There's...a big rock in the park that's the identifyin' mark...Officer San Gil, I believe, actually pointed him out off to the south kinda standin' on a grassy knoll. I don't know if knoll's the right word, but it was an elevated part of the park in the grass, and that's, it became clear that was, that's what we were talkin' about or who was bein' identified...I had advised CENCOM or dispatch via radio that I needed a couple more units down at the parkway and described...somebody that had...reported that he had pulled a screwdriver on...several people...and I had asked for some more units to come to my location."

Investigators asked Keller to explain why he had requested more units to respond. Keller said,

"Well, we had a report of a guy that had pulled a screwdriver on several people. I need to back that up. When I, as I, I'm goin' there, another person approached me and said hey, this guy pulled a screwdriver on me."

Investigators asked Keller to describe his observations of Chiefstick that caused concern. Keller replied,

“[I]t is wall to wall people durin' the 3<sup>rd</sup> of July, and he had created a space around him, around the area that he was pacin' that to me clearly indicated that people were uncomfortable, and you can, people show up early in the mornin' to reserve seats, and he had an area where he was pacin' that people had cleared out of. Durin' that timeframe, I actually watched a gentleman pick up his kid and move, and he was, uh, this guy was, to me, in a defensive position, had his arms crossed, and it didn't look like it was a friendly conversation with...the suspect...a citizen had his arms crossed...did not look like a comfortable situation. Again...I watched him remove a child from the area...this big space...that he had created for himself, because to me, it looked like people were kinda uncomfortable in movin' outta the area.”

Keller continued,

“He was lookin' left and right. He was starin' people down. He was clearly targetin'. His hand moved to his right pocket many times...and I had information at...that point. As I was standin' there, somebody came up to me and said the screwdriver's in his right pocket. As I'm watchin' him...he's targetin' that. He's fidgetin' with it. He's moved his hand there...several times....”

Investigators asked Keller to explain, based on his experience as a law enforcement officer, what Chiefstick's behavior and actions would indicate. Keller replied,

“[I]t's the mind's subconscious...feelin' for somethin' that they...know is there, adjustin' it, and they...don't even know...they're doin' it...people that don't carry firearms a lot, you can always tell when they have a weapon on them. They are subconsciously targetin' that. They'll feel if it's there...and oftentimes, when you're dealin' with a (inaudible), it's a...pre-attack indicator, especially when you have the knowledge that he's already threatened a couple people with it I've been told, and it's...in his right front pocket, and he's starin' people down. They're clearly uncomfortable, and he's hardly pulled it out on, on people.”

Investigators asked Keller to explain what happened when officers came into contact with Chiefstick. Keller replied,

“[W]hen I began to approach him...I remember indicatin' to Detective Wheeler – I think I even verbally said Lee – and whether he saw me or not, I think I pointed to my right pocket indicatin' hey, this is – I mean, it was clear who we were goin' after. He was the only guy in the...in the circle, and...I approached his...left side, and I remember Detective Wheeler...comin' up on the right-hand side...the suspect...saw me comin', and I verbalized to him. As soon as he saw me comin', his hand was down by, I believe, down by his right pocket, and I said get your hand outta your pocket, and then I grabbed onto...his left arm for control...actually, his left wrist at that, at that point...and then I don't...know what happened to Detective Wheeler on the...the right side of him, but I tried to get



control with his left arm...next thing I know...there's a struggle...the push, pull, tryin' to get control...he turns. He's...in a bladed position. What I mean by bladed, he is to the side of me, and then..."

At this point in the interview, Keller paused and appeared emotionally impacted (head down, wiping his nose and eyes with a tissue).

After a brief pause in the interview, investigators asked Keller if the lawn chairs, blankets, and other items on the ground interfered with his ability to gain control of Chiefstick. Keller replied,

"I don't recall that played a part...in it."

Keller was asked to explain why he initially attempted to gain control of Chiefstick by grabbing Chiefstick's left wrist. Keller replied,

"[J]ust the nonverbal communication with Detective Wheeler and I...had probable cause...arrest the guy for the assault and, you know, like you do throughout your career many times...you scoop a guy up and you just get him into handcuffs. Detective Wheeler was goin' to his right side. I was goin' to his left side, and we were...we were goin' to apply probable cause to arrest him...He saw me comin'...I think I told him to get his hand outta his pocket."

Investigators asked Keller what happened next. Keller replied,

"I went to try to control him...his right side was free...I think I then went to two hands...and I was just gonna try to get control and arm bar him down to the ground. His right hand went into his pocket. It came out. It tried, he tried...stabbin' me in the head or in that general area. I just remember turnin' away...I could hear...screwdriver bein', bein' yelled. I couldn't tell if it was for me or somebody else, and then...I let go of him when I saw the, the plugin' stab down towards me...I disengaged...I don't know what he...did next...'cause I had spun away, and when I reengaged and turned around and saw him, he was, let's call it...he was runnin' eastbound just for a very brief time when I saw him, and then he...turned and...had the screwdriver in...his hand. He began bouncin' up and down takin' a fightin' stance, and...he moved towards me again, and...he was bouncin' up and down, had the screwdriver, started movin' towards me again...I remember somebody on the side of the sidewalk...He was facin' me. The screwdriver was literally inches from a kid's head...he started to move towards me again in...this fightin' stance, and I...shot him twice."

Investigators asked Keller when he drew his weapon. Keller replied,

"After...we broke contact...."

Investigators asked Keller why he did not deploy his Taser. Keller explained,

“[H]e had already tried to stab me, and he still had a deadly weapon in his hand.”

Refer to the transcript of the recorded interview for additional details.

## 7. Summary:

Poulsbo Police Department personnel interviewed in this investigation were asked about their familiarity with the mission, vision, and values of the Poulsbo Police Department.

The Mission of the Poulsbo Police Department states:

The Mission of the Poulsbo Police Department is to safeguard the lives, property, and rights of all people; to reduce the incidence of fear of crime; and to enhance public safety while working with our community to improve their quality of life.

Our mandate is to do so with honor and integrity, while always conducting ourselves with the highest ethical standards to maintain the confidence of the public we serve.

The Vision for the Poulsbo Police Department states:

The Poulsbo Police Department aims to be amongst the finest law enforcement agencies in the State of Washington; one which constantly delivers the highest quality public service to make the City of Poulsbo one of the safest in the nation.

The Poulsbo Police Department's Values are identified as,

- Honor –
  - Our daily actions shall embody our Mission, Vision, Values, and Code of Ethics. We hold ourselves accountable to the highest standards of our profession, while valuing equality, diversity, and individual rights. Our badge is a symbol of public faith; we accept it as a public trust so long as we are true to the ethics of our service.
- Integrity
  - We shall always do what is legally and morally right. We are honest and truthful in our words and actions. Our integrity will build trust and confidence, for integrity is our moral defense against corruption.
- Teamwork
  - We are loyal and dedicated to each other, our community, and our profession. As members of the greater team, we realize that to achieve our mission of service, we must work collaboratively with our citizens, community partners, city government, and allied public service agencies.
  -

- Professionalism  
As representatives of our community and our profession, we are driven to be competent and skilled in the performance of our duties. With an eye to the community's evolving needs, we will constantly seek out opportunities to improve our level of service and provide the best in public safety.

Weaving the Department's Mission Statement, Vision, and Core Values into the fabric of an agency helps guide or redirect behavior when faced with negative influences affecting the morale of an agency.

The Poulsbo Police Department personnel interviewed in this investigation responded as follows about their familiarity with the department's mission, vision statement and core values:

Lom:

"I would not be able to recite that to you...I mean, but we have them printed up on the wall, and so I see them. It's...one of those where it, you know...I guess, basic traits and qualities that come to law enforcement, you know, or that go with law enforcement. Um, like I said, I, I read them, you know, as I, as I go down the hallway occasionally, but I, I could not recite, I could not recite them to you."

San Gil:

"I'm familiar with it...Well...familiar in a sense where...I'm aware of it, but I...I don't acknowledge and remember...I can't cite it verbatim, no...I think it's kinda interesting that you mention that 'cause I mean now when I think about it where my office is I mean...the core values that Poulsbo has would be, you know, professionalism and integrity and respect. Those are the types of...values that we as a department have been trying to...work towards and achieve...I don't think that our officers or our department is, that we don't, um, we don't do that, that we're not professional. I mean we...I haven't had any issues with Poulsbo since I've been here, and so it's been a, a relatively positive experience."

Wheeler:

"[H]onor, integrity...professionalism and teamwork is what we stand for...we developed it when Chief Schoonmaker got up here and...we essentially had the same values before...but...it was a lot more clearly defined...I think we're doing better quality policing...the way we're set up now, as opposed to before...the way we're doing things now is...there's more accountability...they're holding it to a certain standard with the transparency

Keller:

"I am familiar with them. I, I wouldn't be able to recite them...It's posted. We talk about it...Whether it's in meetings, all hands meetings, just in, in general. It's somethin' that we do...on an everyday basis as...a cop."

The Poulsbo Police Department has established policies and procedures intended to serve as a guide and framework within which employees can make decisions. Policies develop standards of conduct that are consistent with the values and mission of the department and are expected of its members. Employees within the Poulsbo Police Department are subject to provisions contained throughout the manual as well as additional guidance on conduct that may be disseminated by the Department or the member's supervisors. Contained within the department's policy manual, is the Law Enforcement Code of Ethics, which states in part,

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will maintain courageous calm in the face of danger...I will be exemplary in obeying the law and regulations of my department.

I will enforce the law courteously and appropriately without fear or favor, malice, or ill will, never employing unnecessary force or violence and never accepting gratuities.

I know that I alone are responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

The Poulsbo Police Department utilizes the Lexipol Policy Manual System that contains Daily Training Bulletins (DTBs). DTBs provides personnel with training on specific policies and other important topics.

Poulsbo Police Department personnel interviewed in this investigation were asked how the department implements and trains personnel on the policy.

Lom:

"[E]very time there's an update to...any policy, it's sent out, and...we have to review it...go through the entire policy and make sure, you know, that we understand it, and...once you get through the entire policy, you acknowledge that you've, you've read it and that you understand it...and we do that basically every time there's a, there's a policy update...but I do know that every time there's...a change...but there is always that...review that we have to make as officers, and if we don't do it, then, you know, we'll...get notified by...a supervisor that said hey, you had some policy reviews that you had to go through...."

San Gil:

"[D]eputy chief or the...chief of police would send a...memo...to all the officers, uh, or to the em, to the police department...that are required to review these policies and to acknowledge or complete them."

San Gil said that outside of the Daily Training Bulletins, he is not aware of any additional training on the policy.

Wheeler:

“[W]e have, on our work cell phones, we have an app. It's the Lexipol App, and so we get alerts that way, and we also get email alerts...for the DTBs...and...training updates...and we have to keep up on those or our sergeants...will come talk to us and say, hey, make sure you get your stuff done and...for some of the things that we're instructors for...the deputy chief is pretty much the one who's been putting them out, but he'll come to us and say, hey, I need your input on this. I need you to go to this policy, what changes, what needs to be taken care of. Are we, are we up with what you're learning at the academies or in your training classes? Is this what we're teaching? So, they're checking and double-checking, I guess, is the best way to put it...that the policies are not only meeting the Lexipol standards, but I would even venture to say a little bit higher to make sure we fall within that, and we're getting the best quality of training that we can...for exactly these kind of issues...on a smaller scale, we'll have our...all-hands meetings, and we'll go over policy changes....”

Keller:

“Dependin' on the policy...it would...either be changed if it's, you know...if it's minor detail words, it could be changed. If it's a major policy change, it would go through the, the Guild...we log on daily trainin' bulletins. That's how it's really implement, implemented...goin' through those scenarios, havin' to answer those questions...If you were to fall behind, you would get an email, maybe from a sergeant, or talked to by a sergeant to get your daily trainin' done on that...how that gets to them I, I don't know.”

The policy at issue here is Policy 300 – Use of Force – which provides guidelines on the reasonable use of force. Policy 300 states:

[O]fficers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The “reasonableness” of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by the Department....

Policy 300.3.1 – Use of Force to Effect An Arrest states,

An officer may use all means reasonably necessary to effect an arrest if, after notice of the intention to arrest the person, he/she either flees or forcibly resists (RCW 10.31.050).

Policy 300.3.2 – identifies “Factors Used To Determine The Reasonableness of Force.” This policy states,

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to,

- a. Immediacy and severity of the threat to officers and others.
- b. The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- c. Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers vs. subjects).
- d. The effects of drugs or alcohol.
- e. Subject’s mental state or capacity.
- f. Proximity of weapons or dangerous improvised devices.
- g. The degree to which the subject has been effectively restrained and his/her ability to resist despite being arrested.
- h. The availability of other options and their possible effectiveness.
- i. Seriousness of the suspected offense or reason for contact with the individual.
- j. Training and experience of the officer.
- k. Potential for injury to officers, suspects, and others.
- l. Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- m. The risk and reasonably foreseeable consequences of escape.
- n. The apparent need for immediate control of the subject or a prompt resolution of the situation.
- o. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- p. Prior contacts with the subject or awareness of any propensity for violence.
- q. Any other exigent circumstances.

Poulsbo Police Department personnel interviewed in this investigation were asked to define “reasonable force” and the factors considered when determining the type and amount of force used.

Lom:

“[R]easonable force to me, I would define it as the least amount of force to...meet your objective...let's say a person...that you have probable cause to arrest starts to walk away, and, you know, the initial, the reasonable force at that point is to say hey, you, stop, come here, and you know...I need to talk to you. You're

under arrest, whatever, and they comply, then I just used a reasonable...amount of force at that point...if they start to, you know, they come back, and they start to pull away, you know...then you have to apply a little bit more force...at that point, I would still say it's still a physical force, you know? Maybe grabbin' onto them, holdin' onto them...I guess the basic definition to my, for myself in my own words is...the least amount of force to, to meet your objective.”

“[T]he person's size would be the first...their age...are they...a big person, a small person...a male, female...our surroundings...anybody else that would be, any other officers that are there with me that would be able to assist...I think that's about it.”

San Gil:

“[R]easonable force would be...any force necessary. I mean, it's the use of any kind of implement tool...to...get a person into compliance, reasonably effective way to detain a person.”

“It could be a person's, you know, age, race...medical condition, mental health condition. Those are the circumstances that we, we as officers need to take into consideration when we're, we're making contact with a person...well, maybe it wasn't race that I was meaning, maybe, like...meaning more, like, ethnic cultural...you know, need to take those kinds of circumstances into consideration...if we weren't...being culturally diverse and we treated every person the same, then you're probably not gonna get the, the best kind of results because, you know, people grew up differently then others and so...I apologize. It wasn't race that I was referring to. It was more racial ethnic cultures.”

Wheeler:

“Affecting enough, a reasonable amount of force to stop the threat, to take somebody into custody...and nothing further than that. It's...what kind of force or what kind of actions do you have to do to reasonably detain, control the situation, stop the threat, and definitely not go overboard with it.”

“[I]t's not always a suspect...it's the suspect's actions is what determines how I'm reacting to them or how much force I need to use...whether it's having...multiple officers to detain 'em, fight with 'em, whether they're on drugs, the size...the conditions that we're in...there's a whole lot of factors, but it's, it's essentially stemmed from the suspect's actions or the person I'm interacting with....

Keller:

“The amount of force that's reasonable to...effect an arrest, that would be viewed as reasonable by another officer.”

“Actions of the suspect, size of the suspect...intoxicants...severity of the crime...age of the suspect, my age... it's a pretty fluid situation that was, that was changed, so.”

Policy 300.3.3 – Compliance Techniques states in part,

Officers may only apply those compliance techniques for which they have successfully completed department-approved training.

Poulsbo Police Department personnel were asked in their interviews to describe “compliance techniques.”

Lom was unable to define compliance techniques.

San Gil:

“[I] would say verbal judo...using words primarily...giving people directives in, in the best possible way to get them into compliance to comply with your orders...usually when, when verbal directives aren't being followed, then that's when we start to implement...other types of tools...whether that is...possibly OC or Taser...as well as...techniques like locks and, you know, straight wrist twists or, or something like that of that sort...a little bit of pain compliance, I believe, to, to get a person to get into compliance.”

Wheeler:

“Whether it be...either verbally, which that's not so much of a compliance, but...it could be the red dot of a Taser, lettin' 'em know, hey, you need to do this, et cetera...follow my commands...or you'll be tased...to going hands-on and doing counter locks, joint locks, wrist locks, armbars...It's a compliance technique. So, you're not trying to hurt them. You're just controlling them for their safety and yours to make sure that everybody stays safe.”

Keller:

“[T]hose functions that we would use to get somebody to comply to our orders whether it'd be verbal or physical...wrist holds...you know...arm and wrist holds...those would be the main ones.”

Policy 300.4 – Deadly Force Applications states the use of deadly force is justified in the following circumstances:

- a. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- b. An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a



felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one, and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon, and it is reasonable to believe the person intends to do so.

Poulsbo Police Department personnel interviewed in this investigation were asked to explain when deadly force is justified.

Lom:

“If you're...met with...a situation where the other person...has a gun, for example, and they...point it at you or at another person...if they have a knife, and they're...runnin' at you...with a knife and...a knife that they're gonna stab you motion...it's a tough question to answer I guess...because I think the answer's gonna be different for everyone, you know? Maybe...what one person perceives as a, as a deadly force...situation another person may not...for me, like I said, the two examples that I just gave that would be, you know....”

San Gil:

“[D]eadly force is justified when there is, you know, reason to believe that an officer's life is...an officer is at risk of serious bodily injury or death...to protect other people.”

Wheeler:

“When there's a perceived threat, imminent, imminent threat of death or serious injury to either the officers or the other folks around...where a substantial step needs to be taken to stop the threat, when then could, in turn, cause the takin' of someone's life.”

Keller:

“When there is a imminent threat of death or substantial bodily injury...that would cover it.”

Another policy relevant to the control of subjects who are violent or who demonstrate the intent to be violent is Policy 303.3 – Issuing, Carrying and Using Control Devices – states in part,

Officers who are issued Tasers will be required to carry the Taser on their duty belt at all times while on-duty. The carrying of both OC spray and baton on the duty belt is recommended but not mandatory when carrying a Taser. The OC or baton must be carried in the officer's vehicle and readily available if not carried on the belt. Officers who are not issued a Taser must carry OC spray and a baton on their duty belt while in uniform.

Poulsbo Police Department personnel interviewed in this investigation were asked what control devices they were carrying on July 3, 2019.

Lom:

“[B]ehind the pistol is the ASP...I have my pepper spray, my OC spray...In front of that would be the Taser....”

San Gil:

“I had a ASP baton...and a Taser...I did not have OC...on my person.”

Wheeler:

“I did not have any. I did not carry my ASP...I hadn't carried an ASP since I was in the sheriff's office...the pepper spray...I do carry it...However, on that uniform, on that particular day...I took my gun belt...from my entry attire that I wear, and it doesn't have the pepper spray, and it doesn't have the ASP, and it doesn't have my Taser....”

Keller:

“I had a Taser, and I believe I had OC on me...I do not carry an ASP.”

The policy regarding Taser devices is found in Policy 304 – Conducted Energy Device – and provides guidelines for the issuance and use of Taser devices.

Only members who have successfully completed department-approved training may be issued and carry the Taser device. When carried while in uniform, officers shall carry the Taser device on the side opposite the duty weapon.

Policy 304.4 – Verbal and Visual Warning, states the purpose of this warning is to,

- a. Provide the individual with a reasonable opportunity to voluntarily comply.
- b. Provide other officers and individuals with a warning that the Taser device may be deployed.

Policy 304.5.1 – Application of the Taser – states in part,

The Taser device may be used in any of the following circumstances when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person.

- a. The subject is violent and physically resisting.
- b. The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself, or others.

Policy 304.9 – Training states in part,

Personnel who are authorized to carry the Taser device shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the Taser device as part of their assignment for a period of six months or more shall be recertified by a department-approved Taser device instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued Taser devices should occur every year. Officers who do not carry Taser devices should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Deputy Chief should ensure that all Taser training includes,

- a. A review of the Taser policy
- b. A review of the Use of Force policy.
- c. Performing weak-hand draws or cross-draws to reduce the possibility of accidentally drawing and firing a firearm.
- d. Target area consideration, to include techniques or options to reduce the accidental application of probes near the head, neck, chest, and groin.
- e. Handcuffing a subject during the application of the Taser device and transitioning to other force options.
- f. De-escalation techniques
- g. Restraint techniques that do not impair respiration following the application of the Taser device.

Training of sworn officers on use of force is found in Policy 300.8 – Training:

Officers will receive periodic training on this policy (Use of Force Policy) and demonstrate their knowledge and understanding.

Poulsbo Police Department personnel interviewed in this investigation were asked how often they receive use of force training.

Lom:

Prior to July 2019, Lom said he had received “maybe two or three” defensive tactics training courses since 1997 and ASP training sometime in late 2018. Lom said he has received annual firearms and Taser training.

San Gil:

San Gil said he has been employed by the Poulsbo Police Department for approximately a year and a half. San Gil believes the last use of force training, which included firearms, OC, and baton training, took place prior to the July 2019 incident. He said:

“I believe that when it comes to, like, the policies and procedures and, as well as... daily training bulletins that those are just the types of...information that just kinda keeps, uh, keep, it's supposed to keep our minds fresh and just remind us of like what the use-of-force is and...I believe that's what we get on a...monthly basis and then in terms of actual training...I believe...it's six months to a year for use-of-force and, and since I've been with Poulsbo I've only gone through one.”

Wheeler:

“[T]here's certain things that...we have to do yearly, or annually...if there's any new policies or any updates...to something that came down from the State Legislation or anything like that...we get the DTBs, or we get a bulletin, or we'll get a memorandum...through email...”

Keller:

“That would be a department question...I wouldn't be able to recall...I'd have to check my records. It's, be through Lexipol policy in front of the computer...Firearms, defensive tactics...those two specifically, and then policy.”

Poulsbo Police Department personnel interviewed in this investigation were asked the intent of carrying a Taser and when a Taser could be used.

Lom:

“[I]t's to physically restrain somebody just like every, you know, like everythin' else I think...if someone is not bein' compliant...and you don't want to...get up close to them for whatever reason, you know? It could be again back to their size...the Taser would be another option...to be able to...at least give that initial shock to that, you know, to that person to be able to...allow officers or yourself to jump in and...and arrest that person or whatever, whatever needs to be done.”

“[I]f a person is bein' aggressive...they're not necessarily comin' and, you know, tryin' to assault you or another person, but they're not complyin' with your...your orders, you know...”

San Gil:

“[T]he intent of carrying a Taser...it's an additional...tool...on my belt that, you know, could assist me, less-lethal...use-of-force...to get a person into compliance...I believe our certification for Tasers is six months. I've received about three since I've been, since I've been with the department...we first start off with going over the uses of force...then we, we go into the functions of the Taser...we start off with directives and...they're not complying...or he's pulled a...weapon and, you know, you just so happen to have your Taser, then it's...your Taser drawn and then...we're basically giving...demands, they don't follow demands, and so we fire our Taser....”

“I believe a good use of Taser would be...dependent on the presentation of a person...and then and the distance as well and if the person wasn't being aggressive towards you and that you had some space...and you were able to take your time and give them directives; and if they weren't...gonna follow...those directives and you explain to them if you don't do this, then I will have to...use my Taser on you, and...ultimately it would be my decision whether or not I decide to tase that person.”

Wheeler:

On July 3, 2019, Wheeler was not carrying a Taser, ASP, or OC.

“I did not have any. I did not carry my ASP...I hadn't carried an ASP since I was in the sheriff's office. I've had three shoulder surgeries, and I can't swing it very well. It's not somethin' I carry...the pepper spray...I do carry it...but I have a high sensitivity and reaction to it...However, on that uniform, on that particular day because I haven't worn my patrol uniform for, probably since the previous Viking fest, so a year, um, my stuff is scattered everywhere...I pieced together, on that particular day...I took my gun belt...it doesn't have the pepper spray, and it doesn't have the ASP, and it doesn't have my Taser....”

Keller:

“[A]gain, when a, a suspect is physically resistin'...a violent, physical arrest...yeah. Let's just leave it at that. Or...I should say the threat of a violent – it could be verbal. It could be physical.”

Poulsbo Police Department personnel were asked in this investigation to describe the training received related to identifying subjects under the influence of intoxicants/narcotics.

Lom:

“[I] actually do have...quite a bit of experience in...DUI enforcement here with the department over the years...I am very familiar with...dealin' with DUIs....”

San Gil:

San Gil said he had not received training related to recognizing individuals that are under the influence of intoxicants/narcotics. San Gil said he had received some crisis intervention training while employed with the Department of Corrections and has worked with individuals in crisis while employed at a mental health facility.

Wheeler:

“[B]esides doin' the fieldwork for 13 years...I had additional FST...test class...in the academy itself...I did a number, probably in the neighborhood of...maybe 25 DUIs up to the point where I became an ADAT...member and in...2007 or 2008...I got the DUI MADD award. I did 100 DUIs that year...so I had a lot exposure...also incorporated with the...crisis intervention training...people, either mental disabilities or whether be a narcotic or hallucinogens and...learn how to communicate...definitely lookin' at the watery eyes, the driving habits, the speech, the walking, the mannerisms...lotta training, a lot of...one-on-one interaction, especially in that one year where I won the MADD award....”

Keller:

“So, my first trainin'...with field sobriety testin', DUI, was in the academy in 2014...I wanna say I had some sort of refresher in Suquamish at some point, but I don't recall...I've conducted my fair share of DUIs...Prior to July 3<sup>rd</sup>, 75 in the previous three years...of course, with the dog, tons of dope work, lots of people under the influence of methamphetamine, heroin, both, other intoxicants, couldn't, into the 100s. Couldn't put a number on that though but a fair amount.”

Training requirements for law enforcement are found in Washington Administrative Code (WAC) 139-09-020 – Requirements of Training for law enforcement personnel, which states:

1. The following law enforcement personnel are subject to the requirements of this chapter:
  - a. All general authority Washington peace officers
  - b. Reserve peace officers who have completed a reserve academy as per WAC 139-05-810 or 139-05-825
  - c. Certified tribal police officers as defined in RCW 43.101.157
2. Annually, every peace officer must complete the commission's two-hour online crisis intervention course as part of the officer's annual 24-hour in-service training requirement (WAC 135-05-300). Successful completion will include a passing score of 80% or higher on the online test given at the conclusion of the training.

3. Each recruit as part of the Basic Law Enforcement Academy or Washington State Patrol Academy will successfully complete the eight-hour block of Crisis Intervention Training (RCW 43.101.427)
4. Every general authority Washington peace officer that did not complete eight-hours of Crisis Intervention Training as part of their Basic Law Enforcement Academy or Washington State Patrol Academy shall complete a training of not less than eight hours and shall be substantially similar in hours and content to the training offered through the basic training academy, or show proof of successful completion of an Enhanced CIT program after January 1, 2008. Each attendee of the program shall be required to obtain written proof of completion of the program as provided by rule of the commission (RCW 43.101.427).

Crisis intervention training requirements are set forth in WAC 139-09-030 Crisis Intervention Training – Eight Hour Course. Agencies must use commission approved curricula that contain at the minimum the following subject matter:

- a. Signs and symptoms of common mental health issues encountered by law enforcement personnel.
- b. Recommended Crisis Intervention Techniques for common behavioral health and substance use disorder issues.
- c. De-escalation Skills

Poulsbo Police Department personnel were asked in this investigation to describe the amount of crisis intervention training they have had and the factors they consider when contacting a subject in crisis.

Lom:

“[T]he basic amount of training...police officers are supposed to receive.”

“The initial consideration to me is that you don't want to start talkin' to them in a – I don't wanna say aggressive – but, uh, in an authoritative manner. You wanna kinda, more like a pleading, like hey, how's it goin'? You know, that kinda stuff...typically, if you start...in a more authoritative manner...it's probably gonna raise their...attitude...you're probably more than likely not gonna win...so it's kinda easier to, one of the more ease in' conversation, you know, like hey, how you doin'?”

Officer Lom's training record reflects he has received the following relevant training prior to July 3, 2019, to be considered in this investigation:

Training Event	Completion Date
Firearms Training	March 7, 2009
Taser X26 Certification	March 7, 2009
Firearms Training/Defensive Tactics	June 6, 2009

Firearms Training	July 18, 2009
Firearms Training	October 8, 2009
OC Spray and Techniques	December 1, 2009
Firearms Training	December 15, 2009
Firearms Training/Taser X26 Cert	March 7, 2010
Firearms Training	June 5, 2010
Firearms Training	November 20, 2010
Taser X26 Update Refresher	November 15, 2011
Firearms Training	December 7, 2011
Officer Safety/Ethics	January 1, 2012
Firearms Training	March 17, 2012
Firearms Training	June 9, 2012
Firearms Training	September 22, 2012
Taser X26 Update Refresher	October 6, 2012
Mental Illness Awareness Training	December 1, 2012
Firearms Training	March 9, 2013
Firearms Training	August 24, 2013
Taser Training	September 1, 2013
Taser Update Refresher	September 9, 2013
Range	April 18, 2015
Firearms	September 19, 2015
Firearms	November 7, 2015
Firearms	April 16, 2016
Firearms Training	July 30, 2016
Taser	September 3, 2016
Firearms	September 12, 2016
Firearms	November 12, 2016
Range (Qualifications)	April 15, 2017
Range (Qualifications)	June 3, 2017
Firearms	August 17, 2017
Range (Qualifications)	September 16, 2017
Deadly Force/Use of Force	December 8, 2017
Taser	December 28, 2017
CIT Justice Based Policing	January 12, 2018
Firearms Training	April 14, 2018
Defensive Tactics	May 25, 2018
Range	August 25, 2018
CIT – Annual 2 hours	December 22, 2018
Defensive Tactics	May 28, 2019
Firearms/Less Lethal	April 13, 2019

San Gil:

San Gil said he has received some crisis intervention training while employed with the Department of Corrections and has worked with individuals in crisis while employed at a mental health facility. San Gil explained,



“I was that first person that they would meet with to like get admitted...for any type of services, and so kind of like listening to...what’s going on. You know, they’re telling me that they’re feeling suicidal, and then I start asking a bunch of questions...and then from that kinda moment, it’s just assessing that...this person is...actively in crisis and they have a plan and so kinda referring them over to...a real mental health professional, someone...like a DMHP...designated mental health professional to...assess them to see if inpatient services would be appropriate for them...so a lot of the crisis intervention is just...it’s active listening, listening to a person to see...what’s goin’ on and, and how we can better assist them and get and refer them on to get the mental health...treatment that they need....”

“[I] work with...people in the court system...they get sanctioned to electronic home detention, and nobody’s really happy about that...and so sometimes I get people who...clearly have mental health issues, whether it’s known or unknown...I’m able to take into consideration and...figure out a way that I could best work with this person, and so it, it’s a lot easier in...that type of scenario, but like out in the field if I’m making contact with somebody that I don’t know...what they’re predisposition is...then I mean making contact with a person just...creating space so...this person doesn’t feel like they’re being hovered or their...space being invaded and talking...to this person in...a nice calm demeanor and...asking them...what seems to be the issue, and...what can I do to help you or is there any resource, any other person or a service do you feel like you need at this time? So, it’s just actively listening and...helping that person in the best possible way.”

Officer San Gil’s training record reflects he has received the following relevant training prior to July 3, 2019, to be considered in this investigation:

Training Event	Completion Date
Taser Training	December 19, 2018
Taser Training	January 15, 2019
Less Lethal/Firearms Training	April 13, 2019

Wheeler:

“The crisis intervention training, it started when I was at the sheriff’s office...the first round that the...the sheriff’s office selected was primarily people who had good communication skills...who had a history of good communication skills workin’ with people...I was a negotiator at the time...went through that training...kept doing that and then as it became more of a...department wide...mandate, and we’re started gettin’ more officers...Already had been through CIT school...I went to some of the other training ‘cause it branched off into kids...learnin’ to talk to kids and went into...different psychological facts...it was branching off into the veterans, more dealing with veterans with PTSD...I did a federal...class over in Seattle...and got all the other resources for avenues and things for the veterans and knowin’ how to pass out information to them....”

“[A] big part of it is for me personally, I can't speak for anybody else, but me personally is the tone of my voice...I'm already a big guy, so that kinda's against me in a lotta scenarios where people are already intimidated, and they think I'm just gonna be this big bull and rush in and take care of 'em. So a lot of it is my office presence with my tone of voice...moving slow, talkin' to 'em, lettin' 'em know, hey, I'm here to help you, not here to...hurt you or anything...try to get them thinkin' down the lines of what do they need for help? What, what's gonna help them? What...it needs that they have or need or want...so just startin' to establish or tryin' to establish a...verbal dialect with them, and kinda see what is makin' their crisis. What, why are they acting the way they are, what are they on if they're on anything...looking at their, visually lookin' at them, finding out, you know, is there some other stimulus, is there something goin' on....”

“[I]t (number of officers present) very well can...if they feel like they're bein' surrounded and we have the natural tendencies to split up...for officer safety and for attacking and then just avenues to go in further, to grab an arm or whatever we need to do...so when you work with more people on the shift, the same shifts more often...they get to know your working behavior...and movements and...you get to know theirs so you'll have your one primary officer that does the talkin'...if you're the secondary, you try not to talk to 'em, you try not to crowd in too much, but you get off to the side or where you need to be for the officer safety part of it, but you try to let the one officer handle it....”

Detective Wheeler's training record reflects he has received the following relevant training prior to July 3, 2019, to be considered in this investigation:

<b>Training Event</b>	<b>Completion Date</b>
Crisis Intervention Training/DT	January 15, 2013
Firearms	August 24, 2013
Taser	September 1, 2013
Taser Training	September 9, 2013
Firearms	November 9, 2013
Crisis Intervention Training	July 15, 2014
Protective Custody	November 19, 2014
Mental Illness Awareness Training	March 6, 2015
Range	October 21, 2015
Range	November 7, 2015
Range Qualifications/Entries	February 5, 2016
Range Qualifications	March 17, 2016
Range Qualifications	April 16, 2016
Firearms	August 27, 2016
Firearms	September 17, 2016
Firearms	November 12, 2016
Force on Force	December 2, 2016
Preventing Bias Policing/Use of Force	January 31, 2017
Defensive Tactics	February 24, 2017
Range	April 15, 2017

Range	June 3, 2017
Taser	December 28, 2017
CIT Annual 2 Hours	December 24, 2018
Range	April 14, 2018
Range	June 24, 2018
Range	August 25, 2018
Taser	January 15, 2019
Less Lethal/Range	April 13, 2019
Range	June 4, 2019
Range	June 8, 2019
OC Spray	June 27, 2019

Keller:

“I don't recall if we called it that in the academy or, or what it was...I think I conducted the 40-hour original, mandatory 40 hours of CIT. I believe that was in Suquamish, don't recall what, what year that was, and of course, we have the two-hour refresher every year. That's conducted online.”

“[T]he main one with, because of the whole narcotics intoxication, that's always a factor and...most of the people that I deal with, so that is, that is the consideration...That depends on the situation...on what you're, what you're lookin' at. Some people are calm. Some people aren't. Whether you have probable cause to arrest, whether you don't...an intoxicated crisis is different than a mental health crisis...whether they're gonna have violent tendencies, nonviolent tendencies or somebody in a mental health crisis that, an elderly lady on the sidewalk talkin' to herself completely different on, on how you approach that...there's different factors that come in to play...whether they appear they're amped up on, on dope or again you have the elderly lady that's got her bag scattered all over the sidewalk...the intoxicants is if you suspect somebody's under the influence that's, you're gonna approach them differently...I can't say how I would approach 'em without physically seein' how they're actin', what the circumstances are around them, what the nature of the call.”

Officer Keller's training record reflects he has received the following relevant training prior to July 3, 2019, to be considered in this investigation:

<b>Training Event</b>	<b>Completion Date</b>
Basic Handgun Proficiency	August 21, 2015
Firearms (Range)	November 7, 2015
Firearms (Range)	August 31, 2016
Range (Night)	September 12, 2016
Force on Force	December 2, 2016
Use of Force	January 28, 2017
Defensive Tactics	February 24, 2017
Conducted Energy Device	February 27, 2017
CIT 8-Hour	March 31, 2017

Range Qualifications (Mandatory)	April 15, 2017
Range Qualifications (Mandatory)	August 26, 2017
Taser (Mandatory)	December 28, 2017
Range	April 14, 2018
Defensive Tactics	May 25, 2018
Range	June 24, 2018
CIT – Annual 2 hours Training	November 2, 2018
Less Lethal	April 13, 2019
Firearms (Range)	April 13, 2019
OC Spray (Mandatory)	June 27, 2019
Taser	July 9, 2019
Range	July 30, 2019

Poulsbo Police Department personnel were asked in this investigation what factors they consider when making a physical arrest.

Lom:

“[T]heir demeanor leadin' up to that point...are they gonna fight now? Now, that you've decided to, now that you've told them you're under arrest, you know, put your hands behind your back and that kinda stuff...their size...if it's somethin' where you kinda get that feelin' that yeah, you know, this may not go good, before I even get to that point, I'm gonna call for another officer....”

San Gil:

San Gil is a limited commission Community Service Officer without general arrest authority.

Wheeler:

“[W]here I'm at, location. Am I by myself, do I have a partner, do I have multiple partners, are there a lot of people around...what's the terrain like...are they, do they appear to be on any type of, you know, stimulus drugs, alcohol, what's their mental wellbeing...do I have other threats out there, do they have other partners, other friends, their family members, you know, DV situation? It's...kinda take it all in. You...wanna take control of the situation the least impactful you can, but you also still need to effect what you're doin' and your job and if it is, if I made the decision to arrest, then you need to do that, but it's so many, so many factors that go into it.”

Keller:

“I put that person into a position of disadvantage every time...position of their body, you know, spreadin' their feet, controllin' the hands, every, yeah, prob'ly almost every time...location, proximity to, um, a cover officer, again, size of the suspect, severity of the crime...yeah, my safety comes first with that. Have to be

able to do it safely...size, age, my age, their age...intoxicants, all those come into play.”

### 2019 3<sup>rd</sup> of July Celebration

On July 3, 2019, the City of Poulsbo hosted a community event along the Liberty Bay waterfront as part of a 4<sup>th</sup> of July celebration. This event included a variety of food and entertainment options, as well as an evening fireworks display. An estimated 30,000 visitors attended the event. The Poulsbo Police Department coordinated the security for this event. The Bainbridge Island Police Department, Port Orchard Police Department, Kitsap County Sheriff’s Office, and the Washington State Patrol provided additional resources and personnel to assist the Poulsbo Police Department with security at this event.

Prior to the event, the Poulsbo Police Department held an operational briefing for law enforcement personnel assisting at this event. During the briefing, the mission and objectives were identified.

Mission:

Provide a safe and fun environment for the Public

Objectives:

- Provide for responder’s safety, health, welfare, and security.
- Provide for the public’s safety, health, welfare, and security.
- Maintain civil order and provide security.
- Keep stakeholders, responders, and public informed of event activities (road closures, etc.).

Poulsbo Police Department personnel were asked in this investigation to describe the event, describe their knowledge about how the city prepares for the event, whether they attended a pre-event briefing, and typical challenges they may face during the event.

Lom:

“[[I]t’s when Poulsbo has their fireworks...people from the community...They come to town. Usually, everyone gathers around Henderson Parkway...they sit out there, and they...watch the firework show. There’s a smaller festival that happens. So, because...it’s only a one-day festival...there’s vendors that come out, but it’s not a, not a full-blown...weekend festival...I think I’ve heard numbers up through maybe 30, 40,000...I know it’s a lotta people....”

“[T]hey have briefings...on what we’re...gonna do, set up different patrol areas...partner up with...with somebody...it’s all assigned...and so from this time to this time, you’re gonna be patrollin’ this area, and then you’re gonna switch to a car, and then you’re gonna, you know, patrol this side of the city or that side of the city. After a certain time, I believe it’s, I wanna say it’s about 2130, so 9:30

p.m., we all shift away from downtown with the exception of a couple officers that stay in the downtown area so that we can go man...traffic control points throughout the city to get all the traffic outta town.”

“[I] think, your, your typical...bar fights, that kinda stuff, initially, you know, durin' the festival dependin' if they have a beer garden. You know, all the bars are gonna be open on that night...so, you'll have...your bar fights...your drunk person that was bein' belligerent...into the night, it'll roll into possibly a...DUI or two....”

Lom said on July 3, 2019, he started his shift around 1700 hours and was assigned to work with Detective Wheeler. Lom explained due to his shift at this other job, he was unable to attend the department briefing on this event. However, he believes he was briefed on the event by personnel in “our trailer” or other personnel. Lom said the briefing included,

“[B]asically our duties...here's the number of people that we're expectin' in town...here's our patrol areas. Here's a map of the...patrol areas...so you know where you're s'posed to be at...here's...your traffic control points. Here's...the times that you have to be at that traffic control point...it's basically just...if there's an emergency you...here's where the fire department's staged...if there's...a lost child, you know, here's, you know, where you take them and...that sorta stuff....”

San Gil:

“I don't know approximately how many people attend the event aside from that it's one of the largest firework show events that we have in Kitsap County, and it's very crowded, and I mean that's pretty much what I can tell you about it...I know that they plan for weeks in advance...I am not typically a part of that planning process and like...their meetings...but I know from just like being with the sergeants....”

San Gil did not recall attending a briefing prior to arriving to assist at the event.

Wheeler:

“[I]t's one of the bigger events that we have...we hold our fireworks, there's the parkway, Anderson Parkway is blocked off. We have food vendors there. There's people sellin' stuff...there's influx of, I've heard numbers of anywhere from 10,000 to 40,000 people that...come into the city to enjoy the fireworks...we do a lotta, I haven't done it 'cause I'm not on the sergeant level or, or higher, but they do a lotta planning for traffic control...in and out, egress, what's gonna go where...aid stations are gonna be, communications on what channels, where the...command post is gonna be...we get training and briefs and all that and between emails and handouts and flyers and contact numbers and...that's kinda how we get prepared for it.”

“[F]or the most part, everybody was there (at the pre-event briefing). I mean, there's other ones that are on graveyard and slept and things, but we definitely

go the bulk of us, the meeting that I was in...and we got our handouts of, hey, this is, this is what's goin' on, this is how we're gonna do it. This is your assignment, this is the traffic or the intersection you're gonna be at...at this set time, you need to leave what you're doin', whether it be foot patrol, driving around patrol, whatever, and go to this intersection, cone off...it was given in a briefing....”

Wheeler said during previous events police generally deal with “kids goofin around...stealing, the skateboarders,” and minor injuries due to falls. Wheeler said he could not recall any significant events from previous years.

Keller:

“That, the 3<sup>rd</sup> of July's an annual fireworks show...put on by the Viking Fest Corporation I believe...I don't know the actual numbers on how many people attend. I've heard anywhere from 15 to 25,000 people...It is all hands for Poulsbo PD. We also ask for assistance from...outside agencies...local agencies, including the Washington State Patrol.”

“[F]rom years past, I think I've been on the outside perimeter. I can't remember my assignment...I can't remember if I was downtown in...prior years. I'm sure I maybe was on foot patrol...the types of calls, lost kids...you know, maybe problems that, intoxicated people...outside of that, it's, you know, generally...business as usually.”

#### Stonechild Chiefstick

Poulsbo Police Department personnel interviewed in this investigation report that, prior to July 3, 2019, they did not recall contact with or receiving information on Chiefstick. Department personnel interviewed in this investigation described their knowledge of and interactions with Chiefstick at the event prior to the shooting.

Lom:

Lom reported he had no interactions with and did not receive information regarding Chiefstick before the reported behavior that lead to the contact and shooting of Chiefstick.

San Gil:

San Gil said he was present when Officer Miulli and Officer Powell contacted Chiefstick. San Gil explained,

“I was like with them when...the initial report...went out about...a suspicious person was called out on the radio, and they were complaining about him and...to be honest with you...I saw him since the beginning of being there at the park, and he was a nice guy. You know...he was friendly but...I knew that he was intoxicated because of his speech and...the way he was presenting himself to me. It was...pretty odd...and he just made people feel really

uncomfortable...and I was with Officer Miulli and Officer Powell...when they were gonna go make contact, but I stayed back, and then they went to go, uh, make contact with him.”

San Gil said prior to this contact he observed Chiefstick near the “police department booth.” San Gil explained,

“[I] mean he was just walkin' around and...he approached the police department booth, and he was talking to the chief a little bit, and I mean there was, there wasn't any like concern at that time...he gave the officers fist bumps. I gave him a fist bump and, you know, he went on his way. I mean...it was a positive contact.

[H]e appeared to be intoxicated. I mean he wasn't falling all over the place, but I mean just from his speech and...his mannerisms. That was my assessment. I didn't know anything about him being under the influence of, I didn't smell any alcohol on him...but I mean just his...body mannerisms, the way he carried himself. I knew that he was under the influence of something.”

Investigators asked San Gil why Chiefstick was not trespassed from the park for being under the influence. San Gil replied,

“I don't have the authority to kick him out. He wasn't committing any crimes. You know, he was making and...I didn't even know at that time, you know. I mean that was early on too and then even after the fact that there's nothing saying that he can't be intoxicated...at an event. We all, I mean I know that people go there and they drink, you know...and they have alcohol in cans and...in their own containers and so it's, it'd be really hard to enforce that...And the chief was right there.”

Wheeler:

Wheeler explained he first became aware of Chiefstick's presence at the event after receiving information from another officer.

“When I had stopped at the...police trailer...I can't remember who...they said...there was a, there's a guy out here...he may be intoxicated...we've already talked to him once...he was contacted, and he has been 86'd from a couple of the bars...just know that he's around here and we've had a few complaints on him. I'm like, do you know a name? Do you know anything about him? They're like, no.”

Wheeler said he later received a report from Officer Miulli.

“[H]e had contacted...an Indian male...they got reports that he was menacing and...was kinda bein' aggressive towards some kids or at least a couple bystanders. So, they went and talked to him...just to kind of be aware...he was



just bein' aggressive and menacing. And he was definitely 86'd from a couple of the bars.

Keller:

“No. I didn't know who he was.”

### July 3, 2019 – Deadly Force Incident

The United States Supreme Court case of *Graham v. Connor*, 490 U.S. 386 (1989), established “Objective Reasonableness” as the standard for all applications of force in the United States. Use of force applications are judged based upon,

- The totality of circumstances
- From the perspective of a reasonable officer
- On the scene
- At the moment force was used
- Without 20/20 hindsight
- In circumstances that are tense, uncertain, and rapidly evolving

The court specified four specific factors, sometimes referred to as the Graham factors, which assist in determining reasonableness. Although not required, nor all-inclusive, articulating these factors provides a good framework for justifying a particular use of force. The factors are,

- The severity of the crime
- Whether the subject was an immediate threat to the officers or others
- How the subject was actively resisting arrest
- How the subject was attempting to evade arrest by flight

Understanding the concept of reasonableness and reaction time is important in the review of use of force incidents. A person can act faster than another person can react. Perception-reaction time, can be summarized as follows:

Mental Sequence (reaction time) + Physical Sequence (movement time) =  
Response Time

Reaction time is further broken down into three components:

1. Stimulus identification (see what is happening)
2. Response selection (interpret what is happening and choose)
3. Response programming (send signal to body to react)

Officers reacting to the action of a subject must move through all three components. The subject does not since they have already assessed the situation and decided on an action without the officer's knowledge.

In complex environments, the officer's response time can range from .7 to 1.5 seconds.<sup>4</sup>

Relevant statutes regarding the "severity of the crime" include:

RCW 9A.36.021 – Assault in the second-degree states,

1. A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:
  - (c) Assaults another with a deadly weapon.

RCW 9A.04.110 (6) "Deadly weapon"

[M]eans any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a "vehicle" as defined in this section, 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.

In addition to witness reports of the events we also reviewed a partial recording of the event of July 3<sup>rd</sup>, 2019. The Poulsbo Police Department provides members with access to portable recorders for use during the performance of their duties. The use of recorders is intended to "enhance the mission of the Department by accurately capturing contacts between members of the Department and the public." Department members are responsible for making sure that the portable recorder is in good working order.

According to Poulsbo Police Department Policy 410.9 – Required Activation of VARD – members "shall activate" the portable recording device in several situations to include,

- Non-custodial contacts (Terry Stops) or Field Interviews (consensual contacts)
- Response, arrival, and investigations of in-progress calls for service

On July 3, 2019, Keller was wearing a department-issued body camera and activated the camera during his contact with Chiefstick. During the ensuing struggle with Chiefstick, Keller's body camera was dislodged from his uniform and fell to the ground and failed to visually record the scene at the moment the shooting took place. Keller's body camera remained on the ground and continued to record. The audio portion from Keller's body camera was later transcribed by KCIRT investigators and produced the following:

00:00 – 00:30 – no audio

Female: "That's not his stuff, it's that guy's stuff right there."

Keller: "Yep. I need him at the big rock."

Female: "Hey, can everybody right here just step to the right?"

Male: "I know what you're watching"

00:58 – 01:16 – (crowd noise)

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<sup>4</sup> Reasonableness and Reaction Time in Police Use of Force Incidents. June 17, 2019 – Michael Ranalli

Male: (unintelligible)  
Keller: "Yep"  
01:18 – 01:31  
Male: "Just tell the victim to stay there."  
01:34 – 01:42  
Keller: "Wait. Wait. Get your hands out of your pocket."  
Male: "Chill out, chill out."  
Male: (Unintelligible) "screwdriver"  
01:50 Keller body camera is dislodged from his uniform and fell to the ground  
Male: "Huh uh (negative) huh uh (negative)"  
Male: "Hey, get on the fuckin ground...get on the ground..."  
01:57 (shots fired)

Keller's body camera continued to record for approximately twenty minutes before it was turned off and preserved as evidence. During this period, the audio recorded apparent crowd noise, responding personnel giving attendees direction to clear the area, securing the scene, and other various comments. Of note are the following statements recorded after the shots were fired.

>03:01  
Male: "He pulled a fuckin' screwdriver out on the cop."  
>15:00  
Wheeler: "I was trying to get him out of here, and the guy turned...."  
>17:15  
Wheeler: "We were tripping over everyone's shit...."  
>20:20  
Male: (unintelligible), "he pulled a screwdriver out...then I was like whoa."

Neither Wheeler nor San Gil was wearing a body camera. Lom was wearing a body camera. However, he did not activate the body camera during the incident

Poulsbo Police Department personnel interviewed in this investigation were asked to articulate known factors present prior to and at the moment force was used, resulting in the death of Chiefstick. As pointed out in Kitsap County Prosecuting Attorney Chad Enright's decision,

"[I]t is important to read each witness statement, view each video, and try to identify 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."

Lom:

"I believe it was a male who was threatenin' some people, and I can't remember now if they even said with a, with a weapon, and they said it was near...the large rock...myself and Officer Wheeler, we walked to the rock...we got to where the rock is, and we were lookin' around, and we didn't see anythin', so we moved a little further down...So, I saw...Officer Keller...his...body language kinda showed me that...I found the person that we're lookin' for...."

[W]hen I got there, Officer Keller...approached Mr. Chiefstick, and he said somethin'...it was to the effect of hey, you, you know, you're under arrest or, or I need to talk to you...I can't remember the exact words he said, but he said, you know, basically hey...I need your attention...So, when he went and grabbed...Mr. Chiefstick, he, I can't remember if he...spun around or he slid off or what he did, but anyway, he ended up, uh, he was sittin' down. He stood up, and he lost the grasp or...Keller lost the grasp of his wrist or whatever, whatever he would've had...so at that point, Keller was still in front of me...I remember seein'...Chiefstick...he raised his hand...I could see a screwdriver in his hand...my first thought initially was, you know, how're we gonna stop this? You know, he's, he has a weapon....

[M]y first thought...one of...the several thoughts into my thoughts was that, you know, this is, it's deadly force here. You know...I, we have to shoot, and, and that's shoot. That's the only way that I saw that we were gonna be able to stop him...Because of the way he was holdin' the screwdriver, and I felt that there was no way...to stop him...I don't remember if he said anythin' or not...I can't remember....

I did not give any commands...I believe Keller was, but I don't know that for a fact...I think at some point I kinda, a little tunnel vision, you know, where I was just kinda concentrated on...the other factor with the, the deadly force is with the people that were around us. You know, at any time, he could've...you know...stabbed...somebody else. So, that was also a huge factor...it was a huge factor in a lotta things...and, to me, and I can explain that as well.

[A]s we're shiftin', my first thought was deadly force...because of his threat. So, I initially did go to grab my gun, and then the second thought, the thought right after that that came to my...I never drew my, my gun. The next thought was there's way too many people here...I can't shoot him plus where Keller was, to me, I was not gonna have a clean shot...I thought, okay, the next best thing is a Taser. Then...I reached around for the Taser, and I don't ever remember even...liftin' the...the safety holder for the...Taser itself when I heard the two shots, and I heard two shots....

[T]o me there was no way to physically engage him to do anythin'. You know, initially, like I said, my, the firearm was the first thing. I realized...I can't do that. You know, it's just, it's too much of a risk here for me, you know, where I was standin', so I went to the Taser, which I, I guess, kinda thinkin' back, that prob'ly woulda been, it prob'ly woulda been within range, but I also had, woulda had Keller...in front of me as well, so I woulda had to do somethin' more, you know, move or somethin' to be able to, to deploy that Taser."

Lom said he had heard but did not see Keller fire his weapon. Before the shots were fired, Lom believed Keller was approximately 10-15 feet away from Chiefstick.

According to Lom's July 15, 2019 report contained KCIRT's investigation into the July 3, 2019 incident,

"The suspect had moved away from us in a half-circle pattern and I followed behind him with Officer Keller to my left. I then put my hand on my holster but immediately moved it to the Taser but did not pull it out. I did not draw my pistol because of the close proximity of many citizens around us and because Officer Keller was very close to my line of sight with the subject. Officer Keller at this point was now a couple of feet in front of me and to the left making Officer Keller within approximately ten feet of the suspect...I hear two shots that sounded like they came from where Officer Keller was standing which was still approximately ten feet away from the suspect...."

San Gil:

"I was on Anderson Parkway...next to the...bathrooms and...a man and a woman approached me...the guy's name was Jonathan Lecky...he reported to me that...a man was threatening him...with a screwdriver....that's when I went to Officer Keller, and we talked about it, and...what happened was Officer Keller was, I guess, trying to contact for more officers...and in the meantime, I was getting information, so I was getting Mr. Lecky's name and contact number and that type of information from him, and then that's when I went back to Officer Keller, and he was already closing in...."

"He's (Chiefstick) standing up...he's like hovering over people and like their, you know, the, their blankets and stuff...Officer Keller tries to go hands-on...so he grabs Chiefstick, and I think he just tries to get his hands behind his back, or I mean I don't think the intent was even to...put handcuffs on him or to arrest him. It was just to, he just went hands-on to try to move him and when the struggle ensued...that's when I tried to grab the other hand, and that's when he, you know, got loose from the both of us and...presented the screwdriver...he flung away, and he...created distance between us initially, and then that's when, you know, he started to move in a little bit closer."

"His body language...he was defensive. I remember his hands being in his pockets and...I believe I may have indicated in my report, and that was from what the witnesses were saying, that he had a screwdriver in his right pocket, and so, you know, keeping, keeping an eye on his...hands were in his pockets, and so I mean I was concerned and...I went for his right arm, and when he flung away, he had it in his hand. You know, he pulled, it wasn't like he ran away...I recall him just flinging away from me, and then next thing I know is that he, he turns around, and he starts, he faces towards us, and he's got a screwdriver in his hand...It's presented in front of him...was gonna use it or that he was defending himself with it...it was upwards, it was facing up...I give him directives to get on the ground."

"I initially went for my firearm...I believe I made it to low ready before I realized that there was a lot of people around me and screaming kids. I mean...I was

spooked, and I was afraid that if I were to, need to use my firearm that I would risk collateral damage, which is people around me and seeing that Officer Keller had already had lethal, he already had his firearm pointed at him, I re-holstered my firearm, went for my Taser and by the time that I had my Taser out I mean he was already shot.”

“I believe Chiefstick had gestured and lunged forward...closing that distance, and that was perceived by Officer Keller as...a serious bodily injury or lethal behavior that warranted for that use of force...it happened so quick. I mean it wasn't, there was a lot going on.”

“[I]n my report I indicated that he, he gave multiple...commands and the ones that I can remember for sure is that he said he had a screwdriver which was basically acknowledging that he has a weapon...and I recall saying that he needed to get on the ground. That was my directive...and you know...I think at the time of that writing...me writing that report; I believed that...Officer Keller had given multiple commands. I was hearing like drop the screwdriver or something like that. Maybe it didn't come from Officer Keller, but maybe it didn't happen at all, but I mean, that was from my recollection of the incident.”

San Gil believed Chiefstick was approximately ten feet from him when San Gil drew his Taser. San Gil said,

“I had more space than Officer Keller for sure because in...my eyes, Chiefstick was the aggressor towards...Officer Keller because he was facing towards Officer Keller. He was right in front of him. He...had a...lot less space compared to...where I was. Officer Keller was to my left, and I was further away, and I had more space.”

According to San Gil's report contained within KCIRT's investigation into the July 3, 2019 incident,

“Officer Keller yelled, ‘screwdriver,’ to signify that the suspect had a weapon. Officer Keller drew his firearm and gave multiple loud, clear, verbal commands for the suspect such as ‘drop the screwdriver.’ I drew my taser and also gave verbal commands such as ‘get on the ground’ and ‘drop the screwdriver.’ I did not draw my firearm because Officer Keller had lethal cover...The suspect was about ten to fifteen feet away from us at the time and I was to the right of Officer Keller. The suspect then suddenly made a forward advancement toward Officer Keller by taking a step in Officer Keller's direction. The suspect was standing fully upright and heading toward Officer Keller. Officer Keller fired two rounds....

Wheeler:

“But then, during that roll call, while I was waitin' for my number to be called...I definitely heard Officer Keller say he needed a second unit for, to help him out.”

"I see Officer Keller standing closer over to the bathrooms...He's definitely lookin' at something or somebody, and a citizen has their back to me, and he's, they're talking...Officer Keller's walkin' over...and he's lookin' at somebody to my right, kind of oblique to me...he calls my name, and he points...I look at, there's an Indian male standing there, or at least a dark-complected male...I hear Officer Keller tell him, 'Show me your hands. Show me your hands.' And I'm now trying to step around the guy who I'm talking to, and there's all kinds of stuff on the ground, blankets, chairs, food, coolers, and I'm tryin' to get my way to him as about this same time Officer Keller gets to Chiefstick. And I see...Chiefstick, turn like this to his right. And I hear him again, 'Show me your hands'....

"As I stepped around, I hear 'screwdriver,' or what I believe I'm hearing, screwdriver, and Officer Keller grabs...Chiefstick's left arm. And as I am comin' around, I'm tripping on, tryin' to get people out of the way and tripping on stuff...I grab...Chiefstick's right arm. And he has a screwdriver in his hand, and I believe I'm the one who said 'screwdriver' again...And that was when...Chiefstick tried to stab Officer Keller, or at least lunge at him with that right arm which I have a hold of. I can't get my footing, I can't get a good grip, 'cause I wanted to bring his arm back around him (inaudible). I just wanted to get a hold of the screwdriver is what I wanted to do. And...Chiefstick was able to lunge again, and Officer Keller let go and...backed off, and he missed. I still had his arm at that point...he lunged twice or made that motion twice."

"Chiefstick ran toward where Officer Keller originally had come from...then he stopped and turned toward us, but more Officer Keller...I clearly can see the black and yellow part of the handle of the screwdriver. He's...holding it in the fashion where the point or the, the working end of the screwdriver is now up, from his thumb going up. And he's, and he turns, and he gets in a...I'm gonna call it a wrestling stance, a squatted stance. And he's got his hand out, and he's motioning like come on...I know Officer Keller had drawn his gun at that time...I know I moved back and forth at least twice 'cause Officer Keller's doing this...Chiefstick is standing in the...wrestler stance or the fighting stance, and I'm jockeying for position to be able to see help and...engage...as that's happening, I remember seeing the lady's head, there was a lady's head right next to the screwdriver, by his, by Chiefstick's right knee, and there's a baby laying on the blanket next, next to her. And that's, I looked at that, I look at him, and he starts moving forward, and that's when I, I heard two shots....

"[H]e was definitely in attack mode. He had every opportunity to continue running away...once I fell, and once Officer Keller had backed off, and Chiefstick ran toward the bathrooms, he had every opportunity to run. There was no other law enforcement officers, that I at least remember or seen, that would have blocked his way. He would have continued to run."

Wheeler in his interview believed the distance between Chiefstick and Keller was somewhere between 10 and 13 yards. However, Wheeler said during KCIRT's investigation, he was walked through the recreation and it was determined the distance "was more like five to ten feet." Wheeler explained,

"[I]t seemed like it was a really long way away when I was looking down the arm which was mine...it just seemed so far away...I had not experienced that before. Heard about it, read about it, studied about it...I had not gone through...that until this incident."

According to Wheeler's July 17, 2019 report contained within KCIRT's investigation into the July 3, 2019 incident,

"I observed a black and yellow handled screwdriver in the suspect's hand. He was moving or swaying back and forth to the right and left and motioning his hands in a 'come-on' fashion. His feet were fairly wide apart, his knees were bent slightly, and his upper body was slightly hunched over in an aggressive fighting stance...I heard Officer Keller yell at least twice to drop the screwdriver...I observed him draw his weapon...I observed the suspect coming forward toward Officer Keller with the screwdriver in his hand. Based on my training and experience, his advancement and position of the screwdriver indicated to me he was going to attack and attempt to injure or kill Officer Keller. I was in fear for Officer Keller's life because of the suspect's actions and aggression he had already had toward us (law enforcement). I was also in fear for the citizen's lives because they were so close to the suspect, he could have turned on them as well. Officer Keller fired two shots from his weapon...."

Keller:

"I think I was standin' near the command post in the parkway. Officer San Gil, Nick San Gil was speakin'...with a lady...he then turned to me...and described that she or somebody had just been threatened with...a screwdriver...in the parkway...Nick and I walked...to the parkway. San Gil was...with me...I think he mentioned somethin' about they had had some prior contact with an individual. I didn't know who, and so we walked into the parkway, and that's where San Gil just started – there's a sea of people, started lookin' for the subject that she had described."

"We walked into the area of the park and went to the south. There's...a big rock in the park that's the identifyin' mark...Officer San Gil, I believe, actually pointed him out off to the south kinda standin' on a grassy knoll. I don't know if knoll's the right word, but it was an elevated part of the park in the grass, and that's, it became clear that was, that's what we were talkin' about or who was bein' identified...I had advised CENCOM or dispatch via radio that I needed a couple more units down at the parkway and described...somebody that had...reported that he had pulled a screwdriver on...several people...and I had asked for some more units to come to my location."

"[I]t is wall to wall people durin' the 3<sup>rd</sup> of July, and he had created a space around him, around the area that he was pacin' that to me clearly indicated that people were uncomfortable, and you can, people show up early in the mornin' to reserve seats, and he had an area where he was pacin' that people had cleared out of. Durin' that timeframe, I actually watched a gentleman pick up his kid and



move, and he was, uh, this guy was, to me, in a defensive position, had his arms crossed, and it didn't look like it was a friendly conversation with...the suspect...a citizen had his arms crossed...did not look like a comfortable situation. Again...I watched him remove a child from the area...this big space...that he had created for himself because to me, it looked like people were kinda uncomfortable in movin' outta the area.”

“He was lookin' left and right. He was starin' people down. He was clearly targetin'. His hand moved to his right pocket many times...and I had information at...that point. As I was standin' there, somebody came up to me and said the screwdriver's in his right pocket. As I'm watchin' him, he's, he's targetin' that. He's fidgetin' with it. He's moved his hand there...several times....”

“[I]t's the mind subconscious...feelin' for somethin' that they...know is there, adjustin' it, and they...don't even know...they're doin' it...people that don't carry firearms a lot, you can always tell when they have a weapon on them. They are subconsciously targetin' that. They'll feel if it's there...and oftentimes, when you're dealin' with a (inaudible), it's a...pre-attack indicator, especially when you have the knowledge that he's already threatened a couple people with it I've been told, and it's...in his right front pocket, and he's starin' people down. They're clearly uncomfortable, and he's hardly pulled it out...on people.”

“[W]hen I began to approach him...I remember indicatin' to Detective Wheeler – I think I even verbally said Lee – and whether he saw me or not, I think I pointed to my right pocket indicatin' hey, this is – I mean, it was clear who we were goin' after. He was the only guy in the...in the circle, and...I approached his...left side, and I remember Detective Wheeler...comin' up on the right-hand side...the suspect...saw me comin', and I verbalized to him. As soon as he saw me comin', his hand was down by, I believe, down by his right pocket, and I said get your hand outta your pocket, and then I grabbed onto...his left arm for control...actually, his left wrist at that, at that point...and then I don't...know what happened to Detective Wheeler on the...the right side of him, but I tried to get control with his left arm...next thing I know...there's a struggle...the push, pull, tryin' to get control...he turns. He's...in a bladed position....”

“I went to try to control him...his right side was free...I think I then went to two hands, two hands, and I was just gonna try to get control and armbar him down to the ground. His right hand went into his pocket. It came out. It tried, he tried...stabbin' me in the head or in that general area. I just remember turnin' away...I could hear...screwdriver bein', bein' yelled. I couldn't tell if it was for me or somebody else, and then...I let go of him when I saw the, the plugin' stab down towards me...I disengaged...I don't know what he...did next...cause I had spun away, and when I reengaged and turned around and saw him, he was, let's call it...he was runnin' eastbound just for a very brief time when I saw him, and then he...turned and...had the screwdriver in...his hand. He began bouncin' up and down takin' a fightin' stance, and...he moved towards me again, and...he was bouncin' up and down, had the screwdriver, started movin' towards me again...I remember somebody on the side of the sidewalk...He was facin' me.

The screwdriver was literally inches from a kid's head...he started to move towards me again in...this fightin' stance, and I...shot him twice.”

Keller said when Chiefstick turned and began “bouncin’ up and down” with the screwdriver in his hand, he could not recall the distance between he and Chiefstick. Keller said prior to Chiefstick advancing toward him, “the screwdriver was literally inches from a kid’s head.”

According to the Kitsap County Autopsy report, Chiefstick,

“[D]ied of multiple (2) gunshot wounds to the head and torso. The entrance wound over the front of the face shows evidence of close-range firing on the underlying subcutaneous soft and bony tissue...A distant gunshot wound to the left front chest shows no evidence of close-range firing on the skin....”

#### Civilian witness statements:

Ryver Kallstrom:

“[T]hen as soon as he said hey, get your hands outta your pockets, 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. Um, and then...the cops saw the screwdriver in his hand, said he's got a screwdriver and at that point, 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 \*\*\*\* like a knife, and then he thrusts the screwdriver again, and that's when the cop shot him.”

Rachael Salgado-Kelly:

“I looked over, saw the police officer saying something to the man...The man went to go reach for his pocket. The police officer embraced him. The man threw the police officer or pushed him...and then he took something out of his pocket...people started yelling, ‘knife.’”

“There was a crowd of children right behind him where he was running towards...so he could have swung whatever he had in his hand and, you know, stuck a child....”

Wesley Stallings:

“[T]hey said ‘Hey...you know, take the screwdriver out of your pocket’, or ‘take the weapon out of your pocket.’ and uh, he fought with them. They-, they rushed him, he fought. He broke away from ‘em and uh, and then 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 I heard pop, pop over my shoulder and...he was down....”

Jessica Luster:

“At the point, he busted loose from the policemen, and they were trying to detain him, he turned to run, or he turns towards them as they were trying to get him to the ground. That’s when he had the screwdriver...he was trying...I guess stab the officer...and then...we heard two gunshots....”

“I could tell that the police officers wanted to...handle it quietly and discretely...I think they were trying to get him to just kind of move...away from the crowd um, and you know, just talk him down...they did not seem aggressive to me. They did not seem aggressive towards him un-, until he-, you could tell that he was not uh, the expression on his face was very disturbed, and you could tell that he was not gonna do anything that they asked him to do.”

Todd Juarez:

“He started walking away cause’ he saw the other officer and he turned around, and he lunged at the other officer with a, with the screwdriver...he turned around, and he pulled out that...screwdriver and he just lunged, you know, came at the, the other officer, and that’s when he...shot him.”

“He pulled it out of his pocket and pointed it at him, came at him with it.”

Charles Boaz:

“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.”

Lisa Michael:

“[I]f I recall, one of the police...tried to grab him. And 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 kinds swinging at it, and next thing in a split second, you hear two bang bangs....”

John League:

“[O]fficer Keller...drew his weapon and repeatedly many, many times told him to ‘get down’ and...and many, many...what do you wanna say...commands...And he seemed to kinda get up and look for somethin’...it looked like he was getting into his pocket or somethin’ like that and kept...and started walking towards Officer Keller and then Officer Keller fired at him.”

Juquante Kelly:

“[W]e all thought he had a knife. (unreadable) it was a screwdriver, but from here, we all thought he had a knife...saw him kinda run out of here and maybe three-, three cops or so come out following behind him...telling him to stop.”

Michael Michael:

“[H]is hand was up, you know...the way I had this thing, his hand was definitely up in, you know, like a ready to stab position if not actually moving...I couldn't tell for sure if he was advancing on them or not, but he had definitely turned towards them....”

