

# JON TUNHEIM

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To: The Honorable Chuck Atkins, Clark County Sheriff  
Sgt. Todd Barsness, Clark County Sheriff's Office  
Det. Fred Neiman, Jr., Clark County Sheriff's Office

From: Jon Tunheim, Thurston County Prosecuting Attorney  
Scott M. Jackson, Thurston County Deputy Prosecuting Attorney

Re: Officer Involved Shooting of William E. Abbe  
Involved Department: Vancouver Police Department  
Involved Officers: Sgt. Jay Alie, Ofc. Sean Suarez, Ofc. Sammy Abdala  
Clark Co. Sheriff's Office # 200003684

At the request of Clark County Prosecuting Attorney Tony Golick, we reviewed the case investigation file prepared by the Independent Investigation Team regarding the officer involved shooting that occurred on April 28, 2020. After a careful review of all the information contained in the investigation file, we have concluded that the use of deadly force by Vancouver Police Sgt. Jay Alie, Officer Sean Suarez, and Officer Sammy Abdala was lawful and justified under current Washington State law.

A comprehensive investigation of this incident was conducted by the Independent Investigation Team made up of detectives from the Clark County Sheriff's Office, Camas Police Department and the Battle Ground Police Department under the leadership of Sgt. Todd Barsness and Detective Fred Neiman, Jr. of the Clark County Sheriff's Office. We reviewed all information provided to us which included reports detailing the investigation, witness statements, involved officers statements, photographs, audio recordings, video, and scene diagrams. From our review, we believe the following series of events led to the death of William E. Abbe.

During the morning of April 28, 2020, William Abbe was involved in several disturbances reported to police. At approximately 7:35 a.m., Mr. Abbe reportedly had a confrontation with a citizen where he was hostile and yelling, "You want to start a war." At approximately 9:06 a.m., Mr. Abbe was reported to be at the U.S. Post Office and making threatening statements to people in front of the post office. At approximately 10:13 a.m., Mr. Abbe was causing a disturbance near the 7-11 store. These events indicated Mr. Abbe was being hostile and confrontational earlier in the day and may give insight to his state of mind on this day. However, these earlier events were not connected to Mr. Abbe until after the incident had occurred.

The events that led to the final confrontation with William Abbe started at approximately 10:46 a.m. At this time, William Abbe was walking westbound on NE Fourth Plain Blvd in the City of Vancouver. Mr. Abbe was pushing a shopping cart full of miscellaneous items. As Mr. Abbe walked toward the intersection of NE Fourth Plain and Stapleton Road, he encountered Steven Moffa who was seated at the bus stop located on Stapleton Road. Mr. Moffa was seated on

a walker near a metal railing closest to the intersection. The interaction between Mr. Abbe and Mr. Moffa was captured on the transit agency's surveillance system at the bus stop. The surveillance images showed Mr. Abbe walking toward the intersection until he encounters Mr. Moffa. It appeared there was some communication between Mr. Moffa and Mr. Abbe but there is no audio recording. Mr. Abbe immediately stopped in front of Mr. Moffa and began addressing him in a hostile manner. Mr. Abbe leaned in toward Moffa and raised his arm several times near Mr. Moffa's face in what appeared to be a hostile and aggressive gesture. Mr. Moffa remained seated during the confrontation and did not appear to respond to Mr. Abbe's aggression. At one point, Mr. Abbe obtained a metal rod from his shopping cart with his right hand. Mr. Abbe took the metal rod, raised it, and began a striking motion towards Mr. Moffa's head. Mr. Moffa raised his left hand to block the strike and it appeared Abbe pulled back at the last second but may have struck Moffa's left arm. Abbe then swung the metal rod again and appeared to strike a metal box right next to Moffa's head. Mr. Moffa raised his left arm to block the strike, but it did not appear he was struck by this second strike. Mr. Abbe continued to communicate with Mr. Moffa for a brief time and then he continued west to the nearby intersection.

A CTRANS bus driver who witnesses this incident called the dispatch system to report it and asked their dispatch system to report the situation. A CTRANS security officer, Casey Wishon, heard the call related to the incident and responded to the area. Mr. Wishon reported that when he arrived at the bus stop, Mr. Moffa was still seated on a walker near the bus stop and Mr. Abbe was in the area but not immediately near Mr. Moffa. Casey Wishon spoke to Mr. Moffa who did not appear to have any visible signs of injury and asked him to leave the bus station because Moffa had an open beer can. Mr. Wishon stayed in the area and observed a second confrontation by Mr. Abbe toward Mr. Moffa. Parts of this second confrontation were also captured on CTRANS surveillance system. The surveillance video indicates the time was approximately 11:06 a.m. at the start of this second confrontation. Mr. Moffa was at the northeast corner of the intersection of NE Fourth Plain and Stapleton Road and utilizing his walker to assist him while waiting at the intersection for the traffic light to change. Mr. Abbe crossed the intersection walking eastbound toward where Mr. Moffa was waiting. When the traffic light changed, Mr. Moffa walked northbound into the intersection to cross the street. Mr. Abbe positioned himself directly behind Mr. Moffa and began to follow Mr. Moffa. Mr. Moffa quickly changed course and began to walk southbound back toward the corner of the intersection where he had previously been standing. Mr. Abbe followed Mr. Moffa back to the same corner of the intersection. When Mr. Moffa realized Abbe was following him, Moffa turned around again and went northbound across the intersection. Casey Wishon was crossing the intersection and observed the interaction between Moffa and Abbe. Mr. Abbe then followed Mr. Moffa northbound across the intersection and continued to follow Mr. Moffa until they were outside of the camera's view. However, Mr. Wishon was able to observe the interactions that occurred outside of the camera's viewpoint and reported Mr. Abbe was still following Mr. Moffa.

Mr. Moffa returned into the view of the surveillance camera now walking westbound on NE Fourth Plain and Mr. Abbe was still following behind Mr. Moffa at a close distance. Mr. Wishon observed Mr. Abbe poked at Mr. Moffa with what he described as a stick. Mr. Wishon called 911 dispatch system to report the incident. Wishon believed the incident was going to turn into physical confrontation based on Mr. Abbe's actions. As Wishon spoke to the 911 dispatcher, he reported that Mr. Abbe had struck Moffa "hard in the head now." He told the dispatcher that it appeared Abbe had "knocked him out" referring to Mr. Moffa. Mr. Wishon then reported that Moffa had been knocked to the ground and was being beaten by Abbe. Wishon told the dispatcher

it appeared Moffa was unconscious. Wishon provided a physical description of Abbe and the cart he was pushing. Wishon told the dispatcher that Moffa needed medical attention due to him lying on the ground and being unconscious. Wishon then reported that Abbe had begun to walk away from Moffa but had turned around and walked back toward Moffa. Wishon urgently asked for the police to respond. Wishon said he was in fear for his own safety and the safety of the assault victim. Wishon continued to update the dispatcher that he was moving to a safer location due to his fear of Mr. Abbe attacking him. Once farther away, Wishon reported that Abbe had unfolded a chair and sat in it. He said it appeared Abbe was waiting for the police.

Vancouver Police Officer Sean Suarez was the closest officer to the scene and diverted from another call to respond. Officer Suarez was wearing a full police uniform and driving a marked patrol vehicle. Officer Suarez was aware there had been a physical assault and a male was on the ground potentially unconscious when he responded based on dispatched information. When he arrived, Officer Suarez noticed a male lying on the ground next to a light pole and the male appeared to be unconscious. Officer Suarez also observed a female citizen tending to the male and rendering aid. The female was yelling "Get back, Get away." At this point, Officer Suarez noticed Mr. Abbe and observed that he was approximately four feet from Mr. Moffa's location. Officer Suarez observed Abbe to be holding two "pipes" that appeared to be sharpened on the ends. Mr. Abbe was holding the pipes in each hand and brandished them in a manner that could only be construed as weapons. Some witnesses referred to the weapons as metal pipes or metal rods. The objects were later determined to be solid metal rods with the ends sharpened into spikes. Upon making these observations, Officer Suarez drew his firearm and yelled at Abbe to get back (from the victim) and ordered him to drop the weapons. Abbe backed up initially but did not drop the weapons and instead walked over to his shopping cart. Officer Suarez gave several commands to "drop the pipes and get on the ground." Abbe did not comply with these commands. In response, Abbe threw one of the metal rods at Officer Suarez. Officer Suarez described that Abbe threw the metal rod at his head and he had to seek cover behind a vehicle to avoid being struck. Officer Suarez then came back around the vehicle and continued to command Abbe to drop the metal rod and get on the ground. By this time, other Vancouver Police Officers began to arrive. Mr. Abbe told the officers on scene, "Fuck you. You're going to have to shoot me. I'm here to finish a job." Officer Suarez indicated there was a request made to have a 40 mm less lethal device brought to the scene as none of the other officers on scene had this type of equipment.

When additional Vancouver officers began to arrive on scene and to engage Mr. Abbe, a bystander named Brandon Fager began video recording the incident using his cell phone camera. Mr. Fager was seated in a parked vehicle in the parking lot where the incident occurred. The Fager video is the best evidence of what transpired immediately before the shooting and the events that occurred immediately after the shooting. The video began with three Vancouver Police Officers including Officer Suarez talking to Mr. Abbe in the parking lot. A fourth officer positioned himself next to Mr. Moffa who is still laying on the ground being tended to by the female citizen. All the officers have on full police uniforms and there are several police vehicles that can be seen in the background. Officer Suarez appeared to have his firearm drawn along with the other assisting officers. The officers appeared to be verbally engaging Mr. Abbe. Based on reports and witness statements, the officers were commanding Mr. Abbe to drop the weapons and get on the ground. The evidence showed that Mr. Abbe was aware the officers were present, and they were wanting him to drop the weapons. Mr. Abbe made several statements to the police that evidenced defiance and desire to have a confrontation.

Officer Defabbo arrived and joined into this group of officers and Mr. Abbe walked toward the officers in an aggressive manner. Mr. Abbe had a metal rod in each hand and brandished them as weapons. There was some communication between Mr. Abbe and the officers, however, the cell phone recording does not pick up the verbal interaction between Abbe and the officers. As the cell phone video continued, Officer Suarez began to advance with two cover officers toward Mr. Abbe. Mr. Abbe began to walk toward the group of three officers with weapons in hand. The group of three officers backed up as Abbe began closing the distance. At this point, Officer Defabbo holstered his firearm and drew his tazer. Mr. Abbe stopped for a moment and appeared to be motioning toward Mr. Moffa's position. At this time, Officers Suarez, Defabbo and one other officer began to move toward Mr. Abbe. Officer Defabbo deployed his tazer at Mr. Abbe. The tazer probes did not appear to effectively hit Mr. Abbe and he was not incapacitated. In fact, Abbe took the metal rod in his right hand and made a sweeping motion that knocked the tazer probes from his jacket. He then walked over to his shopping cart and retrieved a larger, heavier jacket and put it on. This appeared to be an effort by Mr. Abbe to defeat any future attempt by the officers to use the tazer device.

Vancouver Police Sergeant Jay Alie came into view of the video just as the tazer was deployed. Sgt. Alie took up a position away from the group of three officers approximately fifteen feet to the left of the group and did not have his weapon drawn. Sgt. Alie reported that he called for a K9 officer and less lethal devices to be brought to the scene. Mr. Abbe continued to engage with the officers in a hostile manner and did not follow the commands given to him. Abbe paced back and forth along the sidewalk area and waved the metal rods around in a menacing manner. Mr. Abbe then went to the shopping cart and retrieved a large, softball sized rock. Once he had obtained the large rock, Abbe cocked his arm back and gestured as if to throw it at the group of four officers who were positioned closest to Mr. Abbe. The group of officers took cover behind a vehicle in the parking lot. Mr. Abbe taunted the officers with the rock a couple times and then proceeded to throw the rock with great velocity at the heads of the officers who were nearby. Upon seeing this, Sgt. Alie also took cover behind a van in the parking lot. The rock flew by the heads of three officers as they quickly ducked for cover to avoid being hit. The rock did not strike any of the officers. Mr. Abbe continued to make threatening gestures toward the officers. There were additional communications between the officers and Mr. Abbe. Casey Wishon later told investigators that Mr. Abbe was given multiple commands to drop the weapons. Mr. Abbe was saying things such as "Let's do this" and "shoot me motherfuckers."

At this point, Sgt. Alie attempted to communicate directly with Mr. Abbe. Sgt. Alie indicated he talked to Mr. Abbe in an effort to de-escalate him and the situation. The video recording substantiated there was direct communication between the two but there is no audio of what was said. Mr. Abbe focused his attention directly toward Sgt. Alie and began to approach his position. At this point, Sgt. Alie was the only officer who had not drawn his weapon. Mr. Abbe approached Sgt. Alie at a deliberate pace while holding the metal rods in each hand. As Mr. Abbe walked closer, Sgt. Alie began to back up in an attempt to create some distance. He also drew his firearm. Mr. Abbe continued forward directly at Sgt. Alie with metal rod in each of his hands. On the video, Mr. Abbe appeared to say something directly to Sgt. Alie. In his interview, Sgt. Alie reported that Mr. Abbe said, "I am going to kill you." As Abbe approached, Sgt. Alie extended his firearm and pointed it directly at Mr. Abbe. Mr. Abbe continued toward Sgt. Alie and he fired a shot toward Mr. Abbe's chest. Mr. Abbe did not go down but instead turned to the side and stepped toward his left. He did not drop his weapons. Sgt. As Mr. Abbe started to walk in the direction of where the other officers were positioned, Sgt. Alie fired a second shot. Just after Sgt.

Alie fired a second round, Officer Suarez fired two shots in quick succession at Mr. Abbe. Mr. Abbe appeared to fall after being struck by Sgt. Alie's second round and Ofc. Suarez fired as Mr. Abbe began to fall and hit the ground. Officer Abdala fired a single shot at Mr. Abbe from behind the white Toyota Camry just after Mr. Abbe hit the ground. All three officers fired within a span of just over three seconds.

Once Mr. Abbe was on the ground, he was still moving around and raised one of his arms. Sgt. Alie gave directives to the officers about how to approach and place Mr. Abbe into custody. The officers placed Mr. Abbe into handcuffs, and he appeared to be conscious and moving at this point. Once Mr. Abbe was secured, Officer began to render aid almost immediately. From the video evidence, the officers began rendering aid within a minute of the shooting ending. Most of the one minute of time was spent developing a plan to approach and securing Abbe into handcuffs. Multiple officers are seen on the video assisting Mr. Abbe after he was shot. The Fager video ends before medical personnel arrived on scene but continued to show multiple officers attending to Mr. Abbe. Medical aid arrived and rendered aid to Mr. Abbe. Mr. Abbe did not survive the gunshot injuries. An autopsy was performed on Mr. Abbe on April 29, 2020. The autopsy report indicates Mr. Abbe sustained two gunshot injuries to the chest cavity and a third gunshot injury to the front pelvic area. A single projectile was recovered from Mr. Abbe's body, it was located in his left hip area. It appears the chest wounds are consistent with an entry wound on one side of the chest cavity and exit wound on the other side.

The lawful use of deadly force by a police officer is set forth in RCW 9A.16.040. This statute details the law regarding a justifiable homicide or the use of deadly force by a public officer, a peace officer or a person aiding an officer. The statute reads:

**Justifiable homicide or use of deadly for by public officer, peace officer, person aiding-Good faith standard**

(1) Homicide or the use of deadly force is justifiable in the following cases:

(a) When a public officer applies deadly force in obedience to the judgment of a competent court; or

(b) When necessarily used by a peace officer meeting the good faith standard of this section to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty; or

**(c) When necessarily used by a peace officer meeting the good faith standard of this section or person acting under the officer's command and in the officer's aid:**

**(i) To arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony;**

(ii) To prevent the escape of a person from a federal or state correctional facility or in retaking a person who escapes from such a facility;

(iii) To prevent the escape of a person from a county or city jail or holding facility if the person has been arrested for, charged with, or convicted of a felony; or

(iv) To lawfully suppress a riot if the actor or another participant is armed with a deadly weapon.

(2) In considering whether to use deadly force under subsection (1)(c) of this section, to arrest or apprehend any person for the commission of any crime, the

**peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others.** Among the circumstances which may be considered by peace officers as a "threat of serious physical harm" are the following:

**(a) The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or**

**(b) There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm.**

Under these circumstances deadly force may also be used if necessary to prevent escape from the officer, where, if feasible, some warning is given, provided the officer meets the good faith standard of this section.

(3) A public officer covered by subsection (1)(a) of this section shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable pursuant to this section.

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

RCW 9A.16.040 (emphasis added).

As detailed above, a police officer may use deadly force to arrest or apprehend a person who the officer reasonably believes has committed or attempted to commit a felony. Further, the officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others. The officer also must believe (subjective component) there is a threat of serious physical harm wherein the suspect threatens a police officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or there is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm. If all these circumstances exist, there must still be a finding that the officer acted in "good faith" in that a similarly situated reasonable (objective component) officer considering all the facts and circumstance would have believed the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual.

In applying the law to the factual situation described above, the evidence demonstrated Vancouver Police Sergeant Jay Alie, Vancouver Police Officer Sean Suarez and Vancouver Police Officer Sammy Abdala were justified in using deadly force on April 28, 2020. In this case, Mr. Abbe committed several felony assaults on April 28, 2020. The Vancouver Police were initially dispatched to contact Mr. Abbe based on the assault of Mr. Moffa. The evidence showed that Mr. Abbe committed an Assault in the Second Degree (both deadly weapon and substantial bodily injury prongs) when he struck Mr. Moffa in the head with the metal rods which he wielded as weapons. Mr. Moffa had been struck in the head several times and had been rendered unconscious by the strikes according to the primary witness, Casey Wishon. The investigative reports also indicated that Mr. Moffa suffered a head injury that required hospitalization based on Mr. Abbe's assault. The evidence supports a conclusion that the officers were attempting to apprehend or

arrest Mr. Abbe who the officers reasonably believed had committed an Assault in the Second Degree. In addition, while trying to apprehend and arrest Mr. Abbe, the evidence showed Abbe also committed two separate felony assaults against officers. Mr. Abbe threw one of the metal rods at Officer Suarez shortly after arriving on scene. He also threw a large, softball sized rock at heads of three officers while they were attempting to arrest Mr. Abbe. These actions constituted both Assault in the Second Degree and/or Assault in the Third Degree.

The statute requires that each officer must have a subjective belief that the use of deadly force was necessary to prevent serious physical harm or death. Sgt. Alie, Officer Suarez, and Officer Abdala each individually detailed in their statements that they subjectively believed Mr. Abbe posed a serious threat of harm to themselves, to other officers, and to the citizens in the area. The evidence supported that the officers were threatened by Mr. Abbe on multiple occasions by displaying a weapon in a manner that could reasonably be construed as threatening. As discussed above, Mr. Abbe was armed with weapons throughout the events leading up to being shot. Mr. Abbe had at least three steel rods he displayed, used and wielded as weapons. He both used the metal rods as weapons and made several threatening movements with the weapons that could only be perceived as an indication he intended to use the metal rods as weapons. In fact, Mr. Abbe used the metal rod as weapon against Mr. Moffa and later threw one of the metal rods at Officer Suarez. Mr. Abbe also threw a large rock at the heads of three officers who were standing in a group. When Mr. Abbe approached Sgt. Alie saying he was going to kill him, Sgt. Alie sincerely believed Mr. Abbe was intending to cause serious physical harm or death to him if not stopped. Officer Suarez and Officer Abdala also held the same belief that Mr. Abbe would seriously injure or kill Sgt. Alie. They also feared for their own safety and the safety of others, including Mr. Moffa. The evidence demonstrated that each officer formed a sincere belief that if Mr. Moffa was not stopped, he was going to cause serious injury or death.

When Mr. Abbe began to approach Sgt. Alie, Mr. Abbe had a metal rod in each hand and said that he was going to kill Sgt. Alie. It is noteworthy that Mr. Abbe specifically targeted the only officer who had not drawn his handgun. Mr. Abbe continued advancing on Sgt. Alie even after he had pulled out his handgun and pointed it towards him. These facts can only lead to the conclusion that the officers were justified to reasonably believe Mr. Abbe was intending to use the weapons against Sgt. Alie. The evidence demonstrated that the officers had a reasonable belief the suspect if not apprehended or arrested, posed a threat of serious physical harm to the officer or was a threat of serious physical harm to others. There were numerous civilians in the area and Mr. Moffa was still laying on the ground being attended to by a helpful citizen.

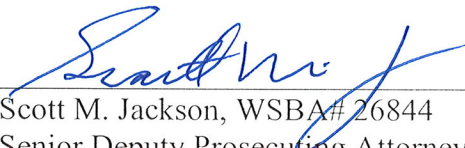
The previously mentioned statute provides two instances to be considered to evaluate whether probable cause exists to believe the person poses a threat of serious physical harm or death. RCW 9.16.040 (2) (a) and (b). Each of the two factors discussed in the statute were present in this case. There was probable cause to believe that Mr. Abbe had committed a crime involving the infliction or threatened infliction of serious physical harm. Mr. Moffa had been assaulted with the same metal rods and had indeed suffered serious physical harm by use of these weapons. In addition, the officers had probable cause to believe Mr. Abbe had committed felony assault (Assault in the Second Degree/Assault in the Third Degree) by throwing the metal rod at Officer Suarez and by throwing the large rock at the heads of the three officers. Based on these facts, the officers reasonably believe Mr. Abbe was committing a felony assault that involved the threatened infliction of serious physical harm when he approached Sgt. Alie with the two metal rods in each hand and said he was going to kill him. Mr. Abbe had been confronted by officers for several

minutes, he had been told numerous times to drop the weapons, he had been tazed, he had firearms pointed at him, he disregarded all commands and continued to state that he wanted a physical confrontation.

Finally, the actions of the officers must be looked at under the “good faith” or “similarly situated officer” standard of the statute. This good faith standard requires a finding that a similarly situated reasonable officer would have believed the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual. Based on the totality of the circumstances described above, the evidence supports that a reasonable officer knowing all the facts and circumstances which were present during this incident would believe the use of deadly force against Mr. Abbe was necessary to prevent death or serious physical harm to one of the officers or another individual. All three of the officers that fired their weapons either feared for their own safety or the safety of the other officers and civilians at the scene. The decision to use deadly force was made by three separate officers based on the culmination of these series of events. Each officers’ independent decision to use deadly force against Mr. Abbe was reasonable and the evidence showed it was necessary under these facts. Based on all the evidence, the conclusion reached is the use of deadly force against Mr. Abbe by Sgt. Alie, Officer Suarez, and Officer Abdala was necessary, justified and lawful.

We wish to extend our gratitude to the investigating officers for their investigative work and for their assistance during our review.

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