

OFFICER INVOLVED SHOOTING REVIEW  
ETHAN A. MURRAY  
INCIDENT DATE: JULY 6, 2019  
SCSO DEPUTY JOSEPH WALLACE  
TO: SPD DETECTIVE BRIAN CESTNIK  
FROM: LARRY HASKELL  
DATE: OCTOBER 23, 2019

### **PERTINENT FACTS**

At about 5:26 pm on May 4, 2019, Spokane County Sheriff's deputies were dispatched to the area of the Parkside Apartments at Mirabeau at 2820 N. Cherry St. in Spokane Valley, WA. The call was to a portion of a large complex of buildings just east of Cherry St. Police Dispatch advised that a 9-1-1 caller had reported that a male (later determined to be Ethan A. Murray), wearing no shirt, was running between kids that were playing outside, that no weapons were seen, and no assault had occurred, and that the male appeared to be very high. Murray was described as being white, in his 30's, no shirt, black sweats, and covered in dirt. Further, that Murray will come and go from a well-known drug dealer's apartment and had been pacing the fence-line.

SCSO Deputy Joseph Wallace arrived on scene shortly after the call. Wallace observed children playing all about the complex. Wallace also noticed several adults who appeared to be gathering up their children from outside. Wallace then observed a female standing just east of K building who waved Wallace over to her. She repeatedly yelled, "Over there", pointing to the northeast. When Wallace asked what was going on, she stated "He's threatening the children out here!"

Wallace looked in the direction she was pointing and observed a white male (Murray) who appeared to be in his 30's, who was wearing black sweats and a white sweatshirt. Wallace asked if that was him, and the female replied, "Yes, yes that's him!" Wallace reported that the female was clearly scared, as her voice was shaking and, once she had pointed out the male,

she began to back away as if in fear. Concerned about what he had heard, Wallace jogged over towards Murray to further investigate and determine if a crime had been committed.

By this time, SCSO Deputy Grif Criswell had arrived and was attempting to engage Murray. However, at that point, Murray and Criswell were separated by an approximately 8-foot high fence with barbed wire on the top. Wallace could hear Criswell attempting to speak to Murray, but Murray pulled his hood up, hiding his face, and was ignoring Criswell. Wallace eventually found a spot in the fence to crawl under and observed Murray making his way to the east; to a wooded area. Wallace attempted to catch up to Murray. Wallace noticed that Murray was repeatedly reaching around his right waistline area as he moved rapidly to the east. Wallace lost visual contact with Murray as Murray made his way over a large rock. Wallace yelled, "Stop! Police!", but Murray only yelled back what sounded like, "Fuck you". Wallace kept police radio updated as the chase progressed. Wallace took a different path around and up the rock hoping to cut Murray off. Once Wallace reached the top of the rock, he and Murray were face-to-face, only feet from one another, with Murray standing behind a sparse and short sapling.

Wallace again yelled something to the effect of, "Police! Stop!" Murray replied with, "Fuck you. Make me!" Murray took a bladed stance and balled his fists, holding his left one up and his right one cocked back. Murray yelled loudly at Wallace. Murray's expression was one of extreme anger and rage. His eyes were wide and he stared right at Wallace. Murray punctuated each word he spoke with a lunge in Wallace's direction. Fearing that an attack was imminent, Wallace drew his firearm and pointed it at low ready; towards the ground in front of Murray, and advised police dispatch that he had one at gunpoint. (By this time, Deputy Criswell had arrived nearby and observed only portions of the confrontation between Murray and Wallace.)

Wallace yelled, "Show me your hands!" Murray responded, "No!" Again, Wallace yelled, "Show me your hands!". Murray then said something to the effect of, "You can't make me!" and

then, "It's just you and me out here!". Wallace then pleaded with him, "You have to stop. I don't want to hurt you. Just put your hands up". Murray then repeated, "Just you and me" and reached his right hand towards his right pants pocket. Wallace perceived Murray as a threat and that Murray was preparing to act on the threat.

Murray then began to pull something out of his pants pocket. It appeared to be a few inches long and about an inch wide. It had a black handle, which Wallace perceived as a pocket knife. As Murray was trying to get the object out of his pocket, Murray was saying, "Here it is, you and me!". Wallace yelled back, "Put it down!" Murray ignored Wallace's commands and was grunting and staring at him with an expression of extreme anger. Murray began inching his way towards Wallace, still in a bladed stance with his left foot forward, and his right hand still trying to get the object out of his pocket.

Suddenly, Murray pulled what appeared to be a knife out of his right pocket and quickly advanced on Wallace with the apparent knife in an offensive position in his fist. Believing that he was about to be stabbed, Wallace pointed his pistol at Murray and fired several times. Murray fell to the ground and rolled backwards down the side of the rock he had been standing on. Criswell had arrived and was partway up the hill when the shots were fired.

Both Wallace and Criswell were on their way down the hill when SCSO (Spokane Valley) Deputy Travis West arrived. The three Deputies secured Murray and immediately began emergency aid. Medics had already been called in. Murray was declared deceased at the scene.

The follow-up investigation determined that Murray was not armed with a knife. It was determined that the object Murray was pulling from his pocket was a pair of black sunglasses that were located very near the small tree that Murray had been standing near during the confrontation.

## OFFICER INTERVIEWS

### SCSO Deputy Joseph Wallace

On 05/04/19, I was working as part of the Spokane Valley Police Patrol Division. I began my shift at 2:00 pm. I was wearing my department approved green jumpsuit uniform with "POLICE" clearly marked on the back, Sheriff's Deputy badge on the front, and Spokane Valley Police Patch on the left shoulder. I was driving a blue and white marked Spokane Valley Police patrol vehicle, equipped with red and blue emergency lights and an emergency siren. The primary magazine I carry in my duty pistol is equipped with a magazine extension. Although the extension allows for 2 extra rounds, I only carry 1 extra round in order to prevent over-tension on the magazine spring.

On 05/04/19 at approximately 5:30 pm, I responded to a Disorderly Person call at 2820 N. Cherry St. Spokane Valley, WA. 99216. While on my way I was informed by dispatch that someone had called about a male (later identified as Ethan A. Murray) running in between children who appeared to be "Very High". The male was described as a white male in his 30's wearing no shirt, black sweats, and covered in dirt. The caller had seen the male come and go from a "known drug dealer's apartment". The male was "pacing fence line" and the caller was concerned about the children. I was told the caller was in the K building of the complex and the male was coming and going from the building "behind the [ caller ]'s".

I arrived at the apartment complex shortly after receiving the call. There were children playing all about the complex. I also noticed several adults who appeared to be gathering up their children from outside, which seemed odd to me. When I arrived, I parked my patrol car at the southeast corner of the L building in the complex. I walked around the south side of the L building and made my way along the east side of the L building towards the K building.

I saw a female standing in the grass to the east of the K building. She was a white female with brown hair. She was wearing a black shirt, jeans, and sunglasses. She waved me towards her, and I ran to meet her. She was pointing frantically towards the north east of us. She said

repeatedly "over there!" as she continued pointing north east. I asked what was going on, and she replied something to the effect of, "He's threatening the children out here!" I looked in the direction she was pointing and I saw a white male who appeared to be in his 30's. He was wearing black sweats, and a white sweatshirt. I asked the female, "Is that him?" as I pointed to the male. She looked at the male I had seen and replied, "Yes, yes that's him!" The female was clearly scared as I could hear her voice shaking; and, once she pointed out the male, she began to back away as if in fear.

Hearing what she said and seeing her reaction, I became increasingly concerned. I realized, if this suspect was threatening children, he could be a threat to any of the numerous innocent people who were walking all over the complex. I knew I needed to react quickly in order to further investigate the threat and make sure the public was not in danger. I began to jog over to where I saw the suspect so I could make the situation safe and then further investigate whether a crime occurred.

I heard over the radio that Deputy Criswell had arrived at the complex. I told him to head to the north east corner of the complex where the suspect was. As I was jogging towards where the suspect was, I saw Criswell had already reached him. However, the suspect was on the east side of a long fence running north south that separated the apartment complex and large wooded area to the east. The fence was approximately 8 feet high with barbed wire on the top. As I continued towards the suspect and Criswell, I could see the suspect was ignoring Criswell. I could hear Criswell tell him to stop multiple times, but the male was ignoring him and had pulled his hood up hiding his face. Worried the suspect would continue to not obey commands from Criswell while we were separated by a fence, I began to look for an opening in order to get to the east side of it where the suspect was. As I searched, I noticed the suspect had suddenly left quickly east bound from the fence and into the wooded area.

I knew the wooded area to east was connected to the Mirabeau Park. That day the weather was clear and sunny. It was a Saturday and I know from personal experience on a day

like that, Mirabeau Park and the surrounding wooded area would be filled with citizens of all ages enjoying their weekend and the weather. Based on the information I had received about the potential threats to children, and now seeing how the suspect had acted erratically, ignored commands from Dep. Criswell, and was now actively fleeing from Law Enforcement, I was extremely concerned that the suspect posed a threat to public in the wooded area and Mirabeau Park if I did not act.

I ran to the south along the fence in search of an opening in order to get to the other side of the fence and stop the suspect from fleeing towards the public in the wooded area and Mirabeau Park. I found a spot where I could lift the fence and crawl underneath it. Once on the other side of the fence I saw the suspect was still hastily making his way east. I jogged to catch up with the suspect. I noticed he was repeatedly reaching around his waistline, especially towards his right side as he rapidly moved east. I lost visual contact with him momentarily as he made his way up and over a large rock. I yelled, "Stop! Police!" and heard him yell back what sounded like, "Fuck you!" I advised over the radio that the suspect was running, and which direction he was going. I took a different path around and up the rock hoping to cut him off. Once I emerged on top of the rock I suddenly came face to face with the suspect.

The suspect was approx. 6 feet away from me. He was standing directly behind a very sparse and short sapling. I yelled again something to the effect of, "Police! Stop!" He again responded with "Fuck You! Make me!" As he said this, the suspect took a bladed stance and balled his fists holding his left one up and his right one cocked back. He was yelling at me loudly. His expression was one of extreme anger and rage. His eyes were wide and staring right at me. As he yelled, he punctuated each word with a lunge in my direction. I believed he was going to attack me, so I wanted to back away and create distance to protect myself. However, I had nowhere to go as we were both standing on a rock and there was a steep and jagged drop off behind me.

At this point, I was alone in the wooded area with a suspect who was being extremely aggressive and who I believed was going to attack me. I also knew that it might be difficult for assisting Deputies to find me there to offer assistance and back up and that I had no way to back out or create distance between me and the suspect. The situation was rapidly developing and suddenly becoming increasingly dangerous. Fearing that an attack was imminent, I drew my firearm to a low ready position with it pointing at the ground in front of the suspect. The suspect was so close to me that I had to hold my firearm close to my torso in order to prevent him from lunging and grabbing it away from me. I advised over the radio that I had "one at gunpoint" in order to expeditiously communicate the severity of the situation, however, in all actuality, my firearm was not pointed at the suspect but rather at the low ready position.

I yelled, "Show me your hands!" The suspect responded, "No!" Again, I yelled, "Show me your hands!" The suspect said something to the effect of, "You can't make me!" He then said, "It's just you and me out here!" Based on his demeanor, tone of voice, and aggressive actions, I believed the suspect's statement was a direct threat to me. I pleaded with him saying, "You have to stop, I don't want to hurt you. Just put your hands up!" He repeated, "Just you and me," as he reached his right hand towards his right pant pocket. Again, I believed the suspect was directly threatening me, and considering his movement towards his pocket, I believed he was prepared to act on this threat. As I was trying to communicate with him and deescalate the situation, he appeared to be contemplating or planning his next move. Also based on his movements it was clear his thoughts included whatever object was in his pocket.

Hoping the information would reach other deputies who were on their way to assist me, I advised over the radio that the suspect was threatening me and continuously reaching in his pocket as he did so. The suspect reached into his right pant pocket and began pulling out an object. It appeared to be a few inches long, and about an inch wide. It had a black handle which I recognized as that of a pocket knife. I noticed a silver or grey glistening reminiscent of a blade from the end of the black handle as he was struggling to get it out of his pocket. He continued

trying to get the object from his pocket all the while saying, "Here it is, you and me!" I yelled, "Put it down!" But he ignored me, grunting and staring at me with an expression of extreme anger. His jaw was clenched, and he was baring his teeth in between guttural outbursts. He began inching his way around the sapling towards me, still in a bladed stance with his left foot forward, and his right hand still attempting to get the knife out of his pocket. I believed he was preparing to attack me.

Suddenly, the male pulled the knife out of his right pocket, and I saw a flash of what appeared to be silver or gray which I believed was the blade of the knife. He held it in his right clenched fist with the blade protruding from the bottom of his fist. At the same time, he swiftly stepped around the sapling directly towards me, staring at me still as he yelled out a noise I could not understand. Now he was only approximately 5 feet away from me, with his right fist raised above his shoulder, clenching the knife with the blade facing towards me, and rapidly advancing towards me. I believed he was going to stab me. Having nowhere to go, fearing for my life, and having no other option considering the proximity of the deadly attack, I pointed my pistol using a stance directed firing position at the suspect and began firing. I fired until the attacker stopped advancing towards me with the knife and fell to the ground. I heard Criswell say on the radio "Shots fired".

The suspect was doubled over with his hands underneath him. He rolled backwards, and then down the north side of the rock we were on. He stopped at the bottom of the rock facing down with his hands still underneath him. Criswell arrived and joined me on top of the rock. I told him I was ok, but that the suspect had a knife. Now having a fellow deputy with me, and not knowing whether more threats existed, I conducted a tactical reload placing a full magazine in my pistol and stowing the magazine I fired from on my duty belt.

I yelled down to the suspect that we wanted to help him, but he needed to show his hands. I could see he was still breathing, but I knew it was not safe to approach him considering he had just attacked me. I was concerned the suspect still had the knife in his hands which I

could not see. Both Criswell and I continued to yell down at the suspect that we wanted to help him and would if he would just show us his hands. The suspect was still visibly breathing, but was not responding to us.

Deputy West arrived at the bottom of the rock. I pointed out where the suspect was laying. As West held security for Criswell and me, we made our way down the rock in order to render aid to the suspect. Once down the rock we moved to the suspect, West placed handcuffs on the suspect and then removed his sweat shirt. I noticed the suspect had a gunshot wound to the chest. I have received basic first aid training, and based on this training I knew these can cause a condition called "sucking chest wound". I pulled out my QuickClot and removed the plastic packaging. I gave the packaging to West who already had plastic gloves on. I told him to use the packaging as an occlusive dressing on the chest wound. West continued rendering aid. I began putting on my plastic gloves to assist.

Deputy Getchell arrived along with several others. I informed Getchell I had been involved in the incident.

### **SCSO Deputy Grif Criswell**

On 05-04-19 at approximately 5:35 pm, I arrived on scene at a call of a disorderly person (later identified as Ethan A. Murray) at 2820 N Cherry, which is a large apartment complex. Initial information provided by dispatch was that there was a white male in his 30s running in between kids playing and he had his shirt off. He appeared high and/or intoxicated and was covered in dirt. The complainant also provided that he had been coming from a "known drug dealer's apartment" and had been pacing the fence line, presumably the east fence line that runs the length of the complex facility.

I parked in the upper lot west of building K. I saw that Deputy Wallace had arrived just prior to me and his vehicle was parked near the southeast end of the complex. Wallace advised me via radio to proceed to the northeast area of the complex and that Wallace believed the

male was in that location. I went to the north side of building K and went through to the east fence line. I saw a male in a dirty white hooded sweatshirt walking on the eastern side of the fence while I was on the west side of the fence. The distance between us initially was approximately 25 feet. The fence was approximately 8-foot high standard chain link with two strands of barbed wire on top. The area to the east of the fence is state wooded land.

The male was white and bald with some facial hair. He walked with an apparent unsteady gait and appeared to have a distant stare. He appeared to be in his 30s and was wearing black pants. A female in the parking lot told me, "that's the guy". The male then looked at me and pulled his hood up and turned his face away from me. I said something like "Hey man, what's going on?" and he walked along the fence now approximately 5 feet from me with the fence between us. I hit a pole with my flashlight in an attempt to get his attention and said something like "Hey man, what going on?" again. I received no response from him and he continued to conceal his face by intentionally turning away and pulling the hood forward. The male then made a sharp 90 degree turn to the east and headed into the woods not acknowledging anything I said to him as he did so. He walked rapidly, but with the same unsteady gate towards a large pile of fallen trees. I advised dispatch and Wallace that he (Murray) was heading into the wooded area.

The area is known to have numerous transient camps in it. I saw that Wallace had walked south along the fence line, presumably attempting to find a way through to the east side. The same female that pointed out the male told me that there was a hole in the fence just to the north of the complex. I walked approximately 100 yard to the hole in the fence. At this point I lost visual contact with both Wallace and the Murray.

Once I emerged on the east side of the fence, I walked in a southeasterly fashion towards the area I had last seen the male. I was almost to the fallen trees where I had seen him, when I heard Wallace advise via radio that the male was running from him. I looked east of the fallen trees and saw Wallace running up a rock outcropping after the male. He appeared to be about

30-40 feet behind the male. I began jogging toward them and as I got closer, I had to run through a treed area and lost visual for a short period of both Wallace and the male as they were now presumably on top of the outcropping. I heard Wallace advise over the radio that he had the male at gunpoint and he wasn't showing him his hands.

I emerged from the trees and was approximately 30-40 feet from the bottom of the outcropping. I saw Wallace pointing his pistol at the male. I heard him telling the male to show his hands numerous times and that he (Wallace) didn't want to hurt him. The male was standing to the north of Wallace approximately 15-20 feet away at the northern edge of the outcropping above an approximate 40-foot downward slope. The male took a bladed stance with his left shoulder forward towards Wallace. The male had a frenzied look on his face and was very jittery, moving his feet as if about to run. I could see his right arm was reaching around his right side near his waistband and pocket area. I was unable to see either of his hands. From my position it appeared that Wallace would not have been able to see the male's hands either. The male was clearly looking at Wallace and I heard him say to Wallace, "Fuck You!" more than once and something about his "pocket".

Wallace advised via radio that the male threatened him and said he had something in his pocket. It appeared to me that the male was aggressively attempting to retrieve something from either behind him or from his right pocket area. At this point, I reached the bottom of the outcropping and was downhill about 35-45 feet from Wallace. Because of the steep sloped rocky terrain of the outcropping, I looked down at my feet to ensure I was taking reliable steps as I ascended to Wallace's location. As I was looking down at my footing, I heard approximately 4-5 gunshots. I looked up and saw the male drop out of my view. I simultaneously continued my ascent to Wallace and advised dispatch of "Shots fired" and that medics were needed. When I reached Wallace, I asked if he was okay and he said he was. He told me something like, "He pulled a knife or something on me".

We immediately began to check on the male. He had rolled approximately 35-40 feet down the north slope of the outcropping and was at the bottom on his knees, leaning forward with his head and hands tucked in and out of view. Only his back was visible. He was making some high pitched groans and was visibly breathing. We gave commands to show his hands and that he needed to so we could treat him. We received no response other than the groans from him. Deputy West had advised he was on scene and I directed him via radio to the hole in the fence. He arrived within what seemed to be a couple of minutes of the shots being fired.

Once West was able to cover the male, I approached downhill and converged on the male with West. The male was still breathing and moaning. I grabbed the back of his sweatshirt along with West and we pulled him back so we could treat him and clear him of weapons. West handcuffed the male. There was a large amount of blood on the chest area and left side of the head of the male. West removed the sweatshirt from the male and I could see a definitive bullet hole in the left pectoralis major just below the nipple and between said nipple and the sternum. West used the plastic/mylar packaging from some Quikclot as a seal and pressed it against the wound. We all spoke to the male encouraging him to breathe and that medics were on the way. While waiting for medics, several other deputies arrived and began to establish perimeter positions. The male's breathing slowed during this time period.

As other deputies arrived, I advised via radio the need for red and yellow crime scene tape. I ascended the outcropping again with Deputy Reyes to advise him of the shooting scene location. From that location, I directed Deputies Cinkovich and Woolard as to where to string the red and yellow tape.

While on top at the scene, I saw 4 silver shell casings slightly forward and to the right of where saw Wallace standing when confronting the male. Where the male had been standing, I saw a pair of black plastic framed "Wayfarer" style sunglasses. Just north of the glasses, I saw what appeared to be a white "Bic" style ball point pen stuck in the ground. The pen was missing

the rear plug. Just north of the pen on the downward slope of the outcropping was a black "Bic" disposable type plastic lighter.

### **SCSO Deputy Travis West**

On Saturday, 5-4-19, at 5:29 pm, I was dispatched to a disorderly male, later identified as Ethan A. Murray, at the Parkside at Mirabeau Apartments located at 2820 N. Cherry St. The complainant, Brett A Gilead, reported an approximately 30-year-old, shirtless W/M (white male), with black sweats, and covered in dirt was running between kids playing at the complex. Gilead said, the male appeared high and/or intoxicated and had gone in and out of an apartment known for drug activity. Gilead did not know the apartment number but said it was behind his own apartment, K107. See additional reports.

I entered the area of the call at approximately the time Deputies Wallace and Criswell broadcast they had eyes on the male and he was walking eastbound. Wallace asked that I take Mirabeau Parkway based on his direction of travel. I made it to the park JEO (just east of) the apartment complex when Criswell advised of a hole in the fence line to the north of the complex. I did not know if he meant the male had slipped through a hole to the north, so I turned around and got directly north of where I believed they were but did not see anyone. I heard Wallace broadcast "he's running". It sounded as though Wallace was in a foot pursuit, so I activated my emergency lights and siren and went to the complex. I heard Wallace broadcast something about being "threatened" and that he had "one at gunpoint". Approximately when I entered the complex, I heard it broadcast "shots fired". I drove to the north eastern most part of the complex next to the northern garages and found a hole cut in the fence leading to the woods east of the complex. I yelled "Wallace" multiple times as I feared he was hurt but was not sure exactly where he was.

Multiple people started to yell from the balconies something to the effect of "they're shooting over there" and pointed directly east. At this point I saw Wallace and Criswell

approximately halfway on a hillside with multiple rock cliff edges, trees and small shrubbery around them. They were both looking to the north down the slope yelling something to the effect of "show us your hands, we want to help you".

At the base of the slope, I saw the male curled in in ball, face down on his knees with his left arm tucked under him at his waist. His head was faced approximately SE and his backside was faced approximately NW. I advised both Deputies I had rubber gloves and started to put them on while they maintained cover on Murray. I walked up to the male from the west and yelled for him to show his hands, so I could help him. The male did not move or respond to my commands. I took hold of both his arms and brought them behind his back and placed him into handcuffs. I rolled the male straight backwards onto his back, so I could assess his injuries and render him first aid.

I saw a gunshot wound to the left side of his head approximately behind his ear. There was blood on the male's sweatshirt which was zipped up. I unzipped his sweatshirt and saw a gunshot wound to the left side of his chest at his pectoral level. The male appeared to still be breathing and his eyes were open. I told him multiple times to keep breathing and we were there to help him. Wallace had already retrieved his quik-clot gauze packet and handed it to me. I took the gauze out and started to pack the chest wound. Wallace told me it was a sucking chest wound and to instead use the quik-clot package to create a chest seal on the wound. I removed the bit of gauze I had packed into the wound and placed the package directly on the wound. I held direct pressure on the wound and felt the package suck down as the male took a breath. I held pressure on the wound until I was relieved by fire personnel. The male was still taking breaths when I was relieved.

## LAY WITNESS INTERVIEWS

### Brett Gilead

(Mr. Gilead was interviewed by SCSO Detective Marc Melville on 5/4/19):

Brett Gilead called 911 about 5:30 on May 4, 2019. Gilead is a resident of the Apartment Complex at 2820 N. Cherry Street. He called 911 to report that a male with no shirt, black sweats, covered in dirt was running in between a group of playing children. The individual appeared to be very high. Gilead was concerned for the children's safety. Gilead confronted the subject because he was concerned for the safety of the children, his fiancée, himself and others. He observed law enforcement arrive and try to make contact with the suspect who was now on the other side of the fence in what he described as the wooded area. The suspect appeared high.

### Katelyn Hay

(Ms. Hay was interviewed by WSP Detective Ryan Spangler and SCSO Detective Marc Melville on 5/4/19):

Katelyn Hay can testify that she was in a tent in a wooded area east of the apartment complex at 2820 N. Cherry Street. She was there watching a dog for a friend who was living in the tent. At some point after her arrival she heard the sound of running feet exited the tent and grabbed the dog. She saw a white male running up the hill. She also heard other people running up the hill but could not see them as they were on the other side away from the tent. She heard the other person yell freeze you're under arrest at the suspect. At that point she knew it was the police. The suspect then turned around to face the where the officer was and responded, "what for?". She could not hear the officer's response. At that point, the suspect was moving toward the officer and reaching into his waistband as if to pull out a weapon. The suspect had something in his hand. The officer yelled at the suspect numerous times to drop it or show his

hands or something to that effect. She did not clearly remember the exact word. The suspect then made a quick motion with his arm like he was going to use a weapon. The officer shot numerous times. The suspect fell and rolled down the hill.

### **Emily Sutherland**

(Ms. Sutherland was interviewed by WSP Detective Ryan Spangler on 5/4/19):

Emily Sutherland can testify that her fiancée is Brett Gilead. That they were watching the children playing with other children on the lawn on the eastside of the complex. That the suspect was moving through the children playing and causing concern for the children. She described the suspect as a white male with no shirt, dirty wearing sweats or pants. She also saw Brett confront the individual and ask him to leave. Both she and Gilead described the suspect coming and going from a known drug dealers' unit. She observed officers show up and try to make contact with the suspect, who was now on the other side of the fence in the open area. The suspect ignored officers and ran to the east. She heard what she believed to be 6 gunshots. She also heard law enforcement say "drop it".

### **Kaylee Holden**

(Ms. Holden was interviewed by WSP Detective Ryan Spangler on 5/4/19):

Kaylee Holden was a friend of Emily Sutherland. She and Sutherland were watching their children playing. A white male with no shirt, dirty, who looked not in his right mind was running through the kids and scaring them. The suspect stared at her for no reason and scared her. She next saw the suspect with a white hoodie on the other side of the fence in the open space wooded area. She watched as police tried to make contact and the suspect fled east. She lost sight of the police and the suspect. She next heard put your hands up or something to that effect. She then heard what she believed to be 6 shots.

## **Kenneth Beach**

(Mr. Beach was interviewed by WSP Detective White and SCSO Deputy Randy Watts on 5/4/19):

Beach advised earlier in the afternoon he was at one of the apartment garages (later advised the second garage from the back garage) at the apartment complex and was working on a friend's car. He advised their friends' kids were down there playing in the grass and a transient guy was making the kids feel uncomfortable. He advised it was a white male, between the age of 25-35 years old. He advised the male was wearing a gray or white sweatshirt, which he thought had a hood. He thought the male was wearing jeans, and advised he had socks on. He advised the male had like a plastic grocery bag with him. He advised that you could see like maybe some clothes in it, but that was all he could see. He advised the guy was taking stuff out of it and putting stuff in his pockets like he was trying to organize it and it was weird. He advised the male was acting strange, so he asked the person to leave.

When talking with him about the communication with the male, he advised that he told the male that there were some uncomfortable kids there and asked him to leave and go somewhere else. He advised the male said ok, but he didn't move and kept doing his stuff (talking about putting stuff in his pockets). He advised that he asked the male again to leave and the male told him ok, and started walking and only went up the grassy hill. He advised the male was then sitting on the grass by himself.

He advised at that point he left him alone, and the male left them alone and it wasn't uncomfortable and the kids were playing in a different section. He advised the male did not appear to be under the influence; but did advise the male was and was not comprehending. Beach thought the male possibly had a mental disability. He advised the male's speech was ok, but he was out of it and not all there upstairs. Beach advised that he did not hear any gun shots.

**Nada Alazzawi:**

(Nada Alazzawi was interviewed by SCSO Detective Marc Melville on 5/4/19):

At about 3:35 pm, she had been sitting in her vehicle and saw the male suspect standing in front of her vehicle. She described the male as a white male of average height and that he had facial hair. He was wearing a light colored hooded sweatshirt with writing across the front. He was not wearing shoes and she described his socks as having darker colored toe and heel areas than the rest of the sock. In her opinion, his behavior indicated the presence of psychological issues, though she did not elaborate.

At approximately the same time, Nada's son, Aws Alazzawi, had told her about the same male. Aws told her the male had touched his scooter. Based on the male's behavior, Nada contacted management and reported his behavior. Nada did not recognize the male and had not seen him before.

Nada left the apartment complex and went to a park just east of the shooting scene. While at the park, she heard what she believed to be five gunshots. She did not witness the shooting, she only heard it. Upon returning to the apartment complex shortly after the shooting, she reported seeing a female walking a black dog who claimed to have witnessed the shooting. Nada said the female was upset and crying.

**Aws Alazzawi**

(Aws Alazzawi was interviewed by SCSO Detective Marc Melville on 5/4/19):

It should be noted Aws is seven years old. He told me he had been at his apartment and walked out the door with his scooter. The male was standing in the passageway servicing the third-floor apartments. He described the male as white with a bald head and a beard. He was wearing "white clothes," socks, "no shoes," and his dark blue "jeans were all ripped up." The male's hands were very dirty and he had a "diamond ring" which Aws believed was "a lot of

money ring." Additionally, the male was carrying a backpack which had "a lot of stuff in there." Aws had never seen the male before.

The male asked Aws if he could touch his scooter. Aws immediately thought the question was weird and said the male touched the scooter. After touching the scooter, the male showed Aws the "diamond ring." Aws thought it was strange the male had such a ring because he was homeless and did not think the male would have a diamond ring. When Aws walked down the stairs, the male walked with him at which point the male pointed out a fake fish which was lying on the ground at the base of the stairs. The male tried to tell Aws the fish was real. Aws walked to his mother's location and told her what had happened. Aws, Yousif (Aws' brother) and Nada left and went to a nearby park. While at the park, they heard gunshots and returned home shortly after.

### **LEGAL ANALYSIS**

RCW 9A.16.040 controls the analysis when an officer uses deadly force. Under RCW 9A.16.040(1), the use of deadly force is justified in the following instances:

(1)(c) When necessarily used by a peace officer meeting the good faith standard of this section:

(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;

(2) In considering whether to use deadly force under subsection (1)(c) of this section (above), 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 such 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.

Note: Under (1)(c)(i), homicide or use of deadly force is justified if used to arrest or apprehend a person who the officer "reasonably believes" has committed a felony. Reasonable belief means a belief that would be held by an ordinary and prudent person in the same circumstances as the actor. "Reasonably believes" does not mean that the officer must be correct about the facts. It means that, at the time the deadly force is applied, the officer relied upon facts from such sources and under such circumstances that it would be reasonable for the officer to believe in their accuracy.

The law applied to this sequence of events:

Here, Deputies were called to the apartment complex for a “disorderly person.” It was reported that the male person (later identified as Murray) was running in between children that were playing outside and, according to one witness, was “threatening the children.” It was reported that the male appeared to be “very high” and was “covered in dirt”, and had been coming from a “known drug dealer’s apartment.” As Wallace stated in his report, “I began to jog over to where I saw the suspect so I could make the situation safe and then further investigate whether a crime occurred” and to determine if Murray “posed a threat to (the) public.” By way of corroboration, Deputy Wallace actually observed several adults gathering up their children in the complex area. With the available information at the time, the Deputies had legal authority to contact with Murray. For his part, Murray initially avoided contact with the Deputies and departed the area “rapidly” to the east towards a wooded area as law enforcement attempted to catch up with him.

As the situation continued to develop, Murray changed his behavior from avoidance to aggression. Once Murray began to climb a large rock on a hill and Wallace yelled out for him to “stop”, Murray yelled by something like, “Fuck you”, back at the Deputy. When they met near the top of the rock, within close proximity to one another, Murray continued to curse at and challenge Wallace verbally. Then Murray assumed a fighting stance and yelled loudly at Wallace. Murray’s expressions exhibited extreme anger and rage. His body language was clearly consistent with these emotions. Due to Murray’s proximity to Wallace and his aggressive posturing, Wallace drew his pistol and pointed at the ground in a “low ready” position. Clearly, Murray could observe that Wallace had done so. Murray was standing only feet from the Deputy.

However, rather than give up, Murray followed up with additional statements such as “It’s just you and me out here” and “Here it is, you and me!” When Wallace told Murray to show him his hands, Murray responded with “No, you can’t make me!” Murray reached into his pocket and

began to pull out an object that appeared to Wallace to be a knife. Wallace described it in his report as “a few inches long and about an inch wide”, with a “black handle”, and a “silver gray glistening reminiscent of a blade with a black handle.”

As Murray pulled the item out of his pocket, he quickly stepped around the small sapling tree he had been near, yelled out, and advanced directly towards Wallace, clenching what appeared to be a knife in an offensive manner. Deputy Wallace felt Murray intended to assault him. During the confrontation at the top of the hill, every action that Murray took and every word he spoke was clear evidence of intent to provoke a serious confrontation. As Murray closed on Wallace, Wallace used deadly force to repel the attack.

During the confrontation, Wallace had given Murray numerous commands including, “Stop! Police!” (twice), “Show me your hands” (twice), and, as Murray was trying to remove the item from his pocket, “Put it down!” Murray ignored all of Wallace’s commands.

Under these facts, there is no evidence that Deputy Wallace used deadly force for other than a statutorily lawful purpose. From the start of the confrontation, Murray was verbally abusive, aggressive, challenging, and assaultive in his conduct and body language. The statutory requirements are met.

## **CONCLUSION**

Deputy Wallace was justified in his use of deadly force in this circumstance. The evidence indicates Wallace acted with a good faith belief that his actions were justified under the statute. Therefore, no criminal liability attaches.