



# Kitsap County Prosecuting Attorney

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## MAY 7, 2025 – OFFICER INVOLVED SHOOTING 17393 VIKING WAY NW

Justin Moegling was shot and killed by Poulsbo Police Officer Nickolas Brown and Kitsap County Sheriff's Office Deputy Wyatt Galbreath on May 7<sup>th</sup>, 2025, on Viking Way in Kitsap County, Washington. The shooting occurred after law enforcement officers attempted to pull over Moegling's vehicle for a traffic infraction. Law enforcement engaged in a low-speed pursuit of Moegling utilizing spike strips on two occasions followed by a PIT maneuver to stop his vehicle. Once Moegling's vehicle stopped, the officers attempted to detain him. Moegling exited his vehicle while armed with a large kitchen knife. Officers unsuccessfully used pepper balls and tased Moegling twice in order to detain him. After the second Taser deployment, Moegling raised the knife over his head and moved toward officers. In that moment, both Officer Brown and Deputy Galbreath fired. Moegling was struck multiple times. Moegling was transported to St. Michael Medical Center where he was later pronounced dead.

An independent investigation into the circumstances of Moegling's death was conducted by the Washington State Office of Independent Investigations (OII). The Washington State Legislature created OII in 2021 to conduct thorough, transparent, and unbiased investigations of cases that involve police use of deadly force.

The statute creating OII directed the establishment of the OII Advisory Board to work with the new agency and advise it on policies and procedures. This 11-member board includes law enforcement, community members, a representative of a federally recognized Washington tribe, a mental health professional, a prosecutor, a defense attorney, a member of the Criminal Justice Training Commission, and family affected by incidents of police use of deadly force.

The death of Justin Moegling is the first investigation that OII has conducted within Kitsap County.

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

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

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This standard calls on us to consider reasonable defenses against potential criminal charges in all cases we review. This standard recognizes that all people are presumed innocent and should not be charged with a crime unless those prosecuting the case have a good faith belief that the evidence at trial would produce a unanimous verdict of guilt beyond a reasonable doubt.

#### BASIC FACTS

The entire OII investigation is a public record. Witness statements and evidentiary analysis can be found in their totality within that investigative report. The statements below are based upon the investigative reports from OII but should be considered in conjunction with the OII investigation as a whole.

Use of deadly force by law enforcement officers is inevitably tragic. Lost within the legal analysis and review of evidence is the story of Justin Moegling. The investigation by OII necessarily focuses on the conduct of the law enforcement officers and their decision to use deadly force rather than an investigation of Justin Moegling. OII investigators did, however, speak with his family and friends, each of whom cared deeply for him.

Moegling touched many people's lives. A friend described him as "kind and gentle" when things were going well for him. Particularly noteworthy were stories about how Moegling's small acts of kindness often left big impressions on those around him. It was said that he "wanted to do right by everyone." They reported to OII that he had a passion for music. He often found peace while playing the guitar.

His friends and family also noted that Moegling had ongoing mental health concerns. He had been in and out of treatment over the years and often turned to self-medicating. However, he had just recently reached out to family and friends to help him re-engage with mental health services.

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At 8:29 p.m., Poulsbo Officer Jeff Timm was assisting Officer Dominic Pastor who was conducting a traffic stop on Bond Road in Poulsbo. During that stop, Officer Timm noticed a silver Toyota Prius driving southbound on Bond Road. Timm noted that the Prius had heavily tinted windows. Officer Timm had seen the same vehicle in recent days but had not had an opportunity to stop it.

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At 8:34 p.m., Timm left the traffic stop on Bond and attempted to stop the Prius for a moving violation because of the over-tinted windows. It was later found that the Prius was being driven by Justin Moegling. The Prius proceeded south on Bond, then east on Northwest Lindvig Way, making a left turn at the intersection of NW Lindvig and Viking Way. Officer Timm was behind the Prius at this time. Timm activated his overhead lights to pull over the Prius when the traffic light turned green. Both cars turned left on to Viking Way.

Timm reported to dispatch that the Prius failed to pull over. Timm advised Kitsap 911 dispatch that he was traveling “approximately two miles an hour.” He also advised dispatch that he was unable to see inside of the vehicle because of the tinting. Timm was notified by dispatch that a vehicle with the same license plate as the Prius was reported being involved in a vehicle prowl the previous day.

Poulsbo Officer Pastor joined Timm’s pursuit of the Prius. Both Pastor and Timm’s emergency lights remained activated. Pastor’s siren was activated.

Poulsbo Officer Don Majillo deployed a spike strip in the southbound lane of Viking Avenue at approximately 8:42 p.m. A spike strip is a tool used to impede or stop the movement of cars by puncturing the tires. The Prius slowly passed over the spike strips and continued southbound.

Majillo noted that the slow speed caused him to suspect the driver may have been under the influence of drugs or alcohol. Majillo noted that “a fear of ours was that, that car was gonna head on with somebody that’s traveling at the speed limit and they’re gonna get somebody killed. So, we’re like, ah crap. This dude might be DUI.” Toxicology tests later showed that Moegling was not under the influence of drugs or alcohol. But this information was not available to the officers at the time of the pursuit.

Officer Brown attempted spike strips a second time at approximately 8:47 p.m. Again, the Prius traveled over the strips at low speed and continued southbound.

Officers then attempted a Precision Immobilization Technique (PIT Maneuver) to stop the Prius. Sergeant Bogues positioned his patrol vehicle behind the Prius and used his vehicle to push on the Prius’s right rear fender. That forced the Prius to turn and come to a stop facing west in the southbound lane of Viking way. Due to the window tinting, officers were unable to determine how many people were inside the Prius. Ultimately, the Prius was stopped about 14 minutes after the initial pursuit began.

Six law enforcement officers were ultimately present with the stopped vehicle. Officer Timm, Officer Brown, Officer Pastor and Officer Majillo were joined by Kitsap County Sheriff’s Deputies Galbreath and Lillie shortly after Moegling stopped. They began to discuss options that were available to detain Moegling. Officers on scene were equipped with both pepper balls and a Taser.

Pepper balls are a less lethal weapon than a firearm and are fired in the form of round plastic balls filled with a powdered irritant, similar to pepper spray. A pepper ball launcher looks like a paint ball gun.

Taser is the brand name of a device that delivers an electrical pulse through two barded projectiles or by directly pressing the weapon’s contacts against skin. The electrical pulse is intended to disrupt a person’s voluntary muscle control and briefly incapacitate them.

Moegling briefly exited the Prius after it stopped. However, the Prius continued to slowly roll, and Moegling got back into the car, closed the door, and the vehicle stopped. Officers theorized that Moegling had left the car in drive and he got back inside to put the car into park. However, while he was outside of the vehicle, officers began giving him commands to put his hands up which Moegling ignored.

Officers continued to give Moegling commands to exit the vehicle and told him that he was under arrest. Officer Majillo, Officer Brown and Deputy Galbreath decided to attempt to break the back window of the Prius to fire pepper balls inside the car.

Using both Shatterballs and his patrol rifle, Officer Majillo was able to create a large hole in the rear window. Shatterballs are a brand name for spiked steel balls, designed to break tempered auto glass. Officers continued to give commands to Moegling to exit. Sergeant Bagues asked dispatchers to have medical aid units stand by on Viking Way.

Officer Pastor saw Moegling turn around in his seat, digging for something in the back seat. Deputy Galbreath fired four additional pepper ball rounds inside the Prius through the broken rear window.

Moegling then stepped out of the Prius holding what appeared to be a knife. The investigation ultimately revealed that it was an 8-inch-long kitchen knife. Moegling initially held the knife in his right hand. Officers immediately ordered Moegling to drop the knife while officers backed up creating space between them and Moegling. In review of body camera footage, Deputy Galbreath can be heard saying “he’s got a knife. Backup.”<sup>1</sup> Moegling took two steps in the direction of officers. At that point, Deputy Galbreath fired seven pepper balls, several of which struck Moegling.

Moegling stopped moving forward but then held the knife in both hands directly under his chin, as if he were threatening to stab himself. At this point, Officer Majillo can be heard saying “you’re gonna get shot. Drop the fucking knife, dude. Please. Hey, brother, we don’t want to do this, man. Hey, my name’s Mojo. What’s your name?”

Deputy Galbreath said “hey, we need you to drop the knife man.”

Moegling then began walking towards officers again. Galbreath fired four more pepper balls, stopping Moegling. Moegling lowered the knife from his chin and then held it with the blade downward. Officers continued to back away from Moegling to maintain a distance from him.

Deputy Lillie then fired his Taser at Moegling. Moegling was struck by the probes and fell backward to the ground. Moegling struggled against the electric charge and swung the knife.

Moegling then stood up, still armed with the knife. Deputy Galbreath fired another pepper ball, striking Moegling. Deputy Lillie then reactivated the Taser. Moegling again fell to the ground but maintained control of the knife and quickly appeared to try to stand up. Moegling got to his knees, where he raised the knife above his head and lunged towards Officer Brown and Deputy Galbreath.

At approximately 8:56 p.m., Moegling is seen on officer body camera raising the knife and moving forward toward the officers. Moegling is only a few feet away from the officers. OII investigators determined that Brown fired his patrol rifle nine times and Galbreath fired his pistol at least once. Some evidence suggests Galbreath may have fired a second round, but the evidence does not clearly establish Galbreath firing a second shot.

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<sup>1</sup> All further quotes are taken from review of Axon body camera and/or vehicle camera footage of the incident.

After firing, Deputy Galbreath is heard asking Moegling to crawl away from the knife. Officers on the scene were still unsure if there was another person in the Prius. The officers are heard ordering anyone else in the car to exit. Deputy Galbreath starts providing Moegling first aid as soon as it is determined that officers can safely approach him.

In the moments immediately after firing, Officer Brown can be heard on body camera recording saying, "He came at me with the knife."

Officer Brown later stated to OII investigators that "he (Moegling) lunged, he, he like popped up and he lunged and he raised the knife up and I didn't, I didn't know if he was gonna throw it or if he was gonna make like a large, I mean, that's kind of what I thought at first is he was just gonna go arch swinging motion at us. Um, I didn't know if he was coming at me or deputy Galbreath. I mean, we were like shoulder and shoulder right next to each other."

Following the shooting, law enforcement officers removed the knife from under Moegling's arms. Moegling was handcuffed and aid was called. Officers used a tourniquet and gauze to attempt to treat Moegling before aid arrived. Moegling appears to still be breathing and somewhat responsive to the officers. Medical personnel from Poulsbo Fire Department arrived minutes later. They asked that Moegling's handcuffs be removed. Moegling still had a pulse when aid arrived. Moegling was transported to St. Michael Medical Center in Silverdale. Records indicate Moegling was admitted to the hospital at 9:28 p.m. The reports indicate Moegling had a pulse and was attempting to speak. However, Moegling's condition deteriorated quickly, and he was pronounced dead at 9:52 p.m.

OII was notified of the shooting at 9:31 p.m. The first investigative agency to arrive was the Kitsap County Incident Response Team (KCIRT). KCIRT is an independent investigation team (IIT) made up of qualified and certified peace officer investigators and civilian crime scene specialists who operate independent of any involved agency to conduct investigations of police deadly force incidents. Bremerton Police Department Captain Aaron Elton was the KCIRT commander at the scene. KCIRT secured the scene until OII arrived. The first OII investigator arrived at 10:30 p.m. and assumed command of the scene at 10:34 p.m.

An autopsy was performed by Dr. Lindsey Harle of the Kitsap County Medical Examiner's Office. Dr. Harle determined that the cause of death was a gunshot wound to the head. A toxicology report from the Washington State Patrol Toxicology Laboratory found no evidence that Moegling was under the influence of any controlled substance.

#### BURDEN OF PROOF

The State must prove every element of a crime charged beyond a reasonable doubt. *State v. Brown* (2002) 147 Wash.2d 330, 58 P.3d 889. Criminal charges will not be filed unless the prosecutor has a good faith belief that the crimes charged can be proven "beyond a reasonable doubt" to an impartial jury.

A "reasonable doubt" is doubt for which reason based upon evidence exists. *State v. Pam* (1981) 30 Wash.App. 471, 635 P.2d 766, review granted, affirmed 98 Wash.2d 748, 659 P.2d 454. When a reasonable defense exists, the state bears burden of proving beyond a reasonable doubt the absence of that defense. *State v. Fuller* (1984) 39 Wash.App. 104, 692 P.2d 203, review denied, reconsideration granted, reversed in part 42 Wash.App. 53, 708 P.2d 413, reconsideration denied.

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RCW 10.120.020 outlines permissible use of force in Washington, and RCW 9A.16.040 provides circumstances in which a law enforcement officer's use of deadly force can be justified.

The State of Washington has the burden of proving the lack of self-defense beyond a reasonable doubt. This standard applies to all cases, not just cases involving law enforcement officers. Prosecutors should have a good faith belief that they can meet this legal burden before bringing criminal charges in any case where the defense of self-defense may reasonably be raised.

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LEGAL ANALYSIS

It is undisputed that Justin Moegling was killed by law enforcement officers. The primary legal issue is whether the shooting was permissible or criminal.

**A. RCW 10.120.020 PERMISSIBLE USES OF FORCE.**

RCW 10.120.020(2) provides that law enforcement officers may only use deadly force in limited circumstances.

“DEADLY FORCE. Except as otherwise provided under this section, a peace officer may use deadly force against another person **only when necessary to protect against an immediate threat of serious physical injury or death** to the officer or another person. For purposes of this subsection: "Immediate threat of serious physical injury or death" means that, based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the peace officer or another person.” RCW 10.120.020(2) (Emphasis added).

Here, Officer Brown and Deputy Galbreath used deadly force only after multiple attempts at less lethal force were attempted by several different officers. More importantly, officers refrained from using deadly force until (1) Moegling armed himself with a knife; and (2) lunged toward the officers.

Based on the totality of the circumstances, it was objectively reasonable to believe that Moegling had the present ability, opportunity, and intent to immediately cause death or serious bodily injury to the officers. The use of deadly force was permissible under RCW 10.120.020. The second significant legal issue is whether the shooting was in good faith.

**B. RCW 9A.16.040 - JUSTIFIABLE HOMICIDE OR USE OF DEADLY FORCE BY PUBLIC OFFICER, PEACE OFFICER, PERSON AIDING—GOOD FAITH STANDARD.**

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

**or is attempting to commit a felony”** (Emphasis added) This statute codifies the conditions established by voter initiative in I-940 for law enforcement officer use of deadly force.

**1. Officers reasonably believed Moegling had committed and was attempting to commit a felony.**

The initial stop of Moegling was for his tinted windows. This is not a felony. However, the evidence does not suggest that the officers used deadly force to apprehend him for window tinting. Rather, deadly force was not used until Moegling raised the knife above his head and lunged in the direction of the officers.

The evidence suggests that law enforcement officers believed, at a minimum, Moegling was committing, or was about to commit, the crime of assault in the second degree. The elements of Assault in the second degree are set forth in RCW 9A.36.021(1)(c):

- (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.”

The term “assault” is not defined in the criminal code. Courts use common law to define the term. *State v. Krup*, 36 Wn.App. 454, 457, 676 P.2d 507 (1984); *Peasley v. Puget Sound Tug & Barge Co.*, 13 Wn.2d 485, 504, 125 P.2d 681 (1942). Three definitions of assault have been recognized by Washington courts: (1) an attempt, with unlawful force, to inflict bodily injury upon another; (2) an unlawful touching with criminal intent; and (3) putting another in apprehension of harm whether or not the actor actually intends to inflict or is incapable of inflicting that harm. *State v. Hupe*, 50 Wn.App. 277, 282, 748 P.2d 263 (1988), disapproved of on other grounds by *State v. Smith*, 159 Wn.2d 778, 154 P.3d 873 (2007). Accord, *State v. Madarash*, 116 Wn.App. 500, 513, 66 P.3d 682 (2003). *State v. Hupe*, 50 Wn.App. 277, 748 P.2d 263 (1988), contains an extended review of cases defining the term “assault.”

The term “deadly weapon is defined in RCW 9A.04.110(6) as:

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.

The knife possessed by Moegling meets the statutory definition of a “deadly weapon.” The witness statements and body camera footage show that Moegling assaulted Officer Brown and Deputy Galbreath when he raised the knife above his head and lunged towards them. This act reasonably caused fear and apprehension and meets the elements of assault in the second degree.

The statements made by the witnesses are consistent with the body camera footage of the incident. Moegling is clearly seen holding the knife above his head and lunging at the officers. The facts provide probable cause to conclude that both Officer Brown and Deputy Galbreath

believed Moegling was committing the felony crime of Assault in the Second Degree when they used deadly force.

## **2. Officers had probable cause to believe Moegling posed a threat of serious physical harm to them.**

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

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

Officer Brown told OII investigators, “I feared for my life and Deputy Galbreath’s life ‘cause we were the ones he was coming at. Um, and then I just, I remember when he raised his arm and he lunged, that’s when I, I made the decision to fire, and I did.” This statement is consistent with the video and statements of other officers on scene.

The evidence establishes that Moegling was armed with a deadly weapon and that the officers were aware that he possessed the weapon. After he was repeatedly told to drop the knife, Moegling was tased twice and hit with multiple pepper balls, and still he maintained control of the knife and lunged towards the officers. The evidence establishes that Officer Brown and Deputy Galbreath had reason to believe Moegling posed a threat of serious physical harm to themselves and others.

## **3. Application of Good Faith standard**

Finally, RCW 9A.16.040 (4) provides that:

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. (Emphasis added)

“Good faith” is defined in WAC 139-12-020 as:

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

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deadly force was necessary to prevent death or serious physical harm to the officer or another individual. (Emphasis added).

Application of the “good faith” standard necessarily involves considering what was “known to the officer” at the time the officer applied deadly force. In this investigation, Officer Brown provided a statement that allows us to reach reasonable conclusions about what he knew.

**a. Poulsbo Police Officer Nickolas Brown**

Officer Brown agreed to an interview with OII investigators, which provides insight into his subjective knowledge.

Brown described his initial contact with Moegling outside the Prius. Brown noted that “I always remember that face. And then the knife, I just remember the, the knife, it looked like it was like brand new or it was like buffed or something. Like, it was, it was so shiny. Um, but he was holding it about knife or chest. He was holding the knife at about chest level. I remember him just looking at me. And, um, I mean, I’ve, I’ve seen people with like the thousand-yard stare, but this one was different.”

Brown approached Moegling after the Taser was applied the second time. In the moments before using deadly force, Officer Brown described that “[Moegling] locked up for the second time. He got up really fast. Like he fought through it really quickly, um, still had the knife in his hand. Um, so we, I think we took like one step and then he got up. Um, and he, he got like, he, he jumped up. Um, he, he got up so fast. Um, and then I remember him raising his arm as he was like, he got up and lunged towards me and he raised his arm with the knife in his hand. Um, and I just, at that point I realized how close he was and he, he raised that hand with the knife in his hand. And, um, uh, and, but I mean, when he lunged and he, he raised that knife up. Um, yeah, like I, like I said, I realized how close he was.”

Officer Brown’s statement is consistent with the evidence found in the body cameras and the statements of other witnesses. In consideration of what was known to him at the time, the “good faith” standard regarding Officer Brown has been established and we can conclude that **Officer Brown’s use of deadly force was justified under RCW 9A.16.040.**

**b. KCSO Deputy Wyatt Galbreath –**

Review of Deputy Galbreath’s conduct under the “good faith” standard is complicated by the lack of evidence concerning what Deputy Galbreath “knew” at the time he chose to use deadly force. Unlike Officer Brown, Deputy Galbreath exercised his rights under the 5<sup>th</sup> Amendment to decline to make a statement about what he knew. Certainly, we can review the evidence and make reasonable inferences as to what we believe he likely knew. However, making these reasonable inferences must be weighed against Deputy Galbreath’s own sincere belief that he would incriminate himself if he made a statement regarding his actions, thus revealing his knowledge of the incident.

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“The Fifth Amendment, made applicable to the states through the Fourteenth Amendment, commands that no person ‘shall be compelled in any criminal case to be a witness against himself.’” CONST. amend. V, *State v. King*, 130 Wn.2d 517, 523, 925 P.2d 606 (1996). The Fifth Amendment privilege permits a person to refuse to testify at a criminal trial, or to refuse to answer official questions asked in any other proceeding, where the answer might tend to incriminate him or her in future criminal proceedings. *Id.* at 523-24.

If a witness invokes the Fifth Amendment, the legitimacy of the claim of privilege is a question for the court, not the witness. *State v. Parker*, 79 Wn.2d 326, 332, 485 P.2d 60 (1971). This determination is “vested in the trial court to be exercised in its sound discretion under all the circumstances then present.” *Id.* Unless the question would “obviously and clearly” incriminate the witness, a claim of privilege against answering it must be supported by facts which, aided by the use of “reasonable judicial imagination,” show the risk of self-incrimination. *Eastham*, 28 Wn.App. at 532. “The danger of incrimination must be substantial and real, not merely speculative.” *State v. Fish*, 99 Wn.App. 86, 92, 992 P.2d 505 (1999), citing *State v. Hobble*, 126 Wn.2d 283, 290, 892 P.2d 85 (1995).

Here, we are considering a witness’s 5th Amendment rights in the context of an investigation, rather than their testimony before a court. As such, there is no judicial determination of the legitimacy of a witness’s claim that they may incriminate themselves. We assume his belief is “substantial and real, not merely speculative.” We trust that Deputy Galbreath, through discussion with counsel, has a good faith belief that he may incriminate himself and is appropriately exercising his constitutional right to remain silent.

Although the evidence does not clearly demonstrate an obvious risk for self-incrimination, we take Deputy Galbreath’s assertion of his rights at face value. Given that Deputy Galbreath has a sincere belief that he may incriminate himself, it is difficult to make inferences that would suggest he would not incriminate himself.

The burden of proof is on the State to prove, beyond a reasonable doubt, that Deputy Galbreath’s conduct does not meet the “good faith” standard. Given the video evidence and the statements of other witnesses, **insufficient evidence exists to prove beyond a reasonable doubt that Deputy Galbreath’s conduct is not in compliance with RCW 9A.16.040.** As such, criminal charges will not be filed.

CONCLUSION

Regardless of the legal issues at hand, the death of Justin Moegling is tragic. Although officers are trained extensively on how and when to use deadly force, they never want to use that force.

The most striking evidence in the case is seen in the body worn cameras of the law enforcement officers at the scene. In particular, the tone of voice of the law enforcement officers who attempted to detain Moegling showed a sense of authority but also displayed a level of compassion toward Moegling. The evidence shows that the law enforcement officers who were at the scene saw deadly force as a last option. Law enforcement officers are people. They are our neighbors, and they are as human as anyone.

Not only did officers attempt to use non-lethal force, but they pleaded with Moegling to cooperate and drop the knife. It was apparent that the officers made multiple attempts to avoid deadly force until they were left with no choice.

Both Officer Brown and Deputy Galbreath's use of deadly force was permissible, pursuant to RCW 10.120.020 and was not a criminal act.

The use of deadly force by Officer Brown was justified under RCW 9A.16.040. Officer Brown used deadly force only after he reasonably believed that his life, or the lives of others, were in danger. His conduct meets the "good faith" standard under Washington law.

Based upon the totality of the evidence, insufficient evidence exists to prove beyond a reasonable doubt that Deputy Galbreath's acts were a violation of Washington's use of force laws.



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