



# Kitsap County Prosecuting Attorney's Office

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**Tina R. Robinson**  
Prosecuting Attorney

Please reply to: Civil Division

## MEMORANDUM

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TO: Sheriff Gary Simpson and Chief James Burchett

FROM: Prosecuting Attorney Tina Robinson

SUBJECT: Deputy Woodrum and Officer Faidley (re: Fred Sowell)

DATE: November 19, 2018

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Shortly after 2:00 p.m. on May 15, 2018, Kitsap County Sheriff's Deputies were notified of a potentially suicidal subject who had just left his Olalla residence with a gun. It was reported that the subject, Fred Sowell, was possibly going to a local school to pick up his grandson. Alternatively, it was possible he was going to Shari's restaurant in Port Orchard. Sowell was reportedly driving a black, 2013, Ford Expedition with Kansas license plates.

Deputies learned from Sowell's wife and daughter that he had a history of physically assaulting his wife and had assaulted her earlier that morning. Sowell's wife and daughter advised that they sought help for Sowell's mental health issues the previous day (pre-dementia and depression) by calling the VA. Sowell had recently discovered their efforts to help and became angry. He was also angry for not being allowed to pick his grandson up from school. Sowell's wife and daughter reported Sowell had retrieved a gun and fled from the residence.

Sowell was subsequently located by Deputies inside Shari's restaurant in Port Orchard. Sowell claimed he could not pay his bill, but after communication with staff, deputies made the decision not to contact him inside the restaurant for public safety reasons. He was told by restaurant staff that he could leave, and deputies attempted to detain Sowell after he exited the restaurant.

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Deputies observed Sowell enter his Expedition. As Sowell began driving out of the restaurant parking lot, deputies pulled a patrol car with emergency lights activated in front of Sowell's Expedition, stopping him. When Sowell was commanded to show his hands, he responded by reaching to his left side and saying something to the effect of, "I'll show you my hands. I got something for both you, keep coming and you'll get it." Both Sgt. Twomey and Deputy Rice had their firearms drawn, and Sgt. Twomey raised his handgun, aiming it at Sowell, fully believing Sowell was making a serious threat with a gun.

Sowell, however, jockeyed his Expedition from between the patrol cars it was pinned between and took off eastbound towards Bethel Road. The deputies pursued. Over the next several minutes, Sowell led deputies on a circuitous pursuit from Sedgwick to Jackson, onto Lund/ Tremont, then onto eastbound Hwy 16, exiting at Mullenix, then continuing westbound on Bethel-Burley, eventually driving near the front of the Port Orchard Walmart on Bethel. While in the area in front of Walmart, Sowell was seen to open the driver's door and grab a black handgun from the door-panel storage area. He placed the gun on his lap and closed the door. Deputies then observed Sowell tapping the gun against the side of his temple and holding the gun to his head, after which the pursuit continued northbound on Bethel and onto Bay Street, during which time Sowell was observed holding the gun near his head several times.

During the pursuit, Sowell ran several red lights, traveled into the oncoming lane of traffic numerous times, and reached speeds of over 50 mph over the posted speed limit. Deputies were ordered to terminate the pursuit as Sowell neared downtown Port Orchard. A call was made to notify the deputy monitoring the family home to have the occupants evacuate immediately. Deputies also responded to the area of Sowell's residence and laid spike strips in the roadway. Officers from other agencies engaged to assist, including the Kitsap County SWAT team and Bremerton Police Department K9 Officer Faidley. A negotiator was designated to respond to the scene as well.

Over the next few minutes there were several officer sightings of Sowell driving around Port Orchard.

Ultimately, at 4:50 p.m., a caller from the area of his residence reported that Sowell, still driving the black Expedition, had returned to his residence.

K-9 Officer Faidley responded to the scene. Officer Faidley was in full uniform – a department assigned navy blue jumpsuit and external carrier with the words "POLICE K-9" in reflective lettering on the front and back. Officer Faidley was

already familiar with the situation as he had heard the radio traffic regarding the pursuit while on his way to work at approximately 3:40 p.m. and at that time had requested permission to respond to the area in case a K-9 was needed. Although he did not participate in the pursuit, Officer Faidley was aware that Sowell was armed, that he was yelling at officers and deputies while pointing a handgun at his own head, and that he was refusing to comply with the officers' orders. Officer Faidley also learned there was probable cause for Sowell's arrest for a domestic violence crime.

After reporting to the command post, Officer Faidley was tasked with observation and containment to ensure Sowell did not flee on foot through the woods onto adjacent properties. Later, after members of the SWAT team moved into the wooded area, Officer Faidley was directed to drive his fully marked patrol vehicle (a black and white crown Victoria police vehicle, equipped with the word "POLICE" in multiple locations) to Sowell's neighbor's house. His assignment was to use K-9 Esco in the event Sowell attempted to flee on foot.

KCSO Deputy Woodrum was called to the scene in his capacity as a SWAT member. Deputy Woodrum was wearing his department issued SWAT gear, which consisted of green pants, shirt, and a vest over the uniform that said "POLICE" on the front and back. When Deputy Woodrum arrived, he was informed that there had been a domestic situation and that the suspect had been in a pursuit with law enforcement earlier in the day. He was further informed that Sowell was armed and was now on the property of a residence, most likely in his vehicle. Deputy Woodrum was then assigned as Officer Faidley's cover unit.

At approximately 7:15 p.m., Officer Faidley and Deputy Woodrum drove to the house north of Sowell's residence, followed by the SWAT Team MRAP vehicle. The MRAP vehicle entered Sowell's driveway and Officer Faidley continued to the driveway of the neighbor's residence. Faidley and Woodrum exited and used Faidley's vehicle as cover as the SWAT Team gave loud verbal announcements over a PA system to Sowell. Sowell ignored the commands. Officer Faidley and Deputy Woodrum saw the Expedition start moving through the yard and back toward the road as Sowell attempted to flee.

Faidley and Woodrum re-entered Faidley's patrol car and pursued Sowell's vehicle. They heard a deputy advise over the radio that the Expedition had been successfully spike-stripped. As they exited the lane and turned onto Fragaria and then onto Banner Road, deputies they passed pointed to them and indicated the direction of travel the Expedition had taken. Faidley and Woodrum turned onto Banner road and saw Sowell's vehicle directly ahead of them. As the distance closed, the Expedition

slowed and made a left-hand turn into a dirt or gravel driveway. The Expedition stopped very quickly and Sowell exited quickly from the front driver's side door.

As Sowell was braking and exiting, Officer Faidley quickly placed his vehicle in park, and exited his vehicle. Consistent with his training in conducting a felony stop, and because of Sowell's previous acts, including that Sowell was armed with a firearm, and his total noncompliance with officers' commands, Officer Faidley drew his service weapon as he exited (a Smith & Wesson M&P .45 caliber handgun) and directed it towards Sowell's vehicle. Officer Faidley observed that as he exited his patrol vehicle, Sowell likewise exited the Expedition and turned towards Faidley with a handgun in his right hand. In one movement, Sowell brought the handgun up and pointed it at Officer Faidley as though to fire it, making no attempt to surrender.

Officer Faidley feared that Sowell was going to shoot and possibly kill Deputy Woodrum or himself. In that moment, based on his knowledge of Sowell's behavior in the past several hours, his belief that Sowell posed a current serious threat to both his, Deputy Woodrum's, and his fellow officers' lives, Officer Faidley fired his service pistol at Sowell to prevent him from causing harm. The immediate peril of the situation did not allow time to employ other means of self-defense. (Officer Faidley further noted that he would not deploy his K-9 partner to a known armed suspect who had made clear he was ready to kill law enforcement.) After firing, Officer Faidley saw that Sowell still had not dropped his firearm and that he remained a danger to him and others. Officer Faidley was preparing to fire again when he heard the sound of a sound-suppressed rifle and saw Sowell's foot move as if he had been hit. At this time, Officer Faidley saw Sowell's gun drop to the ground as Sowell fell into his car.

Deputy Woodrum observed the Expedition stop on the gravel road and the driver exit out of the front driver's side door. Woodrum saw the driver, Sowell, point a handgun at them. Deputy Woodrum immediately feared for his and Officer Faidley's life. To protect both of their lives, Woodrum exited the front passenger side of Officer Faidley's vehicle and stood in the "v" of the open passenger door. Woodrum then fired at Sowell with his rifle. (Sig MCX Multi-Caliber Rifle w/suppressor). Sowell ended up back in the driver's seat of his vehicle, turned toward Officer Faidley and Deputy Woodrum, with his feet out of the vehicle and the gun still in his hand. Because of the tinted windows of the car, Deputy Woodrum could not see what Sowell was doing with his other hand. He could hear Officer Faidley yelling for Sowell to drop his gun, and Sowell yelling back, "Fuck you."

At this point, Deputy Woodrum did not know if Sowell was shot but could still see the gun in his hand and believed Sowell was still a threat to both himself and Officer Faidley. Woodrum believed the threat was immediate, which did not allow for hesitation. He fired an additional round at Sowell's exposed lower leg/foot to make him drop the gun. When Woodrum fired the round, he observed Sowell drop the gun on the ground next to the vehicle.

Deputy Rice approached the location of the scene just as the shots were fired. He saw Officer Faidley's patrol car parked behind the Expedition, and observed Sowell standing next to the open driver's door of the Expedition with his right arm partially extended. (Deputy Rice's view was partially obstructed by fencing.) As he approached, he saw Sowell lowering his arm while holding a black, semiautomatic handgun and watched as he dropped the gun to the ground.

After Sowell dropped his weapon, other SWAT team members, including a tactical medic, approached and rendered aid to Sowell.

The use of force upon another is not unlawful whenever used by a party about to be injured or by another lawfully aiding him or her. RCW 9A.16.02(3). Additionally, the use of deadly force is justifiable when necessarily used by a peace officer to arrest or apprehend a person who has committed a felony, if the officer has probable cause to believe that if not apprehended, the suspect poses a threat of serious physical harm to the officer, or a threat of serious physical harm to others. RCW 9A.16.040(1)&(2).

There is no doubt Sowell precipitated this deadly encounter by his own actions. Officer Faidley and Deputy Woodrum were assigned to contain Sowell should he attempt to run. The officers were aware of reports that earlier in the day Sowell had been involved in a domestic violence assault, had for several hours refused to comply with law enforcement orders, had made threats of harm to himself, was reported to be suffering from mental illness, brandished a firearm, made verbal threats to use the firearm against law enforcement, engaged in verbally hostile exchanges with family and law enforcement, all of which jeopardized the safety of the community. The day began with the report of a 4<sup>th</sup> Degree Domestic Violence Assault. By the time of Faidley's and Woodrum's encounter with him, Sowell had committed a felony elude, had been hostile toward the police, had confirmed that he would not follow their orders, and had verbally taunted them with threats intimating he would use his gun against them.

Officer Faidley and Deputy Woodrum had no assigned role other than to prevent Sowell from fleeing. Yet Sowell's actions forced the officers to defend their lives

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and the lives of those around them. The officers' actions were lawful, justifiable and necessary.