



PROSECUTING ATTORNEY | ANTHONY F. GOLIK

AARON BARTLETT
Chief Deputy

ANNA KLEIN
Chief Criminal Deputy

AMBER SMITH
Chief Civil Deputy

GAYLE HUTTON
Administrator

October 5, 2026

Sheriff Horch, Clark County Sheriff's Office

RE: Officer Involved Fatal Incident

Decedent: Marc Fogle

Involved Deputy: Clark County Sheriff's Deputy Bryson Layton

Summary

On May 7, 2025, Marc Fogle was arrested on suspicion of Driving Under the Influence (DUI) after crashing his car. Deputy Bryson Layton transported Fogle to the Washington State Patrol (WSP) Port of Entry (POE) Blood Alcohol Content (BAC) room for processing. From the time he crashed and throughout his contact with law enforcement, Fogle repeatedly made statements that his life was over. When alone with Deputy Layton in the BAC room, and un-cuffed, Fogle began making implied threats toward the Deputy. Deputy Layton attempted to handcuff Fogle and Fogle began fighting with Deputy Layton, attempting to gain control of Deputy's Layton's duty firearm. With the significantly larger Fogle having successfully pinned him to the ground and attempting to disarm him, Deputy Layton grabbed a fixed blade knife that he had in a sheath clipped to his pants and stabbed Fogle multiple times. Fogle died from his injuries.

The incident was investigated by the Washington Office of Independent Investigations (OII). At the completion of the independent investigation, the Clark County Prosecuting Attorney's Office reviewed the materials provided and the applicable law and has now rendered this opinion.

Brief Finding

Deputy Layton was lawfully justified in the use of deadly force in this case. No criminal charges will be filed against Deputy Layton.

Independent Investigation

At the time of this incident, RCW 10.114.011 required an independent investigation anytime the use of deadly force by a peace officer resulted in the death of another. The specific statutory requirement is that:

...an independent investigation must be completed to inform any determination of whether the use of deadly force met the good faith standard established in RCW 9A.16.040 and satisfied other applicable laws and policies. The investigation must be completely independent of the agency whose officer was involved in the use of deadly force.

RCW 10.144.011. Rules adopted by the Criminal Justice Training Commission established the criteria for these independent investigations. WAC 139-12-030.

In this case, Deputy Layton was employed by the Clark County Sheriff's Office. The investigation of this case by OII complies with the requirements of RCW 10.114.011 and WAC 139-12-030. Review of this case indicates correct material steps were taken to comply with the requirements of an independent investigation and there appear to be no deviations from this requirement that would call into question the independence of the investigation in this case.

Review Process

After the independent investigation of this incident was completed, the Clark County Prosecutor's Office reviewed the case. The Clark County Prosecutor's Office has requested review by prosecutors from outside Clark County in a few prior officer involved fatalities. The process for outside prosecutor review has been undertaken to increase independence in the process. The Clark County Prosecutor's Office may continue to seek some form of outside review of cases in the future depending on the facts and circumstances of each incident.

Significant changes have been implemented in the investigative requirements of officer involved fatalities that have led to change in process by the Clark County Prosecutor's Office. Specifically, local law enforcement agencies have implemented body worn camera programs. Body worn cameras can, in some cases, make the factual determinations of incidents much less subject to question. Also, Washington State has passed legislation that sets forth strict requirements for independence from the involved agency in the investigation. Now, OII will conduct all officer involved death investigations, which will increase independence in the investigation even further.

With respect to prosecutorial review, the Washington State legislature has examined the concept of requiring review by an agency outside of the local prosecutor's office and the legislature has declined to pass such legislation.

In this case, the incident was largely captured on the deputy's body-worn camera (BWC). The investigation was conducted by an independent agency in compliance with Washington law, and no conflict appears to exist that would necessitate review by some office other than the Clark County Prosecutor's Office. In this case, after reviewing the relevant facts and circumstances of this incident as well as the legislature's decisions, the Clark County Prosecutor's Office has determined it is appropriate to complete this review.

Body Worn Cameras

Deputy Layton was equipped with a BWC when this incident occurred. The BWC captured both video and audio of much of the event. Unfortunately, the deputy's BWC's power button was depressed when he was pinned down by Fogle, and it did not record all of the moments when the stabbing occurred.

Nevertheless, the BWC footage was extremely helpful in conducting this review. The BWC footage is consistent with the investigative reporting by OII. The following factual summary relies on OII's reporting as well as the video footage that is consistent with the investigative findings.

Facts

On May 7, 2025, Marc Fogle visited the Korner Street Bar & Grill. His bar tab indicated he purchased a total of 12 Coors Light beers between 3:44pm and 10:41pm. Afterwards, Mr. Fogle began to drive a white Toyota Avalon and eventually drove to the 1400 block of Northeast Minnehaha Street in Clark County, Washington. This part of Vancouver is in the unincorporated portion of the county.

At approximately 10:59pm, on May 7, 2025, Marvin Bain, a resident of Clark County, called 911 to report a collision had occurred in the 1400 block of Northeast Minnehaha Street. Mr. Bain ran to the location of the collision and saw Mr. Fogle get out of his car. Mr. Fogle appeared wobbly to Mr. Bain.

Arturo Durante Munguia heard the collision from inside his residence. He told OII investigators that the driver appeared to be very drunk and stated things like "my life is over."

Emily Henke did not see the collision but saw the aftermath. She heard the driver, later identified as Marc Fogle, state "my life is over." Kellie Hall, another resident near the scene of the collision, also heard the driver state multiple times that his life was over and that he was a CDL driver.

Clark County Sheriff's Office Deputy Edward Shin responded to the scene of the traffic collision. When Deputy Shin arrived a few minutes after being dispatched, he observed several people near the street and saw four damaged vehicles. Deputy Shin stated he observed a white Toyota Avalon that had collided with other vehicles. An individual identified via his driver's license as Marc Fogle was sitting in the driver's seat of the Toyota Avalon when Deputy Shin made contact. Deputy Shin had a ride-along passenger with him, Demetrius Bondurant. Deputy Layton also arrived on scene.

As deputies contacted Mr. Fogle, Mr. Fogle got out of the vehicle and stated, "clearly I've been drinking and I ran into these cars." Deputy Shin asked if Mr. Fogle needed medical attention. Mr. Fogle denied that need but stated that his life was over. Emergency medical personnel were dispatched to the scene, but they left when it was reported that no one was injured. Deputy Shin asked for Mr. Fogle's license, which he provided. He told Deputy Shin that he was a CDL driver

and that his life was, “fucking over”. Deputy Shin asked Mr. Fogle how much he had to drink and Mr. Fogle stated “uh, more than I need to.”

Mr. Fogle was placed under arrest on suspicion of DUI. He was handcuffed and put in the back of Deputy Shin’s patrol vehicle. Deputy Shin then remained at the scene to process a collision report and Deputy Layton transported Mr. Fogle to the WSP facility to process him for a DUI, including asking him to submit a breath test. Mr. Fogle was moved to Deputy Layton’s vehicle and Deputy Layton drove to the POE, which is commonly referred to as the weigh station or scale house. The POE is in Ridgefield, Clark County, Washington. The POE includes a small room with a Draeger breath alcohol measuring instrument and is commonly referred to as the BAC room by officers. The BAC room at the POE had a mounted video camera. However, that video camera only streamed into the office area of the POE and did not record or store data for later viewing. There was no one at the POE who viewed the video stream live that evening during the events in question.

Deputy Layton and Mr. Fogle accessed the BAC room at approximately 11:39pm. Deputy Layton told Mr. Fogle, “We’re gonna go into the scale house here. We’re gonna sit down and take a test, okay. If you’re cooperative with me and you’re cool with me, I’ll take you out of handcuffs. If not, you’re gonna stay in handcuffs the whole time. You understand?” Deputy Layton walked Mr. Fogle into the BAC room, removed his handcuffs, and told him to take a seat on a bench.

At first, Mr. Fogle kept his hands on his head; Deputy Layton told him he did not have to do that, but Mr. Fogle said that it was for Deputy Layton’s safety.



Screen capture from Deputy Layton's BWC video, timestamp 23:39:23.

Deputy Layton asked Mr. Fogle, “you promise you’re not going to hurt me?” And Mr. Fogle said, “I’m promising.”

During the next 11 minutes, Deputy Layton continued to process Mr. Fogle for the DUI, read him his constitutional rights, and put him in contact with a lawyer. During this time, Mr. Fogle told Deputy Layton he was talking to a “dead man,” and said his life was over multiple times. Deputy Layton read the implied consent warning to Mr. Fogle and asked if he would take the breath test. Mr. Fogle said no. Mr. Fogle was given the opportunity to contact an attorney. Mr. Fogle ultimately refused the test.

Deputy Layton asked Mr. Fogle if he was going to kill himself after Fogle stated, “Well, I’m not making it through the night.” Fogle responded, “who knows.” Deputy Layton told Mr. Fogle that only Mr. Fogle would know. After a little less than a minute, Mr. Fogle mentioned “it’s just you and me in this room...” and seemed to note that there was no other law enforcement around. Deputy Layton asked Mr. Fogle if he was threatening him and why he was making those comments. Deputy Layton then instructed Mr. Fogle to stand up and face the wall as he was going to be handcuffed. Deputy Layton stood up and moved towards Fogle. Fogle also stood and said, “Are you sure?” Deputy Layton pointed to the wall behind Fogle and told him to turn around and face away from him “right now.” Deputy Layton grabbed Fogle’s left shoulder and right arm. This occurred at 11:58:21 p.m. Fogle then appeared to reach towards Deputy Layton’s left side, grab the deputy’s right arm and say, “Are you fucking sure?”



Screen capture from Deputy Layton's BWC video, timestamp 23:58:22.

From the BWC video, it appears Fogle continued to have his hands on Deputy Layton. Deputy Layton either moved or was pushed backwards. Deputy Layton authored an incident report in CCSO case number 25-003361 regarding this incident. Deputy Layton indicated that instead of following his instructions to turn around so Deputy Layton could handcuff him, Mr. Fogle came at him (Deputy Layton), pushed him, and aggressively began going for Deputy Layton’s gun. Deputy Layton kept one hand firmly pushing down on his firearm to prevent Mr. Fogle from removing it from the holster and attempted to push him away with his other arm, yelling at Fogle to “get the fuck away from me.” Deputy Layton also called out over the radio, “Boy 73. I’m

fighting with one” and “Give me the air, he is reaching for my gun.” Deputy Layton continued to fight to protect his gun and to try to prevent Mr. Fogle from getting it.



Screen capture from Deputy Layton's BWC video timestamp 23:58:27. Fogle's right arm is on the left side of image and Deputy Layton's right arm is at the bottom.



Screen capture from Deputy Layton's BWC video, timestamp 23:58:31. It appears Deputy Layton's right hand was over the top of Fogle's right hand.



Screen capture from Deputy Layton's BWC video, timestamp 23:58:32.

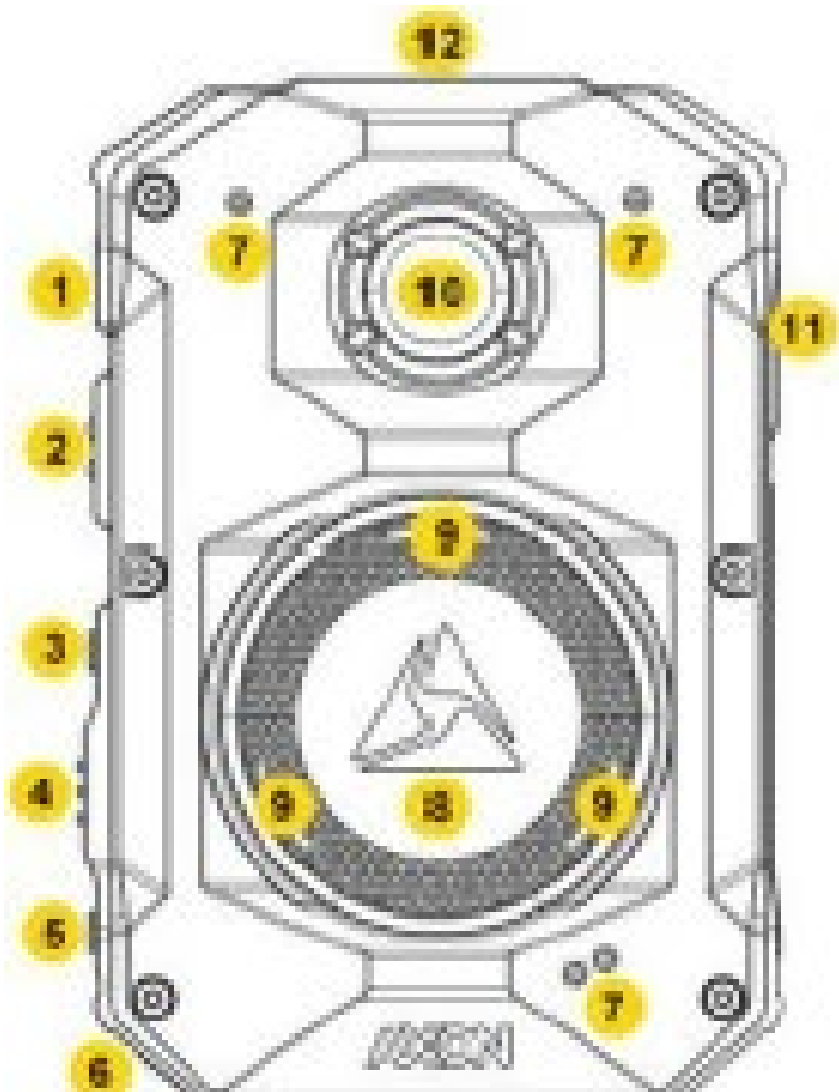
During the scuffle, Deputy Layton told Mr. Fogle he was going to get “fucking shot.” Mr. Fogle responded, “Yeah, yeah, that is what I want”. Fogle took Deputy Layton to the ground, pinning Deputy Layton.



Screen capture from Deputy Layton's BWC video, timestamp 23:58:41.

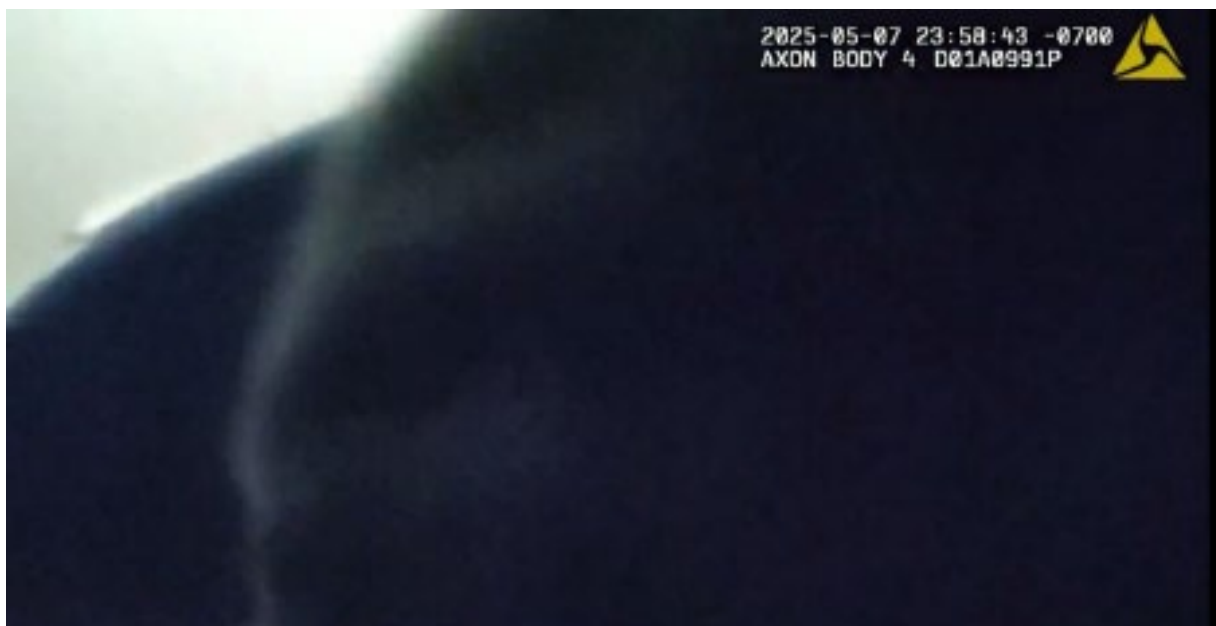
Deputy Layton again screamed at Fogle that he is going to get shot and to “get the fuck away from me! Get the fuck away from me, Marc!” Deputy Layton is breathing hard and his voice is panicked. At this moment, the BWC lens is covered and there is no image available. Fogle then states, “I’m not looking to shoot you.” Layton says, “fuck,” and Fogle says, “I want you to shoot me.” Then the recording stops at 23:58:52 hours and does not begin recording again until 00:00:01 hours.

The Axon BWC recording feature can be turned off by pressing the “Event” button, which is shown in Figure 39, for 3 seconds. The “Event” button is identified as number 8 in the diagram:

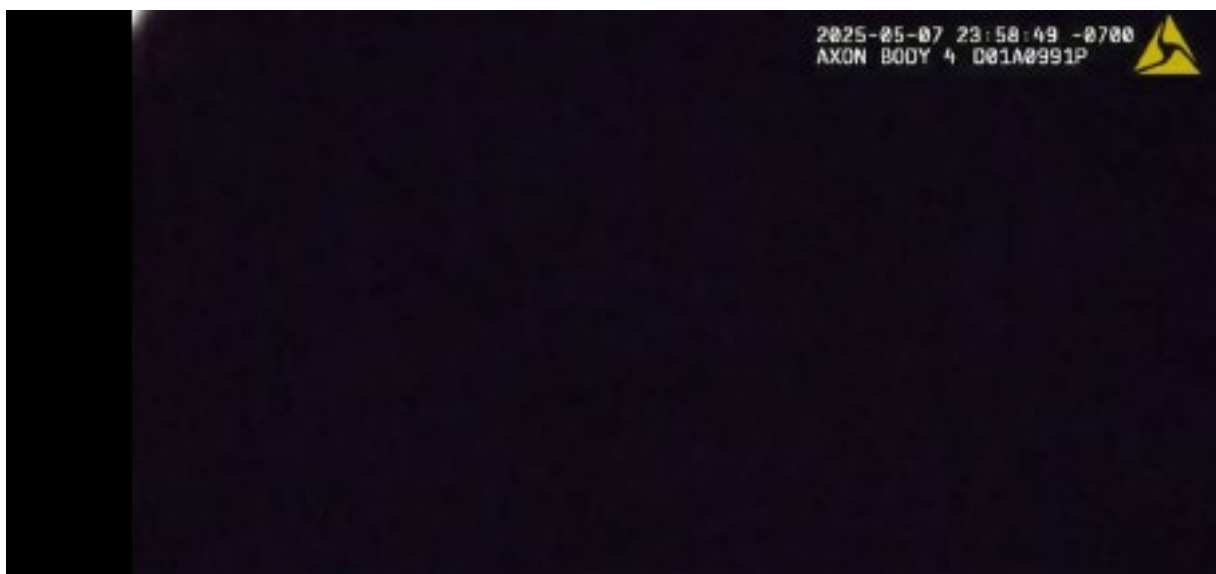


Axon BWC from Axon website.

Mr. Fogle’s chest was on top of Deputy Layton’s chest while Mr. Fogle had Deputy Layton pinned to the ground. This is when Layton’s BWC became obscured by Fogle’s sweatshirt and then shut off three seconds later, consistent with it being shut off by the pressure of Mr. Fogle on the BWC.



Screen capture from Deputy Layton's BWC, Axon timestamp 23:58:43.



Screen capture from Deputy Layton's BWC, Axon timestamp 23:58:49.

Mr. Fogle was significantly larger than Deputy Layton and Deputy Layton could not get free of Mr. Fogle. It should be noted that Deputy Layton is 5'7" tall and weighed 160 pounds and Mr. Fogle was 5'11" tall and weighed 247 pounds.

Mr. Fogle continued to try to gain control of Deputy Layton's gun. Deputy Layton indicated that he felt he could not rely on Mr. Fogle's statement that he did not want to hurt Deputy Layton. Deputy Layton's gun had a round in the chamber and Deputy Layton worried that in the struggle for control of the gun it could be discharged, injuring or killing Deputy Layton. Deputy Layton's training had also taught him that a gun could be discharged while still in the holster or while being removed from the holster.

As the attack by Mr. Fogle continued, Deputy Layton continued to push down on his gun with his left hand, but he felt his left hand begin to slip off the back of the gun, and he was losing leverage in his efforts to keep possession of the gun. Deputy Layton knew he needed to stop Mr. Fogle so he reached for his knife and pulled it out with his right hand and quickly stabbed Mr. Fogle repeatedly. Deputy Layton wrote in the incident report that he was afraid for his life and Mr. Fogle's efforts to obtain his gun presented an immediate deadly threat to Deputy Layton.

At the time he drew his knife, Deputy Layton felt he had no other use of force options to stop the threat against his life. He did not feel the Taser he carried would have been effective; he did not carry pepper spray, and given the proximity, pepper spray would have affected Deputy Layton as much as it would have Mr. Fogle. Further, given the physical positions of Deputy Layton and Mr. Fogle, Deputy Layton could not deliver effective pain compliance to Mr. Fogle. Deputy Layton's goal in stabbing Mr. Fogle was to get him to stop going for his gun and to then secure him.

When Deputy Layton's BWC resumed recording, Deputy Layton is depicted cutting Mr. Fogle's shirt from his body to render medical aid. Deputy Layton told Mr. Fogle more than once, "I'm not going to let you die." Deputy Layton was clearly distressed.

WSP Commercial Vehicle Enforcement Officer (CVEO) recruit Patrick Sheriff stated he was working at his desk at the POE when he heard pounding and thudding noises against the wall of the BAC room. He went down the hallway to the room. He got to the door and looked through the window. He saw Mr. Fogle on top of Deputy Layton, pinning him to the floor. Deputy Layton yelled "stop going for my gun" multiple times. CVEO Sheriff opened the door and saw that Mr. Fogle had a knife protruding from his lower back. He grabbed Mr. Fogle from under his shoulders and pulled him off Deputy Layton towards himself and into the hallway of the POE on the floor over the threshold to the BAC room.

Cowlitz Tribal Police Officer Craig Wattson arrived on the scene. He observed Deputy Layton next to an adult male who was lying face down on the floor. Officer Wattson observed Deputy Layton and saw what he believed to be a look of terror and shock on his face. His skin was ashen in color and his hair was disheveled. Deputy Layton had blood on his hands, arms, and uniform.

Cowlitz Tribal Police Officer Jim Kelly entered the BAC room at the weigh station and saw Deputy Layton standing next to Mr. Fogle, rendering aid. Deputy Layton was clearly in distress – he was shaking, his hair and uniform were disheveled, and he was pale in color.

Ridgefield Police Officer Thomas Erazo arrived at the scene near the same time as Officers Wattson and Kelly. He observed that Deputy Layton was breathing heavily and appeared to be in shock.

DNA testing was done on Deputy Layton's duty firearm. The DNA swabs obtained from the grip, trigger, trigger guard, and rear portion of the slide of the gun showed four individual contributors. Statistically, there is strong support that Mr. Fogle was a contributor to this profile. DNA swabs were also taken of the front portion of the slide and the light attachment on the gun. The results showed four individual contributors with statistically strong support that Mr. Fogle is

a contributor to the profile. This evidence corroborates Deputy Layton's account that Fogle was grabbing his firearm.

Dr. Martha Burt conducted an autopsy of Marc Fogle on May 12, 2025. She found that Mr. Fogle had 17 stab wounds in his mid and upper back. Dr. Burt found additional superficial abrasions and contusions on other parts of his body. Mr. Fogle's toxicology testing revealed a blood alcohol concentration of .160 g/100mL.

Attempts to render medical aid

Law enforcement officer efforts to provide medical aid were documented by body worn camera footage. The officers on scene, including Deputy Layton, made significant professional efforts to provide medical aid to Marc Fogle as quickly as they reasonably could after confirming their safety in doing so.

Applicable Law

The following discussion applies the law to the use of force in this incident: Washington peace officers are authorized to justifiably use force where probable cause exists to believe the suspect poses a threat of serious physical harm to themselves or to others. RCW 9A.16.040(2). In determining whether a person poses a "threat of serious physical harm," Washington law allows consideration of whether: 1) the suspect threatened an officer with a weapon or displayed a weapon in a manner that could reasonably be construed as threatening; or 2) there is probable cause to believe the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm. RCW 9A.16.040(2)(a),(b). In addition, Washington law in effect at the time of this incident required an officer's use of deadly force to be in good faith. RCW 9A.16.040(4). The good faith standard requires the officer's use of deadly force to meet an objective test. RCW 9A.16.040(4). The objective good faith test is met if a similarly situated, reasonable officer, in light of all the facts, circumstances, and information known to the officer at the time, would have believed the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual. RCW 9A.16.040(4).

Furthermore, Washington's statute authorizing an officer's use of force is subject to constitutional limits on the use of force. Police conduct is therefore analyzed under a standard of objective reasonableness, from the point of view of the officers on the scene, considering facts and circumstances confronting them and allowing for the necessity of split-second decisions. *Graham v. Connor*, 490 U.S. 386, 396-97 (1989). The reasonableness of an officer's use of force depends on 1) the severity of the underlying offense; 2) whether the suspect poses an immediate threat to the safety of the officers or others; and 3) whether the suspect is actively resisting arrest. *Id.* At 396. The use of deadly force is objectively reasonable, and therefore justified, if there is probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer or others. *Tennessee v. Garner*, 471 U.S. 1, 11-12 (1985).

Finding

Deputy Layton drew his knife and deployed it against Marc Fogle in response to Mr. Fogle's actions. Mr. Fogle made repeated comments that his (Fogle's) life was over, made a comment about wanting to get shot, and made implied threats toward Deputy Layton. Deputy Layton stated that he used his knife to stab Fogle when Fogle attacked him, attempted to take his loaded firearm from him, and succeeded in pinning him to the ground under his body, which was substantially bigger than Deputy Layton's. Indeed, when a second officer arrived to help Deputy Layton, Layton was still yelling, "stop going for my gun," and the second officer had to intervene to get Mr. Fogle off Deputy Layton. Layton was in fear for his life. The BWC and other evidence in this case corroborate what Deputy Layton reported.

A similarly situated, reasonable officer, considering all the facts, circumstances, and information known to the involved officer at the time they used deadly force in this case, would have believed the use of deadly force was necessary to prevent death or serious physical harm to the officer. Hence, the actions of Deputy Layton met the objective good faith test set forth in RCW 9A.16.040(4). The use of deadly force by Clark County Sheriff's Deputy Bryson Layton was lawfully justified in this case. No criminal charges will be filed against Deputy Layton.

Sincerely,

Anna Klein

Anna Klein
Chief Criminal Deputy
Clark County Prosecuting Attorney