Washington State Office of
INDEPENDENT INVESTIGATIONS

Created to conduct fair, thorough, transparent, and competent investigations of deadly use of force by law enforcement.

Final Case Report

Use of Deadly Force by the Clark County Sheriff's Office

Deceased- Marc Fogle

Date of Incident: May 07, 2025

Date of Report: March 09, 2026

Case # OII-2025-0008

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REDACTED VERSION

This public version has been redacted to protect civilian identities, remove graphic contents, and autopsy photographs in accordance with RCW 68.50.105.

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I. Summary

On May 07, 2025, Clark County Sheriff's Office Deputy Bryson Layton responded to a motor vehicle collision near the intersection of Northeast 14th Court and Northeast Minnehaha Street in Vancouver, Washington. The collision involved a Toyota Avalon that had struck several parked cars. The driver of the Toyota, Marc Fogle, was placed under arrest on suspicion of Driving Under the Influence (DUI) and handcuffed.

Fogle told officers he was not injured and did not need medical treatment. Deputy Layton transported Fogle to the Washington State Patrol Ridgefield Port of Entry, or "weigh station," to administer a blood alcohol breath test. Once in the room where breath tests are administered, Deputy Layton removed the handcuffs from Fogle and began processing him for the DUI. While at the collision scene and later in the room where the breath test instrument was located, Fogle told Deputy Layton several times his life was "over" and he was a "dead man" because of the arrest.

After Fogle made statements about himself and Deputy Layton being the only people in the room, Deputy Layton told Fogle to stand and face away from him so he could re-apply handcuffs. Fogle stood up facing the deputy but did not turn around as directed. Deputy Layton reached towards Fogle and a physical struggle ensued. Deputy Layton radioed to dispatch "he is reaching for my gun." The deputy can also be heard on his body worn camera (BWC) video telling Fogle to get away from him and he was going to get shot. Fogle replied, "That's what I want." The BWC video captured a close-contact altercation before it stopped recording.

Deputy Layton later reported he ended up on his back with Fogle on top of him, face to face, and Fogle tried to gain control of his gun. Deputy Layton used his knife to stab Fogle in the back several times. Fogle was later declared dead at the scene by medics after life-saving measures were attempted.

The Washington State Office of Independent Investigations (OII) was notified at 12:39 a.m. on May 08, 2025, approximately 40 minutes after the incident occurred. OII investigators responded and assumed authority over the criminal investigation of this incident. During the investigation, OII collected a fixed blade knife from the floor of the room where the incident occurred.

OII conducted an independent investigation of the fatal use of deadly force that occurred on May 07, 2025, with the intent to provide the prosecuting authority with the information necessary to make an informed decision whether criminal charges should be filed.

This Final Case Report is an overview of what occurred and the ensuing OII investigation.

II. Associated Case Numbers

Washington State Office of Independent Investigations	OII-2025-0008
Clark County Sheriff's Office	25-003361
Washington State Patrol	25-008851
Vancouver Police Department	2025-009359
Ridgefield Police Department	25-000274
Cowlitz Indian Tribal Public Safety Department	25000216
Battle Ground Police Department	25-171502
Washington State Patrol Crime Laboratory Division	525-001478
Clark County Medical Examiner's Office	25-1633

III. Use of Deadly Force Incident

The following account of what occurred is largely derived from Deputy Layton's body worn camera (BWC) video, radio transmissions, computer aided dispatch (CAD) records and officer reports.

A. Pre-Incident Background

At 10:59 p.m., Clark County Sheriff's Office (Clark County SO) Deputy Edward Shin was dispatched to a traffic collision in the 1400 block of Northeast Minnehaha Street, Vancouver, Washington. Deputy Shin and Clark County SO recruit DB arrived at the scene a few minutes later.[1]

Deputy Shin reported that when he arrived, he saw several people milling near the street and four damaged vehicles. Specifically, Deputy Shin said he observed "a white Toyota Avalon that had collided with the front driver's side of a parked GMC Savana van bearing WA plate D756768B. The rear of the Toyota was still partially in the lane of travel but the front passenger's side was still smashed up against the GMC van."[2]

Deputy Shin contacted a man sitting in the driver's seat of the Toyota Avalon, whom he later identified as Marc Fogle.

It was later determined Fogle had been at the Korner Street Bar & Grill, which is located at 6403 Northeast Saint Johns Road, Vancouver, Washington, prior to the collision. (See Section IV.Q Follow-up Investigation Involving Marc Fogle). The Korner Street Bar & Grill is approximately 1.6 miles from where the collision occurred.[3]

B. Law Enforcement Initial Contact with Marc Fogle

According to his report, when Deputy Shin approached the Toyota Avalon, Fogle got out and immediately said, "Clearly, I've been drinking, and I ran into these cars."[4] Deputy Bryson Layton had arrived and this statement and further contact with Fogle was captured on Deputy Layton's BWC.[5]

Deputy Shin asked Fogle if he needed any medical attention and Fogle told him he did not "but my life is fucking over."[6] When Deputy Shin asked for Fogle's driver's license,

[1] Clark Regional Emergency Service Agency (CRESA) CAD. CRESA is s a consolidated 911 emergency communications center for all public safety agencies in Clark County, Washington.
[2] Clark County SO 25-003361, Incident Report, Deputy Shin.
[3] OII 2025-0008, Supplement 3, Investigator Reeves.
[4] Clark County SO 25-003361, Incident Report, Deputy Shin; BWC video of Clark County SO Deputy Shin, timestamp 23:01:26.
[5] BWC video of Clark County SO Deputy Layton, timestamp 23:01:27.
[6] BWC video of Clark County SO Deputy Shin, timestamp 23:01:31.

Fogle stated, "As you will see, I am a CDL driver, and like I said, my life's fucking over."[7] (A "CDL" is a commercial driver's license.) Deputy Shin asked Fogle how much he had to drink and Fogle replied "Uh, more than I need to."

Deputy Shin reported that during his contact with Fogle, Fogle's speech appeared thick and somewhat slurred, and he could smell an odor of alcohol on Fogle's breath.[8]

Fogle was placed under arrest for suspicion of Driving Under the Influence (DUI). Deputy Shin and Deputy Layton handcuffed Fogle and had him sit in the rear seat of Deputy Shin's patrol vehicle.[9]

After discussion, the deputies determined Deputy Shin would stay at the scene and complete a collision report and Deputy Layton would transport Fogle to a Washington State Patrol (WSP) facility to process him for DUI, which included conducting a breath test.[10]

Fogle was moved to Deputy Layton's vehicle and Deputy Layton drove to the WSP Port of Entry (POE), also referred to as a "weigh station" or "scale house," in Ridgefield, Washington.[11] Based on BWC video, the drive from the collision to the weigh station was approximately 14 minutes. There was no conversation between Fogle and Deputy Layton during the drive.[12]

C. Washington State Patrol Ridgefield Port of Entry – Initiation of Physical Contact

The WSP Ridgefield POE is located at 29317 Interstate 5 N Ridgefield, near Milepost 15. In addition to a location for commercial vehicle weighing and inspections, the WSP Ridgefield POE includes a small separate room with a Draeger breath alcohol measuring instrument.[13] This room was referred to as "the BAC room" by several responding officers. The room is located on the east side of the building and is accessible to all law enforcement with an access code.

[7] BWC video of Clark County SO Deputy Shin, timestamp 23:01:38.
[8] Clark County SO 25-003361, Incident Report, Deputy Shin.
[9] BWC video of Clark County SO Deputy Shin, timestamp 23:02:41.
[10] Clark County SO 25-003361, Incident Report, Deputy Shin.
[11] Clark County SO 25-003361, Supplement 13, Deputy Layton; A POE is a facility designated for commercial vehicle inspections for commercial motor vehicles entering the State of Washington from Oregon.
[12] BWC video of Clark County SO Deputy Layton, timestamp 23:19:13-23:33:45.
[13] The breath testing instrument is designed to measure blood alcohol concentration (BAC). The instrument is manufactured by Draeger.

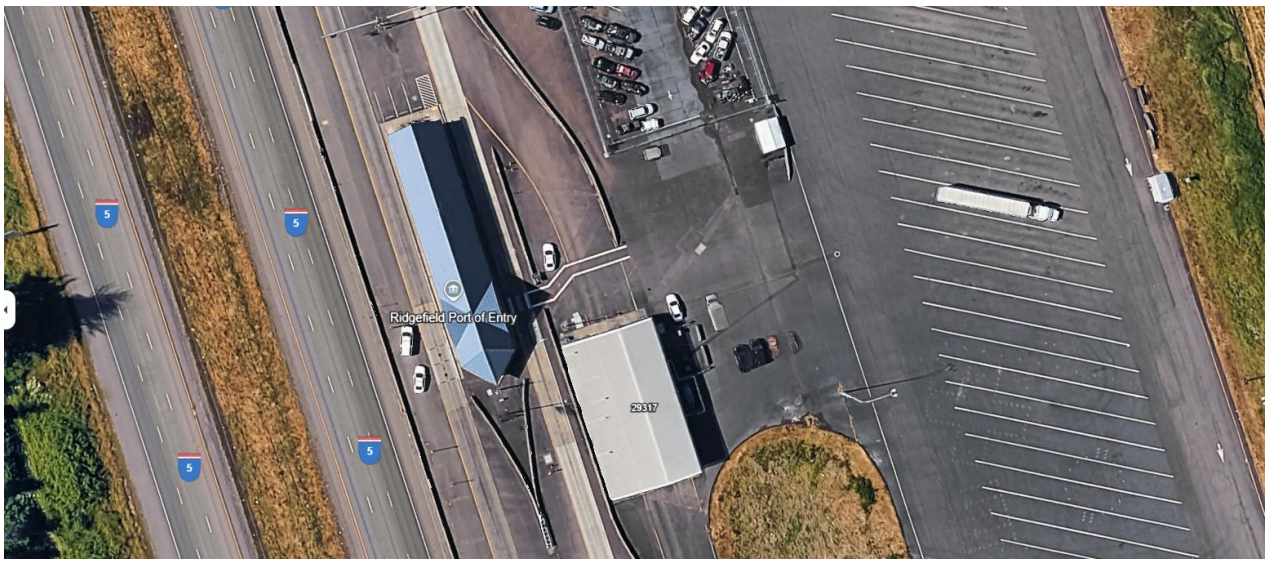

Figure 1: Image taken from Google Earth depicting the WSP Ridgefield Port of Entry adjacent to I-5.

According to BWC video, Deputy Layton arrived at the WSP Ridgefield POE at 11:33:45 p.m. on May 07, 2025.[14] He parked his patrol car on the east side of the building near the BAC room door. Deputy Layton got out of his patrol car and was greeted outside by WSP Commercial Vehicle Enforcement Officer recruit (CVEO) Patrick Sheriff. Deputy Layton and CVEO Sheriff had a brief conversation. Deputy Layton asked for the code to the BAC room, but CVEO Sheriff did not have it. CVEO Sheriff returned to the front office area of the POE while Deputy Layton attempted to get the door code from his communication center. Fogle remained in the patrol car.[15] While Fogle was in the patrol car, he said repeatedly, "I'm a fucking dead man."[16]

At 11:36:37 p.m., Deputy Layton received the door code and gained access to the BAC room.[17] Deputy Layton went into the room and put his Mobile Data Computer (MDC) on a small desk. He returned to his patrol car and opened the rear door where Fogle was sitting. Deputy Layton told 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?"[18]

Deputy Layton walked Fogle into the BAC room while he was still handcuffed. Once inside the room, Deputy Layton removed the handcuffs from Fogle and directed him to take a seat on a bench at 11:39:10 p.m.[19]

[14] BWC video of Clark County SO Deputy Layton, timestamp 23:33:45.
[15] BWC video of Clark County SO Deputy Layton, timestamp 23:34:05; WSP Report 25-008851, CVEO Sheriff.
[16] In-car camera (ICC) video from Clark County SO Deputy Layton's vehicle, timestamp 23:34:47.
[17] BWC video of Clark County SO Deputy Layton, timestamp 23:36:36.
[18] BWC video of Clark County SO Deputy Layton, timestamp 23:37:18.
[19] BWC video of Clark County SO Deputy Layton, timestamp 23:39:10.

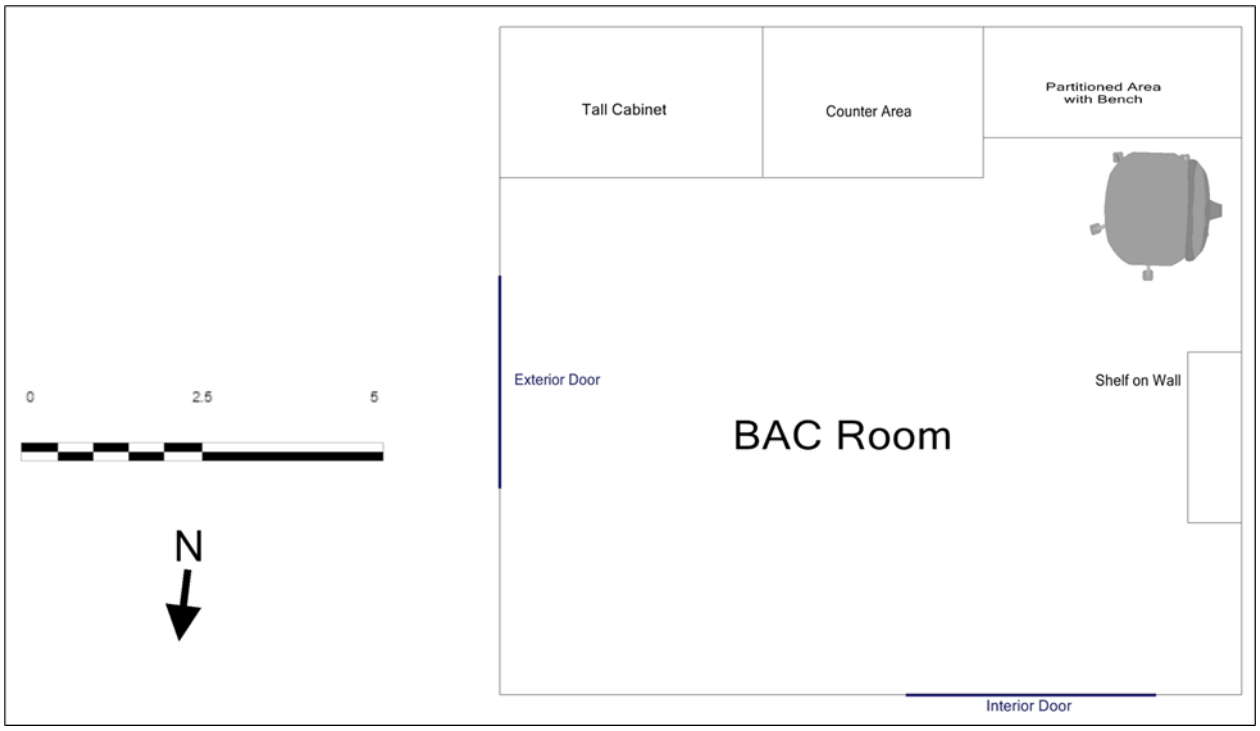

Figure 2: Two-dimensional top-down view of the BAC room at the Ridgefield Port of Entry. Created by OII Investigator Neustel from the Trimble 3D laser scan data using Trimble Forensic Reveal software. (See Section IV.C Crime Scene Processing and Evidence Collection.)

When Deputy Layton removed the handcuffs, Fogle placed his hands on his head. Deputy Layton told Fogle he could put his hands down. Fogle kept his hands on his head and walked to the bench and sat down. From the BWC video, Fogle appeared to look at Deputy Layton and state, "This is for your safety."[20]

Figure 3: Screen capture from Deputy Layton's BWC video, timestamp 23:39:23.

[20] BWC video of Clark County SO Deputy Layton, timestamp 23:39:23.

Fogle then reached down and appeared to tie his shoe. Deputy Layton asked Fogle, "You promise you're not going to hurt me?" Fogle replied, "I'm promising." Fogle then placed his hands back on his head.[21]

The following exchange was captured on BWC video:

Deputy Layton:	As long as you say you're not gonna hurt me, like we're, we're good here. If, if you're worried, you think you're gonna hurt me, I'm just gonna put you back in handcuffs.
Fogle:	Alright.
Deputy Layton:	Alright. You're not gonna hurt me? You're good?
Fogle:	We're good.
Deputy Layton:	Okay. You can keep your hands down. You're all right.

[*Fogle kept his hands on his head.*]

Deputy Layton:	Or not. If you wanna be uncomfortable, that's, that's fine.
Fogle:	I know who I'm dealing with. You don't know who you're dealing with.
Deputy Layton:	That's true. So are you going to hurt me?
Fogle:	No, I'm not.
Deputy Layton:	Okay, well, I trust you.
Fogle:	Alright.[22]

Fogle then put his hands down.

For the next 11-12 minutes, Deputy Layton continued to process Fogle for DUI including reading him his constitutional rights, putting him in contact with a lawyer, and performing a standard visual check of his open mouth to ensure he did not have any foreign objects in his mouth. During this time Fogle made comments such as "I am a CDL driver…so basically my life's fucking over," "I'm fucking done," "I'm a dead man," and "You're talking to a dead man."[23]

During this time, Fogle sat on the bench directly adjacent to the desk area where Deputy Layton was seated:

[21] BWC video of Clark County SO Deputy Layton, timestamp 23:39:35.
[22] BWC video of Clark County SO Deputy Layton, timestamp 23:39:53. See Appendix A for full transcript.
[23] BWC video of Clark County SO Deputy Layton, timestamp 23:40:12 to 23:51:40.

Figure 4: Screen capture from Deputy Layton's BWC video, timestamp 23:40:11.

Deputy Layton then read Fogle his Implied Consent Warnings.[24] He asked Fogle if he would submit to a breath test and Fogle said no. Fogle told Deputy Layton the attorney advised him not to take the breath test. Deputy Layton asked Fogle if he would like to speak with the attorney again and Fogle replied that he would.[25]

Deputy Layton dialed the number for the attorney again and handed the phone to Fogle. After a few seconds, Fogle hung up the phone and said, "Nobody is available." Deputy Layton said, "So you refuse to take the test?" Fogle responded, "Under lawyer advisement."[26]

Deputy Layton then handed Fogle a Department of Licensing (DOL) hearing form. Fogle wadded it up and dropped it onto the counter. Deputy Layton began entering information into the Draeger breath testing instrument on the desk. While doing so, Fogle stated "Well I'm not making it through the night."[27] The following exchange was captured on BWC video:

Deputy Layton:	So, are, are you gonna kill yourself, Marc?
Fogle:	Who knows?
Deputy Layton:	Probably the only person would be you.
Fogle:	Yeah.

[24] BWC video of Clark County SO Deputy Layton, timestamp 23:51:44. Implied Consent Warnings explains an individual's rights and the penalties for refusing to take the breath alcohol test.
[25] BWC video of Clark County SO Deputy Layton, timestamp 23:53:46.
[26] BWC video of Clark County SO Deputy Layton, timestamp 23:53:54.
[27] BWC video of Clark County SO Deputy Layton, timestamp 23:56:33.

Deputy Layton: So …

Fogle: That's correct. Like I said, I keep telling you, I'm fucking done.

Deputy Layton: Is there somebody I can call for you to talk to?

Fogle: Fuck no. We're good.

There was no conversation for approximately 38 seconds and then Fogle began to speak:

Fogle: You know what's crazy? Is it's, it's just you and me in this fucking room.

Deputy Layton: It's just you and me in this room…

Fogle: Yes.

Deputy Layton: …but this is a police station.

Fogle: Yes.

Deputy Layton: There's plenty of troopers here.

Fogle: Are there?

Deputy Layton: Yeah.

Fogle: Are you sure?

Deputy Layton: Did you not see me talking to the trooper when we first pulled up?

Fogle: No. How many people are here in the room?

Deputy Layton: Are you, are you trying to make threatening?

Fogle: Fuck, no.

Deputy Layton: No?

Fogle: No.

Deputy Layton: Okay, then why, why are you saying things like that?

Fogle: I don't know.

Deputy Layton: Okay. Go ahead and stand up. Turn around and face away from me.[28]

Deputy Layton stood up and moved towards Fogle. Fogle also stood and said, "Are you sure?"[29] Deputy Layton pointed to the wall behind Fogle and told him to turn around and face away from him "right now.[30]

Deputy Layton grabbed Fogle's left shoulder and right arm.[31] 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?"[32]

Figure 5: Screen capture from Deputy Layton's BWC video, timestamp 23:58:22.

D. Use of Deadly Force

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 can be heard yelling, "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."[33]

[28] BWC video of Clark County SO Deputy Layton, timestamp 23:57:49.
[29] BWC video of Clark County SO Deputy Layton, timestamp 23:58:18.
[30] BWC video of Clark County SO Deputy Layton, timestamp 23:58:20.
[31] BWC video of Clark County SO Deputy Layton, timestamp 23:58:21.
[32] BWC video of Clark County SO Deputy Layton, timestamp 23.58:22.
[33] BWC video of Clark County SO Deputy Layton, timestamp 23:58:26. Standardized unit designators are used in radio communications, instead of officer names, for brevity and comprehensibility. Unit designators allow listeners to quickly identify the personnel, their assigned geographical area and work assignment. Boy 73 was the unit designator assigned to Clark County SO Deputy Layton.

Figure 6: 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.

Figure 7: 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.

Figure 8: Screen capture from Deputy Layton's BWC video, timestamp 23:58:32.

Deputy Layton can then be heard yelling, "Marc, you're going to get fucking shot." Fogle replied, "Yeah, yeah, that is what I want."[34]

As Deputy Layton and Fogle continued to struggle, they moved towards the northwest corner of the room. It appears from BWC video Deputy Layton ended up on the floor with Fogle above him:

Figure 9: Screen capture from Deputy Layton's BWC video, timestamp 23:58:41.

While in that position, Deputy Layton yelled, "You're going to get shot. Marc, Marc, get the fuck away from me. Get the fuck away from me Marc." At this time, the BWC

[34] BWC video of Clark County SO Deputy Layton, timestamp 23:58:32.

appears to be covered and there is no image available.[35] After a brief pause, Fogle can be heard saying, "I'm not looking to shoot you. I want you to shoot me."

Deputy Layton's BWC video abruptly ends at 11:58:52 p.m.[36] The BWC was reactivated at 12:00:01 a.m. on May 08, 2025. Although there is no sound for the first 30 seconds, when the camera is reactivated Fogle is lying face down in handcuffs and appears to be injured.[37]

During the investigation, OII investigators were provided with an incident report authored by Deputy Layton. According to Deputy Layton's incident report, to prevent Fogle from obtaining his firearm, he reached for his knife, pulled it from its sheath with his right hand and stabbed Fogle several times.[38]

According to a report by WSP CVEO Sheriff provided to OII by WSP, he was working at his desk when he heard "pounding and thudding noises" against the wall of the BAC room and went down the hallway to the room.[39] CVEO Sheriff's report included the following narrative:

> When I got to the door and looked through the window, I saw a non-uniformed gentleman, later known to me as Mr. Fogle, on top of Deputy Layton pinning him to the floor close to the inside access door. At that point, I heard Deputy Layton yell "stop going for my gun" multiple times. I opened the door and saw that Mr. Fogle had a knife protruding from his lower left back. I grabbed Mr. Fogle from under his shoulders and pulled him off the Deputy towards myself and partially into the hallway of the scale house and onto the floor inside the doorway. I was unaware of the extent of Mr. Fogle's injuries at that point. Once Deputy Layton was free, he stood up and proceeded to cuff Mr. Fogle.

The following are radio communications between Deputy Layton and Clark Regional Emergency Service Agency (CRESA) during the period Deputy Layton's

[35] BWC video of Clark County SO Deputy Layton, timestamp 23:58:41.
[36] See Section IV.O Body Worn Camera and In-Car Camera Review.
[37] BWC video of Clark County SO Deputy Layton, timestamp 00:00:02. BWC are equipped with a pre-event buffering feature. The cameras are continuously recording when not in the active 'event' mode. This recording is buffered for 30 seconds before it is overwritten. When the BWC is activated, the previous 30 seconds of recorded video but not audio is saved into permanent memory for that event. This feature is intended to capture the video of an incident just before activation of the BWC.
[38] Clark County SO 25-003361, Supplement 13, Deputy Layton. See Appendix B, Supplemental Incident Report – Deputy Bryson Layton.
[39] WSP 25-008851, Assisting Officer's Narrative, CVEO Sheriff. See Appendix C, Report of Investigation – Patrick Sheriff.

BWC was not recording, beginning at 11:58:52 p.m. and ending at 12:00:01 a.m. when Deputy Layton's BWC is reactivated and resumes audio recording:

Deputy Layton:	Boy 73. One detained. Roll medical code three. Multiple stab wounds to the back.
Dispatcher:	I copy
Deputy Layton:	Boy 73. Did you copy my traffic?
Dispatcher:	Affirm. We have code three medic coming to you
Deputy Layton:	Keep the air for me.
Dispatcher:	Affirm

[Radio traffic between the CRESA dispatcher and other units.]

Dispatcher:	Boy 73. Can you confirm your location? That's where I had you.
Deputy Layton:	I'm on the scale house to I-5, yes.[40]

E. After the Use of Deadly Force

In his report, Deputy Layton stated he began to cut Fogle's clothes to provide aid and saw his camera was no longer recording and he reactivated it.[41]

Shortly after the BWC video resumed recording at 12:00:01 a.m. on May 08, 2025, Deputy Layton can be seen using medical shears to cut away the sweatshirt and shirt of Fogle. WSP CVEO Sheriff was also present.

As Deputy Layton continued to remove Fogle's clothing and check his injuries, Fogle said, "I'm dying" and asked to be turned on his side. Deputy Layton turned him on his side. On several occasions, Deputy Layton said, "I'm not going to let you die, Marc."[42]

At 12:03 a.m. Cowlitz Indian Tribal Public Safety Department (CITPSD) officers Jim Kelly and Craig Wattson and Ridgefield Police Department (Ridgefield PD) Officer Thomas Erazo arrived at the scene and began to render aid to Fogle. Deputy Layton said "He needs medical. So, he's multiple stab wounds to the back."[43] Shortly thereafter, these officers took over providing aid to Fogle.

[40] Transcript of CRESA radio traffic.
[41] Clark County SO 25-003361, Supplement 13, Deputy Layton.
[42] BWC video of Clark County SO Deputy Layton, timestamp 00:01:52.
[43] BWC video of Clark County SO Deputy Layton, timestamp 00:02:59.

Deputy Layton sat down in the hallway and then left the building with Officer Kelly. Deputy Layton told Officer Kelly, "He was reaching for my fucking gun, dude."[44]

At 12:05:42 a.m., Clark-Cowlitz Fire Rescue personnel arrived on scene and took over the care of Fogle from Ridgefield PD Officer Erazo and CITPSD Officer Wattson.[45] Clark-Cowlitz Fire Rescue personnel evaluated Fogle and applied additional occlusive dressings to his wounds. When Fogle was moved from the BAC room to the ambulance he stopped breathing. The aid crew intubated Fogle to provide manual ventilation and administered intravenous fluids. They began manual chest compressions until a machine was used instead. This continued until Fogle was declared deceased by Clark-Cowlitz Fire Rescue personnel.

Other Clark County SO deputies responded to the scene and initially placed barricade tape around the scene to secure it. They were later relieved by WSP troopers and Vancouver Police Department (Vancouver PD) officers who maintained responsibility for the scene until they were relieved by OII investigators.

F. Incident Timeline

The following is a timeline from when the collision was reported at 10:58 p.m. on May 07, 2025 until Clark-Cowlitz Fire Rescue personnel arrived at the WSP Ridgefield POE at 12:05 a.m. on May 08, 2025:

10:58:21	Collision reported to CRESA.[46]
11:00:45	Deputy Layton arrived at the collision scene.[47]
11:19:08	Deputy Layton left collision scene to transport Fogle.[48]
11:33:45	Deputy Layton arrived at the WSP Ridgefield POE.[49]
11:38:58	Deputy Layton removed handcuffs from Fogle.[50]
11:58:21	Initiation of physical contact between Deputy Layton and Fogle.[51]
11:58:52	Deputy Layton's BWC stopped recording.[52]

[44] BWC video of Clark County SO Deputy Layton, timestamp 00:05:28.
[45] BWC video of Clark County SO Deputy Layton, timestamp 00:05:42.
[46] CRESA CAD log.
[47] CRESA CAD log.
[48] BWC video of Clark County SO Deputy Layton, timestamp 23:19:08.
[49] BWC video of Clark County SO Deputy Layton, timestamp 23:33:45.
[50] BWC video of Clark County SO Deputy Layton, timestamp 23:38:58.
[51] BWC video of Clark County SO Deputy Layton, timestamp 23:58:22.
[52] BWC video of Clark County SO Deputy Layton, timestamp 23:58:52.

11:59:52 Radio transmission by Deputy Layton to CRESA relaying "[o]ne detained. Roll medical code three. Multiple stab wounds to the back."[53]

12:00:01 Deputy Layton's BWC reactivated.[54]

12:03:01 Responding officers arrive at the WSP Ridgefield POE.[55]

12:05:41 Clark-Cowlitz Fire Rescue arrives at the WSP Ridgefield POE.[56]

[53] CRESA radio audio recording, Transcript_for_CRESA_CNTL_2_Radio_traffic.
[54] BWC video of Clark County SO Deputy Layton, timestamp 00:00:01.
[55] BWC video of Clark County SO Deputy Layton, timestamp 00:03:01.
[56] BWC video of Clark County SO Deputy Layton, timestamp 00:05:41.

IV. OII Investigation

A. Notification and Response

On May 08, 2025, at 12:39 a.m., a commander from the Clark County SO called the OII law enforcement notification line. He reported the use of deadly force resulting in a fatality.

OII investigators responded to the WSP Ridgefield POE located on northbound Interstate 5 near milepost 15. The first OII investigator arrived at the WSP Ridgefield POE at 4:06 a.m. OII assumed incident command responsibility for the scene at approximately 4:45 a.m. from Vancouver PD officers. Vancouver PD officers had secured the scene at 1:17 a.m. as part of the Southwest Washington Independent Investigative Response Team (SWIIRT).

B. Conflict of Interest Assessment

The objectivity and credibility of OII investigations depends on identifying and avoiding conflicts of interest. OII requires that all personnel assigned to an investigation disclose potential conflicts of interest with any person or entity involved in the OII investigation. Potential conflicts are assessed by supervisors and a team member may be restricted, limited or disqualified from further participation in the investigation if a conflict of interest is identified. Preliminary assessments are done at the time of the initial response and other intervals. In addition, investigation team members have an ongoing duty to report any potential conflicts of interest at any time during the investigation.

Conflict-of-interest assessments were conducted throughout this investigation. One investigator was determined to have a potential conflict of interest with one of the responding officers and was removed from the investigation. Prior to being removed from the investigation, the investigator had assisted with entering evidence received from SWIIRT into the OII evidence facility.

C. Crime Scene Processing and Evidence Collection

At approximately 12:58 a.m. on May 08, 2025, OII requested the WSP Crime Scene Response Team (WSP CSRT) respond to assist.[57] WSP CSRT arrived at 6:05 a.m. and

[57] WSP CSRT was established to respond to calls for crime scene assistance from any law enforcement agency within Washington State to ensure a thorough and complete investigation regardless of any resource limitations. It is staffed by trained forensic scientists, and their expertise is especially useful when processing complex or multiple scenes. OII will generally use WSP CSRT to process its scenes. However, OII investigators are also trained and

processed the scene at the WSP Ridgefield POE. WSP CSRT members responding to the scene also completed a preliminary conflict-of-interest assessment prior to processing the scene. No conflicts of interest were identified. Regional Investigations Supervisor Conaway obtained consent to process the WSP Ridgefield POE facility from WSP Captain Dennis Bosman.

General processing steps included:

1. Photography

WSP CSRT documented the scene with 364 photographs. The photographs included overall photos of the outside of the WSP Ridgefield POE, the Clark-Cowlitz Fire Rescue aid vehicle including the interior of the aid vehicle where Fogle was located, the office area in the front of the building, the BAC room and the location of potential evidence, which included blood stains, clothing, and a knife.

2. Laser Scanning

WSP CSRT used a Trimble X-7 3D laser scanner to document the interior of the scene which included the front office area of the WSP Ridgefield POE and the BAC room. OII personnel used a Trimble X-7 3D laser scanner to document the exterior of the scene. Using Trimble Forensics Reveal software, OII investigators were able to create two-dimensional diagrams, as seen in figures 2, 10 and 11. These diagrams assist in providing an understanding of the positional relationships of the evidence and accurate measurements of the scene.

3. Evidence Collection

WSP CSRT documents and collects items of evidence where they are located at their arrival. WSP CSRT identified, photographed, documented and collected items of evidence as described below.

qualified to process a scene themselves if WSP CSRT is unnecessary, unduly delayed or excluded due to a conflict of interest.

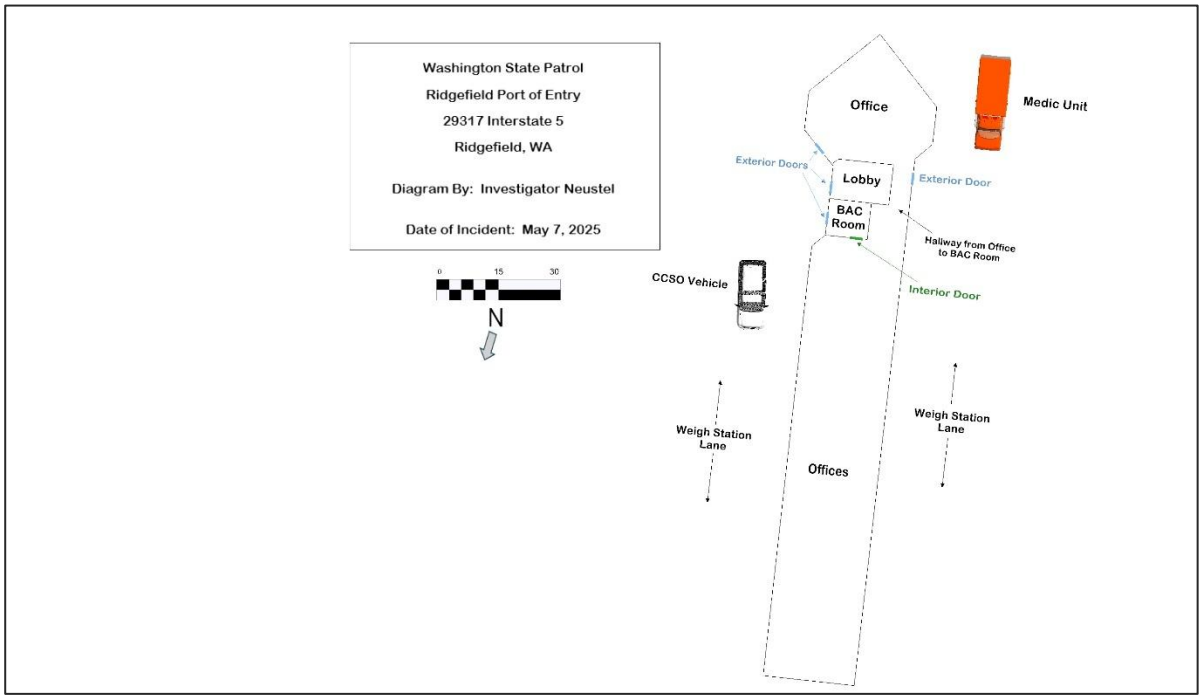

Figure 10: Two-dimensional overall top-down view of the WSP Ridgefield Port of Entry. Created by OII Investigator Neustel from the Trimble 3D laser scan data using Trimble Forensic Reveal software.

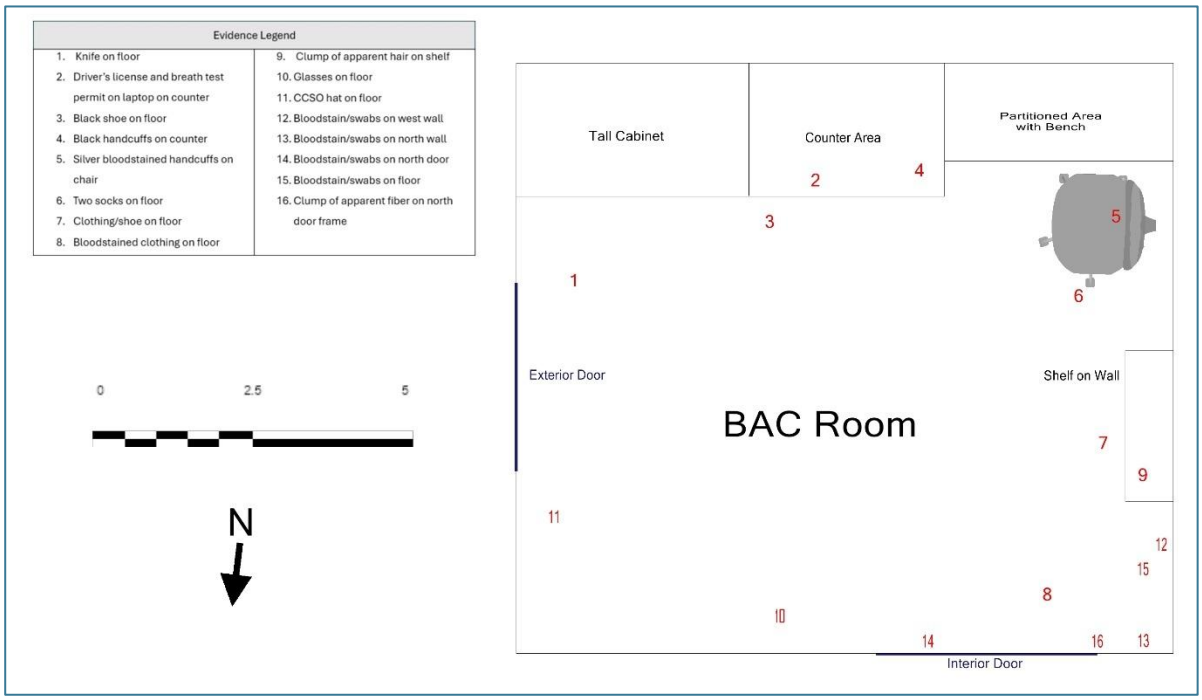

Figure 11: Two-dimensional top-down view of the BAC room at the Ridgefield Port of Entry. Created by OII Investigator Neustel from the Trimble 3D laser scan data using Trimble Forensic Reveal software.

The BAC room is approximately 10 feet by 10 feet in size. The exterior door is centered on the east wall. There are cabinets, a counter, and a bench along the south wall. A chair was just north of the bench. A shelf is attached to the west wall approximately 40 inches off the ground, north of the chair. A door on the north wall leads to the rest of the building.[58]

Figure 12: BAC room. WSP CSRT photograph WSP_095.

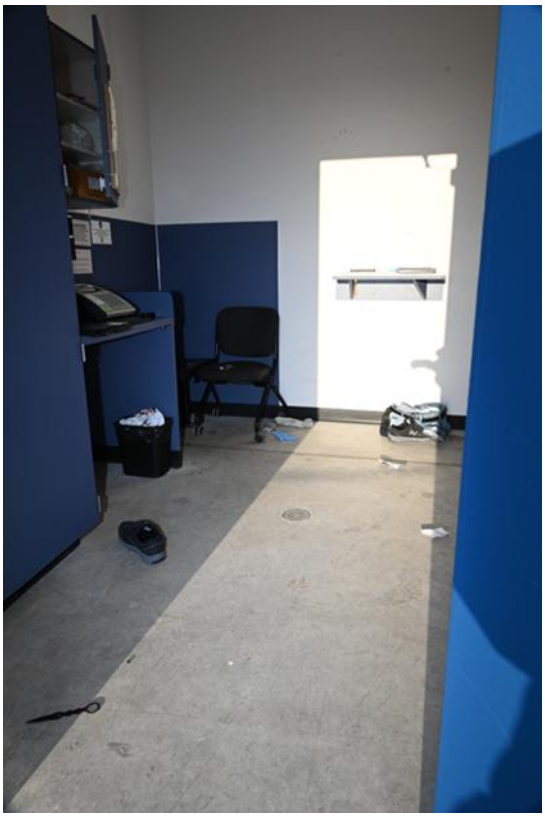

Figure 13: BAC room. WSP CSRT photograph WSP_079.

WSP CSRT documented several bloodstains on the west wall, north door and floor of the BAC room. Samples were collected from these bloodstains for further analysis if needed.

[58] WSP CSRT Report 525-001478, 06/26/25.

a. Knife

A fixed blade knife with apparent bloodstains was recovered from the BAC room floor:

Figure 14: WSP CSRT photograph. WSP_0165.

Figure 15: OII Investigator Ames photograph. OII image JWA_0029.

The knife is a Benchmade Model Special Operatives Combat Program (SOCP) 176 Dagger. The knife was measured to be 185mm in length. General information from Benchmade's website lists the specifications of the knife as: overall length of the knife is 7.25 inches with a blade length of 3.22 inches.[59]

b. Clothing

Clothing was located near the north door to the BAC room. The clothing items were soaked in what appeared to be blood. The clothing included an orange T-shirt and a gray hooded zip-up sweatshirt. These appeared to be clothing worn by Fogle that was cut by Deputy Layton, as captured on BWC video.

[59] Benchmade website, socpgear.com/products/socp-176-dagger-black-sheath.

WSP CSRT collected several additional items from the BAC room, including bloodstained handcuffs, clumps of apparent hair and fiber, Fogle's driver's license and other clothing items.

All items collected by WSP CSRT were turned over to OII on May 08, 2025, upon completion of scene processing. Below is the list of items collected by WSP CSRT (See the "Evidence Legend" in figure 11 for the location of the items collected by WSP CSRT):[60]

Item 1: Knife

Item 2: Driver's license and breath test permit

Item 3: Black shoe

Item 4: Black handcuffs

Item 5: Silver bloodstained handcuffs

Item 6: Two socks

Item 7: Clothing

Item 8: Bloodstained clothing

Item 9: Clump of apparent hair

Item 10: Glasses

Item 11: CCSO hat

Item 12: Swabs (2) – west wall

Item 13: Swabs (2) – northwest wall

Item 14: Swabs (2) – north door

Item 15: Swabs (2) – floor by west wall

Item 16: Clump of fiber

Item 17: SD card

[60] The evidence item numbers listed are the numbers assigned by WSP CSRT forensic scientists at the scene of the incident. OII investigators subsequently assigned OII evidence numbers to these items.

D. Involved and Responding Agencies Activities

Prior to the arrival of OII investigators, Clark County SO, Ridgefield PD and Vancouver PD officers took steps to obtain and preserve evidence relating to the incident.[61] The following is a summary of these activities, other than providing scene security and rendering aid. Relevant information generated by these efforts is incorporated in other sections of this report.

Ridgefield PD:

- In addition to rendering medical aid to Fogle, Officer Fokin took photographs of the scene, Deputy Layton, and CVEO Sheriff, including the following:[62]

Figure 16: Officer Fokin photograph of CVEO Sheriff. 30C9ABED-E290-4382-A18F-71ED71279125.JPG.

Figure 17: Officer Fokin photograph of Deputy Layton. D55B7586-EE63-4D58-9BE6-3649332065D4.jpg.

Clark County SO:

- Sergeant Mark Anderson obtained a public safety statement from Deputy Layton and directed Officer Fokin to photograph CVEO Sheriff and the scene.[63]
- Deputy Michael Gonzalez transported Deputy Layton to the Clark County SO west precinct where he photographed Deputy Layton at the direction of Vancouver PD Lieutenant Spencer Harris. He also collected Deputy Layton's

[61] This is generally permissible pursuant to RCW 43.102.120(2).
[62] Ridgefield PD 25-000274, Incident Report, Officer Erazo.
[63] Clark County SO 25-003361, Supplement 2, Sergeant Anderson.

duty belt and vest and placed them into paper bags, which he later provided to members of SWIIRT[64] (See Section IV. E Officer Processing).

- Deputy Slav Pavlenko took photographs of the scene at the WSP Ridgefield POE, including the following:[65]

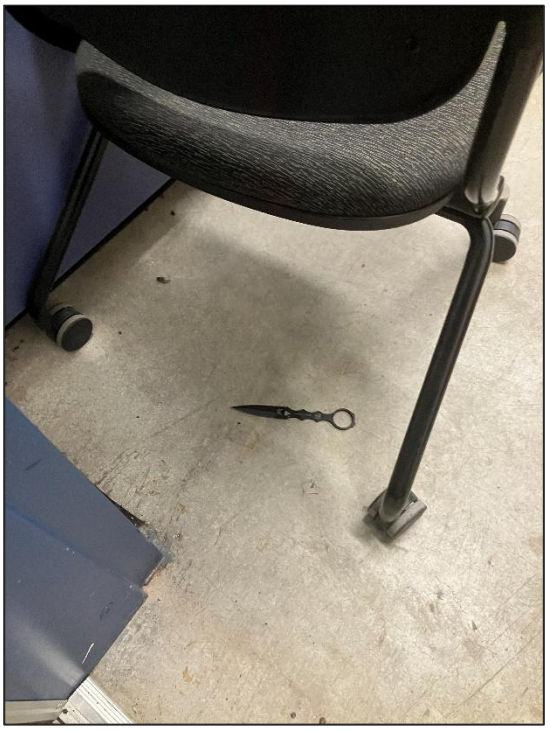

Figure 18: Deputy Pavlenko photograph of knife. 2025-05-08_000747 4631.

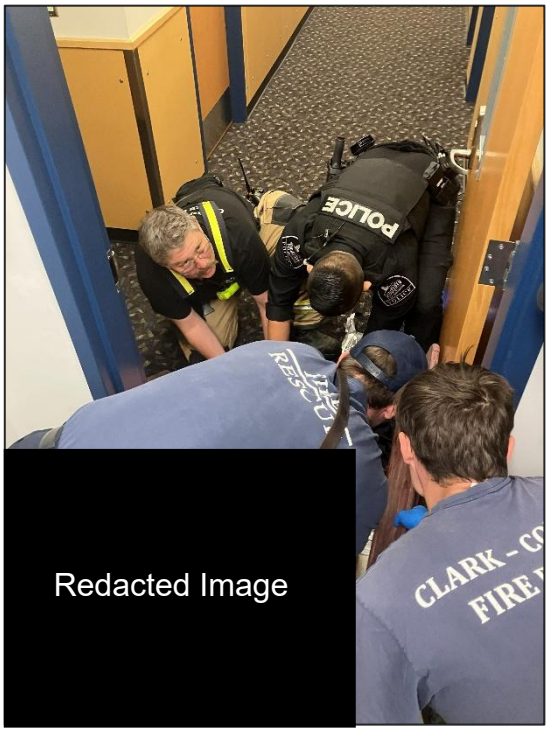

Figure 19: Deputy Pavlenko photograph of medical care. 2025-05-08_000803 4631.

- Detective Sergeant Fred Neiman reported he was notified of the use of force incident by Clark County SO Commander Tim Bieber and designated as the involved agency liaison. Sergeant Neiman reported he confirmed compliance with Washington Administrative Code 139-12.[66]

WSP:

- Detective David Ortner observed blood on CVEO Sheriff's uniform and coordinated with Vancouver PD Lieutenant Harris to collect the uniform for evidentiary purposes.[67]

[64] Clark County SO 25-003361, Supplement 7, Deputy Gonzalez.
[65] Clark County SO 25-003316, Supplement 8, Deputy Pavlenko.
[66] Clark County 2025-003316, Supplement 12, Detective Sergeant Neiman.
[67] WSP 25-008851, Assisting Officer's Narrative, Detective Ortner.

Vancouver PD:

- Detective Jon Sergeant Pfister conducted a Conflict-of-Interest assessment for the SWIIRT detectives who had responded. He also assigned detectives to conduct officer processing.[68]
- Detective Michael Musich swabbed the BWC camera that was worn by Deputy Layton. Detective Musich also photographed CVEO Sheriff and Deputy Layton's hands. Detective Musich later transported evidence items to the WSP Ridgefield POE and turned them over to OII Investigator Taylor.[69]
- Detective Brian Billingsley gave Deputy Jon Feller the BWC from Deputy Layton's vest once it had been photographed and swabbed so video from the camera could be downloaded. After it had been downloaded, Detective Billingsly packaged the BWC. Detective Billingsley also packaged CVEO Sheriff's uniform and gave it to Detective Musich.[70]
- Lieutenant Harris coordinated the response of the SWIIRT team. He authorized the decontamination of Deputy Layton per biological fluid exposure protocols and participated in officer processing and collection of evidence as described below (See Section IV.E Officer Processing). Lieutenant Harris later accompanied the SWIIRT detectives to the WSP Ridgefield POE for the transfer of evidence to OII investigators.[71]

E. Officer Processing

1. General

Officer processing refers to the investigative steps of documenting the physical appearance and condition of uniforms and equipment of involved officers. These steps include:

- Taking photographs of the involved officers to document their appearance with emphasis on uniform defects, injuries, equipment, and potential trace evidence.
- Documenting the condition of the officers' firearms and associated magazines or other loading devices.

[68] Vancouver PD 2025-009359, Supplement 4, Detective Sergeant Pfister.
[69] Vancouver PD 2025-009359, Supplement 3, Detective Musich.
[70] Vancouver PD 2025-009359, Report from Detective Billingsley.
[71] Vancouver PD 2025-009359, Supplement 5, Lieutenant Harris.

- Determining and documenting the number of firearm cartridges in each officer's magazines or reloading devices. This examination and documentation may include pistol, rifle, and less-lethal tools depending on the incident being investigated.
- Collecting firearms, equipment, uniforms, and other items as necessary depending on the nature of the incident.

2. Southwest Washington Independent Investigative Response Team Involvement

Vancouver PD Lieutenant Harris was designated the SWIIRT Incident Commander for this incident. OII requested SWIIRT process the officers based on a delay in OII estimated arrival time due to an active response to another use of deadly force incident. This request was communicated by OII Regional Investigations Supervisor Musselwhite to Lieutenant Harris at approximately 1:00 a.m. on May 08.[72]

3. Deputy Bryson Layton

After the use of deadly force incident, Deputy Layton was transported to the Clark County SO West Precinct by Clark County SO Deputy Gonzalez. Prior to Vancouver PD Lieutenant Harris's arrival at the precinct, he was asked by Clark County SO Commander Bieber to allow Deputy Layton to be decontaminated and cleaned up because he "had a lot of blood on him." Lieutenant Harris gave permission pursuant to "standard biological fluid exposure protocols" and requested 360-degree photos be taken first.[73] These photos were taken by Clark County SO Deputy Gonzalez and later provided to OII investigators. Deputy Gonzalez also collected Deputy Layton's uniform and equipment (See Section IV.D Involved and Responding Agencies Activities).

[72] Vancouver PD 2025-009359, Supplement 5, Lieutenant Harris.
[73] Vancouver PD 2025-009359, Supplement 5, Lieutenant Harris; Washington State Criminal Justice Training Commission Independent Investigation of Officer Involved Use of Deadly Force Incident Best Practices, September 2024.

Photographs taken of Deputy Layton by Deputy Gonzalez:

Figure 20: Deputy Gonzalez photograph of Deputy Layton, Axon Capture Photo 2025-05-08-004902_5031.

Figure 21: Deputy Gozalez photograph of Deputy Layton, Axon Capture Photo 2025-0508-004908.

Figure 22: Deputy Gonzalez photograph of Deputy Layton, Axon Capture Photo 2025-05-08-004913_5031.

Figure 23: Deputy Gozalez photograph of Deputy Layton, Axon Capture Photo 2025-0508-004921.

Figure 24: Deputy Gonzalez photograph of Deputy Layton, Axon Capture Photo 2025-05-08 005004 5031.

Figure 25: Deputy Gonzalez photograph of Deputy Layton, Axon Capture Photo 2025-05-08 005050 5031.

The following is a summary of the officer processing steps of Deputy Layton by Vancouver PD (as part of SWIIRT) as reported by Lieutenant Harris:

- Lieutenant Harris located Deputy Layton's vest, equipment and clothing in three bags in a centralized area.
- Based on the need to secure these items in one location to conduct administrative tasks and directions while awaiting additional SWIIRT detectives, Lieutenant Harris moved the three bags to the office where Deputy Layton and counsel were located. These items remained in the room with Deputy Layton and counsel until Lieutenant Harris later removed them and transferred them to another area.[74]
- To facilitate timely review of BWC video, Lieutenant Harris took photos of Deputy Layton's ballistic vest, which had the BWC still attached. Vancouver PD detectives Musich and Billingsly took photos and swabbed the camera. At OII's request, the BWC was then provided to Clark County

[74] Vancouver PD 2025-009359, Supplement 5, Lieutenant Harris. Lieutenant Harris noted in his report an officer usually would remain in their clothing and uniform prior to being processed and that the bags appeared undisturbed when he returned.

SO Deputy Feller to download the footage so it could be provided to OII.[75]

Figure 26: Lieutenant Harris photograph of Deputy Layton's equipment. SWIIRT 31_VPD_0033.

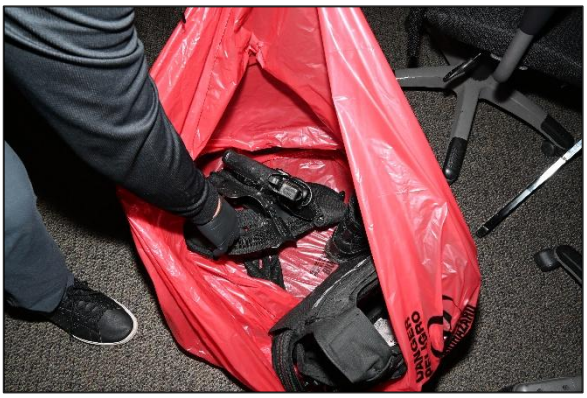

Figure 27: Lieutenant Harris photograph of Deputy Layton's equipment. SWIIRT 33_VPD_0034.

- According to Lieutenant Harris, no firearm ammunition round count of Deputy Layton's firearm was conducted by SWIIRT to ensure potential trace DNA evidence would not be lost and because no information was obtained that Deputy Layton's firearm was fired in the incident.[76]

Lieutenant Harris reported that, other than the BWC, all items remained as they were recovered, to be transferred to OII for later processing.[77]

Detective Musich also took photographs of Deputy Layton's hands. While photographing his hands he noted what appeared to be abrasions on Deputy Layton's knuckles, sides of his hand, and elbow:[78]

[75] Vancouver PD 2025-009359, Supplement 3, Detective Musich. AXON is a mobile technology and video solution company that provides BWC and in-car audio and video recording systems to law enforcement agencies. To download footage from the cameras and upload to the AXON evidence system to be shared with other agencies, they must be docked at a station belonging to the agency who owns the equipment. (See Section IV.O Body-worn Camera and In-Car Camera Review.)
[76] Vancouver PD 2025-009359, Supplement 5, Lieutenant Harris.
[77] Vancouver PD 2025-009359, Supplement 5, Lieutenant Harris.
[78] Vancouver PD 2025-009359, Supplement 3, Detective Musich.

Figure 28: Detective Musich photograph. SWIIRT photograph 20_VPD_0018.JPG.

Figure 29: Detective Musich photograph. SWIIRT photograph 21_VPD_0026.JPG.

Detective Musich collected Deputy Layton's uniform and boots as evidence. These items, along with a USB drive containing the photos of Deputy Layton taken by Deputy Gonzalez and Deputy Layton's additional equipment, were later given to OII Investigator Taylor.[79]

While processing the evidence, OII Investigator Taylor photographed the uniform and equipment Deputy Layton had been wearing at the time of the incident. Investigator Taylor noted what appeared to be dried blood on the handgun and inserted magazine.

Figure 30: OII Investigator Taylor photograph of Deputy Layton's handgun. OII image DSC_0139.

Figure 31: OII Investigator Taylor photograph of Deputy Layton's handgun. OII image DSC_0140.

Deputy Layton's Glock Model 17 9mm handgun was equipped with a DP Pro optic sight and a Surefire X300-A under barrel light. There was an unfired cartridge in the chamber of the handgun and 22 unfired cartridges in the inserted magazine. The magazine had a maximum capacity of 22 cartridges. Deputy Layton's equipment included two additional magazines, with 17 cartridge capacity. Each magazine contained 17 unfired cartridges. This is consistent with no rounds being fired during the use of force.

[79] Vancouver PD 2025-009359, Supplement 3, Detective Musich.

Figure 32: OII Investigator Taylor photograph of Deputy Layton's firearm. OII image DSC 0175.

Figure 33: OII Investigator Taylor photograph of Deputy Layton's handgun and magazines. OII image DSC_0182.

Figure 34: OII Investigator Taylor photograph of spare magazine from duty belt. OII image DSC_0187.

Figure 35: OII Investigator Taylor photograph of spare magazine from duty belt. OII image DSC_0188.

OII Investigator Taylor noted what appeared to be dried blood on Deputy Layton's other equipment including a TASER 10 conducted energy weapon, a Nightstick flashlight, duty belt and Point-Blank body armor carrier vest. Investigator Taylor noted an empty Benchmade knife sheath secured to the inside waistband of Deputy Layton's uniform pants. A Kershaw folding knife was clipped inside the right front pocket on the uniform pants. Investigator Taylor photographed the equipment.[80]

Figure 36: Investigator Taylor photograph of Deputy Layton's uniform pants with knife sheath attached. OII image DSC_0236.

4. Washington State Patrol Commercial Vehicle Enforcement Officer Patrick Sheriff

Vancouver PD Detective Musich photographed WSP CVEO Sheriff. While photographing CVEO Sheriff, Detective Musich reported he saw red stains on CVEO Sheriff's left boot and left lower pant leg, as well as what appeared to be dust on his back near his shoulders.[81]

[80] OII-2025-0008, Supplemental 1, Investigator Taylor.
[81] Vancouver PD 2025-009359, Supplement 3, Detective Musich.

Figure 37: Detective Musich photograph of CVEO Sheriff. SWIIRT 3_VPD_0004.JPG.

Figure 38: Detective Musich photograph of CVEO Sheriff's left boot. SWIIRT 16_VPD_0009.JPG.

These items were provided to Detective Musich as evidence and later turned over to OII Investigator Taylor.

F. Area Canvass and Security Video

The WSP Ridgefield POE is located adjacent to Interstate 5 approximately 15 miles north of the Oregon state line. There are no residences, businesses, or other facilities in the immediate area. Due to the location of the WSP Ridgefield POE there was no area canvass conducted. A tractor-trailer combination (semi-truck) with no sleeper was parked in a parking area east of the POE facility. OII Investigator Scott checked the truck and found it to be unoccupied.[82]

While processing the scene a security camera was seen inside the BAC room at the WSP Ridgefield POE. OII Incident Commander Conaway asked the WSP to determine if the camera was active and to obtain a copy of the video. WSP Captain Bosman said the camera no longer recorded.[83]

G. Search Warrants

No search warrants were obtained during this investigation.

[82] OII 2025-0008, Supplement 4, Investigator Scott.
[83] OII 2025-0008, Supplement 2, Investigator Reeves.

H. Officer Statements

1. General Note on Officer Statements

In a criminal matter, police officers have the same constitutional rights as any other citizen. The 5th Amendment to the Constitution of the United States prohibits compelling a person to be a witness against themselves in a criminal case.[84] Therefore, an officer can voluntarily choose to provide a statement to criminal investigators or not, just like any other person.

Law enforcement agencies may compel an officer that they employ to provide a statement in an administrative investigation for the purpose of determining if the officer's actions were in accordance with their policy and training. A police officer may be terminated for failing to answer compelled questions relating to job performance. Answers provided through a compelled statement can be used against the officer in an administrative or civil proceeding but cannot be used in any criminal prosecution of that officer. Similarly, any information or discoveries obtained directly or indirectly from a compelled statement cannot be used against the officer in a criminal proceeding.[85]

OII has established standard processes to prevent information obtained from compelled statements from tainting the criminal investigation.

2. Deputy Bryson Layton's Statement

` While on scene, Clark County SO Sergeant Anderson ordered Deputy Layton to give a public safety statement and to turn off his camera while that occurred.[86]

A public safety statement is a statement made by an officer after an incident designed to quickly provide critical information that might be needed to address immediate public safety needs. No compelled statements were caught on BWC video. This compelled statement was redacted from Sergeant Anderson's in-car video.[87]

OII investigators were provided a copy of an incident report authored by Deputy Layton.[88] In the report, Deputy Layton described his perception of

[84] U.S. Const. amend. V.
[85] This is often referred to as a Garrity statement based on U.S. Supreme Court decision Garrity v. New Jersey, 385 U.S. 493 (1967).
[86] BWC video of Clark County SO Sergeant Anderson, timestamp 00:19:37.
[87] OII 2025-0008, Supplement 11, Investigator Nissen.
[88] Clark County SO 25-003361, Supplement 13, Deputy Layton, p 3. OII is not aware of whether Deputy Layton reviewed his BWC video prior to completing the report.

events from the time he told Fogle to stand up and turn around so he could be placed in handcuffs:

> Rather than turn around Marc came at me, pushed me and aggressively began going for my gun. I used my left hand to put pressure on my gun so Marc could not pull it from the holster, and I used my right hand to key the microphone on my portable radio. I radioed that I was fighting with one and that he was reaching for my gun. I worked to protect my gun and I provided him with a force warning, telling him that he would be fucking shot. Marc said that is what he wanted. I was knocked off balance and we went to the ground with Marc on top of me. I believe we were primarily chest to chest with me on my back. I told Marc to get the fuck away from me. Marc was significantly larger than me (I am 5'7" and 160 pounds), and I could not get free.
>
> Marc persisted in his determined efforts to gain control of my gun. I knew I could not let Marc get my gun. Marc had said he wanted to be shot but given his intoxicated state and the decision he had made to attack me, I could in no way rely on that as an indication that he would not shoot me. In addition, I carry my gun with a round in the chamber, and I knew that in a struggle for control of the gun it could readily be discharged, seriously injuring or killing me. I am also aware from firearms training, that a gun can be discharged while still in or while being removed from the holster. I continued to use my left hand to push down on my gun to try to prevent Marc from getting control of my gun. I could feel my left hand begin slipping off the back of the gun and I was losing leverage in my efforts to keep possession of my gun. I had to stop Marc, so I reached for my knife, pulled it from its sheath with my right hand and quickly stabbed Marc multiple times. Marc's efforts to get my gun presented an immediate deadly threat to me. I was afraid for my life. I was trying to stop him from getting my gun and from being seriously injured or killed.
>
> When I pulled my knife, I had no other viable force option available to me. My taser is a Taser 10 and it does not have a drive stun option, so that was not a choice. I don't carry pepper spray, and even if I had, it would not have been a viable option since it would likely have affected me as much as Marc. I wasn't in a position where

> I had the physical leverage to deliver effective pain compliance blows to Marc. My hope was that by stabbing Marc, I could get him to stop going for my gun, and I could then safely secure him."[89]

Deputy Layton indicated in his report that he was scheduled to work a graveyard patrol shift on May 07, 2025, which typically runs from 7:00 p.m. to 6:45 a.m. Prior to his shift, he assisted in a training exercise that began at 2:30 p.m. on May 07.[90]

3. Commercial Vehicle Enforcement Officer Patrick Sheriff Statement

WSP provided OII investigators with reports from CVEO Sheriff and other responding officers who arrived at the scene after the incident. CVEO Sheriff's description of events is referenced in Section III.D Use of Deadly Force. His entire statement is included in this report as Appendix C.

4. Other Officers

Ridgefield PD officers Erazo and Fokin and CITPSD officers Kelly and Wattson were not processed or photographed and did not give statements to detectives.[91]

Ridgefield PD and CITPSD later provided written reports to OII.

CITPSD Officer Wattson was the first officer to arrive at the scene. He described his observations after entering the room as follows:

> I observed Deputy Layton next to an adult male suspect who was lying face down, on the floor. The suspect was handcuffed and was bleeding from puncture wounds on his back. I also noticed blood and miscellaneous items strewn about the floor, indicative of a physical struggle.
>
> I proceeded to assess Deputy Layton and noted he had a look of sheer terror and shock on his face. Deputy Layton's hair was disheveled, and his skin tone appeared ashen in color. I also observed blood on Deputy Layton's hands, arms, and uniform and surmised he had likely been in a fight for his life.[92]

[89] Clark County SO 25-003361, Supplement 13, Deputy Layton; Appendix B, Supplemental Incident Report – Deputy Bryson Layton.
[90] Clark County SO 25-003361, Supplement 13, Deputy Layton.
[91] Vancouver PD 2025-009359, Supplement 11, Detective Dustin Goudschaal.
[92] CITPSD 25000216, Incident Report, Officer Wattson.

CITPSD Officer Kelly reported the following, "After arriving at the scale Wattson and I entered the BAC room and saw Layton standing next to the suspect attempting to render aid. Layton was clearly in distress as he had just fought for his life with the suspect. Layton was shaking and his hair and uniform were disheveled, and he was a bit pale in color."[93]

Ridgefield PD Officer Erazo arrived at the scene at approximately the same time Officers Wattson and Kelly did. He made the following observations about Deputy Layton, "I also observed Deputy Layton, who was standing near the male. Deputy Layton appeared gassed out and was breathing heavily. Deputy Layton's face appeared as if he was in shock and his hair was a complete mess."[94]

I. Records Relating to Incident and Response

OII investigators requested and reviewed all records related to this incident from Clark County SO. Records received included BWC video, video from in-car cameras (front facing and rear facing camera), officer-generated reports, scene photographs, prior law enforcement contact details, and other documentation.

OII investigators also obtained records from the Clark-Cowlitz Fire Rescue Department. These records include information about the medical treatment Fogle received because of the incident.

In addition, OII investigators obtained records from all law enforcement agencies that responded, including Ridgefield PD, CITPSD and WSP. Ridgefield PD and CITPSD officers do not wear BWC. WSP Troopers remained at the WSP Ridgefield POE to provide exterior scene security.

OII investigators obtained records from the Vancouver PD, including incident reports, BWC footage from officers completing officer processing, and those providing scene security. Vancouver PD responded to the Clark County SO west precinct as part of the SWIIRT and sent uniformed officers to the WSP POE to provide scene security.

OII investigators also obtained records from WSP and CRESA 911 Communications, including audio recordings of the 911 call for collision, event chronology reports and audio recordings of radio communications from law enforcement and medic units.

[93] CITPSD 25000216, Supplement 1, Officer Kelly.
[94] Ridgefield PD 25000274, Incident Report, Officer Erazo.

J. Identification of Marc Fogle

Upon arrival at the scene on May 08, 2025, Vancouver PD Lieutenant Harris informed OII investigators Fogle had preliminarily been identified from his Washington driver's license photograph from the DUI arrest.

The Clark County Medical Examiner's Office (Clark County MEO) confirmed Fogle's identity through fingerprints.[95]

K. Next of Kin Notification

Clark County MEO Investigator Hannah Matulek located potential relatives residing in Phoenix, Arizona. Clark County MEO Investigator Matulek arranged for an in-person death notification by City of Phoenix police. Clark County MEO Investigator Matulek was informed that notification had been made to Fogle's sister-in-law, TF, at the residence of Fogle's brother, MF, on May 09, 2025. Notification was also made to other family members.[96]

OII family liaisons subsequently contacted Fogle's family members to ensure they had a direct resource for support and to ask questions about the ongoing investigation. During this contact, the family liaison confirmed Fogle was not an enrolled Tribal member and did not have any other known Tribal affiliations.

L. Autopsy

On Monday, May 12, 2025, Dr. Martha Burt conducted the autopsy at the Clark County MEO facility.[97]

Fogle had 17 stab wounds to his mid and upper back. Dr. Burt noted there were additional superficial abrasions and contusions on other parts of his body, as well as evidence of attempted life-saving medical therapy.[98]

Toxicology reports are a routine part of autopsies. Toxicology results for Fogle indicate a blood alcohol concentration of .160 g/100mL.[99]

[95] Clark County MEO, Case #2025-1633, Confidential Case Information.
[96] Clark County MEO, Case #2025-1633, Confidential Case Information.
[97] OII-2025-0008, Supplemental 10, Investigator Cary.
[98] Clark County MEO Autopsy Report Case #2025-1633, 8/20/25.
[99] WSP Toxicology Report, 6/18/25.

M. Physical Characteristics of Deputy Bryson Layton and Marc Fogle

1. Deputy Bryson Layton

According to Deputy Layton's written report, his physical attributes are the following:[100]

Height is 5'7"

Weight is 160 pounds

2. Marc Fogle

The following information about Fogle was included in the autopsy report:[101]

54 years of age

Height is 5'11"

Weight is 247 pounds

N. Civilian Witnesses

There were no civilian witnesses to the actual use of force or the events immediately following the use of force in this case.

1. Medical Responder Interviews

OII investigators conducted interviews with the personnel from the Clark-Cowlitz County Fire Rescue Department who responded to the scene to provide medical assistance. These interviews were conducted to document the actions taken by emergency medical personnel, clarify timelines, and confirm the medical care provided to Fogle.

2. Marc Fogle Family Interviews

OII investigators interviewed some family members and friends of Fogle. The purpose of the interviews was to gain general background information about Fogle and information about recent contacts with him. OII investigators interviewed Fogle's brother, sister-in-law by marriage, and her brother, who had lived with Fogle for several years, in addition to other family members.

[100] Clark County SO 25-003361, Supplement 13, Deputy Layton; Appendix B, Supplemental Incident Report – Deputy Bryson Layton.
[101] Clark County MEO Autopsy Report Case #2025-1633, 8/20/25.

3. OII Tip Line

OII will establish a telephone message line for each incident it investigates. This "tip line" provides a method for the public to contact investigators with information about the incident under investigation and is included in the news release issued to the media.

The tip line for this investigation was established on May 12, 2025. On June 05, 2025, OII received a call on the recorded tipline from RR. She left a message indicating she may have information about the DUI and death of Marc Fogle. This is the only call received on the tipline.

On June 09, 2025, Investigator Neustel spoke with RR. RR said she called because she wanted to ensure laws about overserving intoxicated patrons were being enforced. She told Investigator Neustel she had also contacted the Washington State Liquor and Cannabis Board (LCB).

RR said she believed Fogle had been drinking at the "Korner Street Bar & Grill" on the evening of the incident. She declined to provide information on how she knew Fogle may have been at this establishment.[102]

OII Investigators contacted the "Korner Street Bar & Grill" and confirmed Fogle had been at the bar on the evening of the incident. OII investigators obtained a copy of Fogle's bar tab that indicated he purchased a total of 12 Coors Light beers. The receipt indicates the bar tab was opened at 3:44:53 p.m. and the bill was paid at 10:41:56 p.m.[103]

O. Body Worn Camera and In-Car Camera Review

1. Clark County Sheriff's Office

Clark County SO deputies are equipped with Axon Body 3 body-worn cameras (BWC), which record video and audio footage when activated. These cameras automatically capture the previous 30 seconds of video before manual activation, though audio begins recording only after activation. In-car cameras (ICC) are installed in Clark County SO patrol vehicles as part of the Axon Fleet 3 system.[104] These cameras capture both a forward-facing view and a rear seat view.

[102] OII-2025-0008, Supplement 42, Investigator Neustel.
[103] Korner Street Bar and Grill receipt, photograph by Investigator Spalding, Korner St Bar Receipt.jpeg.
[104] Axon Fleet is an in-car video system used by law enforcement that records audio and video from patrol vehicles. Axon body-worn cameras are portable cameras worn by officers to capture interactions in the field.

OII requested all relevant BWC and ICC video footage from and responding agencies. Clark County SO provided OII with all BWC and ICC video files through Axon Justice evidence management system.[105] The files included videos from all officers who were present at the collision and the use of deadly force incident and those who responded after the use of force incident.

During the use of deadly force incident, Deputy Layton's BWC stopped recording. (See Section III.D Use of Deadly Force.)

The Axon BWC recording feature on a BWC 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:

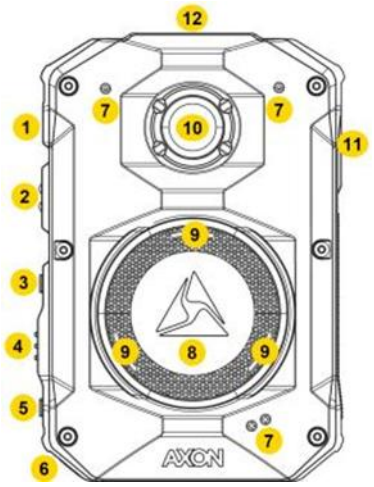

Figure 39: Axon BWC from Axon website.

1. Programmable Button 1
2. Programmable Button 2
3. Volume up
4. Select
5. Volume down
6. Power
7. Microphone (4)
8. Event
9. Triad LED (3)
10. Lens
11. POV port
12. Operation LED (top)

[105] Axon Justice is a secure digital evidence platform used to organize, review, and share evidence – such as video footage – with authorized parties, including OII and prosecuting attorneys.

Immediately prior to the end of the recording, the camara appears to be blocked by Fogle's sweatshirt: [106]

Figure 40: Screen capture from Deputy Layton's BWC, Axon timestamp 23:58:43.

The BWC camera lens becomes covered at Axon timestamp 23:58:49:

Figure 41: Screen capture from Deputy Layton's BWC, Axon timestamp 23:58:49.

The recording ends at 23:58:52. The 3-second difference is consistent with what occurs if the recording feature of the BWC is turned off manually, intentionally or due to pressure on the button.

[106] BWC video of Clark County SO Deputy Layton, timestamp 23:58:43.

2. Other Responding Law Enforcement Agencies

OII also reviewed the BWC and ICC video obtained from the WSP and Vancouver PD that captured their response to the incident.

Although CVEO Sheriff was assigned a BWC, according to his report, he had already docked his Axon body worn camera for uploading and charging as he was at the end of his shift.[107]

Ridgefield PD and CITPSD officers do not wear body worn cameras.

OII investigators conducted a time synchronization review of all video sources to ensure timeline accuracy. Each BWC and ICC video included a digital timestamp, which was cross-referenced with dispatch logs, radio transmissions, and other evidence. Investigators verified that the timing of each recording was consistent with the overall timeline of events.

P. Crime Laboratory Analysis

1. Knife

OII investigators submitted the Benchmade knife found in the BAC room to the Washington State Patrol Crime Laboratory Division (WSP CLD) for deoxyribonucleic acid (DNA) testing to confirm whether Fogle's DNA was on the knife.

DNA profiles obtained from swabbings of presumptive blood on the knife and an area on the grip were interpreted as originating from two individuals.[108] Based on statistical analysis, there is very strong support for the proposition that Fogle is one of contributors.[109]

2. Deputy Bryson Layton's Firearm

a. Fingerprints

OII submitted a request to the WSP CLD for a fingerprint examination of Deputy Layton's firearm to determine if anyone besides Deputy Layton had touched the firearm during the struggle.

[107] WSP 25-008851, Assisting Officer's report, CVEO Sheriff.
[108] Blood was indicated using the phenolphthalein test (PHT). This is a chemical test for the presence of hemoglobin, a protein found in blood. WSP CLD Report #525-001478, 6/9/25.
[109] WSP CLD Report #525-001478, 6/9/25.

Only one friction ridge detail impression was developed that was suitable for comparison.[110] Friction ridge detail refers to the raised patterns of skin found on a person's fingers, palms, toes, and foot soles. Impressions of these skin details can be transferred to some surfaces when touched. The impression left behind by the friction ridge detail of one's fingertip is commonly referred to as a fingerprint.

The friction ridge impression on Deputy Layton's firearm was compared to his fingerprints and WSP CLD determined there was strong evidence the impression was from Deputy Layton's left thumb.[111]

b. Deoxyribonucleic acid (DNA)

OII investigators also requested DNA analysis of Deputy Layton's firearm. There was very strong statistical support for the proposition that a DNA profile from presumptive blood on the firearm was from Fogle.

A DNA profile obtained from the grip, trigger, trigger guard and rear portion of the slide was interpreted as originating from four individuals. Based on statistical analysis, there is very strong support for the proposition that Fogle is a contributor to this profile.

Similarly, a DNA profile obtained from the front portion of the slide and the light attachment was interpreted as originating from four individuals. Based on statistical analysis, there is very strong support for the proposition that Fogle is a contributor to this profile.

3. Other Equipment

a. Fingerprints

Several other equipment items worn by Deputy Layton during the use of force incident were submitted to WSP CLD to determine whether there were any fingerprints including a Ballistic vest with attachments, a duty belt, walkie talkie and other items.

No developed friction ridge details were suitable for comparison to known prints of either Deputy Layton or Fogle.[112] This means that there was not enough clear and reliable detail for an examiner to compare it

[110] Crime Laboratory Report Glossary- "Suitable for comparison is the decision made by an examiner that a friction ridge impression contains sufficient observable data to be utilized for comparison and a source conclusion can potentially be reached."
[111] WSP CLD Report #525-001478, 6/2/25.
[112] WSP CLD Report #525-001478, 6/2/25.

with another impression and potentially make an identification or exclusion.

b. DNA

OII investigators also requested DNA analysis on additional equipment items.

DNA profiles from presumptive blood on Deputy Layton's flashlight, ammunition magazine, and Ballistic vest were interpreted as originating from one individual. There is very strong scientific support that this individual is Fogle.

A DNA profile obtained from presumptive blood on the duty belt was interpreted as originating from two individuals. It appears Fogle is one of these individuals.

Q. Follow-up Investigation Involving Marc Fogle

1. Korner Street Bar and Grill

OII investigators contacted a server at the the Korner Street Bar and Grill, TB. She provided a written statement indicating Fogle was a regular at the bar. She stated it's common for regulars to buy drinks for other customers but she did not recall whether that happened on the evening of the incident. She wrote that Fogle "did not seem any different than he always was."[113] When speaking with OII investigators, TB confirmed nothing stood out to her from that evening and there were no indicators from Fogle that would suggest something was wrong.[114]

2. DUI Collision Witnesses

a. MB

On May 30, 2025, OII investigators contacted MB who resides at [redacted] MB called 911 to report the collision that occurred on May 07 involving Fogle. MB was outside his residence when he heard the collision. MB told OII investigators he ran to the location where the collision occurred and saw Fogle get out of his car. MB

[113] Written statement of TB.
[114] OII-2025-0008, Supplemental 64, Investigator Spalding.

described Fogle as being wobbly but did not get close enough to determine if this was from alcohol or being injured.[115]

b. ADM

On June 02, 2025, OII investigators contacted ADM who resides at [redacted] ADM did not see the collision but heard it from inside his residence. He told OII investigators he and his wife went outside and saw the driver. ADM described the driver as being very drunk. ADM told OII investigators he heard the driver state, "My life is over" and "I don't want to be here."[116] ADM provided his wife's name and number to OII investigators.[117]

c. EH

On June 04, 2025, OII investigators contacted EH, the wife of ADM. EH provided a recorded statement to OII investigators. EH told OII investigators she did not see the collision as she was inside her residence. EH said she heard the driver say, "My life is over."[118] EH later provided OII investigators with photos she had taken after the collision.[119]

d. KH

On June 10, 2025, OII investigators contacted KH who resides at [redacted] KH told investigators she was inside her residence when she heard the collision. KH said she went outside and observed her neighbor prevent the driver from fleeing on foot. KH told investigators she heard the driver state repeatedly his life was over and that he was a CDL driver.[120]

e. DB

On June 26, 2025, OII investigators contacted DB. DB was an applicant with the Clark County SO at the time of the incident. DB told OII investigators he was on a "ride-a-long" with Clark County SO Deputy Shin when he responded to the collision.

[115] OII-2025-0008, Supplemental 30, Investigator Wallace.
[116] OII-2025-0008, Supplemental 34, Investigator Wallace.
[117] OII-2025-0008, Supplemental 34, Investigator Wallace
[118] OII-2025-0008, Supplemental 40, Investigator Wallace; Transcript of interview with EH, p 3.
[119] OII-2025-0008, Supplemental 43, Investigator Wallace.
[120] OII-2025-0008, Supplemental 45, Investigator Wallace; Transcript of interview with KH, p 2.

DB told OII investigators he stood within about three feet of the driver, later determined to be Fogle, and could smell an extremely strong odor of alcohol coming from him. DB described Fogle as cooperative and non-aggressive with the Clark County SO deputies although he heard Fogle repeatedly say his life was over.[121]

R. Training and Additional Records Collection

As a routine part of its investigations, OII obtains and reviews records relating to the person killed, critical witnesses, and officers involved in the incident so the prosecutor has the necessary information to make an informed decision about whether criminal charges should be filed. This includes criminal history, officer training, use of force and discipline records as well as employing agency policies in effect at the time of the incident. A complete copy of all records obtained is provided to the prosecuting attorney. OII will include in its Final Case Report any records which appear to be directly related to the use of deadly force under investigation.

1. Criminal History

OII requested the criminal history for Fogle.[122] There were no records located for Fogle.

2. Marc Fogle's Previous Interactions with Law Enforcement

OII investigators collected and reviewed law enforcement records related to Fogle's known prior contacts with Clark County SO. The only records provided involved the collision on May 07, 2025 and a 2023 traffic incident, in which Fogle was listed as a witness.[123]

3. Washington State Criminal Justice Training Commission (WSCJTC)

OII investigators collected the WSCJTC Training History Reports for Deputy Layton. These records include Deputy Layton's employment history, state law enforcement certifications, and completion of WSCJTC-mandated training. Relevant information from these reports are incorporated into other sections of this case report, as appropriate to the investigative findings.

[121] OII-2025-0008, Supplemental 49, Investigator Wallace; Transcript of interview with DB., p 2.
[122] Requested from the Interstate Identification Index (III or Triple I), a national index of state and federal criminal histories maintained by the Federal Bureau of Investigation at the National Crime Information Center (NCIC).
[123] Clark County SO Contact History, Marc Fogle.

4. Officer Training and Employment History

Deputy Layton has been employed with the Clark County SO since May 2023. According to WSCJTC records, he graduated from the Basic Law Enforcement Academy (BLEA) in January of 2024. Deputy Layton holds an active peace officer certification from the WSCJTC.[124]

The Clark County SO is the only organization listed on Deputy Layton's WSCJTC employment history.[125] He has been assigned to the patrol division for the entirety of his employment with the Clark County SO.

OII investigators reviewed training records from WSCJTC and the Clark County SO. Deputy Layton's training records include courses in firearms handling, TASER usage, rendering first aid, defensive tactics, crisis intervention, and community relations.[126]

OII investigators reviewed these records. No determinations were made by OII regarding training insufficiency or performance.

All records were provided to the prosecutor for review.

5. Officer Disciplinary and Impeachment Records

OII requested and reviewed the personnel record of Deputy Layton. There were no records of disciplinary actions or dishonesty for Deputy Layton.

OII investigators confirmed with the Clark County Prosecuting Attorney's Office that Deputy Layton was not on the Potential Impeachment Disclosure List.[127]

6. Prior Use of Force Records

OII investigators requested Deputy Layton's use of force records from Clark County SO. OII reviewed the records and found nothing directly related to or obviously relevant to this incident based on the records received. These records will be provided to the prosecuting authority.

[124] WSCJTC Training History Report – Bryson Avery Layton.
[125] WSCJTC Training History Report – Bryson Avery Layton.
[126] WSCJTC Training History Report – Bryson A. Layton and Clark County SO training records.
[127] OII-2025-0008, Supplement 55, Investigator Reeves.

7. Clark County Sheriff's Office Policy Manual

OII investigators obtained a copy of the Clark County SO Policy Manual. The manual was not analyzed by OII for compliance or policy violations. It was collected to provide context for investigative findings and will be made available to the prosecuting attorney for their independent review and consideration.

V. Legal Considerations

A. OII Authority

When the use of deadly force by a peace officer results in death, substantial bodily harm, or great bodily harm, 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 10.114.011.

OII is authorized to conduct criminal investigations of an officer's use of deadly force against any person if the officer was on duty, or if the officer was off duty but was exercising the powers of a Washington peace officer or if the incident involved department-issued equipment or other property. RCW 43.102.080.

Based on its limited resources, OII is presently only investigating use of deadly force cases that result in a fatality within Region 1.[128]

B. Scope of Investigation

The scope of any criminal investigation is determined by the elements of the potential crimes under investigation and any potential defenses to those crimes. OII investigations include a review of the entire incident, including events preceding the incident that may have contributed to or influenced the outcome. RCW 43.102.080(4).

The goal of an OII investigation is to provide the prosecuting authority with all information necessary to make an informed decision about whether criminal charges should be filed.

OII will not provide an opinion about whether criminal charges should be filed or whether an officer complied with law or policy as those determinations are the responsibility of other authorities including the prosecuting attorney and the agency that employs the officer.

C. Potential Crimes Under Investigation

The following are potential criminal charges pertaining to the death of a person at the hands of another. The inclusion of a description of these offenses in the OII Final Case

[128] OII's Region 1 consists of 12 counties: Wahkiakum, Skamania, Clark, Cowlitz, Lewis, Thurston, Mason, Grays Harbor, Pacific, Jefferson, Kitsap, and Clallam.

Report is not intended to convey an opinion as to whether any criminal offense occurred.

- Murder in the first degree (premeditation) is committed when, with premeditated intent to cause the death of another person, someone causes the death of such person or of a third person. RCW 9A.32.030 (a); WPIC 26.01.
- Murder in the first degree (extreme indifference) is committed when, under circumstances manifesting an extreme indifference to human life, someone engages in conduct which creates a grave risk of death to any person and thereby causes the death of a person. RCW 9A.32.030 (b); WPIC 26.05.
- Murder in the second degree (intentional) is committed when, with intent to cause the death of another person but without premeditation, someone causes the death of such person or of a third person. RCW 9A.32.050(a); WPIC 27.01.
- Murder in the second degree (felony murder) is committed when someone commits or attempts to commit a felony and, in the course of or in furtherance of such crime or in immediate flight therefrom, they or another participant, causes the death of a person other than one of the participants. RCW 9A.32.050(b); WPIC 27.03.
- Manslaughter in the first degree is committed when someone recklessly causes the death of another person. RCW 9A.32.060; WPIC 28.01.[129]
- Manslaughter in the second degree is committed when someone, with criminal negligence, causes the death of another person. RCW 9A.32.070; WPIC 28.05.

D. Lawful Detention or Arrest

An officer must have reasonable suspicion to lawfully detain a person. Reasonable suspicion means a substantial possibility that criminal conduct has occurred or is about to occur, based on specific and articulable facts and rational inferences from those facts.[130]

Reasonableness is determined by the totality of the circumstances known to the officer at the time.[131]

[129] Manslaughter may include a person who reasonably believes they are in imminent danger and needs to act in self-defense, "but recklessly or negligently used more force than was necessary to repel the attack." State v. Schaffer, 135 Wn.2d 355, 358, 957 P.2d 214, 215 (1998). See also State v. Chambers, 197 Wn. App. 96, 122, 387 P.3d 1108, 1121 (2016).
[130] State v. Kennedy, 107 Wn.2d 1 (1986).
[131] State v. Lee, 147 Wn. App. 912 (2008), rev. denied, 166 Wn.2d 1016 (2009).

An officer must have probable cause to effect an arrest without a warrant. Probable cause means sufficient facts to lead a reasonable person with the expertise and experience of the officer to conclude that the subject is involved in criminal activity.[132] There is no requirement that an officer make an arrest as soon as probable cause is established.[133]

Probable cause is a higher standard than reasonable suspicion, but it is still less than the standard required to convict a person of a crime. None of these standards are capable of precise definition; they are fluid concepts requiring interpretation based on the relevant facts.

E. Permissible Use of Force by an Officer

Permissible use of force by an officer is governed by RCW 10.120.020. While this law does not establish criminal liability,[134] it may be relevant to a prosecutor's determination of whether an officer's actions complied with policy or met a "reasonable officer" standard, as described below.

RCW 10.120.020(1) states that a peace officer may use physical force to the extent necessary to, among other reasons, protect against a criminal offense when probable cause exists; effect an arrest; prevent an escape; execute warrants; prevent or stop a person from fleeing a lawful temporary investigative detention, provided that the person has been given notice that they are being detained; or protect against an imminent threat of bodily injury to any person.

RCW 10.120.020(2) states that a peace officer may only use deadly force when necessary to protect against an immediate threat of serious physical injury or death to the officer or another person. "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(3) also requires peace officers to use reasonable care when using force against a person. That includes:

[132] RCW 10.31.100; State v. Gentry, 125 Wn.2D 570, 607, cert. denied, 516 U.S. 843 (1995).
[133] State v. Quezadas-Gomez, 165 Wn. App. 593 (2011), review denied, 173 Wn.2d 1034 (2012).
[134] "The legislature does not intend to abrogate the criminal liability protections afforded to peace officers in chapter 9A.16 RCW. Instead, the legislature hereby reaffirms its intent to establish RCW 10.120.020 as a distinct and more restrictive civil standard to inform the policies and practices applicable to all peace officers operating within state agencies and local governments." RCW 10.120.010 Intent – 2022 c4.

- Using all de-escalation tactics that are available and appropriate under the circumstances before using physical force, when possible;[135]
- Using the least amount of physical force necessary to overcome resistance under the circumstances. This includes a consideration of the characteristics and conditions of a person for the purposes of determining whether to use force against that person and, if force is necessary, determining the appropriate and least amount of force possible to effect a lawful purpose;
- Terminating the use of physical force as soon as the necessity for such force ends;
- Use less lethal alternatives that are available and appropriate under the circumstances before using deadly force; when possible.

F. Justifiable Homicide

"Homicide" means the killing of a human being by another.[136] A homicide may be a murder or manslaughter, or it may be justified, meaning it is lawful.

There are two different standards that govern when a homicide is justified, depending on whether the act is committed by a peace officer and whether it is committed by any person.

Peace officers are entitled to invoke both standards if criminally charged with a death resulting from a use of deadly force.

In both circumstances, the prosecutor must prove beyond a reasonable doubt that the homicide was not justified.

1. Justifiable Homicide or Use of Deadly Force by a Peace Officer

In general, use of deadly force by an officer is justified when necessarily used to arrest or apprehend someone whom the officer reasonably believes has committed or attempted to commit a felony, or to overcome actual resistance

[135] "De-escalation tactics" refer to actions used by a peace officer that are intended to minimize the likelihood of the need to use force during an incident. Depending on the circumstances, "de-escalation tactics" may include, but are not limited to: Using clear instructions and verbal persuasion; attempting to slow down or stabilize the situation so that more time, options, and resources are available to resolve the incident; creating physical distance by employing tactical repositioning to maintain the benefit of time, distance, and cover; when there are multiple officers, designating one officer to communicate in order to avoid competing commands; requesting and using available support and resources, such as a crisis intervention team, a designated crisis responder or other behavioral health professional, or back-up officers. RCW 10.120.10(2).

[136] RCW 9A.32.010.

to the discharge of a legal duty, and the use of force meets the good faith standard.[137]

- "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.[138]
- Necessary means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended.[139]

A peace officer cannot be held criminally liable for using deadly force in good faith.

In considering whether to use deadly force to arrest or apprehend a person for the commission of a crime, an officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or to others.[140]

Among the circumstances that may be considered as a threat of serious harm are that:

- The person threatens the officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening;
- The officer has probable cause to believe that the person has committed any crime involving the infliction or threatened infliction of serious physical harm.

2. Justifiable Homicide by Any Person

Homicide is also justified when committed in lawful defense of a person or someone in their presence when:

- There is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to

[137] RCW 9A.16.040(5)(a); "The legislature recognizes that RCW 9A.16.040 establishes a dual standard with respect to the use of deadly force by peace officers and private citizens, and further recognizes that private citizens' permissible use of deadly force under the authority of RCW 9.01.200, or 9A.16.050 is not restricted and remains broader than the limitations imposed on peace officers." [1986 c 209 § 3.]
[138] RCW 9A.16.040(4).
[139] RCW 9A.16.010(1).
[140] RCW 9A.16.040(2).

the slayer or to any such person, and there is imminent danger of such design being accomplished; or

- In the actual resistance of an attempt to commit a felony upon the slayer, in his or her presence, or upon or in a dwelling or other place of abode, in which he or she is.[141]

In general, the person using deadly force must reasonably believe that the person killed intended to commit a felony or inflict death or great personal injury; that there was imminent danger of such harm being accomplished; and they must employ such force and means as a reasonably prudent person would use, taking into consideration all the facts and circumstances as they appeared to the person at the time of and prior to the incident.[142]

"Imminent danger" is different than "immediate danger." Imminence does not require an actual physical assault. Instead, it can mean harm that is "ready to take place" or "hanging threateningly over one's head." Immediate means "occurring, acting, or accomplished without loss of time."[143]

In addition, actual danger is not necessary. A person is entitled to act on appearances when defending themselves if they believe in good faith and on reasonable grounds that they are in actual danger, although afterward it might develop that the person was mistaken as to the extent of the danger.[144]

[141] RCW 9A.16.050.
[142] WPIC 16.02.
[143] State v. Janes, 121 Wn.2d 220, 241, 850 P.2d 495, 506 (1993); Comments to WPIC 16.02.
[144] WPIC 16.07.

VI. Close

The Final Case Report is intended to provide an overview of the investigation conducted by OII and the circumstances of what occurred, to the extent possible.

This report and OII's entire case file have been forwarded to the Clark County Prosecuting Attorney's Office. Any additional investigation requested by the prosecuting attorney will be included in an addendum to this report.

VII. Appendices

A. Transcript of Body-Worn Camera Audio

This transcript is derived from the audio from BWC worn by Deputy Layton.

The transcribed communication below began at 11:37 p.m., when Clark County SO Deputy Layton removed Marc Fogle from the patrol car at the WSP Ridgefield POE, and ended at 11:58 p.m. on May 07, 2025, based on BWC video timestamps.

Deputy Layton:	All right. We're gonna go into this scale house here. We're gonna sit down. We're gonna take a test. Okay. If you're cooperative with me and you're cool with me, I'll take you outta handcuffs. If not, you're gonna stay in handcuffs the whole time. You understand? Alright, go ahead and take a step out.
Fogle:	Hey man, have I been just
Deputy Layton:	Got it?
Fogle:	Yeah.
Deputy Layton:	Going through here.
Deputy Layton:	Control, 51Boy73. I know I asked 30 seconds ago, but I forgot the code again. Can you give it to me again?
Deputy Layton:	Thank you.
Deputy Layton:	Alright, I'm gonna take you outta handcuffs. You're gonna take a seat on that bench there. Okay?
Fogle:	Alright.
Deputy Layton:	I'm gonna take you outta handcuffs so you can take a seat on the bench there.
Deputy Layton:	You're okay. You can put your hands down.
Fogle:	No, I'm not. I'm not Okay.
Fogle:	I'm witnessing
Deputy Layton:	What's the …
Fogle:	This is for your safety.
Deputy Layton:	You, you promise you're not gonna hurt me.

Fogle: I'm promising.

Deputy Layton: Oh.

Fogle: I'm gonna put my hands on my head.

Deputy Layton: Okay. Well, as long as you say you're not gonna hurt me, like we're, we're good here. If, if you're worried, you think you're gonna hurt me, I'm just gonna put you back in handcuffs.

Fogle: Alright.

Deputy Layton: Alright. You're not gonna hurt me. You're good.

Fogle: We're good.

Deputy Layton: Okay. You can keep your hands down. You're all right or not. If you wanna be uncomfortable, that's, that's fine.

Fogle: [Unintelligble]Y'all know who you're dealing with.

Deputy Layton: That's true. So are you going to hurt me?

Fogle: No, I'm not.

Deputy Layton: Okay. Well, I trust you.

Fogle: All right.

Deputy Layton: You said you wanted to talk to a lawyer. Do you have one in mind or...

Fogle: Do I not?

Deputy Layton: No. Like do you have a, a specific lawyer?

Fogle: I do not have a lawyer. I'm just saying lawyer.

Deputy Layton: Okay.

Fogle: Maybe I'll make it through tonight. I don't know.

Deputy Layton: It is 2340 Marc, you're gonna make it through the night. All right. This isn't as big a deal as you think it is. It's a mistake.

Fogle: It, it, it ... No. You have no idea.

Deputy Layton: Okay. Go ahead and open your mouth. I'm gonna check in your mouth. Is there anything inside you that's not put there by a doctor or dentist?

Fogle: No.

Deputy Layton: Okay.

Fogle: [Unintelligible] you have no idea. My life's fucking over.

Deputy Layton: Why do you say that?

Fogle: You keep saying … Look at my ID. I'm a CDL driver.

Deputy Layton: Okay.

Fogle: So basically my life's fucking over. Can't make it a living.

Deputy Layton: Doesn't immediately mean that your life is over. Marc.

Fogle: It is over.

Deputy Layton: People are, I have …

Fogle: I'm done.

Deputy Layton: I have arrested CDL drivers before who have been able to turn around and, and make it through.

Fogle: No, I'm fucking done.

Deputy Layton: Okay.

Fogle: I like you saying that, but I'm fucking done.

Deputy Layton: We'll read you your constitutional rights and then I'll let you call your lawyer, okay?

Fogle: I have no lawyer to call.

Deputy Layton: Got a list of them right here.

Fogle: Alright.

Deputy Layton: So, uh, right here, you have the right to remain silent. You have the right at this time to an attorney. Anything you say can and will be used against you in a court of law. You're not under the age of 18, so I can skip that. You have the right to talk to an attorney before answering any questions. You have the right to have an attorney present during questioning. If you cannot afford an attorney, one will be appointed for you without the costs. If you so desire, you can exercise these rights at any time. Do you understand each of these rights? I've read?

Fogle: Yes.

Deputy Layton: Okay.

Fogle: I dunno.

Deputy Layton: Pen broke.

Deputy Layton: Sheared right out.

Deputy Layton: We'll make do.

Deputy Layton: Ok. I'm not asking you to waive your right rights at all. I just need you to sign here saying that I've read your rights to you. Okay? The pen's a little wonky, but it'll get the job done. Okay. Right here.

Deputy Layton: And would you like a lawyer? There's a list of numbers up here you can call. It's up to you.

Fogle: Who, who, who who am I gonna fucking call, man?

Deputy Layton: There's ten lawyers right here.

Fogle: All right, great.

Deputy Layton: Fourteen lawyers.

Fogle: All right. I call all of them.

Deputy Layton: You'd like, well, I don't know that we can call 'em all, but we'll start with the first one. Does Aiden Johnson sound like a good enough lawyer?

Fogle: I don't know. Who's the best.

Deputy Layton: I have no idea.

Fogle: Alright, then you have no idea.

Deputy Layton: You want me to call one of the lawyers for you? Yeah? Let's do it. 690-5894.

Deputy Layton: I think it should be ringing.

Fogle: I, I just said my fucking life's over. I don't know what you're … Yeah,

Deputy Layton: If you don't want to talk to a lawyer, you don't have to. It's up to you, Marc.

Fogle: [Unintelligible] I'm under arrest. Thank you.

Deputy Layton: Hello?

Fogle: Voicemail.

Deputy Layton: Alright.

Fogle: Oh, and are you, are you fucking ex-military?

Deputy Layton: No.

Fogle: No? Okay.

Deputy Layton: Are you?

Fogle: Yes, I am.

Deputy Layton: What branch?

Fogle: Army.

Deputy Layton: Army. Thank you for your service, Marc.

Fogle: Not really, because clearly I'm fucked. I didn't, I, I didn't do my fucking service all the way through.

Deputy Layton: Alright. Do you want to call another lawyer? Yes or no?

Fogle: How many lawyers do I have that option?

Deputy Layton: There's fourteen on this list.

Fogle: Alright, well,..

Deputy Layton: Alright, well, 'Yes? All right, well, "No?"

Fogle: Sure.

Deputy Layton: Sure. Okay.

Fogle: I'm honestly that … what, what's the matter? Like I said, I'm fucking done.

Deputy Layton: Alright. We're just getting…

Fogle: I'm a dead man. You're talking dead man.

Deputy Layton: You're not a dead man. Marc.

Fogle: Yes, I am a dead man.

Deputy Layton: You're not a dead man. Marc. We'll call Roger. Roger. Uh,

Fogle: Sure. We'll, we'll call that guy.

Deputy Layton: Alright. Do you want …

Fogle: Sure. We'll call.

Deputy Layton: Do you want talk to him or not? I mean…

Fogle: Sure. [unintelligible] a dead man. Call him.

Fogle: Why am I at a fucking truck stop? This is so fucking…

Deputy Layton: You're not at a truck stop.

Fogle: [*On phone*] Uh, yes. Apparently I'm under arrest for DUI. Marc. M-A-R-C. Fogle. F-O-G-L-E. That's correct. And (971) 295-3794. Uh, fogleMarc@yahoo.com. I am currently under detention.

Fogle: [*To Deputy Layton*] Is that how you correct?

Deputy Layton: Yes. You're under arrest.

Fogle: [*Into phone*] Yeah, I'm under arrest. *[pause]* Oh, because they put up on the fucking board. *[pause]* I am now. Yes. *[pause]* It doesn't matter my life's fucking over.

Fogle: [*To Deputy Layton*] What county?

Deputy Layton: Clark.

Fogle: [*Into phone*] Clark. Hmm. Birthday [unintelligible]. All right. Hmm. All right. Sure. [unintelligible].

Deputy Layton: Alright, I have to read this through you and then we can get this started. Okay. This is an implied warning. Consent for breath. Okay. So warning, you are under arrest for RCW 46.61.502 or RCW 46.61.5.0.4, Driving or Being in Actual Physical Control of a Motor Vehicle While Under the Influence of Intoxicating Liquor or a Drug. Further, you are now being asked to submit to a test of your breath, which consists of two separate samples of your breath taken independently to determine alcohol concentration. You're now advised that you have the right to refuse this breath test and that if you refuse your driver's license, permit, or privilege to drive will be revoked or denied by the Department of Licensing for at least one year, and your refusal to submit to this test may be used in a criminal trial. You're further advised that if you submit to this breath test and the test is administered, your driver's license, permit or privilege to drive shall be, uh, your privilege to drive will be suspended, revoked, or denied by the Department of Licensing for at least 90 days if you are age 21 or over, and the test indicates alcohol, concentration of your breath is 0.08 or more, or you are in violation of RCW 41 46.61.502, Driving Under the Influence or RCW 41 … 46.61.504, Physical Control of a Vehicle Under the Influence. Uh, that's for under the age. If your driver's license, permit, or privilege to drive is suspended, revoked or denied, you may be eligible to

immediately apply for ignition interlock driver's license. You have the right to additional tests administered by any qualified person of your choosing. Uh, you were not driving a commercial motor vehicle at the time of arrest. Okay? Will you now submit to a breath test?

Fogle: No.

Deputy Layton: No? You're refusing?

Fogle: I want a lawyer.

Deputy Layton: You just talked to your lawyer.

Fogle: Well, he advised me not to take the fucking breath test.

Deputy Layton: He said not to take the breath test?

Fogle: Of course.

Deputy Layton: Okay. Would you like to call him again?

Fogle: Sure.

Deputy Layton: Okay.

Fogle: Why would he tell me to take the fucking breath test?

Deputy Layton: I'm not saying he did. I'm just asking if you want to call him or not.

Fogle: Well, of course.

Deputy Layton: You of course you want to call him…

Fogle: Yeah.

Deputy Layton: … or of course. You don't want to call him?

Fogle: I want to call him again.

Deputy Layton: Okay. (360) 281-7314. [*Hands phone to Fogle*] There go. Say you were read implied consent and you want to know if you should take the test or not.

Fogle: I don't know if he's available.

Deputy Layton: Nobody's available. Okay. So you refuse to take the test. I'll give you…

Fogle: Uh, under lawyer advisement.

Deputy Layton: Okay.

Fogle: Okay.

Deputy Layton: It makes no difference to me. So that is a DOL hearing form. You can request a DOL hearing to get through….

Deputy Layton: Do whatever you want with it. But I have to provide it to you, so …

Fogle: Thank you.

Deputy Layton: If you would like to request a hearing to have your license renewed, you can do that.

Fogle: Well, I'm gonna be in through tonight. What fucking time is it?

Deputy Layton: It's midnight.

Fogle: Thank you.

Deputy Layton: So, are, are you gonna kill yourself, Marc?

Fogle: Who knows?

Deputy Layton: Probably the only person would be you.

Fogle: Yeah.

Deputy Layton: So …

Fogle: That's correct. Like I said, I keep telling you, I'm fucking done.

Deputy Layton: Is there somebody I can call for you to talk to?

Fogle: Fuck no. We're good.

Fogle: You know what's crazy? Is it's, it's just you and me in this fucking room.

Deputy Layton: It's just you and me in this room…

Fogle: Yes.

Deputy Layton: …but this is a police station.

Fogle: Yes.

Deputy Layton: There's plenty of troopers here.

Fogle: Are there?

Deputy Layton: Yeah.

Fogle: Are you sure?

Deputy Layton: Did you not see me talking to the trooper when we first pulled up?

Fogle: No. How many people are here in the room?

Deputy Layton: Are you, are you trying to make threatening?

Fogle: Fuck, no.

Deputy Layton: No?

Fogle: No.

Deputy Layton: Okay, then why, why are you saying things like that?

Fogle: I don't know.

Deputy Layton: Okay. Go ahead and stand up. Turn around and face away from me.

Fogle: Are you sure?

Deputy Layton: Yeah. Turn around and face away from me right now.

Fogle: Are you fucking sure.

Deputy Layton: Get the fuck away from me.

Deputy Layton: Boy73. I'm fighting with one.

Fogle: Are you fucking sure? [Unintelligible]

Deputy Layton: Give me the air he's reaching for my gun. Marc, you're gonna get fucking shot.

Fogle: Yeah. Yeah. That's what I want. [Unintelligible] fuck [unintelligible].

Deputy Layton: You're gonna get shot. Marc. Marc. Get the fuck away from me. Get the fuck away from me Marc.

Fogle: I'm not looking to shoot you.

Deputy Layton: Fuck.

Fogle: I want you to shoot me.

B. Supplemental Incident Report – Deputy Bryson Layton

CLARK COUNTY SHERIFF'S OFFICE
707 W 13TH ST
VANCOUVER, WA 98666
(564) 397-2211

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
25003361	13
CASE TYPE	CAD EVENT NUMBER
HOMICIDE	
REPORTING OFFICER	REPORT DATE
5098 - LAYTON, BRYSON	05/23/2025

INCIDENT

LOCATION	DATE	TIME
, VANCOUVER, WA	05/23/2025	23:09
PREMISE NAME		

PRECINCT	BEAT		SQUAD	JURISDICTION
WEST	73		WGB	CCSO

ADDITIONAL INFORMATION

☐ AED ☐ NALOXONE
☒ ADDITIONAL IN EVIDENCE.COM

USE OF FORCE	CASINO	BWC
Y		Y
	IN CAR CAMERA	
	Y	

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
CLOSED	05/27/2025	EXCEPT	05/27/2025	4384 - NEIMAN, FRED	05/27/2025

INCIDENT REPORT	CLARK COUNTY SHERIFF'S OFFICE	CASE NUMBER 25003361	SUP NO 13

NARRATIVE

I am a sworn Patrol Deputy with the Clark County Sheriff's Office (CCSO). I have been employed as a Deputy since May 2023. Prior to being hired by CCSO I participated in the Department's Explorer Program for approximately four years. I have attended and successfully completed CJTC's Basic Law Enforcement Academy where I received training in a variety of law enforcement topics to include but not limited to; use of force, less lethal tools, firearms, de-escalation tactics, emergency vehicle operations, defensive tactics and patrol tactics. I have also received additional training through the department, including having completed a Field Training Program and other in-service training.

On May 7, 2025, I was scheduled to work a graveyard patrol shift which typically runs from 7pm-6:45am. Prior to and into the beginning of my shift on May 7 th , I assisted K-9 deputies with K-9 training in the Vancouver Lake area and then at a warehouse in that vicinity. This occurred from approximately 2:30pm to almost 9:00pm. I then began working my assigned Patrol Beat #73, which is generally described as NE Hwy 99 to the west, 50 th Avenue to the east, 88 th Street to the north and NE Minnehaha Street to the south.

Once I commenced working Patrol, I was wearing my department issued uniform with green pants, a black short sleeve patrol shirt, and a baseball style cap with a Sheriff's insignia on the front. My patrol shirt has Sheriff's Office patches on each shoulder. I was also wearing an outer carrier vest which has Sheriff's markings in white letters on both the front and back. I was clearly identifiable as a Deputy with the Sheriff's Office. On and inside my outer carrier vest I carry a variety of law enforcement tools including my portable radio, a body worn camera, chest seals and a Taser 10 on the right side of my vest.

I was also wearing a duty belt with my department issued handgun, a Glock 17, in a holster on my left side. I typically carry 22 rounds in the magazine of the handgun as well as one in the chamber. On my duty belt I also carry two back-up magazines for the Glock (usually loaded to capacity at 17 rounds), handcuffs, a flashlight, and a glove holder. I was not carrying a secondary/back-up firearm on my person. Tucked into my front waistband, behind my magazines, I also carried a fixed blade knife in a sheath clipped to my uniform pants. The reason I carry this knife is for self-defense/defense of others in the event my handgun becomes unavailable or unusable.

A little before 11pm I heard a call come out regarding an injury collision on NE Minnehaha Street near NE 14 th Court. I was in the vicinity, so I headed that way. Once I arrived, I saw that Deputy Shin was on scene and was speaking with an individual who appeared to be the driver of the vehicle that had struck parked vehicles, resulting in the collision(s). As I walked up I heard that individual, a white male adult, whom I later learned to be Marc Fogle, tell Deputy Shin: Clearly, I have been drinking and I ran into these cars. As I got closer to Marc I could smell the odor of alcohol. Marc said that his life was fucking over. Marc indicated he was a CDL driver. Deputy Shin asked him how much he had to drink, and Marc said: More than I need to. Marc momentarily sat back down in the driver's seat of his car even though the air bag had deployed and filled much of sitting area. Deputy Shin had Marc get back out of his car. Marc declined a request for him to perform field sobriety tests, but it was clear that Marc had been driving under the influence of alcohol. We placed Marc under arrest and Deputy Shin and I handcuffed Marc.

Marc was initially placed in the back of Deputy Shin's patrol vehicle. Since this event had occurred in my Patrol Beat and Deputy Shin was working swing shift, and he was scheduled to complete his shift well prior to when my shift was to end, I agreed to take Marc for DUI processing and Deputy Shin would remain on scene to document the collision(s). We moved Marc to my patrol vehicle. I attempted to work with Marc to obtain his insurance information, but those efforts were unsuccessful. CCSO records informed me that Marc had no prior criminal record.

I began driving to the Washington State Patrol Scale House located on I-5 in Ridgefield. That office has a Drager breath alcohol measuring instrument and I intended to give Marc the opportunity to

INCIDENT REPORT	CLARK COUNTY SHERIFF'S OFFICE	CASE NUMBER 25003361	SUP NO 13

provide a breath sample. Once we arrived at the Scale House, I briefly interacted with a WSP Commercial Vehicle Enforcement Officer. I received assistance from dispatch in securing the code to get into the WSP office. I told Marc I would remove his handcuffs if he was cooperative. It was my plan to cite and release him following processing him for DUI. Once inside the building I removed the handcuffs. Marc acted a bit odd, putting his hands over/on his head but he assured me he was not going to try to hurt me.

As I engaged in the DUI process, Marc made additional negative statements including stating that his life was fucking over and that he was fucking done. I tried to encourage him. I assisted Marc in contacting a lawyer. As I was doing so Marc said he was a dead man, and he continued to speak negatively about his circumstances. After Marc spoke with an attorney, I offered Marc the opportunity to take the breath test. Marc indicated the lawyer advised him not to take a breath test. I was surprised that a lawyer would recommend he not take a breath test as I had not previously experienced that. I assisted Marc in trying to call that lawyer back. When we did so Marc said nobody was available and he again indicated he was refusing the test.

I provided Marc with a notice regarding his right to a hearing. He crumpled the notice up. Marc continued to say he was fucking done. Marc then said: You know what is crazy? It's just you and me in this fucking room. This immediately caused me significant concern as it now appeared to me that Marc was taking stock of the situation and was perhaps planning to attack me or taking other drastic action. I told Marc that plenty of troopers were present. He again made a reference to how many people were here in the room. I told Marc to stand-up and face away from me, so I could place him back in handcuffs. Rather than turn around Marc came at me, pushed me and aggressively began going for my gun. I used my left hand to put pressure on my gun so Marc could not pull it from the holster, and I used my right hand to key the microphone on my portable radio. I radioed that I was fighting with one and that he was reaching for my gun. I worked to protect my gun and I provided him with a force warning, telling him that he would be fucking shot. Marc said that is what he wanted. I was knocked off balance and we went to the ground with Marc on top of me. I believe we were primarily chest to chest with me on my back. I told Marc to get the fuck away from me. Marc was significantly larger than me (I am 5'7" and 160 pounds), and I could not get free.

Marc persisted in his determined efforts to gain control of my gun. I knew I could not let Marc get my gun. Marc had said he wanted to be shot but given his intoxicated state and the decision he had made to attack me, I could in no way rely on that as an indication that he would not shoot me. In addition, I carry my gun with a round in the chamber and I knew that in a struggle for control of the gun it could readily be discharged, seriously injuring or killing me. I am also aware from firearms training, that a gun can be discharged while still in or while being removed from the holster.

I continued to use my left hand to push down on my gun to try to prevent Marc from getting control of my gun. I could feel my left hand begin slipping off the back of the gun and I was losing leverage in my efforts to keep possession of my gun. I had to stop Marc, so I reached for my knife, pulled it from its sheath with my right hand and quickly stabbed Marc multiple times. Marc's efforts to get my gun presented an immediate deadly threat to me. I was afraid for my life. I was trying to stop him from getting my gun and from my being seriously injured or killed.

When I pulled my knife, I had no other viable force option available to me. My taser is a Taser 10, and it does not have a drive stun option, so that was not a choice. I don't carry pepper spray, and even if I had, it would not have been a viable option since it would likely have affected me as much as Marc. I wasn't in a position where I had the physical leverage to deliver effective pain compliance blows to Marc. My hope was that by stabbing Marc, I could get him to stop going for my gun, and I could then safely secure him.

At some point I became aware of the WSP Commercial Enforcement Officer being in the room. I was able to disengage from Marc. I don't know if that was because the WSP Officer was able to help get Marc off me. We placed Marc in cuffs to safely secure him. I called for a code 3 medical response, and I began to cut Marc's clothes off to provide him with medical aid. I glanced down and saw that my body worn camera was in ready mode (not recording). Realizing it had likely been turned off by the physical struggle over my gun I reactivated my body worn camera. I continued to cut Marc's clothing to allow access for wound care and I re-contacted dispatch to make sure I had successfully gotten out over the air and that medical was responding code 3. I told Marc I was not going to let him die,

INCIDENT REPORT	CLARK COUNTY SHERIFF'S OFFICE	CASE NUMBER 25003361	SUP NO 13

and I was being genuine, I did not want him to die. Marc again responded that he was done. Marc asked me to put him on his side and I did so. Cowlitz Tribal Police and City of Richfield Police arrived and took over medical care.

I moved into the hallway and then outside for fresh air and to gather myself. I was still trying to mentally process how we had just gone from me about to cite and release Marc for DUI, to him assaulting me trying to get my gun, and my having to use my knife to protect myself from this terrifying set of life-threatening circumstances.

Officers checked on me and confirmed with me that I had not been injured. Multiple Clark County Deputies arrived on scene. I was no longer actively involved in the call and I was encouraged to mute my body worn camera's audio function. Sgt. Anderson had me provide a public safety statement. I turned off my body worn camera and I was transported back to CCSO West Precinct by Deputy Michael Gonzalez. Once there, photographs were taken of me. I then washed the blood off my hands. My uniform, boots, duty belt with gun and magazines, as well as my outer carrier and my body worn camera were seized.

Based on the totality of the circumstances that existed at the time I used deadly force, Marc presented an immediate threat of serious physical injury or death to me, and it was necessary for me to use my knife to defend myself. After presenting as someone who was generally compliant and non-aggressive, Marc physically attacked me and went for my gun. I had to use one hand to try to keep my gun from being pulled from its holster and I initially used the other, my right hand, to call for assistance on my portable radio. We were in a one-on-one physical struggle on the floor where Marc, who was much larger than me, was in a position of advantage. I could not get out from underneath him, and he was determined to get my gun. I did not believe I could continue to prevent that from happening. I had given Marc a deadly force warning but that did not change his behavior. There was no time for nor were there any de-escalation tactics or less lethal force options that were available and appropriate. I terminated my use of deadly force as soon as it was no longer necessary, and I quickly transitioned to calling for and providing emergency medical care to Marc.

For clarification, additional details, the specific chronology of events, and exact quotes of statements made, please refer to my body worn camera recordings, my in-car camera recordings and other audio/video recordings of these events.

C. Report of Investigation – Patrick Sheriff

REPORT OF INVESTIGATION
Assisting Officer's Narrative

Case # 25-008851
Citation #

Officer's Name: Patrick Sheriff Badge No.: X833

Video file name (if applicable):

Video viewed by officer for this report: ☐ YES ☒ NO

I, CVEO1 Recruit Patrick Sheriff X833, am currently assigned to the Ridgefield Port of Entry. My Field Training Officer (FTO) is CVEO 2 Officer Nolan Jones, X931. I have a partial commission approved by the Chief of the Washington State Patrol, which grants me the authority to enforce commercial vehicular laws and defend myself or others when there is a threat in my immediate presence."

The incident occurred on May 7th at the Ridgefield Port of Entry Scale House, I-5 Northbound at Milepost 15. At the time of the incident, I was on my coaching trip with Field Training Officer CVEO 2 Jones. At 2300 hours, I started to close the scale house in accordance with scale procedures. Since I was nearing the end of my shift, and my FTO had already left, the scale was closed and I had not planned to make any further contacts for the shift, I docked my Axon body-worn camera in the dock for uploading and charging. I was back inside the scale, sitting at the center computer station when at or around 2330, I saw a Clark County Sheriff's patrol vehicle pull into the scale and park outside of the external entrance to the BAC room. I approached the vehicle and asked the Deputy, later known to me as Deputy Layton, if he needed any assistance. The Deputy got out of the vehicle and stated that he did not need any assistance and was there with a possible DUI. Deputy Layton asked if I knew the combination to the exterior BAC room door. I stated that I did not know and if he needed any further assistance, I would be inside the office. The Deputy stated he would obtain the passcode from his dispatch. I proceeded back into the front office area of the scale house. A few minutes later, I heard the outside door to the BAC room open and close, but from where I was sitting, I could not see who entered.

As I was working at the desk, I started to hear yelling coming from inside the BAC room. I was unable to make out exactly what was being said at that time. At approximately 2355 hours, I heard pounding and thudding noises against the wall, I got up from my desk, walked down the hallway and around the corner to the inside access door to the BAC room. When I got to the door and looked through the window, I saw a non-uniformed gentleman, later known to me as Mr. Fogle, on top of Deputy Layton pinning him to the floor close to the inside access door. At that point, I heard Deputy Layton yell "stop going for my gun" multiple times. I opened the door and saw that Mr. Fogle had a knife protruding from his lower left back. I grabbed Mr. Fogle from under his shoulders and pulled him off the Deputy towards myself and partially into the hallway of the scale house and onto the floor inside the doorway. I was unaware of the extent of Mr. Fogle's injuries at that point. Once Deputy Layton was free, he stood up and proceeded to cuff Mr. Fogle. I noticed that Mr. Fogle's right hand was clenched under his chin on his left side. I grabbed Mr. Fogle's wrist and brought his right arm up to where Deputy Layton could apply the second cuff. Once Mr. Fogle was secured, I released contact and knelt next to Mr. Fogle for a short time and then stood up. At that time, Mr. Fogle was still responsive to Deputy Layton's statements. I heard Deputy Layton make his report to his dispatch. Deputy Layton asked me for gloves, which I obtained from around the corner back close to the desk I was sitting at earlier. We both put on gloves and the Deputy started to remove Mr. Fogle's clothing in order to start first aid. It was at that time I could see the extent of Mr. Fogle's injuries. WSP dispatch called the scale house phone, and when I answered, I requested trooper and sergeant contact as well as

3000-110-011 (R 6/21) Page 1 of 2

WSP

REPORT OF INVESTIGATION
Assisting Officer's Narrative

Case #	
25-008851	
Citation #	

Officer's Name: Patrick Sheriff Badge No.: X833

aid. Dispatch advised there was a sergeant on-scene with another enroute. When I returned to the scene, there were other officers on scene rendering aid and Deputy Layton was in the hallway. I was instructed by one of the officers to keep watch on the Deputy. Someone from the Deputy's department called him out of the scale. I did not see him further after that. I called my FTO, CVEO 2 Jones from my personal cell phone at 0006 to let him know about the situation. He returned my call at 0007. After informing him, I exited the scale and contacted Washington State Patrol Sergeant Hughes for further direction. Then I called my direct supervisor CVEO 3 Antonio Cervantes X718 at 0031 to report what had transpired. I did not re-enter the scale house after this point.

While still at the scene, a sergeant from another agency took 360-degree photos of me and close-up palms and back of hands photos. Once the photos were complete, I entered the inspection building and proceeded to the bathroom to wash up.

Sometime between 0045-0125, I was taken to the Clark County Sheriff's office west precinct along with the other officers that initially responded to the incident. While at the west precinct, my supervisor CVEO 3 Cervantes showed up. After being photographed a second time and providing my contact information, I was released by Detective Goudschaal. Once released, other members from the Washington State Patrol arrived at the precinct. I was instructed by a WSP detective sergeant that the Office of Independent Investigations (OII) would need my uniform due to there being blood on my left pant leg and boot. I changed in the bathroom at the station and placed my pants, boots, and uniform shirt in paper bags and provided those to an officer there at the precinct. Sometime around 0330, my supervisor CVEO 3 Cervantes took me back to the scale house so I could retrieve my car and proceed home for the evening. I arrived at my residence around 0500 on the 8th of May.

This concludes my involvement in this case.

I declare under penalty of perjury under the law of Washington that the foregoing is true and correct.

Officer's Signature	Officer's Printed Name	Badge #	Date Signed
	Patrick Sheriff	X833	05/27/2025

Place Signed	Reviewed by (Signature)*	Reviewed by (Printed Name)*	Badge #	Date Signed

**Report is valid without review.*