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October 20, 2016

David Simmons  
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YPD Det. Kasey Hampton #6170  
Detective Division, Major Crimes Unit  
200 S. 3<sup>rd</sup> Street  
Yakima, WA 98901

***RE.: Officer Involved Shooting  
Wapato Police Officer Michael Campos #26  
July 31, 2016  
YPD Case No. 16Y033513***

The following decision regarding the officer involved shooting as indicated above is based upon the reports and documents that I have received from the Yakima Police Department, as well as assistance from a number of other local law enforcement agencies including Wapato PD, Washington State Patrol, Zillah PD, Yakama Tribal, Yakima County Sheriff's Office, Granger PD and the Union Gap PD. I have received these reports after the completion of their full investigation surrounding this shooting of **Mario Martinez Torres, DOB 02/25/1978**, on July 31, 2016 at 407 W. 2<sup>nd</sup> Street, Wapato, WA. The Yakima County Prosecuting Attorney's Office has now completed its review of the reports, videos, recordings and various statements created during that investigation.

The relevant statute pertaining to an officer involved shooting here in the state of Washington is **RCW 9A.16.040 – Justifiable homicide or use of deadly force by public officer, peace officer, person aiding**. The specific sections in the Revised Code of Washington are RCW 9A.16.040(1)(b) and RCW 9A.16.040(1)(c)(i). In addition, RCW 9A.16.040(2) delineates how deadly force is to be used under subsection (1)(c). RCW 9A.16.040(1)(b) provides, in part, that the use of deadly force by a law enforcement officer is justified when necessarily used by a peace officer to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, *or in the discharge of a legal duty*.

Additionally, RCW 9A.16.040(1)(c)(i) permits the use of deadly force if necessarily used by a peace officer *to arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony*. In such a situation, the officer must have probable cause to believe the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others. Circumstances which may be considered by peace officers as a “threat of serious physical harm” include the situation where *the suspect threatens the officer with a weapon or displays a weapon in a manner that could be reasonably construed as threatening* or there is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm. Under these circumstances, deadly force may also be used if necessary to prevent escape from the officer, where, if feasible, some warning is given.

Finally, the key statutory provision involving a homicide committed by a law enforcement officer is **RCW 9A.16.040 (3)** which provides the standard that must be used to hold a law enforcement officer culpable for a homicide. This statute states the following:

***A public officer or peace officer shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable pursuant to this section.***

## **INVESTIGATION**

The following facts are relevant to my decision determining whether this homicide was justifiable or not based upon the investigation performed by the Yakima Police Department and other law enforcement agencies as noted above.

On July 31, 2016, WPD Officer Michael Campos was working his scheduled shift with the Wapato Police Department which began at 7:20 pm and was to conclude at 6:00 am the next morning. He was in his department issued jumpsuit uniform which clearly identified him as a Wapato Police Officer. Shortly after 8:00 pm that evening, YSO received a report of domestic violence incident at 407 West 2<sup>nd</sup> Street in Wapato. Campos was advised that a female could be heard yelling in the background. Officer Campos arrived at the location in his marked patrol vehicle at approximately 8:18 pm. Officer Campos was alone at that time. He had never previously been sent to that location nor did he have any history with the occupants.

When Campos arrived, he observed an adult male and female outside with other younger people around. The adults were arguing about what was transpiring inside the residence at that location. The adult male yelled at Campos and said the male inside had assaulted him, his mother and children and that he wanted him arrested. He stated that the male was high on drugs and he was breaking things. This Hispanic male was relating all of the above in Spanish which Campos understood because he is fluent in that language. Campos approached and heard a female pleading inside the residence as well as yelling and screaming that seemed to be from children. They were additionally told that either children were being hit or being held inside and that the suspect had assaulted his mother. Wapato Police Sgt. Larry Ehrhardt had arrived as backup at that time. After Ehrhardt was briefed by Campos and the adult male, permission was given to the officers to enter the home.

This adult male was determined to be Roberto Torres, brother to the suspect and later the decedent, Mario Torres. He indicated through investigation that Mario had gotten into an argument with his girlfriend, Rita Alvarado, because he suspected her of cheating on him. Rita was inside the residence when the officers arrived. Through investigation, Rita later advised that Mario and she had been dating for about a year and that there, in fact, had been an argument regarding the above.

Officer Campos yelled through the locked door, "Wapato Police, open the door!" in both English and Spanish. No one came to the door so the adult male climbed through the window and let them in the house. They rushed in and were confronted by a woman screaming. They observed an adult male run to a back room and slam the door behind him. The officers heard children crying but they were not in that immediate room. However, the crying seemed to be coming from the area where the man ran to and closed the door. The woman that was screaming was the suspect's mother and she begged them to help her son. It was getting very chaotic at the scene and more people were gathering outside the house. Campos announced his presence outside the door where the suspect had run. This room was determined to be the bathroom. The door was locked so Campos kicked the door and it came open two to three inches but was then slammed shut by the suspect. They were then able to force the door open and enter. The bathroom was very small and very warm. Each officer grabbed the suspect by an arm but he broke free. According to the officer's reports, the suspect was extremely strong and fought back. Campos attempted to apply an arm bar and Ehrhardt attempted to apply pressure to the suspect's carotid arteries to cause him to lose consciousness. All attempts failed. The officers were becoming fatigued and hot and both felt they were losing the battle to take him into custody. Campos attempted again to grab his head and the suspect pushed Campos back and into the bathtub on his back with his legs up and over the side of the tub. The bathtub was equipped with sliding doors which were together on the right side. Campos fell into the open area of the tub. The bathroom was exceptionally confining with three adult males fighting therein.

Campos hit his head on the back wall and his chin was pushed down to his vest. His knees were forced up toward his chest. Somehow, the water had been turned on which created a very slippery bathtub. Sgt. Ehrhardt was still struggling with the suspect and attempted to grab his neck area as the suspect punched Campos. Officer Campos punched back. At that time, the suspect reached for Campos' gun and Campos yelled to Ehrhardt to help him. Campos, at this point, truly feared for his life as well as for Sgt. Ehrhardt's life.

Campos punched the suspect again and placed his right hand over his firearm. He used his left hand to take out his Taser and told the suspect that he was going to tase him. The suspect ripped the Taser from his hand, hurting Campos' finger. Campos yelled that the suspect had taken his Taser and for Ehrhardt to deploy his Taser. The suspect screamed at Ehrhardt that he was not going to tase him. Ehrhardt at that point felt a tingling in his leg and realized he was being tased. However, he was not dropping to the floor. Torres had taken Campos' Taser and had shot Sgt. Ehrhardt. Ehrhardt had deployed his Taser but nothing happened to Torres.

Ehrhardt observed the suspect then turn back to Campos who could not get out of the tub and was unable to move. Campos observed the suspect turn at him and aim the Taser at him. The suspect was standing over and above Campos aiming the Taser at him. At that point, Campos yelled "I am going to shoot him!" Campos removed his firearm with his right hand and shot four

times at the suspect who then dropped backwards in the very confined bathroom space. Just prior to that, Sgt. Ehrhardt had decided to rush the suspect one more time and hit him because he observed the suspect turn back towards Campos. At that point, Ehrhardt heard the shots fired from Campos' gun and saw the suspect fall backward.

The officers called for aid and indicated shots had been fired. Additional back up was summoned because of the large emotional crowd that had gathered at the residence. The officers checked themselves for injuries and Ehrhardt told Campos he had been tased. Both officers received brief medical treatment after the incident. Sgt. Ehrhardt sustained abrasions and contusions to his left arm and hand. Officer Campos sustained a cervical strain and received abrasions to his head, both elbows and knuckles as well as a scalp contusion.

Paramedics arrived at the scene and administered first aid to Mr. Torres. Tragically, he was pronounced dead at approximately 8:45 pm that evening.

An autopsy was performed on August 2, 2016. The manner of death was classified as a homicide. Mr. Torres sustained three penetrating gunshot wounds to the chest with injuries to the left lung, aorta, thoracic spine, heart, liver, right lung, left arm and humerus. The fourth bullet grazed his left upper shoulder. Officer Campos shot Mr. Torres with his department issued firearm, a .40 Smith & Wesson Glock Model 22 semiautomatic pistol. Forensic evidence and evaluation by the Yakima Police Department and the Washington State Crime Lab showed only four shots fired and the casings were recovered from the bathtub. Officer Campos' Taser, used by the suspect to shoot Sgt. Ehrhardt in the leg, was recovered in the bathroom as was the cartridge. Damage to the bathroom wall inside the tub area was noted and corroborated Officer Campos' description of how he was thrown into the tub area. The shell casings positions and damage to that wall were consistent with Officer Campos discharging his firearm from that bathtub.

Further analysis and evaluation by the Washington State Patrol Toxicology Laboratory of the blood, urine and vitreous fluid of the decedent indicated that he had both alcohol and methamphetamine in his system at the time of his death.

## ***CONCLUSION***

This was an excellent investigation by the Yakima Police Department and other law enforcement agencies involved under some very difficult circumstances. The scene at the residence where this homicide took place was chaotic and was difficult to control but I do not find that the evidence obtained was compromised in any way. I also find that all law enforcement that investigated this incident did so in a professional and complete manner. I do not find any conflicts of interest from any officers or departments, especially the Yakima Police Department, in performing this investigation.

I conclude that, based upon the facts as I know them from the substantial investigation that was undertaken and presented to me as well as the current applicable Washington state law, ***Wapato Police Department Officer Michael Campos was justified in his use of deadly force under the***

*circumstances as they appeared to him at the address of 407 W. 2<sup>nd</sup> Street in Wapato, Washington.* Officer Campos responded to this address based upon the reported allegation of a potential domestic violence confrontation. He had not been to this residence before and he was not familiar with the occupants. He encountered several individuals outside the home who expressed that a male inside had engaged and allegedly assaulted several individuals just prior to the officer's arrival. The officers, in fact, heard screaming coming from inside the home. Once having probable cause for assault involving domestic violence, they were asked to go inside the home and deal with this person who persons at the scene described as "crazy" and on drugs. They were allowed inside and observed the adult male run into a room and shut the door. They eventually forcibly entered that bathroom and encountered the male who immediately got into a physical confrontation with both officers while they attempted to arrest him. Their efforts proved futile and the suspect was overcoming the officer's attempts to subdue him.

Officer Campos was physically thrown onto his back in an extremely confined space, namely a bathtub, from which he could not extricate himself. He observed his fellow officer struggling tremendously with the suspect so he pulled his Taser and was attempting to use that non-lethal weapon but it was taken from him and used by the suspect on Sgt. Ehrhardt. Officer Campos understood what that meant to both officer's safety. He realized he was unable to get up due to his position, his size in a confined space and the water running in the tub. He observed the suspect turn back at him with Taser in hand and, based upon all the facts and circumstances presented to him at that moment, believed in good faith that he had no other option but to utilize deadly force upon Mr. Torres. He shot the suspect four times which led to his demise.

Officer Campos had announced who they were and they were in full uniform. They attempted to physically restrain the suspect but to no avail. Officer Campos believed that the two officers had been physically compromised. Campos had observed the suspect bend over and reach for his firearm before Campos pulled his Taser. Once his Taser was ripped from his hand, Campos believed their safety was in complete jeopardy. I find that Campos, under these facts, had probable cause to believe that the suspect posed a threat of serious physical harm to himself and to Sgt. Ehrhardt.

Additionally, I find no evidence to show that Officer Campos used deadly force with malice which is manifested through an "evil intent, wish or design to . . . injure another person." Officer Campos was placed into a compromised physical position as soon as he entered the bathroom. He acted in good faith and with lawfulness of purpose. He had probable cause to believe there existed a very direct threat of harm to him and Ehrhardt and reacted accordingly. Thus, the deadly force used by him upon Mr. Torres was reasonable and necessary considering all the circumstances presented at that time. Officer Campos will not be charged with a crime in regards to this incident. He acted rationally and prudently as he had been trained.

Please contact me at your earliest convenience if there is any additional evidence that comes to light or if you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script, reading "Joseph A. Brusic". The signature is written in black ink and features a long, sweeping horizontal line at the end.

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