



Memorandum

Date: August 22, 2018
To: Sheriff Johanknecht **Via:** Direct
From: Undersheriff Scott A. Somers
Re: USE OF FORCE REVIEW BOARD - DEPUTY MOLINA ART2017-002

Per General Orders Manual (GOM) 6.03.000, a Use of Force Review Board was convened on June 20, 2018 to review a Deputy-involved shooting, documented under C17029406. The GOM requires this review after an incident involving a member's use of force which rises to the level of a "serious force incident", as defined in GOM 6.00.110.¹

GOM 6.03.010(1) requires that the Board convene no more than forty-five calendar days after the completion of an inquest or after the decision by the King County Prosecutor's Office, not to refer criminal charges against any of the involved deputies, whichever occurs last. There are unique circumstances here because neither an inquest nor a formal determination of criminal charges by the King County Prosecutor's Office have occurred. King County Executive Constantine is currently reviewing the inquest process, including recommendations from a citizens group and police executives, to determine how King County should continue the inquest process. There is currently no inquest scheduled for this incident and it is unknown when the inquest process changes will be resolved.

The Sheriff's Office also has a need to review and provide management oversight of serious incidents. The King County Sheriff's Office (KCSO) needs to evaluate whether policies and procedures were followed and also whether any further action needs to be taken with respect to training, equipment, performance and/or behavior. With no foreseeable resolution to the inquest process, the Sheriff's Office felt it had reached a point where it had to move forward with the Use of Force Review Board to be diligent. King County Police Officers Guild (KCPOG) President Eggert was advised of the intent to convene this Review Board and did not object.

INTRODUCTION

GOM 6.03.015 directs that the Use of Force Review Board be comprised of KCSO members who were not involved in the incident under review. At least five members must be present to constitute a quorum. The Undersheriff or his designee is the Chairperson and also acts as a voting member. Other voting members are outlined in the GOM. Non-voting members may attend as designated by the Undersheriff.

¹ "Serious force incident" includes:

1. Intentional firearm discharges (other than less lethal) or other uses of deadly force (Excludes training and shooting animals, either intentionally or as euthanasia).

KCSO Major Crimes Detective Chris Johnson conducted the criminal investigation and provided an overview presentation to the Board. Sergeant Jason Escobar provided the Administrative Review Team (ART) perspective. Deputy Cesar Molina and Master Police Officer (MPO) Tanner Owens provided their recollection of events on the night of the shooting, but were only present to describe the events and to answer questions of the Board. They did not witness or participate in any discussion of whether their actions violated KCSO policies and procedures. Subject matter experts were available to offer perspective and answer questions of board members.

VOTING MEMBERS IN ATTENDANCE:

Undersheriff Scott Somers, Chair
Patrol Operations Division (POD) Chief, Lisa Mulligan
KCSO Senior Legal Advisor, Erin Overbey
Advanced Training Unit Detective, Jesse Babauta (Designee of ATU Sergeant)
King County Police Officers Guild Representative, Steve Eggert
Patrol Operations Division Captain, Mark Konoske

NON-VOTING MEMBERS IN ATTENDANCE:

CID/MCU Detective, Chris Johnson
OLEO Representative, Rick Fuentes
Range Master/Sergeant, Dan Morrow
Taser Coordinator/Deputy, Jesse Herrera
CIT Coordinator/Sergeant, Tony Lockhart
Defensive Tactics (DT) Instructor/Deputy, Hansen Hsu
Lead ART Investigator/Sergeant Jason Escobar
Internal Investigations Unit (IIU) Investigator, Ed Hall
IIU Captain, Rodney Chinnick
POD Sergeant Eric Franklin,
POD Admin. Assistant, Joan Larsgaard
Sergeant Ryan Abbott
KCPOG Attorney, Derick Isakson²
MPO Tanner Owens
Detective Cesar Molina

RELEVANT FACTS OF THE INCIDENT

Major Crimes presentation of evidence:

The following facts are derived from the Major Crimes investigation and presentation by lead Detective Chris Johnson, witness statements, involved Deputy compelled statement, and testimony during the Review Board.

Date/time of occurrence: 06/14/2017 0000
Location of occurrence: 13600 Block of 3 Av S, City of Burien
Incident and CAD #s: C17029406/K17195022

² Generally, legal counsel for the Guild would not be present during the Board proceeding, but in this case the process occurred without an inquest preceding it, where the officers would usually have counsel present. Mr. Isaacson was present in the event either Deputy Owens or Molina felt a need to confer. Neither deputy exercised that option and Mr. Isaacson made no remarks and offered no position during the course of this proceeding.

Date of Review Board: 06/20/2018³

MPO Tanner Owens and Deputy Cesar Molina were on duty, in full patrol uniforms and driving fully marked patrol cars (Burien and KCSO, respectively). They were dispatched to the area of S. 136 and 3 Av S. along with other deputies to investigate a disturbance involving a man with a knife. A Witness said he was attacked by an Asian male with a knife. The Witness said the male was barefoot; wearing a black shirt, black shorts and that the he was last seen northbound on 3 Av S.

While on their way to the call, Deputies were provided a number of updates. The first update was information from a different Witness indicating that someone was possibly shot in the same area. This Witness reported that there were four people standing outside of his house. He heard a single shot, no one appeared to be injured, but one male could be seen carrying a hand gun.

The next update was information from the original Witness. He was not sure if it was a knife the man was holding but it was a pointed object; also, that other Witnesses reported that the man may have mental health issues, as he said he was "the creator".

As Deputies were arriving, dispatch updated that the resident at 13602 3 Av S admitted to firing a gunshot saying somebody tried to attack him with a knife.

The final update provided as deputies were on-scene was that a couple of Witnesses said the suspect may have been heading toward the 7-11; that he'd been in the area "yelling at the top of his lungs for a bit".

The Board was provided significant information to review prior to convening for its review of the information. This included the statements of others on-scene, such as original 911 Witnesses, other residents, and another deputy present at the time of the shooting (MPO Paul). The Board received numerous photographs taken of the incident from shortly after the use of force through the autopsy. This included damage to the Witness's door/doorframe. Detective Johnson advised that a cast was taken from a marking in the door jamb which the Witness believed was new and might have resulted when the man, later identified as Mr. Le, followed him to his doorway and attempted to stab him while he was entering his home. The crime lab has not yet issued a report on this evidence. The KCSO is experiencing long wait times for many evaluations conducted by the crime lab and the Board does not think the completion of this report should be held for that information. It can be included in the investigative file when it becomes available.

The Board observed photos of Mr. Le receiving aid, noted Taser wires attached, and heard Deputy Herrera give an opinion that both Tasers were deployed. The Taser model used by Molina cannot provide information on whether contact is made. The Taser model used by Owens can record contact information, but his Taser did not indicate contact with Mr. Le. Deputy Herrera said it was likely that at least some of the Taser probes made contact due to the condition of some of the wires, but the evidence is not conclusive on that point. Attempts to recover the Taser wires for evaluation from medics and from Harborview were not successful.

The Board also heard evidence indicating that the shots were fired only from Deputy Molina's firearm, the likely position of Deputy Molina when the shots were fired, and where they struck.

³ A memo summarizing the findings and conclusions are usually prepared within ten working days. However, several Board members were absent during the two weeks following the hearing so that extra time was needed to complete the memo.

The Board heard evidence on the autopsy, wounds, and cause of death from detective Johnson.⁴ Finally, the Board heard from Sergeant Escobar that the Administrative Review Team investigation had no significant additional or contradictory information to provide to the board other than that already provided. Molina and Owens both came to KCSO with training from other jurisdictions and confirmed receiving scenario based decision-making training with a firearm. Additionally, both received Crisis Intervention Training (CIT)⁵ from KCSO, as well as Use of Force and Taser certification and training.

MPO Owens Testimony:

MPO Owens was the first to arrive in the area. He waited for backup, staging at S. 136/2 Av S. MPO Paul and Deputy Molina arrived within a minute of MPO Owens, with Deputy Molina arriving last.

MPO Owens drove onto 3 Av S and could see a group of people standing in the front yard of the first house on the east side of the road. He could see that one of the people, a male, was holding a firearm in one hand. He approached the group with MPO Paul, his gun drawn, and directed the male to put the gun on the ground. The male complied and MPO Owens was able to ascertain that this was the original Witness and the man who admitted to firing a warning shot to scare away the man who had attacked him with a knife.

During this brief conversation, MPO Owens heard Deputy Molina's voice behind him, yelling "drop it" or something similar. He turned toward the north and saw that Molina was yelling at an Asian male wearing black shirt and shorts and barefoot, matching the suspect's description. He saw that the male was moving quickly toward Molina with purpose and that both of the man's hands were clenched. Owens holstered his firearm, drew his Taser, and ran toward Molina's position to assist. He saw that the man, later identified as Mr. Le, disregarded Molina's orders and heard Molina's Taser when it was deployed. He saw that the Taser did not stop or slow the man. Instead the man ran directly at Owens, with a clenched fist raised over his head, grunting and otherwise making no noise.

Owens was certain at this point that the man had a knife in his clenched fist. He could see that the man held something in his fist in a manner that would facilitate a downward thrust or stabbing motion. He believed that his life was in danger, as were the lives of the people in the yard behind him, and other deputies (deputies Molina and Paul). Owens deployed his Taser one time. At the same time, he stepped back and sideways to get out of the man's way, trying to create distance and space. The Taser didn't stop the man who kept running toward him and the group of people. Owens continued to try to back away, holstered his Taser and began to draw his firearm which he believed was the only way to stop the man who was attacking them with a knife. He heard 3-5-gun shots coming from Molina's direction. The man fell to the ground near his feet and Owens realized it was Molina who fired the shots.

Owens kicked the item out of the man's hand and saw it was a pen. He immediately began to apply first aid, while others joined him in providing aid and summoning Medics.

Deputy Molina Testimony:

⁴ Toxicology reports resulting from these events included a finding of trace amounts of LSD in Mr. Le's bloodwork. Although this is not information that deputies would have been aware of at the time, it could be relevant to the issue of whether other tactics could be successfully implemented in detaining Mr. Le. The ability to interpret the impact of LSD on these events is beyond the scope of expertise of the Board or the witnesses who provided information in this proceeding.

⁵ Deputy Molina received his training from KCSO shortly before the incident and Owens after the incident.

Deputy Molina was the third Deputy to arrive at the scene, behind MPO Paul and MPO Owens. He approached Owens and Paul as they talked to the group of people in the front yard but didn't engage them because he realized they had that portion of the scene contained. Fearing that the man with the reported knife could return to the scene, he opted to stand in the intersection of S. 136/3 Av S., behind Owens and Paul to offer oversight and protection to the Deputies as they conducted the initial investigation. Within a minute or so of making this decision, he saw a man matching the description of the man (black shirt, black shorts, barefoot) approaching the intersection from the north on 3 Av S. The man, later identified as Mr. Le, was moving quickly in Molina's direction with both fists clenched. Molina drew his Taser and began commanding the man to stop. The man held something pointed in one clenched fist. Molina believed it was a knife. The man ignored Molina's commands to stop and get down on the ground. Molina was convinced, due to the man's demeanor, pace and intensity, that he was returning to the scene to attack deputies and the group of people standing with the deputies.

Molina fired his Taser, one time, which did not stop the man who was continuing to close the distance between himself and Molina. Molina moved backward to create distance from the man. The man continued, still with clenched fists, moving quickly toward MPO Owens who had moved toward them to assist. Molina heard Owen's yelling for the man to stop and he heard Owens' Taser deploy. The man kept advancing. As Molina backed up, he drew his firearm with his strong hand while still holding his Taser in his other hand. He stepped back and to the right as the man came very near and to the left of him. Deputy Molina, fearing for his own life and that of MPO Owens, fired 3-5 shots at the man, until he felt he could no longer do so because of back drop and danger to others. It was at this time that the man fell to the ground, not far from MPO Owens' feet. MPO Tanner began providing aid almost immediately. Deputy Molina was directed away from the scene as an involved deputy.

Summary of all evidence:

Several residents of the City of Burien came into contact with an individual later identified as Mr. Tommy Le. They described being fearful that he might stab them with a knife or similar object. Recorded statements were taken from two neighborhood residents and a visiting friend who called 911 to report Le's conduct after close contact with Mr. Le. The first to come into contact with Mr. Le called 911 (Witness 1) because Mr. Le approached him while he was standing near the doorway of a friend he intended to visit. Mr. Le approached Witness 1 with something sharp in his hand (described by Witness 1 as a knife or screwdriver) and made remarks such as "I'm the creator," "I'm the killer." This frightened Witness 1, who ran away and called 911. He then heard his friend come out of his house (Witness 2). When Witness 2 emerged, he had a gun because he overheard the commotion with Witness 1. Mr. Le moved toward Witness 2 with what Witness 2 thought was a knife, so Witness 2 asked Mr. Le to drop his weapon and told Mr. Le that he was armed. Mr. Le continued to follow Witness 2 toward his house and Witness 2 fired a warning shot into the ground. It did not appear to deter Mr. Le who followed Witness 2 to his front door. Witness 2 quickly shut the door as he went into his house to keep Mr. Le from following him. Witness 2 heard what he thought to be Mr. Le stabbing or striking the door as he shut the door. Witness 2 called 911 from inside his house clearly communicating his fear for his own and others safety.

After confirming Mr. Le was gone from the front of his house, Witness 2 saw his neighbor (Witness 3), who also had a gun, standing outside with Witness 1. Witness 2 went outside to join Witnesses 1 and 3 and then KCSO deputies began to arrive.

Witnesses 1, 2 and 3 were outside when confronted by MPOs Owens and Paul. They put their weapons down and the deputies began a pat-down procedure to check for other weapons. Deputy Molina arrived in the area last after doing an area check. He saw that Owens and Paul were all right and turned his attention towards the last direction Mr. Le was reported to have been traveling. During the pat-down, Witness 2 recognized Mr. Le returning to the nearby intersection and alerted the deputies. Molina was near the intersection and saw an individual

he quickly realized matched the description of the man with a knife, moving very fast, with purpose, southbound on 3rd towards S 136th. At the time, Molina believed the man heading toward him had threatened at least two people with a knife. Molina could see something in Mr. Le's hand and believed it to be a knife.

Molina, the other deputies present, and Witnesses 1, 2 and 3 all state Molina gave orders for Mr. Le to "stop" and drop the knife more than once. Molina said he thought Mr. Le was going to stab him, Owens, or the others gathered in front of the reporting party's residence. Both Molina and Owens attempted to use less lethal force⁶ in the form of their Tasers to stop Mr. Le's forward movement and perceived attack. Owens holstered his firearm and deployed his Taser, which had no apparent effect. At that point Owens was preparing to use his firearm, but then heard shots fired by Deputy Molina which stopped Mr. Le before removing his need to.

Deputy Molina also attempted to use his Taser before his firearm. His Taser also had little apparent effect in stopping or slowing down Mr. Le. Deputy Molina then resorted to his firearm shooting six times, striking Mr. Le three times, to stop Mr. Le's forward movement and perceived attack. Mr. Le continued to advance as Molina fired his weapon finally falling within inches of Deputy Owens. The use of force events, Taser and firearm, happened quickly; within a matter of seconds. All witnesses and involved parties said that the timeframe from when the deputies arrived to the use of force happened very quickly. The use of deadly force⁷ resulted in Mr. Le's death.

Following the shooting, Det. Johnson conducted an investigation with the assistance of others. He was able to eventually identify Mr. Le and advise Mr. Le's family of his death. Johnson obtained a search warrant for the residence of Mr. Le, where several knives were recovered. In a supplemental interview with Witnesses 1 and 2, both were provided pictures of knives recovered with the search warrant and both independently identified a "butterfly" knife from Le's residence as the item that looked most like the object Mr. Le was holding when they saw him on the evening of June 14, 2017. Both were also provided a picture of the pen found at the scene and both said this was not the item they saw in Le's hand on that night.

Voting members of the board were admonished to consider only what information the involved deputies possessed at the time of the use of force for questions 1-7.

POLICY AND USE OF FORCE ANALYSIS

GOM 6.03.010(3) requires the voting members of the Use of Force Review Board to answer the seven questions listed below. The board's vote and brief explanation for each question will follow the list of questions. These questions apply to Deputy Molina's use of the firearm. They do not apply to either deputies' use of the Taser.

1. If a firearm was used, was it intentional or unintentional?
2. Was the use of force justified or unjustified, regardless of the tactics or choices leading to the use of force?
3. Were the member's choices, leading up to the event, sound?
4. Were there reasonable alternatives to the use of force?

⁶ Less lethal weapons are tools to assist deputies to reasonably and effectively control a physically resistant, or aggressive or violent subject(s) who poses a threat of physical harm to themselves, to the deputy(s) or to other persons or property. Department approved options at the time included Tasers, batons, pepper spray and chemical agents.

⁷ "Deadly force" means the intentional application of force through the use of firearms (other than less lethal) or any other means reasonably likely to cause death or serious physical injury (RCW 9A.16.010 (2)).

5. Was either inadequate or improper training a contributing factor to the event?
6. Were policies and procedures followed after the event?
7. Did the use of force involve policy violations?

1. If a firearm was used, was it intentional or unintentional? INTENTIONAL

To determine whether the discharge of the firearm was accidental or intentional, the members considered statements from the involved deputy and witness deputy as well as evidence at the scene.

Answer:

The board voted unanimously (5-0) that the use of a firearm by Deputy Molina was **intentional**.

2. Was the use of force justified or unjustified, regardless of the tactics or choices leading to the use of force? JUSTIFIED

GOM 6.00.00 addresses force used by KCSO members and is based upon RCW 9A.16.010-040, the state law which allows for “justified use of force” by police officers. The force used must also be constitutionally sound; therefore the use of force must be objectively reasonable as required by the U.S. Supreme Court in *Graham v. Connor*. The proper application for the test of reasonableness “requires careful attention to the facts and circumstances of each particular case including the severity of the crime at issue, whether the person poses an immediate threat to the safety of the officers or others, and whether the person is actively resisting arrest or attempting to evade arrest by flight.” *Graham v. Conner*, 490 U.S. 386 (1989). Whether the force was reasonable “must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Id.*

Washington State law authorizes deadly force in the apprehension of a suspect whom the officer “reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony.” RCW 9A.16.040(c)(i). State law requires the officer have probable cause to believe that “the suspect, if not apprehended, poses a threat of serious physical harm to the officer or others.” Among the circumstances which may be considered by peace officers as a ‘threat of serious bodily harm are...the suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening.” RCW 9A.16.040(2)(a).

Deputy Molina had legal authority to be at the location, investigating a recently reported assault with a knife by an unknown man. Information provided to the Deputies indicated that a resident had been attacked by a man with a knife and that someone had fired a gunshot in the vicinity. Additional information indicated that multiple people had called 9-1-1 about this incident and the man who was described as “yelling at the top of his lungs for a bit”. He was heard to identify himself as “the creator”. As Deputy Molina provided scene security to the Deputies who were conducting the initial investigation, the man returned to the scene. The man was undeterred by the presence of the police. The man moved quickly and aggressively, with a clenched fist raised and holding a pointed object toward Molina and the group of residents and deputies beyond him. He ignored Molina’s command’s to stop and drop what he was holding. He didn’t speak or acknowledge the commands, instead continued moving toward the deputies and the residents with purpose. Molina and Owens attempts to stop the man with a Taser were ineffective.

Molina reasonably believed that the man was armed with a deadly weapon and that he had already attacked someone with a knife. The man’s actions led Molina to believe that if not

stopped, the man posed a serious threat of harm to Molina, MPO Owens and the residents standing nearby.

Answer:

Based on the information presented and consideration of State and Federal law the Board unanimously voted (5-0) that the use of force was **justified**.

3. Were the Deputy's choices leading up to the event, sound? YES-SOUND

Deputy Molina used sound judgment and tactics when opting to remain separate from MPO Owens and the group of people who were reporting the facts of the initial attack. Instead he posted himself in the intersection, to watch the area where the man was last seen, placing himself in a good position to intervene if he returned.

When the man returned, Molina attempted stop his movement toward himself and the group. He gave him commands to "stop" and drop the weapon in his hand. While doing this, Molina took a number of steps backward to create space between himself and the man. He deployed his Taser when his commands to stop the man didn't work. He transitioned to his firearm only after realizing that his Taser and that of MPO Owens did not stop the man's forward progress.

Answer:

The board voted unanimously (5-0) that the Deputy's choices leading up to the event **were sound**.

4. Were there reasonable alternatives to the use of force? NO REASONABLE ALTERNATIVES

The fact that Owens and Molina knew that witnesses reported Mr. Le was armed with a knife, both saw him holding an object they thought was a knife, that he did not respond to verbal commands of identifiable law enforcement, the speed at which he both appeared and closed the distance between himself and the deputies, and the aggressive posture he maintained, made the use of O.C. Spray, control holds and other defensive take-downs unsafe and unrealistic. Molina attempted to de-escalate by verbally directing Mr. Le, giving clear commands and attempting to create distance. That distance was continually closed by Mr. Le. Molina and Owens attempted to stop Mr. Le with their Tasers before both determined separately, and without consultation, that their firearm would be necessary to stop the attack.

The Board concluded that lesser forms of force, other than the Taser, were not advisable because of the risk of serious harm to deputies. Control holds and other defensive take-downs create a risk of harm from the weapon, in this case a pen, as well as the risk that the deputy's firearm will be grabbed by a suspect and used against the deputy or others.

Answer:

The board voted unanimously (5-0) that there were **no reasonable alternatives to the use of force**.

5. Was either inadequate or improper training a contributing factor to the event? NO

Answer:

After consulting the subject matter experts (SMEs) in the room, the board voted unanimously (5-0) **that inadequate or improper training was not a contributing factor** to the event.

6. Were policies and procedures followed after the event? YES-FOLLOWED

After the shooting, Deputy Molina was removed from the scene, while investigators began to gather evidence. Deputies Molina and Owens each provided a complete statement as soon as practicable after the incident. The investigator compiled statements from deputy eye-witnesses and residents who saw the incident and sought supplemental reports from the Medical Examiner and the Crime Lab.

The board voted unanimously (5-0) that **policies and procedures were appropriately followed after the event.**

7. Did the use of force involve policy violations? NO

While deputies are required to read and understand state law on deadly force (RCW 9A.16.040(4)(b), GOM 6.00.025(1)-(2) requires that “deputies exhaust every reasonable means of apprehension before resorting to the use of deadly force;” and “firearms shall not be drawn or pointed unless a deputy has reason to believe that their use may be required.”

Answer:

The board voted unanimously (5-0) that there were **no policy violations related to this use of force.**

The Review Board also reviewed and deliberated on issues related to the use of force that are of interest to the Sheriff’s Office and its review of uses of force. They are:

8. Was first aid rendered and provided to the injured appropriately? (GOM 6.02.015, 6.00.015) YES-WITHIN POLICY

- a. Statements from deputies Owens, Molina and others’ statements show that immediately after Mr. Le went to the ground after being shot, he was handcuffed to restrain him from getting up, which is consistent with practice and officer safety.⁸ Deputy Owens immediately provided aid along with others at the scene.
- b. Issue: The aid kit deputy Owens had did not have the optimal material to place over and seal bullet wounds. The issue is already being addressed by the Advanced Training Unit and extra material will be provided to current Care Under Fire kits.

9. Were there identified issues with supervision or command? (GOM 6.00.115, 6.01.020, 6.01.025, 6.02.015) NO-WITHIN POLICY

- a. Testimony revealed that incident and scene management began almost immediately with the involved deputy being removed from the immediate scene and monitored until Sergeant Zimnisky arrived, with aid being quickly provided and with Medics quickly requested. Sergeant Abbott, the first Sergeant to arrive on-scene, was there shortly after the use of force. Deputy Involved Checklists were used and process followed.
- b. Sergeant Zimnisky was commended for his ongoing scene management.

10. Were any issues identified with communications? (GOM 6.02.015) NO

⁸ The practice is based on an interest in preventing the person detained from injuring others. For example, there is a risk the detained person can grab the firearm of a deputy and shoot others with it.

- a. Deputy Molina and others stated that radio communications are generally poor in the area of the incident; however, that did not play a role or impact this incident.

11. Were there any issues identified with equipment? (GOM 6.04, 7.03, 7.04) **UNCLEAR**

- a. Due to the fact that some important evidence left the scene in the aid car, it was not possible for the Taser Coordinator/Deputy, Jesse Herrera, to conclude why the Tasers did not impede Mr. Le from continuing to move toward Molina and Owens. Deputy Molina stated he had been carrying an older model Taser at the time of this incident and thought it “clunkier” to operate than the newer models, but he felt comfortable using his Taser. Deputy Owens had the newer X2 model, but it is not clear whether his Taser made contact. Jesse Herrera, the subject matter expert on Tasers, explained that there are many factors which can influence whether there is a successful use of a Taser. It is possible to make contact, yet not have any significant impact on the subject due to location of the contact, clothing worn by the subject, or other factors.
- b. The Sheriff’s Office entered into an agreement on March 30, 2018, to upgrade all its Tasers to the newer X2 model and to have model updates-upgrades at least every five years to improve reliability and effectiveness of the less-lethal force technologies available. Less-lethal shotguns have also been introduced into the patrol force.

12. Were there any issues identified with policies or procedures? **NO**

13. Were there any other policy violations identified not associated with the use of force? **NO**

CONCLUSION

Undersheriff Somers gave ample opportunity for questions and discussion to include dissenting opinions or viewpoints, throughout the process.

The Board unanimously voted that the force used by Deputy Molina was intentional, justified, within policy and not due to inadequate or improper training; also, that proper procedures were followed after the event. Discussion also covered the factors leading to the tactics used and the use of force itself both being objectively reasonable.

cc: Scott Somers, Undersheriff
Liz Rocca, Chief of Staff
Lisa Mulligan, Chief Patrol Operations Division
Jerrell Wills, Chief Criminal Investigations Division
Patti Cole-Tindall, Chief, Technical Services Division
Erin Overbey, Sheriff’s Senior Legal Advisor
Deborah Jacobs, Director Office of Law Enforcement Oversight
Mark Konoske, Captain
Stan Seo, Captain
Cesar Molina, Deputy
Tanner Owens, Master Police Officer
Steve Eggert, President King County Police Officers Guild