February 9, 2015

Chippewa County District Attorney’s Report and Decision on the Officer Involved Fatality Involving Chippewa County Investigator William Gray and Sharrinder Singh Garcha on November 14, 2014

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I. INTRODUCTION

On November 14, 2014, Chippewa County Deputy William Gray (hereinafter Investigator Gray) was asked by United States Department of Homeland Security (hereinafter Homeland Security) to interview Sharrinder Singh Garcha (hereinafter Garcha) regarding the whereabouts of a seventeen year old juvenile female. After interviewing Garcha and looking for the seventeen year old juvenile, Investigator Gray was asked by Homeland Security to take Garcha into custody. Investigator Gray called for backup and was waiting with Garcha for an officer to arrive when Garcha attacked Investigator Gray with a knife while sitting in Investigator Gray’s patrol vehicle. During the attack, Investigator Gray drew his firearm, discharging it one time, resulting in the death of Garcha.

Pursuant to recently enacted legislation under Wisconsin Statute §175.47, the lead investigative agency for this investigation is the Wisconsin Department of Justice Division of Criminal Investigation. The lead investigator in the case is Special Agent Vern A. Vandeberg. The summary was completed and the reports of the investigation were filed with me in late January 2015. I commend DCI for their thorough investigation of this case.

I base this report and decision upon that investigation as well as information obtained from interviews with witnesses, including Investigator Gray, the autopsy report, analysis from the Wisconsin Crime Lab, medical records of William Gray, photographs of the shooting scene, photographs of Investigator Gray’s injuries, and the process of the squad car.

In the following sections, I will provide a summary of the investigation as provided by DCI, analyze the statements of the relevant witnesses, and provide my legal analysis and assessment of the case.

II. BACKGROUND

On November 14, 2014, Chippewa County Investigator Gray was contacted by Homeland Security requesting that the Chippewa County Sheriff’s Department make contact at a residence on County Highway J to help locate a runaway juvenile female. They also told Investigator Gray the juvenile may be with a Sharrinder Garcha, whom Homeland Security was looking to deport.

Investigator Gray made contact at the residence and did not find the juvenile female but did locate Garcha. Garcha was taken to the Chippewa County Sheriff’s Department where he was interviewed to determine the location of the juvenile and to determine if Garcha was involved in any criminal activity.

Garcha agreed to take Investigator Gray to a residence in the City of Eau Claire where the juvenile female was possibly staying. When the juvenile was unable to be located in the cities of Eau Claire and Chippewa Falls, Gray made contact with Lt. Rick Stark of the Chippewa County Sheriff’s Department via cell phone. Investigator Gray asked Lt. Stark if would accompany him to a residence on County Highway J for the purpose of retrieving Garcha’s belongings. This was necessary once Homeland Security requested Investigator Gray take Garcha into custody. Investigator Gray told Lt. Stark he would meet him in the parking lot of Blue Ribbon Awards and Engraving on County Highway J. Due to his location in the county,
Lt. Stark was not able to meet Investigator Gray and requested that he contact a patrol squad instead. While Investigator Gray was on the phone with Lt. Stark, Garcha attacked Investigator Gray with a knife and the shooting occurred.

### III. SCENE LAYOUT

Photo 1

Investigator Gray’s squad car parked in Blue Ribbon Awards parking lot.

Photo 2

Door of Investigator Gray’s squad car with blood on door and firearm on floor
Photo 3

Driveway to Blue Ribbon Awards where Investigator Gray collapsed after requesting help from passing cars.

Photo 4

Inside of Investigator Gray’s squad car with firearm and radio microphone covered with blood. Blood covers seats, steering wheel, mobile computer and front area of squad car.
Photo 5

Garcha's knife on passenger seat.

Drawing 1

Wisconsin State Patrol Forensic Mapping of Squad Car
IV. INITIAL REPORT AND EMERGENCY RESPONSE

While Investigator Gray was on the phone with Lt. Stark, Lt. Stark could hear Investigator Gray call on the squad radio requesting a squad meet him at Blue Ribbon Awards. In response to Investigator Gray’s request, Deputy Randy Stearns, who was operating a marked squad car, agreed to meet Investigator Gray at the Blue Ribbon Awards location. Lt. Stark was having a conversation with Investigator Gray when he heard over the phone something like “what are you doing?” Lt. Stark could hear what he thought was movement in the car and kept saying Investigator Gray’s name with no response from Investigator Gray.

Lt. Stark thought something was going on so he called on the radio and requested a law enforcement car to expedite to Investigator Gray’s location. Lt. Stark then responded to Investigator Gray’s location also. Prior to terminating the call, Lt. Stark heard a sound over the phone that sounded similar to a single tap of a pen on a table.

Deputy Stearns approached the scene in emergency mode from East on Highway J. Upon arrival, he observed a couple of trucks on the south side of the road and Investigator Gray lying near the end of the driveway. Investigator Gray’s unmarked squad car was parked in the lot and the driver’s side door was open and appeared unoccupied.

Deputy Stearns advised via radio “Officer down” and then rendered aid to Investigator Gray. Deputy Stearns noted that Investigator Gray was bleeding profusely from the face and neck. Investigator Gray told Deputy Stearns that the suspect (Garcha) was dead in the front seat of his squad. Deputy Stearns noticed Investigator Gray’s holster was empty and Deputy Stearns could not see the suspect.

Deputy Stearns then approached Investigator Gray’s squad and observed Garcha in the front seat with his knees on the seat and head into the back of the seat. Deputy Stearns was not able to see the Garcha’s hands and Garcha was not responding to verbal commands.

Deputy Mark Bauman then arrived and he and Deputy Stearns moved to the passenger side of the unmarked squad. Deputy Stearns opened the passenger door and attempted to check for pulse on Garcha. The movement caused Garcha’s body to move and Deputy Bauman announced the visual confirmation of a knife in the suspect’s hand. Deputy Stearns then returned to the driver’s side and pointed his service firearm at Garcha until additional deputies arrived. Deputy Stearns observed a cell phone, a handgun and radio microphone, all covered with blood, on the driver’s side floor board of Investigator Gray’s vehicle.

Lt. Stark then arrived at the scene. Lt. Stark saw Investigator Gray in the driveway being treated by two civilians and several uniformed officers. Lt. Stark saw Deputy Bauman with his gun drawn pointing at Garcha in Investigator Gray’s squad. Lt. Stark saw Garcha in the front passenger’s seat with both knees on the seat with his head down and toward the back of the seat while Garcha’s left hand was back and toward his left side. From the driver’s side of the vehicle, Lt. Stark could see a knife that was partially in Garcha’s right hand and partially on the passenger seat.

Lt. Stark, Deputy Bauman and Deputy Stearns then removed Garcha from the passenger’s seat and onto the ground next to Investigator Gray’s vehicle. As Lt. Stark and the Deputies
removed Garcha from the vehicle, the knife fell out of Garcha’s hand and onto the passenger seat. The Deputies then secured the scene and started taking photos of the area.

Jacob Maas and Michael Cox were driving by Blue Ribbon Awards when they noticed a pickup truck stopped in the roadway and Investigator Gray covered in blood lying near the end of the driveway. They turned around to help render aid.

Maas immediately started talking to Investigator Gray and observed several large lacerations on Investigator Gray’s face, neck and nose. Maas immediately applied pressure to the injuries and talked to Investigator Gray. Investigator Gray repeatedly stated to Maas “he attacked me” and “he kept stabbing and stabbing and stabbing”. Investigator Gray told Maas that he had trouble getting his seat belt off and once he did, he was able to get his gun out and shot Garcha.

Michael Cox saw Investigator Gray lying on the ground covered with blood. Investigator Gray told him he was transporting a male subject for Homeland Security and that the subject produced a knife and tried to kill him. Investigator Gray told Cox that he got off one shot and that the guy might be dead. Investigator Gray told Cox that he never feared so much for his life and that he had to fight for his life.

Paramedic Ronald Wolf of the Chippewa Fire District arrived at the scene with Paramedic Troy Burtness. Wolf stated they were dispatched to the scene with the only information being that shots were fired. Wolf stated in route they were advised that an officer was down at the scene. Upon arrival, Wolf’s primary responsibility was to provide aid to Investigator Gray. After stabilizing Investigator Gray, Wolf rode in the ambulance transporting Investigator Gray. In route, Investigator Gray told Wolf that he was transporting a male for Homeland Security and that Garcha did not like being detained and started punching him. Investigator Gray told Wolf that the next thing Gray remembered was that Garcha had a knife and tried cutting his throat. Investigator Gray told Wolf that he was able to roll and get his gun out and get a shot off. Investigator Gray told Wolf that his gun jammed so he got out of the car and ran.

Paramedic Timothy McMahon of the Chippewa Fire District arrived at the scene and his primary responsibility was to check on Garcha. Garcha was lying on the ground next to the Investigator Gray’s vehicle in the parking lot. McMahon stated Garcha looked deceased; however, he placed a heart monitor on Garcha and found no signs of life. McMahon stated that he also noticed a bullet wound to Garcha’s head.

V. OTHER INDIVIDUALS INTERVIEWED

Janna Braun was interviewed. Janna works at Blue Ribbon Awards. She had been working on a computer in the back room and came to the front room, looked out the window and saw a black sedan parked in the parking lot facing north. She noticed this as unusual as most customers do not park in this manner. She notice seeing a “commotion” in the car but could not see exactly what was happening therein. She confirmed seeing a driver and a passenger in the front seats of the car. She recalled hearing a bang and thought the passenger had kicked and broken something in the car. Braun went to another window and tried to get a better look but she could not see anything from the other window so she returned to the first window.
Braun then observed the driver exit the vehicle and lift up his hands. The driver then placed his hand around his throat and she could see he was bleeding. The driver stumbled towards the roadway. Braun was then told to call 911 by Nanette Cooper, Owner of Blue Ribbon Awards. Braun never left the building until told to do so by law enforcement.

Nanette Cooper was working at her business, Blue Ribbon Awards, on November 14, 2014. She was working on a computer in the back room Janna Braun yelled for her to come to the front room and Braun told her that a man was bleeding outside. Cooper looked out the window and saw the driver outside, the vehicle holding his neck, covered in blood and trying to waive down traffic. She told Braun to call 911. Cooper then got clothes out of a drawer and went outside to aid the driver. As she approached the driver at the end of the driveway, the driver collapsed. A red pickup truck driving by stopped as well as another vehicle. Drivers from both vehicles assisted Investigator Gray.

Tamara Langreck was interviewed on the evening of November 14, 2014. She confirmed that Garcha was staying at her residence. Langreck stated that Garcha met her daughter while her daughter was playing an online game. Langreck’s daughter and Garcha continued to communicate online by using skype over the next several months, as Garcha was in the United Kingdom.

Langreck stated that during January or February 2014, Garcha flew from the United Kingdom to the Eau Claire airport and took a cab to Langreck’s residence. Garcha slept on Langreck’s couch during this time. She believed Garcha was receiving money from someone in the United States, but did not know from whom he received money. Langreck stated she had seen medical paperwork of Garcha’s which indicated Garcha suffered from depression.

In February 2014, Garcha’s relationship with Langreck’s daughter had deteriorated and Garcha wanted to return to the United Kingdom, but did not have sufficient funds to obtain a plane ticket. Later, Garcha obtained the funds to purchase a plane ticket. Langreck did not know where Garcha received the funds to purchase the ticket.

During this time, Garcha told Langreck that he was working with a person from Chicago named Bob. Garcha told Langreck that he and Bob were involved with trafficking drugs from Chicago to the United Kingdom. Garcha told Langreck that he would obtain drugs at the Chicago airport and transport the drugs to the United Kingdom in computers. Langreck did not know if Garcha ever met with Bob prior to returning to the United Kingdom in March of 2014.

Garcha and Langreck continued to skype each other and Garcha informed Langreck that Bob had been arrested after he returned to the United Kingdom. Garcha told Langreck that the police did a search warrant at his home in the United Kingdom and found $10,000 in his car and $70,000 in his parent’s garage and that all the funds were seized by the United Kingdom law enforcement. Garcha told Langreck that he had transported drugs from the US to the United Kingdom several times in the past, from Chicago to the United Kingdom. Shortly thereafter, Garcha stopped skyping Langreck.

Langreck stated that two or three weeks prior to the shooting, Garcha showed up at her door with a young female whose initials are BL. Garcha told Langreck that he was stopped at the airport in Florida and was detained by Homeland Security. Garcha stated that Homeland Security told him to return to the airport the following day to return to the United Kingdom.
Garcha told Langreck that he did not return to the airport but instead took a bus with BL to Chippewa Falls. Langreck tried to find out online if Garcha and BL were wanted in Florida, but did not find anything.

On November 14, 2014, Langreck awoke to find Garcha in her residence, but BL was not there. Garcha told Langreck that BL went to a friend’s house in Eau Claire. During the afternoon of November 14, 2014, a neighbor informed Langreck that the police were at her residence. BL sent a text message to Langreck stating she believed that Homeland Security was at Langreck’s house looking for Garcha. When Langreck returned home in the afternoon Garcha was no longer there. Langreck stated that Garcha’s belongings were still at her house.

B.L. was interviewed on November 15, 2014. BL stated met Garcha online more than a year ago. Approximately three (3) months prior she agreed to meet Garcha in Florida. On October 10, 2014, BL met Garcha at friend’s house in Florida. Garcha told BL that he was on the run from Homeland Security for supposedly being involved in sex trafficking. BL stated that Garcha and she took a cab from Tampa to Orlando and then they took a Greyhound bus to Eau Claire, WI. BL stated they came to Chippewa Falls because they both knew Langreck’s daughter.

BL stated that Garcha got over $10,000 from ATM machines and that he kept the money in his wallet and they proceeded to spend a lot of the money over the next few weeks shopping and purchasing clothes. BL stated that she had seen some papers of Garcha’s which indicated he suffered from depression and schizophrenia. BL stated that Garcha used alcohol, marijuana and heroin.

BL stated that on the bus ride to Wisconsin, Garcha had told her that if the cops were to arrest him he would force the cops to kill him so he would not have to go back to the United Kingdom. BL stated that Garcha owned a black metal knife and always kept it with him.

VI. STATEMENT OF DEPUTY WILLIAM GRAY

Investigator Gray agreed to make a statement in the presence of his Attorney, Union Representative and DCI Investigator. He made his statement on November 26, 2014.

Investigator Gray stated on the morning of November 14, 2014, Homeland Security called and asked if Gray could go to an address and look for a 17 year old female and Garcha. Homeland Security told Gray that the 17 year old female was a runaway and that Garcha was wanted by Homeland Security as Garcha was on a paroled VISA and hadn’t been seen since October 10, 2014.

Gray went to an address on Highway J and contacted Garcha. Garcha returned to the Sheriff’s Department with Gray and was interviewed by Gray regarding the whereabouts of the 17 year old female runaway. Garcha told Gray he could take Gray to the residence in Eau Claire where the 17 year old female was located. Garcha was taken by Gray and another Investigator to the Eau Claire residence; however, the 17 year old female was not located. They rode in the other investigator’s vehicle.

Homeland Security thereafter requested that Gray take Garcha into custody. Garcha asked if he could obtain his belongings from the residence on Highway J prior to going to the jail. Gray
and Garcha were dropped off at Gray’s vehicle at the Blue Ribbon Awards parking lot and Gray made a phone call to Lt. Stark requesting assistance.

As Gray was speaking to Lt. Stark on the phone, without any warning, Garcha hit Gray along the right side of Gray’s head, causing him to drop his cellphone. Gray turned and saw that Garcha had a knife in his hand. Garcha flew at him again and lunged the knife at his throat. Garcha kept hitting Gray in the face and throat with the knife.

Gray stated he was trying to get his seatbelt off to get out of the vehicle and get away from Garcha. Gray was having difficulty getting his seatbelt off due to Garcha’s sudden and violent attack. Garcha grabbed Gray’s right hand in order to pin it down. Gray opined that Garcha was trying to prevent Gray from drawing his firearm. Gray reached for his squad radio microphone and Garcha pulled his arm away so Gray could not get to it. Gray stated he was finally able to call out on his radio stating “officer down, need help!”.

Garcha then positioned himself on top of Gray and put the knife to the left side of Gray’s throat and dug the knife into Gray’s throat. Gray stated at that point he thought he was going to die and thought Garcha was going to decapitate him. Gray reiterated that he thought he was going to die.

Gray was able to push Garcha back into his seat and reached over to dig Gray’s fingers into Garcha’s eyes; however, Garcha was able to break away. Gray started pleading with Garcha stating “what are you doing? I have a wife and kids!”, as Garcha attacked again.

Gray stated the Garcha lunged and hit him again with the knife. At that point, Gray was able to get his seatbelt loose but that only made Garcha more aggressive, hitting Gray faster and more intense. Garcha tried to pin Gray’s right arm down but Gray was able to push Garcha back into Garcha’s seat. During that time, Gray was able to draw his firearm from his holster even though Garcha was still fighting him. Gray then had the firearm in his right hand located on the passenger’s seat with the muzzle pointed up. Gray remembers seeing Garcha’s chin located above the firearm as they were struggling and Gray pulled the firearm’s trigger. Garcha immediately stopped the attack upon the discharge of the firearm. Gray got out of the vehicle and then stumbled toward the road to flag down a vehicle for help.
Pictures of Investigator Gray’s injuries inflicted by Garcha’s knife. Injuries to face, nose, cheeks and throat.

Photograph of injuries to Investigator Gray’s neck
VII. SCENE EVIDENCE AND AUTOPSY RESULTS

Recovered from the scene was a Sig Sauer .40 caliber handgun with a fired casing located jammed in the partially opened action. The magazine of the handgun was contained therein and had 12 live rounds in the magazine.

A black metal knife was located on the passenger seat of Gray’s unmarked squad car.

An autopsy was performed by Dr. Vincent Tranchida, Chief Medical Examiner of Dane County, WI. A forensic autopsy was conducted upon Garcha. It was Dr. Tranchida’s medical opinion that Garcha died from an intermediate range gunshot wound to the head with ensuing devastating injuries to the skull, brain and brainstem. Dr. Tranchida stated that blunt and sharp force trauma injuries to the head, both hands and the legs were also present not inconsistent with the reported account of a proceeding altercation that involved a sharp instrument.

VIII. LAW ENFORCEMENT STANDARDS

Law enforcement use of force decisions will be evaluated by the courts on a reasonableness standard based on the totality of the circumstances. The landmark case *Graham v. Connor, 490 U.S. 386 (1989)*, identifies the three key factors the courts will consider in evaluating the reasonableness of the officer’s use of force. These three factors are:

1) The severity of the crime committed.
2) Whether the suspect posed an immediate threat to the safety of the officers or others.
3) Whether the suspect actively resisted arrest or attempted to evade arrest by flight.

In the *Graham* decision, the United States Supreme Court also set the standard for how the judge and jury should determine the reasonableness of an officer’s conduct. The courts will
not look at the subjective mind-set of the officer. Rather, they will compare the officer’s conduct with that of a hypothetical “reasonable police officer” confronting the same situation. The court, in an effort to be fair to the police, will not engage in 20/20 hindsight but will evaluate the decision on the totality of the circumstances that were available to the officer at the time the force was used.

There are numerous instances where the use of force would be appropriate and lawful. However; all of these instances fall into two major classifications:

1) Defense- defense of the officers or defense of others.
2) Control- includes effecting arrest, maintaining a Terry stop, preserving the integrity of a search warrant execution, etc.

In summary, the police may use force to defend or control if such force is objectively reasonable under the totality of the circumstances.

There are two legal issues relevant to deadly force: 1) What is deadly force; and 2) The justification for deadly force.

Deadly force by a police officer is an act likely to cause death. While in most instances that would involve shooting, any act likely to cause death would qualify as deadly force.

IX. LAW OF SELF DEFENSE

In Wisconsin, the legislature, like many other jurisdictions, has created numerous affirmative defenses to criminal conduct. An affirmative defense is asserted by a person whose conduct fulfills all of the elements of a crime and would otherwise in fact be criminal but for circumstances that render the conduct justifiable. Self-defense is such an affirmative defense.

The privilege of self-defense allows a person to protect himself, herself, or another person from real or perceived harm when there is no other reasonable option. Under Wisconsin law, a person may resort to force in self-defense in limited circumstances, such as to prevent or terminate an “unlawful interference” with his or her person. In other words, if a person reasonably believes his life is in danger, or that he is likely to suffer great bodily harm, then he has a right to defend himself in such a way and with such force as he reasonably believes is necessary under the circumstances to save his life or protect himself from bodily harm.

Under Wisconsin Statute Section 939.48, self-defense is a privilege that can be claimed as an affirmative defense to prosecution for any crime based on an actor’s conduct when the conduct is in defense of oneself or other persons. To support a self-defense claim, a defendant “has the initial burden of producing evidence to establish [that] statutory defense” and must show that:

1) He or she believed there was an actual or imminent unlawful interference with his or her person;
2) He or she believed that the amount of force used or threatened was necessary to prevent or terminate the interference; and
3) His or her beliefs were reasonable.

The prosecution has the burden of proving beyond a reasonable doubt that the defendant was not acting lawfully in self-defense. The standard to determine whether the person’s beliefs
were reasonable is what a person of ordinary intelligence and prudence would have believed in the person’s position under the circumstances that existed at the time of the incident, determined from the standpoint of the actor at the time and not from the jury's viewpoint. “The reasonableness of the belief is determined by the standard of a person of ordinary intelligence and prudence under all the circumstances existing at the time of the offense, including the right of such person to act upon appearances.”

The law holds that a belief may be reasonable even though mistaken. In determining whether the defendant's beliefs were reasonable, the standard is what a person of ordinary intelligence and prudence would have believed in the defendant's position under the circumstances that existed at the time of the alleged offense. The reasonableness of the defendant's beliefs must be determined from the standpoint of the defendant at the time of the defendant's acts and not from hindsight, i.e., the viewpoint of the jury at the time of any trial.

**Wisconsin Statute 940.01(1)(a),** states that in order to establish the charge of First Degree Intentional Homicide the defendant must:

1) Have caused the death of the victim;
2) Have acted with intent to kill; and
3) The State must also prove that there was no:
   a) Adequate provocation;
   b) Unnecessary defensive force;
   c) Prevention of a felony; or
   d) Coercion.

The proof of absence of mitigating circumstances is required when the issue is placed in evidence by the trial evidence, and the burden of proof is on the State. The facts indicate that the absence of mitigating circumstances regarding unnecessary defensive force would be an issue. The question then becomes one of whether the force used was necessary to prevent or terminate an unlawful interference with his person.

If it is found that the State cannot prove unnecessary self-defense, the question then falls into the realm of Second Degree Intentional Homicide under Wisconsin Statute 940.05(1). To prove Second Degree Intentional Homicide, there must be a showing that even though the suspect believed he was acting with proper self-defense, the reasonable man in the suspect's position would not have acted with the degree of self-defense with which the suspect acted.

The suspect is not guilty of any charge if he believed he acted in self-defense, and the reasonable man would have acted with the amount of self-defense with which the suspect acted.

**X. FACTS SUPPORTING JUSTIFIABLE SELF DEFENSE AND USE OF DEADLY FORCE**

In looking at the facts of this case, it seems that the overwhelming evidence supports a finding of justifiable self-defense and the use of deadly force by Investigator Gray. Those facts are as follows:

1. Lt. Stark was having a conversation with Investigator Gray when he heard over the phone something like “what are you doing?”
Lt. Stark could hear what he thought was movement in the car and kept saying Investigator Gray’s name with no response from Investigator Gray.

As Gray was speaking to Lt. Stark on the phone, out of nowhere, Garcha hit Gray along the right side of Gray’s head, causing him to drop his cell phone.

Gray turned, saw that Garcha had a knife in his hand and Garcha flew at him again and lunged the knife at his throat.

Garcha kept hitting Gray in the face and throat with the knife. Gray was trying to get his seatbelt off to get out of the vehicle and get away from Garcha. Gray was having difficulty getting his seatbelt off due to Garcha’s sudden and violent attack.

Garcha grabbed Gray’s right hand in order to pin it down. Garcha was trying to prevent Gray from drawing his firearm.

Gray reached for his squad radio microphone and Garcha pulled his arm away so Gray could not get to it. Gray stated he was finally able to call out on his radio stating “officer down, need help!”.

Garcha then positioned himself on top of Gray and put the knife to the left side of Gray’s throat and dug the knife into Gray’s throat.

Gray stated at that point he thought he was going to die and thought Garcha was going to decapitate him. Gray reiterated that he thought he was going to die.

Gray was able to push Garcha back into his seat and reached over to dig Gray’s fingers into Garcha’s eyes; however, Garcha was able to break away.

Gray started pleading with Garcha stating “what are you doing? I have a wife and kids!”, as Garcha attacked again.

Garcha lunged and hit Gray again.

Gray was able to get his seatbelt loose but that only made Garcha more aggressive, hitting Gray faster and with more intensity.

Garcha tried to pin Gray’s right arm down but Gray was able to push Garcha back into Garcha’s seat.

Gray was able to draw his firearm from his holster even though Garcha was still fighting him. Gray then had the firearm in his right hand located on the passenger’s seat with the muzzle pointed up.

Gray saw Garcha’s chin located above the firearm as they were struggling and Gray pulled the firearm’s trigger. Garcha immediately stopped the attack upon the discharge of the firearm.

Gray got out of the vehicle and then stumbled toward the road to flag down a vehicle for help.

Deputy Stearns approached the scene in emergency mode from the East on Highway J. Upon arrival, he observed a couple trucks on the south side of the road and Investigator Gray lying near the end of the driveway.

Investigator Gray’s unmarked squad car was parked in the lot and the driver’s side door was open and appeared unoccupied.

Deputy Stearns advised via radio “Officer down” and then rendered aid to Investigator Gray. Deputy Stearns noted that Investigator Gray was bleeding profusely from the face and neck.

Investigator Gray told Deputy Stearns that the suspect (Garcha) was dead in the front seat of his squad.

Deputy Stearns noticed Investigator Gray’s holster was empty and Deputy Stearns could not see the suspect.
24. Deputy Stearns then approached Investigator Gray’s squad and observed Garcha in the front seat with his knees on the seat and head into the back of the seat.
25. Deputy Stearns was not able to see the Garcha’s hands and Garcha was not responding to verbal commands.
26. Deputy Mark Bauman then arrived and he and Deputy Stearns moved to the passenger side of the unmarked squad.
27. Deputy Stearns opened the passenger door and attempted to check for pulse on Garcha.
28. The movement caused Garcha’s body to move and Deputy Bauman announced the visual confirmation of a knife in the suspect’s hand.
29. Deputy Stearns then returned to the driver’s side and pointed his service firearm at Garcha until additional deputies arrived.
30. Deputy Stearns observed a cell phone, a handgun and radio microphone on the driver’s side floor board of Investigator Gray’s vehicle.
31. Lt. Stark, Deputy Bauman and Deputy Stearns then removed Garcha from the passenger’s seat and onto the ground next to Investigator Gray’s vehicle. As Lt. Stark and the Deputies removed Garcha from the vehicle, the knife fell out of Garcha’s hand and onto the passenger seat.
32. Jacob Maas and Michael Cox were driving by Blue Ribbon Awards when they noticed a pickup stopped in the roadway and a subject covered in blood lying near the end of the driveway. They turned around to help render aid.
33. Maas immediately started talking to Investigator Gray and observed several large lacerations on Investigator Gray’s face, neck and nose. Maas immediately applied pressure to the injuries and talked to Investigator Gray.
34. Investigator Gray repeatedly stated to Maas “he attacked me” and “he kept stabbing and stabbing and stabbing”. Investigator Gray told Maas that he had trouble getting his seat belt off and once he did, he was able to get his gun out and shot Garcha.
35. Investigator Gray told Cox that he got off one shot and that the guy might be dead. Investigator Gray told Cox that he never feared so much for his life and that he had to fight for his life.
36. Investigator Gray told Paramedic Ronald Wolf that he was transporting a male for Homeland Security and that Garcha did not like being detained and started punching him.
37. Investigator Gray told Wolf that the next thing Gray remembered was that Garcha had a knife and tried cutting his throat.
38. Investigator Gray told Wolf that he was able to roll and get his gun out and get a shot off.

XI. APPLICATION OF LAW TO FACTS

Clearly, Wisconsin Statute 940.01(1)(a) First Degree Intentional Homicide, must be reviewed as a human being was shot and killed with the intent to kill. I must then consider whether I can prove that there was no: a) Adequate provocation; b) Unnecessary defensive force; c) Prevention of a felony; or d) Coercion.

The proof of absence of mitigating circumstances is required when the issue is placed in evidence by the trial evidence, and the burden of proof is on the State. The facts indicate that the mitigating circumstances regarding unnecessary defensive force is an issue. The question then becomes one of whether the force used was necessary to prevent or terminate an
unlawful interference with his person. Clearly the facts support that Investigator Gray used defensive force to prevent death or great bodily harm to himself.

Since the State cannot prove unnecessary self-defense, the question then falls into the realm of Second Degree Intentional Homicide under Wisconsin Statute 940.05(1). To prove Second Degree Intentional Homicide, there must be a showing that even though the suspect believed he was acting with proper self-defense, the reasonable man in the suspect’s position would not have acted with the degree of self-defense with which the suspect acted. Clearly, that is not the case here.

Investigator Gray is not guilty of any charge if he believed he acted in self-defense, and the reasonable man would have acted with the amount of self-defense with which the suspect acted. Anyone who was being attacked with a knife, unprovoked, would be in fear for his life and or great bodily harm. Investigator Gray’s beliefs at the time he used deadly force were reasonable.

Specific facts which support this belief are:

1. Gray turned saw that Garcha had a knife in his hand and Garcha flew at him again and lunged the knife at his throat.
2. Garcha kept hitting Gray in the face and throat with the knife.
3. Garcha then positioned himself on top of Gray and put the knife to the left side of Gray’s throat and dug the knife into Gray’s throat.
4. Gray stated at that point he thought he was going to die and thought Garcha was going to decapitate him. Gray reiterated that he thought he was going to die.
5. Investigator Gray repeatedly stated to Jacob Maas “he attacked me” and “he kept stabbing and stabbing and stabbing”. Investigator Gray told Michael Cox that he never feared so much for his life and that he had to fight for his life.
6. Investigator Gray told Paramedic Ronald Wolf that the next thing Gray remembered was that Garcha had a knife and tried cutting his throat.

XII. DECISION OF DISTRICT ATTORNEY:

When I review any criminal matter I have the obligation to obtain as much factual evidence as reasonably possible and analyze those facts within the framework of Wisconsin law. I then have an ethical obligation to determine if a crime has been committed and whether the evidence supports a finding of guilt to the standard of evidence that supports a finding of guilt beyond a reasonable doubt.

I rely heavily on the DCI Investigation, when determining whether Investigator Gray has committed a crime in relation to the decision to use lethal force in the performance of his duty. As has been stated several times, when a reasonable officer in the position of Investigator Gray, based on all the facts occurring at that time, reasonably perceives that he is confronted with a situation exposing him to death or great bodily harm, he is allowed to use force---not to wound or kill---but to stop the threat.

The overwhelming evidence in this case supports a finding that Investigator Gray acted in self-defense and that his belief that he reasonably believed his life is in danger, or that he is likely to suffer great bodily harm, when he was violently attacked by Garcha on November 14, 2014.
Investigator Gray had the right to defend himself in such a way and with such force as he reasonably believed was necessary under the circumstances to save his life or protect himself from bodily harm.

This was a tragic incident for Investigator Gray and the Chippewa County Law Enforcement Community but, based on all the evidence and analysis presented in this report, I conclude that Investigator Gray’s use of deadly force in this incident was justified self-defense and that defense cannot be reasonably overcome to establish a basis to charge Investigator Gray with a crime.

Respectfully,

/s

Steven H. Gibbs
Chippewa County District Attorney