



COUNTY OF KENOSHA DISTRICT ATTORNEY

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District Attorney

Report on the Officer Involved Shooting of Jacob Blake

Synopsis

This document contains the factual and legal conclusions of the Kenosha County District Attorney's Office concerning the shooting of Jacob Blake by Officer Rusten Sheskey of the Kenosha Police Department on August 23, 2020.

My conclusions do not change the fact that the events of August 23, 2020 were a tragedy—for Jacob Blake, for the people who love him, for his children who were witness, for the City of Kenosha, and for all the people most directly affected whose lives will forever be divided into two acts, before August 23, 2020 and after.

The Investigation and the Role of the District Attorney

Immediately after Jacob Blake was shot on August 23, 2020, the Kenosha Police Department contacted the Kenosha Sheriff's Department to help secure the scene and the Wisconsin Department of Justice – Division of Criminal Investigation (DCI) to investigate. The Kenosha Police Department turned over complete control of the investigation to DCI. Over 30 DCI agents were involved in the investigation and those DCI agents spent over 1,000 hours gathering and documenting the facts in this case. DCI was assisted in their investigation by the Wisconsin State Patrol and the Federal Bureau of Investigation (FBI).

Almost immediately after the shooting, a large crowd gathered and remained at the scene creating challenges for investigators. However, DCI was able to photograph and collect all relevant physical evidence from the scene. DCI conducted uniform inspections and gathered evidence from the involved officers, conducted dozens of interviews with the assistance of the FBI, obtained cell phone video evidence, obtained records including hundreds of pages of medical records and other relevant documents. DCI received and reviewed 911 recordings, dispatch recordings, and more than 40 hours of squad video from the squads of responding officers. In addition to the electronic evidence, DCI generated nearly 200 reports totaling approximately 1,500 pages. All of the materials and electronic evidence gathered by DCI will be made available to the public with extremely limited redaction to protect the personal information of witnesses.

As the Kenosha County District Attorney, it is my task, consistent with Wisconsin Statutes section 175.47(5), to determine, based on all the evidence, whether any of the officers involved in this shooting should be charged with any crimes. It is not my role nor do I have the expertise to critique police training and procedures generally or to determine whether there is a basis for a civil lawsuit and recovery of damages. My only role is to determine if criminal charges are legally appropriate. To make this determination, I have thoroughly

reviewed the evidence gathered by DCI. I have also relied on a report prepared by Former Madison Police Chief Noble Wray. Noble Wray has been involved in police reform at the national level having served as head of Police Practices and Accountability as a presidential appointee in the Obama Administration. Noble Wray was chosen by the Wisconsin Attorney General's Office after I requested they select a qualified, independent individual to review the use of force in this incident and provide an expert opinion. I want to stress that I had no role in Noble Wray's selection nor did I have any influence over his conclusions. Noble Wray's report will also be made available to the public as part of the DCI file.

The Available Evidence Considered in the Context of Domestic Violence

On August 23, 2020, the officers in this incident were responding to a family trouble call which they knew was between a woman and the father of her children. This may seem like a footnote, but it is actually urgently important. Unlike many other types of calls, when police are responding to domestic violence calls they must be ready to enter a scene that is unpredictable and combustible. Police responding to domestic disturbances must be prepared to encounter not just violent behavior, but also potentially controlling behavior by perpetrators towards victims. Police must also consider the particular danger that domestic violence situations present to children, even when those children are not the direct targets of the violence.

When Officer Sheskey, Officer Meronek, and Officer Arenas responded to this call on August 23, 2020, they knew they were responding to a domestic disturbance and they knew the man who was the subject of the call, Jacob Blake, had a warrant for his arrest from a prior incident where he was charged with domestic violence offenses and a sexual assault. Every decision the officers made during this incident, in response to this call, must be interpreted in light of those facts.

Factual and Legal Conclusions

Based on all of the material gathered in this investigation by DCI, the evidence establishes the following facts:

- On Sunday, August 23, 2020, at approximately 5:10 pm, Laquisha Booker, the mother of Jacob Blake's children, called the police reporting that Jacob Blake had taken the keys to her rental vehicle which he would not return to her. Laquisha Booker stated that she was afraid that Jacob Blake was going to take her vehicle and crash it as, she stated, he had done before.
- As a result of this call, Officer Sheskey, Officer Meronek, and Officer Arenas were dispatched to Laquisha Booker's residence located at 2805 40th St. in the City of Kenosha.
- Responding officers were told that this was a "family trouble" call involving a dispute over car keys between Jacob Blake and the mother of his children.
- Jacob Blake had a felony warrant for his arrest.
- The involved officers knew Jacob Blake had a felony warrant for his arrest and knew that the warrant involved domestic violence charges and a sexual assault charge.

- Officer Sheskey obtained a description of Jacob Blake and knew he would have to arrest Jacob Blake on the warrant if he encountered him.
- When officers arrived, Laquisha Booker flagged them down and shouted statements identifying Jacob Blake as the other person involved and indicating that he was trying to take her car, stating, "My kids are in the car."
- Officer Sheskey saw Jacob Blake and saw him putting a child in the back of the vehicle in question, a gray Dodge SUV.
- Officer Sheskey immediately attempted to arrest Jacob Blake based on his active warrant and was quickly assisted by Officer Arenas and Officer Meronek.
- Jacob Blake knew there was a warrant out for his arrest.
- Jacob Blake did not comply with the verbal commands of officers as they attempted to arrest him.
- When the officers attempted to physically restrain Jacob Blake, he resisted, physically struggling with officers.
- Officers brought Jacob Blake to the ground, but he was able to get off the ground and to get away from the officers trying to arrest him.
- During this struggle, Officer Sheskey and Officer Arenas both attempted to subdue Jacob Blake by deploying their tasers.
- Both times that Jacob Blake was struck with the tasers, he ripped out the taser wires/prongs making the tasers ineffective against him.
- Officer Sheskey also attempted to drive stun Jacob Blake with his taser by applying the taser to Jacob Blake's neck/back area, but that too was ineffective.
- As he resisted arrest, Jacob Blake was armed with a knife.
- By the time he was walking in front of the SUV, the knife was opened and the blade was exposed.
- Jacob Blake did not comply with police commands to drop the knife.
- Jacob Blake tried to enter the driver's door of the SUV.
- The SUV had been rented by Laquisha Booker in her name and Laquisha Booker had indicated to police that Jacob Blake did not have permission to drive the vehicle.
- There were children in the SUV who Laquisha Booker had yelled were her children.
- Jacob Blake had the opened knife in his right hand and was attempting to escape from Officer Sheskey's grasp and enter the driver's side of the SUV.
- Both Officer Sheskey and Officer Arenas stated that in the moment before Officer Sheskey opened fire, Jacob Blake twisted his body, moving his right hand with the knife towards Officer Sheskey.
- Two citizen witnesses saw Jacob Blake's body turn in a manner that appears consistent with what the officers described.
- Officer Sheskey shot Jacob Blake seven times in total. There were four entrance wounds to Jacob Blake's back and three entrance wounds to his left side (flank).
- Officer Sheskey stated that he fired shots until Jacob Blake dropped the knife. Noble Wray explained this is consistent with law enforcement training where officers are instructed to continue shooting until they stop the threat.

With these facts established, I do not believe the State could prove beyond a reasonable doubt that Officer Sheskey was not acting lawfully in self-defense or defense of others which

is the legal standard the State would have to meet to obtain a criminal conviction in this case. I also do not believe that there are any viable criminal charges against Officer Meronek or Officer Arenas neither of whom fired a shot in this case.

I describe in great detail below how I have reached these legal and factual conclusions. I have also presented and explained my findings at a press conference using a digital presentation. This too will be made available to the public.

Factual Overview

The Video Evidence

This officer involved shooting occurred shortly after 5:15 pm on Sunday, August 23, 2020 on 28th Ave. which is the road to the east of the residence located at 2805 40th St. in the City of Kenosha, Wisconsin. Any recitation of the facts must begin with the video evidence, in particular, the cell phone video taken by witness RW that in the minutes, hours, and days following this incident was spread and seen by millions on social media and in the news. Though this cell phone video is extremely important evidence, it did not capture the entirety of the interaction between the involved officers and Jacob Blake.

There were three Kenosha Police Department Officers on scene as the incident unfolded. Officers Rusten Sheskey and Brittany Meronek arrived in a fully marked Kenosha Police Department squad SUV and were the primary officers. Officer Vincent Arenas arrived in a fully marked Kenosha Police Department squad car. All three officers were in full Kenosha Police Department uniform. The importance of cell phone video in this case is magnified by the fact that Kenosha Police Officers are not equipped with body cameras. Kenosha Police squad cars are and have for some time been equipped with squad video. Furthermore, audio can be captured by microphones inside the squad and by microphones which can be affixed to the uniforms of Kenosha Police Department Officers and synced with the squad video. When the red and blue emergency lights are activated on a Kenosha Police Department squad, the squad video and microphone audio automatically starts recording. However, in responding to this scene neither Officers Meronek and Sheskey in their squad nor Officer Arenas in his squad activated their emergency lights. Kenosha Police Officers can also manually turn on their squad video and microphones, but that did not occur in this case.

One of the limitations of squad video, in contrast with body cameras, is that it only captures incidents that unfold directly in front of the squad. Here, both squads were facing away from where the incident occurred and so, even if the squad video in either squad had been recording, it would not have captured the incident. The same cannot be said of microphone audio had that been recording. As mentioned above, Kenosha Police Officers are equipped with microphones that they can attach to their uniforms. Had those microphones been recording we might have a complete record of what was said during this encounter including commands issued by the involved officers. As it stands, we are left with the audio that was captured from a distance in the two cell phone videos and with witness accounts of what was said and what was heard.

DCI's investigation of this incident did involve a review of many hours of squad video as dozens of officers from the Kenosha Police Department and Kenosha Sheriff's Department responded to this officer involved shooting and remained at the scene attempting to control and secure it for hours. However, because these responding officers all arrived after the fact, all of these video and audio recordings that do exist shed no light on the incident itself.

Video and audio recordings can be imperfect. Video may be unsteady and of low quality. It is limited by the angle from which it is taken and may start and stop so that it does not capture the whole incident. Audio may be garbled, muffled, or indecipherable based on the distance of the recording device from the sounds or the chaos of the situation. Even police body cameras may be of limited usefulness in some scenarios, especially struggles at close quarters or in darkness where little may be seen other than a shaking, darkened screen. And, of course, technology can fail. In this particular investigation, two later-arriving officers had been having trouble with their squad videos and microphones and so video and audio from these two separate responding officers did not record properly. In spite of all the above-mentioned limitations, the failure to equip officers who work in the 3rd largest police department in the State of Wisconsin¹ with body cameras does a disservice to Kenosha Police Officers and to the Kenosha community. As illustrated by the events of August 23rd, the significance of this failure is immense. Were it not for the two people who captured cell phone video of this officer involved shooting, there would have been literally no relevant video or audio recordings of this event. In 2020, we should not have to rely on the happenstance of citizens recording on their cell phones in order to have some video/audio record of an incident of this significance. I hope in the future there will be no officer involved incidents subject to review for possible criminal charges where the evidence is limited and made less certain by the lack of body cameras.

Statement and Cell Phone Video of Witness RW

Fortunately, we do have the cell phone video taken by witness RW. RW resided at the apartment building across the street from the scene of the shooting in a second floor apartment. The window through which RW recorded this incident was situated just slightly to the south of where the gray Dodge Journey SUV was parked so RW had to position his cell phone facing west and slightly to the north to capture this incident. RW also did not record the whole incident or all of what he saw.

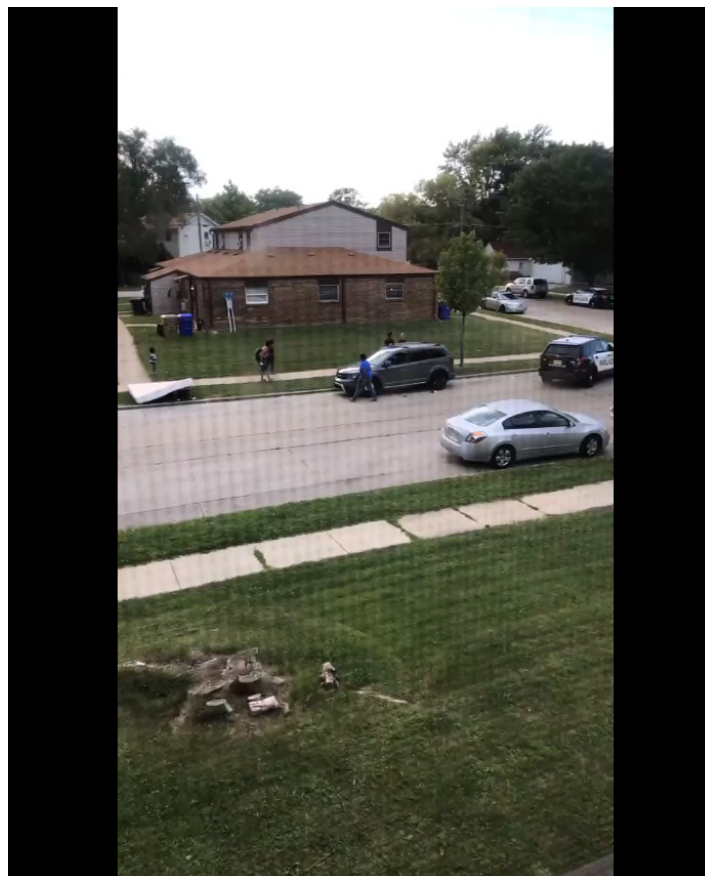
On the evening of August 23, 2020, RW told an investigator from DCI that at around 4:00 to 4:30 pm, he heard the women who stayed across the street in the corner house (2805 40th St.) yelling. RW stated that the women were arguing for about 45 minutes until he saw a man (later identified as Jacob Blake) pull up in the gray Dodge SUV. RW stated that Jacob Blake walked up to a child who RW believed was his son. RW heard Jacob Blake tell his son to get in the truck and he was not going to tell him again. RW believed the boy was about 5 or 6 years old. RW observed the boy running towards the SUV, but did not know if the boy

¹ The Wisconsin Policy Forum, *Police Spending Rises, Staffing Levels Fall* (In 2018, the Kenosha Police Department had the third highest number of sworn officers for police departments in Wisconsin's top ten largest cities.).

entered the SUV or not. RW observed Jacob Blake walk past some of the women without saying anything to them and into the corner house through the back door. RW stated that at that time he went to the bathroom and he was in there for about two minutes.

RW stated that he went back to the window and at that time he observed that there were now two male police officers and one female police officer outside. RW stated that the two male officers were on either side of Jacob Blake who was now outside. RW stated that one officer, who was on Jacob Blake's left side, had Jacob Blake in a headlock, punching Jacob Blake in the ribs. RW stated that the second male officer who was on Jacob Blake's right side also had Jacob Blake in a headlock while trying to control Jacob Blake's arm. RW stated the officers were wrestling with Jacob Blake by the driver's side of the SUV near the hood and were moving along the driver's side towards the rear of the vehicle. RW stated that the female officer, who was standing in front of them, tased Jacob Blake as the other officers were still holding him. RW stated that the female officer tased Jacob Blake in the back, but he didn't go down. RW stated that the two officers continued wrestling with Jacob Blake towards the trunk area of the vehicle. RW stated that when the three of them got to the curb side of the vehicle, they fell to the ground out of RW's view. RW stated that when he first saw the officers wrestling with Jacob Blake, he (RW) went and grabbed his phone off his bed and instantly started recording the encounter.

Turning to RW's cell phone video, this screenshot shows the first moment captured by RW's cell phone video and the point of view from which the video was taken:



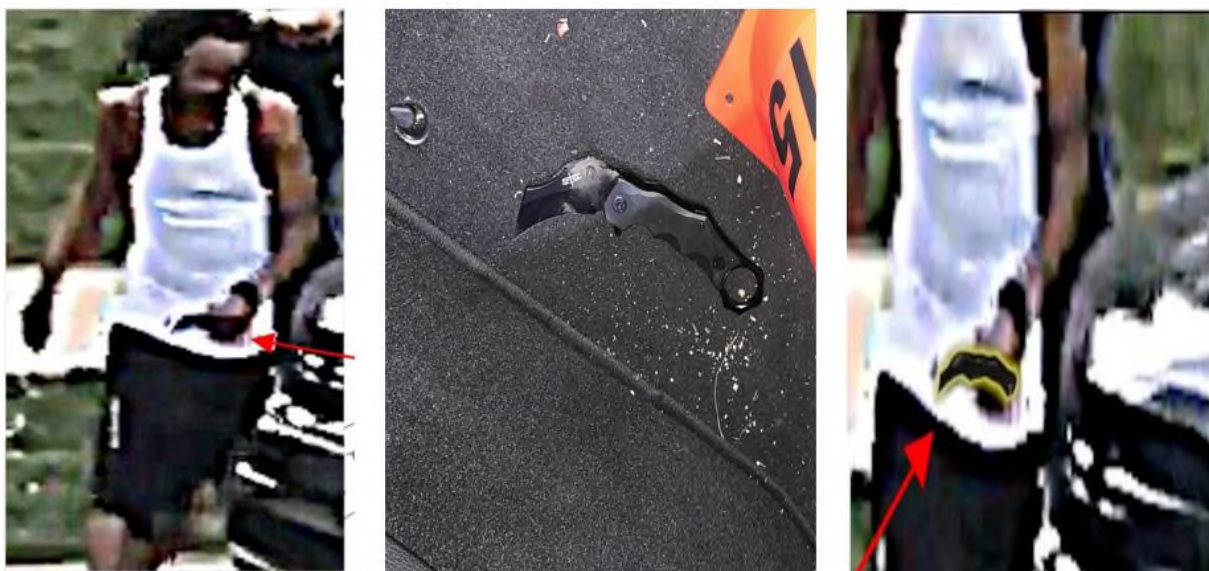
In the center of the frame is the gray Dodge Journey SUV parked on the west curb of 28th Ave. facing south. The residence to the west of the SUV is 2805 40th St. RW's cell phone video faces the driver's side of the SUV. Around on the passenger side of the SUV, two women can be seen initially at the beginning of the video standing near each other. The person who is standing farther south was later identified as Laquisha Booker. She is the mother of three of Jacob Blake's children. Laquisha Booker is wearing a black shirt and multi-colored pants. The other woman who can be seen on the passenger side of the SUV is Officer Meronek.

As the video begins, Officer Arenas can soon be seen as he stands upright near the passenger-side rear tire of the SUV. Officer Meronek and Officer Arenas appear to step back slightly. At this point, Officer Sheskey can be seen standing upright near the passenger-side rear tire of the SUV and Jacob Blake can also be seen standing upright. He is near the passenger-side front door of the SUV. Laquisha Booker is standing away from the SUV near the sidewalk.

The video shows Jacob Blake walk around the front of the SUV from the passenger side. All three officers appear to have their firearms drawn as they follow Jacob Blake with Officer Sheskey in front of Officer Arenas. Both Officers have their firearms pointed in Jacob Blake's direction. Jacob Blake walks directly around the front of the SUV and at this moment, the video shows Jacob Blake holding a curved blade knife in his left hand. Below is a screenshot from RW's video:



A Digital Records Specialist from DCI performed an enhancement of RW's cell phone video to sharpen the image. In the below set of three images, the image on the left is a screenshot from the enhanced video. The image in the middle is a photograph of the knife DCI agents recovered from driver's side floorboard of the SUV after the shooting. The image on the right is the comparison done by the Digital Records Specialist of the knife that was found on the floorboard of the SUV with the object in Jacob Blake's left hand.



In RW's video, Jacob Blake continues to walk around the front of the SUV. Officer Sheskey is directly behind Jacob Blake with his gun drawn and pointed at Jacob Blake. Jacob Blake then walks near the front driver's side tire of the SUV towards the driver's door. At this point, it appears that Jacob Blake's hands come together which would have given him the opportunity to transfer the knife from his left hand to his right hand. Jacob Blake reaches towards the driver's door handle with his left hand. As Jacob Blake approaches and reaches towards the driver's door handle, Officer Sheskey reaches out with his left hand and lunges towards Jacob Blake. Officer Sheskey is holding his firearm in his right hand.

During the period of time in the video when Jacob Blake is walking around the front of the SUV and approaching the driver's side door, a male voice can be heard yelling, "Drop the knife!" at least two times.

The video then shows that just as Jacob Blake grabs the driver's door handle and opens the door, Officer Sheskey grabs Jacob Blake's tank top near the left shoulder. Officer Sheskey then moves to his right, around the open door, while grabbing and pulling at Jacob Blake's tank top. Jacob Blake then leans with his upper body into the SUV. His right arm is briefly visible through the driver's side window of the SUV, but he lowers his arm and bends at the waist, lowering his head and shoulders so that his right arm and his chest area are obscured by the driver's door of the SUV and also by Officer Arenas who is now standing right by the open driver's side door looking through the driver's side window. At this point seven shots can be heard and the video shows Officer Sheskey firing these shots at Jacob Blake. Officer

Sheskey is within just feet of Jacob Blake when he fires these shots and in close enough proximity that he is still holding onto Jacob Blake's tank top which is now stretched out over Jacob Blake's left shoulder. After Officer Sheskey fires the shots, Jacob Blake ends up seated in the driver's seat of the SUV. Officer Sheskey continues to hold onto Jacob Blake's tank top and point his firearm towards Jacob Blake, while Officer Arenas moves from the driver's door area to a position behind Officer Sheskey. At this point, Laquisha Booker comes into view near the driver's door of the SUV. She appears distraught and is jumping up and down. Officer Arenas can then be seen approaching Laquisha Booker with his gun in his right hand still pointed at Jacob Blake. Officer Arenas uses his left forearm to move Laquisha Booker back away from the SUV. RW's cell phone video then ends.

In addition to this well-known video, RW provided DCI with additional videos he recorded on his cell phone that evening. Three short videos that RW took immediately after the shooting show the involved officers rendering aid to Jacob Blake before the arrival of rescue personnel.

Cell Phone Video of Witness MJ

Another witness, 13 year-old MJ, also captured cell phone video of this incident. MJ's cell phone video has been shared on social media and by news outlets. MJ was standing on the lawn area on the west side of 28th Ave. so that in her video she captured some of the events occurring on the passenger side of the SUV which cannot be seen on RW's video. This is a screenshot from the very beginning of MJ's video showing the point of view from which her video was taken:



Near the center of the frame is the gray Dodge SUV. Behind the SUV at an angle is the KPD squad SUV of Officer Meronek and Officer Sheskey. Like RW's video, this video only partially captures the incident though MJ's video appears to begin moments before RW's. As MJ's video begins, Laquisha Booker can be seen standing to the rear of the gray Dodge SUV. The video briefly moves away from the SUV so it is off screen, but then returns at which point Officer Meronek comes into view standing near and to the left of Laquisha Booker at the rear of the SUV.

Due to the quality and unsteady nature of the video, and the distance between MJ and the events taking place, it is difficult to make out figures, but the video appears to show Jacob Blake emerge from the rear of the SUV and into view. He appears to be on his hands and knees.

The same Digital Records Specialist from DCI also performed an enhancement of MJ's cell phone video to stabilize and sharpen the video. This enhanced version of the video more clearly shows the moment when Jacob Blake emerges from the rear of the SUV and into view. In the enhanced video it appears that, as Jacob Blake is coming into view, he is on top of and struggling with another person. Though in the video the identity of this other person cannot be clearly seen, based on the positioning of the involved individuals as the video progresses, this person who Jacob Blake is on top of and struggling with is likely Officer Sheskey.

As MJ's video continues, an Officer who appears to be Officer Arenas is standing, bent over, directly behind Jacob Blake. It appears that this Officer has his hands on Jacob Blake, but the view becomes briefly blocked. The video then shows Jacob Blake near the rear passenger-side tire of the SUV. The Officer still appears to be bent over with his hands on Jacob Blake and Jacob Blake appears to lift at least one of his hands (his right hand) off the ground and raise his torso although he appears to still be on his knees.

As the video continues it appears that Jacob Blake returns to a position on his hands and knees as the Officer is still hands-on behind him. At this point, it becomes very difficult to see what is happening between Jacob Blake and the officers as they remain up against the passenger side of the SUV because the video is shaking and MJ's view is obstructed by multiple witnesses who are near the SUV. As the video continues, a figure who appears to be Officer Sheskey comes into view and is now the officer nearest Jacob Blake. His sudden appearance is consistent with him having been on the ground with Jacob Blake during the struggle as the enhanced version of the video indicates.

At this point, the view on MJ's cellphone video continues to be obstructed until Jacob Blake can be seen in a standing position and walking along the passenger side of the SUV to the front of the SUV. Jacob Blake can then be seen walking around the front of the SUV followed by Officer Sheskey and then Officer Arenas both of whom have their guns drawn and pointed at Jacob Blake. At this time, Officer Meronek is circling around the rear of the SUV with her gun drawn. As Jacob Blake nears the driver's door, Officer Sheskey can be seen reaching towards Jacob Blake. Officer Arenas is further back having taken a wider path around the

front of the SUV. The door of the SUV can be seen opening and three gunshots can be heard before MJ stops the video.

MJ's video also captures audio of this event. A lot of screaming can be heard as well as a few shouted phrases, but no relevant audio such as officer commands or statements from Jacob Blake can be clearly discerned.

Unanswered Questions

While the video evidence in this case is critical, the recordings from this incident still left many unanswered questions including: What happened at the scene that led up to this incident? Why were police there? What knowledge did the police have about the incident they were responding to? What occurred on scene after the police arrived, but before any video was captured? What did the involved officers, Jacob Blake, and the citizen witnesses see and hear? What were their perceptions about what was occurring? And what occurred on scene that was not captured on video/audio?

Through their investigation, DCI sought to answer these questions and the answers to these questions are essential to the legal analysis of whether any of the involved officers committed a crime.

Events Occurring Before Police Arrival

Multiple citizen witnesses were able to provide DCI information about what had occurred at 2805 40th St. before police arrived. Witness MQS told DCI that on the afternoon of August 23, 2020, she and her mother (MLS) and her sister (MJ) had been visiting a relative, TH. TH lived in the apartment building at 4018 28th Ave. with her children. MQS stated that around 4:00 pm she saw Jacob Blake arrive at the corner house (2805 40th St.) and start getting a small grill ready for a cookout. MQS stated that Laquisha Booker, who lives at the house, was outside with her sister and about five to six young children. According to what DCI was able to determine, Laquisha Booker was not currently in a relationship with Jacob Blake at the time of this incident, but they have three children together.

MQS stated that there was a disagreement between her relative, TH, and Laquisha Booker and they were yelling back and forth outside. MQS stated that Jacob Blake overheard something that hurt his feelings and wanted to leave. MQS stated that Laquisha Booker did not want Jacob Blake to go, but Jacob Blake got his kids and put them in the car anyway. MQS stated that she was trying to tell TH to stop arguing with Laquisha Booker and that it wasn't worth it. MQS believed that Laquisha Booker didn't like the fact that Jacob Blake was leaving with the kids. MQS stated that Laquisha Booker had an angry look on her face and was running back and forth into the house while continuing to argue with TH. MQS stated that Laquisha Booker did not want Jacob Blake to leave with her rental vehicle. MQS stated that after the arguing continued for about 20 to 30 minutes, she saw Laquisha Booker on the phone with the police and then saw police arrive.

MLS gave a statement that was substantially similar to that given by her daughter. Many witnesses who DCI interviewed stated that their attention was first drawn to the incident by a loud argument occurring between two women.

Through their investigation, DCI was able to determine that the vehicle in question, the gray Dodge SUV, was a rental vehicle that had been rented by Laquisha Booker.

911 and Dispatch

At 5:10 pm on August 23rd, dispatch did receive a 911 call from Laquisha Booker. In the call, Laquisha Booker and the dispatcher had the following exchange:

Complainant I'm willing to take that risk...

Dispatcher 911. What is your emergency?

Complainant Yes. I need an officer to 2805 40th Street Unit D

Dispatcher 2-8-0-5 4-0 Street Letter D as in David?

Complainant Yep. Letter D as in David. Jacob Blake is here and he has the keys to a rental that I purchased that I need to take back and he's not trying to release it and on top of that, he's not supposed to be here. Today is his son's birthday, so I allowed him to spend a couple hours with him, but he's not giving me the keys to this rental. And that's all I'm asking for. I never would have called you guys. I promise you, I try to keep from calling you guys. He's crashed numerous of my vehicles in the past and I literally just bought one like yesterday. And so, just because he heard some false information, he's not willing to give me the keys to this car that doesn't even belong to me. Me and my sisters just saw him skirt off in it and turn around and come back, so I need you guys to come...and I need these keys.

Dispatcher Okay. What is your name?

Complainant My name is Laquisha Booker. (In the background she says, "Go ahead and tell the girls that. Go ahead and tell them that.")

Dispatcher And what is the phone number you're calling from?

Complainant [Provides phone number]

Dispatcher [Repeats phone number]

Complainant (In the background she says, "Don't not put your shoes on. The police are on their way here. Yes it is. Do not put your shoes on Izrael. Go back to playing your game. You didn't even want to go outside.")

Dispatcher Is Jacob there right now?

Complainant Yes and he is trying to kiss his kids, so he can hurry up and leave. He was here talking all types of crazy and now he's walking off now. Now he's getting ready to leave. Well, let me get the license plate.

Dispatcher Okay. And is he White, Black, Hispanic?

Complainant Hold on. Let me get the license plate number. He's kissing the rest of his kids. It's IVJ-935.

Dispatcher I as in Ida, Z as in Zebra, J as in John 935?

Complainant No, IV. No IVJ-935. Good luck.

Dispatcher V like V as in Victor?

Complainant Yep. V as in Victor.

Dispatcher Okay.

Complainant And he's probably about to go crash it. He's is pulling off right now. IVJ - 935.

Dispatcher What state is it out of?

Complainant (In the background she says, "Shut the fuck up bitch!")

End of Call

Officer Meronek and Officer Sheskey responded to the call and Officer Arenas responded as backup. Via radio, dispatch gave these officers Laquisha Booker's address and informed the responding officers that this was a "family trouble" call, that Laquisha Booker (identified as "the complainant") said Jacob Blake is not supposed to be there, that he took her keys, and that he was refusing to give them back. Dispatch informed the responding officers that Jacob Blake had "a 99" meaning a warrant. Dispatch then informed the officers that he (Jacob Blake) was trying to leave and they were trying to get a vehicle description. Dispatch then indicated that the complainant said that he (Jacob Blake) left and then she hung up.

Via computer, dispatch provided the following information to the responding officers:

05:11:12 compl says there is a Jacob blake her that isnt suppose to be here and he took the compls keys and is refusing to give them back

05:11:28 jacob is the compls childs father

05:12:07 Jacob is now trying to leave.

05:12:52 ivj935 is the plate

05:12:59 compl says he is leavingnw and hungup

05:13:05 Jacob has a 10-99 through Kenosha for trespass/DV, DC/DV, and DC/DV felony 3rd degree sexual assault

This information from dispatch shows the involved officers knew they were responding to a family trouble complaint, where a male identified as Jacob Blake, was attempting to leave in the complainant's car and perhaps had already left. The officers were also made aware that Jacob Blake had a felony warrant out of Kenosha County that involved domestic violence offenses and a felony sexual assault.

Events Occurring After Police Arrival

DCI's investigation uncovered over a dozen citizen witnesses who saw at least part of the police interaction with Jacob Blake culminating in Officer Sheskey shooting Jacob Blake at the driver's side door of the gray Dodge SUV. As the investigative file will be made public, it is not the purpose of this document to simply repeat what each eye witness told investigators. Rather, this report will present brief summaries of the statements of the four main participants in this incident (the three Kenosha Police Officers and Jacob Blake) and consider those statements in light of the accounts of other witnesses, the video evidence, the physical evidence, the examination of the scene conducted by investigators, and all other relevant materials obtained by DCI during the course of their extensive investigation.

In conducting this evaluation, it is important to bear in mind that, as with all investigations involving multiple witnesses, the accounts are not all consistent. In his report evaluating the police use of force in this case, Noble Wray writes at length about the reasons why, in his experience, witnesses and the persons directly involved in an incident of this nature often have varying accounts. Those reasons include how the mind responds to stress, the witness's vantage point and opportunity to see and hear the event, whether the witness was influenced by bias including implicit bias or bias arising from that individual's personal involvement in the event or a relationship with an involved individual. In determining what actually happened after the police arrived on scene, I have taken into consideration these limitations of witness accounts and given most weight to statements by witnesses and the participants that are corroborated by other evidence.

Summary of Officer Rusten Sheskey's Statement (See Attachment 1 for Full Statement)

On August 26, 2020, DCI agents interviewed Officer Sheskey at the DCI Milwaukee Field Office. Present during the interview was a Kenosha Professional Police Association Union Representative and two attorneys for Officer Sheskey.

Officer Sheskey stated that while on duty on August 23, 2020 sometime after 5:00 pm, he and Officer Meronek were dispatched as the primary unit to a "family trouble" involving a subject named Jacob Blake. While they were en route to the assignment he heard dispatch advising that the male involved had a felony warrant for 3rd Degree Sexual Assault, Trespassing/Domestic Violence (DV) related and Disorderly Conduct (DC)/DV related. Officer Sheskey stated he also recalled dispatch advising something about a child or children being involved in the incident and something about the male being in possession of the keys of the caller and he was refusing to give them back and then leaving the area. Dispatch advised that the caller was being uncooperative.

Officer Sheskey stated that after receiving all of that information from dispatch he knew that Jacob Blake would ultimately have to be arrested for the felony warrant. Officer Sheskey was able to get a physical description of Jacob Blake. As he and Officer Meronek travelled south on 28th Avenue, approaching 40th Street, Officer Sheskey saw a man fitting Jacob Blake's description carrying a child of 3-4 years of age and walking towards a silver car parked on the west side of the street. Officer Sheskey also observed a female walking behind the subject believed to be Jacob Blake. Officer Meronek pulled the squad over on the west side of the street, and, as they were getting out of the squad, Officer Sheskey observed Officer Arenas walking from the west towards them.

Officer Sheskey stated that he walked directly towards the male and, as he approached him, he could hear the female screaming, "It's him! It's him! He has my keys! It's my car! It's registered to me!" Officer Sheskey heard the male say, "I'm taking the kid and I am taking the car." Officer Sheskey said to the male, "Let's talk about this." Officer Sheskey saw the male put the young child he had been carrying in the back seat of the vehicle and then turn to face him. Officer Sheskey did not know whose child it was. Officer Sheskey stated that he was confident that the male standing in front of him was Jacob Blake. Officer Sheskey grabbed Jacob Blake's arm to place him under arrest and he told Jacob Blake that he had a warrant.

Officer Sheskey then described in detail the physical struggle between officers and Jacob Blake as they tried to arrest Jacob Blake (see full statement for all details). Officer Sheskey described Jacob Blake's physical resistance and his failure to follow commands. Officer Sheskey described how Jacob Blake reached for his waistline area with his left hand which made Officer Sheskey believe that Jacob Blake was reaching for a weapon, though Officer Sheskey did not see a weapon at that time.

As the struggle continued, Officer Sheskey described how he discharged his taser at Jacob Blake and how he saw Jacob Blake break the taser wires with his right hand which is something Officer Sheskey stated he had never seen anyone do before. Officer Sheskey

then described how he tried to drive stun Jacob Blake by putting the metal ends of the taser on Jacob Blake's neck/back area but that also did not work as Jacob Blake slipped away and the physical struggle continued. Officer Sheskey described how he attempted to decentralize Jacob Blake to bring him to the ground, but Jacob Blake spread his feet and lowered his center of gravity and both Officer Sheskey and Jacob Blake ended up falling to the ground.

Officer Sheskey stated that he yelled at Jacob Blake throughout the incident numerous verbal commands as well as, "Stop resisting!" Officer Sheskey stated that he heard someone yelling at that time, "He has a knife! Knife! Knife!" After he heard that, Officer Sheskey stated that he drew his gun, but up to that point he still had not seen the knife. Officer Sheskey stated he started to give verbal commands to Jacob Blake to drop the knife, but Jacob Blake did not comply. Officer Sheskey stated that Jacob Blake was now walking towards the front of the SUV. Officer Sheskey continued to yell for Jacob Blake to drop the knife; however, Jacob Blake continued to ignore the commands. As Jacob Blake turned left in front of the vehicle, Officer Sheskey first saw the black knife in Jacob Blake's left hand.

Officer Sheskey stated that when Jacob Blake got to the left front corner of the SUV, he turned a hard left and started going towards the driver's side door. Officer Sheskey stated that he started thinking to himself, "I don't know what he is going to do. Is he going to hurt the kid? Is he going to take off in the vehicle? Will we have to pursue the vehicle with a child inside of the car? Is he going to hold the child hostage? Are his actions going to put others at risk?" Officer Sheskey was aware of at least one child being inside of the vehicle at that time, and he did not know if it was Jacob Blake's child. Officer Sheskey stated that at that moment he decided that he could not let Jacob Blake get back into the vehicle. Officer Sheskey stated that he thought that it was dangerous for the public and the child in the vehicle to let Jacob Blake leave when he was armed with a knife.

Officer Sheskey stated that he closed the distance between himself and Jacob Blake as he got to the front door of the SUV. Officer Sheskey could not remember if the SUV door was open or if Jacob Blake had to open it, but as Jacob Blake attempted to get in the SUV, Officer Sheskey grabbed Jacob Blake's shirt and pulled him in an attempt to prevent him from getting into the vehicle. Officer Sheskey stated that Jacob Blake started to lean into the vehicle as Officer Sheskey was pulling Jacob Blake's shirt. As Jacob Blake was reaching into the car, Jacob Blake turned his torso from right to left towards Officer Sheskey and Officer Sheskey saw that the knife was now in Jacob Blake's right hand, under Jacob Blake's chest and coming towards Officer Sheskey, under Jacob Blake's left arm. Jacob Blake's left shoulder came up slightly and his right shoulder dipped underneath and the knife was moving towards Officer Sheskey. Officer Sheskey stated the knife was approximately two feet away from him. Officer Sheskey stated that for the first time Jacob Blake showed intent to harm by driving the knife towards Officer Sheskey's torso. Officer Sheskey feared Jacob Blake was going to stab him with the knife but knew that he could not retreat because the child was in the car and could be harmed, taken hostage, or abducted by Jacob Blake. Officer Sheskey stated that for these reasons, he discharged his firearm towards Jacob Blake.

Officer Sheskey believed that he fired six shots. Officer Sheskey stated that he did not stop firing until he saw Jacob Blake drop the knife. Jacob Blake came to a sitting position as

Officer Sheskey was firing, and Jacob Blake's hands were in front of his chest still holding the knife. As Jacob Blake dropped the knife to the floorboard, Officer Sheskey stopped firing. Officer Sheskey stated that he was shooting down and forwards because he didn't want to put the child seated in the back of the vehicle or any civilians in danger. Officer Sheskey stated that immediately after he saw Jacob Blake drop the knife he holstered his weapon and checked Jacob Blake for more weapons, finding none. Officer Sheskey then provided first aid to Jacob Blake.

Summary of Officer Brittany Meronek's Statement (See Attachment 2 for Full Statement)

On August 25, 2020, DCI agents interviewed Officer Brittany Meronek at the DCI Milwaukee Field Office. Present during the interview was a Kenosha Professional Police Association Union Representative and two attorneys for Officer Meronek.

Officer Meronek stated that during her shift on August 23rd, she and Officer Sheskey as well as Officer Arenas were dispatched to a family trouble call. The caller said a male subject at the residence was not supposed to be there, had the caller's car keys and would not give them back. They responded without lights and sirens to the call at 40th Street and 28th Avenue. Officer Sheskey read the call notes to her. Dispatch stated they were on the line with the caller who said the male was trying to leave. The caller provided a license plate on a vehicle with an unknown state, and then the caller became uncooperative and hung up on the dispatcher.

Officer Meronek stated that she parked the patrol car at a diagonal on 28th Avenue at the corner of 40th Street on the west side of the street facing north. As soon as Officer Meronek opened her squad car door, she was met by a female (later identified as Laquisha Booker) who ran up to her and the two spoke at the rear of the squad. Laquisha Booker was frantic and loud. She pointed at a male subject (later identified as Jacob Blake) who had walked from the area of the adjacent building and towards an SUV parked behind the squad. Laquisha Booker yelled, "He has my keys. He has my kids. My kids are in the car, and he won't give me my keys back." Officer Meronek and Laquisha Booker observed Jacob Blake close the back passenger side door of the SUV and Laquisha Booker stated loudly, "It's too hot for my kids. Get my kids out of the vehicle."

Officer Meronek stated that while she was talking to Laquisha Booker, Officer Sheskey had walked towards Jacob Blake. Officer Meronek observed that Officer Sheskey was attempting to detain Jacob Blake and Jacob Blake was actively resisting. Jacob Blake pulled his arms away from Officer Sheskey as Officer Sheskey attempted to gain control of them. Officer Sheskey yelled loudly, "Stop resisting." Officer Arenas had arrived and was with Officer Sheskey. Officer Meronek ran to the SUV to assist them. Officer Meronek then described in detail the physical struggle between officers and Jacob Blake (see full statement for all details).

Officer Meronek stated that, during the struggle, Jacob Blake's left arm was in his front waistband or groin area and she feared that Jacob Blake was attempting to retrieve a

weapon from his front waistband area, but she was unable to physically control his left arm. Officer Meronek described how Jacob Blake refused to comply with verbal commands and how either Officer Arenas or Officer Sheskey fired their taser at Jacob Blake, but Jacob Blake showed no effect from the taser. Officer Meronek stated that she used her police radio to call dispatch and request more squads. Officer Meronek described how the physical struggle continued, how Jacob Blake continued to ignore verbal commands and continued to resist the officers' attempts to physically restrain him. Officer Meronek described how either Officer Sheskey or Officer Arenas tased Jacob Blake again. Officer Meronek stated that Jacob Blake hunched over after the taser probes struck him, but, again, the taser seemed to have little or no effect on him.

Officer Meronek stated that while Jacob Blake was hunched over and the taser was still delivering the five second cycle, she approached him to try to gain control of him by pinning him against the vehicle. As Officer Meronek engaged Jacob Blake, she observed that Jacob Blake had a knife. Officer Meronek said that she yelled out to alert the other officers, "Knife! Knife! He has a knife!" Officer Meronek stated that the blade on the knife was extended out. Officer Meronek stated that the three officers all stepped back towards the sidewalk along 28th Avenue to distance themselves from Jacob Blake as they drew their firearms. The officers then all began yelling the commands, "Drop the knife and show us your hands." Jacob Blake did not comply with or acknowledge the commands.

Officer Meronek stated that Jacob Blake moved to the front of the SUV, then turned and walked across the front toward the driver side. Officer Sheskey and Officer Arenas both followed behind Jacob Blake around the front of the SUV as Officer Meronek moved around the back of the SUV. Officer Meronek stated that Jacob Blake reached the driver's door of the SUV, and tried to enter the vehicle while officers yelled, "Show me your hands." At that time, Officer Meronek heard what she believed was four gun shots from the area of the driver's door of the SUV. Officer Meronek did not see which officer fired his weapon but recalled seeing Officer Sheskey in the open doorway of the vehicle, behind Jacob Blake who was standing outside the vehicle with his upper body leaning into the vehicle. Officer Meronek said she got on the police radio and called out to responding squads, "Step it up. Shots fired. Shots fired." Officer Meronek stated that after the shooting, officers laid Jacob Blake flat on the ground on his back and began providing him medical aid.

Summary of Officer Vincent Arenas's Statement (See Attachment 3 for Full Statement)

On August 25, 2020, DCI agents interviewed Officer Vincent Arenas at the DCI Milwaukee Field Office. Present during the interview was a Kenosha Professional Police Association Union Representative and two attorneys for Officer Arenas.

Officer Arenas stated that on August 23, 2020, he was on duty working second shift when he was dispatched to a "family trouble" call around 5:00 pm. While driving to the address, Officer Arenas recalled dispatch advising that the male associated with the address of the call had a felony warrant. Dispatch stated something about children possibly being involved and that the male was not giving the caller her keys back. Dispatch stated that the male subject had left and the caller was uncooperative. After arriving on scene, Officer Arenas observed

Officer Sheskey and Officer Meronek speaking with individuals near a gray/silver SUV parked on 28th Avenue.

Officer Arenas stated that as he was walking towards Officer Sheskey, he observed the male that Officer Sheskey was talking to (later identified as Jacob Blake) attempting to walk away from officers. Officer Arenas said that he walked to the front passenger side of the SUV in Jacob Blake's path of travel when Officer Sheskey went hands on and grabbed Jacob Blake to stop him. Officer Arenas then described in detail the struggle between the officers and Jacob Blake (see full statement for all details). Officer Arenas stated that all three officers stepped in and tried to control Jacob Blake. At that time, Officer Arenas heard Officer Meronek say, "He's got a knife." Officer Arenas said that he then observed the knife in what he believed was Jacob Blake's left hand near his groin area. Officer Arenas indicated that the blade of the knife was open.

Officer Arenas stated that the officers created distance, stepping back, and gave numerous orders similar to, "Drop the knife." Officer Arenas stated that at that time one of the other officers fired their taser. He believed it was Officer Sheskey who had done this. Jacob Blake tensed up but did not fall to the ground and did not drop the knife. Officer Arenas stated that he and Officer Sheskey attempted to control Jacob Blake, but he was actively resisting, violently pulling and twisting to get away from the officers. Officer Arenas stated that all of the officers continued to give verbal commands including, "Drop the knife," and "Stop resisting."

Officer Arenas stated that he fired his taser with the probes making contact with Jacob Blake's upper torso, but it did not appear that the taser had any effect on Jacob Blake. Officer Sheskey and Jacob Blake ended up both going to the ground with Jacob Blake still actively resisting the officers. Officer Arenas pulled the trigger to his taser giving a second five second cycle. The taser again appeared to have no effect on Jacob Blake. Jacob Blake got up from the ground and began moving towards the front of the vehicle. The officers continued to give verbal commands saying, "Drop the knife." Officer Arenas stated that he drew his firearm.

Officer Arenas stated that Officer Sheskey was behind Jacob Blake, moving around the front of the SUV with his gun out. Officer Sheskey tried to grab Jacob Blake as he opened the driver's door of the SUV. As Officer Arenas reached the outside of the opened driver's door, with Officer Sheskey holding Jacob Blake's shirt in the opened door, Officer Arenas said that he observed Jacob Blake with the knife in his hand at chest level. The blade was pointed up and Jacob Blake was twisting with his body partially angling towards Officer Sheskey. Officer Arenas said at that moment he feared that Jacob Blake was about to stab Officer Sheskey. Officer Arenas stated that he knew he had to stop him, but he did not have a clear shot due to the positioning of the door and Officer Sheskey. Officer Arenas said that he felt helpless, and feared that Jacob Blake would stab Officer Sheskey and there was no way for Officer Arenas to stop him. Officer Arenas stated that if he had had a clear shot when Jacob Blake raised his arm to chest level in the vehicle, he would have fired if Officer Sheskey was not in the doorway.

Officer Arenas heard multiple gun shots. Officer Arenas stated that he believed that he called out "shots fired" over the police radio after the shooting. Officer Arenas observed a knife on the floorboard area of the driver's seat after the shots were fired. Officer Arenas stated that the officers switched to providing medical aid to Jacob Blake.

Summary of Jacob Blake's August 24, 2020 Statement (See Attachment 4 for Full Statement)

On August 24, 2020 at approximately 4:00 pm, two DCI special agents interviewed Jacob Blake at Froedtert Hospital in Milwaukee. It should be noted that this interview occurred less than 24 hours after the shooting. Jacob Blake was severely wounded, still in need of intensive medical treatment, and on pain medication.

During this interview, Jacob Blake stated that he had been staying with his girlfriend (Laquisha Booker) at her house for approximately five days when they got into some type of argument. Laquisha Booker was angry with him because he did not seem more upset when he found out that she had been sleeping with the neighbor's husband. Jacob Blake stated that he didn't really care what she was doing because he was leaving Wisconsin and moving to North Carolina to join his brother in a business he started. Jacob Blake had been cooking some hot dogs for everyone when all of this started and he took Laquisha Booker's car keys and left to get some cigarettes from the store. When he came back a few minutes later, he resumed grilling but Laquisha Booker was still upset with him so he decided that he was going to leave because he did not want to deal with her. Jacob Blake stated that the only reason why he spent time there was because his kids were there and he was celebrating his child's birthday.

Jacob Blake stated that Laquisha Booker called the police on him and was telling the police all about the sexual assault stuff. Jacob Blake stated that she made up the whole thing (the sexual assault) and he wanted to deal with that stuff before he moved to North Carolina. Jacob Blake stated that Laquisha Booker had just bought a vehicle and the rental car (the gray Dodge Journey SUV) was supposed to go back the following day. Jacob Blake said that he had been using the SUV to go back and forth to work. Jacob Blake stated that he works armed security at a club in Illinois. Jacob Blake had Laquisha Booker's keys and put his kids in the back of the SUV. Jacob Blake started to walk towards the car so he could get out of the area but the police then showed up before he could leave.

Jacob Blake stated that he had a knife in his possession and he dropped it on the ground near the vehicle but he believes that the police did not see him dropping the knife. The officers approached him and put their hands on him, and he just wanted to leave the area with his kids. The officers tased him at least two times while he was trying to leave, but he just tore out the wires and recalls that at some point he was tackled to the ground. He got up and picked up his knife again. He wanted to put his knife away in the car because he said the knife was a gift given to him and it meant a lot to him and he did not want to lose it. He described his knife as a "Bear Claw."

After this point, DCI agents terminated the interview.

Summary of Jacob Blake's August 25, 2020 Statement (See Attachment 5 for Full Statement)

On August 25, 2020 at approximately 2:00 pm, the DCI agents returned to Froedtert Hospital in Milwaukee to interview Jacob Blake. Before interviewing Jacob Blake, the agents asked Jacob Blake's doctor if he had been given anything like anesthesia that would prevent him from talking to the agents. The doctor indicated that they had not given Jacob Blake any anesthesia, but he was on pain medication which made him fall asleep intermittently; however, this would not impair his cognitive abilities.

During this interview, Jacob Blake stated that he and Laquisha Booker had argued. Jacob Blake stated that he had decorated the whole inside of the house for his son's birthday and that is one of the reasons why he didn't want to go outside (and argue with Laquisha Booker who was outside). The agents asked Jacob Blake if Laquisha Booker called the police and Jacob Blake indicated that she did. The agents asked Jacob Blake why she called the police and Jacob Blake stated, "She called the police because I wouldn't give her the keys back to the rental car."

The DCI agents asked Jacob Blake what happened when the police showed up. Jacob Blake said that the police tried to grab him by the arm. Jacob Blake stated that he grabbed the top of the car to try to hold himself up if the police tried to bring him down. Jacob Blake stated that the police tased him right away. Jacob Blake stated that when the police tased him he ripped it out. Jacob Blake stated that the police told him not to do that (rip it out) and they hit him again (with the taser) and he ripped those out and he tried to walk off.

Jacob Blake stated that he walked in front of his car (the SUV). The agents asked Jacob Blake if he was carrying a knife. Jacob Blake stated, "Yeah, I had my knife." The agents asked Jacob Blake if he had the knife in his hand or in his pocket. Jacob Blake stated, "It wasn't even open." The agents asked Jacob Blake if he didn't think the knife was open and Jacob Blake said that he didn't think it was. The agents asked Jacob Blake if he had the knife with him and Jacob Blake stated, "Why would I pull a knife on a cop? What am I? A knife thrower? I ain't going to pull no knife on no damn cop." Jacob Blake continued, "That's just stupid. I just didn't want to...I just grabbed it, man, honestly." The agents asked Jacob Blake why he grabbed it (the knife). Jacob Blake stated that he didn't want to leave his knife behind. Jacob Blake then said, "That instantly gives them a defense. 'We shot him because he had a knife.' But I always got my knife." The agents asked Jacob Blake if it was a habit that he always carried a knife with him. Jacob Blake stated that he did and that he carried a knife for possums and raccoons. The agents asked Jacob Blake if he had the knife with him the whole time. Jacob Blake stated that "it was on the floor...damn near under the car." Jacob Blake explained that when the police first grabbed him by the arm he took the knife out of his pocket and dropped it. Jacob Blake stated, "I can't get in trouble for the knife, but I took it out to get this shit away from me because it might get ugly. I see they already on bull shit. They were trying to fuck me up and I was kind of like fuck that. I crawled to it and I grabbed it." The agents asked Jacob Blake when he picked up the knife again and Jacob Blake stated, "When he wrestled me around the car." Jacob Blake stated, "When I went around the

car the first time they were going to shoot me so I was trying to figure out what I was going to do. I am a little dude."

The agents asked Jacob Blake why he wanted to go to the car. Jacob Blake replied that he wanted to go to the car "because his kids were in there." The agents asked Jacob Blake why the kids were in the car and Jacob Blake stated "because their Mom was about to fight the neighbor." The agents asked Jacob Blake if all three of the kids were in the car and Jacob Blake stated that his two oldest kids were in the car. The agents asked Jacob Blake where the knife was by the time Jacob Blake got to the front door of the car. Jacob Blake stated, "It was getting thrown." Jacob Blake stated that he was not going to throw the knife at the police, just throw it in the car. Jacob Blake stated that he thought one of the police officers tased him before he got in the car because the first gunshot was not loud. Jacob Blake stated, "I know gun shots. I have been shot and I have been tased as well so this is not my first time."

Towards the end of the interview, the agents asked Jacob Blake if he had any other questions or if there was something that the agents should know. Jacob Blake stated, "They didn't have to shoot me like that. I was just trying to leave and he had options to shoot my tires and even punch me, tase me again, hit me with the night stick. I work armed security and I have gotten into it with cats that are bigger than me and my first thing is, I grab my taser first and then my baton." The agents asked Jacob Blake why he didn't just say something to the officers like, "Hey, I am going to give up." Jacob Blake stated, "Because he instantly grabbed my hand and he was trying to put me in handcuffs and I am just like not in front of my kids, not on my kid's birthday." The agents asked Jacob Blake if he said that to the officers and Jacob Blake stated, "No, I'm thinking that. I didn't say it." The agents asked Jacob Blake if he told the police that those were his kids and Jacob Blake said yes and that he told them when the police first got there, "I told them these are my kids and she is about to start fighting over there. I'm trying to put my kids in the car." The interview then ended.

Summary of Jacob Blake's September 21, 2020 Statement (See Attachment 6 for Full Statement)

On September 21, 2020, DCI agents interviewed Jacob Blake in the presence of his attorneys and their investigator. Before the interview began, Jacob Blake was able to review the DCI reports containing his prior statements with his attorneys. Jacob Blake's attorney indicated there were a few things that they wanted to clarify regarding the prior statements. Jacob Blake's attorney asked Jacob Blake if he was aware that the police had their guns drawn on him while he was walking in front of the car. Jacob Blake replied that he did not know that the police were behind him. Jacob Blake's attorney asked Jacob Blake if he had any idea that there was an arrest warrant out for him. Jacob Blake stated that he knew that Laquisha Booker had made a complaint, but she later said that she did not, so he moved back in. Jacob Blake further stated that he did not know that there was an arrest warrant for him in the system.

Jacob Blake's attorney asked Jacob Blake if Laquisha Booker had rented the car for him. Jacob Blake replied that the car was for him as his car was in the shop and Laquisha Booker

had a different car. Jacob Blake stated that he had been using the car to go shopping for his son's birthday party and to buy gifts and decorations for the party. Jacob Blake further stated that Laquisha Booker had just purchased a new car. Jacob Blake's attorney asked Jacob Blake if he just wanted to leave when he loaded the kids in the car. Jacob Blake replied affirmatively. Jacob Blake's attorney asked Jacob Blake if he wanted to leave before the police arrived. Jacob Blake replied that he wanted to leave and get in the car so the police would not beat on him. Jacob Blake's attorney asked Jacob Blake if he was trying to leave the area. Jacob Blake stated that he was not going to get into a high speed chase with the police because his kids were in the car and the police did not need to "kick his ass."

Jacob Blake's attorney stated that one of the reports said that Jacob Blake had taken his knife and dropped it and he asked Jacob Blake to clarify that. Jacob Blake stated that the knife fell out of his pocket. Jacob Blake's attorney asked Jacob Blake where he was carrying the knife. Jacob Blake stated that he was carrying the knife in his left pocket and he always carried the knife in his left pocket. Jacob Blake stated that he did not realize that the knife was out of his pocket until he saw it on the ground. Jacob Blake's attorney asked Jacob Blake what he intended to do with the knife. Jacob Blake stated that he just wanted to pick up the knife and get rid of it so no one would look at him like he was going to use it and the police would shoot him.

Jacob Blake's attorney asked Jacob Blake why he was trying to get to the car. Jacob Blake stated that his intention was to drop the knife in the car. Jacob Blake stated that he had no intention to use the knife. Jacob Blake also stated that he did not brandish the knife. He did not swing the knife. He did not point the knife at anyone, and he did not have any intention to hurt anyone. DCI agents showed Jacob Blake a picture of the knife that had been recovered from the floorboard of the SUV and Jacob Blake verified that that was his knife. DCI agents asked Jacob Blake if he was carrying the knife when he was walking in front of the SUV, and Jacob Blake said that he was carrying it in his left hand and he tried putting it in his left pocket twice, but was not successful. DCI agents asked if Jacob Blake could recall if the blade was open when he was trying to put the knife away in his pocket. Jacob Blake stated that he doesn't remember if the knife was open, but believes that it was closed.

Jacob Blake then once again described the events that had occurred that day. Jacob Blake stated that when the officer first approached him he was putting his oldest son in the car and he was not paying attention to police. Jacob Blake stated that the officer did not say anything to him and he did not know it was a police officer because the person did not identify himself as a police officer. Throughout this statement Jacob Blake repeatedly said that the police did not say anything to him. Jacob Blake stated the next thing he knew someone grabbed his arm. Jacob Blake stated he did not know what was going on. Jacob Blake stated he recalled being dragged down to the ground by multiple officers. DCI agents asked Jacob Blake if he understood that an officer was trying to arrest him. Jacob Blake stated that he did not understand what was going on because the person never said anything to him. Jacob Blake stated that he realized the man was a police officer when the officer pushed Jacob Blake against the SUV, but, again, the officer did not say anything to him. Jacob Blake stated that all he could think of was his kids. Jacob Blake stated that he recalls also thinking, "It's my

child's birthday. This can't be happening. They are probably watching." Jacob Blake stated that he felt very disappointed in the police because of what they were doing.

Jacob Blake then described his physical struggle with officers (see full statement for all details). Jacob Blake stated that the officers were punching him, grabbing him by the hair, and trying to slam him to the ground. Jacob Blake stated that he recalled thinking to himself, "Here it goes. Here comes the Bull Shit!" DCI agents asked Jacob Blake what he meant by the "Bull Shit." Jacob Blake explained that by that comment he meant that the "beating would begin." DCI agents asked Jacob Blake if he meant that the officers would start beating him physically. Jacob Blake replied affirmatively.

Jacob Blake stated that he was tased and he tore the prongs out. Jacob Blake stated that he was tased in the chest area twice, back to back. Jacob Blake stated that he tore out the taser because he just wanted to get out of there and all he was thinking about was his kids. Jacob Blake stated that at that time he realized that they [the police] were trying to hurt him. DCI agents asked Jacob Blake if it ever occurred to him to just stop and talk to the officers that were trying to stop him. Jacob Blake stated that they never made it seem like they were policing, since all they did was beat him and then tase him. Jacob Blake stated that he did not understand why they tased him or why any of this was happening.

Jacob Blake described the physical struggle that continued with officers after he got tased. Jacob Blake described how he and one of the officers both landed on the ground. Jacob Blake stated they were basically giving each other a bear hug. DCI agents asked Jacob Blake if he ever reached into his waistband. Jacob Blake stated he did not. DCI agents asked Jacob Blake what he did after they both went to the ground. Jacob Blake stated that he got up and started to walk away and he saw his knife on the ground so he picked it up and decided that he wanted to put it back in his car. DCI agents asked Jacob Blake if he ever heard anyone shout, "He has a knife!" or "Drop the Knife!" Jacob Blake stated that he never heard anyone shout that.

Jacob Blake stated that he started to walk around the car. Jacob Blake stated that he only intended to put the knife back in the car. Jacob Blake stated wanted to get the knife out of there and that he did not want the knife to be part of anything that the police could say was the reason why they could shoot him. DCI agents asked Jacob Blake to explain what he meant by that. Jacob Blake stated that he meant that the police would say they are justified in shooting him for having the knife. Jacob Blake stated that he recalls thinking to himself, "Get in the truck or they are going to kill you."

Jacob Blake stated that as he was walking around the front of the SUV, he was carrying the knife in his left hand and he tried putting it away in his left pocket twice but for some reason he was not able to do so. DCI agents asked Jacob Blake if the knife was open or closed at that time. Jacob Blake stated that he could not recall if the knife was open or closed. Jacob Blake stated that he continued walking around the vehicle and tried to enter the car through the front driver's side door. DCI agents asked Jacob Blake if he could tell if there were any officers following him. Jacob Blake stated that he had no idea where the officers were as the only thing on his mind was his kids, putting away the knife, and getting out of there. Jacob

Blake stated that he switched the knife to his right hand so he could open the door of the car with his left hand and then tried to get in the car. DCI agents asked Jacob Blake what he was thinking as he entered the vehicle. Jacob Blake stated that he wanted to put the knife in the car and lock the door to keep the police out.

Jacob Blake stated that he opened the car door and he tried reaching in so he could put the knife in the center console, but he felt his shirt being pulled. Jacob Blake stated that the knife was in his right hand. DCI agents asked Jacob Blake if he did anything with the knife. Jacob Blake stated that he did not point the knife at anyone; he did not swing the knife at anyone; he did not make any forward motion towards anyone with the knife; and he did not raise the knife towards anyone. Jacob Blake stated that he did not hold the knife in a way which could be interpreted as being pointed towards anyone, especially the officer. DCI agents asked Jacob Blake if he could recall if the knife was open or closed while he was attempting to get in the car. Jacob Blake stated that he could not recall if the knife was open or closed.

Jacob Blake stated that the next thing he remembers is hearing shots being fired. Jacob Blake stated that he understood that he had been shot because he had been shot before. Jacob Blake stated that he believed that he was trying to get rid of the knife when he got shot and didn't remember if he dropped it after the officer pulled his shirt or after he got shot. Jacob Blake stated that the knife was on the floor of the vehicle. The interview then concluded.

Factual Analysis

The Domestic Violence Context

Before examining the witness statements and other evidence in this case, I must begin with the evidence that is missing. In spite of the best efforts of DCI investigators, they were unable to sit down with and interview Laquisha Booker and her sister, TB, (who was also an eyewitness) in detail. DCI was only able to speak with TB in the ER at Froedtert South in Kenosha on August 23, 2020 at around 11:00 pm. TB had been brought to the hospital after suffering a panic attack. She provided DCI some information about the incident as well as some background information; however, she told the DCI agent she was too tired to continue and ended the interview before the DCI agent was finished questioning her.

As for Laquisha Booker, a DCI agent was able to make contact with her within a couple hours of the shooting, outside of her residence at 2805 40th St. The agent described the scene during this time period as loud and hostile at times. The agent stated that he was able to speak to Laquisha Booker in a series of brief interviews as he and Laquisha Booker were continually interrupted. Laquisha Booker was able to provide a brief account of the incident and what led up to it, but she eventually told the DCI agent that she had to attend to her children and she was unable to make any further statements at that time.

Laquisha Booker is a very significant witness in this case. The video evidence shows that Laquisha Booker had a close view of the physical struggle that was occurring around the SUV. She was involved in the events preceding the arrival of the police, and she was, in fact,

the person who had called the police. In the days following this incident, DCI had some contact with Laquisha Booker, but she put off their efforts to schedule an interview and eventually agents were unable to contact her at all.

In the months following August 23, 2020, not only has DCI been unable to reach Laquisha Booker, but Walworth County District Attorney Zeke Wiedenfeld had also been unable to locate her. DA Wiedenfeld had been assigned to prosecute as a special prosecutor Kenosha County Circuit Court File Number 20CF736. In that case, Laquisha Booker had reported to officers of the Kenosha Police Department that on May 3, 2020, Jacob Blake had broken into her residence at 2805 40th St. Laquisha Booker told police that Jacob Blake had sexually assaulted her and then stolen her car keys and her vehicle and her debit card.

In that case, Jacob Blake was charged with Criminal Trespass, Domestic Abuse; Third Degree Sexual Assault, Domestic Abuse; and Disorderly Conduct, Domestic Abuse. The charges were filed on July 6, 2020 and a warrant was issued for Jacob Blake's arrest. This is the warrant for which police were attempting to arrest Jacob Blake on August 23rd. The trial in that case was scheduled for November 9, 2020. As the victim, Laquisha Booker was an essential witness at trial; however, leading up to trial DA Wiedenfeld could not locate her and, as a result, the case was resolved on November 6, 2020 when Jacob Blake entered a plea to reduced charges.

The absence of Laquisha Booker as a witness is very concerning; yet, it is in keeping with the domestic violence context of this case. Laquisha Booker has called the police due to domestic disputes with Jacob Blake numerous times over the last eight years. Laquisha Booker has reported to police that Jacob Blake has hit her, choked her, and, most recently, on May 3, 2020, that he sexually assaulted her. Four of these calls to the police have involved in some way disputes over vehicles or keys to vehicles. According to a police report from the Zion Police Department, in 2012, Laquisha Booker called the police to report that Jacob Blake had domestically assaulted her. As the police responded, Jacob Blake wrestled Laquisha Booker's keys away from her, sped off in her car fleeing from police, and then crashed her car.

In spite of this history, Laquisha Booker and Jacob Blake still share three children together, and, based on an examination of the evidence from Jacob Blake's cell phone, it appears that he and Laquisha Booker were still in communication after the May 3rd domestic violence and sexual assault allegations. As Laquisha Booker stated to the 911 dispatcher, she had allowed Jacob Blake to be at her residence on August 23rd as they were celebrating their son's birthday.

Evaluation of Evidence at Any Trial

Though I lack a detailed statement from Laquisha Booker, the other evidence can still be evaluated, and I do so in light of the nearly 30 years of experience I have as a trial lawyer. To decide whether criminal charges are appropriate in any case, I cannot look at the evidence in the light most favorable to the prosecution. I have to consider how the evidence

will be presented and attacked at the criminal trial of any of the involved officers. With that in mind, the evidence strongly supports the following series of events:

1. Upon responding to this family trouble call, Officer Sheskey was attempting to arrest Jacob Blake on a felony warrant after approaching Jacob Blake by the SUV as Jacob Blake was placing a child in the back of the SUV.
 - The radio and computer dispatch records show that the responding officers were told that Jacob Blake had a felony warrant and that it was for domestic violence offenses and a sexual assault. Officer Sheskey stated that when he became aware of that warrant he knew he had to arrest Jacob Blake. This is consistent with Kenosha Police Department policy where officers have no discretion on whether to arrest someone with a warrant.
 - Upon arrival, Officer Sheskey stated that he saw a male fitting Jacob Blake's description putting a child in the SUV. Officer Sheskey stated that he heard Laquisha Booker yell, "It's him! It's him! He has my keys! It's my car! It's registered to me!" Officer Sheskey stated that he heard Jacob Blake say, "I'm taking the kid and I am taking the car."
 - Officer Meronek stated that she heard Laquisha Booker yell, "He has my keys. He has my kids. My kids are in the car, and he won't give me my keys back."
 - Witness MLS heard Laquisha Booker yell to police, "Here he is. Here he is. He's trying to take my kids and take my car!" Witness MLS stated that she saw Jacob Blake putting his kids in the car.
 - Jacob Blake stated that when the police officer first approached him he was putting his son in the car.
2. There was a physical struggle between Jacob Blake and the responding officers. During this physical struggle Officer Arenas and Officer Sheskey attempted to tase Jacob Blake multiple times. Jacob Blake defeated those efforts by pulling out the taser wires/prongs.
 - The two cell phone videos from this investigation do not capture the whole event as each of the people recording did not start doing so immediately upon police arrival. When RW's cell phone video does begin, the view of the involved officers and Jacob Blake is obstructed as they are on the passenger side of the SUV at that time. The view from MJ's cell phone video does show the passenger side, but the video is unsteady and frequently obstructed.
 - Even without video evidence, the fact that the responding officers physically struggled with Jacob Blake is established by the statements of all three officers, multiple eye witnesses, and Jacob Blake himself.
 - The fact that the responding officers used their tasers during the struggle is established by the statements of Officer Sheskey and Officer Arenas who both described using their tasers, by the statements of multiple eyewitnesses,² and by the statements of Jacob Blake who told investigators that the responding officers tased him and that he twice ripped out the taser wires. This corroborates Officer Sheskey's statement that Jacob Blake broke the taser

² Though a number of the eyewitnesses (including RW) incorrectly stated that the female officer tased Jacob Blake which is not supported by the statements of officers or the physical evidence.

- wires which is something Officer Sheskey had not seen anyone do before.
 - The evidence collected on scene also shows there was a physical struggle involving the use of tasers as DCI investigators recovered three taser prongs and a taser cartridge on the ground east of the driver's side door of the SUV. Investigators recovered Jacob Blake's hat and Officer Sheskey's hat which were found on the ground near the rear of the SUV. There were two taser blast doors which were found on the ground near Jacob Blake's hat and another taser blast door found on the ground near Officer Sheskey's hat. There was also money scattered on the ground in this area to the rear of the SUV. A fourth taser blast door was found on the passenger side of the SUV in the grassy area between the street and the sidewalk.
3. During this struggle, Jacob Blake armed himself with a knife. The knife was open and in his left hand as he walked around the front of the SUV.
- Not a single eyewitness told DCI investigators that they saw Jacob Blake with a knife, but Jacob Blake has consistently acknowledged having a knife during this incident. In his August 25th statement, Jacob Blake told investigators that when the police first grabbed him by the arm he took the knife out of his pocket and dropped it. Jacob Blake said that when he was on the ground he crawled for the knife and grabbed it. Jacob Blake did state that he believed the knife was unopened. In his September 21st statement, Jacob Blake still admitted having the knife, but stated that he did not take it out of his pocket and drop it, but rather it fell out of his pocket. Again in this statement, he said that he picked up the knife before walking around the front of the SUV.
 - After the shooting, DCI investigators recovered a knife from the driver's side floorboard of the SUV. When the knife was recovered the blade was out (the knife was open). When shown a photo of this knife, Jacob Blake verified it was his knife.
 - RW's cell phone video shows Jacob Blake with the open knife in his left hand as he is walking around the front of the SUV. The size, shape, and color of this knife match the open knife that was recovered from the driver's side floorboard of the SUV.
 - All three of the involved police officers saw Jacob Blake with a knife in his hand at various points during this incident. Their commands to Jacob Blake to "Drop the knife!" can be heard on RW's cell phone video.
4. Jacob Blake evaded officer's attempts to arrest him, walked around the front of the SUV, and was attempting to enter the driver's seat of the SUV when Officer Sheskey grabbed his shirt and then shot him seven times.
- MJ's cell phone video shows Jacob Blake on the ground during the physical struggle with officers. The view on the video is then obstructed, but Jacob Blake can then be seen standing and walking around the front of the SUV. Jacob Blake is no longer physically struggling with the officers; rather, Officer Sheskey and Officer Arenas are several steps behind him, following him with their guns drawn.
 - RW's cell phone video, though from a different point of view, similarly shows

Jacob Blake emerge from the passenger side of the SUV. At that point, the officers distance themselves from Jacob Blake and Jacob Blake walks around the front of the SUV followed by the officers. This video shows Jacob Blake walk directly to the driver's door of the SUV and open it.

- RW's cell phone video shows Officer Sheskey lunging towards Jacob Blake as Jacob Blake is opening the driver's door. Officer Sheskey grabs Jacob Blake's shirt and, while behind Jacob Blake and still holding onto his shirt, Officer Sheskey shoots Jacob Blake seven times.
- Seven gunshots can be clearly heard on RW's cell phone video. DCI investigators also recovered seven casings on scene. When examining Officer Sheskey's firearm, DCI investigators found it was still loaded with 10 bullets. Officer Sheskey indicated that his firearm had contained 17 bullets when he began his shift that day further corroborating that there were seven shots fired.
- Finally, this series of actions is corroborated by the statements of the involved officers, multiple witnesses, and Jacob Blake.

Evaluation of Evidence at Any Trial: Jacob Blake's Knowledge of the Arrest Warrant

While the above series of events is well-established by the evidence, much more difficult to prove is what the involved individuals knew, what they perceived, and their states of mind. For instance, there is no question that Jacob Blake physically resisted officers, but, in his September 21st statement, Jacob Blake stated that when Officer Sheskey approached him and grabbed his arm, he did not understand what was going on. Jacob Blake stated that the officers were punching him, grabbing him by the hair, and trying to slam him to the ground. Jacob Blake stated that they never made it seem like they were policing and all they did was beat him and then tase him. According to Jacob Blake's account, he was not trying to resist arrest, but was trying to protect himself and stop officers from beating him. Jacob Blake also indicated that he was attempting to get into the SUV as a place of safety from the police who were beating him, not to flee. In contrast, according to the accounts of the involved officers, Jacob Blake was aggressively and successfully resisting arrest. He had even overcome multiple attempts to subdue him with tasers, and they feared that he would flee in the SUV.

How will this discrepancy in the evidence be resolved at trial? In considering this question, Jacob Blake's knowledge about whether there was a warrant for his arrest becomes significant. The responding police officers knew there was an arrest warrant, but did Jacob Blake? This matters because if Jacob Blake knew there was an arrest warrant, then his claims of not understanding what was going on or what the police were doing are far less believable. If Jacob Blake knew there was an arrest warrant, he had a motive to resist the police and to flee the scene.

Jacob Blake specifically told DCI investigators in his September 21st interview that he did not know there was an arrest warrant for him in the system. Officer Sheskey stated that when he walked up to Jacob Blake and grabbed his arm, that he told Jacob Blake that he had a warrant; however, Jacob Blake claims that Officer Sheskey said nothing to him. There is no audio recording to resolve this factual dispute. What we do have is evidence recovered from a search of Jacob Blake's cell phone:

- On July 14, 2020, Jacob Blake sent Laquisha Booker the following text, “Just tell him you don’t remember what you said and you would like to drop the charges.”
- Several hours later, Jacob Blake sent Laquisha Booker another text, “[I]f I’m willing to take them to the park and I got a whole arrest warrant you can’t tell me that you can’t get up and take them to a park....I rather take the chance.”
- Jacob Blake’s internet history on his cell phone shows that on August 7, 2020 and again on August 9, 2020, he looked up his pending warrant case in online court records.

Contrary to what Jacob Blake told DCI investigators, the evidence from his phone shows that he knew there were pending charges and a warrant for his arrest as early as July 14th and he would have seen that that warrant was still in place as late as August 9th. At any trial, this evidence would be used to disprove Jacob Blake’s claim that he did not know about his arrest warrant which in turn would call into question his account of the physical confrontation with the police as well as his stated reason for attempting to get into the driver’s seat of the SUV.

Evaluation of Evidence at Any Trial: Jacob Blake’s Intentions with the Knife

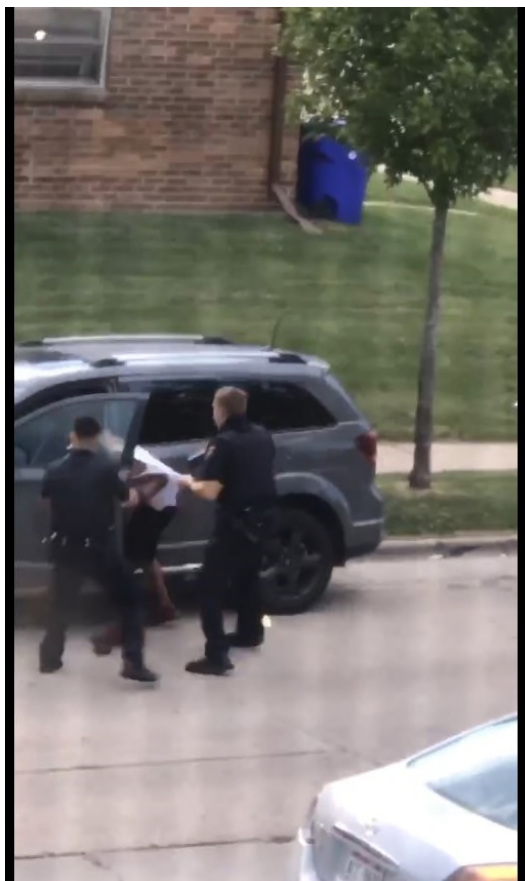
A similar analysis must be done regarding Jacob Blake’s intentions with the knife. There is no question that during his struggle with the police Jacob Blake armed himself with a knife, but what were his intentions in doing so? In his August 25th interview, Jacob Blake stated the following about his knife: “Why would I pull a knife on a cop? What am I? A knife thrower? I ain't going to pull no knife on no damn cop.” Jacob Blake continued, “That's just stupid.” Jacob Blake stated that he wasn’t going to throw the knife at the police, just throw it in the car. In his September 21st interview, Jacob Blake stated that the knife fell out of his pocket. He stated that he picked it up, but only to put it back in the car. He emphasized that he never swung the knife or raised it towards anyone, and he was only intending to put it away in the car.

In contrast, in the moment before the shooting when Officer Sheskey was holding on to Jacob Blake’s shirt and Jacob Blake was leaning into the car, Officer Sheskey stated that he saw Jacob Blake turn his torso from right to left towards him. Officer Sheskey stated that he saw that the knife was in Jacob Blake’s right hand, that it was under Jacob Blake’s chest and coming towards Officer Sheskey under Jacob Blake’s left arm. Officer Sheskey stated that Jacob Blake's left shoulder came up slightly and his right shoulder dipped underneath and the knife was moving towards Officer Sheskey. Officer Sheskey stated that for the first time Jacob Blake showed intent to harm by driving the knife towards Officer Sheskey's torso. Officer Sheskey stated that he feared Jacob Blake was going to stab him with the knife but knew that he could not retreat because the child was in the car and could be harmed, taken hostage, or abducted. Officer Sheskey stated that for all of those reasons, he discharged his firearm towards Jacob Blake.

Officer Arenas stated that he too saw Jacob Blake turn his body. Officer Arenas said that he observed Jacob Blake with the knife in his hand at chest level. Officer Arenas stated that the blade was pointed up and Jacob Blake was twisting with his body partially angling towards

Officer Sheskey. Officer Arenas said at that moment he feared that Jacob Blake was about to stab Officer Sheskey.

The officers' statements are neither proven nor disproven by RW's cell phone video. The screenshot below shows the moment before Officer Sheskey fired:

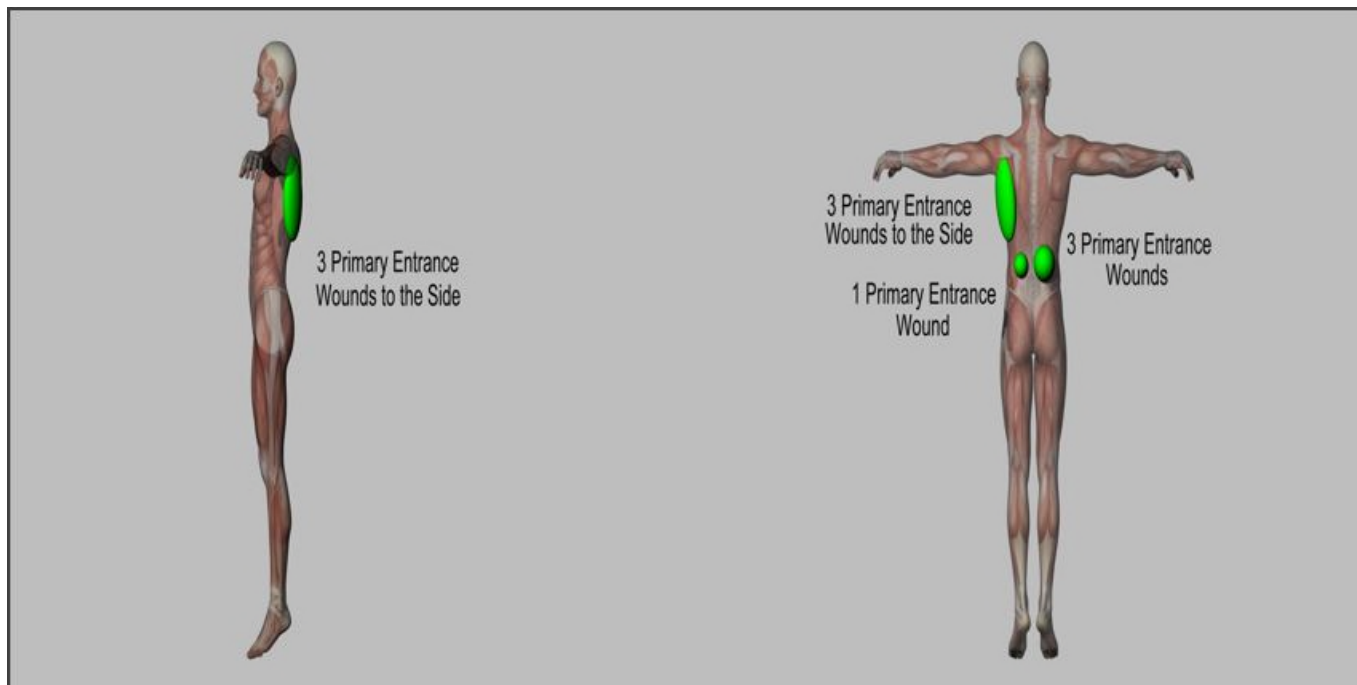


Jacob Blake is leaning forward so his head cannot be seen. His right hand also cannot be seen due to the door, and any view through the window is blocked by Officer Arenas. Clearly both officers were positioned to see Jacob Blake twist his torso and move the knife towards Officer Sheskey, if that did indeed occur, but the car door and the positioning of Officer Arenas prevent the video from capturing any such movement.

There are two eye witnesses who told investigators that they saw Jacob Blake turn his torso in the moment before he was shot. Witness, DC, spoke to agents from DCI. DC was on his front porch to the south and across the street (28th Ave.) from where the SUV was parked. DC stated that just before he heard the shots he observed Jacob Blake trying to get in the car. DC stated that he saw Jacob Blake twist his torso towards the officer from right to left, then heard the shots. DC described Jacob Blake's motion as sudden and rapid. Witness, AH, spoke to agents from the FBI. AH was in front of her residence to the north and across the street (28th Ave.) from where the SUV was parked. AH stated that she saw Jacob Blake walking very fast around the street side of the car. He opened the car door. A police officer

was behind him. The police officer pulled at Jacob Blake's shirt. Jacob Blake turned slightly and then the police officer started shooting. Unlike RW's vantage point as he was recording with his cell phone, both DC and AH were viewing the incident from an angle rather than virtually straight-on.

Officer Sheskey's and Officer Arenas's assertion that Jacob Blake twisted his body, thereby moving his right hand which was holding the knife towards Officer Sheskey, also finds support in the physical evidence. DCI obtained hundreds of pages of Jacob Blake's medical records as well as medical imaging. DCI investigators also questioned Jacob Blake's surgeon to gain a greater understanding of the injuries Jacob Blake suffered. However, as the surgeon explained, his job is to treat patient injuries. He is not trained in forensics, and so he could not tell investigators which of Jacob Blake's wounds were entrance wounds from gunshots and which were exit wounds from gunshots. To gain a greater understanding of the medical evidence, DCI agents consulted with Dr. Brian Peterson who is Milwaukee County's Chief Medical Examiner. Dr. Peterson agreed to review Jacob Blake's medical records. A series of illustrations were created, in consultation with and reflecting the opinions of Dr. Peterson, showing the approximate locations of the gunshot entrance wounds to Jacob Blake. There are three gunshot entrance wounds to Jacob Blake's lower right back. There is another gunshot entrance wound to Jacob Blake's lower left back. The other three gunshot entrance wounds are to Jacob Blake's left flank (side):



That there are three entrance wounds to Jacob Blake's left side is consistent with Officer Sheskey's and Officer Arenas's statement that Jacob Blake twisted his body, moving his right hand with the knife towards Officer Sheskey. A movement of this sort would have exposed Jacob Blake's left side to Officer Sheskey when Officer Sheskey made the decision to shoot.

This physical evidence is not definitive, and we have no way of knowing in what order Jacob Blake suffered these seven entrance wounds; however, the fact that Jacob Blake was not shot seven times in the back, that three of the shots were to his left side, does provide some support for Officer Sheskey's and Officer Arenas's accounts.

At a criminal trial, then, there would be conflicting testimony regarding Jacob Blake's intentions with the knife. Jacob Blake's claim of innocent intent, his claim that he was only trying to put the knife away in the car, his claim that he did not swing the knife or raise it towards anyone, his adamant claim that he would not pull a knife on a police officer, would be challenged. Jacob Blake's claims would be challenged based on the conflicting statements of the officers and other witnesses and based on the physical evidence. Jacob Blake's claims would also, almost certainly, be challenged based on allegations of his prior conduct because, in 2010, Jacob Blake was alleged to have attacked a police officer with a knife while resisting police.

According to a report from the Cook County Sheriff's Police Department, on August 5, 2010 at 12:40 am in Des Plaines, IL, Jacob Blake was in a vehicle that had been stopped by the Cook County Sheriff's Police Department. There were three occupants in the vehicle including Jacob Blake. During the traffic stop, Jacob Blake and the other passenger exited the vehicle and approached the officer who had conducted the traffic stop, Officer Murphy. Officer Murphy ordered Jacob Blake and the other passenger to get back inside the vehicle, but they refused. Officer Murphy drew his weapon and Jacob Blake and the passenger retreated back inside the vehicle as backup arrived. After the backup officer arrived, Jacob Blake again exited the vehicle. Both officers attempted to secure Jacob Blake and a struggle ensued. Jacob Blake became combative and attempted to resist. As one of the officers struggled to maintain control of Jacob Blake's right hand, Jacob Blake reached near his waistline with his left hand and produced a buck knife with a three inch blade with the blade open. Jacob Blake then slashed at the officer with the knife across the chest without making contact as the officer jumped back shouting, "knife, knife, knife," to alert Officer Murphy. Both officers moved back and unholstered their firearms. Jacob Blake began to wave the knife around in a slashing motion with the knife in his right hand. Jacob Blake advanced towards the officers while shouting, "Come on and shoot me then." More officers arrived and one of the arriving officers gave Jacob Blake verbal commands to drop the knife. Jacob Blake refused to drop the knife and was subsequently tased. Even after being tased, Jacob Blake actively resisted as officers attempted to place him in custody. Jacob Blake was tased again and the officers were able to take him into custody.

Jacob Blake's motive to resist police and his motive to flee the scene as well as his intentions with the knife would be critical factual issues at the criminal trial of any of the officers involved in this case. It is hard to be certain what Jacob Blake's true intention with the knife was on August 23, 2020, but it is a virtual certainty that at a criminal trial in this case, Jacob Blake, as a witness, would be confronted with the allegations of his prior actions with a knife towards law enforcement officers on August 5, 2010. Just as it is a virtual certainty that at any criminal trial Jacob Blake, as a witness, would be confronted with his false statement to DCI investigators claiming he was unaware of the arrest warrant. Because that would be the reality of a criminal trial in this case, I must include it in my factual analysis of the case and in

my consideration of whether criminal charges are legally appropriate. Based upon the above evidence, any defense attorney would certainly argue that Jacob Blake's credibility was suspect and that the most likely inference from the facts is that Jacob Blake intended to harm Officer Sheskey with the knife.

Legal Analysis

The Law of Self-Defense and Defense of Others

There is no question that Officer Sheskey intentionally shot Jacob Blake. The question is whether, based on the evidence, Officer Sheskey's actions were privileged under the law by the right of self-defense and defense of others. See Wis. Stats. § 939.48(1) and (4). Any criminal charge against Officer Sheskey would be countered with these affirmative defenses, and the State would then be required to convince a jury **beyond a reasonable doubt** that Officer Sheskey did not act lawfully either in self-defense or defense of others.

The law of self-defense as it would be given to a jury in this case is set forth in Wisconsin Criminal Jury Instruction 805. According to that instruction:

The law of self-defense allows the defendant to threaten or intentionally use force against another only if:

- the defendant believed that there was an actual or imminent unlawful interference with the defendant's person; and
- the defendant believed that the amount of force the defendant used or threatened to use was necessary to prevent or terminate the interference; and
- the defendant's beliefs were reasonable.

The defendant may intentionally use force which is intended or likely to cause death or great bodily harm only if the defendant reasonably believed that the force used was necessary to prevent imminent death or great bodily harm to himself.

In determining whether the defendant's beliefs were reasonable, the jury would be instructed that a belief may be reasonable even though it is mistaken and 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 the viewpoint of the jury now.

When evaluating the actions of a police officer who was acting in his professional capacity, the reasonableness of the defendant's actions ought to be judged from the standpoint of an ordinary, prudent, and reasonably intelligent person in the officers' position, having the knowledge and training that the officer possessed and acting under the circumstances that existed at the time.

The United States Supreme Court in *Graham v. Conner*, 490 U.S. 386 (1989), cautioned that in judging the reasonableness of a particular use of force, the focus must be on “the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Id.* at 396. The Court stated: “The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Id.* at 396-97.

Other courts have issued similar guidance: “[W]e must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.” *Smith v. Freland*, 954 F.2d 343, 347 (6th Cir. 1992); see also *Menuel v. City of Atlanta*, 25 F.3d 990, 997 (11th Cir. 1994) (“[T]he decision to shoot can only be made after the briefest reflection, so brief that ‘reflection’ is the wrong word...Reconsideration will nearly always reveal that something different could have been done if the officer knew the future before it occurred. This is what we mean when we say we refuse to second-guess the officer.” (internal citations omitted)).

A person is privileged to defend another person under the same conditions and by the same means as those under and by which the person is privileged to defend himself. See Wis. Stats. § 939.48(4).

In a criminal case, once “some evidence” of either of the above privileges is present (which it certainly would be if criminal charges were issued in this case), the burden is on the State to prove beyond a reasonable doubt that the defendant’s conduct was not privileged.

In other words, in order to achieve a conviction, the State would have to prove **beyond a reasonable doubt** that the defendant did not act lawfully in self-defense or defense of others.

Basis of Decision

My decision whether or not to issue criminal charges is based on my almost 30 years of experience as a prosecutor. I approach this case and apply the same standard based on the facts and the law as I would when considering criminal charges in any matter, and I am guided and informed by the ethical duties imposed by the Wisconsin Supreme Court and the American Bar Association. A prosecutor should refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause. SCR 20:3.8(a). The ABA Standards for Criminal Justice Relating to the Prosecution Function, Standard 3-4.3 provides in part that “[a] prosecutor should seek or file criminal charges only if the prosecutor reasonably believes...that admissible evidence will be sufficient to support conviction beyond a reasonable doubt.” See also *Thompson v. State*, 61 Wis. 2d 325, 330 (Wis. 1973) (“[I]t is an abuse of discretion to charge when the evidence is clearly insufficient to support a conviction.”).

I have also been assisted in my decision by the report prepared by Noble Wray. Before I reached any determination, I wanted someone with expertise in use of force decisions by law enforcement to evaluate the officers' actions in this case. I also wanted this expert to be independent, someone who would be able to evaluate this case impartially and without even the appearance of bias. As a result, I requested that the Wisconsin Attorney General's Office choose the expert. They chose Noble Wray, a person I had never met or spoken with before he agreed to weigh-in on this case. Noble Wray is eminently qualified for this role. He has worked in the law enforcement field for 37 years and was the Chief of Police for the City of Madison for 10 years. He has also been involved in police reform at the national level where questions about police use of force are paramount. As detailed below, the opinions and conclusions of Noble Wray have aided considerably my analysis of whether the involved officers, particularly Officer Sheskey, acted reasonably in self-defense under the circumstances that existed at the time of this incident.

Application of the Law to the Facts

On August 23, 2020, Officer Sheskey was on duty in full uniform having arrived on scene in a marked squad car that was parked within feet of the gray Dodge SUV where the struggle occurred and clearly within view of Jacob Blake and all other persons in the immediate area. Officer Sheskey knew he was responding to a domestic disturbance call where a woman was reporting that the father of her children, Jacob Blake, had taken her keys and was attempting to leave in her car. Officer Sheskey knew that Jacob Blake had a felony warrant. Officer Sheskey also knew that this warrant involved domestic violence related offenses and a sexual assault.

Pursuant to department policy, when a Kenosha Police Officer comes in contact with a person who has a valid warrant out for their arrest, the police officer must take that person into custody on the warrant. See Kenosha Police Department Policy and Procedure 1.8. Pursuant to Wisconsin law, it is a crime for a person to resist a lawful arrest. See Wis. Stat. § 946.41. And so, Officer Sheskey was obligated to take Jacob Blake into custody and Jacob Blake was obligated to comply. But that is not what Jacob Blake chose to do. Knowing he had a warrant, he chose to resist.

As Noble Wray points out in his report, when confronted with this resistance, Officer Sheskey, Officer Arenas, and Officer Meronek used every intervention option on the use of force continuum, meaning that they initially tried to physically control Jacob Blake without resorting to weapons by using physical counter measures against Jacob Blake's resistance. When that did not work, Officer Sheskey and Officer Arenas progressed up the use of force continuum by using their tasers in an attempt to gain physical control of Jacob Blake and take him into custody. At this point, Jacob Blake took the extreme step of twice ripping out the taser probes and wires. This was so unusual that Officer Sheskey had never seen anyone do that before and so the efforts by Officer Sheskey and Officer Arenas to control Jacob Blake by use of their tasers was ineffective. Meanwhile, Jacob Blake had armed himself with the knife that he had in his left shorts pocket. It was only at this point, after physical counter measures and attempts to tase did not work and after officers saw that Jacob Blake was

armed with a knife, that all three officers drew their firearms raising the possibility of the use of deadly force.

But even at this point, none of the officers fired a shot. Instead, as Noble Wray also noted, all three officers, after drawing their firearms, created distance from Jacob Blake. Consistent with their training they created this distance to give themselves options, the chance to attempt a dialogue with the armed person and possibly deescalate the situation. Still, Jacob Blake did not submit to their lawful efforts to arrest him or to their orders to drop the knife. With knife still in hand he walked around the front of the SUV towards the driver's door closely followed by Officer Sheskey and Officer Arenas who both had their firearms pointed towards him.

As a result of Jacob Blake's actions, Officer Sheskey was confronted with a choice. In the context of a domestic disturbance, would he allow an armed man with a felony warrant who had just forcefully resisted arrest the opportunity to flee in a vehicle he did not have permission to operate with at least one child in the back? Officer Sheskey decided he had no choice but to physically re-engage with Jacob Blake in an effort to prevent that. Noble Wray found Officer Sheskey's analysis reasonable, and I agree.

The possibility that Jacob Blake would flee in the SUV causing officers to have to pursue him and the dangers that presented to the children in the vehicle and to the public are not hypothetical. As noted above, Jacob Blake had previously fled from police in a car that he had taken from Laquisha Booker without her consent and crashed it. While the officers on scene could not have known this, they certainly would have been generally aware of the dangers of fleeing. In the months before this incident, first in April of 2020 and then in July of 2020, two police vehicular pursuits in Kenosha County ended in horrific crashes and the deaths of the fleeing drivers.

The context matters and, here, officers were dealing with a domestic disturbance and they were attempting to arrest a man who had a warrant for domestic violence offenses and sexual assault and who had resisted arrest, physically struggling with officers and defeating officers attempts to apprehend him with a taser three times. Most significantly, the officers were attempting to prevent this man from taking a car that did not belong to him with at least one child inside. It is true that the police were not aware at the time exactly how many children were in the car and whose they were, and it is true that the children in the car were actually Jacob Blake's, but, as Noble Wray stated, those unknowns make little difference because most children who are abducted are taken by a family friend or parent.

When Officer Sheskey reasonably decided that he could not allow Jacob Blake to get into the SUV and flee, that meant that Officer Sheskey would have to try to physically stop him and to do so Officer Sheskey would have to put himself in close proximity to Jacob Blake. Noble Wray described the situation saying, "P.O. Sheskey was literally holding on to Jacob Blake's shirt, and Jacob Blake had a knife in his hand, actively resisting, attempting to get into the vehicle." Noble Wray concluded that, "regardless if Jacob Blake drove the knife forward or not, a reasonable officer could view himself as being in imminent danger" in this situation.

In his statements, Jacob Blake claimed that he had no intention of harming any police officers with the knife and he was just trying to put it away. As noted above, a jury would have reason to question the truthfulness of that statement. Blake would be subject to lengthy cross examination about the past incident, described above, where he is alleged to have slashed at an officer with a knife. Officer Sheskey and the other officers had to judge Jacob Blake's intentions on what they had observed—a man who was fiercely resisting their every attempt to take him into custody, a man who had disregarded verbal commands, who had physically ripped the prongs/wires out of two tasers, and who had armed himself with a knife that he refused to relinquish. The questions any jury would ask would include...If he didn't intend to use the knife why not drop it? If he didn't intend to use the knife why was the blade open? Even Jacob Blake acknowledged in his August 25th statement to DCI investigators that the fact that he grabbed his knife "instantly gives them a defense. 'We shot him because he had a knife.'"

With these facts, the State could not prove, beyond a reasonable doubt, that Officer Sheskey's belief that there was an actual or imminent unlawful interference with his person was unreasonable. Having reached this conclusion, the only aspect of the use of force in this case left to address is whether Officer Sheskey's use of force was excessive, that is, whether it was unreasonable for Officer Sheskey to believe that the force he used was necessary to prevent imminent death or great bodily harm either to himself or others.

In his report, Noble Wray explains the concept of proportionality: "[P]roportionality requires that the officer applies the correct amount of force. The question here is, was the amount of force excessive or not enough on the part of the officers? These two extremes can create unsafe outcomes for all involved. The objective for officers is to fall within an acceptable range for the amount of force. The guidance for the acceptable range is, was the amount of force used objectively reasonable?" Noble Wray concluded that the amount of force used by Officer Sheskey was within the acceptable range.

Before reaching this conclusion, Noble Wray analyzed in detail the question of, "Why so many shots?" The shooting of Jacob Blake has drawn national attention with many members of the public asking the same thing. Once police officers decide that they need to utilize their firearms (deadly force) in a use of force situation, they are trained to continue shooting until they "stop the threat." The purpose is not to wound or kill, but these tragic results sometimes occur. Noble Wray explained in his report that, "officers are trained to continue shooting until the perceived threat is stopped. Specifically, the officer is looking for the subject to stop advancing, drop the weapon, or stop struggling. The officer must use all his senses, what he hears, sees, and physically feels, to perceive the threat has stopped and then translate what he perceives into a physical reaction to stop shooting." Noble Wray indicated that according to studies, the time it takes for an officer to perceive that a threat has stopped and to stop shooting generally ranges from 0.7 to 1.5 seconds. In that time an officer may fire 1 or 2 additional rounds. Here, Officer Sheskey fired seven rounds in just over 2.5 seconds. Officer Sheskey stated that he stopped firing when he saw Jacob Blake drop the knife. The knife was found by investigators on the driver's side floorboard of the SUV. Officer Sheskey's firearm initially contained 17 rounds so there were 10 remaining rounds when he stopped

shooting. Clearly, then, he made a volitional decision to stop shooting and didn't simply stop when he ran out of ammunition.

Many people will still adamantly believe that seven shots at such close range were excessive, but that is not the standard. The standard is whether the State can prove, **beyond a reasonable doubt**, that Officer Sheskey's belief that the force he used was necessary to prevent imminent death or great bodily harm either to himself or others was unreasonable. Officer Sheskey's decision making regarding the number of shots he fired appears consistent with the training that Noble Wray outlined. As a policy matter, persons could make vigorous efforts to change police training; however, a prosecutor could not go into a courtroom and argue that standard police training was unreasonable beyond a reasonable doubt.

The facts that are the most important to my determination are that officers were responding to a domestic disturbance. They were attempting to arrest Jacob Blake because he had a felony arrest warrant for domestic violence offenses and a sexual assault. Jacob Blake was armed with a knife and, after vigorously resisting the lawful arrest, he appeared to be attempting to flee in a vehicle that police had been told he did not have permission to operate and which had at least one child in the back. All of the decisions made by the officers on scene, particularly Officer Sheskey, were made based on these facts. Just like the millions of people who watched the cell phone video of this shooting in the hours that followed, not a single eye witness who was cooperative with DCI's investigation was aware of all of these facts and many of the eye witnesses were aware of none of them. Yet the decision whether to issue criminal charges must be based on these facts because under the law of self-defense, what matters is what the accused reasonably believed under the circumstances that existed at the time of the alleged offense and the reasonableness of the accused's beliefs must be determined from the standpoint of the accused at the time of his acts. So, Officer Sheskey's actions must be judged from the standpoint of a reasonable police officer confronted with the above circumstances.

For these reasons and based on all the facts and circumstances in this case, I do not believe the State could prove, beyond a reasonable doubt, that Officer Sheskey was not acting lawfully in self-defense or defense of others. As a result, I cannot ethically issue criminal charges against him.

Much of my legal analysis has centered on Jacob Blake's decisions. Some might view that as illegitimate and suggest that I should focus solely on Officer Sheskey's decision to shoot Jacob Blake and by not doing so I am shifting the blame for Officer Sheskey's decision onto Jacob Blake. I want to stress that in honing in on Jacob Blake's decision making, I am not attempting to shift the blame and I am certainly in no way suggesting that Jacob Blake somehow "deserved" to be shot. I focus on Jacob Blake's decisions because at each step along the way, his decisions shaped the encounter, impacting how the officers reacted and the level of force they used.

It is a dangerous job being a police officer. For decades police officers have kept themselves safe by issuing commands that were complied with. When people abide by the commands of police officers those officers can feel assured of their safety even in situations that may

otherwise be dangerous. Conversely, when people do not obey the commands of police officers, and most acutely when persons are also armed, those officers are placed in fear for their safety. Again, this fear is not hypothetical. Just over two weeks before Officer Sheskey shot Jacob Blake, a Kenosha Police Officer was shot while on duty making a routine investigatory stop in a situation that seemed in no way particularly dangerous until the man resisted the officer to prevent his arrest on a warrant. Jacob Blake's decisions to disregard the lawful commands of police officers and resist, while actively armed, matter because those decisions put the officer in reasonable fear for his safety.

Conclusion

Based on the facts and the law, I have decided not to issue criminal charges against Officer Sheskey, Officer Meronek, or Officer Arenas. This decision was by no means easy. As I conclude, I must return to the question of domestic abuse. Every day in the United States, on average, there are over 2,000 instances of domestic violence reported to the police.³ Victims of domestic violence call police to prevent the abuse, to stop the violence, to protect their children, and, sometimes, to save their lives. It is impossible to calculate how many lives have been saved because domestic violence victims have been able to grab hold of their cell phones and dial 911.

As I render this decision, I think about the thousands of domestic violence victims who will call the police today and I wonder what response they will receive. Are they calling in bystanders who will be there to witness and document the violence, but not to stop it? The officers responding to this domestic disturbance call on August 23rd could not just watch as an armed man with a felony warrant for domestic violence offenses and sexual assault appeared to be about to flee in a vehicle that the complainant said he was not allowed to drive and which contained at least one child. Independent use of force expert, Noble Wray, who is a national figure in police reform, found that Officer Sheskey's decision not to retreat but to re-engage was reasonable. Police must be willing to put themselves in harm's way, otherwise offenders who are the most quick to resort to violence would also be the least likely to be apprehended. In the domestic violence context, where police are the last line of defense, that cannot stand.


Noble Wray wrote that when he first saw this officer-involved shooting in media reports he had major concerns. However, based on the information he was able to review from DCI's investigation, he came to the conclusion that the use of force by Officer Sheskey during his encounter with Jacob Blake on August 23, 2020 was justified, in keeping with Wisconsin Law, in keeping with the Kenosha Police Department's use of force training and policy, and widely

³ Reaves, Brian A., U.S. Department of Justice – Bureau of Justice Statistics, *Special Report: Police Response to Domestic Violence, 2006-2015* (On average, there are over 1.3 million nonfatal domestic violence victimizations per year in the United States. Of those, 56% are reported to police, totaling approximately 732,839 that are reported to police on average annually; thus the average daily total of nonfatal domestic violence victimizations reported to police is over 2,000.).

accepted law enforcement use of force standards. Nevertheless, Noble Wray noted that the policing field must continue to focus on the sanctity of human life in dealing with deadly force. We should all be fully aware that, as Noble Wray stated earlier in his report, African Americans are disproportionately impacted by deadly force encounters.

I share Chief Wray's concerns and I know that this decision may be met with anger and outrage. Much of this anger will arise from the long history in our country of racial injustice, of systemic racism that has become embedded in our institutions including the criminal justice system and has influenced how communities of color are policed and prosecuted. I do not deny that reality, but I am tasked with making a decision in a particular case based on the facts in front of me, and I do not believe those facts support criminal charges under the law. To issue criminal charges under these circumstances, not because this particular case supports them, but because of public outrage, or racial injustice, or because other police officers, in other places, and at other times have engaged in brutality and violated the law with impunity is not justice. I know that my conclusions will be subject to great scrutiny, and I invite the Wisconsin Attorney General's Office, or other appropriately designated agency, to conduct an independent review of this case and my decision.

Dated this 5th day of January, 2021



Michael D. Graveley
Kenosha County District Attorney