



Memorandum

Date: October 5, 2020

To: Internal Investigations

Via: Direct

From: Chief Troy Olmsted

Re: FINDINGS AND RECOMMENDATIONS IIU2020-276

Internal Investigations: October 5, 2020
Investigation Due Date: January 1, 2021

Accused Employee: Detective Michael Brown #67798

I have reviewed the investigation and summarize the allegations below:

Allegation 1

GOM 3.00.015 (1)(g): SERIOUS MISCONDUCT: Discrimination, Harassment, Incivility, and Bigotry

Members must always conduct themselves in a manner that brings credit to the Sheriff's Office, maintaining a level of conduct in their personal and official affairs consistent with the highest standards of the law enforcement profession. Any sustained charges that a member has engaged in conduct unbecoming and/or misconduct will result in corrective action or discipline up to and including dismissal from the Sheriff's Office.

Members while on-duty shall not engage in discussion or conduct that belittles others or discriminates against others on the basis of:

- Race,
- Color,
- Age,
- Sex,
- Sexual orientation,
- Religion,
- National origin; or
- The presence of any sensory, mental or physical disability.
- Gender identity or expression

Allegation 2

GOM 3.00.015 (2)(k): MISCONDUCT: Conduct Unbecoming -- Any sustained misconduct charges in the following categories will be considered serious violations of the core values of the King County Sheriff's Office. Violations of these rules may result in discipline up to and including termination.

Conduct Unbecoming: means behavior that generally tends to:

- Diminish respect for the Sheriff's Office or member.
- Diminish confidence in the operation of the Sheriff's Office.
- Adversely affect or impair the efficiency of a member.
- Adversely affect the morale or discipline of the Sheriff's Office.

Allegation 3

GOM 3.00.020 (1) (d): PERFORMANCE STANDARDS -- Acts in violation of Sheriff's Office directives, rules, policies or procedures as set out in this manual, or elsewhere.

Specific Policy:

14.00.075 USE OF SOCIAL MEDIA: 03/13

For the purpose of this policy:

Social Media means: A category of internet-based resources that integrate user-generated content and user participation. This includes, but is not limited to, social networking sites, microblogging sites, photo and video sharing sites, wikis, blogs, and news sites.

1. When using any social media department members shall not:

- h. Post content containing excessive name calling, profanity, fighting words, discriminatory epithets, sexual harassment, bullying, or gruesome language.
- i. Post content that amounts to advocating criminal activity or law violations.

2. When using any social media department members should be reminded that:

- a. Third-parties, including criminal defense investigators or attorneys may locate text and graphic postings and use the content to impeach the credibility of KCSO witnesses in a court case.
- b. Even if you think your posting is "private" you may not own that content and the owner may change its status in the future or there may be a data breach.
- c. Content that you post may be available long after you have forgotten about it.
- d. Even if you think your posting can be viewed only by a limited group of "friends", those friends might share your content with third parties without your knowledge.
- e. Posting personal information about yourself or your family may present a personal safety risk.

Factual Summary

Detective Michael Brown has been employed by the King County Sheriff's office for over 40 years. His hire date was January 7, 1980. Detective Brown was assigned to the Criminal Intelligence Unit in 1992 primarily focusing on Criminal Motorcycle Gangs. In 1994 he began working with the Executive Protection Unit.

This investigation resulted from public outcry primarily concerning a Facebook post by Detective Brown on or about July 4, 2020. A review of his Facebook account and hundreds of complaints led to review of eight posts and statements made on Facebook. These posts are summarized below:

July 4, 2020, "All Lives Splatter" post

Detective Brown utilized a social media site to share a post of an image often referred to as a meme. This image depicted a vehicle striking a person. The captions incorporated written the meme read, "ALL LIVES SPLATTER," and "KEEP YOUR ASS OFF THE ROAD". Brown commented on this post with the word, "GEE," which appeared at the top of the post.

July 4, 2020, or Shortly Thereafter, Covid-19 Comment

Shortly after the posting of the "All Lives Splatter" image, Detective Brown posted a comment associated with that image: *"I see a couple of people got infected with Covid-19 from the hood of a car on I-5 last night"*.

June 1, 2020, "Knock Out" Comment

Detective Brown reposted a video from Baltimore showing a black female striking an officer, after which the officer's partner punches the woman, knocking her to the ground, where she appears to be unconscious. The comment above the post, written by Mike Brown reads, *"When in doubt... Knock em out"*. (sic)

June 3, 2020, Anti-War Protesters, spitting out their teeth comment

Detective Brown posted a photo of protesters blocking I-5 from the late 1960's or early 1970's. The caption above the post, written by Mike Brown reads, *"I think a few anti-war protesters were, spitting out their teeth back then. The Black Hats had arrived"*.

June 13, 2020, Colonel Sanders post

Detective Brown posted a photo of a large cardboard cutout of Colonel Sanders being moved by a couple of KFC employees. The caption above the post, written by Mike Brown reads, *"The Colonel falls at the KFC in the CHAZ"*.

June 20, 2020, Lorenzo Anderson's Last Stand at Cal Anderson Park post

Detective Brown posted a comment referencing an incident involving the murder of Lorenzo Anderson that occurred in the CHOP zone on June 20, 2020. Brown wrote, *"Say what? The CHAZ/CHOP have renamed Cal Anderson Park the, Lil Renz's Last Stand Park"*.

June 22, 2020, Clip from a movie scene from "Tombstone" post

Detective Brown posted this movie clip and wrote this comment above the post, *"Here they come CHOP CHAZ"*. The caption below the clip reads, *"Tombstone... 'You Tell Em I'm Commin, And Hell's Commin With Me'"*. (sic)

July 1, 2020, 'SPD "poppin' smoke" FINNALLY!!!' comment

Detective Brown posted a comment referencing Seattle Police moving into the CHOP.

After Detective Brown's July 4, post, or re-post of the meme and the I-5 Covid-19 comment, the Sheriff's Office was inundated with hundreds of complaints. The complaints came via phone calls, emails and social media. Significant community outrage was obvious in the numbers and content of the complaints. The complaints were so numerous, it took a substantial amount of time in this investigation to document them for the file. The investigator summarized common words and phrases that arose in the complaints as follows: heinous, inflammatory, taunting, hateful, disgusting, tasteless, inappropriate, grossly insensitive, callous, lack of compassion, mocking death of a citizen, celebrating a death, supporting violence, advocating murder and the killing of innocents, inciting hate, encouraging violence, a danger to people of color, callous disregard for human life, eroding public trust and confidence, hate speech, breach of trust, lack of good judgement, bigoted, racist, white supremacist, racial prejudice, mocking death of protester, and mocking the BLM movement. An additional theme was lack of faith in Detective Brown's ability to protect and serve the life/safety of the citizens of King County.

Captures of the posts and comments have been incorporated into this finding.



Mike Brown

23h · 🌐



Gee...



Mike Brown

Yesterday at 8:02 AM · 🌐



I see a couple of people got infected with Covid-19 from the hood of a car on I-5 last night.



Mike Brown

June 1 · Shared via AddThis · 🌐



"When in Doubt....Knock em Out".



TRENDINGPOLITICS.COM

Rowdy Protester Gets Knocked Into Last Tuesday After Sucker Punching Cop

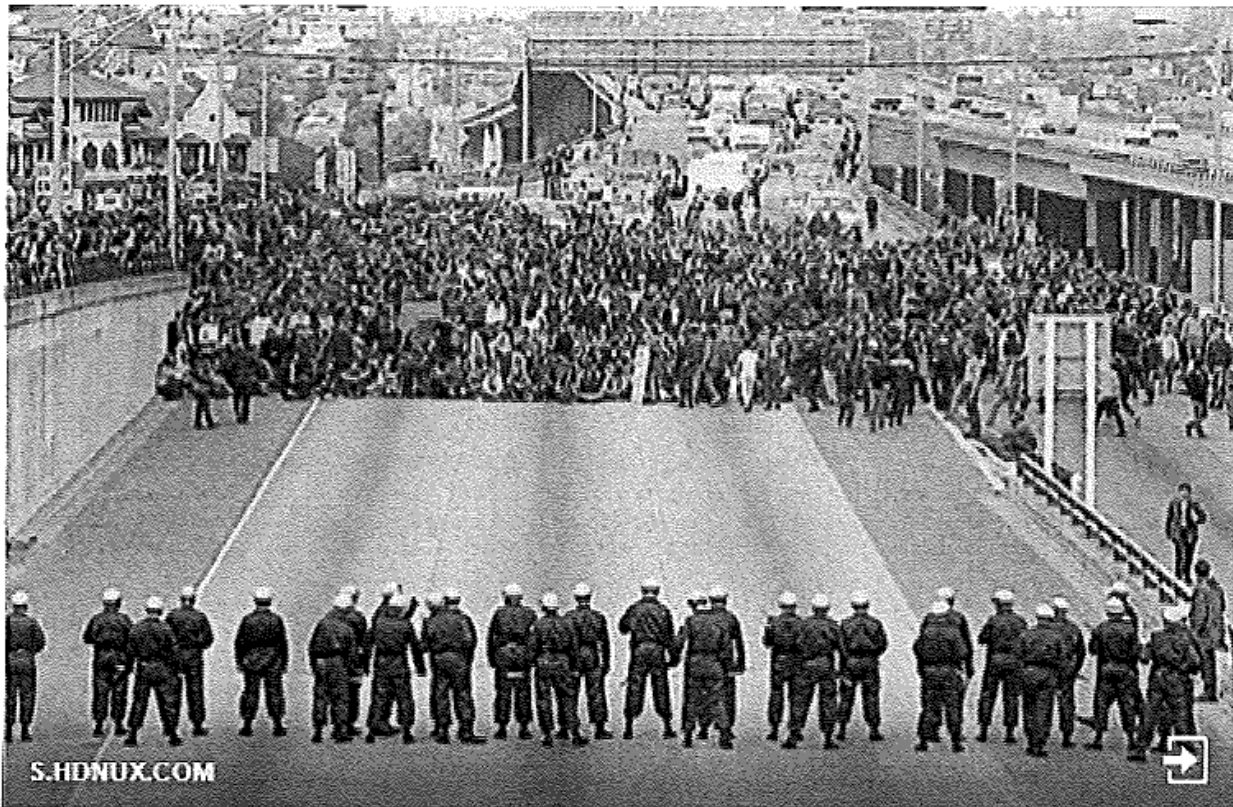


Mike Brown

June 3 · 🌐



I think a few anti-war protesters were, "spitting their teeth out" back then. The Black Hats had arrived.





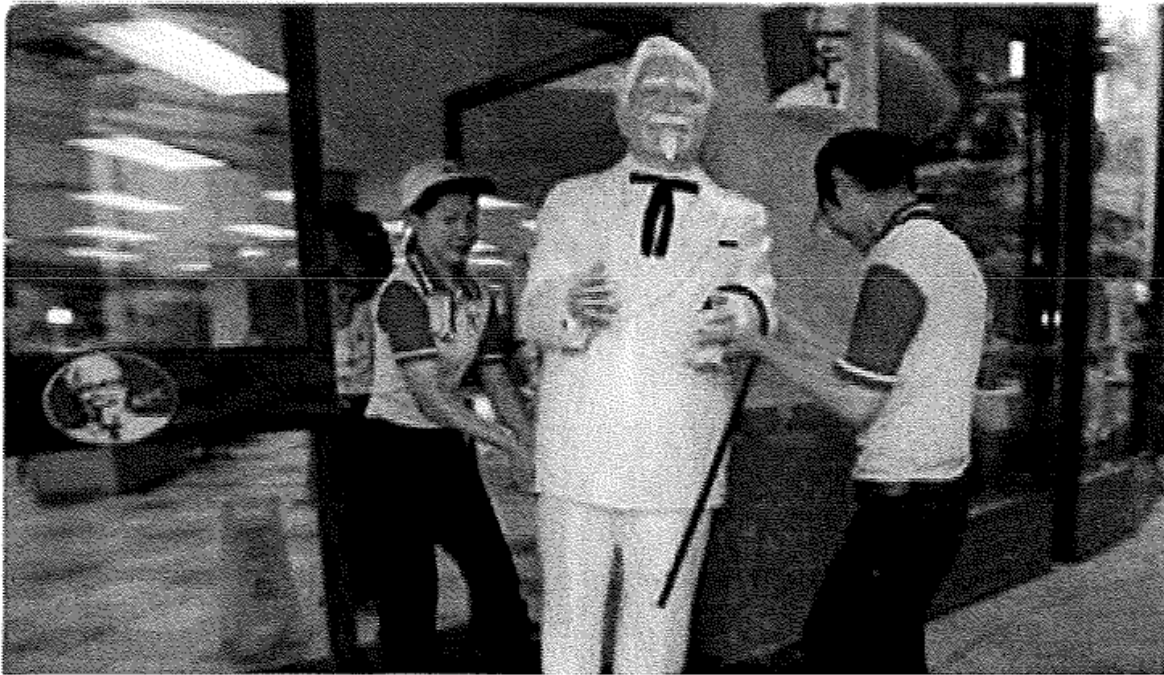
Mike Brown

June 13 at 12:02 PM · 🌐



The Colonel falls at the KFC in the CHAZ.

Another confederate statue is taken down



Mike Brown

June 21 at 12:01 PM · 🌐



Say what? The CHAZ/CHOP have renamed Cal Anderson Park the, "Lil Renz's Last Stand Park".



Mike Brown

June 22 at 6:06 PM · 🌐



Here they come CHOP CHAZ.



YOUTUBE.COM

Tombstone ...' You Tell Em I'm Commin ,And Hell's Commin With Me '(Full Scene)



Mike Brown

July 1 at 5:23 AM · 🌐



SPD "poppin' smoke" in the CHOP. FINALLY!!!

👍 😮 50

18 Comments

Factual Background

This investigation includes captures of seven posts, re-posts and/or comments made by Detective Brown on Facebook between June 1, 2020, and July 5, 2020. Detective Brown participated in a recorded interview conducted by Internal Investigations, Detective Sergeant Sampson. A transcript of the interview is attached to the investigation file. Excerpts of the transcript are utilized in this finding.

Detective Brown estimates he began using Facebook in 2013. He said he usually checked Facebook once a day. He posts, reposts or comments five times per week on average. Detective Brown said he has never represented himself as a Deputy, Detective or member of the Sheriff's Office on Facebook. To the best of his knowledge his settings were set to private. The private setting would not allow anyone not on his "friends list" to directly view his posts. He estimated 800 friends had access to his postings. Many of these were employees of the KCSO. The setting does not prevent those on the list from capturing or sharing his post on Facebook or elsewhere. Detective Brown permanently deactivated his Facebook account after he began to receive death threats.

In her interview with Detective Brown, Detective Sergeant Sampson discussed the posts associated to Detective Brown individually.

July 4, 2020, "All Lives Splatter" post

Detective Brown said the "All Lives Splatter" meme was from another group's post. He thought it was from the Chelan County Office of Emergency Management web page. He said when he posted it the comment, "Gee", his meaning was, "Gee, did you really put that on there?" Detective Brown later did some research and found the stickers for sale on amazon. The image has been around since 2017. Detective Sampson attached a news story from California regarding a firefighter posting a similar "All Lives Splatter" meme in January 2020.

He said he did not associate the "All Lives Splatter" reference to "Black Lives Matter" mantra at the time he posted or reposted. He was aware of the hit and run incident on I-5. His recollection was it was a vehicular assault at the time and later learned it became a homicide. He was not on duty at the time he posted the meme.

Sgt. Sampson:
Okay. Are you familiar with the organization Black Lives Matter?

Det. Brown:
I am.

Sgt. Sampson:
And aware of the repeated refrain Black Lives Matter?

Det. Brown:
Oh, yes.

Sgt. Sampson:
Okay. In knowing that, did you take notice of this as, I guess, a play on that theme? That group?

Det. Brown:
Actually, no. I didn't. It was more of... This goes back to when we were kids. My dad, when he used to get mad at us, he'd tell us to go play out in the freeway, right? Then what happened is I remember is as we got older, there was a demonstration at the University of Washington. I was probably a teenager and as a family, we were on the freeway and this demonstration was blocking the freeway. And I said to my dad, "Well, dad their parents probably told them to go play on the freeway." Ha-ha. Well then, when I saw this, it reminded me of my dad who just recently passed away, brought back memories of what he used to say. And so that's what I was thinking, along those lines. I wasn't thinking along the lines of making light of it or making light of the movement.

Sgt. Sampson:
Off duty. Okay. Considering the recent circumstances with protests and the social atmosphere we're in now, did you take into consideration that sharing it may be controversial? Sharing something like this may be controversial?

Det. Brown:
No. I didn't at the time. Now, I do. Yeah, by all means. But at the time, no. I didn't take that into consideration.

Sgt. Sampson:
Okay. Did you consider the fact that this may appear to be mocking the assault of or the injury to protesters or supporting violence against protesters?

Det. Brown:
I think I was looking more... My perception of it at the time, was that, you go on the freeway at 1:30 in the morning, bad things are going to happen and that's what I was looking at. Like, "Well, if you hadn't been on the freeway, you would have been okay."

Sgt. Sampson:
What did you think the original meme... You called it meme and I'm probably mispronouncing it so, was meant to convey? What was it attempting to express?

Det. Brown:

Well, what you can't see on the bottom of this thing is it says, "Keep your ass off the roadway." And I think the one they're selling on Amazon actually says, "Nobody cares about your protest." Not this particular one. It's kind of the same thing but, so yeah. No. I just figured, which we've seen all across the country, what happens when people go into the street.

Sgt. Sampson:

Do you condone those types of incidents happening to protesters as far as being assaulted with a vehicle or running them over or anything like that?

Det. Brown:

No. That's uncalled for. The best thing to do is just wait until the protest moves on. If you can, get off the freeway and get off the road. But no, I don't encourage that type of behavior at all.

Sgt. Sampson:

Okay. Would you agree or disagree that things that you post or share on your Facebook account may appear to others to reflect what you believe or things that you believe or things that you support? Or that you support or are against?

Det. Brown:

Oh, yeah. We all perceive things differently. The perception to one person is a different perception to another. But yeah, I can see where people, they look and see what you have on your social media, where they can lump you in with a particular group, a particular movement.

Sgt. Sampson:

And with a post like this that happened to be at a time right after the protester was hit, with only one word, gee, can you understand why some people may look at it just in its form right there, in the context of what was happening at the time and what is still happening, that it might reflect poorly on you.

Det. Brown:

Oh, yeah. Sure.

July 4, 2020, or Shortly Thereafter, Covid-19 comment

Detective Sergeant Sampson addressed the next post on Facebook from Detective Brown. The post, *"I see a couple of people got infected from the COVID-19 from the hood of a car on I-5 last night."*

Sgt. Sampson:

Okay. And again, can you comment on what your intent, what your thought, belief was, what you were intending to express with that?

Det. Brown:

That goes into the numbers now with the COVID-19. And how they're classifying some deaths as COVID-19, when actually they are not. So, I was trying to, I was focusing on that, of how some of these deaths are not actually COVID-19. They're classifying them as such. There was some talk that when my dad passed, he passed away from a stroke that, as the family, we caught wind that perhaps maybe they were trying to tie this in with this COVID-19 thing, which of course, they did not. So that was good. But that's where I was looking at on that, or I was coming from is the classifying the COVID-19 deaths.

Sgt. Sampson:

Okay. Correct me if I'm wrong, but this is a reference to the two protesters who were hit on I5 the previous night?

Det. Brown:

That is correct, yes.

Sgt. Sampson:

Okay. And again I'll ask, did you take that into considerations, that while you, as you said, may have been focusing on and I'm guessing the way that some people believe that numbers may or may not be skewed by the government when they're reporting COVID deaths, did you take into consideration the fact that it may appear to be making a joke at the expense of protesters that were injured or killed?

Det. Brown:
Yes. Now that I look at it, it was a poor attempt at humor.

Sgt. Sampson:
Okay. Do you find it funny that protesters were killed on I-5?

Det. Brown:
No.

Sgt. Sampson:
A protester and another injured.

Det. Brown:
No.

Sgt. Sampson:
Were you at all trying to mock or I guess, make fun of violence or the assault?

Det. Brown:
No.

Sgt. Sampson:
Is this your own writing or is this something that you captured from somebody else's?

Det. Brown:
Oh, no. That's mine.

June 1, 2020, "Knock Out" comment

On June 1, 2020, Detective Brown posted or shared a video clip. An officer is struck by a woman. A second officer knocks the woman down and possibly unconscious. The caption above the post, written by Mike Brown reads, "*When in doubt... Knock em out*". (sic)

Detective Brown described the officer on the right being punched him in the face. The officer on the left immediately punched the person in the middle.

Sgt. Sampson:
And is it fair to say this is your comment that you added to it, "When in doubt, knock them out."

Det. Brown:
It's actually not my comment.

Sgt. Sampson:
Oh, okay.

Det. Brown:
I put it on there.

Sgt. Sampson:
What do you mean?

Det. Brown:
That's what the Hell's Angels motto is.

Sgt. Sampson:
Okay.

Det. Brown:
The motorcycle gangs that I used to monitor and track. That's where that came from.

Sgt. Sampson:

And I know that you were considered a gang expert, what did they mean, the motorcycle gang mean by that term or that comment, "When in doubt, knock them out."

Det. Brown:

Those guys, what they're saying there, if you doubt where this is going, knock them out.

Sgt. Sampson:

Okay. And is that in any particular situation or just any sort of altercation, if you don't know where it's going, strike first basically type of thing?

Det. Brown:

Yeah.

Sgt. Sampson:

And how did you mean for it to be used as a reference? In what way to this image or this video?

Det. Brown:

It was the first punch on the officer that rocked him and then immediately, that second guy threw a haymaker that put that person down. So he wasn't in doubt but he did knock him out.

Sgt. Sampson:

Okay. And again, was this an attempt at humor, joking? What was your intent with posting this and posting that verbiage?

Det. Brown:

That the first police officer was sucker-punched and the second guy ended the threat by throwing a punch.

Sgt. Sampson:

Are you attempting to convey anything regarding the use of force, always going to something that results in somebody being knocked out?

Det. Brown:

No. All it is just is what is a typical thing on Facebook, where somebody posts a video and I shared it. That's all it was.

Sgt. Sampson:

Okay. Did you consider that it may appear to some people, some citizens, with just this screen capture and without much reference to what else was going on here, that a citizen in between two officers and making a comment, "When in doubt, knock them out," that it may appear to be advocating violence or excessive use of force against citizens? And I'll say this, I don't know if this was something that could be played as a video or if this was just a screen capture.

Det. Brown:

Oh, this is video.

Sgt. Sampson:

It was a video, okay.

Det. Brown:

Oh, it was a video. Yeah. Yeah. It was a video. I guess the reason why I shared it is just for my other cop friends that this guy threw a punch and knocked this person down.

June 3, 2020, Anti-War Protesters, Spitting Out Their Teeth comment

On June 3, 2020, Detective Brown posted a historical of protesters blocking I-5 in Seattle. He wrote above the photo, "I think a few anti-war protesters were spitting their teeth out back then. The Black Hats had arrived."

Sgt. Sampson:

Okay. So this is a reference to people having teeth knocked out by the police during that time?

Det. Brown:

Back in the time, yeah.

Sgt. Sampson:

Okay. And this is from June 3rd this year?

Det. Brown:

Yeah.

Sgt. Sampson:

Okay, and at that time, we were, a nation, I guess and locally as well, responding to protests, some protests that the streets were being blocked. There was some violent and peaceful protesting. Did you take into consideration that this could appear to be supporting that same type of violence towards the protesters that are expressing their opinion today?

Det. Brown:

No. Having to do with peaceful protests. Again, I was referencing the anti-war protests back in the '60s and '70s. I didn't relate it all to the peaceful protests in the street.

Sgt. Sampson:

Okay. The old adage, timing is everything. Do you understand the fact that at the time that you posted it, we were in the midst of a lot of protests that could be considered, some controversial, supported by others and that the police, law enforcement is a big focus of that, of these recent protests? Do you understand why some people might be looking at that as you're relating the two?

Det. Brown:

Yes. As we talked about earlier, what one person perceives as one thing, another person can perceive it as something else. So yes, I could see where somebody would try to relate this to what was going on now.

Sgt. Sampson:

And can you see or understand why some citizens have suggested that through this, you could be appearing to advocate assault or violence against protesters?

Det. Brown:

Yeah. It could. Sure.

Sgt. Sampson:

Was this an attempt at humor? Joking?

Det. Brown:

This was an attempt, the way they used to back in the day... This thing generated, a lot of these old retired guys that we had, they flooded with these posts.

Sgt. Sampson:

Social media?

Det. Brown:

Yeah. About this particular one and so, yeah. This was all about anti-war protesters and blocking the freeway and didn't have anything to do with the Black Lives Matter people. But I could see where you don't see the anti-war protesters, they assume that it was related to what was going on today.

June 13, 2020, Colonel Sanders post

On June 13, 2020, Detective Brown reposted or shared post of a Colonel Sanders statue being removed. The caption from Detective Brown above the post reads, "The Colonel falls at the KFC in the CHAZ".

Det. Brown:

This was a time when they're toppling statues down across the country and then I shared this post and then I just put, "The Colonel falls at the KFC in the CHAZ." Well, I don't know. But anyway, it seems like there was an awful lot of vandalisms going on up there. And so this was my attempt at again, get some cop humor, I guess you want to call it.

Sgt. Sampson:

And were you aware, are you aware, were you aware at the time the statues that were being removed around the nation were being removed because some citizens feel that they were historical figures who supported slavery and racism?

Det. Brown:

Oh, yeah. I saw that in the news. Yeah.

Sgt. Sampson:

Okay. Did you take that into consideration when you posted this?

Det. Brown:

No.

Det. Brown:

I posted this just because here they're taking down Robert E. Lee, all these confederate statues and here the Colonel in Kentucky, they're taking him down. So that's the only reason why I put that on there. This was in reference to all these statues being torn down.

Sgt. Sampson:

Were you in any way intending to mock the movement of folks who were trying to remove these historical figures?

Det. Brown:

No.

June 21, 2020, Lorenzo Anderson's Last Stand comment

On June 21, 2020 Detective Brown posted a comment on Facebook. "Say what? The CHAZ CHOP are renaming Cal Anderson Park the Lil Renz last stand park".

Sgt. Sampson:

Okay. Let's see. I'm going to move to page three. This looks like a post from your account on June 21st with the comment, "Say what? The CHAZ CHOP are bringing Cal Anderson Park the little renz last stand park." So I do want to ask, were you aware of the murder of Lorenzo Anderson?

Det. Brown:

Yes. I saw it on the news.

Sgt. Sampson:

Okay. And what was it in this post that you were attempting to express or convey? What thought or feeling were you attempting to express?

Det. Brown:

Well, it sounds like there was complete lawlessness up there. And Lorenzo, he got murdered in Cal Anderson Park.

Sgt. Sampson:

Okay. And I get that. But what are you trying to say with this comment?

Det. Brown:

Well, I think what I was trying to say is that he was in the park, it was his last stand. He was gunned down.

Sgt. Sampson:

And was there some amount of humor that you were conveying in this? Or some amount of a little bit of joking with that?

Det. Brown:

No. Not joking. I think that was the first homicide they had in there. And so this guy, no, I wasn't trying to make light of it. I was just trying to say that he was in the park and that was his last stand in there.

Sgt. Sampson:

Okay. Were you aware of anything in particular he was doing that would suggest it was his last stand and what do you mean by that? His last stand?

Det. Brown:

The last place he was standing before he was gunned down.

Sgt. Sampson:

Okay. Again, given the social atmosphere and the issues we're facing, especially in law enforcement now, and at the time this was posted, can you understand why some people might look at this as a mocking a death or making fun of a death or making fun of violence that caused the death?

Det. Brown:

Yes. Yes, I can see that.

Sgt. Sampson:

Okay. Did you consider it at the time that you were posting it? Did you take that into consideration what the social atmosphere was at the time?

Det. Brown:

No. I did not.

June 22, 2020, "Tombstone" Movie Scene post

On June 22, 2020, Detective Brown reposted or shared clip form the movie "Tombstone. The caption above post was written by Detective Brown. "Here they come, CHOP and CHAZ".

Sgt. Sampson:

Okay. "Here they come, CHOP and CHAZ". And this to me is an image of, it looks like law enforcement coming in with the guns. What were you attempting to convey with that post? Share, I guess that would be. Would that be a share plus including your comment?

Det. Brown:

Yeah. That was a share. Those guys were getting beat up up there, from what I saw. So I was down in the situation room at our office with all the other guys. So we're watching this, these live streams of what's going on up there, and the SPD guys were just taking the heat. And then finally, something must have triggered where they actually were going in and trying to take it back, and this is where that came from.

Sgt. Sampson:

Okay. Anything more to add on the meaning behind it or any thought behind it?

Det. Brown:

No.

On July 1, 2020 Detective Brown Posted, 'SPD "Poppin' Smoke" Finally!!!' (sic)

Detective Brown describes the term as a Viet Nam era phrase. Ground troops pop smoke canisters to identify location for air crews to zero in on landing zones and are evacuated from the area. Detective Brown did not associate the comment to the use of tear gas. *"Poppin' smoke, I like saying that. It had nothing to do with popping teargas canisters or whatever. It was just my way of saying they're moving in, they're doing something."*

Sgt. Sampson:

Okay. Did you take into consideration that members of the community might think that you're referencing using tear gas, just by the term pop and smoke in the CHOP, that the SPD, you're supporting the use of using teargas up in CHAZ?

Det. Brown

No. Never crossed my mind because my term for pop and smoke didn't have any reference to teargas at all.

It should be noted utilizing smoke canisters can enhance concealment during movement for exiting or entering an area of potential attack. Teargas itself does emit smoke. Some teargas canisters emit gas alone and some canisters emit teargas and smoke combination. The elements in teargas attach to smoke allowing it to dispense better and provides wind direction identification. The term popping smoke has become common among military, veterans and police as a term most commonly used when finishing for the day or retiring.

Detective Brown's Position with Executive Protection, Criminal Intelligence Unit

In addition to the Facebook posts, Sergeant Sampson discussed Detective Brown's position with Executive Protection. Sergeant Sampson asked if his role made it easy to identify him as a member of the King County Sheriff's Office. She based this on the number of post and comments she read, people were able to make the nexus.

Sgt. Sampson

Did you take that into consideration when you made any of these posts that it would be fairly easy for a person to identify you as a King County Sheriff's member?

Det. Brown:

I did not, because it was my friends and so I didn't take that into consideration at all.

Sgt. Sampson:

Okay. With 800 friends or followers, do you know where they all stand on political views, especially nowadays when there seems to be quite a bit of tension?

Det. Brown:

Yeah. No, I don't know where. To each his own.

Sgt. Sampson:

Did you consider the fact that some people may find this offensive and share with others some of these posts?

Det. Brown:

I didn't consider that either. No.

Sgt. Sampson:

The policy on conduct unbecoming specifically diminishing respect for the sheriff's office, diminishing confidence in the sheriff's office, and/or social media policy, specifically, "Posts that are vulgar or obscene, content containing excessive name calling, profanity, fighting words, discriminatory epithets, sexual harassment, bullying, abusive language or posts that content amounts to advocating criminal activity or law violations." The posts that we have talked about today, do you consider them to be consistent with these policies? The King County Sheriff's office policies?

Det. Brown:

Looking at it now, yes.

Sgt. Sampson:

Okay. On section two, if you have that, section 2A, "When using social media, department members should be reminded that third parties, including criminal defense investigators or attorneys may locate text, graphic postings." Did you take that into consideration, considering the fact that the sheriff's office, we're often engaged in high level investigations and our personal, maybe even Facebook page expressions sometimes could be used against us by maybe defense attorneys who want to diminish our credibility. Did you take that into consideration when making these posts?

Det. Brown:

I was aware of it, of what they do. I was aware of that and how they can use the social media posts. Did I take into consideration with those? No, I did not. But I was aware that they do that.

Sgt. Sampson:

What sort of feedback did you get? You said you took your Facebook page down fairly soon after you started getting messages.

Det. Brown:

Death threats.

Sgt. Sampson:

Okay. Tell me about that. What was coming in and what kind of feedback were you getting?

Det. Brown:

On one hand, I was getting an awful lot of support and guys saying, "Hang in there." And then I took it when the death threats started coming in, that's when I took it down.

Sgt. Sampson:

When did you start getting this stuff?

Det. Brown:

Midnight, July 5th.

ANALYSIS

The Criminal Intelligence Unit has the responsibility to monitor significant incidents, issues and criminal activity. The Executive Protection Unit is part of the Criminal Intelligence Unit. Detective Brown was embedded with the Criminal Intelligence Unit as they monitored the protests, riots, unrest, situations and events as they unfolded in Seattle, the region and occurred across the country. In his interview Detective Brown referenced working in the situation room. *"So I was down in the situation room at our office with all the other guys. So we're watching this, these live streams of what's going on up there, and the SPD guys were just taking the heat"*. Brown's claims that he did not associate his posts with a theme of violence against protesters lacks credibility. His assignment and the responsibilities placed him during the monitoring of the unrest, protest and riot activity, with access to significant information flowing through the situation room, often in real time, concerning the unrest and related or current issues related to protests in general are not supportive of his statement.

A reminder of the social media policy was published to all employees via GIB in November 2018 (GIB 18-480), which alerted employees to review the policy if they did not understand the restrictions on their use of social media. The social media policy warns members to be aware of how their social media postings can have adverse impacts, and also warns that posted information can be shared by others beyond your privacy settings.

The King County Sheriff's Office recognizes an employee's right to First Amendment protections, but when the expression leads to disruption of the KCSO and undermines its mission, the interests of the Sheriff's Office can outweigh the interest of the employee to express their beliefs. The analysis includes balancing the public interest in matters of public concern and potential disruption to the operations of the Sheriff's Office. The public outcry since the officer-involved death of George Floyd on May 25, 2020, is arguably the most significant series of protests across the nation for at least a decade if not more. The Seattle area had significant unrest, protest and riot activity. Detective Brown, a long term and experienced member of the Sheriff's Office was in a position to observe the raw details as they unfolded. The overwhelming focus of the 2020 protests is the impact of police officers using force against citizens of color. Nearly every employer and organization across the nation has been confronted with the demands of protesters for racial equity and justice. This is particularly true with law enforcement agencies. The Sheriff implemented emergency orders and policies responsive to the public's demand for improved practices. The amount of complaints against Detective Brown numbered in the hundreds. The complaints were fielded by members of the King County Sheriff's Office significantly hampered other duties. Many of the complainants questioned the Sheriff's Office and Detective Brown's ability to effectively engage in law enforcement within our community. Many complainants demanded Detective Brown's immediate termination. Posting the series of message, comments or clips that appear to be tied to utilizing violence against protesters and one that seems to mock the loss of life of a person protesting calls into question Detective Brown's judgement.

A crucial goal of the King County Sheriff's Office is to "Develop and sustain public trust and support while reducing crime and improving the community's sense of safety." The actions of Detective Brown undermine, rather than sustain, public trust. His professed lack of intent is not the only measure of culpability. At minimum, these posts

demonstrated incredibly poor judgement and lack of sensitivity. At worst, the posts were written to promote violence against people expressing views that police agencies engage in biased based policing.

The subject matter as well as the time proximity associated between the *"All Lives Splatter"* and the *"I see a couple of people got infected with Covid-19 from the hood of a car on I-5 last night"* are too closely related not to consider the posts as related. Each post has a nexus to current events in our area. The historical photo of protesters blocking I-5 includes the comment, *"I think a few anti-war protesters were, spitting out their teeth back then. The Black Hats had arrived"*. Based on the timing of the post and the content, it is difficult not to associate it with current events. In his interview, Detective Brown offers explanation for his comment as some historical information passed on to him. The comments as written in the post do not come with the context later offered by Detective Brown. The comments are stand-alone snippets for the reader to interpret. It would not be a large leap for one to believe the statement is condoning violence against protesters.

The same thing could be interpreted for the Tombstone post. The post was tied to Seattle Police moving into the CHOP/CHAZ. Without context, the movie clip leans toward law enforcement acting with violence. Continuing in this theme, the *"When in doubt... Knock 'em out"* posting is consistent with a timeframe of the other posts and the ongoing unrest and protest. The video shows a woman getting struck by a police officer. This caption by Detective Brown associated to the video leaves little room for interpretation. He indicates he didn't come up with the phrase, the phrase is a philosophy adopted by an outlaw motorcycle gang. Detective Brown said he was not attempting to convey anything regarding the use of force. It was *"a typical thing on Facebook where somebody posts a video and I shared it. That's all it was."* Reposting or sharing the video would be less of an issue without the knock out comment. As posted it suggests a police officer respond by knocking people out. Taking such action is contrary to and a violation of Sheriff's Office Policy and Washington State Law.

The RCW 9A.16.010 definition of "Necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended.

RCW 9A.16.020

Use of force - - When lawful.

The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases:

- 1) Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting the officer and acting under the officer's direction
- 2) Whenever necessarily used by a person arresting one who has committed a felony and delivering him or her to a public officer competent to receive him or her into custody;
- 3) Whenever used by a party about to be injured, or by another lawfully aiding him or her, in preventing or attempting to prevent an offense against his or her person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his or her possession, in case the force is not more than is necessary;
- 4) Whenever reasonably used by a person to detain someone who enters or remains unlawfully in a building or on real property lawfully in the possession of such person, so long as such detention is reasonable in duration and manner to investigate the reason for the detained person's presence on the premises, and so long as the premises in question did not reasonably appear to be intended to be open to members of the public;
- 5) Whenever used by a carrier of passengers or the carrier's authorized agent or servant, or other person assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than is necessary to expel the offender with reasonable regard to the offender's personal safety;
- 6) Whenever used by any person to prevent a mentally ill, mentally incompetent, or mentally disabled person from committing an act dangerous to any person, or in enforcing necessary restraint for the protection or restoration to health of the person, during such period only as is necessary to obtain legal authority for the restraint or custody of the person.

On June 21, 2020, amid some of the other post by Detective Brown, he commented "Say what? The CHAZ/CHOP have renamed Cal Anderson Park the, Lil Renz's Last Stand Park". Detective Brown said he was not trying to make light of Lorenzo Anderson's death.

This post is troubling. The very nature of making a statement declaring the name change of Cal Anderson Park to "Lil Rez's last stand Park" does not in any way seem to be pointing out the serious nature of the murder as indicated in Detective Brown's statement. The post was made the day following the murder. Details of the investigation were not readily known to the public. The very nature of a "last stand" statement implies someone's final attempt to defend themselves before they are defeated. The implications of the statement was not measured in comparison to the insensitivity before posting. In the end Detective Brown acknowledges the viewing of his post could be seen as mocking, even if it was not his intent.

The investigation makes clear that members of the public are aware that Brown is a KCSO member of the King County Sheriff's Office and find his postings highly offensive. The scope and breadth of complaints to the Sheriff's Office was more than significant. The disruption to Internal Investigation, the Chief of Staff and Public Relations were impacted and substantial resources were diverted to carefully record, evaluate and respond to hundreds of complaints from across the region and the country. Responding to the emailed complainants, providing information and clarity about policy, investigation and the discipline process. Acknowledging complaints via social media posts and reassuring complainants the investigation was in process. Administrative staff at precincts regularly received phone calls about the situation that needed to be documented or redirected downtown. Detective Brown's post brought the Sheriff's Office to a new level of demands for action by citizens. The actions Detective Brown took to close out his personal social media account after receiving death threats provides additional insight into the impact felt by many of those who viewed the post. The Sheriff's Office does not have the option to close down social media and ignore the outcries. Remaining responsive and acting in accordance with our policy and core values, accountability and transparency continued to be the course of action in the midst of the diminished confidence of the public and the loss of respect for Detective Brown.

RECOMMENDED FINDINGS

I have thoroughly reviewed all the documents, statements, evidence, and information collected for this investigation. Based on my review, applying clear and convincing as the standard of proof for the first two allegations, I recommend the following findings outlined below:

I recommend a finding disposition of **UNFOUNDED** for the allegation of Discrimination, Harassment, Incivility, and Bigotry. Current policy states "Members **while on duty** shall not engage in discussion or conduct"... Detective Brown was not on duty when the posts were made to social media. A review of this policy is recommended. Acts of discrimination regardless of duty status need to be evaluated.

I recommend a finding disposition of **SUSTAINED** for the allegation of Conduct Unbecoming. The allegation is supported by sufficient factual evidence and is a violation of policy. Conduct Unbecoming is not limited to on duty events. As outlined in Sheriff's Office Policy GOM 3.00.005: A law enforcement agency must maintain a high level of personal and official conduct if it is to command and deserve the respect and confidence of the public it serves. Rules and regulations governing the conduct of members of the Sheriff's Office ensure that the high standards of the law enforcement profession are maintained. Issues of honesty and integrity are of paramount importance in the operation of the Sheriff's Office. The purpose of this section is to provide guidelines and instructions concerning employee conduct and responsibility for all members in all of their activities, whether official or personal. Members will be evaluated based on whether or not their actions assist the King County Sheriff's Office in fulfilling its stated mission that the King County Sheriff's Office is a trusted partner in fighting crime and improving quality of life and reaching its goals.

Detective brown is a 40-year veteran of law enforcement who holds a position that requires the ability of discretion and professionalism. A lapse in judgement could describe a single incident or one-time post. Examining the posts on an individual basis is only part of the process. It is also important to review this investigation from the perspective of the totality of the situation. Review of these post from the totality of the situation provides a perspective showing Detective Brown's repetitive posting behavior contains a related theme and associates the posts to the protests and unrest.

Based on the review, applying a preponderance of evidence as the standard of proof, I recommend a finding disposition of **SUSTAINED** for the allegation of Acts in violation of Sheriff's Office directives, rules, policies or

procedures: Use of Social Media: Post content that amounts to advocating criminal activity or law violations. Posting "When in doubt, Knock 'em out" is advocating the use of violence against a person without a measured response. This is contrary to Washington State Law. Additional posts appear to support or advocate violence.

Allegation 1:

UNFOUNDED

GOM 3.00.015 (1)(g)

PERSONNEL CONDUCT: RULES OF CONDUCT: SERIOUS MISCONDUCT: Discrimination, Harassment, Incivility, and Bigotry:

This policy applies to on-duty conduct, and therefore does not apply to the conduct here.

Allegation 2:

SUSTAINED

GOM 3.00.015 (2)(k)

PERSONNEL CONDUCT: RULES OF CONDUCT: MISCONDUCT (causes for discipline): Any sustained misconduct charges in the following categories will be considered serious violations of the core values of the King County Sheriff's Office. Violations of these rules may result in discipline up to and including termination.

Conduct Unbecoming: means behavior that generally tends to:

- Diminish respect for the Sheriff's Office or member.
- Diminish confidence in the operation of the Sheriff's Office.
- Adversely affect or impair the efficiency of a member.
- Adversely affect the morale or discipline of the Sheriff's Office.

Allegation 3:

SUSTAINED

GOM 3.00.020 (1)(d)

PERSONNEL CONDUCT: PERFORMANCE STANDARDS:

Acts in violation of Sheriff's Office directives, rules, policies or procedures as set out in this manual, or elsewhere.

Specific Policy:

GOM 14.00.075 (1)(i)

USE OF SOCIAL MEDIA:

14.00.075 USE OF SOCIAL MEDIA: 03/13

For the purpose of this policy:

Social Media means: A category of internet-based resources that integrate user-generated content and user participation. This includes, but is not limited to, social networking sites, microblogging sites, photo and video sharing sites, wikis, blogs, and news sites.

3. When using any social media department members shall not:

- j. Post content containing excessive name calling, profanity, fighting words, discriminatory epithets, sexual harassment, bullying, or gruesome language.
- k. Post content that amounts to advocating criminal activity or law violations.

Command comment section: