In-Custody Death Investigation of Albert Fredericks

Seattle Police Department
Force Investigation Team #2017FIT-0024

King County Prosecuting Attorney

Public Integrity Team

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DANIEL T. SATTERBERG
PROSECUTING ATTORNEY

King County

Office of the Prosecuting Attorney
CRIMINAL DIVISION
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000

DECLINE MEMORANDUM

In-Custody Death of Albert Fredericks

WARNING – This memorandum contains images and descriptions of violence that may be offensive and disturbing to some readers. The images and descriptions are included to provide the reader with the most accurate information regarding the topic of this memorandum.

I. FOREWORD

It is important to note that the role of the KCPAO in these types of investigations is only to determine the sufficiency and efficacy of admissible evidence to prove a criminal charge beyond a reasonable doubt. By rendering these determinations, and in either filing charges or declining to file charges, the KCPAO does not intend to render opinions as to whether training was followed or not, or whether there is civil or administrative liability. We only consider whether a criminal charge is likely to unanimously be proven beyond a reasonable doubt to twelve jurors.

II. OVERVIEW

In King County, an inquest is required when any action by law enforcement might have contributed to an individual's death. King County Charter Section 895. In 2017, the KCPAO reviewed the completed investigation into the in-custody death of Albert Fredericks and the Chief Criminal Deputy initiated the inquest process. This memorandum is intended to provide a summary of the evidence that would be admissible in a criminal trial and a legal analysis of potential criminal liability and statutory defenses on the part of Seattle Police Department Involved Officer #1, Involved Officer #2, Involved Officer #3, Involved Officer #4, and Involved Officer #5.

III. SUMMARY OF ADMISSIBLE EVIDENCE

The significant admissible evidence in this case consists of BWV, 911 calls, the in-car video, video surveillance, and the CSI report/photographs/evidence collected at the scene.

On November 17, 2017 at approximately 11:00 PM, 911 callers reported that a panicked male was in the intersection of Aurora Ave. North and North 105th Street in Seattle holding a phone and asking for help. One caller believed the male was in danger of being struck by a car. The subject of the 911 calls, Mr. Fredericks, also called 911 requesting help because he believed people were trying to kill him. At 11:12 PM, Involved Officer #1 and Involved Officer #2 responded to the location with their emergency lights activated. When they arrived, the observed Mr. Fredericks in the intersection. From their patrol car both officers told Mr. Frederickson to get

out of the street and go to the sidewalk. Mr. Fredericks ultimately complied and walked to the sidewalk on the southeast corner, on the north side of Seattle's Family Dentistry. Involved Officer #1 parked the patrol car at the southeast corner of the intersection and both officers approached Mr. Fredericks on foot. Mr. Fredericks told the officers that someone was chasing him. He also said he wanted to go home. The officers offered him a ride. Mr. Fredericks stated that he did not trust them. The officers continued to offer him a ride home. He continued to refuse and said he would go back into the street. The officers told him they would not let him go back into the road and that he had two options, go home or go to the hospital. After approximately ten minutes the officers decided to break contact with Mr. Fredericks and drove to the parking between Seattle Family Dentistry and Sherwin-Williams in order to observe Mr. Fredericks. One officer complained, "Man, I do not want to use force against this guy in the middle of this intersection."

From their vantage point they observed Mr. Fredericks reenter the intersection. On their BWV, one can hear other cars honking their horns presumably at Mr. Fredericks. Involved Officer #1 then requested a backup unit. While waiting for the backup unit, Involved Officer #2 observed a Metro bus almost strike Mr. Fredericks. The officers decided to reinitiate contact before the backup unit arrived. The officers contacted Mr. Fredericks in their squad car a second time; they told Mr. Fredericks to go to the sidewalk. Mr. Fredericks did not comply, so Involved Officer #1 parked the patrol car at the southeast corner of the intersection in order to confront him.

Both officers approached Mr. Fredericks on foot. Mr. Fredericks refused to exit the street at which point Involved Officer #2 reached toward Mr. Fredericks and said, "Come on buddy." When Involved Officer #2 made contact with Mr. Fredericks, Mr. Fredericks began screaming "No. Where are you taking me?" In order to walk him to the sidewalk, Involved Officer #2 took hold of Mr. Fredericks placing his left hand on Mr. Fredericks' wrist and his right hand on Mr. Fredericks' elbow. Involved Officer #1 took hold of Mr. Fredericks' right arm. Mr. Fredericks tensed and pushed and pulled. Involved Officer #2 said, "We just want to help you, buddy." Mr. Fredericks immediately shouted, "Help!" numerous times and continued screaming throughout the process. Involved Officer #2 told him to stop fighting. Mr. Fredericks broke away from Involved Officer #1 and began to move toward the intersection. Mr. Fredericks continued to yell

for help as he struggled.

To prevent Mr. Fredericks from reentering the intersection, the officers decided to take Mr. Fredericks to the ground. Involved Officer #2 placed his right leg behind Mr. Fredericks' left leg, while Involved Officer #1 placed his right leg behind Mr. Fredericks' right leg. Both officers pushed Mr. Fredericks in a backwards direction to the ground. Mr. Fredericks was laying on his back with each officer holding down an arm. Involved Officer #1 patted Mr. Fredericks' chest while saying, "There you go. There you go. It's ok. It's ok. Albert, it's ok, it's ok, breathe. Breathe. Breathe." Mr. Fredericks stated that he would not enter their squad car and wanted an ambulance which was requested. Mr. Fredericks resisted, attempting to stand up. Both officers pushed him back to the ground until he was on his right side. Mr. Fredericks continued trying to stand up. The officers pushed him to the ground on his back. As the officers waited for backup, Involved Officer #2 assumed a tabletop position and Involved Officer #1 assumed a sprawl position to maintain control over Mr. Fredericks. Mr. Fredericks continued to struggle and yell. As the sirens of the backup became audible, Mr. Fredericks stated, "Here come the real cops."

Backing Involved Officer #3, Involved Officer #4, and Involved Officer #5 assisted with getting control of Mr. Fredericks. They rolled Mr. Fredericks onto his stomach. Involved Officer #5 and Involved Officer #2 took control of his arms as Involved Officer #4 and Involved Officer #3 took control of his legs. Involved Officer #1 had his left hand on Mr. Fredericks' back as he used his right hand to assist Involved Officer #2 with gaining control of Mr. Fredericks' left arm. Involved Officer #2 and Involved Officer #5 held Mr. Fredericks' arms behind his back as Involved Officer #1 applied the handcuffs. Mr. Fredericks complained of pain several times as the handcuffs were applied. After he was handcuffed, the officers rolled him onto his side into the recovery position. He stopped struggling, talking, or responding at the that time. Mr. Fredericks was on his stomach for approximately one minute and thirty seconds during the handcuffing process.

The AMR ambulance then arrived. Involved Officer #4 asked if Mr. Fredericks was snoring and subsequently asked if he was breathing. Involved Officer #5 stated he could hear Mr. Fredericks breathing. Officers assisted by lifting Mr. Fredericks onto the gurney and removing the handcuffs. Soft restraints were placed on him. He appeared pale to the EMTs and they placed a blanket over him. He also appeared non-responsive. A carotid pulse of 40 beats per minute was

detected. The EMT did not believe that the fire department's assistance was needed. The ambulance moved out of the roadway, to the parking lot between Sherwin-Williams and the Seattle Family Dentistry. One EMT then checked for the carotid pulse a second time but was unable to locate it. The EMT discovered that Mr. Fredericks was not breathing. Involved Officer #2 immediately called for Seattle Fire to respond and the EMTs began performing CPR. Seattle Fire responded and continued CPR for approximately twenty-five minutes before declaring Mr. Fredericks deceased.

Mr. Fredericks was found to have in his system, at the time of his death, alcohol and methamphetamine. He also had hypertension and cardiovascular disease. The medical examiner initially ruled that the manner of death to be accidental, but later changed its opinion finding the cause of death to be undetermined.

An inquest was held in April of 2023. The case was presented to an inquest jury of 6 who eventually answered 166 interrogatories detailing their findings. The inquest jury found that the officers' use of force was not criminal.

IV. LEGAL STANDARD

In making a criminal charging decision, the King County Prosecutor's Office is bound by state law in effect at the time of the incident. In 2017, former RCW 9A.16.040 in conjunction with the state's burden of disproving self-defense claims beyond a reasonable doubt requires the prosecutor to establish at trial that a homicide committed by an officer was done with malice and in bad faith.

Former RCW 91.16.010(1)(b) provides that homicide or the use of deadly force is justifiable when necessarily used by a peace officer in the discharge of a legal duty. "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.16.010(1). A public officer or peace officer shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable pursuant to this section. RCW 91.16.010(3).

V. ANALYSIS AND CONCLUSION

Under RCW 9.94A.411(2)(a), criminal prosecution is warranted whenever sufficient admissible evidence exists which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact finder. RCW 9.94A.411(2)(a).

While a significant amount of testimony admitted at the inquest would not be admissible in a criminal trial, it is likely that a criminal jury would hear from policy and training experts about the use of deadly force and alternatives. The inquest jury found that Involved Officer #3, Involved Officer #4, Involved Officer #2, Involved Officer #1, and Involved Officer #5 did not use what would be typically classified as deadly force. (Interrogatory 122). Only four jurors found that the force used by Involved Officer #2 and Involved Officer #1 was a proximate cause of the Mr. Fredericks' death. (Interrogatory 162). Nevertheless, each of those jurors found that the force used by Involved Officer #2 and Involved Officer #1 was necessary to affect a lawful purpose. (Interrogatory 163). The jury found that the officers acted in good faith. (Interrogatory 164). And there is no substantively admissible evidence that the officers acted with malice. Thus, criminal charges could not be proven at trial beyond a reasonable doubt.

VI. CONCLUSION

To prosecute the involved officers for any degree of homicide arising from the death of Mr. Fredericks, the State would have to disprove justifiable homicide under the "malice" and "good faith" standards. There is no evidence to overcome this defense. We therefore decline to file criminal charges as a result of this incident.