

Use of Force Fatality of
Denis Rodriguez Martinez

Seattle Police Department
Force Investigation Team, #2019FIT-0004



King County Prosecuting Attorney
Public Integrity Team

July 9, 2024



DECLINE MEMORANDUM

Law Enforcement Use of Force Fatality Regarding: Denis Rodriguez Martinez

July 9 2024

I. INTRODUCTION

1. Purpose of the Memorandum

The King County Prosecuting Attorney's Office (KCPAO) is mandated by law to analyze certain incidents regarding police use of force and to determine if the action was justified or if there was a criminal action such that criminal charges should be filed.¹ Because the investigation and analysis are mandatory if specific criteria are met, the KCPAO's review of an incident does not implicitly signal that the use of force was either justified or that criminal charges are appropriate. Instead, the KCPAO is required to assist in independent investigations involving police use of deadly force to enhance accountability and increase trust to improve the legitimacy of policing for an increase in safety for everyone.²

Pursuant to the Law Enforcement Training and Community Safety Act, an independent investigation must be completed when the use of deadly force by a peace officers results in death, substantial bodily harm, or great bodily harm.³ The independent investigation is conducted in the same manner as a criminal investigation.⁴

¹ Except as required by federal consent decree, federal settlement agreement, or federal court order, where the use of deadly force by a peace officer results in death, substantial bodily harm, or great bodily harm, an independent investigation must be completed to inform any determination of whether the use of deadly force met the good faith standard and satisfied other applicable laws and policies. RCW 10.114.011. Similarly, if the Office of Independent Investigation is the lead investigation agency, the prosecutorial entity must review the investigation. RCW 43.102.020. 2021 c 318 § 101.

² Id. See also WAC 139-12-010.

³ RCW 10.114.011. See also WAC 139-12-010.

⁴ WAC 139-12-010.

Additionally, the KCPAO shall inform the King County Executive whenever the investigation into a death involving a member of any law enforcement agency in King County is complete and also advise whether an inquest should be initiated in accordance with the King County Charter.⁵ There shall be an inquest into the manner, facts, and circumstances of any death of an individual where an action, decision, or possible failure to offer the appropriate care by a member of any law enforcement agency might have contributed to an individual's death unless the County Executive determines, based on a review of the investigation, that the role of law enforcement was de minimis and did not contribute in any discernable way to a person's death.⁶

2. Scope of the Memorandum

The KCPAO's determination if the police action was justified or if there was a criminal action such that criminal charges should be filed is based entirely on the investigation materials provided to the KCPAO, relevant criminal laws, rules of evidence governing criminal proceedings, the applicable burden of proof, and the KCPAO's Filing and Disposition Standards. This determination is not intended to address matters outside the scope of this memorandum including, but not limited to, an administrative action by the involved agency or any other civil action. The KCPAO expresses no opinion regarding the propriety or likely outcome of any such actions.

3. Status of the Independent Investigation

After a thorough review of the independent investigation and applicable laws, the Special Operations Unit Public Integrity Team (the Team) has determined the investigation into this matter is complete.

⁵ Executive Order PHL 7-1-5 EO.

⁶ Id.

II. OVERVIEW

On February 7, 2019, Seattle Police Department officers were dispatched to an apartment in response to a 911 call where the caller reported a female was screaming for help. When police arrived at the apartment, there was no response, but police received subsequent information that someone may have been killed inside the apartment. Police forced entry into the home and discovered a decapitated female on the floor. Denis Rodriguez Martinez (Rodriguez Martinez) came into view armed with a large kitchen knife. Rodriguez Martinez initially complied with the officers' commands to put down the knife, but he picked up the knife and a meat cleaver. Rodriguez Martinez approached the officers and they discharged their handguns at Rodriguez Martinez, striking him. Officers provided first aid until medics arrived, but the medics pronounced Rodriguez Martinez as deceased.

III. INVESTIGATION AND EVIDENCE

1. Independent Investigation Team Reports
2. Police Reports – Seattle Police Department
3. Civilian Statements
4. CAD
5. Other Police Reports
6. Search Warrants
7. Crime Scene Investigation
8. Crime Laboratory
9. Medical
10. Involved Officer Information
11. Subject Information
12. 911 Call and Radio
13. Audio
14. Body Worn Video
15. In-Car Video
16. Other Video

17. Photos

IV. **INVESTIGATION SUMMARY**⁷

1. **Information Before and During the Use of Force**

The following information is based upon witness observations, the Seattle Police Department (SPD) computer aided dispatch (CAD) report, recorded police radio, 911 recordings, body worn video (BWV) cameras, and in-car video (ICV) cameras from February 6, 2019.

At approximately 10:50 p.m., Rodriguez Martinez entered Dockside Cannabis, located at 8401 Aurora Ave N. Store employees noted that Rodriguez Martinez walked around the store while mumbling incoherently to himself in Spanish. The employees believed that Rodriguez Martinez was under the influence of narcotics, planning to rob the store, or both. The employees could only understand when Rodriguez Martinez said “police,” so they called 911.⁸ However, Rodriguez Martinez would not speak on the phone, so an employee escorted Rodriguez Martinez outside to wait for an officer. The employee later reported to police that Rodriguez Martinez continued to ask for police and speak to himself. The employee recalled Rodriguez Martinez said that people were watching him. Eventually, the employee saw Rodriguez Martinez follow a group of people to a gas station across the street.

At approximately 11:06 p.m., officers arrived at an incorrect Dockside Cannabis location because the same phone number is associated with all the Dockside Cannabis locations.

At approximately 11:23 p.m., Rodriguez Martinez approached two civilians pumping gas at the gas station across the street from Dockside Cannabis. The civilians were wearing work uniforms that appeared like SPD uniforms. The civilians believed that Rodriguez Martinez was under the influence of narcotics. The civilians called 911 for Rodriguez Martinez using his phone and requested a Spanish interpreter. However, instead of talking with the 911 operator, Rodriguez Martinez repeatedly handed the phone back to the civilians. Eventually, the civilians left the gas station, leaving Rodriguez Martinez.

⁷ The Investigation Summary is based upon the investigation and evidence outlined in Section III. When necessary, the Team will identify the source of the information. It is common for witnesses, including law enforcement officers, to provide multiple statements about the events witnessed. Similarly, it is common for multiple witnesses to provide information about the same event. If a witness provides multiple statements and the statement contains material and substantial differences that could affect the investigation or analysis, the Team will identify information that is materially and substantially different. However, if the information has a de minimis effect on the investigation or analysis, the differences may not be identified. Similarly, although some events may be observed by more than one witness, the Team may not summarize each witnesses’ statement unless it has a material and substantial effect on the investigation and analysis.

⁸ SPD #19-48281.

At approximately 3:22 a.m., Civilian Witness 2 called 911 to report he heard a female screaming in Spanish and he heard loud footsteps coming from the apartment directly above him. Involved Officer 2 arrived at 3:28 a.m. and spoke with Civilian Witness 2 who was still on the phone with 911. Witness Officer 1 and Involved Officer 1 arrived shortly after and the three officers proceeded to unit #301. As the officers approached the apartment, they did not hear fighting, crying, screaming, or any noise associated with violence. Involved Officer 2 knocked on the door to unit #301 and repeatedly asked if anyone inside needed assistance, but there was no response. The officers updated dispatch and began to exit the area. On his way out of the building, Involved Officer 2 spoke with Civilian Witness 2 to gather more information.

Civilian Witness 1 and her husband were afraid to leave the room, so Civilian Witness 1 called her cousin who advised Civilian Witness 1 to call 911. As Civilian Witness 1 called 911, she heard Victim 1 yell to another individual in the apartment, Civilian Witness 3, to help her. She also heard a loud bang on their door. While speaking with the 911 operator, Civilian Witness 1 heard Rodriguez Martinez say something to the effect of, "It's better that I kill you cause I'm never gonna see my mother again." Civilian Witness 1 heard Victim 1 say, "Help me!" and Rodriguez Martinez say something to the effect of, "I'm going to kill you and take a video so all will see how I left you."

At approximately 3:29 a.m., the dispatcher updated the officers that Civilian Witness 1, located inside unit #301, called 911 and repeatedly stated, "He killed her." After confirming the correct apartment and based upon the information known, Involved Officer 2 said he intended to open the door by kicking it open. A supervisor who was monitoring the progress of this investigation via radio concurred with Involved Officer 2's decision to force open the door.

At approximately 3:40 a.m., unbeknownst to the officers at the time, someone updated Victim 1's Facebook profile image, which showed her decapitated head on the floor between her feet.⁹

At approximately 3:41 a.m., the officers outside of unit #301 successfully breached the apartment door and entered the apartment. As Involved Officer 2, Witness Officer 1, and

⁹ When SPD learned about the photograph, a detective immediately contacted Facebook to remove the images.

Involved Officer 1 entered the apartment, they loudly announced their presence and identified themselves as police officers. Immediately to their left were two makeshift sleeping areas, separated by sheets. To their right was a small eating area and small kitchen.



As the officers proceeded further into the apartment, they observed a closed door which appeared to be significantly damaged. Officers heard someone speaking fast and unintelligibly from behind the door. Involved Officer 2 breached this door by kicking it.



Figure 3 - Screenshot of Involved Officer 1's BWV, which shows the damaged door prior to officers forcing it open. Inside the room, officers located Rodriguez Martinez and Victim 1.

Initially the officers could not open the door because Victim 1's deceased body was on the floor, blocking the door from fully opening. When the door opened, Involved Officer 1 and Involved Officer 2 observed Victim 1's body and observed Rodriguez Martinez holding a large kitchen knife and a meat cleaver. The officers immediately gave repeated, loud commands, such as "Get down!" and "Drop the knife!" in addition to identifying themselves as police officers. Rodriguez Martinez initially dropped the knives and laid down on the mattress that was placed on the floor. However, he continuously looked at the officers, yelling a mixture of Spanish, English, and unintelligible words. Although the officers inside the apartment could not speak Spanish, they continued to identify themselves as "Police!" and "Policía!"

As Involved Officer 1 moved closer to the door, he exclaimed "Oh snap, oh, her head is cut off, oh fuck!" While continuing to instruct Rodriguez Martinez, the officers noted the massive amount of blood near Victim 1. Rodriguez Martinez rose up, facing the officers and demanded to see a "placa," which is Spanish for badge. The officers continued to give Rodriguez Martinez instructions, such as "Get down!" and "Do not touch the knife!" The officers also noted

that there was another room they had not accessed and they were concerned, based on the 911 calls and what they had observed, that an additional victim may still be inside the apartment and they were unsure of their condition.

Rodriguez Martinez began looking around the mattress and the officers yelled, "Get down," "Don't. Please don't do this. We will shoot you," and "Don't do it!" Rodriguez Martinez, however, stood to his feet and continued looking around the mattress area and floor area. Involved Officer 1 stated he was going to holster his weapon and attempt to grab Rodriguez Martinez while Involved Officer 2 continued to provide lethal cover. As Involved Officer 1 began moving, Rodriguez Martinez picked up the kitchen knife and reached across the bed for the meat cleaver. Rodriguez Martinez began wildly waving his hands and raised his arms over his head while lifting his leg and moving towards the officers' location. Involved Officer 1 and Involved Officer 2 discharged their department-issued handguns at Rodriguez Martinez, striking him, and knocking Rodriguez Martinez to the ground. As Rodriguez Martinez fell to the ground, it appeared that he threw the kitchen knife in the direction of the officers and the knife landed near their feet. The officers entered the room and began providing first aid to Rodriguez Martinez until medics arrived.

At approximately 3:47 a.m., medics arrived to continue aid, however, they determined that Rodriguez Martinez was deceased. Medics and officers devised a plan to extract Civilian Witness 1, her husband, and their children from the apartment without disturbing potential evidence or exposing them to the bodies of Rodriguez Martinez and Victim 1.



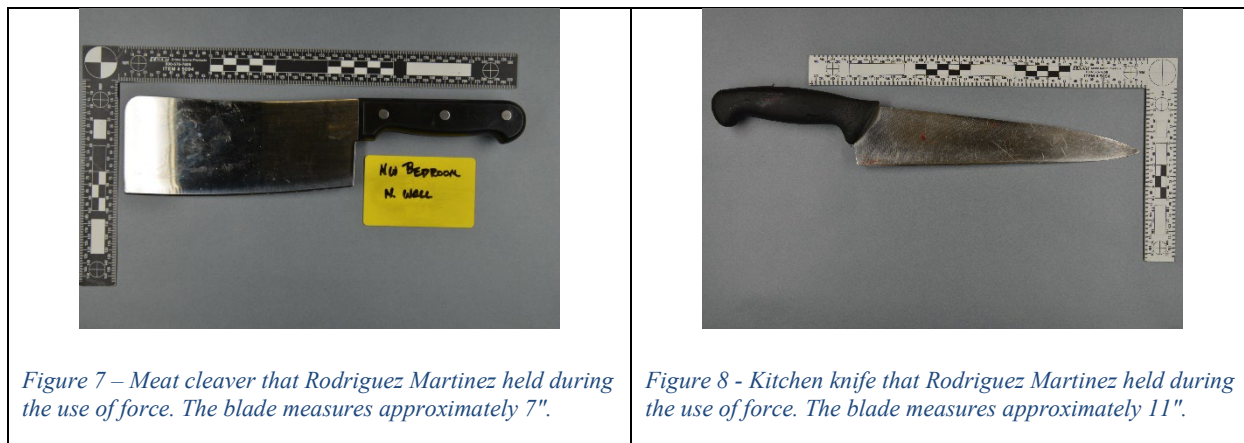
Figure 4 - Screenshot from Involved Officer 2's BWV, which shows Rodriguez Martinez holding a meat cleaver.



Figure 5- Screenshot from Involved Officer 2's BWV, which shows Rodriguez Martinez holding a kitchen knife.



Figure 6 - Screenshot from Involved Officer 1's BWV, which shows Rodriguez Martinez holding a kitchen knife as he moves closer to the officers.



2. Independent Investigation Conducted by the Seattle Police Department

As other officers arrived, the police secured the incident scene. The SPD Force Investigation Team (FIT) responded to the scene and to conduct an independent investigation. Given that it was unclear who caused Victim 1's death, the SPD Homicide Unit also assisted in the investigation. However, the primary focus of FIT was the involved officers' use of force, whereas the primary focus of the Homicide Unit was determining who caused Victim 1's death. Investigator 1 was assigned as the lead investigator for FIT. Her team divided assignments between themselves and began their investigation.

3. Processing of the Officers

As part of standard practice, FIT determined which officers used force. Investigators determined that the involved officers were Involved Officer 1 and Involved Officer 2. Regarding Involved Officer 1, FIT reported that his handgun contained one unfired cartridge in the chamber and fourteen unfired cartridges in the magazine. His two spare magazines each contained seventeen unfired cartridges. Regarding Involved Officer 2, FIT reported that his handgun contained one unfired cartridge in the chamber and fourteen unfired cartridges in the magazine. His two spare magazines contained seventeen and sixteen unfired cartridges. Investigator 1 reviewed the training records for Involved Officer 1 and Involved Officer 2. She verified that the officers were up to date with their training and qualifications.

4. Civilian Witnesses

a. Civilian Witness 3

Civilian Witness 3 provided a statement to the police. Civilian Witness 3 reported he was asleep in one of the cordoned off areas of the apartment when he was awakened to yelling between Rodriguez Martinez and Victim 1. Victim 1 was yelling for help, he heard a lot of noise, which was followed by silence. When it became quiet, Civilian Witness 3 saw Rodriguez Martinez enter the kitchen and retrieve two knives, which Rodriguez Martinez used to damage the hallway door. Civilian Witness 3 reported he feared Rodriguez Martinez because he was “acting crazy” so he left the apartment.

b. Civilian Witness 4 (9 years old)

Civilian Witness 1’s son, Civilian Witness 4, provided a statement during a forensic child interview. Civilian Witness 4 reported hearing a noise like “the husband was killing her.” He did not know what the man had in his hand, but he knows that he hit her with a chair. His mom told him that the woman was dead. He and his parents heard the police outside but they could not open the door because they did not have a key. He reported that the man was going to make a video of the woman but the police came. He said that the police shot the man because “he was hard to catch.” He reported he was sure that the man was killing the lady because “we could hear.” He also heard the woman “asking for help” and she said, “call the police.” After the man finished killing the lady, he heard the man wash his hands. Civilian Witness 4 reported that when the police came in, they told the man to put his hands up or they would kill him.

c. Civilian Witness 5 (6 or 7 years old)

Civilian Witness 1’s daughter, Civilian Witness 5, provided a statement during a forensic child interview. Civilian Witness 5 reported that she did not know what happened because her father covered her eyes because he did “not want her to see.” She stated the police came to their apartment because her mom called the police when they heard noises that a man was hurting a woman. When asked if she heard the man say anything, Civilian Witness 5 reported he asked, “Are you police?” and they responded, “Yes.”

d. Civilian Witness 6

Civilian Witness 6, who lived in an apartment in the same hallway of unit #301, provided a statement to police. She reported hearing someone trying to enter the apartment building at 3:30 a.m. or 3:40 a.m. She stated a person was pulling on the door for approximately twenty minutes and that it shook the whole building. Eventually the noise stopped and she heard someone kicking a door, yelling “Open up!” Approximately fifteen minutes later, she heard the police officers. She heard the police yell not to pick up the knife “over and over.” She estimated they made this request “fifty times” and the police were “begging and pleading.” She also heard the police identify themselves in Spanish.

e. Civilian Witness 2

Civilian Witness 2, who called 911, provided an additional statement to police. He lived in the apartment under unit #301 and recalled hearing loud footsteps above him. After a few minutes, he heard a woman screaming, crying for help in Spanish, and asking someone to call the police. He also heard the police officers repeatedly yell “drop the knife.”

5. Crime Scene Investigation

a. 3D Scan of Apartment

A crime scene investigator used a 3D scanner to measure the interior of the apartment. According to the scan, Rodriguez Martinez was approximately 68” away from Involved Officer 2 when the use of force occurred. Investigator 1 noted that if Rodriguez Martinez’s outstretched arm was approximately 24” inches long and he was holding an 11” kitchen knife, Rodriguez Martinez’s closest point to Involved Officer 2 was approximately 36” to 42” away.

b. Evidence Collection

Investigators collected several items of potential evidence from unit #301. During the search of the apartment, investigators collected five fired cartridge casings that were believed to be discharged by the involved officers. Based on the BWV, investigators believed that a total of six gunshots were discharged. Investigators conducted a second search to locate the sixth fired cartridge casing, but the search was unsuccessful.

6. Medical

a. Rodriguez Martinez

The King County Medical Examiner's Office performed an autopsy of Rodriguez Martinez, which opined the cause of death is multiple gunshot wounds sustained in a confrontation with police and the manner of death is homicide.¹⁰ The pathological diagnoses included evidence of five handgun wounds. The Washington State Patrol Toxicology Laboratory performed a drug analysis of Rodriguez Martinez's blood. The results showed that Rodriguez Martinez's blood tested positive for methamphetamine (490 ng/mL), and amphetamine (95 ng/mL).

b. Victim 1

The King County Medical Examiner's Officer performed an autopsy of Victim 1, which opined the cause of death is multiple sharp force injuries, including one hundred and sixty-eight superficial and deep sharp force injuries, during an assault. The manner of death is homicide. The Washington State Patrol Toxicological Laboratory performed a drug analysis of Victim 1's blood, which did not detect any drugs or ethanol.

7. Administrative Review

SPD FIT policies required a sergeant, a lieutenant, and a captain to review the investigation, which included compelled statements. Although training issues were identified, the training issues did not apply to the involved officers' actions during the use of force.¹¹

¹⁰ Homicide is defined as the killing of one person by another. HOMICIDE, Black's Law Dictionary (11th ed. 2019). Thus, the term homicide as used in an autopsy report refers to the mechanism of death and does not refer to legal liability or culpability.

¹¹ For instance, the reports noted that other officers should have asked the involved officers a series of public safety questions sooner than what occurred in this incident.

V. LEGAL STANDARD AND APPLICABLE LAW

1. Burden of Proof

The State must prove each element of a criminal charge by competent evidence beyond a reasonable doubt.¹² The KCPAO will file charges if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defenses that could be raised under the evidence, would justify conviction by a reasonable and objective factfinder.¹³

In addition, the State must disprove the existence of a defense that negates an element of the crime.¹⁴ Prosecution should not be declined because of an affirmative defense unless the affirmative defense is of such nature that, if established, would result in a complete defense for the accused and there is no substantial evidence to refute the affirmative defense.¹⁵ Therefore, the State may be required to disprove one or more of the following defenses:

- Justifiable Homicide by Peace Officer;¹⁶
- Justifiable Homicide Defense of Self or Others;¹⁷
- Justifiable Homicide Resistance to Felony;¹⁸

2. Applicable Law

This incident occurred on February 7, 2019; therefore, the applicable Justifiable Homicide by a Peace Officer instruction would require the State to prove the officer acted without good faith.¹⁹

¹² RCW 9A.04.100; WPIC 4.01.

¹³ KCPAO Filing and Disposition Standards.

¹⁴ WPIC 14.00.

¹⁵ Id.

¹⁶ RCW 9A.16.040; WPIC 16.01.

¹⁷ RCW 9A.16.050(1); WPIC 16.02.

¹⁸ RCW 9A.16.050(2); WPIC 16.03.

¹⁹ For offenses committed on or prior to December 6, 2018, the former version of WPIC 16.01, based upon RCW 9A.16.040, required the prosecution to prove the officer acted with malice. For offenses committed between December 7, 2018, and February 3, 2019, RCW 9A.16.040, based upon Laws of 2019, Chapter 1, § 7, removed the malice standard and required the prosecution to prove the officer did not act in good faith. There are no pattern jury instructions for offenses committed between December 7, 2018, and February 3, 2019. For offenses committed on or after February 4, 2019, the current version of WPIC 16.01, based upon RCW 9A.16.040, requires the prosecution to prove the officer did not act in good faith. RCW 9A.16.040(1)(a) utilizes the malice and good faith standard, but this section only applies when a “public officer applied deadly force in obedience to the judgment of a competent court.”

The following jury instructions, contained in Attachment A, would likely be applicable and are relevant to the Team's analysis and conclusion:

- Justifiable Homicide by a Peace Officer²⁰
- Necessary²¹
- Justifiable Homicide – Defense of Self and Others²²
- Great Personal Injury²³
- Justifiable Homicide – Actual Danger Not Necessary²⁴
- Justifiable Homicide – Resistance to a Felony²⁵

VI. ANALYSIS AND CONCLUSION

Under the KCPAO filing standards, “Homicide cases will be filed if 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. Prosecution should not be declined because of an affirmative defense unless the affirmative defense is of such nature that, if established, would result in complete freedom for the accused and there is no substantial evidence to refute the affirmative defense.”

The KCPAO declines to file charges against any of the involved officers because the independent investigation and the Team's analysis reveal that there is insufficient evidence to prove any criminal charges or disprove applicable affirmative defenses beyond a reasonable doubt.

²⁰ WPIC 16.01.

²¹ WPIC 16.05.

²² WPIC 16.02.

²³ WPIC 2.04.01.

²⁴ WPIC 16.07.

²⁵ WPIC 16.03.

1. Justifiable Homicide by a Peace Officer

a. Law Regarding Justifiable Homicide by a Peace Officer

Homicide is justifiable when necessarily used by a peace officer meeting the good faith standard to arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony.²⁶

In considering whether to use deadly force to arrest or apprehend any person for the commission of any crime, the peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others.²⁷ Among the circumstances which may be considered by peace officers as a “threat of serious physical harm” are the following:

- The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening;
- or
- There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm.²⁸

A peace officer acts in good faith, an objective standard, when considering all the facts, circumstances, and information known to the officer at the time to determine whether a similarly situated reasonable officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual.²⁹ Necessary means that no reasonably effective alternative to use the force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended.³⁰

The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.³¹ “The calculus of

²⁶ RCW 9A.16.040(1)(c)(i); WPIC 16.01.

²⁷ RCW 9A.16.040(2).

²⁸ Id.

²⁹ RCW 9A.16.040(4).

³⁰ RCW 9A.16.010; WPIC 16.05.

³¹ Graham v. Connor, 490 U.S. 386, 396, 109 S. Ct. 1865, 1872, 104 L. Ed. 2d 443 (1989).

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.”³²

b. Analysis Regarding Justifiable Homicide by a Peace Officer

First, the evidence in the independent investigation showed there was probable cause for involved officers to believe that Rodriguez Martinez committed or was in the process of committing various felonies. Specifically, based on the information in the 911 calls and what the officers observed in the apartment, there was probable cause to believe that Rodriguez Martinez had committed murder and assault. In addition, when Rodriguez Martinez approached officers while armed with a knife, there was probable cause to believe that Rodriguez Martinez was committing an assault against the officers.

Second, the evidence in the independent investigation showed there was probable cause to believe that Rodriguez Martinez, if not apprehended, posed a threat of serious physical harm to the officer or others. In this incident, the involved officers had probable cause to believe that Rodriguez Martinez had violently murdered Victim 1. Further, Rodriguez Martinez did not comply with the officers’ commands. While there was likely a language barrier between Rodriguez Martinez and the officers, it does appear that Rodriguez Martinez understood some of the officers’ commands as he was initially compliant with officers when they demanded he put down the knife and get down, which he did.

Third, given that Rodriguez Martinez had not fully complied with the officers’ commands and, instead, armed himself with deadly weapons and advanced towards the officers, the independent investigation showed that the involved officers used deadly force with a good faith belief that their actions were necessary to prevent death or serious physical harm to the officer or another individual.

³² Id. 490 U.S. at 396-97.

In conclusion, based on the admissible evidence, which is corroborated by several witnesses, including video evidence, there is insufficient evidence to prove criminal charges beyond a reasonable doubt or refute the applicable defenses beyond a reasonable doubt.

2. Justifiable Homicide in Defense of Self or Others

a. Law Regarding Justifiable Homicide in Defense of Self or Others

Homicide is justifiable in defense of self or others when the slayer reasonably believed the person slain intended to commit a felony, to inflict death, or to inflict great personal injury; the slayer reasonably believed that was imminent danger of such harm being accomplished; and the slayer employed such force and means as a reasonably prudent person would under the same or similar conditions as they reasonably appeared to the slayer.³³ Great personal injury includes an injury that the slayer reasonably believed, in light of all the facts and circumstances known at the time, would produce severe pain and suffering, if it were inflicted upon either the slayer or another person.³⁴

Under this instruction, the danger must be imminent, not immediate. The Washington Instruction Committee noted that “Imminence does not require an actual physical assault. A threat, or its equivalent, can support self-defense when there is a reasonable belief that the threat will be carried out.”³⁵ Additionally, a person is entitled to act on appearances in defending himself, if that person acts in good faith and on reasonable grounds, although it afterwards might develop that the person was mistaken as to the extent of the danger.³⁶

The reasonable person standard used in this instruction does not expressly require the jury to compare the slayer to a reasonable officer. However, because law enforcement officers – especially compared to non-law enforcement civilians – receive significant amounts of training on weapons, defensive tactics, and the use of force, it is prudent to assume the jury would be required to take the involved officers’ training into account. Therefore, the same evidence and

³³ RCW 9A.16.050(1); WPIC 16.02.

³⁴ WPIC 2.04.01.

³⁵ WPIC 16.02.

³⁶ WPIC 16.07.

testimony used to determine whether the involved officers acted as a reasonable peace officer are also relevant to this instruction.

b. Analysis Regarding Justifiable Homicide in Defense of Self or Others

As stated above, the involved officers entered an apartment with information that led them to believe someone inside was seriously injured or deceased. When the involved officers entered, they were confronted with evidence of Victim 1's violent death and confronted by Rodriguez Martinez holding deadly weapons. Despite giving Rodriguez Martinez repeated commands so that the officers could take him into custody safely, Rodriguez Martinez ignored the officers' commands. Additionally, Rodriguez Martinez armed himself with deadly weapons and acted in a threatening manner towards the officers. Given the information the officers possessed at the time, it was reasonable for them to fear that Rodriguez Martinez would attack them.

Therefore, based on the admissible evidence, which is corroborated by several witnesses including video evidence, there is insufficient evidence to prove criminal charges beyond a reasonable doubt or refute the applicable defenses beyond a reasonable doubt.

VII. KCPAO RESPONSIBILITIES REGARDING INQUEST

As outlined in Executive Order PHL 7-1-5 EO, the KCPAO shall inform the King County Executive whenever the investigation into a death involving a member of any law enforcement agency in King County is complete and also advise whether an inquest should be initiated pursuant to the King County Charter.³⁷ Pursuant to the King County Charter, "An inquest shall be held to investigate the causes and circumstances of any death where an action, decision, or possible failure to offer the appropriate care by a member of any law enforcement agency might have contributed to an individual's death."³⁸ Given the facts outlined in the

³⁷ Executive Order PHL 7-1-5 EO.

³⁸ King County Charter § 895.

investigation, it is the Team's belief that the investigation is complete and an inquest should be initiated pursuant to the King County Charter.

The King County Executive, however, shall determine whether an inquest will be held.³⁹ The Charter requirement for an inquest does not apply where the County Executive determines, based on a review of the investigation, that the role of law enforcement was de minimis and did not contribute in any discernable way to a person's death.⁴⁰

³⁹ Executive Order PHL 7-1-5 EO.

⁴⁰ Id.

Attachment A

WPIC 16.01 - Justifiable Homicide by a Peace Officer

It is a defense to a charge of [murder] [manslaughter] that the homicide was justifiable as defined in this instruction.

Homicide or the use of deadly force is justifiable:

[when necessarily used by a peace officer acting in good faith to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in discharge of a legal duty] [or]

[when necessarily and in good faith used by a peace officer or person acting under the officer's command and in the officer's aid [to arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony] [or] [to prevent the escape of a person from a federal or state correctional facility or in retaking a person who escapes from such a facility] [or] [to prevent the escape of a person from a county or city jail or holding facility if the person has been arrested for, charged with, or convicted of a felony] [or] [to lawfully suppress a riot if the actor or another participant is armed with a deadly weapon]. In considering whether to use deadly force to arrest or apprehend any person for the commission of any crime, a peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to others. Among the circumstances that may be considered by a peace officer as a “threat of serious physical harm” are the following: (a) The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or (b) There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm. Under these circumstances deadly force may also be used if necessary to prevent escape from the officer, when, if feasible, some warning is given.]

[A peace officer shall not be held criminally liable for using deadly force with a good faith belief that such act is justifiable.]

“Good faith” is an objective standard. A peace officer acts in “good faith” if a similarly situated reasonable peace officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the peace officer or another individual. In deciding whether a peace officer acted in good faith, you should consider all the facts, circumstances, and information known to the officer at the time.

The State has the burden of proving beyond a reasonable doubt that the homicide was not justifiable. If you find that the State has not proved the absence of this defense beyond a reasonable doubt, it will be your duty to return a verdict of not guilty.

WPIC 16.05 – Necessary

Necessary means that, under the circumstances as they reasonably appeared to the actor at the time, (1) no reasonably effective alternative to the use of force appeared to exist and (2) the amount of force used was reasonable to effect the lawful purpose intended.

WPIC 16.02 – Justifiable Homicide – Defense of Self and Others

It is a defense to a charge of murder or manslaughter that the homicide was justifiable as defined in this instruction.

Homicide is justifiable when committed in the lawful defense of the slayer or any person in the slayer's presence or company when:

(1) the slayer reasonably believed that the person slain intended to commit a felony⁴¹ or to inflict death or great personal injury;

(2) the slayer reasonably believed that there was imminent danger⁴² of such harm being accomplished; and

(3) the slayer employed such force and means as a reasonably prudent person would use under the same or similar conditions as they reasonably appeared to the slayer, taking into consideration all the facts and circumstances as they appeared to him, at the time of and prior to the incident.

The State has the burden of proving beyond a reasonable doubt that the homicide was not justifiable. If you find that the State has not proved the absence of this defense beyond a reasonable doubt, it will be your duty to return a verdict of not guilty.

⁴¹ For purposes of the defense, the use of deadly force appears to be limited to the resistance of violent felonies that threaten human life or may result in great personal injury. See *State v. Nyland*, 47 Wn.2d 240, 287 P.2d 345 (1955).

⁴² Regarding imminent danger, the WPIC commented:

Imminence does not require an actual physical assault. A threat, or its equivalent, can support self-defense when there is a reasonable belief that the threat will be carried out. *State v. Janes*, 121 Wn.2d at 241 (citations omitted). While “immediate harm” means “occurring, acting, or accomplished without loss of time: made or done at once,” “imminent harm” means “ready to take place: near at hand: ... hanging threateningly over one's head.”

WPIC 2.04.01 – Great Personal Injury

Great personal injury means an injury that the slayer reasonably believed, in light of all the facts and circumstances known at the time, would produce severe pain and suffering, if it were inflicted upon either the slayer or another person.

WPIC 16.07 – Justifiable Homicide – Actual Danger Not Necessary

A person is entitled to act on appearances in defending himself or another, if that person believes in good faith and on reasonable grounds that he or another is in actual danger of great personal injury, although it afterwards might develop that the person was mistaken as to the extent of the danger.

Actual danger is not necessary for a homicide to be justifiable.

WPIC 16.03 – Justifiable Homicide – Resistance to a Felony

It is a defense to a charge of murder or manslaughter that the homicide was justifiable as defined in this instruction.

Homicide is justifiable when committed in the actual resistance of an attempt to commit a felony⁴³ upon the slayer or in the presence of the slayer.

The slayer may employ such force and means as a reasonably prudent person would use under the same or similar conditions as they reasonably appeared to the slayer, taking into consideration all the facts and circumstances as they appeared to him at the time and prior to the incident.

The State has the burden of proving beyond a reasonable doubt that the homicide was not justifiable. If you find that the State has not proved the absence of this defense beyond a reasonable doubt, it will be your duty to return a verdict of not guilty.

⁴³ For purposes of the defense, the use of deadly force appears to be limited to the resistance of violent felonies that threaten human life or may result in great personal injury. See State v. Nyland, 47 Wn.2d 240, 287 P.2d 345 (1955)