

Use of Force – Fatality of
Malik Williams

Valley Independent Investigations Team
Des Moines Police Department, #2019-3592



King County Prosecuting Attorney
Public Integrity Team

August 23, 2023



DECLINE MEMORANDUM

August 23, 2023

Law Enforcement Use of Force Fatality Regarding:

Malik Williams

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 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 the

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.

death, substantial bodily harm, or great bodily harm.³ The independent investigation is conducted in the same manner as a criminal investigation.⁴

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.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. 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.

3. 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, administrative action by the involved agency or any other civil action. The Team expresses no opinion regarding the propriety or likely outcome of any such actions.

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

⁴ Id.

⁵ Executive Order PHL 7-1-5 EO.

⁶ Id. `

II. OVERVIEW

On December 30, 2019, at approximately 11:58 pm, a 911 caller reported a disturbance at the South Ridge House, located in Federal Way. The 911 caller reported that two people were arguing inside a car located in the parking lot. Federal Way Police Officers responded and contacted the driver and passenger. The passenger was in possession of a handgun and did not comply with the officers' orders to put down the weapon. The passenger and officers exchanged gunfire. The passenger struck two officers and the officers struck the passenger, who was pronounced deceased at the scene.

III. INVESTIGATION AND EVIDENCE

1. Force Investigation Reports
2. Officer Reports
3. Civilian Statements
4. Crime Scene Investigation
5. Search Warrants
6. Medical, Autopsy, and Toxicology
7. CAD/MDT
8. 911 Call and Radio
9. Audio
10. Body Worn Video
11. In-Car Video
12. Other Video
13. Photos
14. Media
15. Miscellaneous

IV. INVESTIGATION SUMMARY⁷

1. Sequences of Events

The following information is based upon information from various sources, including 911 calls, CAD reports, and police radio transmissions.

December 30, 2019	
11:58 pm	A 911 caller reported a verbal dispute between a male and a female in the parking lot of South Ridge House, located at 30838 14 th Ave South.
December 31, 2019	
12:00 am	The 911 caller reported the female is yelling and he provided the location and description of the vehicle, a black Infiniti.
12:02 am	The 911 caller reported the vehicle had tinted windows and that he heard a banging sound that caused the car to rock.
12:17 am	Involved Officer 7 arrived.
12:17 am	Involved Officer 1 arrived.
12:19 am	Involved Officer 1 radioed they were with two people and ran the plate for the Infiniti.
12:20 am	Involved Officer 2 arrived.
12:20 am	Involved Officer 5 arrived.
12:20 am	Involved Officer 2 radioed that they had one person at gunpoint.
12:20 am	Involved Officer 4 arrived.
12:22 am	Involved Officer 2 radioed shots fired and that an officer was hit.
12:23 am	Involved Officer 5 radioed that two officers were shot.
12:25 am	Involved Officer 5 radioed the female ran from the location.
12:26 am	Involved Officer 5 radioed that the “occupant who had the gun is in the passenger seat on North side slumped over.”
12:27 am	Medical aid staged.
12:44 am	Officers used a loudspeaker to inform the passenger he was under arrest, but he did not respond.
12:47 am	Officers utilized a drone to see into the vehicle.

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.

12:59 am	Officers took the passenger into custody and medics entered the scene.
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2. Police Response and Eyewitness Statements

On December 30, 2019, Civilian Witness 1, a resident of the South Ridge House, located at 30838 14th Ave South in Federal Way, called 911 to report a verbal dispute between a male and a female located inside a vehicle, a black Infiniti, parked in the parking lot. Civilian Witness 1 first noticed the vehicle while he was outside the building with his sister smoking a cigarette. He noticed the Infiniti and heard someone screaming at another person inside the car. Civilian Witness 1 thought they were possibly yelling about someone getting beaten up. He also heard a loud bang, and his sister stated it sounded like it came from inside the vehicle. After approximately five to ten minutes, Civilian Witness 1 entered the lobby and called 911 to notify police. Civilian Witness 1 continued to watch the vehicle and saw a female, later identified as Civilian Witness 3, exit the driver’s side of the vehicle. Civilian Witness 1 went to the fifth floor of the building and saw Federal Way Police Department (FWPD) vehicles drive towards the building. He saw the police exit their vehicles and heard police give orders to, “Get out of the car!” and “Put the beer down!” As more officers arrived, Civilian Witness 1 also heard officers yell “Put the gun down!” several times.

Civilian Witness 1 repositioned himself to get a better view by moving towards the fire escape. While walking towards the fire escape, Civilian Witness 1 heard approximately 10-12 gunshots, but he did not see the shooting. As he reached the fire escape window, Civilian Witness 1 saw more police cars and heard the police yelling to the front seat passenger, later identified as Malik Williams (Williams), that “he was under arrest.” Civilian Witness 1 also heard officers use a loudspeaker to inform residents to move away from the windows, which he did.

Civilian Witness 1’s sister, Civilian Witness 2, spoke with police and stated that she was outside with Civilian Witness 1, and he said he could hear a woman yelling. Civilian Witness 2 saw Civilian Witness 1 point to the Infiniti. While smoking her cigarette, Civilian Witness 2 heard a “bang” coming from the car. She described that it sounded like “someone’s head got slammed into a door panel or the dashboard.” She finished her cigarette and went inside with

Civilian Witness 1, which is where he called 911. Civilian Witness 2 stated that she returned to her apartment while Civilian Witness 1 stayed behind. While she was inside the apartment, Civilian Witness 2 heard sirens and gunshots.

During the exchange of gunfire, Involved Officer 1 and Involved Officer 2 were struck by Williams' gunfire. As other officers arrived to assist, they applied a tourniquet to Involved Officer 2's leg and removed him to a safer location. Involved Officer 1 self-applied a tourniquet to his arm and moved to a safer location. Given that the security of the scene and Williams' future cooperation was unclear, medical aid could not enter the area, and officers devised a plan to contact Williams.

As other officers arrived, they learned that Williams had discharged a firearm at officers and officers discharged their firearms at Williams. Witness Officer 1 arrived shortly after shots were fired. He heard an announcement made at Williams, directing him to exit the vehicle, but there was no response. Given that Williams had discharged a firearm at officers, striking two officers, officers were concerned that Williams would ambush them if they approached the Infiniti. An officer utilized a drone, equipped with a camera, to look inside the vehicle. Based on the footage it appeared that Williams was slumped over inside the front passenger seat; however, his hands were not visible. Officers organized an arrest team to arrest Williams. As they approached, Witness Officer 2 discharged a less lethal beanbag at Williams' leg to illicit a response from him, but Williams did not respond. Still concerned whether Williams would ambush officers as they approached, Witness Officer 1 ordered his K9 to remove Williams from the vehicle, which the dog did successfully. Once Williams was outside the vehicle, officers could see that he did not have a firearm in his hands, and they detained him. Witness Officer 3 handcuffed and frisked Williams, finding a loaded handgun magazine in his coat. Medics arrived to provide aid, but Williams was deceased.

Investigator 1, the lead investigator, responded to the scene and observed the Infiniti in a parking stall of the South Ridge House along with six unoccupied FWPD vehicles. He noted there were numerous silver bullet casings on the ground, one of the FWPD vehicles had bullet defects, the Infiniti had bullet defects, and there were brass bullet casings on the ground near the

Infiniti. Investigator 1 looked inside the Infiniti via the open passenger front door and saw a partially filled bottle of malt liquor on the driver's side floorboard. While crime scene investigators processed the scene, officers located Civilian Witness 3 who participated in an interview with police.

Civilian Witness 3 stated she is the owner of the Infiniti, that she was living out of her car, and that she was present during the shooting. Earlier in the night, Civilian Witness 3 got into an argument with her boyfriend, and they broke up. She purchased a couple bottles of malt liquor and she parked at the South Ridge House where she was drinking and met Williams. Civilian Witness 3 had never previously met Williams, but she invited him to sit in her car and drink, which he did. Civilian Witness 3 saw a shining light approach her car, which she recognized as a police officer. She exited the vehicle to talk with the officer while a second officer went to talk with Williams, who was in the front passenger seat. Civilian Witness 3 stated that all the officers moved towards the passenger side of the Infiniti, and she heard them saying, "Put your gun down, put your gun down!" As the officers issued their commands, Civilian Witness 3 began backing away. She became more fearful as the officers repeated the command for Williams to put down his firearm. Once gunfire erupted, Civilian Witness 3 explained she panicked and ran away from the scene. Police searched multiple databases but could not find any previous contacts with Civilian Witness 3 and Williams.

3. Search of the Infiniti

Investigator 1 sought a search warrant requesting permission to search the Infiniti, which was granted. Pursuant to the search, officers found several spent bullets inside, bullet fragments lodged inside the vehicle, and a Tarus Millennium G2 pistol between the front passenger side door and front passenger seat. The Tarus was loaded with a 9mm magazine capable of holding twelve rounds. There were eight brass-colored live rounds inside the magazine. Assuming the magazine was fully loaded, with one round in the chamber, the Tarus would have been loaded with thirteen rounds, which would indicate that Williams fired five rounds. After the search was completed, the Infiniti was towed to another location for storage. A second search warrant was issued to search the Infiniti when investigators noticed that other items of evidentiary value may have moved during transport, causing them to become visible.



Figure 1 - Taurus handgun found during search warrant.



Figure 2 - Taurus handgun partially visible during drone video.



Figure 3 - Taurus handgun visible during search warrant.



Figure 4 - Taurus handgun loaded with brass ammunition.

4. South Ridge House Surveillance Video

Investigator 1 viewed a security camera video from the South Ridge House. Due to the placement of the camera, the front half of the Infiniti is within frame and the back half is blocked by the building. The video depicts the Infiniti parking in the parking stall with a male and female inside the car.⁸ The first FWPD officer arrived and exited the vehicle, standing on the passenger side of his patrol vehicle. Approximately 30 seconds later, a second FWPD officer arrived. Civilian Witness 3 briefly exited the driver's side door, but she sat back down inside the car. As

⁸ The surveillance video contradicts Civilian Witness 3's statement that she met Williams after she parked her car in the parking stall.

the officers approached the Infiniti, the driver's side door and the front passenger side door opened. Civilian Witness 3 again exited the vehicle. One officer approached Civilian Witness 3 while the other officer approached Williams. A third FWPD officer arrived and walked toward Infiniti. Within seconds, the officers drastically changed positions and body movement. The second officer near Civilian Witness 3 moved to the back of the Infiniti and shined a flashlight inside the interior. The first officer suddenly side stepped to the rear of the Infiniti while the flashlight illuminated Williams. The third officer quickly changed directions and walked behind the first officer's vehicle and then towards the passenger side of the Infiniti. Williams is shown in the video, sitting in the front passenger seat, holding a possible drink near his mouth. Four additional FWPD officers arrived with their emergency lights activated and the officers ran out of their vehicles, taking positions behind the first officer's vehicle. Williams made a sudden and rapid movement as the officer near the passenger door suddenly stepped toward the back of the vehicle and left the camera's view. Shortly after Williams' movement, there is a volley of gunshots around the Infiniti.

Due to the quality of the video, it is often difficult to discern objects in any individual's hand. However, upon zooming in on Williams and progressing the video frame-by-frame, it appears there is an object in Williams' right hand that is similar in shape and color to the Taurus handgun that was later found during the search warrant of the Infiniti.



Figure 5 - Williams appears to be using his right hand to smoke.



Figure 6 - No object appears visible in Williams' left hand.



Figure 7 - Dark, rectangular object in Williams' right hand.



Figure 8 - Dark, rectangular object with shiny part in Williams' right hand.





Figure 11 - Dark, rectangular object in Williams' right hand.

5. Forensic Evaluation of Garmin GPS Unit

The FWPD cars were not equipped with in-car video systems, nor were the officers equipped with body worn cameras at this time. However, Involved Officer 7's vehicle was equipped with a Garmin GPS device that had video capability. Involved Officer 7 notified his superiors at FWPD that the device may contain video of the incident. With the consent of Involved Officer 7 and his attorney, investigators attempted to forensically extract information from the device and the SD memory card inside the device. Investigator 1 reviewed the information extracted from the device and noted that some portions of the incident were captured on video while others were not. The investigating agency was not familiar with this device and was unable to discern why certain portions of the incident did not appear to be recorded. Further the investigating agency did not possess forensic software that was able to analyze the device and SD memory card beyond extracting information on those items. Therefore, the investigating agency hired an independent consultant to forensically evaluate the device and the SD memory card within the device. Based on the consultant's review of the Garmin GPS device and the SD

memory card, no files were deleted from those items that would have captured portions of the incident.

6. Washington State Patrol Laboratory Testing

Several pieces of evidence were sent to the Washington State Patrol Laboratory (the Lab) for forensic identification. The Taurus handgun located inside the Infiniti, a magazine located inside the Taurus handgun, and the magazine located inside of Williams' jacket were also submitted for fingerprint analysis. The Lab determined that there were no latent prints of value on these items and, therefore, no individualizations to a particular person could be made.

The Lab also forensically analyzed the casings recovered from the scene and the Infiniti. The Lab analyzed 75 casings that were collected and determined that:

- 5 casings were fired from the Taurus handgun recovered in the Infiniti;
- 21 casings were fired from Involved Officer 1's firearm;
- 4 casings were fired from Involved Officer 2's firearm;
- 17 casings were fired from Involved Officer 7's firearm;
- 15 casings were fired from Involved Officer 3's firearm;
- 8 casings were fired from Involved Officer 4 firearm;
- 5 casings were fired from Involved Officer 5's firearm;
- 9 casings were fired from Involved Officer 6's firearm;
- The bullet recovered from Involved Officer 1's ballistic vest was fired from the Taurus handgun

7. Involved Officers

In total, seven FWPD Officers discharged their firearms. The involved officers were removed from the scene and taken to another location for processing and their firearms were examined. Six of the seven involved officers provided independent public safety statements and noted the suspect inside the vehicle was armed with a handgun. In addition to their firearms, investigators also reviewed the involved officers' Tasers and determined that the Tasers showed no signs of discharge before, during, or after the incident.

<u>Involved Officer</u>	<u>Experience</u>	<u>Weapon</u>	<u>Discharged</u>	<u>Injury</u>
Involved Officer 1	7 years	Handgun	21 rounds	Gunshot wound to ballistics vest and grazing wound to left triceps
Involved Officer 2	13 years	Handgun	4 rounds	Gunshot wound to lower leg

Involved Officer 3	7 years	Handgun	15 rounds	None
Involved Officer 5	7 years	Handgun	5 rounds	None
Involved Officer 4	7 years	Handgun	8 rounds	None
Involved Officer 6	5.5 years	Handgun	9 rounds	None
Involved Officer 7	5 years	Handgun	17 rounds	None

8. Medical, Autopsy, and Toxicology

The King County Medical Examiner’s Office performed an autopsy of Williams. The pathological diagnosis included a penetrating gunshot wound of the head, a perforating gunshot wound of the right upper arm/shoulder, a perforating gunshot wound of the right upper arm, evidence of a remote gunshot wound, and evidence of natural disease including multiple sclerosis. The cause of death is multiple gunshot wounds, and the manner of death is homicide.⁹

The Washington State Patrol Toxicology Laboratory performed a drug analysis of Williams’ blood. The results showed that Williams’ blood tested positive for ethanol (.11g/100mL), cannabinoids, and cocaine.

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.¹⁰ 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.¹¹

In addition, the State must disprove the existence of a defense that negates an element of the crime.¹² 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

⁹ 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.

¹⁰ RCW 9A.04.100; WPIC 4.01.

¹¹ KCPAO Filing and Disposition Standards.

¹² WPIC 14.00.

the accused and there is no substantial evidence to refute the affirmative defense.¹³ Therefore, the State may be required to disprove one or more of the following defenses:

- Justifiable Homicide by Peace Officer;¹⁴
- Justifiable Homicide Defense of Self or Others;¹⁵
- Justifiable Homicide Resistance to Felony;¹⁶

2. Applicable Law

This incident occurred on December 30, 2019. At the time of this incident, there were no pattern jury instructions for Justifiable Homicide by a Peace Officer. However, the applicable statute removed the malice standard and required the State to prove the officer acted without good faith.¹⁷

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 the involved officers because the independent investigation and the Team’s analysis reveal that there is insufficient evidence to

¹³ Id.

¹⁴ RCW 9A.16.040; WPIC 16.01.

¹⁵ RCW 9A.16.050(1); WPIC 16.02.

¹⁶ RCW 9A.16.050(2); WPIC 16.03.

¹⁷ 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.”

prove any criminal charges or disprove applicable affirmative defenses beyond a reasonable doubt.

1. 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.¹⁸

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.¹⁹ 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 matter 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.²⁰

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.²¹ 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.²²

¹⁸ RCW 9A.16.040(1)(c)(i); WPIC 16.01.

¹⁹ RCW 9A.16.040(2).

²⁰ Id.

²¹ RCW 9A.16.010; WPIC 16.05.

²² RCW 9A.16.040(4).

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.²³ “The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.”²⁴

It is not clear, based on the video and civilian statements, whether Williams or the officers fired first. However, even if the officers fired first, the evidence and anticipated civilian testimony are highly likely to demonstrate that the involved officers reasonably believed that Williams was committing a felony, specifically, Assault in the First Degree or Assault in the Second Degree, when he picked up and refused to put down his firearm. Evidence that Williams refused to put down his firearm is supported by the surveillance video that depicts Williams holding an object that resembles the size, shape, and color of the Taurus handgun. Further, this is corroborated by the anticipated testimony of civilian witnesses who stated they heard officers tell Williams to drop his gun several times. Williams’ actions prior to discharging his firearm demonstrated there was probable cause that he posed a threat of serious physical harm to the officers.

2. Justifiable Homicide in Defense of Self or Others

As applied to this incident, 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.²⁵ Great personal injury includes an injury that the slayer reasonably believed, in light of

²³ Graham v. Connor, 490 U.S. 386, 396, 109 S. Ct. 1865, 1872, 104 L. Ed. 2d 443 (1989).

²⁴ Id. 490 U.S. at 396-97.

²⁵ RCW 9A.16.050(1); WPIC 16.02.

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.²⁶

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

Justifiable Homicide in Defense of Self or Others requires that, at a minimum, the harm to be avoided is “great personal injury,” which includes severe pain and suffering. Given that the involved officers gave Williams several commands to drop his handgun, it was reasonable for them to believe that based on Williams’ actions and lack of compliance that Williams could inflict great personal injury with a handgun.

Finally, 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.”²⁷ 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.²⁸

VII. RECOMMENDATION FOR INQUEST

An inquest is mandatory to determine the manner, facts, and circumstances of Williams’ death pursuant to Executive Order PHL 7-1-5 EO unless the Executive determines the role of law enforcement was de minimis and did not contribute in any discernable way to a person’s

²⁶ WPIC 2.04.01.

²⁷ WPIC 16.02.

²⁸ WPIC 16.07.

death. Given the facts outlined in the investigation, it is the Team's belief that an inquest is required under the current Executive Order.