

# Use of Force Fatality Investigation

Aaron G. Olsvik

Seattle Police Department Force Investigation Team

2020-0014 and 2020-214466



King County Prosecuting Attorney

Public Integrity Team

September 23, 2025



---

## DECLINE MEMORANDUM

**This memorandum has been approved by the King County Prosecuting Attorney to be published on the website of the Prosecuting Attorney's Office Public Integrity Team.<sup>1</sup>**

---

### I. INTRODUCTION

#### 1. Purpose of the Memorandum

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 officer results in death, substantial bodily harm, or great bodily harm.<sup>2</sup> The independent investigation is conducted in the same manner as a criminal investigation and must be completely independent of the involved agency.<sup>3</sup>

The Revised Code of Washington requires the prosecuting attorney to represent the State of Washington and to prosecute all criminal actions in which the state or the county may be a party.<sup>4</sup> In addition to exercising its prosecutorial discretion to initiate criminal proceedings, the prosecuting attorney is required to review certain incidents regarding police use of force and to determine if sufficient evidence exists to support the filing of criminal charges.<sup>5</sup> Therefore, the review of an incident by the King County Prosecuting Attorney's Office (KCPAO) does not

---

<sup>1</sup> <https://kingcounty.gov/en/dept/pao/about-king-county/about-pao/team-leadership/organizational-structure/criminal/mainstream/public-integrity-team>

<sup>2</sup> RCW 10.114.011. See also WAC 139-12-010.

<sup>3</sup> WAC 139-12-010.

<sup>4</sup> RCW 36.27.020(4).

<sup>5</sup> 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.

implicitly signal that the use of force was either justified or that criminal charges are appropriate. Instead, the KCPAO is required to assist in an independent investigation 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.<sup>6</sup>

## 2. Scope of the Memorandum

The KCPAO's decision whether 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.

The KCPAO's 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, any civil action, or any inquiry, or other proceeding. Compared to a criminal prosecution, these proceedings involve different areas of the legal system, utilize different standards of proof, and may include evidence that is not admissible in a criminal prosecution. The KCPAO expresses no opinion regarding the propriety or likely outcome of any such action. However, topics that are relevant to matters outside the scope of this memorandum, such as department policy, procedures, or training, may be included and reviewed in this memorandum to the extent those topics are relevant to assessing whether the police action was justified or if there was a criminal action such that criminal charges should be filed.

## 3. Status of the Independent Investigation

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

---

<sup>6</sup> Id. See also WAC 139-12-010.

## **II. OVERVIEW**

On July 16, 2020, King County Sheriff's Office deputies were dispatched to reports that an individual, later identified as Aaron Olsvik, had stabbed one individual and attempted to stab another individual.<sup>7</sup> When deputies located Olsvik, he produced a chef's knife and advanced towards officers who gave him repeated commands to drop his weapon. Olsvik did not comply with the commands and two deputies discharged their handguns at Olsvik, striking him. Deputies provided medical assistance to Olsvik until medics arrived, but Olsvik died due to his injuries.

## **III. INVESTIGATION AND EVIDENCE**

1. Police Reports – Seattle Police Department 2020-0014 and 2020-214466
2. Police Reports – King County Sheriff's Office C20022380
3. Civilian Statements
4. Computer Aided Dispatch
5. Crime Scene Investigation
6. Autopsy and Toxicology Reports
7. Involved Officer Information
8. Subject Information
9. 911 Call and Police Radio Traffic
10. Audio
11. Photos
12. Miscellaneous

---

<sup>7</sup> The title of "deputy" and "officer" is used interchangeably throughout the memorandum. For purposes of this memorandum, there is no distinction between the terms because both terms refer to peace officers. See RCW 10.93.020.

#### IV. INVESTIGATION SUMMARY<sup>8</sup>

##### 1. Factual Information

The following information is based upon several sources, including, but not limited to, witness observations, police reports, the Seattle Police Department (SPD) and King County Sheriff's Office (KCSO) computer aided dispatch (CAD) report, recorded police radio, and 911 recordings from July 16, 2020.

At approximately 5:58 am, Civilian Witness 1 called 911 and reported he was walking towards his home when a male, later identified as Aaron Olsvik (Olsvik), attacked him.<sup>9</sup> Civilian Witness 1 reported he believed Olsvik punched him in the back. Civilian Witness 1 turned and Olsvik stabbed him in the stomach. Civilian Witness 1 provided his address and KCSO deputies were dispatched to his home. Civilian Witness 1 further reported he did not know Olsvik, but he passed him earlier on the street and noted Olsvik appeared "odd." After Olsvik assaulted Civilian Witness 1, Civilian Witness 1 asked Olsvik what he was doing, and Olsvik replied, "I'm stopping you." Civilian Witness 1 provided a physical description of Olsvik, including the clothing Olsvik was wearing during the assault. Civilian Witness 1 estimated the blade was five to six inches long and Olsvik left after Civilian Witness 1 punched Olsvik.

Witness Officer 1 arrived at Civilian Witness 1's home and observed a stab wound and blood on Civilian Witness 1. Civilian Witness 1 reported he was walking his dog when Olsvik followed him down his driveway. Civilian Witness 1 initially thought the male punched him in

---

<sup>8</sup> 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.

<sup>9</sup> Olsvik's identity was not established when police were initially dispatched. Unless stated otherwise, the witnesses did not identify Olsvik by name or recognize him. However, because Olsvik's identity is not at issue for purposes of this memorandum, the individual that the witnesses described will be referred to as Olsvik for clarity throughout the memorandum.

the back. When Civilian Witness 1 turned, Olsvik stabbed him in the stomach. When he realized what happened, he punched Olsvik, which caused Olsvik to leave the area.



*Figure 1 - Photograph of Civilian Witness 1's injury taken after medical treatment.*

Witness Officer 1 used his radio to update other officers with the information Civilian Witness 1 provided. Shortly afterward, at approximately 6:16 am, Witness Officer 1 heard via the police dispatcher that Olsvik was located at 913 N 178<sup>th</sup> St. and he attempted to stab another person.

Witness Officer 1 exited Civilian Witness 1's home and went to the location where Olsvik was observed. Officers did not locate Olsvik, but the police dispatcher reported Olsvik may have entered the apartments located at 17520 Linden Ave N. When Witness Officer 1 arrived at that location, officers did not locate Olsvik.

Next, Witness Officer 1 heard Witness Officer 2 radio that he was with a second victim, later identified as Civilian Witness 2, and they were located at N 179<sup>th</sup> St. and Linden Ave N. Witness Officer 1 went to that location and learned Olsvik lived next to Civilian Witness 2 at 917 N 178<sup>th</sup> St. Officers knocked on Olsvik's door and announced their presence. The door swung open and they provided more announcements, but no one responded.

Civilian Witness 2 reported to Witness Officer 2 that he was standing near his vehicle when Olsvik approached him from behind. When Olsvik got close to Civilian Witness 2, Olsvik opened his jacket and drew a large kitchen knife that was concealed in Olsvik's left armpit. Olsvik pointed the knife at Civilian Witness 2 and attempted to stab him twice. Civilian Witness 2 dodged Olsvik's stabbing attempts and grabbed Olsvik's right arm, which was holding the knife. Civilian Witness 2 ran away and saw Olsvik initially gave chase but Olsvik stopped after

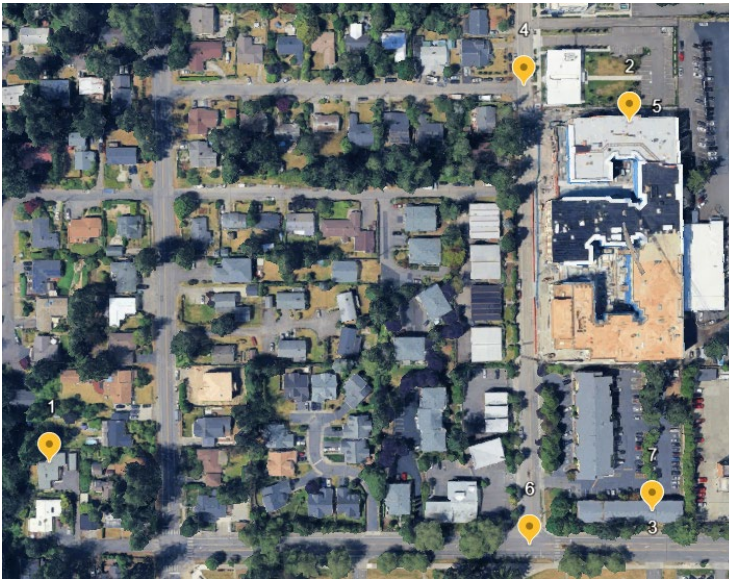
approximately twenty yards. Civilian Witness 2 saw Olsvik run away in a different direction. Civilian Witness 2 described Olsvik as mentally unstable and recalled he recently requested Olsvik to clean up after his dog, which caused him to think this was the reason Olsvik attacked him. While Civilian Witness 2 spoke with Witness Officer 2, he pointed south and said, "There he is!" Witness Officer 2 looked in that direction, but he did not see anyone. Civilian Witness 2 stated that Olsvik was now out of sight because he walked east on N 175<sup>th</sup> St. and passed Linden Ave N.

Witness Officer 1 then heard Witness Officer 2 advise Olsvik was seen at N 175<sup>th</sup> St. and Linden Ave N. As he ran to his patrol vehicle, Witness Officer 1 heard gunshots. Witness Officer 3, who was in this same area, also heard on the radio Olsvik was last seen in this same area. As Witness Officer 3 began driving slowly and searched for Olsvik, he came to the intersection at Linden Ave N and heard screaming and several gunshots, which occurred at approximately 6:37 am. As he pulled his vehicle just south of the nearby apartment complex, located at 17520 Linden Ave N., he observed Involved Officer 1 and Involved Officer 2 standing next to Involved Officer 2's unmarked police vehicle. He noted that both Involved Officer 2 and Involved Officer 1 were wearing outer vests that clearly identified them as law enforcement. Additionally, he observed both officers had their firearms drawn and were giving commands to, "Drop the knife!" As Witness Officer 3 moved closer to assist the other officers, he observed Olsvik on the ground, Olsvik was holding a large kitchen knife in his right hand, and Olsvik appeared to have gunshot injuries to his chest.

Similarly, when Witness Officer 1 drove to the location of the gunshots, he observed Involved Officer 2, Involved Officer 1, Witness Officer 3, and Witness Officer 2. Witness Officer 1 got out of his vehicle equipped with his patrol rifle and moved into position with the other officers. He also saw Olsvik on the ground and noted he was holding a large silver knife in his right hand. The officers removed the knife from Olsvik, placed it in an area nearby, and provided him with medical aid. As officers moved Olsvik to provide aid, they also removed a pocketknife from his left pants pocket.

While officers continued to provide medical aid to Olsvik, medics arrived. However, the medics determined Olsvik was deceased. Witness Officer 4, who also was equipped with his patrol rifle when he arrived at the scene, asked Involved Officer 2 if he was okay and Involved

Officer 2 answered, “Yes.” Witness Officer 4 asked Involved Officer 1 if he was okay and he answered, “Yes.” Involved Officer 1 also stated they, referring to him and Involved Officer 2, were retreating from Olsvik while giving him commands to drop the knife, but Olsvik continued advancing towards them, so they discharged their firearms. He estimated that five or six cartridges were discharged.



1. Location where Olsvik assaulted Civilian Witness 1
2. Location where Olsvik assaulted Civilian Witness 2
3. Location where Olsvik may have entered an apartment building
4. Location where Witness Officer 2 met Civilian Witness 2
5. Location where Civilian Witness 2 reported Olsvik lived
6. Location where Civilian Witness 2 saw Olsvik while he provided information to Witness Officer 2
7. Location where the use of force occurred

*Figure 2 - Google Map image of the locations mentioned.*

## 2. Independent Investigation

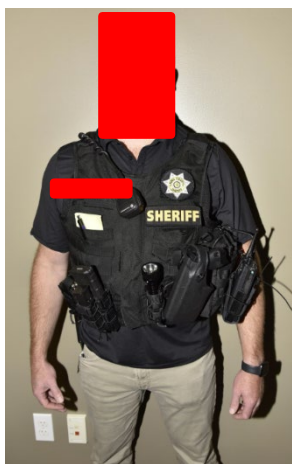
As other officers arrived, they secured the incident scene and rerouted traffic away from the area. The SPD Force Investigation Team (FIT) was requested to respond to the scene and to conduct an independent investigation regarding the use of force by Involved Officer 2 and Involved Officer 1. SPD Investigator 1 was assigned as the lead investigator. Other detectives from KCSO investigated the assault on Civilian Witness 1 and Civilian Witness 2. Investigators from FIT and KCSO divided assignments between themselves, processed the incident scene, and conducted their investigations.

## 3. Officer Processing

Consistent with standard protocol, FIT determined which officers used force. Investigators determined Involved Officer 2 and Involved Officer 1 discharged their handguns.

In addition, FIT examined the involved officers' firearms and documented the status of any weapon used during the incident. During this process, FIT photographed the involved officers to show what they were wearing when the use of force occurred.

Based upon the photographs, portions of the involved officers' clothing were obviously marked with "Police" and other law enforcement insignias that clearly identified them as law enforcement officers.



*Figure 3 - Photograph of Involved Officer 2 taken during officer processing.*



*Figure 4 - Photograph of Involved Officer 1 taken during officer processing.*

Regarding Involved Officer 2's firearm, FIT reported that his handgun, a 9x19mm Glock model 17, contained one unfired cartridge in the chamber, eleven unfired cartridges in the magazine, and the magazine had a maximum capacity of seventeen cartridges.<sup>10</sup> His spare magazine was loaded with seventeen unfired cartridges and had a maximum capacity of seventeen cartridges. If Involved Officer 2 filled his loaded magazine to capacity with an additional cartridge in the chamber, his handgun was loaded with eighteen cartridges, which would indicate that he discharged six cartridges.

---

<sup>10</sup> Handgun and rifle ammunition contain several distinct parts, which are often used interchangeably. A "cartridge" is a unit of ammunition, made up of a cartridge case, primer, powder, and a bullet. It may also be referred to as a "round" or "load." It is sometimes incorrectly referred to as a "bullet." The "cartridge case" is the container for all the components that comprise a cartridge. The "primer" is an explosive substance that ignites when struck to detonate the powder in a cartridge. The "powder" is the propellant in a cartridge." When a handgun or rifle is fired (also referred to as "discharged"), the "bullet" is the projectile that is propelled by the force of gases produced by rapidly burning powder.

Regarding Involved Officer 1's firearm, FIT reported his handgun, a .40 caliber Glock model 23, contained one unfired cartridge in the chamber, seven unfired cartridges in the magazine, and that the magazine had a maximum capacity of thirteen cartridges.<sup>11</sup> His spare magazine was loaded with fifteen unfired cartridges and had a maximum capacity of fifteen cartridges. If Involved Officer 1's filled his loaded magazine to capacity with an additional cartridge in the chamber, his handgun was loaded with fourteen cartridges, which would indicate that he discharged six cartridges.

#### 4. Civilian Witnesses

##### a. Civilian Witness 3

Investigator 2 was tasked with canvassing the area of the shooting to locate possible cameras that may have captured the incident. While doing so, Civilian Witness 3, who was near the yellow police tape, began talking with Investigator 2. Civilian Witness 3 reported he saw the entire incident. He stated he was thankful the officers came because he thought Olsvik was going to attack him. He reported he came home from work and sat outside his apartment complex while smoking a cigarette. He reported Olsvik was "going to come to me," but the officers arrived and got out of their vehicles. Civilian Witness 3 reported the officers ordered Olsvik something to the effect of "drop your weapon," but he saw Olsvik "lunge and come at the cops with a knife." It appeared to Civilian Witness 3 that this was "suicide by weapon."

##### b. Civilian Witness 4

Civilian Witness 4 reported to officers he was working at Shorewood High School when he noticed a lot of police activity. He looked towards the apartments on Linden Ave N and observed two unmarked police vehicles. Civilian Witness 4 was uncertain which occurred first,

---

<sup>11</sup> Handgun and rifle ammunition contain several distinct parts, which are often used interchangeably. A "cartridge" is a unit of ammunition, made up of a cartridge case, primer, powder, and a bullet. It may also be referred to as a "round" or "load." It is sometimes incorrectly referred to as a "bullet." The "cartridge case" is the container for all the components that comprise a cartridge. The "primer" is an explosive substance that ignites when struck to detonate the powder in a cartridge. The "powder" is the propellant in a cartridge." When a handgun or rifle is fired (also referred to as "discharged), the "bullet" is the projectile that is propelled by the force of gases produced by rapidly burning powder.

but he observed Olsvik with a large object, that appeared to be a knife, and he moved “pretty aggressively” toward an officer and the officer yelled, “Freeze!” Next, Civilian Witness 4 heard the deputy continue to command Olsvik to “Freeze!” but Olsvik continued moving towards the deputy. Civilian Witness 4 stated the officers discharged their firearms at Olsvik at least six times, but he was uncertain if one or both officers fired.

c. Civilian Witness 5

Civilian Witness 5 reported he “knows of” Olsvik and was aware that Olsvik suffered from a mental illness.<sup>12</sup> He stated he was in his apartment and saw Olsvik outside. He observed a patrol vehicle pulled up on Olsvik. He reported Olsvik did not have anything in his hands, but the deputy jumped out of his patrol vehicle with an AR-15 and discharged two shots without saying anything. After the use of force, Civilian Witness 5 noticed there were unmarked police vehicles on scene and another patrol vehicle arrived.

d. Civilian Witness 6

Civilian Witness 6 reported she lives with Civilian Witness 5. They were in bed and sleeping when they heard seven gunshots. She asked Civilian Witness 5 if he heard the noise, so he looked out the window. Civilian Witness 6 also looked out the window and saw a “bunch” of police vehicles, but she did not see the use of force or Olsvik. She also indicated her view was partially obscured by trees.

e. Civilian Witness 7

Civilian Witness 7 reported a neighbor called him outside and directed his attention to a parking lot. He did not see what she was pointing at, he heard tires “squeal,” followed by someone saying, “Put the knife down, put the knife down!” After the commands, he heard rapid

---

<sup>12</sup> In addition to Civilian Witness 5, another witness reported information that indicated Olsvik was suffering a mental illness. The witness reported he talked with Olsvik the night prior to the use of force and Olsvik said, “The voices are coming back again.”

gunshots, which he initially thought were fireworks. Civilian Witness 7 went outside and observed deputies providing medical aid to Olsvik. Civilian Witness 7 reported he has observed Olsvik being aggressive in the neighborhood prior to this incident. He stated he was aware Olsvik has threatened and harassed people for cigarettes.

#### 5. Crime Scene Investigation and Search Warrants

FIT conducted a crime scene investigation, documented the location of various items that appeared to have evidentiary value, and collected various items as evidence. During the crime scene investigation, investigators collected six discharged cartridge casings with the headstamps of "FC 9mm Luger" and six discharged cartridge casings with the headstamp of "FC 19 40 S&W." This type of ammunition and the number of fired cartridge casings collected corresponded with the ammunition loaded in the involved officers' firearms and the round count conducted by FIT.

Additionally, investigators collected a silver Global brand chef's knife with a 6.5" blade approximately eleven feet south of Olsvik. Investigators also collected an Elk Ridge brand folding knife approximately three feet from Olsvik.



*Figure 5 - Photograph of chef's knife found in Olsvik's right hand.*



*Figure 6 - Photograph of pocketknife removed from Olsvik's pants pocket.*

## 6. Video Evidence

Investigators canvassed the area for cameras that may have recorded the use of force. During their search, they found a Ring camera located on a neighbor's home. The video captured Civilian Witness 1 walking his dog toward his house's location. Civilian Witness 1 walked out of the camera's frame and Olsvik was captured walking in the same direction until he left the camera frame.

## 7. Involved Officer's Statement

The involved officers in this incident were compelled to provide a statement to KCSO. Such compelled statements are inadmissible against an officer in a subsequent criminal trial.<sup>13</sup> Police and prosecutors are also barred from making "indirect evidentiary use" of the officer's compelled statement, which includes investigative efforts or testimony that has been shaped, altered, or affected, directly or indirectly, by the officer's compelled statement.<sup>14</sup> While the compelled statement and information derived from such a statement cannot be used to support criminal charges against an officer, a credible compelled statement provides insight into the

---

<sup>13</sup> Garrity v. State of N.J., 385 U.S. 493, 500, 87 S. Ct. 616, 620, 17 L. Ed. 2d 562 (1967).

<sup>14</sup> U.S. v. North, 910 F.2d 843, 857-858 (D.C. Cir., 1990).

potential testimony of an involved officer. At times, such a statement may be useful to the Team in analyzing a use of force incident and may be used in support of a finding of no criminal liability for the officer's actions. However, in this incident, the Team did not review or rely upon the involved officers' compelled statements.

## 8. Autopsy and Toxicology

The King County Medical Examiner's Office performed an autopsy of Olsvik to determine the cause and manner of death. The cause of death is a term used to indicate *what* specific injury or disease led to death. The manner of death is a term used to categorize *how* the injury or disease led to death. Manner of death is categorized into one of five categories:

- Accident is defined as a death other than natural, where there is no evidence of intent.
- Homicide is defined as a death due to intentionally inflicted harm of one person by another. It is also defined as the killing of one person by another.<sup>15</sup> Thus, the term homicide as used in an autopsy report refers to the mechanism of death and does not refer to legal terms, such as murder or manslaughter, which do include a determination of legal liability or culpability.
- Natural is defined as a death solely by organic disease. If natural death is hastened by injury, such as a fall, the manner of death will not be considered natural.
- Pending is a temporary designation used when additional investigation, information, or test results are required to determine the cause or manner of death.
- Suicide is defined as a death as the result of a purposeful action, with intent to end one's life.
- Undetermined is defined as a death when there is insufficient evidence or information to assign to accident, homicide, suicide, or natural categories, or when two plausible manners are equally likely.

The King County Medical Examiner's Office opined the cause of death was multiple gunshot wounds sustained in a confrontation with police and the manner of death was homicide.

---

<sup>15</sup> HOMICIDE, Black's Law Dictionary (11th ed. 2019).

In general, a gunshot wound is characterized as penetrating or perforating.<sup>16</sup> The pathological diagnoses included evidence of ten gunshot wounds:

1. Penetrating gunshot wound of the right neck
2. Perforating gunshot wound of the right check
3. Penetrating gunshot wound of the chest
4. Perforating gunshot wound of the left chest
5. Perforating gunshot wound of the right chest
6. Perforating gunshot wound of the right axilla
7. Perforating gunshot wound of the right forearm
8. Penetrating gunshot wound of the right upper arm
9. Penetrating gunshot wound of the posterior right thigh
10. Perforating gunshot wound of the left hand

Regarding the penetrating gunshot wounds, the Medical Examiner recovered four copper jacketed bullets from Olsvik. The Washington State Patrol Toxicology Laboratory performed a drug analysis of Olsvik's blood. The results showed that Olsvik's blood tested negative for acetone, ethanol, isopropanol, methanol, amphetamines, barbiturates, benzodiazepines, cannabinoids, cocaine metabolite, and opiates.

#### 9. Potential Impeachment Information Regarding Law Enforcement Witnesses

Law enforcement agencies are required to report misconduct that an officer has engaged in that affects their credibility.<sup>17</sup> In turn, each county prosecutor is required to develop and adopt a written protocol addressing potential impeachment disclosures pursuant to Brady v. Maryland, 373 U.S. 83 (1963), and subsequent case law.<sup>18</sup> The Team has confirmed that, to its knowledge, there is no potential impeachment information regarding the involved officers who used deadly force in this incident.

---

<sup>16</sup> A penetrating gunshot wound occurs when a bullet pierces the skin, enters the body creating an entrance wound, but the bullet does not exit the body. In contrast, a perforating gunshot wound occurs when the bullet pierces the skin, enters the body creating an entrance wound, and exits the body creating an exit wound.

<sup>17</sup> RCW 10.93.180(2)(a)(ii).

<sup>18</sup> RCW 10.93.180(1)(a).

## V. LEGAL STANDARD AND APPLICABLE LAW

### 1. Burden of Proof

In a criminal prosecution, the State must prove each element of a criminal charge by competent evidence beyond a reasonable doubt.<sup>19</sup> 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.<sup>20</sup>

In addition, the State must disprove the existence of a defense that negates an element of the crime beyond a reasonable doubt.<sup>21</sup> 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.<sup>22</sup>

Therefore, in addition to proving that the accused committed a crime, the State will be required to disprove one or more of the following defenses:

1. Justifiable Homicide by Peace Officer<sup>23</sup>
2. Justifiable Homicide Defense of Self or Others<sup>24</sup>
3. Justifiable Homicide Resistance to Felony<sup>25</sup>

---

<sup>19</sup> RCW 9A.04.100; WPIC 4.01.

<sup>20</sup> KCPAO Filing and Disposition Standards.

<sup>21</sup> WPIC 14.00.

<sup>22</sup> KCPAO Filing and Disposition Standards.

<sup>23</sup> RCW 9A.16.040; WPIC 16.01.

<sup>24</sup> RCW 9A.16.050(1); WPIC 16.02.

<sup>25</sup> RCW 9A.16.050(2); WPIC 16.03.

## 2. Applicable Law Regarding Justifiable Homicide by a Peace Officer

This incident occurred on July 16, 2020. The applicable pattern jury instruction for Justifiable Homicide by a Peace Officer requires the State to prove the involved officer acted without good faith.<sup>26</sup>

## 3. Applicable Jury Instructions

The following jury instructions, contained in Appendix A, would be applicable in a criminal prosecution and provided to the factfinder to determine whether the State met the required burden of proof. Therefore, these instructions are highly relevant to the Team's analysis and conclusion:

1. WPIC 16.01 - Justifiable Homicide by a Peace Officer
2. WPIC 16.05 - Necessary
3. WPIC 2.09 - Felony
4. WPIC 2.16 - Peace Officer
5. WPIC 120.07 - Lawful Arrest and Probable Cause
6. WPIC 16.02 - Justifiable Homicide – Defense of Self and Others
7. WPIC 2.04.01 - Great Personal Injury
8. WPIC 16.07 - Justifiable Homicide – Actual Danger Not Necessary
9. WPIC 16.03 - Justifiable Homicide – Resistance to a Felony

## VI. ANALYSIS AND CONCLUSION

### 1. Summary of 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

---

<sup>26</sup> 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.”

that could be raised under the evidence, would justify conviction by a reasonable and objective factfinder. 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.”<sup>27</sup>

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 prove any criminal charges beyond a reasonable doubt or disprove applicable affirmative defenses, such as Justifiable Homicide by a Peace Officer or Justifiable Homicide in Defense of Self or Others, beyond a reasonable doubt.

## 2. Justifiable Homicide by a Peace Officer

### a. Graham v. Connor

In Graham v. Connor, the seminal case on evaluating police use of force, the United States Supreme Court determined that the test to determine whether the force used by the police was “reasonable” is not capable of a “precise definition or mechanical application.”<sup>28</sup> Instead, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight.<sup>29</sup> In other words, the reasonableness of whether the officer’s use of force is justified is determined by “the totality of the circumstances.”<sup>30</sup>

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.<sup>31</sup> “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

---

<sup>27</sup> KCPAO Filing and Disposition Standards.

<sup>28</sup> Graham v. Connor, 490 U.S. 386, 396, 109 S.Ct. 1865, 1871-72, 104 L.Ed.2d 443 (1989).

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id.

the amount of force that is necessary in a particular situation.”<sup>32</sup> However, the inquiry is an objective one. The question is whether the officer’s actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.<sup>33</sup>

b. Law Regarding Justifiable Homicide by a Peace Officer

Homicide is justifiable when necessarily used by a peace officer meeting the good faith standard to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty.<sup>34</sup>

Additionally, 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.<sup>35</sup>

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.<sup>36</sup> Among the circumstances which may be considered by peace officers as a “threat of serious physical harm” are the following:

- 1 The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or
- 2 There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm.<sup>37</sup>

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

---

<sup>32</sup> Id. at 396-97.

<sup>33</sup> Id. at 397.

<sup>34</sup> RCW 9A.16.040(1)(b); WPIC 16.01.

<sup>35</sup> RCW 9A.16.040(1)(c)(i); WPIC 16.01.

<sup>36</sup> RCW 9A.16.040(2).

<sup>37</sup> Id.

prevent death or serious physical harm to the officer or another individual.<sup>38</sup> 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.<sup>39</sup>

c. Analysis Regarding Justifiable Homicide by a Peace Officer

The evidence in the independent investigation showed the involved officers used deadly force to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty. Additionally, the independent investigation showed that there was probable cause for the involved officers to reasonably believe Olsvik had committed, had attempted to commit, was committing, or was attempting to commit various felonies.

In this incident, substantial witness testimony showed multiple officers were dispatched to investigate the stabbing of Civilian Witness 1 and attempted stabbing of Civilian Witness 2. During the investigation, KCSO developed probable cause to arrest Olsvik for felony assault. When the involved officers encountered Olsvik, they gave him commands to drop his knife, but he did not comply with their lawful orders. Instead, Olsvik advanced towards the officers while armed with a knife, which would lead the involved officers to believe that Olsvik was attempting to commit a felony assault upon them.

In weighing the potential witness' testimony, several witnesses reported hearing law enforcement giving Olsvik commands, Olsvik advanced towards the officers while armed with a knife, followed by the involved officers discharging their firearms. For instance:

- Witness Officer 1 reported he ran to his patrol vehicle when he heard Olsvik's location, which was approximately four blocks away, he heard multiple gunshots.
- Witness Officer 3 reported he heard screaming followed by gunshots.
- Civilian Witness 3 reported he saw and heard the officers give Olsvik orders and he saw Olsvik "lunge and come at the cops with a knife."
- Civilian Witness 4 reported he saw Olsvik advance towards the involved officers with a knife, that the involved officers yelled, "Freeze!" and an officer

---

<sup>38</sup> RCW 9A.16.040(4).

<sup>39</sup> RCW 9A.16.010; WPIC 16.05.

- or officers discharged their firearm.
- Civilian Witness 5 reported he observed Olsvik outside, saw a patrol vehicle pull up on Olsvik, noted Olsvik did not have anything in his hands, a deputy jumped out of the patrol vehicle with an AR-15, and the deputy discharged it at Olsvik twice.
  - Civilian Witness 6 reported she and Civilian Witness 5 were awakened by gunshots and saw police outside, but her view was partially obscured by a tree.
  - Civilian Witness 7 reported he heard tires “squeal,” followed by someone saying, “Put the knife down, put the knife down!” After the commands, he heard a rapid fire that he believed were fireworks.

In sum, Witness Officer 3, Civilian Witness 3, Civilian Witness 4, and Civilian Witness 7 all reported hearing voices, including specific commands, prior to the gunshots. This testimony supports the conclusion that one or both involved officers gave Olsvik commands to drop his weapon before the officers discharged their firearms. Additionally, Civilian Witness 3 and Civilian Witness 4 reported seeing Olsvik advance towards the involved officers while armed with a knife. These statements, individually and collectively, directly contradict Civilian Witness 5’s recollection. Moreover Civilian Witness 6, who reported she was in bed with Civilian Witness 5, noted they were awakened by the sound of gunshots, which would likely cause a factfinder to question Civilian Witness 5’s recollection of the incident. Finally, Civilian Witness 5 reported seeing an officer armed with a rifle, which could very likely have been Witness Officer 1 or Witness Officer 4 who exited their vehicles with their patrol rifles. However, Civilian Witness 5 reported that an officer shot the rifle at Olsvik twice. In addition to no other witness reporting this, the only cartridge casings that were recovered from the scene corresponded to handgun ammunition used by the involved officers, not rifle ammunition.

The exact reason why Civilian Witness 5’s recollection differed significantly is unknown. Regardless of the reason, a factfinder, whose role is to determine witness credibility, would very likely question the credibility of Civilian Witness 5’s recollection when weighed against other physical evidence and witness testimony.

The evidence in the independent investigation showed there was probable cause for the involved officers to believe Olsvik, if not apprehended, posed a threat of serious physical harm to an officer or others. This defense provides two explicit examples that may be considered by peace officers as a threat of serious physical harm. First, a threat of serious physical harm may

include circumstances where the suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening. Second, a threat of serious physical harm may include circumstances where there is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm.

Further, evidence in 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. A factfinder would likely find that the involved officers acted in good faith because, under an objective standard, when considering all the facts, circumstances, and information known to the involved officers at the time, 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. At the time of the use of force, the involved officers were aware that probable cause existed to arrest Olsvik for felony assault against two civilians. Based upon the attacks, which appeared random, the involved officers would likely have been concerned Olsvik could assault another random civilian in the area. When Olsvik advanced towards the officers while armed with a knife, a factfinder would likely find the involved officers believed there was a significant possibility that Olsvik would attempt to assault them as well.

A factfinder would also likely find that the involved officers' use of deadly force was necessary because no reasonable effective alternative to the use of force appeared to exist and the amount of force used was reasonable to effect the lawful purpose intended. Here, the involved officers provided several commands to Olsvik, which he did not respond to. When Olsvik ignored the involved officers' commands, they were confronted with an individual armed with a knife, which can cause death or substantial bodily injury. Therefore, there was no reasonable effective alternative to their use of force at the time of the incident.

Therefore, based on the anticipated admissible evidence and testimony, which is corroborated by several witnesses, there is insufficient evidence to prove criminal charges beyond a reasonable doubt or refute this defense beyond a reasonable doubt.

### 3. Justifiable Homicide in Defense of Self or Others

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

The legislature recognizes that the defense of Justifiable Homicide by a Peace Officer established a dual standard with respect to the use of deadly force by peace officers and private citizens, and further recognizes that private citizens' permissible use of deadly force under the defense of Justifiable Homicide in Defense of Self or Others is not restricted and remains broader than the limitations imposed on peace officers.<sup>40</sup>

The defense of Justifiable Homicide by a Peace Officer allows a peace officer to use deadly force against another person only when necessary to protect against an *immediate* threat of serious physical injury to the officer or another person.<sup>41</sup> An immediate threat of serious physical injury or death means that, based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the peace officer or another person.<sup>42</sup>

However, the defense of Justifiable Homicide in Defense of Self or Others is also applicable to peace officers.<sup>43</sup> Under this defense, 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 there 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.<sup>44</sup> 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.<sup>45</sup>

The Washington Pattern 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

---

<sup>40</sup> RCW 9A.16.040 [1986 c 209 §3].

<sup>41</sup> RCW 10.120.020(2). See also, Graham, 490 U.S. at 396.

<sup>42</sup> RCW 10.120.020(2).

<sup>43</sup> RCW 9A.16.040(5)(a).

<sup>44</sup> RCW 9A.16.050(1); WPIC 16.02.

<sup>45</sup> WPIC 2.04.01.

reasonable belief that the threat will be carried out.”<sup>46</sup> Additionally, a person is entitled to act on appearances in defending themselves, 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.<sup>47</sup>

The reasonable person standard as used in this instruction does not expressly require the factfinder 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 factfinder would be required to take the involved officers’ training and experience into account to determine how a reasonable person would have acted. Therefore, the same evidence and testimony used to determine whether the involved officers acted as a reasonable peace officer under the previous instruction is also relevant to this instruction.

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

The evidence in the independent investigation showed the involved officers reasonably believed that Olsvik intended to commit a felony, to inflict death, or to inflict great personal injury. Specifically, as described above, a factfinder would likely find that Olsvik intended to commit a felony, to inflict death, or to inflict great personal injury against the involved officers when he advanced towards the officers with a knife after he ignored their commands and when the involved officers had prior knowledge that Olsvik recently assaulted two civilians.

The evidence in the independent investigation showed that the involved officers reasonably believed that Olsvik’s actions constituted an imminent danger of such harm being accomplished. Under the broader standard of imminence, it is even more likely that the factfinder would find that Olsvik’s actions, as described earlier, caused the involved officers to reasonably believe that Olsvik’s threats would be carried out.

---

<sup>46</sup> WPIC 16.02.

<sup>47</sup> WPIC 16.07.

The evidence in the independent investigation showed that the involved officers employed such force and means as a reasonably prudent person would under the same or similar conditions as they reasonably appeared to the involved officers.

Therefore, based on the anticipated admissible evidence and testimony, which is corroborated by several witnesses, there is insufficient evidence to prove criminal charges beyond a reasonable doubt or refute this defense beyond a reasonable doubt.

## **VII. KCPAO RESPONSIBILITIES REGARDING INQUEST**

Pursuant to Executive Order PHL 7-1-6 EO, the KCPAO shall inform the King County Inquest Program Manager in writing whenever the KCPAO becomes aware of a person's death following an interaction with law enforcement or while in the custody of law enforcement. The KCPAO previously complied with this requirement.

---

# **Appendix A**

### 1. 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.

2. 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.

3. WPIC 2.09 Felony—Designation Of

\_\_\_\_\_ is a felony.<sup>48</sup>

---

<sup>48</sup> Whether a crime is a felony is a matter of law for the court to decide.

4. WPIC 2.16 Peace Officer—Definition

Peace officer means a duly appointed city, county, or state law enforcement officer.

5. WPIC 120.07 Lawful Arrest—Definition

[An arrest is lawful if made pursuant to an arrest warrant.] [An arrest is [also] lawful if the arresting officer had probable cause to believe that the person arrested had committed the crime of (name of crime) [in the officer's presence]. “Probable cause” means facts that would cause a reasonably cautious officer to believe that the person had committed that crime. In determining whether the facts known to the officer justified this belief, you may take into account the officer's experience and expertise.]

## 6. 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 felony<sup>49</sup> or to inflict death or great personal injury;

(2) the slayer reasonably believed that there was imminent danger<sup>50</sup> 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.

---

<sup>49</sup> 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).

<sup>50</sup> 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.”

7. 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.

8. 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.

9. 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 felony<sup>51</sup> 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.

---

<sup>51</sup> 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)