

Use of Force Fatality of  
**Bruce Meneley**

Seattle Police Department  
Force Investigation Team #2024FIT-0005



King County Prosecuting Attorney  
Public Integrity Team

February 3, 2025



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## 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>**

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### 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 mandated by law to review 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.<sup>5</sup> Because the independent investigation and the prosecuting attorney's

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<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.

review are mandatory if specific criteria are met, the King County Prosecuting Attorney's Office (KCPAO) 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 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>

Separate from its duties under the Revised Code of Washington, the King County Charter requires that 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 Charter. The Charter requires 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.

## 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. Other topics relevant to matters outside the scope of this memorandum, such as department policy, procedures, or training, are included and reviewed 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.

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

### 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.

## II. OVERVIEW

On April 17, 2024, an undercover Seattle Police Department officer, posing as the mother of an eleven-year-old and a seven-year-old, met with Bruce Meneley because he expressed his desire to engage in sexual activities with her children. After their meeting, Meneley drove to a nearby hotel to meet the mother and her children for the stated purpose of having sex with the children. When officers attempted to arrest Meneley, he drew a firearm. While an officer attempted to control Meneley's firearm, it discharged. Two other officers observed the struggle and discharged their handguns at Meneley, striking him. Officers administered life savings efforts, but Meneley died a result of his injuries.

## III. INVESTIGATION AND EVIDENCE

1. Police Reports – Seattle Police Force Investigation Team 2024FIT-0005
2. Police Reports – Seattle Police Department 2024-103897
3. Police Reports – Tukwila Police Department 2024-2288
4. Civilian Statements
5. Computer Aided Dispatch
6. Other Police Reports
7. Search Warrants
8. Crime Scene Investigation
9. Autopsy and Toxicology Reports
10. Involved Officer Information
11. Subject Information
12. 911 Call and Police Radio Traffic
13. Audio
14. Body Worn Video
15. In-Car Video
16. Other Video
17. Photos

#### IV. INVESTIGATION SUMMARY<sup>7</sup>

##### 1. Factual Summary

The following information is based upon several sources, including, but not limited to, witness observations, police reports, 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.

In April 2024, the Seattle office of Homeland Security Investigations participated in a joint task force operation with several law enforcement agencies, including SPD, to investigate individuals who expressed a sexualized interest in children. During the operation an individual, later identified as Bruce Meneley (Meneley), responded to an ad on a social media platform and exchanged messages with an undercover task force agent. Over the course of several days, Meneley expressed his desire to engage in sexual activity with the agent's two (fictional) children, who Meneley believed were aged seven and eleven.

On April 17, 2024, an undercover SPD officer, who was posing as the mother of the two previously mentioned children, met Meneley at a restaurant located in Tukwila. The officer and Meneley spoke for approximately ninety minutes. Meneley agreed to bring dessert and go to a nearby hotel to meet the two children for the purposes of engaging in sexual activity with the children. The officer told Meneley to meet her in room 1513. The officer surreptitiously gave a non-verbal cue to other undercover surveillance officers, which indicated that probable cause existed to believe that Meneley intended to go to the hotel to engage in sexual activity with the officer's children.

Unbeknownst to Meneley, Involved Officer 1, Involved Officer 2, and Involved Officer 3 were staged in room 1513 to arrest Meneley if he went to the hotel room. The plan was that if

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<sup>7</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.

Meneley arrived at the hotel room, Involved Officer 1 would open the door all the way and step back so that Involved Officer 2 and Involved Officer 3 could reach through the door, take a hold of Meneley's arms and arrest him.

Undercover officers continued to follow Meneley and provided updates to other officers regarding his location. At approximately 1:46 pm, Meneley, who was carrying a plastic bag, entered the lobby of the hotel through the front entry.



*Figure 1 - Hotel security video showing Meneley entering the hotel.*

While waiting inside room 1513, Involved Officer 1, Involved Officer 2, and Involved Officer 3 monitored updates from the undercover officers regarding Meneley's location. They turned on the TV and lights inside the room to make it appear that the room was occupied. The officers were wearing SPD uniforms, which had markings to indicate they were police officers. Involved Officer 1, Involved Officer 2, and Involved Officer 3 were also equipped with BWV at the time of the incident. As part of standard practice, the BWV was reviewed and logged by investigators. Portions of the BWV relevant to the Team's analysis are included.

At approximately 2:13pm, someone knocked on the door to room 1513. Involved Officer 1 walked to the door, looked through the peephole, and he observed Meneley standing outside

the room. Involved Officer 1 turned towards Involved Officer 3 and Involved Officer 2 and indicated he was going to open the door.



*Figure 2 - After Meneley knocked on the door, Involved Officer 1 (right) begins to open the door so that Involved Officer 3 and Involved Officer 2 (left) can exit.*

When Involved Officer 1 initially opened the door, Meneley was holding a white plastic bag in his left hand in front of his left leg and his right hand was inside the left breast pocket of his jacket.



*Figure 3 - As the door opens, Meneley is seen with his right hand inside the left breast pocket of his jacket.*

Involved Officer 3 moved through the door and began to identify himself as, “Hey, Involved Officer 3 . . .” Before he could complete his sentence, Meneley removed his right hand from his left breast jacket pocket and drew a handgun.





*Figure 4 - As Involved Officer 3 begins to exit the room and walk towards Meneley, Meneley's hand is still inside his pocket.*

Involved Officer 3 continued, "Seattle P. . ." As Meneley fully removed the handgun from his jacket, Involved Officer 3 reached towards the handgun and the gun discharged while pointed towards the left side of Meneley's chest.



*Figure 5 - Involved Officer 3 reaches for Meneley's handgun with his left hand while Meneley points the barrel of the handgun towards his chest.*

Involved Officer 3 continued moving towards Meneley and grabbed the handgun with both hands as Meneley leaned into Involved Officer 3. As this occurred, Involved Officer 1 exited the room, drew his handgun, moved to the right side of Involved Officer 3, and pointed the handgun at Meneley's midsection.



*Figure 6 - Involved Officer 1 moves to Involved Officer 3's right, as Involved Officer 3 continues to try to disarm Meneley.*

One of the officers yelled, "Gun!" and Involved Officer 1 discharged his handgun twice in rapid succession. As Involved Officer 3 and Meneley continued to struggle over Meneley's handgun, Involved Officer 1 discharged his handgun several more times.

When Involved Officer 2 exited the room, he moved towards the left of Involved Officer 3 and attempted to assist Involved Officer 3 by controlling Meneley's shoulders. He released Meneley and Involved Officer 2 discharged his handgun at Meneley while Involved Officer 3 and Meneley struggled over Meneley's handgun. According to the officers' BWV, Involved Officer 1 initially discharged his handgun approximately two seconds after Meneley's handgun was fired. Two seconds later, Involved Officer 2 and Involved Officer 1 discharged their handguns, which lasted for approximately three seconds.



*Figure 7 - Involved Officer 1 continues to discharge his handgun while Involved Officer 3 continues his attempt to disarm Meneley.*

Within moments one of the officers announced on the radio that shots were fired. Involved Officer 3, Involved Officer 1, and Involved Officer 2 checked themselves for injuries and Involved Officer 2 discovered that his leg was grazed by one of the bullets. After hearing that shots were fired, several SPD officers, including Witness Officer 1 and Witness Officer 2, entered the hotel lobby. Within three minutes of the use of force, Witness Officer 1 and Witness Officer 2 began rendering medical aid to Meneley. Medics soon arrived and continued to provide medical aid, but they ceased their efforts when they determined that Meneley was deceased.

## 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. SPD Investigator 1 was assigned as the lead investigator. Investigators from the FIT divided assignments between themselves, processed the incident scene, and conducted their investigation.

### 3. Processing of the Involved Officers and Crime Scene Investigation

As part of standard practice, the FIT determined which officers used force and crime scene investigators searched for evidence related to the firearms used during this incident.<sup>8</sup> Based upon a review of the officers' handguns and video evidence, Involved Officer 1 and Involved Officer 2 (the involved officers) discharged their handguns.

Crime scene investigators recovered twenty-five fired cartridge casings at the scene. Twenty-four of the fired cartridge casings were consistent with SPD ammunition and one fired cartridge casing was consistent with the ammunition loaded into Meneley's handgun.

Investigators also recovered five discharged bullets and a few discharged bullet fragments. Four of the discharged bullets, which were recovered in the hallway outside of room 1513, were consistent with SPD ammunition. The one discharged bullet, which was recovered from room 1827, was consistent with the ammunition loaded into Meneley's handgun.

<b><u>Involved Officer 1</u></b>		
Location	Unfired Cartridges	Capacity
Chamber of handgun	1	1
Magazine – Inside handgun	16	17
Magazine – Spare #1	16	17
Magazine – Spare #2	5	17
<b>Total</b>	<b>38</b>	<b>52</b>

<b><u>Involved Officer 2</u></b>		
Location	Unfired Cartridges	Capacity
Chamber of handgun	1	1
Magazine – Inside handgun	16	17
Magazine – Spare #1	15	17
Magazine – Spare #2	2	17
<b>Total</b>	<b>34</b>	<b>52</b>

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<sup>8</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.



<b><u>Involved Officer 3</u></b>		
Location	Unfired Cartridges	Capacity
Chamber of handgun	1	1
Magazine – Inside handgun	16	17
Magazine – Spare #1	16	17
Magazine – Spare #2	16	17
<b>Total</b>	<b>49</b>	<b>52</b>

<b><u>Meneley</u></b>		
Location	Unfired Cartridges	Capacity
Chamber of Handgun	0	1
Magazine	8	10
<b>Total</b>	<b>8</b>	<b>11</b>

Given this information, it appeared that the involved officers discharged twenty-four cartridge casings from their handguns and Meneley's handgun discharged one cartridge casing. The discrepancy between the number of unfired cartridges cases recovered from the involved officers' handguns and the number fired cartridge casings recovered at the scene is likely due to the involved officers' preferred loading procedure. Specifically, it is common for officers not to load a magazine to full capacity to ensure that the spring located inside the magazine functions properly.

#### **4. Civilian Witnesses**

Investigators interviewed the occupant of room 1827, who reported she heard shooting and entered the room's bathroom for safety. When she exited the bathroom, she observed a hole in the room's door and located a bullet on the floor. She called the front desk and advised them of the evidence.

Investigators also interviewed several other civilian witnesses who were in various rooms throughout the hotel and the hotel lobby. In sum, none of the witnesses observed the interactions between Meneley and the involved officers that led to the use of force. Many of the witnesses

reported hearing one gunshot, a pause, then several more gunshots. Shortly afterwards, several witnesses observed law enforcement and medics enter the hotel.

#### 5. 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>9</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>10</sup> The Team has confirmed that, to its knowledge, there is no potential impeachment information regarding the involved officers.

#### 6. Involved Officer Statements

During an independent investigation, the investigators may not receive any compelled statements from any involved officer or any investigative content that was informed by such compelled statements.<sup>11</sup> However, the independent investigation criteria is inapplicable as required by a federal consent decree, federal settlement agreement, or federal court order.<sup>12</sup> At the time of this incident, SPD was subject to a federal settlement agreement. Under the agreement, FIT will conduct use of force investigations unless information is obtained that suggests an officer may have committed a crime during the use of force incident. If this occurred, the investigation would be bifurcated into an administrative and a criminal investigation. All the information gathered during the FIT investigation would be screened to ensure that no compelled statements or inadmissible evidence would be passed onto a new team assigned to conduct the criminal investigation.

The involved officers in this incident were compelled to provide a statement to SPD. 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,

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<sup>9</sup> RCW 10.93.180(2)(a)(ii).

<sup>10</sup> RCW 10.93.180(1)(a).

<sup>11</sup> WAC 139.12.030(4)(a).

<sup>12</sup> RCW 10.114.011.

<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).

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 potential testimony of an involved officer. Therefore, it may be useful to the Team in analyzing the current incident and may be used in support of a finding of no criminal liability for the officer's actions.

## 7. Autopsy and Toxicology Reports

The King County Medical Examiner's Office performed an autopsy of Meneley 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 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.

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

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



- 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 during an encounter with law enforcement and the manner of death was homicide. The pathological diagnoses included evidence of twenty-eight gunshot wounds to the anterior neck, torso, pelvis, and posterior left forearm. However, some of the entrance wounds may be re-entrances of projectiles from other wounds. Eighteen mostly intact bullets were recovered from the body.

The Washington State Patrol Toxicology Laboratory performed a drug analysis of Meneley's blood. The results showed that Meneley's blood tested positive for ethanol (.19g/100mL).

#### **8. Administrative Review**

SPD policies the other employees within the chain of command to review the investigation, which included compelled statements. Regarding the use of force, the reviewing sergeant noted there was a potential crossfire issue when the involved officers discharged their handguns. The reviewing lieutenant noted that the force used was reasonable, necessary, and within policy.

## **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>16</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>17</sup>

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<sup>16</sup> RCW 9A.04.100; WPIC 4.01.

<sup>17</sup> KCPAO Filing and Disposition Standards.

In addition, the State must disprove the existence of a defense that negates an element of the crime beyond a reasonable doubt.<sup>18</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>19</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:

- Justifiable Homicide by Peace Officer<sup>20</sup>
  - Justifiable Homicide Defense of Self or Others<sup>21</sup>
  - Justifiable Homicide Resistance to Felony<sup>22</sup>
2. Applicable Law Regarding Justifiable Homicide by a Peace Officer

This incident occurred on April 17, 2024. 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>23</sup>

### 3. Applicable Jury Instructions

The following jury instructions, contained in Attachment A, would be applicable in a criminal prosecution and provided to the factfinder to determine whether the State met the

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<sup>18</sup> WPIC 14.00.

<sup>19</sup> KCPAO Filing and Disposition Standards.

<sup>20</sup> RCW 9A.16.040; WPIC 16.01.

<sup>21</sup> RCW 9A.16.050(1); WPIC 16.02.

<sup>22</sup> RCW 9A.16.050(2); WPIC 16.03.

<sup>23</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.”

required burden of proof. Therefore, these instructions are highly relevant to the Team's analysis and conclusion:

- WPIC 16.01 - Justifiable Homicide by a Peace Officer
- WPIC 16.05 - Necessary
- WPIC 2.09 - Felony
- WPIC 2.16 - Peace Officer
- WPIC 120.07 - Lawful Arrest and Probable Cause
- WPIC 16.02 - Justifiable Homicide – Defense of Self and Others
- WPIC 2.04.01 - Great Personal Injury
- WPIC 16.07 - Justifiable Homicide – Actual Danger Not Necessary
- 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 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>24</sup>

The KCPAO declines to file charges against the involved officers because the independent investigation and the Team's analysis reveal that the involved officers' actions were lawful and justifiable as either Justifiable Homicide by a Peace Officer, Justifiable Homicide in Defense of Self or Others, or both. These defenses contain related but distinct concepts and definitions. Criminal charges should be declined because the defenses are of such nature that

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<sup>24</sup> KCPAO Filing and Disposition Standards.

prosecution would result in a complete defense for the accused and there is no substantial evidence to refute either affirmative defense.

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>25</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>26</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>27</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>28</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 the amount of force that is necessary in a particular situation.”<sup>29</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>30</sup>

b. Seattle Police Department’s Policies Relevant to Analysis

Given the analysis and ruling in Graham v. Connor, it is common for a police department’s policy manual and training curriculum to incorporate the standards set out by the

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<sup>25</sup> Graham v. Connor, 490 U.S. 386, 396, 109 S.Ct. 1865, 1871-72, 104 L.Ed.2d 443 (1989).

<sup>26</sup> Id.

<sup>27</sup> Id.

<sup>28</sup> Id.

<sup>29</sup> Id. at 396-97.

<sup>30</sup> Id. at 397.

United States Supreme Court. The following excerpts of SPD policies were in effect at the time force was used by the involved officers and are relevant to the analysis of this incident:

**8.100 – De-escalation**

When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics to reduce the need for force.

De-escalation options will be guided by the totality of the circumstances with the goal of attaining voluntary compliance; considerations include communication, time, distance, and shielding.

**8.200 – Using Force**

Officers will only use objectively reasonable, necessary, and proportional force to the threat or urgency of the situation, to achieve a law enforcement objective while protecting the life and safety of all persons.

As resistance decreases, the use of force may need to decrease if reasonable, necessary, and proportional. As resistance increases, the use of force may need to increase, if reasonable, necessary, and proportional.

Deadly force may only be used in circumstances where a threat of death or serious physical injury to the officer or others is immediate.

When safe and feasible, officers will issue a verbal warning to the subject and fellow officers prior to discharging a firearm.

Officers will render appropriate medical aid within their training, as soon as reasonably possible.

c. Law Regarding Justifiable Homicide by a Peace Officer

Justifiable Homicide by a Peace Officer, as applied to this incident, is applicable in two scenarios. First, homicide or deadly force 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>31</sup> Second, homicide or deadly force is also justifiable when necessarily used by a peace officer meeting the

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<sup>31</sup> RCW 9A.16.040(1)(b); WPIC 16.01.

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>32</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>33</sup> 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.<sup>34</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 prevent death or serious physical harm to the officer or another individual.<sup>35</sup> 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.<sup>36</sup>

d. Analysis Regarding Justifiable Homicide by a Peace Officer

The evidence in the independent investigation showed that Meneley produced a handgun when Involved Officer 3 attempted to arrest him. Involved Officer 3 attempted to disarm Meneley. However, Involved Officer 1 and Involved Officer 2 used deadly force when it was apparent that Meneley would not relinquish control of the handgun, which was a significant safety risk to the officers. At the time this occurred, the involved officers attempted to arrest Meneley because, based on communications from other officers, there was probable cause to

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<sup>32</sup> RCW 9A.16.040(1)(c)(i); WPIC 16.01.

<sup>33</sup> RCW 9A.16.040(2).

<sup>34</sup> Id.

<sup>35</sup> RCW 9A.16.040(4).

<sup>36</sup> RCW 9A.16.010; WPIC 16.05.

believe that Meneley took substantial steps toward rape of a child. Further, when Meneley drew the handgun while officers attempted to arrest him, there was probable cause for the involved officers to believe that Meneley was committing felony assault upon the officers.

The evidence in the independent investigation also showed there was probable cause for the involved officers to believe that Meneley, if not apprehended, posed a threat of serious physical harm to the officers 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.

In the current incident, Meneley drew a firearm when officers attempted to arrest him for attempted rape of a child. When Meneley produced the gun, he was within a few feet of Involved Officer 3. Involved Officer 3, Involved Officer 1, and Involved Officer 2 were clearly wearing uniforms that indicated they were police officers. Further, as he exited the room to arrest Meneley, Involved Officer 3 announced, “Involved Officer 3. Seattle P. . .” but he was unable to complete the word “police” because Meneley had drawn his handgun and the struggle to control the handgun ensued. As noted by the involved officers, they believed that Meneley drew the handgun when he saw the police because he did not want to get arrested for attempted rape of a child. While Meneley is the only individual who truly knows why he drew his handgun, this hypothesis is likely to be considered credible by the factfinder. Therefore, it is highly likely that the factfinder would find that Meneley’s actions caused the involved officers to have probable cause to believe that Meneley, if not apprehended, posed a threat of serious physical harm to the officer or others.

The 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 them at the time, a similarly situated

reasonable officers would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual. When the officers opened the door to arrest Meneley, they did not have their firearms drawn, which tends to show they intended to arrest Meneley without using deadly force. As discussed below regarding SPD policy, a factfinder would also likely find that the involved officers use of deadly force was necessary because no reasonable effective alternative to use the force appeared to exist and the amount of force used was reasonable to effect the lawful purpose intended.

While compliance with SPD policy is not within the immediate scope of this memorandum, it is highly likely that a prosecution would include testimony and evidence pertaining to SPD's policies regarding use of deadly force. Such testimony and evidence would likely be in the form of expert opinion, SPD's policy manual, and training information. Here, the officers appeared to have complied with SPD policies regarding de-escalation and use of force, which tends to show that a similarly situated reasonable officers would have also believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual.

For example, officers are required to use de-escalation and less lethal alternatives when safe and feasible. Prior to Meneley drawing a handgun, the involved officers attempted to de-escalate by identifying themselves and using the presence of multiple officers to reduce the likelihood that force would be used. However, when Meneley produced the handgun and his handgun fired, it was no longer safe or feasible for the involved officers to avoid using force. The involved officers use of deadly force was also proportional to the resistance and threat before them.

The involved officers also complied with SPD policy to give a verbal warning to a suspect, when safe and feasible, prior to discharging the officer's firearm so that the suspect can respond. Repeated warnings would not have been safe or feasible given that Meneley continued to struggle over possession of the handgun.

Therefore, based on the anticipated admissible evidence and testimony, which is corroborated by several witnesses including video evidence, 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>37</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>38</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>39</sup>

However, the defense of Justifiable Homicide in Defense of Self or Others is also applicable to peace officers.<sup>40</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>41</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>42</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 reasonable belief that the threat will be carried out."<sup>43</sup> Additionally, a person is entitled to act on

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<sup>37</sup> RCW 9A.16.040 [1986 c 209 §3].

<sup>38</sup> RCW 10.120.020(2). See also, Graham, 490 U.S. at 396.

<sup>39</sup> RCW 10.120.020(2).

<sup>40</sup> RCW 9A.16.040(5)(a).

<sup>41</sup> RCW 9A.16.050(1); WPIC 16.02.

<sup>42</sup> WPIC 2.04.01.

<sup>43</sup> WPIC 16.02.

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>44</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 Meneley intended to commit a felony, to inflict death, or to inflict great personal injury upon the officers. As stated above, when Meneley drew his handgun in response to Involved Officer 3, the involved officers reasonably believed that Meneley intended to harm them.

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

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 them. The officers attempted to arrest Meneley without deadly force, but when Meneley drew a handgun, the officers were entitled to respond to the circumstances before them.

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<sup>44</sup> WPIC 16.07.

Therefore, based on the anticipated admissible evidence and testimony, which is corroborated by several witnesses including video evidence, 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**

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.<sup>45</sup> 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.”<sup>46</sup> Given the facts outlined in the 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.<sup>47</sup> 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.<sup>48</sup>

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<sup>45</sup> Executive Order PHL 7-1-5 EO.

<sup>46</sup> King County Charter § 895.

<sup>47</sup> Executive Order PHL 7-1-5 EO.

<sup>48</sup> Id.

**VIII. ATTACHMENT 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>49</sup>

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<sup>49</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>50</sup> or to inflict death or great personal injury;
- (2) the slayer reasonably believed that there was imminent danger<sup>51</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.

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<sup>50</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>51</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>52</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.

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<sup>52</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)