

Use of Force Fatality Investigation

Urban Seay

Seattle Police Department - Force Investigation Team

2025-73847 and 2025FIT-003



King County Prosecuting Attorney's Office
Public Integrity Team

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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.¹

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

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

Table of Contents

I. Introduction	4
1. Purpose of the Memorandum	4
2. Scope of the Memorandum	4
3. Status of the Independent Investigation	5
II. Overview	5
III. Investigation Materials	5
IV. Factual Summary	6
1. General Information	6
2. Facts Prior to the Use of Force	7
3. Facts During and After the Use of Force	20
V. Independent Investigation	23
1. Independent Investigation Team	23
2. Officer Processing	23
3. Civilian Witness Statements	26
4. Crime Scene Investigation and Search Warrants	27
5. Forensic Examination	30
6. Patient Care Record, Autopsy, and Toxicology	31
7. Involved Officer's Statements	33
VI. Other Proceedings	35
1. Administrative Review	35
2. Office of Police Accountability	35
VII. Potential Impeachment Information	35
VIII. Legal Standard and Applicable Review	36
1. Burden of Proof	36
2. Applicable Law Regarding Justifiable Homicide by a Peace Officer	37
3. Applicable Jury Instructions	37
IX. Analysis and Conclusion	37
1. Summary of Conclusion	37
2. Justifiable Homicide by a Peace Officer	38
3. Justifiable Homicide in Defense of Self or Others	42
X. King County Inquest Program	44
1. General Information	44
2. Significant Differences Between an Inquest and a Criminal Prosecution	45
3. Requirements of the King County Prosecuting Attorney's Office	45
Appendix A – Jury Instructions	47

I. INTRODUCTION

1. Purpose of the Memorandum

Pursuant to the Law Enforcement Training and Community Safety Act, an independent investigation is required when the use of deadly force by a peace officer results in death, substantial bodily harm, or great bodily harm.² The independent investigation is conducted in the same manner as a criminal investigation and must be completely independent of the involved agency.³

Under the Revised Code of Washington, the prosecuting attorney is required to represent the State of Washington and to prosecute all criminal actions in which the state or the county may be a party.⁴ 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.⁵

Therefore, the review of an incident by the King County Prosecuting Attorney's Office (KCPAO) 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 the 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.⁶

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.

² RCW 10.114.011. See also WAC 139-12-010.

³ WAC 139-12-010.

⁴ RCW 36.27.020(4).

⁵ RCW 10.114.011. See also RCW 43.102.020. 2021 c 318 § 101.

⁶ WAC 139-12-010.

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, a civil action, any inquiry, or any other type of proceeding. Compared to a criminal prosecution, these proceedings involve different areas of the legal system, utilize different standards of proof, and likely include evidence that is not admissible during a criminal prosecution.

The KCPAO expresses no opinion regarding the propriety or likely outcome of any other matter. However, topics that are relevant to matters outside the scope of this memorandum, such as department policy, procedures, or training, may be reviewed and included 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

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

II. OVERVIEW

On March 19, 2025, Seattle Police Department officers observed Urban Seay walking within the secured parking lot of the Southwest Precinct. Officers gave instructions to Seay on how to leave the secured area. Seay began to leave, but stopped, removed a knife, and eventually ran towards officers. An officer discharged his firearm at Seay, which struck him after a less lethal weapon had no effect on Seay. Officers administered life savings efforts, but Seay died as a result of his injuries.

III. INVESTIGATION MATERIALS

1. Police Reports – Seattle Police Department 2025-73847 and 2025FIT-0003
2. Civilian Statements
3. Computer Aided Dispatch
4. Search Warrants
5. Crime Scene Investigation
6. Crime Laboratory Reports

7. Patient Care Record, Medicolegal Investigation, Autopsy and Toxicology Reports
8. Involved Officer Information
9. Subject Information
10. 911 Call and Police Radio Traffic
11. Audio
12. Body Worn Video
13. In-Car Video
14. Other Video
15. Photos
16. Seattle Police Department Policy Manual
17. Electronic Device Forensic Extraction
18. Publications by News Media
19. Miscellaneous

IV. FACTUAL SUMMARY

1. General Information

The Factual Summary is based upon the Investigation Materials outlined in Section III. The Factual Summary is intended to summarize the information that led to police actions. For instance, the Factual Summary may include information provided to law enforcement officers and describe the actions of significant witnesses and the law enforcement officers who responded to this incident. In general, information that was not known to the law enforcement officers who responded to this incident is not included in the Factual Summary. Instead, additional information gathered by the independent investigation team assigned to this incident is outlined in Section V.

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 the statement has a material and substantial effect on the investigation and analysis.

2. Facts Prior to the Use of Force

The following information is based upon several sources, including, but not limited to, witness observations, police reports, police body worn video (BWV) cameras, police in-car video (ICV) cameras, the Seattle Police Department (SPD) computer aided dispatch (CAD) report, police radio recordings, and 911 recordings from March 19, 2025. If the time of a specific event is referenced in this memorandum, the item that recorded the event (e.g. CAD, BWV, or officer report) was used as the source of the time.

At approximately 12:15 pm, Civilian Witness 1 called 911 to report that her husband, Urban Seay (Seay), sent her a "suicide text" about 1 minute ago and he left his vehicle at the Home Depot in West Seattle by the police station. Civilian Witness 1 reported to the 911 operator she did not know if Seay was going to hurt himself, he had been suicidal for a long time, and this was the first time he had sent her a note. She explained Seay tried to run into traffic in the past. She also told the 911 operator Seay's phone showed his location was in the Home Depot parking lot, all the knives were at their home, and Seay may have taken pills with him.

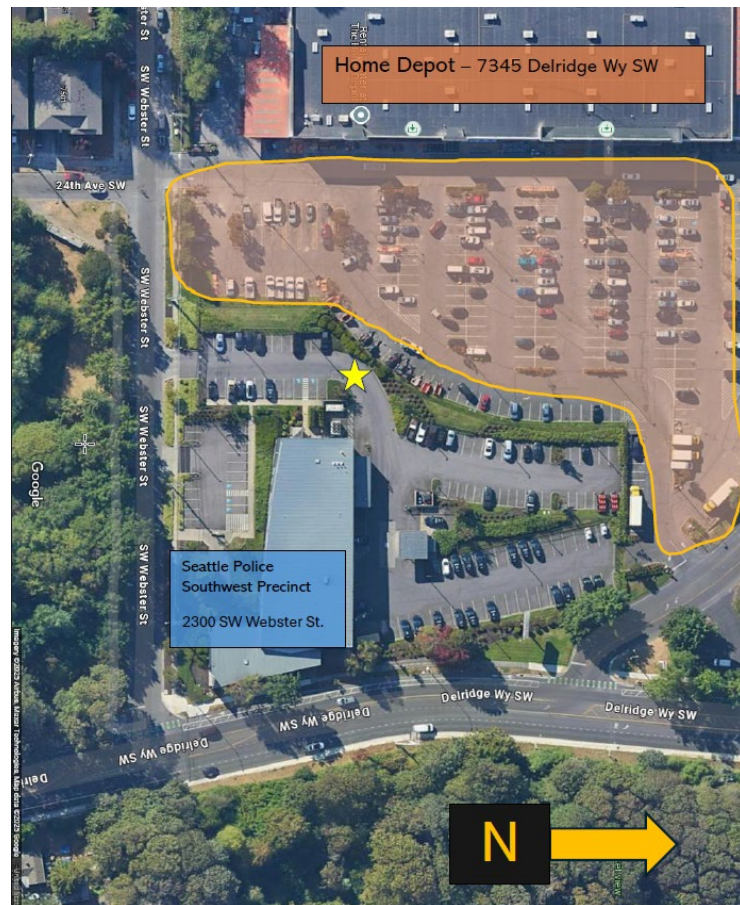


Figure 1 - Photograph showing the Southwest Precinct parking lot and the Home Depot parking lot (shaded orange).

Witness Officer 1 and Witness Officer 2 were inside their patrol vehicle, which was parked next to gas pumps located inside the SPD Southwest Precinct. The officers were preparing for the start of their shift so their ICV and BWV were not yet activated. However, due to the way BWV cameras work, BWV captured video-only portions of their interaction with Seay. The officers observed Seay walking through the precinct parking lot and they did not recognize Seay.⁷

⁷ Seay's identity was not established when the officers initially contacted him. Unless stated otherwise, the officers did not identify Seay by name or recognize him. However, because Seay's identity is not at issue for purposes of this memorandum, the individual the officers contacted will be referred to as Seay for clarity throughout the memorandum.



Figure 2 - BWV screenshot showing Seay walking past Witness Officer 1 and Witness Officer 2.



Figure 3 - SPD FIT photograph of signs indicating the location was not open to the public.



Figure 4 - SPD FIT photograph of signs showing the location was not open to the public.

Witness Officer 2 exited the patrol vehicle and calmly spoke to Seay. Witness Officer 2 reported he asked Seay if he needed assistance, and Seay replied he was lost. Witness Officer 2 noted Seay appeared flustered and reached towards the pockets of his pants and jacket. Witness Officer 2 told Seay he would escort him out of the parking lot and Seay initially followed Witness Officer 2's directions and walked towards the exit. Witness Officer 1 walked behind Witness Officer 2 as the three individuals approached the exit gate.



Figure 5 – BWV screenshot from Witness Officer 2 directing Seay towards a gate to exit the secured parking.

While Witness Officer 2 escorted Seay to the exit gate, Seay paused, turned towards Witness Officer 2 briefly, and then turned towards the exit gate. Witness Officer 2 activated his BWV, which captured audio and video. Witness Officer 2 stated, “So yeah, just walk up that way. There’s a gate over there. On your left there’s a door, right there. And that should get you out, all right?”



Figure 6 – BWV screenshot from Witness Officer 2 as he continued directing Seay towards the exit.

After a few seconds, Seay turned around again and walked back towards Witness Officer 2. Witness Officer 2 stated, “Hey! Right there, go out that way! Where are you going? There’s no need to come back over here.” As Seay turned towards Witness Officer 2, Witness Officer 3 arrived in a patrol vehicle in front of Seay, which appeared to cause Seay to turn back and continue walking towards the exit gate.



Figure 7 – BWV screenshot from Witness Officer 2 showing Witness Officer 2 (left box) and Witness Officer 3 (right box) pointing towards the exit.

Seay approached the exit gate and Witness Officer 3 parked his patrol vehicle and exited. Witness Officer 2 told Witness Officer 3 that Seay “might be a little off.” At about this time, Witness Officer 4, who was in his patrol vehicle, was about to exit the parking lot because he was dispatched to investigate a 911 call related to a suicidal person at Home Depot. However, when he saw Witness Officer 2, Witness Officer 3, and Witness Officer 1, he stopped and parked his patrol vehicle next to Witness Officer 3’s patrol vehicle.

While Seay stood next to the gate SPD Southwest Precinct security cameras captured Seay removing a knife from his left pants pocket. Seay turned towards officers with the knife visible in his right hand and took several steps towards the officers before pausing.

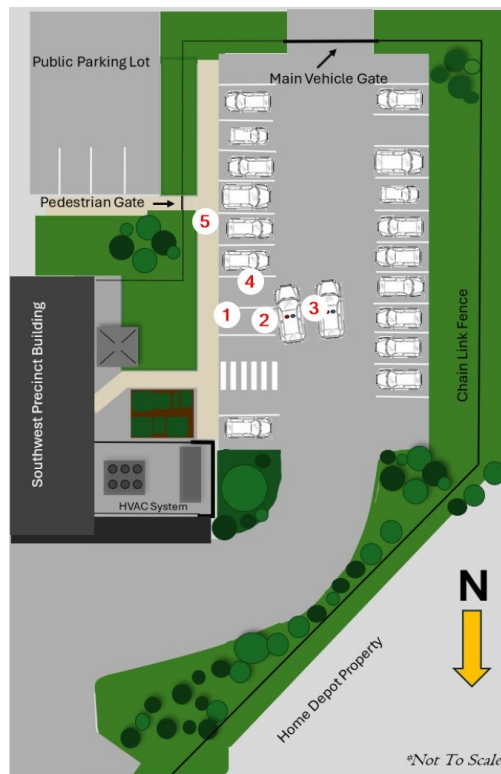


Figure 8 – Diagram showing the approximate locations of Seay and officers.

1. Witness Officer 1
2. Witness Officer 2
3. Witness Officer 4
4. Witness Officer 3
5. Seay

As Seay turned from the gate, Witness Officer 3, Witness Officer 2, and Witness Officer 1 took several steps backwards. Witness Officer 4 exited his patrol vehicle and Witness Officer 2 yelled out, “Hey hey, stay right there!” Witness Officer 3 drew his firearm and said, “Watch the knife, watch the knife!” Witness Officer 2’s BWV captured Seay make a statement, but it was inaudible. Witness Officer 5 activated his BWV, which captured Seay saying something to the effect of, “Sorry.”



Figure 9 – BWV screenshot from Witness Officer 2 showing Seay (arrow) stopped at the exit.



Figure 10 – BWV screenshot from Witness Officer 2 after Seay drew a knife. Officers told him to drop the knife.

As the officers continued moving backwards, Seay moved between facing the officers and taking steps forward and backward between the sidewalk and the parking lot. Witness Officer 1 noted Seay appeared to present a lethal threat and refused to leave the secured lot. He attempted to use his radio to make an emergency broadcast, but the channel was being used by

another precinct. Approximately 20 seconds later, the radio channel was open and Witness Officer 1 used his radio to broadcast, “. . . emergency, give me the air . . . We got a male in the Southwest Precinct parking lot, he has a knife, he's walking towards us, we're giving him verbal commands, give us the air.”



Figure 11 – BWV screenshot from Witness Officer 2 showing Witness Officer 1 and Witness Officer 2 moving away from Seay while giving him commands to drop the knife.



Figure 12 – BWV screenshot from Witness Officer 2 showing officers continued to move backwards while giving Seay directions.

As Witness Officer 1 used the radio, Seay stepped down from the sidewalk and took several steps towards Witness Officer 2. Witness Officer 2's BWV captured him holding his hands up in a "halt" gesture and he said, "Hey! Come on man." In response, Seay stopped walking towards Witness Officer 2 and returned to the sidewalk. Witness Officer 4 drew his taser and ordered Seay to "Stay on the ground!" and "Put the knife down." Witness Officer 6 and Witness Officer 7, who were inside their patrol vehicle near the precinct's gas pumps, observed the officers interacting with Seay, so they drove towards the officers. Given Witness Officer 6's experience at the Southwest Precinct, he knew it was commonplace for civilians to exit or leave the precinct for property cleaning or maintenance. Conversely, Witness Officer 6 was also aware that, at times, civilians have entered the secured parking area with no business associated with the precinct.



Figure 13 – BWV screenshot from Witness Officer 2 showing officers continued to move backwards and Witness Officer 4 drew his taser (circle).

Witness Officer 6 continued watching the officers talk with Seay, but as they walked towards the main gate, Seay and the other officers moved out of his line of sight. A short time later, he heard the radio transmission where an officer stated Seay was armed with knife. Witness Officer 6 immediately drove his patrol vehicle towards the other officers, which was where he observed Seay holding a knife. When Seay changed directions and began walking towards the officers, Witness Officer 6 exited the patrol vehicle with his patrol rifle and Witness Officer 7 exited the patrol vehicle with his 40mm less lethal launcher.⁸

⁸ A 40mm less lethal launcher is a special-purpose less lethal weapon designed to use kinetic energy to launch a 40mm projectile. The launcher allows law enforcement to discharge the launcher from a distance and the projectiles are designed to stun, temporarily incapacitate, or cause temporary discomfort to a subject.



Figure 14 – ICV screenshot from Witness Officer 3 showing Seay walking with a knife in his hand (arrow).



Figure 15 – BWV screenshot from Witness Officer 2 showing Witness Officer 7 with his 40mm less lethal launcher (arrow).

Approximately 47 seconds later, Seay stepped down from the sidewalk into the parking lot and crossed in front of Witness Officer 3's patrol vehicle and Witness Officer 4's patrol vehicle. After hearing Witness Officer 1's radio broadcast, several other officers located at the precinct responded. Witness Officer 8 was parked in his patrol vehicle on the east side of the parking lot and drove to the officers' location. Involved Officer 1 exited his patrol vehicle and ran on foot towards the officers' location.

3. Facts During and After the Use of Force

Based on BWV, several events occurred over the next 10 to 12 seconds beginning at 12:18:53 pm. Seay continued walking northbound in the general direction of the officers. Witness Officer 8 ordered Witness Officer 7 to deploy the 40mm launcher. Witness Officer 2 continued to move backwards and Involved Officer 1 moved towards Witness Officer 2's location, which was on the passenger side of Witness Officer 6's and Witness Officer 7's patrol vehicle. Witness Officer 7 commanded Seay to drop the knife, but Seay began to running towards Witness Officer 2 and Involved Officer 1. Witness Officer 6 observed Witness Officer 7 discharge one cartridge from his 40mm launcher but it did not appear to affect Seay.

After Witness Officer 7 deployed his less lethal weapon, Witness Officer 6 observed Seay move quickly towards his patrol vehicle. As Seay approached the front of Witness Officer 6's patrol vehicle, he heard multiple gunshots, which were discharged by Involved Officer 1. According to Witness Officer 2's BWV, Involved Officer 1 discharged 4 cartridges from his handgun at 12:19:01.⁹

⁹ A *firearm* or *gun* is a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. RCW 9A.01.010. In general usage, *firearm* and *gun* may be used synonymously. Firearms may be further classified as handguns or long guns. A *handgun*, which may also be referred to as a *pistol*, is generally designed to be held and fired with one hand. Handguns are further divided into two categories - semi-automatic and revolver. A *semi-automatic* has an internal, unmovable chamber. A *revolver* has a cylinder with multiple chambers. Conversely, a *long gun* is generally designed to be held by both hands and braced against the shoulder. Long guns include rifles, shotguns, and machine guns.



Figure 16 – BWV screenshot from Witness Officer 2 showing Seay running towards officers while armed with a knife.



Figure 17 – BWV screenshot from Witness Officer 2 showing Seay running towards officers after the 40mm less lethal launcher had no effect on him. Moments later, Involved Officer 1 (handgun visible) discharged his firearm.



Figure 18 – BWV screenshot from Witness Officer 2 showing Seay holding a knife in his right hand (arrow) after he was struck by gunshots.



Figure 19 – BWV screenshot from Witness Officer 2 showing an officer kicking the knife (arrow) away from Seay prior to officers providing him medical aid.

Witness Officer 8 gave directions for officers to provide Seay with medical aid and Witness Officer 1 requested medics to their location approximately 30 seconds after Involved Officer 1 discharged his firearm. When officers moved towards Seay to provide him with

medical attention, they observed a pocketknife on the ground near Seay. At approximately 12:24 pm, Seattle Fire Department employees arrived and took over medical aid. However, they pronounced Seay deceased at 12:33 pm. Based upon BWV, all gunshots discharged by the Involved Officer 1 occurred within 2 seconds.

V. INDEPENDENT INVESTIGATION

1. Independent Investigation Team

As other officers arrived, they rerouted traffic away from the area and secured the incident scene to preserve evidence. As required by law, an independent investigation team was notified about the use of force and requested to respond to the scene to conduct an independent investigation.¹⁰

The SPD Force Investigation Team (FIT) was contacted and identified as the lead agency conducting the independent investigation. Investigator 1 was assigned as the lead investigator. Other FIT investigators were given specific assignments, such as canvassing for witnesses and video evidence, interviewing witnesses, officer processing, crime scene investigation, and evidence collection.

2. Officer Processing

a. General Information

As part of their standard protocol, FIT determined which officers used force and processed those officers. Officer processing refers to the investigative steps of documenting the physical appearance and condition of uniforms and equipment of each involved officer. Depending on the specific facts and circumstances of the incident, officer processing typically consists of four parts:

- Investigators photograph the involved officer to document their appearance, including the involved officer's clothing and equipment worn during the use of force, uniform defects, injuries, equipment, and potential trace evidence.

¹⁰ RCW 10.114.011. See also WAC 139-12-010.

- Investigators identify which weapons were involved during the use of force and document the condition of those items.
- Investigators determine and document the number of firearm cartridges, if applicable, in the involved officer's firearm, loaded magazine, and any spare magazines.¹¹
- Investigators collect firearms, equipment, uniforms, and other items as necessary.

b. Officer Processing During the Current Incident

Investigators determined Involved Officer 1 discharged his handgun. While examining an involved officer's firearm, investigators determine if the firearm is loaded, whether there is an unfired cartridge in the chamber of the firearm, whether there are unfired cartridges in the magazine loaded into the firearm, and whether there are unfired cartridges in the involved officer's spare magazines.¹² This examination allows investigators to estimate how many cartridges were discharged during the use of force. Crime scene investigators also seek to collect discharged cartridge casings located at the use of force scene to ensure all the involved officer's discharged cartridge casings are accounted for.

At times, however, there is a discrepancy between the number of discharged cartridges estimated during officer processing and the number of discharged cartridge casings recovered at the scene. This is likely due to the involved officer's preferred loading procedure. Regarding handguns, officers generally fill their loaded magazine to maximum capacity, insert the magazine into their handgun, load a cartridge into the chamber of the firearm, remove the magazine, and place another cartridge into the magazine so that the loaded magazine is at maximum capacity in

¹¹ Handgun and rifle ammunition contain several distinct parts, whose names 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 inside 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.

¹² An *unfired cartridge* is a cartridge that has not been *discharged* from a firearm. When a firearm is discharged, it may generally be referred as *fired* or *shot*. A *discharged casing* is a cartridge that has been ejected from a firearm. A discharged casing may generally be referred to as a *discharged* or *fired cartridge casing* or a *discharged* or *fired casing*.

addition to the cartridge in the chamber of the firearm.¹³ However, it is also common for officers to not load a magazine to its full capacity to ensure that the spring located inside the magazine functions properly.

c. Photograph of the Involved Officer's Appearance

Investigators photographed the involved officer to document the involved officer's appearance during the use of force. The involved officer wore an SPD uniform, which was obviously marked with the word "Police" and other law enforcement insignias to clearly identify him as law enforcement.



Figure 20 – SPD FIT photograph of Involved Officer 1 showing his physical appearance during the use of force.

¹³ A process referred to as "topping off" a magazine.

d. Involved Officer 1

If Involved Officer 1 filled his loaded magazine to capacity with an additional cartridge in the chamber, his handgun was loaded with 18 cartridges, which would indicate he discharged 7 cartridges. However, based upon BWV review and evidence collection, Involved Officer 1 discharged 4 cartridges. The following table illustrates where investigators located unfired cartridges and the maximum capacity of cartridges for that specific location:

Weapon Examined: Glock 17 Gen 5, 9 x 19mm

Cartridge Location	Unfired	Capacity	Headstamp
Chamber	1	1	Speer 9mm Luger +P
Loaded Magazine	12	17	Speer 9mm Luger +P
Spare Magazine	16	17	Speer 9mm Luger +P
Spare Magazine	16	17	Speer 9mm Luger +P
Total:	45	52	Estimated Cartridges Outstanding: 7

e. Involved Officer Training

FIT reviewed the involved officer's training records. Investigators determined the involved officer was qualified to use the firearm he used during the use of force. Additionally, investigators determined the involved officer was current on SPD required training.

3. Civilian Witness Statements

a. Civilian Witness 1

Civilian Witness 1 arrived at the Home Depot at approximately 12:22 pm and identified herself as Seay's spouse. Subsequently, she provided a statement to investigators. Civilian Witness 1 reported Seay had been dealing with suicidal ideations for the last 8 to 9 months and was diagnosed with major depressive disorder and anxiety disorder. She stated Seay was treated at in-patient clinics during that time, that he had been on leave from work, and he was discharged by his employer last week.

4. Crime Scene Investigation and Search Warrants

a. General Information

Investigators with crime scene investigation (CSI) experience documented the location of items that appeared to have evidentiary value and collected various items as evidence. Generally, investigators perform a brief review of the scene to identify areas that require further examination. The scene and items of evidentiary value were marked with placards and photographed. After marking the location of evidence, investigators utilized a Leica 3D laser scanner to document the scene.

b. Scene Description

Investigators noted the weather at the time of the investigation, which was cloudy and in the mid-50's Fahrenheit. The entirety of the investigation occurred during daylight hours. The Southwest Precinct was located at the northwest corner of Delridge Way SW and SW Webster St. The parking lot of the precinct was secured with a chain-link fence, which was approximately 5.5" to 6" tall. The parking lot gate on SW Webster St was controlled by a proximity card access point. A vehicle gate on the north side of the parking lot was locked and was not a primary entrance or exit point. No trespassing signs were clearly posted at the parking lot entrances and at several points along the fence. A Home Depot store is located west of the precinct.

c. Scene Walkthrough

Involved Officer 1, Witness Officer 7, and Witness Officer 8 were required to participate in a scene walkthrough and identify their locations when the use of force occurred. Based on this, investigators placed cones at the locations they identified.

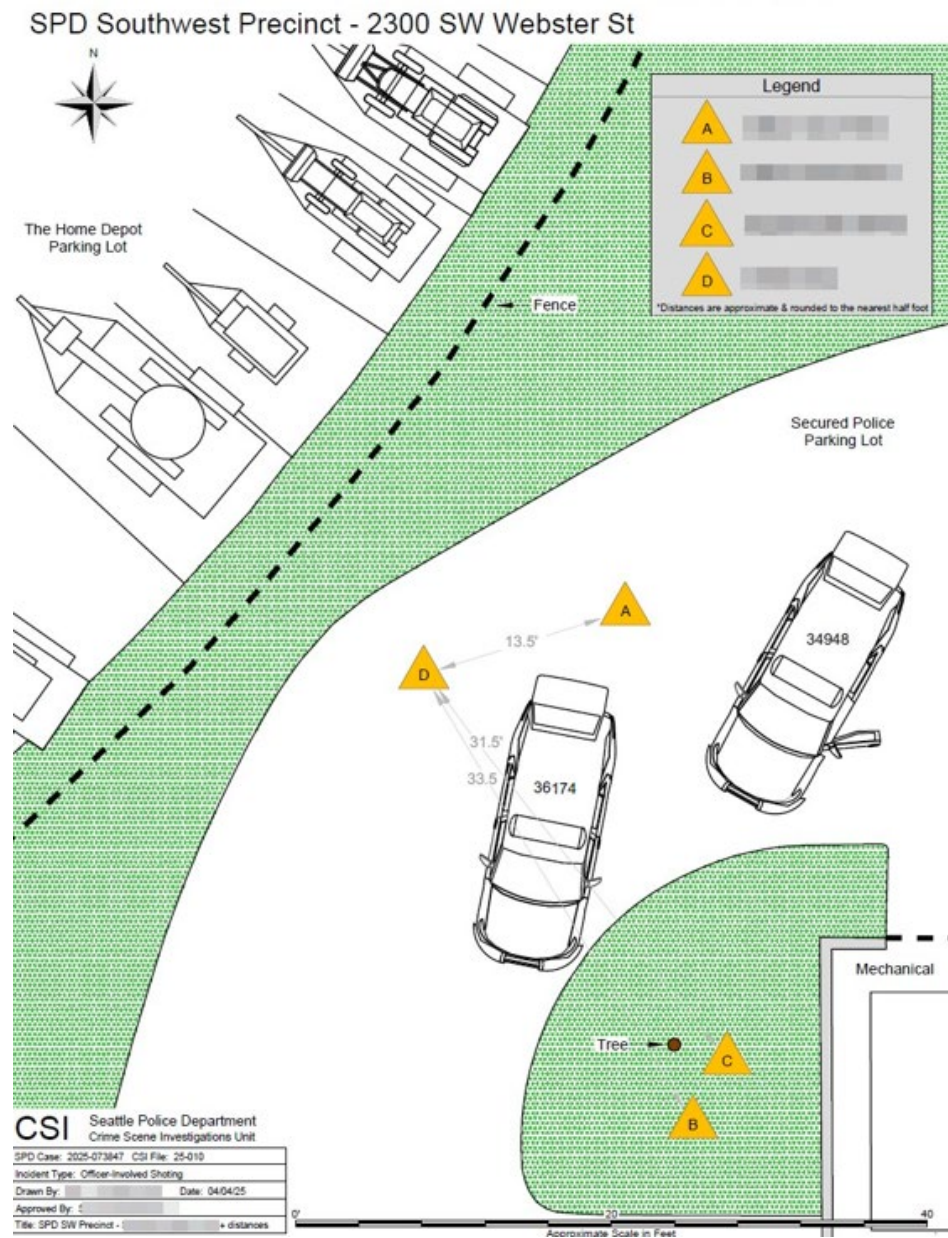


Figure 21 – CSI diagram of the locations of individuals during the use of force according to Witness Officer 8.

- A. Involved Officer 1
- B. Witness Officer 7
- C. Witness Officer 8
- D. Seay

d. Evidence Collection

Investigators identified the following items as evidence:

Item:	Location:
Folding pocketknife	- Located on the ground, approximately 6' west of Seay. The blade was 3.3" long and was found in the open and locked position. Apparent bloodstains were seen on the blade and the handle. 
Keychain with a Subaru key fob	- Located on the ground, approximately 6' west of Seay
Fired 40mm cartridge	- Located on the ground approximately 10.5' east of Seay.
Fired 40mm blue sponge round projectile	- Located on the ground behind a row of bushes and below the perimeter chain-link fence, approximately 19' west of Seay.
4 fired cartridge cases	- Located on the ground, each with the head stamp of "Speer 9mm Luger +P," approximately 21' northeast of Seay.

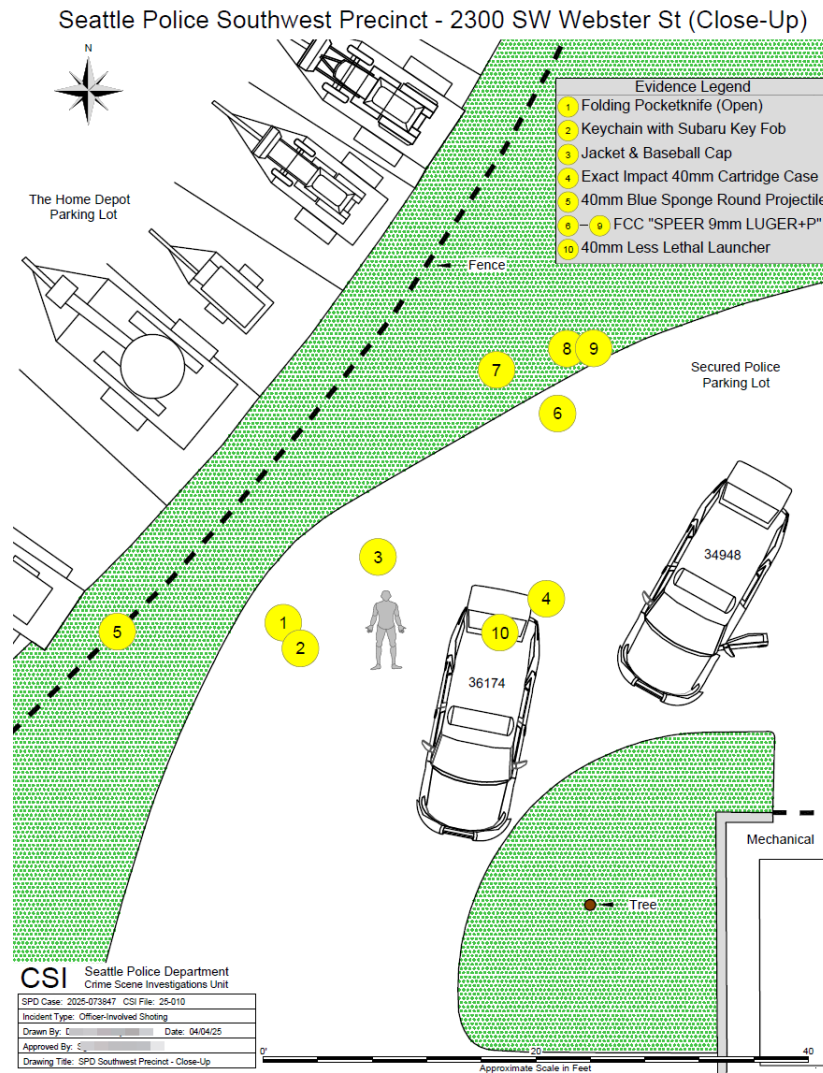


Figure 22 – CSI diagram of evidence item locations.

5. Forensic Examination

Seay's cell phone was recovered from the vehicle he left in the Home Depot parking lot. Investigators sought judicial approval for a search warrant to examine the phone, which was granted. When investigators examined Seay's phone, they observed a text message sent from Seay to Civilian Witness 1 at 12:14 pm, which stated:

The car is parked in the Home Depot parking lot right behind the police station. The police will have the keys and my phone will be in the car.

We can't go on like this and things will just keep getting worse the more this drags on. It needs to end.

Please forgive me.

Investigators also observed information that Seay had upcoming appointments with a mental health service provider for interventional psychiatric treatments. The first appointment was scheduled to occur in 5 days. Additionally, investigators observed information Seay conducted internet searches regarding the effectiveness of the psychiatric treatment within hours of going to the Southwest Precinct. Seay's cell phone records show several calls or attempted calls between his phone and the main number for a mental health service provider; however, it is not clear whether Seay spoke with anyone at the provider's office. Investigators observed there were no calls to 911 or other crisis hotlines.

6. Patient Care Record, Autopsy, and Toxicology

a. *Seattle Fire Department Patient Care Record*

When medical personnel from the Seattle Fire Department arrived, they were told by officers that Seay was shot three times and Seay had a weak and thready pulse. Medical personnel observed Seay was unconscious, unresponsive, and pulseless without respiratory drive. Seay's gunshot wounds had been bandaged prior to their arrival. Medical personnel provided aid until medics arrived. When medics arrived, they evaluated Seay and determined he was deceased.

b. *Medicolegal Investigation and Autopsy*

A medicolegal investigator with the King County Medical Examiner's Office reported the most recent medical encounter for Seay occurred the day prior when he was seen at Madison Center Family Medicine for "severe episode of recurrent major depressive disorder, without psychotic features." Seay's problem list included, "hypertension, anxiety, and sleep apnea."

The King County Medical Examiner's Office performed an autopsy of Seay 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 the following 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.¹⁴ 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 during a confrontation with police. The King County Medical Examiner's Office opined the manner of death was homicide. The pathological diagnoses included evidence of 3 gunshot wounds:

- Perforating gunshot wound of the neck into the upper back/shoulder¹⁵
 - Entrance: Anterior neck
- Penetrating gunshot wound of the back into the chest
 - Entrance: Mid-back
- Penetrating gunshot wound of the abdomen into the pelvis
 - Entrance: Right lower abdominal quadrant

¹⁴ HOMICIDE, Black's Law Dictionary (11th ed. 2019).

¹⁵ 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.

- Superficial cutaneous injuries of the central lower back, right hand, and right knee
- Evidence of medical intervention

c. Toxicology

The Washington State Patrol Toxicology Laboratory performed a drug analysis of Seay's blood. The results showed Seay's blood tested negative for acetone, ethanol, isopropanol, and methanol and negative for drugs.

7. Involved Officer's Statements

a. 5th Amendment Protections

Under current law, the independent investigation must be conducted in the same manner as a criminal investigation.¹⁶ Moreover, one of the primary purposes of the independent investigation is to "inform any determination of whether the use of deadly force met the good faith standard and satisfied other applicable laws and policies."¹⁷ Thus, a law enforcement officer, like any other citizen, is protected by the 5th Amendment of the United States Constitution, which prohibits compelling a person to be a witness against themselves.¹⁸ A law enforcement officer, like any other citizen, can choose whether or not to voluntarily waive their 5th Amendment protection and provide a statement to criminal investigators.

The involved officer's employer, the involved agency, however, may compel an involved officer to provide a statement in an administrative investigation for the purpose of determining if the involved officer's actions were in accordance with the agency's policy and training. If an involved officer refuses to provide a statement during an administrative investigation, their refusal may result in consequences such as termination of their employment.

While the involved officer's statements may be used against them in an administrative or civil proceeding, such compelled statements are inadmissible against an involved officer in a

¹⁶ WAC 139-12-010.

¹⁷ Id.

¹⁸ U.S. Const. amend. V.

subsequent criminal trial.¹⁹ 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.²⁰ Therefore, the investigators conducting the independent investigation may not receive any compelled statements from an involved officer or any investigative content that was informed by such compelled statements.²¹

b. Compelled Statements Taken During This Incident

An exception to the independent investigation criteria exists when required by a federal consent decree, federal settlement agreement, or federal court order.²² 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 involved 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 is passed onto a new team assigned to conduct the criminal investigation.

Although the compelled statement and information derived from such a statement cannot be used to support criminal charges against an involved officer, a credible compelled statement provides insight into the 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. While the involved officer provided a compelled statement to investigators during this investigation, the Team did not review or rely upon the involved officer’s compelled statements. However, portions of the investigation materials contain reports, such as the lead investigator’s summary, the SPD Administrative

¹⁹ Garritty v. State of N.J., 385 U.S. 493, 500, 87 S. Ct. 616, 620, 17 L. Ed. 2d 562 (1967).

²⁰ U.S. v. North, 910 F.2d 843, 857-858 (D.C. Cir., 1990).

²¹ WAC 139-12-030.

²² RCW 10.114.011.

review, and OPA report, that do rely on compelled statements. These reports themselves do contain statements that were compelled and the Team reviewed them during its analysis.

VI. OTHER PROCEEDINGS

1. Administrative Review

SPD policies require supervising officers to review the FIT investigation, which included the involved officer's compelled statements. The reviewing sergeant, lieutenant, and captain noted training and policy issues related to equipment, but they did not identify any training or policy issues related to de-escalation tactics or use of force.

2. Office of Police Accountability

On March 28, 2025, Investigator 1 contacted Civilian Witness 2, who had called 911 to report she heard gunshots, so he could interview her. During her interview, Civilian Witness 2 opined, "It seemed kind of extreme that [Seay] was killed." Investigator 1 recognized this statement as a potential complaint of excessive force, so he notified his supervisors who referred the matter to the Seattle Office of Professional Accountability (OPA). OPA conducted an expedited investigation because OPA believed it could issue recommended findings based solely on its intake investigation without interviewing Witness Officer 7 or Involved Officer 1. Regarding Involved Officer 1, OPA opined that his use of lethal force was objectively reasonable, necessary, and proportional under the circumstances. Similarly, OPA opined Involved Officer 1 did not fail to de-escalate prior to using his firearm. Regarding Witness Officer 7, OPA opined that his use of the less lethal 40mm launcher was proper.

VII. POTENTIAL IMPEACHMENT INFORMATION

Law enforcement agencies are required to report misconduct that an officer has engaged in that affects their credibility.²³ In turn, each county prosecutor is required to develop and adopt a written protocol addressing potential impeachment disclosures pursuant to Brady v. Maryland,

²³ RCW 10.93.180(2)(a)(ii).

373 U.S. 83 (1963), and subsequent case law.²⁴ The Team has confirmed that, to its knowledge, there is no potential impeachment information regarding the involved officer who used deadly force in this incident.

VIII. LEGAL STANDARD AND APPLICABLE REVIEW

1. Burden of Proof

In a criminal prosecution, the State must prove each element of a criminal charge to the factfinder by competent evidence beyond a reasonable doubt.²⁵ 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.²⁶

In addition, the State must disprove the existence of a defense that negates an element of the crime to the factfinder beyond a reasonable doubt.²⁷ 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.²⁸

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 Officer²⁹
- Justifiable Homicide Defense of Self or Others³⁰
- Justifiable Homicide Resistance to Felony³¹

²⁴ RCW 10.93.180(1)(a).

²⁵ RCW 9A.04.100; WPIC 4.01.

²⁶ KCPAO Filing and Disposition Standards.

²⁷ WPIC 14.00.

²⁸ KCPAO Filing and Disposition Standards.

²⁹ RCW 9A.16.040; WPIC 16.01.

³⁰ RCW 9A.16.050(1); WPIC 16.02.

³¹ RCW 9A.16.050(2); WPIC 16.03.

2. Applicable Law Regarding Justifiable Homicide by a Peace Officer

This incident occurred on March 19, 2025. The applicable pattern jury instruction for Justifiable Homicide by a Peace Officer requires the State to prove to the factfinder that the involved officer acted without good faith.³²

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 |

IX. 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

³² 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.”

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.”³³

The KCPAO declines to file charges against the involved officer because the independent investigation and the Team's analysis reveal the involved officer's 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 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.”³⁴ 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.³⁵ In other words, the reasonableness of whether the officer's use of force is justified is determined by “the totality of the circumstances.”³⁶

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.³⁷ “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

³³ KCPAO Filing and Disposition Standards.

³⁴ Graham v. Connor, 490 U.S. 386, 396, 109 S.Ct. 1865, 1871-72, 104 L.Ed.2d 443 (1989).

³⁵ Id.

³⁶ Id.

³⁷ Id.

the amount of force that is necessary in a particular situation.”³⁸ 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.³⁹

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

- 8.100 – De-Escalation
- 8.300 – Use of Force Tools

c. 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.⁴⁰

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.⁴¹

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.⁴² Among the circumstances which may be considered by peace officers as a “threat of serious physical harm” are the following:

³⁸ Id. at 396-97.

³⁹ Id. at 397.

⁴⁰ RCW 9A.16.040(1)(b); WPIC 16.01.

⁴¹ RCW 9A.16.040(1)(c)(i); WPIC 16.01.

⁴² RCW 9A.16.040(2).

- 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.⁴³

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.⁴⁴ 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.⁴⁵

d. Analysis Regarding Justifiable Homicide by a Peace Officer

First, the evidence in the independent investigation supports the conclusion that the factfinder would find the involved officer 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. Similarly, the evidence in the independent investigation supports the conclusion the factfinder would find there was probable cause for the involved officer to reasonably believe Seay had committed, had attempted to commit, was committing, or was attempting to commit various felonies, such as assault, manslaughter, or murder. This conclusion is based on evidence that when officers directed Seay to leave the secured parking area, he ultimately refused their order, removed a knife from his possession, and moved towards officers in a threatening manner.

Second, the evidence in the independent investigation supports the conclusion the factfinder would find there was probable cause for the involved officer to believe that Seay, 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

⁴³ Id.

⁴⁴ RCW 9A.16.040(4).

⁴⁵ RCW 9A.16.010; WPIC 16.05.

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.

It is likely that the factfinder would find that Seay's actions caused the involved officer to have probable cause to believe that Seay, if not apprehended, posed a threat of serious physical harm to an officer or others. This conclusion is based on evidence that Seay refused to comply with the officers' numerous commands to drop his knife and get on the ground. Instead, Seay, while armed with a knife, ran towards officers.

Third, the evidence in the independent investigation supports the conclusion the factfinder would find the involved officer used deadly force with a good faith belief his actions were necessary to prevent death or serious physical harm to the officer or another individual.

Regarding good faith, a factfinder would likely find the involved officer acted in good faith because, under an objective standard, when considering all the facts, circumstances, and information known to the involved officer 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. This conclusion is based on evidence that the involved officer was in an optimal position to observe Seay's actions and the threat he posed to the officers.

Regarding whether the use of deadly force was necessary, a factfinder would also likely find the involved officer's 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. This conclusion is based on evidence that the officers attempted to de-escalate the situation by using time, distance, shielding, and communication. Additionally, Witness Officer 7 used a less lethal weapon to subdue Seay, but the weapon was ineffective. Given that Seay continued to advance towards officers, the ability to further de-escalate was not feasible.

Fourth, although compliance with SPD policy and training is not within the immediate scope of this memorandum, any criminal prosecution would very likely include testimony and evidence pertaining to SPD's policies and training pertaining to the use of deadly force and other relevant topics. Such testimony and evidence would likely be in the form of expert opinion,

SPD's policy manual, and training materials. The factfinder would very likely rely upon this opinion to assist in its assessment of the involved officer's actions. The evidence in the independent investigation supports the conclusion that the factfinder would find the involved officer complied with SPD's policy and training.

Therefore, based on the anticipated admissible evidence and testimony, which is corroborated by several witnesses including video evidence, the KCPAO declines to file charges against the involved officer. The independent investigation and the Team's analysis support the conclusion that the involved officer's actions were lawful and justifiable as either Justifiable Homicide by a Peace Officer, Justifiable Homicide in Defense of Self or Others, or both.

3. Justifiable Homicide in Defense of Self or Others

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

The legislature recognized 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.⁴⁶

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.⁴⁷ 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.⁴⁸

In comparison, the defense of Justifiable Homicide in Defense of Self or Others is also applicable to peace officers.⁴⁹ 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

⁴⁶ RCW 9A.16.040 [1986 c 209 §3].

⁴⁷ RCW 10.120.020(2). See also, Graham, 490 U.S. at 396.

⁴⁸ RCW 10.120.020(2).

⁴⁹ RCW 9A.16.040(5)(a).

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.⁵⁰ 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.⁵¹

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.”⁵² 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.⁵³

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 a significant amount of training on weapons, defensive tactics, and the use of force, it is prudent to assume the factfinder would be required to take an involved officer’s training and experience into account to determine how a reasonable person would have acted. Therefore, the same evidence and testimony used to determine whether an involved officer 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

First, the evidence in the independent investigation supports the conclusion the factfinder would find that the involved officer reasonably believed that Seay intended to commit a felony, to inflict death, or to inflict great personal injury upon an officer or others. This conclusion is

⁵⁰ RCW 9A.16.050(1); WPIC 16.02.

⁵¹ WPIC 2.04.01.

⁵² WPIC 16.02.

⁵³ WPIC 16.07.

based on evidence that refused to follow the officers' commands and advanced towards officers with a knife.

Second, the evidence in the independent investigation supports the conclusion the factfinder would find the involved officer reasonably believed that Seay's actions constituted an imminent danger of such harm being accomplished. Moreover, under the broader standard of imminent danger, as opposed to immediate danger, it is even more likely that the factfinder would find that Seay's actions, as described above, caused the involved officer to reasonably believe that Seay's threats would be carried out.

Third, the evidence in the independent investigation supports the conclusion the factfinder would find the involved officer employed such force and means as a reasonably prudent person would under the same or similar conditions as they reasonably appeared to the involved officer. This conclusion is based on evidence that the involved officer discharged his firearm after a less lethal weapon was used and not effective, Seay did not comply with officers' commands, and Seay ran towards officers with a knife.

Therefore, based on the anticipated admissible evidence and testimony, which is corroborated by several witnesses including video evidence, the KCPAO declines to file charges against the involved officer. The independent investigation and the Team's analysis support the conclusion that the involved officer's actions were lawful and justifiable as either Justifiable Homicide by a Peace Officer, Justifiable Homicide in Defense of Self or Others, or both.

X. KING COUNTY INQUEST PROGRAM

1. General Information

In King County, an inquest is likely required when a civilian dies during an interaction with law enforcement. Specifically, 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.⁵⁴ An inquest is an administrative, fact-finding inquiry into

⁵⁴ King County Charter §895.

and review of the manner, facts and circumstances of the death of an individual.⁵⁵ In Family of Butts, the Washington State Supreme Court held the King County Executive has discretion to determine how an inquest will be conducted so long as there is no “direct and irreconcilable conflict” with state law.⁵⁶

2. Significant Differences Between an Inquest and a Criminal Prosecution

Although an inquest investigates a death, the inquest “does not make any binding adjudicative determinations of civil or criminal liability.”⁵⁷ Consequently, there are significant procedural differences between an inquest and a criminal trial, which include, but are not limited to the following:

- Inquests in King County are conducted by the King County Inquest Program, which is overseen by the Department of Executive Services. The KCPAO and the Department of Executive Services are separate county departments.
- In a criminal trial, the prosecution is prohibited from introducing or relying at all on inadmissible evidence, including an officer's compelled statement.
- In a criminal trial, the jury consists of twelve individuals as opposed to six individuals in an inquest jury.
- In an inquest, no party has a burden to prove or disprove facts and the jury may render a split verdict. However, in a criminal trial, the prosecution must convince a unanimous jury of twelve individuals that each element of a criminal charge occurred beyond a reasonable doubt and the prosecution must also disprove the existence of a defense that negates an element of the crime beyond a reasonable doubt.
- The inquest jury is not given a complete set of jury instructions that accurately defines the available defenses a defendant would raise and need to be disproven beyond a reasonable doubt at a criminal trial.

3. Requirements of the King County Prosecuting Attorney's Office

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

⁵⁵ Executive Order PHL 7-1-6 EO.

⁵⁶ Family of Butts, 198 Wn.2d 27, 44-45 (2021).

⁵⁷ Executive Order PHL 7-1-6 EO.

following an interaction with law enforcement or while in the custody of law enforcement. The KCPAO shall also forward a copy of the investigative records to the Inquest Program. The KCPAO has previously complied with these requirements.

Appendix A – Jury Instructions

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.⁵⁸

⁵⁸ 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 felony⁵⁹ or to inflict death or great personal injury;

(2) the slayer reasonably believed that there was imminent danger⁶⁰ 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.

⁵⁹ 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).

⁶⁰ 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 felony⁶¹ 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.

⁶¹ 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)