



**MEMORANDUM RE: OFFICER INVOLVED FATALITY**

**Decedent: Charleena Lyles (2017)**

**I. FOREWORD**

Charleena Lyles was killed by Seattle Police in June 2017 in a shocking and heartbreaking incident that understandably has undergone significant public scrutiny. The King County Prosecuting Attorney's Office (KCPAO) shares the public's concern in police use of force cases and has compassion for and has been in contact with Ms. Lyles' family.

It is important to note that the role of the KCPAO in these types of cases is to determine the sufficiency and efficacy of admissible evidence to prove a criminal charge beyond a reasonable doubt. By rendering these determinations, and in either filing charges or declining to file charges, the KCPAO does not intend to condone actions or render opinions as to whether training was followed or not, whether there is civil or administrative liability or not, et cetera. Simply put, the question for this office is whether a criminal charge is likely to unanimously be proven beyond a reasonable doubt to twelve jurors.

**II. OVERVIEW**

In King County, an inquest is required when any action by law enforcement might have contributed to an individual's death. King County Charter Section 895. In 2017, the KCPAO reviewed the completed investigation into the killing of Charleena Lyles and the Chief Criminal Deputy initiated the inquest process. While the case was being prepared for inquest, the King County Executive paused all pending inquests and made several changes to the process. Due to a new Executive Order (PHL 7-1-5EO) this case was transferred out of the KCPAO to the newly formed Inquest Program, which conducted the inquest from June 21 – July 6, 2022, at the Children and Family Justice Center. The KCPAO is no longer a party to the inquest process, however, a senior deputy observed this inquest in its entirety.<sup>1</sup> This memorandum is intended to provide a summary of the evidence that would be admissible in a criminal trial and a legal analysis of potential criminal liability and statutory defenses on the part of Seattle Police Department Officers Anderson and McNew.

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<sup>1</sup> In January 2022, the KCPAO formed a new unit – the Public Integrity Unit (PIU) – to review all police use of force cases resulting in death, great bodily harm, and substantial bodily harm. The PIU's mission is to be open, transparent, and straightforward with the public.

### **III. SUMMARY OF ADMISSIBLE EVIDENCE**

*Note: In 2017, Seattle Police Officers were not equipped with body worn video. The significant admissible evidence in this case consists of the 911 call, the in-car video (audio only), and the CSI report/photographs/evidence collected at the scene.*

On June 18, 2017, at approximately 8:55 AM, Charleena Lyles called 911 to report a burglary at her apartment. Seattle Police Officer Anderson arrived at Ms. Lyles's apartment building in response to the dispatch. Officer Anderson reviewed an officer safety caution attached to Ms. Lyles' name and also reviewed a prior report in which Ms. Lyles had threatened officers with a knife. The prior report also referenced that Ms. Lyles was exhibiting mental health issues. Officer Anderson requested a backup officer, and Officer McNew arrived at the scene.

Officers Anderson and McNew entered Ms. Lyles' apartment and began taking a burglary report. Initially, Ms. Lyles was answering questions calmly and clearly. However, Ms. Lyles demeanor suddenly changed to hostile, and she displayed a knife. Both officers drew their firearms, pointed their firearms at Ms. Lyles, and shouted commands to get back. Ms. Lyles said "Do it." Officer McNew yelled to Officer Anderson "Taser!" Ms. Lyles said "you can't do that either, motherfuckers." The officers continued to yell at Ms. Lyles to get back and she continued to advance with the knife. Both officers fired their weapons at Ms. Lyles, striking her multiple times. The medical examiner ruled Ms. Lyles' death a homicide<sup>2</sup> as a result of several gunshot wounds.

### **IV. LEGAL STANDARD**

In making any criminal charging decision, the King County Prosecutor's Office is bound by state law in effect at the time of the incident. In 2017, justifiable homicide and/or the use of deadly force by a police officer was defined in RCW 9A.16.040 as:

- (1) Homicide or the use of deadly force is justifiable in the following cases:
  - (c) When necessarily used by a peace officer...
    - (i) 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...
- (2) In considering whether to use deadly force under subsection (1)(c) of this section 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. Among the circumstances which may be considered by peace officers 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, where, if feasible, some warning is given.

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<sup>2</sup> Homicide as defined by the medical examiner means 'death caused by another.' It does not implicate criminality.

- (3) A public officer or peace officer shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable pursuant to this section.**

## **V. ANALYSIS AND CONCLUSION**

Under the filing standards of the King County Prosecuting Attorney's Office, criminal prosecution is warranted whenever "[s]ufficient admissible evidence exists which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder."

RCW 9A.16.040 (2017) sets out a three-part analysis to determine whether the use of deadly force by a police officer is justified.

First, the person whom deadly force is used against must be a "person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony." Second, the statute requires that "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." The statute specifically states that among the circumstances which may be considered by peace officers as a threat of serious physical harm is whether the suspect displays a weapon in a manner that could reasonably be construed as threatening. Here, Ms. Lyles was advancing on the officers with a knife, despite repeated commands to 'get back.' The information known to the responding officers indicated that Ms. Lyles was committing Assault in the Second Degree against them and was refusing to follow orders to stop. This is corroborated by the evidence of the knife at the scene and the audio recording of the incident.

Third, the use of force must be "necessary." 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. RCW 9A.16.010(1). While a significant amount of testimony admitted at the inquest would not be admissible in a criminal trial, it is likely that a criminal jury would hear from policy and training experts about the use of deadly force and alternatives. The uncontested testimony of the use of force and training experts at the inquest was that the use of deadly force was necessary given the circumstances. Thus, a criminal jury would likely conclude that the use of deadly force was necessary.

In addition to the three-part test for justifiable homicide outlined above, the statute also provides **a clear and complete defense** to a criminal charge when police officers use deadly force in good faith. "A public officer or peace officer shall not be held criminally liable for using deadly force **without malice** and with a good faith belief that such act is justifiable pursuant to this section." There is no evidence that the involved officers acted in any way other than in the good faith performance of their duties, and also acted in good faith to protect themselves and their fellow officer. Specifically, there is no substantively admissible evidence that either officer acted with malice, and thus, criminal charges could not be proven beyond a reasonable doubt.

## **VI. CONCLUSION**

To prosecute the involved officers for any degree of homicide arising from the shooting death of Charleena Lyles, the State would have to disprove justifiable homicide under the

“malice” and “good faith” standards. There is no evidence to overcome this defense. We therefore decline to file criminal charges as a result of this incident.