



King County

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INQUEST INTO THE DEATH OF CHARLEENA LYLES # 517IQ9301

ORDER ON JURY INSTRUCTIONS RE: APPLICABILITY OF RCW 9A.16.040 AND RCW 9A.16.050

Family of the decedent:	Family of Charleena Lyles, represented by Karen Koehler and Melanie Nguyen
Law enforcement officers:	Seattle Police Department Officers Steven McNew and Jason Anderson represented by Ted Buck and Karen Cobb
Employing government department:	Seattle Police Department, represented by Ghazal Sharifi and Rebecca Widen
Administrator:	Michael Spearman assisted by Inquest Program Attorney, Claire Thornton

The Administrator issues the following ruling regarding Jury Instructions:

At issue is whether, in an inquest proceeding concerning an officer involved homicide occurring in 2017, RCW 9A.16.040, as amended in 2019, should be applied retroactively. Also, at issue is whether RCW 9A.16.050 is applicable to an officer who causes a death by the use of deadly force in the course of his or her duties.

RCW 9A.16.040 defines the circumstances in which law enforcement officers are, in the course of their official duties, permitted to use deadly force and when an officer may not be held criminally liable for the use of such force. The version of the statute, as amended in 2019, differs in many respects from that in effect when the death occurred in this case. But most significantly for our purposes is that part of the statute defining when an officer shall not be held criminally liable for using deadly force. Section 3 of the version in effect in 2017 protects against criminal liability when the officer's use of deadly force was "without malice and with a good faith belief that such act is justifiable," as defined elsewhere in the statute. Section 4 of the version enacted in 2019

protects against criminal liability only when the officer acts in “good faith, where ‘good faith’ is an objective standard” based on a similarly situated reasonable officer.

The Family contends that the 2019 version should be applied retroactively and relies primarily upon Beltran-Serrano, v. City of Tacoma, 193 Wn. 2d 537. (2019). But the case does not support that proposition because it involved a civil negligence claim against the City of Tacoma based on the acts of a Tacoma Police Officer. And it is well settled that the constitutional prohibition against a retroactive statute, applies only to criminal matters and not to a civil action. In re Estate of Haviland, 177 Wn. 2d 68, 81-82 (2013).

Because inquests are fact-finding proceedings and are neither civil nor criminal proceedings, the issue of retroactivity is a close one. But because our Supreme Court has held that “an inquest is one of four “established, recognized and legally permissible methods for determining the existence of probable cause[,]” I conclude that solely for purposes of deciding this issue, an inquest should be viewed as tending to be slightly more criminal than civil. Family of Butts v. Constantine, 198 Wn. 2d 27, 48, n. 5, citing State v. Jefferson, 79 Wash.2d 345, 347 (1971). Accordingly, RCW 9A.16.040, as amended in 2019, cannot apply retroactively to this 2017 incident.

As to RCW 9A.16.050, the Involved Officers argue that they are entitled to present a self-defense claim under this statute in addition to the defenses permitted under RCW 9A.19.040. I disagree. The only authority offered in support of this argument is a statement in a bill summary drafted by a member of the Washington State House of Representatives legislative staff. But the summary itself contains a disclaimer that states: “This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.” Whereas a “legislative recognition” appended to the statute provides as follows:

The legislature recognizes that RCW 9A.16.040 establishes a dual standard with respect to the use of deadly force by peace officer and private citizens, and further recognizes that private citizens’ permissible use of deadly force under the authority of RCW 9.01.200, 9A.16.020, or 9A.16.050 is not restricted and remains broader than the limitations imposed on peace officers.

This language clearly suggests that the legislature intended RCW 9A.16.040 to apply to uses of deadly force by officers when acting in the course of their official duties and RCW 9A.16.050 to apply to persons who use such force in their capacity as private citizens. Accordingly, I conclude that the latter statute does not apply in this proceeding.

In summary, the jury will be instructed pursuant to the version of RCW 9A.16.040 in effect at the time of Ms. Lyles’s death. The jury will not be instructed as to RCW 9A.16.050.

DATED: June 29, 2022



Inquest Administrator Michael Spearman