



King County

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**INQUEST INTO THE DEATH OF EUGENE DEWAN NELSON
417IQ2075**

INSTRUCTIONS TO THE INQUEST JURY PANEL

DATED ____ day of _____, 2023.

Robert McBeth
Inquest Administrator

No. 1

As you know, you have been empaneled to serve in the inquest into the death of Eugene Dewan Nelson. It is not the purpose of this inquest to determine the criminal or civil liability of any person or agency.

The purpose of the inquest is to provide a public inquiry into the facts and circumstances surrounding the death of Eugene Dewan Nelson, including a determination of the Kent Police Department policies and trainings applicable to the actions of the officers involved in the death, whether those officers' actions complied with department policies and trainings, and whether or not Mr. Nelson's death was caused by criminal means. Your role is to hear the evidence and answer Interrogatories according to these instructions.

It is your duty to determine the facts in this matter from the evidence admitted by the administrator and to report your findings to the administrator in writing, by answering the Interrogatories, which the administrator will submit to you. The Interrogatories are fact-based questions. You should not attempt to make, or in any way be concerned with, any legal conclusions with respect to the events surrounding the death of Eugene Dewan Nelson.

The evidence that you are to consider during your deliberations consists of the testimony that you have heard from witnesses, stipulations, and the admitted exhibits. If evidence was not admitted or was stricken from the record, then you are not to consider it in answering the Interrogatories.

One of my duties has been to rule on the admissibility of evidence. Do not be concerned during your deliberations about the reasons for my rulings on the evidence. If I have ruled that any evidence is inadmissible, or if I have asked you to disregard any evidence, then you must not discuss that evidence during your deliberations or consider it in answering the Interrogatories. In order to answer the Interrogatories, you must consider all of the evidence that I have admitted that relates to each Interrogatory.

As jurors, you have been allowed to ask questions of the witnesses. Each question has been reviewed by the Inquest Administrator and counsel. If a question was not asked, you may not speculate about the reasons for the Inquest Administrator's decision or discuss the fact that certain questions were not asked.

I have made every effort to call each relevant witness, including any witness that you as jurors might have asked to be called. If you requested a potential witness but that person did not appear as a witness during the Inquest Hearing, you may not speculate about the reasons that the potential witness did not appear.

No. 2

You are the sole judges of the credibility of each witness. You are also the sole judges of the value or weight to be given to the testimony of each witness. In considering a witness's testimony, you may consider these things: the opportunity of the witness to observe or know the things he or she testifies about; the ability of the witness to observe accurately; the quality of a witness's memory while testifying; the manner of the witness while testifying; any personal interest that the witness might have in the outcome or the issues; any bias or prejudice that the witness may have shown; the reasonableness of the witness's statements in the context of all of the other evidence; and any other factors that affect your evaluation or belief of a witness or your evaluation of his or her testimony.

No. 3

This is not an adversarial proceeding. The lawyers' questions are intended to help you understand the evidence. It is important, however, for you to remember that the lawyers' questions are not evidence. The evidence is the testimony and the exhibits. You must disregard any question and answer that has been stricken.

You may have heard objections made by the lawyers during this inquest. The lawyers have the right to object to questions asked by another lawyer. These objections should not influence you. Do not make any assumptions or draw any conclusions based on a lawyer's objections.

Because it is your role as jurors to evaluate the evidence, it would be improper for me to express, by words or conduct, my personal opinion about the value of testimony or other evidence. If it appeared to you that I have indicated my personal opinion in any way, either during this inquest or in giving these instructions, you must disregard this entirely.

As jurors, it is your duty to answer each Interrogatory fairly and properly. You must not let your emotions overcome your rational thought process. You must act impartially with an earnest desire to determine and declare the truth. You must answer the Interrogatories based on the evidence, not on sympathy, prejudice, or personal preference.

No. 4

Evidence may be either direct or circumstantial. Direct evidence is that given by a witness who testifies concerning facts that they directly observed or perceived through the senses. Circumstantial evidence is evidence of facts or circumstances from which the existence or nonexistence of other facts may be reasonably inferred from common experience. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. One is not necessarily more or less valuable than the other.

No. 5

Certain evidence has been admitted in this case for only a limited purpose. The evidence consists of 1) information about an order prohibiting contact between Sahra Mohamed and Eugene Nelson; 2) information about whether Eugene Nelson had warrants, including a felony warrant; and 3) information about crime and prior police responses in the area near the Sultan Hookah Bar.

You may consider this evidence only for the purpose of how it affected reasoning and actions of the police officers involved in this incident. You may not consider it for any other purpose. You may not speculate about what led to any order prohibiting contact or any warrants. You may not use this evidence to speculate about Eugene Nelson's character or any of his actions prior to this incident.

Any discussion of the evidence during your deliberations must be consistent with this limitation.

No. 6

A witness who has special training, education or experience in a particular science, profession or calling, may be allowed to express an opinion in addition to giving testimony as to facts. You are not bound, however, by such an opinion. In determining the credibility and weight to be given such opinion evidence, you may consider, among other things, the education, training, experience, knowledge and ability of that witness, the reasons given for the opinion, the sources of the witness' information, together with the factors already given you for evaluating the testimony of any other witness.

No. 7

When you begin deliberating, you should first select a presiding juror. The presiding juror's duty is to see that you discuss the issues in this inquest in an orderly and reasonable manner, that you fully and fairly discuss each issue submitted for your decision, and that each one of you has a chance to be heard on every question before you.

Many of the interrogatories that you will need to answer are related to one another. For that reason, you may find it helpful to read through all of the interrogatories before discussing or answering any particular interrogatories. It will be the duty of each of you to discuss this case fully with your fellow jurors, to express your own views, and to fully consider the views of the other jurors.

During your deliberations, you may discuss any notes that you have taken during the inquest, if you wish. You have been allowed to take notes to assist you in remembering clearly, not to substitute for your memory or the memories or notes of other jurors. Do not assume, however, that your notes are more or less accurate than your memory.

You will need to rely on your notes and memory as to the testimony presented in this inquest. Testimony will not be repeated for you during your deliberations.

If, after carefully reviewing the evidence and instructions, you feel a need to ask the Inquest Administrator a legal or procedural question that you have been unable to answer, write the question out simply and clearly. For this purpose, use the form provided in the jury room. In your question, do not state how the jury has answered any question. The presiding juror should sign and date the question and give it to the Inquest Program Coordinator. I will confer with the lawyers to determine what response, if any, can be given.

You will be given all of the exhibits admitted in evidence, these instructions, and the written Interrogatories to be answered by you. If an exhibit was admitted for illustrative purposes only, the exhibit may not be brought into the jury room.

No. 8

It is the duty of the presiding juror to record all of the jurors' answers to the written Interrogatories. After fully and fairly discussing each issue and exchanging their interpretations of the evidence, on each Interrogatory, the presiding juror must set out in the blanks provided the number of jurors who answer "Yes", the number of jurors who answer "No", and the number of jurors who answer "Unknown" to each question.

You should respond "Yes" when you believe a preponderance of the evidence supports responding to the question in the affirmative. You should respond "No" when you believe a preponderance of the evidence supports responding to the question in the negative. You should respond "Unknown" if either (1) the weight of the evidence equally supports responding to the question in the affirmative and the negative or (2) not enough evidence was presented to allow you to answer the question in the affirmative or the negative. The jury need not reach unanimity on each Interrogatory.

No. 9

A preponderance of the evidence means that you must be persuaded, considering all the evidence bearing on the question, that the answer “Yes” or “No” is more probably true than not true.

No. 10

For each Interrogatory, the presiding juror must allow each juror the opportunity to provide a written explanation of the juror's answer if the juror believes that a written explanation will provide information that will be helpful.

No juror is required to provide an explanation to any answer, but the jurors are encouraged to consider doing so. While a simple "Yes", "No" or "Unknown" may answer the question, it may not fully explain the reasons for the answer.

We are truly interested in those reasons. Any explanations you choose to offer will be helpful to the community to understand what happened during this incident and to understand the reasons for your decisions. You will be provided forms for you to write any explanation that you wish to provide.

No. 11

If you find that a police officer's use of deadly force caused Eugene Nelson's death, you will need to determine if the death was occasioned by "criminal means." In order to answer Interrogatories Nos. 73 to 75, you must complete two steps using the instructions on the following two pages:

Step 1 – You must determine if the officer's use of deadly force was justified.

First, determine whether or not, by a preponderance of the evidence, the death caused by an officer's use of deadly force was justifiable as defined in Instruction No. 12. If you find that the use of deadly force was justifiable, you need not make a determination about whether the death was by "criminal means."

Step 2 – If the use of deadly force was *not* justified, you must determine whether the death was occasioned by "criminal means."

If you find by a preponderance of the evidence that a death caused by an officer's use of deadly force was *not* justifiable as defined in Instruction No. 12, you must then determine whether the officer acted without malice and with a good faith belief that the use of force was justifiable.

"Malice" means an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be, but is not required to be, inferred from an act done in willful disregard of the rights of another.

If you find the officer acted without malice and with a good faith belief that the use of force was justifiable, then the death was not caused by criminal means.

No. 12

A police officer's use of deadly force is justifiable in the following circumstances:

1. When necessary to overcome actual resistance to an order from the officer.
2. When necessary 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, if the officer has probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or others,
or
3. When necessary to prevent escape from the officers, if (a) the officer has probable cause to believe the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm, and (b) the officer gives a warning, if feasible.

The parties stipulate that Mr. Nelson was committing or attempting to commit a felony at the time deadly force was used.

Definitions:

- “Deadly force” means the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury.
- “Necessary” means that, under the circumstances as they appeared to the officer at the time, (1) no reasonable effective alternative to the use of force appeared to exist and (2) the amount of force used was reasonable to affect the lawful purpose intended.
- An officer has “probable cause” to believe something when the facts known to that officer at the time would cause a reasonably cautious officer to believe that thing is true. In determining whether the facts known to the officer justified this belief, you may take into account the officer's training and experience.

No. 13

In determining whether an officer acted without malice and with a good faith belief that the act was justifiable, you may consider, among other factors, whether the officer's actions complied with applicable Kent Police Department policies and trainings. However, you may not rely solely on an officer's failure to comply with the Kent Police Department policies and/or trainings to find that the officers acted with malice or not in good faith.

No. 14

After you have answered the Interrogatories, all members of the jury will then sign the form and the presiding juror will notify the Inquest Program Coordinator. The Inquest Program Coordinator will bring you to the Hearing Room for the Inquest Administrator to read your answers into the record. After the answers have been read, the Inquest Program Coordinator will collect your notes. The notes are confidential documents and they will be destroyed. No one will be allowed to read your notes.

You have now heard all the testimony in this proceeding and my instructions. Each juror has a copy of my instructions and of the Interrogatories to take with you to the jury room. If you took notes, you may also take them with you. So, at this time, please recess to the jury room. Once the Inquest Program Coordinator has delivered all the admitted exhibits, you may begin your deliberations.