



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. 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.