



King County

Dan Satterberg

King County Prosecuting Attorney's Office

News Release

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Officer charged with murder, assault for 2019 shooting

Statement from King County Prosecuting Attorney Dan Satterberg:

Today my office is filing criminal charges against an Auburn police officer for the May 31, 2019 shooting death of Jesse Sarey outside an Auburn grocery store.

We are filing two charges against Officer Jeffrey Nelson: Murder in the Second Degree and Assault in the First Degree – both felonies.

The investigation was delivered by police to the King County Prosecuting Attorney's Office in November 2019. We then began the process of engaging experts. The video analysis was crucial to us and was not completed until March. The video work was foundational to the work done by the use-of-force experts. They completed their reports in June. Between June and this month, we have had internal discussions leading to the charging decision today.

Our decision in this case is based entirely on the investigation of the Valley Investigative Team and the opinions provided by our experts. We felt it was critical to understand all the events depicted in the video. To do that well required expertise. Use of force experts were also essential to help understand the intersection between police training/tactics and the new legal standard that focuses on whether an officer's use of deadly force is "reasonable."

Here's a breakdown of the key elements of our video analysis, which closely follow the certification for determination of probable cause:

- The first 38 second segment shows Officer Nelson exit his patrol car and verbally confront Mr. Sarey, telling Mr. Sarey that he is under arrest for disorderly conduct.
- Over the next 6 seconds, Officer Nelson intensified his efforts to effect an arrest – seeking to physically subdue Mr. Sarey.
- The next segment shows Officer Nelson and Mr. Sarey continue to struggle, and Officer Nelson begins a series of seven punches toward Mr. Sarey's head and upper body.

- In the fourth video segment, a witness leans down out of view of the video to pick up Officer Nelson's closed folding-knife that had fallen to the ground and landed near his feet. Officer Nelson is seen pushing Mr. Sarey against a freezer box while drawing his weapon with his right hand and bending to his right. Officer Nelson fires one shot into Mr. Sarey's torso, clears a jammed round, and fires another shot into Mr. Sarey's forehead 3.44 seconds later. After the first shot, Mr. Sarey was on his behind, falling backwards with his legs and feet toward Officer Nelson when the second shot was fired into his head.

We assert that Officer Nelson's actions with respect to both shots were unreasonable. However, we recognize that the jury will have to decide each application of deadly force independently. Considering that legal reality, we have brought a charge to reflect each gunshot. The murder charge relates to the first shot which ultimately brought about Mr. Sarey's death. The assault charge relates to the second shot to the head, which, remarkably, was determined not to be the fatal shot.

Our experts determined that Mr. Nelson did not follow his training in a number of ways, and those failures needlessly provoked the circumstances that led to Mr. Sarey's death. He did not de-escalate the situation. He did not wait for backup. Officer Nelson went hands on with Mr. Sarey in just 38 seconds and Mr. Sarey was fatally shot 29 seconds later. As our experts – one a former chief in Idaho and another a former deputy chief in California – determined, Officer Nelson created the very situation that brought about his use of deadly force.

We know that many people will ask: Why this case? Why now?

Our process in this case has been ongoing for more than a year, and it began well before the death of George Floyd.

Our decision today reflects the changes brought by Initiative 940, which was overwhelmingly approved by voters statewide. Those changes in the law, which affects cases from 2019 onward, make it clear that there should be an increased role for juries to decide whether a particular application of deadly force by law enforcement constitutes a crime.

For cases that happened before 2019, state law required us to show that an officer acted with "malice" and a lack of good faith. That was essentially an impossible standard to meet – and the rules of professional conduct prohibit us from bringing a case to a jury if we don't believe it can lead to a conviction.

We know there will be questions about how older cases could have been handled differently, or if this means all police shootings going forward will lead to criminal charges.

The answer is we look at each case individually, and follow the law as it's written at the time.

Specifically, we would review the totality of the evidence brought to us by investigators, we would seek the opinions of experts, when appropriate, that could be shared in public court testimony, and we would do a thorough, independent review of each case before making a charging decision.

We know that we are at the start of a long process with this case. We also know that not everyone will agree with this decision. What we hope is that the public will review the details of the case themselves, and we will continue to share updates publicly.

We are looking forward to presenting this evidence to a jury who will make the ultimate decision about criminal liability.

FOR MORE INFORMATION, CONTACT:

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