

**In-Custody Death of
Michael Rowland**

Seattle Police Department, #2022FIT-0009



King County Prosecuting Attorney
Public Integrity Team

April 20, 2023



DECLINE MEMORANDUM

In-Custody Death of Michael Rowland

I. Overview

On April 19, 2022, Michael Rowland (“subject”), a 63-year-old obese male, died of a substantial heart attack while in police restraint. Both Seattle Police Department (“SPD”) and King County Jail (“KCJ”) officers used force in arresting and booking the subject who, over the hour-long interaction, was violent, continuously uncooperative, and expressed threats towards each department’s officers. The medical examiner did not rule Mr. Rowland’s death a homicide opining that it is unclear if or how much the officers’ use of force contributed to his death versus his preexisting medical conditions.

The King County Prosecuting Attorney’s role is to ensure that the in-custody death investigation is thorough and complete, determine whether sufficient admissible evidence exists to support filing criminal charges, and inform the King County Executive whether an inquest should be initiated. (Executive Order PHL 7-1-5 EO). An inquest is required when any action by law enforcement might have contributed to an individual’s death. (King County Charter Section 895).

The Public Integrity Team has determined that the investigation of April 19, 2022 in-custody death is complete at this time. Based on a thorough review, the Team has concluded that the evidence is insufficient to support criminal charges against any King County Jail corrections officer (“CO”) or jail staff. Accordingly, the KCPAO is declining to file criminal charges in this matter based on the evidence presently available.

Pursuant to Executive Order PHL-7-1-5-EO, we recommend an inquest be initiated

because we have not identified any factors or circumstances under §6.1, or any other reasons, that indicate that an inquest is not warranted.

II. Factual Summary

At 2:12 AM, on April 19, 2022, Seattle Police officers responded to the Sheraton Grand Seattle Hotel after a hotel security officer reported four transients trespassing in the hotel lobby, yelling, and refusing to leave until they received food, or the police arrived. The security officer also reported one of the subjects attempted to grab him, and that one subject had another subject, "...by the collar and won't let him go. He wants to leave but the other guy who's yelling won't let him."

SPD Officer #1, SPD Officer #2, and SPD Officer #3 entered the hotel lobby and observed subject, Michael Rowland sitting on a couch with Civilian #1 whom Rowland was holding by the hood. SPD Officer #1 asked Civilian #1 if he wanted to leave and he nodded yes. Rowland then yelled nonsensical remarks at the officers and slapped Civilian #1 in the face. To protect Civilian #1, the three SPD officers pulled Civilian #1 away from Rowland's grasp and then took Rowland down to the ground face first and placed in a prone position. Less than one minute later, after being handcuffed, he was turned onto his side. While on the ground, Rowland continued to threaten the officers. Rowland did not appear to be injured, nor did he complain of injuries.

SPD Officer #2 then called for backup and an AMR ambulance due to the subject's large stature and his continuously combative behavior. While officers restrained Rowland, SPD Officer #1's BWV shows the subject intentionally hitting his own head against the ground on multiple occasions. To protect the subject, police put a couch cushion under his head. Officers lifted the subject onto the gurney by his hands and feet when he refused to move to the gurney on his own volition.

The subject began to spit at officers, so they placed a spit mask over his head. At 2:39 AM, he was taken out of the lobby to the ambulance. He continued to spit and yell nonsensical comments at law enforcement throughout. SPD Officer #1 and SPD Sergeant #1 discussed what charges to arrest the subject for and SPD Sergeant #1 approved arresting the subject for "false imprisonment." SPD Officer #4 then rode inside AMR unit 236 as it transported the subject to the King County Jail where he was booked on investigation of unlawful imprisonment and assault 4. During the transport, Rowland was responsive and freely conversing with staff, albeit nonsensically. At one point, he again attempted to hit his head against the gurney.

Once at the jail, at approximately 3:00 AM, AMR medics wheeled Rowland's gurney into the pre-booking area where he was met by six corrections officers ("CO") and a nurse. CO #1 was one of those officers. The subject was uncooperative and verbally aggressive from the outset. The subject threatened CO #1 stating, "I'm god. I'll fuck you up. I'll spit on you." During the pre-booking process he was examined by Jail Nurse #1 who ultimately medically cleared him to be booked even though she was unable to obtain his vital signs due to Rowland wearing four jackets and being in four-point restraints. According to jail records, Jail Nurse #1 did not observe any signs of shortness of breath, diaphoresis, wheezing, or tremors. JHS staff did note that Mr. Rowland suffered from edema to his lower extremities. Video from the intake area shows Mr. Rowland responsive, nodding his head in response to questions. It is apparent that JHS staff and the officers were unaware of the fact, later discovered at HMC, that the subject had a completely blocked coronary artery.

KCJ Sergeant #1 then ordered that the subject be taken around the corner to a side cell, cell #10, where he was to be dressed in a jail uniform.¹ Once in front of the cell door, the subject did not comply with directives to lean forward on the gurney to be handcuffed for officer safety. Instead of complying, the subject thrashed his body and head around, pressing his body into the gurney. KCJ Sergeant #1 ordered the COs to take him off the gurney to dress him. AMR staff lowered the subject's gurney onto the ground to make that task easier. In order to get the subject into a seated position for CO #2 to remove the soft restraints and handcuff the subject, CO #1 and CO #4 pushed up the subject upright by the right shoulder while CO #3 and CO #5 pushed his left shoulder up. The COs tried to help Rowland off the gurney and into the side cell, but he dropped his weight onto the ground making it difficult to move him.

Rowland was then pulled into the cell by CO #4, CO #5, and CO #1 by using their strength to support him under his arms.² Rowland began to kick his legs and tense his arms. He was then placed in the prone position to be dressed out. CO #5 took control of Rowland's legs by pinning his legs to the ground with his hands. CO #4 and CO #1 used their hands to control Rowland's right shoulder by pinning it against the ground. CO #3 took control of Rowland's left shoulder by pinning it against the ground with his hands. CO #1 said the officers applied the least amount of force possible when holding him against the ground.

¹ CO #3 told investigators that it is necessary for inmates to be dressed out of civilian clothes and into a jail uniform to avoid contraband entering the jail facility.

² This sequence is not captured by jail surveillance video, nor is any subsequent use of force.

The handcuffs were removed starting with the right hand, then the left hand. Rowland's pants and underwear were removed by CO #5, and a jail uniform placed over his buttocks for privacy. With his left arm placed behind his back, Rowland's jackets and shirt were then taken off the right arm by CO #4 as CO #1 controlled Rowland's right arm. Rowland continued to threaten the COs. With his right arm placed behind his back, CO #3 then removed the jackets and shirt from Rowland's left arm and over his head to fully remove the upper body clothing. Rowland's muscles were tensed during the entire process according to CO #1. Once his top was put on, KCJ Sergeant #1 told Rowland to stay in prone position and not to get up until the cell door closed behind him. All Officers then exited the cell.

After all staff exited the cell, KCJ Sergeant #1 noticed that Rowland had not moved his hands from the small of his back. KCJ Sergeant #1 observed Mr. Rowland through the window watching Rowland's stomach rise and fall. KCJ Sergeant #1 stayed and observed for several more seconds and did not observe a distinct rise and fall of Rowland's stomach. KCJ Sergeant #1 asked Jail Nurse #1 to observe Rowland. KCJ Sergeant #1 then ordered CO #1 to return to complete a wellness check of Rowland.³ At around 3:23 AM, staff entered the cell and handcuffed Mr. Rowland for staff safety. Jail Nurse #1 determined that Rowland was not responsive after not feeling a pulse.

KCJ Sergeant #1 called a Medical Status Three emergency. Rowland's handcuffs were taken off and CO #1 and CO #2 moved Rowland out of his jail cell so CPR could be performed on him. CO #1 and other COs gave Rowland CPR for approximately the next 10 minutes until Seattle Fire Dept. ("SFD") medics arrived and took over lifesaving care. The medics later wrote that their primary impression was that Mr. Rowland was in cardiac arrest. Rowland was transported to Harborview Medical Center ("HMC") with a femoral pulse, which weakened during the subject's handoff to HMC at around 4:49 AM. He was pronounced dead at 4:57 AM after his heart stopped. The preliminary cause of death was a ST-elevation myocardial infarction ("STEMI"), a type of heart attack that is more serious and has a greater risk of serious complications and death, which involves a completely blocked coronary artery.

In the July 15th, 2022 Autopsy Report, the Medical Examiner opined that the cause of death of this 63-year-old male, who became unresponsive while in custody at jail after

³ Approximately 5 to 7 minutes elapsed between Mr. Rowland being taken off the gurney, and KCJ Sergeant #1 ordering Jail Nurse #1 to observe Mr. Rowland after noticing Mr. Rowland not breathing.

his clothing was removed while restrained, is sudden death during physical restraint.⁴ Hypertensive and atherosclerotic cardiovascular disease, obesity, and acutely agitated state with manifestations of acute psychosis are contributory conditions. However, the Medical Examiner wrote in the autopsy report that it is unclear to what extent restraint and cardiovascular disease contributed to death, therefore the manner of death is best certified undetermined.

DAJD's training manuals do not provide corrections officers direction regarding what situations the prone restraint is inappropriate. Training items reviewed include: *DAJD ITR Procedures Manual: Booking & Release Manual; ITR Post Orders* (effective 09/20/2022); *General Policy Manual* ("GPM")- 5.01.001- *Intake, Transfer and Release* (effective 07/30/2018); *GPM - 4.03.014-Use of Force* (effective 08/13/2021). In June, 1995 federal guidance was issued on limiting the sudden death of inmates caused by positional asphyxia. However, that advice was later retracted in January, 1998.

It does appear that CO #1 and CO #2 completed a 20-30 minute long training regarding Compelled Dress-Outs offered in 2022. SPD detectives interviewed the course instructor, KCJ Sergeant #2. KCJ Sergeant #2 said the training was a one-off training that lasted less than 30 minutes. A short simulation was performed at the end of the class. KCJ Sergeant #2 was not a part of DAJD's training division when he gave the class. The class taught COs how to dress-out inmates who were incapable of dressing themselves. KCJ Sergeant #2 said this tactic is meant for intoxicated individuals, but a sergeant could also use the tactic for an inmate who resisted being dressed out. KCJ Sergeant #2 taught COs to place the inmate in a prone position with two COs holding the inmate's arms under the armpit and one or two COs, depending on the inmate's size, holding the inmate's legs in a figure four position. The pants would be removed first and replaced with a jail uniform. The legs would be secured, then the handcuffs would be removed, and clothing would be removed from one arm at a time before putting on the jail shirt. The arms would be secured again behind the inmate's back and the inmate would be instructed not to move until the door closed. The inmate would then be checked on to make sure they were not injured. He stated that a sergeant has the authority to permit an inmate to wear their own clothing. It rarely occurs. He stated that it is important to have new inmates change clothing because although they have been searched in pre-booking they have not been examined yet by a metal

⁴ On April 19, 2022, KCMEO requested DAJD for "all documentation produced by your department regarding your interaction with the above-mentioned decedent on 04/19/2022, including a detailed report of the restraint used during "dress out" procedure." DAJD apparently provided the requested documentation on 04/27/2022.

detector. In his experience, compelled dress outs occurred as many as one to two times per night, and on other nights there are zero.

III. Legal Analysis & Conclusion

RCW 13.40.077(2) guides our filing decisions. To file crimes against persons, “sufficient admissible evidence [must] exist, 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.” As detailed below, the evidence that exists does not meet the high standard required to file murder or manslaughter charges against JHS staff, CO #1 through # 5, or their supervisor, KCJ Sergeant #1.

A. Reasonableness of Officers’ Use of Force:

It is helpful to refer to federal civil caselaw to determine if an officer’s use of force is excessive. In determining whether an officer used excessive force, an objective reasonableness standard is applied. Graham v. Connor, 490 U.S. 386, 388 (1989). Whether the application of force is unreasonable turns on the facts and circumstances of each particular case. Kingsley v. Hendrickson, 576 U.S. 389, 397 (2015). The actions of each officer must be assessed from the perspective of a reasonable officer on the scene, including what the officer knew at the time, not with the 20/20 vision of hindsight.” Graham, *supra*, 490 US at p. 396. Additionally, police department’s “training materials are relevant not only to whether the force employed in this case was objectively unreasonable, ... but also to whether reasonable officers would have been on notice that the force employed was objectively unreasonable.” Drummond ex rel. Drummond v. City of Anaheim, 343 F.3d 1052, 1062 (9th Cir. 2003).

The Supreme Court has not addressed whether the extended use of the prone restraint constitutes an unreasonable use of force. However, federal circuit courts that have confronted this issue hold that an unreasonable use of force occurs when a subject has ceased resisting yet officers still apply force to a subject in prone position. See. Drummond , *supra*, 343 F.3d at 1062(9th Cir.); Weigel v. Broad, 544 F.3d 1143, 1148, 1152-55 (10th Cir. 2008); Champion v. Outlook Nashville, Inc., 380 F.3d 893, 903 (6th Cir. 2004).

Here, the evidence does not demonstrate that CO #1 through #5 used excessive force as defined by federal caselaw. For the safety of the people inside the jail, inmates need to be taken out of civilian clothing to ensure that no weapons or contraband enter the jail facility. Mr. Rowland had numerous layers of clothing on when he entered the jail that needed to be removed and searched. Mr. Rowland actively resisted by

kicking his legs and tensing his arms as the officers attempted to dress him out while in his jail cell, which is why they placed him in the prone position. While in the prone position, Mr. Rowland continued to threaten the correctional officers as they attempted to dress him out. According to CO #1, officers did not apply force to Mr. Rowland after he ceased resisting. There is no evidence to the contrary. Finally, according to CO #1 officers used the least amount of force possible to control Mr. Rowland while dressing him. Kingsley, *supra*, 576 U.S. at p. 397. As stated above, a department's training materials are relevant to this determination. See. Drummond, *supra*, 343 F.3d at 1062 (9th Cir.). Here, the COs who received KCJ's training for compelled dress-outs, CO #1 and CO #2, followed their training in this instance. Additionally, none of the training that any of the officers received prohibited or limited the use of the prone restraint. At the time of Mr. Rowland's death, relevant DAJD written policy did not address the use of this tactic. In sum, it appears from the evidence that they used reasonable force in following their sergeant's orders during the standard booking process. Filing criminal charges is not supported by the evidence.

B. Cause and Manner of Death

In addition, sufficient admissible evidence does not exist that would justify conviction for murder or manslaughter by a reasonable and objective fact finder. The King County Medical Examiner ruled that the manner of death was certified as undetermined. Because it is unclear to the medical examiner whether or not Mr. Rowland's death was homicide, accidental, or of natural causes, there is insufficient evidence to file criminal charges against any officer who applied force to Mr. Rowland.

IV. Inquest Recommendation

After a careful review of these materials, we are satisfied that the investigation is now complete. Pursuant to Executive Order PHL-7-1-5-EO, we recommend an inquest be initiated because we have not identified any factors or circumstances under §6.1, or any other reasons, that indicate that an inquest is not warranted.