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6 KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES  
7 INQUEST PROGRAM

8 IN RE INQUEST INTO THE DEATH OF  
9 ALBERT WAYNE FREDERICKS JR.

No. 17IQ427069

10 THE CITY OF SEATTLE'S RESPONSE TO  
11 PROPOSED SCOPE OF THE INQUEST'S  
TRAINING AND POLICY

12 **I. INTRODUCTION**

13 The City of Seattle ("the City"), by and through counsel undersigned, hereby responds and  
14 objects to the proposed scope of this Inquest. The Inquest Program and the Family of Mr. Albert  
15 Wayne Fredericks Jr. have: (1) identified Seattle Police Department ("SPD") policies they believe  
16 are relevant to the Inquest; and (2) requested the production of certain training records of the Involved  
17 Officers in the in-custody death of Albert Wayne Fredericks Jr. As set forth in this brief, the City  
18 asserts that many of the proposed policies and requested trainings are irrelevant, beyond the scope of  
19 this Inquest, and should be excluded as prejudicial. Further, the City submits that a protective order  
20 is appropriate to ensure the confidentiality of personal private information and SPD's confidential  
21 tactical information.

22 **II. FACTUAL SUMMARY OF THE INCIDENT**

23 This Inquest arises out of the in-custody death of Mr. Albert Fredericks, Jr., and for this brief

1 statement of facts, SPD relies on the FIT Report Summary and Autopsy Report. *See* Fredericks\_A 0-  
2 028-0034, 0779.

3 On November 17, 2017 at around 11 pm, Mr. Fredericks was on foot in the busy, large  
4 intersection of Aurora Ave. North and 105<sup>th</sup> Street in Seattle, Washington. Fredericks\_ A 0028.  
5 Several witnesses called 911 related to his presence in the intersection and reported he appeared to  
6 be in distress. *Id.* SPD Officers Oliverson and Rogers responded to the intersection and arrived at  
7 approximately 11:12 pm. *Id.* at 0029. When they arrived, Mr. Fredericks was still in the intersection.  
8 *Id.* They exited their vehicle and told Mr. Fredericks to exit the street and return to the sidewalk. *Id.*  
9 After several verbal commands, Mr. Fredericks complied and walked to the sidewalk. *Id.* Officers  
10 Oliverson and Rogers approached him on foot, and Mr. Fredericks told them he was being chased but  
11 refused to provide any details, declined a ride home, and stated he would not return to the intersection.  
12 *Id.* at 0029-0030.

13 Officers Oliverson and Rogers disengaged, returned to their vehicle, and parked nearby to  
14 observe Mr. Fredericks. *Id.* at 0030. Mr. Fredericks again entered into the intersection and was almost  
15 struck by a King County Metro bus. *Id.* Over the radio, Officer Rogers called for another unit to  
16 report to their location, and both Officers Oliverson and Rogers re-engaged Mr. Fredericks and  
17 instructed him to return to the sidewalk. *Id.* at 0031. He did not comply. *Id.* Officers Oliverson and  
18 Rogers approached Mr. Fredericks on foot and used the escort position to remove him from the  
19 intersection. *Id.* For the escort position, Officer Oliverson took hold of Mr. Frederick's left arm – e.g.  
20 left hand on his arm, and right hand on his elbow - and Officer Rogers took hold of his right arm. *Id.*  
21 Mr. Fredericks tensed up and protested. *Id.* The Officers continued to verbally tell him he needed to  
22 stay out of the intersection. *Id.* Neither Officer used any less lethal tools or firearms.

23 Mr. Fredericks continue to struggle, and after they reached the sidewalk, Officers Oliverson

1 and Rogers performed an assisted takedown on Mr. Fredericks. *Id.* at 0031-0032. For the takedown,  
2 Officer Oliverson placed his leg behind Mr. Frederick’s left leg, Officer Rogers placed his leg behind  
3 Mr. Frederick’s right leg. *Id.* Then they guided him backwards to the ground onto his back. *Id.* at  
4 0031. Once on the ground, the officers held his arms and talked to him. *Id.* at 0032. Mr. Fredericks  
5 continued to struggle and tried to sit up. *Id.* They remained in this position until Officers Hay, Jerome,  
6 and Swartz arrived. Again no less lethal tools or firearms were used.

7 Officers Hay, Jerome, and Swartz assisted Officers Oliverson and Rogers with Mr.  
8 Fredericks. *Id.* at 0032-0033. Together they rolled him onto his stomach and placed him in handcuffs.  
9 *Id.* To roll him onto his stomach, Officer Swartz and Officer Oliverson took control of his arms,  
10 Officer Jerome and Officer Hay took control of his legs, and Officer Rogers had his left hand on Mr.  
11 Frederick’s back while he used his right hand to help Officer Oliverson. *Id.* Officer Oliverson and  
12 Officer Swartz held Mr. Frederick’s arms behind his back, and Officer Rogers applied the handcuffs.  
13 *Id.* Mr. Fredericks was on his stomach for about one and a half minutes, and after the handcuffs were  
14 applied, he was rolled onto his side into the recovery position. *Id.* at 0033.

15 After he was in recovery position, EMTs from American Medical Response (“AMR”) arrived  
16 on the scene. Officer Jerome asked if Mr. Fredericks was snoring and breathing. *Id.* Officer Swartz  
17 responded that he could see Mr. Fredericks breathing. *Id.* The Officers assisted lifting Mr. Fredericks  
18 onto the EMT’s gurney and removed his handcuffs. *Id.* The EMTs placed him in soft restraints and  
19 moved him into the back of the ambulance. *Id.* The EMTs began to evaluate Mr. Fredericks, reported  
20 he had a thready pulse, and declined when Officer Oliverson asked if they should call SFD to respond.  
21 *Id.* Officer Oliverson stayed near the back of the ambulance, and Officer Roger screened the incident  
22 with Sgt. Street and began the paperwork necessary for the Involuntary Treatment Act. *Id.*

23 EMT Ota again checked for the carotid pulse, could not locate it and stated Mr. Fredericks

1 was not breathing. *Id.* Officer Oliverson called for SFD to respond, and the EMTs began performing  
2 CPR on Mr. Fredericks. *Id.* Officer Oliverson provided updates via radio that CPR was in progress.  
3 *Id.* The Seattle Fire Department responded, continued CPR for around 24 minutes, and declared Mr.  
4 Fredericks was deceased. *Id.* The King County Medical Examiner’s Officer performed an autopsy  
5 and reported Mr. Frederick’s cause of death was acute combined methamphetamine and alcohol  
6 intoxication with contributing factors of hypertensive and atherosclerotic cardiovascular disease. *Id.*  
7 at 0034.

### 8 **III. SUMMARY OF COORDINATION TO STREAMLINE DISCOVERY AND THE** 9 **SCOPE OF THE INQUEST**

10 The parties and the Inquest Program have been working together to refine the scope of this  
11 Inquest, including identifying what SPD policies and training materials are relevant. Below, the City  
12 has set forth a brief summary of facts regarding the proposed policies and requested trainings.

13 On November 5, 2021, Inquest Program Attorney, Ms. Claire Thornton, advised that the  
14 Inquest into the Death of Albert Wayne Fredericks, Jr., Inquest #17IQ427069, had been assigned to  
15 Inquest Administrator Carroll. In addition to providing the parties with IA Carroll’s roadmap for the  
16 Inquest, Ms. Thornton provided the parties with IA Carroll’s Proposed Scope of SPD Policies and  
17 Training Inquiry. Citing to Executive Order PHL-7-1-5EO’s requirement “that the jury panel make  
18 findings regarding whether the law enforcement officer complied with applicable law enforcement  
19 agency training and policy as they relate to the death,” Ms. Thornton identified the SPD Policies IA  
20 Carroll believed were applicable to the Inquest and requested the City provide documents related to  
21 the Involved Officer’s training.

22 IA Carroll’s proposed SPD Policies included:

#### 23 **1. De-Escalation Policies**

- a. 8.100

1           b.       8.000(2)

2           **2.       Use of Force Policies**

3           a.       8.000(3), (4)

4           b.       8.200(1), (3), (6)

5           **3.       Crisis Intervention Policy**

6           a.       Policy 16.110-POL-5(6)

7           IA Carroll’s requested trainings were highlighted in a spreadsheet, and after reviewing the  
8 requested training, on or around January 19, 2022, the City objected to the production and inclusion  
9 of the following training materials:

- 10           1.       **Less Lethal, 2014**; Officers Rogers, Jerome, and Oliverson
- 11           2.       **2014 Street Skills Firearms, 2014**; Officer Jerome
- 12           3.       **2014 Less Lethal Training, 2014**; Officer Oliverson
- 13           4.       **2014 Less Lethal Recertification, 2014**; Officer Jerome
- 14           5.       **Less Lethal Certification, 2015**; Officers Jerome, Oliverson
- 15           6.       **SPD - 2015 Post BLEA Tactical De-Escalation/Firearms Individual Skills, 2015**;  
16           Officer Swartz
- 17           7.       **SPD - 2015 Tactical De-Escalation/Firearms Individual Skills, 2015**; Officer  
18           Rogers, Jerome, and Oliverson
- 19           8.       **SPD - 2016 Firearm Qualification and Less-lethal Recertification, 2016**; Officers  
20           Swartz, Hay, Rogers, Jerome, and Oliverson
- 21           9.       **Reviewing Use of Force – Update, 2014**; Officers Rogers, Jerome, and Oliverson
- 22           10.       **Reviewing Use of Force, 2014**; Officers Rogers, Jerome, and Oliverson
- 23           11.       **Force Investigation Team (FIT), 2014**; Officers Rogers, Jerome, Oliverson
12.       **SPD – 2015 Post BLEA Force Investigation Team, 2015**; Officers Swartz, Rogers
13.       **SPD – 2016 Post BLEA Force Investigation Team, 2016**; Officers Hay

            The City objected to the production and inclusion of these training materials in the Inquest, arguing  
            they were beyond the scope of the Inquest, they were not relevant, and they would cause undue delay  
            and confusion.<sup>1</sup>

            On January 21, 2022, Ms. Thornton advised the parties via email that IA Carroll’s preliminary  
            thoughts were to sustain SPD’s objections to the above trainings with the exception of Nos. 6-7

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<sup>1</sup> The training materials identified by IA Carroll that were not objectionable to the City are not discussed in this brief.

1 related to Tactical De-Escalation/Firearms Individual Skills and Nos. 9-10 related to Reviewing Use  
2 of Force. For those trainings, IA Carroll asked the City to provide more information about their  
3 content. Specifically:

4 For example, clarification regarding numbers 6 and 7 – what is  
5 Tactical De-Escalation? If those trainings relate only to firearms  
6 and less lethal tools, rather than general de-escalation techniques  
7 and skills, those objections will likely be sustained.

8 For numbers 9 and 10, is the training about how Uses of Force are  
9 reviewed by superiors and the Force Review Board? Or are they  
10 refresher trainings for the officers on Use of Force policies (that was  
11 my original read of the title, but can see now how it could be the  
12 former). If it is the former, those objections will also likely be  
13 sustained.

14 On January 27, 2022, the Family responded to the City’s objections regarding the trainings.  
15 Generally, the Family requested that the trainings SPD objected to be produced with the exception of  
16 training related to firearms. *See* Family’s Response to City’s Objection to Training Materials Request  
17 (“Family’s Response”) at 2-4. The Family also requested the production of the following additional  
18 trainings as part of the Inquest:

- 19 1. **Body Worn Video (BWV)**, 2017; Officers Swartz, Hay, Rogers, Jerome, Oliverson
- 20 2. **Post BLEA Defensive Tactics #4, Ground Control and Survival**; Officer Hay
- 21 3. **Post BLEA Seattle Police Information Dispatch Electronics Reporting**, 2016;  
22 Officer Hay
- 23 4. **Post BLEA Bias Free Policing**, 2016; Officer Hay
5. **Post BLEA Race, the Power of an Illusion/Listen, Explain with Equity and  
Dignity**, 2016; Officer Hay
6. **Micro Community Policing Plans**, 2016; Officers Rogers, Jerome
7. **New Radio Template Changes**, 2016; Officer Jerome
8. **Post BLEA Bias Free Policing**, 2015; Officer Swartz
9. **Rapid Intervention Training**, 2015; Officers Swartz, Rogers, Jerome
10. **Post BLEA Race, the Power of an Illusion/Listen, Explain with Equity and  
Dignity**, 2015; Officer Swartz, Rogers
11. **Post BLEA Service Provider – DESC**, 2015; Officer Rogers
12. **Post BLEA Radio Procedures**, 2015; Officer Rogers
13. **Bias Free Policing**, 2014; Officers Jerome, Oliverson

- 1 14. **First Aid**, 2014; Officers Jerome, Oliverson
- 2 15. **Biased Free Policing and Voluntary Contacts and Terry Stops**; Officers Rogers, Jerome
- 3 16. **Bias Free Policing**, Officers Rogers, Jerome
- 4 17. **Race and the Power of an Illusion**; Officer Jerome
- 5 18. **Perspective on Profiling**; Officer Jerome
- 6 19. **SS0- Rapid Intervention Refresher**; Officer Jerome

7 *See Family's Response to City's Objection to Training Materials Request at 4-5.*

8 Via email on March 3, 2022, the Family identified additional SPD policies they believed were  
9 applicable to the Inquest. Those SPD policies included:

- 10 • 16.140 – Traffic Direction and Control
- 11 • The remainder of 8.000
- 12 • The remainder of 16-110-POL
- 13 • 12.010-POL-1 Communications General Principles
- 14 • 16.090 - In-Car and Body-Worn Video
- 15 • 16.130 - Providing Medical Aid

16 On March 11, 2022, counsel virtually met and conferred to discuss scope of the Inquest. In  
17 the City's view, the scope of the Inquest should only involve SPD's policies and trainings that relate  
18 to the facts, cause and manner of Mr. Fredericks' death, and if a policy or training was not relevant  
19 to the scope of the Inquest, it should not be included in the Inquest or produced in discovery. Counsel  
20 for the Family took a broader view, asserting that even if materials were not evidently relevant, they  
21 should be produced as part of a broad right to discovery and weeded out later if necessary.

22 Following the conference, the parties continued to work together to hone the list of relevant  
23 trainings and policies. In addition to IA Carroll's proposed policies, the Family identified with more  
specificity the following policies that they believe are applicable to the Inquest.

24 **1. De-Escalation Policies**

- 25 a. 8.100
- 26 b. 8.000(2)
- 27 c. 8.050 – definitions – de-escalation/de-escalation techniques/force/objectively  
reasonable force





1 scope of the Inquest. The City’s position is that the requests for the disputed discovery are overly  
2 broad, too far afield from the purpose of this Inquest, and would interject controversial but irrelevant  
3 issues into the Inquest.

4 **1. Scope of The Inquest**

5 “A coroner’s inquest is a death investigation facilitated by the coroner and decided by a jury.”  
6 *Family of Butts v. Constantine*, 198 Wn.2d 27, 42, 491 P.3d 132 (2021) (citing *BNSF v. Clark*, 192  
7 Wn.2d 832, 837-38, 434 P.3d 50 (2019)). “The purpose of a coroner's inquest is to determine who  
8 died, what was the cause of death, and what were the circumstances surrounding the death, including  
9 the identification of any actors who may be criminally liable for the death.” *Id.* (citations and  
10 quotations omitted). Inquests are governed by the Coroner’s Act, Chapter 36.24 RCW, which  
11 provides the “basic framework for conducting inquests.” *Id.* at 42-43. Otherwise, there is discretion  
12 as to when and how to conduct an inquest. *Id.* at 43 (citing RCW 36.24.020).

13 In King County, the Order, PHL-7-1-5-EO, Conducting Inquests, provides framework for  
14 conducting Inquests. It establishes the “policies and procedures for conducting reviews into the facts  
15 and circumstances of any death of an individual” where law enforcement may have contributed to the  
16 death. PHL-7-1-5-EO at 2, ¶2.1 The Order defines an Inquest as:

17 An administrative, fact-finding inquiry into and review of the  
18 manner, facts and circumstances of the death of an individual where  
19 an action, decision or possible failure to offer the appropriate case  
20 by a member of any law enforcement agency might have contributed  
21 to the individual’s death, and occasionally in other cases, as  
22 determined by the County Executive, where death occurs in the  
23 custody of or in the course of contact with other non-law  
enforcement government agencies or employees.

PHL-7-1-5-EO at 3, ¶ 5.3. In King County, the purpose of an Inquest “is to ensure a full, fair, and  
transparent review of any such death and to issue findings of fact regarding the facts and

1 circumstances surrounding the death.” *Id.* at 2, ¶ 2.2. This includes an evaluation of whether the  
2 member(s) of law enforcement complied with their employing agency’s training and policy. *Id.* at 2,  
3 ¶ 2.2. To summarize, the Inquest is an investigation “into the manner, facts and circumstances of any  
4 death of an individual where an action or decision or possible failure to offer the appropriate care by  
5 a member of any law enforcement agency might have contributed to an individuals death. . .” *Id.*, at  
6 4, ¶ 6.1.

7 The scope of the Inquest is determined by the Administrator, but the Order provides the  
8 framework the Administrator should use when determining what facts, policies, or trainings are  
9 relevant. *Id.* at 7, ¶ 3.2.

10 The inquest scope shall include an inquiry into and the panel [jury]  
11 shall make findings regarding the cause, manner, and circumstances  
12 of the death, including applicable law enforcement agency training  
13 and policy. The panel shall make findings regarding whether the  
14 law enforcement officer complied with **applicable law  
15 enforcement agency training and policy as they relate to the  
16 death.**

17 *Id.* (emphasis added). Therefore, the scope of the Inquest is the cause, manner, and circumstances of  
18 the death, including applicable law enforcement training and policy as they relate to the death. *Id.* at  
19 7, ¶ 3.2. As to training and policies, the scope is limited to whether the law enforcement officer’s  
20 conduct contributed to the individual’s death and whether they complied with their employing  
21 agency’s policies and training as they relate to the death. *Id.* The scope of the Inquest does not include  
22 every possible training or policy implicated by the Involved Officer’s interactions with the deceased,  
23 but instead, is limited to those policies and trainings related to the death.

24 The Order also sets forth the procedures for conducting inquests. *Id.* at 6-12. The Section  
25 titled “Discovery and Admissibility of Evidence” requires that discoverable material be exchanged  
26 between the inquest program and the parties. *Id.* at 7, ¶ 4.1. However, it does not include any

1 provision for a broader scope of discovery – e.g. CR 26’s reasonably calculated to lead to the  
2 discovery of admissible evidence. *Id.* at 7-8, ¶¶ 4.1 – 4.7. Inquests may include prehearing discovery,  
3 but they do not guarantee discovery based on mere speculation or permit parties to go on a fishing  
4 expedition. Instead, the discovery and admissibility of evidence for the Inquest are bounded by the  
5 scope of the Inquest and the Rules of Evidence. *Id.* at 3, ¶ 5.6; at 7, ¶ 3.3; 7-8, ¶¶4.1-4.7.

## 6 **2. SPD Policies**

7 The Family and IA Carroll have identified multiple SPD Policies allegedly applicable to the  
8 Inquest. The proposed policies involve de-escalation, use of force, crisis intervention, traffic  
9 direction and control, first aid response, and bias-free policing. As set forth below, the City objects  
10 to several of the proposed policies on the grounds they are outside the scope of this Inquest, are not  
11 relevant, and their inclusion would be prejudicial.

### 12 **a. De-Escalation Policies**

13 IA Carroll and the Family proposed the following SPD de-escalation policies are applicable  
14 to the Inquest: 8.100; 8.000(2); and 8.050 – definitions – de-escalation/de-escalation  
15 techniques/force/objectively reasonable force. The City does not object to the inclusion of Section  
16 8.100, De-Escalation Policies in the Inquest. Fredericks\_A 1642-1643.

17 The City does, however, object to the inclusion of Section 8.000, Use of Force Core  
18 Principles. Section 8.000, Use of Force Core Principles is a preamble. Fredericks\_A 1636-1638. It  
19 is located at the beginning of Title 8 Use of Force and does not contain significant, detailed, or  
20 concrete policy. Instead, the actual policies are set forth in the following sections – e.g. Section 8.100  
21 De-escalation. For instance, Section 8.000(2) is titled “When Safe Under the Totality of the  
22 Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in  
23 Order to Reduce the Need for Force,” and consists of one sentence referring the reader to Section

1 8.100. Fredericks\_A 1637. Section 8.000 is redundant of the actual, detailed policies within Title 8  
2 Use of Force, and its inclusion will cause unnecessary delay.

3 Section 8.050 includes Use of Force Definitions. The Family has requested the inclusion of  
4 the Section 8.050 relating to definitions of the following terms: de-escalation; de-escalation  
5 techniques; force; objectively reasonable force. First, the City objects to the inclusion of the entirety  
6 of the definition of “Force.” The entire definition of “Force” includes de minimis force, Type I force,  
7 Type II force, and Type III force. Fredericks\_A 1639. The incident with Mr. Fredericks did not  
8 involve any Type II or Type III force, and those definitions should be excluded. As for the terms de-  
9 escalation, de-escalation techniques, and objectively reasonable force, the City agrees they may be  
10 applicable to the Inquest, but similar to 8.000(2) above, will be duplicative of the substantive policy  
11 sections and cause undue delay. Fredericks\_A 1639-1640.

12 **b. Use of Force Policies**

13 IA Carroll and the Family believe the following Use of Force policies are applicable to this  
14 Inquest: 8.000 in its entirety; 8.200(1); 8.200(3); 8.200(6); 8.200(7); 8.400-POL-1; and 8.400-TSK-  
15 1.

16 *i. 8.000 - Use of Force Core Principles*

17 As addressed in the preceding section, 8.000 Use of Force Core Principles is akin to a  
18 preamble. It does not set forth detailed, specific policy, but instead, generally, refers the reader to the  
19 specific following policy sections. Its inclusion is duplicative and will cause undue delay. However,  
20 if this Inquest Program and the other parties are insistent on its inclusion, the City will not object to  
21 Subsections 8.000(1), 8.000(2), 8.000(3), and 8.000(4). Fredericks\_A 1636-1637.

22 The City does, however, object to the inclusion of 8.000(5), 8.000(6), and 8.000(7), because  
23 they are beyond the scope of the Inquest, not relevant, and prejudicial. ER 401-403. Sections

1 8.000(5)-(7) relate to investigation, reporting, and review of use of force and the community  
2 perception of use of force. Fredericks\_A 1637-1638.

- 3 • Section 8.000(5) is titled “*Each Officer Is Responsible for Explaining and Articulating*  
4 *the Specific Facts, and Reasonable Inferences From Those Facts, Which Justify the*  
5 *Officer’s Use Of Force.*” It relates to reporting and review of force, and it refers to  
6 Section 8.400 Use of Force Reporting and Investigation for additional guidance.  
7 Fredericks\_A 1637-1638.
- 8 • Section 8.000(6) is titled “*The Department Is Committed to Upholding Lawful,*  
9 *Professional, and Ethical Standards Through Assertive Leadership and Supervision*  
10 *Before, During, and After Every Force Incident.*” It relates to SPD’s standards and  
11 systems for reviewing force, and it refers to Section 8.500 Review Force for additional  
12 information. Fredericks\_A 1638.
- 13 • Section 8.000(7) is titled “*A Strong Partnership Between the Department and the*  
14 *Community Is Essential for Effective Law Enforcement and Public Safety.*” It relates  
15 to the public perception of use of force and how use of force can have negative effects  
16 on community opinion of SPD. Fredericks\_A 1638.

17 These Core Policies, 8.000(5)-(7), should be excluded. They are not relevant and are beyond  
18 the scope of this Inquest. Reporting, investigation, and review of force only apply after an officer  
19 uses force. They have no bearing on the Involved Officers’ use of force or their decisionmaking at  
20 the time they were interacting with Mr. Fredericks. Therefore, these policies are not relevant to the  
21 issues of whether the Involved Officers’ conduct either contributed to Mr. Frederick’s death or  
22 complied with the applicable SPD policies and training at the time of the incident. ER 401-ER 402.

1 Further, these policies are beyond the scope of the Inquest. The SPD designee is responsible  
2 for testifying to a “comprehensive overview of the forensic investigation into the incident (e.g.,  
3 statements, collected by investigators, investigator’s review of the forensic evidence, physical  
4 evidence collected by investigators, etc.). . . [and] provide testimony concerning applicable law  
5 enforcement training and policy as they relate to the death.” PHL-7-1-5-EO at 10, ¶12.3. The SPD  
6 designee’s testimony does not include the policies for reporting, investigating, and reviewing the use  
7 of force.

8 Finally, their inclusion would be prejudicial, because it would invade the role of the jury and  
9 cause confusion and undue delay. ER 403. It is up to the jury to answer questions about whether the  
10 Involved Officers’ conduct contributed to Mr. Fredericks’ death and complied with applicable  
11 policies as they relate to the death. Any evidence related to SPD policies for reporting, investigation,  
12 and review of the use of force is likely to improperly influence the jury’s answer to these questions.  
13 Further, it is likely to confuse jurors, who may wonder why they are being asked to answer a question  
14 already addressed by SPD.

15 Finally, the Inquest is not a proper venue to attack either the veracity of the Involved Officers’  
16 reporting regarding their use of force or the adequacy of SPD’s policies for reporting, investigating,  
17 and reviewing use of force. To the extent these policies have been identified to call into question the  
18 content and accuracy of the FIT investigation, those issues are beyond the scope of the Inquest.

19 *ii. 8.200 – Using Force*

20 The City does not object the inclusion of 8.200(1), 8.200(3), and 8.200(6), but does object to  
21 8.200(7). Fredericks\_A 1644-1646. Subsection 8.200(7) is titled “*Officers Shall Automatically*  
22 *Request Medical Aid in Certain Situations.*” Fredericks\_A 1646. It involves situations where officers  
23 must automatically request medical aid, but it does not apply to this incident. *Id.* For instance, the

1 policy requires an officer to automatically request medical aid for Type III use of force and less-lethal  
2 incidents involving, tasers, beanbag shotguns, and OC spray. *Id.* It is undisputed that neither Type III  
3 force nor any less-lethal tools were used during the officers' interactions with Mr. Fredericks.  
4 Therefore, this policy is not relevant, does not further the purpose of the inquest, is overly broad, and  
5 may cause confusion and delay. ER 401-403.

6 *iii. 8.4000 Use of Force Reporting and Investigation*

7 The City objects to the inclusion of any policy from Section 8.400 Use of Force Reporting  
8 and Investigation. The Family has specifically asked for the inclusion of 8.400-POL-1 Use of Force  
9 – Reporting and Investigation and 8.400 TSK-1 Use of Force – Involved Officers' Responsibilities  
10 During a Type I Investigation. Fredericks\_A 1664-1669, 1672-16733.

- 11 • *8.400-POL-1 Use of Force Reporting and Investigation* involves the requirements for  
12 reporting, investigating, and reviewing use of force incidents. It is not limited to De  
13 Minimis or Type I force, but instead, applies to Type II and Type III as well. It sets  
14 forth SPD policies for how and when the SPD officers communicate about the use of  
15 force and different layers of review of use of force.
- 16 • *8.400 – TSK -Use of Force Involved Officer's Responsibilities During a Type I*  
17 *Investigation* sets forth the procedures Involved Officer must comply with following  
18 a Type I use of force.

19 These policies involve after-the-fact reporting, investigation and review of uses of force; they are  
20 simply not relevant to the facts, circumstances and cause of Mr. Fredericks' death. Please also see  
21 the City's prior objection to the Use of Force Core Principles 8.000(5), 8.000(6), and 8.000(7).

22 **c. Crisis Intervention**

23 IA Carroll and the Family requested the following SPD Policies related to Crisis Intervention

1 be included in the Inquest: 16.110-POL-3 and 16.110-POL 5(1)-(6) except (2)(a). The City objects  
2 to their inclusion and asserts they are not relevant to the scope of the Inquest. Section 16.110 relates  
3 to Crisis Intervention, and “the intent of the policy is to provide officers with resources to deal with  
4 subjects who are in a behavioral crisis.” Fredericks\_A 2038. For purposes of the policy, a behavioral  
5 health crisis is “an episode of mental and/or emotional distress in a person that is creating significant  
6 or repeated disturbances and is considered disruptive by the community, friends, family or the person  
7 themselves.” *Id.*

8 16.110-POL-3 is titled “*CIT [Crisis Intervention Team] Certified Officers.*” This section of  
9 the policy has three parts: (1) it requires CIT Certified Officers to undergo crisis intervention training;  
10 (2) states CIT Certified Officers will take lead, when appropriate, when interacting with subjects in  
11 behavioral crisis; and (3) requires CIT Certified Officers to be available on all shifts. Fredericks\_A  
12 2040.

13 16.110-POL -5 is titled “*Responding to Subjects in Behavioral Crisis.* It is a broad 13-part  
14 Policy. Fredericks\_A 2042-2046. The Family has requested subsections (1)-(6) be included in the  
15 Inquest.

- 16 • *16.110-POL-5(1)* requires officers who encounter an individual in any type of  
17 behavioral crisis to “make every reasonable effort to effort to request the assistance of  
18 CIT-Certified Officers.” Fredericks\_A 2042.
- 19 • *16.110-POL-5(2)* relates to the dispatch of at least one CIT-Certified Officer to each  
20 call that appears to involve a subject in behavioral crisis. Fredericks\_A 2042.
- 21 • *16.110-POL-5(3)* relates to an Officer’s ability to call the Crisis Clinic to connect with  
22 an on-duty designated mental health professional during any incident involving an  
23 individual experiencing a behavioral crisis. Fredericks\_A 2042-2043. However,



1 officers are encouraged to call the Crisis Clinic when contacting subjects who are in a  
2 behavioral crisis but are not going to be referred for involuntary mental health  
3 evaluation or criminal charges. *Id.*

- 4 • 16.110-POL-5(4) relates to an Officer’s ability to refer eligible subjects with mental  
5 illness and/or substance use disorders to crisis solution centers. Fredericks\_A 2043.  
6 However, if an individual is suffering from an acute mental health crisis or requires  
7 medical treatment, they are not eligible for a referral. Fredericks\_A 2044.
- 8 • 16.110-POL-5(5) provides that Officers may facilitate voluntary mental health  
9 hospitalizations and requires the Officers to document any officer-facilitated voluntary  
10 mental health hospitalization. Fredericks\_A 2044.
- 11 • 16.110-POL-5(6) permits officers to facilitate involuntary mental health evaluations  
12 and refers the reader to another policy – e.g. 16.110-PRO-2 Referring a Subject for an  
13 Involuntary Mental Health Evaluation. Fredericks\_A 2044.

14 Subsections 16.110-POL-5(3),(4), (5) do not apply to Mr. Fredericks, and therefore, do not  
15 relate to the cause or contributing causes of his death. They should be excluded. ER 401-402.

16 Subsections 16.110-POL-5(6) could be considered applicable to Mr. Fredericks, but should  
17 still be excluded, because it does not contain any substantive policy. For instance, 16.110-POL-5(6)  
18 is titled “Officers May Facilitate Involuntary Mental Health Evaluations” and refers the reader to  
19 16.110-PRO-2 Referring a Subject for an Involuntary Mental Health Evaluation. Fredericks\_A 2044.

20 Overall, the City objects to the inclusion of the Crisis Intervention Policies. The Inquest’s  
21 focus is on the facts and circumstances leading up to Mr. Frederick’s death, including but not limited  
22 to, whether the Involved Officers’ conduct contributed to the death and complied with related SPD  
23 policies. The CIT policies do not apply to the officers’ interactions with Mr. Fredericks because those

1 interactions were focused on addressing an immediate physical safety concern, i.e., the fact that Mr.  
2 Fredericks kept walking into busy traffic. CIT intervention would not have been appropriate until  
3 after the immediate physical safety concerns were addressed.

4 **d. Traffic Direction and Control**

5 The Family requested Section 16.140, “*Traffic Direction and Control*,” be included in the  
6 scope of the Inquest. The City objects to the inclusion of this policy on the ground of relevance. This  
7 policy relates an officers’ ability to take charge and direct traffic at an incident, and if they do take  
8 charge and direct traffic, the rules they must follow. The Involved Officers escorted Mr. Fredericks  
9 from the busy intersection and prevented him from re-entering the intersection. They did not elect to  
10 stop and direct traffic. Certainly no party is arguing that the Involved Officers should have allowed  
11 Mr. Fredericks to remain in the intersection, and instead of escorting him from the intersection,  
12 stopped and directed traffic around him. Any policies related to traffic direction and control are  
13 irrelevant, beyond the scope of the Inquest, and will cause undue delay.

14 **e. Sick and Injured Persons**

15 The Family requested that Section 16.130 “*Sick and Injured Persons*” be included in the  
16 Inquest. The City does not object to a limited portion of the policy’s inclusion, but objects to its  
17 complete inclusion. Subsection (1), “*Employees Assist Sick & Injured Persons*,” requires officers to  
18 determine the nature and cause of a person’s injury or illness, provide first aid, and initiate EMS  
19 services as needed. Subsections (4) and (5) require Officers to provide information to medical  
20 personnel and cooperate with SFD. The remaining subsections are not relevant to this Inquest. They  
21 involve the responding to heart attacks; using Nasal Naloxone; reporting their use of first-aid, CPR,  
22 and nasal Naloxone; checking their own equipment and kits; and permission to transport sick or  
23 injured persons in department vehicles. The entirety of the policy is not relevant, and to the extent it

1 is to be included, it should be done on a limited basis.

2 **f. Bias Free Policing Policies**

3 The Family requested that Section 5-140-POL(1),(2), “*Bias Free Policing*,” be included in  
4 the Inquest. Section 5-140-POL(1),(2) is part of Title 5 Employee Conduct. Fredericks\_A 1472,  
5 1523-1525. The City objects to the inclusion of these proposed policies. The preamble to the policy  
6 memorializes SPD’s commitment to “providing services and enforcing laws in a professional,  
7 nondiscriminatory, fair and equitable manner.” *Id.* at 1523. It explains that “[b]ias-based policing is  
8 the different treatment of any person by officers motivated by any characteristic of protected classes  
9 under state, federal, and local laws as well as other discernable personal characteristics of an  
10 individual.” *Id.* Those discernable personal characteristics include, but are not limited to, “age,” “race  
11 ethnicity, or color”; and “mental illness.” *Id.*

- 12 • *Section 5.140-POL(1)* mandates that every employee is responsible for knowing and  
13 complying with the bias free policing policy. *Id.* at 1524. It requires the Chief of  
14 Police to reinforce bias-based policing is unacceptable and for supervisors to ensure  
15 “all personnel in their command are operating in compliance with this policy.” *Id.*
- 16 • *Section 5.140-POL(2)* prohibits officers from engaging in bias-based policing. *Id.* at  
17 1525. Officers cannot be influenced by bias, prejudice, or discriminatory intent. *Id.*  
18 They cannot “use discernable personal characteristics in determining reasonable  
19 suspicion or probable cause. . .” *Id.* They cannot express “any prejudice or derogatory  
20 comments concerning discernable personal characteristics.” *Id.* They cannot retaliate  
21 “against any person who initiates or provides information or testimony related to an  
22 investigation, prosecution, OPA complaint, litigation or hearings related to the  
23 Department or Departmental employees . . .” *Id.* Finally, anyone either engaged in or

1           condoning bias-based policing will be subject to discipline. *Id.*

2           These policies are not relevant to this Inquest and should be excluded. The Family requests  
3 the inclusion of the policies related to bias-free policing for their own edification. Although the  
4 Family requested the bias-free policing policies be included on March 24 ,2022, during the March  
5 11, 2022 meet and confer, the Family explained they sought the production of bias free policing  
6 training materials, because they wanted to know how SPD trained its officers on bias and race. They  
7 believed that knowledge would be helpful to them in obtaining closure for Mr. Fredericks' death. It  
8 is understandable the Family is searching for closure, but these policies are far beyond the scope of  
9 this Inquest and should not be included.

10           Although Mr. Fredericks was a member of the Qawanlangin Tribe, there is no evidence the  
11 Involved Officers engaged in bias-based policing. As seen on the Body Worn Video footage, the  
12 Involved Officers did not treat Mr. Fredericks differently due to any membership in a protected class  
13 or any discernable personal characteristic. In this case, there is no credible argument that any bias,  
14 prejudice, or discriminatory intent influenced the Involved Officer's conduct. These policies do not  
15 relate to the manner, facts and circumstances of Mr. Fredericks' death.

16           Instead, the inclusion of the bias-free policing policies in this Inquest will be prejudicial to  
17 SPD. These policies will cause undue delay, confusion, and improper speculation. If these policies  
18 are included, there is a significant risk the jury will speculate the Involved Officers' conduct was  
19 racially motivated. Such speculation could obstruct the Inquest's purpose of a full, fair and  
20 transparent review into the facts and circumstances surrounding Mr. Fredericks' death. "PHL-7-1-  
21 5-EO at 2, ¶ 2.2. The bias-free policing policies are beyond the scope of this Inquest and could  
22 prejudicial to SPD in this context. They should be excluded.

23           **3.     SPD Trainings**

1 The Family and IA Carroll have requested the production and inclusion of numerous SPD  
2 training materials for the Involved Officers. The City objects to several of the training materials on  
3 the grounds they are not relevant, beyond the Scope of the Inquest, and will be prejudicial.

4 **a. Withdrawn Trainings**

5 The parties have agreed the following requests for trainings should be withdrawn and neither  
6 produced nor included in this Inquest.

- 7 • *Less Lethal Tools and Firearms Training*
  - 8 ○ **Less Lethal, 2014**; Officers Rogers, Jerome, and Oliverson
  - 9 ○ **2014 Street Skills Firearms, 2014**; Officer Jerome
  - 10 ○ **2014 Less Lethal Training, 2014**; Officer Oliverson
  - 11 ○ **2014 Less Lethal Recertification, 2014**; Officer Jerome
  - 12 ○ **Less Lethal Certification, 2015**; Officers Jerome, Oliverson
  - 13 ○ **SPD - 2016 Firearm Qualification and Less-lethal Recertification,**  
14 2016; Officers Swartz, Hay, Rogers, Jerome, and Oliverson
  
- 15 • *Reporting, Investigating, and Reviewing Use of Force*
  - 16 ○ **Reviewing Use of Force – Update, 2014**; Officers Rogers, Jerome,  
17 and Oliverson
  - 18 ○ **Reviewing Use of Force, 2014**; Officers Rogers, Jerome, and  
19 Oliverson
  - 20 ○ **Force Investigation Team (FIT), 2014**; Officers Rogers, Jerome,  
21 Oliverson
  - 22 ○ **SPD – 2015 Post BLEA Force Investigation Team, 2015**; Officers  
23 Swartz, Rogers
  - **SPD – 2016 Post BLEA Force Investigation Team, 2016**; Officers  
Hay
  
- *Radio Training*
  - **Post BLEA Seattle Police Information Dispatch Electronics  
Reporting, 2016**; Officer Hay
  - **New Radio Template Changes, 2016**; Officer Jerome
  - **Post BLEA Radio Procedures, 2015**; Officer Rogers
  
- *Rapid Intervention Training*
  - **Rapid Intervention Training, 2015**; Officers Swartz, Rogers, Jerome

- **SS0- Rapid Intervention Refresher**; Officer Jerome
- *Miscellaneous*
  - **Micro Community Policing Plans**, 2016; Officers Rogers, Jerome

All parties agree these trainings are not relevant to this Inquest, and the City should not be required to produce them in discovery or prepare a designee to testify to them at the Inquest Hearing.

**b. De-Escalation/Firearms Individual Skills Training**

The Inquest and Family identified several trainings related to de-escalation and firearms as relevant to the Inquest. Those trainings were:

- **SPD - 2015 Post BLEA Tactical De-Escalation/Firearms Individual Skills**, 2015; Officer Swartz
- **SPD - 2015 Tactical De-Escalation/Firearms Individual Skills**, 2015; Officer Rogers, Jerome, and Oliverson

The City objected to the production and inclusion of these trainings on the grounds they were not relevant and were beyond the scope of the Inquest, because the Involved Officers did not use firearms in the incident with Mr. Fredericks.

In response to the City’s original objections to producing these trainings, IA Carroll requested the City provide further information regarding the content of the trainings. He wanted to know if the firearms trainings also included general de-escalation techniques. Firearm Individual Skills and De-escalation are separate trainings that often occur on the same day. Firearm Individual Skills involves basic marksmanship, tactical language review, threat identification, moving while shooting, and room domination basis with live fire. Whereas the De-escalation training involves the use of general tactical de-escalation techniques. Therefore, the City maintains its objection to the production and inclusion of the Firearms Individual Skills training but agrees to produce the De-escalation training.

**c. Body Worn Video**

1 The City objects to the production and inclusion of the following training related to Body Worn  
2 Video:

- 3 • **Body Worn Video (BWV), 2017; Officers Swartz, Hay, Rogers, Jerome, Oliverson**

4 Body Worn Video training is not relevant to this Inquest. The SPD Officers were wearing  
5 body worn video cameras, and they captured the entire incident on video, which has been reviewed  
6 by all counsel as well as Ms. Thornton. Training regarding the requirements for operating and  
7 wearing Body Worn Video have no bearing on the facts or circumstances surrounding Mr.  
8 Frederick's death. This training is not relevant, is beyond the scope of this Inquest, and would cause  
9 undue delay. ER 401-403.

#### 10 **d. Bias and Race Training**

11 The City objects to the production and inclusion of the following training materials related to  
12 Bias Free Policing and Race:

- 13 • **Post BLEA Bias Free Policing, 2016; Officer Hay**
- 14 • **Post BLEA Race, the Power of an Illusion/Listen, Explain with Equity and Dignity, 2016; Officer Hay**
- 15 • **Post BLEA Bias Free Policing, 2015; Officer Swartz**
- 16 • **Post BLEA Race, the Power of an Illusion/Listen, Explain with Equity and Dignity, 2015; Officer Swartz, Rogers**
- 17 • **Bias Free Policing, 2014; Officers Jerome, Oliverson**
- 18 • **Bias Free Policing and Voluntary Contacts and Terry Stops; Officers Rogers, Jerome**
- 19 • **Bias Free Policing, Officers Rogers, Jerome**
- 20 • **Race and the Power of an Illusion; Officer Jerome**
- 21 • **Perspective on Profiling; Officer Jerome**

22 Per the March 11, 2022 meet and confer, the Family seeks to include these trainings, because  
23 they desire to see how SPD trains its officers on bias and race. Although their curiosity is  
understandable as the Family is seeking closure, these training materials are not relevant and will not  
further the purpose of the Inquest.

1 The City is sensitive to the fact that Mr. Fredericks was a member of the Qawanlangin Tribe  
2 and the Family’s concern that “indigenous people have disproportionate contact with police and the  
3 criminal legal system. . .” Family’s Response at 4:10-11. However, there is absolutely no evidence  
4 that the Involved Officers treated Mr. Fredericks differently due to his membership in Qawanlangin  
5 Tribe. The Involved Officer’s interactions with Mr. Fredericks were captured with Body Worn  
6 Video. The footage is available to the parties and the Inquest Program. Based on the footage, Mr.  
7 Fredericks’s membership in the Qawanlangin Tribe did not influence how the Involved Officers  
8 treated him. The Family has not identified any racially-motivated behavior on the part of the Involved  
9 Officers and has not articulated how this training could be remotely relevant in the proceedings.

10 The production and inclusion of these policies will be prejudicial to SPD. Not only will they  
11 cause confusion and undue delay, but there is a strong likelihood they will negatively affect the jury’s  
12 perception of SPD. They will invite the jury to improperly speculate that the Involved Officers’  
13 conduct was racially motivated. The Family raised the issue of these trainings in conjunction with  
14 the Federal Consent Decree under which SPD currently operates. Response at 4:9-13. To the extent  
15 the Family intends to introduce these race and bias trainings in conjunction with the Federal Consent  
16 Decree, there is a high risk the jury will use them for improper propensity purposes. ER 404; Response  
17 at 4:9-13. Trainings related to bias and race are simply beyond the scope of the Inquest and would  
18 be highly prejudicial to the City. They should be excluded.

19 **e. First Aid Trainings**

20 The City objects to the entirety of the First Aid training being included in the Inquest.

- 21
  - **First Aid**, 2014; Officers Jerome, Oliverson;

22 The 2014 First Aid training includes content on Automatic External Defibulator (AED),  
23 Cardiopulmonary resuscitation (CPR), Bandaging with Oleas 4” field dressing, and Combat



1 application Tourniquet (CAT). Bandaging and Tourniquets are clearly not relevant, and any training  
2 related to them should be excluded. ER 401-402. Training related to AED and CPR should also be  
3 excluded. AMR EMT's were already attending to Mr. Fredericks when he went into respiratory  
4 distress. The Involved Officers did not perform CPR or lifesaving efforts on Mr. Fredericks because  
5 he was out of their custody and in the care of medical professionals when he went into respiratory  
6 distress. Therefore, any SPD policies related to the performance of CPR or application of AED do  
7 not relate to his death and should be excluded.

8 **f. Working with DESC**

9 The City objects to the inclusion and production of its training related to working with DESC.

10 • **Post BLEA Service Provider – DESC, 2015; Officer Rogers;**

11 The City believes this training was requested, because it appears to be related to de-escalation.  
12 However, the training provides an overview of DESC, which stands for Downtown Emergency  
13 Service Center. DESC is an entity that provides shelter, housing, and clinical services, and the  
14 training elaborated on ways SPD and DESC can work together. It does not further the purpose of the  
15 Inquest, are not relevant, and should be excluded.

16 **4. Protective Order**

17 To protect SPD's confidential tactical information contained in its trainings and policies and  
18 the personal private information of the individuals involved in this Inquest, the City submits a  
19 protective order is necessary and appropriate. King County Order PHL-7-1-5-EO provides for the use  
20 of protective orders in Inquests to limit discovery. PHL-7-1-5-EO at 8, ¶ 4.7. Prior to the production  
21 of any training materials, the City requests the parties and the Inquest Program collaborate on a  
22 reasonable protective order.

23 ///

1 DATED this 25th day of March, 2022.

2 ANN DAVISON  
3 Seattle City Attorney

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**CERTIFICATE OF SERVICE**

I certify that on the 25th day of March, 2022, I caused a true and correct copy of this document to be served on the following in the manner indicated below:

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