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7 **IN THE STATE OF WASHINGTON**
8 **KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES**

9 NO. 417117199

10 *IN RE: THE INQUEST INTO THE*
11 *DEATH OF ISAIAH OBET*

12 *Response to City's Brief on*
13 *Discovery RE: Pre-Inquest Order*

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16 **I. INTRODUCTION**

17 The Administrator requested responses from parties regarding the *Pre-Inquest Order*. This
18 brief addresses solely the scope of pre-inquest discovery and is responsive to the City's concerns
19 regarding discovery outlined in its briefing.

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21 **II. DISCOVERY**

22 *a. Response to City's request to delete 4(o)(i-iv)*

23 It appears the City's concern is that the specificity of training materials required per the
24 proposed order in 4(o)(i-iv) will be used to argue they are out of compliance. This is not the family's
25 intention and thus we have no objection to changing the language to "all documentation describing
26 trainings completed by officer Nelson," with an additional subsection request to disclose whether
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1 there are additional, possibly discretionary, trainings related to these topics that officer Nelson opted
2 not to receive.

3 The court's order (4)(O)*i-iv* guide the type of training that is most pertinent to the Inquest –
4 whether shooting Mr. Obet and releasing the K-9 was an appropriate use of force and discretionary
5 decision in light of his training and the Auburn policies. The language “pertaining to,” in the
6 proposed order could be viewed as a sign post for what is most relevant and not a strict compliance
7 requirement to be used against the City. If there are no specific trainings on use of force as applied
8 to officers with specific weapons, ie. de-escalation training, then of course the family will not be
9 faulting the City for its failure to provide that. However, if they exist it would certainly be relevant
10 and if officer Nelson has not undergone those trainings that would also be relevant. In light of the
11 City's very specific objection the family would be willing to modify the language. Proposed
12 modification is below.

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14 **o.** All documentation describing trainings completed by Officer Nelson.

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16 *i.* Existence of any mandatory or discretionary specialized trainings related to: use of force,
17 de-escalation, high risk individuals (e.g. mental health crisis, substance use), less lethal
18 alternatives, factors in deployment of K-9, less lethal alternatives to individuals with
19 weapons, danger to third parties.

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21 **b.** *Additional Sections the Family seeks to add to the Proposed Order*

22 The family seeks to add in addition to the proposed order the below, changes underlined:

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24 **I.** Records documenting the status of Officer Nelson's firearm certification and deployment on the
25 date of this incident, if any.

26 *i.* And those records associated with his Taser certification and deployment, if any.

1 **m.** All records documenting what requirements, if any, Auburn PD imposes on officers to be allowed
2 to serve as a commissioned Officer.

3 *i. In situations of sustained or founded officer complaints (e.g. improper use of force), what*
4 *remedial or additional requirements are imposed to remain in good standing as a*
5 *commissioned Officer.*

6 *ii. All records of this nature as applied to Officer Nelson.*

7 **q.** All records documenting APD policies and trainings governing Officer Nelson and K-9 Officer
8 Koen in their response to this incident (individually and together)

9 *i. Including any and all psychological records that include statement about the facts of the*
10 *incident. (parties would be willing to submit a protective order to these records)*

11 **r.** Any and all disciplinary records for Officer Nelson and K-9 Officer Koen

12 *i. Names and cause numbers of lawsuits involving officer Nelson and officer Koen use of*
13 *force reports, complaints, inquiries.*

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17 To address the additional request of the family, it is clear from the executive order, PHL-7-1-
18 2-EO(4.6), that the disciplinary history of the law enforcement members has been contemplated as
19 relevant to the inquest process. This specific provision states:

20 The disciplinary history of the law enforcement member(s) involved may not be
21 introduced into evidence unless the administrator first determines that it is directly
22 related to the use of force. If such information is admitted, it must be limited to the
23 greatest extent possible.

24 PHL-7-1-2-EO (4.6). However, this provision governs the procedure for trial not discovery. It states
25 that prior to trial, the administrator would determine what is to be admitted in front of the jury. It
26 does not govern or limit what is discoverable. Therefore, the issue of admissibility can be briefed and
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1 litigated at a later date after the family has had the opportunity to review officer Nelson's
2 disciplinary history.

3 **III. CONCLUSION**

4 In conclusion the family requests that the proposed additions be added to the Inquest order.
5 As well the family has no objection to changing the language as requested by the City, with the
6 proposed addition addressing 4(o)(i-iv).
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11 DONE this 23 day of October, 2019.

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