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KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES
INQUEST PROGRAM

IN RE INQUEST INTO THE DEATH OF
JASON SEAVERS.

No. 18IQ61954

CITY OF SEATTLE’S RESPONSE TO
REQUEST FOR PRODUCTION OF
DOCUMENTS DATED OCTOBER 21,
2022

The City of Seattle (“City”) responds to the Request for Production of Documents dated October 21, 2022, as follows. The request for production in paragraph 3 is ambiguous and clarification is required for the City to respond. Seattle Police Department is unfamiliar with the term “Equipment Reference Catalog” and is currently reviewing records for potentially responsive materials; additional definition(s), context, or clarification will accelerate that process. For the records requested in paragraph 2, the City is producing the FRB and CSI PowerPoint together with this Response (see bates-stamped document **CITY_000026**). As to the documents requested in paragraph 1, the City incorporates and adds to the objections already filed in response to the Pre-Hearing Conference Order dated October 17, 2022, relating to Officer Schickler’s records concerning past use of force, and further responds that the request in paragraph 2 both (A) exceeds the scope of the inquest program’s authority and (B) is inconsistent

1 with the applicable rules of evidence.¹ The City also reserves the right to file additional objections
2 and responses as they come due.

3 **A. The request for production of records exceeds the scope of the inquest**
4 **program’s authority.**

5 The City reiterates that the purpose of an inquest is to investigate the manner, facts, and
6 circumstances of any death of *an individual* to which an action, decision, or possible failure to
7 offer the appropriate care by a member of any law enforcement agency may have contributed.
8 King County Charter Section 895; Chapter 36.24 of the Revised Code of Washington (RCW);
9 *Family of Butts v. Constantine*, No. 98985-1 (July 15, 2021); PHL-7-1-5-EO “Conducting
10 Inquests in King County” [hereinafter the “Executive Order”], and Inquest Program General
11 Order (emphasis added). The purpose of the inquest is to ensure a full, fair, and transparent
12 review of *a qualifying death* and to issue findings of fact regarding the facts and circumstances
13 surrounding *the death*, including whether the law enforcement member acted pursuant to policy
14 and training. The grant of county executive authority to conduct an inquest is limited to the stated
15 purpose.

16 For this inquest, 18IQ61954, the authority of the inquest program is limited to
17 investigation of the manner, facts, and circumstances of *Jason Seavers’* death. The outcome of
18 this inquest is to determine whether Officer Schickler acted pursuant to policy and training in the
19 death of *Jason Seavers*. The inquest program’s request for “any officer involved shootings
20 Officer Schickler has been involved in while employed at Seattle Police Departments” is patently
21 outside the scope of the program’s authority. Executive Order, p. 1. Without this limitation, the
22 words “an individual” or “the qualifying death” have no meaning.

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¹ This response does not address witness, exhibit, or scope objections, as those matters are still under discussion.

1 Likewise, the outcome of an inquest is to determine “where and by what means” a person
2 “came to his or her death,” including whether that person’s death “was occasioned by the act of
3 another criminal means.” RCW 36.24.060. Consistent with this statutory language about a
4 specific incident, the only determinations of the inquest are “the cause, manner, and
5 circumstances of *the death*” and “whether the law enforcement officer complied with applicable
6 law enforcement agency training and policy as they relate to *the death*.” Executive Order,
7 Appendix § 3.2 (emphasis added). There is no basis in the Executive Order for the inquest’s
8 request for records related to use of force for any incident other than the death of Jason Seavers.
9 Once again, inquiry into incidents involving persons other than Jason Seavers would render the
10 words about “the person” in the statute, and “the death” in the Executive Order meaningless.

11 Even if the explicit language about “the person” and “the death” were somehow
12 insufficient to demonstrate that the request in paragraph 2 is outside the authority of the inquest
13 program, the Executive Order further limits the materials exchanged amongst the parties to “the
14 police and/or agency investigative file of the incident that resulted in the death” and “the report of
15 the medial examiner, crime laboratory reports, and the names, addresses, and summaries and/or
16 copies of any witnesses obtained by any party.”² Executive Order, Appendix § 4.2. It is axiomatic
17 that “any officer involved shootings Officer Schickler has been involved in” is not the list in
18 section 4.2.

19 **B. The request for production of records is inconsistent with the applicable rules
20 of evidence.**

21 Even if the explicit language about “the person” and “the death,” and the explicit list of
22 considerable materials were somehow insufficient to demonstrate that the request in paragraph 2

23 _____
² Once again, the language is specific to a particular incident by stating “the death.”

1 is outside the authority of the inquest program, the applicable rules of evidence likewise preclude
2 the request. The City previously referred to provisions 4.3 and 4.6 of Appendix 2 of the Executive
3 Order regarding evidentiary limitations as to the involved officer’s disciplinary past and cited to
4 both Federal and Washington State Rules 26 concerning discovery and highlighting that
5 discovery is not unfettered access to information. The City now adds relevant provisions of the
6 King County Hearing Examiner Rules concerning the limited scope of discovery in proceedings
7 such as this one. In IX. Discovery, the Rules state that “A. Discovery in the examiner process is
8 not designed to duplicate the robust pre-trial discovery common to civil litigation. [...] D.1.
9 Contrary to civil litigation, where the thumb is on the scale in favor of greater pre-trial discovery,
10 outside of IX.B. and IX.C., in examiner proceedings the thumb is on the scale against greater pre-
11 hearing discovery.” Given the limited scope of the inquest—that is, to examine the facts and
12 circumstances in the death of Mr. Seavers—the request for records is both vague and overbroad
13 both in content and overall time period for past instances of force. However, what is most
14 problematic is the search for inadmissible propensity evidence.

15 Here, the information sought is not likely to lead to the discovery of admissible evidence.
16 ER 404 reads as follows: “(a) Character Evidence Generally. Evidence of a person’s character or
17 a trait of character is not admissible for the purpose of proving action in conformity therewith on
18 a particular occasion [...] (b) Other Crimes, Wrongs, or Acts. Evidence of other crimes, wrongs,
19 or acts is not admissible to prove the character of a person in order to show action in conformity
20 therewith. It may, however, be admissible for other purposes, such as proof of motive,
21 opportunity, intent, preparation, plan knowledge, identity, or absence of mistake or accident.”
22 Any other such evidence is merely propensity evidence and is a categorical bar to its admission.
23 Courts have held that to admit evidence of a person’s prior crimes, wrongs, or acts, the trial court

1 must (1) find by a preponderance of the evidence that it occurred, (2) identify the purpose for
2 which the evidence is sought to be introduced, (3) determine whether the evidence is relevant to
3 prove an element of the crime charged, and (4) weigh the probative value against the prejudicial
4 effect. At an inquest, there is no element of a crime charged, but there are fact questions for the
5 panel. The panel is called on to issue findings of fact regarding the facts and circumstances
6 surrounding the death, including whether the law enforcement member acted pursuant to policy
7 and training. The inquest is not a review of Officer Schickler’s career—it is a review of the death
8 of Mr. Seavers.

9 In addition to the City’s objections to providing records when the sole purpose is a search
10 for propensity evidence, the inquest administrator’s attorneys have offered that the reason for the
11 request centers around Officer Schickler’s firing of his pistol when he could not see what, if any,
12 object was in Mr. Seaver’s hands when other officers did not fire even though other officers were
13 in a position to do so and did not fire. From the email accompanying the request, it appears that
14 records are sought in order to satisfy the administrator on what the circumstances were in the past
15 instances, what additional training was recommended or required as a result, and/or on “this
16 question.” It is unclear whether “this question” refers to why Officer Schickler fired when others
17 did not, or whether it refers to whether past instances were similar and whether remediation
18 occurred. Either way, these are improper bases to inquire into past instances of uses of force.

19 The issues before the inquest are limited to whether Officer Schickler acted in accordance
20 with training and policy in the death of Mr. Seavers regardless of any past instances. Training
21 following prior instances would appear on his training jacket, already in possession of the inquest
22 administrator. The nexus between trainings received and those past instances is irrelevant.

1 Moreover, assuming arguendo such training recommendations exist, they would potentially
2 constitute a part of his disciplinary record, which is inadmissible.

3 If “this question” refers to why Officer Schickler fired when others did not, that is a
4 proper question for the panel to answer as the fact-finder. It is not the province of the
5 administrator to be satisfied on that question by delving into inadmissible evidence prior to
6 seating the panel. Because the focus is on the death of Mr. Seavers, the contents of prior incidents
7 are not just irrelevant, but would substantially prejudice the proceeding.

8 The City also previously objected to the production of records when neither the
9 administrator nor the attorneys for the administrator have explored alternative means of obtaining
10 the information sought. One possible remedy is that the inquest administrator or the attorneys for
11 the inquest administrator ask Officer Schickler through counsel limited, agreed upon questions
12 regarding past instances. Based on that information, the inquest administrator and his attorneys
13 can determine whether anything further would constitute a valid discovery request or whether the
14 request impermissibly seeks otherwise inadmissible evidence.

15 Should such a request be made, the City would respectfully request a rationale for the
16 information sought both in terms of content and timeframe in writing in order to effectively
17 respond.

18 DATED this 28st day of October, 2022.

19 ANN DAVISON
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CERTIFICATE OF SERVICE

I certify that on the 28th day of October, 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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