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8	KING COUNTY DISTRICT COURT OF WASHINGTON		
9	WEST DIV	ISION	
10	INQUEST INTO THE DEATH OF:	No. 517IQ8013	
11	DAMARIUS DEMONTA BUTTS,	INVOLVED OFFICERS' BRIEF	
12	Deceased.	RE: SCOPE OF INQUEST	
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14	INQUEST SCOPE		
15	"The purpose of the inquest is to ensure a full, fair, and transparent review of any sudeath, and to issue findings of fact regarding the facts and circumstances surrounding the death. The review will result in the issuance of findings regarding the cause and mann of death, and whether the law enforcement member acted pursuant to policy and training."		
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18	The foundation of this inquest is to uncover the facts and circumstances surrounding th		
19	death of Damarius Butts. That is accomplished through the testimony of witnesses and analysis		
20	of forensic evidence. The objective is not to determine whether particular acts were justified, it		
21	not to question the policies and training behind those acts, it is not to promote or suggest		
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	¹ Paragraph 2.2 to Appendix 1 of PHL-7-1-2-EO (Conducting Inquests in King County)(emphasi supplied).		

INVOLVED OFFICERS' BRIEF RE: SCOPE

OF INQUEST - 1 {00295024;1}

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different approach. To that end, testimony and questions related to policy and training must be limited to the *cause and manner of death*, and policy directly related to those questions.

1. The subject matter of the policies governing the officers who caused the death of Damarius Butts.

The Seattle Police Department's Use of Force Policy that existed at the time of Mr. Butt's death is the only policy relevant to the cause and manner of death. Indeed, language relating to the administration and scope of the inquest support this conclusion.

Paragraph 3.2 in Appendix 2 of PHL-7-1-2-EO (Conducting Inquests in King County) states that "[t]he panel shall make findings regarding whether the law enforcement officer complied with applicable law enforcement agency training and policy as they relate to the death." Further, paragraph 12.3 states that "the chief law enforcement officer of the involved agency or director of the employing governmental department shall provide testimony concerning applicable law enforcement agency training and policy as they relate to the death[.]"

Here, there is no dispute that Seattle Police officers caused Mr. Butts' death by shooting him, or that the manner of death was homicide. The only policy relevant to the cause and manner is the Seattle Police Department's Use of Force policy, and in particular the policy on the use of deadly force. No other policy can be implicated in the death. Mr. Butts did not die as a result of a foot pursuit, by virtue of general policies related to investigating crimes, or canine application policies (the medical examiner has verified that the canine impact was minimal and either perimortem or postmortem – the dog did not cause the death).

In addition, the scope should be restricted to prohibit any testimony related to opinions as to whether any involved officer complied with the deadly force policy. That determination, by executive order, is for the panel.

Accordingly, the inquest panel should be educated about the deadly force policy in force at the time of the event, then be asked whether officers acted pursuant to said policy.

2. The subject matter of trainings the officers who caused the death of Damarius Butts received or should have received regarding the actions the shooting officers took that resulted in the death of Damarius Butts.

Consistent with the above, training should be limited to that which relates to the cause and manner of Mr. Butts' death. Here, that would include training surrounding decision-making related to and the application of deadly force. Other training tangential to the deadly force decision is irrelevant to this process, including: bystander safety, canine intervention, use of distraction devices or robots, etc. Such tangential training does not relate to the cause or manner of Mr. Butts' death.

3. The events leading up to and immediately following the death of Damarius Butts.

The events that precipitated the call to law enforcement (i.e., the 7-11 incident), law enforcement and civilian interaction with Butts in downtown Seattle (i.e., struggle with Officer Merritt and police chase), and law enforcement and civilian interaction with Butts in the Federal Building are relevant and necessary to the inquest proceeding. These events constitute the "circumstances" surrounding his death in a direct, linear fashion. These events also provide context for law enforcement's involvement and the actions of individual law enforcement personnel; they constitute the universe of information known to the involved officers and upon which they could rely in making their deadly force decisions. Without testimony regarding the 7-11 incident or the downtown foot chase, an inquest panel would question why law enforcement personnel were pursuing Mr. Butts in the first place or why they believed Mr. Butts to be armed. Butts' actions from 7-11 onward created an inexorable cascade of events that ultimately resulted in his death.

These same facts are relevant to whether officers acted pursuant to training and policy when they employed lethal force. An inquest panel cannot answer training and policy questions without adequate foundation.

With respect to information associated with the aftermath of the death, such facts are limited to those that relate to the cause and manner of death. For example, pursuant to paragraph 12.3 in Appendix 2 of PHL-7-1-2-EO (Conducting Inquests in King County), testimony as to the forensic investigation that occurred after the death is appropriate (e.g., how many shell casings were collected from the scene, photos of the scene, etc.). However, this does not include facts that are unrelated to the cause and manner of death. For example, there is no evidence that the Seattle Police Department's use of a distraction device or K-9 dog to extract Mr. Butt's body had any impact upon the cause or manner of Mr. Butts' death. Accordingly, it is not relevant and should not be permitted, consistent with the Administrator's earlier rulings.

DATED this 27th day of September, 2019, at Seattle, Washington.

FREY BUCK, P.S.

By: /s/ Evan Bariault
Ted Buck, WSBA #22029
Evan Bariault, WSBA #42867
Attorney for Seattle Police Department Involved Officers

CERTIFICATE OF SERVICE

I certify that on the 27^{th} day of September, 2019, 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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DATED this 27th day of September, 2019, at Seattle, Washington.

/s/ Megan	Riley
Megan Ri	ley