

1  
2  
3  
4  
5  
6  
7 **THE STATE OF WASHINGTON**  
8 **KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES INQUEST PROGRAM**

9  
10 *IN RE*: THE INQUEST INTO THE  
11 DEATH OF DAMARIUS BUTTS

NO. 517IQ8013

12 THE FAMILY'S RESPONSE TO THE  
13 SEATTLE POLICE DEPARTMENT'S  
14 MOTION TO JOIN MOTION FOR  
RECONSIDERATION

15 **I. INTRODUCTION**

16 The Seattle Police Department (SPD) offers a new argument in support of the Involved  
17 Officers' Motion for Reconsideration regarding the exclusion of live testimony from Daniel  
18 Yohannes and Officer Adam Merritt. SPD urges the Administrator to reverse its well-reasoned  
19 decision to present evidence regarding the initiating incident at 7-Eleven through stipulated facts  
20 and to exclude testimony from Officer Adam Merritt about his interactions with Adrianna and  
21 Damarius Butts. SPD bases its whole argument on an unsupported claim that live testimony will  
22 assist the panel in "understanding the cause, manner, and circumstances" of Mr. Butts' death. SPD  
23 Mot. at 2-3. This argument should be rejected.

24 **II. ARGUMENT**

THE FAMILY'S RESPONSE TO THE SEATTLE  
POLICE DEPARTMENT'S MOTION TO JOIN THE  
INVOLVED OFFICERS' MOTION FOR  
RECONSIDERATION - 1

KING COUNTY DEPT OF PUBLIC DEFENSE  
710 SECOND AVENUE, SUITE 200  
SEATTLE, WA 98104

1 SPD's reliance on *State v. Brown* for the proposition that live testimony must be presented  
2 from Daniel Yohannes and Officer Merritt fails. 132 Wn.2d 529, 571, 940 P.2d 546 (1997)). *Brown*  
3 simply stands for the proposition that evidence of other criminal activity can be admissible in a  
4 criminal prosecution. *Id.* Neither part of this proposition is at issue here. Evidence will be presented  
5 regarding Mr. Butts' actions at the 7-Eleven and about the foot pursuit. *See* Oct. 18, 2019 Inquest  
6 Order. Such evidence will be presented via stipulated facts or through officer witnesses who  
7 participated in the foot pursuit and in the use of force that killed Mr. Butts. *Brown* is also unhelpful  
8 here as it was a criminal prosecution not an inquest proceeding and so its assessment of admissible  
9 evidence is not useful for determining what evidence should be admitted in an inquest hearing.  
10 Based on this, *Brown* does not require the Administrator to take the unusual step of reversing its  
own decision. Further, SPD's argument should also be rejected for two additional reasons.

11 *First*, SPD ignores the fact that information regarding the incident at 7-Eleven will be  
12 admitted and presented to the panel through stipulated facts. This means that the panel will have  
13 the information regarding the initiating incident—it just will not be presented via live testimony.  
14 SPD offers no support for their argument that stipulated facts are insufficient for the panel to obtain  
15 sufficient information about the initiating incident. Instead, SPD argues that “[t]he trier of facts  
16 should be able to hear live testimony from Mr. Yohannes and ask questions regarding the actions  
17 Mr. Yohannes took.” SPD Mot. at 3. However, SPD fails to identify why such information is  
18 relevant to the determination of the cause, manner, and circumstances of Mr. Butts' death. None  
19 of the non-shooting or Involved Officers knew any detail about what occurred at the 7-Eleven  
20 other than what was announced by dispatch. Because such information was not relied upon by  
21 officers in making their decision to kill Mr. Butts such evidence should be presented in a manner  
22 that is least likely to be prejudicial or to confuse the issues—in this instance via stipulated facts.  
23 *See* Evidence Rule 403. The Administrator should not reverse its decision directing the use of  
24 stipulated facts regarding the initiating incident.

