

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 INVOLVED OFFICERS' AND SEATTLE
14 POLICE DEPARTMENT'S MOTIONS *IN*
LIMINE

15 **I. INTRODUCTION**

16 The Family moves the Administrator to deny the below contested Involved Officers' and
17 Seattle Police Department's motions *in limine*.

18 **II. ARGUMENT**

19 **A. Family's Response to the Involved Officers' Motions *in Limine***

20 The Involved Officers raise nine motions *in limine*. The Administrator should deny all
21 but the first and seventh motion.

22 **1. The Administrator Determines the Scope of the Inquest Including
23 Applicable Policies and Trainings**

1 The Involved Officers and the Seattle Police Department request the exclusion of
2 interrogatories that place the power of determining the relevant policies and trainings in the
3 hands of the panel. The Family agrees that the panel should not be tasked with determining
4 which policies and trainings are applicable to the Involved Officers' decision to use deadly force
5 against Damarius Butts. Instead, as the Administrator previously ruled "the decision as to which
6 policies and trainings the panel is to consider is made by the inquest administrator, not by a party
7 or parties." October 18, 2019 Pre-Inquest Order at 3 n.5.

8 This is consistent with the Executive Order (EO) which directs the Administrator to set
9 the scope of the inquest including determining applicable policies and trainings. EO Appendix 2
10 at 3.2. Granting the Involved Officers' and Seattle Police Department's request that SPD
11 representatives be allowed to determine what policies and trainings are applicable to the inquest
12 hearing would undermine the credibility of the inquest process. SPD employs the officers who
13 killed Mr. Butts and, as such, SPD has a vested interest in ensuring that their officers' actions are
14 viewed under the most lenient policies and training. While the Family is not accusing SPD of
15 bad faith, allowing the agency and the Involved Officers to determine the scope of the inquest
16 calls into serious doubt the independence of the inquest process—especially in instances like this
17 where SPD both caused Mr. Butts' death, investigated it, and now requests to set the scope of the
18 inquest inquiry. This cannot be allowed as it is a serious conflict of interests which would
19 undermine the purposes and goals of the inquest. Further, under the EO the Administrator does
20 not have the authority to abdicate its obligation to set the inquest scope, including determining
21 the applicable policies and trainings to be assessed.

22 Pursuant to this, the Family agrees that the interrogatories should be revised to keep the
23 panel from determining whether a particular policy or training applies to the situation, and
24 instead the interrogatories should ask the panel whether the Involved Officers complied with the
policies and trainings identified by the Administrator.

1
2 **2. SPD Should Not Be Allowed to Determine the Scope of the Inquest**

3 For the reasons discussed in Section II(A)(1) of this brief, the Involved Officers' and
4 SPD's request that SPD representatives be allowed to set the scope of the inquest by determining
5 which policies and trainings are applicable should be denied. The Involved Officers and SPD
6 argue that "no one other than the law enforcement agency that created, trained on and
7 implemented the policies and training has the requisite foundation necessary" to assess which
8 policies and trainings may be applicable to the shooting death of Mr. Butts. This argument is
9 deeply flawed and, if granted, would eviscerate the inquest process by removing the
10 Administrator's ability to ensure a fair and open inquiry into the death of Mr. Butts. The
11 Executive granted the Administrator authority to set the scope of the inquest and the
12 Administrator should not abdicate that authority to the law enforcement agency that is
13 responsible for Mr. Butts' death.

14 Further, as the Family briefed in its Motion to Expand the Scope of the Inquest, the
15 SPD's barricaded suspect training should be included in the inquest. There is a standing question
16 regarding whether the Involved Officers knew that Mr. Butts was trapped in the room where he
17 was killed and/or whether the Involved Officers had sufficient time to make a determination
18 regarding the same. SPD's barricaded suspect policy directs officers to allow an armed
19 individual—even one who shot another person in the officers' presence—to remain in a
20 locked/barricaded space without the officers' using deadly force. *See* Exhibit B of the Family's
21 Motion to Expand the Scope of the Inquest. Due to the circumstances of this killing, the question
22 of whether the Involved Officers complied with SPD's training on barricaded suspects should be
23 put to the panel.

24 The same is true of SPD's use of force policy regarding fleeing suspects. While the
Involved Officers argue that the fleeing suspect policy is inapplicable because the Involved
Officers "did not shoot Mr. Butts[,] believing he was fleeing" the scene, this argument is directly
contradicted by the Involved Officer's statement that Mr. Butts was fleeing. Involved Officers'

1 M.I.L. at 3. It is certain that the Involved Officers engaged in a foot pursuit of Mr. Butts while he
2 was fleeing the scene. As such, their decision to use deadly force must be assessed under the
3 fleeing suspect portion of SPD's use of force policy.

4 The Involved Officers' request to exclude the barricaded suspect and fleeing suspect
5 portions of the Use of Force policy should be denied.

6 **3. Rendering Aid Provisions of the Use of Force Policy Are Within the**
7 **Scope of the Inquest**

8 The panel should have the opportunity to determine whether the Involved Officers
9 complied with Section 8.200(6) and (7) of SPD's Use of Force policy regarding the rendering of
10 aid after use of force incidents. Pursuant to SPD policy, "[f]ollowing a use-of-force, officers will
11 request a medical aid response . . . for suspects and others and will closely monitor subjects
12 taken into custody." SPD Use of Force Policy 8.200(6). SPD policy also requires to
13 "automatically request medical aid" in every Type III use-of-force—including the use of deadly
14 force. SPD Use of Force Policy 8.200(7).

15 The Involved Officers and SPD argue that these policies are irrelevant because "[d]ue to
16 the nature of this incident, the involved officers were not responsible parties for purposes of
17 rendering and requesting aid" because two officers were injured and the others were tending to
18 the injured. Involved Officers' M.I.L. at 4. This argument is flawed and not consistent with the
19 facts. The policy clearly contemplates medical care for both subjects and anyone else who is
20 injured. Furthermore, the facts show that there were Involved Officers who were not actively
21 caring for injured officers following the use of deadly force.

22 Officer Vaaga is an Involved Officer and, although he initially sought to assist the
23 Involved Officers who had been shot in the incident with Mr. Butts, he returned to the loading
24 dock "to keep cover on the door where the suspect was last seen." Butts 1735. Once SWAT
arrived, Officer Vaaga noticed that "as SWAT was preparing to move in with the dog to secure

1 [Mr. Butts] . . . it appeared that [Mr. Butts] was moving” *Id.* At that moment, Officer Vaaga
2 donned plastic gloves and joined the contact team that would take Mr. Butts into custody. *Id.*

3 Officer Meyers is also an Involved Officer who did not leave the scene of the shooting to
4 care for other officers. Instead, Officer Meyers stayed at the loading dock and “barricaded up[.]”
5 Butts 1784. He was in this position for sufficiently long enough that his companion ran two
6 blocks to retrieve a shield and for the scene to become “stagnant” and enter “full barricade
7 mode.” Butts 1785. During this time, he “felt like [they] had really good containment” of Mr.
8 Butts. *Id.* Officer Meyers then attempted to communicate with someone from the Federal
9 Building who could tell him if there were other doors in the room where Mr. Butts remained. *Id.*
10 During this time Officer Meyers and other officers “had a look inside the room, [knew] where
11 the suspect [was and knew] where we have him pinned down[.]” Butts 1785. Officer Meyers also
12 “knew [Mr. Butts] was hit” and was “reasonably certain that at least some of . . . my rounds hit
13 him[.]” Butts 1785.

14 Based on their own statements, Officers Vaaga and Meyers were on the loading dock for
15 a considerable amount of time after the shooting. Officer Vaaga noticed that Mr. Butts was
16 moving up until the time that the K-9 unit arrived at the scene and Officer Meyer was at the
17 loading dock for a substantial period of time after the shooting. Butts 1735. Due to this, whether
18 Officers Vaaga and Meyers adhered to SPD policy regarding rendering aid after the use of Type
19 III force is a question that must be put to the panel. The Involved Officers’ motion *in limine* to
20 exclude the rendering aid section of SPD’s use of force policy should be rejected.

21 **4. Attorney Summation Is a Question that Should Be Reserved**

22 The Administrator, on November 5th, ordered “[a]ny party who wishes to provide a
23 summation to the panel at the close of the evidence should make that request to the
24 Administrator well before the close of evidence.” Nov. 5, 2019 Pre-Inquest Conference Order. In
25 spite of this order, the Involved Officers now move to exclude attorney summation. Such a
26 request is premature and in violation of the EO which allows the “pro tem attorney and the

1 participating parties” to “offer statements of summation” if those “statements are consistent with
2 the fact-finding purpose of the inquest and . . . [do] not suggest conclusions of law or bear on
3 fault.” EO Appx. 2 at 13.0.

4 Further, the concerns raised by the Involved Officers regarding summation have already
5 been addressed by the EO and its directives regarding summation. The EO directs summations to
6 avoid any prejudicial arguments and even requires some level of Administrator approval before
7 being made to the panel. Prematurely excluding summation over concerns that the EO order has
8 already addressed is inappropriate and the Involved Officers’ motion *in limine* to exclude
9 summations should be rejected.

10 **5. Damarius Butts’ Mother Should Be Allowed to Testify**

11 The Family has requested that Damarius Butts’ mother be allowed to testify about
12 biographical information that is necessary and relevant to the proceedings including Mr. Butts’
13 identity, physical characteristics, last address, and other relevant information. Such information
14 is necessary for the panel to perform its duties under RCW 36.24.070.

15 The Involved Officers argue that Damarius Butts’ mother should not be allowed to testify
16 out of concerns that she may arouse “an emotional response rather than a rational decision
17 among the jurors[.]” Involved Officers M.I.L. at 5. However, such assertions are pure
18 speculation and Mr. Butts’ mother has the best foundation to provide Mr. Butts’ biographical
19 information. Further, it is certain that other witnesses are likely to become emotional and/or to
20 invoke an emotional response—including Officer Kang who was shot during the incident.
21 Acknowledging that someone was killed by law enforcement officers and that they had family
22 who cared for them is not prejudicial under ER 403. Further, allowing Mr. Butts’ mother to
23 testify about her son’s biographical information is consistent with the EO’s determination that
24 the family of the deceased should be participating parties in inquests. EO Appx. 2 at 2.1. For
these reasons the mother of Mr. Butts should be allowed to testify and the Involved Officers’
motion *in limine* should be denied.

1 **6. The Parties Must Be Allowed to Utilize Hypotheticals Regarding**
2 **Training and Policy**

3 The Involved Officers request that use of hypothetical questions that incorporate facts
4 and circumstances comparable to the facts of this inquest be barred. They predicate this request
5 on the fact that the EO disallows SPD representatives from “comment[ing] on whether
6 employees’ actions related to the death were pursuant to training and policy; or any conclusions
7 about whether the employee’s actions were within policy and training.” Involved Officers’
8 M.I.L. at 5. This request should be denied.

9 In order for the panel to make a determination regarding whether the Involved Officers’
10 use of deadly force was consistent with SPD’s training and policies, the panel will need
11 information beyond just the text of the policies and the documents SPD training program uses.
12 This is especially true regarding SPD’s training protocols. As Captain Teeter indicated in his
13 deposition, SPD training utilizes a mix of classroom, role play, scenarios, field training, and
14 practical exercises. Ex. A (Teeter Dep. at 11-17). This means that in order to understand SPD
15 training protocols the panel must be informed of the types of situations wherein the training
16 would have been triggered and the types of responses SPD expects from its law enforcement
17 officers under the training. As SPD’s training is situationally driven and not encapsulated in any
18 one document, hypotheticals are necessary for the panel to garner a full understanding of what
19 SPD’s training encompasses and whether it was applicable in the shooting death of Mr. Butts.
20 Further, hypotheticals are necessary to understand instances where particular SPD policies may
21 be applicable. SPD policies are fairly detailed, as evidenced by the use of force policy, but
22 without testimony regarding the applicability of a particular SPD policy to scenarios or
23 hypotheticals it would be very difficult for the panel to determine whether the shooting of Mr.
24 Butts is an instance where a particular policy should have been followed.

 The Involved Officers argue that hypotheticals “invite violation of the executive order[,]”
but fail to identify how their assertion is true or supported by the inquest’s legal framework. SPD
representatives discussing the applicability of training and policies to hypothetical situations not

1 identical to the circumstances that lead to Mr. Butts' death is not equivalent to those
2 representatives opining or commenting on whether the Involved Officers acted in a manner
3 consistent with training and policy. Instead, such testimony will help the panel develop a full
4 understanding of SPD's expectations of its law enforcement officers and the training and policies
5 with which they are expected to comply. Because limiting the use of hypotheticals would deny
6 the panel the opportunity to fully understand how SPD policies and trainings work, the Involved
7 Officers' request should be denied.

8 **7. The Involved Officers' *Garrity* Statements Should Be Admitted**

9 The Involved Officers argue that the Involved Officers' *Garrity* statements are
10 inadmissible hearsay. Involved Officers' M.I.L. at 6. This argument fails.

11 *First*, the purpose of the inquest hearing is to "ensure a full, fair, and transparent review"
12 of Mr. Butts' death. EO Appx. 1 at 2.2. Excluding the *Garrity* statements of the officers that
13 killed Mr. Butts after they have elected not to testify would eviscerate the factfinding nature of
14 the inquest. If these statements are excluded, the inquest hearing would have no information
15 regarding the killing of Mr. Butts or the Involved Officers' decision to use deadly force on him.
16 Such an exclusion would require the panel to engage in rank speculation about their actions and
17 the reasons for their decisions. An inquest hamstrung to such a degree would certainly not result
18 in a full, fair, or transparent review.

19 *Second*, the statements are admissible under the hearsay exception for unavailable
20 witnesses. ER 804. The Involved Officers have refused to provide testimony during the inquest
21 hearing, and the Administrator has no authority under the Executive Order to subpoena or coerce
22 such testimony. EO Appx. 1 at 8.5 (directing that no subpoenas shall issue for the testimony of
23 involved officers). Under ER 804(a)(5), a witness is unavailable and their prior statement is
24 admissible, if "the proponent of the statement has been unable to procure the declarant's
attendance . . . by process or other reasonable means." Here, the Involved Officers rejected the
Administrator's multiple requests for them to voluntarily testify at the inquest hearing. Because

1 the Administrator has used all reasonable means and available processes, the Involved Officers
2 must be deemed unavailable witnesses whose prior sworn *Garrity* statements are admissible
3 under ER 804(a)(5).

4 *Third*, the *Garrity* statements are admissible under ER 804(a)(1), which creates a hearsay
5 exception for witnesses who are exempted from testifying “on the ground of privilege from
6 testifying concerning the subject matter of the declarant’s statement[.]” Here, the Executive
7 Order bars Involved Officers from being compelled to testify about the circumstances that lead to
8 the death of Mr. Butts. This exemption from the Administrator’s subpoena authority creates a
9 privilege from testimony that triggers ER 804(a)(1)’s hearsay exception.

10 *Fourth*, the *Garrity* statements are admissible as a party admission under ER 801(d)(2).
11 While Washington State Rules of Evidence are typically used in an adversarial context, the
12 Executive Order expressly indicates that inquest proceedings are to utilize the Rules of Evidence
13 in these proceedings. This is because there are no inquest specific rules of evidence. As such, the
14 Administrator has been, and will be, required to apply the Rules of Evidence in a manner that
15 comports with the purpose of the inquest and not pursuant to a strict reading of those rules. This
16 is especially true here where the Involved Officers are literally identified as parties to the inquest
17 and are employees of yet another party to the inquest. To find their *Garrity* statements, as
18 anything other than party statements is unworkable. Further, the *Garrity* statements were taken
19 pursuant to SPD policies and part of SPD’s official investigation in the Mr. Butts’ death. If these
20 statements were deemed inadmissible it would lead to absurd results and allow the Involved
21 Officers to carve out one of the most important pieces of evidence from SPD’s investigation into
22 the death of Mr. Butts. Allowing such a reading of the Rules would undermine the purpose of the
23 inquest and allow the Involved Officers’ actions to evade review.

24 For these reasons the Involved Officers’ request to exclude the Involved Officers’ *Garrity*
statements should be rejected.

8. Testimony from Adrianna Butts Must Be Excluded

1 The Executive Order allows for the exclusion of witnesses whose testimony—although
2 relevant—is cumulative. EO Appx. 2 at 12.4. Here, exclusion of live testimony and recorded
3 statements from Adrianna Butts is appropriate. The witness list includes Daniel Yohannes, who
4 worked at 7-Eleven and saw Mr. Butts’ gun. The witness list also includes Officer Merritt, who
5 had a physical interaction with Mr. Butts. These are the two primary testimony topics identified
6 by the Involved Officers as requiring testimony from Ms. Butts. As such evidence will already
7 be presented by other witnesses her testimony would be cumulative and of very limited probative
8 value.

9 The Involved Officers also argue that live testimony from Ms. Butts or her recorded
10 statements are necessary because she provided Mr. Butts with the gun used during the incident.
11 How Mr. Butts obtained a gun is irrelevant to the inquiry at the heart of the inquest: whether the
12 Involved Officers acted pursuant to training and policy when they killed Mr. Butts. The Involved
13 Officers did not rely upon any information regarding how Mr. Butts obtained the gun when they
14 killed him. As such, testimony regarding how Mr. Butts obtained the gun is well outside the
15 scope of the inquest and must be excluded.

16 Further, Ms. Butts is currently incarcerated and represented by attorneys not participating
17 in the inquest. As her attorney would need to consult her regarding any potential remaining
18 criminal liability that might be triggered from questioning about the matters underlying her
19 criminal conviction and the Inquest Program would need to coordinate with the facility where
20 she is incarcerated, the Involved Officers’ late request—even if it were not legally flawed—
21 simply cannot be accommodated.

22 As the Involved Officers offer no meaningful support for their request to require live
23 testimony from Ms. Butts or use her recorded statements. The request to do so should be denied.

24 **B. The Family’s Response to SPD’s Motions *in Limine***

1. Voir Dire Questions About SPD and the Consent Decree Are Appropriate

1 SPD asks the Administrator to exclude questions about potential jurors' thoughts
2 regarding training, oversight, supervision, and the consent decree that SPD entered into with the
3 Department of Justice. This request should be denied.

4 Obtaining potential jurors prospective on law enforcement oversight—including that
5 specific to SPD—will provide meaningful insight into jurors' ability to neutrally hear testimony
6 about these issues. Further, although SPD argues that the consent decree is complicated and not
7 likely to arise during the inquest, Captain Teeter's testimony about SPD's training protocols
8 may, in fact, raise the issue as occurred during his deposition. Ex. A. (Teeter Dep. at 14). SPD's
9 argument also undervalues potential jurors' ability to understand the difference between SPD
10 being required to take corrective action and the question before the jury regarding whether the
11 Involved Officers themselves followed SPD training and policies when they killed Mr. Butts.
12 SPD's request to exclude voir dire questions 26-29 should be denied.

12 **2. Detective Simmons' Testimony Should Be Limited**

13 The Family agrees in part with SPD's proposed limitations on Detective Simmons'
14 testimony and proposes the four following limitations on his testimony.

15 *First*, as long as another SPD representative testifies about the purpose and intent of
16 *Garrity* statements, the Family agrees that Detective Simmons should not testify about the same.
17 The Family proposes that Assistant Chief Cordner provide testimony on this topic as the SPD
18 representative providing testimony about SPD policies.

19 *Second*, SPD's argument that such testimony is irrelevant and prejudicial is flawed. The
20 jurors likely will not know or understand why the Involved Officers provided *Garrity* statements
21 as part of the investigation into Mr. Butts' death. This is not surprising as few civilians are
22 familiar with or understand what *Garrity* statements are or their purpose. Also, the Involved
23 Officers are not testifying so the jurors will need some context as to why the *Garrity* statements
24 exist and the extent of their reliability. Further, the parameters and obligations regarding the
investigation of the deadly use of force is part of SPD's use of force policy and, as such, is firmly

1 in the wheelhouse of Assistant Chief Cordner’s testimony. Without such testimony from an SPD
2 representative, the panel may not view the *Garrity* statements as reliable or may impute some
3 negative connotation as to why the Involved Officers are not testifying and instead they are
4 simply provided with recordings of the interviews.

5 SPD’s second, and barely raised, argument that “any discussion of *Garrity*, their purpose,
6 or intent . . . is prejudicial to the officers that routine provide *Garrity* statements” should be
7 rejected. SPD M.I.L. at 6. SPD fails to identify any prejudice that could potentially arise from the
8 panel being informed of the policies, purposes, and procedures undergirding *Garrity* statements.
9 This is not surprising, as any testimony about these statements will likely make the statements
10 seem more reliable and assist the factfinder in understanding the statements origins, scope, and
11 reliability. Further, inasmuch as SPD is arguing that discussion of *Garrity* statements is
12 prejudicial to all officers, that argument seeks to protect officers who are well outside of the
13 scope of this inquest. SPD’s argument should be rejected.

14 *Third*, the Family does not object to limiting Detective Simmons testimony to avoid
15 providing testimony regarding “his evaluation or opinion about what the shooting officers were
16 drawing in scribbled diagrams that the officers were developing and editing as they provided
17 statements.” SPD M.I.L. at 7. However, the Family objects to SPD’s request to limit Detective
18 Simmons’ testimony regarding his own personal recollections of “what was stated or occurred at
19 the *Garrity* statements of the officers[.]” *Id.* There is no basis for limiting Detective Simmons’
20 testimony regarding his own person knowledge of matters that are not hearsay and SPD has
21 provided no basis for such a limitation. As the purpose of the inquest is a fair, full, and
22 transparent evaluation of the facts leading up to Mr. Butts’ death, there is no principled reason
23 for excluding testimony from Detective Simmons about matters that he perceived, experienced
24 or understood at the time that they happened. SPD request for such a limitation should be
25 rejected.

26 *Fourth*, the Family does not object to limiting Detective Simmons’ testimony about what
27 he might have done differently in his investigation.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

3. The Administrator Is the Appropriate Entity to Determine the Relevant Policies and Trainings for the Panel's Consideration

The Family objects to SPD's proposal that it be allowed to determine the relevant policies and trainings to be considered in the inquest hearing. As discussed above in Section II(A)(1) the Administrator is tasked with deciding the scope of the inquest hearing—including determining what policies and trainings the panel is to consider when assessing the Involved Officers' use of deadly force. To allow SPD to kill Mr. Butts, investigate the homicide, be a party to the inquest, and then also determine the policies and trainings under which its officers' actions may be scrutinized, creates significant conflicts of interest and undermines the purpose of the inquest. *See above* at Section II(A)(1). This motion must be rejected.

III. CONCLUSION

For the foregoing reasons the Family requests that the above discussed Involved Officers' and Seattle Police Department's motions *in limine* be denied.

DATED this 3rd day of December, 2019

/s La Rond Baker

La Rond Baker, WSBA No. 43610
Adrien Leavitt, WSBA No. 44451
Attorneys for Family of Damarius Butts

Exhibit A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DEPARTMENT OF EXECUTIVE SERVICES

INQUEST PROGRAM

INQUEST INTO THE DEATH OF DAMARIUS DEMONTA BUTTS

#5171Q0713

INTERVIEW OF CAPTAIN MICHAEL TEETER

NOVEMBER 18, 2019

10:36 A.M.

701 Fifth Avenue

SUITE 2500

SEATTLE, WASHINGTON 98104

REPORTED BY: CATHERINE A. DECKER, CCR NO. 1975

1 APPEARANCES
2
3 FOR THE DECEDENT'S FAMILY:
4 LA-ROND BAKER
5 King County Northwest Defenders Division
6 710 Second Avenue, Suite 250
7 Seattle, Washington 98104
8 206 674-4700
9 lbaker@kingcounty.gov
10
11 FOR NW DEFENDERS DIVISION
12 ADRIEN LEAVITT
13 NW Defenders Division
14 710 Second Avenue, Suite 250
15 Seattle, Washington 98104
16 206 477-9142
17 adrien.leavitt@kingcounty.gov
18
19 FOR KING COUNTY EXECUTIVE SERVICES:
20 MATTHEW ANDERSON
21 Department of Executive Services
22 401 Fifth Avenue, Suite 135
23 Seattle, Washington 98104
24 206 856-6016
25 andersonmatt886@gmail.com

1 INDEX
2
3 EXAMINATION BY: PAGE
4 MS. BAKER 5
5 MR. MATTHEWS 51
6
7 EXHIBITS FOR IDENTIFICATION PAGE
8 Exhibit 1 SPD Education and training 18
9 section lesson plan on use
10 of force,
11 City 2214-2236
12 Exhibit 2 Post BLEA Deescalation/contact 24
13 And cover and barricaded persons,
14 City 0045-0125
15
16
17
18
19
20
21
22
23
24
25

1 FOR SEATTLE POLICE DEPARTMENT:
2 GHAZAL SHARIFI
3 ERIKA EVANS
4 City Attorney's Office
5 701 Fifth Avenue, Suite 2050
6 Seattle, Washington 98104
7 206 684-8200
8
9 REBECCA BOATRIGHT
10 Seattle Police Department
11 P.O. Box 34986
12 Seattle, Washington 98124-4986
13 206 233-5023
14
15 FOR THE OFFICERS:
16 EVAN BARIAULT
17 Frey Buck PS
18 1200 Fifth Avenue, Suite 1900
19 Seattle, Washington 98101
20 206 486-8000
21 ebariault@freybuck.com
22
23
24 Also present: VICTOR VODAK, Investigator
25 King County NW Defenders Division

1
2 SEATTLE, WASHINGTON; NOVEMBER 18, 2019
3 10:36 A.M.
4 --oOo--
5
6 EXAMINATION
7 BY MS. BAKER:
8 Q. Good morning. As you know, my name is La-Rond
9 Baker, and I'm an attorney with the King County
10 Department of Public Defense, and I represent the
11 family of Damarius Butts. Will you please state and
12 spell your name for the record and your position with
13 Seattle Police Department.
14 A. My name is Michael Teeter, M-i-c-h-a-e-l, T as
15 in Tom, e, t as in Tom, t as in Tom, e-r, and I'm the
16 captain of the education and training section for the
17 Seattle Police Department.
18 Q. Great. Before we start, let's run through
19 some housekeeping rules. Following these guidelines
20 will make the process go smoother and leave us with a
21 much clearer record of what occurs here today. So
22 everything that's said here today will be recorded by
23 the court reporter, so it's important that you answer
24 orally. Okay?
25 A. Yes.

1 training is not designed really to be -- like, for
 2 example, you wouldn't necessarily have a training
 3 called "foot pursuit training." You would have
 4 training on tactics, training on use of force, training
 5 on deescalation, training on all kinds of different
 6 topics. But those are never standalone because those
 7 are all training officers in tools that they can use in
 8 particular situations. We train on weapons, on
 9 firearms, on less lethal weapons. So again, those are
 10 tools that officers may bring to bear in a particular
 11 situation.

12 Deescalation techniques, the same.
 13 Communication. And the reason I mention all this is
 14 that communication is a part of, say, a foot pursuit is
 15 to tell a person to stop. So all of our trainings are
 16 designed to give the officer tools and techniques that
 17 they can then, when they're faced with a particular
 18 situation, decide what to employ and how to approach
 19 that situation. So within that context there are a
 20 number of scenarios that we presented to officers over
 21 the years involving foot pursuits where there's a foot
 22 pursuit -- say a person runs into a building, closes
 23 the door, then the officer has to use deescalation
 24 techniques to try to talk the person out and get the
 25 person safely in custody.

Page 10

1 So it's not so much a training on foot
 2 pursuits, but foot pursuits are kind of an element of
 3 what happens in the scenario that's used to train the
 4 different pieces that we're training.

5 Q. Okay. You also said that you asked the
 6 question regarding training officers might receive
 7 regarding escalation or deescalation when it comes to
 8 pointing a firearm. Can you tell me what answer you
 9 received to that question or what trainings?

10 A. Yeah. There's not really any training that I
 11 could identify that addressed that issue. Officers are
 12 trained to draw and point their weapon in very high-
 13 stake situations when they believe that there's a
 14 threat that potentially may develop into a deadly force
 15 encounter. So those situations are already very much
 16 escalated by the nature of whatever it is that's caused
 17 an officer to draw and point their weapon.

18 Q. So let's talk a little bit more generally
 19 about SPD training. Does SPD provide all of its
 20 officers training internally or are there some
 21 trainings that are provided to officers that are not
 22 done by SPD employees?

23 A. So both. We have trainings that we develop
 24 and supply internally and officers also sometimes will
 25 attend training from other sources.

Page 11

1 Q. And can you tell me what training an officer
 2 receives what they are newly brought onto the force?

3 A. So they go through -- are you talking what's
 4 contained in the academy or after the academy that SPD
 5 provides?

6 Q. What's contained in the academy and then we
 7 can talk about what happens after.

8 A. Okay.

9 MS. SHARIFI: I'm just going to object
 10 to the extent that Captain Teeter is obviously not an
 11 academy instructor, so he may not have a fully
 12 comprehensive scope of that understanding.

13 But go ahead and state what you know.

14 A. So the police academy, called Basic Law
 15 Enforcement Academy, is a 720-hour training program
 16 that prepares someone who potentially has no knowledge
 17 of anything related to law enforcement to actually do
 18 the job of a police officer. So it trains them through
 19 a mix of classroom and role play and scenario-based
 20 training and different examinations on different skills
 21 to do most of the different tasks that an officer would
 22 need to do to do their jobs. So the list of topics is
 23 long, unless you want me to list them all?

24 Q. No.

25 A. But in general it's the law that applies to

Page 12

1 their work. So that's constitutional law, state law
 2 that governs their work; that's criminal law and
 3 criminal procedures and learning about what laws
 4 they're actually being asked to enforce; traffic laws,
 5 so they learn a little bit about traffic enforcement;
 6 it's search and seizure law as it relates to stops and
 7 detentions and arrests.

8 And then there are practical exercises, things
 9 like defensive tactics -- firearms training, driving
 10 training, DUI enforcement training. So it covers all
 11 sorts of different topics that an officer might face.
 12 And it covers it initially in classroom and role play,
 13 and then they actually have a number of what they call
 14 mock scenes that the officer has to be able to perform
 15 acceptably to show that they're actually able to take
 16 what they've learned and put it into practice in an
 17 actual scenario.

18 Q. And the training that SPD offers its
 19 employees, can you tell me about the training program
 20 that SPD has for officers?

21 A. Absolutely. So there are two pieces to it.
 22 I'm going to start with the post-BLEA training.
 23 Post-BLEA training is training that's specifically
 24 designed for those officers that have just completed
 25 the 720 hours of basic academy training. And that

Page 13

1 state academy provides things that are applicable,
 2 information and skills that are applicable to officers
 3 throughout the state.

4 There are many things that are particular to
 5 Seattle that our officers need to know before going out
 6 on the street. And so the post-BLEA training is about
 7 720 hours -- I'm sorry, it's about seven weeks. And
 8 that covers things like Seattle Police Department
 9 policies. In the case of our consent decree, we have a
 10 number of policies that are particularly related to
 11 that -- the deescalation, use of force policies. And
 12 so it covers Seattle specific policies and then the
 13 interpretation of those and how do -- and the
 14 expectations of officers in doing their job here in use
 15 of force reporting, incident reporting, crisis
 16 intervention. So -- and they continue with scenarios
 17 in that training. We do additional range training with
 18 them.

19 We train some things that are different from
 20 the academy, I would say, in the sense that we use more
 21 officers to approach certain situations than the
 22 academy trains. So for example, a search of a building
 23 just to make sure whether somebody is inside, a
 24 burglar, for example, the academy teaches to do that
 25 with two officers; we teach to do that with at least

Page 14

1 three officers, which increases the officer's safety.
 2 So that's the post-BLEA training.

3 Q. Okay.

4 A. You did say training broadly, so I'll also add
 5 field training to that. And those new officers, after
 6 they go through the post-BLEA training, they go into
 7 field training, and that's about four months where they
 8 work side by side in a car with an experienced officer
 9 who actually coaches them as they're doing the job in
 10 real time. Shows them how to do the job and then has
 11 them gradually take on more and more police
 12 responsibilities, grades them and coaches them and
 13 helps to fix errors in how they approach things, how
 14 they're thinking about issues that they're facing, and
 15 brings them up over the course of those four months to
 16 the level where they are ready to patrol on their own
 17 as a solo officer. That doesn't mean they're going to
 18 work alone, because our officers are trained in tactics
 19 and how to do things together. That's really
 20 reinforced throughout their training. So that's on the
 21 new officer side.

22 We also have a very robust training program on
 23 the inservice side. And by "inservice," I mean
 24 officers who are current police officers and are still
 25 required every year to attend anywhere between 24 and

Page 15

1 40 hours or so of training. And that training is a mix
 2 of classroom training, range training, scenario-based
 3 training, driving training. I think those are kind of
 4 the main, overall categories. And within that, then
 5 each year we develop a training plan of what we would
 6 like to teach for that year. And that plan varies from
 7 year to year based on the particular needs. There are
 8 certain things that we do on a regular basis that are
 9 dictated by law or dictated by the contract. The
 10 officer's contract has some requirements regarding
 11 ongoing training.

12 And there are certain trainings that are
 13 designed to address issues that the department is
 14 facing at that time. Again, we're always looking for
 15 ways to improve. How can we help our officers be more
 16 professional in what they do. How can we help them,
 17 give them the additional tools to solve problems that
 18 they might not have had before and how can we help them
 19 avoid complaints by improving relationships with our
 20 customers, being the people we run into on the street,
 21 and just overall improving how we do business as a
 22 professional police department.

23 Q. And how does SPD's training practices interact
 24 with SPD policies? Can you tell me what the interplay
 25 is between SPD policies and the training?

Page 16

1 A. Yeah. That's a great question. So policy is
 2 built in to some extent into almost every training that
 3 we deliver. Sometimes trainings are designed to help
 4 officers understand policy and understand what it means
 5 and how to follow it and how to do what's asked. So an
 6 example of that might be deescalation on where several
 7 trainings over the years have been designed
 8 specifically to help officers. You say, Okay, the
 9 policy says I have to deescalate when feasible. So
 10 what does that mean to me as an officer when I face
 11 these different types of encounters, and how am I going
 12 to do that successfully?

13 So deescalation training provides tools to do
 14 that, talks about policy, and it builds on policy and
 15 also provides practice, so it provides repetitions of
 16 officers facing different scenarios with role players
 17 and with instructors, grading them and coaching them
 18 through the different scenarios so that they improve
 19 their skills at deescalation. So that's one example of
 20 policy.

21 There are also -- let me actually stay on that
 22 for just a second. So within that context the training
 23 is not just limited to what's in policy. So training
 24 expands far beyond policy in providing, like for
 25 example, deescalation -- specific tools that officers

Page 17