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KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES INQUEST PROGRAM

IN RE INQUEST INTO THE DEATH  
OF DAMARIUS D. BUTTS

No. 517IQ8013

SEATTLE POLICE DEPARTMENT'S  
RESPONSE TO FAMILY'S MOTIONS IN  
LIMINE REGARDING THE TESTIMONY  
OF OFFICER KANG

The City of Seattle, through the Seattle Police Department (hereinafter, "SPD"), hereby submits this response to the Family's Motions in Limine Regarding the Testimony of Officer Kang.

**A. Officer Kang Should be Permitted to Testify About Events that Occurred on April 20, 2017.**

The Coroner's Act directs that the inquest jury "inquire into the circumstances attending [the] death." RCW 36.24.040. The Executive Order states that, "[t]he purpose of the inquest is to ensure a full, fair, and transparent review . . . and to issue findings of fact regarding the facts and circumstances surrounding the death." Finally, the Supreme Court ruled in *Butts v. Constantine*, 198 Wn. 2d 27, 56-57, 491 P.3d 132, 149 (2021), that "the coroner cannot preemptively exempt or bar particular evidence or testimony from the jury's consideration."

1 In order to ensure “a full, fair and transparent review” of “the circumstances surrounding  
2 Mr. Butts’] death,” it is important for the jury to hear the basic facts about the injuries experienced  
3 by Officer Kang, in addition to the fatal, tragic injuries suffered by Mr. Butts. To grant the Family’s  
4 motion in this regard would prevent the jury from understanding important aspects of the  
5 surrounding circumstances.

6 In addition, as explained in the Involved Officers’ brief, Officer Kang’s testimony about the  
7 events following the shooting will corroborate the testimony of the other officers and corroborate  
8 the testimony of Captain Davisson regarding policy and protocol for rendering medical aid when a  
9 scene has not yet been secured.

10 **B. Officer Kang Should Be Permitted to Testify to Facts Regarding His Injuries, But**  
11 **Long-Term Emotional or Life Impacts Need Not Be Part of the Hearing.**

12 As discussed above, the basic facts of Officer Kang’s injuries are part of the circumstances  
13 of Mr. Butts’ death. However, they can be presented to the jury in a way that does not create any  
14 risk of undue prejudice under ER 403. SPD agrees with the Family that testimony about the impacts  
15 of Officer Kang’s injuries on his life or his emotional health is not, by itself, relevant to the causes  
16 and circumstances of Mr. Butts’ death.

17 Information about Officer Kang’s health after the incident may be relevant for additional  
18 reasons, depending on the questions asked at the hearing. The bullet lodged in Officer Kang’s chest  
19 was removed at a later date to due physical effects that Officer Kang was experiencing, as to which  
20 a brief description may become relevant in order to explain why the bullet was entered into evidence  
21 at a later date.  
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1 DATED this 28th day of January, 2022.

2 ANN DAVISON  
3 Seattle City Attorney

4 By: /s/ Kerala Cowart  
5 Kerala Cowart, WSBA #53649  
6 Ghazal Sharifi, WSBA# 47750

7 Assistant City Attorneys  
8 E-Mail: [Kerala.Cowart@seattle.gov](mailto:Kerala.Cowart@seattle.gov)  
9 E-Mail: [Ghazal.Sharifi@seattle.gov](mailto:Ghazal.Sharifi@seattle.gov)

10 Seattle City Attorney's Office  
11 701 Fifth Avenue, Suite 2050  
12 Seattle, WA 98104  
13 Phone: (206) 733-9001

14 CHRISTIE LAW GROUP, PLLC

15 By: /s/ Thomas P. Miller  
16 Thomas P. Miller, WSBA #34472  
17 Attorney for the City of Seattle  
18 2100 Westlake Ave N., Suite 206  
19 Seattle, WA 98109  
20 Phone: 206-957-9669  
21 Email: [tom@christielawgroup.com](mailto:tom@christielawgroup.com)

22 *Attorneys for the Seattle Police Department*

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### CERTIFICATE OF SERVICE

I certify that on the tenth day of January, 2022, I caused a true and correct copy of this document to be served on the following in the manner indicated below:

Matthew Anderson <a href="mailto:Matt.Anderson@kingcounty.gov">Matt.Anderson@kingcounty.gov</a>	( x ) Via Email
Dee Sylve <a href="mailto:Dee.Sylve@kingcounty.gov">Dee.Sylve@kingcounty.gov</a>	( x ) Via Email
Adrian Leavitt <a href="mailto:Adrian.Leavitt@kingcounty.gov">Adrian.Leavitt@kingcounty.gov</a>	( x ) Via Email
La Rond Baker <a href="mailto:lbaker@kingcounty.gov">lbaker@kingcounty.gov</a>	( x ) Via Email
Lori Levinson <a href="mailto:Lori.Levinson@kingcounty.gov">Lori.Levinson@kingcounty.gov</a>	( x ) Via Email
Ted Buck <a href="mailto:TBuck@freybuck.com">TBuck@freybuck.com</a>	( x ) Via Email
Evan Bariault <a href="mailto:EBariault@freybuck.com">EBariault@freybuck.com</a>	( x ) Via Email
Lisa Smith <a href="mailto:LSmith@freybuck.com">LSmith@freybuck.com</a>	( x ) Via Email
Rebecca Boatright <a href="mailto:Rebecca.Boatright@seattle.gov">Rebecca.Boatright@seattle.gov</a>	( x ) Via Email

/s/ Kerala Cowart  
Kerala Cowart, Assistant City Attorney