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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
MOTIONS IN LIMINE AND MOTION TO
PRECLUDE LIVESTREAMED VIDEO OF
INQUEST

The City of Seattle, through the Seattle Police Department (hereinafter, "SPD"), hereby submits these motions in limine.

I. Motion *in Limine* to Preclude Evidence, Argument, or Questions Regarding the Origin of the Bullet That Struck Officer Kang and the Fact That Turned it Into a Necklace.

In light of the Family's refusal to stipulate to the fact that the round that struck Officer Kang and lodged in his chest wall came from Mr. Butts' gun, the City of Seattle moves for an order *in limine* precluding any evidence, argument, questioning, or insinuations that challenge the source of that bullet. As the Administrator is aware, after doctors removed the bullet from his chest wall, Officer Kang had it turned into a necklace. The bullet was subsequently sent to the Washington State

1 Patrol Crime Laboratory for examination. Officer Kang's testimony has already been preserved for
2 this hearing, and counsel for the Family did not ask him any questions about the bullet or the
3 necklace.¹

4 However, during the interview of Washington State Patrol Crime Lab ballistics scientist Djana
5 Coric, counsel for the Family asked a number of questions about the forensic examination of the
6 round in an apparent effort to cast doubt on the scientific certainty that it originated from Mr. Butts'
7 Smith & Wesson .38 caliber revolver. There is absolutely no evidence that the bullet that struck
8 Officer Kang was fired by any weapon other than Mr. Butts' revolver. Given that fact, the
9 Administrator should rule *in limine* that the Family's attorneys may not pursue any line of questioning
10 or offer any argument that casts doubt on that fact. To allow them to do so, without any evidence to
11 support their line of questioning, would be unfairly prejudicial and misleading. ER 403. Indeed, the
12 Administrator should enter a finding of fact that the bullet that lodged in Officer Kang's chest wall
13 was fired by Mr. Butts. All of the evidence supports this fact. Conversely, there is no evidence
14 whatsoever that the bullet originated from any other source.

15 At a minimum, the Family should be required to submit an offer of proof outside the presence
16 of the jury to put forth the evidentiary support for any theory or argument that the round extracted
17 from Officer Kang's chest wall came from any source other than Mr. Butts' revolver. This would
18 ensure the jury is not confused, distracted, or otherwise misled by questions offering unsupported
19 alternate theories. The prejudice is particularly acute, since Officer Kang is now unavailable and the
20 City cannot rebut any unsubstantiated theories offered by the Family. Had the family wanted to
21 challenge the origin of the bullet, the time to do it, if at all, was during Officer Kang's testimony.

22
23 ¹ Even if they had, the City objects to any evidence on these subjects, which arose well after
April 20, 2017, as irrelevant to the issues presented to this inquest jury. ER 401, 402.

1 This leads to the other problem that arises from allowing the Family to ask questions about
2 Officer Kang's personal decision to make the bullet into a necklace: none of the witnesses scheduled
3 to testify have any personal knowledge about that decision. Any evidence about it is inadmissible
4 hearsay without any applicable exception. ER 801, 802. The Administrator should so rule *in limine*,
5 to avoid the prejudice that would accompany any questions on the subject being asked. It would be
6 unduly prejudicial for the Family to be permitted to elicit testimony about Officer Kang's decision,
7 when he is not able to testify as to the reasons for his actions—which stem from the long-term
8 physical and emotional impacts of the incident and his belief in the moment that he was not going to
9 survive.

10 **II. Motion in Limine to Preclude Questions Outside the Scope of WSP Scientist**
11 **Coric's Expertise.**

12 Ms. Coric is a forensic firearms ballistics expert. She is *not* a DNA analyst or fingerprint
13 specialist. However, during her interview, counsel asked numerous questions of her on these subjects.
14 Ms. Coric qualified her answers with the fact that she is not an expert in DNA or fingerprints and
15 would be speculating. Given that, the Administrator should rule *in limine* that counsel cannot ask
16 Ms. Coric any questions of Ms. Coric about DNA issues, fingerprint issues, or any subjects that fall
17 outside her area of expertise of firearm ballistics. ER 602, 701, 702. Had the Family wished to pursue
18 evidence related to DNA and fingerprints, they could have hired their own expert witness to do so.
19 That they did not is their prerogative. However, they should not be permitted to ask irrelevant and
20 misleading questions on these subjects of Ms. Coric, who has no expertise or foundation in those
21 subjects. The Administrator should so rule *in limine* to prevent unfair prejudice and misleading the
22 jury.

1 **III. Motion to Prevent livestreamed video of the inquest.**

2 The City strongly objects to the last minute decision of the Inquest Administrator to consider
3 livestreaming video of the inquest. The process that culminated in this decision, announced only
4 yesterday, was unfair and has deprived the City of an opportunity to fully brief and be heard on this
5 matter. Last fall, the City was planning to brief and request hearing on the matter of livestreamed
6 video, as well as other aspects of video logistics. The City intended to make a record documenting
7 and presenting evidence to demonstrate its concerns that livestreamed video increases the risks of
8 online harassment which can cross the line into criminal harassment, vandalism, threats, stalking, and
9 can even become violent. The City raised its concerns orally at multiple pre-inquest hearings, in
10 numerous meetings with the inquest attorneys and all parties present. Before its planned briefing,
11 however, the City learned that the inquest program had changed its plans. Instead of livestreaming
12 video of the inquest, the City was informed that the inquest program would livestream audio only.
13 For months now the City had understood that there was no plan to livestream video, until yesterday
14 afternoon. The process by which this decision was made at the last minute is unfair, lacks
15 transparency, and has deprived the City of an opportunity to be fully heard.

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18 DATED this 11th day of March, 2022.

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CERTIFICATE OF SERVICE

I certify that on the 11th day of March, 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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