STATE OF WASHINGTON

KING COUNTY SUPERIOR COURT

INQUEST INTO THE DEATH OF
CHARLEENA CHAVON LYLES,

Deceased.

Case No. 517IQ9301

MOTION TO DETERMINE INQUEST SCOPE

I. INTRODUCTION

An inquest proceeding aims to provide a review of the "facts and circumstances of the death." Conducting Inquests in King County, PHL-7-1-2-EO, Appendix 2, § 5.3 (2018). In reviewing the "facts" of Ms. Lyles's death, the inquest should focus on "Officer McNew, Officer Anderson, and Ms. Lyles's actions related to the death." A review of the "circumstances" of the death should include "any information or events that bear on Officer McNew, Officer Anderson, or Ms. Lyles's actions related to the death." Considered together, the scope of this inquest, should include "Officer McNew, Officer Anderson and Ms. Lyles's actions related to the death and any information or events that bear on those actions."[1]

[1] Although this motion attempts to be comprehensive, due to the amount of discovery produced and amount of discovery still awaiting production, relevant areas of inquiry may not be included in this motion. If a relevant area of inquiry is later identified, the Family asks that the area of inquiry be evaluated according to the scope definition proposed by this motion.

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This motion begins by providing a detailed analysis of how to define the scope of this inquest. The motion then turns to specific details, first considering Officer McNew and Anderson's actions related to the death and the information or events that bear on those actions. Next, the motion considers Ms. Lyles's actions related to her death and the information or events that bear on those actions. Finally, the motion addresses Officer Anderson's discipline related to this incident, as a specific standard contained in the Executive Order dictates whether discipline should be included within the scope of an inquest.

II. PROCEDURAL HISTORY & STATEMENT OF ISSUES

On September 19, 2019, in Paragraph 8 of his Order, Administrator Spearman proposed that the inquest should include the following areas of inquiry:

a) "The identity of the decedent;
b) The place of death;
c) The means of death;
d) The person or persons who caused the death;
e) The circumstances attending to the death, i.e. all readily observable facts or conditions at the time of, leading up to and immediately following the death;
f) Under what department policies were the officer or officers who caused the death acting at the time they took the actions that caused the death;
g) What training did the offer or officers receive with regard to those policies;
h) Were the officer or officers who caused the death acting pursuant to those policies and training."

In proposing the inquest scope, Administrator Spearman ordered the parties to "provide proposed additions and deletions to the scope of inquiry…" Specifically, he ordered the parties to address:

i. "The subject matter of the policies governing the person or persons who caused the death of Charleena Lyles;
ii. The subject matter of trainings that governed the person or persons who caused the death of Charleena Lyles; and
iii. The events leading up to the death of Charleena Lyles (with specificity – including time, date, case number, if applicable, and factual summary.)"

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Pursuant to Administrator Spearman's Order, this motion defines the scope of the inquest. In doing so, this motion considers Administrator Spearman's proposed scope in the context of the Inquest Executive Order, which states that the inquest is a review of the "facts and circumstances of the death." Conducting Inquests in King County, PHL-7-1-2-EO, Appendix 2, § 5.3 (2018). Drawing on the scope outlined in the Executive Order and Administrator Spearman's proposed scope, this motion seeks to answer the question:

> *Which information and events constitute the "facts and circumstances" of Ms. Lyles's death and are, thus, properly within the scope of this inquest?*

The "facts" of the death include "Officer McNew, Officer Anderson, and Ms. Lyles's actions related to the death." Included among the "facts" of the death are: a) the identity of the decedent; b) the place of the death; c) the means of the death; and d) the person or persons who caused the death—the first four areas of inquiry identified in Administrator Spearman's proposed scope.

The "circumstances" of the death include "any information or events that bear on Officer McNew, Officer Anderson, or Ms. Lyles's actions related to the death." Included among the "circumstances" of the death are: i) the subject matter of the policies governing the person or persons who caused the death of Charleena Lyles; ii) the subject matter of trainings that governed the person or persons who caused the death of Charleena Lyles; and iii) the events leading up to the death of Charleena Lyles—the three areas of briefing requested by Administrator Spearman.

III. EVIDENCE RELIED UPON

This motion is based on the Declaration of Corey Guilmette and the information previously produced in discovery.

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IV. LEGAL AUTHORITY

An inquest proceeding is designed to be an inquiry into the "facts and circumstances of the death." Conducting Inquests in King County, PHL-7-1-2-EO, Appendix 2, § 5.3 (2018). This phrasing, which appears throughout the inquest rules, suggests that the rules are intended to provide two closely-related, yet distinct areas of inquiry. First, an inquest is to address the "facts" of the death. In this case, the facts of the death should include "Officer McNew, Officer Anderson, and Ms. Lyles's actions related to the death." An action is related to Ms. Lyles's death if the action, itself, had some direct bearing on the death.

Second, the inquest must address the "circumstances" of the death. The circumstances of the death include any information that aids in understanding the facts of the death. In other words, the circumstances of the death include "any information or events that bear on Officer McNew, Officer Anderson, or Ms. Lyles's actions related to the death." Whether an event or information bears on the Officers' or Ms. Lyles's actions is not necessarily determined by the timing of that event or information. For example, use-of-force training would equally bear on the Officers' actions whether the training occurred in May 2017 or March 2015.

Considered together, these two factors—the *facts* and *circumstances* of the death—mean that the scope of the inquest should include, "*Officer McNew, Officer Anderson and Ms. Lyles's actions related to the death and any information or events that bear on those actions.*"

Under the Rules of Evidence, which generally apply in inquest proceedings, all relevant evidence that falls within the scope of the inquest should be considered. PHL-7-1-2-EO, Appendix 2, § 3.3 (2018); ER 402. "Relevant evidence" is any "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." ER 401. For example, one of the most important determinations in this inquest will concern Ms. Lyles's intent and state of mind at the time she is alleged to have held a knife. On June 5th, just days prior to her death, Ms.

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1 Lyles was involved in an incident where she attempted to protect her children by displaying
2 scissors at police officers, while speaking of morphing into a wolf and cloning her daughter.
3 *Bates No.* 1033. This incident occurred only hours after Ms. Lyles was the attacked by her ex-
4 boyfriend, Jeffries Butts—the final domestic violence incident in a troubling history of 18
5 domestic violence or disturbance incidents in the 19 months prior to her death. *Bates No.* 1033-
6 1060; Declaration of Corey Guilmette (Exhibits 3-19). As a result, any evidence that makes this
7 determination—that Ms. Lyles was experiencing a mental health crisis, triggered by a long
8 history of domestic violence trauma, when she allegedly brandished a knife prior to being shot
9 by Officers—more or less probable is properly within the scope of this inquest.

10 **A. Inquest Scope Includes Officer McNew and Anderson's Actions Related to Ms.**
11 **Lyles's Death and Any Information or Events that Bear on Those Actions**

12 **i. Officer McNew and Anderson's Actions Related to Ms. Lyles's Death**

13 Officer McNew and Anderson's actions related to Ms. Lyles's death fall into three
14 categories. First, the Officers' positioning at the time Ms. Lyles allegedly held a knife directly
15 relates to her death. Officer McNew and Anderson's positioning directly relates to Ms. Lyles's
16 death because it dictated their available options in responding to Ms. Lyles's alleged threat and,
17 thus, their use of deadly force. For example, the one "plan" that the Officers made was to make
18 sure that Ms. Lyles was never between them and the door so they could exit quickly if necessary.
19 *Bates No.* 638. However, Officer McNew's decision to position himself inside the kitchen was in
20 direct contradiction to the "plan" and contributed to his use of deadly force against Ms. Lyles.
21 *Bates No.* 576. A second example includes the positioning of Officer Anderson. He testified at
22 his deposition that he had no option for retreat as he was inside the apartment, with the door
23 closed just behind him, at the time he perceived a threat. However, contrary to Officer
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Anderson's testimony, the door was not closed, as Officer Anderson shot Ms. Lyles through the open door to her apartment.[2]

Second, the Officers' actions during the period between when Ms. Lyles allegedly held a knife and when they fired their weapons directly relate to her death, because, during this time, the Officers' own actions escalated and failed to resolve the situation, causing them to believe that it was necessary to use deadly force against Ms. Lyles.

Third and finally, the Officers' actions during the period between when they shot Ms. Lyles and when she was pronounced dead are directly related to her death since these actions represent the Officers' attempts (or lack thereof) to prevent her death.

ii. Information or Events that Bear on Officer McNew and Anderson's Actions Related to Ms. Lyles's Death

Additionally, any information or events that bear on the Officers' actions related to Ms. Lyles's death must be included within the scope of the inquest. Information or events bearing on the Officers' actions fall into several categories. First, the June 5, 2017 incident (and the officer safety caution based on that incident) in which Ms. Lyles thought that officers were devils and members of the KKK, while trying to protect her children by displaying scissors bears on the Officers' actions related to Ms. Lyles's death. *Bates No.* 1033. Officers were aware of the June 5, 2017 incident prior to entering Ms. Lyles's apartment and, by their own admission, it influenced how they positioned themselves in relation to Ms. Lyles. *Bates No.* 638 (Officer McNew explaining that, in light of the June 5, 2017 incident, he told Officer Anderson not to let Ms. Lyles get behind them or between them and the door). Since the Officers were also aware that Ms. Lyles exhibited signs of a mental health crisis just days before, which was resolved through

[2] Synchronized hallway video and officer audio available at: https://www.youtube.com/watch?v=3RLomogsZtA. Officer Anderson first visible outside Ms. Lyles's apartment at 7:04.

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de-escalation techniques, the Officers should have understood (and properly responded to) Ms. Lyles's actions when her demeanor suddenly changed and she held a knife on June 18th.

Second, Officer McNew and Anderson's interactions with Ms. Lyles the morning of her death, but before the onset of the mental health crisis, bear on the Officers' understanding of (and response to) Ms. Lyles allegedly holding a knife. Specifically, given the similarity to the June 5th incident, Officer McNew and Anderson's initial amicable interactions with Ms. Lyles the morning of June 18th should have led them to immediately recognize that when her demeanor suddenly changed, she was, once again, experiencing an episode of mental health crisis.

Third, Officer McNew and Anderson's previous uses of force bear on the Officers' actions, to the extent that a previous use of force involved a situation with substantial similarities to the events of June 18th. In addition to relying on training and policy in making tactical decisions, police officers rely on their experience. For example, if Officer Anderson had previously used oleoresin capsicum (OC) spray on an individual, but the use was counterproductive because it was used in a confined space, it would bear Officer Anderson's assessment of whether to use OC spray on Ms. Lyles in the confined space of her kitchen. As a result, since previous uses of force likely impacted the Officers' decisions related to how to respond to Ms. Lyles's alleged threat, including what use of force options they believed were appropriate, those uses of force bear on their actions and should be included within the scope of the inquest.

Additionally, the surrounding space and context bear on the Officers' actions related to Ms. Lyles's death. For example, according to Officer Anderson, the location of one of Ms. Lyles's children influenced when he fired his weapon. *Bates No.* 607 ("That's why I didn't fire sooner, is I wanted her to get a little farther so that there wasn't a child in the background, the backdrop of where I was shooting.").

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Training on a variety of topics also influenced Officers McNew and Anderson's actions related to Ms. Lyles's death and should be included within the scope of the inquest.[3] First, the scope of the inquest should include the Officers' training regarding proper use of a firearm. Such training is within the inquest scope as it relates to the Officers' use of their firearms, actions that directly caused Ms. Lyles's death.

The inquest should also include training on the less lethal options that were available (or should have been available) to the Officers.[4] Less lethal option training bears on the Officers' actions related to the death since it instructs the Officers at to what use-of-force options, if any, were available to resolve the situation short of using lethal force. Similarly, de-escalation training bears on the Officers' actions related to Ms. Lyles's death since it provided the Officers with techniques to minimize the likelihood that they would need to use lethal force.

Additionally, training on how to respond to an individual with a knife and use of force training generally applicable to the situation are within the inquest scope. These trainings bear on the Officers' actions related to the death since they instructed the Officers on how to respond to Ms. Lyles's alleged threat and thus bear on the Officers' decision to use lethal force.

Training regarding bias and implicit bias should also be included within the scope of the inquest. Bias training should be included in the inquest because avoiding the perception of bias was a critical safety planning consideration and, thus, should have influenced the Officers' actions related to Ms. Lyles's death. Prior to entering the unit, Officer Anderson reviewed a report from a June 5, 2017 incident. *Bates No*. 558. In that incident—an incident where Ms. Lyles's alleged behavior was very similar to her alleged behavior the morning of her death—Ms. Lyles accused officers of being members of the KKK while holding scissors. *Bates No.* 1033.

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[3] Since the Seattle Police Department (SPD) has not shared any individual training descriptions with the maternal family as of the date of this motion, this motion will not identify which specific training documents are within the scope of the inquest. As a result, the motion will identify which training *topics* fall within the inquest scope.

[4] Officer Anderson was carrying OC spray and a baton and was required to be carrying a taser. *Bates No.* 601-602; Declaration of Corey Guilmette (Exhibit 21). Officer McNew was carrying a baton. *Bates No.* 658.

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Given that Officer Anderson was aware of this incident, he and Officer McNew should have taken special precautions to avoid any perception of bias, as Ms. Lyles's racial sensitivity had previously caused her to display scissors at officers. By influencing the precautions Officers should have taken to avoid being placed in harm's way and, in turn, helping prevent the need to use deadly force, racial bias training bears on the Officers' actions related to Ms. Lyles's death.

Implicit bias training should also be included within the scope of the inquest since implicit bias training is designed to bear on actions such as the Officers' actions related to Ms. Lyles's death. Implicit bias training works, in part, by teaching officers to routinely monitor their interactions with people of color for potential bias. *State Court Cooperation: Effectiveness of Implicit Bias Trainings*, Federal Judicial Center .[5] Through routine monitoring and other techniques, implicit bias training provides officers the tools to reduce racial bias, including in how officers respond to perceived threats.[6] Since implicit bias training was designed to bear on how Officer McNew and Anderson perceived the alleged threat presented by Ms. Lyles, it should be included within the scope of the inquest.

The inquest should also include the Officers' training on how to engage with individuals who have mental illness or are experiencing a mental health crisis. Prior to entering Ms. Lyles's apartment, the Officers were aware of the June 5, 2017 incident, in which Ms. Lyles appeared to experience a mental health crisis while displaying scissors towards the officers. *Bates No.* 638. By the Officers' own admission, this knowledge impacted their actions related to Ms. Lyles's death, as Officer McNew instructed Officer Anderson to not let Ms. Lyles get behind them or between them and the door. *Id*. Since knowledge of Ms. Lyles's mental illness impacted the

[5] Available at: https://www.fjc.gov/content/337738/effectiveness-implicit-bias-trainings
[6] Mitchell, Renée & James, Lois, *Addressing the Elephant in the Room: The Need to Evaluate Implicit Bias Training Effectiveness for Improving Fairness in Police Officer Decision-Making,* Police Chief Magazine, Available at: https://www.policechiefmagazine.org/addressing-the-elephant-in-the-room/

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Officers' actions related to her death by influencing their positioning, training on how to deal with individuals with mental illness or in crisis also bears on their actions.

Additionally, the inquest should consider training on how to respond to an Officer Safety Caution or individuals who may pose a threat to officers. In addition to their knowledge of the June 5th incident, the Officers were aware of an Officer Safety Caution related to Ms. Lyles that stated "Assaultive to officers, mental, threats to officers, weapon." *Bates No.* 563.[7] As explained previously, knowledge of the June 5th incident impacted Officers' positioning and thus bears on their actions related to the death. Additionally, the Officer Safety Caution, itself, prompted Officer Anderson to call for backup. *Bates No.* 808. As a result, two officers were present when Ms. Lyles allegedly produced a knife, impacting the way the Officers responded to Ms. Lyles's alleged threat. Since the Officers' response to the Officer Safety Caution bears on their actions related to her death, so does training on how to respond to an Officer Safety Caution and individuals who may pose a threat to officers.

The Officers' training on team tactics (including contact/cover tactics) should be included within the inquest scope. As explained previously, the presence of two officers created a different tactical situation than if just one was present, and, thus, team tactics training bears on the Officers' actions related to Ms. Lyles's death.

Finally, first aid training should also be included in the inquest scope. Since first aid training provided Officer McNew and Anderson with techniques to try to save Ms. Lyles's life, it bears on their actions related to her death.

Just as standard training bears on the Officers' actions related to Ms. Lyles's death, so does any supplemental tactical instruction the Officers received. In 2015, the Seattle Police Department Force Review Board found that Officer McNew failed to follow policy and training

[7] The Officer Safety Caution was published on the SPD Blotter (https://spdblotter.seattle.gov/wp-content/uploads/2017/06/lyles-redacted-all.jpg) but was not provided in discovery. As a result, the Family will add the safety caution to its discovery request to the City.

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in his tactics and decision-making during an incident involving an individual in mental health crisis. Declaration of Corey Guilmette (Exhibit 1). As a result, Officer McNew was referred to the Operations Bureau Commander to review a series of recommendations as to how he should alter his tactical decisions in future encounters of a similar nature. *Id.* Among these recommendations, were four areas of instruction previously identified in this motion as within the scope of the inquest: utilizing trained contact/cover tactics; application of trained team tactics; availability of a taser officer on scene; and appropriate use of de-escalation tactics. *Id.* Given that these areas of instruction are within the scope of this inquest, Officer McNew's supplemental instruction on these topics in 2015 is also within the scope of the inquest.

Similarly, any training or mentoring completed pursuant to an Early Intervention System mentoring plan that concerns one of the relevant areas of training identified previously must fall within the scope of this inquest. *See* SPD Manual Title 3.070.

In addition to training, Seattle Police Department policy bears on Officer Anderson and McNew's actions related to Ms. Lyles's death. The majority of SPD Manual Title 8, which governs officer use of force, should be included within the scope of the inquest. Specifically, Titles 8.000, 8.050, 8.200, and 8.300 should be included within the inquest scope because they instruct officers when it is generally appropriate to use specific types of force and, thus, bear on the Officers' decisions regarding what use of force options were appropriate.[8] Additionally, as described in detail in Section IV(C), former SPD Manual Title 8.300-POL-3(3), which required Officer Anderson to carry his taser, is also within the scope of this inquest.[9] Finally, Title 8.100,

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[8] Given length of this motion as-is, the Family has chosen not to address every specific policy subsection of Titles 8.000, 8.050, 8.200, and 8.300, since it should be fairly clear which policy subsections are relevant. Should the Administrator or other parties have questions about or objections to the relevance of specific subsections (that are otherwise not obviously irrelevant, such as canine use of force) the Family is more than willing to address those subsections in its reply or oral argument.

[9] On June 18, 2017, Title 8.300-POL-3(3) read: "Officers Who Have Been Trained and Certified to Carry a CEW and Have Been Issued One Must Carry It During Their Shift." Declaration of Corey Guilmette (Exhibit 21). The SPD Manual has been updated since June 18, 2017, such that Title 8.300-POL-3(3) is now included in the manual as Title 8.300-POL-2(3).

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which governs de-escalation policy, is also within the scope of the inquest because it instructs officers on how to minimize the likelihood they need to use force and increase the likelihood of voluntary compliance. As a result, de-escalation policy directly bears on the Officers' actions related to the death since it determines whether the Officers used appropriate tactics to try to avoid the use of fatal force against Ms. Lyles.

B. Inquest Scope Includes the Actions of Ms. Lyles Related to Her Own Death and the Information or Events That Bear on Those Actions

i. Ms. Lyles's Actions Related to Her Death

Ms. Lyles's only actions that directly relate to her death were her actions between the moment when officers first perceived her as a threat to the time when Officer McNew and Anderson shot her. Ms. Lyles's actions from the time she allegedly held a knife to when the Officers shot her directly relate to her death since it was her actions, during this period of time, that the Officers claim directly led them to use lethal force. *Bates No.* 598-99; 643-44.

ii. Information or Events that Bear on Ms. Lyles's Actions Related to Her Death

The inquest process, at its core, is concerned with providing a thorough and well-rounded account of all information relevant to an individual's death. In this regard, by seeking to understand the "facts and circumstances of *the death*," the inquest process is just as concerned with the actions and intent of the deceased as it is the actions and intent of the involved officers. PHL-7-1-2-EO, Appendix 2, § 5.3 (2018) (emphasis added). However, while the Officers' prior statements and testimony can shed light on their actions and accompanying intent, there is no such information from which to directly understand the deceased's actions and intent. As a result, the inquest must look to other information and events to understand the actions and intent of the deceased.

Here, there are several categories of information and events that bear on Ms. Lyles's actions related to her death. First, Ms. Lyles's actions the day before her death up until the end of

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her call to 911 bear on her actions related to her death. Video footage suggests that the last time Ms. Lyles was outside her apartment was 6:46 pm on June 17, 2017. *Door.xpa* at 6:46:38; *3bd1cam10.xpa* (previously provided in discovery). However, Ms. Lyles claimed in her 911 call that a burglary occurred the morning of June 18, 2017. *Audio_1682247.wma* (previously provided in discovery). This contradicting information suggests that Ms. Lyles's belief that there was a burglary was a delusion. If Ms. Lyles was experiencing delusions the morning of her death, it suggests that Ms. Lyles's alleged actions toward the Officers may have also been a product of mental illness and bears on her actions related to her death.

Second, the inquest should consider Ms. Lyles's interactions with Officers McNew and Anderson prior to her change in demeanor and alleged threats. In her initial interactions with Officers McNew and Anderson, Ms. Lyles was calm and cooperative, showing no signs of nervousness or suspicious behavior. *Bates No.* 581. However, Ms. Lyles's behavior suddenly changed, including the appearance of her face which formed a grimace. *Bates No.* 639-40. This sudden change seemed to mirror the June 5th incident, where she experienced a mental health crisis. *Bates No.* 1053. As a result, Ms. Lyles's friendly interactions with Officers bear on her actions related to her death since her sudden change in demeanor suggests that her alleged threats may have been a product of a mental health crisis.

Just as Ms. Lyles's behavior the morning of her death bears on her actions by suggesting that her actions may have been a product of a mental health crisis, so does other information from the weeks and months before. Information and events that make it any more or less probable that Ms. Lyles's actions related to her death were a product of a mental health crisis should be included within the scope of the inquest. *See* ER 401. Among the information that should be included within the inquest scope is Ms. Lyles's mental health diagnoses. Ms. Lyles suffered from Major Depressive Disorder, Post Traumatic Stress Disorder (PTSD), and Adjustment Disorder. Declaration of Corey Guilmette (Exhibit 2). She also exhibited signs of

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paranoia, delusions, and psychotic features, including the belief that someone driving a green truck was following her, that her apartment was "bugged," and that her children were being targeted at school. *Id.*

The deterioration in Ms. Lyles's mental health that led her to likely experience a mental health crisis the morning of her death is a product of unrelenting domestic violence and trauma in the 19 months preceding her death.[10] This trauma left Ms. Lyles paranoid, scared for the safety of her children, and distrustful of SPD officers. In the 19 months prior to her death, Ms. Lyles was the victim of at least 18 domestic violence or disturbance incidents. Declaration of Corey Guilmette (Exhibits 3-19; Bates No. 1033-1060).[11] Tragically, the worst of this abuse occurred while Ms. Lyles was pregnant and trying to protect her three children. Over the course of just seven months of her pregnancy, Ms. Lyles was the victim of 12 domestic violence or disturbance incidents. These incidents included the following reports:

- On January 29, 2016, when Ms. Lyles was five months pregnant, a neighbor called 911 reporting that they heard a woman being slammed into the floor of Ms. Lyles's apartment while two children were screaming. Declaration of Corey Guilmette (Exhibit 9).
- On February 29, 2016, when Ms. Lyles was six months pregnant, Seattle Police received a call from a 9-year-old child in Ms. Lyles's apartment stating that Ms. Lyles was stabbed with a knife by her boyfriend. Declaration of Corey Guilmette (Exhibit 11).

[10] Ms. Lyles's history of trauma existed before these incidents. However, given the close nexus between her trauma as a victim of domestic violence and her experience of mental health crisis, these incidents are of particular relevance to this inquest.

[11] The family believes there may be other domestic violence incidents involving Ms. Lyles, of which the Family is currently unaware. For example, since Ms. Lyles was afraid for her safety, she sometimes gave inaccurate personal identifying information to the police. As a result, the Family's public disclosure request to SPD for all files involving Ms. Lyles, from which these records are drawn, may not include all domestic violence or disturbance events in which she was a victim.

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- On May 9, 2016, when Ms. Lyles was eight months pregnant and taking care of one of her children, Ms. Lyles's boyfriend, Franklin Camphor, threw a shoe at her and attempted to punch her in the head, ultimately striking her in the shoulder. When she retreated into the bathroom, he kicked open the bathroom door. Franklin then ransacked Ms. Lyles's apartment and threatened to slash Ms. Lyles's tires so she could not escape. Declaration of Corey Guilmette (Exhibit 13).

Even after giving birth, the abuse would continue, as Ms. Lyles attempted to care for her newborn child, Zy'Ontae. On June 2, 2016, days after she gave birth, Franklin threw a baby bottle at her and smashed the rear window of her car while Ms. Lyles's four children sat inside. Declaration of Corey Guilmette (Exhibit 15). Only 10 days later, Franklin forcefully grabbed the keys from Ms. Lyles's ignition. After one of her children helped her get the keys back, Franklin smashed Ms. Lyles's window with a rock, scattering glass into the back seat where Ms. Lyles's three-year-old and newborn child were sitting. Declaration of Corey Guilmette (Exhibit 16). The incidents would continue for the next two months, when police reports suggest the violence may have stopped.

Unfortunately, Ms. Lyles's safety would be short-lived. In the months preceding her death, the abuse began again, worse than ever before, prompting a rapid deterioration in her mental health. In early March 2017, Ms. Lyles was violently raped, causing her to become pregnant with her fifth child.[12] Unfortunately, her rape was only a sign of the violence to come. On May 28, 2017, Ms. Lyles's former partner, Jeffries Butts, physically attacked Ms. Lyles, who was two months pregnant and trying to protect her four children. Jeffries refused to leave Ms. Lyles's apartment and, when she threatened to call the police, he grabbed her cell phone from her hand and smashed it on the ground. Once he prevented her from getting help, he grabbed her,

[12] Ms. Lyles's rape was never reported to the police, but based on conversations with Ms. Lyles's family, it is believed that the rape occurred in early March 2017 and likely resulted in her pregnancy.

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placed her in a chokehold and began choking her. As Ms. Lyles struggled to breathe, she was able to break free. She attempted to find safety but Jeffries punched her in the face, before fleeing the scene. Declaration of Corey Guilmette (Exhibit 19).

Once again the victim of abuse while she was pregnant and struggling to protect her children, Ms. Lyles's mental health rapidly deteriorated. Paranoia set in and she was unable to differentiate real threats from those constructed by her mental illness. Amid this deterioration in her mental health, a trend emerged: experiences as a victim of violence were now immediately followed by periods of mental health crisis.

Eleven hours after Ms. Lyles was choked and punched in the face, she called 911 alleging that children were ringing her doorbell and taunting her while their mother was threatening to harm her. Declaration of Corey Guilmette (Exhibit 19). That same weekend, Ms. Lyles had a confrontation with a 10-year-old boy at the apartment complex playground who asked her to return his gaming unit to him. Ms. Lyles told him that she was not going to give anything to him until she got her "12 rolls of toilet paper." After leaving the playground, she returned with a large kitchen knife. She brandished the knife for the children in the area to see and exclaimed, "Do you want to die the way my ex-boyfriend died?" Declaration of Corey Guilmette (Exhibit 2).

Eight days later, Ms. Lyles, once again, responded to being a victim by misperceiving the people around her after the incident as threats. On June 5, 2017, Jeffries returned to Ms. Lyles's apartment. This time he slapped her and attempted to take her phone. When officers responded, she was cooperative, buzzing them into the building, inviting them into her apartment, and answering their questions. However, as she was sitting on the couch and talking to officers, her demeanor suddenly changed in a manner strongly suggestive of a mental health crisis. She allegedly started waving a pair of scissors at the officers and refused their demands to put them down, all in the presence of her 4-year-old developmentally disabled daughter. While allegedly waving the scissors, she said that she wanted to "morph into a wolf," spoke of "cloning" her

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daughter, and claimed that the police were "devils" and members of the KKK. After several minutes, officers were successfully able to de-escalate the situation and Ms. Lyles dropped the scissors. *Bates No.* 1053-54.

The June 5th incident, along with the incidents during the weekend of May 28th, followed a strikingly similar pattern as the events that led to Ms. Lyles's death on June 18th. The morning of her death, Ms. Lyles, once again, occupied the role of victim, calling police to report a burglary. *Bates No.* 558. Like the incidents the weekend of May 28th and June 5th, Ms. Lyles responded to being a victim by misperceiving those around her as threats in a manner strongly suggestive of mental health crisis. However, this time Ms. Lyles's actions led to her death. Her alleged threats against officers the morning of her death cannot be understood outside the context of the deterioration in her mental health resulting from repeated domestic abuse and violence. As a result, Ms. Lyles's history of trauma as a domestic violence victim bears on her actions related to her death.

Additionally, Ms. Lyles's history as a victim of domestic violence speaks to the reasonableness of her belief that there was a burglary and, thus, bears on whether her actions were premeditated. The City and Officers claim that Ms. Lyles fabricated the burglary call the morning of her death in an attempt to get officers to come to her apartment. They draw Ms. Lyles's intentions into question by pointing to the fact that she never left her apartment the morning of her death as she claimed she had in her 911 call. Since the City and Officers call the sincerity of Ms. Lyles's belief that there was a burglary into question, its essential that all evidence relevant to the sincerity of Ms. Lyles's belief be considered in the inquest. Ms. Lyles's long history as a domestic violence victim demonstrates that she had good reason to fear that someone broke into her apartment the morning of June 18th. When Ms. Lyles was choked and assaulted on May 28th, Jeffries Butts had come to her apartment without her permission. Declaration of Corey Guilmette (Exhibit 19). Similarly, on June 5th, Jeffries walked into Ms.

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Lyles's apartment without her permission and attacked her. *Bates No.* 1053. These events were preceded by several events in which Franklin Camphor was present at Ms. Lyles's apartment without her permission. *See e.g.* Declaration of Corey Guilmette (Exhibits 4, 5, 14). As a result, Ms. Lyles's history as a domestic violence victim bears on her actions related to her death since it contradicts any claim that Ms. Lyles's actions in allegedly threatening Officers were premeditated.

Furthermore, the Family believes, upon information and belief, that there were security issues, including burglaries, at Brettler Family Place during Ms. Lyles's tenancy. The high number of calls just in Ms. Lyles's specific building supports that there may have been security issues at the apartment complex. Between January 2016 and June 2017, there were 81 Seattle Police Department calls to Ms. Lyles's building. *SPD Response to Councilmember Inquiries Concerning Officer-Involved Shooting Incident of June 18, 2017* at 28.[13] Furthermore, Solid Ground, Ms. Lyles's landlord, employed a security guard to patrol the apartment complex, suggesting that the need for security was significant enough that a non-profit, affordable housing provider would deem it necessary to spend limited financial resources on a nighttime security guard. *See Door.xpa* at 7:30:18 pm (among other times). As a result, burglary reports at Brettler Family Place bear on Ms. Lyles's actions related to her death since they help refute any claim that Ms. Lyles's actions in allegedly threatening the Officers were premeditated.[14]

C. Inquest Scope Includes Discipline Imposed on Officer Anderson in Relation to This Incident

Officer Anderson's discipline for failing to carry his department-issued taser is subject to its own specific rules governing admissibility in the inquest. Officer Anderson's discipline is

[13] Available at: https://spdblotter.seattle.gov/wp-content/uploads/2017/12/Response-to-Council-Questions_Final.pdf

[14] For the purposes of discovery, burglary reports should be defined broadly, so as to include all relevant reports. The Family has proposed that burglary reports be defined as any report, during Ms. Lyles's tenancy, concerning burglary, suspected burglary, trespass, or suspected trespass incidents at Brettler Family Place.

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within the scope of this inquest because it directly relates to the use of force against Ms. Lyles. An officer's disciplinary history may be introduced into evidence in an inquest if it is "directly related to the use of force." PHL-7-1-2-EO, Appendix 2, § 4.6 (2018). After a detailed investigation, on February 9, 2018, Seattle Police Chief Carmen Best found that Officer Anderson violated Seattle Police Manual 8.300-POL-3(3) for failing to carry his taser the morning of Ms. Lyles's death and suspended Officer Anderson for two days.[15] Declaration of Corey Guilmette (Exhibit 21). Seconds before Officers shot Ms. Lyles, believing that Officer Anderson was carrying his taser, Officer McNew yelled "taser," in a request for Officer Anderson to fire his taser at Ms. Lyles. *Bates No*. 645. However, contrary to department policy, Officer Anderson was not carrying his taser. Had Officer Anderson carried his taser as required under department policy, he would have been to comply with Officer McNew's directive and Ms. Lyles may very well be alive today. As a result, Officer Anderson's failure to carry his taser directly relates to the use of force, as it deprived Officer Anderson of a use of force option, called for by another officer, which could have prevented the need to use deadly force.

Additionally, Officer Anderson's violation of department policy created a misunderstanding between Officer McNew and Anderson as to what use of force tools were available. This misunderstanding caused officers to waste valuable time as Officer McNew assessed the situation, called for the use of a taser, Officer Anderson informed Officer McNew that he didn't have a taser, and then Officer McNew had to reassess available options. *Bates No.* 560. This delay deprived the Officers of precious time to resolve the situation without using deadly force and, thus, Officer Anderson's violation of department policy is directly related to the need to use deadly force against Ms. Lyles. As a result, the discipline imposed on Officer Anderson for failing to carry his taser is directly related to the use of force and the information

[15] On June 18, 2017, Seattle Police Manual 8.300-POL-3(3) read, "officers who have been trained and certified to carry a CEW [Taser] and have been issued one must carry it during their shift."

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contained in the Office of Police Accountability (OPA) Case 17-0609 must be included within the scope of this inquest.

V. CONCLUSION

An inquest proceeding aims to shed light on the "facts and circumstances of the death." PHL-7-1-2-EO, Appendix 2, § 5.3 (2018). In doing so, it is equally focused on understanding Ms. Lyles's actions as the Officers' actions, as *the death* can only be accurately understood by examining the actions and intentions of all individuals involved. The Officers' actions can be understood through their testimony and examining the policy and training that influenced their actions. However, Ms. Lyles cannot offer testimony and her actions were not guided by policy or training. As a result, the inquest must consider other information and events in understanding her actions. Given Ms. Lyles's history of trauma and mental illness, and the nexus with her own abrupt behavioral change that developed just prior to her death, it is essential that the inquest provide the context needed to accurately understand Ms. Lyles's actions related to her death. Only then can the inquest account for how an unremarkable burglary call suddenly transformed into a violent encounter in which the caller, a pregnant mother of four, was killed in front of her children.

JOINTLY filed this 1st day of October, 2019.

s/ Corey Guilmette

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CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury according to the laws of the United States and the State of Washington that on this date I caused to be served in the manner noted below a copy of this document entitled **MOTION TO DETERMINE INQUEST SCOPE** on the following individuals:

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