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6 KING COUNTY DEPARTMENT  
7 OF EXECUTIVE SERVICES INQUEST PROGRAM

8 IN RE INQUEST INTO THE DEATH OF )  
9 CHARLEENA CHAVON LYLES, ) No. 517IQ9301  
10 ) SEATTLE POLICE OFFICERS'  
11 ) RESPONSE BRIEF RE: SCOPE OF  
12 ) INQUEST  
13 )

14 **I. INTRODUCTION**

15 The family's brief makes it clear that they seek to push this proceeding beyond its  
16 legitimate parameters to mirror a civil lawsuit. By executive order and law that is impermissible:  
17 "A coroner's inquest is not a culpability-finding proceeding." Carrick v. Locke, 125 Wn.2d 129,  
18 133, 882 P.2d 173, 176 (1994), citing State v. Ogle, 78 Wash.2d 86, 88, 469 P.2d 918 (1970).  
19 Rather, the sole purpose of a coroner's inquest is to determine the facts: who died, what was the  
20 cause of death, and what were the circumstances surrounding the death, including the  
21 identification of any actors who may be criminally liable for the death. Carrick, *supra*, citing  
22 RCW 36.24.040. The only additional inquiry allowed by the new inquest rules is whether  
23 involved officers followed department training and policy. *Appendix 2*, ¶ 3.2.

1 The family extensively expands “circumstances surrounding the death” to irrelevant  
2 issues that would necessarily force the panel to speculate, which is entirely improper in any  
3 proceeding. They seek to allow the panel to speculate on what the officers could or should have  
4 done differently, rather than what they actually did and whether they followed training and  
5 policy. The family also seeks to allow panel speculation and conjecture on Ms. Lyles’ mental  
6 health, feelings, and intentions at the time of the incident.

7 The only relevant issues are how Ms. Lyles died, what the officers knew, and whether  
8 they followed training and procedure. Only evidence that can assist the panel in answering *those*  
9 questions fits within the proper scope of an inquest; all other evidence will only detract from the  
10 fact-finding purpose of the proceedings and would be unfairly prejudicial to the officers.

## 11 II. DISPUTES AS TO SCOPE

### 12 A. The Inquest rules prohibit evidence intended to elicit speculation regarding racial 13 bias and Ms. Lyles’ mental health.

14 The family correctly acknowledges that the “circumstances” of the death include “any  
15 information or events that bear on Officer McNew, Officer Anderson, or Ms. Lyles’s actions  
16 related to the death.” *Brief*, p. 4:10-12. Unfortunately, they then jump the rails by claiming that  
17 “one of the most important determinations in this inquest will concern Ms. Lyles’s intent and  
18 state of mind at the time she is alleged to have held a knife.” *Brief*, p. 4:23-25. Manifestly, the  
19 panel could do no more than speculate on that topic. The family surmises that the panel could  
20 somehow determine Ms. Lyles’ state of mind and intent at the moment of the encounter by  
21 analyzing her mental health and domestic violence history:

22 As a result, any evidence that makes this determination—that Ms. Lyles was  
23 experiencing a mental health crisis, triggered by a long history of domestic  
24 violence trauma, when she allegedly brandished a knife prior to being shot by  
Officers—more or less probable is properly within the scope of this inquest.

1 *Brief*, p. 5:6-9. No conceivable interrogatory to the panel on this topic could possibly be  
2 answered on a more probable than not basis without utter speculation. Such information,  
3 consequently, would not go to the *actual* facts and circumstances of the incident, consequently,  
4 but rather solely to speculation as to what *might* have been happening. Nothing in the executive  
5 order or the coroner’s statute supports such speculation in the inquest process. The only *factual*  
6 issue that is appropriate for panel consideration is what Ms. Lyles’ objective demeanor was  
7 throughout the incident as described by observers and captured on the audio recording.

8 Just as misplaced is the family’s intent to admit testimony from “expert” Dr. Mark  
9 Whitehill regarding his “post-mortem diagnosis” of Ms. Lyles’ mental health. Again, not only is  
10 Ms. Lyles’ mental health history irrelevant, but the report is an entirely speculative opinion  
11 prepared by Dr. Whitehill from the review of various records provided to him after the event in  
12 question and which could not have been known by the officers at the time of their encounter with  
13 Ms. Lyles. Opening the door to such an opinion will only result in a battle of the experts  
14 regarding completely speculative opinions entirely outside of the intended scope of this matter  
15 and wildly prejudicial to the officers.

16 Likewise, the family posits that the jury should be allowed to speculate, with absolutely  
17 no supporting evidence, that the officers’ considered the color of Ms. Lyles’ skin—not her words  
18 and actions—in making their decision to use lethal force. Indeed, the family’s invitation to  
19 speculation is itself premised upon speculation about the underpinnings of Ms. Lyles’ earlier  
20 interaction with law enforcement:

21 Training regarding bias and implicit bias should also be included within the scope  
22 of the inquest. Bias training should be included in the inquest because avoiding  
23 the perception of bias was a critical safety planning consideration and, thus,  
24 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

1 behavior was very similar to her alleged behavior the morning of her death—Ms.  
2 Lyles accused officers of being members of the KKK while holding scissors.  
3 *Bates No. 1033.*

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

10 *Brief*, pp. 8:16-9:5. There is no factual basis to claim that Ms. Lyles’ “racial sensitivity had  
11 previously caused her to display scissors...,” so the underlying premise is fatally flawed. That Ms.  
12 Lyles may have herself invoked race in a prior incident is entirely irrelevant in this incident.  
13 Moreover, there is absolutely no evidence that race played any role in the officers’ decision-  
14 making. The family’s argument presents an internal logical failure – if the alleged bias is  
15 “implicit,” and accordingly necessarily subconscious, who could testify as to whether it existed or  
16 not? The only objective evidence of the officers’ treatment of Ms. Lyles shows appropriate  
17 courtesy and respect. The family should be barred from introducing any evidence that suggests  
18 race played a factor as such “evidence” would be entirely speculative, and significantly and  
19 unfairly prejudicial to the officers.

20 The family’s assertion that Ms. Lyles’ mental health and race are relevant to this matter,  
21 outside of what the officers’ knew from the June 5<sup>th</sup> report, is a blatant attempt to force the panel  
22 speculate as to what the officers should or could have done differently, or to tar the officers with  
23 racist innuendo, That approach would fly in the face to the legitimate scope of an inquest.

24 **B. Officer history re prior uses of force and tactics are not relevant or admissible.**

There is no dispute that policies regarding use of force contained in SPD Manual Section  
8 and the attendant training are proper and admissible. However, specific reports and documents  
related to the officers’ prior uses of force and tactics are not. Every single encounter between

1 police and citizens is unique. The family's request on this front is utterly untethered from  
2 legitimate inquest inquiry. For example, Exhibit 1 to Mr. Guilmette's declaration is the report  
3 from a Firearm Review Board investigation involving Officer McNew. However, Officer  
4 McNew's use of force in the matter was deemed proper, "de minimus" and consistent with  
5 training and policy. The event at issue was for a barricaded subject actively exhibiting signs of  
6 active mental illness/crisis, who was ranting incoherently, and throwing items at officers out of  
7 his window. The circumstances were completely different from those encountered by the officers  
8 in the Lyles' scenario, thus the report and findings are irrelevant and inadmissible. Even more  
9 irrelevant is the family's request for all use of force reports ever submitted by either Officer  
10 Anderson or Officer McNew. Those reports simply have no bearing on the circumstances that  
11 they encountered when Ms. Lyles' attacked them without any prior warning.

12 **C. The Brettler Place incidents are not relevant or admissible.**

13 The family asserts that incident reports related to burglaries and other crimes reported at  
14 Ms. Lyles' apartment complex are somehow relevant to "refute any claim that Ms. Lyles' actions  
15 in allegedly threatening the officers were premeditated." *Brief*, p. 18:16-18. As a preliminary  
16 matter, it is unclear where the family believes any such claim may originate. What Ms. Lyles'  
17 intent was in falsely reporting the burglary is every bit as speculative as her mental status and  
18 intent at the kitchen confrontation. Whether or not there had been other crimes committed at the  
19 complex, the video evidence establishing that Ms. Lyles' never left her apartment during the time  
20 that she claims the burglary occurred, and that no burglary occurred. Despite that fact, Ms.  
21 Lyles' called the police, called 911 to send officers to her home, and armed herself with a knife  
22 in the pocket of a large down coat. Other, unrelated burglary or other criminal reports (that  
23 presumably had a genuine factual basis) are simply irrelevant.

1           The single Brettler Place report that might actually shed light on Ms. Lyles’ behavior is  
2 that in which Ms. Lyles threatened a young boy with a knife, demonstrating her willingness to  
3 threaten deadly force, even toward an innocent.<sup>1</sup> Had the officers known of that incident and had  
4 they considered her violent threat in their approach that day, the matter would plainly be relevant  
5 – but they did not. Just as the officers’ history is irrelevant, consequently, the only sensible  
6 position on the child knife threat incident is that it, too, should not be discussed.

7           **D. The discipline of Officer Anderson related to his Taser is not relevant.**

8           The family suggests, “Officer Anderson’s discipline is within the scope of this inquest  
9 because it directly relates to the use of force against Ms. Lyles.” *Brief*, p18:22-19:1. The  
10 absence of a Taser in this scenario is simply a red herring. As the family is well aware from the  
11 discovery in the civil litigation and the officers’ statements, the use of a Taser in response to a  
12 knife in close quarters would be entirely contrary to SPD policy and training. SPD officers are  
13 not required to be Taser trained. They are required to carry at least one less-lethal option.  
14 Officer Anderson carried a baton and OC (pepper) spray. Even if Officer Anderson had his  
15 Taser with him, it should and would have not been used. The discipline was not for being unable  
16 to use the Taser in response to Ms. Lyles’ threat, but that Officer Anderson had failed to turn the  
17 Taser in and report to his supervisor that he would no longer be carrying it. That was the policy  
18 violation, it is not relevant here, and the admission of evidence of discipline is likely to cause  
19 speculation and prejudice to Officer Anderson. It should be excluded from evidence and any  
20 reference during the hearing.

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24 <sup>1</sup> That incident, incidentally, only affirms how baldly speculative the family’s theory on Ms. Lyles’ violent actions  
being associated with law enforcement “failure to protect” and domestic violence actually is. Presumably, Ms.  
Lyles’ didn’t believe that children had failed to protect her, giving rise to her violent threat.

1 **III. CONCLUSION**

2 The scope of this Inquest must be limited to evidence that will assist the panel in  
3 determining the factual circumstances of Ms. Lyles' death and whether the officers' use of force  
4 was in line with SPD policy and training. Admission of evidence which requires the panel to  
5 speculate regarding other events and topics of which the officers had no knowledge would  
6 improperly expand the scope of discovery and the hearing and defeat its sole fact-finding  
7 purpose.

8 Dated this 11<sup>th</sup> day of October, 2019.

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1 **Certificate of Service**

2 The undersigned certifies under the penalty of perjury according to the laws of the United  
3 States and the State of Washington that on this date I caused to be served in the manner noted  
4 below a copy of this document entitled **SEATTLE POLICE OFFICERS' RESPONSE BRIEF**  
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32 DATED this 11<sup>th</sup> day of October, 2019, at Seattle, Washington.

33 /s/ Matthew C. Kniffen

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