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5 KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES
6 INQUEST PROGRAM

7 No. 517IQ9301

8
9 IN RE INQUEST INTO THE DEATH OF
10 CHARLEENA LYLES
11

**CITY'S OBJECTIONS TO FAMILY'S
SUMMARY OF PROPOSED
WITNESSES**

12 The City responds and objects to the Family's Summary of Proposed Witnesses as follows:

13
14 **1. Carmen Best**

15 **Family Position:** Chief Carmen Best investigated the incident and disciplined Officer Anderson for
16 violating Department Manual Policy 8.300(3) which requires that "officers who have been trained
17 and certified to carry a CEW (Taser) and have been issued one must carry it during their shift." Chief
18 Best's testimony will aid the inquest panel in determining the gravity of Officer Anderson's
19 disobedience and applicability to the incident.

18 **City Position:** Objection. Contrary to the Family's assertion, Chief Best had no personal involvement
19 in the incident itself or the investigation of the incident. Chief Best's involvement was limited to
20 signing off on OPA's disciplinary recommendation arising out of the Taser battery and storage issue.
21 OPA investigated that issue and recommended the discipline, not Chief Best. All parties have stipulated
22 that Chief Best signed off on the disciplinary recommendation for the reasons stated in the Disciplinary
23 Action Report generated by OPA. Chief Best's testimony is immaterial and unnecessary, especially
considering the stipulation.

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1 **2. Detective Biggs**

2 **Family Position:**

3 Detective Biggs was the primary detective involved in the crime scene investigation. She conducted
4 the immediate scene walkthrough with Officer McNew. Detective Biggs placed the placards where
5 Officer McNew believed he was when he first saw the knife, where he believed Ms. Lyles was when
6 he first saw the knife, and where he and Ms. Lyles were when shots were fired. Detective Biggs was
7 not able to engage in this same protocol with Officer Anderson who had left the scene. Detective Biggs
8 took photos of the scene and observed KCME Dr. Mazrim’s preliminary examination of Charleena’s
9 body at the scene. She then returned to the CSI processing facility where she secured evidence. Sergeant
10 Grinstead simply responded to the scene and supervised. Detective Biggs’s testimony will aid the
11 inquest panel in determining the data points used to re-create what happened the day of the incident.

12 **City position:** Objection. Detective Biggs is no longer with SPD and, to the City’s best knowledge, is
13 residing out of country. The Family was notified of Detective Biggs’ impending departure prior thereto
14 and were invited to preserve her testimony in a deposition. **See Email Chain Attached.** The Family
15 chose not to avail itself of that opportunity. In fact, no party took the City up on preserving Detective
16 Biggs testimony prior to her departure. As Ms. Koehler notes in her email, substituting Detective Biggs’
17 deposition is impractical as she was deposed as a 30(b)(6) witness on a narrow list of topics. The City
18 has designated Sgt. Grinstead to testify on CSI matters related to the shooting incident. Sgt. Grinstead
19 was on-scene after the incident, is familiar with the CSI investigation, and will be prepared to testify
20 competently on those matters. In light of this designation, Detective Biggs’ testimony is immaterial,
21 cumulative, and unnecessary.

22 **3. Officer Oliver Murphy**

23 **Family’s Position:** Officer Murphy was called to Solid Ground after the shooting. Upon arrival he
24 found officers performing CPR. He exited the apartment and went to look for additional medical
25 supplies. When he returned, he observed two wounds on Ms. Lyle’s body and packed the wounds with
26 gauze. He held pressure on the wounds while officers continued chest compressions and CPR. He was
27 there before Seattle Fire arrived and was present when her body was moved to the hallway. He observed
28 the scene and saw one bullet and one knife. Officer Murphy’s testimony will aid the inquest panel in
29 determining the condition of Ms. Lyles after the shooting and whether Officers Anderson and McNew
30 rendered aid to her as soon as reasonably possible.

31 **City’s Position:** Objection. Officer Murphy’s anticipated testimony, as described by the Family, is
32 immaterial, cumulative, and unnecessary. He was called to the scene after the shooting took place and
33 briefly assisted other officers who had arrived on scene (not the involved officers) with first aid. His
34 observations of the scene will not add anything to what other witnesses will be testifying about or
35 contribute meaningfully to the jury’s understanding of the involved officers’ conduct in rendering aid.

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1 **4. Officer Kerry Zieger**

2 **Family’s Position:** Officer Kerry Zieger was the taser coordinator at the training unit for the Seattle
3 Police Department at the time of the incident. He was contacted by the Force Investigation Team
4 about whether Officer Anderson violated SPD taser policy. His knowledge includes what trainings
5 officers are required to complete; how tasers are used, in what circumstances, and their success rate;
6 how officers assess threat; the requirement for how many officers should be present if a taser may
7 need to be used (the 3S model); the importance and requirement of de-escalation. By contrast, Officer
8 Leroy Outlaw was not the taser coordinator at the time of the incident and had no involvement in the
9 FIT investigation. Officer Zieger’s testimony will aid the inquest panel in determining whether the
10 use of force was reasonable and lawful pursuant to SPD policy.

11 **City’s Position:** Objection. Officer Kerry Zieger has retired from SPD and moved out of state. His
12 testimony is immaterial and unnecessary considering the City’s designation of Officer Leroy Outlaw
13 to testify on Taser policy and training. All the subjects listed by the Family will be covered by Officer
14 Outlaw, who is familiar with events at issue, including the SPD’s Taser policies and training as they
15 existed at the time of the incident and will be prepared to testify on those subjects.

16 **5. Lt. Dan Nelson**

17 **Family’s Position:** Lt. Dan Nelson has specific knowledge related to SPD’s crisis intervention training
18 and policies. He reviewed the incident as part of the force review process. Lieutenant Nelson’s
19 testimony will aid the inquest panel in determining whether Officers Anderson and McNew’s actions
20 were consistent with SPD’s de-escalation and use of force policies.

21 **City’s Position:** Objection. Ms. Lyles’ mental state, whether she was experiencing a mental health
22 crisis, and the involved officers’ assessment of whether she was in crisis are not included in the scope
23 of the inquest. For that reason, Lt. Nelson’s testimony is immaterial and unnecessary. If these issues
do become part of the inquest, the City would request Lt. Nelson to testify on CIT policy and training.

6. Officer Derek Norton

Family’s position: Officer Norton responded to Solid Ground after report of shots were fired. When
 he arrived Officer Shickler handed him one of the children. He took the child outside and returned back
 to the residence and helped assist SPD and SFD personnel enter the building. He stood with friends
 and family while they waited for CPS to arrive to transfer custody of the children. He then cleared the
 scene. Officer Norton’s testimony will aid the inquest panel in understanding the scene and its
 aftermath.

City’s Position: Objection. Officer Norton responded to the scene after the shooting and his
 involvement was limited to handling Ms. Lyles’ children and holding doors open. His testimony would
 not add anything meaningful to the jury’s understanding of the issues and is immaterial to the scope of
 the inquest.

1 **7. Lt. Cory Simmons**

2 **Family’s Position:** Lt. Cory Simmons is the initial incident commander for the June 18, 2017, incident.
3 He was the first to arrive on scene. He received briefing from Officer McNew that aid was not
4 immediately rendered. He ordered that all officers turn off their ICV. He was involved in gathering
5 video.

6 **City’s Position:** Objection. This witness’s testimony, as described by the Family, can come through
7 the audio and visual recordings and through Officer McNew. The proposed testimony of this witness
8 is cumulative and would not add anything meaningful to the jury’s understanding of the involved
9 officers’ conduct in rendering aid.

10 **8. Sgt. David Sylvester**

11 **Family Position:** Sergeant Sylvester was involved in crime scene security. When he arrived, he
12 observed SFD rendering aid to Ms. Lyles. He was there when SFD declare Charleena deceased. He
13 secured the building and managed crime scene security as investigation units responded. He assisted
14 CSI and was a “stand in for perspective” photographs due to the absence of Officer Anderson. He
15 secured the apartment after CSI finished their investigation. Sergeant Sylvester’s testimony will aid the
16 inquest panel in determining how SPD secured the scene, data points and subsequently investigated the
17 incident.

18 **City’s Position:** Objection. Sgt. Sylvester arrived on scene after the shooting and his anticipated
19 testimony, as described by the Family, would be entirely cumulative of other testimony and would not
20 contribute anything meaningful to the jury’s understanding of the relevant issues. The City’s
21 designated CSI witness, Sgt. Grinstead, can address the post-incident crime scene investigation,
22 including the use of a "stand in" for Officer Anderson during the photographing of the scene.

23 **9. Bellen Drake**

Family Position: Bellen Drake was an employee at Solid Ground at the time Ms. Lyles resided there.
 She was present during the June 5 incident, was present when Ms. Lyles returned after being at Mental
 Health Court, and was concerned about her mental health condition. She knew specifics about Ms.
 Lyle’s recent mental health history including an incident the end of May at the playground where she
 acted out with paranoid delusions. She was will also testify about Solid Ground’s relationship with
 SPD – that she informed SPD of Ms. Lyles’ medical health history and concerns she had prior to the
 instant shooting.

City Position: Objection. This Solid Ground witness had prior contacts and communications with Ms.
 Lyles and was present during the prior June 5th incident. The Family argues that her testimony is
 needed to show Ms. Lyles’ allegedly deteriorating mental health condition prior to the incident and that
 she had contacted SPD about it. However, it is undisputed that neither of the involved officers were
 aware of this witness’s contacts or communications regarding Ms. Lyles prior to the shooting; the only
 information they had was the police report from the June 5th incident. As such, the anticipated

1 testimony of this witness regarding her knowledge and opinions of Ms. Lyles' pre-existing mental
2 health condition is immaterial, irrelevant, and highly prejudicial for the purposes of the inquest.

3 DATED this 24th day of May, 2022.

4 ANN DAVISON
5 Seattle City Attorney

6 By: /s/ Ghazal Sharifi
7 Ghazal Sharifi, WSBA# 47750
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16 *Attorneys for City of Seattle and Seattle Police Department*

CERTIFICATE OF SERVICE

I certify that on the 24th day of May, 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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<p>Claire Thornton Inquest Program Attorney DES-Dept. of Executive Services 401 5th Ave., suite 131 Seattle, WA 98104 (206) 263-7568</p>	<p>(x) Electronic Delivery Claire.Thornton@kingcounty.gov</p>
<p>Karen Koehler Melanie Nguyen 3600 15th Ave W Ste 300 Seattle, WA 98119-1330 (206) 448-1777 <i>[Attorneys for the Lyles Family]</i></p>	<p>(x) Electronic Delivery Karenk@stritmatter.com anner@stritmatter.com alysha@stritmatter.com kristinm@stritmatter.com melanie@stritmatter.com</p>
<p>Edward H. Moore Law Offices of Edward H Moore PC, Co-Attorney for Lyles Estate and Paternal Family 3600 15th Ave W Ste 300 Seattle, WA 98119-1330 (206) 826-8214 <i>[Attorneys for the Lyles Family]</i></p>	<p>(x) Electronic Delivery emoore@ehmpc.com</p>
<p>Karen Cobb Frey Buck, P.S. 1200 5th Ave, Ste 1900 Seattle, WA 98101-3135 (206) 486-8000 <i>[Attorney for Officer Steven McNew]</i></p>	<p>(x) Electronic Delivery kcobb@freybuck.com</p>

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<p>Ted Buck Frey Buck, P.S. 1200 5th Ave, Ste 1900 Seattle, WA 98101-3135 (206) 486-8000 Paralegals: Lisa Smith Matthew Kniffen Megan Riley</p> <p><i>[Attorney for Officer Jason Anderson]</i></p>	<p>(x) Electronic Delivery tbuck@freybuck.com lsmith@freybuck.com</p>
<p>Rebecca Boatright Executive Director for Seattle Police Dept. Attorney for Chief Best Seattle City Attorney's Office 701 5th Ave Ste 2050 Seattle, WA 98104-7095</p>	<p>(x) Electronic Delivery Rebecca.Boatright@Seattle.gov</p>

/s/ Kelly Nakata _____
Kelly Nakata, Paralegal

Nakata, Kelly

From: Anderson, Matthew (DES)
Sent: Wednesday, September 29, 2021 4:43 PM
To: Corey Guilmette
Cc: Ed Moore; Litfin, Jennifer_LAW_LW134; Karen Cobb; Karen Koehler; Nakata, Kelly; Lisa Benedetti; Lisa Smith; Melanie Nguyen; Prachi Dave; Boatright, Rebecca; Sharifi, Ghazal; Sylve, Dee; Ted Buck; Widen, Rebecca; krysta@stritmatter.com
Subject: RE: Lyles - CSI Det. Kimberly Biggs

CAUTION: External Email

Thanks to everybody for their input. We'll stay tuned.

From: Corey Guilmette <corey.guilmette@defender.org>
Sent: Wednesday, September 29, 2021 4:31 PM
To: Anderson, Matthew (DES) <Matt.Anderson@kingcounty.gov>
Cc: Ed Moore <emoore@ehmpc.com>; Jennifer Litfin <Jennifer.Litfin@seattle.gov>; Karen Cobb <kcobb@freybuck.com>; Karen Koehler <karenk@stritmatter.com>; Kelly Nakata <kelly.nakata@seattle.gov>; Lisa Benedetti <Lisa@stritmatter.com>; Lisa Smith <lsmith@freybuck.com>; Melanie Nguyen <Melanie@stritmatter.com>; Prachi Dave <prachi.dave@defender.org>; Rebecca Boatright <Rebecca.Boatright@seattle.gov>; Sharifi, Ghazal <ghazal.sharifi@seattle.gov>; Sylve, Dee <Dee.Sylve@kingcounty.gov>; Ted Buck <tbuck@freybuck.com>; Widen, Rebecca <Rebecca.Widen@seattle.gov>; krysta@stritmatter.com
Subject: Re: Lyles - CSI Det. Kimberly Biggs

[EXTERNAL Email Notice!] External communication is important to us. Be cautious of phishing attempts. Do not click or open suspicious links or attachments.

Hi Matt,

Thanks for checking in on this. The maternal family is fine addressing who will present CSI testimony at a future point—whether that is a different detective, deposition testimony, or some combination of the two.

Best,
Corey

On Wed, Sep 29, 2021 at 11:54 AM Anderson, Matthew (DES) <Matt.Anderson@kingcounty.gov> wrote:

The executive order directs the IA to minimize delay, cost and burden to the participants. It provides that “The employing government department shall designate an official(s) to provide a comprehensive overview of the forensic investigation into the incident (e.g., statements collected by investigators, investigators' review of forensic evidence, physical evidence collected by investigators, etc.)” Finally, it directs the IA to apply not only the Evidence Rules, but also the Hearing Examiner Rules in determining admissibility of evidence. Taken together these provisions give the IA significant discretion to allow for hearsay evidence in describing the investigation of the incident, especially where such evidence is not contested.

In the Butts inquest, for example, the witness list includes the Fit Detective, who will describe necessary parts of the investigation (who was interviewed, what was canvassed, etc,) as well as the primary CSI detective, who will describe the relevant parts of the CSI investigation. Although the parties were given the opportunity to propose testimony from individual investigative officers if they believed that direct testimony was required as to their actions (perhaps because it was contested), but few, if any were proposed.

I anticipate a similar course of action will be considered in Lyles.

If you believe that there is particular testimony that only Det. Biggs should provide. I'd recommend that you identify it and propose a course of action to ensure that it can be made available to the jury.

To be clear, the above discussion is about officers investigating the incident, I don't mean to imply that we wouldn't get direct testimony from the Involved Officers or those officers who arrived so soon afterwards on the scene that their direct observations may be necessary.

Best,

Matt

From: Karen Koehler <karenk@stritmatter.com>

Sent: Tuesday, September 28, 2021 6:17 PM

To: Anderson, Matthew (DES) <Matt.Anderson@kingcounty.gov>; Anne Roberson <anner@stritmatter.com>; Rebecca Boatright <Rebecca.Boatright@Seattle.gov>; Corey Guilmette <corey.guilmette@defender.org>; Sylve, Dee <Dee.Sylve@kingcounty.gov>; Elodie Daquila <Elodie@stritmatter.com>; Ed Moore <emoore@ehmpc.com>; Sharifi, Ghazal <ghazal.sharifi@seattle.gov>; Jennifer Litfin <Jennifer.Litfin@seattle.gov>; Karen Cobb <kcobb@freybuck.com>; Kelly Nakata <kelly.nakata@seattle.gov>; Lisa Benedetti <Lisa@stritmatter.com>; Lisa Smith <lsmith@freybuck.com>; Melanie Nguyen <Melanie@stritmatter.com>; Prachi Dave <prachi.dave@defender.org>; Ted Buck <tbuck@freybuck.com>

Subject: RE: Lyles - CSI Det. Kimberly Biggs

[EXTERNAL Email Notice!] External communication is important to us. Be cautious of phishing attempts. Do not click or open suspicious links or attachments.

Dear Matt –

The plaintiffs in the civil case were notified on Sept. 10 that Det. Biggs was retiring and moving out of the country eff. Nov 5. They requested that she be perpetuated and we told them to coordinate that date with our office. There has been no further attempt by the city to perpetuate Det. Biggs in the 18 days since that communication.

Det. Biggs was not deposed in her individual capacity in the civil case – but was presented as a 30b6 witness on a very narrow list of issues related to her participation in the CSI response. She personally conducted the placement of placards for example and documentation of various pieces of evidence including taking photos.

The plaintiffs in the civil case do not see how another CSI detective should be allowed testify even in an inquest as to Det. Bigg's first hand knowledge and actions.

Best regards

karen

Karen Koehler, she/her

Stritmatter Kessler Koehler Moore

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From: Anderson, Matthew (DES) <Matt.Anderson@kingcounty.gov>

Sent: Tuesday, September 28, 2021 2:29 PM

To: Anne Roberson <anner@stritmatter.com>; Rebecca Boatright <Rebecca.Boatright@Seattle.gov>; Corey Guilmette <corey.guilmette@defender.org>; Dee Sylve <Dee.Sylve@kingcounty.gov>; Elodie Daquila <Elodie@stritmatter.com>; Ed Moore <emoore@ehmpc.com>; Ghazal Sharifi <ghazal.sharifi@seattle.gov>; Jennifer Litfin <Jennifer.Litfin@seattle.gov>; Karen Koehler <karenk@stritmatter.com>; Karen Cobb <kcobb@freybuck.com>; Kelly Nakata <kelly.nakata@seattle.gov>; Lisa Benedetti <Lisa@stritmatter.com>; Lisa Smith <lsmith@freybuck.com>; Melanie Nguyen <Melanie@stritmatter.com>; Prachi Dave <prachi.dave@defender.org>; Ted Buck

<tbuck@freybuck.com>

Subject: Lyles - CSI Det. Kimberly Biggs

SPD informed me that the CSI Det. Kimberly Biggs would be moving out of the area (likely the country) sometime in November – well ahead of the time for the inquest hearing. She also noted that there has been a deposition taken as part of the civil case.

While it could be possible to subpoena her prior to her leaving the country, it seems that any response to that subpoena would rely on her being willing to return for testimony. I was not told that was likely.

Please give some thought as to how you would ask to deal with this issue. There are a number of options. The deposition could be obtained and presented. Another detective who worked on the case could be designated as the Forensic investigator and describe Det Biggs' portion of the investigation, conceivably after reviewing both her reports as well as the deposition transcript. Perhaps other ideas occur to you.

Given that IA Spearman will face a rather dramatic decrease in his ability to require the Det. to do anything in particular, I wanted to let you know now, so that any suggestions that hinge on a response from the detective could be presented sooner than later.

Matt Anderson

Attorney - KCDES – Inquest Program

206-263-5768

he/him/his

--

Corey Guilmette

Pronouns: he, him

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