



King County

Department of Executive Services

Inquest Program

401 Fifth Avenue, Suite 135

Seattle, WA 98104

206-477-6191

TTY Relay 711

Webpage: kingcounty.gov/inquests

Email: Inquests@kingcounty.gov

INQUEST INTO THE DEATH OF CHARLEENA LYLES # 517IQ9301

PRE-HEARING CONFERENCE ORDER May 31, 2022

Family of the decedent:	Family of Charleena Lyles, represented by Karen Koehler and Melanie Nguyen
Law enforcement officers:	Seattle Police Department Officers Steven McNew and Jason Anderson represented by Ted Buck
Employing government department:	Seattle Police Department, represented by Ghazal Sharifi and Rebecca Widen
Administrator:	Michael Spearman assisted by Inquest Program Attorney, Claire Thornton

The Administrator, having presided over the Pre-Hearing Conference (PHC) on May 31, 2022, and having heard from the parties, hereby orders the following:

1. Witness Updates

- a. Administrator informed the parties that despite substantial efforts, the Inquest Program has been unable to locate proposed witness Mr. Jorge Cadena Chavez. If the parties are able to assist with contacting, any efforts would be welcome. If no contact is made, Mr. Cadena Chavez will be stricken from the Witness List.
- b. **Expert Witnesses:**
 - i. Family's Proposed Expert - Mr. Wilson "Toby" Hayes
 1. Schedule Interview – the Family continues to work on setting up an interview.

2. Involved Officers/SPD – The Involved Officers indicated there is a meeting scheduled with a video expert on Thursday to review Mr. Hayes’ material. Involved Officers will inform all parties as soon as possible if they intend to stipulate to the video, which would eliminate the need to interview or call Mr. Hayes as a witness.
- ii. KCME Dr. Mazrim from the King County Medical Examiner’s Office will return to the office on June 1 and will be contacted by the Inquest Program Attorney to set up an interview as soon as he is available.

2. Video Livestreaming

- a. Administrator Spearman has reviewed the briefings submitted by the parties.
- b. SPD Presentation: SPD is opposed to video livestreaming due to concern about video manipulation that could lead to harassment of any witness. It also notes that the Executive Order, App. 2, Section 9.0 contemplates making audio recordings accessible to the public.
 - i. SPD requests that:
 1. The Inquest Hearing be audio livestreamed only;
 2. Individual links be provided to a closed universe of people to view the entire proceeding via video livestream;
 3. If video livestreaming is allowed, that, upon request of a witness, the witness’s face would be blurred or the witness would be shown only from the neck down.
 - ii. SPD also expresses concern about nefarious manipulation of the post-hearing uploading of video of witnesses .
- c. Involved Officers Presentation: The Involved Officers are also opposed to video livestreaming for the reasons stated by SPD. But adds their specific concerns about harassment of themselves and their families and pointed to the specific examples cited in their brief. In response to the Administrator’s inquiry, the Involved Officers stated it does not matter if prior harassment was in 2020, 2021; the harm has already happened and that with the commencement of the Inquest Hearing, renewed harassment is likely to begin again. If video livestreaming is allowed, it will provide new video that could lead to further harm occurring.
 - i. Involved Officers agree with and join SPD’s requests regarding how the Inquest Hearing should be recorded and made available to the public.
- d. Family’s Presentation: The Inquest Hearing should be video livestreamed without manipulation by facial blurring or concealing faces of witnesses. The Administrator should not be concerned about video splicing or manipulation because there is no indication that will happen (and it did not happen in the Butts Inquest). The Inquest Hearing is important to the community and the community members want to know what happened, they want to hear the words from the officers and see their faces when they testify.
 - i. Family’s Positions:

1. Video livestreaming would provide a full, fair and transparent airing of the facts to the community and family;
 2. Video livestreaming is important during this time because of COVID concerns, which prevents some people from coming to the courtroom;
 3. The risk of manipulation of video in order to harass witnesses who testify at the hearing is small and is outweighed by the community's interest in having the hearing conducted with the fullest transparency possible.
- e. The Administrator took the issue of video livestreaming under advisement and will consult with the supporting IT staff to determine what means are available to help balance the interests of the parties and the community. He will provide a ruling prior to June 21, 2022.

3. Jury Instructions

- a. Opening Jury Instructions – Administrator will include in the Opening Jury Instructions the following personal statement regarding Ms. Lyles:

“As a child in Seattle, Charleena Lyles was raised in poverty and housing instability. She struggled in school due to learning disabilities and did not graduate. Her jobs had included barista, cashier, housekeeping, child caregiver. During Ms. Lyles's adult years, she struggled with issues related to her mental health. At the time of her death, she was a 30-year-old pregnant mother of four children ages 13, 12, 4 and 1.”

- i. Family agrees with the Administrator's proposed personal statement.
 - ii. No objection from SPD or Involved Officers.
 - iii. At the time the personal statement is read, the Administrator will present to the jury the photo of Ms. Lyles submitted by the Family.
- b. Closing Jury Instructions
- i. Parties are requested to submit briefing on the Jury Instruction regarding the justifiable use of deadly force. The Administrator request no more than five pages from each party, setting for the reasons by RCW 9A.16.040 and RCW 9A.16.050 apply or do not apply. Parties are instructed to set an agreed-upon briefing schedule that provides that the briefs will be filed prior to the end of the Inquest Hearing and inform the Inquest Program Attorney of the agreed-upon schedule.

4. Exhibits/Evidence

a. Physical Evidence

- i. Involved Officers have requested the two knives, sheath(s) and Ms. Lyles' down coat
- ii. The Family has the Evidence List and will review it and make any submissions today

b. Draft Exhibit List

- i. Best efforts will be made to provide a draft Exhibit List available to the parties by June 6, 2022
 1. Parties are instructed to please let Inquest Program Attorney know if there are exhibits they wish to be added to the list

5. Proposed Training Scope

- a. The Administrator appreciates the input from the parties and that identifying specific portions of the many trainings is a large task to ask the parties to take on. The Administrator is going to take this task on and will provide a proposal to the parties to review as soon as possible. The parties make the following specific comments:
 - i. SPD: the 40 hour Crisis Intervention Training is put on by the Criminal Justice Training Center (CJTC), not SPD, so the SPD Designee will not be testifying as an expert on that training. The SPD Designee can, however, talk generally about the 40 hour CJTC training. An SPD officer must attend the CJTC 40 hour training in order to be CIT Certified.
 - ii. Family requests that testimony about the trainings regarding impact weapons be provided to the jury and states that the officers should have acted differently, should have prepared better, and the question of whether training on impact weapons should have been used is a question for the jury. The Administrator indicates that the question for the jury panel is whether the use of deadly force was justifiable, not whether other tools should have been used. The possible use of or training about other tools can be addressed on examination of the training witnesses.

6. Proposed Final Policy Scope

- a. The Administrator address two policies submitted by the Family:
 - i. Policy 8.200(6) – all parties agree that this policy should be included in the policy scope in its entirety as follows:

Following a Use-of-Force, Officers Shall Render or Request Medical Aid, if Needed or if Requested By Anyone, as Soon as Reasonably Possible

Following a use-of-force, officers will request a medical aid response, if necessary, for suspects and

others and will closely monitor subjects taken into custody.

Absent exigent circumstances, prone subjects will be placed on their side in a recovery position. Officers shall not restrain subjects who are in custody and under control in a manner that compromises the subject's ability to breathe.

- ii. Policy 8.000(7) – Administrator is inclined to include this policy in the scope. The policy reads as follows:

A Strong Partnership Between the Department and the Community Is Essential for Effective Law Enforcement and Public Safety

Uses of force, even if lawful and proper, can have a damaging effect on the public's perception of the Department and the Department's relationship with the community.

Both the Department and individual officers need to be aware of the negative effects of use-of-force incidents and be empowered to take appropriate action to mitigate these effects, such as:

- Explaining actions to subjects or members of the public
- Offering reasonable aid to those affected by a use-of- force
- Treating subjects, witnesses, and bystanders with professionalism and courtesy
- Department follow-up with neighbors or family to explain police actions and hear concerns and feedback

1. Involved Officers objected to the inclusion of this section within the policy scope. They argued that this is a significant expansion of the area of inquiry, is potentially very complicated and could take days of testimony to discuss how SPD behaved during the investigation after the death. Involved Officers also argued that this is outside the scope of the circumstances of the death.
2. The Family indicates that the area of inquiry they are interested is not the investigation after the death, but rather how this policy may have applied with respect to the three children who were present at the time of the shooting. The Family indicates that the children were subject to the deadly force, they were feet away from Ms. Lyles and there should be inquiry as to how the policy may have applied to the

treatment of the children. The Family indicates there is no need to include in this inquiry how the policy may have applied to how the neighbors were treated.

3. SPD objects to the inclusion of this policy. The scope of inquest proceedings should not be expanded to include this policy. Aspects of this policy, such as professionalism, are assessed and addressed in other proceedings, including the Office of Police Accountability review.

7. **Finalized Documents** – as documents are finalized by Administrator, they will be added to the ShareFile folder for counsel to access. Please note that the documents placed on ShareFile are not for public consumption. ShareFile is to be used by counsel to work on documents and collaborate with each other and the Inquest Program Attorney. Please do not share any documents publicly. All publicly available documents are uploaded to the Lyles Inquest website.

8. **Next PHC Date:** June 10, 2022, 11:45 a.m. – 1:00 p.m. Zoom link will be provided at least three days prior.

DATED: May 31, 2022



Inquest Administrator Michael Spearman