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KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES
INQUEST PROGRAM

IN RE INQUEST INTO THE DEATH OF
CHARLEENA LYLES

No. 517IQ9301

CITY OF SEATTLE’S MOTIONS IN LIMINE

The City of Seattle, through the Seattle Police Department (hereinafter, “SPD”), hereby submits these Motions in Limine.

Pretrial motions to exclude evidence are designed to simplify the trial and to avoid the prejudice that often occurs when a party is forced to object in front of the jury to the introduction of evidence. *Fenimore v. Donald M. Drake Construction*, 87 Wn.2d 85, 89, 549 P.2d 43 (1976). Motions in limine are favored by the courts, and the filing of the same is not admissible before the jury. *See Fenimore*, 87 Wn. 2d at 85. When a trial court can determine the admissibility of the questioned testimony prior to its introduction at trial, it is appropriate to grant the motion in limine and thereby avoid prejudice before the jury. *State v. Kelly*, 102 Wn.2d 188, 192-93, 685 P.2d 564 (1984); *see also Dunn v. United States*, 307 F.2d 883, 886 (5th Cir. 1962) (“if you throw a skunk into the jury box, you can’t instruct the jury not to smell it”).

- 1. The parties should be precluded from eliciting testimony that duplicates testimony already elicited from the inquest attorney or any party preceding them in the order of questioning.**

During prior inquest proceedings, the parties often rephrased and repeated questions already asked by the inquest attorney or the parties preceding them in the order of questioning. The IA should

1 admonish the parties to elicit new or clarifying testimony during their follow up examinations.
2 Repeating the same questions to the same witness unnecessarily takes up the jurors' time and
3 presents a risk of confusing the witness and the jurors.

4 **2. Reference to unrelated incidents or uses of force by any of the involved SPD officers or**
5 **any SPD officers who are witnesses should be excluded.**

6 Evidence and testimony regarding other incidents or uses of force SPD officers were
7 involved in on other, unrelated occasions should be prohibited. Evidence of SPD officer conduct on
8 other occasions would be irrelevant and unduly prejudicial. Evidence of prior misconduct, prior
9 complaints, prior lawsuits, and personnel complaints must be excluded under Rule 404(b). It should
10 also be excluded under paragraph 4.6 of Executive Order No. PHL-7-1-5-EO.

11 **3. Motion to limit scope of lead FIT investigator testimony.**

12 To the extent the *Garrity* statements of the IOs are admitted, Detective Dewey or other SPD
13 designees should be protected from being asked to lay a foundation for the Officers' *Garrity*
14 statements or discuss the purpose behind *Garrity* statements. Explanation of the purpose and intent
15 behind *Garrity* is outside the foundational scope of SPD designees. Detective Dewey is a FIT
16 investigator, not an attorney. He cannot be asked to opine on the routine nature of *Garrity* statements
17 or what they are. This goes beyond the scope of his role in this inquest. *See* Executive Order ¶ 12.3.

18 Similarly, Detective Dewey should be protected from providing testimony on his recollection
19 of what was stated or occurred at the *Garrity* statements of the involved officers – including his
20 evaluation or opinion about what the involved officers were drawing in scribbled diagrams that the
21 officers were developing and editing as they provided statements. Detective Dewey's testimony
22 cannot be used a substitute for the testimony of the involved officers. He should be protected from
23 offering improper opinion evidence on what the officers were attempting to convey in the context of
24 their *Garrity* statements and certainly should be prohibited from speculating on *his* understanding of
25

1 what the involved officers may have been drawing at a given point in time. *See* ER 602, 701. If any
2 aspect of the *Garrity* statements is introduced, Detective Dewey should be limited to indicating that
3 as part of the investigation – officers provided statements.

4 **4. Detective Dewey should not be asked about what could have or should have been done**
5 **differently regarding his investigation.**

6 Detective Dewey should be protected from speculating about what he would have done
7 differently in his investigation, what he believes he missed, and what he would potentially do
8 differently. The Order requires that the designated agency representative provide “[a] comprehensive
9 overview of the forensic investigation into the incident (e.g., statements collected by investigators,
10 investigators' review of forensic evidence, physical evidence collected by investigators, etc.).”
11 Executive Order ¶ 12.3. Any further questioning into the “could haves” and “should haves” exceeds
12 the scope of inquest, particularly as it relates to the investigation itself.

13
14 **5. Bar any reference to the thoroughness of SPD’s investigation or subsequent post-**
15 **incident steps taken by SPD.**

16 This motion is to exclude reference, testimony, or evidence about the thoroughness of SPD’s
17 investigation. The SPD investigation and its completeness is not at issue in the inquest and is not
18 within the contemplated scope of the inquest. This motion also seeks to exclude any post-incident
19 trainings/policy changes that took effect as introduction of any such evidence would be confusing
20 and prejudicial to the jury. *See* ER 401, 403.

21 **6. Motion to exclude testimony or evidence eliciting speculation about non-event**
22 **hypothetical scenarios.**

23 This motion is to exclude any elicited testimony or presented evidence about non-event
24 hypothetical scenarios. The scope of the inquest surrounds the facts and circumstances of the death
25 of Charleena Lyles and whether the involved officers complied with departmental training and

1 policy. The IA should prohibit non-applicable hypotheticals or speculative and improper opinion
2 testimony on events that did not actually occur. Eliciting such speculative testimony goes beyond
3 the scope of inquiry in this matter, confuses the factfinder, and unduly prejudices the parties.

4 **7. Bar reference by any witness or counsel to (1) the December 16, 2011, Report of the**
5 **Department of Justice; (2) the Consent Decree; or (3) generalizations or**
6 **characterizations about the Seattle Police Department that are not directly relevant to**
7 **this case.**

8 Counsel should be prohibited from introducing argument, testimony, evidence, or otherwise
9 questioning witnesses regarding the consent decree, the DOJ findings letter, or criticizing SPD as a
10 law enforcement body concerning any acts that do not relate to this case. There is no need to highlight
11 an irrelevant and complicated subject such as the Consent Decree. Introduction of such a subject
12 matter will potentially require explanation or prejudice the jury pool against the Seattle Police
13 Department's policies and procedures because of the fact alone that SPD is currently under federal
14 oversight.

15 **8. Detective Dewey should not draw conclusions regarding compliance with**
16 **policy/training about his investigation or actions of the shooting officers.**

17 As required, SPD has designated officials to provide testimony about these topics, and these
18 topics are outside the scope of Detective Dewey's designated role, described above.

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DATED this 13th day of June, 2022.

ANN DAVISON
Seattle City Attorney

By: /s/ Ghazal Sharifi
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CERTIFICATE OF SERVICE

I certify that on the 13th day of June, 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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