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6 KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES INQUEST PROGRAM

7 In re INQUEST INTO THE DEATH OF  
8 CHARLEENA LYLES,

NO. 517IQ9301

9 THE FAMILY’S RESPONSE TO THE  
10 CITY AND OFFICERS’ MOTIONS IN  
11 LIMINE

12 **1. Generally**

13 Both the City and the Officers’ MILs include matters outside the IA’s determined scope,  
14 to which the Family repeats that we will abide by the IA’s orders. The Family expects the other  
15 parties to do the same.

16 **2. The Officers’ MILs**

17 *B. Sympathy regarding Ms. Lyles’ race*

18 Ms. Lyles’ race is a factor in this case, whether the Officers want to believe it or not.  
19 Race affects every aspect of our lives, and systemic racism has become evident in policing in the  
20 last decade. Black Americans are killed by police shootings at a much higher rate than white  
21 Americans.<sup>1</sup> SPD has been under the federal consent decree since 2012 due, in part, to serious  
22 concerns about biased policing. On June 9, 2022, our state Supreme Court held that considering

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24 <sup>1</sup> <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>  
THE FAMILY’S RESPONSE TO THE CITY AND IO’S  
MOTIONS IN LIMINE - 1

1 “all the circumstances” of an encounter with law enforcement includes the race and ethnicity of  
2 the person. The court noted,

3 [O]ur precedent has conspicuously failed to acknowledge the impact of  
4 race and ethnicity on police encounters.<sup>2</sup>

5 Of course, if an officer informs a person that they were contacted based  
6 on their race or ethnicity, that fact would increase the weight that should  
7 be given to the person’s race or ethnicity... however, the absence of such  
8 an overt statement does not mean that race and ethnicity are irrelevant.<sup>3</sup>

9 While it is true that there is no uniform life experience or perspective  
10 shared by all people of color, heightened police scrutiny of the BIPOC  
11 community is certainly common enough to establish that race and  
12 ethnicity have at least some relevance to the question of whether a person  
13 was seized.<sup>4</sup>

14 The State cites no Washington authority holding that any objective  
15 circumstance is presumptively irrelevant to the seizure inquiry. The  
16 suggestion that we should do so with respect to race and ethnicity invites  
17 us to draw a “strained and incorrect” distinction between race and  
18 ethnicity and all other circumstances, which we decline to do.<sup>5</sup>

19 While race in *State v. Sum* was analyzed in the context of a seizure, there is no reason to limit the  
20 holding there. Race and ethnicity are relevant anytime the police encounter the BIPIC  
21 community. The Family should be permitted to ask about SPD’s bias-free policing training, what  
22 the Officers’ learned from SPD training, and whether any potential bias played a role in Ms.  
23 Lyles’ death. Whether there was actual bias in the encounter is for the jury to determine.

24 *E. FIT and scene walk-through*

The IA ordered that SPD’s forensic investigation into the incident is included within the  
factual scope of in the inquest.<sup>6</sup> The parties should be permitted to ask what the investigation

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<sup>2</sup> *State v. Sum*, 99730-6, 2022 WL 2071560, at \*4 (Wash. June 9, 2022).

<sup>3</sup> *Id.* at \*9.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* (citing *Garfield Transp. Auth.*, 196 Wn.2d at 391 n.1, 473 P.3d 1205).

<sup>6</sup> May 23, 2022, Amended PHC Order.

1 entailed, whether it deviated from what usually occurs and why. These are all factual issues.

2 There is no speculation involved. If a witness does not know the answer and speculates, counsel

3 can object.

4 **3. The City's MILs**

5 *4. Detective Dewey*

6 Again, SPD's forensic investigation is within the factual scope of the inquest. Detective  
7 Dewey was designated by the City to testify about the FIT investigation – that includes whether this  
8 particular investigation was conducted differently than other officer-involved shooting investigations,  
9 why that occurred, and whether any deviation is significant to FIT's findings.

10 /s/ Karen Koehler

Karen K. Koehler, WSBA #15325

Edward H. Moore, WSBA #41584

Melanie Nguyen, WSBA #51724

STRITMATTER KESSLER KOEHLER MOORE

CERTIFICATION

I hereby certify that on June 15, 2022, I delivered a copy of the document to which this certification is attached for delivery to all parties of record as follows:

<p><b>Inquest Program Personnel</b> Hon. Michael Spearman Claire Thornton <a href="mailto:Claire.Thornton@kingcounty.gov">Claire.Thornton@kingcounty.gov</a> Dee Sylve <a href="mailto:Dee.Sylve@kingcounty.gov">Dee.Sylve@kingcounty.gov</a> Matt Anderson <a href="mailto:Matt.Anderson@kingcounty.gov">Matt.Anderson@kingcounty.gov</a> DES-Dept. of Executive Services 401 5<sup>th</sup> Ave., suite 131 Seattle, WA 98104</p>	<p><input type="checkbox"/> U.S. Mail (First Class and Certified) <input type="checkbox"/> Fax <input type="checkbox"/> Process Server <input checked="" type="checkbox"/> Electronic Delivery</p>
<p>Ghazal Sharifi, WSBA 47750 <a href="mailto:Ghazal.Sharifi@seattle.gov">Ghazal.Sharifi@seattle.gov</a> Rebecca Boatright <a href="mailto:Rebecca.Boatright@Seattle.gov">Rebecca.Boatright@Seattle.gov</a> Rebecca Widen <a href="mailto:Rebecca.widen@seattle.gov">Rebecca.widen@seattle.gov</a> Seattle City Attorney's Office 701 5<sup>th</sup> Ave. Suite 2050 Seattle, WA 98104-7097 Counsel for City of Seattle re Inquest</p>	<p><input type="checkbox"/> U.S. Mail (First Class and Certified) <input type="checkbox"/> Fax <input type="checkbox"/> Process Server <input checked="" type="checkbox"/> Electronic Delivery</p>
<p>Ted Buck, WSBA #22029 <a href="mailto:tbuck@freybuck.com">tbuck@freybuck.com</a> Karen Cobb, WSBA #34958 <a href="mailto:kcobb@freybuck.com">kcobb@freybuck.com</a> Frey Buck, PS 1200 5<sup>th</sup> Ave, Suite 1900 Seattle, WA 98101 Counsel for Officers Anderson and McNew</p>	<p><input type="checkbox"/> U.S. Mail (First Class and Certified) <input type="checkbox"/> Fax <input type="checkbox"/> Process Server <input checked="" type="checkbox"/> Electronic Delivery</p>

/s/ Kristin Michaud  
Kristin Michaud  
Kristinm@stritmatter.com