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**STATE OF WASHINGTON**  
**KING COUNTY SUPERIOR COURT**

Case No. 517IQ9301

INQUEST INTO THE DEATH OF  
CHARLEENA CHAVON LYLES,

Deceased.

REPLY IN SUPPORT OF MOTION TO  
DETERMINE IF THE FAMILY OF  
CHARLEENA LYLES CAN BE  
REPRESENTED BY ONE ATTORNEY

**I. INTRODUCTION**

The family of Charleena Lyles jointly files this Reply in support of the Motion to Determine if the Family of Charleena Lyles Can Be Represented by One Attorney. The Reply will consider each section outlined in the Response Brief, jointly filed by the City of Seattle and Officers Anderson and McNew (hereafter “Response Brief”). Sections 1, 2, 3, and 4 of this Reply Brief will, respectively, correspond to sections A [sic], 2, 3, and 4 of the Response Brief.

**II. LEGAL AUTHORITY**

**1. A conflict of interest may arise in an inquest proceeding**

The City and Officers’ response begins by asserting that, due to the narrow scope of the inquest as a fact-finding proceeding, it is impossible for a conflict of interest to exist.<sup>1</sup> However,

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<sup>1</sup> The response states, “the limited scope of an inquest cannot result in individualized favor or disfavor to any

1 this theory is inconsistent with their theory in the Response to Motion to Clarify Parties, which  
2 asserts that the impact of the inquest on potential prosecution decisions is germane to  
3 representation in the inquest proceeding.<sup>2</sup> Under the City and Officers' own reasoning, since the  
4 inquest can influence criminal prosecution decisions, the inquest does not just result in factual  
5 findings that "can provide no unique benefit or detriment to any particular participant or family  
6 member." *Response Brief* at 3. The inquest impacts both prosecution decisions and civil  
7 litigation, creating a conflict of goals between family members who support and might benefit  
8 from civil litigation and those who do not. As explained in the Family's original motion, the  
9 paternal side of the family has been involved in civil litigation and, as the custodians of Ms.  
10 Lyles's children, has a unique interest in how this inquest will affect civil litigation. This interest  
11 is not shared by Ms. Lyles's maternal family.

12 Additionally, the Response fails to account for what concurrent client representation  
13 actually looks like in practice. Concurrently represented clients must be able to come to  
14 agreement on all issues material to the representation in order to avoid a conflict under RPC  
15 1.7(a). When conducting a conflicts analysis it is essential that the attorney performing the  
16 analysis be certain that there will be alignment on all issues germane to the representation. A  
17 single conflict can force the attorney to withdraw, which dramatically impacts the clients'  
18 interests. Even if interests may seem to align, clients' relationship histories can prevent them  
19 from reaching agreement on even the simplest of issues. The Response is fairly dismissive of  
20 these histories, characterizing the potential inability of family members to reach agreement as  
21

22 participating entity or individual, because any particular answer to a particular factual inquiry by the inquest panel  
23 can provide no unique benefit or detriment to any particular participant or family member." *Response Brief* at 3. The  
24 motion goes on to explain that, "while they may well have disparate interests and rights in other arenas, for example  
25 civil actions, here the lone quarry [sic] is the truth of what happened as determined on objective evidence by the  
panel." *Id.* at 3-4.

<sup>2</sup> The City and Officers' Response states, "[T]he very nature of an inquest invokes the constitutional rights of the  
involved officers. A prosecutor may use the factual findings from such proceedings to support the filing of criminal  
charges against an officer." *City of Seattle and Seattle Police Officers' Response to Motion to Clarify Parties* at 1.

1 “individual peccadillos” *Response Brief* at 7. Potential causes for conflict stem from much more  
2 than individual peccadillos. We have not listed in detail the reasons for the deep divide within  
3 the family. Such an itemization would not further family counsels’ mutual goals of bridging the  
4 rift for the limited purpose of participating in the inquest process. As explained in the family’s  
5 original motion, family counsel have determined that “the identified maternal family members  
6 and Mr. Lyles would not be able to reach agreement on issues significant to the representation  
7 and would have difficulty communicating in the manner necessary for concurrent  
8 representation.” Motion to Determine if the Family of Charleena Lyles Can be Represented by  
9 One Attorney (hereafter “Motion”) at 1. Consequently, a conflict of interest exists under RPC  
10 1.7(a) and counsel cannot concurrently represent the paternal and maternal family of Charleena  
11 Lyles.

## 12 **2. The inquest order does not limit the family to one attorney**

13 The City and Officers next claim, without authority, that the family is “a single party  
14 entitled to representation.” *Response Brief* at 4. The Response Brief does not propose any  
15 authority to support this conclusion, beyond a citation to Conducting Inquests in King County,  
16 PHL-7-1-2-EO, Appendix 1, § 2.1 (2018) (Defining the participating parties to include “The  
17 family of the deceased, who shall be allowed to have an attorney(s) present.”). However,  
18 Appendix 1, § 2.1, by entitling the family to multiple attorneys, directly contradicts the  
19 conclusion that the family is only entitled to one attorney. Next, the Response Brief cites to  
20 Appendix 1, § 8.12 of the Executive Order, which has no bearing on this inquest, as no  
21 individual is represented by the King County Department of Public Defense (DPD).

22 The Response Brief then, seemingly, concedes that the family may have multiple  
23 attorneys, stating, “plainly, the family may have more than one attorney as long as those  
24 attorneys act in concert to avoid duplication, waste of time, excessive cost, furthering of agendas,  
25 etc., in pursuit of the narrow goal of the proceeding.” *Response Brief* at 5. Given that the

1 attorneys for the paternal and maternal family indicated in their original motion that they  
2 anticipated they would be able to work together on the vast majority of the issues in the inquest,  
3 it's unclear what the City and Officers' exact objection is to the proposed representation of the  
4 Family. *Motion* at 7-8.

5 **3. Separate representation of the family would not interfere with the orderly**  
6 **administration of the inquest proceeding**

7 The City and Officers next claim that separate family representation would result in  
8 "chaos" and "turn a mandated non-adversarial process into a family-upon-family conflict."  
9 *Response Brief* at 5-6. This statement belies the family's assertion in its original motion that it  
10 anticipated that all or nearly all motions would be jointly filed and that witness examinations  
11 would be coordinated (with one attorney conducting all or nearly all of the examination). *Motion*  
12 at 7-8. The paternal and maternal family anticipate that they will be able to coordinate  
13 representation throughout the vast majority of this proceeding, just like the separately-  
14 represented officers plan to do. In fact, the only way that this proceeding will devolve into  
15 family-upon-family conflict is if, as the City and Officers suggest, the family is forced to fight to  
16 determine who should be represented by a single inquest family attorney.

17 The Response Brief then goes on to stoke fears about issues that aren't relevant to this  
18 proceeding, suggesting that separate representation would open the King County Department of  
19 Public Defense to a potentially "unlimited draw on public defender resources premised upon  
20 familial infighting or conflicting interests in civil litigation." Such policy concerns are not only  
21 irrelevant to the facts of this case, but also stand in direct conflict with the intent of the King  
22 County Council, when it provided for the representation of multiple family groups in an inquest  
23 proceeding. In January 2018, the King County Council, which governs the authority of the King  
24 County Department of Public Defense, passed King County Ordinance 2018-0028, which

1 requires the King County Department of Public Defense to provide public defense counsel. The  
2 Revised Staff Report, created along with the ordinance, explains that the ordinance:

3 *“Allows DPD to provide separate legal counsel to each family member if family members*  
4 *have a conflict of interest as determined by the department under the state bar rules of*  
5 *professional conduct such that the same attorney should not represent more than one*  
6 *family member during the inquest process.”*

7 King County Ordinance 2018-0028 Revised Staff Report, 2018.<sup>3</sup>

8 Finally, the Response Brief restates its point from earlier in the section, suggesting that  
9 the family of Charleena Lyles is proposing a system where “a standard superior court courtroom  
10 could not accommodate the disparate groups.” Again, such concerns are irrelevant here, where  
11 only the maternal and paternal family are claiming separate representation, as required under  
12 RPC 1.7(a). Furthermore, counsel is planning to coordinate on all or nearly all aspects of  
13 representation. In fact, the concern that the Officers and City advance is actually more acute in  
14 the case of separate officer representation than separate family representation. While there is no  
15 known pending inquest with more than two family groups, the pending inquest into the death of  
16 Kyle Gray includes seven officers who shot the decedent, presenting the possibility of seven  
17 officers claiming separate inquest representation, should the officers choose to testify at the  
18 inquest. *Seven Police Officers Fired at Man Killed at Magnuson Park*, The Seattle Times, 15  
19 Dec. 2017.

#### 20 **4. The inquest rules provide for the separate representation of the family**

21 The Officers and City next return to the issue of DPD and again address the procedure for  
22 DPD representation of multiple clients, a topic unaddressed in the family’s original briefing and  
23 irrelevant to this inquest. The Response Brief then goes on to dismiss a potential constitutional

24 <sup>3</sup> This Revised Staff Report is available at: <https://mkcclegisearch.kingcounty.gov/View.ashx?M=F&ID=5728634&GUID=286EFC65-BFAF-4F9A-97EE-680944D9964C>. Although the language of the ordinance concerning the  
25 appointment of counsel was amended after the drafting of the staff report, the intent remained the same—for the Department of Public Defense to provide counsel to all family groups entitled to representation at an inquest proceeding. See Metropolitan King County Council Meeting, Comments of Councilmember Kohl-Welles at 1:12:16, available at: [http://king.granicus.com/MediaPlayer.php?view\\_id=4&clip\\_id=6877&meta\\_id=407392](http://king.granicus.com/MediaPlayer.php?view_id=4&clip_id=6877&meta_id=407392)

1 right to publicly-appointed counsel. This topic, similarly, was not briefed by the Family and is  
2 irrelevant to this case. Even if it were relevant, the U.S. Constitution would be the wrong place to  
3 look for such a right. The right to publicly-appointed counsel is found in King County Ordinance  
4 2018-0028, which, as explained previously, is intended to provide family member parties to the  
5 inquest separate counsel in the event of a conflict under the Rules of Professional Conduct.

6         The Response Brief then claims, without any relevant authority, that “the change in King  
7 County inquest rules was never intended to expand the scope of the inquest to address divergent  
8 interests of family members.” *Response Brief at 7*. However, the Brief then fails to address any  
9 changes in the King County Executive Order concerning inquests. Instead the brief cites caselaw  
10 and statutory authority that discuss the purpose of inquests. In addition to being irrelevant to the  
11 changes in the Executive Order and the family’s right to separate counsel, the cited statutes  
12 concern Washington inquest authority, generally, which looks much different around the state  
13 than in King County. Similarly, the cited cases concern the King County inquest process as it  
14 stood in the years 1994 and 2000, when the purpose of the inquest proceeding was significantly  
15 different than it is today.

16         The City and Officers then claim that the Family is attempting to expand the scope of the  
17 hearing well beyond its intended scope by “inserting issues that simply have no relevance to its  
18 mission.” It is unclear what these “issues” are, as the Response Brief fails to identify any issues  
19 raised by the family that seek to expand the scope of the inquest. Additionally, it’s unclear how  
20 the topic of inquest scope is relevant to a motion concerning RPC 1.7(a). The Response Brief  
21 then, again, claims that family attorneys must be limited to coordinated witness examination—  
22 something the family attorneys have already said they anticipate being able to do. The City and  
23 Officers subsequently assert that the two sides of the family and their counsel cannot get along  
24 and shouldn’t receive separate counsel because of that fact. The City and Officers cite no  
25 authority for this conclusion and, as explained previously in this motion, an inability to agree on

1 issues fundamental to representation is indeed a conflict under RPC 1.7(a) that compels separate  
2 representation. Furthermore, the fact that counsel for both parts of the family are working  
3 together closely and have jointly filed all relevant motions, suggests that counsel for the paternal  
4 and maternal family do, in fact, “get along.”

5 Finally, the Response Brief summarily concludes that the officers’ claim of separate  
6 counsel is irrelevant as to whether the family is entitled to separate representation since each  
7 officer is an individual party. Again, the Response Brief offers no legal authority to substantiate  
8 this conclusion. In fact, contrary to the assertion by the Officers and City, the Inquest Executive  
9 Order lists the law enforcement member(s) involved in the death as a single party in Appendix 1,  
10 § 2.2. With the exception of limiting counsel to officers who participate in the inquest, the  
11 language and construction of the paragraphs concerning officers and family as parties are  
12 identical. As a result, the fact that officers are claiming a right to separate attorneys is relevant to  
13 whether the family has such a right. Denying the family a right afforded to officers, when the  
14 governing rules are identical as to both parties, would amount to unequal and unfair treatment.

### 15 **III. CONCLUSION**

16 For the reasons outlined in this Reply and the Family’s original motion, an attorney  
17 cannot concurrently represent the maternal and paternal family of Charleena Lyles without  
18 violating RPC 1.7(a). The family of Charleena Lyles, thus, must be represented by two attorneys,  
19 who anticipate they will be able to work together on all or nearly all issues related to this inquest.  
20 Accordingly, the inquest should proceed forward with attorneys for the family providing  
21 representation within the constraints of RPC 1.7(a).

1 JOINTLY filed this 9<sup>th</sup> day of September, 2019.

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CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury according to the laws of the United States and the State of Washington that on this date I caused to be served in the manner noted below a copy of this document entitled **REPLY IN SUPPORT OF MOTION TO DETERMINE IF THE FAMILY OF CHARLEENA LYLES CAN BE REPRESENTED BY ONE ATTORNEY** on the following individuals:

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