



## King County

Department of Executive Services

### Inquest Program

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## INQUEST INTO THE DEATH OF CHARLEENA LYLES # 517IQ9301

### PRE-HEARING CONFERENCE ORDER for May 12, 2022

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

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The Administrator, having presided over the Pre-Hearing Conference (PHC) on May 12, 2022, and having heard from the parties, hereby orders the following:

- a. **Factual Scope:** The Family presented argument that the Factual Scope of the inquest should be expanded to include events prior to June 18, 2017, including an incident on June 5, 2017, where Ms. Lyles interacted with officers from the Seattle Police Department (SPD). Administrator Spearman previously set the Factual Scope for the Inquest Hearing in the Pre-Hearing Conference Order issued on October 30, 2019, which will remain the scope as follows:

Determining the scope of the factual aspect of the inquest is relatively straightforward. The interaction between Ms. Lyles and the Involved Officers commenced with her phone call to 911 at 8:55am on June 18, 2017, to report a burglary. The interaction concluded with the official determination of her demise at 10:18 am that same day. Thus, the factual scope of the inquest includes those two events and all the actions of the Involved Officers and Ms. Lyles that occurred between them that are related to her death. The Medical Examiner's investigation into the cause of death is also included within the factual scope. Similarly, SPD's forensic investigation into the incident is within the factual scope.

2. **Inquest Hearing Dates:** On April 12, 2022, the Inquest Program Manager informed all counsel that the Inquest Hearing in this matter would be heard starting on June 21 and continue through July 1, 2022. The Hearing will be held at the Clark Children & Family Justice Center located at 1211 East Alder Street in Seattle, Washington. On May 11, 2022, Counsel for the Involved Officers advised that one the involved officers is not available for two dates during the scheduled hearing (June 23 and 24). In light of the Family's and the City of Seattle's agreement to accommodate the officer's request, Administrator Spearman orders that the Inquest Hearing will take place between the dates of June 21 and July 6, 2022, from 9:00 a.m. to 4:30 p.m. The Hearing will be in recess on June 23, June 24, and July 4, 2022.
  - a. **Tech Walk Through:** The Inquest Program will make the Hearing space available for viewing and to test technology on the afternoon of June 15, 2022. The Inquest Program Attorney (IPA) will coordinate the time with all counsel.
  - b. **Jury Selection:**
    - i. **Juror Questionnaire** – Administrator Spearman will provide a draft of the Juror Questionnaire to the parties in approximately one week.
    - ii. **Jury Selection** – Jury selection will take place in the Zoom Webinar format. After the answers to the questionnaires are received, Administrator Spearman will propose to counsel the jurors he intends to excuse for hardship. Administrator Spearman intends to seat seven jurors for the Inquest Hearing. After initial hardships have been reviewed, the first seven of the remaining jurors will be considered. If any challenge to a juror is upheld by Administrator Spearman, that juror will be excused and the next juror will be seated until there are seven jurors selected for whom there are no sustained challenges for cause.
      1. **The Jury Selection Zoom Conference** normally takes place on Thursday afternoon prior to Inquest Hearing start date. The IPA will coordinate with counsel regarding scheduling.

3. **Hearing Logistics:**

- a. **Space for Represented Parties** – prior to the Inquest Hearing, Administrator Spearman will designate space within the hearing room for the represented parties. Counsel and parties will also have private areas to move to during breaks and the lunch hour.
- b. **Livestreaming** – The entire Inquest Hearing will be livestreamed by audio and/or video.
  - i. SPD has concerns for all officer witnesses if the proceeding is video livestreamed.
  - ii. The Involved Officers submitted a declaration from one of the Involved Officers outlining safety concerns and requests that the officers faces be blurred out in any livestream and the later uploaded video of the Inquest Hearing. Counsel for the Involved Officers also requests that Administrator Spearman issue an order that no person or media member can photograph or videotape the two involved officers during or in the activities surrounding the hearing.
  - iii. All counsel requested an opportunity to brief the issue of video livestreaming. Administrator Spearman indicated that this is an important issue to address. The parties will confer and set a briefing schedule and inform the IPA when the schedule is agreed.

4. **Witnesses:**

a. **Administrator Spearman's Preliminary Witness List:**

Jorge Cadena Chavez	SPD and Involved Officers will later file motions to limit the scope of this witness' testimony
Lhorna Murray	No objection from any party
Mary Ruffin	No objection from any party
Involved Officer Jason Anderson	No objection from any party
Involved Officer Steven McNew	No objection from any party
Officer Kieran Barton	No objection from any party
Officer Gabriel Ladd	No objection from any party
Officer Erick Schickler	No objection from any party
Officer Trent Schroeder	No objection from any party

FIT - Detective Dewey	No objection from any party
CSI - Sgt. Grinstead	The Family requested that Detective Biggs be subpoenaed in addition to Sergeant Grinstead and if Detective Biggs is not available, that the Family be permitted to introduce her deposition at the Inquest Hearing. Administrator Spearman will hear further from the parties on this issue at a later date.
General SPD Policy - Captain George Davisson	No objection from any party
General SPD Training - Lt. Nate Upton	No objection from any party
Taser Training/Policy – Officer Leroy Outlaw	The Family requested that Officer Kerry Zeiger (retired SPD) be subpoenaed and, if he is not available, that the family be permitted to introduce his deposition at the Inquest Hearing. Administrator Spearman will hear further from the parties on this issue at a later date.
Jason Abrahamson - Seattle Fire Department	No objection from any party
Steven Carruth - Seattle Fire Department	No objection from any party
Richard Harrison - Seattle Fire Department	No objection from any party
KCME Brian Mazrim, MD	No objection from any party

- b. **Family's Proposed Additional Witnesses:** Administrator Spearman requested that the Family provide in writing reasons why the Family requests Administrator Spearman call the following additional witnesses:

Former Chief Carmen Best Officer Oliver Murphy Lt. Dan Nelson - CIT Training/Policy
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Officer Derek Norton Sergeant Michael Shin Lt. Cory Simmons Sergeant David Sylvester Assistant Chief Tarrant SPD Officer Nathan Bauer SPD Officer Brandon Legg SPD Officer Davidson Lim Dee Hillis (Solid Ground) Gordon McHenry, Jr. (Solid Ground) Bellen Drake (Solid Ground)
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- c. **Experts Witnesses:** The Family proposed two expert witnesses:
- i. Jeremy Bauer – The Family indicates that Mr. Bauer would testify regarding the audio and video he has analyzed relating to this matter. The Family will provide a summary of this Mr. Bauer’s opinion, as well as a proposed stipulation by Monday, May 16, 2022.
    - a. The Involved Officers indicated that they intend to request to call a rebuttal witness if Mr. Bauer testifies.
  - ii. Dr. Whitehill – The Family indicates that Dr. Whitehill would testify about a forensic psychological autopsy of Ms. Lyles. The Family will provide a proposed stipulation from Dr. Whitehill’s report regarding Ms. Lyles’ mental health diagnoses, as well as a summary of Dr. Whitehill’s opinion by Monday, May 16, 2022.
  - iii. SPD objects to either expert testifying. SPD requests that all documentation provided to Dr. Whitehill be provided to all parties and the Administrator. SPD expressed concern that any permitted expert testimony will result in discovery requests, witness interviews and motions, which cannot be accomplished prior to the current Inquest Hearing date.
  - iv. The Family will provide a copy of the Protective Order from the civil litigation to all parties and Administrator Spearman.
  - v. All parties who receive documents from the Family will abide by the civil case Protective Order as well as the Protective Order entered in the Inquest matter.
5. **Physical Evidence:** Administrator Spearman orders the parties to advise SPD as far in advance as possible what items of physical evidence will be requested for the Inquest Hearing so that SPD can arrange for the items to be available.
6. **Stipulations:**
- a. **Officer Anderson’s Violation of Taser Policy and Discipline Proceedings –**  
The parties will stipulate to the admissibility of the Office of Police

Accountability report and the disciplinary action taken in relation to Officer Anderson. The Involved Officers will draft this stipulation and circulate it to the parties and will provide the agreed-upon version to the IPA.

- b. **Toxicology Results** – The parties will stipulate that there were no drugs or alcohol found in Ms. Lyles’ system at the time of her autopsy. The Family will draft this stipulation and circulate it to the parties and will provide the agreed-upon version to the IPA.
- c. **Training Modules** – The parties will work together to propose a list of the relevant trainings and will ask Administrator Spearman to make a decision regarding any trainings the parties cannot agree upon. Mr. Moore for the Family will submit this information to the IPA by May 19, 2022.
- d. **Mental Illness Diagnoses** – As indicated above, the Family will provide a stipulation and circulate it to the parties and will provide any agreed-upon version to the IPA. If the parties are unable to agree, the Family will inform the IPA as soon as possible, but no later than May 19, 2022.

7. **Additional Documents to be Prepared:**

- a. **Statement from Family** – The family will propose a short personal statement about Ms. Lyles to be read by Administrator Spearman during opening jury instructions by June 3, 2022.
- b. **From Administrator** – Proposed Instructions (Opening and Closing), Proposed Interrogatories, Proposed Policy Scope, and Proposed Juror Questionnaire will be sent to the parties for review and comment during the week of May 16, 2022. Proposed Training Scope will be sent to the parties after Administrator receives the proposed relevant trainings from the parties. Spearman informed the parties that he is not wed to his proposed instructions, interrogatories, and questionnaire – they truly are proposed – and he is very open to hearing feedback from the parties.
- c. **Use of Depositions from Civil Lawsuit** – Administrator Spearman will address at a later date the Family’s request to use the depositions from the Family’s civil lawsuit in the Inquest Hearing.
  - i. The Family should identify all portions of the depositions they wish to offer into evidence during the inquest for purposes other than impeachment. The Family indicates the primary reason for offering the depositions is due to witness unavailability. The Family also indicates that the Family would like to use, if necessary, the videotaped depositions for impeachment purposes during the officers’ testimony. The Administrator is inclined to allow use of the depositions for impeachment but expressed concerns that doing so via video may be cumbersome and time consuming. The Family will have an opportunity to show that this is not the case. The Administrator is less inclined to allow full use of depositions as provided in CR 32, but will provide the parties an opportunity to brief the issue before deciding.

- ii. SPD objects to the use of the videotaped depositions for any purpose and will brief it for the Administrator, if requested to do so.
- 8. **Weekly Check Ins:** parties will confer with the IPA as to whether weekly check in meetings would be helpful as the Inquest Hearing date approaches. This would be an opportunity for counsel and the IPA to address outstanding issues and needs and keep things moving forward in an efficient and collaborative way.
- 9. **Next PHC Date:** May 31, 2022, 10:00 a.m. – 12:00 p.m. via Zoom.

DATED: May 13, 2022

A handwritten signature in black ink, appearing to read 'M. Spearman', is centered within a light blue rectangular box.

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Inquest Administrator Michael Spearman