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IN THE STATE OF WASHINGTON
KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES

IN RE: THE INQUEST INTO THE
DEATH OF ISAIAH

No. 417IQ7199

CITY’S REPLY RE: SCOPE OF
INQUEST

I. INTRODUCTION

The Family’s response brief begins by assenting to the City’s request to limit the scope of discovery regarding training. However, the Family goes on to request entirely new additions to the scope discovery, none of which were included in their own initial briefing on the issue. The Family’s briefing does little to explain how any of the proposed additions are relevant to the purpose of the inquest – determining the facts and circumstances surrounding the death of Isaiah Obet – and the City respectfully requests the proposals be rejected.

II. REPLY ARGUMENT

A. SCOPE OF TRAINING

The Family initially assents to the City’s suggestion to delete reference to specific types of training as within the scope of discovery. Then, oddly, they request the specific list of trainings be replaced with an even longer, more specific list, to include

Any mandatory or discretionary specialized trainings related to: use of force, de-escalation, high risk individuals, (e.g. mental health crisis,

1 substance use), less lethal alternatives, factors in deployment of K-9, less
2 lethal alternatives to individuals with weapons, danger to third parties.

3 *Family's Response Brief*, 2:16-19. As the City has repeatedly made clear, we have already
4 disclosed all of Officer Nelson's training records, and have assembled for disclosure all the
5 City's internal records regarding training offered to police officers, and all of Officer
6 Nelson's K9 training records. Simply put, it is unnecessary to ask for any specific training
7 records, since all the records are already being provided. The City reiterates its request that
8 reference to specific training subjects be omitted in the Administrator's discovery order.

9 **B. ADDITIONAL SECTIONS SOUGHT BY THE FAMILY**

10 Next, the Family lists a variety of subjects it "seeks to add in addition to the
11 proposed order" regarding discovery. *Id.* at 2:23. Aside from the fact that none of these
12 suggestions were mentioned in the Family's initial brief on scope, there are several problems
13 with these proposed additions.

14 **1. Specific Issues Already Covered in General Production of Records**

15 First, each of the Family's suggestions simply seek to add more layers of specificity
16 to the general subjects identified in the Administrator's initial *Order*. As the City has
17 repeatedly made clear, such additional specificity is unnecessary and pointless, since the
18 City has already produced all records responsive the general subjects included in the initial
19 *Order*. For example, the City previously suggested removing reference to specific policies,
20 since it already disclosed the entire APD Manual, encompassing every policy to which APD
21 personnel are subject. In light of this complete production, it is unnecessary and illogical to
22 now seek discovery of all policies governing specific issues like "what remedial or
23 additional requirements are imposed to remain in good standing as a commissioned officer"
24 following some sort of discipline. *Family's Response*, 3:3-6. Any responsive policy has
25 already been produced.

26 **2. Psychological Records**

27 Next, the Family seeks all "APD policies and trainings ... [i]ncluding any and all

1 psychological records that include statement [sic] about the facts of the incident.” *Id. at 3:8-*
2 *11.* This request make little sense, as any existing “psychological record” related to this
3 incident is clearly not a subset of “APD policies and trainings governing Officer Nelson.”
4 *Id.* And even if there were any “psychological records” related to this incident, the Family
5 makes no attempt to establish any good-faith basis to believe such records would be in any
6 way relevant to a determination of the facts and circumstances surrounding the shooting of
7 the decedent.¹

8 **3. Use of Force and Prior Discipline Records**

9 Finally, the Family includes a single sentence suggesting the City be required to
10 identify every legal proceeding involving Officer Nelson and K-9 Koen, and produce every
11 use of force report, complaint, and inquiry involving Officer Nelson or his K9 partner.
12 Similar to the request for psychological records above, the Family offers no explanation,
13 analysis, or argument as to how such records have any potential relevance to the subject
14 matter of this inquest, or how such records could possibly lead to any admissible evidence in
15 the matter. It is clear the Family intends to make this inquest an adversarial proceeding to
16 establish some sort of liability or blame against Officer Nelson. However, it is equally clear
17 that such intent is in direct opposition to the explicit purpose of the inquest as outlined in the
18 applicable Executive Order:

19 The purpose of the inquest is not to determine whether the law
20 enforcement member acted in good faith or should be disciplined or
21 otherwise held accountable, or to otherwise find fault, or to determine if
the use of force was justified, or to determine civil or criminal liability.

22 *PHL-7-1-2-EO, App. 1, §2.3.*

23 The Family claims the request to drastically enlarge the scope is proper because there
24 is a distinction between discoverability and admissibility. While that distinction is true, it

25 _____
26 ¹ Traditionally, the only “psychological records” resulting from an officer-involved shooting is a “return to
27 work” letter from a department-approved psychologist. Such a letter does not include any analysis or other
private medical information; it simply states whether the officer is (or is not) approved to return to duty. The
City does not receive or maintain any other related psychological records.

1 has nothing to do with establishing any relevance of the records to this proceeding,
2 particularly in light of the clear language of the Executive Order. Prior uses of force, prior
3 investigations, and prior disciplinary proceedings are not, and never have been, discoverable
4 or relevant in inquest proceedings. The Family offers no argument or analysis as to why
5 such records should be discoverable here, and the City respectfully asks that the Family's
6 request be rejected.²

7
8 DATED this 28th day of October, 2019.

9
10 KEATING, BUCKLIN & McCORMACK, INC., P.S.

11
12 By: /s/ Andrew Cooley

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26 ² The City also notes the inherent irony in the Family's request for use of force records, given they previously
27 included a 14-page review of Officer Nelson's use of force history dating back to 2012. Clearly, they have
already obtained the use of force records by some method, despite their recognition that those records have not
been ruled discoverable here, and have not been produced in this proceeding.

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DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that on October 28, 2019, a true and correct copy of the foregoing was served upon the parties listed below via E-mail only, per agreement:

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DATED this 28th day of October, 2019, at Seattle, Washington.

s/ Tia Uy

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