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KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES
INQUEST PROGRAM

INQUEST INTO THE DEATH OF:

JASON SEAVERS.,

Deceased.

Inquest No.: 18IQ61954

INVOLVED OFFICER’S MOTIONS *IN LIMINE*

Noted for Consideration on April 17, 2023

ORAL ARGUMENT REQUESTED

I. RELIEF REQUESTED

Seattle Police Department Officer Erick Schickler (“Officer Schickler”) moves the Administrator for an order *in limine* precluding all parties, their witnesses, and attorneys from offering any evidence, making any comment, or asking any question relating to matters which are the subject of this motion. The following motions *in limine* are consistent with the mandates set forth in King County’s Executive Order PHL-7-1-5-EO “Conducting Inquests in King County” and the Washington rules of evidence.

II. MOTIONS

- 1. Exclude any questions regarding civil or criminal liability; also, questions that relate to elements of any crime that a party may believe is applicable to Officer Schickler’s acts.**

1 Any testimony about civil or criminal liability regarding this incident is outside the scope
2 and is irrelevant to the facts and circumstances of this case. See Order PHL-7-1-5-EO, ¶¶ 2.3;
3 11.1 (“It is not the purpose of this inquest to determine the criminal or civil liability of any
4 person or agency.”).

5 **2. Exclude portions of Officer Schickler’s Body Worn Video (“BWV”).**

6 Exclude all portions of Officer Schickler’s BWV other than 00:00:00-00:41:21 (AXON
7 BODY 2 X81173283). The other portions of the BWV should not be marked, played during the
8 inquest, or admitted. Officer Schickler’s involvement with Mr. Seavers ended at 41:21, and
9 additional footage will not help the jury determine the facts and circumstances of the case.
10 Instead, showing additional footage will cause undue delay, waste time, and expose later *Garrity*
11 protected statements/conversations that would confuse and impair the limited function of the
12 inquest. If any portion beyond 41:21 is shown to the jury, then Officer Schickler moves to extend
13 the footage to 42:15 to show him immediately administering first aid.

14 **3. Exclude images and video footage of Mr. Seavers’ body at the scene.**

15 The images and video footage of Mr. Seavers’ body are highly prejudicial, confusing, and
16 should be excluded. ER 403. Specifically, any media that shows officers extracting Mr. Seavers
17 from the vehicle or administering medical aid, or Mr. Seavers’ body exposed on the sidewalk
18 and/or by a white sheet should be excluded. See e.g., Seavers_J 002052; 2078.

19 Views of Mr. Seavers’ body shown at the scene provide no probative value other than his
20 location, which is not subject to dispute and is identified in other, non-prejudicial evidence, e.g.
21 Detective Abed’s testimony and his CSI report, see Seavers_J 002197; 2214 (images), and
22 witness testimony regarding the officers’ medical aid. All photos and video of Mr. Seavers’ body
23 at the scene are too inflammatory to be admissible under ER 403.

1 **4. Exclude portions of Officer Schickler’s statement and FIT report.**

2 Any questions regarding or alluding to these portions of Officer Schickler’s statement or
3 references to these portions in the FIT report should be excluded as they are beyond the factual
4 scope, would mislead the jury, are irrelevant, and any probative value would be vastly
5 outweighed by the risk of prejudice to Officer Schickler. ER 401, 402, 403. While no witness
6 should be questioned about any of Officer Schickler’s history, Officer Schickler requests these
7 sections be addressed by the Administrator and reference to them be prohibited for any purpose.:

8 A. Schickler’s Statement (Seavers_J 000669-70).

9 Page 2

10 **SCHICKLER:** No disrespect to the FIT Team, I respect you guys all, but that
11 level of detail is not gonna come to me right now. I’ve been in four
12 shootings and every single shooting, details like that have come
 back day after day after day. So those kinds of details right now are
 not in my head, so that’s probably not gonna be as detailed as you
 just.... Portrayed in that scenario.

13 **SIMMONS:** I understand that.

14 Page 3

15 **SIMMONS:** So.....

16 **SCHICKLER:** And when I say four shootings, three with this department, one in
 my previous department.

17 B. FIT Report / Force Investigation Captain Review

18 “2) This is Officer Schicklers [sic] fourth officer involved shootings [sic]. He appears
19 to be in a very excited state during and after the incident. The department should
20 research the cumulative effects of officer involved shootings for officers who are
21 involved in multiple incidents. Part of the research should focus on whether the
 department should transfer an officer permanently or temporarily to allow a break
 from the stress of working a patrol shift.” Seavers_J 000090; 001513.

22 **5. Exclude any mention of Officer Schickler’s retirement.**

23 Officer Schickler’s scheduled retirement is in no way connected to nor relevant to this
incident. Therefore, to avoid any speculation as to the reasons, any questions regarding Officer

1 Schickler's impending retirement should be prohibited. Questions should be limited to his duties
2 and assignments currently and in 2017-2018.

3 **6. Exclude hypothetical questions regarding SPD policy and training.**

4 The Administrator should exclude any efforts to utilize hypotheticals to identify either
5 compliance or non-compliance with SPD policy and/or training. The inquest process is to
6 evaluate whether the involved officer(s) complied with policy and training *under the factual*
7 *circumstances presented*. Whether a particular policy or training would have or should also apply
8 to a different situation or set of circumstances is irrelevant. While it is understood that examples
9 may be helpful when explaining policy and training, manipulating this incident's facts to elicit
10 specific testimony goes beyond the scope of the inquiry into this matter, elicits speculation, risks
11 confusing the factfinder, unfairly prejudices the parties, and would serve no legitimate purpose.

12 **7. Exclude questions eliciting testimony or evidence about what could have**
13 **been done differently by the IOs during the incident.**

14 The Administrator should exclude any evidence or testimony on what Officer Schickler
15 or other officers "could have" or "should have" done. For example, 'should you have waited
16 until a window was broken and then tased Mr. Seavers?'; 'should you have waited to use lethal
17 force until you saw a weapon in Mr. Seavers' hand?'; 'should you have retreated and taken cover
18 prior to using force?' Moreover, any questions about other officers' decisions not to use lethal
19 force to suggest lethal force was unnecessary is both irrelevant and highly prejudicial. Any
20 possible probative value would be substantially outweighed by the danger of unfair prejudice.
21 ER 403. Further, this line of inquiry addresses perspectives that were different than Officer
22 Schickler's and invites speculation premised upon 20-20 hindsight.

23 //

1 **8. Testimony and evidence should be limited to exclude any reference to**
2 **Garrity statements.**

3 That any officer received a *Garrity* order and/or any explanation of the purpose and intent
4 behind *Garrity* is outside the scope of the process. In particular, Detective Simmons, as a FIT
5 investigator and not an attorney, cannot appropriately opine on the nature of *Garrity* statements;
6 this goes beyond the scope of his role and the scope of this inquest. See PHL-7-1-5-EO, Appx. 2,
7 ¶ 12.3. Moreover, any possible probative value would be substantially outweighed by the danger
8 of unfair prejudice to Officer Schickler or other officers providing *Garrity* statements pursuant to
9 the terms of their employment, an issue over which they lack control. ER 401, 403. Any mention
10 regarding whether SPD Chief Diaz ordered Officer Schickler to testify should be precluded. In
11 that same vein, Officer Schickler should not be questioned regarding his willingness to provide a
12 voluntary statement during his FIT interview.

13 **9. Exclude any testimony or evidence of any officer’s past discipline, reprimand,**
14 **unrelated use of force, or other incidents.**

15 In order for disciplinary history and unrelated use of force incidents to be admissible, it
16 must be “directly related” to the use of force in this case. See PHL-7-1-5-EO, ¶ 4.6.

17 “The disciplinary history of the law enforcement member(s) involved may not be
18 introduced into evidence unless the administrator first determines that it is directly related
19 to the use of force. If such information is admitted, it must be limited to the greatest
20 extent possible.”

21 *Id.*

22 Additionally, evidence of this type is improper under ER 404(b), which prohibits
23 evidence of other crimes, wrongs, or acts “in order to show action in conformity therewith.” ER
404(b). Since evidence of a prior officer involved incident or inquest could only be offered to
show action in conformity with alleged bad acts, the evidence is inadmissible. Last, such
evidence would serve no purpose in clarifying the facts in this case and would require mini trials

1 of the incidents involved to explain the circumstances and perspective of the events. The
2 extraordinarily limited value of such evidence, if any, would be vastly outweighed by the
3 prejudice the evidence would present.

4 Officer Schickler seeks to merely confirm the Administrator's previous oral ruling
5 prohibiting this sort of evidence. See February 17, 2023, Pre-Hearing Conference recording (at
6 time 1:14:23-1:15:35). Additionally, the Administrator ruled that "[c]ounsel are instructed not to
7 ask any questions designed to elicit any information pertaining to Officer Schickler's prior
8 shootings. Counsel should instruct any witness with knowledge of such events that reference to
9 them has been exclude [sic]. No admitted exhibit should contain any reference to those
10 shootings." See email correspondence on March 21, 2023, at 12:58 p.m. from Matthew Anderson
11 (DES) (emphasis excluded). Allowing such evidence would be distracting to the jury and is
12 outside the scope.

13 **10. Exclude any testimony or evidence referring to any complaint, internal**
14 **investigation, or any other lawsuit/inquest involving any involved or**
15 **testifying officer.**

16 While it does not appear any party plans to reference any unrelated complaints, internal
17 investigations, lawsuits, or prior inquests involving Officer Schickler, he moves to exclude
18 reference to them because such evidence is not relevant, will confuse the jury, is unduly
19 prejudicial, consists of inadmissible evidence of alleged prior bad acts, and is inadmissible as
20 evidence of subsequent remedial measures. See ER 403, 404(b), 407. First, such evidence is not
21 relevant in the instant matter as it has no tendency to make any fact at issue more or less
22 probable and has no bearing on any issue of consequence in this matter. ER 401. Second, it
23 would confuse the jury. ER 403. Third, evidence of this type is improper under ER 404(b), which
prohibits evidence of other crimes, wrongs, or acts "in order to show action in conformity

1 therewith.” ER 404(b). Since evidence of previous complaints could only be offered to show
2 action in conformity with alleged bad acts, the evidence is inadmissible. Finally, evidence of any
3 other lawsuits or inquests involving any other officers testifying at trial should also be excluded.

4 **11. Exclude questions regarding the following subjects:**

5 A. Questions to Det. Simmons regarding what could have been done differently regarding
6 his investigation.

7 Detective Simmons should be protected from speculating about what he would have done
8 differently in his investigation, what he believes he missed, and what he would potentially do
9 differently. The Order requires that the designated agency representative provide “[a]
10 comprehensive overview of the forensic investigation into the incident (e.g., statements collected
11 by investigators, an investigators’ review of forensic evidence, physical evidence collected by
12 the investigators, etc.)” PHL-7-1-5-EO, ¶ 12.3. Anything beyond this exceeds the scope of the
13 inquest.

14 B. Questions regarding the thoroughness of SPD’s investigation into the shooting or
15 subsequent post-incident steps taken by SPD.

16 The Administrator should exclude reference, testimony, or evidence about the
17 thoroughness of SPD’s investigation; moreover, any post-incident training/policy changes that
18 took effect.

19 **12. Exclude any questioning about what officers are permitted to do under the**
20 **law.**

21 The Administrator should exclude any line of questioning that seeks information as to
22 what officers are permitted to do under the law. This type of questioning requires witnesses to
23 make legal conclusions; it is impermissible and irrelevant. See ER 401, 402. “It is the duty of the
court to instruct the jury as to the law and it is the duty of the jury to follow the law as it is laid

1 **CERTIFICATE OF SERVICE**


2 The undersigned certifies under penalty of perjury under the laws of the State of
3 Washington that on the date indicated, they caused to be served in the manner noted below, a
4 copy of the foregoing document on the following individuals:

5 Inquest Program Attorneys [] Via Facsimile
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20 DATED this 10th day of April, 2023, at Seattle, Washington.

21 
22 _____
Karina Martin, Paralegal