



KING COUNTY SHERIFF'S OFFICE
516 Third Avenue, W-116
Seattle, WA 98104

Mitzi G. Johanknecht
Sheriff

February 10, 2020

The Honorable Claudia Balducci
Chair Of The Council

The Honorable Girmay Zahilay
Law and Justice Committee Chair

The Honorable Kathy Lambert
Law and Justice Committee Vice Chair

Room 1200
King County Courthouse

Re: KCSO Response to OLEO Report from OIR Group

Dear Councilmember Balducci, Committee Chair Zahilay, and Committee Vice Chair Lambert:

Normally, I would want to make myself and my personnel available to discuss Office of Law Enforcement Oversight's (OLEO) proposals, as we have with respect to other issues, such as reporting of force and complaint classifications for internal investigations. However, the OLEO has set this matter during a time when I am out of town, on a project that was scheduled long before I learned of the Council's plans for release of this report. Even if I were provided sufficient notice, I would be limited in my remarks, due to the timing of this discussion. I note that recommendations here are narrowly focused on this particular event, rather than the general King County Sheriff's Office (KCSO) force policy and practices. The KCSO, in collaboration with OLEO, revised its force policy in 2019 and these revisions are the subject of an upcoming discussion before the Law and Justice Committee on February 25, 2020.

First, I want to make clear that the Sheriff's Office understands and acknowledges the importance of oversight. However, the KCSO leadership is also mindful of the need to proceed with oversight in a way that does not violate the rights of our commissioned personnel and which utilizes the process available

for resolving disputes like the one presented by this report. Ideally, the oversight discussion is collaborative, rather than adversarial. Imposing an opinion or belief without using the well tested collective bargaining process severely undermines collaboration and creates a lack of trust. Until recently, the OLEO had conducted its systemic reviews in accord with the plain language of the King County Code and in keeping with past practice. It is challenging to work in an environment where these long standing concepts are disregarded.

Second, because of the timing and the way in which this report was prepared, we feel constrained in the ability to respond. The issues raised in this report are the subject of civil litigation and must be addressed in that process, in context, and with all the relevant information considered. This report is based on partial facts, and because of that, contains conclusions that are not factually supported. It also incorrectly implies there is a consensus in the scientific community regarding the most effective timing of collecting involved officer statements after a critical incident, and it recommends an approach that is contrary to agreements with our members. It is not appropriate for the KCSO to try its case before the Council, or in the press, and we respectfully decline to engage in that kind of discussion. Should the Council wish to hear from the KCSO when litigation has concluded, we will be happy to provide a more complete response to this report. This timing would be more consistent with the way disputed legal claims were handled in the past.

Third, the KCSO understands the importance of transparency and is not trying to keep information from view of anyone who is interested in the details relating to the incident. For those of you who are not familiar with how we examine an incident that results in the use of force and loss of life, there are several key steps taken.

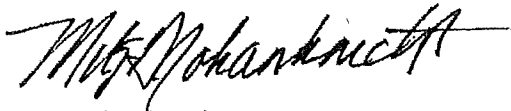
The first step is a complete investigation of the facts, which are ultimately presented to the King County Prosecutor, who evaluates whether that information serves as a basis for any criminal charge against involved officers. Historically, that charging decision follows an administrative review conducted by the KCSO that looks at policies, practices and whether any changes in either should be considered. When that is done, there is a separate force review board hearing, where all available information is considered and the KCSO leadership, with OLEO present, discusses the incident and determines whether the use of force is consistent with the actions of a reasonable law enforcement officer, given the totality of the circumstances, known to the deputy at the time of the event. This force review board found the use of force by all involved KCSO personnel was appropriate. Additionally, there is an inquest hearing where a jury evaluates a number of questions, including whether the involved deputies believed that Dunlap-Gittens posed a threat of death or serious injury at the time they fired their weapons. The jury members are citizens, not law enforcement personnel. In this case, the jury found that all three involved officers feared death or serious injury when they fired their weapons. (see attached jury findings).

Finally, I want the Council to know that the KCSO is constantly considering ways of improving policy and processes. The past year brought significant changes to the KCSO force policy and focused discussion on other policy revisions which are nearing completion now. There is usually room for improvement and the KCSO is open to considering and implementing policy changes that improve the organization and benefit the people served by the KCSO. It is important to note that some of the suggestions presented by OLEO are accepted and included in revised policy; some of the proposals may require negotiation

with the impacted unions and we do not have authority to unilaterally impose; and there are sometimes suggestions that do not make sense for our agency. It is important to use the processes available to revise and refine policy.

As we do so, we will continue to honor our obligation to represented employees who expect that we work with them on significant changes to working conditions. We respectfully request that other County partners do the same and promote a collaborative approach to the work that is needed to effect change.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mitzi G. Johanknecht', with a stylized, cursive script.

Mitzi G. Johanknecht
SHERIFF

- cc: King County Councilmembers
- Rod Dembowski (District 1)
 - Reagan Dunn (District 9)
 - Jeanne Kohl-Welles (District 4)
 - Joe McDermott (District 8)
 - Pete von Reichbauer (District 7)
 - Dave Upthegrove (District 5)

Attachment:

- Inquest Jury Interrogatories

Answered
As filed

INQUEST INTO THE DEATH OF MI'CHANCE DUNLAP-GITTENS

COURT'S INTERROGATORIES TO THE INQUEST JURY

1. On January 27, 2017, were detectives from the King County Sheriff's Office investigating persons of interest in a homicide that had recently occurred in King County?
Yes 6 No _____ Unknown _____
2. Was one of those persons of interest Da' Johntae Richard?
Yes 6 No _____ Unknown _____
3. Was one of those persons of interest Mi'Chance Dunlap- Gittens?
Yes _____ No 6 Unknown _____
4. Were King County Sheriff's Office Detective Sergeant Todd Miller, Detective Joseph Eshom, and Detective Jonathan Reed Jones part of an operation to detain Mr. Richard?
Yes 6 No _____ Unknown _____
5. Was the operation a ruse to purchase liquor bottles from Mr. Richard, in part, to investigate him as a person of interest in a homicide investigation?
Yes 6 No _____ Unknown _____
6. During this operation, were Detective Sergeant Miller, Detective Eshom, and Detective Jones all wearing tactical vests identifying themselves as law enforcement officers?
Yes 2 No 4 Unknown _____
7. Did undercover King County Sheriff Office Detective Valerie Kelly and Detective Chris Przygoocki ride or drive in an unmarked minivan to the 21600 block of 29th Ave S., Des Moines, Washington, as part of this operation?
Yes 6 No _____ Unknown _____

8. Were Detective Sergeant Miller, Detective Eshom, and Detective Jones riding in the back of this minivan?

Yes 6 No _____ Unknown _____

9. At around 10:30 p.m., did two males approach the minivan?

Yes 6 No _____ Unknown _____

10. Were the males that approached the van Da'Johntae Richard and Mi'Chance Dunlap-Gittens?

Yes 6 No _____ Unknown _____

11. At some point while the males were approaching, did Detective Sergeant Miller believe that one of the male's approaching appeared to be Mr. Richard?

Yes 6 No _____ Unknown _____

12. When the males neared the minivan, did Detective Sergeant Miller open the minivan door?

Yes 6 No _____ Unknown _____

13. When the minivan door first opened, did one or more officers give verbal commands to the effect of "Sheriff's Office," "Police," or "Get on the ground?"

Yes 6 No _____ Unknown _____

14. As Detective Sergeant Miller began exiting the minivan, did he see what appeared to be a firearm in Mr. Dunlap-Gittens hand?

Yes 6 No _____ Unknown _____

15. Did Detective Sergeant Miller see Mr. Dunlap-Gittens raise what appeared to be a firearm in the direction of the detectives?

Yes 6 No _____ Unknown _____

16. Did Detective Eshom see Mr. Dunlap-Gittens raise what appeared to be a firearm in the direction towards the detectives?

Yes 1

No

Unknown 5

17. Did Detective Jones see Mr. Dunlap-Gittens pull out what appeared to be a firearm in the direction of the detectives?

Yes 6

No

Unknown

18. When Detective Sergeant Miller saw what he believed to be a firearm, did he brace himself because he thought he was going to be shot?

Yes 1

No 5

Unknown

19. Did Mr. Dunlap-Gittens fire his firearm at or towards the detectives?

Yes

No 6

Unknown

20. Did Detective Sergeant Miller fire his service weapon at Mr. Dunlap-Gittens?

Yes 6

No

Unknown

21. At the time Detective Sergeant Miller first fired his service weapon, did he believe that Mr. Dunlap-Gittens presented a threat of death or serious bodily injury to himself or others?

Yes 6

No

Unknown

22. Did Detective Jones believe that Detective Sergeant Miller had been shot?

Yes 6

No

Unknown

23. Did Detective Eshom believe that Detective Sergeant Miller had been shot?

Yes 6

No

Unknown

24. After the first shot, did Detective Sergeant Miller give commands to drop the gun?

Yes 6

No

Unknown

25. Did the detectives observe Mr. Dunlap-Gittens turn and begin to run up a driveway?

Yes 6 No _____ Unknown _____

26. Did Mr. Dunlap-Gittens still appear to have a gun in his hand as he ran?

Yes 5 No _____ Unknown 1

27. Did Mr. Dunlap-Gittens appear to look back at detectives as he ran?

Yes 5 No _____ Unknown 1

28. Were detectives concerned with the elevated position Mr. Dunlap-Gittens was running towards?

Yes 6 No _____ Unknown _____

29. Did Detective Eshom fire his service weapon at Mr. Dunlap-Gittens?

Yes 6 No _____ Unknown _____

30. At the time that Detective Eshom fired his service weapon, did he believe that Mr. Dunlap-Gittens presented a threat of death or serious bodily injury to himself or others?

Yes 6 No _____ Unknown _____

31. Did Detective Jones fire his service weapon at Mr. Dunlap-Gittens?

Yes 6 No _____ Unknown _____

32. At the time that Detective Jones fired his service weapon, did he believe that Mr. Dunlap-Gittens presented a threat of death or serious bodily injury to himself or others?

Yes 5 No _____ Unknown 1

33. Was a 9 mm Hi Point pistol found near the feet of Mr. Dunlap-Gittens after he had fallen in the driveway?

Yes 6

No

Unknown

34. Did Mr. Dunlap-Gittens die on January 28, 2017, at Harborview Medical Center in Seattle, King County, Washington?

Yes 6

No

Unknown

35. At the time of his death did Mr. Dunlap-Gittens have 8.8 +/- 2.3 ng/mL of active THC in his system?

Yes 6

No

Unknown

36. Did a gunshot or gunshots from the detectives who fired their service weapons cause the life-ending injury to Mr. Dunlap-Gittens?

Yes 6

No

Unknown

DATED this 13th day of October, 2017.

[Signature]
Presiding Juror

[Signature: Herbert O. Anderson]
Juror

[Signature]
Juror

[Signature: Michael A. Davis]
Juror

[Signature]
Juror

[Signature: William J. Smith]
Juror

DANIEL T. SATTERBERG
PROSECUTING ATTORNEY



Office of the Prosecuting Attorney
CRIMINAL DIVISION
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November 14, 2017

Attention:

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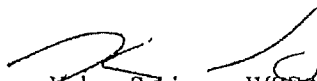
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1901 Jefferson Avenue, Suite 304
Tacoma, WA 98402

Dear Counsel:

Please let this serve as notice to all of the parties involved in the Inquest into the Death of Mi'Chance Dunlap-Gittens. As the deputy prosecuting attorney that assisted the court during the hearing, I'm writing to inform all of you that the King County Prosecuting Attorney's Office has declined to file criminal charges against King County Sheriff Officers Todd Miller, Joseph Eshom, and Jonathan Reed. Please contact me if you have any additional questions.

Sincerely,


Kelsey Schirman, WSBA#41684
Deputy Prosecuting Attorney