

News Release

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Solicitor Wilson's Statement Regarding Coroner's Decision Not to Seek Warrants in the Death of Elijah Washington

The killing of Elijah Washington is extremely disturbing. A child's death has a profound effect on families and our community and this is especially true when the death is at the hands of another. Many, including the Solicitor's Office, have felt the heartbreak of knowing that Elijah died from abuse. As prosecutors, however, we cannot allow emotions to trump facts and evidence. It is as much our duty to refrain from tactics that may produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

Our appellate courts have over-turned child death cases where more than one adult was present during the interval of injury but there was no testimony to prove which adult caused the injury. The argument that all adults merely present around the time of an injury should bear *legal* responsibility for the death of a child is simply not a lawful option when there is no additional evidence. In this case, Elijah was exposed to several people who could have inflicted the pre-existing injuries *and* the fatal blow.

We appreciate the Coroner's sincere desire to hold someone responsible for Elijah's death. But the Inquest testimony lacked the reliability the community expects in our criminal justice system. While it's true, an inquest is not necessarily a criminal proceeding, if an inquest were used to justify and obtain warrants for a person's arrest, it should be able to withstand scrutiny. We understand that the statutes related to inquests give a coroner broad discretion and authority. But just because an official has the power to act does not mean they should act; especially when they have information undermining their conclusions. **The Coroner made the correct decision not to seek an arrest based on the inquest.**

In criminal cases, the legal standard to issue a warrant is probable cause. The legal standard for a criminal conviction is proof beyond a reasonable doubt. There is no threshold level of proof for an Inquest Jury's implication. *Let me repeat: there is no burden of proof for "implication" by a coroner's jury. It is frightening to imagine an arrest rooted in an implication, especially in the face of so many questions.*

After originally receiving this case for prosecution in 2013, my office continued to investigate. It was clear to us that three adults had the most access to baby Elijah: his mother, Brittney Hartwell, his grandmother Marty Dixon, and his grandmother's boyfriend Bryan Seabrook. On more than one occasion, we shared with the Coroner the facts we gathered and their inevitable conclusions: those three adults were both together and alone with the child during the time frame of his last injury. No one admitted witnessing (or committing) the blow that caused the fatal injury.

Before his death, Elijah had a history of prior unexplained injuries which neither the Department of Social Services nor law enforcement was ever able to determine were *inflicted*. Many of the injuries were vague and diffuse and the symptoms of the abuse may have masked as an illness causing vomiting and fever. In fact, a doctor saw Elijah on December 20th and December 29th in 2012, for various symptoms but the inflicted *internal* injuries were not detected. Law enforcement was called on the 29th and began an investigation into other injuries (bruising and a broken bone). The investigation focused on Elijah's mother, Brittney Hartwell, but law enforcement closed that investigation with a finding of "accidental injury." It was only at autopsy that medical experts determined that Elijah had suffered from prior inflicted injuries (versus illness or accidental bruising). Dr. Schandl, who performed the autopsy, determined these prior injuries could have weakened Elijah to the point that even a *minor blow* could have caused the fatal mesenteric hemorrhage. Such a minor blow could have been caused innocently, even by another child.

Finally, we searched the phone records of Bryan Seabrook and Marty Dixon's cell phones and cell tower information and text messages were obtained. This information made it clear that Bryan was not home all day (during the window of the final injury) and was not the only adult alone with Elijah. This information is especially important since Bryan was referred to as the "caregiver" throughout the trial but this information was not presented to the Inquest jury.