



King County

Department of Executive Services

Inquest Program

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PRE-INQUEST CONFERENCE ORDER

**INQUEST INTO THE DEATH OF ISAIAH OBET
INQUEST # 517IQ9301**

PARTIES:

- Family of the decedent: Represented by Amy Parker
- Law enforcement officer: Auburn Police Department Officer Jeff Nelson, not present, has declined to participate
- Employing government department: Auburn Police Department (APD), represented by Andrew Cooley, Steve Gross, and Kendra Comeau, Chief Bill Pierson present
- Administrator: Michael Spearman assisted by Matt Anderson

The Administrator, having presided over the Pre-Inquest Conference on November 8, 2019 and having heard from the parties, hereby orders the following:

1. **Next pre-inquest conference:** The next pre-inquest conference is scheduled for January 17 at 9:00 a.m., 2020 at 9:00 a.m., in a courtroom to be determined.
2. **Inquest date:** The date of the inquest is hereby schedule for March 25, 2020 at 9:00 a.m. at the King County Courthouse, E-854. (Monday through Friday). All parties shall reserve two weeks of their schedules (through Tuesday, April 7, 2020).
3. **Officer Participation.** Officer Nelson was initially notified of this inquest through Alan Harvey, the attorney that entered a notice of appearance on his behalf in the related proceedings under District Court under Cause # 417IQ7199. The Inquest Attorney

conversed telephonically and by email in order to determine if Ofc. Nelson would participate. Neither Mr. Harvey nor Officer Nelson appeared at the first Pre-Inquest Conference on September 10, 2019. A letter was served on Officer Nelson and Mr. Harvey via legal process October 9, 2019 informing the Officer of the Inquest, inviting him to participate, and informing him that if he did not respond by October 21, 2019 the Administrator would conclude that he had declined to participate. No response was received, and a Notice of Appearance has not been entered on his behalf. APD Chief Pierson confirmed at the Pre-Inquest Conference that Ofc. Nelson had been Appointed Counsel. Mr. Culumber confirmed that Mr. Harvey was the Attorney appointed.

Based on the foregoing, I conclude that Officer Nelson has elected not to participate. The Inquest Attorney will continue to forward the orders executed in this inquest and notice of future hearings to Ofc. Nelson via Mr. Harvey.

The IA is considering presenting Officer Nelson's compelled statement to the panel. Any party objecting shall provide briefing as provided below.

4. **Discovery Status:** APD informed the parties that it has voluntarily produced all information under its control requested under Section 4 of the September 10, 2019 Pre-Inquest Conference Order in this matter.¹ APD informed the parties that it possesses but has not produced medical records related to Ofc. Nelson's return to work after this matter and objects to the production of such records on relevancy and privilege grounds. If the Family wishes to compel the production of the records, they shall file appropriate motions to compel according to the briefing schedule indicated below.
5. **Policy and Training Testimony:** APD indicated that Chief Pierson will testify re: APD Policy and Training at the Inquest hearing. He has agreed to an interview to allow the parties to prepare for the inquest and subject to reasonable limitations. The parties will coordinate to arrange the interview at an appropriate time and subject to reasonable limitations.
6. **Officer Witness and Investigating Agency Discovery:** Any request for interviews or follow up from witness officers or investigating agencies including requests by any party for independent analysis of items in the possession the forensic investigator must be made through the IA. The IA, through the inquest attorney, stands ready to coordinate with the parties to ensure that each party has access to all information required to represent their clients in this inquest. To the extent that there is an objection to such a request, the inquest attorney will seek consensus or schedule briefing to resolve the issue.
7. **Proposed Scope of Inquiry:**

Criminal Liability: The Family's request to allow testimony concerning and interrogatories concluding whether the killing of Isaiah Obet was criminal is denied.

¹ APD indicated that as of the day of the hearing, they have produced Ofc. Nelson's complete training file, all documentation of any in-house trainings provided by Auburn PD from 2009 – 2019, a WSP firearm report, an electronic copy of the Valley Investigative Team investigation into this incident and all video and audio recordings (Including in-car COBAN recordings) APD possesses related to this incident.

RCW 36.24.070 provides that the panel shall render a verdict “setting forth who the person killed is . . . and when, where and by what means he or she came to his or her death; or if he or she was killed, or his or her death was occasioned by the act of another by criminal means, who is guilty thereof, if known.” Although the use of the word “guilty” in the statute creates ambiguity regarding whether such an inquiry could be allowed, the Executive Order is clear: “The purpose of the inquest is not . . . to determine civil or criminal liability.” Executive Order, App. 1, sec. 2.3. This tribunal has no more power than that given it by the Executive and cannot go beyond its terms.

Factual and Policy/Training: A scope of inquiry was proposed in the last Inquest Order. The Family requested additional time to address the scope of factual inquiry as well as Policy and Training. These matters will be determined at the next inquest hearing after briefing as scheduled in Section ___ of this order, below.

8. Live Streaming and Proposed Media Order – Pre-inquest conferences have been audio recorded. The Administrator proposes that the inquest proceedings be live-streamed and that the attached Media Order govern recording at the inquest hearing. The administrator invites comments, objections and requests from any concerned party, media organization or person at the next Pre-Inquest Conference. Written submissions, if any, as provided below.

9. Schedule:

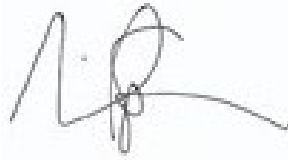
a. The parties shall provide briefing on the following matters:

- i. Family Motion for subpoenas for Medical Records and Deposition of Chief Pierson:** The family shall provide their motion by December 13, 2019. Responses due by January 3, 2020. Reply, if any, by January 10, 2017.
- ii. Scope of Inquiry – Factual** – Parties shall provide their positions on the factual scope of inquiry December 13, 2019. Responses due by January 3, 2020. Reply, if any, by January 10, 2017.
- iii. Scope of Inquiry – Policy and Training.** APD has already briefed this. Family response due by January 3, 2020. Reply, if any, by January 10, 2017.
- iv. Statements by Officer Nelson:** Any party objecting to admitting Officer Nelson’s *Garrity* Statement shall provide objections with reasons therefore by December 13, 2019. Responses shall be provided by January 3, 2020. Replies, if any, by January 10, 2020.

b. Expert Declarations: The Family shall declare any expert witnesses they intend to call, together with the information required under Civil Rule 26(a)(5)(a)(i), by December 31, 2019.

c. Comments on the Proposed Order Governing Camera and Recording Devices: Objections, comments or requests related to the Order Governing Camera and Recording Devices, attached to this order and published on the Inquest Website at <https://www.kingcounty.gov/services/inquest-program/current/417IQ7199-obet.aspx>, by December 20, 2019. Any submissions provided by persons not a party to this inquest shall be provided via email to Inquests@kingcounty.gov.

DATED November 15, 2019

A handwritten signature in black ink, appearing to be 'M. Spearman', written on a light blue background.

Michael Spearman
Administrator