



**King County**

Department of Executive Services  
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**PRE-HEARING CONFERENCE ORDER**

**INQUEST INTO THE DEATH OF ROBERT LIGHTFEATHER  
INQUEST # 17IQ16588**

**PARTIES:**

Family of the Robert Lightfeather:	Represented by Teri Rogers Kemp
Law enforcement officers:	Federal Way Police Department Officers Tyler Turpin and Austin Rogers, represented by Thomas Miller and Ann Trivett
Employing government department:	Federal Way Police Department, represented by Thomas Miller and Ann Trivett
Administrator:	Robert McBeth, assisted by Matt Anderson

The Inquest Administrator (IA), having presided over a Pre-Hearing Conference on May 31, 2022, hereby orders the following:

- 1) Inquest date:** The inquest hearing in this matter is scheduled to commence on Monday, August 22, 2022 with testimony to run until Friday, August 26, 2022. The parties shall be available for possible jury deliberation until Tuesday, August 21, 2022. The daily schedule will be from 9 a.m. - Noon and 1:30 p.m. – 4:30 p.m. each day, with breaks at 10:45 a.m. and 2:45 p.m.. Exceptions to this schedule will be determined by the IA as needed to accommodate witness schedules and ensure the clear presentation of evidence. The parties shall be present for a jury selection hearing on Tuesday, August 16, 2022, from 1:00 – 2:00 p.m..

- 2) **Date of next Pre-Hearing Conference** – A Pre-Hearing Conference will occur on June 16, 2022 from 8:45 a.m. to 9:45 a.m. via Zoom (link to be made available at [Inquest 17IQ16588 - King County](#) three days prior to the date of the hearing).
- 3) **Interviews** – The parties will make best efforts to schedule the interview of the King County Medical Examiner and Assistant Chief Kyle Sumpter by May 17, 2022.
- 4) **Witness list:** The following witnesses will be subpoenaed to testify:

Joseph Kangethe	FWPD Ofc Jeffery Otto
Warren K Nyanjui	FWPD Ofc S Winnings
Derrick Mendiola	FWPD Ofc William Lemmon
Sharon Mendiola	FWPD Ofc R. Blackshear
Curtis Phillips	FWPD Ofc H. Brehm
Heidy Wells	FWPD Ofc Raymond R Bunk
Mark Wilkie	Assistant Chief Kyle Sumpter
FWPD Ofc. Rogers	Kent PD Det. Matt Lorette
FWPD Ofc. Turpin	KCME Timothy Williams, M.D.
FWPD Ofc. Nicholas Lara	Renton PD CSI Witness (TBD)

**Kristin Maury and Kyle Davis: Reserved** until after briefing as scheduled in section 12, below.

**CSI Detective: Reserved.** There was no lead CSI detective and Det. Lorette had limited involvement in the CSI investigation. The parties will coordinate re: determining which witnesses will provide testimony relating to the CSI investigation.

Counsel for Federal Way Police Department (FWPD) will accept service and coordinate scheduling of FWPD employees.

- 5) **Factual scope** - The factual scope of inquiry begins as Robert Lightfeather’s vehicle pulled up next to Joseph Kangethe and continues until Mr. Lightfeather’s body was turned over. It includes initial scene control engaged in by the Federal Way Police Department. Each witness included in the witness list may testify to any observations made during the scope
  - **Recordings of Sharon Mendiola’s 911 call, dispatch and the safe streets video** documenting the events described above will be played to the jury.
  - **Surveillance video from the Elephant Car Wash** was viewed by investigating officers, but as yet, the parties have not succeeded in playing the video. Testimony regarding what was observed on the video may be described by Det. Lorette. If the parties succeed in rendering the video viewable by the jury, the IA will consider its admission at that time.
  - **Investigation Overview** - The Executive Order governing inquests allows the lead forensic investigator to provide a comprehensive overview of the investigation. Det. Lorette will testify in that capacity. Among other topics, his testimony will include:
    - The results of Kent PD Ofc. Sprague’s examination of the firearm found under Mr. Lightfeather; and
    - The results of Washington State Patrol Crime Lab Scientist Rebekah Neyhart’s DNA analysis.



Because Det. Lorette's involvement in the CSI portion of the investigation was limited, the parties will coordinate to determine the appropriate witnesses to describe that work.

- **King County Medical Examiner Timothy Williams, M.D., will describe his examination of Mr. Lightfeather's body and the cause of death.** Whether his testimony will include Mr. Lightfeather's blood alcohol level is **RESERVED** until after the briefing scheduled in section 12, below.

- 6) **Policy scope** –The Jury will consider testimony and answer interrogatories determining whether the Involved Officers followed Federal Way Police Department policy on the **use of deadly force**. An exhibit substantially similar to the document attached as Appendix A to this order will be entered into evidence in order to identify the relevant portions of FWPD's policy.

Appendix A contains section 1.3 of the FWPD manual which governs the use of both deadly and non-deadly force. The discovery in this inquest makes clear that the only force used or offered by the Involved Officers was deadly force. The IA proposed redacting all portions of that policy not relevant to deadly force. While no party took issue with idea that the proposed redactions correctly identified the portions of the policy dealing with non-deadly force, each party took issue with how the policy should be presented to the jury. The Involved Officers and FWPD proposed that strikethrough font be used to focus the jury on the portions of the policy at issue (Enabling witnesses that describe the policies to do so with the benefit of all language in that policy). The Family objected to any redactions to the policy, but if the IA was intent on making clear the officers were being evaluated for compliance only on specific portions of the policy, the family requested redaction, not strikethrough based on the premise that use of strikethrough font would confuse the jury. The IA will present Attachment A using strikethrough font. Focusing the jury on portions of the policy that are actually at issue will aid their deliberations. Allowing the witnesses to testify with the entire policy available will make for clearer testimony, and the IA does not consider the use of strikethrough font unduly confusing.

The Family asks to include the definition of Homicide under RCW 9A.32.010 in the policy scope. Appendix 2, Section 3.2 of the Executive Order provides that “[t]he panel shall make findings regarding whether the law enforcement officer complied with applicable law enforcement agency training and policy as they relate to the death.” Section 12.3 of that same appendix provides that “testimony regarding changes that should be made to existing policy, procedure, and training will generally not be permitted on relevance grounds.” Taken together, these provisions require that the inquest focus on the policies as they existed at the time of the incident. The language of the FWPD policy does not incorporate RCW 9A.32.010 and the IA declines to include it within the policy scope.

No party has identified any FWPD policy on de-escalation in effect at the time of this incident. Consistent with the discussion of RCW 9A.32.010, above, the policy scope will not include de-escalation. The Family argued that the lack of a policy could render a police agency criminally liable. The relevance of the lack of a policy to criminal means will be considered after proposal of instructions and interrogatories on criminal means by the IA. The Involved Officers did take de-escalation trainings. Training scope, including the



potential inclusion of de-escalation trainings, will likewise be determined after the IA provides a proposal on the matter.

The family request that rendering/requesting medical aid be included within the policy scope is **RESERVED** until after the briefing scheduled in section 2, below.

- 7) **Potentially relevant trainings** – The Involved Officers received training from FWPD, the Criminal Justice Training Center, Honolulu Police Department, and University of Washington Police Department. The IA has directed the IPA to request training on the use of deadly force, de-escalation and patrol tactics from each of these agencies.

FWPD and the Involved Officers object to requesting documentation from any entity beyond FWPD. They argue that the Executive Order’s requirement that the jury determine whether the officers complied with “applicable” agency training refers to FWPD training and that any training obtained from other entities will necessarily lie outside the scope of this inquest. The correct interpretation of that language has not yet been determined in this or any inquest. Furthermore, the extent to which training provided by previous employers or the CJTC is required or allowed to be used by Federal Way Police Department officers has yet to be described by FWPD’s designee for policy and training. Finally, questions of good faith and malice are considerations in determining criminal means under RCW 9A.16.040, and prior training may bear on those issues. Where, as here, the Involved Officer’s tenures with FWPD were short and their time at the previous agencies was significant, the possible effects of previous trainings cannot be dismissed this early in the process. As such the IA considers such trainings to be potentially relevant and believes future determinations regarding training scope are best made on a full factual record. The IA directs the IPA to continue with the efforts to obtain such documentation. Training scope and the admission of testimony relating to such trainings will be determined at a later time.

The Family has asked that the IA request documentation regarding training on when to request or render medical aid. A determination of whether or not to do so is **RESERVED** until after the briefing scheduled in section 12, below. A determination of whether or not to do so is **RESERVED** until after the briefing scheduled in section 12, below.

- 8) **Testimony regarding the lack of a de-escalation policy at the time of the incident** – FWPD’s policy manual did not contain a de-escalation policy at the time of the incident, although it was the subject of training. FWPD and the Involved Officers object to addressing this fact during Assistant Chief Sumpter’s testimony, arguing that it will be prejudicial. The Family asks that the lack of a de-escalation policy be the subject of testimony. This matter is **RESERVED** until Assistant Chief Sumpter has been interviewed.
- 9) **Jury selection process** –The IA thanks the parties for their comments on his proposal to conduct jury selection entirely via written questions. Each party expressed a preference for a jury selection process that contains a component of in-person questioning. If the parties wish to provide concrete proposals he asks that they coordinate with the IPA to schedule doing so. Any such submission should take into account the questionnaire already provided by the IA, the fact that the parties will have leave to propose changes to the questions and propose additional questions, and the need to be as efficient as possible with the juror’s time.
- 10) **Live streaming** – The IA thanks the parties for their comments on his proposal to conduct video livestreaming of the proceedings. FWPD did not see a need for video livestreaming (preferring audio only). They expressed concerns about ability to redact sensitive exhibits if

the livestreaming contained video. The family did not object to video livestreaming, but does object to any redaction, preferring that sensitive exhibits be dealt with in a way that does not require redaction. The program is reviewing what options exist to protect sensitive information during livestreaming and will update the parties when those discussions are complete.

- 11) **Inquest Schedule** - Bearing in mind the general utility of recessing trials on Fridays for trial attorneys, the circumstances of this case do not support a recess on Friday, August 26, 2022: Testimony in this matter is scheduled to last five days, with Friday, August 26 as the last day. A recess on Friday would result in an extension of the time for the hearing, increasing the inconvenience for jurors. Neither counsel indicated a specific conflict on the Friday of this inquest. Additionally, since the following Monday or Tuesday are scheduled for jury deliberation, not testimony, the IA anticipates that the parties will have ample time over those two days to deal with ongoing matters. Testimony will proceed in this matter on Friday.
- 12) **Briefing schedule for pending matters** - The requesting party shall provide a brief supporting their position on the matters listed below by June 8, 2022. Responsive briefs will be due June 13, 2022.
- a) **Family request** to exclude any reference to Mr. Lightfeather drinking alcohol and any alcohol containers being found at the scene.
  - b) **Family request** that rendering/requesting medical aid be included within the policy scope and that documentation of any such training be requested by the IA. The briefing should address significance of any testimony by the ME relating to whether aid could have prevented death. The family's brief shall identify with particularity the policy language they wish to be considered by the jury.
  - c) **FYPD/Involved Officer's request** that evidence of Mr. Lightfeather's blood alcohol level and testimony from Kristin Maury and Kyle Davis regarding the effect of alcohol on Mr. Lightfeather be allowed.

DATED this 8<sup>th</sup> day of June, 2022.

  
Robert McBeth  
Inquest Administrator