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6 IN THE DISTRICT COURT OF THE STATE OF WASHINGTON
7 IN AND FOR THE COUNTY OF KING
8 KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES INQUEST PROGRAM

9 IN RE INQUEST INTO THE DEATH OF
10 ROBERT LIGHTFEATHER,
11 DECEASED.

INQUEST NO. 17IQ16588

CITY OF FEDERAL WAY, AUSTIN
ROGERS, AND TYLER TURPIN'S BRIEF
REGARDING ADMISSIBILITY OF BAC
EVIDENCE AND TESTIMONY OF MS.
MAURY AND MR. DAVIS

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15 In accordance with the Administrator's June 8, 2022 Order, the City of Federal Way,
16 Austin Rogers and Tyler Turpin submit the following brief regarding the admissibility of decedent
17 Robert Lightfeather's blood alcohol content and the testimony of witnesses Kristin Maury and
18 Kyle Davis that pertains to Mr. Lightfeather's behavioral tendencies when he consumed alcohol.

19 **A. Mr. Lightfeather's Blood Alcohol Content Should Be Admitted into Evidence.**

20 The Administrator should admit into evidence the fact that Mr. Lightfeather's blood
21 alcohol content (BAC) was 0.24 g/100mL. "The purpose of a coroner's inquest is to determine
22 who died, what was the cause of death, and what were the circumstances surrounding the death,

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1 including the identification of any actors who may be criminally liable for the death.” *Family of*
2 *Butts v. Constantine*, 198 Wn.2d 27, 42, 491 P.3d 132, 142 (2021) (internal cites and quotes
3 omitted). The inquest jury must (1) inquire into the circumstances surrounding the death, RCW
4 36.24.040, and (2) render a verdict setting out who was killed, when, where, how, by whom, and
5 whether that killing was “by criminal means,” .070. *Id.* at 43. “Because the inquest jury has
6 commensurate authority to decide what witnesses and evidence are relevant to its inquiry, the
7 coroner cannot preemptively exempt or bar particular evidence or testimony from the jury's
8 consideration.” *Id.* at 58.

9 That Mr. Lightfeather had a BAC of three times the legal limit for driving is relevant and
10 admissible to show the “circumstances attending his death.” RCW 36.24.040; ER 401, 402. Mr.
11 Lightfeather’s intoxication is a significant and material fact that bears heavily on the circumstances
12 of his death. Officer Turpin, Officer Rogers, and multiple witnesses gave statements in which they
13 recounted how Mr. Lightfeather pointed a gun at the officers. The officers will testify that it was
14 that immediately threat of death or seriously bodily harm that prompted them to use deadly force
15 to protect themselves. While the officers had no knowledge of Mr. Lightfeather’s alcohol
16 consumption or intoxication, that does not render that evidence inadmissible. This is because the
17 inquest jury is not only tasked with determining what each individual police officer did and why.
18 The inquest jury is also to consider and decide facts relevant to what Mr. Lightfeather did, and
19 why, as part of its inquiry into the totality of the circumstances attending his death. Indeed, the
20 BAC evidence is wholly relevant to Mr. Lightfeather’s state of mind, motive, and plan. It is also
21 relevant and admissible to rebut any testimony, suggestion, or inference that Mr. Lightfeather did
22 not point a gun at officers before they fired.

1 This evidence was also material to the Medical Examiner, as he requested toxicology
2 results from the crime lab. The reason for this is simple: Mr. Lightfeather's BAC is a material
3 piece of evidence in the circumstances surrounding his death, just as a broken arm or other physical
4 defect would be. The purpose of the inquest process is to inform the general public of the facts
5 and circumstances of Mr. Lightfeather's death. To shield from the public a material piece of
6 evidence about the circumstances of his death would run contrary to the intent of the Coroner's
7 statute and the Executive Order. The Executive Order codifies this strong public interest in making
8 the circumstances of the death known: "The purpose of the inquest is to ensure a *full, fair, and*
9 *transparent* review of any such death, and to issue findings of fact regarding the facts and
10 circumstances surrounding the death." EO, Appx. 1, § 2.2. To hide Mr. Lightfeather's BAC from
11 the public would violate this core tenet of the inquest process.

12 The BAC evidence is also not unfairly prejudicial to the family. ER 403. To the contrary,
13 Officer Rogers and Officer Turpin are the only ones who face a threat of criminal prosecution from
14 the inquest jury's findings. They are the only subjects of the "criminal means" inquiry and
15 interrogatories. Given the significance of the fact that Mr. Lightfeather was intoxicated, and that
16 intoxicated people notoriously suffer from questionable judgment, erratic behavior, and impaired
17 senses, the jury should be informed of his blood alcohol content.

18 **B. The Testimony of Kristin Maury and Kyle Davis Should be Admitted.**

19 As with Mr. Lightfeather's BAC, the testimony of Ms. Maury and Mr. Davis regarding Mr.
20 Lightfeather's behavior while intoxicated is also relevant to this proceeding. Mr. Lightfeather's
21 prior behavior and demeanor while intoxicated is admissible for purposes of demonstrating his
22 custom and habit when he drank. ER 406. Habitual behavior consists of semi-automatic, almost

1 involuntary and invariably specific responses to fairly specific stimuli. *Torgerson v. State Farm*
2 *Mut. Auto. Ins. Co.*, 91 Wn. App. 952, 962, 957 P.2d 1283 (1998). Under this rule, evidence can
3 be excluded only if the court determines the conduct does not reach the level of habit or routine. *Id.*

4 The anticipated testimony from the involved officers and eye-witnesses is that, when
5 Officers Rogers and Turpin arrived on-scene, Mr. Lightfeather pointed his pistol at them and
6 racked a round – an aberrant and confounding action that immediately created a deadly threat. It
7 is also anticipated that Mr. Kangethe and Mr. Nyanjui will testify that Mr. Lightfeather consumed
8 alcohol just prior to the officers’ arrival on scene. The testimony of Ms. Maury and Mr. Davis
9 about how Mr. Lightfeather behaves while intoxicated is relevant as to why he would have pointed
10 a gun at the officers when they arrived on scene. ER 401, 402. It helps explain the facts and
11 circumstances of his death, and makes it more likely than not that he pointed the gun at officers
12 due, at least in part, to his intoxication.

13 Further, the evidence of Mr. Lightfeather’s behavior when intoxicated is not barred by ER
14 404(b). Evidence of prior crimes, wrongs, or acts is inadmissible if it is offered to establish a
15 person's character or to show he acted in conformity with that character. ER 404(b). Here, Mr.
16 Lightfeather’s tendency to become “hostile and confrontational” while drinking is not a “prior
17 crime, wrong, or act.” It is a habit and practice that goes to the heart of this incident. Counsel
18 anticipates that the Family’s attorneys may cross-examine the witnesses in an effort to cast doubt
19 on their claims that Mr. Lightfeather pointed a gun at the officers. The fact that Mr. Lightfeather
20 consumed alcohol *and* that he tended to become hostile and belligerent when he did so is crucial
21 evidence that supports the testimony of the witnesses. The Administrator should admit testimony
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1 from Ms. Maury and Mr. Davis regarding their observations of Mr. Lightfeather’s behavioral habit
2 and tendencies when intoxicated.

3 DATED this 8th day of June, 2022.

4 CHRISTIE LAW GROUP, PLLC

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 8th day of June, 2022, a true and correct copy of the foregoing
3 document was served upon the parties listed below via the method indicated:

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