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KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES INQUEST PROGRAM

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

INQUEST NO. 17IQ16588
CITY OF FEDERAL WAY, AUSTIN
ROGERS, AND TYLER TURPIN'S
RESPONSE TO FAMILY'S JUNE 8, 2022
BRIEF

In accordance with the Administrator's June 8, 2022 Order, the City of Federal Way, Austin Rogers and Tyler Turpin submit the following brief in opposition to the Family's June 8, 2022 brief, which seeks to exclude evidence that Mr. Lightfeather consumed alcohol and to include rendering medical aid in the scope of the policy inquiry. The Administrator should deny the Family's requests. That Mr. Lightfeather consumed liquor with Mr. Kangethe immediately prior to the shooting and had a blood alcohol content three times the legal limit for driving is an integral part of the circumstances surrounding his death. The Administrator should not add rendering medical aid to the policy scope of this inquest, because Officers Turpin and Rogers did not approach Mr. Lightfeather after they fired shots, so they never had an opportunity to render aid. Further, medical aid was requested mere seconds after the officers fired shots.

1 **A. The Fact That Mr. Lightfeather Consumed Alcohol is Relevant and Admissible.**

2 As set forth in the City's and Involved Officers' June 8, 2022 brief, the Administrator
3 should admit into evidence the fact that Mr. Lightfeather's blood alcohol content (BAC) was 0.24
4 g/100mL. "The purpose of a coroner's inquest is to determine who died, what was the cause of
5 death, and what were the circumstances surrounding the death, including the identification of any
6 actors who may be criminally liable for the death." *Family of Butts v. Constantine*, 198 Wn.2d 27,
7 42, 491 P.3d 132, 142 (2021) (internal cites and quotes omitted). The inquest jury must (1) inquire
8 into the circumstances surrounding the death, RCW 36.24.040, and (2) render a verdict setting out
9 who was killed, when, where, how, by whom, and whether that killing was "by criminal means,"
10 .070. *Id.* at 43. "Because the inquest jury has commensurate authority to decide what witnesses
11 and evidence are relevant to its inquiry, the coroner cannot preemptively exempt or bar particular
12 evidence or testimony from the jury's consideration." *Id.* at 58. The Executive Order codifies this
13 strong public interest in making the circumstances of the death known: "The purpose of the inquest
14 is to ensure a *full, fair, and transparent* review of any such death, and to issue findings of fact
15 regarding the facts and circumstances surrounding the death." EO, Appx. 1, § 2.2. To conceal
16 Mr. Lightfeather's drinking from the public would violate this core tenet of the inquest process.

17 The Family's brief sets forth an incomplete statement of facts. Namely, they completely
18 omit the fact that, according to Mr. Kangethe and Mr. Nanjui, once Mr. Lightfeather and Mr.
19 Kangethe exited their cars at the Elephant Car Wash, Mr. Lightfeather brandished a gun.
20 (Lightfeather_R 0077-78; 0081-82.) Per his statement, Mr. Nanjui feared for his life and ran away.
21 (Lightfeather_R 0082.) The Family also omits the fact that as Mr. Kangethe stated that, as he
22 spoke with Mr. Lightfeather, Mr. Lightfeather passed the gun back and forth between his left and

1 right hands. (Lightfeather_R 0078.) In an effort to keep Mr. Lightfeather calm, Mr. Kangethe
2 offered Mr. Lightfeather a shot of Jack Daniel’s for his gratitude. (*Id.*) However, Mr. Lightfeather
3 then grew agitated when he saw police lights down the road, and he pointed the gun at Mr.
4 Kangethe for 102 seconds. (*Id.* at 0079.) Mr. Lightfeather said the pistol was a .40 caliber, and
5 Mr. Kangethe told him to “chill” and pushed the gun away from his face. (*Id.* at 0080.) However,
6 Mr. Lightfeather pointed the gun at Mr. Kangethe’s face another two times. (*Id.*) Officers Turpin
7 and Rogers then arrived on scene, and they gave Mr. Lightfeather multiple loud commands to put
8 the gun down. (*Id.*; Lighfeather_R 0071-72, 0075.) Mr. Lightfeather ignored those commands
9 and pointed his gun at the officers. (*Id.*) The officers fired their weapons at him. (*Id.*) Mr.
10 Lightfeather’s blood alcohol content was discovered to be 0.24 ng/100mL.

11 The Family asks the Administrator to improperly sanitize this incident to remove any
12 reference to alcohol. The Administrator should decline that request. The Administrator cannot
13 preemptively bar that evidence. *Family of Butts*, 198 Wn.2d at 58. The Coroner’s statute expressly
14 forbids the Administrator from excluding what is most certainly relevant and admissible evidence.
15 Mr. Lightfeather’s consumption of alcohol and level of intoxication at the time of the incident are
16 crucial and relevant facts surrounding his death. The fact that Mr. Lightfeather drank Jack Daniels
17 with Mr. Kangethe just moments prior to the shooting is relevant and admissible information that
18 the inquest jury must hear testimony and answer interrogatories about – how Mr. Lightfeather died.
19 The Family’s only argument against admission of evidence of alcohol consumption and
20 intoxication is that the officers were not aware of it, so it did not factor into their decisionmaking.
21 While it is true the officers were not aware of his intoxication, that does not compel exclusion, as
22 the fact-finding of an inquest extends broader than the officers’ knowledge.

1 Excluding evidence of Mr. Lightfeather’s consumption and intoxication would be the
2 equivalent of suppressing eye-witness testimonial evidence of alcohol consumption in a vehicular
3 assault or manslaughter trial, where a driver was under the influence and caused an accident
4 resulting in injury or death. Mr. Lightfeather’s intoxication undoubtedly was a causal factor in his
5 decision-making during incident. At the very least, a reasonable jury could conclude that it was.
6 Were evidence of Mr. Lightfeather’s alcohol consumption hidden from the inquest jury, they
7 would be left to speculate as to why he would have pointed a gun at Mr. Kangethe and,
8 subsequently the officers. Worse, they may not find their testimony credible, because it simply
9 does not make sense that someone with all of their faculties about them would do such a thing.
10 Mr. Lightfeather’s consumption of alcohol and level of intoxication go to his state of mind, plan,
11 and motive. They also go to his credibility and, inversely, to the credibility of the eye-witnesses.

12 The Family’s argument directly *supports* the admission of the evidence: “In this case, the
13 jury might perceive that Mr. Lightfeather was intoxicated and thereby conclude that he engaged in
14 behavior that was the deciding factor in his death.” (Family’s June 8, 2022 Brief, p. 3.) The
15 involved officers face the prospect of a jury deciding whether they acted with “criminal means.”
16 In other words, the jury must decide whether the shooting was justifiable, and if not, whether the
17 officers acted with malice and not in good faith. RCW 9A.16.040, 1986 c 209 § 2. Mr.
18 Lightfeather’s intoxication bears on the likelihood of whether he acted in the manner the officers
19 and the eye-witnesses say he did. To exclude evidence of Mr. Lightfeather’s alcohol consumption
20 and level of intoxication would strip away a crucial piece of independent evidence that
21 corroborates their testimony and provides critical factual context for what happened and why. And
22 the consequence of exclusion is not trivial: it could result in an a probable cause finding that the

1 officers acted with criminal means that is based on incomplete and misleading information. *Family*
2 *of Butts*, 198 Wn.2d at 48-49, n. 5. The jury may assume that Mr. Lightfeather was sober, or that
3 he was in a mental health crisis, rather than intoxicated at three times the legal limit. The jury
4 cannot decide the criminal means question based on a sanitized version of facts that comes at
5 extreme prejudice to the officers. Indeed, a plain reading of the *Butts* case and its proper
6 interpretation of the Coroner’s statute mandates the admission of Mr. Lightfeather’s alcohol
7 consumption and intoxication, because those are an intrinsic part of the circumstances surrounding
8 his death.

9 **B. The City’s Police on Rendering Aid Is Not Relevant to This Inquest.**

10 The Administrator should also deny the Family’s request to include rendering medical aid
11 in the policy scope. The Family requests that the jury answer whether Officers Turpin and Rogers
12 complied with FWPD policy on rendering aid and also ask that the Administrator expand the scope
13 far beyond what the Executive Order allows and compare FWPD’s training to that of the Criminal
14 Justice Training Commission (CJTC), “to determine whether department policy could have offered
15 more direction in the manner of aid, [*sic*] that might have prevented Mr. Lightfeather’s death.”
16 Family Brief, p. 4.) The Administrator should decline the Family’s invitation to deviate from the
17 parameters of the Executive Order and turn the inquest proceeding into a civil fault-finding
18 proceeding.

19 The Executive Order provides that the Administrator will decide the scope of the
20 “applicable law enforcement agency training as they relate to the death.” EO, Appx. 2, §§ 3.2,
21 12.3. The inquest jury is only to answer questions on compliance with training and policy with
22 respect to the law enforcement officer(s) who used deadly force on the decedent. *Id.*, § 3.2. Here,

1 it is undisputed that, after he fired shots, Officer Rogers, “did not participate in the custody team,
2 and had no physical contact with the subject.” (Lightfeather_R 0076.) Similarly, after Officer
3 Turpin fired shots, he “did not participate in the custody team, nor did [he] have any physical
4 contact with the subject.” (Lightfeather_R 0072.) Because other officers were on scene and
5 formed the custody team, Officers Rogers and Turpin were promptly and appropriately removed
6 from the scene, so the Valley Investigative team could photograph them and process evidence in
7 their possession. This is standard procedure that minimizes the chances of spoliation of evidence
8 and emotional trauma on the involved officers by remaining on a scene where they have just fired
9 their duty weapons at someone. Given the fact that Officers Rogers and Turpin had no opportunity
10 to render aid, it would be unfairly prejudicial to ask the inquest jury whether they complied with
11 FWPD policy on rendering aid. It would be stacking the deck against them, knowing they would
12 have no way of receiving favorable interrogatory answers on the subject. Further, as set forth in
13 the Computer Aided Dispatch (CAD) log, Officer Turpin broadcast a radio request to stage aid
14 just 35 seconds after he broadcast that shots had been fired. (Lighfeather_R 0253.) Officer Turpin
15 properly and promptly requested aid. Because the involved officers were not a part of the custody
16 team and because aid was promptly and properly requested, there is no basis for adding compliance
17 with FWPD policy on rendering aid to the scope of inquiry.

18 Secondly, the Administrator should deny the Family’s request to vastly expand the scope
19 of the inquest to a critique of the FWPD’s policies and training. The Executive Order specifically
20 addressed such an argument and explicitly states, “[t]estimony regarding changes that should be
21 made to existing policy, procedure, and training will generally not be permitted on relevance
22 grounds.” EO, Appx. 2, § 12.2. The policy reason for this is simple: the inquest process is not a

1 vehicle for examining department policies and training. To grant the Family's request would
2 needlessly muddy and confuse the issues for the jury to decide, unfairly prejudice the officers, and
3 exceed the permissible scope of an inquest.

4 The officers' interests would be extremely and unfairly compromised. ER 403. For
5 instance, even if the jury found they acted in accordance with policy and training, the jury could
6 find that the policy and training were inadequate, and therefore find that the officers acted with
7 criminal means. But, the officers have no control over the training and policy and they are
8 mandated by law to adhere it. This would place them in an impossible Catch-22 situation. Such
9 a fundamental unfairness would infringe on the officers' rights to due process. The proceedings
10 would convert from a fact-finding process to one in which the City is forced to defend its policies
11 and training and the bases for them. That is not the purpose or function of inquests. Inquests are
12 not vehicles for legislation or policy change. They are fact-finding proceedings. The Court should
13 deny the Family's request.

14 DATED this 13th day of June, 2022.

15 CHRISTIE LAW GROUP, PLLC

16
17 By /s/ Thomas P. Miller
18 THOMAS P. MILLER, WSBA #34473
19 Attorney for the City of Federal Way, Austin Rogers,
20 and Tyler Turpin
21 2100 Westlake Avenue N., Suite 206
22 Seattle, WA 98109
Tel: 206-957-9669
Fax: 206-352-7875
Email: tom@christielawgroup.com

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 13th 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:

4 Matthew W. Anderson
5 King County Department of Executive Services-Inquest Program
6 401 Fifth Avenue, Suite 131
7 Seattle, WA 98104

8 *Via Email:* Matt.anderson@kingcounty.gov

9 Teri Rogers Kemp, WSBA #24701
10 Teri Rogers Kemp Attorney at Law, P.S.
11 P.O. Box 3454
12 Seattle, WA 98114

13 *Via Email:* kemplegalresearch@gmail.com

14 J. Ryan Call, WSBA #32815
15 City Attorney – City of Federal Way
16 33325 8th Avenue South
17 Federal Way, WA 98003
18 *Via Email:* Ryan.call@cityoffederalway.com

19 */s/ Thomas P. Miller*
20 _____
21 THOMAS P. MILLER
22