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6 **THE STATE OF WASHINGTON**
7 **DR. MARTIN LUTHER KING, JR. COUNTY**
8 **DEPARTMENT OF EXECUTIVE SERVICES**

8 Inquest into the Death of
9 Robert J. Lightfeather

Case No.: 17IQ16588

10 RESPONSE TO CITY OF FEDERAL
11 WAY, OFC.'S TURPIN & ROGERS
12 BRIEF RE: ADMISSIBILITY OF
13 B.A.C., K. MAURY & K. DAVIS
14 STATEMENTS

13 **RESPONSE TO CITY OF FEDERAL WAY, OFC.'S TURPIN & ROGERS BRIEF RE:**
14 **ADMISSIBILITY OF B.A.C., K. MAURY & K. DAVIS STATEMENTS**

15 The family reiterates its' request that the Inquest Administrator (IA) exclude reference to
16 Mr. Robert Lightfeather drinking alcohol and/or any alcohol containers being found at the scene
17 and exclude testimony from K. Maury and K. Davis having to do with Mr. Lightfeather's alleged
18 past consumption of alcohol.

19 King County Executive Order Conducting Inquests in King County Section (EO) 3.3
20 allows that the Washington State Courts Rules of Evidence shall generally apply to inquest
21 hearings, supplemented and/or modified by additional rules governing administrative
22 proceedings, at the discretion of the administrator. The administrator shall construe the Rules of
23 Evidence in a manner to promote fairness.

24 *RESPONSE RE: ADMISSIBILITY OF B.A.C., K. MAURY & K.
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TERI ROGERS KEMP
ATTORNEY AT LAW
P.O. Box 3454
Seattle, Washington 98114
Ph.: 206.518.7088
Fax.: 206.238.9986
kemplegalresearch@gmail.com

1 “Relevant evidence” means evidence having any tendency to make the existence of any
2 fact that is of consequence to the determination of the action more or less probable than it would
3 be without the evidence.” *Definition of “Relevant Evidence”*, Wash. R. Evid. 401.

4 The material fact(s) of consequence to the jury’s determination whether officers Rogers’
5 and Turpin’s use of deadly force was justified, are those facts related to the officers’
6 consideration and use of deadly force. Especially salient facts are that the officers responded to a
7 coded dangerous weapon call; officer Turpin had a ride-along civilian witness with him at the
8 time of his response; the presence of the ride-along escalated the seriousness of the call,
9 necessitating a heightened protective reaction, lessening or eliminating a possibility of de-
10 escalation, heightening an already dangerous confrontation for the other man/men at the scene,
11 other bystanders, the civilian ride-along and themselves; and the officers’ belief that a dangerous
12 weapon was on scene and had been pointed at one or both of them.

13 The officers had absolutely no knowledge of alcohol concerning Mr. Lightfeather until
14 long after their use of deadly force; thus, knowledge of alcohol was not a factor in and had no
15 bearing on their consideration of and decision to use deadly force. There is no evidence to
16 suggest that Mr. Lightfeather’s condition, .24 BAC, or his alleged past consumption of alcohol
17 per K. Maury or K. Davis, modified or influenced the officers’ behavior.

18 Aside from the Federal Way Police Department, officers Turpin and Rogers are the right
19 subjects of the “criminal means” inquiry and interrogatories. Mr. Lightfeather is not the right
20 subject of a criminal means inquiry and interrogatories. Mr. Lightfeather is the victim of the
21 deadly use of force by the officers and regardless if the jury finds the officers force was justified,
22 that fact remains the same. Even still, if the BAC evidence or evidence of Mr. Lightfeather’s

1 alleged past consumption of alcohol; somehow did modify or influence the officers' behavior
2 and were somehow relevant; to introduce it to the jury would be highly and unfairly prejudicial
3 to Mr. Lightfeather and his family. If it is, as in this case, that the "probative value is
4 substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading
5 the jury", the evidence must be excluded. *Exclusion of Relevant Evidence on Grounds of*
6 *Prejudice, Confusion, or Waste of Time*, Wash. R. Evid. 403.

7 Introduction of Mr. Lightfeather's B.A.C. or evidence of his alleged past consumption of
8 alcohol would be akin to introduction of his criminal history. EO 4.4 allows that criminal history
9 may not be introduced into evidence unless the IA first determines that it is directly related to the
10 reason for an arrest, detention, or use of force; it served as the basis for an officer safety caution
11 that the member of law enforcement agency was aware of prior to any use of force; or other
12 contemporaneous knowledge of the individual's criminal history was relevant to the action the
13 officer took or how the officer assessed whether the person posed.

14 In this light, neither the B.A.C. nor evidence of Mr. Lightfeather's alleged past
15 consumption of alcohol would be introduced as none of the exceptions apply. Introduction of
16 this evidence would serve only to assail Mr. Lightfeather's character. This is not permissible.
17 Applying the Washington Rules of Evidence; Rule(s) 404, 608, 609, et al, character evidence is
18 not admissible for the purpose of proving action in conformity therewith.

19 Going further; without context neither the B.A.C. nor evidence of Mr. Lightfeather's
20 alleged past consumption of alcohol can be relied upon as probative nor true. For instance, the
21 assumption based on the B.A.C. that Mr. Lightfeather was intoxicated and that his behavior was
22 influenced by that intoxication presumes facts in evidence regarding Mr. Lightfeather's tolerance

1 for alcohol. Also, the statements said to have been made by K. Maury and K. Davis were
2 premised in the context of several years prior to the day that Mr. Lightfeather was killed. It
3 would be unfair and unreliable evidence, K. Maury and K. Davis perceptions from years prior
4 applied to the day that he was killed.

5 For the reasons and argument so stated, the family reiterates the request that the IA
6 exclude reference to Mr. Robert Lightfeather drinking alcohol and/or any alcohol containers
7 being found at the scene and exclude testimony from K. Maury and K. Davis having to do with
8 Mr. Lightfeather's consumption of alcohol. Introduction of this evidence would serve only to
9 assail Mr. Lightfeather's character. Without context neither the B.A.C. nor evidence of Mr.
10 Lightfeather's alleged past consumption of alcohol can be relied upon as probative nor true. It
11 would be unfair to apply K. Maury and K. Davis perceptions from years prior to the day that he
12 was killed.

13 The officers' and other testimony regarding Mr. Lightfeather's purported behavior with a
14 weapon will sufficiently provide the jury with enough information to determine whether the
15 officers' use of deadly force was justified. The family prays that the IA will thus make it so.

16 DATED this 13th day of June 2022.

17 Respectfully submitted;

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19 /s/ Teri Rogers Kemp
20 Teri Rogers Kemp, WSBA #24701
21 For the Family of Robert J. Lightfeather
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