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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

8 **Case No.: 17IQ16588**

10 REQUEST TO EXCLUDE
11 REFERENCE TO ALCOHOL;
12 INCLUDING RENDERING
13 MEDICAL AID WITHIN POLICY
14 SCOPE

12 Request to Exclude Reference to Mr. Lightfeather Drinking Alcohol.

13 The family requests that the Inquest Administrator (IA) exclude reference to Mr. Robert
14 Lightfeather drinking alcohol and/or any alcohol containers being found at the scene.

15 King County Executive Order Conducting Inquests in King County (EO) section (sec.)
16 3.3 allows that the Washington State Courts Rules of Evidence shall generally apply to inquest
17 hearings, supplemented and/or modified by additional rules governing administrative
18 proceedings, at the discretion of the administrator. The administrator shall construe the Rules of
19 Evidence in a manner to promote fairness.

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

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24 *INCLUDING RENDERING MEDICAL AID WITHIN POLICY*
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1 Joseph Kangethe and Warren Nyanjui, the two men who were at the Elephant Car Wash
2 when Mr. Lightfeather was killed, each gave a statement, stating that the reason that Mr.
3 Lightfeather was at the Elephant Car Wash was because he followed them into the lot after
4 alerting them to a safety issue with their car, waving them down in traffic and telling them that
5 their car was badly smoking, letting them pull in front of him in his lane in traffic so that they
6 could pull quickly off the road.

7 Joseph Kangethe stated that after pulling into the car wash, opening the hood of his car
8 and beginning to assess the issue with the car, Mr. Lightfeather joined him under the hood.
9 During the encounter Mr. Kangethe asked Mr. Lightfeather if he wanted to have a drink; that he
10 (Mr. Kangethe) had an unopened bottle of Jack Daniels in his car, which he retrieved. He stated
11 that Mr. Lightfeather had his own bottle of alcohol “which was three-quarters empty”. He said
12 that the two of them drank a few shots together while talking.

13 The Family submits that the IA should not allow evidence of alcohol to be introduced at
14 the hearing. Evidence of alcohol is not relevant, does not tend to make the existence of any fact
15 of consequence to the determination of the action more or less probable than it would be without
16 the evidence.

17 At issue is whether Officer’s Turpin and Rogers under the lawful predicate, necessarily
18 used deadly force to overcome actual resistance in the discharge of their legal duty; to arrest or
19 apprehend Mr. Lightfeather, reasonably believing Mr. Lightfeather committed, attempted to
20 commit, is committing, or is attempting to commit a felony; and also in consideration of any
21 other attendant circumstances as may be described in subsections 2) and 3) of RCW 9A.16.040
22 as then might apply. Officers’ Turpin and Rogers had no knowledge of alcohol concerning Mr.

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1 Lightfeather until well after the use of deadly force; and was not a factor in and had no bearing
2 on the Officer's decision to use deadly force. Allowing this evidence would tend to confuse the
3 issue whether officers Turpin and/or Rogers were justified in using deadly force.

4 Even if the IA deems that evidence of alcohol is relevant such evidence still may be
5 excluded "if its probative value is substantially outweighed by the danger of unfair prejudice,
6 confusion of the issues, or misleading the jury" *Exclusion of Relevant Evidence on Grounds*
7 *of Prejudice, Confusion, or Waste of Time*, Wash. R. Evid. 403.

8 Allowing evidence of alcohol into the hearing would be unfairly prejudicial. In this case,
9 the jury might perceive that Mr. Lightfeather was intoxicated and thereby conclude he engaged
10 in behavior that was the deciding factor in his death. This is particularly true because Mr.
11 Kangethe stated that Mr. Lightfeather had his own bottle of alcohol "which was three-quarters
12 empty". Mr. Kangethe and Mr. Nyanjui smoothly can explain the circumstances of their and Mr.
13 Lightfeather's presence at the Elephant Car Wash without discussing alcohol and without
14 confusing or misleading the jury.

15 Equally as important that the administrator should consider, according to Kristin Maury,
16 witness Kyle Davis told her that police poured out some R&R, the bottle that Mr. Lightfeather is
17 said to have had; and that there wasn't much left. (Bates Stamp (BS) 11). It follows then an
18 argument that Mr. Lightfeather did not drink three quarters of the bottle of alcohol. To suggest
19 as much would be unfair and prejudicial.

20 The family requests that the IA exclude reference to Mr. Robert Lightfeather drinking
21 alcohol and/or any alcohol containers being found at the scene.

22 Request to Include Giving Medical Assistance within Policy Scope.

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1 The family requests that the IA include within the policy scope giving medical assistance
2 and requesting documentation of such training. Federal Way Police Department (FWPD)
3 excerpts from The Manual of Standards section 1.3.5 Post Use of Force Practices notes “that it is
4 important to ensure that any injuries receive the appropriate medical care; that officers shall
5 make every effort to facilitate the rendering of aid to an injured person”, which particular
6 language should be considered by the jury.

7 The jury should consider whether FWPD, and officers Rogers and Turpin complied with
8 the policy and the degree to which each complied. Also, the jury should consider the breadth of
9 the Post Use of Force Practices of FWPD regarding rendering aid, relative to Criminal Justice
10 Training Center training, and department training; to determine whether department policy could
11 have offered more direction in the manner of aid, that might have prevented Mr. Lightfeather’s
12 death.

13 It is appropriate to inquire of the Medical Examiner whether aid could have prevented
14 Mr. Lightfeather’s death; although, it should not be a foregone conclusion. The jury should
15 consider the facts and determine itself whether medical aid under the circumstances were futile.
16 Such transparency fulfills the purpose according to the EO; ensuring the fulfillment of the
17 public’s—The Family’s, strong interest in a full and transparent review of the circumstances
18 surrounding the death of an individual involving law enforcement.

19 The family requests that the IA include within the policy scope giving medical assistance
20 and requesting documentation of such training.

21
22 Respectfully submitted this 8th day of June 2022;

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s/ Teri Rogers Kemp
Teri Rogers Kemp, WSBA #24701
for the Family of Robert J. Lightfeather

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