



King County

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FINAL 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
Employing government department:	Federal Way Police Department, represented by Thomas Miller
Administrator:	Robert McBeth, assisted by Matt Anderson

The Inquest Administrator, having presided over a Pre-Hearing Conference on August 16, 2022, and having made previous rulings in this case, hereby orders the following and memorializes all orders governing this inquest:

- 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.
- 2) **Viewing and attending the proceedings** – The proceedings will be open to the public subject to any necessary health precautions. Media attendance will be governed by the [2022 General Order](#). The proceedings will be livestreamed via a link available at the [Robert D.](#)

[Lightfeather Inquest Page](#). Recordings of the proceedings will be available via a link available at the [Robert D. Lightfeather Inquest Page](#) as provided in the [2022 General Order](#).

- 3) **Witness testimony:** The following witnesses have been subpoenaed and are expected to testify:

Joseph Kangethe	FWPD Ofc R. Blackshear
Warren K Nyanjui	FWPD Ofc H. Mariani
Sharon Mendiola	FWPD Ofc Raymond R Bunk
Heidy Wells	FWPD Assistant Chief Kyle Sumpter
Mark Wilkie	Kent PD Det. Matt Lorette
FWPD Ofc. Rogers	Renton PD Det. Peter Montemayor
FWPD Ofc. Turpin	WSPCL Analyst Renee Hudson
FWPD Ofc. Nicholas Lara	ME Timothy Williams, M.D.
FWPD Ofc Jeffery Otto	

Attempts to subpoena FWPD Det. William Lemmon, former FWPD Officer Shane Winnings, Derrick Mendiola and Curtis Phillips have been unsuccessful thus far. The Family's motion to continue in order to obtain the testimony of Detective Lemmon is denied. The Administrator, however, asks the Federal Way Police Department agree to forward a request from the inquest program attorney to speak to Detective Lemmon, who is on leave, via any available means. The administrator asks that counsel for FWPD respond with FWPDs willingness to do so as soon as possible, but in any event, no later than 12:00 on this Friday, August 19, 2022. The Administrator directs the parties to coordinate prior to the inquest hearing to consider alternative means of presenting salient portions of the testimony each witness would have provided.

- 4) **Involved Officer Testimony** – The Involved Officers have not yet indicated if they will invoke their 5th amendment right to answer certain questions. Should they do so, exhibits 164 and 166 (The statements they provided, together with the Garrity advisement), will be read to the jury. There will be no examination regarding the presence of or any advice given the officers by their attorneys.
- 5) **Factual scope** – The jury will hear testimony describing events starting as Robert Lightfeather's vehicle pulled up next to Joseph Kangethe and until Mr. Lightfeather's body was turned over. It includes initial scene control engaged in by the Federal Way Police Department as well as any attempts to render aid to Mr. Lightfeather. Each witness included in the witness list may testify to any observations made during the scope absent specific order to the contrary. Additionally,
- **Investigation Overview** - The Executive Order governing inquests allows the lead forensic investigator to provide a comprehensive overview of the investigation¹. Kent

¹ The Executive Order provides that a lead forensic investigator may provide a comprehensive overview of the investigation (PHL-7-1-5-EO (EO) App 2, section 12.3), that Inquests are governed by both Supreme Court's Evidence Rules as well as King County Hearing Examiner Rules (EO, App. 1, section 5.6) and that the Administrator shall apply the Hearing Examiner Rules and construe the Rules of Evidence in a manner that promotes fairness and minimizes the delays, costs and burdens that can be associated with judicial proceedings (EO,

Det. Lorette was the lead detective while Renton Det. Montemayor participated in the collections of evidence at the scene. The two Detectives will describe the portions of the investigation they were responsible for or participated in:

- Among other topics, Det. Lorette’s 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.
 - Among other topics, Det. Montemayor’s testimony will describe the actions of the other Renton PD Detectives that engaged in evidence collection.
 - **King County Medical Examiner Timothy Williams, M.D.**, will describe his examination of Mr. Lightfeather’s body and the cause of death, including the presence of alcohol in Mr. Lightfeather’s blood (see previous orders).
 - **Washington State Patrol Crime Lab Analyst Renee Hudson** will describe her analysis of certain evidence found or produced during the investigation.
 - No witness shall testify about, and no examination shall be had regarding the disciplinary history of or prior uses of force by the Involved Officers (EO App. 2, section 4.6). No witness shall testify about, and no examination shall be had regarding the completeness of FWPD’s investigation of the disciplinary history of or prior uses of force by the Involved Officers.
 - No witness shall testify about, and no examination shall be had regarding any possible investigation(s) that have occurred or be pending against any civilian witnesses that will testify.
- 6) **Policy and training scope** – Evidence will be allowed and the jury will answer interrogatories regarding the applicability of, and Involved Officer’s compliance with, Federal Way Police Department Policies and Trainings on use of deadly force as provided in the proposed interrogatories (see section 10, below). Evidence will be allowed and the jury will answer interrogatories regarding the applicability of, and Involved Officer’s compliance with, Federal Way Police Department trainings on de-escalation as provided in the proposed interrogatories (see section 10, below).² Evidence will be allowed regarding the Federal Way Police Department policy that Officers should limit exposing persons participating in the ride-along policy to danger. Exhibit 143, containing a portion of the ride-along policy will be marked as a demonstrative exhibit. A determination of whether to admit the exhibit will be made at the close of evidence. Whether the jury will answer interrogatories on that policy will be determined after the close of evidence.

Examination and testimony will be allowed exploring other actions that were available to the Involved Officers as they responded to this incident. No examination or testimony will be allowed regarding the reasons or propriety of the inclusion or exclusion of any particular

App 2, section 3.3). Synthesizing these provisions, the IA will allow Detectives Lorette and Montemayor to testify to reliable hearsay (King County Hearing Examiner Rules, Section XII.B.1) in order to describe the investigation in manner that minimizes delay while ensuring a fair and transparent hearing. This is a limited ruling to accomplish the stated purpose. The Supreme Court’s Evidence rules continue to apply with regard to other subjects unless specifically addressed by the IA. It does not render hearsay contained within any exhibit either detective may identify admissible.

² FWPD provided its officers training on de-escalation but there was not particular section of the Manual of Standards addressing de-escalation as a separate subject. A limited examination establishing that the Manual of standards did not contain a particular policy section addressing de-escalation shall be allowed.

policy or training in FWPDs Manual of Standards or training. (PHL-7-1-5-EO (EO) App. 2, section 12.2).

- 7) **Jury Panel** – Panelists # 16, 17, 20, 21, 25, 30, 36, and 50 have been selected to serve on the jury in this inquest. The parties agreed to the jurors that the IA proposed accepting except:
- The Involved Officers and FWPD asked that panelists #8 and #18 be included in the jury. The family asked that they be stricken from the venire. The Administrator finds that the opinions described by each of these panelists appear to be strong enough that it calls into question their ability to answer the interrogatories based solely on the evidence and law presented at the hearing and strikes them for cause.
 - LEO asked to strike panelists #16 and #17 from the venire. The family asked that they be included in the Jury. The Administrator finds that panelist #16 and 17 each will be able to set aside the opinions described in their responses and answer the interrogatories based solely on the evidence and law presented at the hearing and selects them to serve on the jury.
 - LEO asked to strike panelists #23 and #35 from the venire. The family asked that they be included in the jury. The Administrator finds that the opinions described by panelist each of these two jurors appear to be strong enough that it calls into question their ability to answer the interrogatories based solely on the evidence and strikes panelists #23 and #35 for cause.
- 8) **Exhibits** – The Exhibit list is attached to this order as Appendix A. Any party wishing to admit or publish an exhibit not admitted or admitted as an illustrative exhibit in this list shall apprise the Administrator prior to doing so beforehand and be prepared to explain why the proposal was not made prior. The Involved Officers and FWPD asked the Administrator not to mark Exhibit 143. Without determining line-by-line which portions of Exhibit 143 are relevant or not, the Administrator will mark Exhibit 143. Objections as to the use of any particular section will be heard during testimony.
- 9) **Instructions** – The preliminary instructions to be provided the jury are attached to this order in Appendix B. The proposed instructions to be provided to the jury after the close of evidence are also included in Appendix B. The parties will have an opportunity to address any necessary changes after the close of evidence.

10) **Interrogatories** – The proposed interrogatories to be answered by the jury are attached to this order as Appendix C. The parties will have an opportunity to address any necessary changes after the close of evidence. The Family’s request for inclusion of questions asking the jury to elicit findings identifying probable cause is RESERVED. The Family is asked to provide precise question(s) for the Inquest Administrator to consider no later than the close of business on Wednesday, August 17, 2022. The Involved Officers and FWPD may respond no later than close of business on Friday, August 18, 2022.

DATED this 17th of August, 2022.

A handwritten signature in black ink that reads "Robert C. McBeth". The signature is written in a cursive style with a large initial 'R' and a distinct 'C' before the last name.

Robert McBeth
Inquest Administrator