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

<p>Inquest into the Death of  Robert J. Lightfeather</p>	<p><b>Case No.: 17IQ16588</b>  Family Response re: Immunity</p>
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**RESPONSE**

The Family of Robert Lightfeather responds and moves that the Inquest Administrator DENY Mr. Turpin’s request that the Administrator support the request made by him via counsel to the King County Prosecutor’s Office that they agree to use-immunity if he testifies in this Inquest.

The Family moves that if Officer Rogers testifies, the *Garrity* Admonishment be read to the jury, and the *Garrity* Statement itself be allowed for impeachment.

The Family’s more specific requests for relief are at the conclusion of this memorandum.

**STATEMENT OF RELEVANT FACTS**

1 The Inquest into the death of Mr. Robert J. Lightfeather begins on September 26, 2022.  
2 On Friday September 23, 2022, the Inquest Administrator's (IA) Counsel emailed the parties  
3 with news that he had been informed by the King County Prosecutor's Office (PAO), that  
4 Attorney Cooper Offenbecher requested they agree to use-immunity for Tyler Turpin if he  
5 testifies in this Inquest. Additionally, IA Counsel conveyed that he had learned that Officer  
6 (Ofc.) Rogers had been compelled to testify under *Garrity* by the chief of the Federal Way Police  
7 Department.

8 On September 22, 2022, the IA held a Pre-Hearing Conference at which it was indicated  
9 that Ofc. Rogers would testify. Mr. Turpin was ordered to indicate by the end of the lunch break  
10 on Wednesday September 28, 2022, if he will refuse to answer each question previously  
11 indicated by the IA's attorney (or prior to testifying indicate that he will not invoke his Fifth  
12 Amendment rights). No mention was made of the order to testify or the use-immunity request.

13 On August 17, 2022, the IA held a Pre-Hearing Conference where the Administrator  
14 ruled that if the involved officers asserted their Fifth amendment right not to testify, the *Garrity*  
15 Admonishment would be admitted and read to the jury. The IA further ruled that if the Involved  
16 Officer(s) asserted their Fifth amendment right not to testify, the *Garrity* Admonishment and the  
17 *Garrity* Statement itself would be read to the jury, so that the jury would not be misled or  
18 confused about the circumstances as to which the *Garrity* Statement was obtained.

19 On September 23, 2022, Mr. Turpin's counsel emailed the parties and attached a letter  
20 that counsel sent to PAO Senior Deputies Michelle Larson and Gary Ernsdorff on behalf of Mr.  
21 Turpin. The email and letter are attached.

1 In the email Mr. Turpin’s counsel writes to IA counsel, “to urge the Inquest Program to  
2 support our request that PAO grant Tyler Turpin use and derivative use immunity for the reasons  
3 outlined in our letter to [Senior Deputies] Larson and Ernsdorff... ‘advancing the Inquest  
4 Program’s interests in ensuring Inquests are transparent proceedings in which all parties  
5 participate; ‘respectfully requesting the Inquest Program join us and urge the prosecutor’s office  
6 to grant Mr. Turpin use and derivative use immunity”.

7 The letter was written to PAO on September 14, 2022, by counsels Miller and  
8 Offenbecher and included the formal request for Mr. Turpin, “use and derivative use immunity,”  
9 ‘similar to the immunity conferred on Ofc. Rogers by the *Garrity* order.”

#### 10 ARGUMENT

11 Use and derivative use immunity prevents the prosecution from using a witness’s  
12 statement or any evidence derived from those statements against the witness in a criminal  
13 prosecution.

14 The jury should know of any grant of immunity for any witness. The parties should have  
15 the opportunity to examine Mr. Turpin about a grant of immunity, which grant may tend to  
16 impact Mr. Turpin’s testimony or the way he testifies. The jury should know about the effect on  
17 future prosecutions that a grant of immunity has.

18 Regarding the testimony of Ofc. Rogers, the jury should know about the directive of the  
19 chief ordering Ofc. Rogers to testify, and the effect on future prosecutions that that order has.  
20 Counsels Miller and Offenbecher in the letter advised Deputies Larson and Ernsdorff, that  
21 immunity similar to “use and derivative use immunity” is conferred on Ofc. Rogers by the  
22 *Garrity* order. The Family agrees that indeed may be so. Accordingly, if Ofc. Rogers testifies

1 the *Garrity* Admonishment must be read to the jury so that the circumstances as to which Ofc.  
2 Rogers is testifying will not mislead and/or confuse the jury.

3 Use and derivative use immunity is essentially the same type of immunity borne pursuant  
4 to *Garrity*. On August 17, 2022, the IA held a Pre-Hearing Conference where the Administrator  
5 ruled that if the involved officers asserted their Fifth amendment right not to testify, the *Garrity*  
6 Admonishment would be admitted and read to the jury. Just as with *Garrity*, what to do with an  
7 officer being granted immunity is within the purview of the IA, especially since it was sought  
8 directly related to and during the process. Immunity only should be sought by leave of the IA.

9 Just as lawyers have a special duty as officers of the court to avoid conduct that  
10 undermines the integrity of the adjudicative process; judges –and administrators must be inclined  
11 to uphold and promote the independence, integrity, and impartiality of the Judiciary, and shall  
12 avoid even the appearance of impropriety. Already, the Family and Community must be wary of  
13 the process when the Police Department(s) appear to deliberately attempt to intentionally subvert  
14 the IA’s rulings and the process by ordering, compelling the involved officer to testify and  
15 thereby potentially invoke *Garrity*, all while the parties are not even aware it is happening and  
16 are not able to react.

17 Imagine the magnitude of the negative and harmful impact on the process and psyche of  
18 the Family and Community if the presiding official were to take such a strong stance in favor of  
19 one party over the other. Already, that Mr. Turpin is somehow emboldened to ask at all, is  
20 unsettling.

1 Although Mr. Turpin invites the IA to take such a stance in his favor, in essence against a  
2 thorough, fair, transparent, and credible Inquest Hearing, the Family asserts that this invite is best  
3 declined.

4 **REQUEST FOR RELIEF**

5 The Family moves the IA to order that all correspondence with the PAO surrounding the  
6 issue of use-immunity, including notes, emails, texts, letters, and recordings, be forwarded to  
7 each of the parties. Also, the Family moves the IA to order that all future correspondence having  
8 to do with this matter, that each of the parties be copied.

9 The Family moves the IA to allow the examination of Mr. Turpin, should he testify, as to  
10 all attempts to seek “use and derivative immunity” and any fruits.

11 The Family moves that if Ofc. Rogers testifies the *Garrity* Admonishment be read to the  
12 jury, and the *Garrity* Statement itself be allowed for impeachment.

13  
14 Respectfully submitted this 24<sup>th</sup> day of September 2022.

15 /s/ Teri Rogers Kemp  
16 Teri Rogers Kemp, WSBA #24701