

Department of Executive Services
Inquest Program
401 Fifth Avenue, Suite 135
Seattle, WA 98104

206-477-6191
TTY Relay 711
Webpage: kingcounty.gov/inquests
Email: Inquests@kingcounty.gov

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 and Anu Zangri

The Inquest Administrator (IA), having considered argument by the parties on the issue of whether to advise the inquest jury that the testimony of certain witnesses has been compelled, hereby rules as follows:

Last Friday, September 23, 2022, the King County Prosecuting Attorney's Office ("PAO") informed this program that an attorney representing Officer Turpin asked that the PAO grant Officer Turpin use-immunity for any testimony he provides in this matter. There was nothing improper in making such a request. Had the PAO granted the request, and had Officer Turpin testified under such a grant of immunity, this Administrator shares the Family's expectation that Officer Turpin and any party aware of the fact would have informed this Administrator.

The PAO declined to grant that request and indicated that they would only consider such a request if it was made by the inquest program. Officer Turpin asked me to do so, and I declined to ask the PAO to grant such immunity. Since that time, Officer Turpin has indicated that he would testify. It appears that Officer Turpin is testifying as required under the subpoenas issued in this matter and no further re-dress has been requested by any party.

The PAO also informed this program that Officer Rogers had been compelled to testify by Federal Way Police Department Chief Hwang (and was subject to the protections afforded public employees under *Garrity v. New Jersey*, 385 U.S. 493 (1967)). The family asks that the jury be informed that Officer Rogers' testimony has been compelled. I have been presented with no caselaw or compelling argument supporting such a request:

- A civil jury may draw an inference that a person's decision to invoke the 5th and deprive them of information necessary for their decision merits a negative inference. That is not the case here: both officers will testify.
- A criminal defendant faced with admission of evidence of an arguably coerced statement may request an instruction allowing the jury to consider evidence of such coercion (because coercion by an investigating agency may lead to false confessions). That is not the case here: The officers are not defendants, they are not requesting such an instruction and there has been no compelling argument that a requirement to testify by a Chief of Police is likely to sway an officer's testimony in one direction or another.

Earlier, I determined that if either of the Involved Officers invoked his Fifth Amendment right to not testify, then that officer's Statement (which was compelled via a Garrity admonishment) would be provided to the jury so that the jury would have the benefit of the information provided in that statement. I also determined that the Garrity Admonishment would be provided to explain the existence of the statement (despite the Officer's refusal to testify). The order was specifically limited to situations in which the officer declined to testify. That is not the case here.

Inquests must be fair and transparent. While I have made the evidentiary rulings above, I share in the expectation that any grants of immunity and any orders to testify should be made public so that an Administrator can determine their admissibility and so that the integrity of these hearings can be protected.

Additionally, my decisions have been made within a limited time frame in large part required because information was provided on the eve of the inquest. I do not appreciate deciding such matters without the benefit of due consideration, aided by the considered briefing of the parties. In the future, I expect that any such requests shall be made much earlier in the process. I will advise the inquest program attorneys to advise counsel for involved officer's and agencies that delay in such request or a delay in advising the program of an order to testify will not work in the officer or agencies favor. Should this situation arise again I look forward to the arguments of all counsel, aided by ample time to make them.

At this time, however, for the reasons provided above, I will not order that the jury be informed that Chief Hwang ordered Officer Roger's to testify in this case.

The Family also asks that, if Mr. Kangethe testifies, the jury be informed that he was compelled to do so. All witnesses testifying in this case do so under the legal requirements of a subpoena. All witnesses in the matter will testify under oath and subject to the perjury rules. Mr. Kangethe is no different. If counsel believes that his apparent reticence to testify as arranged previously is relevant to his credibility or in some other way, they may provide an offer of proof and argument as to why any such reticence admissible under the rules of evidence.

DATED this 29th of September, 2022.

A handwritten signature in cursive script that reads "Robert McBeth".

Robert McBeth
Inquest Administrator