



## King County

Department of Executive Services

### Inquest Program

401 Fifth Avenue, Suite 135

Seattle, WA 98104

206-477-6191

TTY Relay 711

Webpage: [kingcounty.gov/inquests](http://kingcounty.gov/inquests)

Email: [Inquests@kingcounty.gov](mailto:Inquests@kingcounty.gov)

### **INQUEST INTO THE DEATH OF EUGENE DEWAN NELSON INQUEST # 417IQ2075**

#### **PRE-HEARING CONFERENCE ORDER September 21, 2022, 10:00 a.m.**

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Family of the decedent:	The Family of Eugene Dewan Nelson represented by Teri Rogers Kemp (family not present at this hearing)
Law enforcement officers and Employing government department:	Kent Police Department and Officer John Waldo and Officer Jacob Reed represented by Jeremy Culumber (officers not present at this hearing)
Inquest Administrator:	Robert McBeth
Inquest Program Attorney:	Claire Thornton and Cady Nicol
Inquest Program Coordinators:	Flo Armah (primary); Angelina Jimeno (secondary)

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Having held a Pre-Hearing Conference on the date noted above, Inquest Administrator (IA) McBeth hereby orders the following:

1. Factual Scope - the Draft Final Factual Scope will be provided to the parties on or before September 23, 2022. Parties shall provide any input by October 4, 2022.
2. Stipulations – if the parties wish to stipulate to any testimony or evidence to be presented to the jury, the parties shall provide any proposed stipulations by October 4, 2022.
3. Policy Scope – the parties do not have any objection to IA McBeth’s proposed Policy Scope. The Policy Scope for this Inquest Hearing shall include the following Kent Police Department policies:
  - Policy 2.100 - Use of Discretion
  - Policy 3.10 - Use of Force
  - Policy 3.40 - Requesting Medical Aid

- Policy 3.80 - Limitations of Use of Deadly Force
  - Policy 3.120 – Lateral Vascular Neck Restraint
  - Policy 11.80 – Use of Force Training
1. Policy/Training Designee - Kent Police Department designates Commander Matt Stansfield as the Policy and Training Designee
  2. Witnesses:
    - Hearing no objection to IA McBeth’s proposed Witness List and no requests for additional witnesses, IA McBeth’s Proposed Witness List is adopted as the final witness list.
    - Mr. Culumber indicates that the Involved Officers will testify.
    - The order of questioning by counsel at the Inquest Hearing will be as follows: Inquest Program Attorney (IPA), counsel for Nelson Family, counsel for Involved Officers and Kent Police Department. Questioning shall be in the form of direct examination. IA will consider requests for additional follow up questions.
    - The Jury will be allowed to propose written questions for the witnesses. After counsel have submitted their positions, IA McBeth will determine whether any juror question will be asked of a witness. Counsel may request to ask follow up questions of a witness after a jury question, which will be at the discretion of the IA.
    - Witness Involved Officer Jacob Reed will be traveling to attend the Inquest Hearing. His travel expenses will be paid through invoicing the Inquest Program at the conclusion of the Inquest Hearing.
    - IPAs will provide counsel a proposed schedule for witness testimony by September 23, 2022.
  3. Witness Interviews -
    - Dr. Harruff (KCME) will be interviewed on Friday, September 23, 2022.
    - Counsel shall collaborate to set up interviews of Commander Stansfield and Renton Detective Chris Edwards.
    - Family will inform IPAs on or before September 27, 2022, whether there is a request to interview any of the civilian witnesses. Any interview shall be set up by the IPAs and all parties will be provided the opportunity to attend.
  4. Livestreaming – the Inquest Hearing will be video and audio livestreamed, with the witness and the IA in the video frame.
  5. COVID Protocol
    - There will not be daily COVID testing
    - By order of IA McBeth and Superior Court order, masks are required for all persons in the Hearing Room

- <https://kingcounty.gov/~//media/courts/superior-court/docs/COVID-19/FILED-Emergency-Order36-KCSC-220120501.ashx?la=en>
  - Counsel doing inquiry may remove mask during questioning if they wish. The witness may remove mask during testimony if they wish.
6. Facility - Each party will have their own space in the building to use during breaks and lunch
7. Hearing Room Set Up and Access – the Inquest Hearing will not be open for the public to attend in person. The following parties shall have access to attend the Inquest Hearing in person:
- Counsel and one staff person
  - City Representative – likely Commander Stansfield
  - Involved Officers
  - Two Family Representatives
  - Media – print media will be allowed. One news camera will be allowed in the Hearing Room
8. Technical Considerations
- IPAs will schedule a Tech Walk Through for the parties, if desired, during the week prior to the Inquest Hearing
  - An Inquest Program Coordinator (IPC) will operate the Exhibit Laptop for all counsel. Counsel are expected to be familiar with the list of admitted exhibits and shall make every effort to provide exhibit numbers to the IPC prior to a witness taking the stand.
  - All exhibits will be designated as admitted, marked or demonstrative.
    - IPAs will provide draft exhibit list and upload those exhibits to ShareFile by September 30, 2022.
    - Counsel shall submit any objections and proposed additions to the IA’s Exhibit List by October 6, 2022, including demonstrative exhibits.
    - IA will determine final list of admitted Exhibits at the PHC on October 13, 2022.
    - Marked exhibits will be printed and available in binders on the witness table for refreshing recollection.
9. Jury Selection Process shall be as follows:
- 10/5/22 – Finalize Jury Questionnaire (if not done previously)
  - 10/11/22 (before noon) – Distribute to jurors
  - 10/12/22 (by noon) – Questionnaires returned

- 10/12/22 (end of day) – IA advises counsel of proposed excusals for hardship, health concerns and for cause. IA will provide a list of 12 potential jurors (and the entire list of jurors remaining). IA will seat an eight-person jury.
  - 10/13/22 (afternoon) – IA will hold a Pre-Hearing Conference to select the jury, after hearing and ruling on any for cause objections.
10. Jury Documents – Counsel shall provide input on the following documents on or before October 4, 2022:
- Jury Questionnaire
  - Introductory Jury Instructions, including any provide brief description of Mr. Nelson and a photo from the Family, if desired. Mr. Culumber will include a proposed instruction regarding party representatives being present/absent from the Hearing Room.
  - Closing Jury Instructions, including Criminal Means Instructions, which will be provided to the parties on or before September 23, 2022.
  - Jury Interrogatories
  - After parties submit input, final Drafts of the Jury Instructions and Interrogatories will be provided to counsel on or before October 7, 2022, subject to finalization after the close of evidence
11. Hearing Schedule – the Inquest Hearing schedule will be as follows:
- Monday – Friday, 9:00 a.m. – 4:30 p.m. with a 15-minute break in the morning and afternoon; lunch from noon – 1:15 p.m.
12. Next Pre-Hearing Conference is set for October 13, 2022, from 2:00 p.m. to 4:00 p.m.

Dated: September 21, 2022.



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Inquest Administrator Robert McBeth