

**IN THE STATE OF WASHINGTON  
KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES**

*IN RE*: THE INQUEST INTO THE  
DEATH OF ISAIAH OBET

NO. 417IQ7199

MOTION ON SCOPE OF  
INQUEST

**I. MOTION**

COMES NOW the Family of Isaiah Obet (hereinafter “the Family”), by and through counsel of record, and moves the court to amend the proposed scope to include, whether or not Mr. Obet was killed, or his death was **occasioned by the act of another by criminal means, who is guilty thereof**

**II. FACTS**

**a. Introduction**

The sequence of events on June 10, 2017, appears to be fairly clear, even accounting for Officer Nelson’s inconsistencies and inaccuracies.

There were three main eye-witnesses to the killing of Mr. Obet that were able to provide a full and complete narrative of the series of events and how they unfolded: Stay Cowell, Daniel Langidrik, and Freddy Milne. While there were other eye-witnesses, Cowell, Langidrik, and Milne, seemed to have the most complete

description of the incident. These witnesses likely provide the most accurate and reliable version of events given they have nothing to lose or gain from their statements. Moreover, their statements appear consistent with the forensics.

**b. Langidrik**

Daniel Langidrik reported that he had a clear view of the incident. That Mr. Obet was trying to break into the SUV. Then when Nelson arrived, he let the dog out and the dog attacked Mr. Obet, and Mr. Obet was fighting with the dog. Then Nelson fired the first shot, and it hit Mr. Obet in the chest or stomach. Then after Mr. Obet fell down and was not moving, Langidrik said that "...the cop just come straight to him and shot him in the head". Bates 895 Pg. 4 ln 16-17.

D. LANGIDRIK: And the cop just coming straight to him and shot him right here in the head.

DET. BEAM: In the head okay so you-you say he was laying down on the ground?

D. LANGIDRIK: Yeah

DET. BEAM: By the time he got shot in the head?

D. LANGIDRIK: Yeah

DET. BEAM: Okay was he still moving when he shot him in the head?

D. LANGIDRIK: No.

Bates 896 Ln. 2-9

....

D. LANGIDRIK: So he just shot him and he-he just fall on the ground.

DET. BEAM: Okay.

D. LANGIDRIK: Yeah and just came straight to him and bzz in the head.

DET. BEAM: While he was lying on the ground?

D. LANGIDRIK: Yeah.

Bates 898 Ln. 3-7

Langidrik, Milne, and Cowell substantially agree on the order of events. Mr. Obet was trying to break into a vehicle, Officer Nelson released his dog on him, and while Mr. Obet was being bitten by the dog and fighting the dog, Mr. Obet was standing.

Nelson then shot Mr. Obet in the chest area. All three witnesses agree that after the first shot, Mr. Obet fell to the ground. Next, Nelson approached Mr. Obet and shot him in the head as he laid on the ground. None of the witnesses reported that Mr. Obet was attempting to get up as he was shot, nor place Nelson between Mr. Obet and the car.

**c. Milne**

Milne said he saw Mr. Obet trying to access the SUV and he thought that he was trying to get the occupant out of it so he could take the car. Milne reported that at first, he didn't see Officer Nelson that he only saw the K-9 run out of the car. K-9 began attacking Mr. Obet. Milne said Nelson got out of his car and got halfway between his patrol car and the SUV. Milne reports that the K-9 was still attacking Mr. Obet. He said that the K-9 was pulling Mr. Obet away from the car when Nelson fired the first shot: the shot that hit Mr. Obet in the right shoulder. After Mr. Obet fell to the ground, Nelson fired the second shot: the shot to Mr. Obet's temple. He also reported that right after the second shot another officer drove up right behind her.

**d. Cowell**

Stacy Cowell gave a recorded statement, but she also wrote down a statement right after the incident, when it was fresh in her mind. Prior to any shots fired, Cowell reports that K-9 had gotten ahold of Mr. Obet. She said that Mr. Obet was actively trying to get in the SUV, she said, to get away from the Officer. That after the K-9 got ahold of him the officer shot him. Shortly after she said he shot him a second time. Cowell reports that the officer was standing very close to Mr. Obet during the second

shot and that Mr. Obet was lying flat and not moving when the second shot was fired. She also reported that there was an SUV police vehicle that came up right after the shooting.

e. **Officer Nelson**

Officer Nelson's report is inconsistent with eye-witness accounts. He said that as he responded to the scene, he saw Mr. Obet, and he exited his car "low ready" and he yelled "stop police". Mr. Obet didn't respond and attempted to stab the window and open the door. He described it as a hammer strike to the window. He said he got to the center double lane of the road and took a step to the left. He said that Mr. Obet turned and was no longer attempting to enter the vehicle. During his recorded interview he said,

Now he has the knife out and he points it, as he turns, and he points it directly at me. So now I'm thinkin'. Ok this is—now—now he's on —now- now I have his attention. At least he's not trying to break the window. Now he's — now he's my immediate risk. Now he's goin' to—now he's comin' after me."  
Bates 351 Ln 540-544.

...

I took, generally, the most effective shot I could. Um, I – as he turned to me and held the knife, uh, I struck him once in the upper right torso and the upper right shoulder region, or the pectorial area. Um, the round – the shot was effective. Um, he took one step to the left, uh, brushed against the van and then fell to the ground. The dog, uh was not in front of the vehicle, began to circle navigate around behind me, because I hadn't given the dog any type of commands.

Bates 351 Ln 548- 554.

He said he pinned the SUV door shut with his body so the occupant couldn't open the door. Bates 351. Nelson said Mr. Obet then began to move his legs in a bicycle style fashion on the ground. He said that Mr. Obet's head and shoulders were in the direction of his patrol vehicle and "directly at me". Bates 351. Nelson reported that

Mr. Obet still had the knife in his hand and that the dog had not engaged at all up until this point. Officer Nelson reported that Mr. Obet was trying to get up from the ground, and as he was trying to get up, he shot him in the head killing him. Bates 352. Nelson said it was only after Mr. Obet was shot the second time that his dog engaged.

**f. Officer Nelson's credibility and use of force throughout his career**

Officer Nelson's pattern of use of force since 2011 is extraordinary and highly unusual. He has 64 instances of pretty extreme force from 2012- present. Most of the uses of force include him tasing people, having his K-9 attack people, and he has an unusually high number of incidents where he chokes people until they pass out. The sheer number of incidents is remarkable.

Nelson was hired by the Auburn Police Department on November 12, 2008. The Auburn Police Department does not possess use of force records related to Nelson prior to 2012 so the instances described do not represent all information related to his history. However, there are some records of the other killing that Officer Nelson engaged in, in 2011, described herein.

In 2011, Nelson shot and killed a suspect after a traffic stop. Nelson **shot the suspect** in the back of the head after he allegedly brandished a knife after a traffic stop.

On November 23, 2012, Nelson **used a Taser** to such an extent to arrest a non-violent felon (theft) who was fleeing from arrest, that the felon had to be transported to the hospital.

On September 25, 2013, Nelson used a Taser in executing an arrest warrant for a non-violent offense when the suspect refused to crawl out from underneath a vehicle requiring the fire department to respond and give the suspect medical treatment.

On September 25, 2013, Nelson directed his K-9 to bite an individual for a non-violent offense when the individual fled from Nelson requiring the fire department to respond and give the suspect medical treatment.

On January 5, 2014, Nelson directed his K-9 to bite an individual who was hiding from him who was suspected of violating a domestic stay away order.

On March 24, 2014, Nelson directed his K-9 to bite an individual who committed jaywalking in his presence because he fled when he attempted him to stop him, requiring the fire department to respond and give the individual medical treatment.

On March 31, 2014, Nelson directed his K-9 to bite an individual who fled on foot after he was observed being in possession of a motor vehicle requiring the fire department to respond and give the individual medical treatment.

On June 17, 2014, Nelson body slammed an individual causing bruising to their face and injury to their shoulder when he executed a misdemeanor arrest warrant, requiring the fire department to respond to give the individual medical treatment.

On June 19, 2014, Nelson and a compatriot broke multiple bones in a suspect's face. The person was wanted on a non-violent felony arrest warrant and was hospitalized after he resisted arrest and attempted to fight off both of them.

On July 9, 2014, Nelson, unaware that he was being videotaped, said to his compatriot "Are you ready to fuck this guy up?" then proceeded to Taser and choke out

an individual until he **lost consciousness**, requiring the fire department and paramedics to respond because the individual jay-walked and cursed at them when they tried to cite him.

On July 11, 2014, Nelson directed his **K-9 to bite** an individual suspected of committing a property crime as the individual ran from the police officers, requiring the fire department to respond to give the individual medical treatment.

On August 31, 2014, Nelson directed his **K-9 to bite an** individual who was hiding from him after the individual fled from a traffic stop and hid in a garbage dump, to avoid arrest, requiring the fire department to respond to give the individual medical treatment.

On November 18, 2014, Nelson kicked an individual, then directed his **K-9 to bite** an individual causing lacerations and bruising to him because the individual fled from Nelson after Nelson tried to execute a non-violent arrest warrant, requiring the fire department to respond to give the individual medical treatment.

On December 14, 2014, Nelson directed his **K-9 to bite** an individual while the individual hid from him, causing multiple lacerations, while conducting a felony domestic violence investigation, requiring the fire department to respond to give the individual medical treatment.

On December 31, 2014, Nelson punched an individual in the mouth, then directed his **K-9 to bite** that individual, when he executed an arrest warrant in the individual's home, requiring the fire department to respond and then hospitalize the individual.

On January 29, 2015, Nelson caused an individual to be taken to the hospital, when he directed **his K-9 to bite** him in response to a traffic crime, while the individual was hiding from the police because he did not want to be arrested.

On January 29, 2015, Nelson caused an individual to suffer injury when he directed his **K-9 to bite that** individual, while arresting him for a misdemeanor offense because the individual hid from him.

On February 4, 2015, Nelson caused an individual to suffer injury when he directed his **K-9 to bite** that individual, after the individual provided a compatriot a false name and fled into the tree line to hide.

On March 4, 2015, an individual was injured and taken to the hospital as a result because **Nelson's K-9 bit him** after the individual fled from police following a suspected car theft.

On April 16, 2015, an individual, who fled from Nelson, was hospitalized after Nelson **directed his K-9 to bite** the individual repeatedly because Nelson found the individual's presence in a restaurant parking lot to be suspicious.

On May 12, 2015, an individual, who fled from Nelson, suffered injuries because **Nelson's K-9 bit him**, and **Nelson assaulted him when the** individual refused to stop and fled from officers, after police contacted him in a parking lot.

On Jun 16, 2015, while investigating a misdemeanor domestic stay away order, Nelson **directed his K-9 to bite** an individual and also punched the individual in the face requiring him to be hospitalized.



On August 2, 2015, Nelson, during an investigation of a domestic stay away order, **choked out an individual until he lost consciousness**, requiring medical treatment at the scene.

On August 16, 2015, Nelson **choked out an individual until he lost consciousness** and had to be hospitalized because the individual, who was emotionally distressed, disregarded officer commands, and was colliding with officer vehicles with his vehicle.

On September 12, 2015, while investigating a vehicle theft, Nelson directed his **K-9 to bite** an individual as the individual hid from him, then kicked the individual to effectuate an arrest, causing him injuries.

On September 29, 2015, while assisting another officer with a traffic stop, Nelson directed his **K-9 to bite** and scratch the passenger, who walked away from the scene and later allegedly struggled with the dog, requiring the person to be taken to the hospital.

On October 29, 2015, Nelson, assisting three officers, who had in custody and handcuffed a drunk person pursuant to a domestic call, **applied a lateral vascular neck restraint and rendered the suspect unconscious.** Nelson then struck the man three times on the back to revive him. Upon being revived after 20 seconds, the man said, "you f-ing killed me man."

On November 3, 2015, Nelson **tackled a man** in relation to a misdemeanor property crime. Nelson secured his head with his right arm, and applying pressure to

his cheek while turning his face and head to the left, later applied additional pressure, and still later in the arrest, **applied the lateral vascular neck restraint control hold**.

November 7, 2015, in pursuing a fleeing vehicle, Nelson struck the car several times. After the car stopped, Nelson directed **his K-9 to bite** the driver, then kicked him several times in the torso and the chest, including a “stop kick” to his upper chest region. The dog’s jaws were affixed to the driver throughout the incident, and he suffered multiple abrasions and was taken to the hospital.

December 15, 2015, in pursuing a fleeing suspect, **Nelson’s K-9 bit** the individual and **Nelson pushed the individual down**, resulting in the person hitting a bathtub on the way down. As the individual tried to get the dog off of his leg, Nelson kicked him in the chest. The individual had multiple abrasions and lacerations.

On January 9, 2016, Nelson entered a home where several officers were already inside and applied a lateral vascular neck restraint hold to a suspect, also placing his forearm across the individual’s face and nose region, and **applied pressure (cross face control hold)**. Nelson then applied additional pressure to his neck, wrapped his legs around the suspect’s legs, and applied additional pressure until the **person lost consciousness**. The person had a bloody nose and bruising and was taken to the hospital.

January 9, 2016, Nelson “**stop-kicked**” a suspect in the upper torso at a Fred Meyer store in responding to a “suspicious subject.”

On January 31, 2016, Nelson deployed his **K-9 on a passenger**, who left the scene of a vehicle stop. The subject received a bite, and Valley Regional Fire was called to evaluate and treat him and was transported to the hospital.

February 20, 2016, in assisting a private PI with executing an arrest warrant, Nelson secured the woman's head and neck in a **lateral vascular neck restraint hold**. She flailed, and **she also indicated she was pregnant, so Nelson used a side to side control hold. She** was taken to the hospital for further evaluation.

December 3, 2016, Nelson's **deployed his K-9 on** an individual who was fleeing a vehicle that was purportedly stolen. The individual received abrasions and a bite and was taken to the hospital as a result of his injuries.

December 5, 2016, Nelson **deployed his K-9 against** a subject purportedly involved in a vehicle prowl or assault. She received lacerations on her left forearm and foot and was transported to Auburn Hospital for additional treatment.

December 16, 2016, Nelson **drove over a median to block a vehicle**, and the pursued vehicle struck another vehicle, injuring a 72-year-old man. He was evaluated by Valley Fire.

January 5, 2017, Nelson was part of a team that employed elbow strikes, tasers, and the **vascular neck restraint hold** on an intoxicated suspect. Nelson rammed into the citizen in his right shoulder and drove him into a wall, then kned him in his upper left quad. Nelson then took hold of the citizen's head and neck and pulled him upward, disrupting his balance, and simultaneously drove his upper body onto the floor. **Nelson kned him again three times in the left side.** More pressure was applied

to the citizen's neck by another officer, rendering **the man unconscious**. He regained consciousness when being handcuffed and said, "you're killing me, I can't breathe." The citizen had lacerations, abrasions, and was taken to the hospital. This involved possible misdemeanor domestic violence.

On February 16, 2017, Nelson **deployed his K-9 on** a citizen who had an arrest warrant, and as the person tried to break free of the bite, Nelson struck him in the face with his right forearm and knocked him to the ground, and he was taken to the hospital as a result of his injuries.

On February 22, 2017, Nelson **deployed his K-9** on a suspect who fled from a stolen car, resulting in the dog biting his right forearm. Nelson then drove the person's torso into a wall as the person tried to get out of the dog's hold. The person had several abrasions and bruising consistent with a dog bite and the person attempting to pull away from a dog. The person was taken to the hospital due to his injuries.

February 26, 2017, after a citizen bumped Nelson who was assisting a casino with ejecting a customer, Nelson came up behind the person and employed his head and neck in the **lateral vascular neck restraint hold** and rotated his body to the ground. He later applied additional pressure and **rendered the person unconscious**. The citizen was injured and transported to a medical facility.

March 17, 2017, Nelson **deployed his K-9, who** bit and held a fleeing suspect's forearm. The person struggled and required medical treatment for the dog bites.

April 7, 2017, Nelson was called to a hospital for trespass of an unwanted subject/intoxicated person. As the person struggled, Nelson applied the **lateral**

vascular neck restraint hold, rendering the person unconscious. The citizen was transported to Highline Medical Center.

May 1, 2017, Nelson deployed his K-9 on a citizen regarding an alleged stolen vehicle. Fire fighters were called to the scene and transported the citizen to the hospital to evaluate the dog bite/lacerations he received.

May 16, 2017, Nelson deployed his K-9 on a citizen who fled a traffic stop, was bitten by the K-9, sustained abrasions and lacerations, and required medical care.

May 30, 2017, Nelson deployed his K-9 on suspected burglars. The dog seized one of the adult males, who was laying on the floor. After the person grabbed the dog's head trying to get the dog off of him, and after Nelson confirmed the person had no weapons, he struck the person on the face with his open palm. Nelson then told the K-9 to release his hold on the individual, who was later treated by fire fighters for his bite.

On June 6, 2017, Nelson deployed his K-9 and commanded him to locate a suspect, who was bitten on the lower left leg. He was treated/evaluated by Valley Regional Fire and found to have multiple visible lacerations on both legs.

On June 10, 2017, Nelson shot and killed Isaiah Obet. News articles report Mr. Obet was killed by multiple gunshots from Nelson's weapon. The outcome of the inquest proceedings is pending.

On July 16, 2017, Nelson was dispatched to a DV no contact order welfare check. He deployed his K-9 on the person, who had left the residence by the time Nelson arrived. The dog "contacted" the suspect on his right upper bicep, and, when

attempting to pull himself free of the dog's jaws, Nelson used his right foot to "push" the suspect off of the dog. Valley Regional Fire was called to treat/evaluate the person, who was transported to Valley Medical Center for additional treatment.

August 7, 2017, Nelson deployed his K-9 on two (drive by shooting) suspects, one of whom received lacerations on both of his arms and was taken to the hospital as a result of his injuries.

August 8, 2017, Nelson deployed his K-9 on burglary suspects, who were located and bitten by the K-9. Nelson tackled one of the suspects as well. The injuries were evaluated/treated by Valley Fire.

On August 21, 2017, Nelson deployed his K-9 on an intoxicated person, who was striking a vehicle. The dog first bit the individual on the right pectoral region. Later, lacerations were seen on the pectoral area, upper should and inner bicep region. The person was first transported to Auburn Regional hospital, but since an artery was damaged, he was transported to the Harborview Medical Center for treatment of his injuries.

September 9, 2017, Nelson deployed his K-9 to apprehend an individual, who was "pulled out" of an area by the K-9. There were red circular and linear abrasions on the suspect's forearm, purportedly caused by their effort of trying to pull/push the dog off during the bite. He was transported to Auburn Hospital for treatment.

October 17, 2017, Nelson was part of a possible misdemeanor DV arrest, when he entered a home and began arresting a person, who denied involvement. Nelson secured the person in a lateral vascular neck restraint hold, and they began flailing.

Nelson applied additional pressure until the person became unconscious. Nelson then began lateral vascular neck restraint recovery procedures which include striking the person with an open palm several times in the back. Firefighters were called to evaluate, and he was transported to a hospital.

On December 5, 2017, Nelson pursued a stolen vehicle, and the driver denied it was stolen. When the driver purportedly did not follow commands and moved around inside the vehicle, Nelson deployed his K-9 on his person. The K-9 maintained a hold on the left forearm. The driver had no warrants and said he purchased the vehicle. There were several linear abrasions consistent with a dog bite, and he was transported to the hospital for further evaluation of his injuries.

January 1, 2018, Nelson placed his hands on an agitated person, who he says tried to bite him. He and another officer pushed this person, and Nelson ultimately applied the lateral vascular neck restraint hold, rendering him unconscious. He then lowered the citizen into a seated position and struck the person on his back as part of the recovery protocols. The person was taken to the hospital for further evaluation.

January 13, 2018, Nelson responded to an injury collision. Nelson deployed his K-9 to locate a driver, who had left the scene. The dog bit and held the person, who suffered several minor lacerations and was treated on the scene by the Fire Department.

January 27, 2018, in executing a warrant, Nelson deployed his K-9, who held onto the person's right forearm. When the person's parents intervened in the fracas, Nelson pushed both of them into the house. The arrestee had several lacerations on his inner

and outer right forearms (3-6 inches), and had an already existing injury re-opened, so he was transported to the hospital.

May 15, 2018, Nelson **deployed his K-9** to assist with apprehending a person, who had exited a purportedly stolen vehicle. The K-9 bit his upper right arm, and when the individual tried to get the dog off of him, **Nelson used his right forearm to strike the person's left shoulder and force the person to the ground.** The person continued to try to get his arm out of the dog's jaws and was told to "stop fighting with the dog." Only when he showed both hands to Nelson did Nelson allow the dog to release its jaws. He was transported to Auburn Hospital for his injuries.

On May 25, 2018, Nelson **deployed his K-9 on** three suspects, two of whom surrendered immediately, once Nelson made commands, and one of whom fled. The dog stopped the third suspect with a bite and hold; Nelson confirmed the individual had no weapons and commanded the dog to release the bite and hold. However, the person was screaming loudly, and other officers were yelling loudly, and this drowned out Nelson's commands, resulting in additional injuries. The individual was treated by Valley Fire and then transported to the hospital, as there were multiple lacerations on the person's upper left and right forearms.

On June 1, 2018, Nelson responded to a dispatch of a mentally ill-appearing intoxicated person near a gas station, with a cell phone and a knife. **The dog bit and** stopped by affixing his jaw on the upper portion of the citizen's left leg. Nelson took advantage of him being off-balance by **striking this person on the left side of his face with his right forearm, knocking him to the ground.** The person lost consciousness and



struck his head and back on the pavement. Then, Nelson released the dog's hold. Valley Regional fire was called to the scene. The person had several lacerations on their left leg, a laceration on their left cheek below the eye, due to being struck by Nelson, and a laceration on the back of their head from hitting it on the pavement, and was transported to the hospital as a result of their injuries.

June 16, 2018, Nelson **deployed his K-9 on** a person, who was a passenger in a stolen vehicle, who was located, bitten and pulled out of vegetation by the dog. Valley Fire was called to the scene, and the person was transported to Auburn Hospital for further evaluation.

On June 20, 2018, Nelson assisted in arresting a person with a warrant. In the process, he **tackled the suspect** and secured his head and neck in a **vascular neck restraint hold**. As he struggled with the suspect, Nelson used his body weight to point the person's face and stomach towards the ground, and he applied more pressure with the vascular neck restraint hold, which ultimately rendered him "effectively" **unconscious**. After Nelson released his hold, the person was treated by Valley fire, due to lacerations, and transported to the hospital, with swelling to the face and nose, and complaint of neck pain due to the LVNR hold.

On June 22, 2018, Nelson **deployed his K-9** to locate a citizen, who had a DOC warrant. The dog bit his right forearm, and the person had visible lacerations. He was transported to the hospital due to his injuries.

On June 28, 2018, while called on a "welfare check", which turned into a dangerous elude situation, Nelson **deployed his K-9**. The dog contacted the Detective,

who was pursuing the suspect on the lower right calf, and Nelson had to command the dog to release the Detective. The Detective was injured and unable to continue the pursuit. Eventually, Nelson **collided with the person and tackled** him to the ground. The **K-9 then bit the** person. Next, Nelson applied the **Vascular Neck Restraint**. The K-9 then contacted officer Nelson on the leg as well, and he commanded the dog to release his leg; the dog then bit and maintained hold of the citizen's leg. Both the citizen and Officer required additional evaluation/treatment at a hospital.

On August 23, 2018, Nelson **ran down Joseph Allen with his car and lodged him into a fence**. Mr. Allen had run from Marshalls serving an arrest warrant for a felony warrant. Mr. Allen had substantial physical injuries, including **two broken ankles**. Officer Nelson did not inform the arriving officers of the incident, and Mr. Allen was forced to walk on his injuries.

On September 12, 2018, Nelson **struck a vehicle and spun it in PIT** maneuvers but was unable to stop the SUV.

On November 1, 2018, in response to a Theft 3 shoplift of cigarettes, and the suspect being seen at "Ray of Hope" shelter, officers began pursuing the suspect. Nelson determined he was little risk to the public, so he did not deploy his K-9, but chased the suspect on foot, **grabbed his shoulder and pulled him down, and did a hip throw**. The person began to try to crawl, **and Nelson struck the person under his arm/above the hip with his right knee**. Nelson laid on top of the person, and then applied the **Vascular Neck Restraint** position. The person continued moving, so Nelson

applied more pressure with this hold **until the person was unconscious.** Valley Fire responded and took the man to the hospital.

It should also be noted that Officer Nelson has a tattoo on his right and left wrist that reads, ***better to be judged by 12, than carried by six.***

**g. Forensics**

The medical examiner ruled the death of Mr. Obet a homicide. The CAD report has officer Byers arriving seven seconds after the CAD indicates shots were fired. The family has not received the in-car video of officer Byers, which should have the best depiction of what occurred and where everyone was located at the time of Mr. Obet's death. However, based on the limited information the family has, it appears that the blood stains that are the most prominent are likely where Mr. Obet was shot and killed. The photographic evidence shows a pool of blood over half of a car lane width from the SUV. This blood pool is also located several feet behind the SUV. It is likely that medics rolled Mr. Obet over after they arrived, and so the placement of his body in photographs depicted in bates 709-713 does not accurately depict where he was shot in the head and killed. This location is relevant to the risk that Mr. Obet did or did not pose.

**III. LEGAL AUTHORITY**

**a. Introduction**

The Executive has the power and authority to address and modify certain aspects of the inquest process, but what he cannot do is fundamentally alter its purpose. By

not posing the question to the jury of whether or not the actions of the officer were criminal, the executive has fundamentally altered RCW 36.24.70 impermissibly. This limitation on scope violates the supremacy clause, and the court must rectify this omission by including within the scope of the inquest the question of whether or not the officer's actions were criminal.

**b. Scope of Inquest**

RCW 36.24.070 clearly lays out the scope of the inquest.

After hearing the testimony, the jury shall render its verdict and certify the same in writing signed by the jurors, and setting forth who the person killed is, if known, and when, where and by what means he or she came to his or her death; or if he or she was killed, or his or her death was **occasioned by the act of another by criminal means, who is guilty thereof, if known.**

Wash. Rev. Code Ann. § 36.24.070 (West)

King County Code 2.35 created the office of the Medical Examiner and gave the medical examiner all of the duties of the Coroner, “except for the holding of inquests which function is vested in the county executive”. Former KKC 2.24.110(A), now 2.35A.090(B).

This delegation of power was analyzed in *Carrick v. Locke*, and the court found that delegating this authority to the Executive under the King County Code did not impermissibly conflict with RCW 36.24, and thus did not violate the separation of powers. 125 Wn 2d 129 (1994). However, the court was very clear that if there are “conflicting requirements” between the EO and RCW 36.24 that “contravene or render nugatory” the duties outline in RCW 36.24, the Supremacy Clause requires that RCW 36.24 must take precedence over any executive order or King County Code.

“An ordinance must yield to a statute on the same subject on either of two grounds: if the statute preempts the field, leaving no room for concurrent jurisdiction, or if a conflict exists between the two that cannot be harmonized.” *Tacoma v. Luvene*, 118 Wash.2d 826, 833, 827 P.2d 1374 (1992). If there is a conflict such a conflict must be direct and irreconcilable. *Luvene*, at 835, 827 P.2d 1374. The test is whether the local ordinance permits that which the statute forbids, and vice versa. *Luvene*, at 835, 827 P.2d 1374.

In this case the executive’s limitation of the scope of the inquest conflicts with and contravenes and renders negatory RCW 36.24.70, by removing one of the core purposes of the inquest.

The scope of the inquest as updated by EO PHL-7-1-2-EO, states that the, “Administrator, after consultation with the participating parties, shall determine the inquest scope. Consistent with the purpose as set forth in the amended Charter, Executive order, and Appendix 1 and 2, the inquest scope shall include an inquiry into and the panel shall make findings regarding the cause, manner, and circumstances of the death, including applicable law enforcement agency policy. The panel shall make findings regarding whether the law enforcement officer complied with applicable enforcement agency training and policy as they relate to the death.”

Under RCW 36.24.070, the scope of the inquest has a key additional section that is not contained in the EO, “[a]fter hearing the testimony, the jury shall render its verdict and certify the same in writing signed by the jurors, and setting forth who the person killed is, if known, and when, where and by what means he or she came to his

or her death; or if he or she was killed, or his or her death was occasioned by the act of another by criminal means, who is guilty thereof, if known.” Wash. Rev. Code Ann. § 36.24.070 (West)

The portion of the statute that requires a determination of whether the death was by “criminal means” is the crux and the entire purpose of the inquest. Removing that portion from the scope has broad sweeping impacts that fundamentally impair the purpose of the inquest.

**c. By criminal means**

RCW 9A.16.040 outlines when a homicide or use of deadly force by a police officer is justified.<sup>1</sup> Whether a police officer used deadly force appropriately is a question for the jury during an inquest and is consistent with the mandate of RCW 36.24.070.<sup>2</sup>

A person can be held criminal liable for a death of another if they commit a premeditated intentional killing of another, if they commit an intentional killing of another, if they recklessly cause the death of another, or if they negligently cause the death of another. RCW 9A.32.040, 9A.32.050, 9A.32.060, 9A.32.070.

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<sup>1</sup> It should be noted that RCW 9A.16.040 was amended in 2019.

(1) Homicide or the use of deadly force is justifiable in the following cases: (c) When necessarily used by a peace officer meeting the good faith standard of this section... (i) To arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony; (2) In considering whether to use deadly force under subsection (1)(c) of this section, to arrest or apprehend any person for the commission of any crime, the peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others. Among the circumstances which may be considered by peace officers as a “threat of serious physical harm” are the following: (a) The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or (b) There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm. (4) A peace officer shall not be held criminally liable for using deadly force in good faith, where “good faith” is an objective standard which shall consider all the facts, circumstances, and information known to the officer at the time to determine whether a similarly situated reasonable officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual. Wash. Rev. Code Ann. § 9A.16.040 (West)

<sup>2</sup> See generally, *Graham v. Connor*, 490 U.S. 386, 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989) and RCW 9A.16.040.

The law is clear, the scope of the inquest must include questions posed to the jury about whether Officer Nelson committed murder or manslaughter and therefore a determination of whether his acts were criminal as defined by RCW 9A.32.040, 9A.32.050, 9A.32.060, and 9A.32.070.

**d. The public has a right to know**

The seminal question that the public cares about is whether an on duty police officer committed a crime when he killed a community member. And an inquest is likely the only time the officer's actions will be scrutinized in this way.

The King County Prosecutors office does not file criminal charges against police officers who kill community members while on duty, even when the killings are not justified. Even after Seattle Police determined the killing of John T. Williams unjustified and discharged Officer Birk, the prosecutor's office still declined to file charges against him.<sup>3</sup> Historically, prosecutors have been unwilling to hold our police officers accountable. That is why RCW 36.24.70 requires the jury to answer the question seminal question, was the act by the officer of criminal means. Without this question posed during the inquest, the community will likely never get the answer to this question because we know a prosecutor will never file criminal charges against a police officer.

Because the fundamental purpose of the inquest is *truth seeking*, it is essential for the jury to answer whether Nelson's actions were criminal.

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<sup>3</sup> <https://www.seattletimes.com/seattle-news/no-charges-against-seattle-officer-who-shot-woodcarver/>

**e. Mr. Obet's death**

The facts of Mr. Obet's death are very compelling. Eye-witness accounts contradict officer Nelson's versions of events. Witnesses describe the second shot as an execution style of killing at close range. Mr. Obet on the ground, not moving, not advancing the officer, and the officer at close range shot Mr. Obet in the temple killing him instantly. Witnesses also indicate that Mr. Obet was in the process of being attacked by a dog before any shots were fired. The preliminary forensics seem to support that Officer Nelson was not in between the SUV and Mr. Obet as he describes. Moreover, the blood stains support that Mr. Obet appeared to be several feet away from the SUV when he fell to the ground, thus not appearing to pose an imminent threat to the person in the SUV.

Further, Officer Nelson, the person who shot and killed Mr. Obet, has a substantial and extraordinary history and pattern of violence. This information undermines his credibility in evaluating threats and appears to establish a pattern of significant violence in the line of duty.

Just because someone engages in threatening behavior previously does not justify the killing of someone if they don't pose an imminent threat. While some of the alleged acts of Mr. Obet are certainly cause for alarm and concern, the relevant inquiry is whether when he was shot and killed, if under an objective standard, he posed an imminent threat of substantial bodily harm or death to another. RCW 9A.16.040. A police officer doesn't get to kill someone just because the suspect is believed to have



done some bad things or is later discovered to have done some bad things. That would make police officers the judge, jury, and executioner.

If Mr. Obet were facedown, being mauled by a dog, and not advancing the officer, his killing was not justified and was therefore criminal. A jury should decide this question and the public and Mr. Obet's family have a right to know the answer.

#### **IV. CONCLUSION**

Therefore, the Family of Mr. Obet respectfully requests the court broaden the scope to determine whether the acts of the government, specifically, Officer Nelson, were by criminal means.

DATED 10/15/19.

Respectfully submitted,

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