



**King County**

Department of Executive Services

**Inquest Program**

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**FINAL PRE-HEARING CONFERENCE ORDER**

**INQUEST INTO THE DEATH OF CURTIS ELROY TADE  
INQUEST # 17IQ61739**

**PARTIES:**

Family of the Curtis Elroy Tade:	Represented by Teri Rogers Kemp
Law enforcement officers:	Kirkland Police Department Officer Scott Cox, represented by Derrick Isackson
Employing government department:	Federal Way Police Department, represented by Stew Estes and Audrey M. Airut Murphy
Administrator:	Robert McBeth, assisted by Matt Anderson and Cady Nicol

The Inquest Administrator, having presided over a Pre-Hearing Conference on April 28, 2023, and having considered the briefs and comments of counsel, hereby orders:

1. **Inquest date:** The Inquest Hearing in this matter is scheduled to commence on Monday, June 12, 2022 with testimony to run until Friday, August 26, 2022. It will occur at The Children & Family Justice Center, Second Floor, Reign and Sounder Conference Rooms, 1211 East Alder Street, Seattle WA 98122. 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 [Curtis Elroy](#)

[Tade Inquest page](#). Recordings of the proceedings will be available via a link available on that same page as provided in the [2022 General Order](#).

3. **Factual scope** – Remains as ordered in the January 6, 2023 Pre-Hearing Conference Order.
4. **Witnesses** - The Inquest Administrator will call retired SPD Captain Mike Teeter and King County Sheriff Deputy Joseph winters to testify in addition to the witnesses listed in the January 6, 2023, Pre-Hearing Conference Order. The parties confirmed at the hearing that they will not offer the testimony of Nicholas Fomby or Chris Nielsen.
5. **Policy and training scope** – Evidence will be allowed and the jury will answer interrogatories regarding the applicability of, and Involved Officer’s compliance with,
  - a) Kirkland Police Department policies and trainings on use of deadly force
  - b) Kirkland Police Department trainings on de-escalation.

An excerpt of relevant policies will be admitted as Exhibit 100 and is attached as Appendix A. Exclusion of particular language from the excerpt exhibit does not prohibit testimony on such language where it may be relevant. Instead, the exhibit is intended to focus the jury on the portions of the Kirkland Policy that they will evaluate.

6. **Instructions** – Having considered the suggestions of the parties, the preliminary instructions to be provided to the jury are attached as Appendix B. The proposed closing instructions are attached as Appendix C. The proposed closing instructions will be finalized after the completion of the evidence and are, therefore, not in final form. The Administrator will ask to hear from the parties on the below-listed matters at the next Pre-Hearing Conference. Written submissions, if any, shall be provided by May 26, 2023:

**Instruction # 14, 15, and 16 (Defining certain crimes as felonies)** - Appear to correctly state the law and is supported by the expected evidence. The Administrator asks the parties to consider a stipulation on this subject matter, making the instructions unnecessary and better focusing the jury on the primary issues of this case. The Inquest Program Attorney and Parties shall coordinate to determine if an appropriate stipulation can be reached.

**Instruction #18 (Criminal means)** - Was modified and explained at the Pre-Hearing Conference.

**Instruction #23 (Law enforcement officer’s duty to enforce the law)** – All parties agreed that an instruction on this subject matter is appropriate and agreed to consider language supported more directly by the facts of this case. Alternate language has been proposed in Appendix C.

**Instruction #24 (No duty to retreat)** – Appear to correctly state the law and is supported by the expected evidence. The family has indicated that they will offer an instruction describing an officer’s discretion to retreat. Any instruction should be proposed by May 26, 2023.

**Instruction #25 (Acting on Appearances)** – The comments to WPIC 16.07 do not suggest providing this instruction in cases involving 9A.16.040. The Administrator has agreed to **RESERVE** ruling until the close of evidence at the request of Officer Cox and Kirkland PD. Any further authority supporting this instruction based on the expected evidence should be provided by May 26, 2023.

7. **Involved Officer Testimony** – Officer Scott Cox has been ordered to testify by Kirkland Police Department Chief Cherie Harris and has confirmed that he will do so. The Family has asked that the jury be informed of the order from Chief Harris. The Administrator denies the request for the reasons provided when the same request was made in the Inquest into the Death of Robert Lightfeather. The Order denying that request is attached as Appendix D.
8. **Motion to preclude testimony on whether the Involved Officer complied with Policy and Training.** The Administrator proposed that Kirkland Lt. Troy Knafla, the Chief’s designee on Policy and Training, and Retired SPD Capt. Mike Teeter testify to their analysis of whether Officer Cox complied with Kirkland Police Department Policy and Training. The Family objected to any witness opining on compliance, considering it an ultimate issue best left to the jury. No party has provided case law suggesting that an opinion from a witness in this proceeding on a matter that the jury must determine is impermissible. Nor has any party suggested that the testimony is irrelevant, prejudicial, or that the witnesses are unqualified to provide such an opinion. Indeed, both witnesses have been interviewed and appear to have the expertise and case knowledge to provide a qualified opinion. Based on the record before this Administrator, Lt. Knafla and Capt. Teeter will be allowed to provide analysis of Ofc. Cox’s compliance with Policy and training.
9. **Exhibits** – The Administrator will admit the photographs proposed by Officer Cox. At this time, the Administrator will not mark the rifle and magazine held by Mr. Tade as an illustrative exhibit. The Administrator will consider any additional photographs proposed by the parties to convey information that would be obtained through examination of the rifle itself and encourages the parties to coordinate with the King County Sheriff’s Office to view the rifle and magazine if they determine doing so would be helpful. The Inquest Program Attorney will update the witness list, along with proposed reductions in the number of photographs of certain evidence and the parties will have an opportunity to comment at the next Pre-Hearing Conference.
10. **Interrogatories** – The Administrator has modified the proposed interrogatories, attached them as Appendix E, and will ask for further input from the parties at the next Pre-Hearing Conference. As always, interrogatories are not final until the presentation of the evidence is complete.
11. **Jury Selection and final Pre-Hearing Conference** – Will remain set via Zoom for Friday, June 9 at 9:00 – 11:00 a.m.. Links to the conference will be available at [Inquest 17IQ61739 - King County](#).

DATED this \_\_\_ of May, 2023.



Robert McBeth  
Inquest Administrator

## APPENDIX A

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Deadly force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

**Force** - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

### 300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

[REDACTED]

### 300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The "reasonableness" of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

# Kirkland Police Department

## Kirkland PD Policy Manual

### *Use of Force*

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appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

#### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer may use all means reasonably necessary to effect an arrest if, after notice of the intention to arrest the person, he/she either flees or forcibly resists (RCW 10.31.050).

#### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.

# Kirkland Police Department

## Kirkland PD Policy Manual

### Use of Force

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- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]





# Kirkland Police Department

## Kirkland PD Policy Manual

### Use of Force

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example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

## APPENDIX B



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**INQUEST INTO THE DEATH OF CURTIS J. TADE #17IQ61739**

**PRELIMINARY INSTRUCTIONS TO THE INQUEST PANEL**

DATED \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Robert McBeth  
Inquest Administrator

**PRELIMINARY INSTRUCTIONS**

Members of the jury, you have been selected to serve as the jurors who will hear this inquest. Please rise and raise your right hand as you take the jurors' oath.

**Do you swear or affirm that you and each of you will well and truly listen to the matters at issue in this case and give a true Answer to each of the Interrogatories that you will be asked at the end of the proceeding, according to the evidence and the law that applies to this Inquest Hearing?**

An inquest is a proceeding authorized by the King County Charter to review the manner, facts and circumstances surrounding the death of an individual in which law enforcement officers are involved.

Curtis Tade's family wanted you to know the following about him:

**[Ms. Reilly, can you please put the photo of Mr. Tade up on the screen?]**

My beloved brother, Curtis Elroy Tade, was born on Valentine's Day, February 14, 1970. He was named after our father, Curtis Elroy Tade, making him a "Junior." Our dad was born on the 13<sup>th</sup> of February and they were very close in their relationship. My brother Curt, as we would call him, to differentiate him from our dad Curtis, would sometimes go by the moniker "CJ," short for Curt Junior.

Our mom, Ruby, and Curtis had a very close relationship too. Mom would never admit to it, but Curt was her favorite child. Their love and bond was extremely deep. Curt was our family's favorite. I think it appropriate that Curt was born on Valentine's Day because he was all about love and loved with all of his entire being.

Curt met the love of his life, Melissa, when they were in their early 20's. They were inseparable until his death. He was her everything. He worked as Maintenance supervisor at the complex where they lived.

Curtis worked on a fishing boat in Alaska, but he seriously injured his back and subsequently the injury required surgical intervention. He also suffered from a bone disease that adversely affected his life. Doctors recommended he have surgery again due to the bone

deterioration. In addition, Curt had to have a heart procedure to correct an irregular heartbeat on two separate occasions.

Curtis and Melissa's son, also named Curtis, resided at the apartment complex where Curtis worked. Their son Curtis was in California at the time of his death and was scheduled to return for Christmas.

Curtis was a deeply loving father, husband, brother, uncle and son. He loved his family as much as humanly possible. Curtis was like by most everyone that befriended him. All of his co-workers spoke very highly of him and his work ethic. I believe everyone could sense his kindness. He was always very empathetic and considerate to anyone who was suffering.

**[Ms. Reilly, can you please take the photo of Mr. Tade down off the screen?]**

The following is a brief summary of the anticipated testimony and the witnesses who will provide it to you. It is provided to help you understand the evidence and to aid you as you determine whether you wish to request additional witnesses. You should not rely on this statement when answering the interrogatories in this matter. As the Inquest Jury, it will be your duty to determine the actual facts from the testimony actually presented at this hearing.

This inquest involves the shooting death of Curtis J. Tade by Kirkland Police Department Officer Scott L. Cox. The shooting occurred during the afternoon hours of December 19, 2017 at the Emerson Apartment Complex at 11021 NE 124<sup>th</sup> Ln. in Kirkland, WA. Mr. Tade lived at that complex along with, Melissa Scrivens and their son, Curt. Mr. Tade also worked maintenance at the complex. The Campos Family were tenants of that same complex.

Kirkland PD Officers were dispatched to the complex after members of the Campos family called 911 to report that Mr. Tade was "attacking" other members of their family. Arriving officers found members of the Campos family and Ms. Scrivens outside, but Mr. Tade had gone back to his apartment.

Kirkland PD Officer Lowell arrived first and spoke to Ms. Scrivens. Officer Cox and Corporal McClain arrived after Officer Lowell. Officer Lowell told Officers Cox and McClain what he learned from Ms. Scrivens and then went to speak to the Campos family.

Officer Cox, along with Ms. Scrivens, headed towards Mr. Tade and Ms. Scriven's apartment to speak with Mr. Tade. On the way there, Ofc. Cox saw a person he believed to be Mr. Tade walking in the direction of the Campos family carrying a rifle.

Officer Cox reported that he gave a series of commands to Mr. Tade, but that he did not see Mr. Tade comply with them. Mr. Tade turned towards Officer Cox and Officer Cox fired his weapon at Mr. Tade. Mr. Tade was struck by several bullets and was later pronounced dead at the scene.

A list of each of the witnesses that will testify in this hearing has been written on the whiteboard behind me. I just described how members of the Campos Family, Officer Lowell, Corporal McClain, Melissa Scrivens and Officer Cox relate to this case. Additionally, you will hear from the following witnesses:

- Tue Tran came to Mr. Tade's apartment earlier in the day to fix a problem with their cable. He interacted with Mr. Tade prior to the altercation, took Mr. Tade away from the altercation and was present at the time of the shooting.
- Officer Peter Lawrence arrived at the scene just prior to the shooting.
- Gabriel Neer was present in his apartment close to the shooting and heard both voices and gun shots.
- Kirkland PD Ofc. Mades arrived just after the shooting.
- Kirkland Fire Department Firefighter Eric Peterson provided medical care to Mr. Tade at the scene until he was pronounced dead.
- King County Sheriff's Office Detectives Mike Mellis was the primary investigator and will describe the course of his investigation.
- King County Sheriff's Office Detective Mike Glasgow documented much of the physical evidence found at the scene and will describe what was found.
- Medical Examiner Dr. Richard Harruff performed an autopsy on Mr. Tade and will tell you about his observations and conclusions regarding the cause of death.
- Kirkland Police Department Lieutenant Troy Knafla will describe Kirkland Department Policies on the use of deadly force, as well as trainings regarding both the use of deadly force and de-escalation tactics.
- King County Sheriff's Deputy Joseph Winters will describe training that Officer Cox received.

- Michael Teeter will analyze Officer Cox’s compliance with Policy and Training.

Although an inquest bears some resemblance to a trial, it is important that you remember that an inquest is different from a trial in some very significant ways. You will not be asked to determine if someone is guilty or not guilty, like in a criminal trial. You will not be asked to decide if someone is owed money damages, like in a civil trial.

Instead, an inquest is a fact-finding hearing during which evidence about the death is presented to you. After hearing the evidence, you will be asked to deliberate together and answer a series of questions called Interrogatories. Your answers to these questions will be either “yes”, “no” or “unknown.” In this way you will determine how and why Mr. Tade died. You will also decide whether the officers’ actions during this incident complied with Kirkland Police Department policy and training and whether the death was caused by criminal means. In answering these questions, however, you must not consider or draw any inferences from the fact that this inquest is taking place.

After all the evidence has been submitted in this case, but before you begin your deliberations, I will instruct you on the law that will guide your decisions. It will be your duty to answer the questions based on the evidence and testimony that you have heard during this inquest and according to the law as stated in my instructions. It is your duty to accept the law from my instructions, regardless of what you personally believe the law is or what you think the law should be.

If, at any point during this proceeding, you recall any media coverage of this event or if you become aware of any information about this event other than the evidence and testimony admitted in this hearing, you must set all of that aside and disregard whatever you may have seen, heard, or read. As a matter of basic fairness, the public and the parties are entitled to know what evidence and what legal principles you relied upon in making your decisions. If you rely on any information from outside of this hearing room or upon legal principles other than those contained in my instructions, their trust in your decisions will be violated.

**INTRODUCTIONS**

I will now introduce to you the Parties and attorneys participating in this inquest:

My name is Robert McBeth, and I am the Inquest Administrator. As the Inquest Administrator, I determine who will be called as witnesses, what evidence is admitted and the Interrogatories you will be asked to answer.

The family of Curtis J. Tade is represented by Teri Rogers-Kemp. Please greet the jury and introduce the Family representative(s).

Attorney Derrick Isackson represents Kirkland Police Officer Scott Cox. Please greet the jury and introduce your client.

Attorney Stewart Estes represents the Kirkland Police Department, who is represented by Chief of Police Cherie Harris. Please greet the jury and introduce your client.

Matt Anderson and Cady Nicol are the Inquest Program Attorneys. Their roles are to assist me in presenting the evidence in this matter. Will you please greet the jury?

Now, having seen their faces, are any of you familiar with any of the attorneys in this case, the officers or any members of their families or with the decedent, Curtis J. Tade, or any other members of his family?

I also want to introduce our Inquest Program Coordinator Kaela Reilly, [TBD – Inquest Program Manager Dee Sylve and Inquest Program Attorney Claire Thornton], who are here to assist our team with this inquest. These are the people with whom you will have direct contact during your service. If any questions arise during your service as a juror in this case, please direct them to these individuals. If they can answer the question, they will. But if it is something that needs to be brought to my attention, they will let me know and I will do my best to address the matter.

As jurors, it is important that the decisions you are asked to make are based solely on the evidence and testimony you hear during this inquest. For that reason, it is very important that so long as you are a juror in this case you avoid people who may be discussing this case and any media reports about this case on TV, online, on the radio or in the newspapers. If someone does



try to discuss the case with you or if you inadvertently hear something on some form of media, they are three things you must do.

First, terminate the contact immediately. Second, do not discuss what happened or what you heard with your fellow jurors. And third, report the incident to an Inquest Program Coordinator at the earliest opportunity. The Inquest Program Coordinator will notify me, and I will decide if any further steps need to be taken.

You should also know that all the participants in this proceeding are aware that they are not permitted to have contact with you outside of this hearing room. It will help them abide by this restriction if you not only wear your juror badges at all times when you are in the courthouse, but also make sure that the badges are always visible to all. That way if you happen to inadvertently end up in the same elevator, an attorney, party or witness can see your badge and know not to have contact with you or say anything that involves this case while in your presence. Of course, it is very, very unlikely that any such improper contact would occur, but if for some reason it does, even inadvertently, they are three things you must do. First, terminate the contact immediately. Second, do not mention the event or what you may have heard to any of your fellow jurors. And third, report the incident to an Inquest Program Coordinator at the earliest opportunity.

Included in your obligation to not discuss this matter with anyone while the case is pending, is the obligation that you must not discuss this case among yourselves until I instruct you that you are permitted to do so when you are about to start your deliberation. That will occur only after you have heard all the evidence, have listened to my instructions to you on the law, I have excused you to the jury room, the evidence that has been admitted has been delivered to you and all of the jurors are present. It is then, and only then, that you may begin your deliberations and discuss this case with your fellow jurors. If you become aware of any such discussions before you have been given permission to do so, it is your duty to alert an Inquest Program Coordinator at the earliest opportunity.

Because an inquest is conducted for the benefit of the public, these proceedings are being made available to the public on the internet, so that anyone who is interested can watch what is taking place here. But at no time will the faces of any jurors be broadcast over the internet. You should also know that from time to time the media is interested in inquest proceedings. I don't know whether such interest exists in this case. But if it does, you may see people in the hearing

room with still cameras or TV cameras. They are under strict orders from me, however, that no pictures or filming of jurors or prospective jurors is permitted.

**EXPLANATION OF PROCEDURE**

Now, let me tell you about the schedule we will keep during this hearing.

We will begin each day at 9 am. So that we may begin on time, I ask that each juror be in the jury room no later than 8:45 am each day we are in session, which will be Mon-Fri. When you arrive, please go directly to the jury room. Do not linger in the hallways. It only increases the chance that you will inadvertently overhear something related to this case from the parties, the attorneys, observers or the media, if they are present.

Our day will proceed as follows: After our 9 am start, we will break for 15 minutes at 10:45 am. We will recess for lunch from 12 noon to 1:15 pm. I ask that you arrive back in the jury room no later than 1:05 pm so that we can begin at 1:15pm. We will take another 15-minute break at 2:45 pm. We will end our day at 4:30 pm.

After I finish reading these preliminary instructions to you, we will proceed immediately into the presentation of evidence.

For most witnesses, the Inquest Program Attorney will begin the questioning. Any of the other attorneys may then ask questions. A number of exhibits have been admitted into evidence and the attorneys may ask the witnesses about the exhibits. One of my duties as Inquest Administrator is to decide what evidence should be admitted during this hearing. Do not be concerned with the reasons for my rulings on the evidence. You must not consider or discuss any evidence that I do not admit or that I tell you to disregard.

The lawyers' questions and the factual summary that I provided to you earlier are intended to help you understand the evidence and apply the law. Keep in mind, however, that their questions and that summary are not evidence or the law. The evidence is the testimony from witnesses and the exhibits. The law is contained in my instructions to you. You must disregard anything the lawyers say and anything contained in that summary that is at odds with the evidence or the law in my instructions.

From time to time during the questioning, you may also hear objections made by the lawyers. Each party has the right to object to questions asked by another lawyer. These objections

should not influence you in any way. It is my job to rule on these objections. Do not make any assumptions or draw any conclusions based on a lawyer's objections or my rulings on them.

Each of you, as jurors has the right to submit questions to be asked of any witness. A form will be given to you to use if you wish to submit such questions. When the attorneys have finished questioning each witness, you will be given the opportunity to present your written questions to the Inquest Program Attorney, who will share them with the other counsel for their review and then present them to me for my consideration. As the Inquest Administrator, it is my decision whether a question will be asked. If I decide not to ask a question, you must not speculate as to the reasons for that decision. It may be, for example, that the question is not proper under the rules of evidence, or it may be that I expect another witness, yet to testify, will be better able to answer the question, or for some other reason.

Similarly, each juror also has a right to request that a witness be called to testify. A form will be provided to you to use if you wish to request a witness. You may submit your request at any time during this inquest, but I would encourage you to do so as soon as it occurs to you to do so, because it takes time to arrange such testimony. Again, remember that ultimately, it is my decision whether to call a witness. If I decline to do so, you must not speculate about the reasons for that decision.

When witnesses testify, please listen very carefully. You will need to remember the testimony because it will not be repeated for you during your deliberations. Any exhibits admitted into evidence, however, will go to the jury room with you during your deliberations.

You will be allowed to take notes during the hearing. Whether you do so is entirely your own decision. If you do choose to take notes, you should make sure that it does not interfere with your ability to listen to and observe the witnesses.

At an appropriate time, you will be provided a notepad and a pen. Your juror number will be on the front page of the notepad. You must take notes on this pad only, not on any other paper. You must not take your notepad from the hearing room or the jury room for any reason. Anytime we are in recess during the inquest, including at the end of the day, please leave your notepad on the table at your seat. An Inquest Program Coordinator will collect the notepads and keep them secure. While you are away from the hearing room or the jury room, no one else will read your notes.

You must not discuss your notes with anyone or show your notes to anyone until you begin deliberating on your Answers to the Interrogatories. During your deliberations, however, it is your choice whether to share your notes with the other jurors.

If you choose to take notes, do not assume that your notes are necessarily more accurate than your memory. Keep in mind that I am allowing you to take notes to assist you in remembering clearly, not to substitute for your memory. You are also not to assume that your notes are more accurate than the memories or notes of the other jurors.

It is important that you discharge your duties without discrimination, meaning that bias regarding the race, color, religious beliefs, national origin, sexual orientation, gender, or disability of any party, any witnesses, and the lawyers should play no part in the exercise of your judgment throughout the trial. Intentional discrimination based on any of these characteristics is called “conscious bias.”

However, there is another more subtle tendency at work that we must all be aware of. This part of human nature is understandable but must play no role in your service as jurors. In our daily lives, there are many issues that require us to make quick decisions and then move on. In making these daily decisions, we may well rely upon generalities, even what might be called unconscious biases or prejudices. And while that may occur as a coping mechanism in our busy daily lives, bias and prejudice can play no part in any decisions you might make as a juror. Your decisions as jurors must be based solely upon an open-minded, fair consideration of the evidence that comes before you during trial.

When the presentation of the evidence is complete, I will instruct you on the law that applies in this case. You will then receive a set of Interrogatories for you to answer based on the evidence and according to the instructions I have given you. I will then excuse you to deliberate on those questions. After you have answered the Interrogatories and I have accepted them, your notes will be collected and destroyed by the Inquest Program Coordinators. Again, no one will be allowed to read them.

No. 4

Because it is your role to evaluate the evidence, I will not express, by words or conduct, my personal opinion about the value of a particular witness's testimony or an exhibit. If it appears to you that I have indicated in any way my personal opinion concerning any evidence, you must disregard this entirely.

No. 5

I reiterate a few points because they are important and worth repeating. First, throughout this hearing, you must come and go directly from the jury room. Do not linger in the hall or the hearing room.

Second, it is essential to a fair hearing that everything you learn about this case comes to you in this hearing room, and only in this hearing room. You must not allow yourself to be exposed to any outside information about this case, including from your family and friends. Do not permit anyone to discuss or comment about it in your presence, and do not remain within hearing of such conversations.

Third, until you are dismissed at the end of this hearing, you must avoid outside sources such as newspapers, magazines, blogs, the internet, or radio or television broadcasts which may discuss this case or issues involved in this trial. If you start to hear or read information about anything related to the case, remember the three things you must do: terminate the contact immediately so that you no longer hear or see it; do not share whatever you may have seen or heard with your fellow jurors; and at the earliest opportunity notify an Inquest Program Coordinator of what happened.

And fourth, during the hearing, do not try to determine on your own what the law is. Do not seek out any evidence on your own. Do not consult dictionaries or other reference materials. Do not conduct any research into the facts, the issues, or the people involved in this case. You may not use any internet resources to look into anything at all related to this case. Do not inspect the scene of any event involved in this case.

Of course, after you have delivered your Answers to the Interrogatories and are excused from this proceeding, you will be free to do any research you choose and to share your experiences with others.

Please keep in mind that as jurors you have sworn an oath to give true Answers to the Interrogatories that will be put to you. You must reach your decision based on the facts proved to you in this hearing room and on the law given to you in my instructions, uninfluenced by sympathy, prejudice, or personal preference. It is your duty to listen carefully to the evidence and to act impartially in your consideration of the evidence and in answering the Interrogatories.

We will now proceed with testimony of the first witness.



## APPENDIX C



**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 CURTIS J. TADE #17IQ61739**

**PROPOSED INSTRUCTIONS TO THE INQUEST PANEL**

DATED \_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
Robert McBeth  
Inquest Administrator

## CLOSING INSTRUCTIONS

### No. 1

It is your duty to determine the facts in this matter from the evidence admitted and to report your findings to the Inquest Administrator in writing, by answering the Interrogatories, which will be submitted to you.

The evidence that you are to consider during your deliberations consists of the testimony that you have heard from witnesses, stipulations, and the exhibits that I have admitted, during the inquest. If evidence was not admitted or was stricken from the record, then you are not to consider it in answering the Interrogatories. In addition, you must not consider or draw any inferences from the fact that an inquest is being held in this matter.

One of my duties has been to rule on the admissibility of evidence. Do not be concerned during your deliberations about the reasons for my rulings on the evidence. If I have ruled that any evidence is inadmissible or where I have redacted portions of any exhibits, or if I have asked you to disregard any evidence, then you must not discuss that evidence during your deliberations or consider it in answering the Interrogatories. On the other hand, in order to answer the Interrogatories, you must consider all of the evidence that I have admitted that relates to each Interrogatory.

As jurors, you have been allowed to request that additional questions be asked of the witnesses and to request that other persons testify. Any such request has been reviewed by me and by the parties' lawyers. If a requested question was not asked, or a requested witness was not called you may not speculate about the reasons for that decision or discuss the fact that the question was not asked or that the witness was not called.

No. 2

You are the sole judges of the credibility of each witness. You are also the sole judges of the value or weight to be given to the testimony of each witness. In considering a witness's testimony, you may consider these things: the opportunity of the witness to observe or know the things he or she testifies about; the ability of the witness to observe accurately; the quality of a witness's memory while testifying; the manner of the witness while testifying; any personal interest that the witness might have in the outcome or the issues; any bias or prejudice that the witness may have shown; the reasonableness of the witness's statements in the context of all of the other evidence; and any other factors that affect your evaluation or belief of a witness or your evaluation of his or her testimony.

No. 3

The lawyers' questions are intended to help you understand the evidence. It is important, however, for you to remember that the lawyers' questions are not evidence. The evidence is the testimony and the exhibits. You must disregard any question or answer thereto which has been stricken.

You may have heard objections made by the lawyers during this inquest. The lawyers have the right to object to questions asked by another lawyer and may have a duty to do so. These objections should not influence you. Do not make any assumptions or draw any conclusions based on a lawyer's objections.

Because it is your role as jurors to evaluate the evidence, it would be improper for me to express, by words or conduct, my personal opinion about the value of testimony or other evidence. If it appeared to you that I have indicated my personal opinion in any way, either during this inquest or in giving these instructions, you must disregard this entirely.

As jurors, it is your duty to answer each Interrogatory fairly and properly. You must act impartially with an earnest desire to determine and declare the truth. You must answer the Interrogatories based on the evidence, and not on sympathy, prejudice, or personal preference.

No. 4

Evidence may be either direct or circumstantial. Direct evidence is that given by a witness who testifies concerning facts that he or she has directly observed or perceived through the senses. Circumstantial evidence is evidence of facts or circumstances from which the existence or nonexistence of other facts may be reasonably inferred from common experience. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. One is not necessarily more or less valuable than the other.

WPIC 5.01

No. 5

A witness who has special training, education or experience may be allowed to express an opinion in addition to giving testimony as to facts. You are not, however, required to accept his or her opinion. To determine the credibility and weight to be given such opinion evidence, you may consider, among other things, the education, training, experience, knowledge and ability of the witness. You may also consider the reasons given for the opinion and the sources of his or her information, as well as considering the factors already given to you for evaluating the testimony of any other witness.

WPIC 6.51

No. 6

When you begin deliberating, you should first select a presiding juror. The presiding juror's duty is to see that you discuss the issues in this inquest in an orderly and reasonable manner, that you fully and fairly discuss each issue submitted for your decision, and that each one of you has a chance to be heard on every question before you. Many interrogatories are related to each other and reading through all the interrogatories before answering any particular interrogatory may speed your process. Likewise, although I am now reading the instructions to you, some people learn better reading instead of listening. You may take the time for each of you to read the instructions to yourself if you wish. It will be the duty of each of you to discuss this case fully with your fellow jurors, to express your own views, and to fully consider the views of the other jurors.

It is also the duty of each of you to evaluate the evidence with an open mind free of bias or prejudice. If during your deliberations, you become concerned that the discussions are being influenced by preconceived bias or prejudice, you must bring this to the attention of the other jurors so that the issue may be fairly discussed among all members of the jury.

During your deliberations, you may discuss any notes that you have taken during the inquest, if you wish. You have been allowed to take notes to assist you in remembering clearly, not to substitute for your memory or the memories or notes of other jurors. Do not assume, however, that your notes are more or less accurate than your memory.

You will need to rely on your notes, if you took them, and your memory as to the testimony presented in this inquest. Testimony will not be repeated for you during your deliberations.

If, after carefully reviewing the evidence and instructions, you feel a need to ask me a legal or procedural question that you have been unable to answer, write the question out simply and clearly. For this purpose, use the form provided in the jury room. In your question, do not state how the jury has answered any Interrogatory. The presiding juror should sign and date the question and give it to an Inquest Program Coordinator. I will consider your question and determine what response, if any, can be given.

You will be given all the exhibits admitted in evidence, these instructions, and the written Interrogatories to be answered by you. If an exhibit was admitted for illustrative purposes only, the exhibit may not be brought into the jury room.



No. 7

It is the duty of the presiding juror to complete the written Interrogatories. After fully and fairly discussing each issue and exchanging their interpretations of the evidence, on each Interrogatory, the presiding juror must set out in the blanks provided the number of jurors who answer “YES”, the number of jurors who answer “NO”, the number of jurors who answer “UNKNOWN” to each question, and, when asked, the number of jurors who answer “DID NOT ANSWER.”

After every Interrogatory, the presiding juror must allow each juror to have the opportunity to provide a written explanation of the juror’s answer if the juror believes that a written explanation will provide information that will be helpful. No juror is required to provide an explanation to any answer, but the jurors are encouraged to consider doing so. While a simple “YES”, “NO” or “UNKNOWN,” or “DID NOT ANSWER” may answer the question, it may not fully explain the reasons for the answer. We are truly interested in those reasons. Any explanations you choose to offer will be helpful to the community to understand what happened during this incident and to understand the reasons for your decisions. You will be provided with forms for you to write any explanation that you wish to provide.

A juror may not need to answer a specific Interrogatory if the juror’s answer to a previous question makes it unnecessary. For example, if a juror concludes that a specific policy did not apply, then that juror need not answer an Interrogatory asking whether a particular officer complied with that policy. But, if another juror concludes that the policy did apply, then that juror must answer the question about whether a particular officer did or did not comply with that policy. The Interrogatories will indicate when a situation such as this is applicable.

Executive Order Section 14.6, App. 2

No. 8

When answering each Interrogatory, you should respond “YES” when you believe a preponderance of the evidence supports responding to the question in the affirmative. You should respond “NO” when you believe a preponderance of the evidence supports responding to the question in the negative. You should respond “UNKNOWN” if either (1) the weight of the evidence equally supports responding to the question in the affirmative and the negative or (2) not enough evidence was presented to allow the juror to answer the question in the affirmative or the negative. You should answer “DID NOT ANSWER” if, because of the contingent nature of the Interrogatory, you were not required to answer the Interrogatory. The jury does not need to be unanimous in the answers to each Interrogatory.

A “preponderance of the evidence” means that you must be persuaded, considering all the evidence bearing on the question, that your answer to a given question is more probably true than not true.

Executive Order Section 14.4, App. 2

WPI 21.01

No. 9

A death caused by an officer's use of deadly force is justifiable when necessarily used by the officer to overcome actual resistance to the order of an officer, or in the discharge of a legal duty.

RCW 9A.16.040(1)(b)

No. 10

A death caused by an officer's use of deadly force is justifiable when necessarily used by the officer to arrest or apprehend a person who the officer reasonably believes has committed, or attempted to commit, a felony.

In considering whether to use deadly force to arrest or apprehend any person for the commission of any crime, an officer must have probable cause to believe that the person, 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 that may be considered by an officer as a "threat of serious physical harm" are the following: (a) The person threatened the officer or others with a weapon or displayed a weapon in a manner that could reasonably be construed as threatening; or (b) There was probable cause to believe that the person committed any crime involving the infliction or threatened infliction of serious physical harm.

RCW 9A.16.040(1)(c)(i)

No. 11

“Necessary” or “necessarily” means that, under the circumstances as they appeared to the actor at the time, (1) no reasonably effective alternative to the use of force appeared to exist and (2) the amount of force used was reasonable to effect the lawful purpose intended.

WPIC 16.05

No. 12

“Deadly force” means the intentional application of force through the use of a firearm or any other means reasonably likely to cause death or serious physical injury.

RCW 9A.16.010(2)

No. 13

“Probable cause” means facts known to the officer at the time, that would cause a reasonably cautious officer to believe the proposition at issue. In determining whether the facts known to the officer justified this belief, you may take into account the officer's experience and expertise.

No. 14

An assault is an act, with unlawful force, done with the intent to create in another apprehension and fear of bodily injury, and which in fact creates in another a reasonable apprehension and imminent fear of bodily injury even though the actor did not actually intend to inflict bodily injury.

WPIC 35.50 Assault—Definition

**Commented [AM(1)]:** Instructions 14, 15, and 16 appear to be correct statements of the law. The Administrator asks the parties to consider a stipulation on this subject matter, making the instructions unnecessary and better focusing the jury on the primary issues of this case.



No. 15

A person commits the crime of assault in the third degree when he or she assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault.

WPIC 35.20 Assault—Third Degree—Definition

No. 16

The crimes of assault with a deadly weapon, and assault in the third degree, are felonies.  
WPIC 2.09

RCW 9A.36.021(1)(c), (2)(a); RCW 9A.36.031(1)(g), (2).

No. 17

If you find that an officer's use of force was not justifiable, then you must decide whether the officer acted with malice and not in good faith.

RCW 9A.16.040(3)

No. 18

**Determining if the death was occasioned by criminal means.**

**Step 1 – You must determine if Officer Cox’s use of deadly force was justified.**

If you find by a preponderance of the evidence that a death caused by an officer’s use of deadly force was justifiable as defined in Instruction No. 9 or No. 10, then you must find that the death was not caused by criminal means.

**Step 2 – If not justified, you must determine if a defense applies.**

If you find by a preponderance of the evidence that a death caused by an officer’s use of deadly force was not justifiable as defined in Instruction No. 9 or No. 10, and you find by a preponderance of the evidence that the officer’s use of deadly force was without malice and with a good faith belief that such force was justifiable, then you must find that the death was not caused by criminal means.

If you find by a preponderance of the evidence that a death caused by an officer’s use of deadly force was not justifiable as defined in Instruction No. 9 or No. 10, and you find that the use of deadly force was with malice OR was without a good faith belief that the force was justifiable, then you must find that the death was caused by criminal means.

No. 19

“Malice” means an evil intent or design to injure another person. Malice may be, but is not required to be, inferred from an act done in willful disregard of the rights of another.

WPIC 2.13

No.20

“Good faith” means that the officer honestly believed his or her action was justifiable as that term is defined in Instruction Nos. 9 and 10.

**Commented [AM(2)]:** Ensure that the #s refer to the instructions that begin “A death caused by.”

No. 21

In determining whether an officer acted with malice or not in good faith you may consider, among other things, whether the officer's actions were compliant with applicable Kirkland Police Department policy and/or training. However, you may not rely solely on an officer's failure to comply with Kirkland Police Department policy and/or training to find that the officer acted with malice or not in good faith.

No. 22

After you have answered the Interrogatories, all members of the jury will then sign the form and the presiding juror will notify an Inquest Program Coordinator. After the Inquest Administrator has received your answers, the hearing will reconvene, and you will be conducted into the hearing room. Please leave any notes you have taken in the jury room. I will review your answers to confirm that they are in proper order and if so, they shall be made public.

An Inquest Program Coordinator will then collect and destroy your notes. No one will be allowed to read your notes.

You have now heard all the testimony in this proceeding and my instructions. Each juror has a copy of my instructions and of the Interrogatories to take with you to the jury room. You may refer to any notes you have taken. So, at this time, please recess to the jury room. Once an Inquest Program Coordinator has delivered all the admitted exhibits, and each of you is present, you may begin your deliberations.



No. 23

A police officer has the specific duty to enforce the law and is also charged with the general duty and power to ~~maintain the peace and quiet of the city~~ prevent unlawful injury.

*Mike v. Tharp*, (modified) 21 Wn. App. 1, 5 (1978)

**Commented [AM(3): Instruction #23 (Law enforcement officer's duty to enforce the law)]** – All parties agreed that an instruction on this subject matter is appropriate. The Administrator asks each party to consider the proposed language and suggest alternative language if they wish.

No. 24

It is lawful for an officer who is in a place where he has the right to be and who has reasonable grounds for believing that he (or another) is being attacked or assaulted to stand his ground and defend against such attack or assault by the use of lawful force. The law does not impose a duty to retreat.

WPIC 16.08 (modified)

*State v. Allery*, 101 Wn.2d 591, 682 P.2d 312 (1984)

*State v. Lewis*, 6 Wn. App. 38, 491 P.2d 1062 (1972)

*State v. Williams*, 81 Wn. App. 738, 915 P.2d 738 (1996)

**Commented [AM(4):**

This instruction appear to correctly state the law and is supported by the expected evidence. The family has indicated that they will offer an instruction describing an officer's discretion to retreat. Any instruction should be proposed by May 26, 2023.

No. 25

A person is entitled to act on appearances in defending himself or others, if that person believes in good faith and on reasonable grounds that he is (or others are) in actual danger of great personal injury, although it afterwards might develop that the person was mistaken as to the extent of the danger.

Actual danger is not necessary.

WPIC 16.07 (revised)

*State v. Hutchinson*, 135 Wn.2d 863 (1998)

*State v. Irons*, 101 Wn. App. 544 (2000)

**Commented [AM(5)]:** The comments to WPIC 16.07 do not suggest providing this instruction in cases involving 9A.16.040. The Administrator has agreed to **RESERVE** ruling until the close of evidence at the request of Officer Cox and Kirkland PD. Any further authority supporting this instruction based on the expected evidence should be provided by May 26, 2023.

**If it is determined that the jury should be polled.**

**VERDICT**

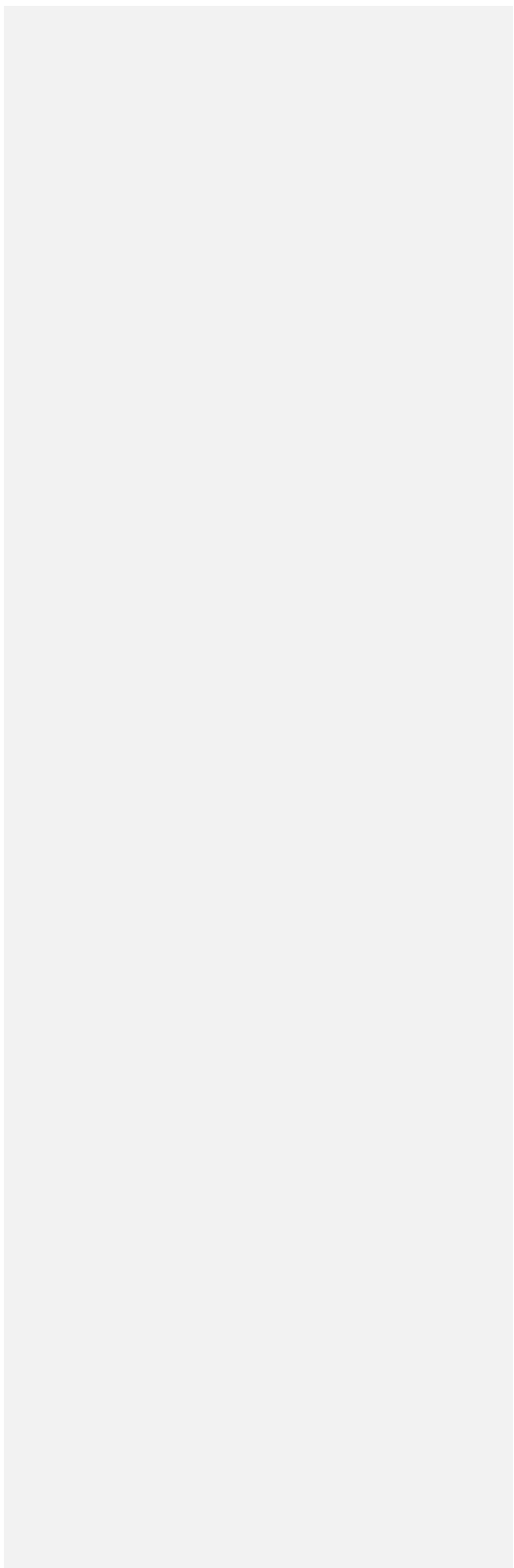
Who is the foreperson? Has each juror answered each of the Interrogatories? Please hand the form to the program manager.

Ask individually:

1. Did you answer each Interrogatory?
2. Are your answers accurately reflected?

**Stipulation as to Undisputed Facts**

The parties have agreed that certain facts are true. You must accept as true the following facts:



## APPENDIX D

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)  
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**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 29<sup>th</sup> of September, 2022.

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

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Robert McBeth  
Inquest Administrator

## APPENDIX E

**PROPOSED INTERROGATORIES**  
**CURTIS ELROY TADE**

These interrogatories have been formatted simply, to aid in comments and discussion. They will be put in a more formal format shortly before the Inquest Hearing.

Unless otherwise indicated, the jurors will be given the following choices to answer as shown in the first interrogatory:

YES \_\_\_\_ NO \_\_\_\_ UNKNOWN \_\_\_\_

Where the question is followed by the parenthetical "(contingent)" the jurors will be given the following choices to answer, as shown in current interrogatory # 21:

YES \_\_\_\_ NO \_\_\_\_ UNKNOWN \_\_\_\_ DID NOT ANSWER \_\_\_\_

---

1. Did Curtis Tade physically confront a member of the Campos family?  
YES \_\_\_\_ NO \_\_\_\_ UNKNOWN \_\_\_\_
2. Did members of the Campos family take Curtis Tade to the ground and hold him there for a short period of time?
3. Did Tue Tran ask the Campos family to release Curtis Tade and then take Curtis Tade back to his apartment?
4. During the confrontation did members of the Campos Family call 911 for assistance?
5. Were Officers responding to the call informed that someone reported that a male was attacking people?
6. Did Officer Lowell respond to the scene and contact the Campos family?
7. Did Officer Lowell speak with Melissa Scrivens?
8. Did Officer Lowell learn from Ms. Scrivens that Curtis Tade was not acting like his normal self?
9. Did Officer Lowell provide this information to Officer Cox and Officer McClain?
10. Was Officer Cox wearing a clearly marked Kirkland Police Department uniform?
11. Did Officer Cox speak with Ms. Scrivens to learn more about what happened?
12. Did Ms. Scrivens tell Officer Cox that Mr. Tade was not acting like himself and may have taken prescription medications and alcohol?
13. As Officer Cox and Melissa Scrivens walked, towards her apartment did Melissa Scrivens alert Officer Cox that Curtis Tade was approaching?
14. Was Curtis Tade walking in the general direction of Officer Cox?
15. Was Curtis Tade walking in the general direction of members of the Campos Family?
16. Did Officer Cox observe that Curtis Tade was carrying a rifle?
17. Did officer Cox command Curtis Tade to stop?
18. Did Curtis Tade stop in response to a command?
19. Did Officer Cox command Curtis Tade to drop his firearm?
20. Did Curtis Tade drop his firearm in response to a command?
21. Did Curtis Tade turn towards Officer Cox while holding the rifle?
22. Did Officer Cox fire his handgun at Curtis Tade?
23. If your answer to the preceding Interrogatory was YES, did a bullet fired by Officer Cox strike Curtis Tade? (contingent)  
YES \_\_\_\_ NO \_\_\_\_ UNKNOWN \_\_\_\_ DID NOT ANSWER \_\_\_\_
24. Did Kirkland Police department officers request medical aid for Curtis Tade within seconds of Curtis Tade being struck by bullets?

25. Did Kirkland Police Department officers promptly provide medical aid to Curtis Tade?
26. Did Curtis Tade die from injuries caused by a bullet fired by Officer Cox?

**INTERROGATORIES ABOUT USE OF FORCE POLICY AND TRAINING**

**Answer Interrogatories NO. [ ] only if you find that Officer Cox fired his handgun at Curtis Tade**

27. Did Officer Cox comply with Kirkland Police Department Policy Section 300.3 (Exhibit 100), which requires that an officer only use the amount of force that reasonably appeared necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose? (contingent)
28. Was Officer Cox's use of deadly force authorized by Kirkland Police Department Section 300.4(a) (Exhibit 100), which provides that an officer may use deadly force to protect the officer or others from what the officer reasonably believed would be an imminent threat of death or serious bodily injury? (contingent)
29. Was Officer Cox's use of deadly force authorized by Kirkland Police Department Section 300.4(b) (Exhibit 100), which provides that:
  - a. an officer may use deadly force to stop a fleeing subject when
    - i. the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and
    - ii. the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended, and
  - b. a verbal warning should precede the use of deadly force, where feasible.
30. Were the actions of Officer Cox consistent with the Use of Force training received by Officer Cox? (contingent)

**Commented [AM(1):** Confirm references (The next 4 interrogatories)

**Commented [AM(2):** The word "justifiable" in the policy manual was changed to "authorized" in order to prevent possible confusion with the word "justifiable" when it is used in the criminal means interrogatories, below.

**INTERROGATORIES ABOUT DE-ESCALATION TRAINING**

31. Did the training provided Officer Cox on the subject of De-Escalation apply to the actions of Officer Cox in this instance?
32. If you found that the training provided Officer Cox on the subject of De-Escalation applied to the actions of Officer Cox in this instance, were the actions of Officer Cox consistent with that training? (contingent)

**Commented [AM(3):** If all parties agreed that it the training applied, we could delete this interrogatory and modify the next interrogatory to stand alone.

**INTERROGATORIES ABOUT WHETHER CURTIS TADE'S DEATH WAS OCCASIONED BY CRIMINAL MEANS?**

**Answer the remaining interrogatories only if you found that Curtis Tade died from a bullet fired by Officer Cox (Interrogatory No. [ ])**

33. Was Officer Cox firing his handgun necessary to overcome actual resistance to the execution of an order by Officer Cox or in the discharge of a legal duty (Instruction 9)? (contingent)
34. Was Officer Cox firing his handgun necessary to arrest or apprehend Mr. Tade (Instruction 10)? (contingent)
35. Did Officer Cox reasonably believe Mr. Tade had committed or was attempting to commit a felony (Instruction 10, 14, 15 & 16)? (contingent)
36. Did Officer Cox have probable cause to believe that Mr. Tade, if not apprehended, posed a threat of serious physical harm to officer Cox or others (Instruction 10)? (contingent)
37. Was the use of deadly force by Officer Cox justifiable, as defined in Instruction # [ ]?(contingent)

**Commented [AM(4):** Currently 26

**Commented [AM(5):** Currently 9 and 10

- 38. If you found that Officer Cox's use of deadly force against Curtis Tade was not justifiable, was the use of deadly force by Officer Cox done with malice, as defined in Instruction No. ?(contingent)
- 39. If you found that Officer Cox's use of deadly force against Curtis Tade was not justifiable, was the use of deadly force by Officer Cox not in good faith, as defined in Instruction No. ?(contingent)
- 40. Did Officer Cox cause the death of Curtis Tade by criminal means as defined in Instruction No. ? (contingent)

**Commented [AM(6):** Currently 19

**Commented [AM(7):** Currently 20

**Commented [AM(8):** Currently 22

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Panel Member

\_\_\_\_\_  
Panel Member

\_\_\_\_\_  
Panel Member

\_\_\_\_\_  
Panel Member

\_\_\_\_\_  
Panel Member

\_\_\_\_\_  
Panel Member