



King County

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

PRELIMINARY INSTRUCTIONS TO THE INQUEST PANEL

DATED 12th day of June, 2023,

Robert McBeth
Inquest Administrator

PRELIMINARY JURY INSTRUCTIONS

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 13th 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?]

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. Inasmuch as this is not a criminal or civil trial that jurors are normally asked to decide, you may ask, "Why are we here?"

First, the King County Charter requires that an Inquest be held in each and every instance in which a citizen dies as a result of that citizen's interaction with law enforcement. In 2017, when concerns were raised about the Inquest process that then in place, King County Executive Dow Constantine ordered a halt to all inquest proceedings and asked a citizens committee to review the way in which inquest proceedings were conducted. The citizens committee spent a full year examining the inquest process and made a number of recommendations to King County Executive Constantine about changes that might be made. Those recommendations were reviewed and an Executive Order was adopted by King County Executive that fundamentally changed the process by which inquests were conducted. Various parties, concerned about some of those changes, filed an action in the King County Superior Court challenging some of the provisions of the newly adopted Executive Order. After due deliberation, a ruling was made and that ruling was appealed to the Washington State Supreme Court. Ultimately, the Washington State Supreme Court issued its ruling on July 15, 2021. This proceeding is the fifth [?] inquest conducted following the Washington State Supreme Court review.

As indicated above, 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. This 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 1:30 pm. I ask that you arrive back in the jury room no later than 1:15 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.

The lawyers' questions and the factual summary that I will provide 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.

SUMMARY OF EVIDENCE

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 124th 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. Makes 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.

We will now proceed with testimony of the first witness.