

IN THE DISTRICT COURT OF WASHINGTON FOR KING COUNTY
KENT DIVISION

In Re:

INQUEST INTO THE DEATH OF
TOMMY LE, DOD: 06-14-17

NO. 4171Q9406

**DECEASED'S FAMILY'S
REQUEST FOR HEARING ON
SCOPE OF PARTICIPATION**

1. RELIEF REQUESTED

In order to have a fair and just Inquest, free of the inherent conflict of interests that exist, the family of deceased Tommy Le (the family) requests in the alternative that the Court either: (1) enter an order; or (2) hold a hearing to allow full consideration of the Le family's request for an order authorizing the Le family's attorneys full participation and litigation rights in the inquest, including the right to conduct discovery consistent with the Rules of Civil Procedure, to subpoena and present witnesses, and to speak to the jury in summation.

The family also seeks robust discovery authority that includes, but is not limited to: inquiry under CR 26 *et seq.* into the King County Sheriff's Office selection, training, discipline, and supervision of the deputies present at the shooting and the standard operating procedures and standing orders related to the use of deadly force.

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2. FACTS

A. Having first silenced Tommy Le with a gun, King County now seeks to silence the family’s attorneys’ voice in the Inquest, thereby assuring only his killer’s voice and account of Tommy Le’s killing will be heard.

On June 14th, 2017, King County Deputy Sheriff Molina shot and killed Tommy Le, an unarmed 5’ 2” 120 pound Asian youth. The sole investigation into the shooting was conducted by the King County Sheriff’s Office, which is the agency that committed the killing of the unarmed youth. Although the King County Sheriff made repeated public statements that the shooting should be investigated by a neutral police agency—it was not.

The facts of the shooting are alarming and suggest that the shooter and King County maybe held criminally and civilly liable for Tommy Le’s wrongful death. Tommy Le was unarmed when shot in the back. There were four or five uniformed and fully equipped Sheriff’s Deputies present. The deputies were ineffective in the use of their tasers. The deputies did not attempt any other alternative police procedures other than deadly force. Deputy Molina shot Tommy Le in the back after Tommy turned to run away. Tommy weighed 120 pounds while the officers were much larger and was unarmed.

The King County Charter provides that “[a]n inquest shall be held to investigate the causes and circumstances of any death involving a member of the law enforcement agency of the county in the performance of his duties”.¹ Pursuant to the King County Executive Order and the state statute, County Executive Dow Constantine ordered an inquest into the shooting death of Tommy Le and this Court was appointed to conduct the Inquest and to preside over and control the evidence to be

¹ King County Charter § 895 (emphasis added); King County Executive Order No. PHL 7-1-1 (AEO), also Exhibit (Ex.) A., attached to Counsel Campiche’s Decl. (Counsel’s Decl. – all attachments referred to as Ex. A - F are to Counsel’s Decl.).

1 considered in the Inquest.² This Executive Order also vests “*complete discretion to determine how*
2 *inquest proceeding are to be conducted, and to delegate the duty of presiding over an inquest to*
3 *another impartial public official.*”³ Therefore, we would expect this Court to determine what evidence
4 is presented to the Inquest jury, but in reality, the evidence to be considered is selected by the same
5 Agency that shot and killed Tommy Le—the King County Sheriff’s Office. Without robust discovery,
6 the Sheriff’s investigating officers provide *only* the evidence they choose to include in their
7 investigation.

8 **B. The Inherent and Irrefutable Conflict of Interest is present in the King County**
9 **Sherriff’s Office and Prosecutor’s Office.**

10 Together the King County Sheriff’s Office and the King County Prosecuting Attorney have
11 irrefutable conflicts of interest. The King County Sheriff’s Office took Tommy Le’s life under
12 circumstances that potentially give rise to possible criminal and certainly, civil liability, under the Civil
13 Rights Act 42 USC § 1983 and pendent state torts. Yet, the King County Sheriff’s Office was the sole
14 investigative agency over Tommy Le’s death. By law and practice, the King County Prosecuting
15 Attorney’s office is the law firm that defends the King County Sheriff’s Office in any civil action. Yet
16 the Prosecuting Attorney presents the testimony of every witness and selects the areas of inquiry which
17 limits the scope of cross-examination to topics covered during the Prosecutor’s examination. This is a
18 clear and obvious conflicts of interest that are not lost on the Le family, the Asian Community, or the
19 general public. For these reasons, the King County Sheriff publicly stated that the deputies shooting
20 that killed Tommy Le should be investigated by a neutral and competent police agency, such as the
21 Washington State Patrol or Federal Bureau of Investigation (FBI).

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23 ² RCW 36.24; King County Executive Order No. PHL 7-1-1 (AEO).

³ King County Executive Order No. PHL 7-1-1 (AEO).

1 Despite the need for a neutral investigation, this shooting investigation was completely
2 controlled by the King County Sheriff's Office. The King County Sherriff's Office has proven itself
3 to be biased in conducting this investigation into its deputies' actions. Additionally, recent incidents
4 of public outrage over police brutality should be sufficient to convince this Court of the need to broaden
5 the scope of the Inquest by allowing the representatives of the individual killed an effective voice and
6 the ability to fully participate in the hearing. Public policy shows the heightened need for an
7 independent review of the facts and circumstances when a person dies at the hands of police officers in
8 contested circumstances. The King County Sheriff made these public statements regarding the need
9 for an independent investigation of Tommy Le's shooting: ^{4, 5}

11 Urquhart said that he speculates that, whatever results are found via inquest or other avenues,
12 <http://nwasianweekly.com/2017/07/family-speaks-out-on-death-of-their-son-tommy-le/>[7/31/2017 2:14:42 PM]
13 Family speaks out on death of their son, Tommy Le
14 "No one will believe the results. The [Vietnamese] community is not going to believe our
15 investigation." Urquhart said he partly attributes the understandable skepticism and wariness of
16 law enforcement findings to the fact that he does not think the county should investigate its own
17 police shooting.
18 "I will ask tonight that the FBI come in and take over this investigation," he said. "And you (the
19 community) can believe or not believe what the FBI comes up with. I believe that in this day
20 and age, the police department should not be investigating their own officer-involved shooting."

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22 ⁴ Ex. B, Northwest Asian Weekly, Family Speaks out on Death of Their Son, Tommy Le, Stacy
Nguyen, July 27, 2017.

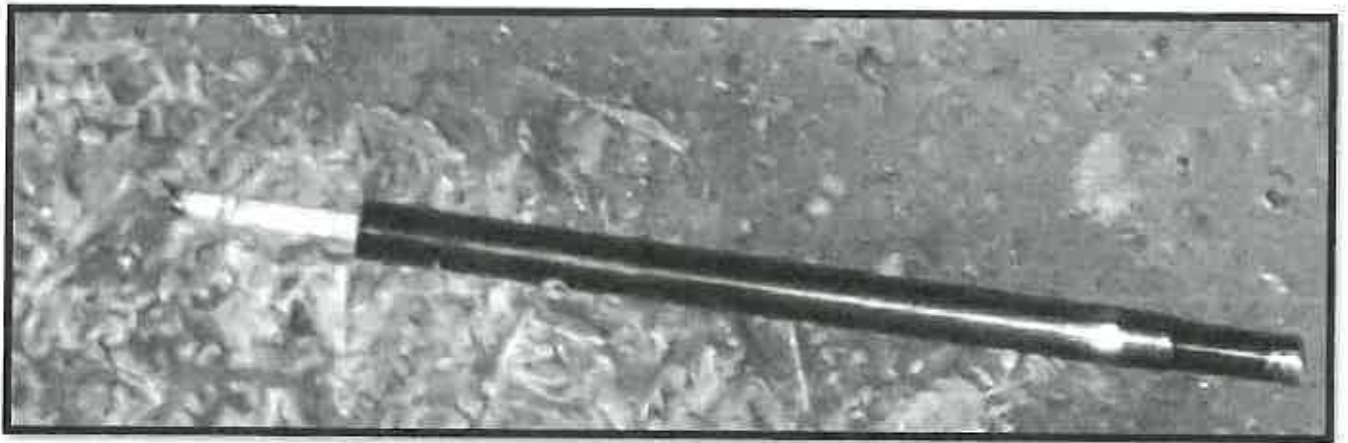
23 ⁵ Ex. C, Seattle Times, Create Civilian-led State Agency to Investigate Police Shootings, Debra Jacobs,
July 25, 2017.

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At last week's meeting, Sheriff Urquhart also announced that in the case of Le, he would seek to transfer the investigation to the FBI. While that too is a gesture in the right direction, from a community-trust perspective, it may be too late. It's not clear that the FBI will take the matter on, but even if so, the investigation is already well underway, with witnesses interviewed and evidence collected. Handing it off to

However, the King County Sheriff's Office not only controlled the investigation of its deputy's shooting of Tommy Le but also controlled and misstated the facts disclosed to the public and the press about whether Tommy Le was armed with a knife or merely carrying an ink pen.

There are specific reasons for questioning the objectivity and fairness of the

10 King County Sheriff's Office investigation in this case. The Sheriff's Office has attempted to hide the
11 truth regarding the shooting of Tommy Le from the public. From the time the deputy fired the fatal
12 fuselage of shots, and certainly while the gun smoke hung in the air, the King County Sheriff's Office
13 knew and concealed the most important fact in this case: **Tommy Le was unarmed.** King County
14 Deputy Sheriff Molina shot an unarmed youth. There was no knife—not in his hand, not on the ground,
15 and not at the scene. There was only a Papermate medium ballpoint ink pen.⁶



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6 Ex. D, Photo of Papermate Medium Ballpoint Ink Pen Provided by King County Sheriff's Office.

1 The King County Sheriff's Office repeatedly justified the shooting by the untruth that the deputy shot
2 Tommy Le "because he was attacking the deputies with a knife." The Sheriff's Office made these
3 misleading statements knowing that **Tommy Le was unarmed** when the deputy **shot him in the back**
4 **- twice.**

5 Another indication that the King County Sheriff's Office lacks objectivity is the fact that the
6 Lead Detective Case Overview, the sole investigative report supplied to the Prosecutor and parties,
7 discusses the King County Medical Examiner's autopsy findings, yet astoundingly fails to mention the
8 second most important fact in this shooting: **Tommy Le was shot in the back - twice.** Certainly, King
9 County's skilled investigator knew the significance of the fact that the King County Sheriff's Office
10 shot the unarmed man in the back—when Tommy Le was fleeing, not attacking, he was shot. Further,
11 this fact directly conflicts with the shooting officer's statement that he shot Tommy Le because "*he*
12 *was charging the deputies and civilians with a pointy object*". Without the right of summation, the Le
13 family lawyers will not be able to point out to the jury the bias of the Sheriff's Office's investigation
14 and the importance of the fact that the deputy shot Tommy, an unarmed 120 pound youth in the back.
15 Nor would the inquest jury learn of effective, available non-lethal methods to control a person
16 apparently suffering from some type of mental episode.

17 After being told of the public's concern that the King County Sheriff's Office policies, training,
18 customs, and practices contributed to the use of excessive force causing Tommy Le's death, Sheriff
19 John Urquhart told a group of community leaders that if the Sheriff was there, the Sheriff would have
20 *wrestled Tommy to the ground, not have shot him.*⁷ Sheriff Urquhart made a similar statement to the
21 Le family in their home after *The Weekly* made public the fact that Tommy was unarmed when he was
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23 ⁷ Ex. E at 2, International Examiner, Tommy Le was Shot Twice in Back, Asian Pacific Directors
Coalition Meets with King County Sheriff, Oct. 18, 2017.

1 shot. Yet King County's investigative report, the basis of all evidence in this Inquest, concludes that
2 the shooting was justified to protect against the risk of death, frequently mentions that Tommy was
3 armed with a knife, fails to include a statement that Tommy was shot in the back, and barely mentions
4 that he held a harmless ink pen. King County Sheriff made this statement:⁸

5 "I can't tell you why the officer didn't wrestle him to the ground and take that pen out of his hand," Urquhart
6 told the APDC members last week. "That's what I would have done. But we still need to hear from the

7 The King County Prosecuting Attorney provided the Le family's attorneys Campiche Arnold,
8 PLLC with discovery limited to the investigative reports, some witness statements and transcripts, and
9 related documents provided to the prosecutor by the King County Sheriff's Office. In this way, the
10 Sheriff's Office, not this Court or the parties, controls the story they wanted the public to believe and
11 the facts of the Inquest. Of course, the King County Sheriff's Office's selection of the evidence to be
12 presented to the Inquest jury also determines the narrative, and in all probability, will determine the
13 Inquest verdict. This is particularly true because the King County Executive Order as presently written
14 prohibits the deceased family's attorneys from speaking to the jury.⁹

15 Without the parties presenting witnesses of their selection (subject to the requirement of
16 relevance) or being allowed to speak to the Inquest jury or in the time-honored summation present an
17 alternative narrative to the biased Sheriff's Office investigation, the Inquest jury is favorably guided to
18 the verdict the Sheriff's Office desires. How could the Inquest jury reach any other conclusion when
19 the evidence and narrative is selected, compromised and manipulated by the same law enforcement
20 agency that took Tommy Le's life? How can the public and family accept a verdict from such a biased
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22 ⁸ *Id.*

23 ⁹ The Le family's attorneys have petitioned Executive Constantine to change his order, see Ex. F Letter
from Campiche Arnold to Executive Dow Constantine, Regarding the Asian Community & Le Family's Request
for a Voice in the Inquest, Nov. 15, 2017.

1 one-sided hearing? This Court should exercise its discretion to remedy this clear conflict of interest.

2 Accordingly, the family of the deceased request this Court to allow:

- 3 1. Robust discovery as provided by the Supreme Court of Washington's Civil Court Rules;
- 4 2. The right to present relevant witnesses of their selection subject to relevancy objections;
- 5 3. Traditional right of cross examination; and,
- 6 4. The right to address the jury in a traditional opening statement and summation.

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8 The Le family and Asian Community seek a complete and full inquiry into the death of Tommy
9 Le, not a washed out Inquest controlled by the same law enforcement agency that took Tommy's life
10 and the law firm (Prosecutor's Office) representing it civilly. The family's attorneys are honor-bound
11 to object to the limited role of the family's attorneys proposed by the King County Executive, this
12 Court, and the King County Prosecutor's Office. The Washington Rules of Professional Conduct
13 (RPC), Preamble 2, states:

14 "[a]s [an] advocate, a lawyer conscientiously and ardently asserts the client's position under
15 the rules of the adversary system."

16 Unless wide latitude in discovery is granted to the Le family's attorneys, the evidence to be
17 presented at the Inquest will be controlled by the King County Sheriff's Office that shot and killed
18 Tommy. Certainly, neither the Sheriff's Office investigators, nor the officer's attorneys are going to
19 assist the family in locating or presenting alternative facts to those contained in the Sheriff's Office
20 investigation. Thus, the Le family requests the Court to authorize the family's attorneys to have the
21 type of participation and voice in the inquest enjoyed by civil litigants. Certainly, the participants should
22 have the opportunity to speak to the jury, the authority to seek broader discovery, the right to subpoena,
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1 depose participants and witnesses, present lay and expert testimony, and in this time-honored
2 adversarial method, present a more complete picture to the Inquest jury.

3 Without these rights, the verdict of the inquest will not be accepted. For the procedure and the
4 process, it is very important to determine the truth; the whole truth. Without the traditional rights and
5 procedures, the time-honored and honed civil justice hearing process and due process, this Inquest will
6 produce an unreliable verdict and assure public confidence in the legal system and law enforcement is
7 lost. Therefore, the Le family requests that the inquest allow full customary litigation rights of
8 participation for their counsel, including: robust discovery, the right to present witnesses, the right to a
9 meaningful cross-examination, and most importantly the right to speak to the jury so as *to give a voice*
10 *to the family and the deceased.*

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12 **2. AUTHORITY**

13 The civil system of justice (the adversarial system) has proven time and time again to produce
14 just results and ensure a fair trial. *See Strickland v. Washington*, 466 U.S. 668, 685, 104 S. Ct. 2052,
15 80 L. Ed. 2d 674 (1984). “The right to counsel plays a crucial role in the adversarial system embodied
16 in the Sixth Amendment, since access to counsel’s skill and knowledge is necessary to accord
17 defendants the ‘ample opportunity to meet the case of the prosecution’ to which they are entitled.”
18 *Strickland*, 466 U.S. at 685. A lawyer must provide meaningful representation. *See Evitts v. Lucey*, 469
19 U.S. 387, 395, 105 S. Ct. 830, 83 L. Ed. 2d 821 (1985) (“Because the right to counsel is so fundamental
20 to a fair trial, the Constitution cannot tolerate trials in which counsel, though present in name, is unable
21 to assist the defendant to obtain a fair decision on the merits.”). King County’s Inquest procedures run
22 directly afoul of the procedures and rights of the litigant that has been developed through hundreds of
23 years of our American history.

1 King County not only controls the evidence in the Inquest but effectively silences the voice of
2 the family of the deceased from presenting an alternative narrative to that of the King County Sheriff's
3 Office, who has shown itself to be motivated to protect their own deputies' interest. With what gives
4 the *appearance* of an open helping hand, King County grants the family of the deceased the right to
5 "participate" in the inquest. The Executive Order states that "the family of the deceased" has a right to
6 have an attorney present their case to the jury ("who shall be allowed to have an attorney present").¹⁰
7 But in effect, King County strips the family of their right to have effective and meaningful participation
8 by gagging the family attorney's voice to the jury ("*there shall be no opening statements or closing*
9 *arguments by counsel*").¹¹

10 The restriction of the family's attorneys' participation raises fundamental questions about the
11 Constitutionality and viability of the Inquest proceeding and its procedures. It also raises questions
12 about the ethical dilemma of allowing an attorney to be present at the Inquest but denied participation
13 in the traditional manner—thus making the attorney a mere figurehead. Essentially, the family's
14 attorney is relegated to the position of an honored observer, the proverbial potted plant. Having first
15 silenced Tommy Le with a gun, King County now seeks to deny him a voice in the Inquest and thereby
16 assuring only his killer's voice will be heard in the Inquest. The importance of the family's attorneys
17 being able to speak to the jury to give an alternative narrative to that of the Sheriff's Office that took
18 Tommy Le's life is essential to the full and fair inquiry into the "cause and circumstances" that resulted
19 in Deputy Molina firing six bullets and taking Tommy Le's life.

20 King County attempts to present the appearance of a common purpose in the Inquest, when no
21 such common interest exists between the parties in determining the "cause of circumstances" of Tommy
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23 ¹⁰ King County Executive Order No. PHL 7-1-1 (AEO), Appendix 2.

¹¹ King County Executive Order No. PHL 7-1-1 (AEO), Appendix 2, § 11 (a) Conducting Inquest.

1 Le's death at the hands of the Sheriff's Office. We reiterate, no such common interest exists because
2 the parties' interests are in conflict; different. We have been told that all the attorneys and parties will
3 sit at the same counsel table so as to present the image of common purpose. The attorneys representing
4 the Le Family and the Le family members will sit with the officers who killed their son and their
5 attorneys, giving the public and the jury the impression that these interests are in common.

6 In this and other ways, the Prosecutor intends the inquest to be "non-adversarial" in nature. To
7 suggest that the interests of the participants are somehow the same is to ignore the facts of this case.
8 Tommy Le's family is not aligned with the King County Sheriff's or Prosecutor's Office, and certainly
9 not with the officers who shot and killed their son. Before King County imposes a non-adversarial
10 framework upon the participants and sets aside hundreds of years of English and American
11 jurisprudence, a review of history is in order. The American judicial system is an adversarial system
12 of justice, that has proven to be the best system for determining the truth. It works. A key characteristic
13 of adjudication in the American system of adjudicative justice is that all parties to the hearing have a
14 real voice in the hearing. Voice means that the parties are allowed to state their position to the jury, to
15 present their evidence and vigorously question all witnesses called by the adverse party, which in this
16 case to the Le family is King County, the King County Sheriff's Office, and the King County
17 Prosecutor's Office.

18 The purpose of a coroner's inquest is to determine "**causes and circumstances**" surrounding a
19 death not attended by a physician, such as a police shooting of a civilian. RCW 36.24 outlines the duties
20 of the county coroner in general, and describes inquests in particular. The coroner is empowered to
21 summon and empanel jurors (RCW 36.24.020-.030); to subpoena witnesses (RCW 36.24.050); and to
22 issue arrest warrants (RCW 36.24.100-.120). Additionally, the statute provides that a district court
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1 judge may act as coroner if the coroner is not available. RCW 36.24.160-.170. RCW 36.24.020 deals
2 with inquests in particular, and provides, in part, that:

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4 The coroner in the county where an inquest is to be convened pursuant to this chapter
5 shall notify the superior court to provide persons to serve as a jury of inquest to **hear**
6 **all the evidencce concerning the death and to inquire into and render a true**
7 **verdict on the cause of death.** Jurors shall be selected and summoned in the same
8 manner and shall have the same qualifications as specified in chapter 2.36 RCW.
9 (emphasis added).

7 The King County Ordinance No. PHL 7-1-1 (AEO) is based upon, 36.24 *et. seq.* and states:

8 [E]very person, who, **in his or her opinion or that of any of the jury, has any**
9 **knowledge of the facts.** A witness served with a subpoena may be compelled to attend
10 and testify. . . . 36.24.050 (emphasis added).

10 And indeed, the bases for the Inquest Jury is:

11 to inquire who the person was, and when, where, and by what means he or she came to
12 his or her death, **and into the circumstances attending his or her death, and to render**
13 **a true verdict therein, according to the evidence afforded them,** or arising from the
14 inspection of the body. 36.24.040 (emphasis added).

13 Of particular importance is setting the “ground rules” for the Inquest. The procedures are
14 contained in King County Ordinance No. PHL 7-1-1 (AEO), Appendix 2, §1, the **COURTROOM**
15 provides for an open public hearing, “The inquest shall be an **open public hearing.**” Accordingly, the
16 Le family requests that all discussions related to the Inquest be held in an open public courtroom, not
17 the Court’s chambers. This is particularly important to the family given the fact that the law
18 enforcement agency that killed their son, investigated the shooting, and selected the evidence to be
19 presented at the Inquest. The Inquest ordinance identified the Le family, “the family of the deceased”
20 as a “participating party” and authorized the “presence” of a family attorney. **“PARTICIPATING**
21 **PARTIES:** (a) The family of the deceased, who shall be allowed to have an attorney(s) present.” King
22 County Ordinance No. PHL 7-1-1 (AEO), Appendix 2, §1.

1 The compelling question is whether the Court will allow the deceased family's attorney broad
2 rights of participation consistent with the rights of litigants in the American system of civil justice, or
3 restrict the family's attorneys to the role of a mere observer and figurehead. King County Ordinance
4 No. PHL 7-1-1 (AEO), Appendix 2, limits the role of the Court to the "traditional judicial role" as
5 provided in the American adversarial system of justice as opposed to participating in the investigation,
6 as common in European's Inquisitional system of justice. King County Code (KCC) 2.24.110 (12)
7 requires the evidence to be presented in compliance with the Washington Supreme Court's Civil Rules
8 of Evidence. Thus, the King County's Inquest ordinance contemplates adjudication by the accepted
9 adversarial mode of American litigation.¹²

10 3. ROLE OF THE COURT/SCOPE OF THE INQUEST

11 a. The court shall maintain the traditional judicial role of presiding over the
12 inquest. . . **after consultation with the participating parties. . . determine
13 who shall be called as witnesses. . . .**

14 4. DISCOVERY

15 . . . Discovery materials automatically include the police investigation file of the
16 incident, which resulted in the death. They also include the report of the Medical
17 Examiner, crime laboratory reports, and the names, addresses, and summaries
18 and/or copies of statements of any witnesses obtained by any party. c. In the
19 event confidential materials in the possession of any person or agency are sought
20 for use in the inquest. . . [the court] shall examine the materials in camera. . . .
21 e. Protective orders may be used to limit discovery.

22 12. RULES OF EVIDENCE

23 a. The Rules of Evidence (ER), as amended, shall apply at inquests. The judge
shall not comment on the evidence.

The Inquest ordinance, Executive Order PHL 7-1-1 (AEO), and its appendixes, recognize and
preserve traditional American civil (adversarial) system of adjudication, rather than imposing a
European Inquisitive role for the Court. There are good and historic reasons not to unduly restrict the

¹² King County Ordinance No. PHL 7-1-1 (AEO), Appendix 2, §§ 3, 4, 12 (emphasis added).

1 role of the participant's attorneys, nor to water down the working civil system of justice for
2 convenience, congeniality, or the appearance of agreement and uniformity of purpose. The deceased's
3 family and therefore their attorneys' interests are at odds with the Prosecutor, whose office must defend
4 the Sheriff's Deputies from civil liability for use of excessive/deadly force. The deceased's family are
5 the sole Inquest participants who interests lie in confronting the Sheriff's Office's version of the facts
6 and investigation. The right litigants to of legal counsel was established *Gideon v. Wainwright*,
7 establishing the need for adequate representation. 372 U.S. 335, 334 83 S. Ct. 792, 796, 9 L. Ed. 2d
8 799 (1963), Courts have held that a preliminary hearing was a critical stage requiring the appointment
9 of counsel. *Coleman v. Alabama*, 399 U.S. 1, 26 L. Ed. 2d 387 (1970).

10 Although this is not a criminal proceeding like in *Coleman*, this inquest is potentially the first
11 step in a criminal proceeding and is clearly the first step in a civil proceeding. *Id.* More importantly,
12 the public expects a full and fair consideration of the facts relating to the cause and circumstances
13 surrounding the King County Deputy shooting and killing of an unarmed Asian young man. Restricting
14 the family's attorneys from traditional rights of civil litigants will not only impair a full and fair
15 consideration of the shooting but result in a further destruction of the public trust in law enforcement
16 in a climate where there is a public disconnect. Results of this Inquest may affect the criminal and civil
17 proceeding that will follow this Inquest because the jury that will follow will be tainted by the finding
18 of the Inquest jury and may not be aware that the family did not actively participate. To adequately
19 clear this confusion, the family's active participation in all parts of this Inquest is needed to determine
20 the fairness and nonpartisan application of the records that will be reviewed. Thus, the family of the
21 deceased seek robust discovery as provided by the Civil Rules: the right to call relevant witnesses, the
22 opportunity to speak to the jury, and in these traditional ways present Tommy Le's voice by expressing
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1 an alternative version of the facts and circumstances surrounding the Sheriff's Office's shooting of an
2 unarmed 120 pound Asian youth.

4 5. CONCLUSION

5 Having first silenced Tommy Le with a gun, King County now seeks to deny Tommy Le's
6 family's attorneys a voice in the Inquest, thereby assuring only his killer's voice will be heard in
7 the Inquest. The Le family respectfully requests this Court to allow their attorneys broad pre-
8 hearing discovery rights and the opportunity to fully participate in the Inquest to uncover, and
9 present to the Inquest Jury the "causes and circumstances" surrounding the shooting death of their
10 son, Tommy Le, whom by clear finding of the King County Medical Examiner was shot in the
11 back and by the evidence at the scene of the shooting, **was completely unarmed**. He carried a
12 pen, not a weapon. Facts which were concealed and misrepresented by the King County Sheriff's
13 Office.

14 In this case there are obvious conflicts of interest. The King County Sheriff's Office is not a
15 neutral investigative agency. To the contrary, the King County deputies may have committed a criminal
16 act, homicide, and at the very least, the King County Sheriff's Office and its deputies are subject to
17 liability for use of excessive deadly force. Yet the King County Sheriff's Office conducted the sole
18 investigation and has selected the evidence to be considered in the Inquest. The King County
19 Prosecutor's Office defends any and all claims against the Sheriff's Office.

20 Under the United States Constitution, police use of deadly force is the last resort and the last
21 alternative and only justified when necessary to protect against the imminent infliction of death or
22 serious physical injury. At the time King County deputies shot Tommy Le, he did not have the
23 immediate ability to kill or seriously injury anyone. For these reasons, Sheriff Urquhart has repeatedly

1 stated that there is a need for “an independent investigation” and that the proper thing for the deputies
2 to have done was “to wrestle Tommy to the ground, not shoot him”.

3 To assure that the Inquest provides a full airing of the facts surrounding the deputies use of
4 deadly force on an unarmed youth, the family’s counsel should be allowed the rights and privileges
5 enjoyed by civil litigants throughout our nation. Granting the Le family’s request to be afforded the
6 traditional rights and privilege of civil litigants and to allow the Le family a contrasting voice to that of
7 the Sheriff’s Office that shot their son will cause no harm, but rather will increase the reliability of the
8 inquiry into the causes and circumstances of the shooting death of Tommy Le.

9
10 RESPECTFULLY SUBMITTED November 16th, 2017.

11
12 By 

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3 **CERTIFICATE OF SERVICE**

4 I certify under penalty of perjury under the laws of Washington State that I caused this pleading
5 to be served on the persons listed below in the manner shown.

6 Via Hand Delivery to the Court & via Email to:

7 ellen.attebery@kingcounty.gov & leanna.young@kingcounty.gov

8 And via E-mail & hand-delivered copies to:

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18 Dated: November 17th, 2017.

19
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21 By  _____