

November 15th, 2017

*Via Legal Messenger &
Email: dow.constantine@kingcounty.gov*

The Honorable Dow Constantine
King County Executive
King County Chinook Building
401 Fifth Avenue, Suite 800
Seattle, WA 98104

**Open Letter to Dow Constantine, King County Executive,
Regarding the Asian Community & Le Family's Request for a
Voice in the Inquest into the Shooting Death of Tommy Le.**

Dear County Executive Constantine:

We are writing to request that you exercise your power vested in you by King County Ordinance PHL 7-1-1 (AEO) to assure that the Le family and the Asian community have a real voice in the inquest into the shooting death of Tommy Le, the unarmed young Asian man shot dead by the King County Sheriff's Office. Without a change in procedures the only narrative will be that of the King County Sheriff's Office, the same law enforcement agency that took Tommy's life. The refusal to allow the Le family's lawyers to speak to the inquest jury adds to the obvious conflict of interest created by the fact that the sole investigation report provided for the inquest was controlled by the King County Sheriff's Office and presented by the King County Prosecuting Attorney, the same law firm that will defend any civil lawsuit arising out of Tommy Le's death.

Specifically, we are asking that you exercise the discretion granted to you by PHL 7-1-1 (AEO) to "determine how inquest proceedings are to be conducted" to modify the rules governing the inquest to allow the attorneys for the family of Tommy to address the inquest jury.

Presently, the family and their attorneys are merely observers in this one-sided exercise. PHL 7-1-1 Appendix 2, Section 2, severely limits the family's participation in a manner inconsistent with the American System of Civil or Criminal Justice. *Conducting Inquests in King County, Section 11* provides: "there shall be no opening statements or closing arguments by counsel." This provision effectively silences the family of Tommy Le from expressing an alternative narrative to that of the Sheriff and Prosecutor.

As an attorney, you certainly appreciate the obvious conflict of interest. In this inquest, we have the King County Sheriff's Office investigating itself and drawing conclusions that are likely favorable to the department. The alternative narrative from the government's version of the facts to the jury is not allowed in this format. As an attorney, you know of the proven value of our system of justice which allows all parties an independent voice, one that prohibits conflicts of interest, and requires the government to produce documents requested by aggrieved parties. The present inquest procedures deny the deceased's family and Asian Community a voice and relegates the attorney for the family of the deceased to the position of an observer, the proverbial, "potted plant" in the hearing.

The Inquest Ordinance vests in the elected County Executive, the power to "determine how the inquest proceedings are to be conducted":

~~vested in the County Executive under KCC 2.24.110(A); and~~

WHEREAS, the County Executive, in exercising the authority to hold inquests, has discretion to determine how inquest proceedings are to be conducted, and to delegate the duty of presiding over an inquest to another impartial public official, and

~~WHEREAS~~, the County Executive retains the ultimate responsibility for the exercise of the inquest

There is strong public concern regarding the fairness of King County's Inquest procedures and law enforcement officer bias, that allows the law enforcement agency that is being investigated to control the evidence considered in the inquest, and thereby assuring an outcome that favors the officer taking a civilian's life.

The conduct of the Sheriff's Office in misstating important facts surrounding the shooting has fueled a fire of discontent to the point of community outrage. There is a real concern and public sentiment that King County's Inquest procedure has simply become a "white wash" for police shootings. These sentiments are not merely local but extend throughout our county, if not the world. There is a particular concern in the greater Asian Community that the truth will not be presented to the inquest jury.

Looking at the inquest proceedings from the point of view of the family of the deceased, Asian Community and the public, several characteristics of the inquest's rules allow for a police bias. The first concern is the fact that the Sheriff's Office that shot Tommy Le is the sole investigating agency and therefore not only controls and slants the investigation to protect itself and officers, but also determines what evidence is available in the inquest. Inquest discovery of information to the Le family's attorneys, such as it is, consists of the King County Sheriff's Office investigative reports and supporting laboratory reports and documents provided by the King County Sheriff's Office to the King County Prosecuting Attorney, the same law firm that defends the County against claims of civil rights violations for use of excessive or deadly force.

In order to fully and fairly determine the causes and circumstances of the death, it is necessary to examine the policies and procedures of the Sheriff's Office as well as the shooter's personnel file including selection, training, discipline, and assignments. In the same biased way, the Prosecuting Attorney, (the same agency that defends the King County Sheriff's Office from civil liability), is allowed to present all witnesses and prescribe the topics discussed, which limits the scope

of the examination. The scope of the family's attorneys' cross examination is generally limited to narrow areas of inquiry. Nor is the family allowed to call its own witnesses, witnesses that would include police training and procedure experts to explain to the jury the limitations placed upon a police officer's use of deadly force and training on alternative policing practices to control such a situation without employing deadly force. King County's Inquest Procedure as presently applied unfairly hides the truth, while silencing alternative points of view.

Your action in amending the procedural rules is most important in this case where there is convincing evidence of investigative bias. First, the King County Sheriff's Office misrepresented to the public that, "Tommy Le was shot because he was attacking the deputies with a knife." That untruth was publicly disseminated by the Sheriff's Office despite the Sheriff's knowledge that Tommy Le was unarmed: "A knife was not found at the scene"; and, "Detectives canvassed an area of several blocks around the crime scene to look for a knife... None was found" (Lead Detective Case Overview, pg. 5 of 9). Only a tip to the press and a tenacious reporter at the *Seattle Weekly* disclosed the truth. Tommy Le may have held a Papermate medium ballpoint ink pen, but there was *no* knife at the scene of the shooting. King County deputies knew this fact within moments of the shooting. We've attached a duplicate Papermate pen.


The Sheriff's Office's public statement omitted the fact that Tommy Le died of wounds from being shot twice in the back, not the front, as you would expect an attacker lunging toward the officers with a knife, to be shot. Drawing your attention to the attached pages 8-9 of the Lead Detective's Case Overview report, please note that the King County investigator failed to mention that Tommy Le was shot in the back. Without the family's attorneys being allowed to address the Inquest jury, that jury well might not be informed of this damning fact, a fact that maligns the shooting officer's account of the killing. The King County Medical Examiner's autopsy documents that the fatal wounds were gunshot wounds to Tommy Le's mid-back and the bullets' path trajectories were straight through Tommy's body, destroying his vital mid abdominal cavity organs. No skilled investigator would fail to understand that these wounds in Tommy's mid-back are inconsistent with the shooting deputy's statement that Tommy Le, "was approaching in a fast and aggressive manner, quickly closing the distance between himself, Deputy Owens and me while still holding a pointy object in his hand". (Deputy Molina statement at pg. 2 of 2). Note, once again, the shooting deputy did not say Tommy was holding a knife, yet the word knife appears dozens of times in the investigative report. There was no knife at the time of the shooting.

We point out the King County Sheriff repeatedly and publicly stated that the shootings of Tommy Le by Sheriff's deputies should be investigated by an independent police agency and mentioned the Washington State Patrol or FBI. The Sheriff also stated that he did not know "why the deputies didn't wrestle Tommy to the ground instead of shooting him." Yet, no suggestion of alternatives to deadly force is suggested by the Sheriff's Office investigative report — the same report that will control the evidence in the inquest. Unless the Le family attorneys are allowed to present police training expert testimony and to address the inquest jury, the jury will not learn of the required alternative policing practices to the employment of deadly force.

The purpose of the inquest is to determine the "causes and circumstances of any death involving a member of the law enforcement agency of the county in the performance of his duties." The investigation of the causes and circumstances of the shooting death of Tommy Le will be better served by use of the time honored civil justice system that provides all parties the opportunity to be heard, and is not well served by silencing the family of the deceased. Tommy Le, his family, and the Asian Community deserve a voice in the hearing — not just a mere presence.

The Le family and representatives of the Asian Community would welcome the opportunity to meet with you to discuss our request that you modify the Inquest Procedures to allow for an alternative voice to the Sheriff's Office's version of the shooting of Tommy Le, and in that way more assuredly inquire into the causes and circumstances of Tommy Le's death at the hands of the King County Sheriff's Office.

Cordially,

Handwritten signatures of Jeffrey M. Campiche and Linda Diem Tran. The signature of Jeffrey M. Campiche is on the left, and the signature of Linda Diem Tran is on the right. A horizontal line connects the two signatures.

Jeffery M. Campiche

Linda Diem Tran

cc: The Le Family
Attorneys for parties