

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

**PLAINTIFF'S COUNSEL
CAMPICHE'S DECLARATION
IN SUPPORT OF
DECEASED'S FAMILY'S
REQUEST FOR HEARING ON
SCOPE OF PARTICIPATION**

I declare under penalty of perjury under the laws of the United States of America that the following is true and correct.

1. I am the lead counsel for the Family of the Deceased Tommy Lee in this Inquest Hearing.

2. Attached to this Declaration are true and correct copies of the below listed documents:

EXHIBIT LETTER:

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

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

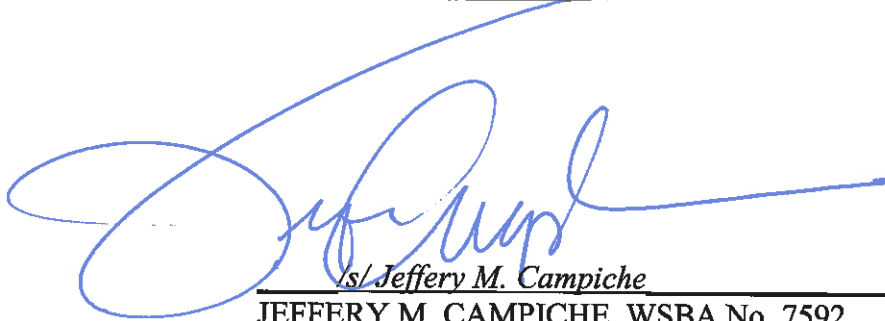
**CAMPICHE DEC. IN SUPPORT
DECEASED'S FAMILY'S
REQUEST FOR HEARING ON
SCOPE OF PARTICIPATION**

- 1

CAMPICHE ARNOLD, PLLC
2025 First Avenue, Suite 830
Seattle, WA 98121
Phone: 206-281-9000; Fax: 206-281-9111

- 1 C. Seattle Times, Create Civilian-led State Agency to Investigate Police Shootings, Debra Jacobs,
2 July 25, 2017.
- 3 D. Photos of Papermate Medium Ballpoint Ink provided by the King County Sheriff's Office.
- 4 E. International Examiner, Tommy Le was Shot Twice in Back, Asian Pacific Directors Coalition
5 Meets with King County Sheriff, October 18, 2017.
- 6 F. Letter from Campiche Arnold, Le Family's Attorneys, to Executive Dow Constantine,
7 Regarding the Asian Community & Le Family's Request for a Voice in the Inquest, Campiche
8 Arnold, November 15, 2017.

9 Dated November 17, 2017 at _____

10 

11 s/ Jeffery M. Campiche

12 JEFFERY M. CAMPICHE, WSBA No. 7592

13 Linda Diem Tran, WSBA No. 50109

14 Philip G. Arnold, WSBA No. 2675

15 Jacqueline Hackler, WSBA No. 52636

16 CAMPICHE ARNOLD PLLC

17 Attorneys for Tommy Le's Family

18 Market Place Tower, Suite 830

19 2025 First Avenue

20 Seattle, WA 98121

21 Tele: 206.281.9000 Facsimile: 206.281.9111

22 Email addresses:

23 jcampiche@campichearnold.com

parnold@campichearnold.com

ltran@campichearnold.com

jhackler@campichearnold.com

lharris@campichearnold.com

slandholm@campichearnold.com

1
2 **CERTIFICATE OF SERVICE**

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

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

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

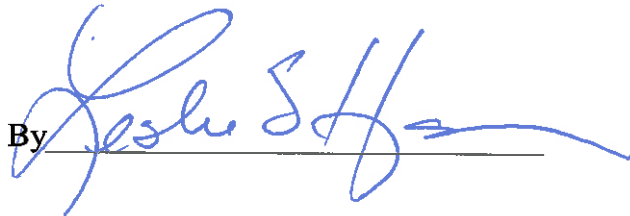
7 And via E-mail & hand-delivered copies to:

8 Daniel.Satterber@kingcounty.gov
9 Mark.Larson@kingcounty.gov
Leah.Taguba@kingcounty.gov

10 Geoffrey N, Grindeland
11 Mills Meyers Swartling P.S.
12 1000 Second Avenue, 30th Floor
Seattle, WA 98104
ggrindeland@millsmeyers.com
kfielder@millsmeyers.com
13 aarmitage@millsmeyers.com

14 Derrick Isakson
15 Vick, Julius, McClure, P.S.
5506 6th Avenue South, Suite No. 201-A
16 Seattle, WA 98108
derricki@vjmlaw.com
17 larah@vjmlaw.com

18 Dated: November 17th, 2017.

19
20 By 
21
22
23



King County
Executive Orders
King County Administrative Policies and Procedures

Title Conducting Inquests in King County	Document Code No. PHL 7-1-1 (AEO)
Department/Issuing Agency King County Executive	Date March 16, 2010

WHEREAS, Revised Code of Washington (RCW) Chapter 36.24 authorizes the county coroner to summon a jury to inquire into the death of a person by suspicious circumstances; and

WHEREAS, Section 895 of 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"; and


WHEREAS, King County Code (KCC) Chapter 2.24 created a division of the medical examiner within the Seattle-King County Department of Public Health and assigned to it most of the coroner's duties under RCW Chapter 36.24, "except for the holding of inquests, which function is 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 power and the performance of the delegated duty.

NOW, THEREFORE, I Dow Constantine, King County Executive do hereby order, direct, and implement the policy and procedures for conducting inquests at appendices 1 and 2:

DATED this 16th day of March, 2010


Dow Constantine
King County Executive

Attest:



 Carolyn Ableman
Director, Records and Licensing Services Division

EX. A

Appendix 1
PHL 7-1-1 (AEO), Conducting Inquest^s in King County
Effective Date: March 16, 2010

1.0 SUBJECT TITLE: Conducting Inquests in King County

2.0 PURPOSE:

2.1 To establish policies and procedures for conducting inquests into the causes and circumstances of any death involving a member of any law enforcement agency within King County while in the performance of his or her duties and in other exceptional cases as determined by the County Executive.

3.0 ORGANIZATIONS AFFECTED:

King County Executive; King County Prosecuting Attorney; King County District Court Judges; King County District Courts; King County Superior Court; King County Superior Court Judges; Medical Examiner's Office, King County Department of Adult and Juvenile Detention and the King County Sheriff.

4.0 REFERENCES:

4.1 RCW 36.24 Counties: County Coroner

4.2 King County Charter, Section 320.20 - The Executive Branch: Powers and Duties

4.3 King County Charter, Section 895- General Provisions: Mandatory Inquests

4.4 King County Code 2.24.110(A)

5.0 DEFINITIONS:

5.1 "King County Executive" or "County Executive" means the official, or the designee of the official, who is elected and serves as the County Executive of King County pursuant to Article 3 of the King County Charter.

5.2 "King County Prosecuting Attorney" means the official, or the designee of the official, who is elected and serves as Prosecuting Attorney for King County pursuant to Article XI, Section 5 of the Washington State Constitution.

5.3 "Inquest" means an inquiry into the identity of the decedent, as well as when, where and by what means the decedent came to meet death, and the circumstances attending the death of the decedent.

5.4 "Law enforcement agency" means any agency having police powers as authorized under Washington State law. For the purposes of this policy, "a

member of any law enforcement agency" shall mean commissioned officers and non-commissioned staff of all local and state police forces, jails and corrections agencies.

5.5 "Attorney representing the family of the deceased" means a privately-retained or pro-bono attorney. Washington law does not require the appointment of a publicly funded attorney to represent indigent individuals at an inquest

5.6 "Rules of Evidence" means the evidentiary court rules adopted by the Supreme Court of the State of Washington governing proceedings in the courts of the State of Washington.

5.7 "Voir dire" means an examination of a prospective juror.

5.8 "In camera review" means an examination of materials by the Judge in the privacy of chambers.

6.0 POLICIES:

6.1 There shall be an inquest into the causes and circumstances of any death involving a member of any law enforcement agency within King County while in the performance of his or her duties. While the term "involving" is to be construed broadly, there may be circumstances where law enforcement's role is so minimal as to not warrant an inquest. Factors to be considered include: whether a decision to prosecute has been made; whether the death was the result of a condition existing prior to and/or apart from the police involvement; whether the deceased was in custody at the time of the death; whether the family of deceased desire an inquest; and any other factor that touches on the connection between the manner of death and the actions of law enforcement; however, ordinarily there shall be an inquest in all cases where death involves the use of force by a member of any law enforcement agency.

6.2 At the discretion of the County Executive, in exceptional circumstances there may be an inquest into the causes and circumstances of a death involving an individual in King County other than a member of a law enforcement agency.

7.0 RESPONSIBILITIES:

7.1 The King County Prosecuting Attorney shall inform the King County Executive whenever an investigation into a death involving a member of any law enforcement agency in King County is complete and shall also advise whether an inquest is required pursuant to these policies.

7.2 The County Executive shall determine whether or not an inquest shall be held. If an inquest is to be held, the County Executive shall request that the King County Superior Court or the King County District Court conduct the inquest on the Executive's behalf. If the King County Superior Court or the King County District Court accepts the responsibility, the inquest shall be conducted pursuant to this Executive Order and to R.C.W. 36.24, as amended.

8.0 PROCEDURES:

Action By: Prosecuting Attorney

Action:

8.1 Receives information and documentation that a death has occurred that may require an inquest.

8.2 Reviews the information and documentation and makes a written recommendation to the County Executive as to whether the facts require that an inquest be held, and, if so, provides a copy to the King County Superior Court and/or the King County District Court presiding judge.

8.2.1 Forwards information and documentation to the County Executive if so requested by the Executive.

Action by: County Executive

Action:

8.3 Upon receiving Prosecuting Attorney's recommendation, determines whether to hold an inquest.

8.4 If an inquest is to be held, then the County Executive may request that either the King County Superior Court or the King County District Court conduct the inquest on the Executive's behalf according to the Procedures in Appendix 9.1.

8.4.1 Requests the Presiding Judge of King County Superior Court, in conjunction with other judges, to furnish a judge to conduct the inquest; or

8.4.2 Requests the Presiding Judge of King County District Court, in conjunction with other judges, to furnish a judge to conduct the inquest.

Action by: King County Superior Court/District Court

Action:

8.5 If the Superior Court accepts the responsibility for conducting the inquest, the Court schedules a date for the inquest to begin and conducts the inquest according to the procedures in Appendix 9.1.

8.6 If the District Court accepts the responsibility for conducting the inquest, the Court schedules a date for the inquest to begin and conducts the inquest according to the procedures in Appendix 9.1.

9.0 APPENDICES:

9.1 Procedures for Conducting Inquests

10.0 PRIOR ORDERS:

10.1 This Executive Order rescinds and replaces PHL 7-1 (AEO) , "Conducting Inquests in King County" dated April 29, 2002.

Appendix 2
PHL 7-1-1 (AEO), Procedures for Conducting Inquests
Effective Date: March 16, 2010

Upon receiving the Prosecuting Attorney's recommendation, the County Executive shall determine whether to hold an inquest. If an inquest is to be held, the County Executive shall request that the King County Superior Court or the King County District Court conduct the inquest on the Executive's behalf. If the King County Superior Court or the King County District Court, as applicable, accepts the responsibility, the inquest shall be conducted in accordance with these procedures.

1. COURTROOM

- a. An inquest shall be held in a trial courtroom selected by the judge designated to conduct the inquest. The inquest shall be an open public hearing.

2. PARTICIPATING PARTIES

- a. The family of the deceased, who shall be allowed to have an attorney(s) present;
- b. The person(s) involved in the death, if known, who shall be allowed to have an attorney(s) present.
- c. The employing government department(s) shall be allowed to be represented by its/their statutory attorney or lawfully appointed designee.
- d. The King County Prosecuting Attorney or designee whose role shall be to assist the court.

3. ROLE OF THE COURT/SCOPE OF THE INQUEST

- a. The court shall maintain the traditional judicial role of presiding over the inquest.
- b. The court shall determine the scope of the issues to be inquired into at the inquest, after consultation with the participating parties.
- c. The court shall determine who shall be called as witnesses, after consultation with the participating parties.

4. DISCOVERY

- a. Discoverable material shall be exchanged among the judge, the Prosecuting Attorney, the attorney representing the person involved in the death, and the attorney representing the family of the deceased and the attorneys for the participating parties.

- b. Discovery materials are to be used solely by the attorneys for participation in the inquest. Discovery materials automatically include the police investigative file of the incident, which resulted in the death. They also include the report of the Medical Examiner, crime laboratory reports, and the names, addresses, and summaries and/or copies of statements of any witnesses obtained by any party.
- c. In the event confidential materials in the possession of any person or agency are sought for use in the inquest, the court, upon a prima facie showing of necessity, relevancy, and lack of an alternative source for the materials, shall examine the materials in camera. The legal representative of the person or agency in possession of the materials shall have the right to participate in all proceedings which concern these materials.
- d. Following an in camera review, the judge may order discovery of the materials if he/she finds that the interest sought to be protected by the claim of confidentiality is clearly outweighed by the interest of the requesting party in using the materials in the inquest.
- e. Protective orders may be used to limit discovery, and the court may order the return of all discretionarily-ordered discovery.

5. SCHEDULE AND PRE-INQUEST CONFERENCE

- a. The inquest shall commence within 90 days after designation of the inquest judge. The commencement date should not be extended unless the inquest judge finds good cause warranting extension.
- b. One or more mandatory pre-inquest conferences shall be held at which all the participating parties shall be represented. The participating parties shall submit proposed voir dire questions, jury instructions and interrogatories, witness lists, and proposed narrative statements of background facts, and advise the judge of any other matters relating to the timely and efficient scheduling and administration of the inquest.
- c. The judge shall prepare a pre-inquest order that schedules the date and length of the inquest, and decides any voir dire issues, the narrative statement of background facts (if the judge elects to make a statement under Section 11.b below), jury instructions and interrogatories, which may be revised during the course of the inquest as appropriate, the scope of the inquest, and any other matters relating to the timely and efficient scheduling and administration of the inquest.

6. JURY POOL

- a. Inquest jurors shall be selected from the regular Superior Court juror pool.

7. JURY QUESTIONING (VOIR DIRE)

- a. Voir dire shall be by the judge with questions submitted by the participating attorneys. There shall be no set limit to the number of jurors who may be excused by the judge. .

8. JUROR QUESTIONS

- a. Inquest jurors shall be allowed to submit questions in writing to the judge, who shall review such questions in camera with the participating parties. The judge shall determine whether or not the questions will be submitted to the witness and the manner of submission.

9. RECORDING

- a. The inquest proceedings shall be recorded, either electronically or by a court reporter.

10. MEDIA GUIDELINES

- a. Electronic media participation, television cameras, and tape recorders shall be permitted only in accordance with Code of Judicial Conduct (CJC) 3. The Washington Bench-Bar-Press Principles and Guidelines shall apply to inquests to the extent applicable.

11. OPENING STATEMENTS AND CLOSING ARGUMENTS

- a. There shall be no opening statements or closing arguments by counsel. The judge's introduction will include an instruction in substantially the following form:
 - i. "You have been empanelled as members of a coroner's jury in this inquest. This is not a trial. The purpose of the inquest is to provide a public inquiry into the causes and circumstances surrounding the death of [decedent]. It is not the purpose of this inquest to determine the criminal or civil liability of any person or agency. Your role will be to hear the evidence and answer questions according to instructions given to you at the close of the proceedings."
 - ii. "The prosecuting attorney's role is solely to assist the court in presenting the evidence. This court has determined who will be called as witnesses and the issues which you will be asked to consider."

- b. To focus the proceeding on the issues to be inquired into at the inquest, the judge's introduction may also include a narrative statement of background facts.

12. RULES OF EVIDENCE

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

13. EXCLUSION OF WITNESSES/PRESENCE OF PARTIES

- a. Witnesses shall be excluded from the courtroom upon request from any participating attorney, except the law enforcement officer(s) or person(s) whose actions are being reviewed and at least one representative of the family of the deceased shall be allowed to remain in the courtroom during the entire proceeding.

14. ORDER OF PRESENTATION/EXAMINATION

- a. The prosecuting attorney shall ordinarily conduct the initial examination of each witness, provided that the judge may determine that another attorney for a participating party may conduct the initial examination of a witness.
- b. The attorney for the participating parties shall be allowed follow-up questions within the scope of the inquest.
- c. The attorneys for the parties shall rotate the initial opportunity for follow-up questions.
 - i. The attorney representing the person involved in the death shall have the prerogative of first asking follow-up questions of this person, when desired. The attorney representing the family of the deceased shall have the prerogative of first asking follow-up questions of the family, when desired.

15. JURY INTERROGATORIES

- a. Interrogatories to the jury will deal with questions of fact. They will not deal with questions of law, policy, or recommendations. The purpose of the interrogatories is to give the jury an opportunity to judge credibility and determine the significant factual issues involved in the inquest. To this end, it is expected that the jury would decide what actions occurred and, where appropriate what the actors thought or knew. Interrogatories shall not answer whether any person or agency is civilly or criminally liable.


16. FINDINGS

- a. The jury shall be given written instructions by the judge. The jury shall be told to indicate the number of yes/no findings for each interrogatory.

17. TRANSMISSION OF FINDINGS

- a. The judge shall promptly transmit the jury's findings and its responses to interrogatories to the County Executive.






AVALON
NEWCASTLE COMMONS


Brand New Eastside Rentals

LEARN MORE



Keith B. Wong, DDS, MS

Seattle's Top Rated Orthodontist and Invisalign Expert



YOU ARE HERE: HOME / NEWS / COMMUNITY NEWS / FEATURES / FAMILY SPEAKS OUT ON DEATH OF THEIR SON, TOMMY LE

Family speaks out on death of their son, Tommy Le

JULY 27, 2017 BY NORTHWEST ASIAN WEEKLY — LEAVE A COMMENT

By Stacy Nguyen
Northwest Asian Weekly

EX. B



Tommy Le's mother, Dieu Ho, tells government leaders that her son was a good kid and has never gotten into trouble with law enforcement before. Le was unarmed when he was killed by a law enforcement officer June 13. (Photo by Stacy Nguyen/NWAW)

Tommy Le was a 20-year-old Vietnamese American man who had a job at a casino in Tulalip at the same time he was finishing up school — and he was one day away from his high school graduation when he was fatally shot by King County sheriff's deputy Cesar Molina on June 13 in Burien. Witnesses claimed they saw Le wielding a knife and threatening people. When he was shot, Le was found to only be holding a pen. Le had no criminal record nor history of violence. He died of injuries at Harborview the same night.

About 150 people congregated together at Asian Counseling and Referral Service on the evening of July 19 at a community forum organized by members of a Vietnamese American group, Viets Who Give a Shiet.

Government leaders present at this forum included King County Office of Law Enforcement Oversight Director Deborah Jacobs, King County Prosecutor Dan Satterberg, King County Deputy Executive Rhonda Berry, King County Sheriff John Urquhart, King County Councilmember Joe McDermott, King County Councilmember Larry Gossett, Washington state Rep. Mia Gregerson, and Washington state Sen. Bob Hasegawa.

"Tommy Le was a very kind and non-violent young man," said the Le family's attorney, Jeff Campiche, of Campiche Arnold PLLC. "He owned no weapons. He belonged to no gangs. ... Tommy Le's friends, coworkers, and teachers describe him as pleasant and all smiles. He was

beloved by his large extended Vietnamese American family — a family that fled the oppression in the police state of Vietnam. ...”

“[The Le family has] some questions, questions for the sheriff,” added Campiche. “Why was an unarmed student shot dead? Why were the officers not wearing body cameras? What crime had Tommy Le committed?”

Procedure

Satterberg explained that an inquest will be conducted in district court in Seattle. An inquest is a judicial inquiry held to determine a person’s cause of death.

“An inquest is an unusual feature in King County, in which any death involving a police officer is something we put in an open court,” said Satterberg.

Satterberg explained that during an inquest, the family has an opportunity to be represented and call witnesses. Additionally, anyone interested in the investigation are welcome to come to court to listen.

“We’re willing to do an inquest as soon as it’s convenient for the Le family,” said Satterberg. Then he added, referring to the people in the room, “I want to tell people who are angry that it’s appropriate to be angry. This is a tragedy. This is something we need to get to the bottom of.”

Urquhart stated his intentions to give unbiased, objective information at the forum and to answer questions the family has.

“A lot of the truth will come out of the inquest,” said Urquhart. “It’s the only opportunity where witnesses and my deputies will testify under oath. They will be sworn in, and they will have to tell the truth. They will be questioned by attorneys, so hopefully more information, more truth will come out.”

He also addressed the tension between the Vietnamese American community and law enforcement, which plays into the greater national tension in regards to people of color experiencing disproportionate deaths and brutality at the hands of law enforcement.

Urquhart said that he speculates that, whatever results are found via inquest or other avenues,

“No one will believe the results. The [Vietnamese] community is not going to believe our investigation.” Urquhart said he partly attributes the understandable skepticism and wariness of law enforcement findings to the fact that he does not think the county should investigate its own police shooting.

“I will ask tonight that the FBI come in and take over this investigation,” he said. “And you (the community) can believe or not believe what the FBI comes up with. I believe that in this day and age, the police department should not be investigating their own officer-involved shooting.”

After the shooting investigation is completed by the Sheriff’s Office Major Crimes Unit, the investigation will then be sent to Satterberg’s office to determine if criminal charges are warranted.

The night of the shooting

According to previous reports, the sheriff’s office stated that on the night of Le’s death, several 911 calls came in about a man, later identified as Le, who had a sharp object and was threatening people in the Third Avenue South block of Burien. A homeowner who was being threatened fired his gun to try and ward off Le. The homeowner then fled into the house as Le stabbed at the door and screamed that he was “the Creator.” At this point, no one was injured, and Le left the scene.

Three deputies arrived on the scene. As they were getting the story from the neighbors, Le came back.

At the forum, Urquhart said that, according to his deputies’ reports, they believe that Le had gone home to put the knife away, before returning to the scene with a pen.

Officers told Le to drop whatever was in his hand. Le kept advancing as deputies backed away. The deputies used their tasers. According to the sheriff’s department, one of the probes made contact but did not deter Le. Deputy Molina then fired several times, hitting Le.

“Something happened to Tommy that night,” said Urquhart. “There was some sort of mental crisis he was in. We don’t know what that was. We don’t know why. This was so uncharacteristic of the young man you’ve heard about. We don’t know what happened. We are looking into it.”

The Le family

Le's father, Hoai Le, had short remarks at the beginning of the forum. In Vietnamese, Hoai said, "There is no other pain as the pain of losing a son, as losing a piece of my heart. ... I don't know why this happened. I don't know why my son, who wasn't holding a knife in his hand, was shot. I want to thank all of you for being here. I want justice for my son."

Tommy Le's mother, Dieu Ho, said, "My son was a very gentle and peaceful kid. He never got into fights. ... He was very obedient and kind. He lived with his grandma for 15 years. He was 20 years old, [and he said to us] he wanted to move out and not live with Grandma anymore, so he could be an [independent] adult. That night, there was an incident. We don't know what happened. He was out in the streets. And then we heard the police came. When we heard this, we know that our kid is only 120 pounds. A very slight person. Yet, [there were] two full-sized male police officers [who confronted him]. And then they shot my son."

Le's oldest brother Quoc Nguyen detailed the last moment he met with his brother. He said they were looking for nice suits for Le to wear at Nguyen's wedding. "It's unfortunate that we had to use that suit for his funeral," Nguyen said, tightly.

"He wanted to make a positive change in this world," said Nguyen. "That's all I have to say. Thank you."

The Le family is Buddhist and made an exception in appearing at the public forum to speak about Tommy Le. Buddhist funeral rites can last 49 days. Campiche said that the family requests privacy as they perform funeral rites for Le, but after the 49 days, they would likely be more vocal about what they want to come out from Le's death.

At the end of the forum, Campiche read a statement from the family.

"We can all see it was a mistake. It was a mistake to shoot and kill Tommy. He presented no danger. ... Since it was a mistake, please, please sit down and decide how the department can change its practices, its attitude, its way of doing business so that this mistake doesn't repeat itself, so there's not another unnecessary killing of a young person."

Stacy Nguyen can be reached at stacy@nwasianweekly.com.

FILED UNDER: FEATURES, PROFILES, COMMUNITY NEWS
TAGGED WITH: 2017, DIEU HO, HOAI LE, TOMMY LE, VOL 36 NO 31 | JULY 29 - AUGUST 4

Leave a Reply

Your email address will not be published. Required fields are marked *

Comment

Name *

Email *

Website

F In R T Y



Northwest Asian Weekly Dragonfest Fashion Show 2017 Music Video

Video made by Matt Chan



**WORLD MUSIC
SERIES: OUTDOOR
CONCERT IN
VOLUNTEER PARK**

**7:30 PM | FRI AUG 4
VOLUNTEER PARK
AMPHITHEATER**

CHIKIRI School of TAIKO
Experience the beats of Japanese Taiko
drumming with new compositions by
Ringtarō Tateishi.

FREE

[LEARN MORE](#)

SAM

Manka
Dhingra

for State Senate - 45th LD - D

Strengthening Communities

NORTHGATE
PED/BIKE BRIDGE

OPEN HOUSE
AUGUST 3

Seattle
Department of
Transportation



BLOG: Even after 22 years, lots of lessons to learn from NWA's Summer Youth Leadership Program

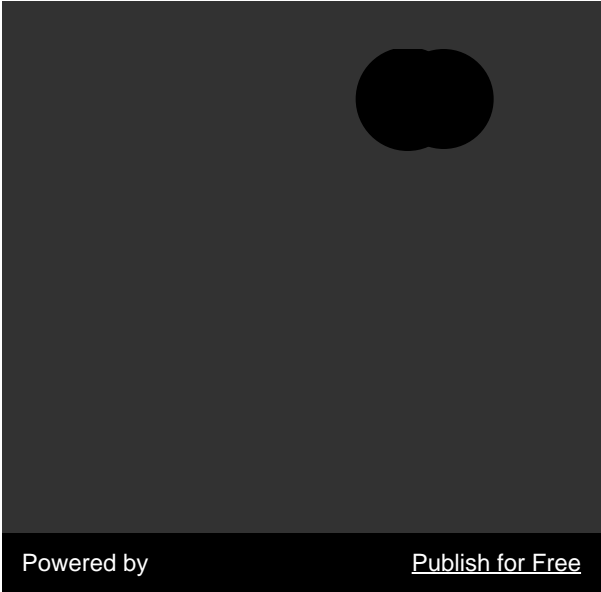


BLOG: 2017 is a year of awakening for Asian Americans

SUBSCRIBE TO OUR E-NEWS

Email Address





Powered by

[Publish for Free](#)

Copyright 2017 Northwest Asian Weekly. All rights reserved.

OPINION

Create civilian-led state agency to investigate police shootings

By DEBORAH JACOBS
Special to The Times

WHEN people are killed at the hands of law enforcement, the public can and should pursue the causes. We must have confidence that investigations of such incidents are consistently fair, thorough and independent.

Last week, at a public forum regarding the police shooting of Tommy Le, King County Sheriff John Urquhart suggested that one way to ensure that trust is to have all police shootings investigated by the Washington State Patrol, an idea for which he vowed to lobby state legislators.

But outsourcing investigations to other law-enforcement agencies is not the answer. When police investigate one another, the public is often skeptical that the truth will emerge. Recent incidents like the high-level cover-up of sex crimes committed by Oakland police officers and of the shooting of Laquan McDonald in Chicago show that skepticism is justified.

We need to get officer-involved deaths, uses of force and serious misconduct complaint investigations out of the hands of police altogether.

Across the country, there have been diverse approaches to the problem, including within our region. The Seattle Police Department utilizes a civilian-led internal affairs department, and recent legislation created the role of a civilian inspector general to audit that work. The voters have authorized my office, the King County Office of Law Enforcement Oversight, to conduct independent investigations (but we cannot fulfill that mandate without first engaging in a bargaining process with police unions).

Each oversight system has its strengths and weaknesses, but in most places the public still relies on the police to conduct investigations internally. In addition, it's mostly only large law-enforcement agencies that benefit from oversight to protect the integrity of investigations. The little guys receive neither the resources nor the attention to establish better investigatory systems, though



BRIKA SCHULTZ / THE SEATTLE TIMES

King County Sheriff John Urquhart speaks July 19 at a community forum focused on the death of Tommy Le.

some make efforts with interagency agreements to investigate one another.

Ultimately, the best way to earn the public's trust and ease community fears is a statewide solution that serves the investigatory needs of all law-enforcement agencies.

The model I'd like to see developed is a civilian-led state office that investigates police shootings (as well as other uses of force and serious misconduct) for law-enforcement agencies across Washington. It would simultaneously give the public a system it can hope to believe in, help protect the integrity of these most serious investigations and relieve law enforcement agencies from the burdens of these investigations.

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

the FBI at this point, when much of the investigation is already completed and the incident scene no longer available, may not ease the minds of those most impacted and concerned. Had an established, independent investigatory agency been on-call on the night of Le's shooting, it could have managed the investigation from the onset.

While Sheriff Urquhart's desire to create new systems for outsourcing shooting investigations is to be applauded, it's doubtful his approach will resolve public concerns.

Our region has an opportunity to be the first to establish a statewide, civilian-led investigatory agency that can once and for all alleviate many of the objectivity problems relating to police investigating themselves. As our elected leaders consider how to improve trust between law enforcement and the public, they should start here.



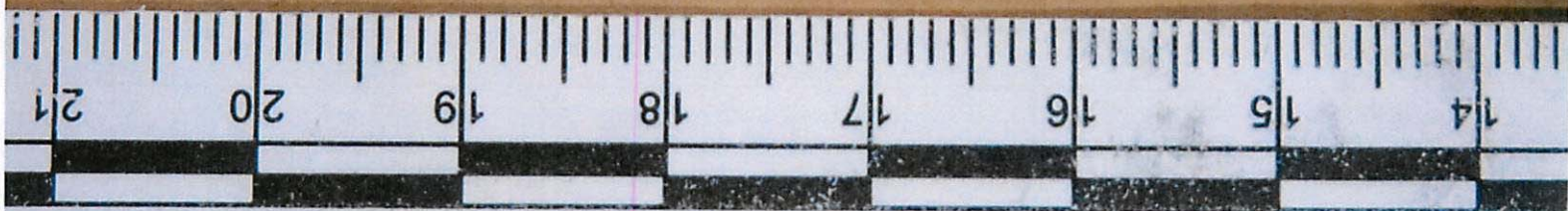
Deborah Jacobs directs the King County Office of Law Enforcement Oversight, an independent King County agency that oversees the Sheriff's Office.



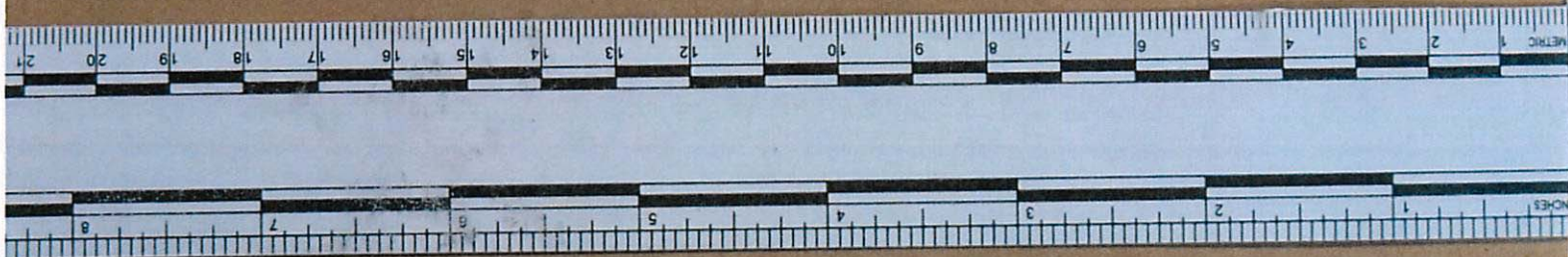
C17029406

06/14/2017 11:01

EX. D

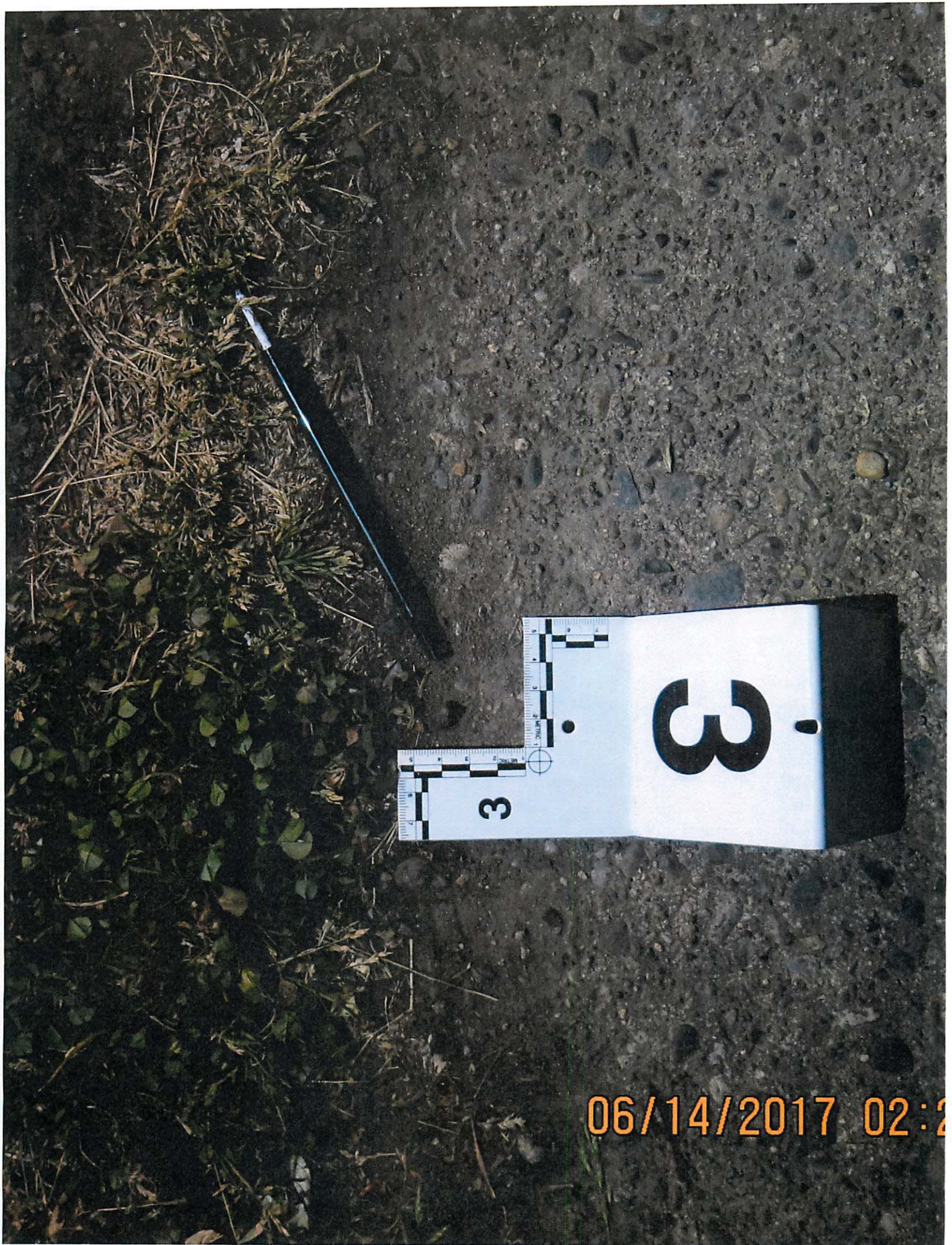


06/14/2017 11:11



17029406

06/14/2017 11:4



06/14/2017 02:2







[← Previous Post](#)

[Next Post →](#)

Tommy Le was shot twice in back, Asian Pacific Directors Coalition meets with King County Sheriff

THE INTERNATIONAL EXAMINER OCTOBER 18, 2017 0

tumblr. Share Tweet



King County Sheriff John Urquhart met with two dozen leaders from the Asian Pacific Directors Coalition (APDC) on October 11 to answer questions about the fatal shooting of 20-year-old Burien resident Tommy Le on June 13 and to announce that King County Executive Dow Constantine had decided to seek an inquest into Le's death.

Le, a high school senior, was shot by King County police who responded to several 911 calls from Burien residents who reported that a man had been threatening people and wielding a sharp object. According to police, Le refused commands to drop the object. He was shot three times by a deputy before being transported to Harborview where he died.

The shooting has sparked community outrage after it was revealed that Le was holding a pen, not a knife as earlier reports had indicated. Last month, Le's family announced they would be pursuing a \$20 million civil rights claim against the County. Le's attorney noted that an autopsy did not reveal the presence of drugs or alcohol in Le's body. The autopsy also confirmed that Le had been **shot twice in the back** and once in the wrist.

"I can't tell you why the officer didn't wrestle him to the ground and take that pen out of his hand," Urquhart told the APDC members last week. "That's what I would have done. But we still need to hear from the officer about what was going through his mind. That will take place during the inquest."

Last Thursday, Constantine ordered an inquest after the Prosecutor's office reviewed "investigative materials" from the Sheriff's office. Inquests are routinely convened for any deaths involving a member of law enforcement.

At the October 11 meeting, held at the Nisei Veterans Committee Hall, Urquhart faced a barrage of questions from skeptical API community members who asked why fatal force was needed to subdue Le and whether responding officers had received adequate police training.

APDC chair Dorothy Wong said, "I'm tired of hearing cops saying, 'I fear for my life.'"

Others echoed her sentiment, recommending that officers receive more extensive crisis intervention training that is thorough, cultural sensitive and up-to-date.

Urquhart said he agreed with the recommendation for more training. "I can't change the system," he said. "It takes the community to push for this requirement."

Urquhart confirmed that the first toxicology report did not reveal evidence of drugs in Le's body, "but we're still waiting for the final report."

For more news, [click here](#)

TAGS » slider

POSTED IN » News



About the author: The International Examiner

[View all posts by The International Examiner](#)

The International Examiner has been at the heart of Seattle's International District as a community newspaper for over 40 years. Rooted in the civil rights and Asian American movement of the Northwest, The International Examiner is Seattle's Asian Pacific Islander newspaper.

Related »



Environmental injustice:
The air and noise pollution threatening the health of Beacon



'Human Harvest'
documentary explores China's illegal organ trade



Announcement: APCC
and Karshner Museum present a tour of Asia and the Pacific




International Community Health Services
Opens New Vision Clinic

Hill

Leave A Response »

You must be [logged in](#) to post a comment.







TAB RENEWAL
NEW REGISTRATION
TITLE TRANSFER
DISABLED PARKING PASS
DEALER/FLEET SERVICES

**RENEW ONLINE,
NO WAITING IN LINE!**

www.rainiervvl.com



Open Houses on Dec. 2, 2017 & Jan. 6, 2018

The plan that fits





**Amerigroup
RealSolutions**
in healthcare



Not sure where to pick up
the **PRINT EDITION**?
Click here to see a list of our
DISTRIBUTION LOCATIONS





NEWS PARTNER NETWORK

Advocacy Journalism Fellowship Program

Apply Here

International Examiner
Seattle's leading news site for Asian Americans and Pacific Islanders
Since 1988

Get the plan that fits

Washington
Apple Health

Amerigroup
RealSolutions
in healthcare

- Home
- About IE
- Contact Us
- IE Opportunities
- Support Us
- Subscriptions
- IE Archives
- SudokuPuzzler.com



International Examiner

Like Page Liked 3K likes

International Examiner

2 hours ago

Interested in learning about policy changes in the 2017 Legislative Session that may impact Asian Americans and Pacific Islanders in Washington? The [Asian Pacific Islander Coalition \(APIC\) of WA](#) and [Capaa Washington State](#) are hosting a Legislative Report Back on Thursday, December 7, 2017 at [Asian Counseling and Referral Service \(ACRS\)](#) in Seattle. Join them to learn about bills that deal with education, economic changes, civil rights,

immigration, and police accountability
[#waleg2017](#)



The International Exami...

Market Place Tower
2025 First Avenue
Suite 830
Seattle, WA 98121

ph 206.281.9000
fax 206.281.9111

Jeffery M. Campiche
jcampiche@campichearnold.com
lharris@campichearnold.com

Linda Diem Tran
ltran@campichearnold.com

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.

EX. E

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 outcome 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.

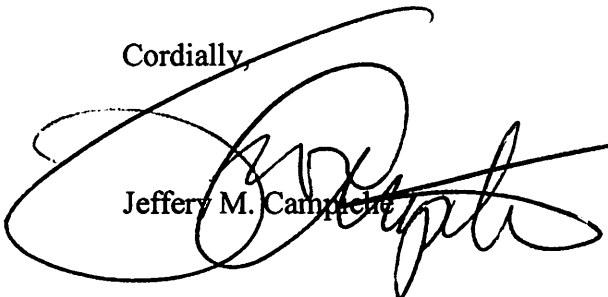
The Sheriff's Office's public statement omitted the fact that Tommy Le died of wounds from being shot twice in the back, not the front, as you would expect an attacker lunging toward the officers with a knife, to be shot. Drawing your attention to the attached pages 8-9 of the Lead Detective's Case Overview 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,



Jeffery M. Campiche



Linda Diem Tran

cc: The Le Family
Attorneys for parties



**LEAD DETECTIVE CASE OVERVIEW
KCSO CASE NUMBER C17029406**

Introduction

This is a criminal investigation stemming from the shooting that occurred on 6-14-2017 just after midnight in Burien, King County, WA that led to the death of Tommy Le. His death was caused by gunfire from a King County Sheriff's Office deputy. This investigation will identify any and all elements of criminal violations by any involved party. This investigation will not evaluate any information or evidence as it relates to Sheriff's Office policy and procedure, or other administrative functions. A parallel investigation concerning those aspects of this incident is being undertaken by the Sheriff's Office Administrative Review Team and other entities within the Sheriff's Office.

This summary does not contain any information from the compelled statements of involved deputies.

Case Facts

On 6-13-2017 at 11:57 p.m. King County Sheriff's Office Communications Center (Comm. Center) received a 911 call from Zachry Schwiethale who reported that an Asian male came at him with "a knife or something in his hand" in the 13600 block of 3rd Ave. S in Burien, King County, WA. He said the male also went after his friend. He described the Asian male as five foot ten to eleven inches tall with black hair, wearing a black shirt and shorts, and barefoot. He also said the male was running down the road yelling "I'm the creator" over and over.

On 6-13-2017 at 11:59 p.m. the Comm. Center received a 911 call from Rick Benjamin. Benjamin lives at 13611 3rd Ave. S in Burien. Benjamin told the call receiver he'd heard a gunshot and that he could see four people standing across the street from his residence. He said one of the persons, a male, was carrying a handgun. He said he couldn't tell if anyone had been injured.

Sheriff's deputies were dispatched to investigate the incident at 12:01 a.m. on 6-14-2017. At 12:01 a.m. the Comm. Center received a 911 call from James Cradle, a resident at 13416 3rd Ave. S. Cradle said for the past 20 minutes he'd heard a male screaming at the top of his lungs. He said the male was currently walking on 2nd Ave. S, heading towards a nearby 7-11 store. At 12:02 a.m. the Comm. Center received a 911 call from Kevin Hernandez, who lives at 13602 3rd Ave. S. Hernandez said he was the person that fired the gunshot, stating that somebody tried to attack him with a knife. Other 911 calls continued to come in with similar information.

Deputies began arriving in the area at 12:02 a.m. At 12:04 a.m., Deputy M. Paul, one of the deputies that had just arrived on scene, said over his police radio that shots had been fired. He then said that "one down" and "need aid." Further, he stated that the person who had been shot was an Asian male in his 30's, that he'd been struck by gunfire three times, and that he was conscious and semi-alert. Medics arrived and transported the male to Harborview Medical Center (HMC).

Sergeant R. Abbott arrived at the scene at 12:08 a.m. He learned that Deputy C. Molina and Deputy T. Owens had used force and that they had been separated. Sergeant Abbott contacted each deputy separately and completed a "Supervisor Checklist for Deputy Involved Shootings." Based on this information it was determined that Deputy C. Molina deployed his Taser and then fired his duty pistol.



**LEAD DETECTIVE CASE OVERVIEW
KCSO CASE NUMBER C17029406**

Also, it was determined that Deputy T. Owens deployed his Taser. The deputies were transported to the Sheriff's Office Southwest Precinct pending further investigation. Additionally, Deputy Paul, Deputy M. Cotchaleovitch, and Deputy P. Thompson were identified as witnesses to the use of force, and they drove to the Southwest Precinct so they could be interviewed by detectives. Deputy Molina's duty pistol and Taser, and Deputy Owens' Taser, were confiscated at the scene.

The Sheriff's Office Major Crimes Unit was notified and responded to investigate the incident. Sergeant A. McNabb and Detective M. Mellis went to the precinct to contact the deputies that used force and to interview the witness deputies. Sergeant McSwain and several detectives responded to the scene to investigate the shooting. I was assigned as the lead detective for this investigation, and I responded to the scene.

Detective M. Glasgow was working on another investigation nearby and arrived at the scene at 12:11 a.m. Detective Glasgow took a recorded statement from Kevin Hernandez. Hernandez said he had been sitting in his living room when he heard several knocks on his front door and a person yelling "Let me in!" Hernandez' dog started barking and he told his mother, wife, and children to go into a back room of the house. Hernandez armed himself with a pistol and opened his front door a little ways to look outside. He then heard his friend, Zach Schwiethale, yelling "Get away from me!" (Schwiethale was just arriving to visit Hernandez.) Hernandez went outside and saw Schwiethale in the middle of the road walking towards his (Hernandez') house while talking on the phone. Hernandez said he concluded Schwiethale was talking to 911 based on what he heard: "...the guy was trying to stab me."

Hernandez then noticed that his dog had come outside and was barking at a male in the street. The male was moving towards him and had a knife in his hand. Hernandez started yelling at the male "Hey stop! Drop the weapon! I'm armed, drop the knife! I don't feel safe! Stop! Stop! Stop!" Hernandez said the male didn't stop and kept coming towards him. As the male got closer Hernandez heard him say "I'm the creator." Hernandez started walking through his yard towards his front door, and the male continued towards him while holding the knife. Hernandez said the male followed him onto his property, and he was then in serious fear for his life. Hernandez said he fired a warning shot into the ground in front of the advancing male. He said that this didn't deter the male, and he continued at a faster pace towards Hernandez. Hernandez told the male he didn't want to shoot him, so he rushed inside his house and closed the door. He said just as he was closing the door the male swung the knife in a downward motion and struck the front door as it was closing.

Once inside his house Hernandez started yelling loudly at neighbors for help. He said a few minutes later he peeked outside his front door and the male with the knife was gone. One of his neighbors, Anthony Rice, was outside holding a shotgun. Hernandez went outside and saw that the male with the knife advancing towards Schwiethale in the intersection of S 136th ST and 3rd Ave. S. Hernandez called 911. While on the phone, he saw the male with the knife start walking north on 3rd Ave. S, away from them. While still on the phone, marked patrol cars started pouring into the neighborhood. He said a patrol officer directed him, Schwiethale, and his neighbor to put their weapons down and get on the ground. They all complied. He said the officers patted them all down and secured their weapons. While this was happening, Hernandez saw the male with the knife appear in the intersection just north of



**LEAD DETECTIVE CASE OVERVIEW
KCSO CASE NUMBER C17029406**

them (S 136th and 3rd Ave. S). He yelled out to the officers, "That him! That's him!" He said the officers turned and immediately focused on the male. He told the officers that it was the same male that attacked him with the knife. Hernandez said it was dark and hard to see clearly into the intersection, but he heard everything that was said. He heard officers yell loudly and clearly several times "Drop the knife!" and "Stop! Stop! Stop!" He then heard the "click of a Taser." He said the Taser "obviously didn't work because the male just groaned and continued to move towards the officers." He said the officers continued to yell commands at the male to stop and drop the knife, and then he heard what he thought were three gunshots. He saw the male fall to the ground, and he heard the officers instructing the male to "Stay on the ground" and "Drop the knife." Hernandez said he could now see the male on the ground, and that he was still holding the knife in his right hand. He said that more officers arrived and surrounded the male, and then he could no longer see him.

Detective Glasgow then took a recorded statement from Zach Schwiethale. Schwiethale said that he went to see Hernandez, and that he had parked his car and was knocking on Hernandez' door when he was approached by a male with something sharp, possibly a knife or a screwdriver, in his hand. He knocked on the door harder. He said the male walked towards him saying "I'm the creator" and then "I'm the killer." Schwiethale said the male was wearing a t-shirt, boxer shorts, and no shoes. He ran away from the male, into the road, and called 911. He then saw Hernandez come out of his house. He saw and heard Hernandez' confrontation with the male. He said he was outside with Hernandez, and his neighbor Anthony Rice, when police arrived and made the three of them get onto the ground and put down their weapons. He said he saw the male with the knife come back, and he heard Hernandez tell the officers that he had returned. He said he heard officers give verbal commands to drop the knife and get on the ground, two Taser deployments, and then gunshots.

Detective M. Olmstead took a recorded statement from Anthony Rice. Rice said that around midnight he heard yelling and then a gunshot. He went outside and saw Hernandez (his neighbor) and an Asian male wearing a black t-shirt, shorts and no shoes, standing outside. He said he heard Hernandez say "Drop the knife!" and then he saw the male run away. Rice had come outside with his handgun, but went back into his home and got his shotgun. He went back outside and police were arriving. The police ordered him to get on the ground and drop the shotgun, which he did. Rice heard officers tell the Asian male to get on the ground and drop the knife, and one or two Taser deployments. He saw the Asian male charge the officers, and he then heard around six gunshots.

Sergeant McNabb and Detective Mellis met with Deputy Molina at the precinct. Deputy Molina confirmed that he was dressed the same as he was at the time of the incident. He said he turned over his duty pistol and his Taser to Sergeant Zimnisky at the scene, and that he was currently carrying Sergeant Zimnisky's pistol. He confirmed that the two spare pistol magazines on his duty belt were for his (Deputy Molina's) pistol. Deputy Molina told Sergeant McNabb that he loads his pistol magazines with seventeen rounds each. Detective Mellis counted the rounds in each of the spare magazines and confirmed each contained seventeen Winchester 9mm rounds. Deputy Molina was carrying a back-up revolver at the time of the incident. Detective Mellis examined it and found no evidence it had been fired. Detective Mellis took photographs of Deputy Molina. There were no defects to Deputy Molina's



LEAD DETECTIVE CASE OVERVIEW
KCSO CASE NUMBER C17029406

uniform or equipment, there was no visible evidence on him or these items, and Deputy Molina had no apparent injuries. Sergeant McNabb asked Deputy Molina if he wished to provide a voluntary statement and he declined.

Sergeant McNabb and Detective Mellis met with Deputy Owens at the precinct. Deputy Owens said he was dressed the same as he was at the time of the incident. He said his Taser had been confiscated at the scene. At the time of the incident he was carrying his duty pistol and spare magazines, and a back-up pistol, and he was still carrying these items. Detective Mellis examined the pistols and magazines and did a round-count. There was no evidence that either pistol had been fired. Deputy Owens said he had rendered first aid to the male after he'd been shot, and that there was blood transfer on his uniform and equipment, and also on his watch. Additionally, he said that he'd been wearing black gloves while rendering aid and that he'd left them at the scene. Also, he said that he'd put his handcuffs on the male. Finally, Deputy Owens said he saw a black ink pen in the male's hand when he was rendering aid. Detective Mellis photographed Deputy Owens, and later collected as evidence his uniform, boots, handcuff pouch, and his watch. Sergeant McNabb asked Deputy Owens if he wished to provide a voluntary statement and he declined.

Detective M. Mellis interviewed the other deputies that had arrived or were arriving at the scene at the time of the shooting. He also inspected their pistols and spare magazines and did a round-count on each. There was no evidence that their pistols had been fired.

Deputy Paul was on scene when the shooting occurred. He gave a recorded statement saying that when he arrived his attention was immediately focused on several males in the street, a few of which were armed with firearms. As he was verbally directing them to drop their firearms and get on the ground he saw a male approach Deputy Molina and Deputy Owens. His attention was divided between the men on the ground with firearms and the other deputies, and the man walking towards them. He saw that the male had some type of object in one of his hands. He heard the deputies yell for the man to stop and get down. He heard one Taser deployment, and turned and saw the second Taser deployment. He heard shooting start and then turned and saw one or two gunshots fired by Deputy Molina. He also said that after the male had been shot he saw that he'd been carrying an ink pen in his hand.

Deputy Cotchaleovitch gave a recorded statement saying that he was driving into the area when he saw a male standing in the road across from Deputy Molina and Deputy Owens. He saw the male rush towards the deputies, so Deputy Cotchaleovitch sped up to get to them quicker to help. As he was getting closer he saw the deputies continually move to keep their distance from the male, but the male kept changing directions to advance on the deputies. As Deputy Cotchaleovitch stopped his patrol car and put it into park he saw Deputy Molina fire his pistol.

Deputy P. Thompson gave a recorded statement saying that he was driving his patrol car behind Deputy Cotchaleovitch into the scene when he heard gunshots.

Deputy J. Herrera is the Sheriff's Office Taser Coordinator. He responded to the scene and took custody of Deputy Molina's and Deputy Owens' Tasers. He downloaded the data from Deputy Molina's



LEAD DETECTIVE CASE OVERVIEW
KCSO CASE NUMBER C17029406

X26 Taser and determined that it was operating the way it was intended to. The download captured a five second duration discharge at the date and time of this incident. However, this is an older model Taser and the data does not show if there was a connection. Deputy Herrera downloaded the data from Deputy Owens' X2 Taser and it showed a five second duration discharge on the date and time of this incident, but there was no data about connection. It is undetermined whether or not either Taser had sufficient connection to have an effect on the male. Deputy Herrera also did a download of the Taser carried by Deputy Paul and determined that it had not been discharged.

Major Crimes Unit detectives investigated the shooting scene. Six fired cartridge casings were found in the area where witnesses said the shooting occurred. All casings were Winchester 9mm, which is the same type of ammunition loaded in Deputy Molina's duty pistol. Detective L. Zydek took custody of Deputy Molina's pistol from Sergeant Zimnisky. He examined the pistol and the loaded magazine in it and determined that it had been fired six times (this conclusion was also based on information provided by Detective Mellis about how Deputy Molina loads his pistol and magazines).

A Taser cartridge, one probe, wires, and "afids" were found in the area where the confrontation between Le and the deputies occurred. A black shirt was found near where the Asian male had fallen to the ground after being shot. In this same area there was a black colored ink pen with a broken top. Deputy Paul later confirmed that the pen was found in the same area where the Asian male had fallen to the ground. **A knife was not found at the scene.** A pair of black gloves with apparent blood were found in this same area. These gloves were consistent with the description Deputy Owens gave of the gloves he left at the scene.

Detectives took custody of Kevin Hernandez' pistol, a Glock 19 mm pistol. It was loaded with Speer 9mm ammunition. A fired Speer 9mm cartridge casing was found in the area where Hernandez said he was standing when he fired the warning shot at the Asian male with the knife. There was an apparent bullet strike to the concrete walkway near the casing, consistent with Hernandez's statement about the warning shot. Detectives also found minor damage to Hernandez' front door that could have been caused by a strike(s) from a sharp object.

A bullet strike was located in the front window of the house located at 13605 3rd Ave. S. A fired bullet was recovered from a corresponding wall inside the house. The location of the bullet strike could be consistent with having been fired from Deputy Molina's pistol.

Detectives canvassed an area of several blocks around the crime scene to look for a knife, any video cameras, and any other evidence. **None was found.** Also, no other witnesses were located at this time.

Detectives from the Sheriff's Office Major Accident Response and Reconstruction Unit responded and digitally documented the scene. Photographs and video were also taken by other detectives.

During the scene investigation I learned that the male that had been transported to HMC by medics died from the gunshot wounds. Sheriff's Deputy S. Rice responded to HMC and collected the



**LEAD DETECTIVE CASE OVERVIEW
KCSO CASE NUMBER C17029406**

only clothing that the male was wearing, a pair of bloody black colored underwear. The King County Medical Examiner's Office (KCMEO) took custody of the male's body. He was fingerprinted, and those fingerprints were sent to King County Automated Fingerprint Identification System. There was no match found to the prints from the deceased male. An autopsy of the male's body was later performed.

Detectives returned to the shooting scene area at around 7:00 a.m. on 6-14-2017 to canvass for additional witnesses and evidence. Detective Olmstead located witness Corene Bohana. She provided a recorded statement saying that she was at home and heard a gunshot. She and her brother ran outside to the sidewalk and saw people in the intersection at S 136th ST and 3rd Ave. S. She then saw a police car arrive. She heard someone yell "Stop! Stop!" and then she saw a male run south on 3rd towards 136th ST. She saw a male run towards officers, saw the officers deploy Tasers, but it didn't appear to effect the male. She said it appeared like the male had something in his hand, but she couldn't see what it was. She said the male kept running towards the officers, and then she heard around five gunshots.

Detective Olmstead later located Bohana's brother, Michael Rowden, and he provided a recorded statement saying that he was awakened by the sound of a gunshot. He said he went outside and saw one of his neighbors holding a gun and yelling at someone he (Rowden) couldn't see. He said that the police soon arrived and then he saw a male walking south on 3rd Ave. S towards the officers. He heard the officers yelling "Stand down" or "Stay down," but the male didn't stop. He said the male started walking towards him and his sister, and this scared him. The male then turned and ran towards the officers. The officers told him to "Stop" and "Lay down." He then heard one or two Taser deployments and then four or five gunshots. He said the first four shots didn't faze the male, but the last one "hit hard" and "dropped him right down." The officers then told the man to lay down and stay down.

On 6-14-2017 I received a message to call Delise Baumgardner. She lives at 13416 3rd Ave. S. She provided a recorded statement saying that on Monday, 6-12-2017, she noticed an Asian male that she hadn't seen before at 13255 3rd Ave. S. She said that on 6-13-2017, at a little before midnight, she called 911 because an Asian male was running up and down the street screaming. She said her fiancée had gone outside to tell the man to be quiet, but he just kept screaming. She, her fiancée, and a neighbor stood outside and saw the male run south on 3rd Ave. S towards S 136th ST. They then heard a gunshot. A short time later she saw the male come running back down the street towards them. The male ran to the front door of 13255 3rd Ave. S. He started pounding on the front door. She saw a female look outside, but the front door never opened. She then saw the male run into the street, and then heard him yell "My name is Tommy! Tommy!" He then ran back towards S 136th ST. A short time later she heard four or five gunshots. Baumgardner said she thinks this is the same Asian male she saw on Monday. I later took a recorded statement from Baumgardner's fiancée, James Cradle, and he provided a similar account of what had occurred.

I attended a portion of the autopsy of Le's body during the early morning hours on 6-14-2017. Preliminary information showed three gunshot wounds to Le's body. Also, there was one possible Taser probe strike to his body.



**LEAD DETECTIVE CASE OVERVIEW
KCSO CASE NUMBER C17029406**

During the morning hours and afternoon of 6-14-2017, I conducted interviews with the residents and owner of the house located at 13255 3rd Ave. S and came up with a possible identity for the Asian male that had been shot and killed. I contacted relatives, a friend, and a coworker of the male and positively identified him as Tommy Le, born 11-14-1996. It was determined that Le had been renting a room at 13255 3rd Ave. S. I gave this information to KCMEO and his identity was further confirmed.

On 6-15-2017 detectives located two additional bullet strikes and bullet evidence to the house located at 13605 3rd Ave. S. One fired bullet was recovered from one of the strikes, and bullet fragments from the other location. Again, these strikes could be consistent with being fired from Deputy Molina's pistol.

On 6-15-2017 detectives served a search warrant at 13255 3rd Ave. S. A wallet with identification belonging to Tommy Le and a diary were found and seized from his bedroom. Also seized from his bedroom were marijuana and three knives. An additional knife was also seized from the kitchen. All of these items were placed into evidence. I later examined the evidence and took photographs of some of the items. I read through the diary found in Le's room and in it I found reference to "acid," "salvia" "shrooms," and "weed." These are common street names for controlled substances, some of which have hallucinogenic effects. During examination of Le's wallet I found strips of brown colored paper that are consistent with "blotter paper." Blotter paper is known to be used for ingesting controlled substances such as acid (LSD).

On 6-21-2017 I interviewed Victor Francois, one of Le's friends. Francois had previously assisted in identifying Le. Francois told me that Le had recently been experimenting with drugs such as acid and documenting the effects in his diary. He said he last saw Le on the day of the incident. During that time Le told him that he was going to do a "trip," a common term for using acid. Le said he was going to do it in his room later that night, and Francois told him to be safe.

On 6-23-2017 I met with Kevin Hernandez for a follow-up interview. I asked him to describe in detail what he'd seen in Le's hand. He said it was dark outside, but he could tell Le was holding something in his hand that he believed was a knife. He said when Le followed him when he was running towards his front door the porch light lit up Le's hand and he could see a knife blade. I showed him the photographs of the four knives seized from Le's residence. He said the photograph showing the "butterfly knife" (found in Le's bedroom) was most consistent with what he saw in Le's hand. He noted that Le's fist was around the handle, so he was only describing the blade. He already knew from media coverage of this incident that Le had an ink pen in his hand when he was shot by Deputy Molina. I showed him a photograph of the ink pen and he was sure that Le wasn't holding an ink pen during his confrontation with him.

On 7-10-2017 I met with Zachry Schwiehe for a follow-up interview. I asked him to describe in detail what he saw Le holding in his hand. He said the way Le was holding the object, and the shape of it, made him think the object was a knife. He thought it also could have been a screwdriver. He said Le held the knife in his right hand, and that he held it in a manner that would imply that he was going to stab him. Based on this and what Le was saying (e.g., "I'm the creator" and "I'm the killer"), he believed Le



**LEAD DETECTIVE CASE OVERVIEW
KCSO CASE NUMBER C17029406**

was going to stab him. I then showed him photographs of the four knives seized during the search of Le's residence. He looked at all of the photographs and said that the one showing the "butterfly knife" (found in Le's bedroom) with the blade open looked most like what he saw in Le's hand. Schwiethale had already learned through media that an ink pen had been found in Le's hand after he was shot. I then showed him a photograph of the ink pen found at the scene and he said it wasn't an ink pen he saw in Le's hand.

On 7-25-2017 I did further work on Hernandez front door, including seizing the damaged metal weather strip from the door frame. I then submitted a request to WSPCL to examine the defects to the metal weather strip to determine if they could have been caused by strikes from the seized knives and ink pen. The results of the examination are pending.

On 8-31-2017 I received KCMEO reports. The autopsy report documented three gunshot wounds to Le's body. Two bullets were recovered from his body. The opinion of the author of the autopsy report was that the cause of death was multiple gunshot wounds sustained in a confrontation with police. The manner of death was classified as homicide. The reports also included a toxicology report. It indicated that samples of blood collected during medical intervention at HMC were tested and the following substances were not detected: acetone, ethanol, isopropanol, methanol, amphetamines, barbiturates, benzodiazepines, cannabinoids, cocaine metabolite, and opiates. I'd previously requested that his blood also be tested for the chemical compounds found in "acid" (Lysergic acid diethylamide), "salvia" (Salvia divinorum), and "shrooms" (psilocybin mushrooms). I contacted KCMEO and requested these additional tests. The results are pending.

I submitted examination requests to Washington State Patrol Crime Lab (WSPCL) for examination of the possible "blotter paper" found in Le's wallet, and a marijuana cigarette found in Le's bedroom, for the presence of any controlled substances other than marijuana. I also submitted a request to test the fired Winchester 9mm casings found at the scene and the fired bullets recovered from Le's body to determine if they were fired by Deputy Molina's duty pistol. The results are pending.

During the course of this investigation it was apparent that both Deputy Molina and Deputy Owens fired their Tasers in response to Le's aggression. However, evidence collected at the scene did not account for multiple Taser deployments. During examination of photographs taken at the scene by deputies present before Le was transported by ambulance to HMC I discovered several photographs of Le in the back of an ambulance. In one photograph I saw Taser wire wrapped around Le's feet. I attempted to contact the fire fighters and medics that were on scene, and I was able to reach one medic. On 8-24-2017 Troy Harris, one of the medics that transported Le, said he recalled that when Le was transported there were Taser wires and possibly one probe attached to him. He couldn't recall if they were removed in the emergency room or during surgery. That evidence was never saved by HMC staff.



**LEAD DETECTIVE CASE OVERVIEW
KCSO CASE NUMBER C17029406**

Conclusions and Recommendations

During the course of this investigation I found no evidence that the actions of Deputy Molina and Deputy Owens were based on anything other than fear of imminent harm or death to themselves, the other deputies at the scene, and the civilian victims and witness present at the time of this incident. All of the Sheriff's deputies responding to this incident had available to them information through their police radios and Mobile CAD data about the suspect description and the actions of the suspect as reported by the multiple 911 callers. Additionally, statements provided by the victims and witnesses corroborate the statements of the witness deputies and the evidence found at the scene.

The actions of Tommy Le on the date of the incident include elements of criminal charges. Had Le survived his encounter with the deputies, the case file would have been referred to the King County Prosecutor's Office for filing charges. These charges would have included two counts of Assault in the Second Degree.

This case is being forwarded to the King County Prosecutor's Office with no criminal charges recommended against Deputy Molina and Deputy Owens for their actions during this incident. Specifically, I have found no probable cause to charge either deputy with a crime related to the death of Tommy Le on 6-14-2017.

Detective Christopher Johnson

Major Crimes Unit

206-263-2081



Statement of Deputy Cesar Molina

This is a true and involuntary statement given pursuant to the direct order of Captain Konoske of the King County Sheriff's Office under the threat of termination for failure to provide a statement and to fully cooperate with the investigation currently being conducted.

I am a King County Sheriff's Deputy assigned to the City of Burien, commissioned to enforce the laws and ordinances of the City of Burien, King County and the State of Washington. I was hired by the King County Sheriff's Office in January 2015, and prior to that I worked for the Los Angeles County Sheriff's Department for two and a half years.

On 06/14/2017 I was working patrol in Burien, in a full and identifiable Burien Police jumpsuit uniform, with a clearly visible police badge. I was driving a fully marked Burien patrol car with overhead emergency lights and siren. My call sign was 2 Nora 26 (2N26). At approximately midnight, I heard KCSO dispatch advise that there was a disturbance in the area of S 136th St. and 3rd Ave S, involving a male chasing someone with a knife. I told dispatch that I would be enroute to the location code 2, which means lights and intermittent siren.

I received several updates from dispatch as I was driving to the location, including: that four subjects reported hearing a gunshot, but were not sure if anyone was hit or injured; that someone reported firing a shot after an individual tried to attack him with a knife; and that the suspect was described as an Asian male, thin build, wearing a black t-shirt, black shorts, and was barefoot, carrying a knife or sharp object. Dispatch later advised that another caller reported hearing 2-3 shots and believed they were fired at her house.

Dispatch advised that the suspect might be heading towards 7-11. I know there is a 7-11 at the intersection of S 136 and 1st Ave S, which was on my way to the scene. I decided to drive by the 7-11 in an attempt to locate the suspect. As I approached the 7-11 area, I turned off my emergency lights and advised dispatch that I was arriving on scene. I slowly passed the 7-11 and did not see the suspect. To confirm I had the correct description of the suspect, I asked dispatch to provide the description again. Dispatch again advised the suspect was an Asian male, thin build, wearing a black shirt, black shorts, and was barefoot. The area was dark so I was using my flashlight to scan for the suspect. I did not see anyone in the immediate area, so I continued driving.

I reached the intersection of S 136 St. and 3rd Ave S and saw two marked patrol cars at the scene. I parked behind one of the patrol cars, and I saw that Deputy Owens and MPO Paul were talking to 4 subjects with their handguns out held close to their chests with the barrels pointing towards the ground. I joined them, and had also pulled my handgun out as I was not sure what they were dealing with. It appeared that they had the subjects under control. I asked which way the suspect went. I heard one of the subjects that was detained say the suspect left northbound on 3rd Ave S. I put my gun away, and then walked towards the intersection of S. 136th St. and 3rd Ave S., which was in the direction the suspect was last seen, to provide security for my partners and prevent anyone from coming from behind us and ambushing us.

When I reached the intersection, I saw a male coming southbound on 3rd Ave S. The male appeared to be agitated and had his hands clinched into a fists. He was walking at a very fast pace towards the intersection. He matched the suspect description—he appeared to be Asian, was barefoot, and was wearing a black shirt and black shorts.

When he got to the northeast corner of S 136th and 3rd Ave S, I could see that he had a dark, pointy object in one of his hands, but I do not remember which hand. I told the suspect several times to stop and get on the ground. The suspect did not comply with my commands. Instead, he looked around, ignoring my commands. He then made a sudden movement towards me, with his hands clinched in a fist, holding a pointy dark object in his hand near his mid-chest. I pulled out my taser and again told him to stop and get on the ground. The suspect did not comply; he advanced towards me, so I deployed my taser.

The taser was not effective in stopping the suspect. I believe I pulled the trigger to the taser a second time, but it still had no effect. The suspect continued to approach me at a fast pace with the object still in his hand. I started walking backwards to get out of his way. As I was backing up, I saw Deputy Owens approaching on my left, through my peripheral vision. I then heard Deputy Owens tell the suspect to stop and get on the ground—this had no effect on the suspect. I saw that Deputy Owens had his taser out and that he deployed it, but the taser was ineffective in stopping the suspect. While this was occurring, I unholstered my handgun and holstered my taser.

At this point, I was in fear for my life and the lives of my partners and the other individuals who had been present. I believed that earlier the suspect tried to attack someone with a knife. He had also ignored our commands and 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. I felt that it was necessary to stop him and my only option was using my firearm. I fired at the suspect, who kept moving forward at a fast pace. I fired approximately 3-5 times around the torso area. The suspect took a few more steps and collapsed.

Once the suspect was on the ground, I was pulled away from the scene by Deputy Blakeman. Before leaving the scene, I unholstered my taser, removed the cartridge, and left the cartridge on the ground at the scene. I sat on the passenger side of Deputy Blakeman's patrol vehicle. Deputy Blakeman then moved his patrol vehicle onto S 136th, west of 3rd Ave S, facing westbound and I could no longer see the scene. I sat in Deputy Blakeman's patrol vehicle until sergeants arrived on scene. Sgt. Abbott arrived on scene and completed a public safety form. He asked me if I was hurt, and I told him I was not. Sgt. Abbott then asked if anyone else at the scene was hurt, and I told him that the suspect was hurt. Sgt. Abbott also asked me if I left any evidence at the scene, and I told him that I left my taser cartridge and the casings that I fired from my handgun. Detective Easterbrook took pictures of me at the scene. Once Sgt. Zimmisky arrived, he took my firearm and gave me his firearm to have in the meantime. After that process was completed Deputy Blakeman was instructed by the sergeants to take me to the precinct.

Once at the precinct, Sgt. Abbott took my taser. Later, Major Crimes detectives photographed me. The pictures will show me with a firearm assigned to Sgt. Zimmisky and with no taser. Major Crimes also took pictures of my secondary firearm and did a round count of that firearm. Major Crimes also collected the magazines assigned to my primary weapon, did a round count, and kept those magazines.

X  06/15/2017

