King County

King County
Executive Orders
Administrative Policies and Procedures

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

Appendix 1
PHL 7-1-1 (AEO), Conducting Inquest 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.