

Revised Executive Order on Conducting Inquests in King County, October 3, 2018

Issue	Current Process	Executive Order
<b>Access to Hearings</b>	<ul style="list-style-type: none"> <li>No recording, livestreaming, or info database is required or in existence at this time.</li> <li>Interrogatories and jury responses are available upon request after the hearing concludes.</li> </ul>	<ul style="list-style-type: none"> <li>Staff in DES will keep an up-to-date webpage listing dates, times, and locations of upcoming inquests. Audio recordings of each inquest will be uploaded to the webpage when available. The proceedings shall also be made available to the public and the media, consistent with GR 16.</li> </ul>
<b>District Court</b>	<ul style="list-style-type: none"> <li>District Court judge presides over inquest hearing.</li> </ul>	<ul style="list-style-type: none"> <li>District Court judges will no longer preside over inquest hearings in King County. Instead, a pool of pro tem judges will act as presiders.</li> </ul>
<b>Superior Court</b>	<ul style="list-style-type: none"> <li>Jurors called from joining KCDC/KCSC jury pool. District Court provides facility space bailiffs, and court reporters. Superior Court provides security as mandated by RCW.</li> </ul>	<ul style="list-style-type: none"> <li>King County Superior Court will administer the jury process and maintain facilities appropriate to comfortably support jurors. Therefore, where requested by the County Executive, the Superior Court will coordinate with the Inquest Administrator to secure appropriate facilities, e.g., the presiding courtroom.</li> </ul>
<b>Department of Public Defense</b>	<ul style="list-style-type: none"> <li>Families of the deceased are not provided legal representation for the inquest hearing at county expense. However, the County Council passed an ordinance to allow families representation through DPD.</li> </ul>	<ul style="list-style-type: none"> <li>Once the Executive determines that an inquest is to be held, the Manager assigns DPD to represent the family of the decedent unless the family indicates they have retained other counsel or do not wish to be represented by the King County Department of Public Defense. The Department of Public Defense will not be assigned in cases, where family is represented by private counsel.</li> </ul>
<b>PAO Involvement</b>	<ul style="list-style-type: none"> <li>PAO acts as a neutral facilitator, presents evidence, makes recommendation to hold an inquest, assembles and transmits investigative file.</li> </ul>	<ul style="list-style-type: none"> <li>The Prosecuting Attorney will no longer participate in the hearing itself as a neutral facilitator. The PAO will continue to participate at an administrative/ministerial level, e.g. assembly and transmittal of the investigative file and issuing subpoenas. The PAO will also continue to make the recommendation to hold an inquest to the County Executive.</li> </ul>
<b>Scope of Inquest</b>	<ul style="list-style-type: none"> <li>Scope is limited to facts and circumstances surrounding the death. No questions of policy and training are allowed. Statements about department policy and training are only allowed through the involved officer's testimony.</li> </ul>	<ul style="list-style-type: none"> <li>In addition to the facts and circumstances surrounding the death, the scope of the inquest will be narrowly expanded to include questions about current department policy and training in a given jurisdiction. No speculative or prospective questions regarding a law enforcement entity's policy and training are allowed under this expansion of the scope. In addition, the jury panel may answer an interrogatory on whether or not the involved officer's actions were consistent with the given jurisdiction's department policy and training.</li> </ul>
<b>Jury/Panel</b>	<ul style="list-style-type: none"> <li>Superior Court supplies no more than 6, and no less than 4 jurors (mandated through RCW).</li> </ul>	<ul style="list-style-type: none"> <li>The jury remains an involved party in the inquest hearing, consistent with RCW.</li> </ul>
<b>Officer Testimony</b>	<ul style="list-style-type: none"> <li>Historically, the involved officer voluntarily testifies at the inquest hearing.</li> </ul>	<ul style="list-style-type: none"> <li>In lieu of the involved officer testifying, the lead investigator will offer testimony to the facts and circumstances of the event. The chief law enforcement officer of a given jurisdiction (or their designee) will address questions of current department policy and training. Subpoena power to compel involved officer testimony will be eliminated.</li> </ul>
<b>Opening/Closing Statements</b>	<ul style="list-style-type: none"> <li>No opening and closing statements allowed.</li> </ul>	<ul style="list-style-type: none"> <li>Each represented party will have the opportunity to make a statement of summation. Statements will be pre-written and screened by the administrator to ensure they are within the scope of the inquiry.</li> </ul>
<b>Expert Testimony</b>	<ul style="list-style-type: none"> <li>Medical Examiner (ME) testifies re: cause and manner of death. CSI detectives testify re: physical evidence at scene and what it shows, e.g., ballistics, trajectories, etc.</li> </ul>	<ul style="list-style-type: none"> <li>Involved parties may call expert witnesses to speak to issues within the scope of the inquest, e.g. medical examiner, ballistics experts, experts in law enforcement policy and training.</li> </ul>

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<p><b>Public Education and Internal Review</b></p>	<ul style="list-style-type: none"> <li>• No formal public information materials about inquest process.</li> <li>• No annual (or regular) review of process.</li> </ul>	<ul style="list-style-type: none"> <li>• The manager within the Department of Executive Services will create and maintain a webpage with an up-to-date schedule of all inquests, any relevant findings, audio recordings of past inquests when possible, and an informational guide that outlines the inquest process. The manager will also submit a report to the County Executive at the end of each year on the operations of the inquests. The County Executive will call for a periodic review of the inquest process by an independent review committee to determine if the inquest process conforms with updated laws and is adequately meeting the principles of transparency, community engagement, and respect for all those involved in the inquest process.</li> </ul>
<p><b>Restorative Justice</b></p>	<ul style="list-style-type: none"> <li>• County does not currently promote or provide restorative justice options/services as a parallel process to the inquest hearing.</li> </ul>	<ul style="list-style-type: none"> <li>• The Executive will ensure that the involved parties are directed to resources and processes within the County that are designed to facilitate peace and promote healing, such as, Restorative Justice circles. Where the affected parties agree to participate, these offer the potential for meaningful connection and resolution.</li> </ul>
<p><b>Timeline</b></p>	<ul style="list-style-type: none"> <li>• EO requires inquest commence within 90 days of Executive’s request to the District Court. KCDC may extend the 90 days for good cause.</li> </ul>	<ul style="list-style-type: none"> <li>• The 90 day timeline has been removed and replaced with Appendix 2, 5.1, page 8, which provides it in the best interest of affected parties and community to hold an inquest in a timely manner and obligates the manager and administrator to limit delays and grant extensions only upon a showing of good cause.</li> </ul>
<p><b>Discovery and Evidence</b></p>	<ul style="list-style-type: none"> <li>• Introduction of the decedent’s criminal history into evidence is not within the current scope of the inquest.</li> </ul>	<ul style="list-style-type: none"> <li>• The decedent’s criminal history may not be introduced into evidence unless the administrator first determines that it is directly related to the reason for an arrest, detention, or use of force (e.g. officers are arresting an individual convicted of a felony who they believe is carrying a firearm). If such information is admitted, it must be limited to the greatest extent possible and may not include the specific crime of conviction, the nature of the crime (e.g. violent or nonviolent), the deceased’s incarceration history, or any other criminal charge, unless the administrator makes a specific finding of relevance to a contested issue in the inquest; that the evidence of criminal history serves as the basis for an officer safety caution (or equivalent warning); and that the member of the law enforcement agency was aware of the officer safety caution prior to any use of force; or if otherwise, contemporaneous knowledge of the individual’s criminal history was relevant to the actions the officer(s) took or how the officer(s) assessed whether the person posed a threat. If such information is admitted, it must be limited to the greatest extent possible, and may only include information both actually known to officer(s) at the time, and actually forming a basis for their decision to use deadly force or their tactics in approaching the individual.</li> </ul>
<p><b>Inquest Findings</b></p>	<ul style="list-style-type: none"> <li>• PAO transmits jury’s answered interrogatories to the Executive.</li> </ul>	<ul style="list-style-type: none"> <li>• The administrator will transmit an inquest panel’s findings to the County Executive. The administrator will ensure that the findings and recommendations are published on its website in a timely manner.</li> </ul>
<p><b>Interrogatories/Panel Questions</b></p>	<ul style="list-style-type: none"> <li>• No written explanations currently allowed from jurors.</li> <li>• Interrogatory asking whether or not the officer feared for his or her life at the time of the incident often asked.</li> </ul>	<ul style="list-style-type: none"> <li>• After every question, each panelist shall have the opportunity to provide a written explanation of the panelist’s answer. The administrator shall direct each panelist that the panelist need only provide a written explanation when the panelist believes that a written explanation would provide information helpful in explaining or interpreting the panelist’s answer. In addition, the jury panel may answer an interrogatory on whether or not the involved officer’s actions were consistent with the given jurisdiction’s department policy and training. The interrogatory asking whether or not the officer feared for his or her life at the time of the incident will no longer be asked.</li> </ul>