

**BEST PRACTICES FOR HOMICIDE AND  
OFFICER-INVOLVED  
USE OF FORCE INVESTIGATIONS  
IN WASHINGTON STATE**



Prepared for the Washington State Homicide Investigators Association  
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## **The Washington State Working Group on Independent Investigation Teams**

In 2019, a group of subject matter experts from Independent Investigation Teams (IIT) across the state convened to develop this Best Practices document. As a result, the WA State Working Group on Independent Investigation Teams collaborated to create this guide to assist law enforcement agencies in creating a mechanism for addressing the independent investigation of officer involved use of force incidents.

In 2023, this document was updated, taking into account the legislative changes in Washington State, and the development of the WA State Office of Independent Investigations (OII).

The recommendations in this document are not mandated by any governing body. They are provided as recommended best practices based on research, well-established processes, and the extensive professional experience of the working group members.

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## TABLE OF CONTENTS

TOPIC	PAGE
<b>1. INTRODUCTION</b>	
Audit Disclaimer	5
Components of a Use of Force Incident	6
The Criminal Investigation	6
The Scope of the IIT Investigation and Minimum Protocols	7
The Administrative Investigation	8
Prosecutor Case Review	8
<b>2. FOLLOWING AN OFFICER-INVOLVED USE OF FORCE INCIDENT</b>	
Responsibility of the On-Scene Agency	8
Scene Protection and Preservation	8
Scene Perimeters	9
Identify All Witnesses at the Scene(s)	9
Public Safety Statements	9
Notification of the Office of Independent Investigation	10
Additional Responsibilities	11
<b>3. IIT ACTIVATION</b>	
Independent Investigating Team Activation	11
Transitioning Control of Incident Scene to the IIT	11
Injuries and Custodial Issues	12
Conflict of Interest	13
Liaisons	13
Components of a Criminal Investigation	15
Incident Scene	15
Evidence Documentation and Preservation	15
Audio/Video Evidence	16

Prosecutorial Relationship	17
Evidence Storage	18
Search Warrant Considerations	18
Removing Officers from the Scene	18
Interviews and Statements	19
IIT Interviews with Law Enforcement Employees	20
IIT Interviews with Witness Officers	21
IIT Interviews with Involved Officer(s)	22
Documenting the Involved Officer's Condition	22
Taking an Officer's Weapon as Evidence	23
Relieving Involved Officers of Duty	24
Other Interviews at the Scene	24
Fire and EMS Personnel	24
Canvassing the Area	24
Security Cameras	26
Peer Support Group Counselors	26
Releasing of the Scene(s)	26
Prosecutor Review of Completed IIT Work Product	26
<b>4. Documentation</b>	
IIT Case Files	28
IIT Completed Case Distribution	29
Public Records Requests	29
<b>5. Miscellaneous</b>	
Compelled Information	30
Press Releases	30
Planned Police Actions	31
Postmortem Examinations (Autopsies)	31
<b>6. Glossary</b>	32

## **INTRODUCTION**

This document was developed in response to WAC 139-12-030 requiring specific guidelines for independent investigations of officer uses of force that meet the standard therein. This document may also be used by agencies as a guide to investigate other homicide cases, as many of the practices may apply in either circumstance.

As defined in [WAC 139-12-020](#), “Best Practices are methods, techniques, and procedures that have consistently shown by research and experience to produce superior results, and are established or proposed as a standard, suitable for widespread adoption in the law enforcement profession.”

This Best Practices document for Homicide Investigations was created by a workgroup of Criminal Investigations Subject Matter Experts, with a specific focus on the independent investigation of officer-involved use of force incidents. This document includes a basic framework of investigative procedures to be used during the criminal investigation phase of an officer-involved use of force incident that results in significant bodily harm, great bodily harm, or death. The steps outlined in this document are intended to be a guide, and not an exhaustive collection of best practices. Further, this document is not intended to provide any form of legal advice or direction.

### **Audit Disclaimer**

Credibility requirements for WAC 139-12 are strictly written in statute as it pertains to best practices and CJTC’s requirements to create “best practices for homicide investigations published annually and updated” (WAC 139-12-030-4-B). Although this document was written by subject matter experts, and more detailed than other Best Practices Documents, the Washington State Auditor’s Office (WSAO) will refer to the CJTC best practices document during compliance audits.

Investigative teams should have protocols in place for tracking and documenting WAC 139-29 required tasks to ensure audit compliance.

## Components of a Use of Force Incident

The application of any force by a peace officer that results in substantial bodily harm, great bodily harm, or death will trigger the requirement for an independent investigation. The independent investigation will follow the rules of law established by the state and federal constitutions, and statutory and case law that apply to criminal investigations. For investigative purposes, an initial incident is generally divided into the following sections:

1. **Background** – The background is comprised of thorough research on those involved and information is developed as a result of research into all the involved persons. Background research can include areas such as education, criminal history, physiology and toxicology if applicable, training, and experience.
2. **Pre-Incident Events** – Those actions that occurred prior to the application of force, and that precipitated the critical incident. The pre-incident event is generally an examination of the factors preceding the critical incident itself.
3. **The Incident** – The application of force by the involved officer(s) that results in significant bodily harm, great bodily harm, or death following the application of force. The incident is generally reported as the use of force by law enforcement, in response to the facts and circumstances identified in the pre-incident.
4. **The Criminal Investigation** – The criminal investigation of an officer-involved use of force incident shall be conducted by an Independent Investigative Team (IIT), or a single law enforcement agency, completely independent of the involved agency. Further detailed information on IIT formation can be found in WAC [139-12-030\(4\)\(c\)](#). The criminal investigation provides an objective and timely investigation and compiles all known facts and circumstances surrounding an officer-involved critical incident. The IIT criminal investigation will:
  - A. Commence when an officer-involved use of force incident results in great bodily harm, substantial bodily harm, or death.

- B. Identify all the known facts and circumstances to the investigators at any time during the investigative process.
- C. Research and report on all aspects of the actions and reactions of the people involved.
- D. Rely on physical evidence, testimonial evidence, and unbiased reporting of all facts and observations.
- E. Ensure a formalized reporting on all known aspects of each factor of the preceding three sections.
- F. Provide the prosecutor with the information necessary to determine if any criminal acts were committed by any person involved in the incident.
- G. Not preclude additional follow-up investigation requested by the prosecuting authority, or if new information comes to light.

### **The Scope of the IIT Criminal Investigation and Minimum Protocols**

The scope of the Criminal investigation is expansive and depends on the complexity of the incident, need for specialized resources, and the availability of resources. This phase of the investigation may last from days to several months. The Independent Investigative Team should follow accepted best practices for criminal investigations, with special considerations for an investigation entirely independent from the involved agency and officers.

The IIT must operate with impartial supervision and oversight and have control over access to information. The leadership of the IIT is critically important as many decisions must be made about the direction of the investigation and the use of resources. There will be cases where a specialized resource is needed that is only available from the involved agency. The IIT Commander must have the latitude to use those specialized resources if there are no alternative sources, and proceed in a manner that minimizes any potential or appearance of a conflict of

interest. The IIT Commander will meet with the IIT Non-Law Enforcement Community Representative<sup>1</sup> and review this decision-making process ([WAC 139-12-030\(1\)](#)).

### **Administrative Investigation**

Any administrative investigation of a use of force incident is the sole responsibility of the involved agency. IIT Investigators should focus exclusively upon the criminal elements of the use of force incident and not be involved in any administrative investigations.

### **Prosecutor Case Review**

At the conclusion of the prosecutor review, the prosecutor must decide if probable cause exists and whether charges will be filed against anyone for which probable cause exists. If the officer's actions are deemed to be lawful and within the legal authority granted through the Revised Code of Washington, the prosecutor should provide a written clearance for the involved officer(s), affirming their actions were not criminal, but were lawful in response to demonstrated or perceived threat.

## **FOLLOWING AN OFFICER-INVOLVED USE OF FORCE INCIDENT**

### **The Responsibility of the On-Scene Involved and/or Venue Agency:**

- A. **Scene Protection and Preservation:** Following the preservation of life, the involved or venue agency is responsible for protecting the incident scene, which at a minimum should include:
1. Immediately securing the scene and controlling access into the scene.
  2. Close monitoring of weather and other elements that may naturally degrade evidence and taking steps to minimize the degradation or destruction of evidence.
  3. Recording the names of individuals who have entered the scene.

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<sup>1</sup> [WAC 139-12-030\(2\)\(b\)](#) provides detailed information about the Non-Law Enforcement Community Member.



4. Ensuring that those who enter the scene, generate a police report.

B. **Scene Perimeters:** After the scene is protected, the priority for the on-scene officers is the preservation of evidence. This is accomplished by establishing perimeters to identify and protect the incident scene.

1. The **inner perimeter** should keep out all other police officers including command level staff who do not have an actively assigned role in the investigation of the incident.
2. The **outer perimeter** should keep out the public and representatives of the media.
3. The IIT may adjust or add additional perimeters to further restrict areas.

C. **Identify All Witnesses Present at the Scene(s)**

1. Potential witnesses (including involved and witness officers) should be identified and sequestered as soon as is reasonably possible.
2. Civilian witnesses should be kept separate and advised not to speak to anyone about the case until officially interviewed. If applicable, eyewitnesses should be transported to a more comfortable location for a more formal interview. How a statement is taken will be dependent on the level of voluntary cooperation from the witness.
3. Involved and Witness officers should be directed by their agency supervisor or commander not to discuss details of the case with the involved officer(s) or other witness officers until advised differently by a superior.

D. **Public Safety Statements**

1. A public safety statement contains information provided by the involved officer(s) and is used by the on-scene supervisor to obtain information after an officer-involved use of force incident, using questions intended to determine existing threats to public safety and identify evanescent evidence that must be protected and preserved. The on scene

involved or venue agency Supervisor may obtain critical information pertinent to the safety of officers and the public through a Public Safety Statement.

2. **NOTE:** The Public Safety Statement can only be administered by the employer of the involved officer. If the Public Safety Statement starts with, *“You are being ordered / directed / compelled to answer the following questions...”* then the involved officer’s responses to these questions are considered compelled and they cannot be considered by the IIT Investigators.
3. If Public Safety information is obtained voluntarily, it *may* be used by the IIT.
4. IIT’s/Investigators should have protocols in place to assess public safety statements for compelled information. These protocols should have firewalls that identify and bifurcate any compelled information before it is introduced to the case or case investigators.

#### **E. Notification of the Office of Independent Investigation**

1. Pursuant to RCW 43.102.120(a), immediately report all incidents where law enforcement used deadly force that resulted in death, substantial harm, or great bodily harm. (OII memorandum to Law Enforcement agencies Dec 2022)
2. Pursuant to RCW 43.102.120(b), report all uses of deadly force i.e. where there is an “intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury,” even if no injury occurs. This notification must be made within 72 hours of the incident. (OII memorandum to Law Enforcement agencies Dec 2022)
3. Involved agencies should have protocols in place for notifying the OII that meet the RCW requirements.

## **F. Additional Responsibilities**

1. Provide a supervisor or incident commander to be available at the scene, who will brief the IIT members upon their arrival at the scene.
2. Designate an agency member as an Involved Agency Liaison to remain available to the IIT.
3. Turn over all evidence that is in their possession to the IIT immediately or as soon as possible thereafter.
4. Make all documents, reports, and information on the incident available to the IIT immediately or as soon as possible thereafter.
5. Allow use of space, resources, and facilities as needed by the IIT.

## **IIT ACTIVATION**

### **A. Independent Investigation Team Activation**

The venue agency Chief or Sheriff, or their designee, shall immediately notify the IIT of the officer-involved use of force incident and the need for an IIT response. The IIT will respond as quickly as resources and geography allow.

1. The IIT Protocols should contain steps to notify the IIT leadership, and designate how the IIT will be deployed. At a minimum the team protocol should identify:
  - a. Which member of the IIT Leadership should be the first point of contact for team activation.
  - b. Who will call the on-scene supervisor to obtain a briefing of the incident.
  - c. Who will be the IIT Commander and/or Supervisor.
  - d. What personnel and equipment are needed.
  - e. How to contact and deploy the necessary IIT members.

## **B. Transitioning Control of The Incident Scene to the IIT**

1. The on-scene supervisor or incident commander who controls the scene shall turn over control of the scene to the IIT Commander, or designee, upon his/her arrival.
2. The IIT then becomes responsible for the scene and initiation of the criminal investigation.
3. The IIT shall maintain perimeter control of the scene but may utilize staff not assigned to the IIT who are not members of the involved agency.
4. If a criminal action (i.e., robbery, burglary, assault, or warrant service) preceded the officer-involved incident:
  - a. The IIT Commander shall consult with the Venue Agency incident commander to determine which agency should investigate the preceding event, to include pursuing criminal charges related to that event.
  - b. If mutually agreed upon, the IIT will assume responsibility for the criminal investigation of the preceding event.
    - i. If not, the IIT will limit its criminal investigation to the officer-involved use of force incident.

## **C. Injuries and Custodial Issues**

The IIT Commander is responsible for managing any injuries or custodial issues. However, if prior to the arrival of IIT members, any person directly involved in the incident is transported to a hospital or another location away from the scene or to another location for holding, the venue agency will provide an officer to accompany that person in order to:

1. Locate, preserve, safeguard and maintain the chain of custody for physical evidence.
2. Obtain a dying declaration or spontaneous statement.
3. Maintain custody of the person if he/she has been arrested.

4. Provide information to medical personnel about the incident that is relevant to treatment and obtain information from medical personnel relevant to the criminal investigation.
5. Identify relevant people including witnesses and medical personnel.

#### D. **Conflicts of Interest**

1. Each IIT will use a Conflict of Interest Form to identify and manage any conflicts of interest between the involved officer(s) and their agency, and any IIT members. All members of the IIT assigned to an investigation at any point, including the Non-LE representative, will complete a conflict of interest form.
2. The Criminal Justice Training Commission (CJTC) has published a Conflict of Interest Assessment Form that is available at: <https://cjtc.wa.gov/letcsa>
3. The IIT Commander will meet with the IIT Non-Law Enforcement Community Representative and review the Conflict of Interest Forms.

#### E. **Liaisons**

Contacting the family of an individual who was significantly injured or died in an officer-involved use of force incident is critically important. The lack of communication with family members may lead to additional trauma and may damage the family's trust that the process will be fair and impartial. Liaisons will be established within 24 hours of the commencement of the investigation.

1. **Family Liaison:** The IIT Commander will identify an IIT member to serve as the Family Liaison, responsible for identifying, locating, and notifying an appropriate family member, even if the family member(s) live(s) out of the area.

2. **Tribal Liaison:** The IIT Commander will identify an IIT member to serve as the tribal liaison to keep the tribe (or a representative of the tribe's choice) apprised of all significant developments of the investigation.
3. Liaisons will work diligently to make the notification as soon as possible, to ensure that the family:
  - a. Has a reliable way to communicate directly with the liaison and the IIT.
  - b. Is kept informed about the investigative process, with regular updates of the status, even when there is nothing new to report.
  - c. Is provided timely notice of significant developments of the investigation.
  - d. Is notified, when possible, prior to learning about the incident from the local media, social media outlets, friends, or neighbors.
  - e. Is helped with connection to appropriate resources related to the investigation.
4. Family notifications should be made by two people, as delivery of injury or death news may activate severe emotional or physical reactions from family members.
5. The notification of the family of a decedent should include consultation with the venue county coroner or medical examiner.
6. Liaisons should coordinate with a victim advocate if one is available, especially if requested by the family.
7. The IIT Commander shall ensure that notification to the Governor's Office of Indian Affairs ([GOIA](#)) is completed within 24 hours of a use of deadly force incident involving an enrolled member of a [Federally Recognized Indian Tribe](#), in accordance with [RCW 10.114.021](#).
  - a. Contact information for the Governor's Office of Indian Affairs ([GOIA](#)) can be accessed at: <https://goia.wa.gov/about-us/contact-us>

## **COMPONENTS OF A CRIMINAL INVESTIGATION**

Essentially, there are four major components to a criminal investigation – Crime Scene; Interviews; Suspect Apprehension; and Prosecutorial Review. All criminal investigations will have at least crime scene, interview components, and prosecutorial review, but not all will include suspect apprehension.

### **A. Incident Scene**

#### 1. Scene Processing will include:

- a. Photography of all aspects of the scene, including but not limited to; individual items of evidence, people, their clothing and condition, vehicles, and environmental conditions, etc.
- b. When available, digital incident scene mapping should be utilized as a best practice for documenting and ultimately reconstructing the scene.
- c. The proper identification, documentation and/or collection of evidence.
- d. The decision whether to process a piece of evidence must be the responsibility of whomever has both the most knowledge of the facts and circumstances of the scene, and the most experience with criminal investigations involving police use of force incidents.

### **B. Evidence Documentation and Preservation**

Evidence documentation and collection is a mandatory task. Investigators must be mindful of the fact evidence may also exist outside of any identified incident scene.

#### 1. Physical evidence considerations

- a. The chain of custody and the integrity of physical evidence is being carefully examined and often challenged in the courts, which emphasizes the importance of proper methods in collection, marking, packaging and storage of items of evidence.
- b. Anything can be identified as evidence and once identified, must be secured and documented and/or collected.
- c. Incident scene investigators must document the specifics of an item of evidence and how it was identified and made known to them.
- d. A proper chain of custody record is required to track evidence through all aspects of incident scene processing, documentation, collection, and storage to account for the location of each item of evidence from collection to storage.
- e. Digital evidence considerations: There are many sources of potential digital evidence to include mobile communications devices, digital video systems, and vehicle data recorders. Consideration should be made to have resources available with the expertise to handle, collect and/or preserve this potential evidence.

### **C. Audio/Video Evidence**

Body Worn, vehicle-mounted, and Surveillance Cameras (BWC.VMC, IP/CCTV) are a form of digital media and should be treated as such. Event video, in addition to depicting specific events, may assist investigators in the location of witnesses, involved parties, or physical evidence.

While video and audio recordings can be powerful evidence, there should be no expectation that it will reflect exactly how the officer-involved incident occurred, or how those involved or witnesses perceived the incident.

While video and audio recordings depict information from the scene, it cannot capture the emotional component of an officer-involved incident. The human eye and brain are apt to perceive specific sights and sounds differently than a camera, especially during a stressful encounter.



<b>Video Evidence</b>	<b>HUMAN BEINGS</b>
Cameras capture a 2-dimensional image.	Humans observe in 3-dimensions.
A recording may depict things that a human does (or does not) see or hear.	Humans may see or hear things that were not captured by the camera.
Lighting and angles may contribute to different recordings.	Lighting and angles may contribute to different perceptions.
Camera speed may result in an action being captured or missed, or misrepresent the actual speed and duration of the incident.	Humans tend to see/hear things in “real time” but due to stress, the human memory may (or may not) capture specific actions.
A camera is an inanimate object, unable to record life experience, emotions, training, and vantage points.	A human is an animate object, able to process and draw from their life experiences, emotions, and training.

Video and audio recordings are only one type of evidence investigators will consider while investigating, evaluating, and reconstructing an officer-involved incident. It may also be one of the most misunderstood types of evidence used in officer-involved investigations. Therefore, it cannot be overstated that while video and audio recordings depict specific information from the scene, it cannot replicate the human components that drive how and why an incident resulted in an officer-involved use of deadly force.

#### **D. Prosecutorial Relationship**

Prosecutorial consultation may be helpful in the incident scene and evidence collection aspects of criminal investigations. It is strongly encouraged that a professional business relationship is established with the venue prosecuting attorney assigned to these investigations before the investigation occurs.

#### **E. Evidence Storage**

1. The IIT Commander shall identify a non-involved member agency where all evidence will be stored and controlled.
2. The IIT Investigator or Evidence Technician shall work with the Evidence Technician responsible for evidence storage to facilitate the accurate inventory and safe storage of all items of evidence.
3. The IIT Commander shall coordinate with the involved agency to determine responsibility for storage and handling costs of extraordinary items such as vehicles, HAZMAT materials, etc.

#### **F. Search Warrant Considerations**

Washington evidence rules and court decisions have affirmed a search warrant is a tool used to aid in the prosecution of a criminal case. In use of force incidents where a suspect is deceased, some Washington courts have ruled probable cause for a search warrant did not exist because the suspect is deceased and therefore cannot be prosecuted. There are alternate procedures to obtain a search warrant when the subject is deceased, but the affidavit of probable cause must be worded to affirm the deceased is not being investigated. In these situations, a venue prosecuting attorney should be consulted to assist in mitigating search warrant issues encountered during the investigation.

As a general rule, if a civilian homicide investigation and an OIS investigation under similar circumstances require a search warrant, then search warrants should be requested for the “officer involved use of force” case.

#### **G. Removing Officers from The Scene**

1. If an involved officer or witness officer is still present at the scene when the IIT arrives, the IIT Commander will coordinate the removal of those officers from the scene.

2. Separation of involved and witness officers should occur when feasible.
3. Officers should not discuss the details of the case with the involved officer or other witness officers until the IIT has completed their interviews with those officers.

#### **H. Interviews and Statements**

Anyone involved (directly or indirectly) in the incident should be interviewed in a way that supports the subject of the interview having the opportunity to recite their recollection of observations they made.

1. Investigators conducting interviews of any persons involved in an IIT investigation should:
  - a. Be competent in interviewing techniques that focus on open ended questions that promote free recall and expression of one's memories of the incident.
  - b. Consider using trauma informed and/or cognitive interviewing techniques.
  - c. Be aware of the effects of stress on memory and recall.
2. Audio and/or video-audio recording of all interviews should be attempted.
  - a. Washington is a two-party consent state; therefore, every person being interviewed must be advised of the recording, and consent to the recording of their conversation before the recording can take place.
  - b. Audio recording of interviews is considered one of the most accurate means by which to capture information relayed by the subject being interviewed.
  - c. Audio recording of an interview also allows the interviewer the opportunity to focus on formulation of questions and ensuring all information provided by the subject of the interview is fully explored.

- d. If interviews are audio recorded, proper evidence preservation must be applied to the audio recording as with any other form of digital evidence identified and collected as part of this type of investigation.

#### **I. IIT Interviews with Law Enforcement Employees**

The job of the investigator should be to obtain a statement and not engage in negotiations/discussions about how that statement is given. Investigators should request an audio/video recorded interview occur. How the statement is ultimately provided is up to the person being interviewed (just as with any citizen).

1. Interviews of the involved officer(s) and witness officer(s) will be conducted by IIT members.
2. Until all statements have been taken, involved and witness officers shall not discuss the case with any other witnesses.
3. The involved agency personnel conducting an administrative investigation and/or review will not be involved in the criminal investigation, nor will they participate in IIT interviews with involved or witness officers.
4. Any interview with the involved officer or witness officer will be scheduled by the IIT Commander through the individual officer or at their request, the individual officer's designee.
5. With the officer's consent, interviews by the IIT members with the involved officer and witness officer(s) will be digitally recorded and may be transcribed.
6. Audio/Video recording of an interview is the preferred method and recognized standard. With that said, considering an individual's 5<sup>th</sup> amendment rights and/or collective bargaining agreements, Officers may choose to provide a statement by other means.

## J. IIT Interviews with Witness Officers

1. As part of the administrative and / or internal investigation, most agencies will require a witness officer to complete a written report or make a statement. If the investigation warrants clarifying questions or a follow-up interview, one should be scheduled by the IIT.
2. If a witness officer refuses to provide a statement unless otherwise compelled, the IIT report should reflect that exactly.
3. There may be rare occasions where an investigative strategy might require IIT members to take a compelled statement. Any consideration of introducing a compelled statement into an investigation should include prior consultation with the venue prosecuting attorney. If a compelled witness statement is obtained, it should be included in the IIT case report only after the statement has been assessed to ensure the information doesn't require firewalling or bifurcation (Sec D sub sec 4).
4. When feasible, interviews with witness officer(s) should be arranged prior to the end of their shift, and before the officer is released from duty.
5. Witness officers shall be interviewed separately.
6. Witness officers will be treated with sensitivity and awareness as to the potential of acute stress reaction and/or other psychological trauma.
7. A witness officer who is not involved in the application of force in any manner, and is not a subject of the investigation, does not usually have a right to guild/union representation during his/her interview.
8. An exception may exist if the witness officer reasonably believes his/her statement may result in discipline. Under such circumstances, if the officer requests guild/union representation, he/she may be allowed to have a guild/union representative present

during the interview. The representative should not be allowed to interfere with or obstruct the interview process.

9. Witness officer(s) may, if appropriate, be asked to participate in a walk-through of the scene with IIT Investigators.

#### **K. IIT Interviews with Involved Officer(s)**

Generally, the interview of an involved officer during a criminal investigation will be a voluntary interview. Advisement of Miranda Rights will most likely not be required, but in all instances, the investigator(s) should consult with the prosecutor prior to the interview.

1. The involved officer will be treated with sensitivity and awareness as to the potential of acute stress reaction and/or other psychological trauma.
2. The involved officer has the same constitutional rights as any other member of the public. The officer has the right to have legal counsel present during the interview and the officer will be provided a reasonable time to consult with legal counsel prior to the formal interview.
3. Prior to the beginning of an interview, the involved officer will be advised that they are being questioned related to a criminal investigation and that they are free to leave.
4. If an involved officer indicates he/she will not provide a statement unless compelled to do so, the interview will be stopped. IIT interviewer(s) shall notify the IIT Commander.
5. The involved officer will be allowed to provide a voluntary written statement prior to their interview if they so desire. If a written statement is provided, it will be added to the IIT case file.

#### **L. Documenting the Involved and Witness Officer's Condition**

1. IIT members shall photograph, and document all known injuries that an officer may have received during the incident.

2. An officer's clothing and equipment should be obtained and handled as evidence, unless the facts of the case show collection is not necessary.
  - a. When clothing is not collected, detailed photographs and documentation of clothing and equipment shall suffice.
  - b. Any damage to clothing and equipment should be photographed and considered for collection.
3. When an officer's clothing is taken for evidence, the IIT member working with the involved agency liaison will ensure that appropriate replacement clothing is provided to the involved officer.

#### **M. Taking an Officer's Weapon as Evidence**

1. If an involved officer is still in possession of their firearm or other weapon that was used in the incident when the IIT arrives, IIT investigators will arrange to examine and document that firearm or weapon.
2. When firearms or other weapons are taken from an officer for evidence, the employer agency should be responsible for replacement of those weapons, in accordance with their policies. Care should be taken to address the psychological impact of taking an officer's weapon after they have been in a life-threatening incident.
3. If the officer's weapon was not under the officer's control or left the officer's possession during the incident, the weapon is considered part of the secured incident scene and should not be moved.
4. An assigned IIT member shall inspect and document all law enforcement tools to include lethal and non-lethal weapons issued to officer at time of the incident to ensure that all discharged firearms and other weapons are identified and examined.

5. The IIT commander should consider an inspection of the firearms, ammunition, or other weapon or tool is conducted of all witness officers (or other officers who may have been present at the time that force was applied).
6. All discharged weapons should be secured, packaged, and placed in an independent police property room in adherence to that Property Room's procedures.
7. The objective of the weapons inspection is to gather information and document to what extent a weapon was discharged or used and by whom.

**N. Relieving Involved Officers of Duty**

1. The IIT will not relieve any involved officer or witness officer of their duties.
2. Any action relating to involved officer's duty status will be the responsibility of the involved agency's Chief or Sheriff or their designee.

**O. Other Interviews at the Scene**

1. Fire and EMS first responders should be handled as a potential witness to visual or audio observations. They may have information relevant to the investigation that is not subject to medical privacy (HIPAA) laws.
  - a. Each Fire and EMS unit will generate their own procedural paperwork that is not normally turned over to law enforcement.
  - b. A formal request for all Fire and EMS reports should be requested through the proper channels, and then placed in the case file.
2. Canvassing the Neighborhood or Area:
  - a. The Neighborhood Canvass:
    - i. Should be one of the first tasks assigned by the IIT Commander and started as soon as possible after the IIT receives their briefing.



- ii. Is a valuable tool to locate and identify witnesses who may have either witnessed the incident or other persons or vehicles in the area at the time of the incident.
  - iii. Often reveals private and business video recording of the incident scene, and/or the area surrounding the scene.
  - iv. Enhances police-community relations, as it ensures residents that the police are being thorough in their investigations.
- b. When selecting IIT Investigators to canvass, the IIT Commander should ensure:
- i. The investigators selected for canvassing are courteous and approachable in their interactions with people.
  - ii. Know the right questions to ask, how to listen to the answers, phrase follow-up questions, and be sensitive to nonverbal cues associated with deception and unwarranted stress.
  - iii. The Canvass is conducted “door-to-door” and that names, addresses, and contact information are obtained for everyone who lives in each home.
  - iv. When possible, all the residents are contacted and interviewed, even if that means coming back to the house later.
- c. Persons to Canvass

There are additional persons who may have information about the incident being investigated. Sources of information could include:

- i. Neighbors and residents
- ii. Mail carriers and delivery persons
- iii. Meter readers, power and telephone company employees working in the area.

- iv. Others - During the canvass, look for information on people who look out of place or suspicious vehicles in the area.

### 3. Security Cameras

- a. Attempt to locate and secure sources of security video.

- i. County or city video / Homeowner video / Business video / Witness (cell phone) video

### P. Peer Support Group Counselors

1. The involved agency may have guidelines in place that allow peer support counselors who are previously designated and not involved in the incident to have access to the involved and/or witness officers.
2. These discussions are considered privileged communications pursuant to [RCW 5.60.060\(6\)\(a\)](#). The IIT will allow peer support group counselor involvement per the involved agency's policy or guideline.
3. The designated peer support group counselors may not include any member of the IIT.

### Q. Releasing the Scene(s)

Release of any Incident Scene must only be done once all investigators are satisfied all crime scene processing efforts are complete.

1. Only the IIT Commander, in consultation with the Venue Prosecutor, may authorize release of the scene upon completion of the criminal investigation.
2. A final scene survey briefing will ensure that all involved investigators concur before a scene is released.
3. The IIT Commander will notify the involved agency and venue agency Chief or Sheriff prior to the scene being released.

## R. Prosecutor Review of Completed IIT Work Product

Once the IIT investigation materials are assembled, the entire case file must be delivered to the venue County Prosecutor for review. The prosecutor must determine whether (or not) the involved officer(s) actions were within the scope of law, using the Objective Good Faith Standard described in [RCW 9A.16.040\(4\)](#).

1. The IIT Commander and IIT Lead Investigator(s) will deliver the completed investigative file to the Venue County Prosecutor.
2. The Venue County Prosecutor will fully examine the case materials and decide whether the actions of the involved officer(s) met the objective good faith standard established in RCW 9A.16.040.
3. The scope of this process is controlled by the Prosecutor, with whom the authority for criminal review rests, until a decision about the filing of criminal charges is made.
4. If the prosecutor deems that the officer's actions were within the scope of the law, a written opinion should be conveyed back to the lead investigator, which then becomes an amendment to the investigative report.
  - a. If criminal charges are not filed, access to the contents of the investigation file is controlled by the involved agency Chief or Sheriff, as dictated under the public records act.
5. If the prosecutor deems that the officer's actions were not within the scope of the law, a written opinion should be conveyed back to the lead investigator, which then becomes an amendment to the investigative report, and the prosecutor shall render criminal charges in the court of jurisdiction.
  - a. If charges are filed against an involved officer, access to the contents of the investigation is controlled by the prosecutor until the case is resolved.

6. If probable cause exists for any civilian(s) involved in this incident, the prosecutor shall also render criminal charges in the court of jurisdiction.

## **DOCUMENTATION**

### **A. IIT Case Files**

1. The IIT is responsible for an objective and timely investigation and to collect all known facts and circumstances surrounding an officer-involved critical incident.
2. All non-forensic investigative reports shall be free of any opinions, summations, assumptions, or other conclusions drawn by investigators.
3. An exception to this includes forensic reports which may include technically reviewed expert opinions and conclusions, based upon scientific data, to assist in the reconstruction events.
4. All original reports, statements, and other documentation of involved agency employees should be filed and maintained by the venue agency and submitted to the IIT Commander in a timely manner.
5. If a shared RMS is used, the case should be restricted to only IIT members involved. If the RMS system does not allow restriction, a separate method of storage must be used.
6. The venue agency face sheet and original report will be completed by a venue agency officer, who is not the Involved Officer.
7. Independent Investigations Team members shall file their reports on a standard report template, submitted to the IIT Commander upon completion in a timely manner.
8. Access capabilities to the electronic version of the report should be partitioned and locked until the criminal investigation and administrative review is completed.

9. The IIT Commander will determine and coordinate where the original IIT file will be stored.
10. When the case is delivered to the venue county prosecutor, the report is subject to public records requests.
11. The IIT Commander should inform the prosecutor that the involved agency Chief or Sheriff will receive the same version of the IIT report presented to the Prosecutor.
  - a. The exception to this rule is if criminal charges are pending against an involved officer.
12. When charges are pending, the Venue County Prosecutor should inform the Involved Agency Chief or Sheriff and coordinate the distribution of the IIT report.
13. The final report will be maintained in accordance with local IIT practice or protocol.

#### **B. IIT Completed Case Distribution**

Concurrent with the delivery of the final report to the Venue Prosecutor, the same final report should be delivered to the involved agency Chief or Sheriff and made available for review by the Non-Law Enforcement Community Representative activated as part of the IIT.

#### **C. Public Records Requests**

At the time the case file (or any part thereof) is forwarded to the prosecutorial authority, the investigative report becomes a matter of public record, and is thus subject to the public disclosure laws of Washington.

1. In a situation where an arrest is made prior to the final report being completed, it may be necessary to publish sections of the report as they are completed to the prosecutor's office.

## **MISCELLANEOUS**

### **A. Compelled information**

The introduction of compelled information into a criminal case can result in the loss/suppression of evidence, severely compromising the integrity of the investigation.

1. The IIT should have a process in place to proactively identify and bifurcate compelled information from the investigation.
2. Any assigned investigators who discover or review compelled information must be removed from the investigation.
3. The IIT should assume compelled information is present in their investigative materials, and develop practices to increase the likelihood of its early discovery and limit the number of effected investigators.
4. Compelled information can be found in many forms including but not limited to:
  - a. Public safety statements
  - b. Body worn camera – Coban footage
  - c. Officers reports

### **B. Press Releases**

1. All press releases and communication to the media will be provided to the Family of the person who forced was used against, prior to their release.
2. All press releases and communication to the media will be provided to the Non-Law Enforcement Community Representative, prior to their release.
3. The IIT Commander or IIT PIO will make media releases directly related to the independent criminal investigation.
4. The IIT Commander or IIT PIO should:

- a. Release information on the day of the incident if possible, announcing that the IIT has taken control of the criminal investigation.
  - b. Provide weekly press release updates to keep the public informed of significant steps (or benchmarks) of the investigation.
  - c. Make a press release when the completed investigation is delivered to the prosecutor.
  - d. No criminal history data about the person who forced was used against should be included in any releases.
5. It is expected that the involved agency Chief/Sheriff, PIO, or a designee will fulfill their duties to maintain communication with their communities.
- a. Shall determine if/when the involved officer's name is released to the public.

**C. Planned Police Action**

1. If the officer-involved use of force incident is a result of a planned police action (i.e., warrant service, tactical operation), documents and materials associated with the planning and execution of that action shall be turned over to the Independent Investigation Team.
2. Personnel involved in the action shall submit an official report or be interviewed by IIT.
3. Those involved personnel will not debrief the incident amongst themselves until they are informed that the last IIT interview has been conducted with those involved.

**D. Postmortem Examinations**

1. Postmortem Examinations (Autopsies) will be coordinated through the Venue County Coroner / Medical Examiner representative.
2. An IIT member will be present during the autopsy and take all appropriate investigative steps, consistent with other criminal investigations conducted in their jurisdiction.

## GLOSSARY

**Best Practices** – As defined in [WAC 139-12-020](#), “Best Practices are defined as methods, techniques, and procedures that have consistently shown by research and experience to produce superior results, and are established or proposed as a standard, suitable for widespread adoption in the law enforcement profession.”

**Completed Investigation** - As defined in [WAC 139-12-020](#), “The final work product of the IIT for the purpose of informing the prosecuting attorney's charging decision. An independent investigation must be completed to inform any determination of whether the use of deadly force met the good faith standard established in [RCW 9A.16.040](#) and satisfied other applicable laws and policies.”

**Criminal History** - As defined in [RCW 10.97.030](#), “The information contained in records collected by criminal justice agencies, other than courts, on individuals, consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, including acquittals by reason of insanity, dismissals based on lack of competency, sentences, correctional supervision, and release.”

**Deadly Force** – As defined in [RCW 9A.16.010](#), "Deadly force means the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury.”

**Evanescent Evidence** – As defined in [WAC 139-12-020](#), “Physical evidence that may be degraded or tainted by human or environmental factors if left unprotected or unpreserved for the arrival of the independent investigative team (IIT); identification and contact information for witnesses to the incident; photographs and other methods of documenting the location of physical evidence and location/perspective of witnesses.”

**Good Faith Standard** – As defined in [RCW 9A.16.040](#), "Good faith is an objective standard which shall consider all the facts, circumstances, and information known to the officer at the time to determine whether a similarly situated reasonable officer would have believed that the use of



deadly force was necessary to prevent death or serious physical harm to the officer or another individual."

**Great Bodily Harm** – As defined in [RCW 9A.040.110](#), "Great bodily harm means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ."

**Independent Investigative Team (IIT)** – As defined in [WAC 139-12-020](#), "A team of qualified and certified peace officer investigators, civilian crime scene specialists, and at least two non-law enforcement community representatives who operate completely independent of any involved agency to conduct investigations of police deadly force incidents. An IIT is created when multiple law enforcement agencies enter into a written agreement to investigate police use of deadly force incidents in their geographical regions. A single law enforcement agency may fulfill the independent investigative function, provided it is not the involved agency."

**Initial Incident Response** – As defined in [WAC 139-12-020](#), "This is the period in time immediately following a police use of deadly force incident, and prior to the arrival of the IIT, when involved agency personnel on scene and other first responders immediately take actions to render the scene safe and provide or facilitate life-saving first aid to persons at the scene who have life threatening injuries."

**Involved Agency** - As defined in [WAC 139-12-020](#), "The agency that employs or supervises the officer(s) who used deadly force. There can be more than one "involved agency."

**Involved Agency Liaison** – A member of the involved agency who is the local point of contact for the IIT Commander to provide access to local resources and facilities, and act as a technical or subject matter experts for the officers, agency and community they represent.

**Involved Officer** – Any law enforcement officer or employee of a law enforcement agency or detention facility who is involved in a use of force incident that results in significant or great bodily injury or death.

**Member Agency** – As defined in [WAC 139-12-020](#), “Each of the agencies that enters into a written agreement to investigate police use of deadly force in their geographical region.”

**Office of Independent Investigations** - An office created by the Legislature in 2021 which is authorized to conduct investigations of law enforcement use of deadly force cases wholly independent from any law enforcement agency. OII’s authorizing statute, RCW 43.102, et. seq., sets forth the rules and procedures by which OII must abide. Some of those rules are different than those that apply to IIT investigations.

**Venue Agency** – The Member Agency within whose geographical jurisdiction the officer-involved incident occurs.

**Prosecutor's Review** - As defined in [WAC 139-12-020](#), “The period of time when the IIT presents the completed investigation to the prosecutor, who then reviews all the facts and makes a charging decision.”

**Public Safety Statement** – Information provided by the involved officer to a scene supervisor following an officer-involved use of force incident, which is intended to determine existing threats to public safety and identify evanescent evidence that must be protected and preserved.

**Substantial Bodily Harm** – As defined in [RCW 9A.040.110](#), "Substantial bodily harm means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part.”

**Witness Officer** is defined as an officer who witnessed, but did not engage in, the use of force being investigated by the IIT.