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# WASHINGTON STATE OFFICE OF INDEPENDENT INVESTIGATIONS

## Involved Agency Protocol

Effective Date: October 30, 2024

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### I. Purpose

This policy provides direction to an involved agency when the Washington State Office of Independent Investigations (OII) conducts the investigation of a use of deadly force by an officer they employ or supervise, in accordance with RCW 43.102.050(2)(c)(v).

### II. Authority and Scope

- A. When the use of deadly force by a peace officer results in death, substantial bodily harm, or great bodily harm, 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. The investigation must be completely independent of the agency whose officer was involved in the use of deadly force. RCW 10.114.011.
- B. OII has jurisdiction over and is authorized to conduct investigations of a use of deadly force by an involved officer against or upon a person who is in-custody or out-of-custody if the involved officer was on duty or was off duty but was exercising the powers of a Washington peace officer or if the incident involved equipment or other property issued to the officer in relation to his or her duties. RCW 43.102.080.
- C. OII investigations will include a review of the entire incident, including but not limited to events immediately preceding the incident that may have contributed to or influenced the outcome of the incident that are directly related to the incident under investigation. RCW 43.102.080(4).
- D. OII will not conduct criminal investigations of potential criminal activity of non-law enforcement. Therefore, any concurrent or underlying investigation into the actions of person or persons that are not law enforcement must be conducted by the involved agency, an Independent Investigation Team (IIT) or other law enforcement entities.

### III. Definitions

- A. Administrative investigation** - An investigation conducted by, or on behalf of, the involved agency to determine whether the involved officer's actions were in accordance with the involved agency's policies, procedures, and training.
- B. Associated crime** - A crime committed or suspected of being committed by non-law enforcement, which is in some way linked to the use of deadly force by law enforcement.
- C. Concurrent or underlying investigation** - An investigation that is occurring at the same time as, but not jointly with, OII's investigation and has a different focus. For the purposes of this section, concurrent investigations generally refer to investigations of associated crimes, whether they shortly preceded or significantly predated the use of deadly force incident.
- D. Deadly force** - The intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury. RCW 9A.16.010.
- E. Great bodily harm** - 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. RCW 9A.04.110.
- F. In-custody** - Refers to a person who is under the physical control of a general authority Washington law enforcement agency or a limited authority Washington law enforcement agency as defined in [RCW 10.93.020](#) or a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in [RCW 70.48.020](#), [72.09.015](#), or [13.40.020](#). RCW 43.102.010(5).
- G. Independent Investigative Team (IIT)** - Is a team of qualified and certified peace officer investigators, civilian crime scene specialists, and other representatives who operate independently of any involved agency to conduct investigations of police deadly force incidents. An IIT may be comprised of multiple law enforcement agencies who jointly investigate police use of force incidents in their geographical regions or may be a single law enforcement agency, provided it is not the involved agency. RCW 43.102.010(6).
- H. Involved agency** – General authority Washington law enforcement agency or limited authority Washington law enforcement agency, as defined in [RCW 10.93.020](#), that

employs or supervises the officer or officers who are an involved officer as defined in this section, or an agency responsible for a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in [RCW 70.48.020](#), [72.09.015](#), or [13.40.020](#). RCW 43.102.010(7).

**I. Involved officer** - One of the following persons who is involved in an incident as an actor or custodial officer in which the act or omission by the individual is within the scope of the jurisdiction of OII as defined in Chapter 43.102 RCW:

- a. A general authority Washington peace officer, specially commissioned Washington peace officer, or limited authority Washington peace officer, as defined in [RCW 10.93.020](#), whether on or off duty if he or she is exercising his or her authority as a peace officer; or
- b. An individual while employed in a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in [RCW 70.48.020](#), [72.09.015](#), or [13.40.020](#).

RCW 43.102.010(8).

**J. OII** - The Washington State Office of Independent Investigations established under Chapter 43.102 RCW.

**K. Peace officer** - As used in this section, means any:

1. General authority Washington peace officer as defined in RCW 10.93.020 (4).
2. Limited authority Washington peace officer as defined in RCW 10.93.020 (6).
3. Specially commissioned Washington peace officer as defined in RCW 10.93.020 (11).

RCW 10.93.020.

**L. Public safety statements** - Information obtained by a supervisor at an officer-involved use of deadly force, using questions intended to determine existing threats to public safety and identify transitory evidence that must be preserved. Some public safety statements are compelled.

**M. Substantial bodily harm** - 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.  
RCW 9A.04.110.

**N. Venue agency** – The law enforcement agency that has general jurisdiction where the use of deadly force incident occurred. This will frequently also be the involved agency.

#### **IV. Initial Involved Agency Actions Immediately Following a Use of Deadly Force**

##### **A. Notification to OII**

1. Once a scene has been rendered safe and lifesaving first aid has been provided to any persons at the scene who have life-threatening injuries, the involved agency must immediately notify OII of any use of deadly force that results in death, great bodily harm or substantial bodily harm. RCW 43.102.120(1)(a).
2. Following notification, the OII Director or designee will determine whether OII will investigate the incident and communicate that decision to the involved agency.
  - a. If OII determines it will investigate an incident, it will thereafter be the lead investigative body in the case and have priority over any other state or local agency investigating the incident. RCW 43.102.080(6).
  - b. The involved or venue agency is responsible for maintaining the integrity of the scene until OII or an IIT arrives and requests for the scene to be turned over. RCW 43.102.120(2)(3).
  - c. If OII declines to investigate a case, the authority and duty to investigate remains with the IIT or local law enforcement authority with jurisdiction over the incident. RCW 43.102.120.(6).
  - d. Until further notice, OII will only be investigating uses of deadly force that result in a fatality and the duty to investigate other use of deadly force incidents will remain with the IIT or local law enforcement authority with jurisdiction over the incident.
3. If OII determines it will investigate an incident, it will identify a responding OII Incident Commander who will communicate and coordinate with the designated point of contact for the involved or venue agency, or on-scene incident commander, and any responding IIT incident commander as needed while enroute.

4. Decisions that may affect the integrity of the scene or investigation should be coordinated with the OII Incident Commander.

## **B. Protection and Preservation of Evidence**

1. The involved agency shall ensure that any officers or employees over which the involved agency has authority who are at the scene take all lawful measures necessary for the purposes of protecting, obtaining or preserving evidence relating to the incident until OII investigators arrive. RCW 43.102.120(2)(a). The primary focus of the involved agency must be the protection and preservation of evidence. RCW 43.102.120(2)(b).
2. To maintain the integrity of the scene, the involved agency should take the following measures:
  - a. Secure the scene, including establishing a clearly marked and protected perimeter and maintaining a log of anyone entering and leaving the scene.
  - b. Locate and preserve any evidence that is at risk of being destroyed or disappearing, including physical or digital evidence that may be degraded or tainted by human or environmental factors if left unprotected or unpreserved.
    - i. If it is necessary to collect such evidence in order to preserve it, the on-scene supervisors should inform the OII Incident Commander, when feasible.
    - ii. The collection of the evidence should be conducted appropriately and thoroughly documented (including photographs documenting location).
    - iii. Specific risks to evidence should be documented in writing by the involved agency.
    - iv. Any evidence related to the use of force that was collected by the involved agency should be transferred to OII as soon as possible.
  - c. Other items should not be moved or altered, including the vehicles of officers who were present during the incident, unless there are exigent circumstances. Whenever possible, the need for any removal or alteration should be done in consultation with the responding OII Incident Commander.

### **C. Non-Law Enforcement Witnesses**

To ensure a thorough investigation, the involved agency should do the following, to the extent reasonably possible, prior to the arrival of OII investigators:

1. Identify all potential witnesses and obtain contact information.
2. Ask all potential non-law enforcement witnesses to remain on scene until OII investigators arrive.
3. If a witness does not intend to stay,
  - a. Attempt to take a brief statement.
  - b. Ask if they possess any photographs or video that may be of evidentiary value to the investigation. Attempt to collect, via consent or other lawful means, any such evidence.
  - c. Document the witness's location and perspective during the incident including with photographs.

### **D. Law Enforcement Officers**

To protect the integrity of the investigation, the involved agency should do the following:

1. Separate all officers that were present during the incident from each other. Discuss and coordinate any questions or logistical issues with the OII Incident Commander.
2. Limit communication about the incident except for immediate operational or public safety needs. Direct officers that were present during the incident not to discuss the details of the incident with any other officer or witnesses involved in the incident in any way until all interviews or statements have been provided to OII.
3. Not move, remove or unload equipment and weapons, either at the scene or carried by officers, unless required for safety purposes.

4. Officers should remain equipped and clothed as they were during the event unless removal of their equipment or clothing is necessary for officer safety or medical treatment purposes. If the involved agency believes that removal is necessary because of undue delay by OII or a responding IIT, this decision should be made in consultation with the responding OII Incident Commander.
5. If weapons, equipment or clothing must be moved or removed for officer safety or medical treatment purposes:
  - a. Photographs of the officer should be taken to record their condition at the time of the incident. Photographs should document any visible injuries or lack of visible injuries.
  - b. Any evidence on clothing or equipment should be collected and preserved for OII investigators.
  - c. Visible fluids should be swabbed.
  - d. Items should be handled in a manner to preserve trace evidence for later collection.
6. Document in an incident report and relay verbally during briefing to responding OII investigators all actions taken regarding the removal of equipment or clothing, or collection of evidence from an officer's uniform or equipment.

**V. Initial Communication Between Involved Agency and OII**

- A. To ensure that OII deploys enough resources and has a timely, effective response, the assigned OII Incident Commander will request the following information, to the extent that it is available, from the designated point of contact or on-scene supervisor:
  1. The nature and extent of the incident based on available information, including the number of officers and agencies involved, number and types of scenes e.g. indoor/outdoor, public/private. The involved agency should make sure this information does not come from a compelled public safety statement before sharing it with OII.
  2. Any considerations related to concurrent or underlying investigations or any safety considerations for arriving OII investigators.

3. Location where OII investigators should respond.
4. Names of involved officers, deceased or injured persons, and significant witnesses so that conflict assessments can be conducted as soon as possible.
5. Any potential tribal enrollment or affiliation of anyone involved.
6. Current location of involved and witness officers.
7. Whether an IIT has also been notified or is enroute.
8. The status of next of kin notification and medical examiner or coroner arrival.
9. Any other information necessary for the OII Incident Commander to make informed decisions.

## **VI. Transfer of Scene and Investigation**

- A. When an OII investigator, or IIT acting at the request of OII, arrives at the scene of an incident under the jurisdiction of the OII, the involved agency will relinquish control of the scene to the OII investigator or IIT upon the request of OII. RCW 43.102.120(3)(a).
- B. Once the scene is relinquished, no member of the involved agency may participate in any way in the investigation, with the exception of OII's use of the involved agency's specialized equipment if necessary for the investigation and where no alternative exists. RCW 43.102.120(3)(b).
- C. The involved agency has a duty to comply with the requests of OII related to the investigation. RCW 43.102.120(3)(a).

## **VII. Scene Security**

- A. OII investigative personnel should not enter any scene until tactical operations have ceased and the scene is safe.
- B. OII will request the assistance of an agency in whose jurisdiction the scene is located or another local agency to provide exterior perimeter security.

- C. Members of the involved agency that were not involved or witnesses to the incident may assist with scene security but may not otherwise participate in any aspect of the investigation.

## **VIII. Briefing**

- A. Upon arrival, the OII Incident Commander will obtain a briefing from the involved or venue agency, or any IIT that is on scene. The OII Incident Commander will obtain all available information, including:
  - 1. The involved agency case number and the case number for any agency providing mutual aid response.
  - 2. The time of call and details of the call, including initial information provided by the dispatch center.
  - 3. Information about the incident to the extent known at that time.
  - 4. Identification of any deceased person and how the identification was made.
  - 5. The location and status of the involved officer(s), including whether counsel or peer support has been provided.
  - 6. The name and contact information for a family representative of the person against whom force was used.
  - 7. Any known tribal enrollment status or any tribal affiliation or family relationship of the person against whom force was used.
  - 8. The identity of personnel who were on scene and any involved vehicles.
  - 9. Whether any evidence was collected or moved and the reason for such steps.
  - 10. A list of the names, contact information and current location of civilian and officer witnesses.
  - 11. Any available information necessary to ensure that no compelled or protected statements are shared with OII, including any that may be captured on body-worn video or in public safety statements. This information should include the context

of the statement and what the officer was told by and by whom prior to making the statement.

12. Whether there are any related concurrent or underlying investigations in progress.

13. Any other information necessary for the OII Incident Commander to make informed decisions.

## **IX. Liaison**

- A. The involved agency should identify a person who has (or will be granted) the authority to serve the role of liaison to OII.
- B. The liaison will serve as the local point of contact for the OII Incident Commander, or designee, to provide all requested records and information and, if applicable, specialized equipment. RCW. 43.102.080(7). The liaison should:
  - 1. Assist OII with the prompt collection of agency body-worn camera footage, in-car camera footage, Taser device data, and other relevant information as requested by OII. This assistance includes identifying any potential for the presence of compelled statements associated with requested materials.
    - a. Body-worn cameras should be docked and uploaded as soon as possible. This should be done in the presence of OII investigators if practicable or, if not, an audit trail should be provided to OII. When possible, body-worn camera footage can be uploaded to Evidence.com (or a similar platform) and then shared electronically with OII.
    - b. In-car camera footage should be uploaded from all vehicles that responded to the scene as soon as practicable. Footage can be shared with OII investigators digitally by way of an Evidence.com (or similar platform) link or by uploading the footage to a mobile digital storage device.
    - c. Taser device downloads should be shared with OII investigators digitally by way of an Evidence.com (or similar platform) link or by uploading the footage to a mobile digital storage device.
  - 2. Provide OII with all reports and information related to the incident as soon as possible, including but not limited to the following:

- a. Computer Aided Dispatch (CAD) reports.
  - b. Any 911 calls or radio traffic, if available.
  - c. Identity of all officers that responded to the incident.
  - d. Incident reports and officers' notes.
  - e. Identification and information relating to any potential witnesses, including aid personnel, mental health, crisis response, or other relevant personnel known to the involved agency who have knowledge of the incident or person involved in the incident.
  - f. Any witness statements already obtained.
  - g. Evidence already collected (including security, witness cellphone or other video).
  - h. Any photographs taken.
3. Provide the name and contact information for the involved agency public information officer.
  4. Respond to any additional OII requests for agency records.

## **X. Coordination with OII**

### **A. Officer Processing**

1. OII's role and process will be explained to the law enforcement officer(s) prior to officer processing.
2. Officers will be allowed to ask questions about the process.
3. OII will meet with each officer individually and coordinate officer processing locations to accommodate officers and accompanying legal/labor representatives.
4. OII will photograph officers and inventory all equipment including, but not limited to, injuries or equipment/uniform defects or lack thereof.

5. OII will collect uniforms and/or equipment as evidence based on the facts and circumstances of the investigation.
6. OII will document all firearms and ammunition (round count) in writing.
7. OII will provide the contact information of the OII Incident Commander or lead investigator for the incident.

## **B. Officer Interviews**

1. Officers have the same rights during a criminal investigation that any other person has, including the right to remain silent, the right to consult with an attorney prior to an interview, and the right to have an attorney present during the interview.
2. OII will ask for a voluntary statement from each officer that was present during the incident or that responded to the scene.
3. OII will not intentionally receive or accept information derived from a compelled statement unless the officer or attorney for the officer voluntarily provides the information or the prosecutor determines that use of the statement is permissible.
4. OII will ask for a statement or interview to be given prior to a person reviewing a video or audio recording of the incident.
5. If a person reviews video or audio recordings of the incident following their statement to OII, they will be afforded the opportunity to provide a second statement to address any additional information or recollections prompted by the review.

## **C. Use of Specialized Equipment**

1. OII may request the use of specialized equipment belonging to the involved agency if necessary for the investigation and no alternative exists.
2. If any equipment of the involved agency is used in the investigation, steps must be taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment or their engagement with the investigation. RCW 43.102.120(3)(b).

## **D. Records Related to the Incident**

1. During the investigation, OII may request additional records or information in the custody or control of the involved agency that are necessary or related to the investigation.
2. The involved agency shall provide these records to OII upon request and in a timely manner. RCW 43.103.080(7). This includes, but is not limited to the following:
  - a. Operational records, including but not limited to:
    - i. Investigative records, including incident reports and officer notes.
    - ii. Business cell phone usage records.
    - iii. Vehicle data recorder downloads.
    - iv. Any video and audio recordings from body-worn cameras, vehicles, and facilities that have not already been provided.
    - v. Dispatch and other communications data and recordings, including mobile computer terminal traffic.
  - b. Written policies, procedures, directives or regulations in-force and relevant at the time of the incident.
  - c. Training, disciplinary, use of force, and administrative records (excluding compelled statements of involved officers conducted as part of an administrative investigation related to the incident, or information obtained based on those statements.) RCW 43.102.080(7).
  - d. Criminal investigation records pertaining to a concurrent criminal investigation related to the incident (excluding compelled statements of involved officers or information obtained based on those statements).
  - e. Records related to past interactions between the person who is the subject of the use of force and the involved agency.

## **XI. Communications Between OII and the Involved Agency**

### **A. General**

OII may not share any information about the use of deadly force investigation with any

member of the involved agency, except as follows:

1. Limited briefings given to the chief or sheriff of the involved agency about the progress of the investigation; or
2. Information essential to protect the safety of the community or the integrity of any ongoing, urgent criminal investigation; and
3. Sharing of the information will not impede the ongoing investigation being conducted by OII.

RCW 43.102.120(5).

## **B. Limited Briefings**

1. OII is authorized to provide limited briefings to the chief or sheriff of the involved agency about the progress of the investigation. RCW 43.102.120(5)(a)(i).
2. The briefing items related to the progress of the investigation include, but are not limited to:
  - a. The names of OII personnel conducting the investigation.
  - b. General timelines (crime scene release, estimated date of investigation completion, etc.).
  - c. Status of interview requests with involved agency personnel.
3. The briefing items related to the progress of the investigation will not include:
  - a. The nature of evidence collected.
  - b. Theories about what occurred.
  - c. Information obtained from video recordings or interviews.
  - d. Opinions as to whether a use of deadly force was justified or not.
  - e. The probability of charges being filed against an involved officer.

- f. OII recommendations regarding returning an officer from administrative leave to full duty.

### **C. Information Essential to Safety of Community or Integrity of Investigation**

1. OII may share information with the involved agency if essential to protect the safety of the community or the integrity of any ongoing, urgent criminal investigation. RCW 43.102.120(5)(a)(ii).
2. Any information that is shared with an involved agency for the purposes of community safety or the integrity of any ongoing, urgent criminal investigation must not:
  - a. Impede the ongoing OII investigation, or,
  - b. Be divulged to any involved or witness officers.
3. OII will document in writing the exact information provided, to whom it was provided, and the reason it was provided. RCW 43.102.120(5)(b)(i).
4. OII will notify the person, family, or representative of any person who is the subject of the action by the involved officer that the information was provided and, as soon as possible without jeopardizing the integrity of any investigation, be provided with the information that was shared with the involved agency. RCW 43.102.120(5)(b)(iii).
5. If any information is shared with the involved agency related to community safety or the integrity of any ongoing, urgent criminal investigation, the involved agency must first agree in writing that:
  - a. No involved officer or witness officer will have access to the information other than what is released to the general public. RCW 43.102.120(5)(b)(ii).
  - b. Any involved agency press release containing information provided by OII pursuant to this section must be preapproved by OII. RCW 43.102.120(5)(b)(ii).

## **XII. Concurrent Criminal Investigations**

- A. Use of deadly force incidents may also involve associated crimes.

- B. OII investigations will include a review of the entire incident, including but not limited to events immediately preceding the incident that may have contributed to or influenced the outcome of the incident that are directly related to the incident under investigation. RCW 43.102.080(4).
- C. However, OII will not investigate associated crimes potentially committed by a civilian. This responsibility falls to a local law enforcement agency with jurisdiction to investigate.
- D. Evidence that is relevant to these associated crimes will often be collected by or under the control of OII personnel investigating the use of deadly force by law enforcement.
- E. OII prefers that a non-involved agency or IIT investigates associated crimes related to an incident under investigation by OII whenever possible. This will allow necessary investigative information to be shared without compromising the independence of the OII investigation.
- F. However, uses of deadly force by law enforcement may have been preceded by a complex investigation by the involved agency into an associated crime. For example, the use of deadly force occurred while the involved agency was attempting to make an arrest for the crime of murder and the probable cause was developed by a complex investigation conducted by the involved agency. These circumstances, as well as lack of other available resources, may make it difficult for the involved agency to transfer the investigation to a non-involved agency.
- G. In these circumstances, OII will share investigative information with the involved agency as permitted by law, as described above.

### **XIII. Administrative Investigations**

- A. Involved agencies may conduct an administrative investigation, either in parallel with or upon completion of OII's investigation.
- B. OII is prohibited from sharing any information with the involved agency for the purpose of the involved agency's administrative investigation. RCW 43.102.120(3)(b) & RCW 43.102.120(5)(a).

- C. Involved agency investigators, or investigators conducting an administrative investigation on behalf of the involved agency, will not be permitted to participate in, or review evidence from, an open OII investigation.

#### **XIV. Media Releases**

- A. OII is responsible for issuing press releases and updates on the status of the OII investigation to the media and to the person or the family or representative of the person against whom force was used.
- B. OII will provide the involved agency with press releases in advance. OII requests the involved agency provides the OII in advance with any press releases that it intends to issue.
- C. OII requests that the involved agency consults with OII and the assigned prosecuting attorney before any factual information about the investigation is provided to the public.
- D. OII requests sufficient advance notice before video from body-worn camera is released by the involved agency to the public so OII can provide the person against whom force was used, or their family, an opportunity to review the video prior to the release.
- E. OII will provide sufficient advance notice to the involved agency before releasing the names of any officer so that the involved agency can notify the officer.