
WASHINGTON STATE OFFICE OF INDEPENDENT INVESTIGATIONS

Protocol for OII Interaction with Independent Investigation Teams (IITs)

Effective Date: October 30, 2024

Last Reviewed/Revised: December 3, 2024

I. Purpose

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 conducted. The investigation must be completely independent of the agency whose officer was involved in the use of deadly force. RCW 10.114.011.

Under existing law, both Independent Investigation Teams (IITs) and the Washington State Office of Independent Investigations (OII) are notified whenever a use of deadly force by a Washington State peace officer occurs. RCW 43.102.120 and WAC 139-12. If OII declines to investigate a use of deadly force incident, the duty to investigate remains with the IIT or local law enforcement authority with jurisdiction over the incident. RCW 43.102.120(6).

At times, an IIT will arrive at a scene prior to the arrival of OII or OII may request assistance from the IIT, consistent with its statute. RCW 43.102.120(4).

In addition, 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, the IIT or other law enforcement entities.

This protocol is intended to create an orderly process for incidents when both OII and an IIT arrive at a scene or are concurrently investigating related incidents.

II. 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(6).
- G. Independent Investigations 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(7).
- 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(8).

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(9).

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.

III. Activation/Response

- A. 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 and the IIT of any use of deadly force that results in death, great bodily harm or substantial bodily harm. RCW 43.102.120(1)(a), WAC 139-12-030(1)(b).
- B. Following notification, the OII Director or designee will determine whether OII will investigate the incident and communicate that decision to the involved agency and the regional IIT.
 - 1. 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).
 - 2. 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).
 - 3. Until further notice, OII will only be investigating uses of deadly force that result in a fatality.
- C. 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.
- D. Decisions that may affect the integrity of the scene or investigation should be coordinated with the OII Incident Commander.

IV. IIT Interim Command Actions

- A. To ensure the independence of the use of deadly force investigation, in any incident where the IIT arrives at the scene of an incident prior to OII investigators, the IIT should assume command of the scene from the involved agency until relieved by OII.

The IIT Incident Commander should manage the scene in accordance with accepted IIT best practices protocols, including but not limited to:

1. Scene security.
 2. Preservation of evidence.
 3. Identification of witnesses.
 4. Ensuring family notification occurs as soon as possible. WAC 139-12-030(3)(b)
- B. The on-scene IIT Incident Commander should brief the responding OII Incident Commander by phone at the earliest opportunity. After the initial briefing, the IIT Incident Commander should update the responding OII Incident Commander Investigator with any new, significant information or developments.
- C. The IIT Incident Commander and OII Incident Commander should consult as to what investigative steps should be taken by the IIT and what actions should wait for OII's arrival considering what is best for the integrity of the investigation, including any need to begin officer processing before OII's arrival.

V. Transfer of Incident Command

- A. When OII arrives and requests for the scene be turned over, the IIT will relinquish control of the scene to OII. RCW 43.102.120(4). A briefing should occur at this time.
- B. The briefing should include, but is not limited to, the following information to the extent that it is available:
1. Information about the incident to the extent known at that time.
 2. Identification any deceased person and how the identification was made.
 3. The location and status of the involved officer/s, including whether counsel or peer support has been provided or officer processing has begun.
 4. The name and contact information for a family representative of the person against whom force was used.
 5. Any known tribal enrollment status or any tribal affiliation or family relationship of the person against whom force was used.

6. What, if any, evidence was collected, removed or altered prior to the arrival of OII.
 7. A list of the names, contact information and current location of civilian and officer witnesses.
 8. A summary of any witness statements already taken.
 9. Any available information necessary to ensure that no compelled or protected statements are shared with OII, including 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.
 10. Whether there are any related concurrent or underlying investigations in progress.
 11. Any other information necessary for the OII Incident Commander to make informed decisions.
- C. The IIT should transfer any evidence related to the use of deadly force investigation to the custody of OII. The OII Incident Commander, or designee, will determine whether evidence relates to the independent investigation.
 - D. Any ongoing interviews, evidence collection/processing, or other investigative actions should be transferred in a manner that does not disrupt, delay or negatively impact the investigation.
 - E. The IIT should provide OII with all reports and information related to the investigation as soon as possible.

VI. IIT Investigative Assistance

- A. OII Investigations will be managed using the Incident Command System (ICS) protocols, appropriately scaled for the size and nature of the incident.
- B. OII may request investigative assistance from the IIT based on the complexity of the scene and availability of OII resources.
- C. Any member of an IIT that is assisting with an OII investigation will act within the chain of command of their own agency.

VII. Report Writing

- A. IIT personnel participating in the investigation should complete reports in their own records system, documenting their actions and participation.
- B. The IIT commander or designee will provide copies of IIT reports to the OII Incident Commander or designee as soon as they are completed and approved. RCW 43.102.080(7).
- C. IIT reports should be secured in a manner which prevents access to anyone not assigned to the investigation.

VIII. Concurrent or Underlying Criminal Investigations

A. General

- 1. Use of deadly force incidents may also involve potential associated crimes.
- 2. 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).
- 3. 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.
- 4. Evidence that is relevant to these associated crimes will often be collected or under the control of OII personnel investigating the use of deadly force by law enforcement.
- 5. OII prefers that a non-involved agency or IIT investigates associated crimes related to an incident under investigation by the OII whenever possible. This will allow necessary investigative information to be shared without compromising the independence of the OII investigation.
- 6. OII will not select or attempt to influence which non-involved agency or organization will investigate an associated crime. The OII Incident Commander will defer to the agency with jurisdiction to make the decision.

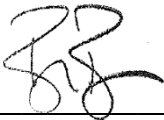
B. Cooperation with IIT on Concurrent or Underlying Investigations

1. OII intends to cooperate with IITs investigating associated crimes to the extent permissible by law and necessary to ensure the integrity of all related criminal investigations.
2. IITs investigating associated crimes may have access to relevant evidence in the custody of OII for the purposes of preserving community safety, investigative needs and making custodial decisions. (e.g. a firearm collected by OII from the scene is also a weapon suspected of being involved in an associated crime).
3. The OII Incident Commander will consult with the IIT Incident Commander responsible for the investigation of any associated crime to:
 - a. Determine relative investigative priorities based on:
 - i. The seriousness of the associated crime in relation to the use of deadly force by law enforcement (e.g. murder vs. assault 3).
 - ii. The status of the persons suspected of committing associated crimes (e.g. deceased vs. living, in custody, speedy trial considerations, etc.).
 - b. Identify any evidence critical to the associated crime.
 - c. Determine the best methods for sharing evidence (e.g. access to crime lab reports for evidence held by OII vs. transferring physical evidence to the organization investigating an associated crime.)
 - d. Coordinate the examination, testing and safeguarding of evidence.
 - e. Maintain a documented chain of custody.
 - f. Ensure the integrity and independence of the OII investigation.
4. Any point of disagreement will be referred to the OII chain of command for resolution.

IX. Media

- A. OII will issue all media statements regarding its use of deadly force investigation.

B. IIT personnel should direct media inquiries to the OII Incident Commander or OII Director of Communications and Community Relations.

Approved By:  _____
Roger Rogoff, Director

Date: 12/3/2024

Revision History

Date	OII Staff Responsible for Revision	Summary of Revision
12/3/24	Jessica Berliner	<ul style="list-style-type: none">Updated RCW citations to match the Code Reviser's re-ordering of the definitions.