



Washington State Criminal  
Justice Training Commission  
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# INDEPENDENT INVESTIGATION OF OFFICER INVOLVED USE OF DEADLY FORCE INCIDENT

# BEST PRACTICES



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# I. Purpose

The purpose of this document is to provide a basic framework and guidelines for independent criminal investigations into the use of deadly force by a peace officer that results in death, substantial bodily harm, or great bodily harm. WAC 139-12-030 (4) requires the Washington State Criminal Justice Training Commission (WSCJTC) to publish best practices for homicide investigations and update them annually.

This document should be used in conjunction with the definitions and independent investigation criteria found in WAC 139-12 to create an Independent Investigations Team (IIT) protocol. The Office of Independent Investigations (OII) was established after the passage of Chapter 318, Laws of 2021 (RCW 43.102, et. seq.) to conduct investigations of serious use of force incidents by Washington state law enforcement agencies. OII protocols and statutory requirements are different from IIT investigation laws and regulations. This best-practices document is for the use and application by IITs which have differing statutory requirements than the OII.

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. It is expected that each IIT protocol will reflect both law enforcement and community needs for independent, credible, and transparent investigations. 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.

# II. Definitions

Term	Definition
Discuss	To talk about (something) with another person or group of people in all forms of communication including, but not limited to, verbal, written, and electronic.
Independent Investigative Team	A team of qualified and certified peace officer investigators, civilian crime scene specialists, and at least two nonlaw 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.
Involved Agency	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.
Involved Officer	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 involved in an incident where the use of deadly force results in death, substantial bodily harm, or great bodily harm.

## Definitions (continued)

Term	Definition
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. This document's best practices guide OII only where the language specifically refers to OII by name. Reference to IITs does not necessarily bind OII.
Public Safety Statement	Information obtained by a supervisor at an officer-involved incident using questions intended to determine existing threats to public safety and identify transitory evidence that must be preserved. The scope of this statement is limited to the collection of such critical, fleeting information in the immediate aftermath of the officer-involved incident.
Venue Agency	The law enforcement agency or agencies having jurisdiction where the officer-involved incident occurs. This is very often the involved agency.
Witness Officer	An officer who witnessed, but did not engage in, the use of force being investigated by the IIT.

**Additional applicable definitions are available for review in Washington Administrative Code (WAC) 139-12-020 or relevant RCWs.**

# III. Procedures

The following procedures are tailored to address the initial incident response as well as the continuing follow-up investigation after an officer-involved use of deadly force. These general guidelines and principles can be used when investigating any serious incident.

Officer-involved uses of deadly force are dynamic situations. Preservation of life and the safety of all persons on scene are the paramount concerns. It is critical that every involved law enforcement member should recognize the transitory nature of evidence and after first aid has been provided or facilitated, take immediate steps to preserve the scene and evidence.

## A. Involved Officers

Officers involved in an incident triggering the use of the OII and an IIT shall take initial steps to render the scene safe, protect the safety of themselves and others, render first aid where necessary, and preserve evidence.

Communications on scene between involved officer(s) and other witnesses should be limited to statements made for immediate operational and/or safety needs. There should be no additional communication about the incident until all interviews have been completed by OII or the IIT or statements have been provided thereto.

## **B. Involved Agency Responsibilities**

1. The involved agency Chief or Sheriff, or their designee shall immediately notify the OII and IIT of the incident and the need to respond.
  - a. The OII receives the initial notification of the incident and the need to respond in accordance with RCW 43.102.120. If the OII accepts the investigation, the IIT shall still be notified of the incident in accordance with WAC 139-12-030(1)(b).
  - b. The IIT protocols should contain steps to notify the IIT leadership, and how the IIT will be deployed.
2. If part of protocol or agency policy, the involved agency supervisor will take a brief public safety statement from the involved officer(s), covering only information necessary to focus initial law enforcement response and direct the preliminary investigation into the officer involved shooting. Public safety statements made to the involved agency supervisor should be extremely brief and limited to information about the crime scene(s) to be protected and any pertinent evidence to be recovered, and identification of any involved persons, as well as witnesses who need to be located and interviewed.
  - a. The public safety statement can only be administered by the employer of the involved officer. A public safety statement may be a compelled statement. Prior to disclosing the contents of a public safety statement to OII or the IIT, the involved agency shall describe the context, including whether the involved officer was told he or she was being ordered/directed/compelled to answer any questions. If public safety information is obtained voluntarily, it may be used by the OII or IIT.

### Involved Agency Responsibilities (continued)

3. Designate an involved agency liaison to remain available to the IIT. The involved agency liaison shall not be privy to any information regarding the OII or IIT investigation. If OII has incident command, they will make someone available to provide contact authorized by RCW 43.102.
4. Maintain perimeter control of the scene if requested by the OII and/or IIT commander.
5. Provide evidence as requested to the OII or IIT as lawfully and legally required.
  - a. If a criminal action (i.e. robbery, burglary, assault, or warrant service) preceded the officer-involved use of force incident, the IIT commander and the OII (when applicable) should coordinate with the involved and/or venue agency to determine which agency will investigate the preceding event, to include pursuing criminal charges related to that event. If mutually agreed upon, the IIT will assume responsibility for the criminal investigation of the preceding event. If not, the IIT will limit its criminal investigation to the officer involved use of force incident. This may be addressed in an IIT's protocol.
    - i. The OII and/or IIT have priority access to all evidence related to the investigation. The OII or IIT chain of command shall make the determination if the evidence relates to the independent investigation. The agency identified to investigate the preceding crime(s) may have access to relevant evidence for the purposes of preserving community safety and making custodial decisions/actions as necessary and required by law. If the evidence in question relates to an incident of the use of deadly force by a peace officer, then there shall be no sharing of that evidence with the involved agency.



### **Involved Agency Responsibilities (continued)**

6. Make all documents, reports, and information on the incident to be available to the OII or IIT immediately or as soon as possible thereafter.
7. Allow use of space, resources, and facilities as needed by the OII or IIT.
  - a. The OII and IIT shall make every effort to utilize other space, resources, and/or facilities during the course of their investigation. There will be cases where a specialized resource is needed that is only available from the involved agency.
  - b. If no other option exists, the use of the involved agency resources by the IIT shall be done in accordance with WAC 139-12-030 (1)(b) which states, "Specialized equipment belonging to the involved agency may not be used by the IIT unless: 1 - no reasonable alternative exists; 2 - the equipment is critical to carrying out the independent investigation; and 3 - the use is approved by the IIT commander. If the equipment is used, the nonlaw enforcement community representatives on the IIT must be notified about: 1 - why it needs to be used; and 2 - the steps taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment."

## **C. On Scene Venue Agency Responsibilities**

These tasks are done by the venue agency until control of the scene is assumed by the OII or IIT. It is important to note that in the majority of incidents, the involved agency is also the venue agency. The on-scene venue agency supervisor shall be responsible for ensuring that standard Incident Command System (ICS) protocols have been implemented. In addition, they shall ensure the following tasks are addressed:

1. The physical condition of the involved officer(s), subject(s), and third parties is assessed, emergency first aid is provided, if necessary, and emergency medical assistance is summoned.
2. Ensure necessary notifications are made, to include initiating the response of the OII or IIT and necessary agency notifications including the involved agency chief or sheriff.
3. Establish a perimeter. Only personnel integral to the incident and/or investigation should be inside this perimeter. The primary focus of the on-scene venue agency at this stage is the protection and preservation of evanescent evidence in order to maintain the integrity of the scene until the OII or IIT arrives. The perimeter must be clearly marked and protected.
  - a. Those to remain outside the perimeter may include command level personnel not directly involved in the incident.
  - b. Involved officers should be removed from direct involvement in the critical incident and scene as soon as safely possible. If officers are transported to a secure location prior to OII/IIT arrival they should be individually transported by uninvolved personnel to a location where officers can be kept separated until OII/IIT can conduct interviews.
  - c. The OII or IIT may adjust or add additional perimeters to further restrict areas.
4. Take steps to document and preserve any evanescent evidence.
5. A media staging area is identified and is appropriately staffed if necessary.

### **On Scene Venue Agency Supervisor Responsibilities (continued)**

6. Establish a command post.
7. Appoint an officer to serve as a “recorder,” with responsibility for making a chronological record of activities at the scene, to include persons present and those who have been at the scene.
8. Photographs are taken as soon as possible of the involved officer(s) and subject(s) as they appear at the scene, to include any injuries or lack of injuries. These photos will best capture their condition immediately after the incident and before IIT personnel can arrive. After initial photographs are taken, any fluid (blood or other bodily matter) should be swabbed and collected as evidence if it is on the skin, face, or hair, of the officer. At that point, the officer should be allowed to wash the contamination from their skin and change into clean clothing. Soiled uniforms should not be cleaned however and should be collected as evidence.
9. Any involved officer, other witness officer, or other officer shall not discuss the details of the case with any other involved officer, other witness officer, other officer, or any other witness until the OII or IIT has completed their interviews. This includes any communication or interviews conducted both on and off the scene and any law enforcement entity associated with the specific investigation other than communications protected by RCW.
10. Involved officer(s) are separated and removed from the immediate scene and assigned a support officer to ensure the physical needs of the involved officer(s) are met. Any statement made to a support officer may be discoverable. The support officer identified in this step is not the same as the peer support group counselor as defined in RCW 5.60.060.
11. All potential witnesses are identified and separated and asked to remain on hand to provide a statement. If witnesses wish to leave and there is no legal authority to detain them, officers should obtain their contact information for future communications.

### **On Scene Venue Agency Supervisor Responsibilities (continued)**

12. If an involved officer is transported to the hospital, someone, such as a support officer, accompanies or meets them there. Any communication that the accompanying officer has with the involved officer may be discoverable and used by the IIT or OII.
13. Brief the arriving members of the OII or IIT on the above issues and ensure no compelled or protected statements are shared with members of the OII or IIT. This should include but is not limited to, consideration of compelled statements that may be contained on body-worn video, in public safety statements, and in personnel files.
14. Turn over control of the scene to the OII or IIT commander, or designee, upon their arrival.
15. Immediately upon completion of the medical examiner's work, the remains will be released to the impacted family unless legal justification may be provided such as a court order.

### **D. Independent Investigation Team Responsibilities**

The IIT commander, lead investigator, or their designee shall do the following:

1. Respond as quickly to the scene as resources and geography allow.
  - a. If notified that the incident is also within the jurisdiction of OII, communicate with the OII regional supervisor or designee to coordinate responses.
  - b. If the IIT arrives at the scene prior to the OII, or if the OII declines to respond, they shall proceed with the investigation consistent with their policies, protocols, and these best practices.

### **Independent Investigation Team Responsibilities (continued)**

- c. The IIT investigation should continue uninterrupted unless and until the OII arrives on scene and assumes control of the scene. At that time, the IIT commander should hand over control of the scene to the OII lead investigator. A briefing should simultaneously occur. Any ongoing interviews, evidence collection/processing, or other investigative actions should be handed over in a way that does not interrupt or delay the investigation.
        - d. The IIT may continue to engage in the investigation at the scene if requested to do so by OII. The IIT's involvement is limited to activities requested by OII.
2. Assume command of the scene from the on-scene involved agency supervisor.
3. Receive a briefing from the involved agency liaison and/or the on-scene supervisor.
4. The IIT commander shall ensure that notification to the Governor's Office of Indian Affairs is completed within a reasonable period of time, but not more than 24-hours after they have good reason to believe the deceased person was an enrolled member of a federally recognized tribe, in accordance with RCW10.114.021.
5. The IIT commander will ensure a conflict of interest (COI) form is completed to identify and manage any conflicts of interest between the involved officer(s), the involved agency, and any IIT members. This should be done as soon as possible as the nonlaw enforcement community representative will review COI forms no later than 72 hours after the investigation begins.
  - a. If someone joins the independent investigation after the initial 72-hour deadline, this individual must complete their COI form as soon as possible and no later than 72 hours after joining the investigation.

### **Independent Investigation Team Responsibilities (continued)**

6. The IIT commander will meet with the IIT nonlaw enforcement community representative and review the COI forms within 72 hours of the commencement of the investigation. If the IIT commander and the nonlaw enforcement community representative(s) determine that a conflict exists, the conflicted person shall be removed from the specific investigation entirely.
7. The IIT commander, no later than 72 hours after the investigation begins, shall determine whether each member of the IIT is free from sustained misconduct or free from a personal history of bias or discrimination. The IIT commander shall remove any member so affected and shall verify in the investigation file that these steps have been taken. During the IIT's annual training an audit shall occur regarding any sustained misconduct on IIT members. Any sustained misconduct found for an IIT member will result in immediate removal from the IIT. Any misconduct that occurs between this annual review shall be immediately reported by the agency head or designee to the IIT commander.
8. The IIT commander will identify an IIT member to serve as the family liaison as soon as feasibly possible who is responsible for identifying, locating, and notifying an appropriate family member, even if the family member(s) live out of the area. If the individual who was significantly injured or died in an officer-involved use of force was a tribal member, the IIT commander will identify an IIT member to serve as the tribal liaison within the first 24 hours of tribal enrolment identification and will keep the tribe (or a representative of the tribe's choice) apprised of all significant developments of the investigation.
9. Identify an uninvolved member agency where all evidence will be stored and coordinate with the involved agency to determine responsibility for storage and handling of extraordinary items such as vehicles, HAZMAT materials, etc.

## **Independent Investigation Team Responsibilities (continued)**

### **Evidence Considerations**

Recognize the transitory nature of some types of evidence and take steps to preserve it as the incident scene may be altered or compromised due to weather, foot traffic, police activities, etc., destroying or contaminating evidence beyond use or value.

- Anything that can be identified as evidence, and once identified, must be secured, documented, and/or collected.
- Ensure that any evidence in the possession of the involved or venue agency is given to the OII or IIT.
- Determine whether video recordings were made by in-car cameras; body-worn cameras; electronic control weapons; and government, business, or private surveillance cameras and that they have been secured as evidence as soon as reasonably possible. IITs will attempt to identify any photos or videos made by civilians and secure as evidence.
- Obtain search warrants for any vehicles, containers, homes, electronic devices, or vehicles as may be necessary.
- Any clothing or other personal items that may have been discarded or removed from subjects or involved officer(s) by medical personnel are located and secured as evidence.
- Clothing worn by the involved officer(s) and subject(s) should be documented and collected if there is an evidentiary need. 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.
- If a K9 was deployed as part of the initial incident, the dog and its condition should be documented.

## Evidence Considerations (continued)

- When firearms or other weapons are taken from an involved officer for evidence the involved agency should be responsible for replacement of those weapons, in accordance with their agency's policies. 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.
- The IIT commander should consider an inspection of the firearms, ammunition, or other weapon or tool of all witness officers (or other officers who may have been present at the time that force was applied) taken from the involved agency. All discharged weapons should be secured, packaged, and placed in an independent police property room in adherence to that property room's procedures. The objective of the weapons inspection is to gather information and document to what extent a weapon was discharged or used, and by whom.
- An IIT member shall consider an inspection (and documentation) of all law enforcement tools to include lethal and nonlethal weapons carried by the officer at the time of the incident to ensure all discharged firearms are collected and any other weapons are identified and examined.
- To ensure proper community safety and accountability of firearms and Alcohol, Tobacco, Firearms and Explosives (ATF) National Firearms Act (NFA) tracked items, the IIT shall provide a seized items receipt or evidence list of the firearm(s), devices, electronic control tools, and NFA items taken from the involved agency as part of the IIT investigation if requested by the involved agency. Providing the make, model, and serial numbers to the involved agency will provide accountability over the items retrieved from the incident.
- Consider the use of digital incident scene mapping for documenting and reconstructing the scene.
- The chain of custody will be documented for each item of evidence.



## Interview Considerations

- Obtain statements from subjects and witnesses. Audio and/or video-audio recording is preferred and should be attempted.
  - Interviews of involved officers should follow the policies of their individual agency, collective bargaining agreement, and case law.
  - Interviews shall have the goal of allowing and encouraging full cooperation from the involved officer, full accounting for what occurred, and adherence to state law, best practices, and agency policy. Interviewers shall rely on training, experience, industry standards, and challenging questions with the goal of determining the truth.
  - Investigators should be aware of and alert for signs that indicate an officer, subject, or other witness may be suffering from psychological trauma. All involved persons will be treated with sensitivity and awareness about acute stress reactions.
  - Interviews with emergency medical personnel, fire department personnel, and first responding officers should address conditions at the incident scene when they arrived to include any action that may have been taken to move or otherwise alter persons or objects of potential evidentiary value.
  - Canvass the immediate area for potential witnesses who have not come forward and obtain information or statements as available.
10. In the event of death, consult with the coroner or medical examiner at the scene and at, or subsequent to, the autopsy. A member of the IIT must attend the autopsy and take all appropriate investigative steps, consistent with other criminal investigations.

### **Independent Investigation Team Responsibilities (continued)**

11. The incident scene will be released by the IIT once investigators are satisfied the crime scene processing is complete.
12. The involved agency and the venue agency chief or sheriff will be notified of the scene being released.
13. Once all investigation materials are assembled the complete IIT investigation case file must be presented to the venue agency prosecutor who may ask for additional information, and who will use the case file to make a charging decision.

### **E. Family Liaison Responsibilities**

The family liaison is responsible for identifying, locating, and notifying an appropriate family member of the person against whom deadly force has been used, as soon as possible to ensure that the family:

- Is notified, when possible, prior to learning about the incident from the press, social media, friends, or neighbors.
  - Family notification of a decedent should be done in consultation with the venue coroner or medical examiner.
  - If a certified peace officer is notifying the family in-person, they should wear clothing other than their duty uniform.
- Has a reliable way to communicate directly with the liaison and the IIT.
- Is kept informed about the investigative process, even when there is nothing new to report.
- Is provided timely notice of significant developments of the investigation, to include press releases.
- Has assistance in coordinating with a victim advocate if one is available, especially if requested by the family.
- If requested, the IIT family liaison may assist the impacted family with any communication and/or access to the remains of the deceased individual that is within their statutory authority.

If requested, the impacted individual, family, or representative may waive regular updates from the family liaison if no significant progress is made in the investigation. The IIT must still comply with the WAC requirement to keep the family or representative apprised of all significant developments in the independent investigation. The IIT will give the impacted individual, family, or representative and the involved agency advance notice of all scheduled press releases. The IIT must document this in writing that regular updates were waived.

Before the IIT waives regular updates, the IIT will present the impacted individual, family, or representative with options such as a reduced amount and/or different methods of communication from the family liaison.

Additionally, if regular updates are waived, the IIT will provide the impacted individual, family, or representative with contact information if they change their mind at a later date and would like to opt-in back into receiving regular updates. This must be documented in the investigative file.

If OII is handling the scene, and if contact can be made within a reasonable amount of time, OII's nonuniformed, nonlaw-enforcement family liaison should be responsible for filling this role.

## **F. Tribal Liaison Responsibilities**

If the fatal use of force incident involves an enrolled member of a federally recognized Indian tribe (RCW 10.114.021) the IIT commander will identify an IIT member to serve as the tribal liaison within the first twenty-four hours.

If OII is the investigative team at a scene, they shall abide by their own statutory obligations related to tribal liaison.

## **G. Administrative Investigation**

The administrative investigation is the responsibility of the involved agency. The IIT commander must create and enforce firewalls, which is a process to prevent information sharing between the IIT from the involved agency and train all team members to observe them to ensure no member of the IIT receives any compelled statements of the involved officer(s) or any investigative content that was informed by such compelled statements.

## **H. Record Keeping**

1. The IIT commander will determine and coordinate where the original IIT file will be maintained. The original file shall not be maintained at the involved agency. Public disclosure requests may be directed to the agency designated to maintain the original IIT file.
2. All original reports, statements, and other documentation of venue and involved agency employees should be filed and maintained by the venue agency and submitted to the IIT commander immediately upon request.
3. Until the case file is delivered to the prosecutor, access to the IIT case file should be restricted to the IIT members and support staff designated by assignment.

## **I. News Media Considerations**

Communication with the media will be handled by a designated member of the IIT. Either a public information officer (PIO) or a media relations officer (MRO) in consultation with the IIT commander.

1. The PIO will affirmatively provide to local media and on official social media accounts, regular updates on the investigation, at least weekly.
2. Neither the involved agency nor the IIT will provide the media with criminal background information of the person against whom

deadly force has been used, unless it is specifically requested, and release of the information is required by the Public Records Act or other applicable laws.

3. The IIT commander will ensure a proper balance is maintained between the integrity of the investigation and transparency with the public.

# IV. Appendix

## Document Version History

- 1.0 First adopted – September 2020
- 2.0 Annual update – September 2023
- 2.1 Typographic issue correction – October 2023
- 3.0 Annual update – September 2024

