

	Number: BPD - 218	Pages: 4
	Effective Date: 2/12/13	Amends/Rescinds:
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	Approving Authority: Chief	
WASPC Standard(s):	Subject: OFFICER INVOLVED CRITICAL INCIDENTS – ADMINISTRATIVE INVESTIGATION	

218.1 PURPOSE AND SCOPE

During critical incidents, in addition to the investigation of possible criminal law violations by civilians and/or Department employees (policy 216), the Department has need for information about the incident for non-criminal purposes. The purpose of this policy is to establish policies and procedures for the administrative investigation of an incident in which:

- (a) A subject officer, whether on or off duty, is reasonably believed to be a proximate cause of an incident of which the City has jurisdiction, when that incident results in a fatality or serious injury to another party; or
- (b) A subject officer is the recipient of a serious injury or is killed, and the City has jurisdiction.

Serious injury shall mean bodily injury that involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body. The overarching goal is to ensure that the investigation is performed in a thorough, complete, professional and fair manner free from conflicts of interest.

218.1.1 EXAMPLES OF QUALIFYING CRITICAL INCIDENTS

Such incidents may include but are not limited to the following:

- (a) Intentional and accidental shootings, including police tactical incidents involving specialized response teams.
- (b) Intentional and accidental use of any other dangerous or deadly weapon.
- (c) Assaults upon law enforcement officers or assaults on other law enforcement employees who are on duty or are acting in a law enforcement capacity.
- (d) Attempts by law enforcement employees to make arrests or otherwise gain physical control for a law enforcement purpose. This includes incidents where a law enforcement officer has applied a use of force on an individual and that individual stops breathing either during the application of force or immediately thereafter.
- (e) Any fatal or serious injury to a person in police custody.

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- (f) Vehicular collisions involving police gunfire directed at the suspect or the suspect vehicle.
- (g) Vehicular collisions, which result in a serious injury or fatality, that involve the use of vehicles(s) by police as a "legal intervention" technique intended to apprehend a suspect. "Legal Intervention" includes vehicle ramming, roadblocks, and forcing a vehicle to alter its course by cutting in front of it or by contact.
- (h) Vehicular collisions that involve serious injuries or a fatality that occurs during a police pursuit. The serious injury or fatality may be to the suspect, an officer or other third party.

218.2 ELEMENTS OF ADMINISTRATIVE INVESTIGATION

Elements of the administrative investigation may include:

- (a) Administrative Review
- (b) Internal Investigation
- (c) Agency Improvement, e.g. a deadly force review board used to review an officer involved shooting incident for the purpose of determining the adequacy of Department policies, procedures, programs, training, equipment, personnel programs and/or supervision.
- (d) Claims and Litigation investigation. Information from the investigation may assist the City in preparing for administrative claims and/or civil litigation that may be initiated by or against the City.

218.3 ADMINISTRATIVE INVESTIGATION TIMING

The criminal investigation has investigative priority over the administrative investigation and begins immediately after an incident has occurred. While both the criminal investigation and the administrative investigation are important and should be aggressively pursued, investigative conflicts between the two formats shall be resolved by allowing the criminal investigation to have the investigative priority. It is intended that this prioritization will preclude competition between the two formats for access to witnesses, physical evidence, and the involved parties, and that it will prevent the criminal investigation from being compromised by an untimely exercise of the Department's administrative rights.

If an internal investigation is conducted prior to the conclusion of a criminal investigation, interview statements, physical evidence, toxicology test results, and investigative leads which are obtained by investigators by ordering law enforcement employees to cooperate shall not be revealed to criminal investigators without specific, prior approval of the Prosecutor's Office.

218.4 ADMINISTRATIVE SCENE PROCEDURES

- (a) The incident commander shall ensure that the witness and subject officers are ordered not to discuss the incident with other involved officers pending further direction from a supervisor.

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- (b) The initial on scene supervisor should not attempt to order any officer to provide other than public safety information, such as:
 - 1. Are you okay?
 - 2. Is there anyone else injured?
 - 3. Are there any outstanding subjects or vehicles unaccounted for or have left the area?
 - 4. Are there any eye-witnesses to the incident?
 - 5. Is there any evidence in danger of being lost or destroyed and where is it?
- (c) Any request for Department or legal representation will be accommodated. However, no involved officer shall be permitted to meet collectively or in a group with an attorney or a representative prior to providing a formal interview or report.
- (d) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (e) Discussions with Department representatives (e.g. employee bargaining unit) will be privileged only as to the discussion of non-criminal information.
- (f) As determined by the Chief of Police, each subject officer shall be given reasonable paid administrative leave following a critical incident.
- (g) Prior to returning to duty, involved officers shall consult with a certified psychotherapist.
 - 1. Critical incident debriefs with a licensed psychotherapist will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.
 - 2. An interview or session with a licensed psychotherapist may take place prior to the involved officer providing a formal interview or report, but the involved officer shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.

218.5 GARRITY ORDERS

Criminal Response Team investigators do not have the authority to issue "Garrity" orders to involved officers. This can only be done by the Subject Officer's Chief of Police or designee. Criminal Response Team investigators should take reasonable steps to prevent premature "Garrity" orders from taking place.

Before a "Garrity" order is given to a Subject Officer by his employer agency the Criminal Response Team investigators should be given a reasonable amount of time to talk to witnesses, review evidence, and consult among themselves the facts of the case and determine if "Garrity" is recommended. The Criminal Investigative Team Commander will notify the Bothell Chief of Police or designee when "Garrity" orders are recommended.

218.6 DEADLY FORCE REVIEW BOARD

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The Chief of Police may convene a deadly force review board to examine officer involved critical incidents. The purpose of the review board is evaluating the adequacy of Department policies, procedures, programs, training, equipment, personnel programs and/or supervision. The criminal investigation, administrative review, and any possible internal investigation have priority over the deadly force review board. The Chief of Police shall ensure that the deadly force review board is not convened prior to the conclusion of the other related investigations.

218.6.1 COMPOSITION OF THE BOARD

The Use of Deadly Force Review Board shall be comprised of the following personnel:

- Command representative from a different division than that of the involved employee.
- Two sergeants
- Board may be expanded to include additional personnel as assigned by the Chief or Board Chairperson

The commander will serve as the chairperson. The chairperson will convene the Review Board as necessary. It will be the responsibility of the division commander of the involved employee(s) to ensure that all relevant reports, documents, and materials are available for consideration and review by the Board.

218.6.2 BOARD RESPONSIBILITIES

- Review all relevant reports, policies, and training records.
- Make recommendations to the Chief of Police about policy changes, training improvements, equipment improvements and any other identified deficiencies.
- Report will be maintained by the Deputy Chief of Police.