

## **6.02.000 ADMINISTRATIVE REVIEW OF CRITICAL INCIDENTS**

6.02.005

### **PURPOSE AND SCOPE:** 07/24

This policy provides guidance to department members for conducting administrative reviews of critical incidents.

6.02.010

### **DEFINITIONS:** 07/24

The following definitions are provided for the purposes of this policy:

**Administrative Review Team (ART):** A team of trained supervisors who will be responsible for conducting administrative investigations and reviews of all critical incidents.

**Critical Incidents:** Serious Force Incidents and Other Serious Incidents.

**Critical Incident Review Board (CIRB):** A board that convenes to conduct enhanced administrative review of Critical Incidents.

**Critical Incident Review Board Coordinator:** A person designated by the CIRB Chair to create and ensure preservation of the record of Critical Incident Review Board proceedings and follow up recommendations.

**Independent Investigative Team (IIT):** 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.

**Office of Law Enforcement Oversight (OLEO):** An independent agency under the King County Council that reviews KCSO administrative investigations. OLEO also attends scenes of Critical Incidents, the Critical Incident Review Board, and Department level Driving Review Boards.

**Other Serious Incidents:** Incidents that are not uses of force, and include:

1. Any death of an arrestee or detainee while they are in the custodial care of the department.
2. Any other contact that results in hospital admission or death, such as vehicle accidents.
3. Death, attempted homicide, or serious injury of a member [hospitalization] as the result of an attack or assault.

**Serious Force Incident:** Incidents involving any of the following:

1. Intentional or unintentional firearm discharges (other than less lethal) by a member while engaged in pointing, aiming or displaying of a firearm, regardless of the extent of injury (Excludes training and shooting animals as euthanasia).
2. Any other unintentional discharges where there are injuries that require hospital admission.
  - a. Unintentional discharges that do not occur while pointing/aiming, and result in no injury shall be handled under GOM 6.01.070.
3. A use of force that results in death (even if the type of force used is not defined as deadly force (e.g. CEW application, Less Lethal Shotgun).
4. A use of force resulting in an injury requiring hospital admission.

5. Use of any intervention by a vehicle that results in injuries that require hospital admission.

6.02.013**POLICY:** 07/24

The Sheriff's Office is committed to thorough, transparent review of critical incidents to ensure that members continue to learn from and improve responses to situations that may result in the most serious uses of force and risks of injury, and to satisfy the public that the Sheriff's Office is appropriate in its review and response to force situations. The Department's investigation and review is in addition to any independent investigation team (IIT) review required under state law. KCSO strives to hold its members accountable to applicable standards and learn from these incidents in order to improve safety for the community and our members.

6.02.015**SHERIFF'S BRIEFING:** 10/24

1. Within 72 hours following a Critical Incident (when feasible), the Incident Commander or other designated commander will schedule and coordinate a briefing for the Sheriff to provide an overview of the incident and current status of the investigation.
  - a. Invitees will include: The Sheriff, Undersheriff, Division Chiefs, IIU Captain, ATU Captain, Legal Advisor, Chief of Staff, the affected Precinct Command Staff, Professional Standards Manager, OLEO and the ART response team. Others may be invited at the discretion of the Undersheriff or Sheriff.
2. The primary purpose of the Sheriff's briefing is to:
  - a. Provide a summary of the incident, the status of the investigation, and outstanding investigation steps.
  - b. Identify any officer safety, scene management or other issues that need to be addressed immediately.
  - c. Identify any significant investigative issues.
  - d. Identify any major media issues.

6.02.020**ADMINISTRATIVE REVIEW TEAM'S RESPONSIBILITIES:** 10/24

The ART will review all Critical Incidents, responding to the scene if possible, and completing a review focused on training, tactics, equipment, supervision, policy/procedural issues, and department member wellness. The review should also assess the sufficiency of existing policy and training, safety issues, and include recommendations for improvement where applicable.

The ART will:

1. Refer potential misconduct to the Internal Investigations Unit (IIU).
2. Interview relevant witnesses to ensure their testimony is documented for the CIRB's review. The ART shall, when possible, notify OLEO in advance of interviews as to provide them a reasonable opportunity to attend such interviews.
3. Obtain any other information relevant to their broad mission, assessing unsolicited information forwarded to them via chain of command for relevance.

4. Prepare the **Initial** ART Findings Memo within 72 hours (when feasible) summarizing their initial findings, observations and recommendations approved by the ART Commander. These initial findings and recommendations will be presented during the Sheriff's Briefing.
5. Submit the **Preliminary** ART Findings Memo to the Undersheriff via the chain of command within 60 days (when feasible). These findings, recommendations and any "lessons learned" will be presented during a debrief to the Executive Team to address any urgent issues or concerns, as soon as practicable.
  - a. With approval of the Undersheriff, each recommendation will be assigned to the appropriate Division Commander for action and shall be completed in a timely manner.
  - b. The Preliminary Art Findings Memo will be tracked and updated by the Professional Standards Manager (or other designee assigned by the Undersheriff) as each assigned action item is completed.
  - c. All ART Findings Memos (Initial, Preliminary and Final) will be filed in IAPro under the associated ART number (along with the CIRB memo and the Use of Force review).
6. Present a summary and review of the **Final** ART Findings Memo at the CIRB, that will include an update on all findings, recommendations, and any "lessons learned" regarding:
  - a. Policy and procedure
  - b. Training and tactics
  - c. Equipment
  - d. Supervision
  - e. Member wellness

6.02.025**OFFICE OF LAW ENFORCEMENT OVERSIGHT (OLEO):** 12/19

The OLEO monitors and may attend scenes of critical incidents. In addition, OLEO attends Critical Incident Review Boards as a non-voting member. OLEO may attend ART investigator's interviews consistent with the process for other administrative investigations. OLEO shall not have access to the IAPro files until the criminal investigation is completed, as materials from the criminal investigation may be provided to ART and added to the IAPro file when obtained.

6.02.030**CRITICAL INCIDENT REVIEW BOARD:** 07/24

1. The Review Board should convene not later than forty-five (45) calendar days after the following has occurred:
  - a. The applicable independent investigation team has completed their investigation;
  - b. The ART has completed its review; and
  - c. The prosecuting attorney has either issued a formal decline with regard to pursuing criminal charges against any involved department member; or if criminal charges were filed, all criminal proceedings have been concluded.
2. The Undersheriff will work with the Review Board Coordinator to set the date, arrange for necessary witnesses and provide documents in advance to the Review Board members.
3. The Review Board may call any witnesses deemed necessary.

4. For any driving related incident (meeting the minimum criteria outlined in GOM 9.02.035) that occurred in connection with the critical incident, a Driving Review Board (DRB) will be held during the initial portion of the CIRB.
5. All reportable uses of force (Level II and III) will be reviewed and evaluated as part of the critical incident during the CIRB.

**6.02.035****CRITICAL INCIDENT REVIEW BOARD MEMBERS:** 01/24

1. The Critical Incident Review Board shall be composed of members who were not involved in the incident under review.
2. A minimum of five (5) members shall be present to constitute a quorum.
3. The Review Board will be composed of the following:
  - a. The Undersheriff (Chair).
  - b. The Chief of Patrol Operations or designee chosen by the Chair of equal rank.
  - c. A Captain chosen by the Chair.
  - d. Sergeant from the Advanced Training Unit.
  - e. A Union representative appointed by the Bargaining unit of the member under review.
  - f. The Department Legal Advisor or designee selected by the Chair.
  - g. OLEO Director or designee (non-voting)
  - h. Other non-voting members who may be designated by the Chair.
4. If a Driving Review Board is to be conducted in conjunction with the CIRB, additional board members shall be added in accordance with GOM 9.02.035

**6.02.040****CHAIR'S RESPONSIBILITIES:** 10/20

The Review Board Chair shall:

1. Ensure that ART conducts interviews of relevant witnesses and subject matter experts to ensure their testimony is included in the record in preparation for the CIRB.
2. Determine order of presentation and identify needed witnesses and attendees.
3. Ensure that all affected personnel who are required to attend are notified within fourteen (14) calendar days of the review.
4. Ensure that applicable documents (i.e., reports, photographs, transcripts, tapes, etc.) are provided to the Board members in advance.
5. Designate a Review Board Coordinator for the review.
6. Advise all members under review at least forty-eight (48) hours before any interviews that:
  - a. They are required to cooperate with the department investigation and that failure to cooperate may result in employment termination and that the information obtained from the interview cannot be used in a criminal case (Garritty v. N.J., 385 U.S.,493, 1967).
  - b. They may have representation during the review.
    - i. The member's representative may review all statements and other evidence relevant to the incident under review before the Review Board hearing.

7. Assign a board member to notify the involved member(s) of the Board's vote on each question at the conclusion of the Review Board.
8. Assign a board member to meet with the involved members sometime shortly after the Sheriff completes the final CIRB report to provide detailed feedback on the board's deliberations and offer the involved officers a forum to share their experiences with the review process.
9. Prepare a written report of the Board's findings and recommendations and ensure that it is sent to the Sheriff within thirty (30) days. The written report shall include all information that accurately reflects the discussion that ensued during the review.

6.02.045**REVIEW BOARD COORDINATOR RESPONSIBILITIES:** 07/24

The Patrol Operations Division Sergeant (or other member assigned by the Patrol Operations Division Chief) will serve as the Review Board Coordinator and will be responsible for:

1. Taking comprehensive notes of the Board hearing.
2. Documenting the votes per voting member, and reasons for dissenting votes.
3. Assisting the Chair with drafting the final Findings and Recommendations memo to the Sheriff.
4. Ensuring the records relied upon in the Board hearing are preserved in IAPro.
5. Monitoring and documenting completion of recommended actions, and ensuring such documentation is preserved in IAPro.
6. Coordinating the messaging of results and recommendations to the Department.

6.02.050**MEMBERS UNDER REVIEW:** 12/19

1. Statements and interviews will normally serve as sufficient evidence so that members under review will not be called to testify at the Review Board, however if it is determined that a members presence is required, those members who are ordered to appear before a Critical Incident Review Board shall do so.
  - a. Prior to giving testimony, members are required to cooperate with the department investigation and that failure to cooperate may result in employment termination and that the information obtained from the interview cannot be used in a criminal case (Garrity v. N.J., 385 U.S.,493, 1967).
2. Members may have bargaining unit representation present during the review.
3. Members may review any relevant documents (i.e., reports, photographs, tapes, etc.) upon request.
4. Members may call any witnesses on their behalf.

6.02.055**CRITICAL INCIDENT REVIEW BOARD HEARING:** 01/24

1. The Chair shall manage the order of evidence presentation.

2. Both the criminal investigation team and ART will present at the hearing.
  - a. ART shall present after the Criminal investigators have completed their presentation and have departed the hearing room.
3. ART will present its observations and findings to the Board.
  - a. ART will also submit a memo summarizing its review and recommendations to the Board that will be maintained as part of the record, and forwarded to the Sheriff with the Board's Final memo.
4. Any background information, including criminal information, of the suspect that was known by the deputy before or during the application of force can be shared with the Critical Incident Review Board before it is commenced. Any information that was later learned by the deputy/department after the use of force cannot be shared with the board before it convenes.
5. All non-voting members, except the Secretary and OLEO Director or designee, shall be excluded from the Review Board meeting before the voting.
6. The Review Board shall answer the following questions:
  - a. If a firearm was used, was it intentional or unintentional?
  - b. Was the use of force consistent with policy, regardless of the tactics?
  - c. Were the member's choices leading up to the event sound?
  - d. Were there reasonable alternatives to the use of force?
  - e. Were available and appropriate de-escalation tactics employed or attempted prior to the use of force (if feasible)?
  - f. Was first aid provided at the earliest safe opportunity?
  - g. Was either inadequate or improper training a contributing factor to the event?
  - h. What relevant policies or procedures, which may have affected the outcome, were not followed before or after the event?
  - i. What relevant policies or procedures should be updated based on the review board's findings?
7. The Review Board shall also review the recommendations made by the ART. The Board shall determine which recommendations to forward as recommendations to the Sheriff.
8. The findings and recommendations shall be by simple majority and the Review Board Coordinator shall record the names of dissenting members and their reasons for dissent.

6.02.060

**CIRB FINDINGS AND RECOMMENDATIONS:** 10/24

1. A CIRB Findings and Recommendations memo shall be submitted to the Sheriff for final approval within thirty (30) days of the Board hearing.
2. Results of findings and recommendations:
  - a. All policy violations shall be referred to IIU.

- b. Recommendations for modifications to policy will be referred to the Inspectional Services Unit (ISU).
  - c. All training related matters shall be referred to the Advanced Training Unit. If individual training is recommended, the member(s) shall be referred to the appropriate trainer for specific training.
  - d. Findings related to decisions leading up to the use of force, and whether there were reasonable alternatives to the use of force, shall be reviewed by the Chair for appropriate referral.
  - e. All records shall be referred to IIU for retention in IAPro.
3. The Board may make other findings and recommendations it deems appropriate.

6.02.065**SHERIFF'S RESPONSIBILITY:** 10/24

The Sheriff shall review the findings and recommendations of the Critical Incident Review Board within thirty (30) days. If IIU investigated related and/or referred allegations, the Sheriff shall consider information gathered in those investigations to ensure consistency in the final determination when possible.

1. If the Sheriff concurs with the Board's recommendations, they shall forward the findings to IIU for records retention in IAPro.
2. If the Sheriff does not concur with the Board, they may direct the appropriate person(s) to investigate specific issues or concerns, or note specific concerns in writing.
  - a. The Sheriff shall set a reasonable deadline for any additional review(s).
3. The Sheriff shall notify the involved member(s), in writing, of the findings and recommendations as soon as practicable after completing their review.
4. The Sheriff shall determine a method for disseminating lessons learned from the incident to enhance communication to and discussion with commissioned members; these processes will be case specific to the issues.

6.02.070**INQUEST PRE-PLANNING MEETING:** 01/24

The King County Executive changed the procedures for Inquest hearings in 2019. Under the new procedures, involved members are not required to testify, but may attend. It is expected that nearly all deaths in King County involving action by a police officer are sent to an Inquest Hearing as directed by the County Executive. The Sheriff will determine the appropriate subject matter expert witnesses to appear for an inquest hearing. Often, there is also a need to plan for the appearance and security concerns of the persons involved and/or attending an inquest hearing.

1. To address that need, the Court Security Section Captain, upon being notified of the date of the Inquest, will convene a security/appearance planning meeting at least two weeks prior to the start of the hearing. Attendance will be required of the following:
  - a. Involved members, including KCSO witnesses.
  - b. Personal Assistance Team representative or coordinator representing the involved members.

- c. Criminal Intelligence Unit representative.
  - d. Special Operations dignitary protection coordinator.
  - e. Court Security Captain and Sergeant.
  - f. Section Commander of the involved member(s).
  - g. Undersheriff's executive assistant.
  - h. MRO.
  - i. ATU representative.
2. The purpose of the meeting will be to determine the level of security required at the hearing based on current threat information, and to coordinate the resource needs of attendees.
  - a. The intelligence unit will be responsible for emergent threat information to be processed and acted upon, if necessary, prior to the start of the hearing.
3. The Court Security Captain will make the determination of the level of security to be provided based on the information presented at that meeting.
4. The Section Commander of the involved members will determine the need to adjust work schedules to minimize the use of overtime and coordinate any special security needs at the member(s) residence or travel to and from the proceedings, when the involved member chooses to attend the hearing.