

Officer-Involved Shootings and Deaths

309.1 PURPOSE AND SCOPE

This policy establishes procedures for managing an incident in which the use of force by a peace officer results in death, substantial bodily harm, or great bodily harm or, a person dies or receives great bodily harm while in-custody.

309.1.1 DEFINITIONS

- (a) Evanescent evidence – Physical evidence that may be degraded or tainted by human or environmental factors if left unprotected or unpreserved for the arrival of the independent investigative team (IIT); identification and contact information for witnesses to the incident; photographs and other methods of documenting the location of physical evidence and location/perspective of witnesses.
- (b) 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.
- (c) 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.
- (d) In-Custody death - The death of any person who is detained, arrested, en route to incarceration, or incarcerated in local facilities. Excluded are deaths caused by fatal injuries that occur while an inmate is under physician's treatment for a disease or other natural condition, except those deaths involving custodial trauma or custodial suicide while under a physician's treatment are considered In-Custody Deaths.
- (e) Independent investigative team (IIT) – A team of qualified and certified peace officer investigators and civilian support staff, including, but not limited to crime scene technicians and analysts. 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 region. A single law enforcement agency may fulfill the independent investigative function, provided it is not the involved agency.
- (f) Involved officer - An officer, who in the performance of their duties:
 - 1. Uses force that results in death, substantial bodily harm, or great bodily harm; or,
 - 2. Uses force that would likely result in death, substantial bodily harm, or great bodily harm; or,
 - 3. In whose custody a person dies or receives great bodily harm.
- (g) Non-law enforcement community representatives – Community members selected by this agency to participate in the IIT as delineated in WAC 139-12.
- (h) 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.

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309.2 TYPES OF INVESTIGATIONS

Incidents during which an officer's use of force results in death, substantial bodily harm, or great bodily harm, or a person dies or receives substantial bodily harm or great bodily harm while in-custody, will result in a criminal investigation and an internal investigation or use-of-force review.

- (a) Independent Investigation: The Sheriff or designee will request an independent criminal investigation be conducted by either an uninvolved agency or an Independent Investigative Team (IIT) to determine whether the use of deadly force met the good faith standard established in RCW [9A.16.040](#) and satisfied other applicable laws.
- (b) Internal Investigation / Use-of-Force Review: An internal investigation / use-of-force review will be conducted to determine whether the use of deadly force was in compliance with Kitsap County Sheriff's Office policy. This investigation / review will be conducted in accordance with the provisions of the Use of Force Review policy.
- (c) Criminal Investigation: If the use of deadly force occurred during another criminal investigation (e.g. bank robbery, homicide), determination of which agency or IIT will investigate the underlying crime will be made by agreement between the chief law enforcement officers of the affected agencies and applicable IIT commanders. A primary factor in that determination will be the degree of separation, by time and distance, of the underlying crime from the use of deadly force.

309.3 INITIAL ON SCENE DUTIES

309.3.1 DUTIES OF INVOLVED OFFICER

The involved or other on-scene officers should complete the following duties if reasonably possible under the circumstance:

- (a) Immediately notify CenCom and the supervisor to obtain additional resources.
- (b) Render first aid to any injured parties. Call for paramedics as required.
- (c) Direct back-up units as necessary.
- (d) Protect the scene and any evanescent evidence. No items, including involved vehicles, should be moved or have their condition altered unless authorized.
- (e) Provide a public safety statement to a supervisor.
- (f) Protect weapon(s) for examination.
- (g) Remain on scene until properly relieved.
- (h) Do not discuss or reveal the details of your involvement, or your factual observations, in accordance with Policy 309.4.1 – COMMUNICATION WITH INVOLVED OFFICERS.

309.3.2 UNINVOLVED OFFICERS RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved KCSO deputy or corrections officer will be the deputy-in-charge and will assume the responsibilities of a supervisor until properly relieved. This deputy or corrections officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.

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- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

309.3.3 DUTIES OF ON SCENE SUPERVISOR

Upon arrival at the scene of an officer-involved use of deadly force or in custody death, the first uninvolved supervisor should:

- (a) Take command of the scene until relieved.
- (b) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
- (c) Before activating the IIT, contact a lieutenant or Chief.
- (d) Obtain a briefing from any uninvolved or witness officer(s) who were present.
- (e) Obtain a public safety statement from the involved officers. See Policy 309.3.4 - PUBLIC SAFETY STATEMENT.
- (f) Issue an administrative order not to discuss or reveal the details of the officer's involvement, or factual observations, through conversation or other means, with any other person, except as allowed under policy 309.4.1 - COMMUNICATION WITH INVOLVED OFFICERS. This order should be followed up in writing by a member of the command staff.
- (g) Using information obtained in the public safety statement, take appropriate actions to:
 - 1. Identify likely bullet trajectories and determine if there are secondary victims.
 - 2. Locate and protect evidence.
 - 3. Coordinate search for outstanding suspects.
- (h) Establish an inner and outer perimeter and ensure these perimeters are secured by proper placement of crime scene tape. No one should enter the crime scene other than medical personnel rendering aid or IIT personnel.
- (i) Ensure a crime scene log is established and maintained. Assign at least one officer to guard each crime scene and keep a log of everyone entering and leaving the scene.
- (j) Ensure the involved officer(s) secures their weapons until surrendered to investigators. There is no need to remove the officer's weapon publicly on scene.
- (k) Identify and separate witnesses, including witness officers.
- (l) Identify any individual(s) with potential gunshot residue and take the appropriate steps to preserve this evidence.
- (m) Ensure that all uninvolved officers, including witness officers, not directly involved in the incident complete their reports.
- (n) Assign an uninvolved officer to each person transported to the hospital.

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- (o) Brief IIT personnel once they arrive on scene. The briefing should include any information voluntarily provided by involved officers as part of the Public Safety Statement.

309.3.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable (If a corrections officer is involved, notification shall include the Corrections chain of command):

- Patrol Lieutenant (By responding Patrol Sergeant)
- Patrol Division Chief (By Patrol Lieutenant)
- Detective Lieutenant (By Patrol Lieutenant)
- Detective and Support Services Division Chief (By Detective Lieutenant)
- Undersheriff (By Division Chief's)
- Sheriff (By Undersheriff)
- Outside agency investigators (if appropriate and by the Incident Commander)
- Office of Professional Standards (By Incident Commander)
- Psychological/peer support personnel
- Chaplain
- Coroner (if necessary)
- Involved officer's bargaining representative
- Public Information Officer

309.3.5 PUBLIC SAFETY STATEMENT

The purpose of this statement is to provide sufficient information to apprehend the suspect(s), identify and protect evidence and to check on the safety of the public. The Department recognizes and anticipates that the stress of the incident, combined with the cognitive demands imposed on the participants as a function of their active role, may impair recall. Those evaluating the incident after the fact should be mindful of the potential for naturally-occurring memory gaps and inconsistencies, particularly for those who were immersed in the incident.

The supervisor will request voluntary answers to the public safety statement questions from involved officers. Involved officers may choose to answer some or all questions voluntarily. If the involved officers decline to provide voluntary answers to any of the public safety statement questions, the supervisor will administratively order involved officers to provide answers to those public safety statement questions. Involved officer(s) should not be interviewed at the scene other than to gather the public safety statement, which should be limited to the following:

- (a) What was your location when you fired?
- (b) In what direction did you fire?

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- (c) If you know of anyone who is injured? What is their location?
- (d) What is the location of any other involved parties?
- (e) Are there any outstanding suspects? If the answer is "Yes", ask (i) through (v):
 - 1. What is their description?
 - 2. What is their direction of travel?
 - 3. How long have they been gone?
 - 4. What crime(s) are they wanted for?
 - 5. What weapons are they armed with
- (f) Is there any evidence that needs to be protected, where is it located?
- (g) Are you aware of any witnesses??

Supervisors will note whether answers were provided voluntarily or after being ordered. Voluntary answers may be provided to the independent investigation team. Compelled answers will not be provided to the independent investigation team. Supervisors should immediately act on information provided during the public safety statement to check on the safety of others, attempt to apprehend the suspect and protect evidence.

309.3.6 WITNESS IDENTIFICATION

Supervisors should take steps to identify witnesses, including those who claim not to have witnessed the incident but who were present at the time it occurred. Any potential witness who is unwilling or unable to remain available for a formal interview by the IIT should not be detained absent reasonable suspicion to detain or probable cause to arrest. Witness information should be provided to IIT personnel upon their arrival at the scene

309.4 HANDLING INVOLVED OFFICERS

As soon as they are no longer needed at the scene, involved officers shall be transported separately to a neutral location. The involved officer(s) shall remain dressed and equipped as they were during the incident. Their uniform and equipment may be examined and collected by the investigators. Care should be taken to preserve the integrity of any physical evidence present on the officer, equipment or clothing (e.g., blood, fingerprints, etc.) until IIT investigators can properly collect it. All reasonable accommodations to care for the officer's physical and emotional needs should be taken.

309.4.1 COMMUNICATION WITH INVOLVED OFFICER(S)

Following the public safety statement, each involved officer will be given the following administrative order:

"In order to protect the integrity of this investigation, I am ordering you not to discuss or reveal the details of your involvement, or your factual observations, through conversation or other means, with any other person, excepting:

- (a) Investigators assigned to this investigation and,

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- (b) Authorized persons with whom communication is privileged under RCW 5.60.060.

This order remains in effect until:

- (a) It is rescinded by me or my designee, or
- (b) the report of the independent investigations team has been submitted to the Prosecuting Attorney's Office for review."

No involved officers will be permitted to meet collectively with a counselor or in a group prior to providing a formal statement to IIT investigators or until such time as the independent investigative team's report has been submitted to the Prosecutor's Office.

Communications with guild representatives are not privileged. Any statements made by an involved officer to a guild representative about the details of the incident may be required to be divulged in state or federal court proceedings.

Discussions with licensed attorneys are considered privileged as attorney client communications, however, no involved officers shall be permitted to meet collectively with an attorney prior to providing a formal statement.

309.4.2 FAMILY NOTIFICATIONS

Arrangements should be made to notify the involved officer's family as soon as possible. The involved officer should make the notification if at all possible. An open line of communication should be established between the officer's immediate family and a member of the sheriff's office, who will remain available to answer questions and to see to any reasonable needs of the family.

309.4.3 COMPANION OFFICER

As soon as resources permit, each involved officer should be provided with a companion officer who was not involved in the incident. The companion officer's duties include:

- (a) Driving the involved officer to the designated location.
- (b) Remaining with the involved officer until relieved but should not be present during privileged communications.
- (c) Ensuring the involved officer is isolated from other personnel involved in the incident.
- (d) Ensuring the involved officer does not discuss the incident.
- (e) Maintaining a log of persons who visit the involved officer.
- (f) Attending to needs of the involved officer.

309.4.4 INVOLVED FIREARMS

When an officer's firearm is collected by IIT investigators, or left at the scene (e.g., evidence), the officer will be provided with a replacement firearm unless the circumstances reasonably preclude replacement. Absent a compelling need, the firearm should not be taken from the officer at the scene.

Injured involved officers taken to a hospital should have their belt, holster, and weapon secured for examination and collection by IIT investigators.

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All weapons, including back-ups, in the possession of the involved officer at the time of the incident should be secured for examination and collection by IIT investigators, even if not used.

309.4.5 RELIEF OF DUTY / ADMINISTRATIVE LEAVE

Any involved officer shall be relieved from duty and placed on administrative leave. This assignment to administrative leave is not disciplinary and does not imply the officer acted improperly. The purpose of this relief from duty is to:

- (a) Protect officers who have not exceeded the scope of their authority from possible confrontations with the community;
- (b) Protect the community's interest when officers may have exceeded the scope of their authority in the use of deadly force and;
- (c) Provide the involved officer with a reasonable recuperation period prior to clearance for return to full duty.

The officer will generally remain on administrative leave until cleared by criminal and internal investigations and a psychologist or psychiatrist determines that the employee is able to return to regular duty. The Sheriff may assign involved officers to desk duties prior to return to full duty.

The Sheriff may return an involved officer to their regularly assigned duty prior to the completion of criminal and internal proceedings on a case-by-case basis when:

- (a) There is a clear and objective basis for the Sheriff to believe that the officer did not exceed the scope of their authority in the use of deadly force and,
- (b) Careful consideration is given to interests of, and impacts to, the community, the Department and the officer by the return to full duty.

While on administrative leave, the officer will remain available for interviews and statements, at times designated by the Sheriff or designee.

309.4.6 PEER SUPPORT

The involved officer will be offered a peer supporter to provide emotional and logistical support following the incident. Involvement with peer support is voluntary.

Communications between the peer supporter and the involved officer are privileged under Washington State law. There may be circumstances where communications with peer support is not recognized as privileged under Federal law. The peer supporter must be designated as such prior to the incident that results in counseling. The privilege only applies when the communication was made to the peer supporter while acting in his or her capacity as a peer supporter. The privilege does not apply if the peer supporter was an initial responding officer or firefighter, a witness, or a party to the incident which prompted the delivery of peer support services (RCW 5.60.060).

Employees experiencing emotional stress may initiate contact with a peer supporter at any time.

309.5 OFFICER INVOLVED USE OF DEADLY FORCE - CRIMINAL INVESTIGATION

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309.5.1 INVESTIGATING AGENCY

The Department participates in the Kitsap Critical Incident Response Team (KCIRT), a multi-jurisdictional IIT formed to investigate officer involved incidents which result in death, substantial bodily harm, or great bodily harm. The Sheriff may select KCIRT, another IIT, or uninvolved law enforcement organization to investigate the incident.

309.5.2 OFFICER STATEMENTS

Besides the public safety statement, involved officers should be provided with reasonable recovery time before meeting with investigators or providing statements. This can range from a minimum of overnight to 48 hours but may be extended on a case-by-case basis.

Involved officers may consult individually with legal counsel of their choosing prior to speaking with investigators or providing statements. In order to maintain the integrity of the investigation, involved officers shall not consult or meet with an attorney collectively or in groups prior to being interviewed or providing a statement to IIT investigators.

The involved officers will be afforded all constitutional rights during the criminal investigation.

IIT Investigators will generally request a voluntary report or statement from the involved officer. Involved officers will not be ordered to provide statements or reports without approval from the Sheriff or designee. In the event a statement is compelled from an involved officer as part of an administrative investigation, members are prohibited from providing the compelled statement, or any of the investigative fruits from such compelled statements, to any member of the IIT.

Witness and uninvolved officers are required to provide necessary reports and/or statements.

309.5.3 INFORMATION FIREWALLS

Apart from the initial information exchange when transferring responsibility of the scene to IIT investigators, no member of this Department will discuss the investigation with, receive information or materials from, or provide information or material to, a member of the IIT without approval of the Sheriff or designee. The Sheriff or designee will not approve of such an exchange without first consulting the IIT incident commander. Any unauthorized information that is shared or received shall immediately be reported to the Sheriff or designee and the IIT commander

309.6 AUDIO AND VIDEO RECORDINGS

Any known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the IIT investigator and the prosecutor's office as appropriate. The Sheriff may request that the IIT release video or other investigation information of urgent public interest.

Any officer involved in a shooting or death may be permitted to review available Mobile Audio Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

309.7 POST INCIDENT OFFICER CARE AND RETURN TO DUTY

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309.7.1 PSYCHOLOGICAL WELLNESS AND FITNESS FOR DUTY

A licensed psychotherapist shall be provided by the Department to each involved KCSO deputy or corrections officer. A licensed psychotherapist may also be provided to any other affected KCSO members, upon request.

- (a) Interviews with a licensed psychotherapist will be considered privileged.
- (b) A separate fitness-for-duty exam may also be required.
- (c) An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members 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, except when participating in a Critical Incident Stress Debrief. Any statements made by the involved officer during a Critical Incident Stress Debrief will be confidential for non-criminal information but may not be privileged for the purpose of a criminal investigation.

309.7.2 FIREARMS TRAINING

If the officer has been issued a replacement firearm, the officer will complete a training session at the range with an instructor in order to ensure familiarization and that the replacement weapon is in good working order

309.8 TACTICAL DEBRIEF

A tactical debriefing should take place to identify any training, equipment or areas of policy that need improvement. The Sheriff should identify the appropriate participants.

309.9 TRIBAL NOTIFICATION

If the person against whom deadly force is used is believed to be a member of a federally recognized tribe, the Department will notify the governor's office of Indian affairs (GOIA) in accordance with RCW 10.114.021.

309.10 SELF-DEPLOYMENT

After the initial response to and stabilization of the scene of a use of deadly force by a member of this Department, employees shall not self-deploy or engage in investigative activities, including database searches, without authorization from the IIT commander.

309.11 NON-LAW ENFORCEMENT COMMUNITY REPRESENTATIVES

RCW 10.114.011 established an independent investigation requirement when an officer uses deadly force that results in death, substantial bodily harm, or great bodily harm. The criteria for an independent investigation, as established by WAC 139-12, requires that at least two non-law enforcement community representatives be assigned to the IIT.

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309.11.1 COMMUNITY REPRESENTATIVE SELECTION

The chiefs and sheriff who participate in the regional IIT team shall create a roster of individuals willing to serve in the capacity of a community representative. These community representatives must have credibility with, and ties to, communities impacted by police use of deadly force.

When a member of this department uses deadly force that results in death, substantial bodily harm, or great bodily harm to another, the Sheriff will select two non-law enforcement community representatives from the established roster to participate on the IIT for that investigation. The names of the non-law enforcement community representatives on the IIT will be available to the public.

Each non-law enforcement community representatives must sign a binding confidentiality agreement at the beginning of each investigation in accordance with WAC 139-12. The binding confidentiality agreement remains in effect until the Prosecutor either declines to file charges or the criminal case is concluded.

309.11.2 COMMUNITY REPRESENTATIVE DUTIES

Non-law enforcement community representatives on the IIT will:

- (a) Have access to the investigation file when it is completed.
- (b) Be provided a copy of all press releases and communication to the media prior to release.
- (c) Review notification of equipment use of the involved agency.