

SDFIT Recommendations Workbook

Improving Internal Investigations and Establishing External Investigations

1. Who conducts the investigations?
2. What are the investigators' minimum qualifications and training requirements?
3. Who identifies and/or collects evidence? What are their minimum qualifications and training requirements?
4. Who oversees (supervises) investigations and what does it entail?
5. Who provides oversight (reviews) investigations? What does it entail?
6. What requirements related to investigations are in policy or law?
7. What happens outside of, but related to, investigations to improve the process as a whole?
8. How does the process control for bias and conflict of interest?
9. How can the investigation and related processes be more helpful and least harmful to the families involved?
10. What are statewide strategies to continuously improve investigations of serious and deadly uses of force?

1. Who conducts the investigations?

A. Current Practice

The Seattle Police Department's (SPD) Force Investigation Team (FIT) conducts investigations of serious uses of force including officer-involved shootings. FIT consists of a captain, lieutenant, sergeant, and six detectives.

B. Options for Consideration

With Internal Investigations

- i. Seattle Police Department – *See current practice above.*
- ii. A hybrid team of SPD and civilian investigators
- iii. Other

With External Investigations

- i. A hybrid team of sworn officers and civilian investigators
- ii. Another law enforcement agency

Example: In Wisconsin, at least two independent investigators are required to conduct the investigation of any officer-involved death. Investigators may not be employed by the same agency as the officer involved in the incident. The department of the officer involved chooses the agency that investigates the incident.¹

- iii. A multiagency taskforce

Example: The Snohomish County Multiple Agency Response Team (SMART) is a team of investigators, evidence technicians, records specialists, and public information officers from various Snohomish County law enforcement agencies and Washington State Patrol who respond to and investigate police use of force incidents.²

- iv. A state-level law enforcement agency

Example: In Wisconsin, most investigations are conducted by the Wisconsin Department of Justice's Division of Criminal Investigation (DCI) which employs sworn law enforcement officers to enforce state laws. DCI's capacity and resources to manage these incidents exceeds that of most local law enforcement agencies in Wisconsin.³

¹ Wisconsin Statute § 175.47: <https://docs.legis.wisconsin.gov/statutes/statutes/175/47>

² Snohomish County, Washington, "SMART Investigations," <https://snohomishcountywa.gov/4008/SMART-Investigations>. Accessed: July 2018.

³ Wisconsin Department of Justice, "Officer Involved Critical Incident": <https://www.doj.state.wi.us/dci/officer-involved-critical-incident>

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v. A civilian agency

Example: In Ontario, the Special Investigation Unit (SIU) is a civilian law enforcement agency, which is independent of the police, investigates incidents involving the police that have resulted in death, serious injury, or allegations of sexual assault. The unit consists of roughly 85 staff members and its investigators come from areas such as national security and intelligence, immigration, the legal profession, workplace health and safety, and professional regulation.⁴

vi. Prosecutor or special prosecutor

Example: In Connecticut, a special prosecutor or a prosecutor from a different judicial district is required to investigate and they work with the Connecticut State Police to process the scene and conduct an investigation.⁵

vii. State Attorney General's Office

Example: In New York, in matters relating to the deaths of unarmed civilians caused by law enforcement officers, the State Attorney General (AG) acts as a special prosecutor and is required to conduct a full, reasoned, and independent investigation. The AG works with its own Special Investigations and Prosecutions Unit which is staffed with experienced prosecutors, investigators, and a community liaison.⁶

viii. Other

⁴ Special Investigations Unit, "The Unit," <https://www.siu.on.ca/en/unit.php>

⁵ General Statutes of Connecticut, Sec. 51-277a: http://search.cga.state.ct.us/r/statute/dtsearch_form.asp

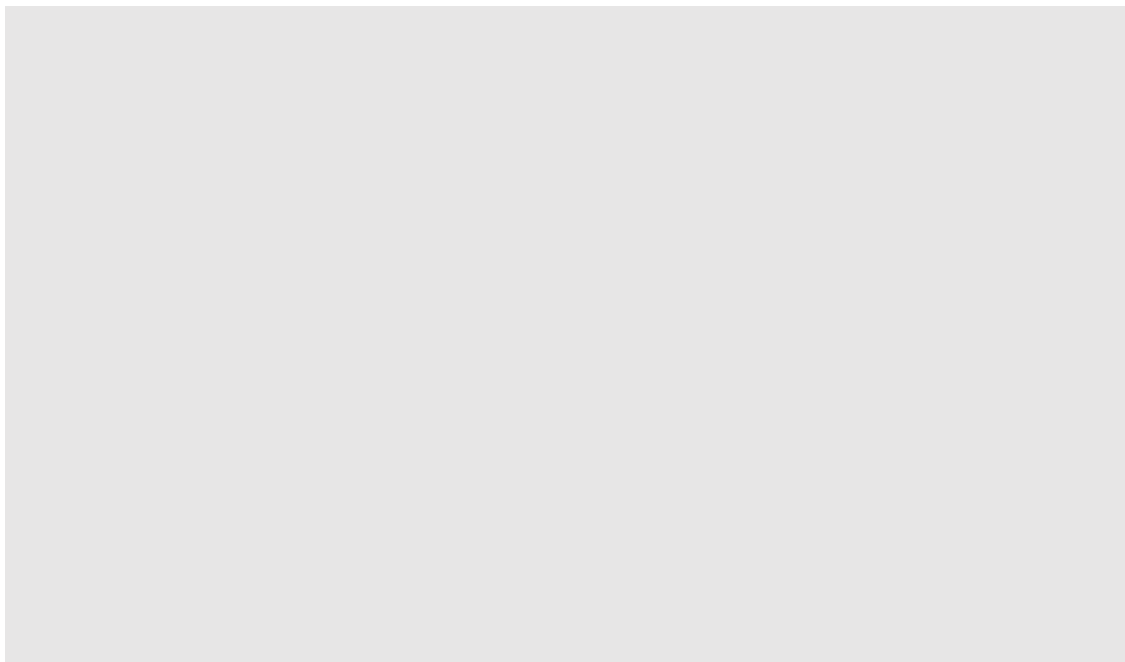
⁶ New York State, "Governor Cuomo Signs Executive Order Appointing NYS Attorney General as Special Prosecutor in Cases Where Law Enforcement Officers Are Involved in Deaths of Civilians," : <https://www.governor.ny.gov/news/governor-cuomo-signs-executive-order-appointing-nys-attorney-general-special-prosecutor-cases>

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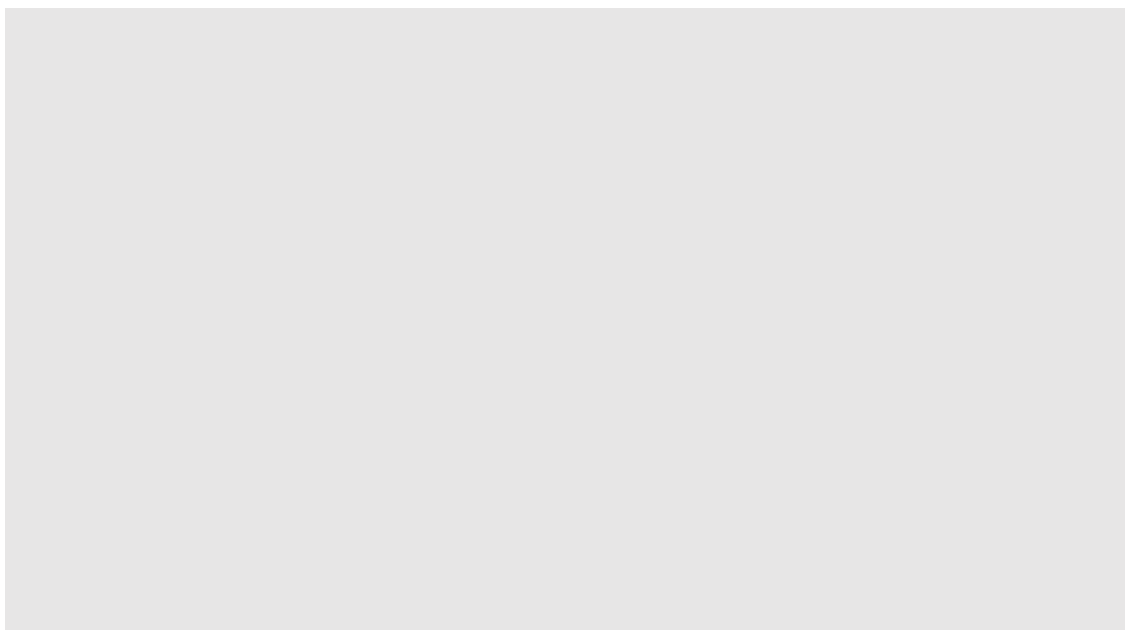
C. Taskforce Recommendation(s)

Who conducts the investigations?

With Internal Investigations

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With External Investigations

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2. What are the investigators' minimum qualifications and training requirements?

A. Current Practice

The Seattle Police Department's Force Investigation Team (FIT) has received intense training specific to investigation of use of force incident including training on evidence law. Some officers have homicide investigative experience. All officers on FIT have undergone 720 hours of Basic Law Enforcement Academy which includes 66 hours on criminal investigations.

B. Options for Consideration

With Internal and External Investigations

- i. Use of force investigation training
- ii. Training on evidence law
- iii. Death and homicide investigative training
- iv. Decolonization and antiracism training
- v. Other

C. Taskforce Recommendation(s)

With Internal Investigations

With External Investigations

3. Who identifies and/or collects evidence? What are their minimum qualifications and training requirements?

A. Current Practice

The Seattle Police Department’s Force Investigation Team (FIT) works with SPD’s Crime Scene Investigation team (CSI) to collect evidence.

B. Options for Consideration

With Internal Investigations

- i. SPD’s Force Investigation Team with CSI – *See current practice above.*
- ii. Civilian crime scene personnel within SPD

Example: In Los Angeles, criminalists, or civilian crime scene staff, collect all evidence related to officer-involved shootings. Criminalists are part of the LAPD Scientific Division and therefore are not supervised by the investigative team.⁷

- iii. Other

With External Investigations

- i. Civilian crime scene personnel outside of SPD
- ii. Another law enforcement agency
- iii. Other

C. Taskforce Recommendation(s)

With Internal Investigations

With External Investigation

4. Who oversees (supervises) investigations and what does it entail?

⁷ Call with Los Angeles Office of the Inspector General, July 2018

A. Current Practice

The FIT Captain supervises investigations. OPA monitors FIT investigations for objectivity and thoroughness. If and when misconduct is identified, the case is referred to OPA for investigation and disposition.

B. Options for Consideration

With Internal and External Investigations

Oversight Body

- i. Civilian/community person or board external to SPD

Example: In Hawai'i, the Law Enforcement Officer Independent Review Board consists of nine members: a deputy attorney general, four former prosecuting attorneys from Hawaii's four counties, a retired justice or judge, a former law enforcement leader, and two community members who do not have law enforcement or criminal justice experience.

The Board reviews investigations of incidents and makes recommendations on whether to prosecute, decline prosecution, or conduct further investigation. The Board's recommendations are not binding upon the prosecuting attorney.⁸

- ii. Other

Oversight Functions

- i. Supervise the investigation.
- ii. Determine whether further investigation is necessary.
- iii. Provide feedback throughout the investigation.
- iv. Other

Example of i-iii: In Los Angeles, at the 30-day mark of an investigation, the investigating detectives meet with the Assistant Inspector General (IG) to go over all of the investigative steps taken. The Assistant IG gives specific input on what's missing, and what they'd like to see done in the investigation. Once the investigation is complete, the Office of the Inspector General (OIG) annotates the investigation report and the annotated report becomes the investigation report.⁹

⁸ Hawaii Revised Statutes §28-151 through §28-153: https://www.capitol.hawaii.gov/hrscurrent/Vol01_Ch0001-0042F/HRS0028/HRS_0028-0153.htm

⁹ Call with Los Angeles Office of the Inspector General, July 2018

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C. Taskforce Recommendation(s)

With Internal Investigations

With External Investigations

5. Who provides oversight (reviews investigations) and what does review entail?

A. Current Practice

The Office of Police Accountability (OPA), Office of the Inspector General (OIG), and the Community Police Commission (CPC) provide oversight.

OPA: The OPA has access to the incident scenes and has the authority to observe and review all administrative investigation processes at SPD. OPA representatives may attend and participate in SPD administrative investigation unit interviews and meetings held to review Force Investigation Team information or discuss the incident. OPA may participate in SPD administrative investigation unit interviews and may issue a subpoena at any stage in an investigation.

OIG: The OIG has access to the incident scenes and reviews SPD handling of incidents which may include auditing, monitoring, or other review of SPD's administrative investigations or reviews of incidents. OIG representatives may attend and participate in SPD administrative investigation unit interviews and meetings held to review Force Investigation Team information or discuss the incident.

CPC: The CPC has the authority to review closed cases.

B. Options for Consideration

With Internal and External Investigations

Oversight Body

- i. OPA – *See current practice above.*
- ii. OIG – *See current practice above.*
- iii. CPC – *See current practice above.*
- iv. Civilian/community board - *See Hawai'i example in Question #4.*
- v. Civilian auditor with community trust
- vi. State-level agency
- vii. Other

Oversight Functions

- i. Review the investigation once complete – *See current practice above.*
- ii. Review all investigations statewide to identify possible changes to policy and training and to establish standard investigative procedures.
- iii. Consult with outside civilian investigators to ensure investigations are sound.

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iv. Other

C. Taskforce Recommendation(s)

With Internal Investigations

With External Investigations

6. What requirements related to the investigations are in policy or law?

A. Current Practice

Timeline: In Seattle, SPD has 180 days from the moment OPA learns of a potential misconduct to discipline an officer. The 180-day requirement serves as a de facto deadline for investigating and disciplining an officer.

B. Options for Consideration

With Internal and External Investigations

i. Timeline

Timelines for investigations varied significantly across the jurisdictions the Taskforce reviewed, from an average of 4 months to investigations that take 2 years or more. In Alameda County, California, one probe was recently found to have taken ten years to complete.¹⁰ The jurisdictions reviewed by the Taskforce did not have pre-established deadlines in policy or law.

ii. Investigative Reports

In its research, the Taskforce learned that not all jurisdictions release investigative reports or aggregate information about investigations to the public. In the spirit of transparency, certain jurisdictions, such as Wisconsin, required the release of investigative reports under certain circumstances. Los Angeles Police Department publishes an annual Use of Force Year-End Review which reports on out-of-policy adjudications for use of force. In 2016, for example, 6 of 43 lethal uses of force were found to be out of policy.¹¹

iii. Consequences for not conducting thorough investigations

Example: In New York, a district attorney was indicted for perjury and official misconduct, accused of lying to a grand jury on a case involving a shooting of an unarmed man. The case was dismissed by a state judge.¹²

iv. Other

¹⁰ Seattle PI, "California DA's fatal police shooting probe took 10 years," <https://www.seattlepi.com/news/crime/article/California-DA-s-fatal-police-shooting-probe-took-13186446.php>

¹¹ Los Angeles Police Department, "Use of Force Year-End Review," 2017: <http://assets.lapdonline.org/assets/pdf/2017UseofForceYear-EndReview-1-compressed-3.pdf>

¹² New York Times, "Charges Dismissed Against District Attorney in Police Shooting Inquiry": <https://www.nytimes.com/2018/06/13/nyregion/police-shooting-troy-abelove.html>

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C. Taskforce Recommendation(s)

With Internal Investigations

With External Investigations

7. What happens outside of, but related to, investigations to improve the process as a whole?

A. Current Practice

The FIT identifies gaps in policy and training throughout its investigations. The Force Review Board (FRB) analyzes the investigative report and determines whether the officer involved violated SPD policy. If the FRB determines the officer violated policy, it refers the case to OPA, which conducts its own administrative investigation. The Chief of Police determines discipline for the officer. The OPA recommends whether or not to charge the officer to the Office of the Prosecuting Attorney.

B. Options for Consideration

With Internal and External Investigations

- i. The City assembles a group to objectively assess the incident only for potential policy and training revisions to mitigate future incidents.

Example: "When bad things happen in a complex system, the cause is rarely a single act, event or slip-up. More often, bad outcomes are 'sentinel events.'" In medicine, aviation, and other high-risk enterprises, sentinel event reviews are routinely to identify system flaws and address them to become more reliable and instill public confidence.¹³

Sentinel event reviews are based on the following underlying principles:

1. *It is nonblaming.*
2. *All stakeholders – system-wide – are involved in the review.*
3. *It is an ongoing, routine practice.¹⁴*

- ii. Create a long-term strategic plan for preventing and addressing officer-involved shootings.

The City would convene monthly meetings with community-based organizations to collaborate with community in developing a strategic plan for preventing and addressing officer-involved shootings.

C. Taskforce Recommendation(s)

¹³ National Institute of Justice, "NIJ's Sentinel Events Initiative," <https://bit.ly/2ML2T3Z>. Accessed September 2018.

¹⁴ *Ibid.*

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With Internal Investigations

With External Investigations

8. How does the process control for bias and conflict of interest?

A. Current Practice

See #5 above for current oversight of serious and deadly use of force investigations.

B. Options for Consideration

With External Investigations

- i. Require investigators to disclose any relationships they may have had with officers involved in a shooting.

Example: Wisconsin adopted this guideline to control for conflicts of interest. In one case, the assigned investigators were found to be formerly employed by the police department of the involved officer.¹⁵

- ii. Other

C. Taskforce Recommendation(s)

With Internal Investigations

With External Investigations

¹⁵ Badger Herald, "Evaluating investigations of deadly police shootings two years after Robinson," <https://badgerherald.com/features/2017/03/14/robinson/>

9. How can the investigation and related processes be more helpful and least harmful to the families involved?

A. Current Practice

The FIT identifies gaps in policy and training throughout its investigations. The Force Review Board (FRB) analyzes the investigative report and determines whether the officer involved violated SPD policy. If the FRB determines the officer violated policy, it refers the case to OPA, which conducts its own administrative investigation. The Chief of Police determines discipline for the officer. The OPA recommends whether or not to charge the officer to the Office of the Prosecuting Attorney.

B. Options for Consideration

With Internal and External Investigations

- i. Investigative body is transparent and communicative with the public and with families involved.

Example: In New York, members of the public reported seeing an unprecedented level of transparency regarding investigations. Community advocates said that the AG issued detailed reports, communicated frequently with families involved, and issued recommendations.¹⁶

In Wisconsin, investigators are required by statute to release the report submitted to the district attorney to the public if the district attorney declines to prosecute.¹⁷

- ii. Provide financial, mental health, and spiritual support for families of victims of officer-involved shootings, mental health support, spiritual support.

The Taskforce heard from officers about the significant support they receive in the aftermath of a serious incident, including mental health support and frequent phone calls. Families of people who are injured or killed as a result of use of force often do not have access to such services or support. Creating a compensation fund to help support families of those involved in serious and deadly uses of force would ensure that these individuals receive support.

¹⁶ Gotham Gazette, "How Cuomo's Special Prosecutor Order Is Playing Out": <http://www.gothamgazette.com/state/6778-while-cuomo-s-special-prosecutor-order-continues-calls-for-permanency-remain>

¹⁷ Wisconsin Statute § 175.47: <https://docs.legis.wisconsin.gov/statutes/statutes/175/47>

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- iii. Provide support by making information about the investigation process accessible to involved people and to communities.

After experiencing a trauma such as losing a loved one to use of force, families must also navigate a highly complex and technical investigative process. Making information highly accessible, such as creating brochures that explain the investigative process and explain the rights of family members, etc., may ease the process for families. Making information about the investigative process highly accessible for the broader public may help instill confidence in the investigation process.

- iv. Revisit SPD's media policy following high-profile events to ensure victims of serious and deadly uses of force are not disrespected in media.

C. Taskforce Recommendation(s)

With Internal Investigations

With External Investigations

10. What are statewide strategies to continuously improve investigations of serious and deadly uses of force?

A. Current Practice

There are currently no statewide standards.

B. Options for Consideration

With Internal and External Investigations

- i. Create statewide baseline standards for investigations.

The lack of statewide standards can mean that an investigation conducted by one law enforcement agency may differ drastically from an investigation conducted by another due to the differences in capacity, resources, skills, and expertise.

- ii. Create and maintain a statewide repository for data and reports related to investigations of serious and deadly uses of force.

In order to facilitate identifying potential improvements to investigations statewide, there is a need for access to statewide reports and data. Access to such information would allow researchers, advocates, and others to assess for gaps and propose reforms.

C. Taskforce Recommendation(s)

With Internal Investigations

With External Investigations