



# Serious and Deadly Force Investigation Taskforce

Report of recommendations | September 2019



The Serious and Deadly Force Investigation Taskforce was convened and staffed by the Seattle Community Police Commission. Seattle CPC Interim Policy Director Karen Chung authored this report.



# Serious and Deadly Force Investigation Taskforce

On November 6, 2018, Washington state voters approved Initiative 940 (I-940)—the Law Enforcement Training and Community Safety Act. I-940 and House Bill 1064, a subsequent bill enacted to clarify elements of I-940, requires that an independent investigation be completed in cases where a use of force results in death, substantial bodily harm, or great bodily harm. These measures revised the “good faith” standard in the Revised Code of Washington (RCW) 9A.16.040 by removing the “malice” clause and adding an objective standard. The “malice” clause has been called a de facto immunity because it was essentially impossible to charge a police officer under the earlier law. Prior to the enactment of I-940, in June 2017, the City of Seattle enacted historic legislation to strengthen its police accountability system. At the same time, the City adopted a companion resolution that, among other provisions, mandated the Community Police Commission

(CPC) to “convene meetings with and lead stakeholders in assessing the feasibility of establishing mechanisms to use investigation and review processes wholly external to SPD for cases involving serious and deadly uses of force, and provide any recommendations adopted by the stakeholder group to the Council for consideration.” To fulfill this mandate, the Community Police Commission convened the Serious and Deadly Force Investigation Taskforce.

Although the Taskforce was initially charged to assess the feasibility of external, independent investigations of serious and deadly uses of force in Seattle, the Taskforce’s scope of work changed after I-940 was enacted, which required independent investigations by all law enforcement agencies statewide. The Taskforce refocused its efforts from assessing the feasibility of independent investigations to designing an ideal independent investigation model for the City of Seattle.

## Taskforce Members

The CPC selected the Taskforce’s members to be inclusive of a variety of experiences and perspectives from across Seattle. The goal of the CPC was to create a Taskforce which, as a collective, would have a balance of knowledge and expertise on best practices, technical expertise on SPD practices and local laws, a firm understanding of the community’s expectations and desires regarding issues related to serious and deadly uses of force, and demonstrated work relevant to investigations of uses of force. For

the purposes of the Taskforce, the term “community” is defined as communities who are most and disparately impacted by policing, uses of force, and officer-involved deaths. In Seattle, these communities include but are not limited to Black communities, Indigenous communities, and other communities of color. The Taskforce’s members represented various community groups across Seattle as well as former and current law enforcement officers and system partners of the Seattle Police De-



partment. The Taskforce was co-chaired by Jim Graddon, a former King County deputy sheriff and former Chief of the SeaTac Police Department, and André Taylor, a co-founder of Not This Time, a community organization with a mission to reduce fatal police shootings,

change the laws that govern the use of force, and rebuild trust between communities and the police. Biographies of Taskforce members can be found in Appendix I.

The Serious and Deadly Force Investigation Taskforce members are:



- Jim Graddon, formerly with King County Sheriff's Office and SeaTac Police Department (Co-Chair)
- André Taylor, Not This Time (Co-Chair)
- Emma Catague, Community Police Commission, Filipino Community of Seattle
- Gregg Caylor, Seattle Police Department
- Leslie Cushman, De-Escalate Washington
- Lisa Daugaard, Community Police Commission, Public Defender Association
- Kelly Harris, Seattle City Attorney's Office
- Lisa Judge, Office of the Inspector General
- Mark Larson, King County Prosecutor's Office
- Jim Maher, Council on American-Islamic Relations of Washington State
- Michelle Merriweather, Urban League of Metropolitan Seattle
- Andrew Myerberg, Office of Police Accountability
- Sweetwater Nannauck, Idle No More Washington
- Lorena Sepin, Safe Futures Youth Center



## Taskforce Meetings

Over the course of 2018 and 2019, the Taskforce held a total of nine meetings to learn about Seattle's current investigative processes, research investigation models in other jurisdic-

tions across the country, speak with community members and law enforcement officers, consult with experts, and develop recommendations.

### Meeting Dates

- April 9, 2018
- May 20, 2018
- June 14, 2018
- July 25, 2018
- September 20, 2018
- October 16, 2018
- January 28, 2019
- May 31, 2019
- August 16, 2019

## Values and Expectations

On September 20, 2018, the Taskforce adopted a set of values and expectations to inform its work and eventual recommendations. The Taskforce

unanimously agreed that any investigative model that the City of Seattle adopts should align with the following values and expectations.

### Values

**Trust:** Community and police have confidence in the investigations of police officers' serious and deadly uses of force. (Also: Credible)

**Clear:** The investigation process and reports are clear and consistent so that community and police understand them. (Also: Understandable)

**Fair:** The investigations are conducted in a manner that is impartial and is not biased against the police or the victim. (Also: Objective)

**Informative:** The investigations produce information that is useful for determining a finding or revealing the truth of a matter.

**High-Quality:** The investigations are of high caliber, and investigators utilize generally accepted investigative and evidentiary techniques.





**Respectful:** Investigators treat involved people, such as victims, suspects, witnesses, family members, and officers, with respect and dignity at the scene and throughout the investigation process, including adopting a response protocol that includes an immediate acknowledgement and recognition of the impact of the incident, a neutral stance, a clear commitment to conducting a full and fair investigation, and information concerning the type of investigation to be conducted and its timeline.

**Timely:** Investigations are conducted efficiently and effectively.

**Thorough:** Investigations are exhaustive, in which all relevant details and leads are examined.

**Transparent:** The community and police understand the investigation process and understands how to access information about each investigation such as investigation reports.

## Expectations

1. Investigators have expertise and experience in conducting high-profile, complex criminal investigations.
2. Investigators can and do respond to each incident promptly.
3. Investigators have sufficient capacity and resources to carry out high-quality, timely investigations.
4. Clear definitions and policies govern the investigations.
5. The investigation process protects against conflicts of interest and appearances of conflicts of interest.



# Collaborations with Community and Law Enforcement

## Meeting with Law Enforcement

On June 14, 2018, Captain Gregg Caylor invited four SPD officers to a Taskforce meeting to share their perspectives about the current investigation process. Of the attendees were two officers on the Force Investigation Team and two

officers in the Patrol Division. Officers shared their opinions on the strengths and weaknesses of the current investigation model, which the Taskforce took into consideration in shaping its final recommendations.

## Meeting with Families

On June 22, 2019, the Taskforce held a meeting with families of people who were killed by police to review draft recommendations and receive their input. The Taskforce prioritized meeting with and seeking feedback from people who have been or whose loved ones have been directly affected by a serious or deadly use of

force by police officers as they have first-hand experience with participating in investigations of serious and deadly uses of force. The Taskforce's final recommendations incorporate the family members' input and are supported by the family members who attended the meeting.

## Work with Consultants

The Taskforce identified the need to engage experts outside of the Seattle area, in the effort to control for bias toward or against Seattle's current investigative process, to inform its recommendations. The Taskforce consulted with the Los Angeles Police Department's Deputy Chief Kris Pitcher who developed a set of recommendations on investigative protocols. The Taskforce also consulted Communities United for Police Reform, a grassroots coalition in New

York that played a critical role in the design and implementation of New York state's independent investigative process. The work products of both consultants are attached as appendices to this report. The Taskforce submits these work products in Appendix III and IV of this report for Council's knowledge, with the caveat that the Taskforce has not accepted them as its own recommendations due to time constraints.





# Serious and Deadly Force Investigation Taskforce

## Recommendations

In August 2019, the Taskforce adopted the following set of recommendations to advance to the Seattle City Council. Each Taskforce member is not necessarily in complete agreement with every recommendation below, but the

Taskforce has discussed at length the overarching concepts encompassed in each recommendation and considers each recommendation to be important for Council's consideration.

### Prevention

#### 1 Conduct long-term strategic planning to prevent serious and deadly uses of force.

I-940 mandates that police officers receive training on de-escalation and alternatives to deadly force. It also requires police to be trained to provide mental health intervention and first aid. The Taskforce recommends that the City of Seattle convene a committee to conduct long-term strategic planning to determine additional ways to prevent serious and deadly uses of force. The committee should include family members of those killed by police, consider restorative justice approaches, and scrutinize what SPD requires of officers who are involved in a serious or deadly use of force before they return to work.

The work of the Taskforce to identify an ideal independent investigation model is not intended to replace the work that must be done to prevent and reduce serious and deadly uses of force by law enforcement officers. The Taskforce acknowledges that many of the recommendations in this report address a worst possible outcome—when an individual is grievously injured or killed by a police officer. These recommenda-

tions do not address the critical question of how serious and deadly uses of force could be prevented. Though answering this question was not part of the scope and focus of this Taskforce, answering this question should be a priority for the City.

In 2010, after the shooting death of John T. Williams by an SPD officer, Williams' family arranged a restorative circle to bring the family and SPD together to discuss the shooting and how to bridge the gap between Native Americans in Seattle and police. The result of the conversations between SPD and community members and leaders was an action plan, agreed upon by all participants, to improve training and build relationships between community and law enforcement to prevent unwarranted killings in the future. The City and SPD should revisit this action plan and work with community members to incorporate it into a comprehensive, long-term strategic plan to prevent and reduce the use of serious and deadly force by Seattle police officers.



## Assistance for Families

### **2 Create a fund to support for families and loved ones of the individual involved in the incident.**

The City of Seattle should create a fund and engage community organizations to provide financial support to families and loved ones of people who die as a result of a serious or deadly use of force. Regardless of the conduct or perceived culpability of the deceased or involved person, the family of the individual are innocent victims. In February 2018, King County Council unanimously voted to provide publicly funded legal counsel to families of police shooting victims during fact-finding hearings. At the time, Councilmember Jeanne Kohl-Welles stated, “Many of the families of individuals who are killed by a police officer don’t have a lot of money.”

Family members of people who die as a result of a serious or deadly use of force often turn to community members and community organizations to raise funds for costs associated with the death of their loved ones including costs for funerals, support for dependents, and grief counseling. The City of Seattle should create a fund for community organizations to provide financial assistance for family members who

die as a result of a use of force to be used for funeral costs, mental health counseling, crime scene clean-up, temporary relocation (if the use of force occurred at a residence), and associated medical costs. The City should also fund community organizations to conduct healing circles and utilize a restorative justice approach to address critical incidents. Doing so can help demonstrate that the City and its institutions are not biased in favor of law enforcement at the expense of the communities affected by the death, and thereby help foster trust in the investigative process itself.

Family members should not be expected to access these funds via the Seattle Police Department. The City of Seattle could consider providing these funds as grants to local, community organizations to disperse to family members and loved ones as needed. The process to receive funds should be as accessible as possible. For example, the process should avoid requiring multiple forms to be completed or allowing a very limited list of providers with which the funds can be used.

### **3 Make liaisons available to people impacted by a serious or deadly use of force and consult community members to develop accessible materials about the investigation process.**

Many community members regard bureaucratic institutions such as police departments and city government to be complicated and difficult to navigate. Members of the Taskforce heard from family members of people killed by police that the current investigation process is complex and confusing, and the difficulty in navigating the investigation process is exacerbated when deal-

ing with grief. Historically, when there has been an officer-involved death, community and family members have been unable to receive prompt answers to questions regarding the investigation process.

Members of the public and those directly impacted by serious and deadly uses of force by police have a right to a clear picture of the in-



vestigation process. The City or the independent investigative body should make available two types of liaisons to people subjected to a serious use of force, or their loved ones and family members, to guide them through the investigation process and advocate on their behalf. The City should make available a liaison who can provide information and guide the family through the department's investigative process. The City should also make available a liaison who is not affiliated with law enforcement. The two liaisons could work in concert to guide families and loved ones through the investigative process. Liaisons should be readily available to the people who ask for them to answer questions and provide information. They should be

culturally competent. The City could also create a pool of counselors with similar lived experiences by creating and funding a peer counseling program to train and make available counselors who have lost loved ones to police use of force. The City, working with the independent investigative body, should consult members of communities most disparately impacted by policing and develop materials that contain clear and accessible information about both the criminal and administrative investigation processes, inquest process, and court process. The materials should be available in languages other than English and should be available online and on paper.

#### **4 Require timely and regular communication with the family and loved ones of persons killed by police.**

A common criticism of the current process by relatives and loved ones of people killed by police is the length of time it took for police to notify them about the death and for them to be able to see or claim the body. Kerina Ngauamo, the aunt of Iosia Faletogo, a man killed by an SPD officer on December 31, 2018, said it took SPD nearly seven hours after his death to inform the family of his death. Four days after the shooting, Ngauamo said, "They have not let his mother see him, touch his face or his skin." In the event of a serious use of force that kills or incapacitates a person, SPD and the investigative body should treat family members and loved ones of that person as they would treat the loved ones of a victim of a violent crime. SPD should notify family members with the immediacy with which they would notify the family of a crime victim. Family members should be notified by someone who is trained to deliver the information as compassionately as possible. If the person is hospitalized or deceased, SPD

and the investigative body should make every reasonable attempt to allow their family and loved ones to see the person immediately. The City should consider working with previously impacted families to understand how best to support future impacted families. SPD and the independent investigative body should work with family members to determine a schedule of communication based on the needs and desires of the family members. When the Taskforce spoke with officers who had been subjects of a force investigation, it learned that the officers felt supported by the investigation team because they received regular phone calls and were kept well-informed of the investigation timeline and proceedings. Family members should also have the choice to receive regular and informative updates regarding the investigation process, with the understanding that in an active investigation, some information must remain confidential.



## Independent Investigations

### 5 Require that investigators demonstrate a commitment to integrity and civil rights and involve community members in hiring of investigators.

A barrier to community trust in investigations of police shootings and other serious uses of force is the lack of trust in an investigator's ability to exercise unbiased judgment. People in certain communities, particularly communities of color, do not trust that law enforcement officers are able to conduct investigations of other law enforcement officers in an objective, unbiased manner, or with fervor. The Taskforce examined independent investigation models in Connecticut, Utah, Wisconsin, and others, and in each jurisdiction, community members were incredulous that officers could fairly investigate other officers.

The Taskforce acknowledges that candidates with the ideal abilities, skills, and experience to conduct good investigations may be individuals with law enforcement backgrounds and training. To increase the credibility of potential former law enforcement officers in these posi-

tions in the eyes of community members, the Taskforce also recommends that all investigator candidates be required to demonstrate a commitment to integrity and civil rights. In Washington and other states, aspiring lawyers have the burden of establishing their good moral character to the state bar by way of a written statement. Potential candidates should submit a similar statement and be able to demonstrate their commitment to integrity and civil rights in their resumes, records, and references.

To further facilitate trust in the investigators, members from communities disparately impacted by policing should be involved in developing job descriptions and desired qualifications for investigators and sit on hiring panels for investigators. Giving community members a voice in the hiring of investigators could help ensure more community trust and buy-in in the individuals selected to conduct investigations.

**“Investigations of law enforcement, by law enforcement, are not meeting the expressed needs of the public to which law enforcement is accountable.”**

*American Civil Liberties Union of Utah, after the shooting death of Patrick Harmon was found to be justified.*



## **6 Select a leader who has a demonstrated commitment to communities most impacted by serious and deadly uses of force.**

The independent investigative body should be led by an individual who has strong ties with, knowledge of, and proven experience working with and amplifying the voices of communities disproportionately impacted by serious and deadly uses of force, particularly communities of color. The independent investigative body

should conduct performance evaluations of the leader with community input. Credibility in the eyes of these communities will be key in the leader's ability to exercise authority within the agency and engender trust in the investigations being carried out by the body.

## **7 Require that investigators have relevant experience and have access to specific trainings.**

The ideal investigative body for Seattle is one that is viewed as credible by community and particularly communities of color, and one that maintains or improves the current quality of criminal investigations of serious and deadly uses of force. For the independent investigative body to conduct high-quality investigations, it is critical that investigators are required, but are not limited, to have experience in or training on: investigating uses of force, assaults, and homicides, identifying and collecting evidence,

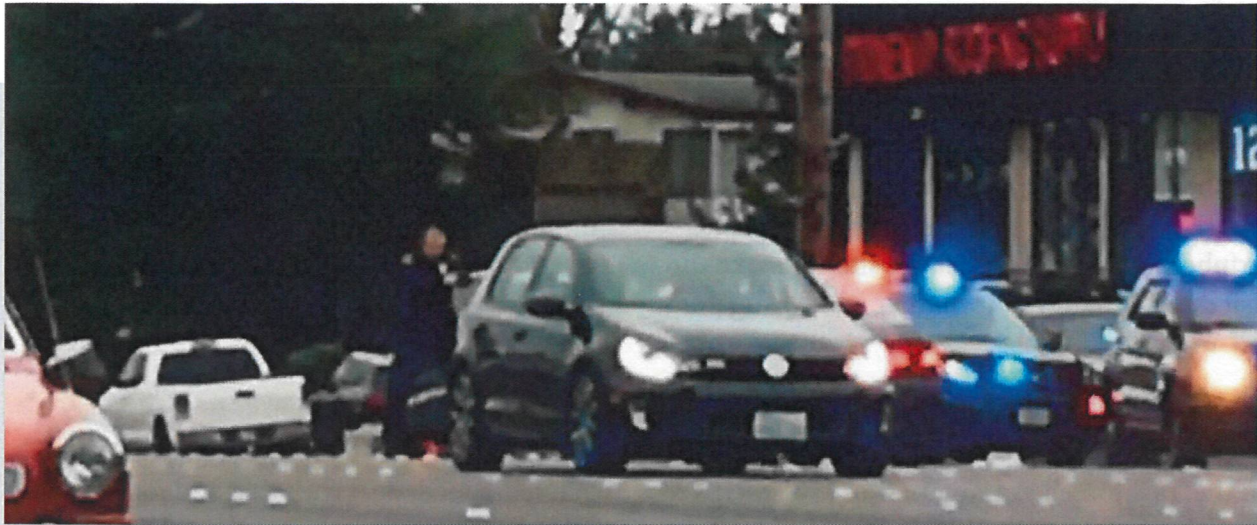
and interviewing subjects and witnesses. Given that people of color, particularly Black people, are disproportionately subject to serious uses of force by police officers, the Taskforce also recommends that investigators be trained in antiracism and implicit bias. Those who do not already possess this experience or have not already received these trainings should be required to receive training once hired and prior to conducting investigations.

### **Jurisdiction Highlight 1: Snohomish County**

The Snohomish County Multiple Agency Response Team (SMART), a multiagency investigative team made up of investigators from various county law enforcement agencies as well as the Washington State Patrol, investigated an officer-involved shooting that resulted in the death of a man named Jeremy Dowell on January 30, 2017. SMART found that Officer Zachary Yates' use of force was justified, and Snohomish County prosecutors declined to bring criminal charges against Yates.

In 2018, the Seattle Times reported that after SMART's investigation concluded, 12 witnesses came forward and signed sworn declarations that disputed the investigation's findings. Robert and Suzette Dowell, the parents of Dowell, filed a suit alleging that the SMART team carried out a biased investigation. They stated, "When police do not thoroughly and properly investigate other police, public confidence and trust is lost." The city paid \$1.75 million to settle the lawsuit. Snohomish County Prosecuting Attorney Mark





Roe later reaffirmed the decision of his office not to charge Office Yates and defended the investigation by SMART, saying it was thorough and fair.

This incident and the public's response to events that unfolded is one indicator that independent investigation processes are not immune

to community distrust and criticism by virtue of being independent. Beyond establishing an independent investigative process, the City of Seattle must consider how else it can move the needle on community credibility and legitimacy of investigations of serious and deadly uses of force.

## **8** Require investigators to disclose any conflicts of interest.

An expectation of the Taskforce is that the investigation process protects against not only conflicts of interest, but appearances of conflicts of interest. A conflict of interest can be a conflict between the private interests and the official responsibilities of a person in a position of trust. Another can be a conflict where working relationships introduce questions regarding the ability to be impartial or thorough, or a reluctance to follow up on indications of misconduct. It is a situation that has the potential to undermine the impartiality of a person, and in which a person can derive personal benefit from their actions or decisions. For example, an officer investigating a relative would be or at the very least appear to be a conflict of interest. In 2016, in Wisconsin, which requires indepen-

dent investigations of officer-involved deaths, two former Milwaukee police officers investigated the fatal shooting of a man by a Milwaukee officer, sparking community concern. Since then, the Wisconsin Department of Justice, which houses the state's primary investigative body for officer-involved critical incidents, issued suggested guidelines for investigations of officer-involved deaths. One guideline is for investigators to disclose any prior familiarity with an officer being investigated, including whether the officer is a former co-worker, friend, or training partner.

In the interest of preserving community trust in investigations, the independent investigative body should require that investigators disclose any conflicts of interest or appearances of con-



flicts or interest at the outset of every investigation, including any relationships they have had with subjects of the investigation directly and peripherally. The body's leader should make the final determination on whether an investigator's

disclosure would disqualify them from participating in a certain investigation, keeping in mind that even the appearance of a conflict of interest can undermine an entire investigation.

## **9 Require a specific timeframe for completing investigations.**

In the Taskforce's examination of investigative models, it saw a wide range of timelines for completing investigations, from one to four months in Wisconsin to two years in Connecticut.

It is imperative to require specific timelines for completing investigations of serious uses of force for reasons related to community credibility and to good investigative practices. Lengthy delays in investigation outcomes can diminish the public's confidence in the investigative process as there is a wider opportunity for there to be a perception of lack of communication and transparency.

Delays can unnecessarily prolong stress for officers and those who were or whose loved ones were subject to a serious or deadly use of force. After the shooting death of Charleena Lyles in Seattle, King County Executive Dow Constantine halted mandatory proceedings called inquests to convene a committee to reform inquest processes. Katrina Johnson, a cousin of Lyles, played a critical role in the reform process, but also remarked that the delay of the inquest hearing for her cousin was difficult to bear, saying, "You don't have that sense of rest, that sense that you can move forward and progress. Everyone's just sitting like you're in quicksand. I just want to be able to finally know

what happened, deal with that and make peace with whatever that is so that I'm able to begin to live again. I feel like I'm just existing."

Long delays can also compromise the investigation if evidence becomes stale and witness memories fade. Delays can impair a department's ability to address potential policy or training gaps that led to an unnecessary use of force, compromising the safety of members of the public and of officers. To ensure timely investigations and to prevent these negative outcomes, a specific time frame for completing investigations should be required in policy, with a mechanism for the investigative body to request an extension in cases where new witnesses and new evidence are identified, or more time is required to conduct a thorough and diligent investigation. The investigative body should be required to articulate why they require an extension and provide a new timeline for completion.

At times, investigative bodies are misperceived to be responsible for delays in charging decisions in prosecuting attorneys' offices. Though the Taskforce cannot make recommendations to prosecuting attorneys on this issue, it recommends that the City consider how delays in the prosecuting attorney's office may impact community distrust and frustration.



## 10 Provide investigative reports in a timely manner.

The independent investigative body should promptly provide every investigative report and the investigation case file first and foremost to family members and loved ones once an investigation is complete. The investigative body should be sufficiently funded to gather and produce a comprehensive and useful reports in a timely manner. Reports should omit sensitive information and pictures that may compromise

victim privacy or re-traumatize loved ones, unless the family or loved ones specifically ask that this material be included.

In Wisconsin, investigators are required by statute to release investigation reports for cases the district attorney declined to prosecute. In the interest of being transparent, the independent investigative body should publish all investigative reports and case files.

### Jurisdiction Highlight 2: New York State

On July 8, 2015, partly as a result of the failure of a Staten Island grand jury to indict the officer who killed Eric Garner, Governor Andrew Cuomo of New York issued an executive order making the Attorney General a special prosecutor in cases where an unarmed civilian is shot and killed by a police officer.

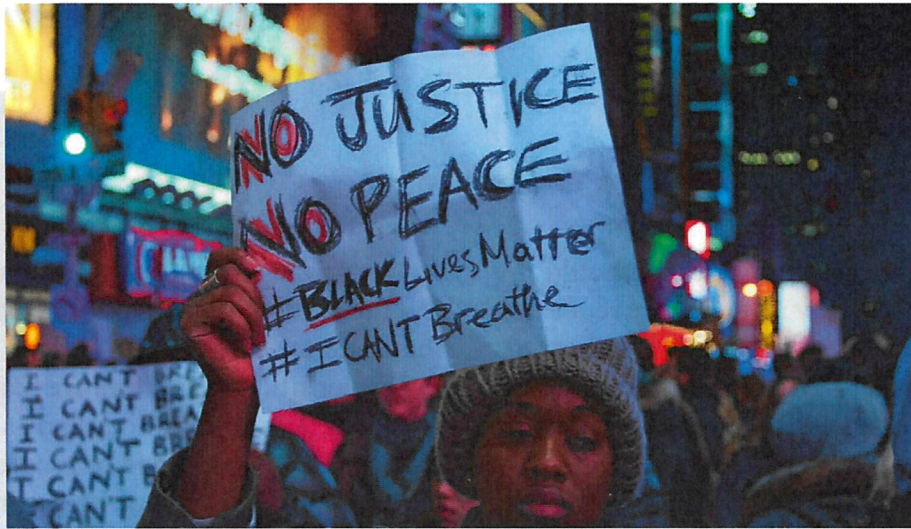
Among the investigative models examined by the Taskforce, the New York model emerged as a distinct model and was selected by the Taskforce for closer examination because of the apparent support for the new process by community members and organizations in New York including families of those killed by police. Loyda Colon, a co-director of the Justice Committee, a coalition of families who have lost loved ones to police violence, said, “Since the establishment of the special prosecutor, we have seen an unprecedented level of transparency regarding the investigations of police killings in New York, in stark contrast to the handling of these cases by local district attorneys.” Nearly two years after the implementation of the Special Prosecutions and Investigations Unit in

the Attorney General’s office, a reporter wrote, “Even when there wasn’t an indictment, advocates say the attorney general issued a detailed report, communicated with the families, and issued recommendations.” Transparency played a significant role in engendering trust in the investigative process.

To identify what other aspects of the investigative process in New York inspired more community confidence in the investigations, the Taskforce conducted outreach to the Communities United for Police Reform, a coalition in New York that was integral to the design and implementation of the new investigative process. The Taskforce learned that families whose loved ones had been killed by police played an instrumental role in crafting the executive order and organizing. After Governor Cuomo issued the order, family members and community members followed and monitored the implementation of the order, playing a key role in providing input on implementation.

In implementing the order, the Attorney General’s office remained open to hearing criticism





*Eric Garner protests in 2014 by Paul Silva is licensed under CC BY 2.0*

from community organizations and family members, agreeing to attend accountability meetings and changing behavior based on what they learned. The Attorney General himself met with families of people killed by police when they requested to meet with him, and family

members remarked that they were kept informed throughout the whole investigative and indictment processes. The office, through their actions, gave community members the impression that there was an institutional commitment to try to seek justice.

## **11** Develop a media policy that protects those subjected to a serious or deadly use of force.

It is common practice for police departments across the country to release information such as a person's criminal history when there is an officer-involved death. Releasing this kind of information breeds mistrust in community and gives the impression that the department is trying the individual in the court of public opinion and justifying the involved officers' actions based on the person's past and character. The Seattle Police Department's policy regarding media release surrounding an officer-involved shooting states that the information released by the department will be factual and will not contain any pre-judgment, and that the department will not release the involved person's criminal history, unless it was relevant to the incident and known to the involved officers prior to the incident. SPD adopted this policy

after receiving significant feedback from community about the harm caused by police departments releasing sensitive information to media. The independent investigative body should adopt a policy to prohibit the release of sensitive information, such as criminal history, about a civilian involved in a serious or deadly use of force, and to reserve pre-judgment in statements made to the public. The investigative body and the Seattle Police Department should adopt a policy to not refer to individuals involved in serious and deadly uses of force as a suspect. The investigative body and SPD should also adopt a policy to retract any statements or information they give in the aftermath of a serious or deadly use of force that turns out to be false.



## Continuous Improvement

### 12 Collect key data related to investigations and publish reports of aggregate data regularly.

Seattle's independent investigative body should collect key data related to investigations and publish data analyses including trends in annual reports in the spirit of transparency and

continuous improvement. Potential data points for collection are length of investigations and investigation outcomes.

### 13 Conduct sentinel event reviews after every serious or deadly use of force to identify system flaws and to address them via policy and training.

Sentinel event reviews are comprehensive reviews of significant incidents, and these reviews have been used in fields such as medicine and aviation to examine a negative outcome, such as a death or a plane crash, to identify deficits in a system or process. Sentinel event reviews recognize that a negative outcome in a complex system is rarely due to a single error but is likely the result of many errors and systemic deficits. The National Institute of Justice has been investigating the feasibility of using a sentinel event review approach in the criminal justice system. According to NIJ, sentinel event reviews are based on three underlying principles: 1) it is non-blaming; 2) all stakeholders – system-wide

– are involved in the review; and 3) it is an ongoing and routine practice.

The Taskforce recommends that outside of an independent investigation process, the City of Seattle implements a sentinel event review process for officer-involved deaths. The purpose of the reviews would not be to adjudicate an officer or department, but to identify ways in which to prevent similar adverse outcomes and events in the future and inform a strategic plan. It should be conducted by a multiagency, multi-branch group of people that includes SPD, OPA, OIG, CPC, and community members. The City should refer to NIJ's research in implementing a sentinel event review process.

## Statewide

### 14 Establish an investigative unit in the State Attorney General's Office to conduct criminal investigations of serious and deadly uses of force.

The Taskforce examined numerous independent investigation models across the country including multiagency taskforces, agreements with neighboring jurisdictions, and state-level investigation entities. In reviewing the current system in Seattle, the Taskforce learned that the

Seattle Police Department Force Investigation Team is strongly equipped to conduct investigations of serious or deadly uses of force. The Taskforce examined many independent investigation models in which investigation results were not regarded as credible because they were



**“We know the police can’t investigate police.”**

***Jeannia Fu, Justice for Jayson, after an officer was cleared in the killing of an unarmed teen named Jayson Negron in Connecticut***

carried out by other law enforcement agencies. For these reasons, the Taskforce set a goal to design an independent investigative model that would not sacrifice the abilities and competencies of the Seattle Police Department’s Force Investigation Team, and one that community would consider to be more credible and legitimate than the system and process currently in place in Seattle.

The Taskforce recommends that the state strongly consider establishing an investigative unit in the State Attorney General’s (AG) office to conduct criminal investigations of serious and deadly uses of force and incentivize jurisdictions across the state to opt into this investigative model. If this unit is established, the City of Seattle should opt into the model and utilize the AG’s office to conduct criminal investigations of the Seattle Police Department’s Type III and deadly uses of force as defined by the SPD policy manual. Under this proposal, SPD would be free to continue to utilize its Force Investigation Team to conduct the initial administrative investigation into serious and deadly uses of force.

The City of Seattle already has a robust police oversight and accountability system. When there is a serious or deadly use of force, representatives from both the Office of Police Accountability and Officer of the Inspector General are permitted to be at the scene of the

incident. OPA oversees administrative investigations of serious uses of force, specifically focusing on identifying possible misconduct, whereas the Force Investigation Team’s purpose is to gather facts. Establishing a city agency in Seattle to conduct independent criminal investigations would not only be costly to the city but could obscure the current accountability system by adding yet another city entity to the its structure.

The AG’s Office is a state agency with significant control and authority. The office, with both civil rights enforcement responsibilities and law enforcement authority and responsibilities, is generally credible both with community and with law enforcement. The AG’s office also has locations statewide, allowing for a potentially smooth transition to establishing regional deployment hubs for investigative teams. Furthermore, decisions being made by a centralized agency may provide for more ease in communicating with community, and for community to ask questions and receive consistent responses. As the AG’s office is an office of an elected official, there must be an intentional effort to prevent the work of its investigative unit from being politicized. Ideas to prevent the politicization of its work include classifying the positions within the investigative unit as civil service protected positions; staggering the unit lead’s term relative to the attorney general’s term so



an incoming attorney general cannot easily replace the unit lead; and requiring that its lead can only be removed for cause and with a public hearing.

For the purposes of this report, the Taskforce's following recommendations are meant to apply to any independent investigative body that

conducts criminal investigations of serious and deadly uses of force by Seattle Police Department officers (heretofore referred to as "the independent investigative body") including a potential state-level investigation team within the AG's office.

## **15** Establish a state-level entity to review all closed investigations statewide.

With over 300 law enforcement agencies in Washington, even after the Washington State Criminal Justice Training Commission's adopts rules to establish criteria for what qualifies as an independent investigation, there could be 300 unique independent investigative processes throughout Washington. To advance the credibility and legitimacy of each of these investigative processes in communities across the state, the state should create a state-level agency to 1) review all closed investigations for flaws and 2) be a clearinghouse for all investigative reports and data statewide.

In Washington, it is not possible to easily identify the number of deadly force incidents or the outcomes of deadly force investigations in a given year, or access investigative reports from multiple jurisdictions. In fact, no state in the country has a statewide repository for investigative reports and data related to investigations of serious and deadly uses of force. Washington can become the first state in the country that has a state-level entity that collects, analyzes, and reports on data related to investigations and houses investigation reports from every juris-

diction across the state.

With access to such data and reports, this entity and others can identify trends across the state to inform future policymaking and potential improvements to how independent investigations are conducted in Washington beyond I-940. Having a statewide clearinghouse would also promote transparency and accessibility of information for community members, and potentially cultivate trust in the outcomes of investigations.

In conversations with community members and law enforcement officers, Taskforce members heard firsthand the challenges of bridging the gap of trust between community and police, and of instilling confidence in investigations of serious and deadly force. Establishing a state-level entity that has the responsibility to conduct comprehensive reviews of every closed investigation could reassure community members and law enforcement officers that no matter who conducts an investigation, there is an entity charged with ensuring that every investigation is thorough, fair, and of high quality.



# Appendices

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Native American Restorative Circle documents

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Kris Pitcher's report

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CPR's report

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Family Meeting Agenda and Notes