Kitsap Critical Incident Response Team

INTERLOCAL COOPERATIVE AGREEMENT



This Interlocal Cooperative Agreement ("Agreement") is entered into by the undersigned under the authority of RCW 10.93.130 for the purpose of providing mutual investigative aid as described herein and shall supersede and replace any prior agreements. Each Participating Agency to this Agreement will be referred to individually as a "Party" and collectively as the "Parties".

RECITALS:

WHEREAS, the Washington Mutual Aid Peace Officers Powers Act is intended to facilitate Mutual Aid (defined below) and cooperative enforcement of the laws among general authority local, state, and federal agencies (RCW 10.93.001(1)); and

WHEREAS, the Parties utilizing this Agreement have previously mutually authorized each other to exercise police powers in their respective jurisdictions as evidenced by documents on file with the Washington Association of Sheriffs and Police Chiefs; and

WHEREAS, the State of Washington requires that investigations of officer-involved uses of deadly force be independent of the Involved Agency; and

WHEREAS, the Parties desire to execute this Agreement to establish the Kitsap Critical Incident Response Investigation Team ("KCIRT") subject to the terms and conditions of this Agreement

NOW THEREFORE, the Parties agree as follows:

1. PURPOSE.

The purpose of this Agreement is to establish a multi-agency independent investigative team that is available to participating agencies to independently investigate incidents involving a law enforcement officer or correctional officer and which result in death or great bodily injury to the officer or another. This includes incidents involving the use of deadly force by an officer, in-custody deaths and officer-involved collisions.

This Agreement is not intended as legal authority for the admissibility or non-admissibility of evidence developed in the course of an investigation. The provisions of this Agreement should not be used as the basis for the dismissal of any criminal charges arising from an investigation developed pursuant to this memorandum. Similarly, the provisions of this Agreement should not be used as the basis of any civil claims stemming from a deviation from the guidelines set forth herein.

2. PARTIES TO THE AGREEMENT

The Parties to this agreement are the Washington state, county, and city government(s) that operate the Participating Agencies. They are referred to herein as "Parties to the Agreement" or "Parties."

3. PARTICIPATING AGENCIES

The "Participating Agencies" or "Participating Agency" are the following departments of the Parties to the Agreement:

1. Bainbridge Island Police Department
2. Bremerton Police Department
3. Kitsap County Sheriff's Office
4. Port Orchard Police Department
5. Poulsbo Police Department
6. Shelton Police Department
7. Washington State Patrol
8. Clallam County Sheriff's Office
9. Port Angeles Police Department
10. Sequim Police Department

4. DEFINITIONS

Best practices: Methods, techniques, and procedures that have consistently shown by research and experience to produce superior results and are established or proposed as a standard and identified as best practices by the Washington State Criminal Justice Training Commission.

Board: The KCIRT Board of Directors is comprised of the Chief Law Enforcement Officers, or their designees, of the Participating Agencies.

Chief Law Enforcement Officer: The Sheriff or Chief of Police, also referred to as CLEO in this agreement, of Participating Agency, or their designee.

Critical Incident: Any incident in which:

a) A law enforcement officer used deadly force.

b) A person dies while in custody.

c) An officer is involved in a fatal collision.

d) The state's Office of Independent Investigation team or OII has chosen not to accept the investigation after being briefed.

Deadly force: A law enforcement officer used force reasonably likely to cause death, great bodily harm, or substantial bodily harm; and where that use of force resulted in death, great bodily harm, or substantial bodily harm, per RCW 43.102.120.

Evanescent evidence: Physical evidence that may be degraded or tainted by human or environmental factors if left unprotected or unpreserved for the arrival of KCIRT or; identification and contact information for witnesses to the incident.

Incident Commander: The command-level officer who responds to the scene of a Critical Incident and is responsible for the management of the investigation, including developing objectives, directing operations, coordinating with other entities, and applying resources and manpower to accomplish objectives. The Incident Commander will typically be the KCIRT Administrator or Assistant Administrator but, in their absence, may be another command-level officer qualified to act as the Incident Commander.

Incident Supervisor: An experienced investigator of supervisory rank who oversees the investigative personnel at a Critical Incident and reports to the Incident Commander.

In-Custody Death: The death of any person who is detained, arrested, being transported to a facility for 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 that deaths involving custodial trauma or custodial suicide while under a physician's treatment are considered In-Custody Deaths.

Involved Agency: The agency employing an Involved Officer or an agency in whose custody a person dies in circumstances amounting to an In-Custody Death. The Involved Agency may also be the Venue Agency.

Involved Officer: A law enforcement officer or corrections officer:

"Involved Officer" means one of the following persons who is involved in an incident as an actor or custodial officer in which the act or omission by the individual is within the scope of the jurisdiction of the office as defined in this chapter:

a) A general authority Washington peace officer, specially commissioned Washington peace officer, or limited authority Washington peace officer, as defined in RCW 10.93.020, whether on or off duty if he or she is exercising his or her authority as a peace officer; or
b) An individual while employed in a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020: and

    1. In whose custody a person dies; or

    2. Is involved in a vehicle collision in which someone dies.

KCIRT: The Kitsap Critical Incident Response Team. A team of investigators who can be called upon by any of the Participating Agencies to independently investigate Critical Incidents, meeting the independent investigative team (IIT) requirements of Chapter 139-12 WAC.

KCIRT Board Chair: Voted on by the Board for a term of two years.

KCIRT Administrator: An officer with command rank designated by the Board to oversee KCIRT or their authorized designee.

Assistant Administrator: An officer with command rank designated by the Board to assist the KCIRT Administrator and lead KCIRT in the absence or recusal of the KCIRT Administrator.

KCIRT Protocols: Uniform procedures and guidelines for the investigation of officer involved Critical Incidents derived from best practices and which are intended to produce a

thorough, independent, impartial, and transparent investigation.

Prohibited Content: Information, which if shared between members of the KCIRT investigative team and any member of the Involved Agency, could adversely affect public confidence in the integrity or independence of the investigation. This includes but is not limited to compelled statements taken from Involved Officer, any investigative information or content derived from a compelled statement, or any information or evidence collected or produced by the independent investigation.

Venue Agency: The agency with primary territorial jurisdiction, as defined by RCW 10.93.020(1). The Venue Agency may also be the Involved Agency.

5. ORGANIZATION

No separate legal or administrative entity is created by this Agreement nor do the Parties intend to create through this Agreement a separate legal or administrative entity subject to suit.

6. GOVERNANCE

KCIRT is governed by a Board composed of the CLEOs of the Participating Agencies.

The Board should meet at least annually or more frequently as needed.

Representatives from the Prosecutor's Offices of Participating Agencies will function in a non-voting advisory capacity for the Board.

Each Participating Agency shall have one vote. All Board actions and decisions are approved and adopted by simple majority of the attending Board members when at least 5 of the 10 agency CLEOs are present for such vote.

The Board will approve protocols developed to guide KCIRT investigations.

The Board, excluding the CLEO of the Involved Agency, is the final authority on any questions regarding the conduct of the independent investigation that cannot be resolved at a lower level.

The Board, excluding the CLEO of the Involved Agency and the prosecutor's offices, will review investigation summaries prior to submittal to the prosecutor's office of the jurisdiction of the Involved Agency.

7. AUTHORITY & IMPLEMENTATION

The decision to implement Mutual Aid under this Agreement rests entirely with the CLEO of the Venue Agency.

Participating Agencies are not obligated to request that KCIRT investigate a Critical Incident occurring in their jurisdiction and may request other agencies or resources conduct an independent investigation.

8. KCIRT ADMINISTRATOR / ASSISTANT ADMINISTRATOR

Participating Agencies may submit for the Board's consideration a list qualified command-level officers with previous experience in criminal investigations to fill the positions of KCIRT Administrator and Assistant Administrator.

The KCIRT Board of Directors will appoint a KCIRT Administrator and Assistant Administrator for a maximum of a two-year term from the list of qualified command-level officers submitted by Participating Agencies. The term of the KCIRT Administrator and/or Assistant Administrator may be extended or terminated at the discretion of the Board.

The KCIRT Administrator and Assistant Administrator will be from different agencies, preferably separating the three counties.

The KCIRT Administrator will serve as the Incident Commander at a Critical Incident unless they are an employee of the Involved Agency. In this case, the Assistant Administrator shall serve as the Incident Commander. In the absence or recusal of the KCIRT Administrator and Assistant Administrator, another qualified and experienced investigator, approved by the KCIRT Administrator or Assistant Administrator, from a non-Involved Agency, may serve as the Incident Commander.

The KCIRT Administrator, will be responsible for providing oversight of investigations as well as maintaining the readiness and training of the unit.

The KCIRT Administrator will develop and periodically update the KCIRT investigation to ensure they align with homicide investigation best practices published by the Washington State Criminal Justice Training Commission and other industry best practices. The KCIRT Administrator shall submit newly developed or updated protocols to the Board for approval.

9. KCIRT INVESTIGATORS

For new investigators, a Participating Agency (employing agency) that proposes to have its detective assigned to KCIRT will ensure all prospective KCIRT investigators meet any time and training prerequisites.

The KCIRT Administrator will ensure all prospective KCIRT investigators meet any time, or training prerequisites of Chapter 139-12 WAC.

Investigators assigned to KCIRT are expected to have a work history free of a sustained finding of serious misconduct, and no pattern(s) of sustained complaints or demonstrable bias or prejudice against community members that may be impacted by the police use of deadly force, as enumerated in Chapter 139-12 WAC.

A KCIRT member may be removed from KCIRT at any time by their own agency. A team member may also be removed from KCIRT upon recommendation of the KCIRT Administrator and approval by the Board.

10. LEAD INVESTIGATOR

Chapter 139-12 WAC requires that those who are assigned to a lead investigator role for an independent

investigative team (IIT) meet certain experience and training requirements and hold an "IIT qualified lead investigator certificate" issued by the Washington State Criminal Justice Training Commission.

The Board has identified the Incident Commander and Incident Supervisor as the "lead investigators" for the purposes of meeting the requirements of WAC 139-12 and those members requiring an "IIT Qualified Lead Investigator" certification.

To obtain an "IIT qualified lead investigator" certificate, members must provide proof of at least three years of uninterrupted experience as a certified peace officer, crime scene investigator, or related expertise in a discipline relevant to investigations. They must also provide proof of successfully completing the prescribed training classes, or appropriate equivalent experience, listed below:

a. Basic homicide investigation.
b. Interviewing and interrogation.
c. LETCSA Violence de-escalation, patrol tactics, and mental health training.
d. 2 Year uninterrupted as a certified police officer.

KCIRT members who have two or more years of relevant, full-time criminal investigative work experience may substitute their work experience for the required basic training classes.

11. NON-SWORN KCIRT MEMBERS

Non-commissioned investigative members of KCIRT (i.e. crime scene investigators, evidence technicians, etc.) are not required to obtain the qualified lead investigator certificates. They are also not required to complete biographies, or conflict of interest forms reviewed by community representatives.

12. TRAINING

Participating Agencies agree to provide their investigators with training on the following core areas prior to their assignment to KCIRT:

a. Interview and interrogation
b. Basic Homicide investigation
c. Officer-involved shooting investigation
d. LETCSA Violence de-escalation and mental health training

KCIRT shall train as a unit at least annually for a minimum of four (4) hours. One (1) four (4) hour training will take place twice a year. Investigators are required to attend at least one training block. However, it is preferred that investigators participate in each training block. Annual training may include criminal investigation topics recommended by Chapter 139-12 WAC.

13. NON-LAW ENFORCEMENT COMMUNITY REPRESENTATIVES

Each Participating Agency's CLEO will solicit names of community members who are interested in serving as non-law enforcement community representatives to KCIRT. The community members should have credibility with, and ties to, communities impacted by police use of deadly force. The Board will create a roster of non-law enforcement community representatives who will be assigned to the selection of KCIRT investigators or participate in a KCIRT investigation as described below.

The KCIRT Administrator will provide the qualifications of current KCIRT investigators to the non-law enforcement community representatives for review when requested.

At least two non-law enforcement community representatives, selected by the CLEO of the employing agency, will review the qualifications of current investigators, and participate in the vetting, interviewing, and/or selection of new KCIRT investigators.

At least two non-law enforcement community representatives will be assigned to each KCIRT investigation into an officer's use of deadly force. Community members who live in the jurisdiction where the incident occurred will generally be called upon to participate in that independent investigation. Community members from other jurisdictions may also be called upon based on availability, conflicts of interest or other issues preventing some from participating. The non-law enforcement community representatives will:

a. Review conflict of interest statements submitted within seventy-two hours of the commencement of each investigation by the investigators.

b. Attend any final presentation with the Involved Agency CLEO.

c. Have access to the investigation file when it is completed.

d. Be provided a copy of all press releases and communication to the media prior to release; and

e. Review notification of equipment use of the Involved Agency.

The non-law enforcement community representatives must sign a binding confidentiality agreement at the beginning of each investigation that remains in effect until the prosecutor of jurisdiction either declines to file charges or the criminal case is concluded. If the confidentiality agreement is violated, the non-law enforcement representative may be removed.

14. ACTIVATION

The KCIRT Administrator will be responsible for implementing and routinely updating a system for activating KCIRT through Kitsap 911 or other means.

The CLEO of the Venue Agency, or their designee, can request KCIRT activation by contacting the KCIRT Administrator or Assistant Administrator.

When activated, the KCIRT Administrator shall designate a team of investigators and non-law enforcement community representatives (collectively the "KCIRT Team"). The KCIRT team will respond to the location designated by the KCIRT Incident Commander. The KCIRT team members assigned to an investigation shall remain available from the time of the call-out until deactivated. KCIRT team members will be assigned tasks at the direction of the Incident Commander or Incident Supervisor.

Participating Agencies recognize that follow-up meetings and additional investigative work will be required beyond the initial call-out to complete the investigation. Participating Agencies will ensure that every reasonable effort is made to allow the KCIRT investigators to meet these commitments.

The KCIRT Administrator may consult with the Venue Agency's prosecutor's office representative, as needed, throughout the investigation.

15. INDEPENDENT INVESTIGATION REQUIREMENT

No employee of an Involved Agency shall participate in the investigation of a Critical Incident or attend any related investigative activities (e.g., interviews of the Involved Officers or other witnesses), where KCIRT has assumed responsibility for the investigation. Nothing in this agreement shall preclude an officer employed by an Involved Agency from:

a. Acting as a first responder to the scene of the incident,

b. Providing or facilitating medical assistance to any injured person,

c. Clearly marking and protecting the scene,

d. Locating and preserving evanescent evidence or

e. Participating in a search for, or pursuit of, any persons suspected of a crime related to the incident.

In locating and preserving evanescent evidence, Involved Agency personnel may photograph or use other methods of documenting the location of physical evidence and take steps to identify persons who may have witnessed the incident.

Once KCIRT investigators arrive at the scene of a Critical Incident, and the Incident Commander has the appropriate resources on scene, the Involved Agency will transfer control of the scene to KCIRT and provide any information pertaining to evidence and witnesses.

16. CONFLICT OF INTEREST

Within seventy-two hours of the commencement of each investigation, the KCIRT team members must complete a "conflict of interest" assessment tool developed by the Washington State Criminal Justice Training Commission to evaluate any connection between KCIRT investigators assigned to the investigation and the officers being investigated.

The conflict assessment will be reviewed and discussed by the non-law enforcement community representatives and the KCIRT Administrator.

The KCIRT Administrator, Incident Commander, Incident Supervisor, or the CLEO of the Involved Agency may order the recusal of any investigator, or take such actions that may be needed, to ensure the impartiality of the investigation.

Participating Agencies shall have an ongoing responsibility to notify the KCIRT Administrator of any newly discovered information related to a conflict of interest.

17. INVESTIGATIONS

KCIRT will conduct a thorough investigation of Critical Incidents. The independent investigation will follow accepted best practices for homicide investigations published by the Washington State Criminal Justice Training Commission and incorporated in KCIRT protocols.

The investigation file should provide the prosecutor with sufficient information to make an evaluation of whether the use of deadly force met the good faith standard established in RCW 9A.16.040 and satisfied other applicable laws and policies.

If the investigation establishes that a crime was committed by any person involved in the incident, the prosecutor's office of jurisdiction may request a probable cause statement.

The determination regarding which agency will investigate any crime associated with the incident will be made by the Incident Commander in consultation with the Involved CLEO, Venue CLEO and the prosecutor with jurisdiction. A primary factor in this determination will be the degree of separation by time and distance between the underlying crime and the officer's use of deadly force.

Investigators from Participating Agencies who are assigned to a KCIRT investigation shall be subject to the KCIRT chain-of-command for the duration of the initial call-out and for subsequent follow-up assignments related to the investigation.

Participating Agencies recognize that, once activated for an investigation, their investigators are committed to KCIRT for the duration of the investigation, or until released by the Incident Commander, and may be required to report to work and conduct investigative activities outside their jurisdiction. Participating Agencies that wish to recall their investigators prior to their release by the KCIRT will consult with the KCIRT Administrator. The KCIRT Administrator, or designee will designate which agency is responsible for the storage of evidence associated with the incident.

Participating Agencies may request KCIRT assistance for other investigations not related to a Critical Incident, such as a homicide. KCIRT will not conduct administrative or internal investigations (i.e., non-criminal investigations).

KCIRT will provide a complete file to the Involved Agency and the applicable prosecutor's office at the conclusion of the investigation. The file will include all records produced by KCIRT investigators and should be maintained in accordance with applicable records retention schedules.

KCIRT will strive to present the completed case report to the prosecutor with jurisdiction within six months of the event. If there are delays in the investigation and this timeline cannot be met, an explanation will be provided to the agency liaison of the Involved Agency by the KCIRT Administrator and/or Incident Commander.

18. FIREWALLS

The KCIRT Administrator will create and enforce information firewalls to prevent information sharing between KCIRT and the Involved Agency. The Involved Agency agrees not to provide or reveal prohibited content to KCIRT. KCIRT members will not accept or receive any Prohibited Content from the Involved Agency or its employees.

To prevent secondary dissemination of investigative information, KCIRT members assigned to the investigation will not discuss the investigation, including information about the incident uncovered by the investigation, with non-team members without authorization from the Incident Commander or Incident Supervisor. The Incident Commander with the designated KCIRT PIO on the content of news releases or intended press conference statements prior to their release to the media.

If any member of KCIRT receives Prohibited Content, the investigator receiving the Prohibited Content must immediately report it to the KCIRT Administrator or Incident Commander and the member must discontinue participation in the investigation. The KCIRT Administrator or Incident Commander will advise the prosecutor of the disclosure of Prohibited Content to the Involved Agency. The information will be removed or isolated from the investigation unless the prosecutor determines such action unnecessary.

19. FAMILY / TRIBAL LIAISONS

A family member of the person against whom deadly force has been used will be notified as soon as they can be located by either the Involved Agency or KCIRT, whichever is faster.

A member of KCIRT will be assigned as a family liaison within the first twenty-four hours and keep the family, or a representative of the family's choice, informed of all significant developments in the investigation and will give the family and the Involved Agency advance notice of all scheduled press releases.

If the person against whom deadly force is believed to be a member of a federally recognized tribe, a member of KCIRT will be assigned as a tribal liaison within the first twenty-four hours and keep the tribe (or a representative of the tribe's choice) informed of all significant developments of the investigation.

The CLEO of the Involved Agency will notify the Governor’s Office of Indian Affairs whenever an officer’s use of force results in the death of an enrolled member of a federally recognized Indian tribe in accordance with the requirements of RCW 10.114.021.

20. RESPONSIBILITIES OF VENUE AGENCY

The Venue Agency shall ensure proper crime scene protection. This includes, but is not limited to, immediately securing the crime scene, controlling access into the crime scene, recording the names of individuals who have entered the crime scene, and taking reasonable steps to identify and protect evanescent evidence. Written reports shall be provided by all personnel who enter a designated crime scene to the KCIRT representative.

21. HOSPITAL SECURITY

If a law enforcement officer has been injured and transported to a hospital, the Involved Agency will be responsible for coordinating security and assistance at the hospital.

If a person has been injured by a law enforcement officer’s use of deadly force and transported to a hospital, the Involved Agency should coordinate with another agency to provide security when reasonably able based on the circumstances. If a person has been injured while in the custody of corrections officers and transported to a hospital, uninvolved corrections officers may be assigned to provide security in addition to security provided by a non-involved agency in order to meet any custodial duty requirements

under the law.

22. RESPONSIBILITIES OF PARTICIPATING AGENCIES

Each Participating Agency shall pay all wages and benefits due to any of its employees providing services under this Agreement, including overtime pay, worker's compensation benefits and death benefits, in the same manner as when those employees are on duty working directly for their employing agency.

Pursuant to RCW 10.93.040, personnel assigned to KCIRT investigations shall be considered employees of their Participating Agency, which shall be solely and exclusively responsible for that employee.

Personnel assigned to KCIRT investigations shall conform to their employing agency's rules, regulations and KCIRT protocols. Any conflicts will first be addressed by the KCIRT Administrator. If the KCIRT Administrator is unable to resolve the conflict, the conflict shall be escalated to the Board.

23. EQUIPMENT AND SUPPLIES

Each Participating Agency agrees to supply its own personnel with the necessary supplies to participate in KCIRT (notebooks, cameras, tapes, electronic media, pens, etc.).

Equipment belonging to the Involved Agency may not be used during an independent investigation of an officer's use of deadly force unless the equipment is critical to the investigation, no reasonable alternative exists, and the use is approved by the KCIRT Administrator and non-law enforcement community representatives. If an Involved Agency's equipment is used, the Incident Commander will notify the non-law enforcement community representatives to explain why the equipment needs to be used and the steps taken to appropriately limit the role of any Involved Agency personnel in facilitating the use of that equipment. Each Participating Agency shall remain responsible for the ordinary wear and tear and routine maintenance of its respective equipment used in support of this Agreement.

Each Participating Agency will be responsible for repairing or replacing its equipment that may be damaged during an investigation. If the cost is substantial, the agency whose equipment was damaged may request to share the expense with other members, but no Participating Agency is obligated to contribute unless that Participating Agency was responsible for the damage.

24. PROPERTY

The Parties do not anticipate the acquisition of property for the performance of this Agreement and any property acquired by a Party using this Agreement shall be returned to the acquiring Party, unless otherwise agreed.

25. EXPENSES

All normal personnel and operational costs related to the investigation shall be the responsibility of the Participating Agencies providing members to the team.

Prior to, when feasible, incurring extraordinary costs associated with travel, custodial security, specialized equipment, testing, or other expenses not otherwise specifically mentioned here, the KCIRT Administrator will consult with the CLEO of the Involved Agency and Venue Agency. Any such agreed-upon

expenditures will be the responsibility of the Involved and Venue Agencies unless reimbursement or cost-sharing agreements are reached between the Participating Agencies on a case-by-case basis.

Unless a specific agreement to reimburse or pay expenses is adopted as provided herein, each party to this Agreement shall be responsible for individually budgeting sufficient amounts to fulfill its obligations under this Agreement.

26. COMMUNICATIONS AND MEDIA RELATIONS

When appropriate, the Involved Agency may provide periodic public updates on matters not directly related to the on-going KCIRT investigation of the Critical Incident.

The Incident Commander or other representative of the KCIRT will provide public updates on the investigation in accordance with Chapter 139-12 WAC. A copy of all press releases and communication will be provided to the family liaison and at least two non-law enforcement community representatives assigned to each investigation prior to release to the media.

Neither the Involved Agency nor KCIRT will provide the media with the criminal background information of the person against whom deadly force has been used, unless it is specifically requested, and release of the information is required by the Public Records Act or other applicable laws. Criminal background information includes the details of the events preceding the use of force investigated as well as information related to prior police contacts, arrests, and convictions. RCW 10.97.030

If the CLEO of the Involved Agency requests that KCIRT releases existing body cam video or other investigation information of urgent public interest, the KCIRT Administrator should honor the request with the agreement of the prosecutor with jurisdiction.

Nothing in this Agreement prevents or prohibits Participating Agencies and Parties to this Agreement from fulfilling their obligations under various public disclosure and reporting laws, including but not limited to Chapter 10.97 RCW and Chapter 42.56 RCW.

27. KCIRT RECORDS

All KCIRT Business Records prepared, owned, or used by KCIRT will be retained by each participating agency involved in KCIRT in accordance with Section 26 of this Agreement. The Involved Agency will retain a final copy of the investigative case file.

28. RECORD RETENTION, PUBLIC RECORDS REQUESTS

KCIRT is not an independent public agency separately subject to the Public Records Act ("PRA"), Chapter 42.56 RCW. KCIRT has no employees, records custodian, or independent place of business. Accordingly, each Participating Agency shall be responsible for retaining records it or its employees prepare, own, or use in the course of KCIRT-related business in accordance with applicable records retention schedules.

All requests for public records under Chapter 42.56 RCW ("public records requests") for records relating to KCIRT investigations shall be handled by the Participating Agency receiving the request ("Receiving Agency") in accordance with its own policies and state law. Any liability, damages, causes of action, or claims in connection with a public records request are the sole responsibility of the Receiving Agency.

Any Receiving Agency that reasonably believes other Participating Agencies has records that qualify as the Receiving Agency's public records may request these public records from the other Participating Agencies. The other Participating Agencies must make a good-faith effort to provide these records to the Receiving Agency in a reasonably expedited fashion to enable the Receiving Agency to meet its obligations under the Public Records Act. In the event the Receiving Agency requests records from other Participating Agencies under this paragraph and the other Participating Agency or Agencies disagree that the records are the Receiving Agency's public records, the Receiving Agency's determination shall govern, and the other Participating Agencies shall produce the records at issue to the Receiving Agency.

The Receiving Agency has ultimate authority over what exemptions to claim (if any) and what records to produce in response to the public records requests it receives. To the extent practicable and lawful under Chapter 42.56 RCW, the Receiving Agency will provide at least ten days' notice to any Participating Agency that is implicated in any public records request before the Receiving Agency releases any records. The purpose of this notice is to provide the Participating Agency a reasonable opportunity to seek an injunction against disclosure under RCW 42.56.540 if it chooses to do so.

29. REPORTING

Copies of all information received or uncovered during the course of the KCIRT investigation will be provided to the prosecutor with jurisdiction, the Venue Agency and the Involved Agency in the form of a complete case file. The KCIRT Administrator will provide a briefing to the CLEO of the Venue and Involved Agencies after the investigation has been reviewed by the prosecutor with jurisdiction.

Original records shall be maintained by each investigator's employing agency. Investigators from the Participating Agencies will forward copies of their records related to the investigation to the Incident Supervisor or the designated lead investigator.

When the investigation is complete, the KCIRT team will present the case to the Board prior to presenting the investigation to the CLEO of the Involved Agency, designated community representatives, and the prosecutor with jurisdiction.

A partially complete case may be presented to the prosecutor with jurisdiction, for the sake of expediency, when the investigative tasks that remain outstanding are not required for the finding of fact and are expected to take a considerable amount time to complete (e.g., non-critical lab results).

When an independent investigation is complete, the information will be made available to the public in a manner consistent with applicable state law.

30. DURATION OF AGREEMENT

This Agreement shall take effect when it has been signed by the authorized representative of each Participating Agency and party to the Agreement and shall be renewed automatically on the anniversary of the date of signing even if the signers to this Agreement no longer hold the office they represented as signer, subject to termination as set forth herein.

31. TERMINATION, SUSPENSION, OR WITHDRAWAL FROM AGREEMENT

The duration of this Agreement shall be indefinite and continue until terminated by all the Parties to the

Agreement. Any Participating Agency may withdraw from the Agreement ("Withdrawing Party"). However, prior to said withdrawal being effective, the Withdrawing Party must give a minimum of ten (10) days' written notice to the other Participating Agencies ("Notice"). Notice may be made by mailing the same to all signatories (or anyone who has replaced the signatory in the same representative capacity for each Party) and accounting for three (3) business days for the same. Further, in order for withdrawal from the Agreement to be effective, all signatories (or anyone who has replaced the signatory in the same representative capacity) for the Withdrawing Party must provide said Notice.

Regardless of withdrawal, the terms of this Agreement shall apply in any situation where the Withdrawing Party is then receiving and/or providing Mutual Aid to or from any other Participating Agency or Agencies. Additionally, regardless of withdrawal, the terms of this Agreement under the above-noted paragraph entitled "Public Records Requests" shall survive withdrawal and termination.

In any event, regardless of the existence of this Agreement, withdrawal from this Agreement, or signing of this Agreement, all general authority Washington peace officers employed by the Participating Agencies will still have authority to act pursuant to RCW 10.93.070, Washington Mutual Aid Peace Officers Powers Act.

32. ADDITIONAL AUTHORITY

This Agreement shall be construed as additional authority and not as a limitation of any preexisting authority of the Parties to the Agreement.

33. WAIVER

The failure of any Party to enforce a provision of this Agreement shall not constitute a waiver by that Party of that or any other provision.

34. PARTIAL INVALIDITY OR SEVERABILITY

It is the intent of the Parties that if any part, term, or provision of this Agreement should be adjudged invalid, the remaining portions of the Agreement shall continue in full force and effect.

Whenever possible, each provision of this Agreement shall be interpreted in such a way as to be effective and valid under applicable law.

35. AMENDMENTS

This Agreement may only be amended in writing and only when acknowledged by the authorized signature of all Parties.

36. LIABILITY

RCW 10.93.040 and 10.93.060 and any other applicable provisions of Chapter 10.93 govern liability and privileges and immunities available to the Parties under this Agreement. Nothing contained in this Agreement shall be construed to alter the liability rules established in RCW 10.93.040 and .060 or to create a liability or a right of indemnification by any third party. This Agreement shall not be construed

to create a higher standard or duty of care for civil or criminal liability against the Participating Agencies, their officials, or members.

37. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the Parties and supersedes any other agreement or understanding of the Parties relating to the subject matter of this Agreement.

38. INDEPENDENT CAPACITY

In accordance with RCW 10.93.040, all personnel assigned by a Party to participate as a KCIRT Team member shall be considered the employees of the primary commissioning agency for all purposes whatsoever, which shall be solely and exclusively responsible for its own employees. All rights, duties, and obligations of the employer shall remain with the primary commissioning agency. The personnel assigned by a Party shall continue under the employment of his or her employer for all purposes whatsoever, including without limitation, any loss, claim, damages, or liabilities arising out of or related to KCIRT activities and investigations.

Each Party and its respective employees and agents shall act as an independent contractor and not as an employee or agent of another Party to this Agreement. The employees and agents of each Party who are engaged in the performance of this Agreement shall continue to be the employees or agents of that Party. No Party shall have the authority to bind another Party nor control the employees, agents, or contractors of another Party to this Agreement. All rights, duties, and obligations of a Party shall remain with that Party.

Each Party shall be solely and exclusively responsible for the compensation, benefits, training expenses, and all other costs and expenses for its employees. Each Party will be responsible for ensuring compliance with all applicable laws, collective bargaining agreements, and civil service rules and regulations regarding its own employees.

39. NONDISCRIMINATION

No Party will discriminate against any person on the basis of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or other circumstance prohibited by federal, state, or local law, and shall comply with Title VI of the Civil Rights Act of 1964, P.L. 88-354 and Americans with Disabilities Act of 1990 in the performance of this Agreement.

40. SIGNATORIES' AUTHORITY

The authorized representatives signing below are signing this Agreement pursuant to RCW 10.93.070 and pursuant to the existing previously mutually authorized police powers in their respective jurisdictions as evidenced by documents on file with the Washington Association of Sheriffs and Police Chiefs. The authorization given by any Party shall be effective on the date of signature of that entity.

41. COUNTERPARTS, FACSIMILE, ELECTRONIC SIGNATURE

The Parties agree that this Agreement may be executed in multiple counterparts, and, upon such execution, all the counterparts taken together shall constitute one and the same Agreement.

Counterparts and signatures transmitted by facsimile, email, or other electronically delivered signatures of the Parties shall be valid and effective as originals.

42. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

IN WITNESS WHEREOF, the Parties by the signatures of their authorized representatives have executed this Agreement effective on the date shown by each signature.

Signatures on next page

CITY OF BAINBRIDGE ISLAND, WASHINGTON

By: _____
Blair King, City Manager

Date: 5/29/24

By: _____
Joseph Clark, Chief of Police

Date: 5/29/2024

CITY OF BREMERTON, WASHINGTON

By: _____
Greg Wheeler, Mayor

Date: 3/15/24

By: _____
Tom Wolfe, Chief of Police

Date: 3/14/2024

KITSAP COUNTY

By: _____
John Gese, Sheriff

Date: 4/8/24

DATED or **ADOPTED** this 22 day of April, 2024.

BOARD OF COMMISSIONERS STATE OF WASHINGTON KITSAP COUNTY

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

_____
KATHERINE T. WALTERS, Chair

_____
CHRISTINE ROLFES, Commissioner

_____
CHARLOTTE GARRIDO, Commissioner

ATTEST:

_____
Dana Daniels, Clerk of the Board

CITY OF PORT ORCHARD, WASHINGTON

By: DocuSigned by: Rob Putaansuu
3B9649ZE3F5847D...
Robert Putaansuu, Mayor

Date: 6/14/2024

ATTEST:

DocuSigned by: Brandy Wallace
...
Brandy Wallace, City Clerk

By: DocuSigned by: Matt Brown
C886CA3463794E5...
Matt Brown, Chief of Police

Date: 6/14/2024

DocuSign Envelope ID: 60F94C14-D168-4643-B5E6-882F954630F1

CITY OF POULSBO, WASHINGTON

By: DocuSigned by: 77AA4B38C18A4BA...
Becky Erickson, Mayor

Date: 5/13/2024

By: DocuSigned by: Ron Harding A52FC5860BF34C5...
Ron Harding, Chief of Police

Date: 5/13/2024

CITY OF SHELTON, WASHINGTON

By: _____
Mark Ziegler, City Manager

Date: 5/14/24

By: _____
Chris Kostad, Chief of Police

Date: 05-14-24

WASHINGTON STATE PATROL

By: 
John R. Batiste or designee, Chief

Date: 4/3/24

WSP Contract No. K14031

CITY OF PORT ANGELES, WASHINGTON

By: _____
Nathan A. West, City Manager

Date: 5/8/2024

By: _____
Brian Smith, Chief of Police

Date: 5/8/2024

CITY OF SEQUIM, WASHINGTON

By: _____
Brandon Janisse, Mayor

Date: 4.15.24

By: _____
Mike Hill, Chief of Police

Date: 4-18-24

Approved as to form

By: _____
Kristina Nelson-Gross, City Attorney

Date: 4/18/24

CLALLAM COUNTY SHERIFF'S OFFICE

By: _____
BRIAN KING, Sheriff

Date: 05/15/24

DATED or **ADOPTED** this 28 day of May, 2024.

BOARD OF COUNTY COMMISSIONERS
CLALLAM COUNTY, WASHINGTON

_____
MIKE FRENCH, Board Chairperson

Approved as to Form:

Signature: _____
Dee Boughton, Deputy Prosecuting Attorney