

## OFFICE OF LAW ENFORCEMENT OVERSIGHT

### Summary of Recommendations and Major Finding of the Auburn Shooting Investigation

*These recommendations and major findings are listed as they are addressed in the report.*

1. The Auburn case calls for a broad, searching examination of the officers' conduct. KCSO policy appropriately recognizes that public confidence is essential to its mission, and its members must conduct themselves in a manner that does not undermine that trust. (Pg. 12)
2. In the General Orders Manual, there are many deadly force policies that call special attention to the trauma suffered by deputies. This consideration should be extended to civilian witnesses and victims who are involved as well. (Pg.15)
3. KCSO currently lacks a policy requiring involved officers or witnesses (civilian or sworn) to be separated. This would reduce the risk of witness contamination or even outright collusion. Many major departments, including the Washington State Police (WSP), impose some form of sequestration. (Pg. 15)
4. KCSO policy should compel officers to participate in a scene walkthrough. A walkthrough enables the investigators (and later, crime scene technicians) to develop a plan for collecting and preserving evidence, and also sets the framework for officer interviews. (Pg. 16)
5. For purposes of consistency and fairness, deadly force investigations should cover common ground, including pertinent training and tactics governing the officers' actions. (17)
6. KCSO should compel involved officers to complete a recorded interview under a deadline, and compel a written statement the same day of the incident. (18)

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7. Best practice calls for recording all interviews whenever possible. Where a witness refuses to submit to a recorded interview, that fact should be noted in the investigative file. (Pg. 18)
8. A Supervisor Checklist for Officer-Involved Shootings should include: Urgent scene coordination responsibilities, comments on specific provisions, and an information sheet that includes 14 questions that the supervisor “shall” answer and provide to the responding MCU. (Pg. 19, 20)
9. Investigators should use metal detectors at crime scenes to locate shell casings. (Pg. 26)
10. Investigators should not move shell cases and mark all shell casings with individual evidence markers. (Pg. 26)
11. Trajectory Analysis should be performed at the crime scene and should take into account all relevant factors that might affect the bullet’s trajectory. (Pg. 27)
12. Crime-scene video should be time-stamped. Additionally, crime-scene video should be continuous in high-profile cases where public scrutiny can be an issue. Also, panning and zooming techniques should be utilized to identify all those at the crime scene, and a camera with audio-recording functionality should be used as well. Evidence collection video recording should also be recorded continuously. (Pg. 28, 29)

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13. A completed MCU report should contain a description of the location of bullet wounds of everyone involved in the incident. This description can be a portion of the medical record that describes this. (Pg. 29)
14. Pre-interviews should be strictly prohibited. Interviews should be thorough and conducted in a neutral tone. Also, interviews should be coordinated to raise topics with each witness interview conducted subsequently. (Pg. 31, 34)
15. IIU should be allowed to initiate a parallel investigation when there is sufficient scrutiny of an OIS. By the end of March 2012, there were many implications that such an investigation was in order for this incident. (Pg. 35)
16. Case file contents should be numbered and retain hand-written notes by detectives. (Pg. 36)
17. Scene sketches and diagrams indicating where the civilian witnesses and officers were located in the residence should be created by MCU detectives and included in the case file. (Pg. 36)
18. All evidentiary conflicts should be thoroughly examined; the use of a proof chart is recommended to aid MCU in doing this. (Pg. 36)
19. KCSO should reexamine questionable deadly force tactics identified in this report. Some of these tactics include: not having a “plan” once the officers decided to enter Mr. Theoharis’s room, not contacting a supervisor after it was suspected that guns were present, and using gun-mounted flashlights to illuminate the area in and around Mr. Theoharis’s room. We recommend closely examining our Decision Point Analysis of the shooting at the end of our report. (Pg. 42 – 66)