

# FINAL BILL REPORT

## E2SHB 1089

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**C 319 L 21**  
Synopsis as Enacted

**Brief Description:** Concerning compliance audits of requirements relating to peace officers and law enforcement agencies.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Ramos, Goodman, Leavitt, Slatter, Wylie, Bateman, Berry, Dolan, Ramel, Ortiz-Self, Senn, Peterson, Gregerson, Ryu, Valdez, Callan, Kloba, Hackney, Chopp, Duerr, Ormsby, Taylor, Bronoske, Fey, Lekanoff, Santos, Macri, Johnson, J., Frame, Orwall and Pollet).

**House Committee on Public Safety**  
**House Committee on Appropriations**  
**Senate Committee on Law & Justice**  
**Senate Committee on Ways & Means**

### **Background:**

An independent investigation team (IIT) must investigate a peace officer's use of deadly force resulting in death, substantial bodily harm, or great bodily harm to determine whether the use of deadly force was justified. An officer's use of deadly force is justified when, in good faith, the deadly force is:

- applied without malice in obedience to the judgment of a competent court;
- used to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty;
- used to arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony;
- used to prevent escape from a federal or state correctional facility;
- used to prevent escape from a county or city jail or holding facility if the person escaping has been arrested for, charged with, or convicted of a felony; or
- used to lawfully suppress a riot if the actor or another participant is armed with a deadly weapon.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Good faith exists when, objectively considering all facts, circumstances, and information known to the officer at the time, a similarly situated, reasonable officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual.

An IIT investigating the use of deadly force must be comprised of members who operate completely independently of the law enforcement agency under investigation. An IIT must include:

- a peace officer certified as an IIT qualified lead investigator; and
- at least two non-law enforcement community representatives who have credibility with and ties to communities impacted by police use of deadly force.

An agency under investigation may not participate in the IIT's investigation except to:

- share specialized equipment when no reasonable alternative exists, the equipment is critical to the investigation, and the use is approved by the IIT commander;
- receive briefings given to the chief or sheriff of the involved agency about the progress of the investigation; and
- release body cam video or other investigation information of urgent public interest, with the agreement of the jurisdiction's prosecutor.

### **Summary:**

The Office of the State Auditor (SAO) is required, in cooperation with the Criminal Justice Training Commission (Commission), to conduct a process compliance audit of any completed deadly force investigation to determine whether the involved law enforcement agency, investigative body, and prosecutor's office acted in compliance with specific statutory and administrative rules for conducting deadly force investigations. A deadly force investigation is concluded when the prosecutor's office makes a charging decision and any resulting criminal case reaches disposition. Before conducting a process compliance audit of a deadly force investigation, the SAO must issue a request for proposal and contract with persons with appropriate subject matter expertise in law enforcement and investigative audits until the SAO is adequately staffed with subject matter expertise.

Upon the request of the Commission, the SAO may audit any law enforcement agency to ensure the agency is in compliance with all rules and procedures governing the training and certification of the agency's peace officers. A copy of the audit must be sent to the Commission, law enforcement agency, city or county council, county prosecutor, and relevant committees of the Legislature.

Law enforcement agencies do not pay any costs or fees for either type of audit.

### **Votes on Final Passage:**

House 80 18

Senate 42 7 (Senate amended)  
House 69 29 (House concurred)

**Effective:** July 25, 2021