



CRIMINAL JUSTICE TRAINING COMMISSION POLICY MANUAL



Standard:	Chapter 07 Policy 05 Certification Investigations	Revised: 10/26/2022
Authorizing Source: RCW 43.101.105, WAC 139-06-040		Applies to: Certification Staff

I. PURPOSE:

It is the policy of the Washington State Criminal Justice Training Commission (WSCJTC) to investigate allegations of RCW 43.101.105 peace and corrections officer misconduct in a fair, independent, objective, thorough and timely manner, and to proceed with due diligence in bringing each case to an appropriate conclusion. This policy provides guidance to Certification Division investigators assigned to investigate allegations of peace and corrections officer misconduct.

II. DEFINITIONS:

Certification investigation means any investigation to determine if the preponderance of the evidence supports disciplinary action against an officer's certification.

Complete investigation means an investigation that includes all relevant information required to determine whether RCW 43.101.105 misconduct more likely than not occurred or did not occur. A complete investigation is not necessarily exhaustive. There are many inquiries where good faith professional judgment may determine that sufficient relevant evidence of all points of view has been acquired and collecting more information would merely be cumulative. One should expect of a complete investigation that a competent adjudicator will be able to make a finding without resorting to surmise, prejudice, or assumption of facts at issue.

Preliminary investigation means an investigation that encompasses an effort to gather key statements or evidence if reasonably attainable. The goal of a preliminary investigation is to determine if the complaint should be further investigated and, if so, by whom.

Substantial new evidence means information or evidence previously unknown to the commission that a reasonable person would accept as adequate to support a conclusion.

III. POLICY:

Certification investigations may commence on the commission's receipt of a complaint or request from any member of the public including law enforcement or corrections agencies and certified officers, upon receiving a Notice of Separation (Form 1902), Reporting Use of Force, Discipline, Criminal Charges or Suspension (Form 1915), or Canine Reporting (Form 1916) form (each an

“Agency Report(s)”, or on the commission's own initiative under RCW 43.101.105. WAC 139-06-040.

Certification investigations shall be conducted in a fair, independent, objective, thorough and timely manner. Investigative decisions will be based on the strength of the evidence and adherence to the applicable law as applied to the facts of the case.

Investigators shall conduct a preliminary investigation upon being assigned a matter alleging misconduct. Investigators shall proceed expeditiously to a complete investigation where the allegations, if true, would likely invoke the commission's decertification jurisdiction. Likewise, a complete investigation should be considered if it appears from a preliminary review that an agency's policy, standard, or training may be a factor in unintended consequences apparent in the complaint.

Allegations which, if true, would not invoke the commission's decertification jurisdiction and/or complaints that have been previously investigated and closed but do not present substantial new evidence, may be closed with a preliminary investigation and written explanation.

Any decision not to proceed to a complete investigation must be approved by the Chief Investigator with a written explanation included in the file.

Investigators shall not automatically accept the credibility judgments or investigative conclusions of other investigating agencies or prosecuting authorities. When an investigator reviews agency or prosecutorial files, or otherwise investigates, he or she must do so independently and may reach a different conclusion from the employing agency. In addition to reviewing internal investigation files on a matter and any prosecutorial records, the investigator should conduct additional independent investigation, particularly where their professional judgment indicates (i) the evidence reviewed is not sufficient to form a complete investigation, or (ii) there is indicia that the agency investigation was not conducted in a fair, unbiased, and objective manner. Investigators must also consider the employing agency's policies and procedures and the officer's job duties and assignment in determining what constitutes a pattern of potential misconduct.

Nevertheless, a small number of complaints will allege facts that defy science and reason and accordingly do not merit more than cursory investigation and should be closed with a finding that the complainant's claim was impossible to investigate because the allegations were physically, logically, or technically impossible under any reasonable construal. An example of such a claim would be that an officer's space satellite is continuously piercing the complainant's brain with laser beams, or that officers are stealing her internal organs from her every time she goes to the market. Complaints closed in this manner shall be reviewed by the Chief Investigator as a check against improper closure.

Investigation Timelines

Completion of certification investigations should occur as rapidly as is reasonably necessary to fulfill the investigative mission of the commission without jeopardizing fairness, independence, objectivity, or thoroughness of the investigation.

Investigators will document in the case log reasons why an investigation is not completed within 120 days of case assignment. Reasons may include, for example – agency delay in production of documents, awaiting agency internal investigation, complications due to ongoing criminal investigations, difficulty scheduling witness interviews.

In all instances, an investigation should be completed within a reasonable time. Investigators may await the conclusion of an agency's internal administrative investigation or a criminal investigation to gather additional relevant information to conduct a thorough investigation. However, investigators shall not delay initiating investigations in which the employing agency is not fully cooperative with the commission's investigation, its requests for documents and information, or is otherwise not expeditiously moving their internal investigation to conclusion. In cases of failure to cooperate or dilatory conduct, investigators should consult with their supervisor regarding next steps.

Audio Recording of Interviews

Interviews should be audio-recorded as such recordings help increase accuracy. When audio-recording, all parties present, shall be informed that the interview will be audio-recorded.

While recording and before the specific questioning, identify the date, time, location, and all persons present.

Avoid case relevant, non-recorded discussions. If this happens, fully recount the discussion as soon as possible when recording resumes.

If anyone leaves or arrives during the recorded interview, state their identity on the audio recording.

Test the recorder before each interview and ensure the sound quality is good.

Whenever possible, use AC power, especially on long interviews. To avoid problems with transcription of the recording, ensure all persons speak clearly and avoid speaking over one another.

Refusal of Recording

If an interview subject declines to be audio-recorded, explain the purpose and importance of recording the interview. If, after explanation, the subject still declines to be audio-recorded, note the refusal on the recording and then proceed without recording the session.

Immediately following a non-recorded interview, complete a witness summary of the interview, also noting that the interview was not audio-recorded and clarifying the reason(s) it was not audio-recorded. It is crucial the summary accurately reflects what was said by the witness during the interview.

Frequent or Chronic Complainants

Some complaints are lodged by frequent complainants whose previous complaints have uniformly been found to lack a basis in fact. These complaints should not be summarily closed. All complaints shall be investigated. In the case of a frequent or chronic complainant, a preliminary investigation may be satisfactory to establish whether the current complaint has a basis in fact, lacks a factual basis, or is a duplicate of facts alleged in another complaint.

Investigative Report Standards

The documentation of investigations must be thorough, complete, and as comprehensive as reasonably necessary to fulfill the commission's investigative mission. Using standardized forms and formats helps in quality control, evaluating comprehensiveness and sufficiency of content, consistency, and in recordkeeping.

Each investigative report (IR) should meet these minimum standards:

1. All allegations are clearly stated and clearly answered.
2. All relevant facts bearing on the truth of each allegation are clearly stated.
3. All evidence (e.g., photos, recordings, etc.) is included or its means of retrieval specified.
4. Contact and identification information for all persons interviewed and for the investigator(s) is included.
5. The report is impartial, with no bias for or against any party.
6. The report is logically organized with the aim of helping the reader understand it.
7. Language is clear, and any special terms of art are defined. The reader should not have to presume or guess the meaning of a term.
8. Conclusionary statements are avoided wherever possible.
9. Sentences and paragraphs are direct, simple, and easy to understand, using the fewest words to clearly convey the point.

10. Estimates of time, distance, or other quantities should be as precise as reasonably useful but need not be precise beyond that.

11. Personal opinions should not be included.