



Washington State

Criminal Justice Training Commission

Location: Virtual Meeting

December 14, 2022 – 10 a.m.

- Welcome *Chair Quinn*
- Roll Call *Lacey Ledford*
- Chair's Report *Chair Quinn*
- Director's Report *Executive Director Alexander*
- Old Business *Chair Quinn*
 - IIT Best Practices *Alex Buijs*
- New Business *Chair Quinn*
 - Meeting Minutes (Sept/Oct)
 - Hearing Panel Application *Derek Zable*
 - Basic Training Division WACs *Christine Rickert*
- Adjourn *Chair Quinn*

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NOTICE: This meeting will be recorded.

INTEROFFICE COMMUNICATION

WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION

TO: WSCJTC Commissioners
FROM: WSCJTC ATD LETCSA Staff
SUBJECT: Annual IIT Best Practices Review and Recommended Edits – Follow-up
DATE: December 14, 2022



Background and Purpose.

Following the passage of Initiative 940 (I-940) and Substitute House Bill 1064, the Law Enforcement Training and Community Safety Act (LETCSA) was created to implement the legislation regarding new training and independent investigations requirements. The Washington State Criminal Justice Training Commission (WSCJTC) engaged in negotiated rulemaking with named statutory stakeholders which created the regulations for LETCSA. Washington Administrative Code (WAC) 139-12 concerns independent investigation team (IIT) criteria.

Per WAC 139-12-030(4)(b) the WSCJTC will annually update and publish an accepted best practices document that the independent investigation teams (IIT) follow during the independent investigative process.

On October 19, 2022, edits to the IIT Best Practices were presented to Commissioners for the 2022 annual review. The edits presented included various recommendations from both law enforcement and non-law enforcement stakeholders. During the meeting, several Commissioners made additional recommendations that were either voted and approved to be added to the document or the motion was tabled to allow for additional research by staff depending on the request.

Follow-up Edits and Recommendations.

The edits and recommendations that were added after the October meeting are outlined below. Research results are also included depending on the motion.

II. Definitions

- Commissioner Hunter requested definitions from RCW 43.102.010 to be added to the best practices document and eventually WAC 139-12. The definitions were for “involved agency” and “involved officer”. This motion was tabled during the meeting to allow for further research by WSCJTC staff and consultation with the Washington State Attorney General’s Office (ATG). Per the ATG, “inserting the proposed definitions into the IIT guidelines or WAC 139-12 is not supported by the plain language of the statutory text of RCW 10.114.011. Because of this, there would need to be a statutory amendment by the

Legislature in order to expand the application of RCW 10.114.011 beyond peace officers to also include corrections personnel in order for such inclusion to be legally permissible.”

III. Procedures

B. Involved Agency Responsibilities

- Commissioner Bendiksen requested language to be added regarding access to relevant evidence if there is a preceding criminal event under number five (5). The language reads as follows: “The agency identified to investigate preceding crime(s) shall have priority access to any relevant evidence for the purposes of preserving community safety and ensuring the ability to complete the criminal investigation and make custodial decisions/actions as necessary and required by law.” This motion was tabled for research and consultation with the ATG. The ATG concluded that: “If the evidence in question relates to an incident of the use of deadly force by a peace officer, then there should be no sharing of that evidence with the involved agency and the involved agency should not have priority access – or any access at all – to the evidence. The implications of WAC 139-12-030(1)(b) and other statutory requirements is that it is likely improper and unworkable in many, or most, instances for the involved agency to investigate criminal acts that preceded a peace officer’s use of deadly force.” Because of this the requested edit was modified to read as: “The agency identified to investigate the preceding crime(s) may have access to any evidence for the purposes of preserving community safety and make custodial decisions/actions as necessary and required by law. If the evidence in question relates to the use of deadly force by a peace officer, then there shall be no sharing of that evidence with the involved agency. The IIT chain of command shall make the determination if the evidence relates to the independent investigation.”

C. On-Scene Venue Agency Supervisor Responsibilities

- Commissioner Thomas asked for verbiage in the document to prohibit any officer from discussing the case (written, orally, or electronically) until all interviews have been completed. This was voted on by Commissioners and approved to be added to the document. WSCJTC staff added language to number 11 that reads: “Any involved officer, other witness officer, or other officer shall not discuss details of the case with any other involved officer, other witness officer, other officer, or any other witnesses until the OII or IIT has completed their interviews. This includes any communication or interviews conducted both on and off the scene and any law enforcement entity associated with the specific investigation.”

D. Independent Investigation Team Responsibilities

- Commissioner Reynon requested the notification to the Governor’s Office of Indian Affairs be placed earlier in the document as this must be made within 24 hours after the incident. This motion was voted on and approved to be added to the document. The language that was added to number four (4) is as follows: “The IIT commander shall ensure that the notification to the Governor’s Office of Indian Affairs is completed within 24 hours of a fatal use of force incident involving an enrolled member of a federally recognized Indian tribe, in accordance with RCW 10.114.021.”
- Commissioner Reynon made a motion that was voted on and approved to be added to the document regarding the timeliness of the conflict-of-interest forms completed by someone brought on to assist with the independent investigation after the 72-hour deadline. The language added reads as follows: “If someone joins the independent investigation after the initial 72-hour deadline, this individual must complete their COI form as soon as possible and no later than 72 hours after joining the investigation.”
- Commissioner Reynon recommended the following sentence be added to the review process by the non-law enforcement community representative (number six): “If the IIT commander and the non-law enforcement community representative(s) determine that a conflict exists, the conflicted person shall be removed from the specific investigation entirely.” This motion was voted on and approved to be added to the document.
- Commissioner Thomas requested an additional step for the IIT commander to complete at the beginning of an investigation which was voted on by Commissioners and approved to be added to the document. The language (number seven) is as follows: “The IIT commander, no later than 72 hours after the investigation begins, shall determine whether each member of the IIT is free from sustained misconduct or free from a personal history of bias or discrimination. The IIT shall remove any member so affected and shall verify in the investigation file that these steps have been taken.” WSCJTC staff are recommending that this language be reconsidered as this information is already included in the conflict-of-interest forms which are required to be completed by all IIT members at the beginning of an independent investigation. WSCJTC sets the minimum standards for the conflict-of-interest form which includes questions relating to their personal history.

Interview Considerations

- Commissioner Reynon provided specific examples of best practices of interview techniques that he requested to be added to the document. The motion was tabled to allow for further research and consultation. Commissioner Reynon provided the following language:
“Best practices of interview techniques shall be followed. These include but are not limited to:
 - Asking open-ended, non-leading questions.
 - Allowing interviewees to explain their answers.

- Addressing factual inconsistencies.

The scope of each interview must be appropriate to the issues in the case, including but not limited to:

- activities leading up to the use of force;
- compliance with department policies;
- whether and when life-saving first aid was begun;
- factors relevant to RCW 10.120.020 (Permissible uses of force) and the duty of care; and
- the critical decision-making framework of the Attorney General’s Office model policies.”

IIT qualified lead investigators are required to have taken an interview and interrogation course as well as a basic homicide course. Depending on the interviewer and interviewee, listing out specific techniques may unintentionally impact the outcome of the interview. Interviews are a dynamic element to an independent investigation and specific techniques do not work for every interview. WSCJTC staff are recommending the following: “Best practices of interview techniques shall be considered. Investigators shall decide which interview techniques best suits their personal style, as well as what combination of tactics fits the needs of their suspects and witnesses.”

- Commissioner Reynon made a request to edit the language regarding the impacted family’s access to the remains of the deceased individual. He requested to add language that was more “humane for the family.” The motion was paused to allow for further research on the request. In addition to the ATG, WSCJTC LETCSA staff consulted with the WSCJTC Coroner/Medical Examiner Program Manager and the Washington Association of Coroners and Medical Examiners. WSCJTC would not have any further authority due to state law regulating the access to the remains of a deceased individual. In consideration of Commissioner Reynon’s request, an additional sentence to the family liaison section was added which reads: “If requested, the IIT family liaison may assist the impacted family with any communication and/or access to the remains of the deceased individual that is within their statutory authority.”

Closing.

Upon approval of the recommended edits, the updated best practices document would become immediately in effect.

WSCJTC staff recommend modifying WAC 139-12 to:

- add definitions for ‘involved’, ‘criminal background information’, and ‘specialized equipment’;
- clarify that if this someone is brought into an independent investigation after the initial COI-form review, they must complete a COI form within 72 hours after joining the investigation; and

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- change the reference of “best practices for homicide investigations” to “best practices for an independent investigation of officer involved use of deadly force incident” or something similar.

The WAC modifications would occur at a later date. There may be additional WAC modifications, however, that will be determined when we engage in the rulemaking process.

If you have any questions or would like additional information, please contact the WSCJTC ATD LETCSA staff.

Best regards,



Alex Buijs, LETCSA Program Manager
Advanced Training Division
Washington State Criminal Justice Training Commission

Attachments (2)

Best Practice Guidelines - December 2022 - Draft - Track Changes

Best Practice Guidelines - December 2022 - Draft - Clean

Best Practice Guidelines - September 2020

cc: Monica Alexander, Executive Director
Bart Hayes, Advanced Training Division Manager
Jerrell Wills, Deputy Director



Washington State Criminal
Justice Training Commission
December 2022

INDEPENDENT INVESTIGATION OF OFFICER INVOLVED USE OF DEADLY FORCE INCIDENT

BEST PRACTICE GUIDELINES



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I. Purpose

The purpose of this document is to provide a basic framework and guidelines for independent criminal investigations into the use of deadly force by a peace officer that results in death, substantial bodily harm, or great bodily harm. WAC 139-12-030 (4) requires the Washington State Criminal Justice Training Commission (WSCJTC) to publish best practices for homicide investigations and update them annually.

This document should be used in conjunction with the definitions and independent investigation criteria found in WAC 139-12 to create an Independent Investigations Team (IIT) protocol. The Office of Independent Investigations (OII) was established after the passage of Chapter 318, Laws of 2021 (RCW 43.102, et. seq.) to conduct investigations of serious use of force incidents by Washington state law enforcement agencies. OII protocols and statutory requirements are different from IIT investigation laws and regulations. This best-practices document is for the use and application by IITs which have differing statutory requirements than the OII.

The independent investigation will follow the rules of law established by the state and federal constitutions, and statutory and case law that apply to criminal investigations. It is expected that each IIT protocol will reflect both law enforcement and community needs for independent, credible, and transparent investigations. The steps outlined in this document are intended to be a guide, and not an exhaustive collection of best practices. Further, this document is not intended to provide any form of legal advice or direction.

II. Definitions

Term	Definition
Discuss	To talk about (something) with another person or group of people in all forms of communication including, but not limited to, verbal, written, and electronic.
Independent Investigative Team (IIT)	A team of qualified and certified peace officer investigators, civilian crime scene specialists, and at least two nonlaw enforcement community representatives who operate completely independent of any involved agency to conduct investigations of police deadly force incidents. An IIT is created when multiple law enforcement agencies enter into a written agreement to investigate police use of deadly force incidents in their geographical regions. A single law enforcement agency may fulfill the independent investigative function, provided it is not the involved agency.
Involved Agency	The agency that employs or supervises the officer(s) who used deadly force. There can be more than one "involved agency."
Involved Agency Liaison	A member of the involved agency who is the local point of contact for the IIT commander to provide access to local resources and facilities.
Involved Officer	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 involved in an incident where the use of deadly force results in death, substantial bodily harm, or great bodily harm. Witness Officer - An officer who witnessed, but did not engage in, the use of force being investigated by the IIT.
Office of Independent Investigations (OII)	An office created by the Legislature in 2021 which is authorized to conduct investigations of law enforcement use of deadly force cases wholly independent from any law enforcement agency. OII's authorizing statute, RCW 43.102, et. seq., sets forth the rules and procedures by which OII must abide. Some of those rules are different than those that apply to IIT investigations. This document's best practices guide OII only where the language specifically refers to OII by name. Reference to IITs does not necessarily bind OII.

Definitions (continued)

Term	Definition
Public Safety Statement	Information obtained by a supervisor at an officer-involved incident using questions intended to determine existing threats to public safety and identify transitory evidence that must be preserved. The scope of this statement is limited to the collection of such critical, fleeting information in the immediate aftermath of the officer-involved incident.
Specialized Equipment	Any property, device, or apparatus used by a law enforcement agency with unique or specific performance capabilities that may require additional training to operate or extra steps to execute its function(s).
Venue Agency	The law enforcement agency or agencies having jurisdiction where the officer-involved incident occurs. This is very often the involved agency.
Witness Officer	An officer who witnessed, but did not engage in, the use of force being investigated by the IIT.

Additional applicable definitions are available for review in Washington Administrative Code (WAC) 139-12-020 or relevant RCWs.

III. Procedures

The following procedures are tailored to address the initial incident response as well as the continuing follow-up investigation after an officer-involved use of deadly force. These general guidelines and principles can be used when investigating any serious incident.

Officer-involved uses of deadly force are dynamic situations. Preservation of life and the safety of all persons on scene are the paramount concerns. It is critical that every involved law enforcement member should recognize the transitory nature of evidence and after first aid has been provided or facilitated, take immediate steps to preserve the scene and evidence.

A. Involved Officers

Officers involved in an incident triggering the use of the OII and an IIT shall take initial steps to render the scene safe, protect the safety of themselves and others, render first aid where necessary, and preserve evidence. There shall be no communication (in any format) between any involved officer(s), witness officer(s), or other officer(s) until all interviews have been conducted by the OII or IIT.

B. Involved Agency Responsibilities

1. The involved agency Chief or Sheriff, or their designee shall immediately notify the OII and IIT of the incident and the need to respond.
 - a. The notification to the OII and IIT should simultaneously occur. If the OII accepts the investigation, the IIT shall still be notified and respond to the scene of the incident. The involved agency would relinquish control of the scene to the IIT in accordance with RCW 43.102.120 until the OII is on scene or is otherwise provided notice that the OII is taking control of the scene.
 - b. The IIT protocols should contain steps to notify the IIT leadership, and how the IIT will be deployed. At a minimum the team protocol should designate:
 - i. which member of the IIT leadership should be the first point of contact for team activation;
 - ii. who will call the on-scene supervisor to obtain a briefing of the incident;
 - iii. who will be the IIT commander and/or supervisor;
 - iv. what personnel and equipment are needed; and
 - v. how to contact and deploy the necessary IIT members.
2. A brief public safety statement is taken by an involved agency supervisor from the involved officer(s), covering only information necessary to focus initial law enforcement response and direct the preliminary investigation into the officer involved shooting. Statements made to the involved agency supervisor should be extremely brief and limited to information about the crime scene(s) to be protected and any pertinent evidence to be recovered, and identification of any involved persons, as well as witnesses who need to be located and interviewed.

Involved Agency Responsibilities (Continued)

- a. The public safety statement can only be administered by the employer of the involved officer. If the public safety statement starts with, “You are being ordered/directed/compelled to answer the following questions...” The involved officer’s responses to these questions are considered compelled, and they cannot be considered by the IIT Investigators. If public safety information is obtained voluntarily, it may be used by the IIT.
3. Designate an involved agency liaison to remain available to the IIT. The involved agency liaison shall not be privy to any information regarding the OII or IIT investigation. If OII has incident command, they will make someone available to provide contact authorized by RCW 43.102.
4. Maintain perimeter control of the scene if requested by the OII and/or IIT commander.
5. Give all evidence in their possession to the OII or IIT.
 - a. If a criminal action (i.e. robbery, burglary, assault, or warrant service) preceded the officer-involved incident either:
 - i. the IIT commander shall consult with the involved and/or venue agency incident commander to determine which agency should investigate the preceding event, to include pursuing criminal charges related to that event. If mutually agreed upon, the IIT will assume responsibility for the criminal investigation of the preceding event. If not, the IIT will limit its criminal investigation to the officer-involved use of force incident. This can also be addressed in an IIT’s protocol.

Involved Agency Responsibilities (Continued)

- ii. If the OII assumes command of a scene, the OII will coordinate with the involved agency and regional IIT (or other uninvolved agency investigating the matter) to determine who will investigate the preceding event, to include pursuing criminal charges related to that event. Because of the statutory limitations on IITs and the OII sharing information with the involved agency, in most situations the best practice is for the IIT to assume command of the preceding event(s) investigation while the OII investigates the use of deadly force incident. Nothing statutorily prohibits an IIT and the OII from sharing information about their investigations.
 - iii. The agency identified to investigate the preceding crime(s) may have access to relevant evidence for the purposes of preserving community safety and make custodial decisions/actions as necessary and required by law. If the evidence in question relates to an incident of the use of deadly force by a peace officer, then there shall be no sharing of that evidence with the involved agency. The IIT chain of command shall make the determination if the evidence relates to the independent investigation.
6. Make all documents, reports, and information on the incident to be available to the IIT immediately or as soon as possible thereafter.
7. Allow use of space, resources, and facilities as needed by the OII or IIT.

Involved Agency Responsibilities (Continued)

- a. The OII and IIT shall make every effort to utilize other space, resources, and/or facilities during the course of their investigation. There will be cases where a specialized resource is needed that is only available from the involved agency.
- b. If no other option exists, the use of the involved agency resources by the IIT shall be done in accordance with WAC 139-12-030 (1)(b) which states, "Specialized equipment belonging to the involved agency may not be used by the IIT unless: 1 - no reasonable alternative exists; 2 - the equipment is critical to carrying out the independent investigation; and 3 - the use is approved by the IIT commander. If the equipment is used, the nonlaw enforcement community representatives on the IIT must be notified about: 1 - why it needs to be used; and 2 - the steps taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment."

C. On Scene Venue Agency Supervisor Responsibilities

These tasks are done by the venue agency until control of the scene is assumed by the OII or IIT. It is important to note that in the majority of incidents, the involved agency is also the venue agency. The on-scene venue agency supervisor shall be responsible for ensuring that standard Incident Command System (ICS) protocols have been implemented. In addition, they shall ensure the following tasks are addressed:

1. The physical condition of the involved officer(s), subject(s), and third parties is assessed, emergency first aid is provided, if necessary, and emergency medical assistance is summoned.

On Scene Venue Agency Responsibilities (Continued)

2. Ensure necessary notifications are made, to include initiating the response of the OII or IIT and necessary agency notifications including the involved agency chief or sheriff.
3. Establish a perimeter. Only personnel integral to the incident and/or investigation should be inside this perimeter. The primary focus of the involved agency at this stage is the protection and preservation of evanescent evidence in order to maintain the integrity of the scene until the OII or IIT arrives. The perimeter must be clearly marked and protected.
 - a. Those to remain outside the perimeter may include command level personnel not directly involved in the incident.
 - b. Once the OII or IIT is on the scene, officers from the involved agency, including the involved officer, should be outside the perimeter unless required by the OII or IIT to be present for interviews.
 - c. The OII or IIT may adjust or add additional perimeters to further restrict areas.
4. Take steps to document and preserve any evanescent evidence.
5. A media staging area is identified and is appropriately staffed if necessary.
6. Establish a command post.
7. Appoint an officer to serve as a “recorder,” with responsibility for making a chronological record of activities at the scene, to include persons present and those who have been at the scene.
8. Photographs are taken as soon as possible of the involved officer(s) and subject(s) as they appear at the scene, to include any injuries or lack of injuries. These photos will best capture their condition immediately after the incident and before IIT personnel can arrive.

On Scene Venue Agency Responsibilities (Continued)

9. Any involved officer, other witness officer, or other officer shall not discuss the details of the case with any other involved officer, other witness officer, other officer, or any other witness until the OII or IIT has completed their interviews. This includes any communication or interviews conducted both on and off the scene and any law enforcement entity associated with the specific investigation.
10. Involved officer(s) are separated and removed from the immediate scene and assigned a support officer to ensure the physical needs of the involved officer(s) are met. Any statement made to a support officer may be discoverable.
11. All potential witnesses are identified and separated and asked to remain on hand to provide a statement. If witnesses wish to leave and there is no legal authority to detain them, officers should obtain their contact information for future communications.
12. If an involved officer is transported to the hospital, someone, such as a support officer, accompanies or meets them there. Any communication that the accompanying officer has with the involved officer may be discoverable and used by the IIT or OII.
13. Brief the arriving members of the OII or IIT on the above issues and ensure no compelled or protected statements are shared with members of the OII or IIT.
14. Turn over control of the scene to the OII or IIT commander, or designee, upon their arrival.
15. Immediately upon completion of the medical examiner's work, the remains will be released to the impacted family unless legal justification may be provided such as a court order.

D. Independent Investigation Team Responsibilities

The IIT commander, lead investigator, or their designee shall do the following:

1. Respond as quickly to the scene as resources and geography allow.
 - a. If the IIT arrives at the scene prior to the OII, they shall proceed with the investigation consistent with their policies, protocols, and these best practices.
 - b. The IIT investigation should continue uninterrupted unless and until the OII arrives on scene and assumes control of the scene. At that time, the IIT commander should hand over control of the scene to the OII lead investigator. A briefing should simultaneously occur. Any ongoing interviews, evidence collection/processing, or other investigative actions should be handed over in a way that does not interrupt or delay the investigation.
2. Assume command of the scene from the on-scene involved agency supervisor.
3. Receive a briefing from the involved agency liaison and/or the on-scene supervisor.
4. The IIT commander shall ensure that notification to the Governor's Office of Indian Affairs is completed within 24 hours of a fatal use of force incident involving an enrolled member of a federally recognized Indian tribe, in accordance with RCW 10.114.021.
5. The IIT commander will ensure a conflict of interest (COI) form is completed to identify and manage any conflicts of interest between the involved officer(s), the involved agency, and any IIT members. This should be done as soon as possible as the non-law enforcement community representative will review COI forms no later than 72 hours after the investigation begins.
 - o If someone joins the independent investigation after the initial 72-hour deadline, this individual must complete their COI form as soon as possible and no later than 72 hours after joining the investigation.

D. Independent Investigation Team Responsibilities (Continued)

6. The IIT commander will meet with the IIT non-law enforcement community representative and review the COI forms within 72 hours of the commencement of the investigation. If the IIT commander and the non-law enforcement community representative(s) determine that a conflict exists, the conflicted person shall be removed from the specific investigation entirely.
7. The IIT commander will identify an IIT member to serve as the family liaison as soon as feasibly possible who is responsible for identifying, locating, and notifying an appropriate family member, even if the family member(s) live out of the area. If the individual who was significantly injured or died in an officer-involved use of force was a tribal member, the IIT commander will identify an IIT member to serve as the tribal liaison within the first 24 hours and will keep the tribe (or a representative of the tribe's choice) apprised of all significant developments of the investigation.
8. Identify a non-involved member agency where all evidence will be stored and coordinate with the involved agency to determine responsibility for storage and handling of extraordinary items such as vehicles, HAZMAT materials, etc.

Evidence Considerations

Recognize the transitory nature of some types of evidence and take steps to preserve it as the incident scene may be altered or compromised due to weather, foot traffic, police activities, etc., destroying or contaminating evidence beyond use or value.

- Anything that can be identified as evidence, and once identified, must be secured, documented, and/or collected.
- Ensure that any evidence in the possession of the involved or venue agency is given to the OII or IIT.

D. Independent Investigation Team Responsibilities (Continued)

Evidence Considerations (Continued)

- Determine whether video recordings were made by in-car cameras; body-worn cameras; electronic control weapons; and government, business or private surveillance cameras and that they have been secured as evidence as soon as reasonably possible. IITs will attempt to identify any photos or videos made by civilians and secure as evidence.
- Obtain search warrants for any vehicles, containers, homes, electronic devices, or vehicles as may be necessary.
- Any clothing or other personal items that may have been discarded or removed from subjects or involved officer(s) by medical personnel are located and secured as evidence.
- Clothing worn by the involved officer(s) and subject(s) should be documented and collected if there is an evidentiary need. When an officer's clothing is taken for evidence, the IIT member working with the involved agency liaison will ensure that appropriate replacement clothing is provided to the involved officer.
- If a K9 was deployed as part of the initial incident, the dog and its condition should be documented.
- When firearms or other weapons are taken from an involved officer for evidence the involved agency should be responsible for replacement of those weapons, in accordance with their agency's policies. If the officer's weapon was not under the officer's control or left the officer's possession during the incident, the weapon is considered part of the secured incident scene and should not be moved.

D. Independent Investigation Team Responsibilities (Continued)

Evidence Considerations (Continued)

- The IIT commander should consider an inspection of the firearms, ammunition, or other weapon or tool of all witness officers (or other officers who may have been present at the time that force was applied). All discharged weapons should be secured, packaged, and placed in an independent police property room in adherence to that property room's procedures. The objective of the weapons inspection is to gather information and document to what extent a weapon was discharged or used, and by whom.
- An IIT member shall inspect and document all law enforcement tools to include lethal and non-lethal weapons carried by the officer at the time of the incident to ensure all discharged firearms are collected and any other weapons are identified and examined.
- To ensure proper community safety and accountability of firearms and Alcohol, Tobacco, Firearms and Explosives (ATF) National Firearms Act (NFA) tracked items, the IIT shall provide a seized items receipt or evidence list of the firearm(s), devices, electronic control tools, and NFA items taken as part of the IIT investigation if requested by the involved agency. Providing the make, model, and serial numbers to the involved agency will provide accountability over the items retrieved from the incident.
- Consider the use of digital incident scene mapping for documenting and reconstructing the scene
- The chain of custody will be documented for each item of evidence.

D. Independent Investigation Team Responsibilities (Continued)

Interview Considerations

- Obtain statements from subjects and witnesses. Audio and/or video-audio recording is preferred and should be attempted.
 - Interviews of involved officers should follow the policies of their individual agency, collective bargaining agreement, and case law. Best practices of interview techniques shall be considered. Investigators shall decide which interview techniques best suits their personal style, as well as what combination of tactics fits the needs of their suspects and witnesses.
 - Investigators should be aware of and alert for signs that indicate an officer, subject, or other witness may be suffering from psychological trauma. All involved persons will be treated with sensitivity and awareness about acute stress reactions.
 - Interviews with emergency medical personnel, fire department personnel, and first responding officers should address conditions at the incident scene when they arrived to include any action that may have been taken to move or otherwise alter persons or objects of potential evidentiary value.
 - Canvass the immediate area for potential witnesses who have not come forward and obtain information or statements as available.
9. In the event of death, consult with the coroner or medical examiner at the scene and at, or subsequent to, the autopsy. A member of the IIT must attend the autopsy and take all appropriate investigative steps, consistent with other criminal investigations.
10. The incident scene will be released by the IIT once investigators are satisfied the crime scene processing is complete.
11. The involved agency and the venue agency chief or sheriff will be notified of the scene being released.

D. Independent Investigation Team Responsibilities (Continued)

12. Once all investigation materials are assembled the complete IIT investigation case file must be presented to the venue agency prosecutor who may ask for additional information, and who will use the case file to make a charging decision. .

E. Family Liaison Responsibilities

The family liaison is responsible for identifying, locating, and notifying an appropriate family member of the person against whom deadly force has been used, as soon as possible to ensure that the family:

1. Is notified, when possible, prior to learning about the incident from the press, social media, friends, or neighbors.
 - a. Family notification of a decedent should be done in consultation with the venue coroner or medical examiner.
2. Has a reliable way to communicate directly with the liaison and the IIT.
3. Is kept informed about the investigative process, even when there is nothing new to report.
4. Is provided timely notice of significant developments of the investigation, to include press releases.
5. Has assistance in coordinating with a victim advocate if one is available, especially if requested by the family.
6. If requested, the IIT family liaison may assist the impacted family with any communication and/or access to the remains of the deceased individual that is within their statutory authority.

If OII is handling the scene, and if contact can be made within a reasonable amount of time, OII's non-uniformed, non-law-enforcement family liaison should be responsible for filling this role.

F. Tribal Liaison Responsibilities

If the fatal use of force incident involves an enrolled member of a federally recognized Indian tribe (RCW 10.114.021) the IIT commander will identify an IIT member to serve as the tribal liaison within the first twenty-four hours.

If OII is the investigative team at a scene, they shall abide by their own statutory obligations related to tribal liaison.

G. Administrative Investigation

The administrative investigation is the responsibility of the involved agency. The IIT commander must create and enforce firewalls, which is a process to prevent information sharing between the IIT from the involved agency and train all team members to observe them to ensure no member of the IIT receives any compelled statements of the involved officer(s) or any investigative content that was informed by such compelled statements.

H. Record Keeping

1. The IIT commander will determine and coordinate where the original IIT file will be maintained. The original file shall not be maintained at the involved agency. Public disclosure requests may be directed to the agency designated to maintain the original IIT file.
2. All original reports, statements, and other documentation of venue and involved agency employees should be filed and maintained by the venue agency and submitted to the IIT commander in a immediately upon request.
3. Until the case file is delivered to the prosecutor, access to the IIT case file should be restricted to the IIT members designated by assignment.

I. News Media Considerations

Communication with the media will be handled by a designated member of the IIT. Either a public information officer (PIO) or a media relations officer (MRO) in consultation with the IIT commander.

1. The PIO will affirmatively provide to local media and on official social media accounts, regular updates on the investigation, at least weekly.
2. Neither the involved agency nor the IIT will provide the media with 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.
3. The IIT commander will ensure a proper balance is maintained between the integrity of the investigation and transparency with the public.

IV. Appendix

Document Version History

First adopted - September 2020

Annual update - December 2022





INDEPENDENT
INVESTIGATION OF OFFICER
INVOLVED USE OF DEADLY
FORCE INCIDENT GUIDELINES

Washington State Criminal Justice Training
Commission

Abstract
Required per WAC 139-12-030



Washington State Criminal Justice Training Commission Independent Investigation of Officer Involved Use of Deadly Force Incident Guidelines

I. PURPOSE

The purpose of this document is to provide a basic framework and guidelines for independent criminal investigations into the use of deadly force by a peace officer that results in death, substantial bodily harm, or great bodily harm. [WAC 139-12-030 \(43\)](#) requires the Washington State Criminal Justice Training Commission (WSCJTC) to publish best practices for homicide investigations and update them annually.

~~Agencies should use~~ This document should be used in conjunction with the definitions and independent investigation criteria found in [WAC 139-12](#) to create an Independent Investigations Team (IIT) protocol. The Office of Independent Investigations (OII) was established after the passage of Chapter 318, Laws of 2021 (RCW 43.102, et. seq.) to conduct investigations of serious use of force incidents by Washington state law enforcement agencies. OII protocols and statutory requirements are different from IIT investigation laws and regulations. This best-practices document is for the use and application by IITs which have differing statutory requirements than the OII.

~~The independent investigation will follow the rules of law established by the state and federal constitutions, and statutory and case law that apply to criminal investigations.~~ It is expected that each IIT protocol will reflect both law enforcement and community needs for independent, credible, and transparent investigations. The steps outlined in this document are intended to be a guide, and not an exhaustive collection of best practices. Further, this document is not intended to provide any form of legal advice or direction.

II. DEFINITIONS

Discuss - To talk about (something) with another person or group of people in all forms of communication including, but not limited to, verbal, written, and electronic. ~~talk over.~~

Independent Investigative Team (IIT) - A team of qualified and certified peace officer investigators, civilian crime scene specialists, and at least two nonlaw enforcement community representatives who operate completely independent of any involved agency to conduct investigations of police deadly force incidents. An IIT is created when multiple law enforcement agencies enter into a written agreement to investigate police use of deadly force incidents in their geographical regions. A single law enforcement agency may fulfill the independent investigative function, provided it is not the involved agency.

Involved Agency - The agency that employs or supervises the officer(s) who used deadly force. There can be more than one "involved agency."

Involved Agency Liaison - A member of the involved agency who is the local point of contact for the IIT commander to provide access to local resources and facilities, and act as a technical or subject matter experts for the officers, agency, and community they represent.

Involved Officer -- 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 involved in an ~~serious~~ incident where the use of deadly force results in death, substantial bodily harm, or great bodily harm.

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Washington State Criminal Justice Training Commission Independent Investigation of Officer Involved Use of Deadly Force Incident Guidelines

~~Witness Officer – An officer who witnessed, but did not engage in, the use of force being investigated by the IIT.~~ Witness Officer - An officer who witnessed, but did not engage in, the use of force being investigated by the IIT.

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Office of Independent Investigations (OII) – An office created by the Legislature in 2021 which is authorized to conduct investigations of law enforcement use of deadly force cases wholly independent from any law enforcement agency. OII’s authorizing statute, RCW 43.102, et. seq., sets forth the rules and procedures by which OII must abide. Some of those rules are different than those that apply to IIT investigations. This document’s best practices guide OII only where the language specifically refers to OII by name. Reference to IITs does not necessarily bind OII.

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Public Safety Statement - Information obtained by a supervisor at an officer-involved incident using questions intended to determine existing threats to public safety and identify transitory evidence that must be preserved. The scope of this statement is limited to the collection of such critical, fleeting information in the immediate aftermath of the officer-involved incident.

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Specialized Equipment – Any property, device, or apparatus used by a law enforcement agency with unique or specific performance capabilities that may require additional training to operate or extra steps to execute its function(s).

Venue Agency - The law enforcement agency or agencies having jurisdiction where the officer-involved incident occurs. This is very often the involved agency.

Additional applicable definitions are available for review in Washington Administrative Code (WAC) 139-12-020 or relevant RCWs.

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III. PROCEDURES

The following procedures are tailored to address the Initial Incident Response as well as the continuing follow-up investigation after an officer-involved use of deadly force. These general guidelines and principles can be used when investigating any serious incident.

Officer-involved uses of deadly force are dynamic situations. Preservation of life and the safety of all persons on scene are the paramount concerns. It is critical that every involved law enforcement member should recognize the transitory nature of evidence and after first aid has been provided or facilitated, take immediate steps to preserve the scene and evidence.

A. Involved Officers

Officers involved in an incident triggering the use of the OII and an IIT shall take initial steps to render the scene safe, protect the safety of themselves and others, render first aid where necessary, and preserve evidence. There shall be no communication (in any format) between any involved officer(s), witness officer(s), or other officer(s) until all interviews have been conducted by the OII or IIT.

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B. Involved and/or Venue Agency Responsibilities



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1. The involved agency Chief or Sheriff, or their designee shall immediately notify the OII and IIT of the incident and the need to respond. Activate the IIT and/or Office of Independent Investigations (OII).

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a. The venue agency Chief or Sheriff, or their designee shall immediately notify the OII and IIT of the incident and the need to respond. The notification to the OII and IIT should simultaneously occur. If the OII accepts the investigation, the IIT shall still be notified and respond to the scene of the incident. The involved agency would relinquish control of the scene to the IIT in accordance with RCW 43.102.120 until the OII is on scene or is otherwise provided notice that the OII is taking control of the scene.

b. The IIT protocols should contain steps to notify the IIT leadership, and how the IIT will be deployed. At a minimum the team protocol should designate:

i. which member of the IIT leadership should be the first point of contact for team activation;

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ii. who will call the on-scene supervisor to obtain a briefing of the incident;

iii. who will be the IIT commander and/or supervisor;

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iv. what personnel and equipment are needed; and

v. how to contact and deploy the necessary IIT members.

2. A brief public safety statement is taken by an involved agency supervisor from the involved officer(s), covering only information necessary to focus initial law enforcement response and direct the preliminary investigation into the officer involved shooting. Statements made to the involved agency supervisor should be extremely brief and limited to information about the crime scene(s) to be protected and any pertinent evidence to be recovered, and identification of any involved persons, as well as witnesses who need to be located and interviewed.

a. The public safety statement can only be administered by the employer of the involved officer. If the public safety statement starts with, "You are being ordered/directed/compelled to answer the following questions..." The involved officer's responses to these questions are considered compelled, and they cannot be considered by the IIT Investigators. If public safety information is obtained voluntarily, it may be used by the IIT.

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3. Designate an involved agency liaison to remain available to the OII or IIT. The involved agency liaison shall not be privy to any information regarding the OII or IIT investigation. If OII has incident command, they will make someone available to provide contact authorized by RCW 43.102.

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4. Maintain perimeter control of the scene if requested by the OII and/or IIT commander.



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Independent Investigation of Officer Involved Use of Deadly Force Incident Guidelines

54. Give Turn-over all evidence in their possession to the OII or IIT.

a. If a criminal action (i.e. robbery, burglary, assault, or warrant service) preceded the officer-involved incident either:

i. the IIT commander shall consult with the involved and/or venue agency incident commander to determine which agency should investigate the preceding event, to include pursuing criminal charges related to that event. If mutually agreed upon, the IIT will assume responsibility for the criminal investigation of the preceding event. If not, the IIT will limit its criminal investigation to the officer-involved use of force incident. This can also be addressed in an IIT's protocol.

ii. If the OII assumes command of a scene, the OII will coordinate with the involved agency and regional IIT (or other uninvolved agency investigating the matter) to determine who will investigate the preceding event, to include pursuing criminal charges related to that event. Because of the statutory limitations on IITs and the OII sharing information with the involved agency, in most situations the best practice is for the IIT to assume command of the preceding event(s) investigation while the OII investigates the use of deadly force incident. Nothing statutorily prohibits an IIT and the OII from sharing information about their investigations.

iii. The agency identified to investigate the preceding crime(s) may have access to relevant evidence for the purposes of preserving community safety and make custodial decisions/actions as necessary and required by law. If the evidence in question relates to the use of deadly force by a peace officer, then there shall be no sharing of that evidence with the involved agency. The IIT chain of command shall make the determination if the evidence relates to the independent investigation.

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65. Arrange for Make all documents, reports, and information on the incident to be available to the IIT immediately or as soon as possible thereafter.

76. Allow use of space, resources, and facilities as needed by the OII or IIT.

a. The OII and IIT shall make every effort to utilize other space, resources, and/or facilities during the course of their investigation. There will be cases where a specialized resource is needed that is only available from the involved agency.

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b. If no other option exists, the use of the involved agency space, resources, and facilities by the IIT shall be done in accordance with WAC 139-12-030 (1)(b) which states, "Specialized equipment belonging to the involved agency may not be used by the IIT unless: 1 - no reasonable alternative exists; 2 - the equipment is critical to carrying out the independent investigation; and 3 - the use is

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approved by the IIT commander. If the equipment is used, the nonlaw enforcement community representatives on the IIT must be notified about: 1 - why it needs to be used; and 2 - the steps taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment."

C. On-Scene Venue Agency Supervisor Responsibilities

These tasks are done by the vvenue aAgency until control of the scene is assumed by the OII or IIT. It is important to note that in the majority of incidents, the involved agency is also the venue agency. The on-scene venue agency supervisor shall be responsible for ensuring that standard Incident Command System (ICS) protocols have been implemented. In addition, they shall ensure the following tasks are addressed:

1. The physical condition of the involved officer(s), subject(s), and third parties is assessed, emergency first aid is provided, if necessary, and emergency medical assistance is summoned.
2. Ensure necessary notifications are made, to include initiating the response of the OII or IIT and necessary agency notifications including the involved agency chief or sheriff.

~~3. A brief public safety statement is taken, preferably by a supervisor, from the involved officer(s), covering only information necessary to focus initial law enforcement response and direct the preliminary investigation into the officer involved shooting.~~

~~34. Establish a~~An inner perimeter ~~is established.~~ Only personnel integral to the incident and/or investigation should be inside this perimeter. The primary focus of the involved agency at this stage is the protection and preservation of evanescent evidence in order to maintain the integrity of the scene until the OII or IIT arrives. The perimeter must be clearly marked and protected.

- a. Those to remain outside the inner perimeter may include command level personnel not directly involved in the incident.
- b. Once the OII or IIT is on the scene, officers from the involved agency, including the involved officer, should be outside the ~~inner~~ perimeter unless required by the OII or IIT to be present for interviews.

c. The OII or IIT may adjust or add additional perimeters to further restrict areas.

~~5. An outer perimeter established which should create boundaries for the public and representatives of the media.~~

~~a. The IIT may adjust or add additional perimeters to further restrict areas.~~

46. Take steps to document and preserve any evanescent evidence.

57. A media staging area is identified and is appropriately staffed if necessary.

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~~68.~~ Establish a command post.

~~79.~~ Appoint an officer to serve as a “recorder,” with responsibility for making a chronological record of activities at the scene, to include persons present and those who have been at the scene.

~~810.~~ Photographs are taken as soon as possible of the involved officer(s) and subject(s) as they appear at the scene, to include any injuries or lack of injuries. These photos will best capture their condition immediately after the incident and before IIT personnel can arrive.

~~911.~~ Any involved officer, other witness officer, or other officers shall ~~not discuss the details of the case with any other~~ the involved officer, or other witness officers, other officer, and/or any other witnesses until the OII or IIT has completed their interviews with those officers. Until all statements have been taken, involved and witness officers shall not discuss the case with any other witnesses. This includes any communication or interviews conducted both on and off the scene and any law enforcement entity associated with the specific investigation.

~~102.~~ Involved officer(s) are separated and removed from the immediate scene and assigned a support officer to ensure the physical needs of the involved officer(s) are met. Any statement made to a support officer may be discoverable.

~~131.~~ All potential witnesses are identified and separated and asked to remain on hand to provide a statement. If witnesses wish to leave and there is no legal authority to detain them, officers should obtain their contact information for future communications.

~~124.~~ If an involved officer is transported to the hospital, someone, such as a support officer ~~or peer support personnel~~, accompanies or meets them there. Any communication that the accompanying officer has with the involved officer may be discoverable and used by the IIT or OII. Per RCW 5.60.060 (6)(a) (6)(a) A peer support group counselor shall not, without consent of the peer support group client making the communication, be compelled to testify about any communication made to the counselor by the peer support group client while receiving counseling. The counselor must be designated as such by the agency employing the peer support group client prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding first responder, department of corrections staff person, or jail staff person; a witness; or a party to the incident which prompted the delivery of peer support group counseling services to the peer support group client.

~~135.~~ Brief the arriving members of the OII or IIT on the above issues and ensure no compelled or protected statements are shared with members of the OII or IIT.

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146. Turn over control of the scene to the OII or IIT commander, or designee, upon their his/her arrival.

157. Immediately upon completion of the medical examiner's work, the remains will be released to the impacted family unless legal justification may be provided such as a court order.

D. Independent Investigation Team Responsibilities:

The IIT commander, lead investigator, or their designee shall do the following:

1. 1- Respond as quickly to the scene as resources and geography allow.
 - a. If the IIT arrives at the scene prior to the OII, they shall proceed with the investigation consistent with their policies, protocols, and these best practices.
 - b. The IIT investigation should continue uninterrupted unless and until the OII arrives on scene and assumes control of the scene. At that time, the IIT commander should hand over control of the scene to the OII lead investigator. A briefing should simultaneously occur. Any ongoing interviews, evidence collection/processing, or other investigative actions should be handed over in a way that does not interrupt or delay the investigation.
2. Assume command of the scene from the on-scene involved agency supervisor.
3. Receive a briefing from the involved agency liaison and/or the on-scene supervisor.
4. The IIT commander shall ensure that notification to the Governor's Office of Indian Affairs is completed within 24 hours of a fatal use of force incident involving an enrolled member of a federally recognized Indian tribe, in accordance with RCW 10.114.021.
54. The IIT commander will ensure a conflict of interest (COI) form is completed to identify and manage any conflicts of interest between the involved officer(s), the involved and their agency, and any IIT members. This should be done as soon as possible and no more than 72 hours later as the non-law enforcement community representative will review COI forms no later than 72 hours after the investigation begins.
 - If someone joins the independent investigation after the initial 72-hour deadline, this individual must complete their COI form as soon as possible and no later than 72 hours after joining the investigation.
65. The IIT commander will meet with the IIT non-law enforcement community representative and review the COI forms within 72 hours of the commencement of the investigation. If the IIT commander and the non-law enforcement community representative(s) determine that a conflict exists, the conflicted person shall be removed from the specific investigation entirely.

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Washington State Criminal Justice Training Commission Independent Investigation of Officer Involved Use of Deadly Force Incident Guidelines

~~7. The IIT commander, no later than 72 hours after the investigation begins, shall determine whether each member of the IIT is free from sustained misconduct or free from a personal history of bias or discrimination. The IIT commander shall remove any member so affected and shall verify in the investigation file that these steps have been taken.~~

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~~67. The IIT commander will identify an IIT member to serve as the family liaison as soon as feasibly possible; who is responsible for identifying, locating, and notifying an appropriate family member, even if the family member(s) live out of the area. Identify an IIT member to serve as the Family Liaison and if a tribal member is a victim, identify a Tribal Liaison. If the individual who was significantly injured or died in an officer-involved use of force was a tribal member, the IIT commander will identify an IIT member to serve as the tribal liaison within the first 24 hours and will keep the tribe (or a representative of the tribe's choice) apprised of all significant developments of the investigation.~~

78. Identify a non-involved member agency where all evidence will be stored and coordinate with the involved agency to determine responsibility for storage and handling of extraordinary items such as vehicles, HAZMAT materials, etc.

Evidence Considerations:

Recognize the transitory nature of some types of evidence and take steps to preserve it as the incident scene may be altered or compromised due to weather, foot traffic, police activities, etc., destroying or contaminating evidence beyond use or value.

- ~~• Anything that can be identified as evidence, and once identified, must be secured, documented, and/or collected.~~
- ~~• Ensure that items of potential evidentiary value are identified, documented, protected and collected.~~
- Ensure that any evidence in the possession of the involved or venue agency is turned over given to the OII or IIT.
- Determine whether video recordings were made by in-car cameras; body-worn cameras; electronic control weapons; and government, business or private surveillance cameras and that they have been secured as evidence as soon as reasonably possible. IITs will attempt to identify any photos or videos made by civilians and secure as evidence.
- Obtain search warrants for any vehicles, containers, homes, electronic devices, or vehicles as may be necessary.
- Any clothing or other personal items that may have been discarded or removed from subjects or involved officer(s) by medical personnel are located and secured as evidence.
- Clothing worn by the involved officer(s) and subject(s) should be documented and collected if there is an evidentiary need as evidence. When an officer's clothing is taken for evidence, the IIT member working with the involved agency



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liaison will ensure that appropriate replacement clothing is provided to the involved officer.

- If a K9 was deployed as part of the initial incident, the dog and its condition should be documented.
- When firearms or other weapons are taken from an involved officer for evidence the involved Agency should be responsible for replacement of those weapons, in accordance with their agency's policies. If the officer's weapon was not under the officer's control or left the officer's possession during the incident, the weapon is considered part of the secured incident scene and should not be moved.
- The IIT commander should consider an inspection of the firearms, ammunition, or other weapon or tool of all witness officers (or other officers who may have been present at the time that force was applied). All discharged weapons should be secured, packaged, and placed in an independent police property room in adherence to that property room's procedures. The objective of the weapons inspection is to gather information and document to what extent a weapon was discharged or used, and by whom.
- An IIT member shall inspect and document all law enforcement tools to include lethal and non-lethal weapons carried by the officer at the time of the incident to ensure all discharged firearms are collected and any other weapons are identified and examined.
- To ensure proper community safety and accountability of firearms and Alcohol, Tobacco, Firearms and Explosives (ATF) National Firearms Act (NFA) tracked items, the IIT shall provide a seized items receipt or evidence list of the firearm(s), devices, electronic control tools, and NFA items taken as part of the IIT investigation if requested by the involved agency. Providing the make, model, and serial numbers to the involved agency will provide accountability over the items retrieved from the incident.
- Consider the use of digital incident scene mapping for documenting and reconstructing the scene
- The chain of custody will be documented for each item of evidence.

If a criminal action (i.e. robbery, burglary, assault, or warrant service) preceded the officer involved incident:

- The IIT Commander and Venue Agency incident commander shall consult and determine which agency should investigate the preceding event, to include pursuing criminal charges related to the event.
- If mutually agreed, the IIT will assume responsibility for the criminal investigation of the preceding event. If not, the IIT will limit its criminal investigation to the officer involved use of force incident.

Interview Considerations:



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- Obtain statements from subjects and witnesses. Audio and/or video-audio recording is preferred and should be attempted.
 - Interviews of involved officers should follow the policies of their individual agency, collective bargaining agreement, and case law. Best practices of interview techniques shall be considered. Investigators shall decide which interview techniques best suits their personal style, as well as what combination of tactics fits the needs of their suspects and witnesses.
 - Investigators should be aware of and alert for signs that indicate an officer, subject, or other witness may be suffering from psychological trauma. All involved persons will be treated with sensitivity and awareness about acute stress reactions.
 - Interviews with emergency medical personnel, fire department personnel, and first responding officers should address conditions at the incident scene when they arrived to include any action that may have been taken to move or otherwise alter persons or objects of potential evidentiary value.
 - Canvass the immediate area for potential witnesses who have not come forward and obtain information or statements as available.
8. In the event of death, consult with the coroner or medical examiner at the scene and at, or subsequent to, the autopsy. A member of the IIT must attend the autopsy and take all appropriate investigative steps, consistent with other criminal investigations.
9. The incident scene will be released by the IIT once investigators are satisfied the crime scene processing is complete.
10. The involved agency and the venue agency Chief or Sheriff will be notified of the scene being released.
11. Once all investigation materials are assembled the ~~IT~~-complete ~~IIT~~ investigation case file must be presented to the venue agency prosecutor who may ask for additional information, and who will use the case file to make a charging decision.

E. Family Liaison Responsibilities:

The family liaison is responsible for identifying, locating, and notifying an appropriate family member of the person against whom deadly force has been used, as soon as possible to ensure that the family:

1. Is notified, when possible, prior to learning about the incident from the press, social media, friends, or neighbors.
 - a. Family notification of a decedent should be done in consultation with the venue coroner or medical examiner.
2. Has a reliable way to communicate directly with the liaison and the IIT.
3. Is kept informed about the investigative process, even when there is nothing new to report.



Washington State Criminal Justice Training Commission Independent Investigation of Officer Involved Use of Deadly Force Incident Guidelines

4. Is ~~given-provided~~ timely notice of significant developments of the investigation, to include press releases.
5. ~~Has assistance in~~ coordinating with a victim advocate if one is available, especially if requested by the family.
6. If requested, the IIT family liaison may assist the impacted family with any communication and/or access to the remains of the deceased individual that is within their statutory authority.

If OII is handling the scene, and if contact can be made within a reasonable amount of time, OII's non-uniformed, non-law-enforcement family liaison should be responsible for filling this role.

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F. Tribal Liaison Responsibilities:

If the fatal use of force incident involves an enrolled member of a ~~f~~Federally ~~r~~Recognized Indian ~~t~~Tribe (RCW 10.114.021) the IIT ~~c~~Commander will identify an IIT member to serve as the tribal liaison within the first twenty-four hours.

The IIT commander shall ensure that notification of the Governor's Office of Indian Affairs is completed within 24 hours of a fatal use of force incident involving an enrolled member of a federally recognized Indian tribe, in accordance with RCW 10.114.021.

If OII is the investigative team at a scene, they shall abide by their own statutory obligations related to tribal liaison.

The tribal liaison will keep the tribe (or a representative of the tribe's choice) apprised of all significant developments of the investigation.

The IIT Commander will also ensure that the Governor's Office of Indian Affairs (GOIA) is notified within 24 hours.

G. Administrative Investigation

The administrative investigation is the responsibility of the involved agency. Procedurally, the administrative investigation can access the facts and circumstances discovered during the criminal investigation, however the criminal investigation must be firewall protected from information revealed during the administrative investigation. The criminal investigation must be firewall protected from information revealed during the administrative investigation. The IIT commander must create and enforce firewalls, which is a process to prevent information sharing between the IIT from the involved agency and train all team members to observe them to ensure no member of the IIT receives any compelled statements of the involved officer(s) or any investigative content that was informed by such compelled statements.

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2. Any action to relieve the involved or witness officers from duty will be the responsibility of the ~~i~~nvolvement ~~a~~Agency's Chief or Sheriff, or their designee.

H. Record-keeping:



Washington State Criminal Justice Training Commission Independent Investigation of Officer Involved Use of Deadly Force Incident Guidelines

1. The IIT commander will determine and coordinate where the original IIT file will be maintained. The original file shall not be maintained at the involved agency. Public disclosure requests may be directed to the agency designated to maintain the original IIT file.
2. All original reports, statements, and other documentation of venue and involved agency employees should be filed and maintained by the venue agency and submitted to the IIT commander in a timely manner immediately upon request.
3. Until the case file is delivered to the prosecutor, access to the IIT case file should be restricted to the IIT members involved designated by assignment.

I. News Media Considerations:

Communication with the media will be handled by a designated member of the IIT. Either a public information officer (PIO) or a media relations officer (MRO) in consultation with the IIT commander.

1. The PIO will affirmatively provide to local media, and on official social media accounts, regular updates on the investigation, at least weekly.
2. Neither the involvement agency, nor the IIT will provide the media with 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.
3. The IIT commander and Involved Agency Chief or Sheriff, will work to ensure a proper balance is maintained between the integrity of the investigation and transparency with the public.

DEFINITIONS: For definitions of other terms refer to Error! Hyperlink reference not valid.

Involved Officer(s): Unless otherwise indicated, those peace officers in on-duty or off-duty status who are involved in a serious incident or are direct witnesses to such an event.

Venue Agency: The Agency within whose geographical jurisdiction the officer-involved incident happens.

Independent Investigation Team: A team of qualified and certified peace officer investigators, civilian crime scene specialists, and at least two non-law enforcement community representatives who operate completely independent of any involved agency to conduct investigations of police deadly force incidents. Multiple law enforcement agencies may enter into a written agreement to investigate police use of deadly force incidents in their geographical regions. A single law enforcement agency may fulfill the independent investigative function for an involved agency, provided it is not the involved agency.



WASHINGTON STATE
CRIMINAL JUSTICE TRAINING COMMISSION
19010 1ST AVENUE SOUTH, BURIEN, WA 98148

COMMISSION MEETING

Wednesday, October 19, 2022
10 AM

COMMISSION MEMBERS PRESENT:

De'Sean Quinn (Chair), Councilman, Tukwila
Penelope Sapp (Vice-Chair), Chief, Kitsap County Jail
Jeffrey Anaya, Officer, Vancouver Police Department
Shannon Bendiksen, Assistant Chief, Washington State Patrol
Ryan Dreveskracht, Attorney Presiding over Law Enforcement Practices and Accountability
Nickeia Hunter, Citizen at Large
Sonia Joseph, Citizen at Large
Walter Kendricks, Citizen at Large
Trishandra Pickup, Citizen at Large
Tim Reynon, Tribal Representative, Puyallup Tribe
Dan Satterberg, Prosecuting Attorney, King County
Erik Scairpon, Chief, Marysville Police Department
Annalesa Thomas, Citizen at Large
Mike Webb, Attorney General Designee

WSCJTC STAFF PRESENT:

Monica Alexander, Executive Director
Jerrell Wills, Deputy Director
Ed Wade, Assistant Director
Chad Arceneaux, Assistant Director
Lacey Ledford, Executive Assistant
Bart Hayes, Manager, Advanced Training Division
Henry Gill, Commander, Basic Training Division
Sean Hendrickson, Manager, Applied Skills Division
Jeff Wilcox, Manager, Information Technology
Megan Saunders, Manager, Communications
Mike Devine, Manager, Certifications Division
Tom Hill, Program Manager, Reserves Academy
Alex Buijs, Program Manager, LETCSA
Derek Zable, Records Manager
Norma Gastelum, Confidential Secretary
Antonio Asencio-Pigmon, Administrative Assistant, LETCSA
Ethan Swenson, Administrative Assistant, Information Technology

GUESTS PRESENT:

Justin Kato, Assistant Attorney General, WA State Attorney General

OPENING

De'Sean Quinn, Commission Chair

Chair Quinn called the meeting to order at 10:03 AM.

Lacey Ledford conducted a roll call of the Commissioners. A quorum was present.

Chair Quinn announced that **Commissioner Kelsey** would be resigning from his position on the Commission.

OLD BUSINESS

Certification Policies

Commissioner Joseph inquired about the status of the four Certification policies requested for review: Penalties and Sanctions, Investigations for Decertification, Hearing Panel Membership, and Notifications for Decertification Hearings Outcomes. **Director Alexander** stated that three of these policies have been sent to Commissioners for review with one policy still awaiting approval.

NEW BUSINESS

Reserve Officer Training

Tom Hill, Program Manager

Tom Hill presented to the Commission an informative review regarding the current and historical practices of the Reserve Officer Training program, stating that the earliest recorded mention of a reserve officer in Washington State was from 1968 but that it was not until 2004 when agencies were first required to notify the Commission on the separation of a reserve officer. **Tom Hill** reminded the Commission that Reserve Officers were not included in the LETCSA mandates, that they are not certified and instead receive a certificate of training which does not subject them to the same rules of certification and decertification as general authority peace officers, adding that the Commission cannot decertify a reserve officer as a result. **Tom Hill** showed that over time, the training hours required to receive a Reserve Officer Certificate has increased, from a previous 220 hours to a now more robust 365 hours of training, noting that no RCW or WAC determines any minimum amount of training required for an individual to receive a Reserve Officer Certificate, while indicating that the curriculum WAC 139-05-250 has added Reserve Academy into its language. **Tom Hill** stated that most agencies that host reserve academies exceed the minimum number of training hours, adding that there can be difficulties in finding qualified instructors for a Reserve Academy, adding that without a qualified instructor, some classes, such as diversity training, cannot be performed or taught during an academy.

Tom Hill informed the Commission that there are currently 308 certified Reserve Officers in the state, with 137 coming from 29 county agencies, 165 coming from 62 city agencies, and six coming from four tribal agencies.

Tom Hill stated that Senate Bill 5051 included requirements to provide to the Governor's Office a report intending to clarify the reserve role in the state of Washington and to authorize the Commission with direct oversight. The suggestions of the report were broken up into four categories: Academy, Certifications, RCW-WAC Revisions, and Mandated Training Requirements. **Tom Hill** presented to the Commission the recommendations and suggestions for each category.

With regards to the Academy recommendations, WSCJTC recommended more specificity about who could instruct in a reserve academy, the minimum required hours to be established at 360 hours with a suggested 360 additional post academy training hours to be conducted with a state-trained field training officer, and recommended removing the term *provisional* when referencing a reserve officer given general authority in the event of an emergency or staffing issue.

With regards to Certification recommendations, WSCJTC recommended that reserve officer certification would be required when called upon by their general authority agency, which would allow for certification revocation.

With regards to RCW-WAC Revisions recommendations, WSCJTC recommended adding guidance for retiring officers looking to transition into reserve officer status, that reserve officers be required to complete a Basic Law Enforcement Reserves Academy prior to serving in uniform or enforcing state laws, establishing a minimum and maximum number of eligible hours worked each week to remain in good standing as a reserve officer, and establishing rules precluding reserve officers from taking home equipment.

With regards to Mandated Training Requirements recommendations, WSCJTC recommended that any newly created legislative mandates should also apply to reserve officers and that all mandatory training for general authority peace officers should also apply to reserve officers.

Tom Hill provided the Commission information surrounding some sheriff's offices use of volunteer posses, adding that there are no WAC or RCW references to a sheriff's office posse, members, or administration of such programs, though indicating that most posse members are citizen volunteers who assist a sheriff's office during times of emergency, search and rescue, or parade control. **Tom Hill** concluded by saying that there are no rules regarding the use of these volunteer member groups.

Commissioner Reynon reminded the Commission that a resolution addressing some of the mentioned recommendations was drafted and sought updates regarding the status of any legislation which might address the resolution. **Director Alexander** answered that there is a bill written regarding limited authority officers, which could allow for the inclusion of reserve officers, but added that the capacity to train reserve officers would be an issue, as there is a current eight month wait time for the Basic Law Enforcement Academy and adding 308 reserve officers to the waitlist would further compound the backlog. **Commissioner Reynon** shared a concern that reserve officers are still carrying weapons with the authority to use those weapons, adding the importance for anybody authorized to use weapons to have the same training requirements and accountability as general authority officers. **Director Alexander** stated that based on the law as written, reserve officers can use weapons without those same training requirements, emphasizing the need to word the law properly. **Chair Quinn** added that without these requirements being in RCW or WAC, it would be unlikely to get funding. **Commissioner Webb** asked if a fiscal note with a null and void clause would be sufficient. **Director Alexander** stated that it would not alleviate the backlog but would instead make it worse, adding the need for time to plan to determine how to implement a reserve academy in a proper manner. **Commissioner Thomas** added that reservists need to be considered when looking to move locations to a larger facility which would be able to accommodate more classes and implement a reserve academy without issue.

Commissioner Thomas asked how often the diversity training course is omitted from a reserve academy due to the lack of a qualified instructor. **Tom Hill** responded by stating that the WAC does not require the LETCSA mandated diversity training to be included in the reserve

academy, making it an optional class which to date has not been added to the curriculum due to the inability to find a qualified instructor to teach the classes. **Commissioner Scairpon** inquired about the location of the reservists in the state of Washington. **Tom Hill** answered that the reserve officers are located all throughout the state, rural and urban, adding that 29 of the state's 39 counties utilize reserve officers.

Commissioner Hunter asked if it would be possible to put a moratorium on the reserve program or disband it altogether until it can be put into law and properly funded. **Director Alexander** indicated that this could have a great impact on some agencies throughout the state. **Commissioner Scairpon** mentioned an upcoming Chief and Sheriff's Association meeting and would gauge the potential impact of this moratorium. **Chair Quinn** added that there is a risk associated with the use of reservists and that risk needs to be included in the conversation regarding pausing the use of reserve officers, further stating that the Commission needs to look at the issue holistically.

[LETCSA Independent Investigation Team \(IIT\) Best Practices Guidelines](#)

Alex Buijs, LETCSA Program Manager

Alex Buijs presented to the Commission revisions made to the LETCSA IIT Best Practices Guidelines. **Commissioner Hunter** recommended revising the definition of *Involved Agency* to match the definition used in RCW 43.102.010, adding that the definition as written is not broad enough, which is the same problem as the definition for *Involved Officer*. **Justin Kato** stated that the definitions between the RCW and the guidelines need to be consistent, though not necessarily identical, adding the need to review the RCW more closely and conduct more research before providing a recommendation. **Chair Quinn** recommended waiting to have more internal conversation after the review from the Assistant Attorney General. **Alex Buijs** reminded the Commission that this document has more flexibility in its creation since it is not an RCW or WAC.

Assistant Chief Bendiksen inquired about the reference of evidence going to the IIT, asking that if there is an urgency to provide evidence immediately, and the agency providing that evidence is going to be conducting investigations using that evidence, if there was an opportunity to provide clear indications as to when the transfer of evidence would occur as it might halt active investigations due to the transfer of information and evidence. **Chair Quinn** asked if it is possible to get more feedback or research on how these conversations regarding coordination between IIT and involved agencies have gone in the past. **Assistant Chief Bendiksen** indicated that there is concern regarding the complete lack of timelines surrounding this language. **Alex Buijs** asked for a recommendation of language within the document, to which **Assistant Chief Bendiksen** indicated a willingness to provide.

Commissioner Thomas suggested a change in language which prevents involved officers from discussing a case to apply to all officers on the scene so that discussions cannot occur amongst themselves, which would further apply to the IIT and the venue agency, extending this requirement throughout the investigation until interview are completed.

Commissioner Thomas moved to amend the language in Procedure C Section 11. **Vice-Chair Sapp** seconded the motion. **The motion passed unanimously.**

Commissioner Reynon indicated a desire to change the language in procedure section D regarding the filling out of a conflict-of-interest form as soon as possible and wanting to ensure we treat all forms the same, whether it is a community member, an officer is initially appointed to the IIT, or an officer appointed as a substitute.

Commissioner Reynon moved to amend the language in Procedure D. **Commissioner Dreveskracht** seconded the motion. **The motion passed unanimously.**

Commissioner Reynon inquired about the individual responsible for determining whether a conflict exists, indicating that the language references the non-law enforcement representative will review the form but that it reminded unclear whether it was that community representative who makes the decision or the IIT Commander, adding that the decision should be made by both collaboratively.

Commissioner Reynon moved to amend the language in Procedure D. **Commissioner Scairpon** seconded the motion. **The motion passed unanimously.**

Commissioner Thomas expressed a desire that along with the conflict-of-interest form that the IIT Commander verify using agency provided information that IIT members are free from misconduct, allowing that IIT Commander are required to follow up with agencies if reports are not received, disqualifying team members if misconduct is found. **Alex Buijs** asked for clarification regarding who is providing information to whom. **Commissioner Thomas** clarified that an IIT Commander does not have access to an IIT member's work history and history of misconduct and are instead reliant upon the employing agency to provide that information, stating a desire to ensure the information is provided to the IIT Commander when an individual initially joins an IIT and subsequently receives reports if an IIT member commits misconduct after joining.

Commissioner Thomas moved to amend the language in Procedure D. There was no second to this motion. **The motion passed unanimously.**

Commissioner Reynon expressed confusion on the Best Practices document referring to interview techniques to utilize industry best practices, stating a desire to clarify what is meant by the term best practices and to provide tangible examples of interviewing techniques. **Chair Quinn** asked if it is possible more research be conducted and the document be amended to reflect this suggestion, to which **Alex Buijs** consented.

Commissioner Reynon indicated that the reference to tribal liaison be included in an earlier section of the guidelines instead of at the bottom for ease-of-use purposes.

Assistant Chief Bendiksen referenced the remark to amend WAC 139-12 to reflect adding definitions for the *criminal background information* with regards to section I's News Media Considerations and suggested, for the sake of open communication and to ensure transparency with the community, that criminal background history is only shared with regard to what is occurring in the incident under investigation.

Certification Review

Commissioner Hunter inquired about the feasibility of the Commission adding an agenda item to each Commission meeting to provide an update regarding the work performed by the Certification division, adding that it would be helpful to be informed of their activities and metrics. **Chair Quinn** worried about the impact adding such a requirement would have on the individual workloads of those in that division, to which **Director Alexander** indicated the additional workload would be manageable.

Commissioner Hunter moved to add an ongoing Certification Review agenda item. **Commissioner Kendricks** seconded the motion. **The motion passed unanimously.**

EXECUTIVE SESSION

Chair Quinn announced that there would be no executive session. **Chair Quinn** asked if anyone had anything further. Hearing none, he thanked the Commissioners and adjourned the meeting at 12:11 PM.

Next Meeting: December 14, 2022, 10 AM, WSCJTC

Written by: _____
Lacey Ledford, Executive Assistant Date

Reviewed by: _____
Monica Alexander, Executive Director Date

Approved by: _____
De’Sean Quinn, Commission Chair Date



WASHINGTON STATE
CRIMINAL JUSTICE TRAINING COMMISSION
19010 1ST AVENUE SOUTH, BURIEN, WA 98148

COMMISSION MEETING

Wednesday, September 14, 2022
10 AM

COMMISSION MEMBERS PRESENT:

De'Sean Quinn (Chair), Councilman, Tukwila
Shannon Bendiksen, Assistant Chief, Washington State Patrol
Ryan Dreveskracht, Attorney Presiding over Law Enforcement Practices and Accountability
Nickeia Hunter, Citizen at Large
Katrina Johnson, Citizen at Large
Sonia Joseph, Citizen at Large
Walter Kendricks, Citizen at Large
Bart Logue, Civilian Oversight over Law Enforcement
Trishandra Pickup, Citizen at Large
Kurtis Robinson, Citizen at Large
Ken Roske, Chief (Alternate), Pasco Police Department
Penelope Sapp, Chief, Kitsap County Jail
Dan Satterberg, Prosecuting Attorney, King County
Erik Scairpon, Chief, Marysville Police Department
Robert Snaza, Sheriff, Lewis County
Mike Webb, Attorney General Designee

WSCJTC STAFF PRESENT:

Monica Alexander, Executive Director
Jerrell Wills, Deputy Director
Kevin Zeller, Assistant Director
Ed Wade, Assistant Director
Lacey Ledford, Executive Assistant
Bart Hayes, Manager, Advanced Training Division
Dave Campbell, Commander, Basic Training Division
Christine Rickert, Assistant Commander, Basic Training Division
Sean Hendrickson, Manager, Applied Skills Division
Megan Saunders, Manager, Communications
Mike Devine, Manager, Certifications Division
Dusty Pierpoint, Investigator, Certifications Division
Valerie Jenkins-Weaver, Program Manager, Certifications Division
Alex Buijs, Program Manager, LETCSA
Renee Berry, Confidential Secretary
Norma Moreno, Confidential Secretary
Derek Zable, Records Manager
Kayla Wold, Hearings Coordinator
Serena Anastasio, Assistant to the Commander, Basic Training Division

Antonio Asencio-Pigmon, Administrative Assistant, LETCSA
Ethan Swenson, Administrative Assistant, Information Technology Unit

GUESTS PRESENT:

Justin Kato, Assistant Attorney General, WA State Attorney General

OPENING

De'Sean Quinn, Commission Chair

Chair Quinn called the meeting to order at 10:05 AM.

Lacey Ledford conducted a roll call of the Commissioners. A quorum was present.

Chair Quinn announced that this meeting was being hosted on Zoom instead of in-person.

Commissioner Kendricks inquired regarding whether the Governor would be lifting the emergency meetings allowance. **Chair Quinn** stated that this action would occur sometime in the future but that it has not yet occurred. **Director Alexander** stated that the agency is reviewing potential meeting spaces as the Burien campus can no longer accommodate such a large Commission.

Agenda Update

Chair Quinn announced to the Commission that the agenda item to review LETCSA best practices would be postponed and rescheduled for a special Commission Meeting to commence in October 2022.

Sandy Williams

Chair Quinn acknowledged the passing of Sandy Williams, a powerful and understated individual who was instrumental in the success of the taskforce against deadly force. **Chair Quinn** informed the Commission that Sandy Williams passed on September 4, 2022, when a plane she was a passenger in crashed into the Puget Sound. **Chair Quinn** stated that he served two terms with her with the African American Commission and wanted to recognize her impact on himself, other Commissioners, and the tasks the Commission is set to hold and see to the end.

Approval of Meeting Minutes

Chair Quinn called for review and approval of the meeting minutes from the August 31, 2022, Commission Meetings.

Commissioner Scairpon moved to approve the minutes. **Commissioner Kendricks** seconded the motion. **The motion passed unanimously.**

EXECUTIVE DIRECTOR'S REPORT

Monica Alexander, Executive Director

BLEA Updates

Director Alexander updated the Commission that there are currently nine classes underway: seven BLEA classes in Burien, one COA class, and one Spokane BLEA class.

Staffing Updates

Director Alexander informed the Commission that Commander Dave Campbell would be resigning his position and would be replaced by former BLEA Commander Henry Gill. **Director**

Alexander also announced the resignation of Assistant Director Kevin Zeller and introduced his replacement Ed Wade, the former Assistant Chief of Tacoma Police Department.

Reserve Updates

Director Alexander requested that a presentation regarding current Reserve training be made to the Commission at a future meeting.

OLD BUSINESS

Reserves

Commissioner Joseph reminded the Commission and its staff that there was a resolution adopted at a previous meeting which must be adhered to, a resolution which did not address training but instead directed staff to prepare and advocate for reserve officers to receive certification. **Chair Quinn** acknowledged the resolution and stated that the Commissioners were to receive feedback from staff regarding the reserve officer training process, inquiring about the financial implications of the process and if there are responsibilities to engage with the Governor. **Director Alexander** voiced some concerns regarding placing reserve officers into BLEA as it would certify them as full-time officers instead of reserve officers, stating a need to speak with a policy official.

Commissioner Joseph asked if a difference would be made if reserve officers were not authorized to use firearms. **Director Alexander** expressed the importance to look at why a presentation into the reserve officer training process and their responsibilities. **Chair Quinn** imparted upon the Commission the need to have this discussion and presentation before going to legislation with a plan. **Commissioner Roske** stated a desire to have a history of the reserve officer discussions and to have more conversations on the topic to understand the ultimate vision and how best to get there as a Commission, sharing that his department has stood down the reserve program despite its value to communities. **Commissioner Scairpon** reiterated the need for orientation on the topic of reserve officers, adding that many communities are pivoting toward community service officers, who do not utilize firearms.

Certification Policies

Commissioner Joseph inquired about the status of the four Certification policies requested for review: Penalties and Sanctions, Investigations for Decertification, Hearing Panel Membership, and Notifications for Decertification Hearings Outcomes. **Kayla Wold** stated that these policies have been developed and will be sent out for review following the conclusion of the meeting.

NEW BUSINESS

Bylaws: Vice-Chair Vote

Commissioner Logue asked about who the eligible Commissioners were to be nominated based on the updated Bylaws. **Chair Quinn** answered that the eligible Commissioners to serve would be **Commissioners Kelsey, Reynon, Robinson, Sapp, and Snaza** with **Commissioner Satterberg** having previously declined the position.

Commissioner Snaza nominated **Commissioner Sapp** for the position of Vice-Chair. **Chair Quinn** asked **Commissioner Sapp** if she would be willing to serve in the position.

Commissioner Sapp stated that she would be both willing and honored to serve in the position.

Commissioner Pickup nominated **Commissioner Snaza** for the position of Vice-Chair. **Chair Quinn** asked **Commissioner Snaza** if he would be willing to serve in the position. **Commissioner Snaza** stated he would be willing to serve if **Commissioner Sapp** did not want the position.

Commissioner Snaza moved to approve **Commissioner Sapp** as Vice-Chair. **Commissioner Kendricks** seconded the motion.

Commissioner Pickup moved to approve **Commissioner Snaza** as Vice-Chair. **Commissioner Robinson** seconded the motion. **Commissioner Sapp received 9 votes out of 14.**

Corrections WAC 139-10 Final Review

Christine Rickert, Assistant Commander

Christine Rickert presented to the Commission the final changes made to update WAC 139-10, indicating public comment was received and changes adopted based on the comments. **Commissioner Scairpon** expressed his appreciation for the hard work done to update these WACs.

Vice-Chair Sapp moved to approve the WAC as written. **Commissioner Dreveskracht** seconded the motion. **The motion passed unanimously.**

K9 Applications

Valerie Jenkins-Weaver, Certification Manager

Valerie Jenkins-Weaver provided the Commissioners with a packet containing K9 evaluator applications for Detective Jason Hunt of the Spokane County Sheriff for a canine evaluator within the Patrol discipline. **Chair Quinn** inquired about the process involved when an applicant is compliant with all their training but have not yet fulfilled the annual requirement. **Director Alexander** stated that all officers receive several reminders throughout the year for required training. **Commissioner Snaza** expressed that email reminders should not have to be sent out to canine evaluator applicants as they need to be diligent in ensuring they are on top of their training as evaluators are critical positions. **Director Alexander** reminded the Commission that Detective Hunt's training is current. **Assistant Chief Bendiksen** asked if there were any certification lapses in previous years, stating that staffing issues could be a factor in training delays. **Commissioner Scairpon** indicated that the attached training report shows 75-hours of training and that courses assigned from the agency are on a multi-year deadline.

Commissioner Scairpon moved to approve the applicant. **Commissioner Snaza** seconded the motion. **The motion passed unanimously.**

Hearing Panel Applications

Kayla Wold, Hearing Coordinator

Kayla Wold provided the Commissioners with a packet containing the applications for Hearing Panel Members, reminding the newer Commissioners that it is the responsibility of the Commission to approve or deny hearing panel members. Included in these applications are four applicants for members of the public and two members with experience and backgrounds in police accountability.

Commissioner Snaza moved to approve all applicants. **Commissioner Satterberg** seconded the motion. **The motion passed unanimously.**



WSCJTC Certification Hearings – Panel Member Application

RCW 43.101.380

APPLICANT INFORMATION

Name: Krista Means

Agency: [REDACTED]

Title/Rank: M. A. Criminal Justice

Email & Phone [REDACTED]

To be considered for selection to a hearing panel, a peace officer or corrections officer must have at least 10 years' experience. Do you meet this qualification: Yes No N/A

Please select the hearing panel you wish to be considered for:

Peace Officer Hearings

- Police Chief or Sheriff
 Peace Officer, First Line Supervisor or below

Corrections Officer Hearings

- Person that heads a city or county corrections agency or a WA DOC corrections facility
 Corrections Officer, First Line Supervisor or below

Tribal Officer Hearings

- Tribal Police Chief
 Tribal Police Officer, First Line Supervisor or below

All Hearings

- Civilian member of the Washington State Criminal Justice Training Commission.
 Member of the public who is NOT a prosecutor, defense attorney, judge, or LE officer.
 Person with expertise and background in police accountability who is NOT a current or former peace officer or corrections officer.

Required Materials

Application Cover Letter Resume & contact for three references Letter of Support from Agency Supervisor*

*Members of the public may submit a letter of recommendation in lieu of a letter of support.

Please submit materials to: **Hearings Coordinator, Kayla Wold; kwold@cjtc.wa.gov or
WSCJTC: 19010 1st Ave S. Burien, WA 98148
Questions: (206) 372-5391**

Applicant Submittals

Materials submitted to WSCJTC will be presented at the quarterly commission meeting (September, December, March, June – dates subject to change). Please note, the applicant need not attend. Upon approval or denial, a letter will be sent to you with additional information.

Krista Means

October 6, 2022

Washington State Criminal
Justice Training Commission

Dear Kayla,

It is with great interest that I apply for a panel member position with the Washington State Criminal Justice Training Commission, as I feel my experience and education uniquely qualify me for this position.

I have spent the past two years of my academic career researching and examining policing from nearly every conceivable angle. From studying multiple forms of police misconduct to researching better ways to hire officers who recognize and accept the ethical responsibilities of policing, my desire to support agencies focused on restoring legitimacy to law enforcement through public accountability has become my passion.

At the same time, I have spent the past three years working alongside police officers as a Victims Support Team member for the Office of Human Services. As a field advocate for domestic violence victims, I have worked alongside many competent and honorable officers. Witnessing policing from inside the precinct and the more macro-level view offered by academia offers a more precise picture from which to approach the issue of police misconduct. This multi-faceted visibility into law enforcement provides me with a more balanced, unbiased perspective with which to approach work of this kind.

Failure to hold officers accountable for stepping outside the bounds of ethical policing destroys trust in law enforcement, profoundly damaging relationships between officers and the communities they have sworn to protect. I appreciate the efforts of the WSCJTC to hold officers to a high standard of conduct.

My training in psychopathy and biological criminology has given me a more nuanced understanding of the behavioral aspects of crime and violence, further strengthened by my experience in the field. My graduate work, which focused primarily on police misconduct, has opened my eyes to the need for an impartial, honest assessment of police behavior resulting in broader accountability for officers who step into the realm of criminality. Serving on the WSCJTC certification panel would allow me to combine my academic expertise in researching police misconduct with my civic sense of justice for all, regardless of profession.

Thank you for your time and consideration,



Krista Means

Krista T. Means

Objective

To obtain a panel member position with the Washington State Justice Training Commission in which my subject matter expertise regarding issues related to police accountability, as well as my experience working with victims of violent crime, can come together and contribute to providing fair, unbiased recommendations for officer certification hearings.

Education

B.A. IN LIBERAL STUDIES | JUNE 1997 | UNIVERSITY OF WASHINGTON
M.A. IN CRIMINAL JUSTICE | JUNE 2022 | SEATTLE UNIVERSITY

Professional Experience

VICTIMS SUPPORT TEAM | CITY OF SEATTLE – HUMAN SERVICES DEPARTMENT | SEPTEMBER 2019 – PRESENT

- Successful completion of VST Academy
- Current full Seattle police department background check
- Provide real-time safety planning and crisis intervention to victims of domestic violence of all ages
- Sensitively and compassionately engage with victims utilizing a trauma-informed approach
- Participate in monthly continued education meetings
- Engage with a wide variety of victims, cultures, and native languages
- Current CJIS certification

TEACHING ASSISTANT | SEATTLE UNIVERSITY – CRIMINAL JUSTICE DEPARTMENT | JANUARY – MARCH 2022

- Teaching Assistant to Professor Jacqueline B. Helfgott, PhD for *The Psychopath* course
- Assisted two sections of undergraduate and graduate students
- Independently graded essay-written quizzes, exams, and presentations for 56 students
- Provided one-on-one consultation with students on an as needed basis
- Reviewed and edited University course website for accuracy and completeness

RESEARCH ASSISTANT | SEATTLE UNIVERSITY – CRIMINAL JUSTICE DEPARTMENT | JANUARY - MARCH 2021

- Conducted original research for a master's Thesis case study
- Conducted an extensively researched forensic psychological PCL-R assessment using archival material
- Collated and summarized data and results

INVITED GUEST LECTURER | SEATTLE UNIVERSITY | MARCH 2021

- Guest lecturer on sex trafficking to class of undergraduate and graduate students

Practicums | Trainings

RESTORATIVE COMMUNITY-POLICE PRACTICUM | JANUARY – MARCH 2022

- Participated in weekly dialogue circles with Seattle law enforcement
- Engaged in challenging, respectful, and sometimes contentious discussions regarding race and policing
- Participated in extensive collaborative brainstorming in an effort to generate tangible and sustainable ideas for systemic change
- Participated in thoughtful discussions regarding perceptions versus reality for both police and community
- Discussed the emotional impacts to police and community resulting from high-profile cases of police excessive use of force

FBI PRACTICUM | JANUARY – MARCH 2022

- Successful completion of practicum
- In-depth instruction on roles and practices within the FBI

VIRTUAL COMMUNITY-POLICE DIALOGUE | MAY 2021

- Participated in community dialogue with Seattle police to discuss Seattle Public Safety Survey results
- Discussed public safety and security at the micro-community level with focus on the South Precinct
- Participated in brainstorm session with SPD officers regarding ways in which SPD can bridge the police/community divide

RACIAL EQUITY SUMMIT | MAY 2021

- Engagement with one of the foremost scholars on race and civil rights, Michelle Alexander, author of *The New Jim Crow*
- Participated in follow-up discussions regarding race and policing, both historical and contemporary

HARE PSYCHOPATHY CHECKLIST-REVISED (PCL-R) CERTIFICATION | OCTOBER 2020

- Completed specialized training hosted by the Global Institute of Forensic Research
- Received comprehensive and immersive training on the PCL-R, the international “gold standard” for the diagnosis of psychopathy used in community, mental health, and correctional settings around the world
- In depth study of developmental and biological aspects of anti-social spectrum behavior

PRIVATE INVESTIGATOR CERTIFICATION | FEBRUARY 2020

- Successful completion of private investigator training regarding material specified in WAC 308-17-300

Relevant Academic Papers

- Far-Right Extremism in Law Enforcement and the Resulting Crisis of Legitimacy
- The Evolution of Screening Tools Used in Law Enforcement Hiring Practices
- An Argument for the Appointment of Special Prosecutors in All Cases of Police Misconduct
- Police and Sexual Misconduct

Memberships/ Awards

- 2021 – Present Western Society of Criminology
- 2020 – Present National Criminal Justice Honor Society, Alpha Phi Sigma - 4.0 GPA
- 2020 – 2022 Seattle University Criminal Justice Fellowship Scholarship Award

Krista T. Means

References:

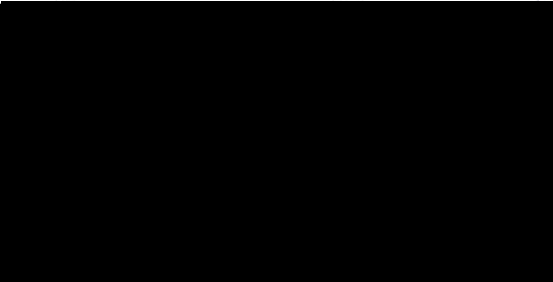
- **Jacqueline Helfgott, PhD**

Seattle University Professor and Director - Crime & Justice Research Center



- **Kaylee DiMaggio**

Supervisor - Victim Support Team – Seattle Human Services



- **Joslyn Wallenborn**

Legal Assistant Supervisor - Washington State Attorney General's Office – Criminal Justice Division



- **Debi Dorfsman**

FBI Supervisory Intelligence Analyst



November 2022

To whom it may concern:

I am honored to be writing this recommendation letter for Krista Means for a position as a panel member with the Washington State Justice Training Commission. Krista and I have shared interests and concerns. We have worked together to support worthy causes for nearly 10 years.

Since meeting Krista, I have been impressed with her leadership skills, communication, collaboration and insatiable appetite for learning. She sets big goals for herself and the people and organizations around her and works tirelessly to achieve those objectives. She succeeds by building alignment to purpose and employing compassion and empathy to enlist others. She has a keen balance of intellectual curiosity and pragmatic prioritization. People who know Krista are constantly amazed by and proud of her academic and professional accomplishments while she also supports her family in all their endeavors.

Krista has spent the last several years focusing her attention on criminal justice and as an active Victims Support Team member. Her work with the Office of Human Services and the Seattle Police Department has provided her a unique opportunity to witness active policing and community engagement firsthand. Her academic pursuits have allowed her to research and study the criminal justice system in detail.

I strongly believe Krista will be an asset to the Washington State Criminal Justice Training Commission with regard to her ability to actively listen, ask relevant questions seeking to understand, and using her solid reasoning and decision-making skills.

It's been my personal pleasure to recommend Krista Means for this position. If you have any questions or concerns, please contact me at (206) 639-3853 or email listed below and I'll be more than happy to assist you in addressing any queries you may have.

Sincerely,



Mollie Jensen
Managing Director, Global Head of Marketing
Russell Investments



INTEROFFICE COMMUNICATION

WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION

TO: WSCJTC Commissioners
FROM: WSCJTC WAC Rules Coordinator, Derek Zable
SUBJECT: December 14 WAC Changes
DATE: November 22, 2022



Hello Commissioners,

This WAC update continues to refine the WSCJTC processes and language needed to carry out the work of the Commission.

WAC 139-01-310 Definitions for Title 139 WAC

- Added (21) **Recruit** means an individual registered for, selected for, accepted to, enrolled in, or required to complete a basic training academy.
- Re-numerated the subsequent definitions to maintain alphabetical ordering.

WAC 139-05-210 Process for equivalency

- Updated applicant to recruit and made small grammatical changes.

WAC 139-05-220 Backgrounding requirement for admission to basic law enforcement academies

- Updated applicant to recruit.

WAC 139-05-230 Physical requirements for admission to the basic law enforcement academy

- Updated applicant to recruit.
- Placed into WAC format via numeration.
- Updated language to be the same as current usage in the academy and removed specific assessments from WAC language to be further noted in WSCJTC policy.

WAC 139-05-240 Completion requirements of basic law enforcement academies

- Updated section to be in alignment with changes from 5051 on not providing certificates but diplomas upon graduation.

- Updated language to match current processes, i.e. the specifics of written tests and practical skills proficiency.
- Added academy participation requirements to be in alignment with the Corrections WAC previously updated.

WAC 139-05-242 Readmission to the basic law enforcement academy

- Updated language to use recruit definition.
- Updated the readmission process to be consistent with the overall WAC changes regarding “agency head or designee.”
- Updated RCW references.
- Updated the readmission process to match that of Correction section (139-10-222) recently passed.

WAC 139-05-250 Basic law enforcement curriculum

- Updated this section to include all mandated police training with RCW references that must be included in a basic law enforcement course. RCWs that require training outside of basic training are not included in this change as they are provided through a different process.

WAC 139-05-911 Tribal certification

- This WAC section was moved under a new section in WAC 139-06 (Certification) and is repealed out of WAC 139-05 (Basic Law Enforcement).

WAC 139-06-015 Tribal certification

- No changes were made to this section. Language was relocated from 139-05-911 to 139-06-015.

WAC 139-06-030 Investigative authority and duty to cooperate.

- This change is necessary to maintain consistency with WAC 139-06-020 that when misconduct is discovered even after an officer no longer is employed by that agency, that an investigation must occur by the agency who previously employed the officer. It references the more specific requirements in WAC 139-06-020(4). Removed the RCW reference as this WAC serves to clarify that RCW and to maintain consistency, further the RCW reference is not contained in WAC 139-06-020(4).

WAC 139-06-100 Outcomes for determinations of misconduct-Suspension, probation, retaining, or dismissal of the statement of charges.

- Updated this section to include the dismissal of charges as a potential outcome.

WAC 139-07-020 Background information

- Updated this section for clarity by including language that applicants include new hires and in-state laterals.
- Updated this section for clarity by stating backgrounds older than 6 months shall be considered invalid for the purposes of the background process.

WAC 139-07-040 Polygraph examination or other truth verification assessment.

- Updated this section for clarity by stating polygraph reports older than six months shall be considered invalid for the purposes of the background process.

WAC 139-10-230 Corrections officers academy eligibility and curriculum

- Updated the language to match RCW language of “10 weeks.”

WAC 139-01-310 Definitions for Title 139 WAC. The following definitions apply to Title 139 WAC, unless otherwise defined in a specific chapter or subchapter of this title.

(1) **Affiliation** means advocating for or providing material support or resources to extremist organizations by:

(a) Knowingly or publicly displaying, posting, or wearing associated items, symbols, costumes, insignias, slogans, tattoos, or body modifications on public property, private property, online, or digitally;

(b) Making public statements in support of an extremist group's activities including, but not limited to, online statements;

(c) Fund-raising for, or making personal contributions through donations, services, or payments of any kind to a group or organization that engages in extremist activities;

(d) Organizing or participating in the activities of an extremist organization;

(e) Recruiting or training others to engage in extremist activities;

(f) Recruiting or training others on behalf of an extremist organization;

(g) Creating, organizing, or taking a leadership role in a group or organization that engages in or advocates for extremist activities; or

(h) Actively demonstrating or rallying in support of extremist activities.

(2) **Applicant** means an individual who must satisfy the requirements of RCW 43.101.095 as a condition of employment.

(3) **Certified officer**, unless otherwise specified, means any full-time, general authority peace officer, tribal police officer with a recognized certified tribe, and corrections officer as defined in RCW 43.101.010 (6), (10), and (12).

(4) **Commission** means the Washington state criminal justice training commission.

(5) **Conclusion** means the final disposition issued by an employing agency after it has conducted an investigation into alleged misconduct or policy violation.

(6) **Day** means one calendar day. Computation of time does not include the day of the act or event from which the designated period of time begins to run. The last day of the period shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next weekday that is not a legal holiday.

(7) **Denial** means a commission decision to refuse to grant certification to a prospective certified officer.

(8) **Discipline** means an oral reprimand (where a written record of the reprimand has been placed in an employee's file), written reprimand, suspension, demotion, or termination. Discipline does not include performance reviews, work plans, or corrective actions that do not include a reprimand or other adverse employment action.

(9) **Executive** means the head of a law enforcement agency, such as chiefs, sheriffs, directors, or other equivalent positions.

(10) **Expired certification** means that a certified officer has had a break in service of over 60 months and their certification is no longer valid.

(11) **Extremist organization** means an organization or persons that:

(a) Seeks to undermine the democratic process through intimidation, violence, unlawful threat, or by depriving individuals of their rights under the United States Constitution or Washington state Constitution;

(b) Promotes the changing of American government structures through undemocratic means involving violence, unlawful threat, or intimidation;

(c) Promotes hatred, intolerance, unlawful discrimination, intimidation or violence against, public marginalization, or disenfranchisement of protected classes, including on the basis of sex, sexual orientation, gender, perceived gender, or gender expression, race, color, religion, ability, or national origin and other protected classes under RCW 49.60.030 and 43.101.105 (3)(h);

(d) Espouses, advocates, or engages in using force, violence, or unlawful threat to further explicit racism, antisemitism, anti-Muslim, white supremacy or any white nationalist ideology, or any ideology that discriminates based on religion or belief; or

(e) Espouses or advocates that the powers held by local law enforcement executives, and their interpretation of the law, supersedes those of any other federal, state, or local authority.

(12) **Final disposition** means an employing agency's final decision on a misconduct investigation. The final disposition is not dependent upon any appeals brought by an officer.

(13) **Findings or findings of fact and conclusion of law** means a determination based on a preponderance of the evidence whether alleged misconduct occurred; did not occur; occurred but was consistent with law and policy; or can neither be proven or disproven.

(14) **General authority Washington law enforcement agency** means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, as distinguished from a limited authority Washington law enforcement agency, and any other unit of government expressly designated by statute as a general authority Washington law enforcement agency. The Washington state patrol and the department of fish and wildlife are general authority Washington law enforcement agencies.

(15) **General authority Washington peace officer** means any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the state of Washington generally.

(16) **Lapsed certification** means that a certified officer has had a break in service of at least 24 months, but no more than 60 months, and that as a condition of continuing employment the officer must complete the commission's equivalency process.

(17) **Limited authority Washington law enforcement agency** means any agency, political subdivision, or unit of local government of this state, and any agency, department, or division of state government, having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws

relating to limited subject areas including, but not limited to, the state department of natural resources and social and health services, the state gambling commission, the state department of corrections, and the office of independent investigations.

(18) **Limited authority Washington peace officer** means any full-time fully compensated officer of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible.

(19) **Petitioner** means the commission's certification division.

(20) **Probationary periods or probationary terms** means a determination by a hearing panel that a certified officer may work under supervision based on agreed-upon terms.

(21) **Recruit** means an individual registered for, selected for, accepted to, enrolled in, or required to complete a basic training academy.

(22) **Reserve officer** means any person who does not serve as a peace officer of this state on a full-time basis, but who, when called by an agency into active service, is fully commissioned on the same basis as full-time officers to enforce criminal laws of this state.

~~((22))~~ (23) **Respondent** means the certified officer against whom the petitioner has filed a statement of charges.

~~((23))~~ (24) **Retraining** means the teaching or reteaching of skills and conduct required to succeed as a certified officer and imposed by the commission's hearings panel in a final order pursuant to RCW 43.101.105.

~~((24))~~ (25) **Revocation** means to cancel a certified officer's certification.

~~((25))~~ (26) **Serious injury** means **substantial bodily harm** and **great bodily harm** as defined in RCW 9A.04.110 (4) (b) and (c).

~~((26))~~ (27) **Specially commissioned Washington peace officer** means any officer, whether part-time or full-time, compensated or not, commissioned by a general authority Washington law enforcement agency to enforce some or all of the criminal laws of the state of Washington, who does not qualify under as a general authority Washington peace officer for that commissioning agency, specifically including reserve peace officers, and specifically commissioned full-time, fully compensated peace officers duly commissioned by the states of Oregon and Idaho or any such peace officer commissioned by a unit of local government of Oregon or Idaho.

~~((27))~~ (28) **Surrender** means that a holder of a certificate voluntarily relinquishes their certificate. This may happen while pending potential discipline or for any other reason.

~~((28))~~ (29) **Suspension** means a determination by a hearing panel on agreed-upon terms that a certified officer's certification will be withheld and the officer will be temporarily prevented from performing the duties of a certified officer during the determined period.

WAC 139-05-210 Process for equivalency. (1) An officer whose certification, commission, or licensing has been revoked or suspended, or is under review by this state or any other state or territory is not eligible to receive certification through an equivalency academy, regardless of the officer's prior years of service.

(2) A diploma of equivalent basic law enforcement academy or corrections officers academy is issued to (~~applicants~~) recruits who successfully complete the equivalency process as required by the commission. For this purpose, the term "process" includes all documentation and prerequisites set forth in subsection (9) of this section and successful completion of all knowledge and skills requirements within the equivalency academy.

(3) Participation in the equivalency process is limited to:

(a) Certified officers whose certification, commission, or licensing has lapsed because of a break in service in Washington or any other state or territory for more than 24 months but less than 60 months;

(b) Fully commissioned officers of a general authority or certified tribal law enforcement agency in Washington state who otherwise are eligible to attend the basic law enforcement academy;

(c) Fully commissioned officers who have been certified by completing a basic training program in Washington or another state;

(d) Corrections officers as defined in RCW 43.101.010(6) who otherwise are eligible to attend the corrections officers academy;

(e) Corrections officers who have successfully completed an approved corrections officers academy in Washington or another state; or

(f) Persons who have not attained commissioned officer status but have successfully completed a basic law enforcement academy recognized as fully equivalent to Washington's basic law enforcement academy by the commission and within 12 months of the date of completion has received a conditional offer of employment as a fully commissioned officer in Washington state.

(4) For the purposes of this section, the term "basic training program" does not include any military or reserve training or any federal training program not otherwise approved by the commission.

(5) (~~Applicants~~) Recruits who must participate in the equivalency academy to become a certified officer must attend an academy within six months of hire as a condition of employment.

(6) It is the responsibility of (~~an applicant's~~) a recruit's agency to ensure that all necessary backgrounding forms and documentation are completed and submitted to the commission in a timely manner and all requirements within this section are met.

(7) The decision to request an officer's participation in the equivalency process is at the discretion of the sheriff or chief of the officer's employing agency who must advise the commission of that decision. The commission has final approval of the officer's acceptance into the equivalency academy.

(8) The commission shall have authority to approve (~~an applicant~~) a recruit for participation in the equivalency process.

(9) The (~~applicant's~~) recruit's employing agency must submit to the commission the following documentation as a condition of participating in the equivalency process:

- (a) A statement of the (~~(applicant's)~~) recruit's health and physical condition including a physician signature;
- (b) A liability release agreement by the (~~(applicant)~~) recruit;
- (c) Previous employment agencies with dates of employment;
- (d) Documentation of completion of the previous training program;
- (e) Written syllabus detailing specific areas of training and hours of training;
- (f) Documentation of current certification status; and
- (g) For peace and tribal officers:
- (i) A record of the (~~(applicant's)~~) recruit's firearms qualification;
- (ii) Verification of comparable emergency vehicle operations training (EVOC).

If this has not been completed previously, the (~~(applicant)~~) recruit must complete the commission's current basic law enforcement EVOC, either by an instructor certified by the commission or through the Washington state patrol; all costs associated with this training will be the responsibility of the law enforcement agency.

(10) Upon completion of the equivalency process and review and evaluation of the (~~(applicant's)~~) recruit's performance, the commission shall issue a diploma and a certificate of certification.

(11) If the (~~(officer)~~) recruit has not met the qualifications to satisfactorily complete (~~(the)~~) an equivalency academy, the commission shall:

- (a) Issue a diploma and certificate of certification upon satisfactory completion of any required additional training; or
- (b) Require the (~~(officer)~~) recruit to attend the basic law enforcement academy or the corrections officers academy.

AMENDATORY SECTION (Amending WSR 05-20-029, filed 9/28/05, effective 10/29/05)

WAC 139-05-220 Backgrounding requirement for admission (~~(to)~~) in the basic law enforcement (~~(academy)~~) academies. It is the responsibility of each (~~(sponsoring or applying)~~) agency to conduct a (~~(complete criminal records check to include a search of state and national criminal history records information regarding its applicant through the submission of the applicant's fingerprints to an appropriate agency or agencies. No individual will be granted academy admission or allowed continued participation if the individual is not otherwise eligible for certification or has been convicted of a crime that would make him or her ineligible for certification.~~

Each application for academy attendance must be accompanied by a written attestation by the applying agency that (1) the criminal records check has been completed, and (2) there are no disqualifying (~~(convictions)~~) background investigation of its applicant, as outlined by RCW 43.101.095, as a precondition of academy admission.

AMENDATORY SECTION (Amending WSR 05-20-029, filed 9/28/05, effective 10/29/05)

WAC 139-05-230 Physical requirements for admission to the basic law enforcement academy. (~~Each successful applicant~~) (1) For admission to ~~((a))~~ the basic law enforcement academy, ~~((sponsored or conducted by the commission))~~ each recruit must possess good health and physical capability to actively and fully participate in defensive tactics training and other required physical activities.

(2) In order to minimize risk of injury and maximize the benefit of such participation, each recruit in any academy session must, as a precondition of ~~((his or her))~~ their academy ~~((attendance))~~ admission, demonstrate a requisite level of physical fitness, as established by the commission.

~~((For this purpose, each academy applicant will be assessed in the areas of aerobic capacity, strength, and flexibility,))~~ (3) Each recruit must be evaluated in accordance with the ~~((requirements))~~ pol-
icies and procedures established by the commission.

(4) Failure to demonstrate a requisite level of fitness will result in ineligibility for academy ~~((admissions and/or attendance))~~ ad-
mission.

AMENDATORY SECTION (Amending WSR 05-20-029, filed 9/28/05, effective 10/29/05)

WAC 139-05-240 Completion requirements of basic law enforcement ((academy)) academies. Each recruit in a basic law enforcement academy will receive a ~~((certificate of completion))~~ diploma only upon full and successful completion of the academy ~~((process))~~ as prescribed by the commission. The performance of each recruit ~~((will))~~ shall be evaluated as follows:

(1) Academic performance.

(a) A standardized ~~((examination))~~ evaluation process will be utilized ~~((by))~~ in all basic law enforcement academies sponsored or conducted by the commission in evaluating the level of scholastic achievement of each recruit.

(b) Such process ~~((will))~~ shall include the application of a designated minimum passing score ~~((to each subject area))~~ for written examinations and the availability of a retesting procedure.

(c) Failure to achieve the required minimum passing score will result in termination of academy ~~((assignment))~~ enrollment.

(2) Practical skills.

(a) A standardized evaluation process will be utilized ~~((by))~~ in all basic law enforcement academies sponsored or conducted by the commission in evaluating the level of ~~((practical performance))~~ skill proficiency of each recruit.

(b) Such process ~~((will))~~ shall include the application of ~~((pass/fail grading to))~~ a designated ~~((instructional objectives for physical performance))~~ minimum passing score of all skill proficiencies identified by the commission and the availability of a retesting procedure.

(c) Failure to achieve a final passing grade in each practical skills dimension will ((preclude a certificate of completion)) result in termination of academy enrollment.

(3) Conduct and participation.

(a) Each recruit will be required to participate fully in all academy classes and adhere to all rules, regulations, and policies of the commission.

(b) Failure to ((maintain an exemplary standard of conduct or to)) adhere to all rules, regulations, and policies of ((a basic law enforcement academy sponsored or conducted by)) the commission ((may)) will result in termination of academy ((assignment)) enrollment.

AMENDATORY SECTION (Amending WSR 05-20-029, filed 9/28/05, effective 10/29/05)

WAC 139-05-242 Readmission to the basic law enforcement academy.

No person may be readmitted to ((the)) any basic law enforcement ((training)) academy except as provided in this section.

(1) Any request for readmission ((to any academy)) must be made and submitted by the individual's employing ((or sponsoring)) agency head, or designee, in accordance with commission policies and procedures.

(2) Any individual whose academy enrollment was terminated ((from any academy)) for academic failure, ((for)) skills deficiency, disciplinary reasons other than those specified ((by)) in subsection (3) of this section, or who ((has)) had voluntarily withdrawn ((from any academy)) for any reason, may be readmitted to a subsequent academy session only if:

(a) The ((head of the)) individual's current employing agency head, or their designee, submits to the commission a written request for readmission of the individual to the academy ((program)); and

(b) The executive director of the commission, or designee, is satisfied that any conditions to the individual's readmission specified by the executive director, or designee, have been met.

(3) Any person ((dismissed from any academy)) whose academy enrollment was terminated for an integrity violation((7)) including, but not limited to: Cheating, the making of materially false statements, the commission of a crime, or other violation ((not constituting disqualifying misconduct as defined in RCW 43.101.010(7), will not be eligible)) contained in RCW 43.101.105 will be ineligible for readmission to any subsequent academy within ((twenty-four)) 24 months from the date of dismissal((. Such ineligibility will not be affected by any new employment or reemployment during the period of ineligibility specified in the preceding sentence of this subsection)) regardless of employer or employment status.

(4) An exception to the ineligibility period specified in subsection (3) of this section may be granted at the sole discretion of the commission executive director, or designee, based upon mitigating circumstances.

(a) No person may be considered for such early readmission after an integrity violation dismissal unless a written request is made by the head of the agency employing the individual at the time of the request.

(b) Requests for early readmission must follow applicable commission policies and procedures to be considered.

(c) The executive director's, or designee's, decision under this subsection shall be subject to review only for abuse of discretion.

(5) After the ineligibility period specified in subsection (3) of this section has passed, or after an exception has been granted by the commission under subsection (4) of this section, the person previously dismissed for an integrity violation may be readmitted to a subsequent academy session only ((if he or she satisfies)) the conditions of subsection (2) of this section are satisfactorily met.

~~((5))~~ (6) For purposes of this section, reserves and volunteers will be deemed to be employees of the agencies which sponsor them for participation in a training academy.

AMENDATORY SECTION (Amending WSR 19-07-037, filed 3/13/19, effective 4/13/19)

WAC 139-05-250 Basic law enforcement curriculum. The basic law enforcement and reserve academy curriculum of the commission may include, but not be limited to, the following core subject areas with common threads of communications, community policing, and professional ethics throughout:

- (1) Orientation and history of policing;
- (2) Criminal law;
- (3) Criminal procedures;
- (4) Patrol procedures;
- (5) Crisis intervention per RCW 43.101.427;
- (6) Emergency vehicle operations ~~((course))~~;
- (7) Report writing;
- (8) Traffic law;
- (9) Firearms;
- (10) Defensive tactics; ~~((and))~~
- (11) Criminal investigation;
- (12) Use of force training consistent with permissible uses of force per RCW 43.101.490;
- (13) Substance use disorders per RCW 43.101.205;
- (14) Vehicular pursuits per RCW 43.101.225;
- (15) Victim centered and trauma-informed approach to policing per RCW 43.101.274;
- (16) Ethnic and cultural diversity per RCW 43.101.280;
- (17) Hate crimes per RCW 43.101.290;
- (18) Child abuse and neglect per RCW 43.101.365;
- (19) Motorcycle profiling per RCW 43.101.419;
- (20) Violence de-escalation training as prescribed in WAC 139-11-020 per RCW 43.101.450;
- (21) Mental health training as prescribed in WAC 139-11-020 per RCW 43.101.452; and
- (22) Domestic violence reports and situations per RCW 10.99.030 and 10.99.033.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 139-05-911 Tribal certification.

NEW SECTION

WAC 139-06-015 Tribal certification. Tribal governments may voluntarily request certification for their police officers.

(1) Tribal governments requesting certification for their police officers must enter into a written agreement with the commission.

(2) The agreement must require the tribal law enforcement agency and its officers to comply with all certification requirements as those requirements are applied to all other officers certified under this chapter and the policy of the commission.

(3) To ensure clarity regarding the requirements with which the tribal government and its police officers must comply should the tribal government request certification, a tribal government may first request consultation with the commission.

(4) Applicants for certification as tribal police officers shall meet the requirements of this chapter and the policy of the commission as those requirements are applied to certification of all officers. Application for certification as a tribal police officer shall be accepted and processed in the same manner as those for certification of all officers.

AMENDATORY SECTION (Amending WSR 22-13-075, filed 6/9/22, effective 7/10/22)

WAC 139-06-030 Investigative authority and duty to cooperate.

(1) Except when otherwise required by RCW 43.101.105 (2) or (3), the commission has authority to undertake an investigation regardless of the status of any administrative or criminal investigations into the matter by other agencies.

(2) An agency shall cooperate in any investigation conducted by the commission regarding a certified officer's certification status. This includes providing records and information when requested.

(a) Upon receipt of a request an agency has 30 days to provide requested records.

(b) If the totality of the circumstances supports a conclusion that a certified officer resigned or retired in anticipation of discipline, then the ~~((employing agency shall))~~ agency who employed the officer at the time of the misconduct shall timely conduct and complete an investigation and provide all relevant information to the commission in accordance with WAC 139-06-020(4) and as if the certified officer were still employed by the agency ~~((under RCW 43.101.135))~~.

(3) A certified officer must authorize the release of their personnel file to the employing agency and the commission including disciplinary, termination, civil or criminal investigation, and other records and information directly related to a certification before the commission under RCW 43.101.095 and 43.101.105.

(4) Requests from the commission for records under chapter 43.101 RCW are not subject to any exemptions, redactions, waiting periods, or timelines associated with the Public Records Act, chapter 42.56 RCW.

(5) A certified officer must also consent to and facilitate a review of the certified officer's social media accounts when relevant to an investigation brought before the commission pursuant to RCW 43.101.095(4).

(a) The certified officer is not required to provide login information pursuant to RCW 49.44.200.

(b) The release of records and information may not be delayed, limited, or precluded by any agreement or contract between the certified officer or the certified officer's union and the entity responsible for the records and information.

(6) An employing agency may not enter into any agreement or contract with a certified officer or union that:

(a) Agrees not to report conduct or to delay reporting or to preclude disclosure of any relevant records and information to the commission, including any promise not to inform the commission that the certified officer may have committed misconduct in exchange for allowing a certified officer to resign or retire or for any other reason; or

(b) Allows the agency to destroy or remove any personnel record while the certified officer is employed and for 10 years thereafter. Such records must include all misconduct and equal employment opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, investigatory files, and other disciplinary appeals and litigation records.

AMENDATORY SECTION (Amending WSR 22-13-075, filed 6/9/22, effective 7/10/22)

WAC 139-06-100 Outcomes for determinations of misconduct—Suspension, probation, retraining or dismissal of the statement of charges.

(1) When an applicant or certified officer is found to have committed misconduct listed under RCW 43.101.105(3), the commission may convene a hearing panel to review the facts and, with any finding of misconduct, determine any appropriate outcomes. Outcomes include any or multiple of the following: Denial, suspension, probation, ~~((~~⊕~~))~~ revocation of certification, ~~((~~⊕~~))~~ remedial training, or dismissal of the statement of charges. In determining an appropriate outcome following a finding of misconduct, the hearings panel shall review the following evidence, if admitted:

(a) Information provided by the complainant(s), if any;

(b) The final disposition and all supporting documentation and information submitted to the commission and the basis for the final disposition following an investigation by a law enforcement or corrections agency regarding alleged misconduct;

(c) The final disposition and any documentation submitted to the commission and the basis for the final disposition of any due process hearing or disciplinary appeals hearing provided such hearing has occurred prior to the commission's action;

(d) Any information obtained by the commission through its own investigation or research;

(e) Any discipline or training ordered by the employing agency regarding the alleged misconduct; and

(f) Whether the employing agency bears any responsibility for the situation.

(2) Additional bases for determining appropriate outcomes shall be developed by the commission.

(3) The fact that the commission has suspended the certified officer's certification is not in and of itself a bar to the employing agency's maintenance of the officer's health and retirement benefits.

(4) Any suspension imposed by the commission shall run concurrently to any leave or discipline imposed by the employing agency for the same incident.

(5) An agency may not terminate the certified officer based solely on imposition of suspension or probation by the commission.

(6) This subsection does not prohibit a law enforcement agency from terminating the certified officer based on the underlying acts or omissions for which the commission took such action.

(7) Reserve officers are subject to the same commission actions as certified officers based on alleged misconduct listed in RCW 43.101.105 (2) and (3) if the reserve officers are certified pursuant to RCW 43.101.095.

WAC 139-07-020 Background information. (1) Hiring agency background checks must include the following records and information for new applicants:

- (a) Criminal history;
- (b) National decertification indices or data banks;
- (c) Commission records including employment history and certification status;
- (d) All disciplinary records by any previous law enforcement or correctional employer, including complaints or investigations of misconduct, to include the outcome of any investigation regardless of the result, and the reason for separation from employment. Previous law enforcement or corrections employers must provide this information, including the reason for separation from employment with the agency, within 30 days of receiving a written request from the agency conducting the background check;
- (e) Verification from the local prosecuting authority in any jurisdiction in which the applicant has served as to whether the applicant is on any impeachment disclosure lists;
- (f) Inquiry into whether the applicant has any past or present affiliations with extremist organizations, as defined in commission policy;
- (g) A review of the applicant's social media accounts;
- (h) Verification of citizenship status as either a citizen of the United States of America or a lawful permanent resident;
- (i) A psychological examination and recommendation administered by a qualified professional pursuant to chapter 18.71 or 18.83 RCW, in compliance with standards established in commission policy per WAC 139-07-030;
- (j) A polygraph or equivalent assessment administered by a qualified professional with appropriate training and in compliance with standards established in commission policy per WAC 139-07-040; and
- (k) Any basis for disqualification listed under RCW 43.101.105 (2) or (3).

(2) An applicant, including new hires and in-state laterals, may be offered employment by more than one agency. The background results may be shared with more than one agency under the following circumstances:

- (a) The hiring agency which initiated the background investigation agreed to share the results of the investigation in full with another hiring agency;
- (b) The applicant signed a release permitting another hiring agency to have the report;
- (c) The background investigation was completed within six months of the request to share records; and
- (d) The job analyses of both agencies are substantially similar.

(3) Prior to a potential officer's registration into an academy, the hiring agency shall certify to the commission that the agency has completed the background check, no information has been found that would disqualify the applicant from certification, and the applicant is suitable for employment as an officer.

(4) Backgrounds, older than six months, of an officer shall be considered invalid for the purpose of RCW 43.101.080(15) and 43.101.095(2).

WAC 139-07-040 Polygraph examination or other truth verification assessment. (1) Polygraph assessments provide hiring agencies with insight into an individual's honesty and an opportunity to ask an array of additional background questions.

(2) Standards for polygraph assessments:

(a) Examiners must have graduated from a polygraph school accredited by the American Polygraph Association (APA) or an association with equivalent standards for membership. The examiner must also show that they are in compliance with completion of a minimum of 30 hours of APA-approved continuing education every two calendar years;

(b) Polygraph equipment used as a part of the preemployment assessment must meet a standard that has been proved to be valid and reliable by independent research studies other than those done by the manufacturer;

(c) Techniques for conducting a polygraph must meet industry standards and comply with all applicable federal and state laws including, but not limited to, the Employee Polygraph Protection Act, Equal Employment Opportunity Commission, Americans with Disabilities Act, and Washington state law against discrimination;

(d) Preemployment assessments are considered screening devices and are conducted in the absence of a known incident, allegation, or particular reason to suspect someone's involvement; and

(e) Assessment information and results should be considered confidential within the screening process to be used exclusively by the hiring agency to assist with the selection of an applicant.

(3) Polygraph assessments:

(a) Polygraph assessments administered under this chapter shall be based on data from existing research pertaining to screening and diagnostic polygraph assessments, risk assessment, risk management, and field investigation principles;

(b) Polygraph examiners shall ask questions including, but not limited to, the following topics: General background, employment history, police/corrections experience, driving record, military service, arrest information, personal habits, illegal drug use or possession, credit/financial, sexual activities, domestic violence/temperament, theft, and security and personal associations. Additional questions shall apply specifically to laterals and corrections officers;

(c) Model questions shall be adopted in commission policy; and

(d) The polygraph examiner shall assure that the polygraph equipment is properly functioning, maintained, and calibrated in compliance with the manufacturer's recommendation.

(4) At a minimum, a polygraph instrument shall continuously record the following components during the assessment process:

(a) Two pneumograph components to document thoracic and abdominal movement patterns associated with respiration;

(b) A component to record electro dermal activity reflecting relative changes in the conductance or resistance of current by epidermal tissues;

(c) A cardiograph component to report pulse rate, pulse amplitude, and relative blood pressure changes; and

(d) A motion sensor.

(5) Examiners shall provide hiring agencies with a thorough report that analyzes the results of the assessment. Such report shall

include any and all disclosures made by the applicant to the questions asked during the preassessment interview, as well as the results of the applicant's truthfulness to the assessment questions.

(6) The agency which authorized the polygraph assessment shall maintain all documentation of the assessment as required in the law enforcement records retention schedule provided by the Washington state secretary of state's office.

(7) It is the responsibility of the hiring agency to accept the results of the polygraph assessment. The commission does not routinely review these assessments but may do so pursuant to RCW 43.101.400.

(8) An applicant may be offered employment by more than one agency. The polygraph results may be shared with more than one law enforcement or correctional agency under the following circumstances:

(a) The agency which initiated the polygraph assessment agrees to share the results of the assessment in full with another hiring agency;

(b) The applicant signed a release permitting another hiring agency to obtain the assessment report;

(c) The polygraph assessment was completed within six months of the request; and

(d) The job analyses of both agencies are substantially similar.

(9) Other truth verification assessments must be approved by the commission with additional rules established by the commission's governing body regarding its standards of use in fulfilling RCW 43.101.095.

(10) Polygraph reports older than six months shall be considered invalid for the purpose of RCW 43.101.080(15) and 43.101.095(2).

WAC 139-10-230 Corrections officers academy eligibility and curriculum. (1) All employees whose primary job function is to provide for the custody, safety, and security of adult prisoners in jails and detention facilities must complete the corrections officers academy. Representative job classifications include, but are not limited to, custody and corrections officers.

(2) The corrections officers academy curriculum shall be at least (~~(400 instructional hours)~~) 10 weeks in length and may include, but not be limited to, the following subject matter areas:

- (a) Core skills
 - (i) Observation skills
 - (ii) Communication skills
 - (iii) Security management
 - (iv) Supervision of inmates
 - (v) Discipline of inmates
 - (vi) Proper use of physical force
 - (vii) Writing skills
- (b) Key skills
 - (i) Legal issues
 - (ii) Dealing with aggressive behavior
 - (iii) Dealing with medical problems
 - (iv) Dealing with mental illness problems
 - (v) Problem solving
 - (vi) Report writing
 - (vii) Avoiding inmate manipulation
 - (viii) Booking and classification
 - (ix) Fingerprinting
- (c) Related skills
 - (i) Stress management
 - (ii) Physical fitness
 - (iii) Professionalism
 - (iv) Human relations/cultural awareness
 - (v) Historical intersection of race and corrections.