



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

COMMISSION MEETING PUBLIC TESTIMONY

Tuesday, November 26, 2019

10 AM

COMMISSION MEMBERS PRESENT:

Jeff Myers (Chair), Chief, Hoquiam Police Department
Ken Hohenberg, (Vice-Chair), Chief, Kennewick Police Department
Laura Wells, Citizen at Large
Brian Burnett, Sheriff, Chelan County
Joshua Kelsey, Sergeant, Lynnwood Police Department
Robert Latter, Sergeant, Clark County
Dan Satterberg, Prosecuting Attorney, King County
De'Sean Quinn, Councilman, Tukwila
Penelope Sapp, Lieutenant, Kitsap County Jail
Steve Sinclair, Secretary, Department of Corrections
Robert Snaza, Sheriff, Lewis County
John Batiste, Chief, Washington State Patrol

WSCJTC STAFF PRESENT:

Sue Rahr, Executive Director
Lisa Mulligan, Deputy Director
Marisa O'Neill, Executive Assistant
Monica Alexander, Manager, Advanced Training Division
Derek Zable, Manager, Human Resources and Government Affairs
Dan Christman, Program Manager, Advanced Training Division
Zola Campbell, Program Specialist, Advanced Training Division
Ethan Swenson, Administrative Assistant, Information Technology Unit

GUESTS PRESENT:

Tienney Milnor, Assistant Attorney General, WA State Attorney General
John Hillman, Assistant Attorney General, WA State Attorney General
Justin Kato, Assistant Attorney General, WA State Attorney General
Jason Reinfeld, Chief of Special Ops, Chelan County Sheriff's Office
Jason Mathews, Undersheriff, Chelan County Sheriff's Office
Dave Sands, Captain, Moses Lake Police Department
Ryan Green, Captain, Quincy Police Department
Dan McCue, Deputy, Chelan County Sheriff's Office
Todd Barsness, Sergeant, Clark County Sheriff's Office
Eric Hemmen, Assistant Chief, Kent Police Department
Jarod Kasner, Assistant Chief, Kent Police Department
Jay Cabezuella, Captain, Washington State Patrol
Rafael Padilla, Chief, Kent Police Department

Ryan Durbin, Lieutenant, Washington State Patrol
Clint Thomas, Detective Sergeant, Washington State Patrol
Dave Leibman, Commander, Renton Police Department
Adam Cornell, Prosecuting Attorney, Snohomish County
Renee Maher, Executive Director, Council of Metropolitan Police & Sheriffs
Al Cruise, Council of Metropolitan Police & Sheriffs
John Derosse, Deputy Chief, Everett Police Department
Robert Marshall, Lieutenant, Everett Police Department
Bart Hayes, Captain, Tacoma Police Department
Lesley Cordner, Assistant Chief, Seattle Police Department
Spike Unruh, President, WSPTA
Alyssa Melton, WSPTA
Andre Taylor, NTT
Mike Solan, President, Council of Metropolitan Police & Sheriffs

OPEN PUBLIC COMMENT SPEAKERS:

Brian Chance, Captain, North Central WA SIU
Teresa Taylor, Executive Director, WACOPS
Todd Barsness, Sergeant, Clark County Sheriff's Office
Greg Elwin, Chief, Mill Creek Police Department
Al Compaan, Chief, Edmonds Police Department
Lynnette Buffington, Executive Director, WAFOP
Leslie Cushman, Citizen sponsor of I-940
Kim Mosolf, Attorney, Disability Rights Washington
Marilyn Guarrubias, Justice for Daniel
Annalesa Thomas, NTT
Fred Thomas, NTT
Rheta Rubenstein, SW WA Activists
Nickeia Hunter, SW WA Activists
Joyce Brekke, Citizen
Amy Darling, Citizen
Martina Morris, Citizen
Andre Taylor, NTT
Mike Mellis, Detective, King County
Candace Tkachn, Citizen
Steve Strachan, Executive Director, WASPC
Carla Boyer, Citizen
Marsha Jocelyn, Citizen

OPENING

Jeff Myers, Commission Chair

Chair Myers called the meeting to order at 10:02 AM.

Marisa O'Neill conducted a roll call of the Commissioners. A quorum was present.

Chair Myers announced this meeting was being livestreamed and video recorded with real-time transcription services also being provided.

Chair Myers introduced the newest member of the Commission, Lewis County Sheriff Robert Snaza. **Commission Snaza** shared he has been in law enforcement for almost 30 years and is honored to be a part of the Commission.

EXECUTIVE DIRECTOR'S REPORT

Sue Rahr, Executive Director

Law Enforcement Training and Community Safety Act (LETCSA)

Director Rahr thanked the staff, AAG Justin Kato, and all the community member stakeholders for the work done to get to this point. **Director Rahr** noted that five principles emerged from all this work: Trust, Independence, Transparency, Communication, and Credibility. **Director Rahr** invited Dan Christman to share his experiences meeting with existing investigative teams, who spoke about the initial concerns regarding this draft but afterwards feeling more at ease with the proposed rules.

Director Rahr provided the Commission with a handout outlining the final draft of Chapter 139-12, Law Enforcement Training and Community Safety Act – Independent Investigations Criteria, with rules to be adopted by the Commission in the December 5, 2019 Commission Meeting.

Director Rahr discussed all the differing aspects that were considered when drafting these rules, such as keeping a statewide perspective for locally focused services, keeping language intentionally left open for interpretations for local communities to adapt to different circumstances and resource availability.

WAC Rule Review

Sue Rahr, Executive Director

Director Rahr highlighted some areas of change between previous drafts and the current final draft.

Page 3 saw the word *complete* amended to *completed*.

Page 4, under Independent investigative team (IIT), the phrase "*civilian crime scene specialist*" was added to the definition. There was also a segment in the original definition that was removed and relocated to the standards section. **Director Rahr** suggested the statement, "*a single entity, such as WSP, may fulfill this function.*" The second half of the definition for Initial incident response has been moved to the standards section as an effort to keep definitions within the definitions section and procedures in the standards section.

Page 5 saw the addition of the definition Member Agency.

Page 7 included the removed sections from the Independent investigative team (IIT) and Initial incident response definitions.

Page 9 had an important clarification under the second bullet point, which included the newly added verbiage, "*submitted within 72 hours of the commencement of each investigation.*" Additional clarity was given in the same section with the phrase, "*be provided a copy of all press releases and communication to the media prior to release.*" Clarification was added in a subsequent section with the phrase, "*For the purpose of this chapter, 'criminal background information' is the same as 'criminal history information' as defined in RCW 10.97.010 (4).*"

Page 12 had a redundant and unnecessary sentence removed.

Page 13 removed a sentence regarding public safety statement.

Page 14 saw the insertion of “*and may also*” in the first bullet point. The second bullet point was added clarifying that a roster of individuals willing to serve as non-law enforcement community representatives will be provided by the chief or sheriff. A section was eliminated in subsection *ii Selection Process for IIT Members*.

Page 15 had a redundant typo rectified, which removed the term *Advisor*. A section regarding interagency recruitment was also removed.

Page 16 included a section where an IIT qualified lead investigator will be issued a certificate, removing the requirement for all investigators to meet the requirements, only restricting that distinction to the lead investigators. All other investigators must meet the requirements within two years. **Chair Myers** asked what training classes would require and suggested the language, “*training classes or equivalent.*” **Commissioner Snaza** suggested that, once this WAC is passed, a lead time be granted for lead investigators to fulfill the training requirements. **Commissioner Hohenberg** recommended a deadline of June 2020 for lead investigators to obtain the required training as prescribed in the WAC. **Chair Myers** proposed these investigators be given priority for training for anything required by this WAC.

Page 17 saw the removal of the requirement for crime scene investigator training off the list. Section B saw the removal of a paragraph that was more about philosophy than standards.

Page 18 replaced reference to federal EEO standards with RCW 49.60.030 (1).

Page 19 saw the reiteration that “*within 72 hours of the commencement of each investigation, investigators must complete a conflict of interest assessment tool.*” A clarifying sentence was added stating that this conflict of interest assessment will be developed at the March 2020 summit and adopted in June 2020.

[Open Public Comment](#)

Jeff Myers, Commission Chair

Chair Myers opened the meeting for public input. Twenty-two members of the public spoke to the Commission.

Brian Chance, Captain of Wenatchee Police Department and representing North Central Washington Special Investigation Unit, believes the current draft is closer to identifying realistic, achievable, and sustainable standards. Captain Chance pointed out that Washington State needs to get this right, that balance the need for independent, transparency, open communication, and credibility within the operational needs and realities is paramount when investigating these types of incidences. Captain Chance believes that we must start from a foundation of trust and belief that our common goals are truly common. Captain Chance expressed concern regarding the rule identifying lead investigators within the Independent Investigation Team, that after two years all members will have the same training, and as a result, all teams will be comprised solely of lead investigators. An alternative suggestion was given where lead investigators be given two years to meet these standards, and other investigators reach basic homicide investigation and interview and interrogation training.

Teresa Taylor, Executive Director of Washington Council of Police and Sheriffs, expressed disappointment regarding the current draft and processes. Ms. Taylor reminded the Commission to look at chapters one and four of Initiative 940, which instruct the Commission to define independence as it relates to the investigation of a serious use of force by law

enforcement. Ms. Taylor stated that the current draft is not focused on defining independence, but instead focuses on defining independence of uninvolved departments, which will create a hurdle that does not currently exist but will after passage. Ms. Taylor believed that the Commission exceeds its authority in the new draft as granted by Initiative 940.

Todd Barsness, Sergeant with Clark County Sheriff's Office, expressed concerns regarding the practicality of implementation. Sergeant Barsness stated that though he has been involved with regional major crime teams and has previous history conducting investigations regarding the use of force within law enforcement, he will no longer be qualified as a lead investigator due to the proposed rules.

Greg Elwin, Chief of Mill Creek Police Department and representing the Snohomish County Sheriff and Police Chief Association, shared the perspective of his fellow chiefs and the sheriff that this is one of the most impactful evolutions in law enforcement in many of their careers, that this is one of the most sweeping challenges in a career of challenges and change. Chief Elwin stated that they are all committed to working through this process. Chief Elwin stated that he personally believes this process will make law enforcement better as a profession and is thankful this is being written as a WAC as opposed to an RCW.

Al Compaan, Chief of Edmonds Police Department, informed the Commission that concerns with previous drafts have been mostly allayed with the recent draft, but is still worried that the new training requirements will exclude some otherwise qualified candidates. Chief Compaan did state that it is important Washington State provides the best possible investigators for these independent investigations, and as such is supportive of enhanced training for all individuals involved with these investigations, whether they are commissioned officers or civilians. Chief Compaan reiterated the belief that the state will be better in the long run after all the work has been completed.

Lynnette Buffington, Executive Director of Washington State FOP, thanked the Commission for suggested edits being adopted into the new draft. Ms. Buffington pointed out that non-law enforcement personnel need to be held to the same standard of testing for potential bias and conflict of interest as law enforcement personnel. Ms. Buffington reiterated that this WAC must work in rural and metropolitan communities, and that the Commission continue to recognize and support the biannual summits defined in WAC 139-11-50.

Leslie Cushman, citizen sponsor of I-940, stated that she believes the Commission has done well establishing rules for independent investigations and exclusion of the involved agency, two requirements of the statute. Ms. Cushman expressed gratitude that the community's suggestion of having a civilian involved in the investigations was listened to and adopted into the new draft, though she agrees that this community member should be held to the same conflict of interest standards applied to law enforcement personnel. Ms. Cushman suggested to use the word *solicit* in the language of the WAC regarding the selection of the Independent Investigation Team's roster.

Kim Mosolf, Attorney with Disability Rights Washington, agreed that the requirement of inserting the word *solicitation* will go a long way toward transparency, but overall was happy to see the emphasis on the main guiding principles of transparency, communication, and credibility. Ms. Mosolf stated that as professionals you are constantly playing catch-up and scrambling regarding training, to ensure you are educated and ready to lead, and believes as professionals we have an obligation to be educating ourselves as quickly as possible.

Marilyn Guarrubias, with Justice for Daniel, believes updated training is very important. Ms. Guarrubias feared that the insertion of "no reasonable effective alternative" to use of force is an exploitable loophole, and that officers should always have less lethal options available.

Annalesa Thomas, with NTT, applauded the future training that will take place as a result of this WAC, and hoped that the officers who receive training will come away better equipped to handle persons mentally ill, impaired, or uncooperative. Ms. Thomas's primary concern was that police will continue investigating each other while the ability to have truly independent investigations outside of law enforcement exists. Ms. Thomas feared there is an unwillingness on the part of police and city governments to recognize that there are systemic problems within the current investigative system and that a strong bias exists.

Fred Thomas, with NTT, stated that the community will not trust change until they can see a difference being made. Mr. Thomas also asked why the videographer in the Independent Investigation Team must be the lead and offered that the civilian could perform that task.

Rheta Rubenstein, with Southwest Washington Activists, brought up six points to the Commission. The first was that police should not be investigating police. The second point was that while pleased the Independent Investigation Teams will have two community members, that these members need to be selected by the community or its agency, not the police. The third point was that the community members involved in the Independent Investigation Teams be allowed at the interviews and be allowed to ask or submit questions. The fourth point was that community members should have the opportunity to get relevant professional development. The fifth point was that the family liaison should be a partnership that includes a community representative. The sixth point was that the draft addresses not providing the media with criminal background of the person killed.

Nickeia Hunter, with Southwest Washington Activists, questioned the lack of clear lines of a separate body independently reviewing cases after the investigation is performed, which also include the ability to question the District Attorney's decisions on the findings. Ms. Hunter reiterated that police investigating police is a continued conflict of interest. Ms. Hunter stated that the only way appointing a community member will be effective is if the community member had authority to enact and to speak up for the inconsistencies brought forward through open access and review of the cases as the District Attorney's office does.

Joyce Brekke, Citizen, agreed with the underlying problem that this will still be police investigating police, that is will be too difficult to overcome the pressures from police culture, colleagues, and from the police structure. Ms. Brekke felt it will be a challenge to overcome an existing structure by modifying only a small portion. Ms. Brekke believed the definition of involved agency is too narrow. Ms. Brekke also believed that the role of community representatives should be expanded, as well as the role of press releases be limited. Ms. Brekke expressed a desire that the homicide investigative standards should be publicly available. Ms. Brekke was skeptical of the community representation selection process and the disqualifying standards of law enforcement officers.

Amy Darling, Citizen, explained to the Commission the concept behind the neurobiology of belonging, when you feel an affinity and warmth toward others you had no prior relationship due to a common bond, such as fellow law enforcement officers. Ms. Darling expounded upon the fact that this can carry itself into the line of duty when our minds assess whether a situation is safe or not safe. Ms. Darling also pointed out that the falsity of the line in the WAC which states that the preservation of life has always been at the heart of American policing, by using history's

use of slave patrols as the origin of American policing. Ms. Darling urged the Commission to strike that line.

Martina Morris, Citizen, believed that the spirit behind Initiative 940 has failed since the eyes and ears of the community have been systematically excluded from any position of authority. Ms. Morris believed this can be remedied, though not adopted now, by having the Independent Investigation Team be led by a qualified civilian trained in criminal law, that community representatives on this team be included in the investigations, not marginalized, and that they should be deputized and paid.

Andre Taylor, with NTT, pointed out to the Commission that the country is closely watching the work done here. Mr. Taylor believed that the independent investigations need to be housed in the Attorney General's Office if it is truly be independent. Mr. Taylor also felt that the two Community members should be chosen by the community and that law enforcement should not have a say regarding their selection.

Mike Mellis, Detective with King County Sheriff's Office, pointed out to the Commission that difficulties may arise as a result of the language included in the WAC which states that no member of an involved agency may participate in anyway in the investigation conducted by the Independent Investigation Team. Mr. Mellis suggested the inclusion in WAC 139-12-030 of exceptions to this rule may be authorized by the Independent Investigation Team lead or commanders to allow investigators from involved agencies to participate from the investigation for the sole purpose of continuing or closing an ongoing investigation under way prior to the use of force.

Candace Tkachn, Citizen, asked the Commission if the 37 deaths committed by law enforcement in the state of Washington in 2019 is the legacy they want to be established with their work.

Steve Strachan, Executive Director for WASPC, stated that investigations must now be what Initiative 940 said they would be: independent. Director Strachan indicated that this removal of the involved agency in any participation is a significant change. Director Strachan went on to point out that requirements for first aid have been adopted, that the incorporations of civilians into this process is groundbreaking, and that the use of family liaisons will become a new standard.

Carla Boyer, Citizen, brought up to the Commission that as a result of police officers constantly putting their lives in danger, independent investigations must possess a very strong counter-balancing structure to overcome any potential bunker mentality. Ms. Boyer reiterated this when she mentioned that in the WAC an attempt is made to codify into law that no member of the investigative team can be anything other than law enforcement. Ms. Boyer stated that there must be non-law enforcement members of the investigative team who can participate fully.

Marsha Jocelyn, Citizen, shared her belief it is great that the state is trying to create some accountability but that this initiative goes beyond that. Ms. Jocelyn feared that a sense of togetherness among law enforcement may generate potential for retaliation. Ms. Jocelyn suggested something similar to a retirement or insurance fund be created, a victim fund taken from law enforcement for those whose families are impacted by police violence.

RESOLUTION PROPOSAL

De'sean Quinn, Commissioner

Commissioner Quinn moved to enter to the Commission a Commission Resolution, as an effort in foundational partnership, supporting additional legislation to develop LETCSA to include an accountability process that includes the collection and analysis of data related law enforcement use of deadly force, collection of completed deadly force investigations, and a completely independent review of each investigation in order to determine if each investigation complies with rules adopted for independent investigations with the goal to report the findings to the public. Additionally, the Commission Resolution proposes adding another Commission position under the category "*Citizen At Large*" to be representative of the eastern side of the state. **Commissioner Hohenberg** seconded this motion. **Commissioner Hohenberg** pointed out that this Commission Resolution adds a layer of credibility to the process of independent investigations. **Commissioner Burnett** supported the idea of adding a second Citizen At Large position but preferred to table the discussion until the December 5, 2019 Commission Meeting. **Commissioner Snaza** said that having a second Citizen At Large Commissioner is important but brought up concerns regarding the immediate passage of this resolution and enforcement of noncompliance. **Chair Myers** addressed those concerns stating CJTC has no authority for enforcement except for the decertification of officers for official misconduct. **Commissioner Wells** stated that the goal is for legislature to take up this resolution and change the RCW dictating the specified seats for the Commission and adding the accountability piece to the legislation.

Chair Myers postponed the final action on this resolution until the December 5, 2019 meeting.

EXECUTIVE SESSION

At 12:30 PM, **Chair Myers** announced the Commission would be going into Executive Session to:

- (1) Discuss with legal counsel representing the agency matters which are relating to the agency to discuss legal counsel representing the agency any potential litigation or litigation to which the agency is a member, could be impacted, or have financial consequence.

He advised, there are no members of the public present, and the public is excluded from the executive session in order to:

- (1) Discuss with legal counsel representing the agency matters which are relating to the agency to discuss legal counsel representing the agency any potential litigation or litigation to which the agency is a member, could be impacted, or have financial consequence.

He shared his expectation for Executive Session to last 10 minutes.

The room was cleared of non-essential attendees. Executive Session began at 12:35 PM. An extension to the Executive Session was granted to 12:50 PM

Chair Myers brought the meeting back on the record at 12:50 PM. He asked if anyone had anything further.

Commissioner Snaza brought up some concerns regarding the training requirements for the Independent investigative team, specifically mentioning the videography training, he instead thinks an emphasis should be put on homicide investigation and basic criminal investigation. **Director Rahr** stated she believes the training list can be trimmed and still meet the spirit of

appropriate training. **Commissioner Hohenberg** reiterated the same concerns and thinks revising the language regarding the training would be beneficial. **Commissioner Snaza** recommended having a *Suggested Training* section of courses which might include classes such as videography. **Director Rahr** recommended including a line in the language which stated, "or substantially similar," which will allow otherwise qualified candidates to use equivalent experience to be certified in lieu of taking the mandatory training. **Commissioner Latter** warned the way the current language is written will hamstring teams. **Commissioner Batiste** asked who gets to define equivalent experience, which was clarified as the yearly summit between the Washington Homicide Investigators Association and CJTC team that gives out the certificates. **Chair Myers** clarified that staff will work on fixing the language to the section governing training prior to the December 5, 2019 Commission Meeting.

Director Rahr mentioned that inserting the conflict of interest assessment for the non-law enforcement member of an IIT is an easy fix and its omission was accidental.

Commissioner Kelsey voiced concern regarding accountability and the use of softer language in the WAC, instead suggesting the use of stronger, more authoritative language. **Director Rahr** asked for any specific instances of language issues be brought to her so that it can be addressed prior to the December 5, 2019 meeting.

Chair Myers asked if anybody else had anything further. Hearing none, he adjourned the meeting at 1:12 PM.

Next Meeting: December 5, 2019, 10 AM, WSCJTC

Written by:	 _____ Marisa O'Neill, Executive Assistant	09/09/20 Date
Reviewed by:	 _____ Susan L. Rahr, Executive Director	11/10/20 Date
Approved by:	 _____ Jeff Myers, Commission Chair	09-09-20 Date