WSR 26-15-101
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
[Filed July 20, 2026, 1:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-13-097.

Title of Rule and Other Identifying Information: WAC 139-12-010 Purpose, 139-12-020 Definitions, and 139-12-030 Independent investigations.

Hearing Location(s): On September 9, 2026, at 10:00 a.m., at the Washington State Criminal Justice Training Commission, Commission Room, 19010 1st Avenue South, Burien, WA 98148.

Date of Intended Adoption: September 9, 2026.

Submit Written Comments to: Lacey Ledford, 19010 1st Avenue South, Burien, WA 98148, email Lacey.Ledford@cjtc.wa.gov, beginning July 21, 2026, by September 9, 2026.

Assistance for Persons with Disabilities: Contact Lacey Ledford, phone 206-670-5813, email lacey.ledford@cjtc.wa.gov, by September 9, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revising WAC 139-12-010 to add and update language. Revising WAC 139-12-020 to add and update definitions. Revising WAC 139-12-030 to add clarification, updates, and references to independent investigation criteria. Splitting up WAC 139-12-030 into new sections.

Reasons Supporting Proposal: These rule changes will provide clarity for those conducting, reviewing, or assessing independent investigations and will satisfy recommendations from the state auditor's office by aligning with the office of independent investigations' chapter 43.102 RCW.

Statutory Authority for Adoption: RCW 43.101.080 and 10.114.011.

Statute Being Implemented: RCW 43.101.080 and 10.114.011.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Alex Buijs, Burien, Washington, 206-591-7930.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

July 20, 2026
Lacey Ledford
Rules Coordinator

RDS-7175.1

AMENDATORY SECTION (Amending WSR 20-01-023 and 20-01-121, filed 12/6/19 and 12/16/19, effective 1/6/20 and 1/16/20)

WAC 139-12-010 Purpose. (1) In 2015 the U.S. Department of Justice issued a final report from the 21st Century Task Force on Policing. A core focus of that report addressed strategies for improving relationships, increasing community engagement, and fostering cooperation. The report recommended clear and comprehensive policies on the use of force, training on the importance of deescalation, crisis intervention and mental health, the provision of first aid, and recommended external and independent investigations in officer involved shootings resulting in injury or death. Initiative 940 and SHB 1064 incorporated those recommendations and these WACs implement the requirement of an independent investigation that is completely independent of the involved agency. The goal of this requirement is to enhance accountability and increase trust to improve the legitimacy of policing for an increase in safety for everyone.

(2) Ultimately, this is about the sanctity of all human life; the lives of police officers and the lives of the people they serve and protect. The preservation of life should be at the heart of American policing. RCW 9A.16.040 provides a legal justification for officers whose use of deadly force meets the "good faith" standard. RCW 10.114.011 requires that where the use of deadly force by a peace officer results in death, substantial bodily harm, or great bodily harm an independent investigation must be completed to inform any determination of whether the use of deadly force met the good faith standard established in RCW 9A.16.040 and satisfied other applicable laws and policies. The independent investigation is conducted in the same manner as a criminal investigation and state law requires an "independent investigation" completely independent of the involved agency.

(3) The Washington state office of independent investigations (OII) conducts investigations of police use of force and other incidents involving law enforcement as authorized by chapter 43.102 RCW. If OII declines to investigate a use of deadly force incident, the duty to investigate remains with the independent investigation team (IIT) or local law enforcement authority with jurisdiction over the incident. RCW 43.102.120(6).

(4) There are five principles that are fundamental to enhancing public trust in the integrity of independent investigations involving police use of deadly force:

(a) Independence;
(b) Transparency;
(c) Communication;
(d) Credible process; and
(e) Credible investigators.

RDS-7155.3

AMENDATORY SECTION (Amending WSR 20-01-023, filed 12/6/19, effective 1/6/20)

WAC 139-12-020 Definitions. (1) **Best practices** - For the purpose of this chapter, best practices are defined as methods, techni-

ques, and procedures that have consistently shown by research and experience to produce superior results and are established or proposed as a standard, suitable for widespread adoption in the law enforcement profession.

(2) **Completed investigation** - The final work product of the IIT for the purpose of informing the prosecuting attorney's charging decision. An independent investigation must be completed to inform any determination of whether the use of deadly force met the good faith standard established in RCW 9A.16.040 and satisfied other applicable laws and policies.

(3) **Criminal background information** - Has the same meaning as "criminal history record information" as set forth in RCW 10.97.030(4).

(4) **Deadly force** - Has the same meaning as "deadly force" as set forth in RCW 9A.16.010((~~, "deadly force" means the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury~~)).

(5) **Evanescent evidence** - ((~~Physical evidence that may be degraded or tainted by human or environmental factors if left unprotected or unpreserved for the arrival of the independent investigative team (IIT)~~)) Evidence that may otherwise be lost and should be protected and preserved for the benefit of the independent investigation including: Physical evidence that is at risk of being destroyed or disappearing and cannot be easily reconstructed, including evidence which may be degraded or tainted by human or environmental factors if left unprotected or unpreserved before the arrival of OII and/or the IIT; identification and contact information for witnesses to the incident; photographs and other methods of documenting the location of physical evidence and location/perspective of witnesses. RCW 43.102.120 (2)(b).

(6) **Good faith standard** - Has the same meaning as set forth in RCW 9A.16.040((~~, ""good faith" is an objective standard which shall consider all the facts, circumstances, and information known to the officer at the time to determine whether a similarly situated reasonable officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual."~~)).

(7) **Great bodily harm** - Has the same meaning as set forth in RCW 9A.04.110((~~, "great bodily harm" means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ~~)).

(8) **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~~)) may be comprised of multiple law enforcement agencies who jointly investigate police use of force incidents in their geographical regions or may be a single law enforcement agency, provided it is not the involved agency.

(9) **Initial incident response** - This is the period in time immediately following a police use of deadly force incident, and prior to the arrival of OII and/or the IIT, when involved agency personnel on scene and other first responders immediately take actions to render

the scene safe and provide or facilitate life-saving first aid to persons at the scene who have life threatening injuries.

(10) **Involved agency** - ((~~The agency that employs or supervises the officer(s) who used deadly force. There can be more than one "involved agency."~~)) Means the agency that employs or supervises the officer (or officers) who are considered an involved officer (or involved officers) as defined in this section.

(11) **Involved officer** - Has the same meaning as RCW 43.102.010 (9)(a).

(12) **Member agency** - Each of the agencies ((~~that~~)) who enter((~~s~~)) into a written agreement to investigate police use of deadly force ((~~in their geographical region~~)) as part of an IIT.

(13) **Necessary** - Has the same meaning as set forth in RCW 9A.16.010((~~, "necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to affect the lawful purpose intended~~)).

(14) **Office of independent investigations** - A limited-authority investigative law enforcement agency within the governor's office, established under chapter 43.102 RCW to conduct independent investigations of use of force and other incidents involving law enforcement. RCW 43.102.030.

(15) **Prosecutor's review** - The period of time when the IIT presents a completed investigation to the prosecutor, who then reviews all the facts and makes a charging decision.

(16) **Serious misconduct** - Any act or omission by a peace officer that constitutes a significant breach of public trust, professional responsibilities (to include policy violations), or law. Serious misconduct must be confirmed and documented through an investigation or disciplinary process. Agencies participating on an IIT should consider the specific facts and totality of the circumstances of the misconduct when determining the level of seriousness of the alleged misconduct. At a minimum, examples of serious misconduct include, but are not limited to:

(a) All misconduct listed under RCW 43.101.105: Denial, suspension, or revocation of peace and corrections officer certification.

(b) Discrimination of any type, based on protected classes identified under RCW 49.60.030(1).

(c) Theft, fraud, dishonesty, and abuse of authority including, but not limited to: Theft, falsifying an official police record or making a false statement, serious ACCESS (a centralized computer enforcement service system) violations, obtaining or disclosing confidential information, and excessive use of force.

(d) Dishonorable behavior including, but not limited to: Harassment, bullying, aggressive or intimidating behavior, or threats of violence, including domestic violence.

(17) **Substantial bodily harm** - Has the same meaning as set forth in RCW 9A.04.110 (4)(b)((~~, "substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part~~)).

AMENDATORY SECTION (Amending WSR 22-02-001, filed 12/22/21, effective 1/22/22)

WAC 139-12-030 Independent investigation criteria—Independence. ((~~There are five principles that are fundamental to enhancing public trust in the integrity of independent investigations involving police use of deadly force:~~

~~• Independence;~~
~~• Transparency;~~
~~• Communication;~~
~~• Credible process; and~~
~~• Credible investigators.~~

~~Standards are necessary for the involved agency and the public to assess whether the actions taken by the IIT are independent, transparent, credible, and communicated in a manner that results in a compliant and complete investigation and builds public trust.~~

~~(1) **Independence.**~~

~~(a)~~)) (1) Independence is essential to the integrity and objectivity of the investigation. Maintaining independence is achieved through compliance with statutes, rules and regulations designed to prohibit undue influence or conflicts of interest, and the appearance of undue influence or conflicts of interest, by the involved agency in the investigation.

((~~(b) Standards for an investigation completely independent of the involved agency:~~

~~•~~)) (2) Once the involved agency personnel and/or other first responders have rendered the scene safe and provided or facilitated life-saving first aid to persons at the scene who have life-threatening injuries, the involved agency ((~~will immediately call~~)) shall immediately notify the OII and IIT.

((~~Then~~)) (3) The primary focus of the involved agency then shifts to the protection and preservation of evanescent evidence in order to maintain the integrity of the scene until OII and/or the IIT arrives. Once OII and/or the IIT arrives, and the OII and/or IIT ((~~commander has~~)) lead commander determines that the appropriate resources are on scene, the involved agency will relinquish control of the scene to OII or the IIT (whoever arrives first or is the investigating entity).

(a) If OII determines it will investigate an incident, it will thereafter be the lead investigative body in the case and have priority over any other state or local agency investigating the incident. RCW 43.102.080(6). In this scenario, the OII will identify a responding OII incident commander who will communicate and coordinate with the designated point of contact for the involved or venue agency, or on-scene incident commander, and any responding IIT incident commander as needed while en route.

(b) If OII declines to investigate a case, the authority and duty to investigate remains with the IIT or local law enforcement authority with jurisdiction over the incident. RCW 43.102.120(6).

((~~•~~)) (4) No member of the involved agency may participate in any way in the investigation of police use of deadly force conducted by OII or the IIT, with the ((~~following~~)) exception of the use of specialized equipment and where no alternatives exist. If the IIT is investigating, the following requirements apply:

((~~•~~)) (a) Specialized equipment or facilities belonging to the involved agency may ((~~not~~)) be used by the IIT ((~~unless~~)) only if the following criteria are met:

((~~1.~~)) (i) No reasonable alternative exists;

((~~2.~~)) (ii) The equipment is critical to carrying out the independent investigation; and

((~~3.~~)) (iii) The use is approved by the IIT commander.

(b) If the equipment or facility is used, the nonlaw enforcement community representatives on the IIT must be notified about:

((~~1.~~)) (i) Why it needs to be used; and

((~~2.~~)) (ii) The steps taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment.

((~~• No~~)) (5) The IIT may not share any information about the ongoing independent investigation of police use of deadly force ((~~will be shared~~)) with any member of the involved agency((~~. The administrative investigation of the involved agency must remain separate from the independent criminal investigation~~)) except as follows:

(a) Limited briefings given to the chief, sheriff, or their designee of the involved agency about the progress of the investigation; or

(b) Information essential to protect the safety of the community or the integrity of any ongoing, urgent criminal investigation; and

(c) Sharing of the information will not impede the ongoing investigation being conducted by OII and/or the IIT.

(6) If the involved agency chief or sheriff has a formal designee attending the limited briefings in their place, this designation must be provided to the IIT in writing prior to such briefing.

(7) No information provided under subsection (5) of this section may be divulged to any involved officers or witness officers. If any information is disclosed pursuant to subsection (5)(b) of this section, the following must also occur:

(a) The IIT must document the exact information provided, to whom it was provided, and the reason it was provided;

(b) The involved agency must agree in writing that no involved officer or witness officer will have access to the information other than what is released to the general public; and

(c) The person, family, or representative of any person who is the subject of the action by the involved officer that is under investigation by the IIT must be notified by the IIT that the information was provided and, as soon as possible without jeopardizing the integrity of any investigation, be provided with the information contained in subsection (5)(a) and (b) of this section.

((~~•~~)) (8) If the chief or sheriff of the involved agency requests that the IIT release the body cam video or other investigation information of urgent public interest, the IIT commander should honor the request with the agreement of the prosecutor of jurisdiction.

((~~(2) **Transparency.**~~

~~(a) Transparency is the critical element of procedural justice that allows community members to assess whether the process of the investigation is conducted in a trustworthy manner and complies with the standards for the five listed principles.~~

~~(b) Standards for the transparency of an independent investigation:~~

~~• The policies and operating procedures of the IIT will be available to the public.~~

~~• The names of the members, supervisors, commanders, and nonlaw enforcement community representatives on the IIT will be available to the public.~~

~~• A minimum of two nonlaw enforcement community representatives from the impacted communities will be assigned to each IIT to:~~

~~a. Participate directly in the vetting, interviewing, and/or selection of IIT investigators. (Existing teams will have until January 2021 to provide necessary information about the qualifications of current IIT investigators to the nonlaw enforcement community representatives for review.)~~

~~b. Review written conflict of interest statements submitted within 72 hours of the commencement of each investigation by the investigators. Agencies may use a standard conflict of interest form developed by the Washington state criminal justice training commission. If an IIT uses their own conflict of interest form, the standards must meet or exceed the form provided by the Washington state criminal justice training commission;~~

~~c. Have access to the investigation file when it is completed;~~

~~d. Be provided a copy of all press releases and communication to the media prior to release; and~~

~~e. Review notification of equipment use of the involved agency.~~

~~– The nonlaw enforcement community representatives must sign a binding confidentiality agreement at the beginning of each police use of deadly force investigation that remains in effect until the prosecutor of jurisdiction either declines to file charges or the criminal case is concluded.~~

~~– Any nonlaw enforcement representative or law enforcement officer found to have violated the confidentiality agreement will be subject to immediate removal from the team, as well as any future independent investigation.~~

~~• The commander or other representative of the IIT will provide public updates about the investigation at a minimum of once per week, even if there is no new progress to report.~~

~~• When an independent investigation is complete the information will be made available to the public in a manner consistent with applicable state law.~~

~~(3)~~ **~~Communication.~~**

~~(a) Communication is key to enhancing the public's perception of police legitimacy and fairness. A lack of open communication leads to suspicion and damages trust.~~

~~(b) Standards for communication during an independent investigation:~~

~~• A family member of the person against whom deadly force has been used will be notified as soon as they can be located by either the involved agency or the IIT, whichever is faster.~~

~~• A member of the IIT will be assigned as a family liaison within the first 24 hours and keep the family, or a representative of the family's choice, apprised of all significant developments in the independent investigation and will give the family and the involved agency advance notice of all scheduled press releases.~~

~~• 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.~~

~~• If the person against whom deadly force is used is, or is believed to be a member of a federally recognized tribe:~~

~~– The involved agency will notify the governor's office of Indian affairs (GOIA) in accordance with RCW 10.114.021.~~

~~- A member of the IIT will be assigned as a tribal liaison within the first 24 hours and keep the tribe (or a representative of the tribe's choice) apprised of all significant developments of the investigation.~~

~~(4)~~ **~~Credibility.~~**

~~(a) In order for investigations to be viewed as credible it is critical to demonstrate that the procedures followed are consistent, known to the public, and rooted in best practices for homicide investigations, with particular attention focused on those unique areas of evidence relevant to the officer's decision-making process. Equally important is the credibility of the investigators. Training, a history of ethical behavior, and demonstrated impartiality are critical to maintain confidence in the investigation.~~

~~(b) Standards for a credible independent investigative process:~~

~~• After life-saving first aid has been provided, members of the involved agency and other first responders at the scene will:~~

~~- Secure the incident scene and maintain its integrity until the IIT arrives.~~

~~• The perimeter must be clearly marked and protected.~~

~~• Evanescent evidence must be located and preserved, consistent with best practices published annually by the criminal justice training commission.~~

~~• The independent investigation will follow accepted best practices for homicide investigations published and annually updated by the WSCJTC.~~

~~• An involved agency conducting a timely internal administrative investigation for compliance with department policy and procedures is critical to maintaining public trust and is separate and distinct from the independent investigation required by the LETCSA. To allow the involved agency to move forward with the administrative investigation in a timely fashion, the independent investigation required by LETCSA must be conducted in a manner that does not inhibit the involved agency from doing so. To accomplish this:~~

~~• 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.~~

~~• The firewall system and training must ensure that the involved agency is affirmatively advised not to furnish "prohibited content" to the IIT.~~

~~• If any member of the IIT receives prohibited information, the investigator receiving the prohibited information must immediately report it to their supervisor and the member must discontinue participation in the investigation. The information will be removed and/or isolated from the remaining investigation unless the prosecutor of jurisdiction deems such action unnecessary.~~

~~(c) The standards for credible investigators include:~~

~~(i) Appointed Members.~~

~~The chiefs and sheriffs who sign a written agreement to support and participate in the IIT shall appoint:~~

~~• The IIT leadership team, which may include an IIT commander, assistant commander, or co-commander.~~

~~• At least two nonlaw enforcement community representatives who have credibility with and ties to communities impacted by police use of deadly force. The chiefs, sheriffs, and community members of each~~

~~regional team shall create a transparent process for soliciting names and creating a roster of individuals willing to serve in this capacity. The IIT community representatives must be chosen from this list by the chief(s), sheriff(s), and community member(s). The Washington state criminal justice training commission will post IIT rosters on the criminal justice training commission website from each region, which will be provided by the IITs. There shall be standardized trainings for nonlaw enforcement community representatives, including training on the requirements of the mandatory nondisclosure agreements.~~

~~• All IIT leadership shall be commissioned peace officer(s), with previous experience in criminal investigations.~~

~~• The IIT supervisors shall be recommended by their agency to the IIT commander.~~

~~(ii) Selection Process for IIT Members.~~

~~The IIT leadership shall:~~

~~• Ensure all applicants meet all time, rank, and training prerequisites described in (c)(v) of this subsection.~~

~~• Ensure that qualified applicants are interviewed by a panel, which includes the nonlaw enforcement community representatives and other members of the IIT selected by the IIT commander.~~

~~• All applicants shall be interviewed using criteria pertinent for the position of an IIT investigator. The same questions should be asked of each applicant.~~

~~• At the conclusion of the panel the IIT commander shall consider the recommendations of the panel and select those best suited for the needs of the IIT.~~

~~(iii) Requirements for IIT Investigators.~~

~~• Applicants for the position of investigator must be employed by a member agency of the IIT.~~

~~• The applicant shall be a commissioned peace officer in the state of Washington with previous experience as a detective or investigator, or have special skills or experience necessary for the team.~~

~~(iv) Periodic Appointment Review.~~

~~The chief or sheriff of a member agency, and the IIT commander shall review the appointment of their IIT members who have served three years for possible rotation or replacement.~~

~~(v) Training Requirements.~~

~~The credibility of an individual assigned to an IIT is grounded in two elements: Training and experience in criminal investigations. Since some IIT members were chosen because of their experience in criminal investigations, it is important to clearly define expectations for both training and experience, and acknowledge the relationship between those two elements.~~

~~IIT members who do not meet the training requirement are eligible to participate on the IIT, but not in a lead position.~~

~~Civilian IIT members (i.e. crime scene investigators, evidence technicians, etc.) are not required to obtain the qualified lead investigator certificate, but the IIT leadership shall establish reasonable noncommissioned training requirements through their IIT protocol.~~

~~The CJTC will issue an "IIT qualified lead investigator certificate" to ensure that those who are assigned to a lead investigator role for an IIT meet the training requirements listed below by the end of 2020.~~

~~To obtain an IIT qualified lead investigator certificate, candidates must:~~

~~• Provide proof of at least three years of uninterrupted experience as a certified peace officer, crime scene investigator, or related expertise in a discipline relevant to investigations.~~

~~• Provide proof of successful completion of the prescribed training classes, (or appropriate equivalent experience), listed in this chapter.~~

~~(A) Basic training classes:~~

~~• Basic homicide investigation;~~

~~• Interviewing and interrogation;~~

~~• LETCSA Violence deescalation and mental health training.~~

~~IIT members who have two years or more of relevant, full-time criminal investigative work experience may substitute their work experience for the required basic training classes. County sheriffs, police chiefs, and IIT commanders are encouraged to promote continuing education as a best practice for all members assigned to the IIT.~~

~~(B) Advanced training classes.~~

~~A minimum of eight hours of training annually may include, but is not limited to, the following criminal investigation topics:~~

~~• Advanced homicide investigation techniques;~~

~~• Advanced interviewing and interrogation;~~

~~• Officer-involved shooting investigation;~~

~~• In-custody death investigation;~~

~~• Excited delirium and positional asphyxia;~~

~~• Bloodstain pattern analysis;~~

~~• Crime scene photography/videography and~~

~~• Other related training, seminars, and conferences or on-going training as offered by WSCJTC or other training venues on an as available basis.~~

~~(C) In-service training.~~

~~• All IIT members shall receive priority registration to LETCSA training, required homicide investigations training, and recertification every three years.~~

~~• The IIT shall train as a unit at least annually.~~

~~(vi) Demonstrated History of Honorable Behavior.~~

~~Investigators assigned to an IIT are expected to have a work history free of a sustained finding of serious misconduct and/or a pattern of sustained complaints and a personal history free of demonstrable bias or prejudice against community members that may be impacted by the police use of deadly force.~~

~~Examples of disqualifying sustained misconduct and/or personal history include, but are not limited to:~~

~~• Discrimination of any type, based on protected classes identified under RCW 49.60.030(1).~~

~~• Theft, fraud, dishonesty, and abuse of authority including, but not limited to: Theft, falsifying an official police record or making a false statement, serious ACCESS (a centralized computer enforcement service system) violations, obtaining or disclosing confidential information, and excessive use of force.~~

~~• Dishonorable behavior including, but not limited to: Harassment, bullying, aggressive or intimidating behavior, or threats of violence, including domestic violence.~~

~~(vii) Conflicts of Interest.~~

~~Within 72 hours of the commencement of each investigation, investigators and nonlaw enforcement community representatives, must complete a "conflict of interest" assessment tool regarding any connection to the officers being investigated. The assessment (created by WSCJTC) will include questions about prior interactions or relation-~~

~~ships with officers being investigated, and will address social conflict, work conflict, and bias. The conflict assessment will be reviewed and discussed by the nonlaw enforcement community representatives and the IIT commander. The conflict of interest assessments for investigators and nonlaw enforcement community representatives will be developed at the March 2020 summit and adopted by the commission at the June 2020 meeting.~~)) (9) To ensure the independence of the use of deadly force investigation, if OII has indicated its intent to investigate an incident and the IIT arrives at the scene of an incident prior to OII investigators, the IIT should assume command of the scene from the involved agency until relieved by OII for the purpose of preserving evidence, providing information to OII, and taking specific actions at OII's request.

NEW SECTION

WAC 139-12-040 Independent investigation criteria—Transparency. (1) Transparency is the critical element of procedural justice that allows community members to assess whether the process of the investigation is conducted in a trustworthy manner and complies with the standards for the five listed principles.

(2) The policies and operating procedures of the IIT will be available to the public.

(3) The names of the members, supervisors, commanders, and nonlaw enforcement community representatives on the IIT will be available to the public.

(4) A minimum of two nonlaw enforcement community representatives from the jurisdictions of the participating agencies on the IIT will be assigned to each IIT to:

(a) Participate directly in the vetting, interviewing, and/or selection of IIT investigators;

(b) Review written conflict of interest statements submitted by the investigators and nonlaw enforcement community representatives;

(c) Be present at the briefings with the involved agency(s) chief or sheriff;

(d) Have access to the investigation file when it is completed;

(e) Be provided a copy of all press releases and communication to the media prior to release; and

(f) Review notification of specialized equipment use of the involved agency.

(5) The nonlaw enforcement community representatives must sign a binding confidentiality agreement at the beginning of each police use of deadly force investigation that remains in effect until the prosecutor of jurisdiction either declines to file charges or the criminal case is concluded.

(6) Any nonlaw enforcement representative found to have violated the confidentiality agreement will be subject to immediate removal from the team, as well as any future independent investigation.

(7) The commander or other representative of the IIT will provide public updates about the investigation at a minimum of once per week, even if there is no new progress to report.

(8) When an independent investigation is complete the information will be made available to the public in a manner consistent with applicable state law.

(9) The incident specific IIT obligations required by this section do not apply once OII has assumed responsibility for conducting the investigation.

NEW SECTION

WAC 139-12-050 Independent investigation criteria—Communication. (1) Communication is key to enhancing the public's perception of police legitimacy and fairness. A lack of open communication can lead to suspicion and damaged trust.

(2) If OII has communicated its intent to investigate the incident, it will be responsible for notifying a family member of the person against whom force was used. OII may request assistance from the IIT or local law enforcement to ensure notification is made as soon as possible.

(3) If OII has assumed authority for the investigation, it will be solely responsible for communications with the person against whom force was used or their family for the remainder of the investigation. This is true even if the IIT has assisted in some capacity on the independent investigation at the request of OII or is handling a concurrent investigation.

(4) If OII declines to investigate the incident, a member of the IIT will be assigned as a family liaison within the first 24 hours and keep the family, or a representative of the family's choice, apprised of all significant developments in the independent investigation.

(5) If the IIT is lead on the investigation, the IIT and designated IIT family liaison are 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:

(a) Is notified, when possible, prior to learning about the incident from the press, social media, friends, or neighbors.

(i) Family notification of a decedent should be done in consultation with the venue coroner or medical examiner.

(ii) If a certified peace officer is notifying the family in-person, they should wear clothing other than their duty uniform.

(b) Has a reliable way to communicate directly with the liaison and the IIT.

(c) Is kept informed about the investigative process, even when there is nothing new to report unless waived.

(d) Is provided advance notice of scheduled press releases and/or significant developments of the investigation.

(e) Has assistance in coordinating with a victim advocate if one is available, especially if requested by the family.

(6) The IIT will give the impacted individual, family, or representative and the involved agency advance notice of all scheduled press releases.

(7) If requested, the impacted individual, family, or representative may waive regular updates, required by subsection (5)(c) of this section, from the family liaison if no significant progress is made in the investigation. The IIT is still required to keep the family or representative apprised of significant developments or scheduled press releases in the independent investigation. The IIT must document this in writing that regular updates were waived.

(a) Before the IIT waives regular updates, the IIT will present the impacted individual, family, or representative with options such as a reduced amount and/or different methods of communication from the family liaison.

(b) Additionally, if regular updates are waived, the IIT will provide the impacted individual, family, or representative with contact information if they would like to opt-in back into receiving regular updates. This must be documented in the investigative file.

(8) 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.

(9) If the person against whom deadly force is used is, or is believed to be a member of a federally recognized tribe:

(a) The involved agency shall ensure that notification to the governor's office of Indian affairs (GOIA) is completed within a reasonable period of time, but not more than 24 hours after they have good reason to believe the deceased person was an enrolled member of a federally recognized tribe, in accordance with RCW 10.114.021. This notification must be done by the involved agency regardless of who is conducting the independent investigation.

(b) As soon as they are made aware, a member of the IIT will be assigned as a tribal liaison and keep the tribe (or a representative of the tribe's choice) apprised of all significant developments of the investigation.

(c) If OII is the lead investigative agency, OII's tribal relations division will handle communications with the tribe (or a representative of the tribe's choice). The involved agency is still required to notify GOIA per RCW 10.114.021.

NEW SECTION

WAC 139-12-060 Independent investigation criteria—Credibility. (1) In order for investigations to be viewed as credible it is critical to demonstrate that the procedures followed are consistent, known to the public, and rooted in best practices, with particular attention focused on those unique areas of evidence relevant to the officer's decision-making process. Equally important is the credibility of the investigators. Training, a history of ethical behavior, and demonstrated impartiality are critical to maintain confidence in the investigation.

(2) After life-saving first aid has been provided, members of the involved agency and other first responders at the scene will secure the incident scene and maintain its integrity until OII and/or the IIT arrives.

(a) The perimeter must be clearly marked and protected.

(b) Evanescent evidence must be located and preserved, consistent with the best practices for independent investigations published annually by the Washington state criminal justice training commission (WSCJTC).

(3) The independent investigation shall follow the best practices for independent investigations published and annually updated by the WSCJTC.

(4) If the IIT investigation is reopened for any reason, and OII is not taking lead, the IIT shall be responsible for continuing the investigation. The IIT is required to follow all applicable requirements of the law, to include following WSCJTC's best practices for independent investigations.

(5) The involved agency shall provide OII and/or the IIT access to, and copies of, reports and information necessary or related to the use of deadly force investigation, as described in RCW 43.102.080(7) as soon as possible.

(6) Although the criminal independent investigation takes priority, an involved agency conducting a timely internal administrative investigation for compliance with department policy and procedures is critical to maintaining public trust and is separate and distinct from the independent investigation required by the LETCSA. To allow the involved agency to move forward with the administrative investigation in a timely fashion, the independent investigation required by LETCSA should be conducted in a manner that does not unreasonably inhibit the involved agency from doing so. To accomplish this, 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.

(a) The firewall system and training must ensure that the involved agency is affirmatively advised not to furnish "prohibited content" to the IIT.

(b) If any member of the IIT receives prohibited information, the investigator receiving the prohibited information must immediately report it to their supervisor and the member must discontinue participation in the investigation. The information will be removed and/or isolated from the remaining investigation unless the prosecutor of jurisdiction deems such action unnecessary.

(7) The chiefs and sheriffs who sign a written agreement to support and participate in the IIT shall appoint:

(a) The IIT leadership team, which may include an IIT commander, assistant commander, or co-commander.

(b) At least two nonlaw enforcement community representatives who have credibility with and ties to communities impacted by police use of deadly force. The chiefs, sheriffs, and community members of each regional team shall create a transparent process for soliciting names and creating a roster of individuals willing to serve in this capacity. The IIT community representatives must be chosen from this list by the chief(s), sheriff(s), and community member(s). The WSCJTC will post IIT rosters from each region on its website, which will be provided by the IITs. There shall be standardized trainings for nonlaw enforcement community representatives, including training on the requirements of the mandatory nondisclosure agreements.

(c) All IIT leadership shall be commissioned peace officer(s), with previous experience in criminal investigations.

(d) The IIT supervisors shall be recommended by their agency to the IIT commander.

NEW SECTION

WAC 139-12-070 Selection process for IIT members. (1) The selection process for IIT members is completed by the IIT leadership in partnership with the IIT member agencies.

(2) Ensure all applicants meet all time, rank, and training prerequisites described in WAC 139-12-080.

(3) Ensure that qualified applicants are interviewed by a panel, which includes the nonlaw enforcement community representatives and other members of the IIT selected by the IIT commander.

(4) All applicants shall be interviewed using criteria pertinent for the position of an IIT investigator. The same questions should be asked of each applicant.

(5) At the conclusion of the panel the IIT commander shall consider the recommendations of the panel and select those best suited for the needs of the IIT.

(6) The chief or sheriff of a member agency and the IIT commander shall annually review the appointment of their IIT members for possible rotation or replacement.

NEW SECTION

WAC 139-12-080 Training requirements for IITs and IIT qualified lead investigators. (1) The credibility of an individual assigned to an IIT is grounded in two elements: Training and experience in criminal investigations. Since some IIT members were chosen because of their experience in criminal investigations, it is important to clearly define expectations for both training and experience.

(2) IIT members who do not meet the minimum training requirements for IIT qualified lead investigators are eligible to participate on the IIT, but not in a lead position.

(3) Civilian IIT members (i.e., crime scene investigators, evidence technicians, etc.) are not required to obtain the qualified lead investigator certificate, but the IIT leadership shall establish reasonable noncommissioned training requirements through their IIT protocol.

(4) Applicants applying for the position of an IIT qualified lead investigator must be employed by a member agency of the IIT. The applicant shall be a commissioned peace officer in the state of Washington with previous experience as a detective or investigator, or have special skills or experience necessary for the team.

(5) To obtain an IIT qualified lead investigator certificate, candidates must:

(a) Provide proof of at least three years of uninterrupted experience as a certified peace officer, crime scene investigator, or related expertise in a discipline relevant to investigations.

(b) Provide proof of successful completion of the prescribed training classes, (or appropriate equivalent experience), listed in this chapter:

(i) Basic homicide investigation;

(ii) Interviewing and interrogation; and

(iii) LETCSA violence de-escalation and mental health training.

(c) IIT members who have two years or more relevant, full-time criminal investigative work experience may substitute their work experience for the required basic training classes. County sheriffs, po-

lice chiefs, and IIT commanders are encouraged to promote continuing education as a best practice for all members assigned to the IIT.

(6) After receiving an IIT qualified lead investigator certificate, a minimum of eight hours of advanced training shall be annually completed. The advanced training may include, but is not limited to, the following criminal investigation topics:

(a) Advanced homicide investigation techniques;

(b) Advanced interviewing and interrogation;

(c) Officer-involved shooting investigation;

(d) In-custody death investigation;

(e) Acute behavioral disturbance;

(f) Bloodstain pattern analysis;

(g) Crime scene photography/videography; and

(h) Other related training, seminars, and conferences or on-going training as offered by WSCJTC or other training venues on an as available basis.

(7) All certified IIT members shall maintain compliance with LETCSA training required per chapter 139-11 WAC to be a member of an IIT and/or participate in an IIT investigation. This includes completing LETCSA training every three years within the established timelines.

(a) IIT members who are subject to the requirements of WAC 139-11-020(2) shall complete their first LETCSA training cycle by January 1, 2028, to remain eligible to serve as a member of an IIT or participate in an IIT investigation.

(b) If requested, any certified IIT member shall receive priority registration to LETCSA training hosted by WSCJTC.

(8) The IIT shall train as a unit at least annually.

NEW SECTION

WAC 139-12-090 Demonstrated history of honorable behavior. (1) Investigators assigned to an IIT are expected to have a work history free of a sustained finding of serious misconduct and/or a pattern of sustained complaints and a personal history free of demonstrable bias or prejudice against community members that may be impacted by the police use of deadly force.

(2) The IIT commander, no later than 72 hours after the investigation begins, shall determine whether each member of the IIT is free from sustained serious misconduct and/or a pattern of sustained complaints and a personal history free of demonstrable bias or prejudice against community members that may be impacted by the police use of deadly force. The IIT commander shall remove any member so affected and shall verify in the investigation file that these steps have been taken.

(3) During the IIT's annual review, the IIT commander or designee shall verify that all members of their IIT are free from any sustained serious misconduct or other disqualifying behaviors listed in WAC 139-12-020(16). If any sustained serious misconduct or other applicable behavior is discovered for an IIT member, it will result in the immediate removal from the IIT.

(a) Any sustained finding for serious misconduct that occurs between this annual review shall be immediately reported by the agency head or designee to the IIT commander.

(b) This must be documented by the IIT in accordance with their protocols and policies.

NEW SECTION

WAC 139-12-100 Conflicts of interest. (1) Immediately after the commencement of each IIT independent investigation, and no later than 72 hours after, all investigators, other IIT members, and nonlaw enforcement community representatives working on the investigation, must complete a "conflict of interest" assessment tool regarding any connection to the officers being investigated.

(2) The assessment (created by the WSCJTC) will include questions about prior interactions or relationships with officers being investigated, and will address social conflict, work conflict, and bias. The conflict assessment will be reviewed and discussed by the nonlaw enforcement community representatives and the IIT commander.

(3) If any member of the IIT, whether they are law enforcement or a nonlaw enforcement community representative, joins the investigation after the 72 hour time frame, they must complete the conflict of interest statement as soon as possible or within 72 hours after joining the investigation.

(4) Agencies may use a standard conflict of interest form developed by the WSCJTC. If an IIT uses their own conflict of interest form, the standards must meet or exceed the form provided by the WSCJTC.

(5) In order to meet the standards of the form, the IIT's conflict of interest assessment tool must ask the same questions as WSCJTC's. Exceeding the standards of WSCJTC's conflict of interest assessment tool means asking more questions about potential conflicts on an IIT's form.

NEW SECTION

WAC 139-12-110 Office of independent investigations. (1) The involved agency shall notify the OII of any incident by an involved officer in accordance with the requirements under RCW 43.102.050 and 43.102.120.

(2) Except where consistent with the requirements of chapter 43.102 RCW, the provisions of this chapter are not applicable to OII.

NEW SECTION

WAC 139-12-120 Miscellaneous. IITs shall follow any regulation or policy adopted by the WSCJTC and any relevant RCWs.