



CONCISE EXPLANATORY STATEMENT

WAC 139-12

Law Enforcement Training and Community Safety Act
Summary of rulemaking and response to comments

December 2019

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<https://www.cjtc.wa.gov/letcsa/training-overview>

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I. Agency's Reasons for Adopting These Rules:

The Law Enforcement Training and Community Safety Act (LETCSA, formerly known as I-940 or SHB 1064) has been signed into law by the Governor and is now in the hands of the Washington State Criminal Justice Training Commission. The Commission must establish criteria for independent investigations of deadly force. RCW 10.114.011 states that "Except as required by federal consent decree, federal settlement agreement, or federal court order, 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 in RCW 9A.16.040 and satisfied other applicable laws and policies. The investigation must be completely independent of the agency whose officer was involved in the use of deadly force. The criminal justice training commission must adopt rules establishing criteria to determine what qualifies as an independent investigation pursuant to this section."

Before WSCJTC files an adopted rule with the code reviser, the agency must prepare a Concise Explanatory Statement of the rule. Per RCW 34.05.325, the Concise Explanatory Statement shall:

1. Identify the reasons for adopting the rule,
2. Describe the differences between the text of the proposed rule as published in the Washington State register and the text of the rule as adopted, other than editing changes, stating the reasons for the differences, and
3. Summarize all comments received regarding the proposed rule, and responding to the comments by category or subject matter, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so.

WSCJTC may send the Concise Explanatory Statement to any person upon request.

II. Differences Between the Text of the Proposed Rule as Published in the Register and the Text of the Adopted Rule:

The differences between the proposed rule and the adopted rules are summarized below. WSCJTC made these changes in response to input received from individuals, to ensure clarity and consistency, and to meet the intent of the authorizing statute.

WAC 139-12-020 Independent investigative team (IIT)

- Removed "such as WSP
- Added "the independent investigative function, provided it is not the involved agency."

WAC 139-12-020 Initial incident response

- Inserted "police use of"

WAC 139-12-020 Member Agency

- Inserted “police use of”

WAC 139-12-030 Independent investigations criteria

- Replaced “factors” with “principles”
- Inserted “involved agency and the”
- Inserted “results in a compliant and complete investigation and”

WAC 139-12-030 (1)(b)

- Inserted “police use”
- Inserted “with the following exception:
- Moved section about specialized equipment underneath
- Removed “no”, added “not”, removed “and”, added “and the use is approved by the IIT commander.” from section about specialized equipment

WAC 139-12-030 (2)(a)

- Replaced “factors” with “principles”

WAC 139-12-030 (2)(b)

- Added a-f lettering
- Inserted “Existing teams with have until January 2021 to provide necessary information about the qualifications of current IIT investigators to the non-law enforcement community representatives for review.”
- Inserted “non-law enforcement”

WAC 139-12-030 (4)(b)

- Removed “each year”

WAC 139-12-030 (4)(c)

- Inserted “by the chief(s) and/or sheriff(s).”
- Replaced “panel” with “board”

WAC 139-12-030 (4)(c)(vi)

- Replaced “must” with “are expected to”
- Inserted “sustained”
- Inserted “police use of”
- Removed “incident”

III. Summary of All Public Comments Received on This Rule Proposal and Final Rule Reflection of Public Input:

June 20, 2019 Statutory Stakeholder Meeting held at WSCJTC

No public testimony was given. The first statutory stakeholder meeting for the independent investigations criteria focused on determining the content of a PowerPoint covering the basics of criminal investigations. This presentation was to be used at future public engagement meetings.

July 9, 2019 Statutory Stakeholder Meeting held at WSCJTC

No public testimony was given. This meeting was attended by Livio De La Cruz, NAACP; Teresa Taylor, WACOPS; Deborah Jacobs, OLEO; Tim Reynon, Puyallup Tribal Council; Yasmin Trudeau, AGO; Lesley Cordner, SPD; Karen Chung, CPC; Andre Taylor, NTT; Dave Taylor, NTT; Martina Morris, NTT; Alison Holcomb, ACLU-WA; Emma Catague, API Community; D. Cookie Bouldin, SPD; Al Cruise, COMPAS; Lynette Buffington, WAFOP; Terri Rogers Kemp, NAACP; Sara Franklin, Commission on African American Affairs; Lisa Daugaard, Public Defender Association; Renee Maher, COMPAS; and Mike Solan. This statutory stakeholder meeting focused on the Independent Investigations Principles that the CJTC created as a baseline for the Independent Investigations Criteria. This document had values and expectations for independent investigations. The values were trust/credible, clear/understandable, fair/objective, informative, high-quality, respectful, timely, thorough, and transparent. The expectations were that the investigators have expertise and experience in conducting high-profile, complex criminal investigations; the investigators can and do respond to each incident promptly; the investigators have sufficient capacity and resources to carry out high-quality, timely investigations; that there are clear definitions and policies governing the investigations; and that the investigator process protects against conflicts of interest and appearances of conflicts of interest. Statutory stakeholders gave their input on the language of these expectations and values.

July 24, 2019 Statutory Stakeholder Meeting held at WSCJTC

No public testimony was given. This meeting was attended by Adam Cornell, Snohomish County Prosecutor's Office; Amy Darling, Not This Time; Tim Reynon, Puyallup Tribal Council; Sarah Stiltner, Puyallup Tribe of Indians; Mary Robnett, Pierce County Prosecuting Attorney; Teri Rogers Kemp, NAACP; Gregory Adams, DADS; Emma Catague, FCS/APC; Joseph Seia, PICA; Devitta Briscoe, Not This Time; Monisha Harrell, Equal Rights WA; Jim Schaucut, Pierce County Prosecutor; James Schrimpster, Fraternal Order of Police; Teresa Taylor, WACOPS; Al Cruise, COMPAS; Carla Boyer, Not This Time; Renee Releford, Not This Time; Leslie Cushman, Citizen Sponsor; Les Liggins, Community Passageways; Mariam Rodgers, U.S. Marshals Service; Brad Forbes, NAMI WA; Lynette Buffington, WAFOP; Karen Chung, CPC; Nina Martinez, Latino Civic Alliance; and Marilyn Covarrubias.

August 7, 2019 CJTC Staff Meeting with Commanders of Investigations Teams from WA in Leavenworth

Captain Edgar Reinfeld from the Wenatchee Police Department on the North Central Washington Special Investigations had some concerns with what maintaining independence means. He noted that rural counties have a duty to respond and there is some gray area when conducting these investigations.

Captain CP Taylor from the Tacoma Police Department posed a question to the whole group asking who does their own investigations because they do at TPD. The prosecutor and medical examiner are at the scene conducting an investigation as well.

There was discussion that the rules cannot be so specific that it makes factors difficult for small agencies such as resources and the size of the county. Law Enforcement interacts with all sorts of different people when conducting an investigation – they are independent, but are also working with agency head – a one size fits all for the state of Washington is not realistic – Parts of Washington are so different from each other – Also some concern with civilians involved in an agency’s investigation and that they can be involved after with the administrative piece.

Kent PD has conducted eight investigations in the last nine months. If a sibling of someone on the investigation team is involved in the shooting, would the rules address if they would get removed from the team or not?

Representatives from Tacoma PD asked the group if any agencies have independent oversight during investigations. In Pierce County the prosecutor has access to the investigation. The Prosecutor sends an investigator to the scene and is with the agency in the command from start to finish. Spokane County noted they don’t have prosecutor investigators that come, but the office has shadowed with investigations. With Pierce County, the involved agency briefs the prosecutors and the prosecutor provides independent recommendation as well as the criminal investigation response.

Jim Schaht, Pierce County Deputy Prosecutor, said he doesn’t go to the scene and doesn’t want to. He is afraid he would draw conclusions that can be uninformed from going there and seeing something and that he would interfere if at the scene. He continued by saying that the notion of independence being stakeholder groups is disturbing because homicide investigations are not simple and are very complex. There are lots of technical aspects. Jim also said that it is ‘frightening’ if lay people will be giving input on what matters/doesn’t in an investigation. Independence is valuable and a statutory requirement, but the quality is equally important and should be equally important to the stakeholder groups. In Pierce County he believes their investigations are independent oversight with quality.

Bellingham PD said that if the if venue agency is involved, they can provide resources and access to things that might not be easy and be “embedded” but not doing the investigating.

With Spokane Sheriff’s office they have a resource issue as well. Investigations require lot of man power and resources, so the agency falls into a secondary role where they provide access to things they need, or potential man power required at the scene. Inspector Rob Sherar

wanted us to ask the Statutory Stakeholder group, “how do you define extracting the involved agency from the incident, and how deep does that go?”. Dan said we will talk with the group about using resources from the involved agency.

Representatives from Pierce County were asking about what happens during an OIS investigation when there are multiple crimes and jurisdictions involved. These types of incidents make access to evidence and separating that evidence more complicated and time consuming. Dan responded to all of these comments that the rules are not going to address these issues, but your protocols need to.

Pierce County also asked about the punishment or results of decisions made at the scene when the OIS first happens. They wanted to know what the ultimate penalty would be if someone doesn’t agree with your decision in that moment. Dan responded that the Commission is not the enforcement authority in this whole process. Community groups and other organizations such as WCIA are watching this process and would be who you need to have that conversation with.

There was some discussion about how in-depth Commission staff should go on the details of an investigation at the public forums. Dan explained to the group about our Investigations 101 piece. Bellingham PD said that having an education piece on how evidence is selected would be worthwhile.

A representative from Pierce County wanted to be sure and say that no matter what I-940 says, he would not let evidence get ‘washed down the drain’ and miss opportunities because of protocols that restrict him to do so.

There was a recommendation that individuals on teams should have training requirements. Dan let them know that the rules might not address this, but the protocols would.

August 14, 2019 via Investigations Input Form

A community member submitted input about their concerns surrounding lack of trust between Law Enforcement and the citizens of Wenatchee Valley. They were concerned about the lack of crisis management, mishandling of evidence and securing witnesses, and slow CPR assistance. They suggested having investigations done independently first and then including the involved agency in the solution, with additional training. They expressed the need for more de-escalation and mental health training, publishing findings from investigations to the public, and developing a standard for ethics.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 Independent investigation criteria, WAC 139-12-030 (4)(c)(v)(B)

August 15, 2019 via Investigations Input Form

A community member submitted input, expressing their belief that most detectives want to provide an unbiased investigation, but stated that there is a lot of work that needs to be done to build trust. They suggested running a team out of the Attorney General's office.

Response: WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(a)

Maureen Noble, community member, expressed concerns about potential to cover up a scene. Maureen mentioned that including groups other than law enforcement was important in an independent investigation but said that an independent investigation could include the involved agency for context. She expressed the need for agencies to take responsibility for their actions and increase transparency, and that the Prosecutor's office should explain in plain language the barriers to prosecution.

Response: WAC 139-12-030 (1)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(b)

Michael Hefty, Pierce County, expressed concerns about the level of training and experience of the investigators on the independent investigation, as well as who pays for the independent investigation, who investigates a multiple agency incident, who conducts the incident that led to the use of force, how the collection of evidence is reconciled, and the trainings that are available.

Response: WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b)

Jackson Beard, Lake Forest Park, mentioned that investigations need to be completed by trained and experienced police officers, and that a use of force instructor should be included in the independent investigations team, as well as the involved agencies use of force instructor team. Jackson mentioned that transparency to the public and involved officers was important, and that public education regarding the use of force should start at the first press conference.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-030 (2)(b)

Terry Carter, Pacific, expressed that civilians who have never been in a life-threatening situation should not be on the investigations team. Terry also mentioned that the involved agency should be involved, and that a member of that agency should be there to provide details on the area, training policy, etc. Terry voiced that to build trust, the involved agency should turn the scene over to the independent investigation team after the initial scene is calm, and then stay out of it until they make their determination, and that transparency is important.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-020 Good faith standard, WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (2)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(b),

Will expressed trust in the Valley Incident Team and submitted input that the officer's agency should only supply a liaison to act as an intermediary point of contact between the investigators and the agency. Will mentioned that transparency is vital but should not be sacrificed to satisfy media requests.

Response: WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-020 Independent investigative team (IIT),

Heather Malavotte, Pacific, mentioned that the investigation should be conducted by a neutral agency that has no prior history with the involved agency or officer, and that the neutral agency should be on a rotating list and not picked by the involved agency. Heather believes that the involved agency should be involved so that the agency's chief can be allowed to have a say on the final outcome of the investigation. Heather expressed concerns about a lack of protection for the involved officer.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (3)(b), WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(iv), WAC 139-12-020 Prosecutor's review, WAC 139-12-020 Independent investigative team (IIT)

Mike, Kent, discussed his trust in the system, and mentioned that the presentation of facts and scene evidence was very important for an independent investigation. He stated that investigators should refer to subject matter experts when their own expertise is limited. Mike mentioned that the involved agency is needed to consult in some portions of the investigation, especially to give context to the department's practices, to ensure trust between the agencies, and to take into account the health and wellbeing of the officer involved. Mike expressed that education about police roles, procedures, evidence, body cameras, etc. and relationship building before the incident is important, and that the investigative team should release information as soon as possible.

Response: WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(v)(C)(vii)

Andy Cooley, community member, expressed that it is important to have a clear definition of involved agency. Andy's definition of this is the agency that employs the involved officer. This would exclude task-forces or multi-agency SWAT teams. Andy mentioned that the involved agency has to be allowed to perform Phase 1 steps.

Response: WAC 139-12-030 (4)(b), WAC 139-12-020 Involved agency

Robert Stephens, Pacific, shared his trust that the investigation is done by an outside entity.

Response: WAC 139-12-030 (1)(b)

Daniel O'Neil, Auburn, expressed concerns about the elected prosecutor being the sole individual determining the good faith standard, and stated that the involved agency should have minimal involvement in the investigation with prosecutor oversight. Daniel also mentioned that the crime scene team and investigation team should be independent of each other, and that the involved agency should have a command level liaison to provide training records and organize interviews. Daniel also said that the investigative team can build trust with periodical briefs to the involved agency's chief and the involved officers attorney, and that the prosecutor's office should have a liaison assigned to the case.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-020 Good faith standard, WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(b)

William Pierson, Auburn, suggested a multijurisdictional approach that does not include the involved agency, and that the prosecutor's office should assign an attorney to oversee the investigation. William also expressed that the involved agency should continue to communicate with media and their respective communities to reassure them that they are not investigating and cannot comment until the investigation is complete. William mentioned that the investigative team should have occasional media exposure and involve the appointed attorney/prosecutor's office.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(b)

A community member expressed concerns about turning over a scene to an agency with different procedures. This person mentioned that fairness, neutrality, and consistency are the important elements of an independent investigation, and that the involved agency can be included in the independent investigation but would prefer that they only have limited direct involvement. This person mentioned that the independent investigation should train with the involved agency to build trust and ensure a consistent process in line with each agencies policies and procedures.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b)

Brian Jones, Moses Lake, expressed concerns about the politicization of the independent investigations system and about the restriction of smaller agencies from necessary cooperation in order to reasonably and effectively assist in the investigations of complex scenes. Brian mentioned that the important parts of an independent investigation included independent command and control, and documented protocols being followed, as well as qualified and experienced investigators. In order to build trust, Brian discussed the importance of the involved agency immediately safe guarding the scene, treating and transporting any wounded, getting the safety brief completed, and isolating the involved officers, as well as the investigative team's professional response, timely investigations, good communication, posting protocols.

Response: WAC 139-12-030 (1)(a), WAC 139-12-030 (1)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(i), WAC 139-12-020 Initial incident response, WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(b)

Ann Folden, community member, shared the experience of her son being killed by police. From this experience she mentioned that how the independent team and prosecutor deals with the family and the press will lessen the anger and frustration of families. Ann expressed the importance of a family liaison, and that the investigation should not include the involved agency but should include members outside of law enforcement. Ann also mentioned that the involved agency should not speak of the incident until the independent investigation reaches their conclusion. She stated that the independent investigation should clearly outline to the

public the process, the time frame, and the steps that will be taken with the officer, while updating the public frequently.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-030 (3)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(b), WAC 139-12-020 Prosecutor's review, August 16, 2019 via Investigations Input Form

Steve Groseclose, Douglas County, expressed the importance of trust between law enforcement and the public, and that trust is gained by transparency and establishing protocols that are designed to avoid bias/conflicts. Steve also mentioned that there are parts of an investigation that the involved agency has to be involved in such as securing the scene, identifying evidence and witnesses, and securing video footage, but the investigative leadership and investigators should be independent. Steve also stated that the Prosecutor's office should be involved from the beginning, attend the briefings, work with the investigative team, and be available for questions.

Response: WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (4)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response, WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(b), WAC 139-12-010 Purpose

Mike Marken, Washington State Patrol, suggested viewing the Skagit, Snohomish and Spokane County investigative teams as the standard, and stated that the investigation could include the involved agency, except for conducting involved officer interviews. Mike also mentioned that in parts of Washington, media representatives have observed training investigation teams, which allows them to gain direct knowledge of how investigations are conducted, and the standards investigators hold themselves to. Mike also expressed concerns about the involvement of the AGO and their lack of resources.

Response: WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b)

Robert Hollis submitted input that a liaison from the involved agency can be assigned, but not be a part of the investigative process. Robert mentioned that information about the involved agencies policies and procedures should be shared in order to build trust, as well as the prosecutor's office disclosing the reasons for prosecuting.

Response: WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(b)

Richard Adams, Federal Way, expressed his concern about un-trained groups and politically motivated groups being a part of the independent investigation, and stated that the involved agency should be allowed to provide support (training records, policy manuals, facilitating interviews) to the investigating agency, but should be clear about their participation to the public.

Response: WAC 139-12-030 (4)(c)(v)(A), WAC 139-12-030 (4)(c)(iii), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(c)(i)

Jcrane, Kent, mentioned that independent investigations should be done by individuals familiar with law enforcement policies, procedures, rules, etc., and expressed that trust must be built before incidents occur, and that transparency and communication are key.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(a), WAC 139-12-030 (3)(a), WAC 139-12-020 Independent investigative team (IIT)

A community member shared concerns about having a civilian investigator. They mentioned that the investigation should not include any policy review, and that the involved agency can be included in the independent investigation to obtain witness statements. They also stated that the involved agency should stay out of the media, refer all questions to the PIO of the investigation team, and not provide any opinions about the justification of the incident. They mentioned that the independent investigation should be sure that investigations are strictly fact based, and that the Prosecutor's office should not fold to public opinion, political belief or police opinion.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b), WAC 139-12-030 (2)(a), WAC 139-12-030 (3)(a), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(c)(v)(C)(vi)

Mike Murphy, Tukwila, stated that he trusts the entire process, and has concerns about a lack of data and evidence proving that agencies do not deserve trust.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (1)(b)

Matthew Fisher, Kent, suggested that having body cameras will help ease people's minds about police at a scene tampering with evidence. Matthew expressed that the involved agency should be quick to release basic facts leading up to the shooting, the type of call, and what is claimed to provoke the shooting, and that the investigative team should complete a quick, but thorough investigation. He also mentioned that the Prosecutor's office should give a better explanation about why officers were found in the right for their shootings.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (2)(b)

Captain Brian Chance, Wenatchee, expressed that independent investigations are important for both the public and law enforcement, and that they do build/maintain trust. Brian mentioned that important elements of an independent investigation include initial scene preservation by all LE present, experienced LE investigators from an un-involved agency providing findings, and involving local prosecutors/investigators when possible. He also mentioned that cops knowing cops from other agencies might be a concern that comes up. He discussed that resources may dictate the level of the involved agencies involvement for things like in-car cameras, radio recordings, specific investigator training on available tools, but limits could be set at interviews and analysis of evidence. He also mentioned that timely communication with media, building public trust prior to the incident, releasing what can be released as soon as possible, and overall communication are very important.

Response: WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-030 (2)(b)

A community member mentioned that Garrity statements by the investigative team should be consistent around the state and that independent investigations should have team training and consistency. They also stated that the involved agency can be included as an aid to the investigator or as a liaison to the team.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(b)

A. Kelso, Kent, mentioned that the involved agency should have a liaison to ensure that nothing is missed, but that they should not investigate the incident, and that the investigative team should communicate regularly with the involved agency. A. Kelso also suggested modeling the South King County Valley agencies' process.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (1)(b), WAC 139-12-030 Independent investigation criteria

Brett Koss, expressed that anyone investigating a use of force incident should be required to complete the same de-escalation, CIT and use of force trainings that officers do, and mentioned that the involved agency should get information out as soon as possible, but that the investigative team should conduct the investigation before publicly announcing anything and have an efficient plan that doesn't take months to complete. He stressed the importance of the investigative team having the training and experience to honestly evaluate an officer's actions.

Response: WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(b), WAC 139-12-030 Independent investigation criteria

Joshua Bava, Kent, responded that the independent investigation should be conducted by a general authority law enforcement agency, and that use of force experts from the investigation agency and the CJTC should be consulted. He also mentioned that the Prosecutor's office should issue a written statement documenting what the office's review of the evidence determined. He expressed that only law enforcement investigators and/or subject matter experts from the CJTC should be a part of the investigation.

Response: WAC 139-12-010 Purpose, WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 Independent investigation criteria, WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (4)(c)(iii)

August 17, 2019 via Investigations Input Form

Ken Clay responded that an independent review instills trust in the process. He mentioned that applications of the law are important parts of an independent investigation, and that a representative from the involved agency should assist investigators in answering questions about policy, procedure, training, etc. Ken also discussed that transparency and thoroughness help to build trust and that a deputy prosecutor should be assigned to the investigation to shadow investigators.

Response: WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (4)(c)(iii)

John Lievero, Normandy Park, expressed that all police departments need to be part of the framework for I-940, including smaller local departments, and that the involved agency needs to be involved in the investigation at least to provide background and context to the investigating agency. He also mentioned that the involved agency should handle the public relations of the incident and should make sure that the investigating agency has the authority and resources necessary to complete the process. He stated that police shootings should be investigated by an outside agency prosecutor's office, and that the commission should be the leader in establishing a funding path for independent investigation teams that include all PDs.

Response: WAC 139-12-030 (4)(c)(ii), WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review

Tara Marks, Mill Creek, stated that it is critical that the independent investigators have a law enforcement background, and that transparency is the most important thing. Tara also mentioned that an independent investigation can include the involved agency as long as they are working with other investigators from an uninvolved agency, and they are not responsible for critical components of the investigation. She also expressed that if a police officer has violated the law, then there should be consequences.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-020 Independent investigative team (IIT)

August 18, 2019 via Investigations Input Form

Andrew Richardson, Kent, responded that there should be emphasis on the responding officer's perceptions and dispatched information during an independent investigation. Andrew also stated that including the involved agency in an independent investigation still maintains an element of independence due to the investigating detectives being assigned to a regional group. He expressed that to build trust, the involved agency should back up their officers as "innocent until proven guilty" and keep the officer's identity confidential until the investigation is complete, and that the investigative team should communicate with the involved officer to explain where the investigation is going as steps are completed. He urged that the prosecutor's office should consider the implications of the inquest process and how it currently appears to law enforcement.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 Independent investigation criteria

Jon Thompson, Kent, responded that in order for the involved agency and the investigative agency to build trust, they should release the facts known by the officer at the time of the incident, quickly release any video footage, and release pertinent information.

Response: WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(b), WAC 139-12-030 Independent investigation criteria

J Reed, Kent, expressed that an independent investigation should be fair, impartial and completely thorough, and that it could include the involved agency, but that it may be prudent to have an agency representative “step out” or take an advisory role. J also mentioned that in order to build trust with individual officers, there should be the same transparency as there would be with any other agency or media outlet. They stated that to build trust with the public, sharing policy, training, and rationale is key. J also suggested that in order to build trust the prosecutor’s office should prosecute criminals, interface with law enforcement officers, attend agency trainings, briefings and events, and take part in contacting involved officers and advise them of the prosecutorial process.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b)

A community member expressed support for officer involved shootings being investigated by outside agencies, and shared concerns that having the involved agency in the process will give a perception to the public that officers will always stick together. This person mentioned that collection of evidence at the scene, eyewitness testimony, videos, and finding out the facts are the most important elements of an independent investigation. They also said that the involved agency should not be included in the independent investigation, but they should be updated as the process takes place, and that they should tell the public they have no involvement in the process. They also said that the independent investigation should keep the public updated within 24 hours of the incident. They stated that the Prosecutor’s office should keep the general public informed about when the case was delivered to them for review, give the public an explanation of the law, and give a timeline for when they expect to have a decision.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-030 (2)(b), WAC 139-12-010 Purpose

August 19, 2019 via Investigations Input Form

Sergeant Robinson, Monroe, expressed that minimum standards in training should include OIS interview best practices established by industry experts of Force Science Institute, along with qualified investigators, and use of force experts who are currently employed as criminal justice professionals. Sergeant Robinson also mentioned that the involved agency should have an assigned use of force liaison. Sergeant Robinson also stated that public release of a social media overview of the complete incident, public release of the current phase of the investigation training lessons learned, and use of force experts will build trust, as well as communication between the command staff, union, and involved officer.

Response: WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-020 Independent investigative team (IIT)

A community member mentioned that the involved agency should not be included in the independent investigation other than having a representative sit in on meetings and that they should follow the process and trust that the independent agency has everyone’s best interests in mind. This person also stated that the independent investigation should remain fair and

impartial and only collect the evidence and present it to the prosecutor, and that the Prosecutor's office should remain fair and impartial, and simply review facts.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(a), WAC 139-12-020 Prosecutor's review

A community member expressed concerns about having people that don't understand an agency's policy working on a case. This person stated that a good understanding of the policies and procedures used at the time of the event, no political agendas, a search for the truth, making sure the officer is not treated like a suspect, and a timely process are the important elements of an independent investigation. They also mentioned that at a very minimum there needs to be a member of the involved agency on the independent investigation, and that transparency, communication, and timeliness are important to build trust.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(a), WAC 139-12-030 (3)(a), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(a)

William Shepard, Des Moines, expressed the need for adequate resources available for the independent investigation, and that the involved agency should be available as a liaison to help with supplying records and other intelligence regarding contacts with the subject and the officer(s). William also mentioned that the investigative team needs to make sure all of their investigations are thorough, and that public information is given to the involved agency for timely media dissemination. He also stated that he would like to see an investigator assigned to assist with search warrants and legal questions.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (2)(b)

Ofc J. Gagner, Kent, stated that the important parts of an investigation are witness statement follow up by the independent agencies, and that the independent team is primary and handles the investigation to include evidence processing and gathering. Ofc J. Gagner also mentioned that the independent investigation needs to include a liaison from the involved agency for quick access to the records division, facilitating resources, and union contracts. They also discussed the importance of updating Twitter and Facebook with news briefings and information to build trust, and to avoid the media spinning the involved agencies "true facts". J. also expressed that the primary in-charge Detective cannot be from the involved agency and that the Prosecutor's office process should not be political in nature.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(iii)

James Schrimpsher, Algona, expressed that transparency, consistency with best practices and considering all points of view are important parts of an investigation, and also mentioned that an independent investigation could not include the involved agency because it leaves doubt. James stated that the involved agency should remove themselves from the investigation once the initial response is over, display transparency, and engage with the community. He also

mentioned that the investigation should be done by the most highly trained investigators, keep the public informed, and that the Prosecutor's office should be independent of the process.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (2)(a), WAC 139-12-030 (4)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (4)(c)(iii), WAC 139-12-020 Prosecutor's review, WAC 139-12-010 Purpose

Landon Meyer, Kent, discussed that the important elements of an independent investigation are transparency, accountability, and accordance with the law, not emotion. Landon also mentioned that the involved agency, investigative team, and the Prosecutor's office should have transparency and train with the public, so that the community has a better understanding of the dynamics of use of force scenarios.

Response: WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (2)(a), WAC 139-12-030 Independent investigation criteria, WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b)

Sal Manici, Quincy PD, suggested that the best way to ensure "independent" would be to have three different agency teams from distant and larger agencies who have expertise and experience. He also brought up that to ensure complete independence, the involved agency should not be included, but that that may be difficult in smaller jurisdictions. Sal also stated that the involved agency and the investigative team should be transparent to citizens and educated beforehand, especially about how telling the whole story is not always in the best interest of the integrity of the investigation, but that they also need to present correct, factual narratives on social media and general media to build trust. He also expressed the Prosecutor's office should take swift prosecutorial action, have a reasonable timeline on making charging decisions, and be transparent.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (1)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(b), WAC 139-12-010 Purpose

Jeff England, Pierce County, expressed that investigators need to be very experienced, and have knowledge of the training and procedures of the involved agency/officers. Jeff also stated that the investigation could include the involved agency and that the involved agency should release as much information, as fast as possible to build trust. He also mentioned that the Prosecutor's office should perform their own independent investigation.

Response: WAC 139-12-030 (4)(c)(v)(B), WAC 139-12-030 (4)(a), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(a), WAC 139-12-030 (4)(b)

August 20, 2019 via Investigations Input Form

Gerald Swaye stated that the lead agency on an independent investigation needs to not be from the involved agency, but that the involved agency can handle smaller parts of the investigation (i.e. neighborhood canvas, open source internet investigation, etc.). Gerald also mentioned that the involved agency should let people know who is investigating the incident and forward inquiries to the investigative team to build trust, and that the independent investigative team should provide occasional details about progress. He also said that the

Prosecutor's office should build trust by assuring the public that they will review the case, but that investigations take time, and providing updates when they can.

Response: WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-030 (2)(b)

J. Gese, Kitsap, expressed the importance of having available outside resources that are well trained, available to delegate resources during the investigation, and of the investigative team working closely with the Prosecutor's office. J also mentioned that ideally the involved agency would not take part in, or have a limited role in the investigation, and that there should be clear written policies on how an OIS will be handled and consistent practices. In order for the investigative team to build trust, J stated that they should be well-trained, experienced, well-organized, and standardized especially if they are a multi-agency team. In order for the Prosecutor's office to build trust, J discussed that they should be involved in the investigation from the inception, provide guidance to the investigative team, and come to an independent conclusion after the preview of the case.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(b), WAC 139-12-030 Independent investigation criteria

Doug Whitely, Kent, mentioned that a team of investigators not linked to the involved agency should be on the independent investigations team, and that the involved agency should act as a liaison to provide case reports and any other information needed for the investigating team. Doug also discussed that transparency is needed for the investigative agency to build trust, and that once the case is completed, all the details should be released to the public. He also expressed that the Prosecutor's office should provide knowledge and guidance to the investigative team, and provide a detailed, facts-based statement.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(b), WAC 139-12-030 (2)(a)

Troy Graunke, Kitsap, expressed concerns about the court of public opinion. Troy mentioned that the important element of an independent investigation is not having a preconceived opinion on what happened and focusing on the evidence. Troy also mentioned that the independent investigation could include the involved agency because policy and procedure can differ from agency to agency. To build trust Troy mentioned that the involved agency should inform the public as much as possible, and make sure that everyone is on the same page with what info is given to the public. He said that the independent investigation should conduct a thorough and timely investigation, divulge as much information to the public without jeopardizing the investigation, follow the rule of law, and investigate all cases the same. He also said the Prosecutor's office should follow the rule of law and keep personal opinions out of the investigation.

Response: WAC 139-12-030 (3)(b), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review

Roland Heyne, Kent, stated that collecting all the facts and transparency are key elements of an independent investigation, and that a completely independent investigation could include the

involved agency. Roland also discussed the importance of presenting facts only and not speculation in real time. He also expressed that in order for the Prosecutor's office to build trust, they should begin aggressively prosecuting all criminals including LEOs, and being transparent.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review

Matt, Kent, expressed that independent investigators should be well trained in handling crime scenes and evidence, as well as interviewing witnesses. Matt also stated that the involved agency could only be included as a liaison to provide information, reports, etc. In order for the involved agency and the investigative team to build trust, Matt mentioned that media releases naming the independent investigation and media updates should be provided. He also said that the Prosecutor's office should tell the public if they need more time to review a case and explain why their decisions were made.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-010 Purpose, WAC 139-12-030 (c)(v)(A), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b)

Andrew, Auburn, mentioned that the important parts of an independent investigation are complete, accurate, and having a completely neutral entity who investigates, and that an involved agency cannot be completely independent. In order to build trust, Andrew discussed that the involved agency should practice transparency and have timely announcements from leadership, that the investigative team should have a professional attitude and complete the investigation in a timely manner, and that the Prosecutor's office should have published guidelines which clearly show their protocols for use of force incidents.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-020 Prosecutor's review, WAC 139-12-020 Complete investigation, WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(b)

Brian Anderson, Auburn, expressed that the independent investigation should be made up of officers and detectives, and that the involved agency should be included as a liaison, but that they should limit their portion in the investigation by providing requested help, but not overstepping. Brian mentioned that the Prosecutor's office should do everything possible to not be swayed by public opinions and only look at the investigative facts.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review

August 21, 2019 via Investigations Input Form

Chris Lafferty, Quincy PD, expressed that information and body cam footage needs to be released as soon as possible if it will not compromise the investigation, and that outside agencies should do the investigation. Chris discussed that after the initial scene is secured and the emergency is over, the outside agency should take over the investigation, but that information that can assist the investigation can be obtained from the involved agency. In order to build trust Chris mentioned that the involved agency should follow policy, put the officer on leave, be open and transparent, and let the public know the outside agency will be conducting

the investigation. He also mentioned that the investigative team should release information as soon as possible, and that the Prosecutor's office should go to the scene of the incident and release a report explaining their charging decision. He also stated that there should be protections for officers being harassed by public or media.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review

A community member shared their beliefs that there are no problems with unreasonable use of deadly force. They expressed that family members should not be in the media and that an independent investigation could include the involved agency because smaller agencies do not have resources to conduct their own. They mentioned that involved agencies should stand behind their officers completely unless there is clear and objective evidence of wrongdoing, and that the Prosecutor's office should speak out that it is inappropriate to politicize an incident if that occurs.

Response: WAC 139-12-030 (1)(b)

Michael Villa, Port of Seattle, responded that independent investigations should be conducted by current, full-time commissioned officers, and should involve the agency to the extent of a liaison and cooperation from members of the agency. Michael mentioned that to build trust, the involved agency should turn over the investigation at the earliest opportunity, and that the investigative team should conduct thorough investigations and maintain adequate training. He also urged the Commission to use existing multi-agency investigative teams as a model.

Response: WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (4)(c)(v)(B), WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (4)(b)

Morris Parrish, Lake Forest Park, discussed that the independent investigation should have investigators who are competent and understand case law and practical experience with force used. Morris discussed that including the involved agency would depend on the size of the agency and external politics. He also expressed concerns about politics driving the investigation and mentioned that the involved agency and investigative team should call this out. He expressed that the Prosecutor's office should prosecute when necessary and follow the law when necessary.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review

August 22, 2019 via Investigations Input Form

Josh Bender, Ellensburg, expressed that the independent investigation should include people and officers from the same demographics where the incident occurred, and that leaving the investigation to non-law enforcement leaves agencies and officers open to significant problems. Josh also responded that some rural and smaller communities may need to include members of the involved agency on the independent investigation because they would not have the man power to give a task force, and that the involved agency should be vocally supportive of an

independent investigation. He also discussed that the investigative team needs to be as thorough and complete as possible, and that the Prosecutor's office should be impartial and wait for the totality of the circumstances before making any judgements or statements.

Response: WAC 139-12-020 Good faith standard, WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review

Neil Martin, Vancouver, responded that training and experience level of investigators is important for the independent investigation. Neil also expressed that minimal involvement of the involved agency would not likely taint a regional team. He also mentioned that for the involved agency to build trust, communication is key, and that the investigative team should communicate why certain details of a criminal investigation cannot be shared pending review by the PA. Neil suggested some sort of accreditation or credentialing process for investigators.

Response: WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-030 (4)(c)(v)(B), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(v)

Eric Hemmen discussed in his response that all evidence should be held by the independent agency, all interviews should be conducted by them, and that the involved agency shouldn't interfere with the case. Eric mentioned that the involved agency can be included only for smaller agencies that don't have enough outside help to conduct the whole investigation. He also expressed that the involved agency should work with the independent agency as soon as possible to ensure that the investigation is complete in a timely manner, release all video to the independent agency, and go on the news advising that a shooting happened, who is on the case, and who will give updates. Eric said that the independent investigation should conduct a thorough investigation in a timely manner and have news releases each day with updates, and that the Prosecutor's office should review the case in a timely manner and have a news conference about the review.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (2)(b)

Eric Bockelie, Kitsap, stated the importance of determining the officer's perception and their intent during an independent investigation. Eric expressed his faith in his agency conducting their OIS investigation. He discussed that premature info can make things worse and that the involved agency should provide information only when it's appropriate, as well as the investigative team to avoid misinformation from getting out. He also wants the Prosecutor's office to understand the mindset of an officer involved by attending trainings in OIS.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (1)(a)

Joshua Buonvino, Kitsap, expressed concerns about having a board of untrained civilians in the independent investigations. Joshua stated that the important elements of an independent investigation include seasoned officers, deputies, and/or detectives being the ones to investigate, a secure scene, proper resources, and passing the investigation onto a bigger agency if they are unable to handle it. He mentioned that it is important to include the involved

agency by giving them updates throughout the investigation, and that in order for the involved agency to build trust they should only put out information when the facts are known. He also discussed that in order for the investigative team to build trust, they should do what they've always done, and that the Prosecutor's office should come forward like defense attorneys do and defend the officers.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(a), WAC 139-12-030 (4)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review,

Mark Rufener, Kitsap, responded that experience and training in criminal investigations, specifically encompassing violent crimes, and the knowledge that the involved agency is only present as a liaison are two important elements of an independent investigation. Mark also expressed that it is imperative for most involved agency to have knowledge of progress to help them manage and control staffing levels. In order to build trust for the involved agency, investigative team, and Prosecutor's office, mark mentioned that open communication, answering questions that don't affect the investigation and keeping information coming as best as possible are key.

Response: WAC 139-12-030 (4)(c)(iii), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(c)(v)(A), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-010 Purpose

Stephen Evitt, Wenatchee, suggested defining an investigative team as a government agency who already knows how to investigate a deadly force incident. Stephen also mentioned that the independent team should have qualified competent people and suggested that the investigative team could include more than one independent agency. He also stated that including the involved agency in the investigation might make some lose faith that the investigation is truly independent, and that to build trust they should fully cooperate as allowed by law and their agency policy. He also expressed that the investigative team should be as transparent as possible without compromising the integrity of the investigation, and that the Prosecutor's office should be open and transparent as they gain information.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (2)(b), WAC 139-12-030 (2)(a), WAC 139-12-030 Independent investigation criteria

August 23, 2019 via Investigations Input Form

Steven Donnelly, Tukwila, expressed his trust in the current process and mentioned that trained investigators hands-off approach by the involved agency leadership and effective-timely communication between investigating agency members are important for an independent investigation. He also discussed that he believes that an independent investigation could include the involved agency to determine if they had prior contact/knowledge of the non-police person involved, but that circumstances vary from case to case. In order to build trust, Steven responded that the involved agency should provide a detailed brief of events, identify all officers involved including ones that witnessed the event, provide all video/audio recordings, and provide a liaison to the investigative team. He stated that the investigative team should be professional, conduct a thorough investigation, make no initial judgement, base investigation

on collecting evidence and determining facts, and communicate. He also mentioned that the Prosecutor's office should provide a point of contact ASAP, provide guidance to the collection of evidence, and conduct interviews in line with legal guidelines.

Response: WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-020 Prosecutor's review

Damon Powell, Quincy PD, responded that the history of all involved in the incident are important for the independent investigation as well as facts leading up to the event, reasonable officer standard, and facts believed to be known by the officer. Damon mentioned that it would depend on the location and size of the departments if and independent investigation could include the involved agency, but that if an officer is investigating who knows the officer involved then it would not be independent. In order for the involved agency to build trust, Damon suggested conducting training for supervisors and officers in the event of an OIS, setting a SOP for the department for an OIC, and being ready and able to provide a weapon to the involved officer at the time of taking his weapon involved unless justified otherwise. He said that for the investigative team to build trust they should not be upset if the officer has an attorney while being questioned, give them time to answer the question, allow a viewing of body cam footage before walking through the footage to get the officers state of mind during the incident. He also discussed that the Prosecutor's office should not talk to the media and that the investigating agency should do that.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (2)(b), WAC 139-12-030 Independent investigation criteria

August 26, 2019 via Investigations Input Form

Doug Jenkins, Des Moines, responded that involved officers processing, collection of evidence, and witness interviews are the important parts of an investigation. Doug also mentioned that the involved agency should not participate in the investigation, but that they should assign a liaison as a point of contact to share information. In order to build trust, he said that the involved agency should share with the community that the investigation is being handled by outside agencies, and that the investigative team should conduct thorough, complete and impartial investigations and that they should share information when appropriate. He also said that the Prosecutor's office should conduct a thorough and thoughtful review of the case as presented and make an appropriate charging decision and prioritize communicating with the community.

Response: WAC 139-12-030 (4)(c)(iii), WAC 139-12-020 Initial incident response, WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-020 Prosecutor's review

Don expressed that the officer's rights not being violated, that information is not released prior to the conclusion of the investigation, and that there is enough staffing for a thorough investigation are all important elements of an independent investigation. He also mentioned that it's possible for the involved agency to be included in the investigation, but that it would offer the appearance of tampering and cover up. In order to build trust, he said that the

involved agency should allow the investigating team to work while making sure their officers have what they need, and that the investigative team can't build trust.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-010 Purpose

K.D. expressed that a one size fits all will not work because smaller agencies will need assets brought in from the region, whereas bigger areas have the resources to conduct an independent investigation. K.D. suggested modeling after Kitsap's participation in joint agency planned response system. K.D. responded that in order for the involved agency to build trust they should have a plan, publish it, follow it, and educate the public that there will never be full answers in the first 24 hours. K.D. also mentioned that the investigative team should provide as much confirmable information that won't interfere with the investigation as soon as possible and refuse to comment on any conjectures, and that the Prosecutor's office should have clearly defined procedures for when they will convene grand juries, refer to outside prosecutors for review, and not talk to the media until the investigation is presented.

Response: WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (1)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(a)

John Brooks, Ridgefield, expressed concerns about the possibility of eliminating the most capable investigators from some of the most critical investigations. John stated that expertise as an investigator and freedom to follow an investigation where it leads are two important elements of an important investigation. John mentioned that a completely independent investigation is unachievable because so much of an OIS investigation takes place right after the incident, and it must be done by those who are on the scene, but the investigation must be overseen by outside agencies. He discussed that the involved agency and investigative team must communicate with the communication in order to build trust. He also mentioned that the Prosecutor's office should consider having its own team of OIS investigators to add to a multi-agency team and suggested the state having its own force investigation team.

Response: WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(a), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-020 Initial incident response, WAC 139-12-030 (2)(b), WAC 139-12-010 Purpose

August 27, 2019 via Investigations Input Form

Schon Montague, Kitsap, responded that regional investigation units should be used for independent investigations, and that investigations should be done by neighboring agencies and/or WSP. In order to build trust, Schon mentioned that the involved agency should provide all information within the law to the investigating agencies, and that the investigative team should complete a thorough investigation that is reviewed by a supervisor and prosecutor then released to the public upon request. He also discussed that the Prosecutor's office should review investigations and ask for follow up where necessary and then release their findings to the public when requested.

Response: WAC 139-12-030 (2)(b), WAC 139-12-030 (3)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (1)(b)

August 27, 2019 CJTC presented at WACOPS Conference at Great Wolf Lodge

Chris Tracy from Tacoma PD mentioned that a prosecutor's investigation is always independent. He had concerns about the map of WA State with investigative teams. Henry Betts from Tacoma PD expressed that there were other models than the map. Mark Lewis, retired from the Bellevue PD, expressed concerns that politics were driving the rulemaking. Teresa Taylor, Executive Director of WACOPS, and Chris Tracy from Tacoma PD expressed that the investigations system is not broken.

August 28, 2019 via Investigations Input Form

Ryan Miller, Algona, expressed that the independent investigation should include the agency, but also have an agency that is outside the investigated agency to review or conduct a simultaneous investigation. Ryan mentioned that the involved agency and the investigative team should have transparency to build trust, and that the Prosecutor's office should remain impartial until all facts are present.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-030 (2)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (2), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 Independent investigation criteria

Mike McNabb, Auburn, responded that a standard for how the investigation should be conducted with credible law enforcement principles, guidelines, and practices is an important element of an independent investigation, as well as transparency. Mike stated that someone from the involved agency that is trained in OIS should be present as an observer during the independent investigation's investigation. In order to build trust he mentioned that the involved agency should be open and honest with the independent investigation and the public, the investigative team should collect and present all evidence to the involved agency and investigate the incident to the furthest extent, and that the Prosecutor's office should avoid any contact with the suspect/victim's family and not have a hidden agenda.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-010 Purpose.

August 30, 2019 via Investigations Input Form

D Wescott, Kent, stated that the independent investigation should be independent and without an agenda, and the involved agency should only be included as a liaison. D also mentioned that the investigative team should do a complete investigation and that the Prosecutor's office should be nonpolitical.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (3)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Complete investigation, WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(c)(v)(C)(vi)

September 2, 2019 via Investigations Input Form

Michael Grant, Kitsap, expressed that it's important that an independent investigation is completed by objective investigators and reviewed by objective prosecutors. Michael

mentioned that the independent investigation can include the involved agency, and that bias issues of individual detectives could be addressed individually. In order to build trust, he stated that the involved agency should share as much information as possible with the public and have strong, experienced leaders in the ICS command. He mentioned that the independent investigation should train, develop and use a policy and procedure, and that the Prosecutor's office should make review decisions based on the facts of the case and case law.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review

September 3, 2019 via Investigations Input Form

Madalyn Squires, community member, expressed concerns about a current investigation, and mentioned that independent investigations should be conducted by law enforcement from outside the county of incident. Madalyn mentioned that the involved agency could not be a part of the independent investigation, and that there should be outside actors in order for there to be true accountability. Madalyn responded that the investigative team should be comprised of citizen oversight, law enforcement and legal representation (ideally the public defender's office), and that they should represent marginalized populations affected. She also discussed that in order for the independent investigation to build trust they should follow the law as written and voluntarily involved citizen oversight and community, and that the Prosecutor's office should provide transparency, work collaboratively with the Public Defender's office, and insist on genuine independence.

Response: WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-030 (1)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 Independent investigation criteria, WAC 139-12-010 Purpose

September 5, 2019 via Investigations Input Form

Peggy Novotny, community member, responded that standards of practice, timelines, transparency of process, means of verification, proper resources, proper funding, training, and balanced representation of the community are important elements of an investigation. Peggy also mentioned that in order for an involved agency to be included in the investigation, there should be criteria established and a standard of practice, and that they should educate as a means of transparency to build trust, as well as the investigative agency, and the Prosecutor's office.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (1)(b), WAC 139-12-010 Purpose

Linda Finnan, community member, expressed that whoever is doing the investigation should stand part from all the agencies ordinarily involved, and that community participation is part of the investigation. Linda also responded that the involved agency should only be included to be questioned in regard to the incident, and that for them to build trust they should make all records, personnel, and resources available. In order for the independent investigation to build trust Linda said that they should have people on the team to verify evidence from a variety of

sources, labs, and recording resources, and that the Prosecutor's office should not be appointed, meet with community members involved, and use independent verification of all evidence points. She also expressed that there should be regular ways for investigative forces to check themselves and their techniques.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(a), WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (4)(c)(v)(A)

September 6, 2019 via Investigations Input Form

Peter Ross, community member, responded that the most important element of an independent investigation is evidence gathering at the scene including eyewitness accounts, video and interviewing the officers at the scene. Peter also mentioned that the involved agency should not be included in the investigation but should promptly provide all relevant data and statements to the independent investigation. To build trust Peter discussed that the independent investigation should be transparent, clearly establish criteria for the specific incident, and disclose the details. He also mentioned that the Prosecutor's office should draw clearer lines between the laws they are interpreting, the information presented to them, and how they decide to prosecute or not.

Response: WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (4)(b), WAC 139-12-030 (2)(b), WAC 139-12-020 Prosecutor's review

September 7, 2019

Thomas Moriarty, community member, expressed that direct citizen involvement, WA State Attorney General participation, and transparency to the public are important elements of an independent investigation, and that the involved agency can only be included by sharing their facts involving evidence. Thomas mentioned that the involved agency should practice full transparency and defend and uphold the law in order to build trust, and that the independent investigation should have full transparency in the investigator selection process, be methodical, investigate completely, use independent labs, give regular public reports throughout the investigatory process, and give a public final report. For the Prosecutor's office to build trust he stated that they should practice full transparency, minimize political influence, not allow a working relationship with any law enforcement agency, and uphold their oaths.

Response: WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(ii), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(b), WAC 139-12-030 (2)(a), WAC 139-12-020 Prosecutor's review, WAC 139-12-010 Purpose

September 8, 2019 via Email

WAFOP submitted track changes for the Guidelines. They expressed that they wanted to discuss clarity about a community representative and the credentialing committee. They expressed support for peer support group counselors, and suggested language in the "Interviewing Law Enforcement Employees" portion. Language was also suggested in the "Interviewing the Involved Officer" and the "Interview with Witness Officers" portions of the document. WAFOP also expressed concerns with "Release of Information/Public Information

Officer” section. WAFOP recommended alternative language for the “Referral to the County Prosecutor” section.

September 9, 2019 Statutory Stakeholder Full Day Workshop held at WSCJTC

No public testimony was given. This meeting was attended by Al Cruise, COMPAS; Mark Larson, King County Prosecuting Attorney; Sarah Stiltner, Puyallup Tribe; Deborah Jacobs, KC OLEO; Renee Maher, COMPAS; Mike Solan, COMPAS; Jeff Merrill, WSPTA; Derrick Issacson, WSPTA; Maria Siguenza; WA State Commission on Hispanic Affairs; Victor M. Minjares, WA State Commission on Hispanic Affairs; Jimmy Collins, Not This Time; Brad Forbes, NAMI WA; James Rideout, Puyallup Tribe; Sara Franklin, Commission on African American Affairs, Marilyn Cuarrabia, Justice for Daniel; Sonia Joseph, Not This Time; Pauly G, Not This Time; Bessie Marie Scott, Community Police Commission; Alison Holcomb, ACLU of Washington; Andre Taylor, Not This Time; Fred Thomas, Not This Time; Annalesa Thomas, Not This Time; Lisa Judge, Seattle OIG; Lynette Buffington, WAFOP; Nina Martinez, Latino Civic Alliance; Teresa Taylor, WACOPS; Emma Catague, FCS/APIC; Lisa Earl, PT; Leslie Cushman, De-Escalate WA; Kim Mosolf Disability Rights WA; Russell Brown, WAPA; Malou Chavez, Northwest Immigrants’ Rights Project; and Yasmin Trudeau, AGO. CJTC’S draft of the Guidelines for the Investigation of Officer Use of Deadly Force was reviewed at this meeting, as well as the draft for the Independent Investigations Criteria.

September 9, 2019 via Investigations Input Form

Joel Petit mentioned that independent investigations should be unbiased, constitutionally based, and have legally supportable procedures. Joel mentioned that the involved agency should be included in the independent investigation, and that the investigative agency should focus on the investigation.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(v), WAC 139-12-020 Initial incident response

Thom Stewart responded that the most important element of an independent investigation is an investigative team that will look at all of the evidence, and that the involved agency can be included in the independent investigation. Thom suggested having a multiple-agency team working together to conduct a thorough investigation, and that the Prosecutor’s office can have an investigator and/or deputy prosecutor involved in the active incident investigation as part of the multi-agency team.

Response: WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (4)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-020 Prosecutor's review

September 10, 2019 via Investigations Input Form

Darius Vann, community member, stated that the independent investigations should go through the attorney general, and that the involved agency can only be included if the involved agency cooperates fully, is completely transparent with the AGO, and fully complies with I-940.

For the independent investigation to build trust Darian expressed that they should listen to the community and be an example for the rest of the country.

Response: WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 Independent investigation criteria, WAC 139-12-030 (4)(c)(v)(C)(vi)

Ronald Schaub, Pierce County, responded that establishing competence, technical excellence, and experienced investigators are a must in an independent investigation. Ronald also mentioned that the involved agency's inclusion is necessary insight into the policy, procedures, training and background of the involved officers, and the liaison officer should have relevant experience as it relates to labor issues. To build trust, Ronald mentioned that the involved agency should allow the lead agency to complete a thorough and independent investigation, and that the independent investigation should share information with the involved agency.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (4)(a), WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response, WAC 139-12-010 Purpose

Lazaro Sanchez, community member, mentioned that community input on development of investigation rules and regulations are all levels is an important part of an independent investigation, and that the involved agency can't be part of a completely independent investigation. Lazaro stated that a community advisory committee of the Latino community in each statewide community should be implemented, and that there should be Spanish speaking staff sharing information in each county as well as in the prosecutor's office.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(i), WAC 139-12-010 Purpose

September 11, 2019 via Investigations Input Form

Kenneth Henson, Lakewood, responded that transparency and not giving information out before it is verified are the key elements of an independent investigation, and that the involved agency can be included in the independent investigation for access to department records, policies, and other offices, as well as knowledge of the neighborhoods around the investigation. Kenneth mentioned that in order to build trust the independent investigation and involved agency should be transparent and the Prosecutor's office should have a timely and complete review of the case.

Response: WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(c)(v)

Kelly Burdette, community member, responded that the independent investigation should be public, and those who are found guilty should serve time. Kelly expressed that the involved agency should not be a part of the independent investigation, and that in order to build trust, the independent investigation should be a well-known accredited team, the involved agency should follow laws, and the Prosecutor's office should not be able to talk about the case with officers. Kelly also shared a personal story about an interaction between her friend and officers.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b)

September 11, 2019 Public Engagement Meeting held at Asia Pacific Cultural Center

This meeting was hosted by Commission on Asian Pacific American Affairs, Asian Pacific Islander Coalition Pierce County, Puyallup Tribe, Commission on African American Affairs, and Not This Time.

September 11, 2019 via Email

Leslie Cushman, citizen sponsor of I-940, submitted her track changes draft of the independent investigations criteria. Her changes included a new purpose statement, new definitions, a conflict of interest list, new language in Phase 2, as well as word and phrase language changes throughout the document. She also submitted track changes for the Guidelines.

September 12, 2019 via Investigations Input Form

Patricia Fong, community member, submitted questions for the commission to consider about actions of officers.

WAC 139-12-020 Good faith standard

Beulah Holman, community member, responded that independent investigation participation in all phases of the investigation, and securing of the scene by the involved agency and then waiting for the independent investigation to take the lead are important parts of an independent investigation. Beulah also mentioned that the involved agency should only be included in the independent investigation if they have evidence that is only available to them, and that they should act as a support role. To build trust, Beulah mentioned that the independent investigation should have open communication throughout the investigation, and the Prosecutor's office should do the same with the independent team and involved agency.

Response: WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (2)(b), WAC 139-12-030 (3)(a)

Steffani Powell, community member, responded that the involved agency should totally withdraw from any investigation and not be a part of the independent investigation.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b)

Matt Johnson, community member, expressed that autonomy of the independent investigation and having investigators being from a different community than where the incident occurred to minimize the chance that investigators know each other are important parts of an independent investigation. Matt mentioned that the involved agency cannot be a part of the independent investigation, and they should do as little as possible to build trust. Matt also discussed that the independent investigation should maintain distance from the involved agency and the prosecutor and that they should take no actions to build trust because that implies a closeness to the community and potentially calls into question the impartiality of the investigation. For

the Prosecutor's office to build trust, Matt discussed that they must maintain distance from the involved agency and the independent investigation, be open and disclose to the public the logic behind their decision making and release evidence to the public as possible.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response

Genevieve Cushman, community member, responded that the independent investigation should be investigated with the same rigor and procedures as any other potential homicide by personnel with no conflict of interest. Genevieve stated that the involved agency should be entirely excluded from the investigation and that they should build trust by treating the involved officer as a suspect in a homicide investigation, and that they should remove any shooting involved officer from public interaction for a minimum of one year with required counseling and independent mental health exams. For the investigative team to build trust, Genevieve stated that they should maintain arm's length relationships with agencies and not use any personnel with prior connections to the involved agency/officer to investigate. She also mentioned that the Prosecutor's office should prosecute officers who violate the law with the same zeal drug offenders are prosecuted.

Response: WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-020 Prosecutor's review

September 12, 2019 Commission Meeting held at WSCJTC

Teresa Taylor, Executive Director of Washington Council of Police and Sheriffs, shared concerns regarding if WSCJTC is staying within the authorizing statute per RCW, specifically with regards to credentialing. Teresa Taylor also expressed concerns with the guidelines and how in depth they go, that they are not able to be implemented statewide, and her belief they violate the constitutional rights of law enforcement officers. Teresa Taylor also expressed that WACOPS felt disrespected by the cancellation of the September 9, 2019 Community Stakeholders Meeting.

Response: CJTC removed the guidelines as a part of the WAC.

Annalisa Thomas, Not this Time, asked for each Commissioner to carefully read each guideline presented, all three versions, and consider all the information they contained, including the differences.

Response: CJTC removed the guidelines as a part of the WAC.

Fred Thomas, Not this Time, stated after the passage of I-940, the public still expects police to do business as usual and that he wants to report back to the community that law enforcement does care about affecting positive change. Fred Thomas also provided the opinion that the suggested Family Liaison officer of an independent investigation should not wear a badge or be a law enforcement officer.

Response: WAC 139-12-030 (3)(b)

Lynette Buffington, Executive Director of Washington Fraternal Order of Police, informed the Commission that the full scope of feedback is not in the track-changes of their guidelines alone. Lynette Buffington reiterated that WAFOP supports regional investigation teams, qualifying standards for participants, trauma experience, family liaison, labor rights, and a model that recognizes the diversity of the state. WAFOP supports negotiated rulemaking and the collaborative effort and to participate and support the greater intent of building public trust.

Response: CJTC removed the guidelines as a part of the WAC. WAC 139-12-030 (3)(b), WAC 139-12-030 (4)(c)(ii)

Leslie Cushman, citizen sponsor of I-940, reminded the Commission that the community stakeholder's draft of the guidelines was very direct, and if there was any wincing it is because that is where trust issues exist and to pay attention to them. Leslie Cushman suggested a revised purpose statement, requirements for a completely independent investigation is the best practice, negotiated rulemaking to reach a common ground and practical rules and WACs that lift-up community intent, a framework for regional teams but that a statewide body work as well. Leslie Cushman suggests regional teams be led by co-commanders, with one of them being a specially commissioned civilian for the sake of community trust. Leslie Cushman asks that statutory definitions to be put in the WAC, that they are operative, and include good faith, necessary, deadly force, and great bodily harm. Leslie Cushman wants neutral ground during investigations, not for it to be played out in the media. Leslie Cushman requests that the Tribes be informed and involved. Leslie Cushman reminded the Commission that all the good work done in the initial drafting of the laws regarding de-escalation training should not be ignored. Leslie Cushman left the Commission with the reminder to continue working on annual summits.

Response: CJTC removed the guidelines as a part of the WAC, WAC 139-12-010, WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(i)

Pauly Giuglianotti, Not this Time, shared his belief that in order to have a completely independent investigative team the commander of the team must be civilian led. Pauly Giuglianotti expressed his opinion that the WSCJTC staff has failed and are violating the intent of the law.

Response: WAC 139-12-030 (4)(c)(i)

Renee Maher, Executive Director of COMPAS, shared concerns with the Commission regarding the differences between credentialing versus qualifications, as credentialing is a subjective process whereas qualifications are more objective. Renee Maher asked to instead call it a statewide minimum qualification level. Renee Maher warned that changing best practices yearly is difficult as it can make people lose qualification.

Response: WAC 139-12-030 (4)(c)(ii)

Nina Martinez, Board Chair of Latino Civil Alliance, informed the Commission that the cancellation of the September 9, 2019 Community Stakeholders Meeting was warranted, and that the level of alleged disrespect did not happen as accused.

Sonia Joseph, Not this Time, urged the Commission to consider both input drafts from WAFOP and the Community Stakeholder groups and to take their respective perspective when discussing independent investigation Teams.

Response: CJTC considered each draft that was presented to them.

September 12, 2019 Public Engagement Meeting held at Kent Senior Activity Center

This meeting was hosted by Commission on Asian Pacific American Affairs, Commission on African American Affairs, and King County National Association for the Advancement of Colored People. A community member expressed their concerns about any officer involved in an investigation being biased. Another community member suggested allocating funds currently used in lawsuits to settle officer involved shootings instead towards adequate independent investigations. Concerns were expressed about neighboring agencies investigating other agencies. It was stated that this is not an independent investigation, and that there is a lot of bias in the investigative process. Another community member was concerned that investigations are only based on one story, which is the officer's story. The same person mentioned that their story gets spread to the media instantly. The community expressed concerns that police departments do not retract incorrect information, and that minority communities do not have their voices heard. It was mentioned that officers should shoot to reduce the risk as opposed to shooting to kill. Communities members discussed that they will only trust the law enforcement system again if someone besides the police department steps in. It was suggested that ongoing training for existing officers should be implemented state wide, as well as state wide standards of best practices for policies, procedures, and procedures. A community member also suggested that the public should have access to officers' records. The community expressed the need for people who can help families through the investigative process. Finally, the community expressed that what they wanted was accountability, and that that will come with a fair investigation.

Response: WAC 139-12-030 (1)(b), WAC 139-12-030 (3)(b), Response: WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (2)(b)

September 13, 2019 via Investigations Input Form

Cletus Johanson, community member, expressed that an independent investigation should involve expert investigators and state of the art training, and that a completely independent investigation cannot include the involved agency. Cletus stated that the involved agency should conduct thorough investigations followed with an in-depth debrief for the public in order to build trust. Cletus also mentioned that the investigative team should have good training with proper qualifications and that the Prosecutor's office should have the courage to say the shooting was justified.

Response: WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (4)(c)(iii), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(a), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(b)

Terry Sawyer, community member, stated that photos are an important element of an independent investigation, and that the involved agency needs to be included to know the general actions of the officer. Terry also mentioned that to build trust the involved agency should do their jobs well and that the independent investigation should be centered on the investigation.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (3)(b), WAC 139-12-030 (1)(b)

James Britt responded that he felt trust about the independent investigation being presented to an elected prosecutor for review and had concerns about the ambiguity of the expertise level of the independent investigation. James expressed that well-trained investigators with experience in investigating crime scenes involving violent encounters is a key element of an independent investigation. James mentioned that a completely independent investigation could include the involved agency and used the model in Seattle as an example. In order to build trust, John stated that the involved agency should tout the experience and training of their investigators, that the independent investigation should get the best training and equipment, and that the Prosecutor's office should remain neutral until the facts of the investigation are presented.

Response: WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(a), WAC 139-12-030 (4)(c)(iii), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b)

Annalea Thomas, community member expressed concerns about the investigative process due to a conflict of interest when police investigate each other. She expressed that an independent investigation should not include current employees of involved agencies and that investigators should be employed by another overseeing agency. Annalea mentioned that the involved agency should have transparency where the public has direct access to review investigations, and that the involved agency and the independent investigation should have accountability for actions taken, and better communication with the families affected. She expressed that the Prosecutor's office should not be involved with police departments and that truly independent investigations will give the public the assurance of accountability and transparency.

Response: WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (3)(b), WAC 139-12-030 Independent investigation criteria

Geoffrey Richie, community member, expressed that an independent agency provides a more objective approach and had concerns about the involved agency securing the scene and about the involved agency being another police department. Public and lay oversight were two important elements Geoffrey mentioned of an independent investigation, and that the involved agency could not be included. To build trust, Geoffrey responded that the involved agency should reprioritize use of force training, and that the independent investigation should treat every OIS as a murder investigation until it is concluded that the use of force was necessary.

Geoffrey also expressed that the Prosecutor's office should prosecute cops who break the law to build trust.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(c)(i)

Wendy Tanowitz shared an example of a case in Olympia and expressed concerns about lack of intention to prosecute law enforcement. Wendy mentioned that the important parts of an independent investigation are community input, impartial professionals, and staff with a history of ethical action, and that due to the pressures on law enforcement to exonerate their fellow officers, the involved agency should not be included. In order to build trust Wendy stated that the involved agency should find officers guilty and that the independent investigation should assume the officers could be guilty. She also shared concerns about the Prosecutor's office's goals and relationships with law enforcement.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (2)(b)

Heather Coats expressed trust in many parts of the investigative process, but shared concerns about being too quick to focus on one offender, missing critical evidence, failure to assure best standards in evidence, failure to take all witness testimony, and poor team cohesion. Heather responded that the important elements of an independent investigation are timeliness, thoroughness, accuracy and good documentation, and that the involved officers should be included to give testimony and state their facts. Heather mentioned that the involved agency and the independent investigation should be as open as possible with the public, build trust inside the agency, trust officers to do their job well, and acknowledge and discipline major mess ups. She also discussed that the Prosecutor's office should not let competition and distrust not spill over into communications with the public and keep the public informed on progress.

Response: WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (4)(c)(v)(B), WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (3)(a)

September 14, 2019

Jeff Paynter, Lakewood, shared that he felt trust when investigators are trained and experienced, especially in use of force, OIS, and are certified Force Science Analysts, and shared concerns about non-commissioned individuals being a part of the process. Jeff responded that the involved agency can be included in the independent investigation if the investigators have sufficient training and experience, and that the involved agency and the independent investigation should conduct an impartial, evidence-based investigation. He also stated that the Prosecutor's office should evaluate the evidence impartially and make appropriate charging decisions.

Response: WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (4)(c)(v)(B), WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-020 Prosecutor's review

Sue Gibson, community member, shared concerns about the scene being secured by the involved agency and expressed that an independent investigation should be looked at with a non-biased attitude. Sue stated that the independent investigation could not include the involved agency and that they should inform everyone that they are not involved. She mentioned that the independent investigation should inform everyone that they are independent, and that the Prosecutor's office should only take information from the independent report.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-020 Prosecutor's review

Cecelia Fears, community member, expressed the importance of protection and preservation of evidence, and that there should be a lot more about it in the rules. Cecelia stated that the involved agency should be included in the independent investigation and that law enforcement agencies should be working together. She mentioned that the involved agency should follow up on the phone with the following investigation and shared her trust with the independent investigation. Cecelia expressed concerns about the Prosecutor's office plea bargaining, ending up with acquittals, and not getting the evidence to prosecutions.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(c)(v)(B), WAC 139-12-030 (4)(c)(iii)

Bonnie, community member, shared concerns about the involved agency securing the scene and expressed trust in having an independent investigation and having handed over to the Prosecutor's office. Bonnie mentioned that the important elements of an independent investigation are a truly independent agency doing the investigation and requiring involved officers to be interviewed at the scene by the independent investigation and then again 24 hours later to verify stories. She stated that the involved agency can only be included in the independent investigation to provide statements and interviews. Bonnie suggested that the involved agency should require their officers to hold personal liability insurance, and that the independent investigation should be transparent, communicate press releases to family members before the media, not allow law enforcement agencies to bring up past offenses of those involved, and have involved officers go on unpaid leave. She also responded that the Prosecutor's office should not work closely with law enforcement and should charge them with the crimes they commit.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (4)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (1)(b), WAC 139-12-030 (3)(b), WAC 139-12-030 (2)(b)

Chrystal Lampman shared concerns about agencies having each other's backs. She stated that the independent investigation should be completely separate from the involved agency and be unbiased in all ways possible. Chrystal expressed that if the investigation includes the involved agency, then it is not independent, and that the involved agency should stay out of the

investigation and be held to a higher standard. Chrystal also mentioned that the independent investigation should be completely independent and unbiased and follow through with integrity, and that the Prosecutor's office should not allow leniency.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-030 (1)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-020 Independent investigative team (IIT)

Sharon Marsonette, community member, expressed concerns about the investigative process, and that chain of evidence is an important element of an independent investigation. Sharon stated that the independent investigation could absolutely include the involved agency as far as wrongdoing, and that the independent investigation should follow policies put in place to protect the public and discipline officers where necessary. She also mentioned that the Prosecutor's office should look at evidence closer, review policies and procedures, and review evidence and testimonies.

Response: WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (2)(b)

Donna Hayes, community member, responded that the community should see the independent investigation from beginning to end and that the involved agency cannot be included because they are friends. Donna also suggested that there should be an outside, non-police investigation, and that the Prosecutor's office should treat cops the same as they treat community members.

Response: WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-020 Prosecutor's review, WAC 139-12-010 Purpose

September 15, 2019 via Investigations Input Form

Saila Erion, community member, shared concerns about the scene being secured by the involved agency and expressed that the investigators should not be geographically proximate and overly familiar with the local department, and also should not have staff who collaborate closely or are friends with local officers. Saila stated that the involved agency could not include the involved agency and that they should allow journalists access to information, refrain from attacking victims, allow observers when the scene is secured, use body cameras, make having body cameras turned off a fireable offense, not begin investigation by offering excuses, and look for patterns. For the independent investigation to build trust, Saila responded that they should disclose all relationships with the department, have no investigators who have exhibited bias in their own policing, be diverse, use mental health consultants, reevaluate past allegations of bias by the officer, and consider officers social media history. Saila also mentioned that the Prosecutor's office should charge police when they break the law, evaluate all prosecutions, hire diverse staff, and always consider new evidence that exonerates individuals who have been unjustly sentenced.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (3)(b), WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-020 Prosecutor's review, WAC 139-12-010 Purpose

September 16, 2019 via Investigations Input Form

Sydnor Hain-Fawzi, community member, expressed concerns about how the victim's bodies are handled, how/when their families are notified, and mentioned that compliance with the new deadly force law should be determined by more than one person and should always include citizen review. Sydnor responded that timeliness, care and respect for the body of the deceased and their family, impartiality of the independent investigation, a high degree of education and competency and a proven track record of each individual's impartiality and commitment to justice are important elements of independent investigations. Sydnor stated that there is no way that the involved agency could be included in the independent investigation, and that the involved agency should be immediately sequestered following the incident, be forthcoming with information, stay out of the investigation, treat the family with respect, get multiple trainings, require off-duty community service, and have more rigorous background checks. Sydnor also mentioned that the independent investigation should bring diligence and care to the process of finding evidence and look for and record evidence before gathering statements. For the Prosecutor's office to build trust, Sydnor stated that they should protect people and offer sentences that address the problem.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-030 (4)(c)(v)(C)(vii), WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (4)(a), WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-010 Purpose

September 16, 2019 Public Engagement Meeting held at Lake Burien Presbyterian Church

This meeting was hosted by Pacific Islander Community Association and Commission on Asian Pacific Affairs. A community member expressed their hope that officers render first aid before collecting evidence. It was also mentioned that if an investigative team runs through the attorney general's office, then that is a fully independent investigative team that is not Law Enforcement. The same person expressed that the most fundamental way to foster community confidence in this process is to acknowledge that officers will have loyalty to other officers, and to expect that officers from another police force to effectively evaluate is not actually realistic. A community member suggested that two filters are needed for the independent investigations team: heavy conflict of interest filter and a code of conduct. They expressed that involved agencies should not share any information. They mentioned that people on the team can't have been arrested, have any blemishes, can't have lied, and can't have killed someone or used deadly force. Multiple community members discussed that the investigative process does not give them trust, and requested more communication, at an earlier time. They mentioned that community involvement was key, and that police agencies should not put out their own public statements. Ideas for important elements that should be part of an independent investigation included having a humanist brought to the police force, consistency across the state of how officers are interviewed, involved cameras to combat scene contamination, holding unions to

some sort of standards, involving an independent psychiatrist to evaluate officers in the days following the use of force, a measure that keeps an eye on those who have abused their power, and extensive background checks on officers. The community also expressed that a family support liaison and community liaison should be included to support families through the process, and that the CJTC should adopt state laws to be totally independent.

Response: WAC 139-12-030 (4)(c)(vii), WAC 139-12-030 (3), WAC 139-12-030 (4)(c)(i)

September 17, 2019 via Investigations Input Form

Shiloh Phelps, community member, shared questions about who chooses the investigators, and mentioned that a completely independent investigation could not include the involved agency because it would muddy the process. Shiloh expressed that the involved agency should be required to answer to the investigator.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(c)(ii), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b)

September 18, 2019 via Investigations Input Form

Stephen Harder, Quincy PD, expressed concerns about those who have no exposure to law enforcement or investigations conducting the investigation. Stephen responded that for an independent investigation, investigators should be current cops/prosecutors or honorable retired ones, they should include an officer with similar training and experience, they should practice innocent until proven guilty, and evidence and facts should be pushed out to the public. Stephen also discussed that the involved agency cannot be part of the independent investigation unless it's in the role of a liaison assisting with getting in contact with people, gathering resources, etc., and that in order for the involved agency to build trust they should cooperate with the independent investigation, have education on how things work in the legal realm, and have briefings on what happened and why. Stephen stated that the independent investigation and Prosecutor's office should do these things also, as well as be as open as possible with the developments of the case.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (4)(c)(vi), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response, WAC 139-12-010 Purpose

September 18, 2019 Public Engagement Meeting held at West Central Community Center

This meeting was hosted by National Association for the Advancement of Colored People and Commission on Asian Pacific American Affairs. Many participants expressed either a lack of trust or no trust in the investigations process. One person mentioned their concerns about political pandering, and that the process does not focus on fact finding. Multiple people stated that they have trust in the investigators and law enforcement, and that the investigators should have extensive law enforcement training and experience. More specifically, people expressed trust in law enforcement securing the scene and protecting evidence. A person also shared their trust in the prosecutor reviewing the case. Trust was also mentioned in the idea that peer support was involved for personal wellbeing. Questions were brought up about who the

independent investigative team was made up of, and participants suggested incorporating a definition about trained law enforcement officers investigating these incidents. One person mentioned that they did not have trust in the investigations process because there is no legal protection in the process. Others shared their concerns about the involved officers being vilified, and that that leads to distrust. One participant stated that they had trust in the investigative process because it's only an investigation related to potential criminal conduct. Another person suggested multiple layers of review. Many others expressed their trust in the agency that they work for, and the agencies current investigation process. A participant stated that their trust depends on what agency is investigating the shooting. Someone else suggested that there should be a small group of agencies with specialized training for these investigations. Concerns were brought up about who the investigation is getting handed off to and what their experience and training is. People also expressed their concerns about politics guiding the rulemaking process. Another part of the investigation process that eroded respondent's trust was that officers are not involved in the process and are not given any information. People shared concerns that officers will feel like suspects. Again, many participants were concerned about investigators not being properly qualified and properly trained. Concerns were also raised about large agencies not having enough resources to support an independent investigation. Others felt that this process was biased towards finding wrongdoing, instead of doing a thorough investigation. Another piece that eroded respondent's trust was having an outside agency investigate because they may have different standards than the involved agency. Gaps in information between the involved agency and the investigating agency was another point of concern. One person suggested that the involved agency should have some input on the passage of evidence to the prosecutor.

Response: WAC 139-12-030 (4)(c)(v)(A), WAC 139-12-030 (4)(c)(v)(B), WAC 139-12-020 Prosecutor's Review, WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (4)(b)

September 20, 2019 via Investigations Input Form

G Garcia, Ephrata, expressed concerns about human error, being treated like a "suspect", and new legislation being driven in individual states. G stated that the important elements of an independent investigation are having the investigating agency not be a part of the involved agency, the well-being and legal rights of the officer, law enforcement communication with civilian interest parties, and communication between the local prosecutor and the involved agency. G also discussed that an OIS investigation would benefit from an independent law enforcement agency looking at the process. G mentioned that the involved agency should have constant training in the OIS process, knowledge of the local department polices, case law, intricacies of the individual, and resources need to protect the officer and the crime scene, and that prosecutors should be required to train with officers. G also discussed that the independent investigation should be professional, empathize, be direct, have open communication with the involved officer's chain of command, provide resources for the well-being of the officer, and lead the OIS training in their respective jurisdictions. For the Prosecutor's office, G stated that they should lead and/or participate in OIS training and communicate clearly with the involved officer's union and agency chain of command.

Response: WAC 139-12-030 (4)(c)(iii), WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 WAC 139-12-030 (4)(c)(v)(C)(vii)

David Singley, Spokane PD, shared his trust with the current investigative process, and suggested following the SIRR model. David stated that the involved agency can be included in the independent investigation in a support role to the independent investigation without interfering with the investigation. David mentioned that the independent investigation should be as transparent as possible without compromising the investigation, update the family members on the process and next steps, and make the case available to the public at the conclusion of the investigation. David also stated that the prosecutors should include family members in status updates, ensure the findings are publicly release, respond to the incidents and remain in regular contact with the independent investigation.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (3)(b), WAC 139-12-020 Independent investigative team (IIT)

Christopher Bode, Spokane PD, expressed concerns about leaving a very in-depth investigation to smaller, less experienced agencies, if larger agencies are excluded. Christopher mentioned that the independent agency should lead, and the involved agency should shadow, and that the involved agency should be allowed to support the investigation for logistics and manpower under the independent investigation supervision.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(ii)

Charles Thomas, community member, shared concerns about past actions of those with the responsibility of maintaining the public's trust and mentioned that public oversight is an important element of an independent investigation. Charles stated that the independent investigation could include the involved agency with independent review, and that the involved agency should hold any wrongdoing to corrective action. Charles mentioned that the independent investigation and Prosecutor's office should have transparency, corrective actions, and public oversight. Charles also suggested having a public training program for observers to learn the basics of the investigative process.

Response: WAC 139-12-030 Independent investigation criteria, WAC 139-12-030 (4)(c)(v)(C)(vi), WAC 139-12-030 (2)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (2)(a)

September 21, 2019 via Investigations Input Form

Nancy Hill, community member, expressed concerns about there not being enough training on non-violent behavior of officers. Nancy mentioned that thorough training, understanding and consideration on non-violent behavior should be taken into account in an independent investigation. To build trust, Nancy discussed that the independent investigation should take into account whether non-violent behavior by an officer was carried out, and that the Prosecutor's office should consider all sides more thoroughly.

Response: WAC 139-12-020 Complete investigation, WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (4)(c)(v)(A), WAC 139-12-030 (1)(b), WAC 139-11, WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-010 Purpose

September 24, 2019 via Investigations Input Form

Amy Darling, community member, expressed concerns about the momentum of our national history, fidelity and protection by CBA, and media narratives of those killed by police. Amy responded that specially trained civilian involvement, a restorative justice model, and eventually placing all responsibilities and oversight under the AG are key elements of an independent investigation. Amy stated that the involved agency cannot be included in the independent investigation. For the involved agency to build trust, Amy mentioned that the work begins on officer's first day of training, requiring cops to walk their beat, attend community events, get to know the kids, educate themselves on the history of police, and examine systemic elements that hinder or preclude possible restorative justice process. Amy also discussed that the independent investigation should establish a family liaison with the primary family member of the person harmed or killed, do an independent psychiatric evaluation of the involved officer, and that the independent investigation and Prosecutor's office should voluntarily submit to AG oversight/review of all cases of deadly force.

Response: WAC 139-12-030 (3)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(i), WAC 139-12-010 Purpose

September 24, 2019 Public Engagement Meeting held at Bridgeview Resource Center

This meeting was hosted by National Alliance on Mental Illness and Commission on Asian Pacific Affairs. Participants of this meeting expressed that the investigation needs to be completely outside of the involved agency. One person mentioned that after the investigation is closed, the outside organization should provide information to the family. It was stated that the independent investigations team should be made up of a diverse group of investigators including people of color, mental illness professionals, etc. One participant suggested having a forum that respects people that are impacted in the community and a good faith report of what the investigation determined. Participants expressed the importance of securing the scene, as well as of keeping the integrity of the scene. It was suggested that filming and photos should be taken for documentation immediately. Participants noted that understanding of different generations in de-escalation training was important. There were also concerns discussed for officers having control over when they turn video on or off. As for the independent investigative team, participants mentioned that some level of expertise is necessary for the investigation process, and that there was a concern for the degree of separation of investigators from previous law enforcement experience. One participant shared that they should include the involved agency in the investigation process in terms of sharing what they know. The same person mentioned that all witnesses should be involved, and that officers should not be allowed to intimidate bystanders who are using phones to capture videos/images. Concerns were also brought up about including video from community members and how to protect the people who are recording the scene, while at the same time preventing them from contaminating the scene. One participant suggested that implementing

trainings earlier than December 6 will build trust. Concerns were brought about surrounding racial profiling, and about interacting with individuals who are non-verbal. One participant suggested bypassing the prosecutor's officer and empanel a grand jury, stating that that was more legally objective and involved the community. Another participant stated that the prosecutor should take the independent team's report into consideration when deciding to file charges. It was expressed that trust can be rebuilt by increasing the level of transparency embedded in the investigations and making the outcome of the investigation public to the community will do this.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (2)(b)

September 25, 2019 Public Engagement Meeting held at Asian Counseling and Referral Service Gymnasium

This meeting was hosted by Commission on Asian Pacific American Affairs, Asian Pacific Islander Coalition King County, and Not This Time.

September 26, 2019 via Investigations Input Form

Brian Rohan, community member, stated that security of the area must be quickly handed over to the third party, must be recorded, and that the information must be given to a long distance, non-connected prosecutor. Brian mentioned that the involved agency cannot be a part of the independent investigation and that they should stay out of the aftermath completely. Brian expressed that the independent investigation should be one hundred percent independent in every way, especially geographically.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-020 Prosecutor's review, WAC 139-12-030 (1)(b)

September 26, 2019 Public Engagement Meeting held at Comprehensive Healthcare Auditorium

This meeting was hosted by Northwest Immigrant Rights Project, National Alliance on Mental Illness, and Commission on Asian Pacific American Affairs. During the meeting one participant had the idea of creating a committee of 7 people for community policing, possibly youth. It was expressed that awareness, education, and informing the public of what the process is and how what happens to an officer involved in a use of force situation is determined, is important for building trust in the community. Another participant stated that police have to really value community context within marginalized communities. It was also expressed that an investigation needs to include transparency about what the process is, how long the process is, and many updates of what is happening, so that the community can determine if it is moving in the right direction. It was mentioned that the investigative team should have members with the same experiences or that can understand the person who was shot's situation. A participant in the meeting brought up concerns about clauses that protect police officers and how a union plays into an investigation. They were concerned that police unions are political. One person expressed the importance of law enforcement building relationships with the community prior to incidents taking place. It was also brought up that there should be guidelines about involved

agencies not discrediting the person involved the shooting. Concerns were expressed about prosecutor's deciding whether or not the officer is charged with the shooting, and an idea was brought up to have a public review of the process. The need for historical trauma and support for families, as well as support for witnesses was stated. The Sheriff mentioned that the biggest need was for good communication from both sides. A participant had concerns about media reporting about the person against whom deadly force was used.

Response: WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (2)(b), WAC 139-12-030 (3)(a), WAC 139-12-030 (3)(b)

September 28, 2019 via Investigations Input Form

Ryan Harvey, Ephrata, expressed that have the involved agency can give some backstory on either the suspect or officer to get a bigger picture of the events, and to keep them in the loop. Ryan stated that to build trust the involved agency should be there to support the officer and their family. Ryan also mentioned that the independent investigation should keep the office in the loop and that the Prosecutor's office should make contact with the officer and keep them up to date on timelines.

Response: WAC 139-12-030 (4)(b), WAC 139-12-030 (1)(b), WAC 139-12-010 Purpose

September 29, 2019 via Email

WAFOP shared their track changes documents with CJTC, based off the draft CJTC sent out on September 24. For the independent investigations criteria, their recommended edits were formed under the parameters of: improved precision of language, alignment with current statutes, consistent language and vocabulary, and the need for supplementation by critical sections from the Guidelines. They also shared their recommended edits for the Guidelines under the parameters of: improved precision of language, identification of content relevant for the WAC vs. the Guidelines, alignment with current statutes, and consistent language and vocabulary.

Response: CJTC carefully considered all drafts received by stakeholders.

September 29, 2019 via Email

WACOPS shared their track changes documents with CJTC, based off the draft CJTC sent out on September 24. Their comments regarding the independent investigations criteria included concerns about a separate guidelines document. They expressed that all language should be included in the WAC, and that the rules must be clear in defining "completely independent" without directing how each jurisdiction will meet the requirement. In their version of the Guidelines document, they expressed concern about the appropriateness of the guidelines. They expressed that, if the CJTC did include a Guidelines document, that the document must include all necessary definitions, and concerns about enforceability of the guidelines. WACOPS expressed confidence in the state's agencies and encouraged that the state's teams should continue to share best practices.

Response: CJTC carefully considered all drafts received by stakeholders.

September 30, 2019 via Email

Community stakeholders submitted their new draft of the independent investigations criteria.

Response: CJTC carefully considered all drafts received by stakeholders.

October 1, 2019 Public Engagement Meeting held at Tulalip Tribes Administration Building

This meeting was hosted by Puyallup Tribe and Tulalip Tribe. Concepts that were mentioned at this meeting as being important were securing the scene, standardizing the investigation process/making it uniform, coming up with alternatives to involved agencies, and inclusion of community and civilian oversight. Concerns were mentioned about mishandling evidence, lack of trust, and asymmetry of information trust. Responses to the question 'where do we go from here?' included community involvement, officers holding their colleagues available, weeding out officer that violated trust, sharing detailed information, and hiring a citizen civilian as a professional standards person. Suggestions for bridging the gaps between the community and law enforcement included looking at communication, tactics, and position, having good leadership and support in law enforcement, treating people in critical incidents the way we would treat our family, understanding the imperfections of police officers and presenting their stories, implementing civilians on the teams, and looking at the mental status of officers before hiring them.

Response: WAC 139-12-030 (2)(b), WAC 139-12-030 (3)

October 3, 2019 via Investigations Input Form

Lauren Tozzi, community member, responded that following the phases and protocols enacted is an important part of an independent investigation and that the involved agency can be a part of it. To build trust, Lauren mentioned that the involved agency should follow protocols, that the independent investigation should listen to the voice of those who have been affected by shootings by police and work with the community, and that the Prosecutor's office should always act in good faith.

Response: WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(b), WAC 139-12-020 Prosecutor's review, WAC 139-12-010 Purpose

October 3, 2019 Statutory Stakeholder Meeting held at WSCJTC

No public testimony was given. At this meeting, statutory stakeholders reviewed and discussed CJTC's new independent investigations criteria, WAFOP's track changes document of the guidelines and independent investigations criteria, WACOP's track changes document of the guidelines and independent investigations criteria, and the community's independent investigations criteria draft.

October 3, 2019 Public Engagement Meeting held at Tacoma Community College

This meeting was hosted by Commission on African American Affairs.

October 3, 2019 Public Engagement Meeting held at Suquamish Tribal Council Chambers

This meeting was hosted by Puyallup and Suquamish Tribe. Community members expressed distrust of the police. They felt that law enforcement was stubborn, dishonest, and had an us vs. them mentality. Some suggestions that were brought up to gain trust were giving more accurate info more often, add intense de-escalation training following and incident, address trauma healing, not losing camera footage and bringing a mental health point of view into the review. Participants also discussed the July 3rd, Poulsbo officer involved shooting. It was also mentioned that a conflict of interest list for investigators should include training, work, relative, friend, acquaintance, joint ops, the bond required to have their back, and regional relationships. Concerns were expressed about the media's role in officer involved shootings, and how officers are currently trained. Participants at this meeting expressed a desire for more than one community member to be involved in the independent investigation, and to have that community member be representative of the person against whom deadly force was used. One person mentioned that at least half of the team should be community members. It was recommended that there should be an advocate team that communicates with the family of the person against whom deadly force has been used, about what needs to be done.

Response: WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(vii), WAC 139-12-030 (4)(c)(i)

October 7, 2019 via Email

Rheta Rubenstein, on behalf of a group of Vancouver activists affiliated with ACLU-WA, ACLU-People Power, LULAC, LWV-CC, NAACP-Vancouver, and Southwest Washington Communities United for Change, submitted a document that stated what they believe elements of an independent investigation should be. There were twelve elements included in this document. These included: having multiple regional teams that are co-led by representative citizens and knowledgeable professionals, giving the independent investigation full access to the incident scene, have complete records made and preserved about the incident, having trauma care offered for all witnesses and family members, independent investigation members informing family members in pairs before media coverage is released, all evidence not being under the jurisdiction of the involved agencies, a thorough report including what the agency can learn from the situation, opportunity for restorative practices, independent investigation's following WA state laws and CJTC guidelines, no limitations due to police collective bargaining agreements, transparency, and oversight monitoring and accountability.

Response: WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(vii)

October 8, 2019 via Investigations Input Form

Elaine Tyrie, shared concerns about not being listened to and not being present. Elaine stated that the important elements of an independent investigation are respect, presence, clarity, compassion, and trust. She also mentioned that the independent investigation could include the involved agency and that transparency is essential. For the independent investigation to build trust, Elaine mentioned that they should have respect, dignity, attention, listening, gathering facts, face biases, allow input/critique, reflect, and consider what else may be factors.

Response: WAC 139-12-030 (1)(b), WAC 139-12-030 (2)(b), WAC 139-12-010 Purpose

October 10, 2019 Key Stakeholder Meeting held at WSCJTC

No public testimony was given. This meeting was attended by Lynette Buffington, WAFOP; Steve Strachan, WASPC; Teresa Taylor, WACOPS; Leslie Cushman; Tim Reynon, Puyallup Tribe; DB Gates; Jim Graddon; Gail Stone; Alison Holcomb, ACLU WA; Renee Maher, COMPAS; Katrina Johnson; and CJTC staff. This meeting went into further discussion about the drafts present at the October 3 Statutory Stakeholder workshop and aimed to come to an agreement about the language within the draft.

October 13, 2019 via Email

Teresa Taylor, Executive Director, WACOPS, submitted a letter regarding their concerns about the two-civilian portion of the independent investigation. Specific concerns were about the required qualifications of the civilians, how a department would select them and their specific role and access.

Response: WAC 139-12-030 (4)(c)(i)

October 13, 2019 via Email

Alison Holcomb, Political Director, ACLU-WA, shared her suggestions for language explicitly addressing the need to keep the independent investigation firewalled from the administrative investigation team, and the goal that the fire walls allow the administrative investigation to move forward in a timely manner.

Response: WAC 139-12-030 (4)(b)

October 14, 2019 via Email

Renee Maher, Executive Director, COMPAS, shared her concerns about the logistics of the community representative, the CJTC creating best practices, the logistics of an independent investigation supervisor, the Review Board, and the experience of a commissioned peace officer.

Response: WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (4)(c)(iii)

October 14, 2019 via Email

Leslie Cushman submitted a track changes document for the draft rules that CJTC sent out on October 14, 2019.

Response: CJTC carefully considered all drafts received by stakeholders.

October 14, 2019 via Email

Steve Strachan, Executive Director, WASPC, shared his comments about the draft rules that were sent out October 14, 2019. The comments included the belief that sheriffs/chiefs should have the discretion to release certain evidence, the idea that a family may not directly want to receive information, concerns about the release of information, concerns about removal of independent investigation members in regard to receiving prohibited information, noting that ranks are not the same in all departments, concerns about high numbers of training hours for

smaller departments, concerns about collective bargaining agreements, approval of independent investigation members receiving priority training, questions about who decides what bias/prejudice is, and concerns about the phrase “threats of violence” being too broad.

Response: WAC 139-12-030 (3)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(v)(A), WAC 139-12-030 (4)(c)(v)(B),

October 14, 2019 via Email

Lynette Buffington, Executive Director, WAFOP, shared her questions about the identification, selection and accountability of the community member. She shared current RCWs that may have an application for the accountability issue. She also requested that the community member be subject to the same conflict of interest test as law enforcement participants.

Response: WAC 139-12-030 (4)(c)(i), WAC 139-12-030 (4)(c)(vii)

October 15, 2019 via Email

Teresa Taylor, Executive Director, WACOPS, shared her concerns about the authority of the law to mandate inclusion of civilians into investigatory teams, and suggested that this decision should be made at the local level.

Response: WAC 139-12-030 (2)(b)

October 17, 2019 via Investigations Input Form

Barbara Golden, community member, expressed concerns about the police investigating themselves. Barbara stated that an independent investigation involves a police rep from Poulsbo, a tribal rep, and non-tribal community rep, and a tribal law enforcement rep. Barbara also mentioned that the involved agency can be included in the independent investigation if the rules of participation are clear, open, and equally enforced. In order to build trust, Barbara mentioned that the involved agency, the independent investigation, and the Prosecutor’s office should open up their meetings or provide regular updates to the public.

Response: WAC 139-12-030 (3)(b), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-030 (4)(c)(i)

October 21, 2019 via Investigations Input Form

Michael McNab expressed concerns about the possibility of an untrained civilian being involved. Michael responded that the investigation can be shadowed by a second agency to ensure quality and integrity, and that the involved agency should be involved in the independent investigation as a shadow agency without influencing the investigation. To build trust, Michael mentioned that the involved agency should have complete cooperation, the independent investigation should be objective fact finders with no political agenda, and the Prosecutor’s office should explain their decisions thoroughly and publicly.

Response: WAC 139-12-030 (4)(b), WAC 139-12-020 Independent investigative team (IIT), WAC 139-12-030 (2)(b), WAC 139-12-030 (1)(b), WAC 139-12-020 Initial incident response, WAC 139-12-030 (4)(c)(v)(C)(vi)

November 1, 2019 via Email

Teresa Taylor, Executive Director, WACOPS shared WACOPS' concerns about the timeline to complete the rules. She also expressed that CJTC does not have the authority to dictate how the investigating department conducts the investigation, and does not have the authority to mandate that the investigating department include civilians.

November 4, 2019 via Email

Leslie Cushman, citizen sponsor of I-940, sent CJTC a memo outlining clarifying edits to the WAC draft distributed on 10-23-19. The memo recognized the hard work of the CJTC staff. The memo suggested language changes to the Initial Incident Response definition and emphasized the community's affirmative role in identifying the candidates for community representatives being clear. The memo also requested provisions being added to page 6, (independent investigation) Selection Process for independent investigation Members, second bullet. The community requested referring to the to the "Freedom from Discrimination-Declaration of Civil Rights" under RCW 49.60.030 instead of the equal employment opportunity commission. Finally, they requested the experiences under the WAC be part of the review taking place each year at the annual summits and recommended adding a subsection in the WAC about this.

Response: WAC 139-12-020 Initial incident response, WAC 139-12-030 (4)(c)(ii)

November 12, 2019 via Investigations Input Form

Georgia Chehade, community member, stated she needed more clarity on when an investigation is truly independent. She expressed concerns about the good faith standard and mentioned that an independent investigation must communicate with the involved agency, but not have them be a part of the investigation. She mentioned that an independent investigation should exhaust the witness and evidence pool. She also stated that outreach to the community and transparency were how the investigative team, the involved agency and prosecutor's office could build trust.

Response: WAC 139-12-020 Good faith standard, WAC 139-12-030 (3), WAC 139-12-030 (2), WAC 139-12-030 (4)(b)

Trishandra Pickup, community member, expressed concerns about cops working with cops that they are investigating. She stated that an independent investigation should not consist of cops that have worked in the same county that is being investigated. Trishandra mentioned that the independent investigation should be done by cops that have never worked in this state.

Response: WAC 139-12-020 Independent investigative team (IIT)

November 13, 2019 via Investigations Input Form

Maria Fergus, community member, expressed concerns about article being published after shootings. She stated that an independent investigation should include all reports submitted, and that the independent investigation could not include the involved agency. She mentioned

that the involved agency should open up an investigation again if they have not addressed all of the community's questions and concerns. Maria stated that the investigative team should hold community meetings, be transparent to the investigation, and answer community questions and concerns. She also mentioned that the prosecutor's office should consider the lens of privilege by which they see the world. She expressed that transparency and accountability cannot be fully achieved unless the investigative team is independent and made up of a diverse group of members with different viewpoints.

Response: WAC 139-12-030 (3)(b), WAC 139-12-030 (2), WAC 139-120-030 (3)(b)

November 15, 2019 via Email

Lynette Buffington, WAFOP, sent a letter outlining their concerns about the most recent draft of WAC Chapter 139-12. They acknowledged that the draft reflects some of the feedback heard throughout the rulemaking process, but that it continues to present concerns. These concerns included the sections about the standard for the transparency of an investigation, the conflict of interest test, training requirements, and demonstrated history of honorable behavior. WAFOP shared recommended edits for WAC 139-12-030, Section (2), Transparency (b); WAC 139-12-030, Section (2), Transparency (b), Bullet 3, 2nd sub-paragraph; and WAC 139-12-030, Section (4), Credibility, Subsection (c), number (v) Training Requirements.

Response: WAC 139-12-030 (2)(b), WAC 139-12-030 (4)(c)(v)

November 19, 2019 via Email

Washington Association of Sheriffs & Police Chiefs shared their concerns and recommended amendments with the CJTC in a letter. The three specific areas they focused on were the training requirements of investigators, selection of members, and conflict of interest vetting procedures. Their concerns were about a lack of investigative resources and offered examples about Washington police departments to support these concerns. WASPC's requests included flexibility and recognition that those who are less trained can play a role and that high training requirements be focused on the "core investigators". They also requested that there be clarification about whether civilian evidence technicians are intended to be part of the IIT, as the proposal requires each team member to be a commissioned peace officer. WASPC also requested greater flexibility about training requirements, and suggested a 72 hour check in, followed by a more comprehensive check within a designated time frame about the civilian review of the conflict of interest tool.

Response: WAC 139-12-030 (4)(c)(v), WAC 139-12-030 (4)(c)(vii)

November 26, 2019 Special Commission Meeting held at WSCJTC

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, balance the need for independent, transparent, 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. Teresa 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. Teresa 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. Teresa 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 because he hasn't had the Crime Scene Photography course.

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 changes 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. Lynnette 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. Lynette 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. Leslie 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. Leslie 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. Kim 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. Marilyn 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. Annalesa 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. Annalesa 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. Fred 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 address 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. Nickeia Hunter reiterated that police investigating police is a continued conflict of interest. Nickeia 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. Joyce Brekke felt it will be a challenge to overcome an existing structure by modifying only a small portion. Joyce Brekke believed the definition of involved agency is too narrow. Joyce Brekke also believed that the role of community representatives should be expanded, as well as the role of press releases by limited. Joyce Brekke expressed a desire that the homicide investigative standards should be publicly available. Joyce 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. Amy 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. Amy Darling also pointed out her belief there is falsity if the line of 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. Amy 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. Martina 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. Andre Taylor believed that the independent investigations need to be housed

in the Attorney General's Office if it is truly be independent. Andre 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 any manner in the investigation conducted by the Independent Investigation Team. Mike 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 of WASPC, stated that investigations will now be what Initiative 940 said they would be: independent. Steve Strachan indicated that this removal of the involved agency in any participation is a significant change. Steve 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. Carla 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. Carla Boyer stated that there must be non-law enforcement members of the investigative team who can participate fully.

Marsha Jocelyn, Citizen, mentioned to the Commission that it is great that the state is trying to create some accountability but that this initiative goes beyond that. Marsha Jocelyn feared that a sense of togetherness among law enforcement may generate potential for retaliation. Marsha 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.

Response: CJTC staff listened carefully to all public testimony and considered this information in their final decision.