

## WHAT HAPPENS NOW THAT I-940 AND HB 1064 ARE LAW?

The new law related to Law Enforcement training and deadly force investigations has been signed into law by the Governor. It is now in the hands of the Washington State Criminal Justice Training Commission (WSCJTC) to create “RULES” to establish training requirements (including first aid) and establish criteria for independent investigations of deadly force. This brief primer explains how the WSCJTC will go about completing the work required under the new law.

## THE LEGAL PROCESS FOR RULEMAKING

One of the primary functions of the WSCJTC, since its creation in 1974, is to adopt rules related to training and certification of peace officers and other criminal justice professionals. Adopting rules is the legal mechanism for establishing standards, such as the requirement for 720 hours of training for the Basic Law Enforcement Academy (BLEA). These rules are contained in the Washington Administrative Code (WAC's). The 14 Commissioners are appointed by the Governor and meet four times a year to conduct rule making during open public meetings. The adoption of rules follows legally mandated procedures that ensure members of the public have:

- Ample notice of rule-making;
- Opportunity to provide input; and
- Observation of the decision-making process.

The procedural steps for rulemaking require public notice through filing the documents listed below with the Code Reviser's Office, which is responsible for ensuring that proposed laws and rules are written correctly and don't conflict with the state constitution and other laws.

1. **“Pre-Proposal Statement of Inquiry”** - must be filed to:
  - Notify the public about the subject of the rule-making,
  - Provide the opportunity for public comment, and
  - Promote efforts at reaching consensus.
2. **“Notice of Proposed Rule-Making”** - must be filed a minimum of 30 days later and must include the:
  - Full text of the rule,
  - Purpose and anticipated effects,
  - Opportunity for the public to present views, and
  - Date the Commission intends to adopt the rule.
3. **“Public Rule-Making Hearing”** - must be held a minimum of 20 days later by the Commission.
4. An **Adoption Order** must be filed when the Commission adopts the rule.
5. The rule becomes final 31 days after the Adoption Order.

## **COMMISSION ACTION REQUIRED BY NEW LAW:**

- Adopt rules for training police on specifically identified topics by **June 6, 2019**,
- Adopt rules establishing criteria for determining an independent investigation of deadly force by **December 6, 2019**,
- Consider the use of negotiated rule-making, and
- Consult with specifically named stakeholders in the rulemaking process.

To meet these requirements the Commission will conduct rulemaking as they normally do, **and they will also:**

- Include additional opportunities for public input,
- Specifically consult with the statutorily named stakeholders,
- Move through the process as quickly as possible, within the constraints of the public notice requirements, in order to meet the June and December deadlines.

In order to provide additional opportunities for public participation in the short time frame necessary to meet deadlines, and increase accessibility, all public engagement meetings will be live streamed, recorded and posted on the WSCJTC website for public viewing. This will enable broad, observations and participation via the internet. The WSCJTC website will list the dates and times of events as they are set and will give directions to observe and participate either in-person or online. There will be opportunities to participate in-person on both the east side and the west side of the state.

Some individuals may wish to provide input anonymously. The WSCJTC will **not** accept anonymous email and comments. However, several community advocacy groups have offered to receive input from individuals known to the group then share the input using the advocacy group email address, thus protecting the identity of the individual contributor. The list of such advocacy groups will be posted in the WSCJTC website as they become available.

## **DEVELOPING THE RULES FOR TRAINING**

The WSCJTC has been actively involved in discussions about the new law for more than two years, beginning with participation on the Deadly Force Task Force. The executive director has met many times with members of various stakeholder groups to discuss their concerns and ideas about police training. Most of the training mandated in this new law is currently being delivered to new police recruits in the Basic Law Enforcement Academy (BLEA). Funding and mandates from I-940 will support the delivery of “In-Service” training to experienced officers in the field who may have received their basic training as long as 40 years ago.

In-Service delivery of Crisis Intervention Training has been delivered to nearly 80 percent of all officers in the field across the state thanks to previous legislation and

funding for this valuable mental health training. This will satisfy some of the I-940 training requirements and will be foundational for additional de-escalation topics.

For the past year academy trainers have consulted with trainers and experts from around the state to develop ideas for in-service training, and a “train the trainer” course to be used to build a cadre of local trainers across the state. This cadre will deliver new in-service training more quickly and efficiently in local communities, not just on the Burien campus.

Academy staff has worked with a variety of experts from across the nation and in local communities to build a credible and effective training regimen about the history of race and policing, the disparate impacts of the criminal justice system on people of color and living in poverty, and alternatives to arrest. Additionally, a new leadership course focused on police culture, the key ingredient for institutionalizing the principles and philosophy underlying de-escalation training, is nearly complete.

We will share these training ideas at the public engagement meetings across the state to get feedback. We anticipate making improvements, additions, and adjustments based on the input we receive. The WSCJTC staff will then present the collaborative ideas and draft rules for the Commission to adopt by June 6<sup>th</sup>.

## **DEVELOPING THE RULES FOR DEADLY FORCE INVESTIGATION CRITERIA**

Academy staff has already begun to tackle the challenge of establishing criteria for independent investigations of deadly force. Two experienced retired investigators are researching best practices from around the nation. They will be soon be joined by several additional experienced investigators from across the state as well as civilian oversight experts. This team will work together to develop and present several different proposals to the public during the stakeholder engagement meetings. Because the WSCJTC will have more time and opportunities to engage with the public on the topic of investigations, there will be ample time to develop draft rules, and adjust and improve as additional input is received from the public. All public input will be shared with the Commissioners at two Commission meetings before they must adopt rules by December 6<sup>th</sup>.

Please refer to the attached timeline which includes statutory milestones and dates that have been set for public meetings and hearings in the upcoming 5 months. Check the WSCJTC website for updates as additional meeting dates are finalized through the end of the year.