

RCW 43.102.120 Investigations—Notification of incident—Securing the scene—Control by investigation team. (1) An involved agency shall notify the office of any incident by an involved officer in accordance with the requirements under RCW 43.102.050 and pursuant to this section.

(a) If the incident involves use of deadly force by an involved officer that results in death, substantial bodily harm, or great bodily harm the involved agency must immediately contact the office pursuant to the procedure established by the director once the involved agency personnel and other first responders have rendered the scene safe and provided or facilitated lifesaving first aid to persons at the scene who have life-threatening injuries. This requirement does not affect the duty of law enforcement under RCW 36.28A.445.

(b) In all other cases, the involved agency must notify the office of the incident pursuant to the procedure established by the director.

(2) (a) In any case that requires notice to the director under this section, the involved agency shall ensure that any officers or employees over which the involved agency has authority who are at the scene of the incident take all lawful measures necessary for the purposes of protecting, obtaining, or preserving evidence relating to the incident until an office investigator, or independent investigation team at the request of the office, takes charge of the scene.

(b) The primary focus of the involved agency must be the protection and preservation of evidence in order to maintain the integrity of the scene until the office investigator or independent investigation team arrives or otherwise provides direction regarding activities at the scene. The involved agency should ensure that evidence, including but not limited to the following is protected and preserved:

(i) Physical evidence that is at risk of being destroyed or disappearing and cannot be easily reconstructed, including evidence which may be degraded or tainted by human or environmental factors if left unprotected or unpreserved;

(ii) Identification and contact information for witnesses to the incident; and

(iii) Photographs and other methods of documenting the location of physical evidence and location and perspective of witnesses.

(3) (a) When the office investigator, or independent investigation team acting at the request of the office, arrives at the scene of an incident under the jurisdiction of the office, the involved agency will relinquish control of the scene to the office investigator or independent investigation team upon the request of the office investigator. The involved agency has a duty to comply with the requests of the office related to the investigation conducted pursuant to this chapter.

(b) Once the scene is relinquished, no member of the involved agency may participate in any way in the investigation, with the exception of the use of specialized equipment that is necessary for the investigation and where no alternative exists. If there is any equipment of the involved agency used in the investigation, steps must be taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment or their engagement with the investigation.

(4) If an independent investigation team takes control of the scene at the request of the office, the independent investigation team shall relinquish control of the scene and investigation at the request of the office when the office is on the scene or otherwise provides notice that the office is taking control of the scene. The independent investigation team may continue to engage in the investigation conducted at the scene if requested to do so by the lead office investigator, director, or the director's designee. The involvement of the independent investigation team is limited to activities requested by the office and must terminate following the securing of the scene and any evidence preservation or other actions as determined necessary by the office at the scene. The independent investigation team may not continue to participate in the ongoing investigation.

(5) (a) No information about the ongoing independent investigation under the jurisdiction of the office may be shared with any member of the involved agency, except as follows:

(i) Limited briefings given to the chief or sheriff of the involved agency about the progress of the investigation; or

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

(iii) Sharing of the information will not impede the ongoing investigation being conducted by the office.

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

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

(ii) The involved agency must agree in writing that no involved officer or witness officer will have access to the information other than what is released to the general public. Any press release containing information provided by the office pursuant to this section must be preapproved by the office; and

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

(6) If the office declines to investigate a case, the authority and duty to investigate remains with the independent investigation team or local law enforcement authority with jurisdiction over the incident. [2024 c 64 s 5; 2021 c 318 s 402.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.