

RCW 43.102.050 Director—Duties—Review of prior investigations.

(1) The director shall:

- (a) Oversee the duties and functions of the office and investigations conducted by the office pursuant to this chapter;
 - (b) Hire or contract with investigators and other personnel as the director considers necessary to perform investigations conducted by the office, and other duties as required, under this chapter;
 - (c) Plan and provide trainings for office personnel, including contracted investigators, that promote recognition of and respect for, the diverse races, ethnicities, and cultures of the state;
 - (d) Plan and provide training for advisory board members including training to utilize an antiracist lens in their duties as advisory board members;
 - (e) Publish reports of investigations conducted under this chapter;
 - (f) Enter into contracts and memoranda of understanding as necessary to implement the responsibilities of the office under this chapter;
 - (g) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;
 - (h) Develop the nondisclosure agreement required in RCW 43.102.130; and
 - (i) Perform the duties and exercise the powers that are set out in this chapter, as well as any additional duties and powers that may be prescribed.
- (2) No later than February 1, 2022, in consultation with the advisory board, the director shall develop a plan to implement:
- (a) Regional investigation teams and a system for promptly responding to incidents of deadly force under the jurisdiction of the office. The regional investigation teams should:
 - (i) Allow for prompt response to the incident requiring investigation; and
 - (ii) Include positions for team members who are not required to be designated as limited authority Washington peace officers;
 - (b) A system and requirements for involved agencies to notify the office of any incident under the jurisdiction of the office, which must include direction to agencies as to what incidents of force and injuries and other circumstances must be reported to the office, including the timing of such reports, provided that any incident involving substantial bodily harm, great bodily harm, or death is reported to the office immediately in accordance with RCW 43.102.120;
 - (c) The process to conduct investigations of cases under the jurisdiction of the office including, but not limited to:
 - (i) The office intake process following notification of an incident by an involved agency;
 - (ii) The assessment and response to the notification of the incident by the office, including direction to and coordination with the independent investigation team;
 - (iii) Determination and deployment of necessary resources for the regional investigation teams to conduct the investigations;
 - (iv) Determination of any conflicts with office investigators or others involved in the investigation to ensure no investigator has an existing conflict with an assigned case;
 - (v) Protocol and direction to the involved agency;

(vi) Protocol and direction to the independent investigation team;

(vii) Protocol and guidelines for contacts and engagement with the involved agency; and

(viii) Protocol for finalizing the completed investigation and referral to the entity responsible for the prosecutorial decision, including communication with the family and public regarding the completion of the investigation;

(d) A plan for the office's interaction, communications, and responsibilities to: The involved officer; the individual who is the subject of the action by the involved officer that is the basis of the case under investigation, and their families; the public; and other interested parties or stakeholders. The plan must consider the following:

(i) A process for consultation, notifications, and communications with the person, family, or representative of any person who is the subject of the action by the involved officer that is the basis of the case under investigation;

(ii) Translation services which may be utilized through employees or contracted services;

(iii) Support to access assistance or services to the extent possible; and

(iv) A process for situations in which a tribal member is involved in the case that ensures consultation with the federally recognized tribe, and notification of the governor's office of Indian affairs within 24 hours in cases of deadly use of force;

(e) Training for employees and contractors of the office to begin prior to July 1, 2022; and

(f) Prioritization of cases for investigation.

(3) No later than December 1, 2023, in consultation with the advisory board, the director shall develop a proposal for training individuals who are nonlaw enforcement officers to conduct competent, thorough investigations of cases under the jurisdiction of the office. The proposal must establish a training plan with an objective that within five years of the date the office begins investigating deadly force cases the cases will be investigated by nonlaw enforcement officers. The director shall report such proposal to the governor and legislature by December 1, 2023. Any proposal offered by the director must ensure investigations are high quality, thorough, and competent.

(4) The director, in consultation with the advisory board, shall implement a plan to review prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation and investigate if determined appropriate based on the review. The director must prioritize the review or investigation of cases occurring prior to July 1, 2022, based on resources and other cases under investigation with the office. [2021 c 318 § 304.]

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