

Washington State
Office of Independent Investigations

Status report on the OII

Implementation Plan

OII Director Roger Rogoff

August 2022

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Executive summary

The Legislature created the Washington State Office of Independent Investigations (OII) in 2021 to conduct independent, fair, thorough, transparent, and unbiased investigations of cases that involve police use of deadly force. As a unique office in the nation, OII is led by a civilian director and intends to deploy teams that include civilian investigators.

OII came into existence after widespread public outcry regarding several high-profile fatal police use of force cases. In these cases, the victims were often Black men and women and other people of color. In response, Gov. Jay Inslee created the Governor's Task Force on Independent Investigations of Police Use of Force. The task force developed several recommendations. One recommendation was to create an independent office to provide independent, fair, and thorough investigations of use of force and other serious incident cases that involve Washington law enforcement agencies.

Several actions followed the work of the task force, including the Legislature passing the governor-request bill, House Bill 1267, sponsored by Rep. Debra Entenmann. The bill created OII and an advisory board to work with the new agency. The OII Advisory Board is an 11-member board that includes family who are affected by incidents of police use of deadly force, law enforcement, community members, a representative of a federally recognized Washington tribe, a mental health professional, a prosecutor, a defense attorney, and a member of the Criminal Justice Training Commission.

Current board members are identified on the OII Advisory Board webpage. The board's purpose was to provide input to the governor on OII director selection and to advise the director on policies and procedures, and other areas of operations for the office. The board does not have a role in directing which cases OII investigates. The governor appoints members to serve three-year terms.

The law outlines several duties for the agency director (RCW 43.102). This includes developing a plan to conduct investigations, including establishing regional investigation teams; developing the systems and processes for notification of incidents; prioritizing cases; investigations processes and procedures; interacting with tribal, family, and community members; and establishing training for employees and contractors. The statute does not require a written report regarding the implementation planning.

Background

The statute that created OII set an aggressive timeline to form the agency. This included 12 months to appoint an 11-member advisory board, hire a director, create policies and procedures, hire 80-plus staff members, train investigators to conduct investigations, create infrastructure for conducting the investigations, and engage in outreach to the community and law enforcement – all essential activities.

When created in July 2021, OII was a true start-up. In the four months following, the OII transition team began to move from infancy to operations. However, director approval was required for many policies and plans to be completed. Identifying a director took the advisory board and the transition team months of work.

In May 2022, Inslee appointed Roger Rogoff, a retired King County judge, as the agency's first director. His first day was June 16. In his first two months, Director Rogoff met with approximately 20 different stakeholder groups or individuals across the state, worked with his team to hire a diverse group of 13 employees (many in positions intended to help with additional hiring, training and protocol development), and he has begun hiring senior and entry-level investigators.

Although OII made hiring staff a key priority, this activity takes time. Among state agencies, recruiting and hiring processes vary, as does the length of time to fill a position. However, in the past 12 months, the Department of Enterprise Services (DES) reported that 12,403 hires from all state agencies were entered into the state recruiting system with a 'time to hire' average of 116 days. The time to hire was slightly less for positions that were filled on an ongoing basis, with an average of 112 days.

Without staff, training, and policies, OII could not take cases by the statutory authorization date of July 1, which would have been just two weeks after Director Rogoff began his term.

The OII team is now close to completing some key tasks. This includes adopting an internal manual, Independent Investigation Team Interaction Protocols, and Involved Agency Interaction Protocols.

There remains much work to do, and OII is prioritizing a careful, methodical approach over haste. This recognizes that it is critical for the agency to be fully prepared to conduct credible investigations or risk failing the very public that fought for its formation.

This report is intended to provide context on the elements that make up OII's implementation plan, factors OII staff will consider as they develop the plan, and an update on the current state of planning.

Elements of the implementation plan

The OII director is designated by statute as having the responsibility to develop all necessary infrastructure, policies, and procedures to conduct use of force investigations. The specific areas that require the director to develop implementation plans are outlined in [RCW 43.102.050 \(2\)](#).

(2) No later than February 1, 2022¹ 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;

(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;

¹ Because the OII director was not hired until June 16, the agency advised the Office of Financial Management that it would have to adjust the February date to give the director time to start working, assess the organization, and determine how the plan should proceed.

(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.

OII policy and protocols development

OII has made significant progress developing these policies and protocols. Initial drafts of many have been created and are in the process of being revised and finalized.

These policies and protocols are the backbone for OII's work and will guide the agency's functions, as well as how it interacts with those affected by these life-changing incidents.

To create these draft policies and protocols, the governor created a small transition team to set up infrastructure and begin drafting policies and protocols. For the past several months, this team has worked internally and with stakeholders to develop a pattern and practice for how to create these policies.

In some cases, OII adapted standard administrative policies for office operation that all agencies must use, such as human resources policies that the Office of Financial Management (OFM) requires. OFM has supported OII in other administrative areas too, which include IT services, facilities and finance. Where applicable, OII incorporated language from other state agencies' policies that were relevant and appropriate, including the Washington State Patrol and Labor & Industries. OII also conducted extensive outside research to incorporate best practices from other similar entities.

Though OII looked to existing agencies for model policies, many components of the implementation plan require the agency to develop policies unique to OII. Many of these protocols relate to independent investigations of officer-involved shootings, and include independent investigation team protocols currently in existence around Washington, other states, and Canada. For these policies, the transition team researched protocols from many jurisdictions. The subject matter experts who serve as consultants to OII primarily reviewed these protocols and created the initial drafts of the OII policies and procedures. The team also consulted the vast and diverse expertise of the OII Advisory Board members for their input and review.

Since hiring has begun, additional subject matter experts are reviewing these protocols, including OII's assistant director for investigations, policy advisor, business development manager, and the director.

The statutory implementation plan

A plan to create regional investigation teams and a system for promptly responding to incidents of deadly force under the jurisdiction of the office - RCW 43.102.050(2)(a)

The current OII plan is to create six regional locations throughout the state. The initial location will be in Olympia, Washington and will also house the OII's leadership team. The office space is being modified and construction is largely completed. As of August 2022, OII moved into the third floor of the Raad Building, an office space located mere blocks from the state Capitol campus. In addition to serving as administrative headquarters for the agency, the Raad Building will house an investigative team responsible for conducting investigations in the Puget Sound area.

Current legislative funding for OII provides for five additional regional offices throughout the state. Each will house an OII investigative team responsible for responding to use of force incidents statewide. Based on the historical location of police use of deadly force cases that might fall within OII's jurisdiction, the locations currently under consideration for the remaining regional office locations include:

- Southwestern Washington (Clark County)
- Northwestern Washington (Skagit/Whatcom/Snohomish counties)
- Central Western Washington (King County)
- Central Washington and Eastern Washington (Spokane County)

To identify where to locate these regional offices, the OII transition team consulted subject matter experts and reviewed historical incident data on fatal use of force cases. This helped the team determine distances that would provide the optimal response times to incidents that fall under OII jurisdiction.

The OII team has identified one of its five locations for additional regional offices, with another close behind. The first is in Spokane County and OII is negotiating to acquire the space. The agency continues to work to locate an appropriate space in South King County for a possible second location for a regional team.

OII's recently hired leadership transition staff will provide more resources in the regional location search. One member of this leadership transition team is designated as the infrastructure transition supervisor, with primary responsibilities to identify and oversee construction at each regional location.

When activated, each regional office will have the primary responsibility for quickly responding to incidents under OII jurisdiction occurring in their area. OII expects that nearby investigative teams, which could include local IITs but not the involved agency, will provide support to the

primary team when resources and time allow. Using multiple teams for the first 24 hours of any investigation will help bulk up resources and personnel who are necessary to do the job.

The agency is developing guidelines on how to build the OII investigative teams, including the number of members, their specific roles and the team's structure. The current intent is that, at a minimum, each regional team will include up to 12 members. This includes senior investigators, entry-level investigators, forensics experts, a tribal liaison (where appropriate), a family liaison, a regional supervisor, and leadership support. Consultants, agency leadership, and the OII Advisory Board are currently reviewing these guidelines for final approval.

A plan to implement a system and requirements for involved agencies to notify the OII of an incident under the jurisdiction of the office...- RCW 43.102.050 (2)(b)

When an officer use of deadly force incident occurs, OII must arrive at the scene in a timely manner.

The first mechanism OII will use to ensure speedy arrival is the OII notification system, which is close to operational. This system provides a hotline number to call, giving the involved agency a way to notify OII of an incident and ensure OII can deploy its regional team as quickly as possible.

In addition, there will be notification protocols based on the statutory requirements for involved agencies. However, with the requirement for involved agencies to notify OII of any death that occurs or is reasonably likely to occur as a result of an officer interaction, it offers broader reporting that will allow OII to decide whether an incident falls within its jurisdiction.

These notification protocols will include the statutory requirement that involved agencies immediately notify OII of any use of deadly force by an individual officer that results in death, substantial bodily harm or great bodily harm against or upon a person when, at the time of the incident:

- The involved officer was on duty; *or*
- The involved officer was off duty *but*:
 - Engaged in the investigation, pursuit, detention, or arrest of a person or otherwise exercising the powers of a general authority or limited authority Washington peace officer; *or*
 - The incident involved equipment or other property issued to the official in relation to his or her duties.
 - Involved agencies must also immediately notify OII of any death that occurs or is reasonably likely to occur as a result from an interaction with an officer.

Notification process

Immediately after an incident that follows the above criteria, the involved agency must notify OII. The OII hotline phone system is in the process of being tested and will go online soon. The agency will share the hotline number and the notification process widely among law enforcement groups. To help with this, OII staff have engaged in a robust outreach effort to law enforcement agencies. This included more than 15 meetings with law enforcement and prosecutor agencies in the first two weeks of the director's hiring.

In addition, OII is developing a backup plan and system in case the primary hotline is disrupted. The agency will share that information when it is finalized.

OII has created a network within law enforcement so that it can quickly and efficiently share its hotline number and procedure.

1. The OII protocol will clarify that the involved agency must relay, at a minimum, the following information to OII:
 - The nature of the incident
 - The involved agency or agencies
 - The name of the involved officer(s)
 - The date, time and location of the incident
 - An involved agency point of contact for the incident
 - Any other pertinent information
2. Based on the information that the involved agency relays, and based on additional conversation with their point of contact, the OII director will determine as soon as practical whether to investigate, decline to investigate or require further assessment.
 - OII recognizes that time is of the essence at any investigative scene.
 - Part of the protocols and part of the OII decision-making process will contemplate that there may be a deceased person at the scene, that evidence subject to degradation might exist at the scene, and that the involved officer(s) may be waiting for processing at the scene.

If OII accepts the case for investigation, OII will notify the involved agency and activate a response team.

If OII declines to investigate, the director will notify the involved agency. 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.

If OII determines that further assessment is required, OII will follow internal procedures for contacting the involved agency to request additional information.

OII anticipates that involved agencies will also notify currently existing independent investigation teams. Given OII's limited resources and logistical challenges in reaching some parts of the state quickly, it is likely that existing IITs may likewise deploy their resources to the scene. However, once OII has assumed jurisdiction of an investigation, it would be the sole agency investigating, though other agencies may be requested to provide support (with the exception of the involved agency).

New or delayed reporting information

An involved agency is required to notify OII about any new significant information that becomes known regarding the use of deadly force that was previously reported to OII. This includes new evidence, witnesses, or the death of an individual who was previously the subject of the agency's use of force.

If involved agencies become aware of a use of deadly force that was not previously reported to OII after OII begins accepting cases for investigation, they must immediately notify OII by following the notification procedures outlined above.

A plan to implement a process to conduct investigations of cases under the jurisdiction of the office...RCW 43.102.050 (2)(c)

OII investigations require policies and protocols to address the intake process, incident assessment, OII deployment of resources, conflict assessment, interaction with the involved agencies and independent investigation teams, and the final investigative report.

OII currently has a plan to help construct these protocols. The agency has consulted with similar agencies across the country, as well OII's hired consultants. Based on this information, OII staff have written protocols for each of these logistical areas. The protocols are currently in draft stage, for OII leadership and the Advisory Board to give their final approval. The initial versions were written by OII's in-state consultant and reviewed by other OII consultants, the agency's transition team, and members of the OII Advisory Board. The protocols will also include a description of OII priorities for accepting cases – based upon resources and case type.

OII staff will continue seeking stakeholder input and will ensure that final documents are widely available. The agency will also provide ample notice to organizations, such as prosecutors, law enforcement, coroners and medical examiner officers, and others who will be affected by OII investigation activities.

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. -- RCW 43.102.050 (2)(d)

Although OII has already begun communicating with stakeholders, community members and other agencies, agency staff are still developing the protocols and policies guiding these communications. Staff in the communications and community outreach office will conduct this work. This group will include a communications director and community liaison positions.

The agency has registered an account with Gov Delivery, a web-based, email subscription management system for general external communications with the public and stakeholders. This helps OII efficiently distribute news releases and updates to subscribers who opt in to the system.

OII staff is still working with Washington Technology Solutions (WaTech), the state technology services agency, to develop an agency public website.

OII implementation plans must also describe how the agency will effectively communicate with:

- The person harmed by a use of force incident, or their family if the person is killed.
- The involved law enforcement officer.
- The general public, including the media.
- Other stakeholders.

OII has begun work on the protocols for these various communications, but they remain in development. The implementation plans must address translation and interpretation services, how to access assistance, interaction and consultation with tribes, and notification to the Governor's Office of Indian Affairs.

OII will have a liaison team whose members will provide the communication and interactions with those impacted by OII case investigations including the following: a family and community liaison, a police and prosecutor liaison, a mental health liaison, and a tribal outreach liaison. For these positions, the OII human resources staff started to create position descriptions, salary ranges, and plan for a hiring process.

OII continues to develop protocols for these positions, which will address the following issues:

- Identify the need for language or sign language interpreter services.
- Provide outreach coordination with the medical examiner or coroner's office.
- Provide information and updates regarding the OII investigation process.
- Support and help people access counseling services, community support groups, and funeral support.
- Provide updates on the investigative process.

Training for employees and contractors of the office to begin before July 1, 2022 -- RCW 43.102.050 (2)(e)

As state employees, OII staff must undergo training. Training specifics come from the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), governor Executive Order, State Human Resources Directive, State Administrative and Accounting Manual (SAAM), or federal requirements.

DES has provided a summary of this training [on their website](#). OII staff, including the director, have already begun this training.

Training for staff involved in investigations

Additional training for OII staff, beyond the required state employee training, is described in RCW [43.102.060\(4\)\(a\)](#). All OII employees, including the director, investigators, and contractors, will receive a wide range of training to include:

- Implicit and explicit bias
- Intercultural competency
- Anti-racism
- Undoing institutional racism
- The history of racism in policing
- Tribal sovereignty and the history of Native Americans within the justice system
- Using a racial equity lens to conduct the work.

OII is currently working to develop a training schedule. Specifically, it has partnered with the Washington State Criminal Justice Training Commission (CJTC) to identify and provide necessary training for OII personnel, in addition to seeking outside vendors capable of providing this necessary training. CJTC has assigned OII a dedicated liaison, who searches for vendors and establishes a training schedule.

For OII staff who conduct the investigations, the law requires them to take additional training on topics specific to their roles (RCW [43.102.060\(4\)\(b\)](#)). This includes criminal investigations, interviewing techniques, and other relevant trainings.

The law also requires OII to plan for some civilian staff, including investigators who have never been commissioned law enforcement officers. That means some of the incoming staff who will become investigators don't have experience conducting major crimes investigations nor have a law enforcement background. This requires the OII's training program to show agility and adaptability to investigators with a wide range of backgrounds.

To meet these needs, the OII transition team and subject matter expert consultants analyzed the training given to investigators of comparable agencies. These agencies included:

- The Ontario Special Investigations Unit ([SIU](#))
- The Independent Investigation Office of British Columbia ([IIO](#))
- The Minnesota Bureau of Criminal Apprehension Force Investigations Unit ([BCA](#))
- The California Department of Justice Police Shooting Investigative Team ([CaPSIT](#)).

Study results led the OII transition team and expert consultants to develop, in consultation with the CJTC, a comprehensive training sequence designed in tandem with a robust field training program that is unique to OII.

The program is currently in draft form and details are being finalized. Ultimately, OII staff, subject matter experts, consultants, the Advisory Board, and key stakeholders will review the program to ensure its efficacy.

Prioritization of cases for investigation -- RCW 43.102.050 (2)(f)

The law creating OII (Chapter RCW 43.102) gave it broad latitude to investigate cases that involve law enforcement officers in Washington.

This includes "serious use of force incidents," "deadly force cases," cases involving both those in-custody or out of custody, and older cases that occurred before OII was created, when new evidence is produced in those older cases.

The statutes also require OII to prioritize these investigations based on available resources and other cases under investigation. Given its resources, the ability of OII to fairly and equitably prioritize which cases it will investigate is critical.

As of the writing of this report, the protocols that will guide the prioritization of cases have not been finalized. As with all agency protocols, OII will develop drafts with the board and share them with stakeholders before they are adopted.