

Washington State Office of
Independent Investigations

Advisory Board Handbook

Adopted May 24, 2022

Email AdvisoryBoard@oii.wa.gov if you require this document in an alternate format.

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Introduction

The Office of Independent Investigations (OII) was created in statute by Engrossed Substitute House Bill 1267. The bill was introduced at the governor's request in the 2021 legislative session, passed by a majority vote of both chambers, and signed by the governor on May 18, 2021. The bill became effective on July 25, 2021 and is codified in Chapter 43.102 RCW.

As stated in the legislative intent for HB 1267, the Washington legislature created the office due to the outpouring of frustration, anger, and demand for change from many members of the public over the deaths of people of color resulting from encounters with police. Recent deaths in the United States and within Washington resulted in a call to lead Washington to a new system for investigating deaths and other serious incidents involving law enforcement officers.

The OII Advisory Board ("Board") consists of 11 members, appointed by the governor, representing a cross-section of individuals either involved in or impacted by law enforcement agencies, and/or have other expertise relevant to the work of OII. The appointments must also reflect the cultural diversity of the state of Washington.

This handbook serves as an introduction to the OII Board, its duties, responsibilities, and norms. Any questions regarding the contents of this handbook should be directed to the OII board chair(s).

Founding Board Members

Governor Inslee appointed the following Office of Independent Investigation Advisory Board members on November 15, 2021:

Monica Alexander, Pierce County, member of the Criminal Justice Training Commission

Brean Beggs, Spokane County, defense attorney

Eric Drever (co-chair), King County, police chief who is also the member of an independent investigations team

Norma Gallegos, Chelan County, general public - not current or former law enforcement

Anthony Golik, Clark County, prosecuting attorney

Philip Harju, Thurston County, tribal member - representing a federally recognized tribe in Washington (Cowlitz), who is not current or former law enforcement

Monisha Harrell, Snohomish County, general public - not current or former law enforcement

Susie Kroll, Snohomish County, licensed mental health professional

Faapouaita Leapai, King County, general public - not current or former law enforcement

James Schrimsher, King County, representative of a police officer labor association with experience in homicide investigations

Fred Thomas (co-chair), Pierce County, general public - family impacted by an incident under the jurisdiction of the office

Board Duties

RCW	Category	Short Description
<u>43.102.030</u>	Consult	Prioritization of investigations
<u>43.102.040</u>	Recommend	List of candidates for Director
<u>43.102.050</u>	Training	Utilize antiracist lens in Board duties
	Consult	Plan to implement regional investigation teams
	Consult	Proposal for training individuals who are nonlaw enforcement officers to conduct competent, thorough investigations of cases
	Consult	Plan to review prior investigations of deadly force
<u>43.102.060</u>	Input	Hiring process and hiring goals, including diversity
	Approve	Hiring of a previously commissioned law enforcement officer
<u>43.102.080</u>	Consult	Prioritization of investigations based on resources and other criteria
	Receive	If the office is not able to complete an investigation within 120 days, the Director shall report to the Board the reasons for the delay

RCW	Category	Short Description
<u>43.102.130</u>	Input/recommend	Selection of the Director, including candidates
	Input	Plans required to be developed for the office, including regional investigation teams
	Participate	Employment interviews as requested by the Governor or Director
	Receive	Briefings or reports from the Director relating to data, trends, and other relevant issues, as well as cases under investigation
	Maintain	Confidentiality of the information received during the course of any work as Board members
	Training	Utilize an antiracist lens in Board duties
<u>43.102.800</u>	Assess	Jurisdiction of the office
	Consider	Available data and information on in custody deaths, the capacity and resources of the office, and any modifications to procedures and processes necessary for the office
	Consider	Recommendations and counsel of the director when conducting the assessment under this section
	Request	Analysis of available data, including identified trends and patterns, and other information relevant to in-custody deaths involving criminal acts committed by involved officers, sexual assaults committed by involved officers, and other types of incidents
	Submit	Report with recommendations on OII jurisdiction to the legislature and Governor by November 1, 2023

Bylaws

1.0 Bylaws Purpose

The purpose of these bylaws is to provide clear guidance and accountability for the Advisory Board ("Board") of the Office of Independent Investigations (OII).

1.1 Bylaws Acknowledgement

All appointed members of the OII Board must acknowledge in writing that they have read, understood, and will abide by these bylaws.

1.2 Bylaw Amendments

These bylaws may be amended at any regular meeting upon a majority vote of the Board, provided that the amendment has been submitted in writing to the Board Chairs at least one calendar week before the meeting.

1.3 Violations

All complaints received from any entity regarding any Board member will be referred to the chair(s) and OII director for discussion and appropriate action, up to and including a request to the Governor's Office for a replacement.

All complaints involving the OII director will be forwarded to the governor's deputy chief of staff.

2.0 Board Purpose

The purpose of the OII Board is to provide input to the OII director, as specified in Chapter 43.102 RCW, and to provide input to the governor on the selection of the director.

2.1 Authority

The OII Board is governed by Chapter 43.102 RCW and specifically the provisions of RCW 43.102.130.

2.2 Membership

In accordance with RCW 43.102.130, the Board consists of the following 11 members, appointed by the governor:

- i. Three members of the general public representing the community who are not current or former law enforcement, with preference given to individuals representing diverse communities;
- ii. One member of the general public representing a family impacted by an incident of the nature under the jurisdiction of the office, who is not current or former law enforcement;
- iii. One member representing a federally recognized tribe in Washington, who is not current or former law enforcement;
- iv. One defense attorney representative;
- v. One prosecuting attorney representative;
- vi. One representative of a police officer labor association with experience in homicide investigations;
- vii. One sheriff or police chief who is also a member of an independent investigation team;
- viii. One credentialed mental health expert who is not current or former law enforcement; and
- ix. One member of the criminal justice training commission.

2.3 Officers

The governor appoints the chair of the Board, per RCW 43.102.130. If the person who currently serves as the chair chooses to leave the Board, notification will be made to the Governor's Office to appoint a new chair.

2.4 Appointment Terms

Per RCW 43.102.130, the members of the OII Board are appointed for terms of three years and until their successors are appointed and confirmed. However, the governor will stagger the initial appointment terms of the Board members with the terms of five members being for two years from the date of appointment and six members being for three years from the date of appointment. The governor designates the appointees who will serve the two-year and three-year terms.

2.5 Compensation

Per RCW 43.102.130, Board members serve without compensation, but must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

2.6 Travel

The OII director/designee is responsible for approving all travel. Board members must obtain prior authorization from the director/designee before incurring any expenses beyond travel related to the regularly scheduled Board meetings, if said meetings are conducted in person. Board members should always utilize the most economical method of travel. Board members must submit claims within 30 days of the completion of the claimed travel. Unauthorized expenditures will not be reimbursed.

3.0 Meetings

Meetings of the Board shall be open and public and all persons shall be permitted to attend meetings of the Board. All or a portion of a meeting may be conducted in closed session to maintain confidentiality as required by RCW 43.102.130(3) or other applicable law.

3.1 Quorum

A quorum shall consist of a majority of the voting members of the Board. As the Board consists of 11 members, six members are necessary for a quorum.

3.2 Votes for Board Decision-making

Decisions of the Board require a vote of at least seven members.

3.3 Meeting Schedule and Notification

The Board shall adopt an annual schedule of regular Board meetings for each calendar year. Regular Board meetings shall be held at such time and place to efficiently carry out the Board's responsibilities. Board members will make reasonable efforts to be culturally sensitive in scheduling meetings, such as avoiding recognized holidays or other days of importance.

Notification of meetings shall be given to interested parties and posted on the OII website (once created).

3.4 Meeting Minutes and Agenda

OII staff will provide administrative and clerical assistance to the Board, in accordance with RCW 43.102.130. The minutes or meeting summaries of all Board meetings will be taken by a designated member of the OII staff in attendance.

Minutes for the previous Board meeting and the agenda for the next scheduled Board meeting shall be provided to the Board and interested public by mail, electronic mail, or by fax at least five days prior to each regular Board meeting.

3.5 Meeting Attendance

OII staff recording the minutes or meeting summaries of all Board meetings shall take attendance of the Board members for the permanent record.

Board members will attend all Board meetings, unless excused by the chair(s) of the Board. A request to be excused must be submitted by e-mail or in writing at least 24 hours prior to the meeting. Board members are encouraged to be punctual in their attendance of meetings.

Inability of Board members to regularly attend Board meetings may result in their removal from the Board. The unexcused absence of a Board member from two consecutive regular Board meetings may result in a request by the chair(s) to the Office of the Governor that a replacement be designated.

An absence is unexcused when no prior notification is provided to the chair(s). An absence is also unexcused when notification is provided, but the reason for the absence does not meet the requirements of an excused absence. An absence is excused if it pertains to family, medical emergencies or prescheduled work-related commitments.

3.6 Accommodations

All in-person meetings of the Board shall be held in accessible facilities. All efforts will be made to accommodate Board members' expressed needs for any reason for accommodations to improve their ability to participate in Board meetings.

3.7 Meeting Ground Rules

In conjunction with Section 6 (DEI, Respectful Workplace Environment, and Anti-Discrimination and Harassment), the following are the approved ground rules to be utilized by Board members during Board meetings:

- We agree to treat other participants' reflections and questions with respect. We acknowledge once again that we may be at different stages of learning on the topic.
- We recognize that we must strive to overcome historical and divisive biases, such as racism and sexism, in our society.
- Address the problem, not the person.
- Everyone has come to the table to learn, grow, and share. We acknowledge that we may be at different stages of learning on the content and discussion topics.
- Remain open to different people, experiences, and ideas.
- One person will speak at a time.
- Let everyone participate.

- Items placed in the “Parking Lot” will be addressed and/or will have actions items assigned to them.
- Contribute to meeting goals.
- Stay on task.
- Respect time.
- Come prepared.
- Be brief.
- Share a vision of what is possible.
- No phone calls – emergency interruptions only.
- Presume good intent.
- Support the decisions that are made by the Advisory Board.

4.0 Ethics

Board members will demonstrate the highest standards of personal integrity, truthfulness, honesty and fortitude in all activities in order to inspire public confidence and trust.

Board members will serve in such a way that they do not receive or accept any undue personal or professional benefits from the performance of official duties.

Board members must comply with the requirements of Chapter 42.52 RCW, Ethics in Public Service. Board members may not accept, seek or solicit, directly or indirectly, anything of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the Board member or be considered part of a reward for the Board member’s action or inaction.

Board members staff are encouraged to raise ethics questions and concerns. No agency representative will retaliate against another who raises an ethics question or concern.

4.1 Conflict of Interest

Board members will avoid any interest or activity that is in conflict with the official duties of the Board. If a Board member may have an interest, financial or otherwise, direct or indirect, or benefit from a business transaction or professional activity, or incur an obligation of any nature, related to a vote of the Board, that member should recuse themselves from that decision.

Members should also avoid activities that could reasonably give the appearance of a conflict of interest to a member of the public.

If OII initiates an investigation into an incident to which the Board member has either a personal or professional connection, the member will disclose that connection to the Board chair(s) and OII director and actively take reasonable steps to avoid receiving information related to the incident or disclosing information received through the member's Board duties related to the incident.

4.2 Confidentiality

Per RCW 43.102.130, Board members have a duty to maintain the confidentiality of the information they receive during the course of their work on the advisory board. Each Board member shall agree in writing to not disclose any information they receive or otherwise access related to an investigation, including information about individuals involved in the investigation as involved officers, individuals who are the subject of police action, witnesses, and investigators.

4.3 Access to OII Assigned Legal Counsel

Any questions that Board members would like to refer to OII's assigned legal counsel through the Attorney General's Office should be first referred to the Board co-chairs and OII director or designee.

4.4 Public Representation and Media

Board members will represent the Board in a professional manner, both externally to the public and internally with other Board members, the OII director, and OII staff.

As individuals, Board members will use discretion to avoid the appearance of speaking for the Board, unless specifically authorized to do so.

Board members are required to communicate to the Board chairs and OII director within a reasonable time frame any material event related to their service on the Board.

Examples of material events include, but are not limited to, the following:

- 1) Providing public opinion, commentary, or written recommendations which would reflect an official Board position
- 2) Statewide committees, task forces, or board appointments, that are the result of Board affiliation
- 3) When contacted by a member of the media to discuss information regarding the Board, its work, or legislative priorities

4.5 Social Media

As stated above in Section 4.3, if a Board member is providing public opinion or commentary regarding OII or Board business, the Board member must communicate that to the co-chairs and director. Board members should also be aware that opinions or communications made about OII or Board business that are made in a Board member's official capacity are considered public record and have to be appropriately captured and maintained as public records.

Board members are encouraged to clearly establish that any comments, postings, or other related communications made via social media are in their personal capacity. Suggested ways to accomplish this include:

- Clearly state on the member’s profile that any comments, postings, or other communications represent the individual’s personal opinions and are not reflective of the Board.

5.0 Public Records

“Public record” is broadly defined and refers to any communication, image or sound and includes not only conventional documents, but also videos, photos, and electronic records including emails and computer data.¹

State agencies and boards are required to have available for public inspection and copying their public records, such as procedural rules and statements of general policy, and other records, written or electronic, pertaining to the board’s business. Records relating to the conduct of official business are subject to disclosure even if they are on a personal computer.² Note that social media may also be subject to disclosure.

Board members, when acting in the capacity as advisory board members, are subject to the Public Records Act. Any records that are created, provided, used or maintained by an advisory board member for their use as an advisory board member would be a public record subject to disclosure unless an exemption existed.

¹ See page 6 of the Open Government Resource Manual, which can be accessed here: <https://www.governor.wa.gov/sites/default/files/documents/Open%20Government%20Resource%20Manual%202016.pdf>.

² See page 13 of the Boards and Commissions Membership Handbook, which can be accessed here: <https://www.governor.wa.gov/sites/default/files/documents/handbook.pdf>

Exemptions to disclosure are limited and identified in statute. A general discussion of exemptions can be found in Chapter 2 of the Open Government Resource Manual. The following are several types of exemptions:

- Personal Information
- Public Employee Records
- Certain Law Enforcement Records
- Certain Business-Related Information
- Health Information
- Government Services and Benefits

A requester is not obligated to identify their purpose in making the request and the agency generally cannot differentiate their response based on the identity of the requester. No particular form of public records request is required, although generally the requestor must specify that the records are being requested under the PRA and identify the documents with reasonable clarity to allow the agency to locate them. The agency is not required to create records to respond to a request.

Board members are not responsible for interpreting public records laws. Upon receiving a request for any record that appears to be related to the Board member's work as an advisory board member, the request should be immediately forwarded to the designated OII staff person. Please note in the subject line "Public Records Request." OII staff will work with you to interpret the request, identify records, and respond to the requester.

OII must respond to a request for public records within five business days of receipt of the request. RCW 42.56.520. It is imperative that requests are forwarded as soon as possible.

6.0 Diversity, Equity, and Inclusion

[Placeholder for Board's DEI policy.]

6.1 Respectful Workplace Environment

The Board believes in creating a work environment anchored in respect, dignity and civility. This policy outlines the Board's firm commitment to ensuring a positive, healthy and professional work environment in which all people, irrespective of their position, are treated with respect, civility and dignity.

A truly respectful workplace requires the cooperation and support from each and every person. All Board members have a responsibility to set a positive example and behave in a manner that will not offend, embarrass or humiliate others. Sometimes individual actions and behaviors, without intent, can offend others: there may be a gap between intent and impact. In these situations, it is important that individuals own their behavior and work to build trust and respect in professional relationships.

Respectful behavior includes, but is not limited to, the following:

- Engaging others with an open, collaborative and cooperative approach.
- Valuing the diversity and the human rights of others regardless of their race, national or ethnic origin; color; religion; age; sex; sexual orientation, gender identity or expression; marital status; family status; veteran status; body shape/size; or any physical or mental disability.
- Recognizing the dignity of a person through courteous conduct.
- Committing to learn and develop an understanding of differing social and cultural norms.
- Taking responsibility for one's actions, displaying humility with mistakes and offering others grace and forgiveness for theirs.

- Emphasizing positivity and commonality rather than opposition or right and wrong.
- Finding ways to be constructive in providing feedback to others.

Disrespectful behavior includes, but is not limited to, the following:

- Offensive or inappropriate remarks, jokes, gestures, material (electronic or otherwise) or behavior
- Yelling
- Belittling
- Reprimanding in the presence of others
- Aggressive or patronizing behavior
- Embarrassing or humiliating behavior
- Intimidation and/or coercion
- Damaging gossip or rumors
- Bullying
- Inappropriate physical contact
- Covert behavior (inappropriately withholding information, undermining, underhandedness)
- Micro-aggressions
- Discrimination
- Harassment
- Sexual harassment
- Behavior that is inconsistent with creating a work environment anchored in respect, dignity, equity, civility and inclusion.

All Board members are expected to treat all persons with whom they interact in the course of their Board duties with dignity, civility and respect. Board members are also expected to speak up when they see disrespectful behavior, or to report it so it can be addressed. Board meetings should be safe spaces for positive discourse, debate, and engagement.

6.2 Anti-Discrimination and Harassment

The Board is committed to ensuring that members are treated respectfully and are free from discrimination and harassment, including sexual harassment.

Discrimination, harassment and sexual harassment of any kind are prohibited by law. They will not be tolerated. It is the responsibility of all Board members to foster and maintain a welcoming, inclusive, professional and safe workplace.

In addition to the conduct outlined in our respectful work environment policy, harassment based on a protected class is prohibited. Harassment is when, based on membership in a protected class, an employee must endure offensive conduct as a condition of continued employment or when the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive. Types of harassment that fall within this category include, but are not limited to the following:

- Sexual harassment
- Gender-based harassment
- Racial and/or ethnic harassment
- Age-based harassment
- Disability-based harassment
- Sexual orientation harassment
- National origin harassment
- Religion-based harassment

For example, with regard to sexual harassment, it is prohibited to harass a person because of that person's sex, gender identity or gender expression. The Board will not tolerate sexual harassment of any kind. This includes unwelcome sexual advances, unwelcome requests for sexual favors or unwelcome other verbal or physical conduct of a sexual nature. Such behavior constitutes sexual harassment when it explicitly or implicitly affects an individual's , unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

Sexual harassment can occur in a variety of circumstances. The victim as well as the harasser may be any gender. The harasser can be another Board Member or OII staff. The victim does not have to be the person harassed, but could be anyone affected by the offensive conduct even if unintended by the perpetrator. Behaviors leading to sexual harassment can include, but are not limited to, gestures, innuendos, jokes or playful banter.

OII strongly encourages all persons who witness discrimination, harassment, sexual harassment or retaliation to report violations to the OII director/designee. While we recognize that victims and bystanders who experience or witness this behavior may feel uncomfortable with reporting violations, reporting of this conduct minimizes future violations of this policy. We will promptly investigate allegations of discrimination, harassment, sexual harassment or retaliation. Where such allegations are substantiated, we will take appropriate corrective or disciplinary action. This process includes support to victims and bystanders.

Retaliation or attempted retaliation against any person who files a complaint under this policy or who participate in an investigation will not be tolerated. The Board is committed to promoting an inclusive, respectful, and safe culture and environment.

Appendix

Advisory Board Appointment Letter



STATE OF WASHINGTON
OFFICE OF GOVERNOR JAY INSLEE

November 15, 2021



Dear [REDACTED]

Thank you for applying to serve on the Office of Independent Investigations Advisory Board. I am delighted to appoint you to the board effective November 15, 2021 for a term ending July 25, 2024.

Pursuant to Washington state law, for your appointment to become effective the following must be completed and returned to our office within two weeks from the date of this letter:

- Notarized Oath of Office

Completed documents should be mailed to: Office of the Governor, PO Box 40002, Olympia, WA 98504. If you have any questions, please contact Boards and Commissions at 360-902-4111.

As you know, the public sets high professional and ethical standards for those in public office. It is important to me that everyone serving in my administration always works to maintain the trust of those we serve. That means we serve to the highest of ethical principles, place the public's interest above any personal or private interest, and always ensure state resources are efficiently used for public purposes only.

My goals are to grow Washington's economy, strengthen our schools, and promote a culture of performance and efficiency in state government. You can help me achieve these goals. I ask that you take personal responsibility for making sure the Office of Independent Investigations Advisory Board operates in a way that is transparent, responsive and focused on implementing lean management tools to achieve results. These are the public's expectations as well as my own.

Serving the people of our state is a real privilege and I hope you find this to be a rewarding experience. Thank you for your willingness to join me in serving the people of Washington.

Congratulations and welcome to the team.

Very truly yours,

A blue ink signature of Jay Inslee, written in a cursive style.

Jay Inslee
Governor

Enclosures

Enabling Statutes

The enabling legislation for OII, including statutory duties and authority, can be found at RCW 43.102: <https://app.leg.wa.gov/RCW/default.aspx?cite=43.102>