



Office of the Washington State Auditor
Pat McCarthy

Compliance Audit Report

Reviewing Investigations of Police Use of Deadly Force

Southwest Washington Independent
Investigative Response Team –
The William Abbe Case

Use of Deadly Force Incident on April 28, 2020, by the Vancouver Police
Department

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February 23, 2023

Commander Duncan Hoss
Southwest Washington Independent Investigative Response Team

Report on Use of Deadly Force Investigation Audit

Attached is the official report on our audit of the investigation into the use of deadly force on April 28, 2020, that resulted in the death of William Abbe.

The audit assessed the Vancouver Police Department's and the Southwest Washington Independent Investigative Response Team's compliance with state laws and rules regarding independent investigations of police use of deadly force as defined in WAC 139-12-030.

Our independent audits provide essential accountability and transparency regarding police use of deadly force investigations. These audits are valuable to the Legislature, law enforcement agencies and the public in assessing police accountability efforts.

If you are a member of the media and have questions about this report, please contact Director of Communications Kathleen Cooper at (564) 999-0800. Otherwise, please contact Use of Deadly Force Investigations Program Manager Michael Huynh at (564) 999-0831.

Pat McCarthy, State Auditor

Olympia, WA

cc: Monica Alexander, Executive Director, Criminal Justice Training Commission

Steve Strachan, Executive Director, Washington Association of Sheriffs and Police Chiefs

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EXECUTIVE SUMMARY

Results in Brief

Southwest Washington Independent Investigative Response Team (SWIIRT) investigators and officers involved in the incident complied with most requirements to ensure the investigation into William Abbe's death was independent, transparent, credible and communicated to the public timely, as state laws and rules require. These actions included, but were not limited to, relinquishing control of the scene to SWIIRT once investigators arrived, maintaining a perimeter around the incident scene, and audio recording interviews with involved officers.

The audit found some instances where SWIIRT did not follow state rules and where it could improve documentation. Specifically, we found SWIIRT did not:

- Select community representatives to participate in the investigation
- Post public updates every week on the investigation's progress
- Maintain documentation showing it notified Abbe's family of significant developments in the case or that it provided advance notice of press releases
- Require investigators to complete conflict of interest forms

Recommendations

We recommend SWIIRT:

- Select community representatives to participate in all police use of deadly force investigations and include them in required processes
- Ensure it provides public updates weekly as required
- Ensure it notifies family members about significant developments in the case and all press releases before sending them to the media, and maintain documentation that it did so
- Update its policy to require all SWIIRT members to complete conflict of interest forms

BACKGROUND

Use of Deadly Force Incident

The following summary of events is based on the investigation's case files:

On April 28, 2020, at around 11:15 a.m., officers from the Vancouver Police Department responded to a call about a man who had hit someone in the head with a metal rod. Officer Sean Suarez arrived first to the scene and found a person on the ground. Officer Suarez said a witness was helping the person on the ground and yelling at a man named William Abbe to get away. Abbe was holding two metal rods. Officer Suarez drew his gun, and ordered Abbe to drop his weapons and back off. Officer Suarez said Abbe backed away and threw one of the metal rods at him, so he retreated to behind his patrol vehicle. Abbe then retrieved the metal rod he threw at Officer Suarez.

Once other officers, including Sgt. Jay Alie and Officer Sammy Abdala, arrived at the scene, they approached Abbe. With guns drawn, they ordered Abbe to drop his weapons, and they retreated when he did not drop them and back away. One of the officers fired a Taser at Abbe, but it did not connect. Sgt. Alie, who was the only officer who had not drawn his gun at this point, separated from the other officers in an attempt to talk to Abbe alone and deescalate the situation.

Officers from the group said Abbe threw a large rock at them, but it did not hit any of them. Sgt. Alie said Abbe started to walk toward him, so he backed up and drew his gun. Sgt. Alie said that he heard Abbe threaten to kill him as he approached, so he shot him in the chest. Abbe then turned toward the other officers, and Sgt. Alie shot him a second time. As Abbe collapsed, Officer Suarez shot at him two times, and Officer Abdala shot at him once when he fell to the ground. After shooting Abbe, the officers approached him and provided first aid. Abbe was transported to a hospital where he died of his injuries. According to the Clark County Medical Examiner's report, police shot Abbe twice in the chest and once in the pelvis.

The Southwest Washington Independent Investigative Response Team (SWIIRT), an independent investigation team (IIT) that investigates police use of deadly force incidents in Clark and Skamania counties, responded to the incident. Investigators from the Clark County Sheriff's Office led the investigation with assistance from the Camas and Battle Ground police departments.

SWIIRT completed the investigation on May 28, 2020, and submitted its case files to the Clark County Prosecuting Attorney's Office. The Clark County Prosecutor requested the Thurston County Prosecuting Attorney's Office look over the case to increase independence. A Thurston county deputy prosecutor reviewed the case and announced on October 7, 2020, that he believed the use of deadly force from the three involved officers was justified, and he would not file charges.

Independent Investigation Teams

Voters approved Initiative 940 in 2018. It ensures that one of an IIT's key functions is to investigate police use of deadly force incidents. The initiative requires investigations of police use of deadly force be conducted by an agency completely independent of the one with the involved officer(s). Regional IITs allow law enforcement agencies to respond quickly to use of deadly force incidents while keeping the involved agency out of the investigation. IITs are made up of command staff, detectives and other crime scene investigators from law enforcement agencies in a given region. An IIT also consists of volunteers, called non-law enforcement community representatives, who help give the community perspective during an investigation.

Washington has 17 IITs throughout the state. Many of these teams existed before recent police reform and accountability laws, including Initiative 940, and allowed law enforcement agencies to pool resources for major investigations. Prohibiting the involved agency from participating in these investigations was meant to improve their impartiality and independence by preventing people who are more likely to have a personal relationship with the involved officers from investigating the incident.

The initiative tasked the Washington State Criminal Justice Commission (CJTC) with adopting rules to govern these investigations. The CJTC adopted Washington Administrative Code (WAC) 139-12-030, which requires independent use of deadly force investigations to meet four key principles:

- Independence – the involved agency cannot have undue influence or the appearance of undue influence on the investigation.
- Transparency – community members are able to assess whether the investigation is conducted in a trustworthy manner and complies with the standards defined in state laws and rules.
- Communication – the IIT must communicate the investigation's progress to the public and family of the person killed or harmed by police use of deadly force.
- Credibility – use of deadly force investigations follow best practices for criminal investigations, and investigators meet necessary training requirements and demonstrate ethical behavior and impartiality.

Audit Objective

State law (RCW 43.101.460) requires the Office of the Washington State Auditor to audit all investigations into police use of deadly force resulting in death, substantial bodily harm or great bodily harm.

To determine whether the Vancouver Police Department and SWIIRT complied with state laws and rules in conducting the investigation of William Abbe's death, we reviewed investigative files related to the case, reviewed training records held by the CJTC and member police agencies, and

interviewed IIT members. We assessed the involved agencies and IIT's compliance with each of the requirements under the key principles in WAC 139-12-030. This included whether the IIT followed the CJTC's published best practices for conducting homicide investigations.

This report outlines the steps they took to meet each of these key principles. **Appendix A** contains information about our methodology.

AUDIT RESULTS

Appendix A outlines our Office's authority and methodology for this audit. In short, state law (RCW 43.101.460) requires the Office of the Washington State Auditor to audit all investigations into police use of deadly force resulting in death, substantial bodily harm or great bodily harm. Our charge is to ensure the investigations complied with relevant rules and laws. The audit only reviewed the investigation. It did not assess the incident itself or whether the use of force was justified.

Independence

To help ensure the investigation was conducted independently of the involved agency, SWIIRT investigators reported that they assumed control of the scene upon arrival and excluded investigators from the Vancouver Police Department. We reviewed investigative reports from SWIIRT's case files and found that around 11:20 a.m., responding officers from the Vancouver Police Department notified dispatch that shots had been fired and to send emergency medical services. Shortly after, several supervisors from the department called the SWIIRT commander notifying him of the shooting. The commander activated SWIIRT around 11:30 a.m. Investigators began arriving on scene around 11:45 a.m. and assumed control of the investigation.

Investigators from the Clark County Sheriff's Office and the Camas and Battle Ground police departments investigated the use of deadly force incident. We did not find evidence that any employees from the Vancouver Police Department took part in the investigation.

Transparency

To help provide transparency in investigations, WAC 139-12-030 requires IITs to include at least two community representatives on investigation teams. Community representatives are volunteers, not law enforcement agency employees, and they provide the community's perspective on key processes in use of deadly force investigations. They are supposed to review potential conflicts of interest between IIT investigators and involved officers, be present at any briefings with the involved agency, have access to the completed investigation file, and be provided a copy of all press releases before they are sent to the media. SWIIRT's member agencies began taking applications for community representatives in early 2020 to comply with the WAC's requirements, but the IIT did not select any to participate in this investigation. This was the first investigation SWIIRT conducted under the new WAC requirements, and at this time, it did not have any guidance from the Criminal Justice Training Commission (CJTC) on how to comply with the state rules.

However, SWIIRT complied with other transparency requirements by making necessary processes and documents public. We verified that SWIIRT posted the names of its command staff, investigators and community representatives online, as well as its policies and procedures. The SWIIRT commander also said the entire case file is available for public disclosure.

Communication

We reviewed investigative reports and found SWIIRT complied with some of the required steps to update the public and Abbe's family on the investigation's progress.

The Clark County Medical Examiner's Office notified Abbe's brother about his death the day after the shooting once it confirmed his identity. The SWIIRT commander assigned a family liaison that day, too. The liaison also spoke to Abbe's brother and sister, and explained that the IIT would release Abbe's name in a press release; he then discussed his role and gave them his contact information. We could not find any documentation that the liaison continued to update the family on the investigation's progress or gave them copies of press releases before sending them to the media, as the WAC requires.

The WAC requires IITs to provide weekly updates to the public on the investigation's progress. SWIIRT issued four press releases over the five-week investigation, missing one required public update.

The WAC also prohibits IITs and involved agencies from providing to the media criminal background about the person who was killed or injured by police use of deadly force. We reviewed each press release and the social media profiles of the Vancouver Police Department and Clark County Sheriff's Office, and did not find any indication that either SWIIRT or the involved agencies provided criminal background information to the media.

Credibility

SWIIRT followed many best practices for homicide investigations required under WAC 139-12-030.

Crime Scene Investigation

We reviewed the investigative files and found responding officers had secured the scene immediately after they arrived. Responding supervisors were able to respond quickly to the scene because the shooting occurred within walking distance of a Vancouver Police Department station. A sergeant arrived shortly before emergency medical services and took over first aid care from officers at the scene. After paramedics arrived, he instructed officers to shut down traffic in the area and put up crime scene tape to establish a perimeter. Responding officers also maintained a log with the names of everyone who entered and exited the scene.

SWIIRT investigators and responding officers took photos of the scene, collected evidence and marked shell casings they found with business cards. They also canvassed the area to find potential video footage of the incident. Witnesses also posted video of the incident on social media, which investigators were able to find and view. They obtained security footage of the initial confrontation between Abbe and the man he struck with the metal rod, as well as cellphone video of the shooting. The involved officers did not wear body cameras, as it was not required by their department.

Interviewing Involved Officers and Witnesses

As recommended by best practice, a responding supervisor directed support officers to take the three involved officers back to the station and keep them in separate rooms. He also directed involved officers to not discuss the incident with anyone. Vancouver Police Department policy prohibits involved officers from meeting collectively with an attorney or any representative before providing an interview or report to investigators. The policy also directs peer support counselors to not discuss any facts about the incident with involved officers.

SWIIRT policy recommends interviewing involved officers and witness officers as soon as possible. However, Vancouver Police Department policy suggests officers involved in a use of deadly force incident not participate in criminal interviews until 48 to 72 hours after the incident. Investigators interviewed all five witness officers the day of the incident. They worked with the involved officers' attorneys to schedule interviews, and interviewed Officer Abdala and Sgt. Alie on May 1, 2020, three days after the incident. They interviewed Officer Suarez on May 4, 2020, six days after the incident. All of the interviews with officers were audio recorded.

SWIIRT investigators also took statements from 12 other people who witnessed the shooting or were in the immediate area.

Case File Integrity

SWIIRT established a process to help prevent information about the investigation from being shared with people outside of the IIT, and to keep prohibited information from being shared with IIT investigators. SWIIRT's protocols direct involved agencies to not provide any prohibited content to the IIT. The protocols allow administrative investigations—those conducted by involved agencies to determine any policy violations—to be conducted concurrently with the IIT's investigation as long as information is not shared between the two teams. However, in practice, member agencies have agreed to start their administrative investigation after the IIT's investigation is completed, which helps prevent potentially prohibited information from being shared.

The SWIIRT commander said that one investigator came across prohibited information taken from a public safety statement, and immediately notified the commander. The investigator was removed from the investigation, which is required by the WAC.

SWIIRT's electronic investigation files can be restricted to specific users and groups to prohibit access to involved agency employees. The SWIIRT commander explained that the system's settings restrict use of deadly force investigation cases to IIT members and evidence technicians.

We requested access logs to the case file to verify that it was restricted, but SWIIRT would not provide them. The SWIIRT commander said he checked with the IIT's IT department to get confirmation that the case files were restricted, and IT staff confirmed it was.

Conflicts of Interest

At the start of the investigation, the SWIIRT commander spoke to each investigator he picked for the team to assess whether they had any conflicts of interest with the involved officers. He determined that there were no conflicts, and directed each investigator to not share any information related to the investigation to people outside of the team. None of the investigators completed the conflict of interest forms required under the WAC. The SWIIRT commander said this was because the CJTC had not yet created a template form for IITs to use.

Misconduct

SWIIRT depends on the chiefs and sheriffs of member agencies to ensure its IIT members are free of misconduct and behavior that would indicate they could not conduct the investigation objectively. Examples of disqualifying conduct could be discriminatory behavior, threats of violence, harassment or falsifying records.

During our interviews, the SWIIRT commander said that when new members join the team, the head of the member agency is responsible for reviewing the prospective member's personnel file and disciplinary records to ensure they do not have any disqualifying behavior or offenses. The chiefs and sheriffs of the member agencies signed letters attesting that each investigator they provided to SWIIRT had histories free of dishonorable behavior and disqualifying misconduct. The rules the CJTC has established do not describe how IITs should verify members' work history.

Ultimately, SWIIRT did not have records we could examine to independently verify that investigators did not have any personal and professional histories of misconduct. In our previous reports on use of deadly force investigations, we recommended the CJTC develop a process to address this.

See **Appendix B** for a complete list of the requirements we reviewed and a summary chart of our audit results.

RECOMMENDATIONS

We recommend SWIIRT:

- Select community representatives to participate in all police use of deadly force investigations
- Ensure it provides public updates weekly as required
- Ensure it notifies family members about significant developments in the case and all press releases before sending them to the media, and maintain documentation that it did so
- Update its policy to require all SWIIRT members to complete conflict of interest forms

INDEPENDENT INVESTIGATION TEAM RESPONSE

SWIIRT did not provide a response to our report or audit recommendations.

APPENDIX A: AUTHORITY, SCOPE OBJECTIVE AND METHODOLOGY

Authority

In 2018, Washington voters passed Initiative 940, which, in part, required investigations of police use of deadly force be conducted by an agency completely independent of one with the involved officer(s). It tasked the Washington State Criminal Justice Commission (CJTC) with adopting rules to govern these investigations. In 2019, the CJTC created a workgroup, including stakeholders from community groups and law enforcement agencies, to adopt rules for independent investigations. The rules were outlined in Washington Administrative Code (WAC) 139-12-030 and took effect in January 2020.

The rules were designed to help ensure investigations are independent, transparent, credible and communicated timely to the public and affected people. The rules define the elements of an independent investigation, and explain the duties of the involved agency and independent investigation team (IIT) after police use deadly force that results in death, substantial bodily harm or great bodily harm. In 2020, the Legislature amended state law (RCW 43.101.460) to require our Office audit investigations into police use of deadly force to ensure compliance with the new rules.

Scope

This audit assessed whether the Vancouver Police Department and the Southwest Washington Independent Investigative Response Team (SWIIRT) complied with state laws and rules regarding the investigation of the use of deadly force that resulted in William Abbe's death. It reviewed whether the law enforcement agencies met the criteria for independent investigations as outlined in WAC 139-12-030.

By law, the audit only reviews the investigation. It did not review the use of deadly force incident, nor assess whether the use of force was justified.

Objective

This audit examined whether the Vancouver Police Department and SWIIRT complied with state laws and rules regarding independent investigations of police use of deadly force.

Methodology

To determine whether the Vancouver Police Department and SWIIRT complied with state laws and rules regarding independent investigations of police use of deadly force, we reviewed investigative files related to the case and interviewed IIT members. We interviewed IIT members to understand their investigative process and how they documented their procedures and findings.

In the case files, we searched for evidence demonstrating the IIT followed the legal requirements. We also reviewed training records from the CJTC and member police agencies.

One major requirement in the credibility section of WAC 139-12-030 is for IITs to follow the CJTC's published best practices for homicide investigations. The CJTC did not publish best practices until September 2020, leaving the IITs without guidance and our Office with no defined criteria for the first eight months of 2020. While this investigation started before September 2020, we decided to apply the requirements from the CJTC's best practices document, as it is a key piece of the WAC and based on generally accepted practices for criminal investigations that all detectives should know and follow. The CJTC has not updated its best practices since originally publishing them.

Our Office also believes it is in the public's interest to not limit the scope of our audits of investigations that occurred before September 2020.

To help conduct these audits, our Office contracted with Public Sector Performance Associates (PSPA). PSPA is a woman and minority-owned business founded in Tampa, Florida, in 2015. Since its founding, PSPA has worked with multiple government entities to conduct performance and compliance audits.

PSPA's business model is centered on the assembly of subcontracted associates with unique and specialized skills. The collective knowledge and expertise of the pooled associates allows them to provide subject matter expertise.

The team assembled for this engagement offers a combination of compliance auditing experience and expertise in use of deadly force investigations. All team members have worked in or for various sectors of government, and have extensive experience in law enforcement and/or compliance auditing in the public sector.

APPENDIX B: WAC 139-12-030 COMPLIANCE SUMMARY

Independence

Requirement	Compliant?
The involved agency and/or other first responders will provide first aid at the scene.	Yes
The involved agency will relinquish control of the scene.	Yes
The involved agency will not participate in the investigation.	Yes
Any specialized equipment belonging to the involved agency will be approved by the community representatives and the independent investigation team (IIT) commander before it is used in the investigation.	Not applicable
Information shared by the IIT to the involved agency will be limited to briefings about the progress of the investigation.	Yes
The IIT commander will honor requests from the involved agency to release body cam video or other investigation information of urgent public interest.	Not applicable

Transparency

Requirement	Compliant?
The policies and operating procedures of the IIT will be available to the public.	Yes
The names of IIT members will be available to the public.	Yes
A minimum of two non-law enforcement community representatives will be assigned to the IIT.	No
The community representatives will:	
<ul style="list-style-type: none"> Participate directly in the vetting, interviewing, and/or selection of IIT investigators. (Existing teams will have until January 2021 to provide necessary information about the qualifications of current IIT investigators to the community representatives for review.) 	Yes
<ul style="list-style-type: none"> Be present at the briefings with the chief or sheriff of the involved agency(ies) 	No
<ul style="list-style-type: none"> Have access to the investigation file when it is completed 	No
<ul style="list-style-type: none"> Be provided a copy of all press releases and communication sent to the media prior to release 	No
<ul style="list-style-type: none"> Review notification of equipment use of the involved agency 	Not applicable

The community representatives will sign a confidentiality agreement at the beginning of the investigation.	No
The IIT will provide public updates about the investigation at a minimum of once per week, even if there is no new progress to report.	No
When an independent investigation is complete, the information will be made available to the public in a manner consistent with applicable state law.	Yes

Communication

Requirement	Compliant?
A family member of the person against whom deadly force has been used will be notified of the incident as soon as possible.	Yes
The IIT will assign a family liaison within the first 24 hours of the investigation.	Yes
The family liaison will keep the family informed about all significant developments in the investigation.	No
The family liaison will give the family and the involved agency advanced notice of all scheduled press releases.	No
Neither the involved agency nor the IIT will provide the media with criminal background information of the person against whom deadly force has been used, unless it is specifically requested, and release of the information is required by the Public Records Act or other applicable laws.	Yes
The involved agency will notify the Governor's Office of Indian Affairs (GOIA) in accordance with RCW 10.114.021 if the person against whom deadly force is used is a member of a federally recognized tribe.	Not applicable
A member of the IIT will be assigned as a tribal liaison within the first 24 hours and keep the tribe (or a representative of the tribe's choice) informed about all significant developments of the investigation.	Not applicable

Credibility

Requirement	Compliant?
The involved agency and other first responders will secure the incident scene and maintain its integrity until the IIT arrives.	Yes
The involved agency and other first responders will locate and preserve evanescent evidence.	Yes
The IIT will follow these accepted best practices for homicide investigations published and annually updated by the Washington State Criminal Justice Training Center (CJTC):	
<ul style="list-style-type: none"> • Until all statements have been taken, involved and witness officers shall not discuss the case with any other witnesses. 	Yes
<ul style="list-style-type: none"> • The involved agency or first responders will separate involved officer(s) and remove them from the immediate scene. 	Yes
<ul style="list-style-type: none"> • The IIT will obtain statements from subjects and witnesses. Audio and/or video recording is preferred and should be attempted. 	Yes
<ul style="list-style-type: none"> • Interviews of involved officers should follow the policies of their individual agency, collective bargaining agreement and case law. 	Yes
<ul style="list-style-type: none"> • Interviews with emergency medical personnel, fire department personnel, and first responding officers should address conditions at the incident scene. 	Yes
<ul style="list-style-type: none"> • The IIT will canvass the immediate area for potential witnesses who have not come forward and obtain information or statements as available. 	Yes
<ul style="list-style-type: none"> • In the event of death, consult with the coroner or medical examiner at the scene and at, or subsequent to, the autopsy. A member of the IIT must attend the autopsy and take all appropriate investigative steps, consistent with other criminal investigations. 	Yes
<ul style="list-style-type: none"> • Until the case file is delivered to the prosecutor, access to the IIT case file should be restricted to the IIT members involved. 	Unable to determine
The IIT commander must create and enforce firewalls, which is a process to prevent information sharing between the IIT from the involved agency, and train all team members to observe them to ensure no IIT member receives any compelled statements of the involved officer(s) or any investigative content that was informed by such compelled statements	Yes
The firewall system and training must ensure that the involved agency is affirmatively advised not to furnish “prohibited content” to the IIT.	Yes

If any member of the IIT receives prohibited information, the investigator receiving the prohibited information must immediately report it to their supervisor and the member must discontinue participation in the investigation.	Yes
At least two community representatives should be assigned to each IIT investigation. The community representatives must have credibility with and ties to communities affected by police use of deadly force.	No
The chiefs, sheriffs and community members of each regional team shall create a transparent process for soliciting names and creating a roster of people willing to serve in this capacity. The IIT community representatives must be chosen from this list by the chief(s), sheriff(s) and community members.	No
All IIT leadership shall be commissioned peace officer(s) with previous experience in criminal investigations.	Yes
Investigators must be employed by a member agency of the IIT.	Yes
Investigators shall be commissioned peace officers in the state of Washington with previous experience as a detective or investigator, or have special skills or experience necessary for the team.	Yes
The chief or sheriff of a member agency and the IIT commander shall review the appointment of their IIT members who have served three years for possible rotation or replacement.	Yes
Lead investigators will be trained in basic homicide investigation, interviewing and interrogation, Law Enforcement Training and Community Safety Act (LETCSA) violence de-escalation and mental health training.	Yes
The IIT shall train as a unit at least annually.	Yes
Investigators assigned to an IIT are expected to have a work history free of serious misconduct and/or a pattern of sustained complaints, as well as a personal history free of demonstrable bias or prejudice against community members that may be affected by the police use of deadly force.	Unable to determine
Within 72 hours of the start of each investigation, investigators and community representatives must complete a “conflict of interest” assessment tool regarding any connection to the officers being investigated.	No
The conflict assessment will be reviewed and discussed by the community representatives and the IIT commander.	No

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The State Auditor's Office is established in the Washington State Constitution and is part of the executive branch of state government. The State Auditor is elected by the people of Washington and serves four-year terms.

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