



Office of the Washington State Auditor
Pat McCarthy

Compliance Audit Report

Reviewing Investigations of Police Use of Deadly Force

Region 3 Critical Incident Investigation Team – The Kathryn Hale Case

**Use of Deadly Force Incident on March 24, 2020, by the Mason County
Sheriff's Office**

Published February 1, 2024

Report No. 1034205



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Office of the Washington State Auditor

Pat McCarthy

February 1, 2024

Sgt. Jeff Rhoades
Region 3 Critical Incident Investigation 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 March 24, 2020, that resulted in the death of Kathryn Hale.

The audit assessed the Mason County Sheriff's Office's and the Region 3 Critical Incident Investigation 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
Kevin Briggs, Assistant State Auditor

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EXECUTIVE SUMMARY

Results in Brief

Region 3 Critical Incident Investigation Team (CIIT) investigators and officers involved with the shooting followed most of the requirements to ensure the investigation into Kathryn Hale'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 of the shooting to CIIT once investigators arrived, maintaining a perimeter around the scene, and canvassing the scene for witnesses.

We found some instances where CIIT did not follow state rules, as well as opportunities where responding officers could have improved their documentation. Specifically, we found CIIT did not:

- Restrict access to the case file to IIT members involved in the investigation
- Maintain documentation to demonstrate Hale's family was notified of all press releases or significant developments in the investigation

Recommendations

We recommend CIIT:

- Ensure it properly limits case file access to CIIT members participating in the investigation, and maintain documentation to demonstrate that it did so
- Ensure it notifies family members about all press releases and significant developments in the case, and maintain documentation that it did so

BACKGROUND

Use of Deadly Force Incident

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

On March 24, 2020, at about 11:45 p.m., Mason County Sheriff's Deputy Dylan Helser was driving his routine patrol when his radar alerted him to a car heading in the opposite direction that was moving unusually slow. As the car neared, Helser read the license plate and saw that it was a partial match to a car he knew was operated by Kathryn Hale, a fugitive in Mason County. Helser turned around and followed the car to confirm his observation. As he closed the gap, the driver shut off the car's headlights, crossed the centerline, and turned sharply into a driveway. Helser followed and parked just behind the car, leaving it little room to maneuver.

As Helser walked toward the car, Hale was getting out of it. Helser used his flashlight to illuminate her face, confirming her identity. He ordered her to show her hands, but she got back into her car. Blocked by a structure in front, Hale backed up her car and hit Helser's patrol car. Making a three-point turn, Hale pulled forward then backed up into the patrol car again. As she made her final pivot toward the road, Hale drove straight toward Helser. While running for cover, Helser fired five or six rounds at Hale. Hale rolled the car forward and pinned Helser briefly against his patrol car. Once Hale drove past the patrol car and Helser's legs were freed, he chased Hale to the end of the driveway. Hale sped into traffic with the car's headlights off, narrowly avoiding another collision. Helser fired three or four more times toward her car. In total, Helser shot at Hale nine times. He then called dispatch to report he had shot at Hale and was going to follow her.

Helser got in his patrol car and caught up to Hale, who was driving at nearly 70 miles per hour. Helser used his car to hit the right rear side of Hale's car, spinning her into a ditch and ending the three-mile chase.

Hale opened her door as Helser took cover behind his patrol car. Helser did not know if Hale was injured, but he ordered her out of the car. Responding deputies from the Mason County Sheriff's Office arrived as Hale fell out of her car on to the ground. The deputies saw blood on her clothes, called for paramedics, and began first aid to a gunshot wound to her face and another on her torso. Paramedics transported her to the hospital where she later died of her injuries. Paramedics also took Helser to the hospital for his injuries.

The Region 3 Critical Incident Investigation Team (CIIT), the independent investigation team (IIT) that investigates police use of deadly force incidents in Grays Harbor, Lewis, Mason, Pacific and Thurston counties, responded to the shooting. Investigators from the Thurston County Sheriff's Office led the investigation with assistance from the Grays Harbor and Lewis county sheriff's offices.

CIIT completed its investigation on April 21, 2020, and submitted its case files to the Thurston County Prosecuting Attorney's Office. On June 9, 2020, the prosecutor's office announced it would not file charges against Helser.

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 Mason County Sheriff's Office and CIIT complied with state laws and rules in the investigation of the death of Kathryn Hale, we reviewed investigative files related to the case, reviewed training records held by the CJTC and member police agencies, and interviewed IIT members, including community representatives. 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 the investigation team 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 assess whether 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 ensure the investigation was conducted independently of the involved agency, CIIT investigators reported that they assumed control of the scene upon arrival and excluded personnel from the Mason County Sheriff's Office. We reviewed CIIT's investigative files and found that Helser notified dispatch about the shooting and subsequent pursuit around 9:50 p.m. Mason County Sheriff leadership contacted the CIIT commander by 10:10 p.m. By 11:35 p.m., CIIT investigators arrived and assumed control of the investigation.

Investigators from the Thurston County Sheriff's Office led the investigation with assistance from the Grays Harbor and Lewis county sheriff's offices. We found no evidence that any Mason County Sheriff's Office employees took part in the investigation.

Transparency

To provide transparency in investigations, WAC 139-12-030 requires IITs to include in each investigation at least two community representatives who have "credibility with and ties to communities impacted by police use of deadly force." 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 complete a confidentiality agreement, be present at any briefings with the involved agency, and have access to the completed investigation file.

CIIT selected two community representatives to participate in the investigation, and they both signed confidentiality agreements within two days of the shooting. We spoke to them to independently verify how CIIT included them in the investigation. They confirmed that CIIT included them in the only briefing to the Mason County Sheriff's Office. The briefing reviewed the investigation's results.

CIIT's confidentiality agreement includes language notifying the community representatives that they have access to the case file upon completion of the investigation. Both community representatives told us that they were given access to the completed file. The CIIT commander also said the entire case file is available to anyone through a public records request, in accordance with state law.

Communication

The WAC requires IITs to communicate with the family of the person who was killed or injured by police use of deadly force. The involved agency or IIT is required to notify the family of the use of force incident, and the IIT is required to provide the family with updates on all significant developments throughout the investigation. Additionally, the WAC requires an IIT to post, at minimum, weekly public updates on the investigation's progress even if there is no new information to report. The community representatives and family are supposed to receive advance notice of each press release.

We reviewed the investigative files and found the Mason County Coroner called Hale's mother the morning of March 25, 2020, to notify her that her daughter had died. CIIT assigned a family liaison within the first 24 hours of the investigation.

The Mason County Sheriff's Office issued one press release the day after the shooting. CIIT issued four more press releases, one for each week of the investigation. The CIIT commander wrote in a narrative report that all public updates were sent to the community representatives on Tuesdays and released on Wednesdays. We spoke to both community representatives, and they confirmed that they reviewed all the press releases before they were published. We could not find documentation showing that CIIT gave Hale's family updates on significant developments or advance notice of press releases.

The WAC also prohibits IITs and involved agencies from providing the media with 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 Mason County Sheriff's Office and the Thurston County Sheriff's Office, and did not find any indication that either CIIT or the involved agency released criminal background information to the media.

Credibility

Crime Scene Investigation

We reviewed the investigative files and found responding officers secured the scene as soon as they arrived. They blocked the road to the scene with patrol vehicles and road flares. The officers also identified witnesses and discovered some had tampered with the scene by picking up shell casings. The officers ordered the witnesses to put the shells on the ground, and then placed yellow crime scene tape around the perimeter of the scene. They also maintained a crime scene log and provided security until CIIT investigators relieved them. CIIT investigators photographed tire tracks and a damaged vehicle at the scene. They interviewed five witnesses who lived near where the shooting occurred, and they found and photographed a shell casing the witnesses had not discovered. Investigators sought access to security camera footage from the scene of the shooting, but were told the cameras did not work because the system's digital video recorder had been stolen.

CIIT investigators photographed Hale's car, located bullet fragments, looked for fingerprints, collected blood samples, marked bullet holes with evidence placards, and traced bullet paths using trajectory rods. Other investigators photographed Helser, inventoried his equipment, and counted the rounds left in his gun. They photographed damage to Helser's patrol car and inventoried its contents. Investigators used a scanner to create a 3D map of the crash scene. The pursuit ended in an uninhabited area with no buildings, traffic cameras or witnesses. The Mason County Sheriff's Office did not have body or vehicle-mounted cameras when the shooting and pursuit occurred.

Interviewing Involved Officers and Witnesses

A Mason County Sheriff's Office supervisor assigned a peer support officer to Helser, and directed him not to discuss the case until CIIT investigators interviewed him. Paramedics took him from the crash scene to the hospital for treatment. Helser was the only officer at the scene of the shooting, so there were no witness officers in this case.

CJTC's best practices recommend that investigators follow the policy of the involved officer's agency. Mason County Sheriff's Office policy says, in part, that an involved officer's request for legal counsel will be accommodated, and the officer shall be given reasonable administrative leave after their involvement in a shooting or death. CIIT investigators interviewed Helser on March 31, 2020, which was seven days after the shooting. Helser's attorney was present during his interview.

Responding officers from the Shelton Police Department and the Mason County Sheriff's Office found and identified five civilian witnesses at the shooting scene. CIIT investigators audio recorded all the statements from Helser, the civilian witnesses, responding deputies and firefighters.

Case File Integrity

To keep investigative information secure, the CIIT commander explained that each member agency has independent records management systems, which prevents an involved agency from having access to any ongoing investigation. He told us that CIIT interpreted the WAC to require IITs to isolate the case file from the involved agency, not anyone who is not assigned to the investigation. CIIT did not have access logs we could review to verify its compliance with this rule.

The WAC prohibits IIT members from remaining on an investigation if they receive compelled information that could contaminate the investigation. During an interview, the CIIT commander explained that the IIT's member agencies do not begin their administrative investigations until the criminal investigation is complete. This ensures that no compelled statements or other information is discovered or created by the involved agency during CIIT's criminal investigation.

Conflicts of Interest

Conflict of interest assessments exist to identify possible conflicts between IIT members and the officer(s) involved in a use of force incident. A conflict of interest may occur when a person's interest or activity influences, or appears to influence, their ability to exercise objectivity or impairs their ability to objectively investigate a police use of force incident. The WAC requires the investigators and community representatives to complete a conflict of interest form within 72 hours of the start of the investigation.

The CIIT investigators completed conflict of interest assessments within two days of the shooting. None of the investigators reported having any conflicts of interest with Helser or Hale. The CIIT commander wrote in a narrative report that he met with the community representatives and provided them with copies of the investigators' conflict of interest forms. They reviewed them and noted that there were no conflicts. Although they did not sign the investigators' forms as reviewers, they told us they reviewed the forms. The community representatives completed their own conflict of interest assessments three days after the shooting.

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

RECOMMENDATIONS

We recommend CIIT:

- Ensure it properly limits case file access to CIIT members participating in the investigation, and maintain documentation to demonstrate that it did so
- Ensure it notifies family members about all press releases and significant developments in the case, and maintain documentation that it did so

INDEPENDENT INVESTIGATION TEAM RESPONSE

Kevin and Michael,

I am in receipt of your four completed SAO Audits of the Region 3 CIIT investigations regarding the officer involved shootings of Sok Chin Son, Kelli Buggs-Jones, Kathryn Hale, and Bret Moore. Having reviewed the proposed reports, I did not find any factual inaccuracies and believe that the SAO team's recitation of the investigations is correct. I would like to take the time to individually address the areas of non-compliance noted in the audits and provide context for each.

Regarding the Kathryn Hale shooting that occurred on 3/24/2020, the audit report indicates CIIT did not:

1. Restrict access to the case file to IIT members involved in the investigation.

The Region 3 CIIT is comprised of investigators from the Grays Harbor, Lewis, Mason, Pacific, and Thurston County Sheriff's Offices. Each of the five member agencies has their own Records Management System (RMS) that they are responsible for maintaining. Each of those systems is independent of one another and are only accessible by members of the respective agency. We believe that the SAO's finding that CIIT needs to restrict access of the case file to IIT members only is an overreach and not what is defined in WAC 139-12-030. Nowhere in WAC 139-12-030 does it say IIT's are required to restrict access to their files to anyone, except the involved agency.

2. Maintain documentation to demonstrate Hale's family was notified of all press releases or significant developments in the investigation.

Region 3 CIIT did assign a Family Liaison as required by WAC 139-12-030 and they did adhere to the requirements of notifying the family in advance of all press releases and significant developments in the case. We were unaware that there would later be a requirement we provide proofs of such adherence in order to satisfy the SAO's audits. In the future, we will strive to provide better documentation on this matter.

Respectfully,

Jeff Rhoades

Detective Sergeant, Mason County Sheriff's Office

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 2021, 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 Mason County Sheriff's Office and the Region 3 Critical Incident Investigation Team (CIIT) complied with state laws and rules regarding the investigation of the use of deadly force that resulted in the death of Kathryn Hale. 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 reviewed 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 Mason County Sheriff's Office and CIIT complied with state laws and rules regarding independent investigations of police use of deadly force.

Methodology

To determine whether the Mason County Sheriff's Office and CIIT 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. We also spoke to the IIT's community representatives to confirm whether they were involved in the required processes of the investigation. 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.

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

APPENDIX B: WAC 139-12-030 COMPLIANCE SUMMARY

Independence

Requirement	Compliant?
The involved agency and/or other first responders will provide or facilitate first aid at the scene if necessary.	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?
A minimum of two community representatives will be assigned to the IIT.	Yes
The community representatives will:	
<ul style="list-style-type: none"> Review conflict of interest statements submitted within 72 hours of the commencement of each investigation 	Yes
<ul style="list-style-type: none"> Be present at the briefings with the chief or sheriff of the involved agency(ies) 	Yes
<ul style="list-style-type: none"> Have access to the investigation file when it is completed 	Yes
<ul style="list-style-type: none"> Be provided a copy of all press releases and communication sent to the media prior to release 	Yes
<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.	Yes
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.	Yes
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 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. 	No
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.	Not Applicable
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 that assesses work and social conflicts and biases.	Yes
The IIT commander will review the conflict of interest assessment within 72 hours of the start of the investigation.	Yes
The community representatives and the IIT commander will discuss the conflict of interest assessments.	Yes

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