



Office of the Washington State Auditor
Pat McCarthy

Compliance Audit Report

Selection and Training Requirements for Independent Investigation Teams

Region 3 Critical Incident Investigation Team

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Office of the Washington State Auditor

Pat McCarthy

April 1, 2024

Sgt. Jeff Rhoades
Region 3 Critical Incident Investigation Team

Report on Selection and Training Requirements Audit

Attached is the official report on our audit of the Region 3 Critical Incident Investigation Team's compliance with state laws and rules defined in WAC 139-12-030 regarding its processes for selecting and training investigators and other team members.

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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TABLE OF CONTENTS

Executive Summary	4
Background	5
Audit Results.....	6
Criminal Justice Training Commission Response	12
Appendix A: Authority, Scope, Objective and Methodology.....	13
Appendix B: WAC 139-12-030 Compliance Summary	14
About the State Auditor's Office.....	16

EXECUTIVE SUMMARY

Results in Brief

The Region 3 Critical Incident Investigation Team (CIIT) complied with most requirements related to selecting and training its members. These requirements included, but were not limited to, ensuring lead investigators met training requirements, allowing community representatives to vet investigators, and having a roster of at least two community representatives.

However, we found some of CIIT's processes did not follow state rules. Specifically, we found CIIT did not:

- Follow a selection process for all CIIT investigators that included a panel interview where each applicant was asked the same questions
- Have a process to verify that investigators had histories free of serious misconduct and demonstrable bias
- Maintain documentation to show the team trained together in 2020 and 2021

We also found that not every sheriff of CIIT's member agencies created a transparent process for selecting community representatives.

Recommendations

We recommend CIIT:

- Create a selection process for all CIIT applicants that includes a panel interview where each applicant is asked the same questions
- Develop and document a process to review investigators' personnel records annually, and require investigators and commanders attest that their histories are free of serious misconduct and bias at the start of every investigation, as required by the Criminal Justice Training Commission's best practices
- Maintain documentation to show that it conducted its required annual training

We also recommend that the sheriffs of each CIIT member agency publish their criteria and selection process for community representatives.

We recommend the Criminal Justice Training Commission update its rules to provide guidance to leaders of independent investigation teams on how to implement an investigator selection process when all member agency detectives are required to serve on the team.

BACKGROUND

Independent Investigation Teams

Voters approved Initiative 940 in 2018. The initiative, in part, requires investigations of police use of deadly force to be conducted by an agency completely independent of the one with the involved officer(s). Its intent was to improve the independence of these investigations by preventing people who were more likely to have a personal relationship with the involved officers from investigating the use of force.

Law enforcement agencies have created 17 regional independent investigation teams (IIT) throughout the state. Many of these teams existed in some form before recent police reform and accountability laws, including Initiative 940, and allowed law enforcement agencies to pool resources for major investigations. When an officer uses deadly force, neighboring law enforcement agencies respond to investigate. IITs allow investigators 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 within the given region. An IIT also consists of volunteers, called community representatives, who help give the community perspective during an investigation. Community representatives are required to participate in certain processes.

The initiative tasked the Washington State Criminal Justice Training Commission (CJTC) with adopting rules to govern independent investigations, as well as the selection and training process for the IITs that conduct them. The CJTC adopted Washington Administrative Code (WAC) 139-12-030, which requires IITs to implement certain processes when choosing investigators and other team members. It also requires members to complete training and have the necessary experience and background to conduct objective and credible investigations.

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. This includes a review of specific team-related requirements, such as the IIT's processes for selecting and training investigators and other members. Our Office reviews these team-related requirements outside of any particular use of force investigation.

To determine whether the Region 3 Critical Incident Investigation Team complied with the team-related requirements in WAC 139-12-030, we reviewed policies, procedures and training records held by the CJTC and member police agencies, and interviewed IIT members and community representatives in November 2023.

Appendix A contains information about our methodology.

AUDIT RESULTS

Region 3 Critical Incident Investigation Team (CIIT) is an independent investigation team that conducts police use of deadly force investigations in Grays Harbor, Lewis, Mason, Pacific, and Thurston counties. It includes investigators from each of these counties' sheriff's offices and the Washington State Patrol.

Because the Washington State Patrol participates in most of the IITs across the state and operates its own IIT independently, we did not assess its compliance in this report. We will evaluate its selection and training processes in a future audit.

Investigators

Selection Process

Because the credibility of investigators is fundamental to independent police use of force investigations, WAC 139-12-030 requires a specific selection process to ensure IIT investigators are properly vetted. IIT commanders must use a panel, consisting of community representatives and IIT members, to interview applicants for investigator positions. The interview questions must be the same for all applicants and pertinent to the investigator role. The IIT commander will consider the panel's recommendations and decide if an applicant is suited for IIT membership.

CIIT rotates the commander role between agencies every one to two years. We contacted representatives from each CIIT member agency who had served as the IIT commander, and compared their selection processes for investigators to the WAC requirements. We did not speak to the Pacific County Sheriff's Office's IIT representative because he did not respond to our inquiry, so all future references in this report to IIT representatives exclude Pacific County.

The CIIT representatives told us their agencies only have a handful of detectives, so they are all active IIT members by necessity. While the Mason County Sheriff's Office requires its detectives to participate in CIIT investigations, the sheriff's offices in Grays Harbor, Lewis and Thurston counties prefer their detectives to volunteer, which all of them do. CIIT's roster does not include any detectives from the Pacific County Sheriff's Office. While none of the CIIT member agencies used an interview panel to select their investigators, CIIT leadership said that they provide the community representatives with the investigators' resumes. Community representatives are also given time to speak with the investigators when they join CIIT or at the start of a new investigation to vet them. We also spoke to several community representatives who confirmed that CIIT leadership allowed them to vet investigators and ask them questions.

The CIIT representatives we spoke with shared the sentiment that the credibility of detectives is well established by the comprehensive process they go through to be selected, vetted and trained as a detective within their agencies. They said this process ensures each detective has the credentials, knowledge, and experience to function as an IIT investigator.

CIIT's member agencies vary in their approach to the WAC requirement to review IIT members who have served three years for possible rotation or replacement. The Grays Harbor County Sheriff's Office representative told us that command staff perform a yearly review of their detectives. The Lewis and Thurston County sheriff's offices rotate their detectives between different divisions in their agencies about every five years. Since these detectives participate in CIIT investigations, they would also be on this same rotation schedule. The Mason County Sheriff's Office does not have a specific review or rotation schedule for its detectives, but the CIIT representative said detectives would not be able to be CIIT investigators if they did not meet the requirements.

Experience

CIIT investigators consist of only detectives who meet the WAC requirements. The WAC requires an IIT investigator to be employed by a member agency and have previous experience as a detective or investigator, or have special skills or experience necessary for the team. All investigators on CIIT's roster are employed by member agencies and have a minimum rank of detective.

Honorable Behavior and Misconduct

The WAC requires IIT investigators to have histories free of serious misconduct or demonstrable bias. CIIT does not have a specific process to verify its investigators' backgrounds. Instead, CIIT relies on its member agencies to make the determination. Examples of disqualifying conduct could be discriminatory behavior, threats of violence, harassment or falsifying records. During our interviews, CIIT representatives said that when new investigators join the team, the member agency is responsible for reviewing the prospective investigator's personnel file and disciplinary records to ensure they do not have any disqualifying behavior or offenses. They also told us that because each member agency employs a relatively small number of detectives, they are well known to command staff, and CIIT would learn of any misconduct quickly.

The Criminal Justice Training Commission's (CJTC) best practices for independent investigations, which were published in September 2023, now require IITs to audit members' personnel records annually for any disqualifying conduct. It also requires the IIT commander to determine whether IIT members have any disqualifying conduct at the start of each investigation.

Community Representatives

Selection Process

The involvement of community representatives is a critical element of transparency in independent investigations. Community representatives are volunteers, not law enforcement agency employees, and they provide the community's perspective on key processes in investigations by reviewing potential conflicts of interest between investigators and involved officers, having access to the completed investigation file, and receiving a copy of all press releases before they are sent to the media. At the time of our audit, CIIT had a roster of 34 community representatives.

The WAC requires a transparent selection process for community representatives, but CIIT's process is inconsistent across its member agencies, and it is not well documented. CIIT policy recommends that each agency create a transparent process for recruiting community representatives, but it does not provide guidance on how to create that process.

CIIT's representatives said they communicate with the public online, but our review of their social media and agency websites found no information about the IIT or the community representative position.

The Mason and Lewis County Sheriff's Office CIIT representatives told us they posted recruitment messages on their social media accounts in late 2019 or early 2020 when they were looking for community representatives, and that their sheriffs personally contacted people they knew from various civic organizations. The Lewis County Sheriff's Office also advertised the position in local newspapers. The Thurston County Sheriff's Office CIIT representative said he was not involved in filling the current roster but was confident that his office would have used its social media accounts to recruit volunteers at that time. The Grays Harbor County Sheriff personally recruited volunteers, according to the current Grays Harbor CIIT representative. While we were not able to interview the CIIT representative from the Pacific County Sheriff's Office, we found the agency had sent a press release to a local news station to request volunteers in September 2020.

We spoke to several community representatives from Lewis, Mason and Thurston counties who participated in CIIT investigations that we previously audited. They all reported living and working in the counties served by CIIT, and most were volunteers with other community organizations such as the Boys & Girls Club or Rotary Club. The community representatives from Lewis County said they learned about the role from social media, while the representatives from the other counties said they were asked by someone from their sheriff's office to apply. The community representatives said they completed a background check and an application or personal information questionnaire as part of the selection process.

Training

Lead Investigator

The WAC requires investigators to have specific training and/or experience to be in a lead investigator role. The lead investigator must complete basic training or have two or more years of relevant experience, and at least eight hours of ongoing advanced annual training related to criminal investigations. The CJTC developed a lead investigator certificate for members of IITs who meet the requirements. The application for the lead investigator certificate was made available in September 2020.

The CJTC maintains a list of certified lead investigators for all IITs. We reviewed that list and found CIIT has a roster of 27 certified lead investigators. The CIIT representatives we spoke to told us that only certified investigators are currently assigned to lead an investigation.

Team Training

Under the WAC, an IIT's members are required to train together at least once annually. We obtained documentation from CIIT that showed the curriculum and attendance rosters for trainings held in 2022 and 2023. The CIIT commander said that the team conducted the required annual training in 2020 and 2021, but he could not find documentation showing the curriculum or training rosters.

Firewalls

IIT commanders must train investigators and their member agencies on firewalls, which are processes to prevent the sharing of prohibited information, such as compelled statements or investigative information stemming from compelled statements, to the IIT by the involved agency.

CIIT's policy prohibits sharing information about an independent investigation with the involved agency, except for limited briefings to the involved agency's sheriff about the progress of the investigation so the sheriff can manage their internal administrative investigation. CIIT policy also calls for appointing a liaison to be the point of contact in the involved agency for the IIT. By policy, the liaison cannot provide information that the IIT commander has not solicited.

The IIT commander told us that it is standard practice for CIIT agencies to delay their administrative investigations until the criminal investigation is complete, which ensures that no prohibited information can be shared. He also said that CIIT stopped limited briefings with the involved agency when the WAC was updated in 2022, which prohibited these briefings.

Public Information

Policies, Operating Procedures & IIT Members' Names

To help provide transparency in investigations, WAC 139-12-030 requires IITs to make publicly available their policies, operating procedures, and members' names, including supervisors, commanders and community representatives.

The CIIT commander told us the IIT's policies and operating procedures are available by public disclosure request. CIIT's member roster is posted on the CJTC's website, but it has not been updated since August 2022.

RECOMMENDATIONS

We recommend CIIT:

- Create a selection process for all CIIT applicants that includes a panel interview where each applicant is asked the same questions
- Develop and document a process to review investigators' personnel records annually, and require investigators and commanders attest that their histories are free of serious misconduct and bias at the start of every investigation, as required by the Criminal Justice Training Commission's best practices
- Maintain documentation showing that it conducted its required annual training

We also recommend that the sheriffs of each CIIT member agency publish their criteria and selection process for community representatives.

We recommend the Criminal Justice Training Commission update its rules to provide guidance to leaders of independent investigation teams on how to implement an investigator selection process when all member agency detectives are required to serve on the team.

CRIMINAL JUSTICE TRAINING COMMISSION RESPONSE



WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION

Monica Alexander, Executive Director

19010 1st Avenue South • Burien, WA 98148 • Phone: 206-835-7300 • www.cjtc.wa.gov

March 20, 2024

The Honorable Pat McCarthy
State Auditor's Office
PO Box 40021
Olympia, WA 98504-0021

Dear State Auditor McCarthy:

Thank you for providing the Washington State Criminal Justice Training Commission (WSCJTC) the opportunity to review and respond to the recommendation in the State Auditor's Office (SAO) compliance audit report "Selection and Training Requirements for Independent Investigation Teams – Region 3 Critical Incident Investigation Team."

The recommendation in the report is to amend Washington Administrative Code (WAC) 139-12-030 to provide guidance to leaders of independent investigation teams (IITs) on how to implement an investigator selection process when all member agency detectives are required to serve on the team. The WSCJTC plans to initiate the negotiated rulemaking process this year. This recommendation will be included and discussed with the Law Enforcement Training and Community Safety Act (LETCSA) statutory stakeholders when WSCJTC engages in negotiated rulemaking.

The five main principles that are fundamental to enhancing public trust in the integrity of independent investigations involving police use of deadly force are independence, transparency, communication, a credible process, and credible investigators. By providing this response to the SAO recommendations, WSCJTC further solidifies these principles and continues to improve the LETCSA IIT program for all impacted stakeholders and Washington residents. WSCJTC appreciates the work of the SAO in auditing the compliance of IITs across the state.

Sincerely,

A handwritten signature in black ink, appearing to read "Monica Alexander".

Monica A. Alexander
Executive Director

cc: Alex Buijs, LETCSA Program Manager
Bart Hayes, Advanced Training Division Manager
Jerrell Wills, Deputy Director

TRAINING THE GUARDIANS OF DEMOCRACY

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 selecting and training investigation team members. The rules were outlined in Washington Administrative Code (WAC) 139-12-030 and took effect in January 2020. In 2021, the Legislature amended state law (RCW 43.101.460) to require our Office to audit independent investigation teams to help ensure compliance with the new rules.

Scope and Objective

This audit examined whether the Region 3 Critical Incident Investigation Team (CIIT) complied with state laws and rules related to selecting and training its team members. The audit assessed CIIT's processes as of November 2023, and reviewed whether it met relevant criteria in WAC 139-12-030.

Methodology

To determine whether CIIT complied with state laws and rules related to selecting and training its team members, we:

- Reviewed the team's policies, procedures and agreements
- Interviewed leadership to understand their processes for selecting and training members
- Interviewed community representatives, when possible, to confirm whether they were involved in required processes for selecting investigators
- Reviewed training records from the CJTC and member police agencies

APPENDIX B: WAC 139-12-030 COMPLIANCE SUMMARY

Member Selection

Requirement	Compliant?
The chiefs and sheriffs shall appoint the IIT leadership team, which may include an IIT commander, assistant commander, or co-commander.	Yes
The IIT supervisors shall be recommended by their agency to the IIT commander.	Yes
IIT 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
Investigators must be employed by a member agency of the IIT.	Yes
All applicants for the investigator position on an IIT are interviewed by a panel consisting of community representatives and other members of the IIT selected by the IIT commander.	No
All applicants shall be interviewed using criteria pertinent for the position of IIT investigator. The same questions should be asked of each applicant.	No
At the conclusion of the panel, the IIT commander shall consider its recommendations and select those best suited for the needs of the IIT.	No
The IIT has at least two community representatives on its roster who have credibility with and ties to communities affected by police use of deadly force.	Yes
The chiefs and sheriffs of each regional team shall create a transparent process for soliciting names and creating a roster of people willing to serve as a community representative.	No
The IIT community representatives must be chosen from this list by the chief(s) or sheriff(s) of member agencies.	Yes
A minimum of two community representatives will be assigned to each IIT to participate directly in vetting, interviewing, and/or selecting IIT investigators.	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.	No

Training and Experience

Requirement	Compliant?
All IIT leadership shall be commissioned peace officer(s) with previous experience in criminal investigations.	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, or have at least two years of full-time criminal investigation experience to substitute. Leads must also have an annual minimum of eight hours in advanced training.	Yes
IIT members who do not meet the training requirement are eligible to participate on the IIT, but not in a lead position.	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
Civilian IIT members (crime scene investigators, evidence technicians, etc.) are not required to obtain the qualified lead investigator certificate, but the IIT leadership shall establish reasonable noncommissioned training requirements through their IIT protocol.	Not applicable
The IIT shall train as a unit at least annually.	Yes
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. The firewall system and training must ensure that the involved agency is affirmatively advised not to furnish “prohibited content” to the IIT.	Yes

Public Records

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

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