



Office of the Washington State Auditor  
Pat McCarthy

## **Compliance Audit Report**

# **Reviewing Investigations of Police Use of Deadly Force**

## **Valley Independent Investigative Team – The Darren Butrick Case**

**Use of Deadly Force Incident on November 4, 2020, by the Kent Police  
Department**

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## Office of the Washington State Auditor

**Pat McCarthy**

May 20, 2024

Assistant Chief Mark Couey  
Valley Independent Investigative 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 November 4, 2020, that resulted in the death of Darren Butrick.

The audit assessed the Kent Police Department's and the Valley Independent Investigative 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  
Isaac Helgren, Detective Sergeant, Des Moines Police Department  
Kevin Briggs, Assistant State Auditor

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## EXECUTIVE SUMMARY

### Results in Brief

Valley Independent Investigative Team (VIIT) investigators and officers involved in the use of force incident complied with many requirements to ensure the investigation of the shooting on November 4, 2020, was independent, transparent, credible, and communicated to the public timely, as state laws and rules require. These actions included, but were not limited to, securing, and maintaining a perimeter around the scene of the shooting, canvassing the area for witnesses, and assigning a family liaison within 24 hours of the start of the investigation.

The audit found some instances where VIIT could improve its documentation to demonstrate compliance. Specifically, we found VIIT did not:

- Maintain documentation to demonstrate that VIIT restricted the case file to only participating investigators
- Maintain documentation to demonstrate all VIIT members completed conflict of interest assessments within 72 hours of the start of the investigation
- Maintain documentation to demonstrate that the VIIT commander and community representatives reviewed the conflict of interest assessments within 72 hours of the start of the investigation
- Maintain documentation to demonstrate the community representatives signed a confidentiality agreement at the beginning of the investigation
- Maintain documentation to demonstrate that it notified the family of all press releases before sending them to the media

We also found that Kent Police Department supervisors did not document whether they directed involved and witness officers to not discuss the incident.

### Recommendations

We recommend VIIT:

- Ensure that access to the case file is properly limited to VIIT members participating in the investigation, and maintain documentation that it did so
- Require all VIIT members to complete conflict of interest assessments within 72 hours of the start of each investigation, and retain the forms
- Ensure the VIIT commander and the community representatives review and discuss conflict of interest forms within 72 hours from the start of the investigation, and maintain documentation that they did so
- Ensure community representatives sign a confidentiality agreement at the beginning of each investigation, and retain the forms

- Ensure it notifies family members about all press releases, and maintain documentation to demonstrate that it did so

We also recommend VIIT's member agencies instruct involved and witness officers not to discuss the case before providing statements to VIIT, and maintain documentation that they did so.

## BACKGROUND

### Use of Deadly Force Incident

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

On November 4, 2020, shortly after 8 p.m., Kent Police officers responded to a 911 call about a domestic violence incident. The caller told the dispatcher that her husband, Darren Butrick, was armed with a rifle and had been drinking and breaking things in the house.

When officers arrived at the home, Butrick's wife was outside the front door asking him to come out. The officers directed her and other family members to move across the street for safety. Officers surrounded the house and tried to call Butrick on the phone. Butrick did not answer the phone and turned off the house's lights. Moments later, officers saw a red laser coming from the house that reflected on a patrol car that several officers were using for cover. The officers yelled for Butrick to come out of the house, then requested a SWAT team respond to the home.

At about 8:30 p.m., Butrick stepped out of his front door and fired his rifle at the officers. Kent officers Roland Heyne, Oscar Rodriguez and Jason Windham fired back, striking Butrick in his chest, left shoulder and forearm, right elbow, and twice in his abdomen. Another officer reported seeing Butrick moving after he collapsed inside the house. The door then shut, blocking their view.

The officers used a loudspeaker to direct Butrick to come out. They also used a drone and the infrared camera on a King County Sheriff's Office helicopter to look in the house for Butrick. SWAT officers arrived in an armored vehicle, and they used it to open the front door to get a clear view of Butrick. SWAT officers entered the home and found Butrick a few feet from the doorway. Paramedics pronounced him dead at the scene.

The Valley Independent Investigative Team (VIIT), which investigates police use of deadly force incidents in southeast King County, responded to the shooting. Investigators from the Des Moines Police Department led the investigation with assistance from the Auburn, Renton, Tukwila, and Port of Seattle police departments.

On January 20, 2021, VIIT gave its case files to the King County Prosecuting Attorney's Office. The prosecutor reviewed the case and announced on July 12, 2023, that she would not file charges against Heyne, Rodriguez or Windham.

### 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 Kent Police Department and VIIT complied with state laws and rules in the investigation of the death of Darren Butrick, 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

VIIT followed the requirements in the WAC to conduct an independent investigation. The case files showed that at about 8:30 p.m., a Kent officer reported the shooting. Around 9:20 p.m., a Kent Police commander alerted a VIIT commander of the shooting. VIIT sent out an alert to its investigators to respond to the shooting, and the team met at city hall for a briefing. The commander gave investigators their assignments, and they headed to the Butrick residence. VIIT investigators took control of the scene by 1:45 a.m.

Investigators from the Des Moines Police Department led the investigation. Investigators from the Auburn, Renton, Tukwila, and Port of Seattle police departments assisted. They excluded Kent Police Department officers from the investigation.

### Transparency

VIIT included two community representatives in its investigation, but records of their involvement are incomplete. WAC 139-12-030 requires at least two community representatives in each IIT investigation. Community representatives are volunteers, not law enforcement agency employees. They provide the community's perspective on key processes in use of deadly force investigations. They must complete a confidentiality agreement, be present at any briefings with the involved agency, and have access to the completed case file.

VIIT was unable to provide documentation showing it included community representatives in some of the required processes. The case file did not indicate whether the community representatives signed confidentiality forms or had access to the case file. VIIT policy states that community representatives have the authority to access the completed case file. We contacted the community representatives for an interview, but they did not respond.

The lead investigator wrote in his narrative report that the community representatives attended a briefing with the Kent Police chief about two weeks after the shooting.



## Communication

VIIT met most of the WAC's communication requirements, but lacked complete records of its contacts with Butrick's family. The WAC requires IITs to communicate with the public and family of the person against whom deadly force has been used. The involved agency or IIT is required to notify the family of the use of force incident, and the IIT is required to update the family on all significant developments throughout the investigation. The WAC also requires an IIT to post, at least weekly, public updates on the investigation's progress even if there is no new information to report. The IIT is supposed to provide the community representatives and the person's family with advance notice of each press release.

VIIT sent 12 press releases to local media outlets during the 11-week investigation, at least one for every week. VIIT also gave advance notice to the community representatives via email.

However, VIIT was less consistent in documenting its communication with the Butrick family. VIIT assigned a family liaison who contacted the family the night of the shooting. The liaison arranged for Butrick's sister to receive updates from VIIT. The liaison's narrative reports indicated that he notified Butrick's sister of four of the 12 press releases. The liaison also informed Butrick's sister of significant events in the investigation. Among those were the release of the body camera footage and the officers' ages and tenure as police officers.

In addition to the communication requirements with the family and public, the WAC prohibits the release of certain information. We found no evidence VIIT or the involved agency violated those rules. IITs and involved agencies cannot provide the media with criminal background information about the person against whom deadly force has been used, unless it is specifically requested and the release of such information is required by law. We reviewed each press release, several online news articles, and the social media profiles of the Kent and Des Moines police departments, and did not find any indication that either the involved agency or the VIIT lead agency released criminal background information.

## Credibility

### Crime Scene Investigation

The Kent Police Department and VIIT investigators followed best practices to preserve evidence. Responding officers secured and photographed the scene. Officers created a perimeter using crime scene tape. Supervisors posted officers outside the crime scene tape and along the perimeter as security. A Kent supervisor briefed the VIIT investigators on the shooting before they took control of the scene.

VIIT investigators photographed and collected evidence from the scene, including blood swabs, Butrick's rifle, eight shell casings fired from Butrick's rifle, and 24 shell casings fired from the three involved officers' weapons. Investigators created a map of the scene using a drone and 3D scanner. They searched surrounding homes and cars for evidence of bullet impacts. They canvassed the neighborhood for witnesses and video footage.

IIT investigators also photographed and inventoried Heyne's, Rodriguez's and Windham's equipment and remaining ammunition at the Kent Police Department. An investigator also secured their body cameras and reviewed the video footage.

### **Interviewing Involved Officers and Witnesses**

Responding Kent Police supervisors did not consistently help ensure – or document their actions to help ensure – involved officers and witnesses could make statements independently. The CJTC's best practices require the involved agency to separate involved officers and remove them from the inner perimeter once the scene is secure. VIIT policy reiterates this requirement. A Kent supervisor took Heyne and Rodriguez from the scene about six minutes after the shooting. Windham remained at the Butrick residence for another 40 minutes. We could not determine from the case file if the officers were separated or assigned peer support.

The case file did not have documentation to show supervisors ordered Heyne, Rodriguez, Windham or the witness officers not to discuss the shooting. The CJTC's best practices prohibit involved and witness officers from discussing the case with other witnesses until they provide statements to the IIT. We reviewed the Kent Police Department's policy, but it did not address whether supervisors should give orders to officers involved in uses of deadly force. A VIIT lead investigator told us it is a standard operating procedure for officers not to discuss such an event. Windham and three witness officers stayed at the scene much longer than Heyne and Rodriguez. We could not verify from the case file that the involved and witness officers did not discuss the shooting. None of the involved or witness officers agreed to an interview with VIIT. However, the Kent Police Department provided the four witness officers' narrative reports to VIIT investigators.

VIIT Investigators completed 12 recorded interviews with other witnesses.

### **Case File Integrity**

We could not verify whether VIIT restricted its case file to only investigators participating in the case, as required by best practice. During an active investigation, the WAC requires IITs to restrict case file access only to IIT members involved with the investigation. VIIT member agencies each maintain their own records management system. This decentralized approach establishes firewalls between each agency and ensures the involved agency will not have access to the case files. As the lead agency, Des Moines held the file in its records management system. The lead VIIT investigator explained that the Des Moines Police Department has a dedicated drive on its server for the detectives. He said all the detectives generally participate in IIT investigations. However, VIIT could not provide access logs for its case file so we could not verify who accessed it.

We found no evidence that VIIT members received prohibited information during the investigation. The WAC prohibits IIT members from remaining on an investigation if they receive compelled information that could contaminate the investigation. The lead detective explained that VIIT member agencies delay their internal investigation until the criminal investigation is finished to prevent contamination of VIIT's investigation.

### **Conflict of Interest**

VIIT did not maintain documentation to show that every member assigned to the case completed conflict of interest assessments. The WAC requires all IIT investigators and community representatives involved in an investigation to complete a conflict of interest assessment within 72 hours of the investigation starting. This assessment should examine possible work and social relationships with the involved officer. It should also explore any potential biases that could affect their objectivity.

The case file did not contain any conflict assessment forms, but one-third of the investigators noted in their narrative reports that they completed an assessment. Without the assessment forms or other documentation, we could not determine that the other investigators or the community representatives completed them, whether the commander and community representatives reviewed each assessment, or that the assessment included all the topics and questions required by the CJTC.

## RECOMMENDATIONS

We recommend VIIT:

- Ensure that access to the case file is properly limited to VIIT members participating in the investigation, and maintain documentation that it did so
- Require all VIIT members to complete conflict of interest assessments within 72 hours of the start of each investigation, and retain the forms
- Ensure the VIIT commander and the community representatives review and discuss conflict of interest forms within 72 hours from the start of the investigation, and maintain documentation that they did so
- Ensure community representatives sign a confidentiality agreement at the beginning of each investigation, and retain the forms
- Ensure it notifies family members about all press releases, and maintain documentation to demonstrate that it did so

We also recommend VIIT's member agencies instruct involved and witness officers not to discuss the case before providing statements to VIIT, and maintain documentation that they did so.

# INDEPENDENT INVESTIGATION TEAM RESPONSE



May 15, 2024

The Honourable Pat McCarthy  
Office of the Washington State Auditor  
PO Box 40021  
Olympia, WA 98504

Dear State Auditor McCarthy,

Thank you for the opportunity to respond to the State Auditor's Compliance Report reviewing the deadly force incident that occurred on November 4, 2020 in Kent, investigated by the Valley Independent Investigative Team (VIIT). The Valley Independent Investigative Team values integrity, credibility, and independence in order to maintain the trust of stakeholders.

This letter is to address audit recommendations that you provided as follows:

- Ensuring that access to the case file is properly limited to VIIT members participating in the investigation, and maintain documentation of such.

*Although no evidence exists that non-VIIT members accessed files, we have worked with our IT department to partition cases within our case management system as well as documenting who is designated VIIT members.*

- Require all VIIT members to complete conflict of interest assessments within 72 hours of the start of each investigation, and retain the forms.

*We will remind investigators of this requirement and always seek full compliance.*

- Ensure the VIIT Commander and the community representatives review and discuss conflict of interest forms within 72 hours from the start of the investigation, and maintain documentation of such.

*We agree that this is important and will be reiterated to commanders and the community representatives who volunteer their time.*

- Ensure community representatives sign a confidentiality agreement at the beginning of each investigation, and retain the forms.



*This will be presented to volunteer community representatives at the onset of investigations.*

- Ensure that VIIT notifies family members about all press releases and maintain documentation to demonstrate that it did so.

*In this investigation, during the required weekly press releases (required even when there is no change in the status of the investigation), one (1) week was missed.*

Lastly, law enforcement agency policies instruct involved and witness officers not to discuss the case with each other (excluding a public safety statement) before providing statements to VIIT. Often this type of guidance is also included in body worn videos worn by supervisors on scene.

The Valley Independent Investigative Team always strives to produce a quality, impartial investigation and appreciated your review of this case in order to maintain the highest standards.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Couey".

Mark Couey  
Assistant Chief

## 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 officers. 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 Kent Police Department and the Valley Independent Investigative Team (VIIT) complied with state laws and rules regarding the investigation of the use of deadly force that resulted in the death of Darren Butrick. 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 Kent Police Department and VIIT complied with state laws and rules regarding independent investigations of police use of deadly force.

## Methodology

To determine whether the Kent Police Department and VIIT complied with state laws and rules regarding independent investigations of police use of deadly force, we reviewed case 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 tried to interview the IIT's community representatives to confirm whether they were involved in 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.



## 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.	<b>Not applicable</b>
The involved agency will relinquish control of the scene.	<b>Yes</b>
The involved agency will not participate in the investigation.	<b>Yes</b>
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.	<b>Not applicable</b>
Information shared by the IIT to the involved agency will be limited to briefings about the progress of the investigation.	<b>Unable to determine</b>
The IIT commander will honor requests from the involved agency to release body cam video or other investigation information of urgent public interest.	<b>Not applicable</b>

### Transparency

Requirement	Compliant?
A minimum of two non-law enforcement community representatives will be assigned to the IIT.	<b>Yes</b>
The community representatives will:	
<ul style="list-style-type: none"> <li>Review conflict of interest statements submitted within 72 hours of the commencement of each investigation</li> </ul>	<b>Unable to determine</b>
<ul style="list-style-type: none"> <li>Be present at the briefings with the chief or sheriff of the involved agency(ies)</li> </ul>	<b>Yes</b>
<ul style="list-style-type: none"> <li>Have access to the case file when it is completed</li> </ul>	<b>Unable to determine</b>
<ul style="list-style-type: none"> <li>Be provided a copy of all press releases and communication sent to the media prior to release</li> </ul>	<b>Yes</b>
<ul style="list-style-type: none"> <li>Review notification of equipment use of the involved agency</li> </ul>	<b>Not applicable</b>
The community representatives will sign a confidentiality agreement at the beginning of the investigation.	<b>Unable to determine</b>
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.	<b>Yes</b>
When an independent investigation is complete, the information will be made available to the public in a manner consistent with applicable state law.	<b>Yes</b>

## 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.	<b>Yes</b>
The IIT will assign a family liaison within the first 24 hours of the investigation.	<b>Yes</b>
The family liaison will keep the family informed about all significant developments in the investigation.	<b>Yes</b>
The family liaison will give the family advanced notice of all scheduled press releases.	<b>Unable to determine</b>
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.	<b>Yes</b>
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.	<b>Not applicable</b>
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.	<b>Not applicable</b>

## 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"> <li>Until all statements have been taken, involved and witness officers shall not discuss the case with any other witnesses.</li> </ul>	Unable to determine
<ul style="list-style-type: none"> <li>The involved agency or first responders will separate involved officer(s) and remove them from the immediate scene.</li> </ul>	Unable to determine
<ul style="list-style-type: none"> <li>The IIT will obtain statements from subjects and witnesses. Audio and/or video recording is preferred and should be attempted.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Interviews of involved officers should follow the policies of their individual agency, collective bargaining agreement and case law.</li> </ul>	Not applicable
<ul style="list-style-type: none"> <li>Interviews with emergency medical personnel, fire department personnel, and first responding officers should address conditions at the incident scene.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>The IIT will canvass the immediate area for potential witnesses who have not come forward and obtain information or statements as available.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>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.</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Until the <b>case file</b> is delivered to the prosecutor, access to the IIT <b>case file</b> should be restricted to the IIT members involved.</li> </ul>	Unable to determine
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.	Unable to determine
The IIT commander will review the conflict of interest assessment within 72 hours of the start of the investigation.	Unable to determine
The community representatives and the IIT commander will discuss the conflict of interest assessments.	Unable to determine

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