

OFFICER INVOLVED USE OF DEADLY FORCE RESPONSE PROTOCOL

This protocol was designed and implemented to assist in providing an objective and thorough investigation of Officer Involved Use of Deadly Force within the Douglas County Sheriff's Office (DCSO.) These investigations are manpower intensive and present a unique set of circumstances. It is the intention of this protocol to make these difficult investigations less traumatic for Officers, ease manpower issues and provide for a team of experienced investigators.

Colorado Revised Statutes 16-2.5-301 Peace Officer-Involved Shooting Investigations – Protocol, requires each Police Department, Sheriff's Office and District Attorney within the state to develop protocols for participating in a multi-agency team, to investigate, evaluate and review the discharge of a firearm by a peace officer that results in injury or death; although it may be beneficial to use such a team to investigate other uses of force or in-custody death investigations.

Therefore, per the Douglas County Sheriff's Office Policy on Use of Force, the Sheriff, Undersheriff or Chief Deputy may request assistance from at least one other outside law enforcement agency to form a team, (Team,) to investigate the use of force by an Officer. This protocol should be considered a guideline.

When requested, a multi-agency team or an additional law enforcement agency will respond, assist in the investigation into the Use of Force, and present the facts to the Sheriff and District Attorney in the most expeditious and transparent manner possible. The individuals chosen for the Team should be experienced and trained investigators in critical incidents and major investigations to provide a highly professional, unbiased, fact finding team, whose goal is to complete a thorough and objective report on the Use of Force by the Officer.

To properly recognize and accommodate the various interests and the various rules of law which may be involved in any incident, investigations of these matters must be performed under three separate investigative formats: (1) Use of Force Investigation (Team), (2) Criminal Investigation of a Suspect (3) Administrative (Internal) Investigation. This protocol will serve to guide the Use of Force Investigation and the interaction between the three separate investigations.

PERSONNEL

The Team shall consist of peace officers and ancillary personnel designated by the Sheriff, Undersheriff or Chief Deputy from the Douglas County Sheriff's Office in conjunction with the assisting Law Enforcement Agency(s.)

A. Chain of Command.

The chain of command for the Team will be as follows:

1. Team Coordinator for the event
2. Lead Investigator
3. Detective/CSI/Traffic Investigators

B. Team Coordinators

Team Coordinators are comprised of command officers (Lieutenant or above) appointed from the outside agency or agencies assisting. Their duties are:

1. Oversee the investigations to which they are assigned
2. Ensure the Sheriff is kept up to date on the investigation
3. Work with the Lead Investigator for sharing of information with the Criminal Investigation and the Administrative Investigation.
4. Arrange for and assist with a presentation for the Sheriff and District Attorney

C. Lead Investigators

A Lead Investigator will be assigned to the event by the Coordinator. The duties of the Lead Investigator are to:

1. Work closely with the Criminal Investigator to complete a thorough investigation.
2. Compile all reports or other information for inclusion in the investigation
3. Complete a summary of the investigation for presentation to the Sheriff and District Attorney.

4. Prepare for and complete the presentation to the Sheriff and District Attorney which includes BWC videos, applicable photos, background information, 911 calls, etc. This will typically be done in a PowerPoint format.

THE USE OF FORCE INVESTIGATION, CRIMINAL INVESTIGATION AND ADMINISTRATIVE INVESTIGATION INTERACTION

- A. The Criminal Investigation and Use of Force Investigation can occur simultaneously. The Use of Force and Criminal Investigation have priority over the Administrative Investigation.
- B. The Use of Force Investigation is performed by the Team made up of criminal investigators from at least one other agency, the DCSO, and if desired, the Colorado State Patrol. This Team should include a legal advisor from the District Attorney's Office. Although the Lead investigator will typically be assigned from an agency other than the DCSO by the chosen Team Coordinator, an investigator from DCSO may assist in all other functions of the investigation.
- C. If it is determined that the Officer violated criminal law, then the Lead Investigator and assigned Team Coordinator for The Team will be responsible for presenting a criminal filing to the District Attorney's office. The investigative materials, reports, and evidence collected during the Use of Force investigation will be turned over to the Criminal Investigators assigned by the DCSO.
- D. All information gathered by the Use of Force/Criminal Investigation will be shared between all investigations. All information gathered from the Use of Force/Criminal Investigation will be shared with the Administrative Investigator. Information protected by Garrity and gathered by the Administrative Investigator will not be shared with the Use of Force/Criminal Investigator.
- E. The Administrative Investigation is conducted by the DCSO for possible Policy and Procedure violations

INTERVIEWING POLICE EMPLOYEES

- A. It is the intent of The Team to only conduct Use of Force investigations and not become involved in administrative review of officer-involved fatalities. It should be made particularly clear to involved officers that “Garrity” advisements do not apply
- B. Interviews should be conducted in a sterile setting, void of interruptions or any audio contamination. Video equipped interview/interrogation rooms offer the most viable setting for the interview. Interviews of involved officers should be videotaped with an audiotape back up whenever possible. Interviews of incident participants and primary witnesses should be audio taped (minimally), and if body cameras are used it is imperative there is sufficient audio ability.
- C. The administrative review team and criminal investigators will be provided with copies of all tapes of interviews. At the end of the criminal interview, the administrative team can conduct their own separate (private) interview with any involved officers or witnesses.
- D. The involved officer is to be informed that the interview is non-custodial and that all his statements are voluntary. Should there be evidence that there was any criminal intent on the officer's part, either before the interview or during the interview, the officer will be advised under Miranda. Should the officer invoke, the interview will conclude, and the Administrative Investigation can proceed under advisement of Garrity. Any incriminating information obtained by the Administrative Investigation under Garrity shall not be disclosed to any member of the Use of Force Team.
- E. Use of Force and Criminal Investigators should be paired up for interviews, if possible, to limit the number of interviews if there is a criminal investigation of a suspect involved.
- E. Research has shown that these types of incidents can be extremely stressful for Officers. Some research indicates a waiting period, or at a minimum, giving the officer a chance to consult with clergy, an attorney, or counselor can be beneficial and will be allowed if requested. A waiting period will not be mandated. The Team coordinator will work with all parties involved to determine when will be the best time to interview the involved officer(s) with

the understanding this may not occur for one or more days after the incident, depending on the circumstances.

- F. A Public Safety Statement directly after the incident, may be used to determine which Officer used deadly force for segregation and coordination of an interview at a later time. An involved officer may be allowed to view body worn camera (BWC) video before a Use of Force Team interview.
- G. Internal Investigations Commanders will not be present at interviews conducted by the Team but may be in an area able to view the Use of Force interview. Typically, Executive or Internal Affairs Commanders may be present initially to determine the welfare of the Employee, weapon reauthorization or administrative leave procedure, but should not be present or involved during the Use of Force Interview other than watching interviews from another room.

INTOXICANT TESTING

Unless circumstances or evidence dictate, or required by law, the Team will not require intoxicant testing.

THE DISTRICT ATTORNEY'S OFFICE

- A. Attorneys from the District Attorney's Office have the following roles in incident investigations:
 - 1. Assist and advise the Team on various criminal law issues which may arise, such as Miranda; voluntariness; search and seizure; probable cause to arrest; detentions and releases; elements of crimes; immunity; and legal defenses.
 - 2. Upon completion of the Criminal Investigation, to analyze the facts of the incident as well as the relevant law to determine if criminal laws were broken, and if so, prosecute as necessary.

REPORT WRITING

- A. All criminal investigators will write reports documenting their participation in the investigation. Each agency assisting may use their own established report writing system and format, but will fully identify themselves, their employing agency and their contact information. Those reports will be submitted to the lead investigator.
- B. The lead investigator for the Team has the ultimate responsibility for report writing and for collecting reports from other agencies. All reports shall be reviewed by the Team Coordinator, or his designee before submission to the District Attorney for review.
- C. Prompt completion and distribution of reports is essential.

FORENSIC LABORATORY PERSONNEL

- A. In general, the scene or scenes associated with The Team incident will typically be processed by The Team's forensic laboratory personnel/CSI from an agency other than the DCSO however this should be coordinated with The Team's Coordinator.
- B. Notwithstanding this general protocol, based upon the nature and location of the incident, as well as the availability of laboratory personnel, the team coordinator may utilize laboratory personnel from the DCSO when appropriate. This decision is to be made by the team coordinator, in consultation with the DCSO, on a case-by-case basis.
- C. Once the evidence is collected and sealed, the DCSO will become responsible for all the future handling, testing, transport, storage and care of the collected evidence.

AUTOPSY

At least one member of each of the Administrative, Investigative and Use of Force team will attend all autopsies, as well as a lab representative who will collect any evidence.

NEWS AND MEDIA

- A. The DCSO will be responsible for all news media relations.
- B. To maintain the integrity of the investigation, all media releases should be reviewed with the team coordinator, the lead investigator, and the District Attorney's Office.
- C. Coroner's Office - Release of information will follow the policy and procedure of the appropriate Coroner's Office, as well as applicable statutes in the C.R.S.

PRESENTATION

After the investigation is completed and submitted to the District Attorney's Office, a presentation will be given to the District Attorney, Sheriff and Command Staff. The presentation will allow for a better understanding to be established for the District Attorney and CEO of the agency. It will also allow for any questions to be asked and answered by the lead investigator or assigned team coordinator.

DEBRIEFING

At the end of an investigation, there will be a debriefing and critique of actions taken. The purpose of this debriefing will be to ensure a thorough and complete investigation has taken place. This meeting will also serve to evaluate and make suggestions to improve the performance of this multi-jurisdictional investigative team.