



OFFICE OF THE DISTRICT ATTORNEY

Fourth Judicial District of Colorado Investigations Division Standard Operating Procedures



Active Date: December 30, 2015

Supersedes Date: May 7, 2013

Number: INV 8-2 DEADLY FORCE INVESTIGATIONS

Purpose: To specify procedures for investigating incidents in which Investigators have used, or attempted to use, deadly force and incidents in which Department personnel have discharged firearms.

Procedure: The Office of the District Attorney shall ensure that a neutral, impartial and thorough investigation of deadly force incidents is conducted. Such an investigation will be conducted in all incidents in which an District Attorney Investigator (DAI) or District Attorney Employee (DAE) discharges a firearm, except under the exclusions listed below, and in all incidents involving the actual or attempted use of deadly force that occur in the course of the DAI or DAE's employment. The purpose of the investigation will be to reconstruct and determine the facts surrounding the incident.

Deadly Force incidents will be investigated by the El Paso County Sheriff's Office (EPSO), or the Colorado Springs Police Department (CSPD), depending on the jurisdiction where the incident occurs. If the incident occurs in Teller County it will be investigated by either EPSO or the CSPD according to their agreed upon rotation.

Notifications: If a DAI or DAE uses Deadly Physical Force on another he/she should immediately notify the law enforcement agency in whose jurisdiction the event occurred. As soon as practical after this, the DAI or DAE must notify the Chief Investigator or a Deputy Chief Investigator that Deadly Physical Force has been used. The Chief Investigator or Deputy Chief Investigator will immediately notify the District Attorney or the Assistant District Attorney and the Chief Deputy District Attorney in charge of homicides. The District Attorney or Assistant District Attorney shall decide and if necessary request the appointment of special prosecutor to assist the agency conducting the investigation.

Definitions: DEADLY FORCE: Deadly force as used in this policy is defined as the intentional use of force which can cause death or serious bodily injury, or which creates a degree of risk that a reasonable and prudent person would consider likely to cause death or serious bodily injury. It may include, but is not limited to; use of firearms, choke holds, and intentional intervention with a vehicle (forcible stops or ramming). When determining whether the use of force, other than the use of firearms, should be considered deadly force, the circumstances surrounding the use of the force will be taken into consideration. The intent of the involved employee(s) action(s) shall also be considered.

SERIOUS BODILY INJURY: Serious bodily injury as defined in CRS 18-1-901 (3) (p), means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.

DISTRICT ATTORNEY INVESTIGATOR: OR DISTRICT ATTORNEY EMPLOYEE: Any DAI or DAE who directly uses or attempts to use deadly force in the course of their employment as outlined above.

Exclusions: Provisions of this policy do not apply to the following, unless the incident involves injury, death, or allegations of DAI or DAE's misconduct:

- Not all uses of Tactical Vehicle Interventions (TVIs) will be considered deadly force. The circumstances surrounding the TVI, injuries sustained and the intent of the Investigator will be considered. A discussion may occur between the CSPD Violent Crimes lieutenant or the EPSO on-call Investigations lieutenant to discuss the specifics of the incident and determine the need for a response.
- Shots discharged by accident that are not an attempted use of deadly force; such as accidental discharges, will be investigated and documented by the Investigator of Employee's chain of command. These investigations will be monitored by, and the results will be submitted to, the Internal Affairs Unit. If an employee discharges his or her weapon by accident and it results in injury or death to another individual, the EPSO Deadly Force Investigations Team (DFIT) or CSPD DFIT will be the investigating agency.
- Shots fired properly at an approved target range.

Liaison Deadly Force Investigation Team (LDFIT): The LDFIT is comprised of the Chief Investigator, the on-call Deputy Chief and one investigator. The LDFIT will assist the agency conducting the investigations with any needs identified. Additionally, they will be afforded the opportunity to shadow the investigation and provide input or voice concerns about investigative direction or internal policy issues that arise. Ultimately, investigative direction will be decided by the agency conducting the investigation Commander.

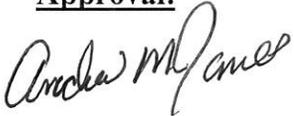
Placements on Administrative Leave: Employee(s) directly involved in the use of deadly force will be placed on administrative leave immediately upon release from duty following the incident and preliminary investigation, but will continue to cooperate fully with the investigation during this leave period. As a general rule, arrangements will be made for involved employee(s) to be off for three (3) full duty days following the date of the incident, which may be a combination of administrative leave and scheduled days off; however, the District Attorney may modify the length of absence on a case by case basis. Employee(s) on administrative leave will be responsible for keeping their chain of command updated on their whereabouts in order that contact may be made when necessary. Administrative leave is not to be confused with suspension, and carries no punitive or disciplinary

consequences. An employee(s) does not need to have discharged their firearm to be considered for administrative leave. A witness employee(s) may be considered for administrative leave based on the overall circumstances and proximity to the involved employee(s) at the time of the incident.

Reports by Investigators: No employee(s) who is directly involved in, or is the subject of an investigation into a deadly force incident shall be required to submit a written report of that incident. However, involved personnel must cooperate fully with the investigation. All other Investigators having any involvement in such an incident will prepare dictated reports detailing their involvement and submit them prior to going off shift that day, unless granted an exception by an involved supervisor or the LDFIT.

Internal Investigation: If preliminary investigation at the scene indicates that significant violations of department policy other than criminal violations may have been committed by involved employees, an internal investigation will be initiated by the Investigations Unit of the District Attorney's Office in consultation with the District Attorney and Assistant District Attorney.

Approval:



Andrew M. James
Chief of Investigations
December 30, 2015