



GENERAL ORDER

Loudoun County Sheriff's Office

Chapter: Operations	Section: 403.12
Subject: Use of Force	Topic: Investigation of Use of Deadly Force
Accreditation: A.05.01, A.05.02, A.05.04,A.06.01	Revised:
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	Review: 01/30/2016

I. PURPOSE

The purpose of this General Order is to provide clear guidelines for response, investigation, and use of incident support services in situations where deputies deploy deadly force against another person or persons.

The Loudoun County Sheriff's Office is committed to providing the highest level of personal support to all deputies and employees involved in deadly force deployment events. Personnel involved in the use of deadly force deployments are human and will most likely experience symptoms that are no different than victims of crimes. Therefore, we must be vigilant in meeting the short and long term support needs of our fellow employees.

This General Order is not intended to replace existing policies which guide specific entities responsible for investigating the incident or providing incident support services to employees or the Department.

II. POLICY

The Loudoun County Sheriff's Office shall thoroughly investigate, both criminally and administratively, all incidents that involve the use of deadly force. Additionally, the Department is responsible for providing incident support services to those who are directly or indirectly involved in the use of deadly force events.

III. DEFINITIONS

A. **Deadly Force:** Deputy's use of force actions likely to result in serious physical injury and/or death. This includes an officer involved shooting and other situations where an officer has deployed some form of deadly force that has resulted in serious physical injury and/or death. All deputy involved shootings shall undergo a complete criminal investigation conducted by the Major Crimes Division.

B. **Relief of Duty:** The responsibility for performing enforcement duties is temporarily removed. This procedure often involves taking the employee's duty weapon for evidentiary purposes. The relief of duty period for all deputy involved shootings will be used to provide services to the affected employee to include mandatory psychological assessments of those who directly or indirectly deployed deadly force by a Department's Psychologist. The purpose of the assessment is to provide all

available services for the wellness of the affected employees.

- C. Administrative Leave: A paid leave status. Administrative Leave will be used to support employees when necessary.
- D. Directly Involved Deputy: A deputy that actually discharged a firearm or deployed another form of deadly force. Deputies who provide tactical support to assist the directly involved deputy's ability to deploy deadly force will also be classified as a directly involved deputy.
- E. Criminal Investigation: The purpose of the criminal investigation is to present all the facts and evidence of the event to the Commonwealth's Attorney in order for a legal decision as to whether or not any violations of criminal law occurred and to determine if the use of deadly force was justified under the law.

Directly involved deputies shall be informed that questioning during the criminal investigation is not undertaken pursuant to an administrative investigation and they are not being compelled to respond under any administrative authority. Directly involved officers can exercise their Constitutional Rights to remain silent and seek the advice/services of an attorney.

- F. Law Enforcement Witness: A deputy, employee, or law enforcement volunteer who is not the directly involved deputy and did not deploy any form of force. Additionally, the law enforcement witness is not the subject of the criminal investigation as they are a mere witness to the event. Although law enforcement witnesses are afforded the ability to exercise their rights against self-incrimination, they must be aware of their employment duties of coordination and cooperation and assistance to fellow officers by providing information. If a law enforcement witness invokes their right against self-incrimination, a supervisor or member of the Internal Affairs Unit can be used to compel information pertaining to the facts and circumstances of the incident.

IV. PROCEDURES

- A. Notifications for Officer Involved Deadly Force Deployment
 - 1. Upon receiving information that a deputy has deployed a form of deadly force (i.e., officer involved shooting), ECC in coordination with the highest ranking shift supervisor shall immediately notify the commanders of the following entities:
 - a. Major of the Criminal Investigations Division
 - b. Internal Affairs Unit

- c. Incident Support Services
- d. Affected department command staff and authorized administrative staff members
- e. Public Information Office

B. Scene Management

1. First line supervisors shall be responsible for initial scene management in accordance with all applicable incident command system protocols used by the department. The scene shall be handled like any other major crime scene and the initial incident commander should ensure at a minimum the following tasks are performed prior to the arrival of CID and Internal Affairs personnel:
 - a. Provide medical attention for all injured parties
 - b. Obtain a brief statement from the directly involved officer regarding the facts and circumstances of the incident related to "hot pursuit- public safety" information
 - c. Identify and secure inner and outer perimeters. Coordinate the deployment of investigative and support resources for the police shooting through the Duty Officer
 - d. Establish a command post
 - e. Establish a staging area
 - f. Establish a PIO area
 - g. When possible, assign a non-involved officer to each involved officer while maintaining continuity of witness separation
 - h. Provide secure and comfortable areas for the involved officers which shield them from the media and other distractions
 - i. Provide incident briefing to CID and Internal Affairs personnel
 - j. Ensure proper reporting of any injuries or exposures
 - k. Provide protection of all physical evidence including police vehicles that were directly involved, which is part of the scene, and leave them in their original position and condition

1. Review staffing needs with the Duty Officer to ensure the scene is adequately staffed and managed, in addition to ensuring the affected service area can meet calls for service needs.
2. If an involved officer requires medical treatment that will necessitate removal of their gun belt, a supervisor shall secure the officer's gun belt and weapon and make sure that treatment is being provided. An uninvolved officer should stay with the officer as medical treatment is being provided. In order to protect evidence on the officers, they should have their weapon de-cocked (do not unload) and holstered, if not already done so. Upon the arrival of Crime Scene Unit (CSU), the firearm and other equipment will be collected at the direction of a CID or Internal Affairs unit. The deputy should not change clothes until directed to do so by the lead CSU investigator, upon completion of all necessary evidence processing of the deputy. If a shotgun, rifle or other projectile instrument/weapon was left at the crime scene, it shall be made safe (do not unload) and left at the scene for documentation and collection by CSU. If another deputy provided close proximity tactical support to the directly involved deputy (i.e. should-to-shoulder), the supporting deputy may be subjected to crime scene process as if they were the directly involved deputy. This action will be taken to ensure the thoroughness of evidentiary collection (i.e. gunshot residue on the supporting deputy's clothing).
3. First line supervisors should exercise prudent judgment to ensure the involved deputy's and law enforcement witnesses are separated and treated professionally. All involved deputies shall be separated to protect the integrity of the investigations to follow. However, first line supervisors should take great care to make sure deputies are not left alone. Supervisors need to make extra efforts to provide for the immediate comfort needs of involved deputies within reason. Generally, first line supervisors should assign a non-involved officer to the involved officers. Additionally, first line supervisors must stress to deputy's assigned to provide peer support that they should not discuss the facts of the incident in order to protect the integrity of the criminal and administrative investigations.
4. The Incident Commander shall ensure arriving CID, and Internal Affairs Unit members are informed of the names and locations of all involved officers.

C. Station Organization

1. In most OIS, after the scene is stabilized and the investigative process begins, deputies directly and indirectly involved will be moved to the nearest station. Depending on the size of the incident this could saturate the facility. Any

supervisor involved in the incident or subsequent investigation must be aware of this potential problem and take steps to minimize the impact on critical operations. The CID commander or designee will logistically manage staff who are directed to the facility. The following are general considerations to manage the sub-station in such an event:

- a. Uninvolved personnel should clear the station
 - b. Employees normally assigned to the station who are not involved should relocate to areas of the station not in use so they do not interfere with the involved deputies and can make available additional office space. Office space will be needed to maintain the separation of the involved deputies and to allow for private consultations
 - c. Do not place deputies in rooms normally used for suspect interviews. The goal is to provide deputies with a comfortable environment at all times
 - d. Do not interrupt involved deputies and CISM personnel while in a private setting
 - e. Generally, a CISM member will assist the affected deputy in notifying of their family members about the incident. At no time should a well-meaning employee call a family member of a deputy involved in a shooting without the knowledge of the deputy.
2. The proper organization of the station can expedite the investigative process while also adding to the emotional recovery of the involved deputies. In most cases first line supervisors will have the first opportunity to organize the station before the station is saturated with investigative personnel, employee groups, legal representation, and others. Upon the arrival of CID, and Internal Affairs additional measures will be taken to ensure the sub-station is organized in a fashion that will not have a negative impact upon the involved employees.

D. Response Roles

1. Although the resource response to an event involving the deployment of deadly force will be comprised of assets from several diverse divisions, the commanders of those divisions shall initially operate under a Unified Command Structure (UCS). Upon the arrival to a stabilized scene, the commander of the Criminal Investigations Division (CID) shall assume the role of the incident commander since the deployment of deadly force requires a criminal investigation. The CID commander shall utilize the UCS concept to ensure the mission of each of the entity roles described below is carried out in an efficient manner.

2. Criminal Investigations Division (CID)
 - a. The Homicide Robbery Section of CID is responsible for conducting the criminal investigation of all officers involved shooting deployments, and deadly force incidents where a person is injured or killed or as otherwise directed. The CID deadly force investigative team is comprised of staff from the Cold Case Squad, Homicide Robbery Section, and Crime Scene Investigation (CSI) and will be supplemented with other personnel as needed for non-law enforcement and suspect interviews.
 - b. Detective Responsibilities
 - i. Detectives will respond to the shooting scene, the hospital, and the sub-stations where the deputies are directed to, in order to conduct interviews of involved deputies. The purpose of the investigation is to determine all the facts, gather all available evidence, and to ultimately present the findings to the Commonwealth's Attorney for criminal review. Both CID detectives and Internal Affairs members may team up and interview witnesses and deputies not directly involved in the incident. Members from the Internal Affairs Unit will not be present for criminal interviews of the directly involved deputies or at any scene walk through by those deputies. All deputies under criminal investigation have a right to legal representation during all criminal interviews if requested.
 - ii. Deputies not directly involved and not under criminal investigation are expected to provide full information to both CID and Internal Affairs.
 - iii. When the Detectives from CID have concluded their criminal investigation, the findings will be presented to the Commonwealth's Attorney. The Commonwealth's Attorney will then issue a ruling as to whether or not the deadly force used was justifiable under criminal Code of Virginia.
 - c. CSU Responsibilities
 - i. CSU will be responsible for all evidence processing related to the crime scene which includes processing each involved deputy as follows:
 - (a) Photographing all deputies involved in the incident as they looked when they responded to the incident
 - (b) Collect directly involved deputy's weapon and magazines

- (c) Photograph and inventory magazines
 - (d) Inspect and document all items on the directly involved deputy's duty belt
 - (e) Inspect and document the weapons of deputies not directly involved in the shooting who were in close proximity of the event
 - (f) Collect involved deputies' uniform
 - (g) Arrange for function test of the weapons.
- ii. CSU will attempt to process deputies promptly to foster deputy comfort as OIS scenes are often complex and take many hours to process. The processing of deputies will be coordinated by the lead CID and Internal Affairs Unit. The lead CID detective or Internal Affairs Unit shall inform the deputy of the procedures they will undergo by CSU detectives. CSU detectives should not question the directly involved officer regarding the incident.
3. Internal Affairs Unit (IA)
- a. The Internal Affairs Unit is responsible for the administrative investigation of all police shootings. Staff from the Internal Affairs Unit shall be responsible for relief of duty procedures at all use of deadly force events upon arrival as prescribed by General Orders. The administrative investigation is kept separate from the criminal investigation conducted by CID. Primarily, the Internal Affairs Unit's administrative investigation will focus on such areas as:
 - i. Adherence to Department rules and regulations
 - ii. Determining if the incident was accidental or avoidable
 - iii. Reviewing relevant training issues
 - iv. Examination of supervisory and command decision making factors during the incident
 - v. Coordination of County related legal matters with the County Attorney's Office.
 - b. Members of the Internal Affairs Unit will respond to all police shootings and other significant events where a form of deadly force was deployed resulting

in serious injury and/or death. The head of the Internal Affairs Unit will ensure appropriate staff is deployed to the scene, the hospital, and sub-station(s) where deputies and witnesses are located. Should CID require additional support for the purposes of interviewing witnesses and those deputies not directly involved in the shooting, Internal Affairs staff can be authorized to conduct such interviews.

- c. Based on all available information immediately following the on-scene information gathering, the Internal Affairs supervisor will have the responsibility of determining the duty status of the directly involved deputies.
- d. The Internal Affairs supervisor will ensure that all directly involved deputies and some peripheral deputies involved in the event submit to the required initial consultation with the Department Psychologist. The purpose of a consultation with the Department Psychologist is to provide services to ensure that all involved members have the best support services available to recover from any trauma they may experience.
- e. The Internal Affairs supervisor shall assign a lead detective who shall become one of the main points of contact for the directly involved deputy(s) and will coordinate return to duty criteria, range qualification, equipment replacement or any other issue which may arise following a shooting. The administrative investigation interviews of directly involved deputy(s) will normally start only after CID has completed their investigation. Depending on the nature of the event, it may take the Commonwealth Attorney a significant amount of time to provide a ruling on the use of deadly force. Therefore, generally, the interviews of the directly involved deputies by Internal Affairs Unit may be delayed on a case-by-case basis. Deputies directly involved will remain on administrative leave or a restricted duty status while the case is being investigated. Internal Affairs will stay in contact with the involved deputy during the investigation. Deputies in this status will generally be returned to full duty status once the Commonwealth's Attorney has ruled the application of deadly force will not be prosecuted under the criminal Code of Virginia.

E. Access to Directly Involved Officers

1. The primary need to provide emotional support for all deputies involved in a shooting incident must be balanced with all of the other crucial investigative steps. The following is a standard guideline of who should be allowed access to deputy and in what order, in order to protect the involved deputy from undue

burdens:

- a. CISM team members
 - b. Legal representation, if requested. (Only applies to those who are directly involved)
 - c. CID detectives
 - d. Internal Affairs Unit members. (Only for the purpose of assigning duty status, explaining the investigative process, and possibly issuing a replacement weapon.)
2. Understanding that each scene will be dynamic, all issues related to accessing the directly involved deputy and witness deputies should be coordinated with the CID commander or Internal Affairs at the scene prior to meeting with any of the deputies.

F. After-Action Briefings

1. Various forms of briefings or de-briefings will take place at the scene of the law enforcement use of deadly force for both investigative and incident command management purposes. In order to ensure all investigations are conducted with the highest professional integrity and confidentiality standards, operational related after-action briefings other than those performed by CISM, Internal Affairs Unit, and CID will require pre-authorization from the Major of CID and the Internal Affairs Unit. Requests for division or squad de-briefings shall be made through the appropriate division commander who will then coordinate the request with the commanders of CID and the Internal Affairs Unit. Usually, the CID and Internal Affairs supervisor will not authorize operational after-action debriefings until all criminal and administrative interviews and evidence gathering has concluded and the Commonwealth's Attorney has ruled on the criminal aspects of the event.

G. Public Information Release

1. Public trust is paramount to our mission and to the ongoing support and respect we have long enjoyed within our community. Deputies are entrusted with unique powers and authorities, to include, the power of arrest and the authority to use deadly force to protect themselves or others from death or serious injury, and we, in turn, have a responsibility and duty to be as transparent as possible.
2. Employees should understand that generally, the Public Information Office in

coordination with the Office of the Sheriff will provide information to the media at the scene of the event and as the investigation progresses. Additionally, the CID Major and Internal Affairs Unit will consult with the Sheriff and the affected Chief Deputies to ensure all Department members are provided timely and accurate information as related to the event.

3. The Sheriff will conduct an initial review of each deadly force deployment case to determine whether or not a deputy's name will be released to the media. The review shall include an assessment of all relevant facts and circumstances, to include, an assessment of any known, potential, or suspected articulate, serious or imminent threats to the safety of the deputy, and/or the deputy's family (for example, any overt threats or statements made against a deputy or an officer-involved shooting of a known member of a violent criminal gang).
4. Furthermore, a deputy's name would not be released immediately following a use of deadly force incident. Prior to releasing a deputy's name, we must ensure measures have been taken to provide for the welfare of the involved deputy and his or her family; conduct a fair and comprehensive initial investigation of the facts and circumstances; and to present the initial criminal investigation to the Commonwealth's Attorney's Office and await their prosecutorial decision.
5. The following protocols shall be conducted in each case involving the use of deadly force prior to the decision to release the name of a deputy to the media:
 - a. Deputies are to be notified prior to their name being released. This will be done after a threat assessment is completed and the Office of the Commonwealth's Attorney has been afforded appropriate time to review the initial investigation and render a prosecutorial decision.
 - b. Consideration of the welfare of the deputy and his or her family is paramount. As such, the deputy will be provided guidance and support from the Public Information Office prior to and following the release of a deputy's name to prepare them for and assist them with any media attention or inquiries.
 - c. When possible or deemed necessary (and with the deputy's permission and concurrence), the affected deputy's commander shall work with or notify the primary law enforcement agency of the locality of the deputy's residence for their awareness and support if needed or requested.
 - d. A deputy's name will only be released upon the approval of the Sheriff or his/her designee.

V. LEGAL REFERENCES

Code of Virginia § 8.01-400.2

Code of Virginia § 63.2-1509