


Use of Force		
	Deadly Force Incidents	Order 12.102

A. Policy

All shootings by personnel authorized to carry a firearm acting in a law enforcement capacity, all use of force incidents resulting in serious physical injury (as defined in ARS 13-105) or death, and all in-custody deaths will be investigated criminally and/or administratively as determined by an on-duty Commander/Bureau Manager.

B. Definitions

1. Public Safety Statement: A Public Safety Statement is a series of preliminary questions meant to fulfill any exigent need to locate anyone who may be injured and require medical attention, locate any outstanding suspect(s), and identify the location(s) in which the lethal force event occurred. The Public Safety Statement is a compelled statement which must be obtained by a sworn supervisor.
2. Involved Employee: Employee who used or assisted in the use of force on a subject.
3. Witness Employee: Employee who may have been present at the time force was used but was not involved in the application of this force.

C. General Considerations

1. All criminal investigations take precedence over administrative investigations.
2. The East Valley Critical Incident Response Team (EVCIRT) will conduct criminal investigations of deadly force incidents occurring in the city.
3. Generally, the Professional Standards Unit will conduct administrative investigations of deadly force incidents involving City employees.

4. The Chief of Police may request another agency conduct the investigation on the Department's behalf.
5. This protocol should be used to investigate any incident where the actions of a police employee resulted in the death or serious physical injury to another person; or the level of force was significant enough that death or serious physical injury could have reasonably been an outcome.
6. Criminal Investigators will have the first opportunity to interview any involved or witness employees.
 - a. An involved employee will not complete either an original report or a supplemental report in incidents involving the use of deadly force.
 - b. If detectives decline to interview a witness employee, the employee may be directed to complete a written report by the end of their shift.

D. Procedures

1. Involved Employee

- a. When an employee discharges their firearm while in the line of duty either accidentally or officially, the employee will immediately:
 - 1) Determine physical condition of any injured person, as soon as practicable, and render first aid when necessary.
 - 2) Request medical assistance as needed.
 - 3) Notify Dispatch of the incident and location.
 - 4) Notify a supervisor of the incident and location.
 - 5) Protect their weapon for collection by the scene investigator.
 - a) The weapon will be kept in the condition found after the incident.
 - The only exception is for the employee to "check" the safety if necessary.
 - b) The employee will be issued a replacement weapon as soon after the incident as possible.
 - 6) Refrain from discussing the incident with anyone except for supervisory personnel and the Professional Standards Unit.

2. Communications

- a. Communications will dispatch responding units if the situation is continuing.
- b. Communications will notify paramedic and ambulance personnel as needed.
- c. Communications will notify an on-duty supervisor.
- d. Communications will notify the on-duty Lieutenant.
- e. Communications will notify the Communications Shift Supervisor of the incident.

3. Patrol Supervisors

- a. A uniformed patrol sergeant (the involved employee's immediate supervisor, if possible) will:
 - 1) Respond immediately to the scene.
 - 2) Establish control of the scene. Consideration should be given to Incident Command System (ICS), outstanding suspects, victims, and witnesses.
 - 3) Secure a perimeter area.
 - 4) Direct units present at the scene and evaluate the need for additional units.
 - 5) Establish an initial command post, understanding that large vehicles will need to be added to the scene for support.
 - 6) Brief a Patrol Lieutenant on the incident.
 - 7) Assist the involved employee(s) and determine if a Peer Support call-out is appropriate.
 - 8) Establish a media staging area.

b. Public Safety Statements (PSS)

PSS are to be obtained when exigency for the information still exists. Once a scene is stale and the exigency is gone, the purpose of the PSS may no longer be valid. The time in which exigency may remain fluid and articulation will vary from situation to situation.

- 1) An on-scene supervisor will be tasked with the responsibility of obtaining a PSS from officer(s) involved in a lethal force situation.
- 2) Involved employees will consider any answers they provide to supervisor(s) reference a PSS as being compelled information (per *Garritty vs. New Jersey* and *New York vs. Quarles*).
- 3) From a practical standpoint, a formal PSS should only be asked of an involved officer once. Additionally, supervisors should note that some of the needed questions may have already been answered or resolved during the initial response (such as via radio traffic and first utterances upon arrival) and may not require asking repeatedly.
- 4) An officer's responsibility to provide information for a PSS may be contingent upon their ability to do so. Factors such as injury to the officer or ongoing active threats may require that a PSS be postponed until it can reasonably be conducted, and the exigency still exists.
- 5) The supervisor collecting the PSS will not participate as a Peer Support team member at the incident.
- 6) Prior to collecting the PSS from any involved employee, the supervisor obtaining the PSS shall stop the current recording of their BWC but will start a separate BWC recording prior to beginning the PSS.
- 7) Following the conclusion of the PSS, the supervisor shall end the recording specific to the PSS and will then reinitiate normal BWC recording procedures.
- 8) In the event of multiple involved employees conducting PSSs, a separate BWC recording will be made for each individual employees' PSS.
- 9) Supervisors will not deviate from the below statements and questions, unless it can be clearly articulated that the questions are related to the preservation of human life and the prevention of further harm.
 - a) "I am going to ask you questions as the Public Safety Statement. You are compelled to answer these questions so we can preserve life, prevent further injury and protect evidence. I will tell you when we are done with this direct order to respond to these questions for the Public Safety Statement.
 - b) Where did the lethal force event occur?

- c) Do you know of anyone to be injured? If so, what is their location?
- d) If you fired a weapon, what direction did you fire your weapon?
- e) Were other officers also involved (who)?
- f) Are any suspects/investigative leads outstanding? If "yes":
- g) Could they pose a threat to the Community or first responders?
- h) Do you believe they were armed with a weapon (type)?
- i) If a gun, do you believe they fired their weapon? If so, what direction?
- j) What is their description?
- k) What is their last known location and direction of travel?
- l) What is their mode of travel, and how long have they been gone?
- m) Other than what is contained in the identified scene(s), are there other known items of evidence that need to be protected/preserved?
- n) Did you observe any witnesses (if so, their location)?
- o) Any other information to share that would assist in keeping the public safe?
- p) "This concludes the Public Safety Statement, and any instruction given just now that you be compelled to answer further questions is now rescinded."

10) If an employee refuses to answer questions after the supervisor reads the PSS, the supervisor will advise the employee they are violating a direct order and will face discipline if they do not respond.

- a) Supervisor will NOT ask involved officer(s) WHY they took the actions they did, as that is not information that is needed to fulfill the spirit of what a PSS is.
- b) The supervisor tasked with collecting the PSS will have the immediate responsibility of following up on the information received, so that life can be preserved, scene(s) can be secured, and further harm can be prevented.

- c) The supervisor will further be required to report any responses received to arriving investigators, as well as documenting responses in a supplemental report appropriately. The supplemental report will clearly indicate that the supervisor received this specific information through a compelled instruction being given to the involved employee(s).

4. Patrol Lieutenant/Commander

- a. Once briefed of the facts of the incident the Patrol Lieutenant/Commander shall notify the following personnel:
 - 1) On-call/On-duty Criminal Investigations Bureau (CIB) Sergeant.
 - 2) Patrol Division Assistant Chief.
 - 3) On-call PIO.
 - 4) Personnel Services Bureau Commander/Manager.
 - 5) Legal Advisor.
 - 6) Association President or representative if applicable.
- b. Ensure that all involved officers and witnesses are located and kept separate pending interview by CIB personnel or other investigating agency.
- c. Oversee the initial locating and preservation of evidence, for later gathering by investigating personnel.
- d. Render command assistance to assigned investigative personnel.
- e. Ensure a detailed log of the incident to include dates, times, personnel involved in the investigation, and assignments is made.
- f. Review and ensure that the perimeter, command post and media staging areas are adequate to support the needs of the investigation and to prevent hinderance to the investigation.

5. Criminal Investigation Bureau

- a. Investigators will proceed immediately to the scene upon being notified of the incident.

- b. The responding CIB supervisor will be responsible for contacting the appropriate EVCIRT personnel and notifying them of the incident.
- c. A CIB supervisor will be responsible for the crime scene unless another agency takes responsibility over the investigation.
- d. In the event of EVCIRT conducting the investigation, a CIB supervisor will respond to the scene to act as a liaison to EVCIRT and coordinate administrative resources as necessary.
- e. When designated as the primary investigating agency, CIB will conduct a thorough investigation whenever an employee discharges a duty weapon for other than training purposes.
- f. When deadly force is used and/or a death or serious physical injury is involved, a representative from the Maricopa County Attorney's Office will be requested to respond to the scene.
- g. Weapons of the employees involved in a shooting will be turned over to the investigating detective for examination.
- h. Assist with ensuring all involved officers and witnesses are located and kept separate pending interview by CIB personnel or other investigating agency.
- i. The scene will be appropriately processed.
- j. Pre-interviews of witness employees at the scene may be conducted by CIB personnel as a fact-finding mission.
 - Separate interviews will be conducted for each employee.
- k. If patrol officers have already conducted an initial canvass prior to CIB's arrival, a detailed secondary canvass will be initiated to locate additional witnesses, video surveillance camera, or other sources which may have or show pertinent information regarding the incident.
- l. If upon CIB's initial arrival, it is determined Patrol has not yet conducted a canvass, CIB will be responsible for the canvass.
 - Any witness should be brought to the immediate attention of the lead investigator/CIB supervisor.
- m. Witness's will be interviewed prior to interviewing the involved officer unless exigent circumstances exist or determined necessary by CIB

supervisory personnel.

- n. If deemed necessary by the CIB supervisory personnel on the scene, the subject officer may be interviewed prior to the witness employees.
- o. Upon completion of the pre-interviews, the CIB supervisor will conduct an on-scene critique with the criminal investigators and the County Attorney to discuss the facts and circumstances of the case.
- p. Prior to a formal interview with the subject employee, a review should be made to determine whether an admonition of *Miranda* Warnings is appropriate.
 - The decision to read *Miranda* Warnings to the subject employee will be based on the totality of the circumstances and information available at the time of the investigation. Consultation among the Investigating detective(s), CIB supervisor(s) and County Attorney's Office should occur prior to the admonition of rights.
- q. Investigators will take recorded formal statements from every witness.
- r. A detailed report will be completed by CIB personnel and submitted to the County Attorney and the Chief of Police.

6. Professional Standards Unit

- a. Professional Standards Unit personnel will be called to the scene of an employee involved shooting for the following purpose:
 - 1) Be present for scene briefing(s).
 - 2) To gather information for a concurrent administrative investigation.
 - 3) Maintain dialogue with CIB regarding the evidence and documentation CIB intends to collect, outcome of weapon inspection and ammunition count in addition to witness interviews.
 - 4) Conduct a scene walkthrough with the lead case detective (not in the presence of any focus officers) to further understand the facts and circumstances surrounding the incident.
 - 5) May monitor interviews of witnesses, including witness officers and employees.
 - a) Professional Standards Unit investigators will not be directly present during the criminal investigation interview of the officers who are

the subject of the investigation.

- b) Professional Standards Unit personnel shall have access to monitoring rooms to observe the interview and will be afforded the opportunity to provide input as needed. Input will consist of communication between Professional Standards Unit personnel and the case detective and will not occur directly with the involved officer(s).
 - c) The only direct communication between the involved officer(s) and Professional Standards Unit personnel will occur after the service of a Notice of Investigation and the advisement of the Garrity Admonishments. This communication will not occur in the presence of a criminal investigator.
 - d) The Professional Standards Unit will be provided access or digital copies of interviews by the next business day or within 24 hours, whichever comes first.
- b. The Professional Standards Unit shall respond to any other deadly force incident where the actions of a police employee result in the death or serious physical injury to another person.

7. Professional Standards Unit / Training Unit

- Members of the Professional Standards Unit and the Training Unit may participate in a final walkthrough of the scene for the purpose of planning future department training. This walkthrough must be approved by the scene commander and a member of the Professional Standards Unit investigation.

8. Post Incident or Critical Incident Leave

- a. In all incidents involving the use of deadly force, as outlined in [Order 12.101 Use of Force Overview](#), the involved employee(s) and any witness employee(s) approved by the affected Commander/Bureau Manager, will be given post incident leave/administrative leave for seven (7) calendar days and until seen for an individual post critical incident meeting by a department contracted psychologist.
- b. It is the responsibility of the affected employee's Commander/Bureau Manager to ensure the procedures outlined in [Order 01.301 Leaves & Overtime](#) are followed for the duration of the post incident or critical incident leave.