

TITLE: Investigation of Deadly Force
Deployment

SOP NUMBER: 12-045

EFFECTIVE DATE: 01-01-12

REPLACES/RESCINDS:

fcpd sop
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I. PURPOSE

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

The Department is committed to conducting a comprehensive investigation surrounding the use of deadly force and to providing the highest level of personal support to all officers and employees involved in deadly force deployment events. Personnel involved in deadly force deployments may experience emotional and psychological trauma. Although the conduct of a full and complete investigation into the use of deadly force is paramount, investigating entities must also be vigilant in meeting the short and long term support needs of Department members.

This standard operating procedure 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 Police Department 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. DEFINITION of TERMS & RELATED PROCEDURES

Deadly Force: Police 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 police shootings shall undergo a complete criminal investigation conducted by the Major Crimes Division (MCD) pursuant to General Order 540.1, Use of Force, as well as an administrative investigation conducted by the Internal Affairs Bureau (IAB) pursuant to General Order 301, Internal Investigations.

Relief of Duty: An administrative action by a supervisor whereby an employee's official authority is suspended, and the employee is temporarily relieved from performing the duties of his position. As part of the relief process, officers involved in a police shooting incident may have their duty weapon taken for evidentiary purposes.

Administrative Leave: A paid leave status as defined in Fairfax County Personnel Regulation 10.32. Administrative leave will be used to support employees when necessary and in compliance with Fairfax County Personnel Regulation 10.32.

Incident Support Services (ISS): A comprehensive array of employee support services which includes the Peer Support Team, Department psychologist, police chaplains, Family Assistance Support Team (FAST), Employee Assistance Program (EAP), and other contracted services designed to help law enforcement officers, employees, and family members maintain their professional and personal wellness during and following critical incidents. All incident support services are coordinated by the commander of the Administrative Support Bureau.

Directly Involved Officer: An officer that actually discharged a firearm or deployed another form of deadly force. Officers who provide tactical support to assist the directly involved officers' ability to deploy deadly force may also be classified as a directly involved officer.

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 officers 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.

Law Enforcement Witness: An officer, employee, or law enforcement volunteer who is not the directly involved officer 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 Bureau 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

Upon receiving information that an officer has deployed a form of deadly force (i.e. officer involved shooting), the Department of Public Safety Communications (DPSC), in coordination with the on-duty police liaison commander (PLC), shall immediately notify the commanders of the following entities:

- Criminal Investigations Bureau (bureau commander)
- Internal Affairs Bureau (bureau commander)
- Administrative Support Bureau (bureau commander)
- Major Crimes Division, CIB
- Investigative Services Division, CIB
- Investigations Division, IAB
- Incident Support Services
- Affected Department Command Staff and authorized Administrative Staff members
- Public Information Office

B. Scene Management

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 CIB and IAB personnel:

- Provide medical attention for all injured parties.
- Obtain a brief statement from the directly involved officer(s) regarding the facts and circumstances of the incident related to potential public safety concerns or suspect information. The information sought during this brief questioning should be limited to the following:
 - Very brief information that can convey the nature of what occurred.
 - Witnesses that need to be isolated and interviewed.
 - Evidence that needs to be protected.
 - Suspect information and possible direction of travel.
 - Direction of weapon discharge for purposes of checking for other victims/innocent injuries.

- Identify and secure inner and outer perimeters. Coordinate the deployment of investigative and support resources for the police shooting through the duty officer and police liaison commander.
- Establish a command post.
- Establish a staging area.
- Establish a PIO area.
- When possible, assign a non-involved officer to each involved officer while maintaining continuity of witness separation measures until Peer Support Team members arrive to take over the support role.
- Provide secure and comfortable areas for the involved officers to shield them from the media and other distractions.
- Provide incident briefing to CIB and IAB personnel.
- Ensure proper reporting of any injuries or exposures.
- 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.
- Review staffing needs with the duty officer and police liaison commander to ensure the scene is adequately staffed and managed, in addition to ensuring the affected district station can meet calls for service needs.

If an involved officer requires medical treatment that will necessitate removal of his gun belt, a supervisor shall secure the officer's gun belt and weapon and ensure treatment is provided. An uninvolved officer should stay with the injured officer as medical treatment is being provided until relieved by a Peer Support Team member.

In order to preserve evidence, officers who have discharged their duty weapon in a deadly force incident should ensure that their weapon is de-cocked (do not unload) and holstered, prior to relinquishing it to a supervisor. Upon the arrival of Crime Scene Section (CSS) detectives, the firearm and other equipment will be collected at the direction of the CIB detective. The officer should not change clothes until directed to do so by the lead CSS detective. Shotguns, rifles or other projectile instrument/weapons discovered at the scene shall be left in the

condition found at the scene for documentation and collection by the CSS, and should not be unloaded or handled.

If another officer provided close proximity tactical support to the directly involved officer (i.e. shoulder-to-shoulder), the supporting officer may be subjected to crime scene process as if they were the directly involved officer. This action will be taken to ensure the thoroughness of evidentiary collection (i.e. gunshot residue on the supporting officers clothing).

First line supervisors should exercise prudent judgment to ensure the involved officers and law enforcement witnesses are separated and treated professionally prior to the arrival of ISS resources. All involved officers shall be separated to protect the integrity of the investigations to follow. However, first line supervisors should take great care to make sure officers are not left alone. Supervisors need to make extra efforts to provide for the immediate comfort needs of involved officers within reason. Generally, first line supervisors should assign a non-involved officer to the involved officers until relieved by Peer Support. Additionally, first line supervisors must stress to officers 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.

The incident commander shall ensure all arriving ISS, CIB, and IAB commanders or their designees are informed of the names and locations of all involved officers.

C. District Station Organization

After the scene is stabilized and the investigative process begins, officers directly and indirectly involved should be moved to the officer's or employee's district station or assigned facility. Depending on the size of the incident this can easily 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 CIB commander or designee will logistically manage staff who are directed to the police facility. The following are general considerations to manage the district station in such an event:

- Personnel who are not involved in the deadly force event or investigation should remain clear of the station.
- 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 officers and can make additional office space available. Office space will be needed to maintain the separation of the involved officers

and to allow for private consultations between involved officers and their assigned Peer Support Team members or legal counsel.

- Do not place officers in rooms normally used for suspect interviews. The goal is to provide officers with a comfortable environment at all times.
- Do not interrupt involved officers and Peer Support personnel while in a private setting. The Peer Support Team member assigned to each officer will make them aware of the protocols that will follow.
- Generally, a Peer Support Team member will assist the affected officer in notifying their family members about the incident. At no time should an employee call a family member of an officer involved in a shooting without the knowledge of the officer and Peer Support.

The proper organization of the district station can expedite the investigative process while also adding to the emotional recovery of the involved officers. 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 CIB, IAB, and ISS commanders, additional measures will be taken to ensure the district station is organized in a fashion that will not have a negative impact upon the involved employees.

D. Response Roles

Although the resource response to an event involving the deployment of deadly force will be comprised of assets from multiple bureaus, the commanders of those bureaus shall initially operate under a Unified Command Structure (UCS). Once the scene is stabilized, the commander of the Criminal Investigations Bureau (CIB) shall assume the role of the incident commander since the deployment of deadly force requires an initial criminal investigation. The CIB 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. The CIB commander will transfer command of the scene to the commander of the Internal Affairs Bureau when initial scene criminal investigative steps have been concluded to their satisfaction.

1. Incident Support Services (ISS)

The Administrative Support Bureau commander is responsible for the overall administrative and operational command of the ISS team. The ISS team has established protocol for call-outs related to officer involved shootings as depicted

in its standard operating procedures. Peer Support Team members will often arrive on the scene of deadly force deployments prior to other entities because team members are comprised of patrol officers and other sworn personnel who are generally assigned to shift work schedules. Supervisors and commanders who are initially commanding the scene prior to the arrival of CIB and IAB personnel should ensure that Peer Support members are incorporated in the incident command system as they play a critical role in scene stabilization by providing a high level of mental wellness counseling services to affected employees.

Peer Support Team members will treat each contact with the utmost level of confidentiality. Unauthorized disclosure of information concerning specific incidents involving employees learned as a result of Peer Support Team intervention shall not occur unless such disclosure is required due to exigent circumstances, ordered by a court of competent jurisdiction or at the direction of the Chief of Police.

Peer Support Team members shall not be routinely interviewed by investigative authorities concerning matters in which they obtained information as a direct result of their assignment as a Peer Support Team member. Absent exigent circumstances, requests to interview Peer Support Team members regarding information they obtained as a result of a Peer Support assignment shall be directed by the Chief of Police.

Upon the arrival of an ISS command staff officer and/or the commander of the Administrative Support Bureau, a Peer Support Team supervisor will liaison with incident scene commanders to ensure all affected personnel are afforded an immediate opportunity to seek ISS resources. The ISS commander will coordinate the call out of the police psychologist.

The role of the police psychologist in police involved shootings is to make an initial on-scene assessment of the overall emotional well being of the affected officers. This initial emotional assessment will be used to make a recommendation as to whether or not the involved officers will be issued another duty weapon prior to clearing the scene. The police psychologist will provide an initial assessment to the ASB commander or his designee for the purpose of consulting with the CIB and IAB commanders to make a decision as to whether to issue a replacement duty weapon. The police psychologist will also conduct Department mandated follow-up assessments of the involved officers for return to duty decisions with the affected employee's bureau commander.

The following is a brief overview of ISS component roles during the response to the deployment of deadly force.

Peer Support – Team members are responsible for providing emotional support to the officers involved in the deadly force deployment incident. As quickly as possible trained Peer Support members will respond to the location of the involved officers and remain with those officers throughout the investigative process. This will not include being present during CIB interviews or meetings with legal representation. The role of Peer Support is to provide support to the officers. Peer Support will not discuss the incident with the involved officer, offer legal advice, or discuss the incident with anyone beyond the involved officer or the ASB commander, unless the issue relates to harming one's self or others.

Department Psychologist – The Department psychologist shall respond to an incident involving deadly force deployment. The psychologist is responsible for helping the officers understand and deal with the emotional feelings and stress normally associated with a traumatic incident. As noted in the ISS section, the Department psychologist will provide the ASB commander with a generic clinical analysis of the officer's psychological and emotional state in order to assist with the decision to replace the officer's duty weapon prior to their release from the scene.

The psychologist is responsible for the management of follow-up care for the directly involved officer and other personnel. All directly involved officers will be ordered to contact the Department psychologist in the days following the event for the purpose of conducting a return to full duty assessment.

2. Criminal Investigations Bureau (CIB)

The Major Crimes Division (MCD) of CIB is responsible for conducting the criminal investigation of all officer involved deployments of deadly force when injury or death occurs. The CIB-MCD deadly force investigative team is comprised of staff from the Cold Case Squad, Homicide Squad, and Crime Scene Section (CSS) and will be supplemented with other personnel as needed for non-law enforcement and suspect interviews.

Major Crimes Division Responsibilities

Detectives from MCD will respond to the scene where the deadly force was deployed, the hospital, and the district station where the officers are directed, in order to conduct interviews of involved officers and witnesses. The purpose of

the MCD 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 MCD and IAB detectives may team up and interview witnesses and officers not directly involved in the incident. Detectives from IAB will not be present for criminal interviews of the directly involved officers or at any scene walk through by those officers.

The directly involved officers may be requested to provide a brief oral statement during their initial meeting with MCD detectives, which may be in conjunction with a walk through of the scene. A detailed recorded statement will be requested at a later date. Detectives from MCD will normally permit the involved officers to have at least one sleep cycle before requesting the detailed interview.

A directly involved officer and law enforcement witness who provided a taped statement will not be required to complete a written report. All officers under criminal investigation have a right to legal representation if requested.

Officers not directly involved and not under criminal investigation are expected to cooperate fully with the conduct of both the criminal and administrative investigation.

At the conclusion of the criminal investigation, detectives from MCD will present the findings 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 the criminal Code of Virginia.

Crime Scene Section Responsibilities

The CSS will be responsible for all evidence processing related to the crime scene which includes processing each involved officer as follows:

- Photograph all officers involved in the incident.
- Collect directly involved officer's weapon.
- Inspect and document all items on the directly involved officer's duty belt.
- Inspect and document the weapons of officers not directly involved in the shooting who were in close proximity of the event.
- Collect officer's uniform if needed.
- Arrange for function test of the weapons.

In an effort to foster officer comfort, the CSS should process officers promptly. The processing of officers will be coordinated by the lead MCD and IAB detectives. The lead MCD detective shall inform the officer of the procedures

they will undergo by CSS detectives. CSS detectives should not question the directly involved officer regarding the incident beyond issues related to the collection of evidence.

3. Internal Affairs Bureau (IAB)

IAB is responsible for the administrative investigation of all officer involved deadly force deployments. Staff from IAB shall be responsible for determining the duty status of the directly involved officer(s). The administrative investigation conducted by IAB shall be separate from the criminal investigation conducted by CIB. Primarily, the IAB administrative investigation will focus on such areas as:

- Adherence to Department rules and regulations.
- Determining if the incident was accidental or avoidable.
- Reviewing relevant training issues.
- Examination of supervisory and command decision making factors during the incident.
- Coordination of County-related legal matters with the County Attorney's Office.

Detectives from IAB 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 commander of IAB will ensure appropriate IAB staff is deployed to the scene, the hospital, and district station(s) where officers and witnesses are located. Should CIB require additional support for the purposes of interviewing witnesses and those officers not directly involved in the shooting, IAB staff can be authorized to conduct such interviews.

Based on all available information immediately following the on scene information gathering, the IAB commander will have the responsibility of determining the duty status of the directly involved officer. The IAB commander will consult with the CIB commander to determine whether or not the involved officers will have their duty weapon replaced prior to being released from the scene.

The IAB commander will ensure that all directly involved officers and some peripheral officers involved in the event submit to the required initial consultation with the Department psychologist.

The IAB commander shall assign a lead detective who shall become one of the main points of contact for the directly involved officers and will coordinate return to duty hearings, range qualification, equipment replacement or any other issue which may arise following a deadly force deployment event. The administrative

investigation interviews of directly involved officers will normally start only after CIB has completed their investigation. Depending on the nature of the event, it may take the Commonwealth's Attorney a significant amount of time to provide a ruling on the use of deadly force. Therefore, the interviews of the directly involved officers by IAB may be delayed on a case-by-case basis.

During the course of the criminal investigation, directly involved officers will remain either relieved of duty or on an administrative leave status, as directed by their bureau commander.

E. Access to Directly Involved Officer

The need to provide emotional support for officers involved in a deadly force deployment incident must be balanced with the criminal and administrative investigation. In order to facilitate the investigative process and to ensure the emotional and psychological needs of the officers are met, the following guideline shall govern the entities who will have access to the involved officer and the order of the meeting:

- 1) Peer Support Team members.
- 2) Legal representation if requested (only applies to those who are directly involved).
- 3) CIB detective.
- 4) Department psychologist.
- 5) IAB detective (only for the purpose of assigning duty status, explaining the investigative process, and possibly issuing a replacement weapon).

Understanding that each scene will be dynamic, all issues related to accessing the directly involved officers and law enforcement witness officers should be coordinated with the CIB commander at the scene prior to meeting with any of the officers.

F. After-Action Briefings

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 IAB, and CIB will require pre-authorization from the commanders of both CIB and IAB. Requests for division or squad debriefings shall be made through the appropriate bureau commander who will then coordinate the request with the commanders of CIB and IAB. Usually, the CIB and IAB commanders 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

Public trust is paramount to the Department's mission and to the ongoing support and respect of the community. Police officers 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 the Department, in turn, has a responsibility and duty to be as transparent as possible.

Employees should understand that generally, the Public Information Office in coordination with the Chief of Police will provide information to the media at the scene of the event and as the investigation progresses. Additionally, the CIB and IAB commanders will consult with the Chief of Police and the affected Deputy Chiefs of Police to ensure all Department members are provided timely and accurate information as related to the event.

The Chief of Police will conduct an initial review of each deadly force deployment case to determine whether or not an officer'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 articulable, serious or imminent threats to the safety of the officer, and/or the officer's family (for example, any overt threats or statements made against an officer or an officer-involved shooting of a known member of a violent criminal gang).

Furthermore, an officer's name would not be released immediately following a use of deadly force incident. Prior to releasing an officer's name, ISS will ensure that appropriate measures have been taken to provide for the welfare of the involved officer and their family. In addition, an officer's name will not be released until the criminal investigation has been concluded and the Commonwealth's Attorney's Office has made their prosecutorial decision.

The following protocols shall be conducted in each case involving the use of deadly force prior to the decision to release the name of an officer to the media:

- Officers are to be notified prior to their name being released. They will also be afforded, when possible, the opportunity to review the media release. This will only be done after a threat assessment is completed by CIB and the Office of the Commonwealth's Attorney has been afforded appropriate time to review the initial investigation and render a prosecutorial decision.

- Consideration of the welfare of the officer and his or her family is paramount. As such, the officer will be provided guidance and support from the Public Information Office prior to and following the release of an officer's name to prepare and assist him with any media attention or inquiries.
- When possible or deemed necessary (and with the officer's permission and concurrence), the affected officer's commander shall coordinate with CIB to work with or notify the primary law enforcement agency of the locality of the officer's residence for their awareness and support if needed or requested.
- An officer's name will only be released upon the approval of the Chief of Police or his designee.
- The CIB commander shall facilitate the release of the officer's name with the Public Information Office.

H. Post Event Incident – ISS Support Functions

The Administrative Support Bureau commander shall have overall responsibility for the deployment of personnel who comprise the Incident Support Services program for post-event recovery efforts. The goal of the ISS program is to ensure all Department members have access to wellness services in order to recover from traumatic events such as the deployment of deadly force.

Staff from ISS will offer post-event assistance such as:

- Personal family care needs and other personal requests.
- Injury claim coordination with the Risk Management Division.
- Coordination of post-event mandated psychological counseling.

V. LEGAL REFERENCES

- Code of Virginia § 8.01-400.2
- Code of Virginia § 63.2-1509

VI. ACCREDITATION STANDARDS REFERENCE

VLEPSC

ADM.

05.03
18.03
18.04
22.01

This SOP becomes effective January 1, 2012, and rescinds all previous rules and regulations pertaining to the subject.

Issued by:



Chief of Police