

# Officer-Involved Shootings and Deaths

## **305.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting (OIS) or dies as a result of other action of an officer.

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

The policy of the Eagle Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

## **305.2 POLICY**

### **305.3 TYPES OF INVESTIGATIONS**

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

### **305.4 CONTROL OF INVESTIGATIONS**

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

#### **305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS**

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Eagle Police Department would control the investigation if the suspect's crime occurred in Eagle.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

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#### **305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS**

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

#### **305.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION**

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

### **305.5 INVESTIGATION PROCESS**

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

#### **305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES**

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved EPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

#### **305.5.2 SUPERVISOR RESPONSIBILITIES**

Upon arrival at the scene, the first uninvolved EPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
  - 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any EPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
  - 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.

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- (c) Provide all available information to the Shift Sergeant and the Communications Center. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional police officers, preferably EPD members, until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, insure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
  - (a) Each involved EPD officer should be given an administrative order not to discuss the incident with other involved officers or EPD members pending further direction from a supervisor.
  - (b) When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), the department will arrange for a comparable replacement weapon or transported by other officers.

#### 305.5.3 SHIFT SERGEANT RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Shift Sergeant shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police or their designee.

All outside inquiries about the incident shall be directed to the Shift Sergeant. Outside inquiries, not law enforcement, shall be directed to the Public Information Officer.

#### 305.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Investigation Division Commander
- OIS and DEATH INVESTIGATION rollout team (CBI and designated "shoot team" as appointed by the Chief or Lieutenant)
- Outside agency investigators (if appropriate)
- Professional Standards Unit supervisor
- DA Office representative
- Psychological/peer support personnel
- Coroner (if necessary)
- Involved officer's agency representative (if requested)
- Public Information Officer

#### 305.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal representation will be accommodated.

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1. Involved EPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
2. Requests from involved non-EPD officers should be referred to their employing agency.

(b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.

(c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information.

(d) A licensed psychotherapist shall be provided by the Department to each involved EPD officer. A licensed psychotherapist may also be provided to any other affected EPD members, upon request.

1. Interviews with a licensed psychotherapist will be considered privileged.
2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

(e) Communications with a peer support team member will be considered privileged to the extent provided in CRS § 13-90-107.

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Each involved EPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Shift Sergeant to make schedule adjustments to accommodate such leave.

#### **305.6 CRIMINAL INVESTIGATION**

The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the District Attorney's Office to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

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- (a) EPD supervisors and Professional Standards Unit personnel should not participate directly in any voluntary interview of EPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

#### 305.6.1 REPORTS BY INVOLVED EPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved EPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved EPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved EPD officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

#### 305.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.

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1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

(c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

#### **305.6.3 INVESTIGATIVE PERSONNEL**

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Detectives supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Detectives supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Division Commander.

#### **305.6.4 MULTI-AGENCY INVESTIGATION**

Officer-involved shootings that result in injury or death or other uses of force by an officer that result in death shall be investigated by a multi-agency team. The multi-agency team shall include at least one other police or sheriff's agency or the Colorado Bureau of Investigation. The Chief of Police or the authorized designee shall ensure this protocol is posted on the Eagle Police Department website and is available to the public upon request (CRS § 16-2.5-301).

### **305.7 ADMINISTRATIVE INVESTIGATION**

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of involved EPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Professional Standards Unit and will be considered a confidential officer personnel file.

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Interviews of members shall be subject to department policies (see the Personnel Complaints Policy) and applicable laws.

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
  - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
  - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
  - 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.
  - 3. Administrative interviews should be recorded by the investigator. The officer may also record the interview.
  - 4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her Garrity rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
  - 5. The Professional Standards Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
  - 6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
  - 7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

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#### **305.8 AUDIO AND VIDEO RECORDINGS**

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with the approval of the Chief of Police or designee..

Any MAV, body-worn and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or Town Attorney's Office, as appropriate.

#### **305.9 DEBRIEFING**

Following an officer-involved shooting or death, the Eagle Police Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

##### **305.9.1 TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police, along with the incident scene commanding officer, should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

#### **305.10 MEDIA RELATIONS**

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Shift Sergeant, Investigation Division Commander and Public Information Officer in the event of inquiries from the media.

No involved EPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Division Commander.

Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

#### **305.11 LINE OF DUTY DEATHS/ SERIOUS INJURIES**

In the event an employee receives a fatal injury or an injury where a substantial risk of death occurs, a member of Victim Services may be involved with the employee and their family, if requested by the Department or victim family.

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### **305.12 POST INCIDENT SERVICES**

After an Officer Involved Shooting the Eagle Police Department provides the following services:

1. At least one confidential post-incident intervention with a qualified mental health professional in a timely manner following the incident, including through telehealth services;
2. Ongoing confidential mental health services from a qualified mental health professional as needed; and
3. Some form of peer support, such as an agency peer support group or telehealth peer support.

#### **305.12.1 DEFINITIONS**

A "qualified mental health professional" is (1) a person certified and in good standing as a police and public safety psychologist by the American Board of Police and Public Safety Psychology; or (2) a licensed mental health clinician in good standing that has training and experience in the trauma relating to acute traumatic events and is culturally competent in understanding law enforcement work, challenges and stressors.

### **305.13 TEMPORARY LEAVE OR DUTY REASSIGNMENT**

The officer involved in the officer involved shooting will be allowed to receive services and manage the impact of the incident.

### **305.14 RETURN TO DUTY**

The Eagle Police Department will provide ongoing support and services for the involved officer, including the following:

1. A reintegration plan that considers having an officer return to the scene of the incident; fire his or her weapon at the range; and participate in a graded re-entry with a partner; and
2. Ongoing supportive mental health services, including a confidential follow-up by a qualified mental health person or through telehealth services.

Such services, to include a reintegration plan, may be delayed if an officer is charged with a criminal offense related to the officer-involved shooting and/or administrative leave due to an official inquiry into Department or Town policy violation(s) of serious nature as related to the officer-involved shooting.

### **305.15 POST-INCIDENT SERVICES FOR FAMILY**

The family members and significant others of an officer who has been involved in a shooting or deadly use of force should be provided, as department resources reasonably allow (CRS § 16-2.5-403):

- (a) At least one confidential post-incident meeting with a qualified mental health professional (CRS § 16-2.5-402) in a timely manner following the incident, including through telehealth services.

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- (b) Ongoing confidential mental health services from a qualified mental health professional (CRS § 16-2.5-402) as needed, including through telehealth services.
- (c) Peer support, including department peer support or online or telehealth peer support.

#### **305.16 PROTOCOLS FOR RETURN TO DUTY**

The Department shall take steps to facilitate returning department members back to their duty assignments following their involvement in a shooting or deadly use of force, taking into consideration the Department's size and resources (CRS § 16-2.5-403).

##### 305.16.1 REINTEGRATION

Taking into account that involved officers may experience psychological, physical, or emotional reactions, the Department shall implement a reintegration plan that considers having the officer:

- (a) Return to the scene of the incident.
- (b) Fire the officer's weapon at the range.
- (c) Participate in graded re-entry with a companion officer or peer support officer of the officer's choosing.

##### 305.16.2 ONGOING SUPPORTIVE MENTAL HEALTH SERVICES

An officer who has been involved in a shooting or deadly use of force shall be provided ongoing supportive mental health services, including confidential follow-up by a qualified mental health professional (CRS § 16-2.5-402), either in person or through telehealth services.

#### **305.17 POLICY REVIEW**

The Department shall review this policy biennially and make any necessary updates to reflect current best practices and available resources (CRS § 16-2.5-403).