



# PUBLIC INTEGRITY & CIVIL RIGHTS DIVISION

## APPROVED PROTOCOL CRITICAL INCIDENTS GRAND JURY PREPARATION AND INVESTIGATION

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All Dallas County Law Enforcement Agencies have been advised that the Criminal District Attorney's Office will conduct an independent investigation of all officer involved shootings, security guard shootings, less lethal incidents, and any death in custody cases in this county. For purposes of this Protocol, these situations will be referenced as "critical incidents".

### 1. Definitions:

- a. **"Officer involved shooting"** includes any incident in which a peace officer acting within the scope of his/her duties with a law enforcement agency discharges a firearm at an individual, regardless of whether the individual is injured or not.
- b. **"Security guard shooting"** includes any incident in which a security guard acting within the scope of his/her duties discharges a firearm at an individual, regardless of whether the individual is injured or not.
- c. **"Less lethal incident"** includes any incident in which a peace officer or security guard acting within the scope of his/her duties with their respective agency deploys a device identified by law enforcement as a less-lethal device or a less-lethal device that is also defined as a firearm, against an individual that *results in serious bodily injury or death* to the individual.
- d. **"Death in custody"** applies when the deceased individual is (A) under custodial arrest by a peace officer, or (B) under the physical control or restraint of a peace officer.
- e. **"Concise History"** is a report generated by the Law Enforcement Agency of all sustained administrative violations (e.g. "Internal Affairs" sustained findings).

## **2. Law Enforcement Agency Requirements:**

- a. Notify as soon as possible the Chief of the CDA Public Integrity Unit, Jason Fine or, if unavailable, the Chief of CDA Civil Rights unit Patrick Capetillo of the following critical incidents:

**Officer involved shooting**  
**Security guard shooting**  
**Less lethal incident**  
**Death in Custody**

- b. The Law Enforcement Agency will provide 911 calls, body worn videos, in-car videos and any digital media to the District Attorney's Office no later than **12 hours** after the incident.
- c. The Law Enforcement Agency will submit their criminal case file to the District Attorney's Office within **45 days** from the date of incident, unless specific reasons are provided to warrant a delay. Absent an agreement justifying a submission delay beyond 45 days from the incident date, subpoenas may be issued compelling production.

## **3. Criminal District Attorney Requirements:**

- a. The decision to respond to a scene will be made by the Chief of the Public Integrity Division.
- b. The designated on-call investigator will be notified by the Chief of the Public Integrity Division of a critical incident.
- c. It is expected that the on-call investigator will make every effort to respond to the scene within one hour of being notified by the Chief of the Public Integrity Division as to not slow down the active Law Enforcement criminal investigation.
- d. The Chief of the Public Integrity Division or the Chief of Civil Rights Unit will be available by phone if needed by the on-call investigator at the scene.
- e. After clearing the scene, the on-call investigator will log the incident in the District Attorney database for callouts, a Public Integrity Case Number will be generated, and an investigative supplement will be prepared by the on-call investigator and placed into an electronic folder unique to the case.
- d. The on-call investigator will compose an email to CDA Administration summarizing the facts then known to the investigator.
- e. The on-call investigator will make every effort to attend the autopsy of the decedent.

#### **4. Criminal District Attorney Investigation:**

- a. Unless unique circumstances warrant, the Chief of the Civil Rights Unit will assign for investigation, cases in the order in which they occurred. The assigned investigator will conduct an independent investigation of the case. All investigations will be conducted in a uniform and consistent manner.
- b. The lead investigator will contact the injured person, family/attorney of the deceased person(s) and the attorney of the involved officer. If requested the Criminal District Attorney's Office will make the family aware of counseling and other resources available to them.
- c. After assignment, the lead investigator will request from the Law Enforcement Agency the officer's Concise History and will subpoena any relevant historical Internal Affairs issues for review. The DA's office will request that the LEA redact any *Garrity* therein. Upon receipt the lead investigator will have an investigator or prosecutor with no involvement in the matter review and excise any information that falls under *Garrity* and return the remainder of the information to the lead investigator.
- d. The Law Enforcement Agency investigation and the Criminal District Attorney investigation will be integrated into a final, single presentation of all known facts and evidence.
- e. The final presentation will be shared with the Law Enforcement Agency investigator(s) to ensure factual accuracy and completeness and to foster the transparent nature of the investigation for all individuals involved.

#### **5. Briefing to the District Attorney's Administration**

- a. The District Attorney's Administration will be fully briefed on the details and findings of the Criminal District Attorney investigation prior to scheduling and presenting to the Grand Jury.
- b. The briefing will include the Elected Criminal District Attorney, the First Assistant, Deputy Administrator, Division C, the Chief of Public Integrity, the Chief of Civil Rights, and the lead investigator.
- c. Additional participants may be invited by the Administration.

#### **6. Presentment to Grand Jury**

- a. All critical incident cases will be presented to a Grand Jury for their independent consideration.
- b. The injured person or a representative of the decedent's family will be notified of the Grand Jury date. Further, the lead investigator will coordinate with the family representative whether they will be on-site or off-site during the pendency of the presentation and how and to whom the Grand Jury's decision will be communicated.

- c. The lead prosecutor and lead investigator will identify every officer with relevant knowledge of the incident and, if needed, subpoena the witnesses to testify at the presentment date.
- d. The lead investigator will notify the attorney of the officer about the Grand Jury presentation date and afford him/her the privilege of testifying.
- e. The lead prosecutor will call witnesses to testify before the Grand Jury separately. Upon completion of their testimony, each witness will be excused from the Grand Jury chamber, unless the witness is needed to assist the prosecutor with the presentation of the case.
- f. All of the proceedings in the Grand Jury, including the case summary and explanation of the applicable law presented by the District Attorney's Office, will be recorded by a court reporter.
- g. The lead prosecutor will make known all relevant and pertinent facts to the Grand Jury.
- h. If relevant, or the Grand Jury makes a request, the criminal history of the involved party and the concise history of the officer will be made available.
- i. The lead prosecutor will not make a recommendation to the Grand Jury for a no bill or a true bill.
- j. When the Grand Jury has reached a conclusion and reports out a decision, that decision will be received by the lead prosecutor and will be communicated to all relevant parties.
- k. If the case is no billed, the Chief of the Public Integrity Division will order the investigation closed, prepare a no bill letter to the investigating Law Enforcement Agency, and have the file archived.
- l. If the case is true billed, the Chief of the Public Integrity Division will assign the case to a division prosecutor for trial.

## **7. General**

- a. The lead investigator will make every effort to complete and present their assigned case within 90 days of receipt from the Law Enforcement Agency, unless doing so would compromise the integrity of the investigation or otherwise be impracticable to do.
- b. No information about the case will be shared with any other personnel or any person within or outside this Office, unless authorized by the Chief of the Public Integrity Division or by Administration.
- c. In the event of a no-bill, the lead prosecutor and lead investigator may, if requested, meet at a future date with the representative of the family to discuss the combined investigations and answer any questions within the scope of the law and evidence.
- d. In no situation will any part of either the Criminal District Attorney or Law Enforcement investigation, in the possession of the Criminal District Attorney's Office, be turned over to any representative of the family.
- e. Approved protocol is the standard procedure in effect for all cases. However, each case is different, and departure from standard procedure may be necessary based on a case's unique facts and circumstances.