



# PUBLIC INTEGRITY & CIVIL RIGHTS DIVISION

## APPROVED PROTOCOL

### OFFICER INVOLVED SHOOTINGS AND DEATHS IN CUSTODY GRAND JURY PREPARATION AND INVESTIGATION

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#### 1. Definitions:

- a. Callout: A summoning by a local Law Enforcement Agency (“LEA”) of the District Attorney’s Office Public Integrity Unit to a specialized location.
- b. Response Team: A team from the District Attorney’s Office Public Integrity Unit consisting of at least one prosecutor and one investigator.
- c. Concise History: A report generated by the Law Enforcement Agency of any and all sustained administrative violations (eg. “Internal Affairs” sustained findings).

#### 2. Agency Callout: All Dallas County Law Enforcement Agencies have been advised that the District Attorney’s Office will conduct an independent investigation of all officer involved shootings, security guard shootings, and any death in custody cases in this county.

- a. The mandate for the investigation is that it be transparent, unbiased and independent.
- b. “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, or discharges a device identified by law enforcement as a less-lethal device at an individual that results in serious bodily injury or death to the individual.
- c. “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, or discharges a device identified by law enforcement as a less-lethal device at an individual that results in serious bodily injury or death to the individual. This is considered for purposes of this policy an officer involved shooting.
- d. An individual is “in custody” when he is (A) under custodial arrest by a peace officer, or (B) under the physical control or restraint of a peace officer.

#### 3. Decision for Response: The decision to respond to an Officer involved shooting or death in custody scene will be made by the Chief of the Public Integrity Division, Jason Fine,

(469) 487-9291, the Chief of the Civil Rights Unit, Bryan Mitchell, (469) 673-9062, or at the direction of Administration.

**4. District Attorney Response Team**

- a. Will consist of at least one prosecutor and one investigator.
- b. It will be the responsibility of the person receiving the callout from the Law Enforcement Agency to 1) determine the name and contact phone number of the Law Enforcement Agency representative at the scene and then 2) immediately notify the following: the on call prosecutor and on call investigator. The Chief of the Public Integrity Division will make appropriate assignments of additional prosecutors or investigators as needed.
- c. From the time of the callout, all responding personnel will meet within one hour, or less, at the District Attorney's Office and then travel together to the scene.
- d. All members of the response team will be dressed in professional business attire or other condition appropriate attire.

**5. Scene:** At the scene the lead prosecutor and the lead investigator will engage with the Law Enforcement Agency officials conducting the investigation. All other prosecutors or investigators attending will be in a support or assist capacity.

- a. The Chief of the Public Integrity Division or the Chief of Civil Rights Unit will make contact with and brief the District Attorney and/or the Deputy Administrator, Division C of the situation as soon as practical.
- b. If needed, the Response Team leads will return to the scene within the first 24 hours, and during daylight hours, and review the scene for any relevant evidence that was potentially missed or overlooked by the initial law-enforcement response.
  - i. Notice will be given to the primary investigating law-enforcement agency of our intent to return for the purposes stated.
  - ii. If potential evidence is revealed, the primary investigating law-enforcement agency will be notified and given the opportunity to retrieve the evidence or conduct further investigation. If the primary law-enforcement agency declines to conduct the subsequent investigation or collection of evidence, notify the Chief of Public Integrity will be notified and arrangements will be made accordingly.

**6. Investigation:**

- a. Before receipt of the case file from the Law Enforcement Agency, the case will be logged in the District Attorney database for callouts, a Public Integrity Case Number will be generated and an investigative supplement will be prepared by the responding investigator and placed into an electronic folder unique to the case. The responding investigator will compose an email to DA Administration summarizing the facts then known to the investigator.
- b. To the extent possible, the assigned investigator will attend and monitor the autopsy of the decedent.

- c. The Law Enforcement Agency will provide known crime scene information, 911 calls, body worn cam videos, in car videos and any digital media to the District Attorney's Office no later than 12 hours after the incident.
- d. The Law Enforcement Agency will submit their 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. Any scientific or forensic analysis being conducted, that has not been completed within the 45 days discussed above, shall be submitted to the District Attorney's Office immediately upon receipt by the Law Enforcement Agency.
- e. The lead prosecutor or lead investigator will make contact with the injured person, family/attorney of the deceased person(s) and with the attorney of the involved officer. The goals are to: (1) solicit information and cooperation to enhance the District Attorney investigation; (2) foster an open-line of communication; and (3) ensure that fact witnesses and evidence are presented to the Grand Jury.
- f. If requested the District Attorney's Office will make the family aware of counseling and other resources available to them.
- g. The lead investigator will coordinate with the Law Enforcement Agency to acquire the entire Law Enforcement Agency investigation file.  
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.
- h. 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.
- i. The Law Enforcement Agency investigation and the District Attorney investigation will be integrated into a final, single presentation of all known facts and evidence.
- j. The final presentation will be shared with the Law Enforcement Agency investigator(s) to ensure accuracy and completeness and to foster the transparent nature of the investigation for all individuals involved.

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

- a. The District Attorney's Administration will be fully briefed on the details and findings of the investigation prior to scheduling and presenting to the Grand Jury.

- b. The briefing will include the Elected District Attorney, the First Assistant, Deputy Administrator, Division C, the Chief of Public Integrity, the Chief of the Civil Rights Unit, and the lead investigator.
- c. Additional participants may be invited by Administration.

**8. Presentment to Grand Jury**

- a. All submitted officer involved shooting and death in custody cases will be presented to a Grand Jury for their independent consideration in the manner set forth below.
- b. A presentment date will be sought by the lead prosecutor.
- c. The lead prosecutor and lead investigator will identify relevant fact witness and notify those witnesses of the grand jury date.
- d. The injured person or a representative of the decedent's family will be notified of the Grand Jury date. Further, the lead prosecutor or 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.
- e. The lead prosecutor and lead D.A. investigator will identify relevant testifying experts or consultants and notify these witnesses of the grand jury date.
- f. The lead prosecutor and lead D.A. investigator will identify every officer with relevant knowledge of the incident and, if needed, subpoena the witnesses to testify at the presentment date.
- g. The lead prosecutor and lead D.A. investigator will notify the attorney of the officer about the Grand Jury presentation date and afford him/her the privilege of testifying.
- h. Every effort will be made to keep adverse participants separate during the Grand Jury presentation. The anteroom to the Grand Jury will seat only the minimum number of actual testifying witnesses necessary to avoid delay in the Grand Jury. All other officers will wait in their reserved waiting area on the 10<sup>th</sup> floor. All other civilians will wait either in the adjacent anteroom, the victim waiting room on the 10<sup>th</sup> floor, or some other location. At no time will testifying witnesses have to wait in, or pass through, a hostile or unsafe environment. No attorneys or other agents for any witness or interested party may be in the anteroom, except that the attorney for an actual testifying witness in the Grand Jury may wait in the anteroom for the duration that his/her client is testifying in the Grand Jury Chamber, should they need to confer during testimony.
- i. 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.

- j. 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.
- k. The lead prosecutor will make known all relevant and pertinent facts to the Grand Jury.
- l. 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.
- m. The lead prosecutor will not make a recommendation to the Grand Jury for a no-bill or a true-bill.
- n. At the conclusion of the presentation, all non-grand-jury participants are excused from the chamber and the Grand Jury is invited to deliberate. When the Grand Jury has reached a conclusion and reports out a decision, that decision will be received by the lead prosecutor and communicated to:
  - i. The District Attorney and the Deputy Administrator, Division C or designated member of Administration;
  - ii. The lead detective of the investigating Law Enforcement Agency;
  - iii. The attorney for the officer;
  - iv. The injured person or a representative of the deceased.
- o. If the case is true-billed, the Chief of the Public Integrity Division will assign the case to division prosecutors. 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.

**9. General**

- a. The lead prosecutor will make every effort to present every case within 90 days of receipt of the case 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 except as designated above, 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. 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 any case's unique facts and circumstances.