

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 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.

Growing political polarization nation-wide to police shootings of minority citizens from 2013-2015 have resulted in important changes to Colorado Revised Statutes relating to deadly force police encounters, to include mandated protocols by the Colorado Legislation for participation in multi-agency investigation teams (see CRS 16-2.5-301). This review process shall include a Deadly Force Investigation Team (DFIT) led by either the Colorado Springs Police Department or the El Paso County Sheriff's Office, in conjunction with a Liaison DFIT (LDFIT) led by Woodland Park Police Department. This new protocol promotes a better and more complete investigation before turning the matter over to the district attorney for a decision on whether or not the shooting was justified. Inclusion of outside agencies in the investigation promotes and encourages a level of transparency and objectivity that provides increased credibility to the final outcome and eliminates biases, real or perceived, which in turn strengthens public confidence in the outcomes of such investigations.

305.2 INVESTIGATION RESPONSIBILITY

This department conforms to the DA Officer Involved Shooting Policy for investigating officer-involved shootings. Pursuant to a law enacted in 2015 by the Colorado Legislature and placed in the Colorado Revised Statutes as CRS 16-2.5-301, primary investigative responsibility for an officer-involved shooting by a Woodland Park Police Department Officer will be vetted in a Deadly Force Investigation Team (DFIT) led by either the Colorado Springs Police Department or the El Paso County Sheriff's Office.

Woodland Park Police Department will convene a Liaison DFIT (LDFIT) to assist and shadow the DFIT once the latter is established.

The Legislature also added the following statute, CRS 20-1-114, which states the district attorney shall, if no criminal charges are filed following completion of an investigation pursuant CRS 16-2.5-301, publicly disclose the report explaining the district attorney's findings, to include the basis for a decision not to charge the officer with any criminal conduct. However, if the district attorney refers the matter to a Grand Jury, then a statement shall be released disclosing the general purpose of the Grand Jury's investigation: if no true bill is returned, then the Grand Jury may issue a report pursuant to CRS 16-5-205.5.

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305.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations, which 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

Pursuant to the 2015 changes in the Colorado Revised Statutes, specifically CRS 16-2.5-301, a Deadly Force Investigation Team comprised of investigators from surrounding agencies, specifically Colorado Springs Police Department or El Paso County Sheriff's Office, shall be assigned to work on the criminal investigation of officer-involved shootings and deaths. This investigation, evaluation, and review shall occur for all incidents involving the discharge of a firearm by a member of the Woodland Park Police Department that results in bodily injury or death.

DFIT jurisdiction and composition will be determined by the availability of Colorado Springs Police Department and El Paso County Sheriff's Office investigators.

305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

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

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/agencies.

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 new protocol required by CRS 16-2.5-301. When an officer from this department is involved, the criminal investigation will be handled by a DFIT led by either Colorado Springs Police Department or El Paso County Sheriff's Office, with an LDFIT being led by the Woodland Park Police Department unless the Chief determines otherwise.

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.

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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 Woodland Park Police Department.

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 WPPD 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) Secure and separate suspects or relay information on fleeing suspects to dispatch and other Woodland Park Police units, working with them to establish a containment area and coordinate pursuit of suspects; Request additional resources from the Woodland Park Police Department or other agencies, as required.
- (c) Check for injured personnel, perform emergency first aid to self, as necessary, and take reasonable steps to obtain emergency medical attention and/or evacuation of the injured parties.
- (d) Holster/secure any involved firearms as evidence, once it is safe to do so. Do not open, reload, remove shell casings or in any other way tamper with involved firearms.
- (e) Note the time, survey the entire area for relevant facts/evidence, witnesses, potential suspects and suspect vehicles.
- (f) Protect evidence from loss, damage, or destruction: ensure evidentiary items are not moved or, if moved, note the original location and position of persons, weapons, and other relevant objects and evidence.
- (g) Time permitting, record names, addresses, and phone numbers of witnesses and other personnel present at the scene: request they remain in the area to provide statements; separate witnesses as soon as practical.
- (h) Brief the supervisor upon arrival.

305.5.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved WPPD supervisor shall 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 shall attempt to obtain a brief voluntary overview from one involved officer.

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- (b) If necessary, the supervisor may administratively order any WPPD 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.
 - 2. The initial on-scene supervisor shall not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Shift Supervisor and the Dispatch Center. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional WPPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 - 1. Each involved WPPD officer shall be given an administrative order not to discuss the incident with other involved officers or WPPD members pending further direction from a supervisor.
 - 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

305.5.3 SHIFT SUPERVISOR RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Shift Supervisor shall notify the Chief of Police, or responsible Section Commander in the Chief's absence, and then initiate DFIT activation with CSPD or EPSO.

Following consultation with the Chief of Police, the Shift Supervisor will assemble members of the LDFIT so they may begin to shadow and assist the DFIT as soon as possible after the incident ends. Following activation of the LDFIT, all outside inquiries about the incident shall be directed to the LDFIT Commander.

305.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Investigation Section Commander
- DA Officer Involved Shooting Policy rollout team
- Colorado Springs Police Department or El Paso Sheriff's Office on-call Homicide Lieutenant and on-call Investigations Division for Deadly Force Investigation Team (DFIT) formation and dispatch to the incident site
- Professional Standards Officer

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- Patrol Commander
- 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 or union representation will be accommodated.
 1. Involved WPPD 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-WPPD 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 WPPD officer. A licensed psychotherapist may also be provided to any other affected WPPD 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) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.

Care must 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 WPPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Shift Supervisor to make schedule adjustments to accommodate such leave.

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305.6 CRIMINAL INVESTIGATION

The Deadly Force Investigation Team's (DFIT) is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

At their discretion, the District Attorney's Office may respond to the incident: typically this could be their Chief Investigator, or designee, and a Deputy DA, who would then be present to provide the DFIT with legal guidance.

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, the DFIT criminal investigators will have the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) WPPD supervisors and Professional Standards Officer personnel should not participate directly in any voluntary interview of WPPD 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 DFIT 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 DFIT 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 WPPD OFFICERS

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

While the involved WPPD officer may write the report, it is generally recommended that such reports be completed by assigned DFIT and/or LDFIT investigators, who typically will 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.

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Nothing in this section shall be construed to deprive an involved WPPD 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 DFIT 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, the LDFIT must take reasonable steps to promptly coordinate with DFIT 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.
 - 1. When feasible, obtain a recorded statement 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 LDFIT Investigations Section supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department LDFIT investigators will be assigned to work with and shadow DFIT investigators, who may also have assistance from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the DFIT investigators .

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

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305.6.4 MULTI-AGENCY INVESTIGATION

Officer-involved shootings that result in injury or 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 Woodland Park 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 WPPD officers to determine conformance with department training standards and policy. This investigation will be conducted under the supervision of the Professional Standards Officer and will be considered a confidential officer personnel file.

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 DFIT 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 must 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 DFIT 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 must 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 shall 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 may be given his/her Garrity rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that

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the interview will be for administrative purposes only and that the statement cannot be used criminally.

5. The Professional Standards Officer 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 Woodland Park Police Department's 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.

305.8 CIVIL LIABILITY RESPONSE

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

305.9 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 assigned DFIT investigators or a Woodland Park Police Department supervisor after the latter has received LDFIT approval.

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

305.10 DEBRIEFING

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

305.10.1 TACTICAL DEBRIEFING

A tactical debriefing shall take place to identify any training protocols or policies that need improvement. The Chief of Police shall identify the appropriate participants in this briefing, which

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must not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

305.10.2 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing shall occur as soon as practicable. The Administration Section Commander is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order.

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Professional Standards Officer personnel.

305.11 MEDIA RELATIONS

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

No involved WPPD officer or employee shall make any comment to the media unless he/she is authorized by the Chief of Police, Section Commander, or DFIT and LDFIT Commanders. This includes all forms of social media.

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.

305.12 REPORTING

The Records Supervisor, with the assistance of the Investigation Section Commander, shall report the data required by CRS § 24-33.5-517 regarding officer-involved shootings to the Colorado Department of Public Safety by September 1 each year.