



DESCHUTES COUNTY SHERIFF'S OFFICE

Policy Title: Deputy Involved Deadly Force Investigations	Effective Date: April 31, 2021	Policy Number: 7.09
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Attachments: <ul style="list-style-type: none">Deputy Involved Deadly Force Incident Checklist (2 pages)	L. Shane Nelson, Sheriff	

I. PURPOSE

The purpose of this policy is to define responsibilities related to deputy involved shootings and other instances where the use of force by a deputy has, or could have, resulted in serious physical injury or death. Additionally, this procedure is intended to minimize post-incident stress or trauma for an involved deputy by clearly detailing post-incident actions which shall be taken.

II. POLICY

This agency recognizes and respects the value and special integrity of each human life. Law enforcement duties can often expose deputies and other members to stressful situations that may affect the lives of those involved.

It is the policy of the Deschutes County Sheriff's Office to provide clear guidelines to assist all members in carrying out their duties immediately following use of force incidents resulting in, or could have resulted in, serious physical injury or death.

III. DEFINITIONS

Deputy-Involved Shooting Incident is a line-of-duty incident when shooting causes death or serious bodily injury, or could have caused death or serious bodily injury, to a deputy or other person.

Post-Traumatic Stress Disorder is an anxiety disorder that can result from exposure to short-term severe stress or the long-term build-up of repetitive and prolonged stress.

IV. SCENE PROCEDURES

The following procedures will apply when:

1. A deputy discharges a firearm at another person;
2. A deputy unintentionally or intentionally discharges a firearm resulting in injury or death to another person; or
3. Use of force by the deputy results in serious injury or death of another person or could have resulted in serious injury or death of another person.

A. Involved Deputy Responsibilities

1. Immediately notify 9-1-1 Dispatch of the incident and location. Do not delay the required notification, except:

- a. to protect others;
 - b. to render first aid;
 - c. to maintain the arrest or prevent the escape of a felon;
 - d. to protect a crime scene; or
 - e. when the deputy is incapacitated.
2. Determine the physical condition of any injured person, request necessary emergency medical aid and render first aid, when appropriate.
 3. Secure the scene and preserve evidence.
 4. Remain at the scene (unless injured) until relieved by the on-scene supervisor.
 5. If the circumstances are such that the continued presence of the deputy at the scene might cause a more hazardous situation to develop, e.g., a violent crowd, the uninvolved ranking deputy at the scene shall have the discretion to instruct the deputy to go to another, more appropriate location.
 6. Inform the on-scene supervisor as to where the incident occurred, where possible evidence is located and of any witnesses to the incident.

B. First-Responding Patrol Deputy's Responsibilities

1. Respond in a safe and appropriate manner.
2. Check on the welfare of the deputy or member and other persons involved in the incident and obtain preliminary interview information as to the location of the incident, location of evidence and possible location of any witnesses.
3. Provide first aid when appropriate.
4. Secure the scene and preserve evidence.
5. Establish an Incident Command Post and verify supervisors are responding.
6. Separate witnesses and obtain preliminary information.
7. Brief the on-scene supervisor and arriving investigative personnel.
8. Document actions in a written report.
9. Obtain dying declaration if appropriate.

C. 9-1-1 Dispatch Responsibilities

When notified of a deputy involved use of force which has resulted in, or could have resulted in, serious physical injury or death, the dispatcher will notify the appropriate parties at the direction of the watch commander.

D. On-Scene Supervisor's Responsibilities

1. Make notifications following the chain of command. Division Commanders will notify lieutenants to ensure all agency members are informed of the incident on a timely basis.
2. Either designate or assume Incident Command for the scene and maintain security of the scene until relieved by a detective or an appointed investigating agency. Notify 9-1-1 Dispatch you are the Incident Commander. Establish an outer perimeter and assign a designated media area.
3. Ensure suitable and adequate personnel and other resources are dispatched and respond appropriately to the incident scene.
4. If necessary, only ask the involved deputy questions required to investigate and supervise the scene. Advise the deputy that a more detailed debriefing will be conducted at a later time.
5. Assign the involved deputy a companion deputy at the scene as soon as practical.

6. Assign a deputy to transport the involved deputy and companion deputy to the Sheriff's Office. If the involved deputy is transported to the hospital, assign a deputy to accompany them, in addition to the companion deputy.

E. Companion Deputy's Responsibilities

1. Provide for the involved deputy's welfare and safety.
2. Avoid discussing the incident.
3. Remain with the involved deputy until relieved by personnel from Critical Incident Stress Management (CISM), COPC, Peer Support Team member, a Sheriff's Office member or a person requested by the involved deputy.
4. Ensure no stimulants or depressants are given to the involved deputies unless administered by medical personnel.
5. Advise the involved deputy of the standard investigations that will occur.
6. Advise the involved deputy not to discuss the incident with anyone except a personal, Association or agency attorney, an Association representative or agency investigator until the conclusion of the preliminary investigation.

F. Transport Deputy's Responsibilities

1. Transport the involved deputy and companion to the Sheriff's Office or another appropriate location.
2. Avoid discussing the shooting.
3. Take the involved deputy and companion to a quiet room.
4. Provide the involved deputy an opportunity to contact an attorney, a family member and/or the clergy.
5. Restrict access to the involved deputy to investigative personnel or persons specifically requested by the involved deputy.
6. Advise the on duty shift supervisor of the involved deputy's location.

G. Investigative Responsibilities

The Sheriff, in conjunction with the District Attorney, will control release of information to the media.

The use of force investigation will consist of two separate investigations: an incident investigation and an internal administrative review.

The Sheriff's Office Detective Captain will be the Incident Commander for the incident investigation. The incident will be investigated by a law enforcement agency selected by the Sheriff and District Attorney. The selected law enforcement agency will assign a supervisor to oversee the investigation. The Detective Division will work in conjunction with the selected law enforcement agency.

1. Incident Investigation (reference [Policy 7.01 Major Crime Scene Investigation](#))
 - a. Photograph the involved deputy in their clothing.
 - b. If a firearm or other weapon was used, protect the weapon for examination and make it available upon request to the on scene supervisor. The deputy's weapon will be replaced as soon as practical, unless it is clearly inadvisable to do so based on the deputy's emotional state.
 - c. Allow the involved deputy to change their clothes. Secure photos, outer clothing and equipment as evidence.
 - d. A DCSO Supervisor will advise the involved deputy of his right to Association representation and assure notification of Association representatives.
 - e. It is mandatory that the DCSO Detective Supervisor request blood and urine from deputies involved. Use a Consent Form to document this action.
 - f. The State Crime Lab will process the scene when appropriate.

- g. The investigating agency and Sheriff's Office detectives will coordinate retention of all evidence from the incident and will be responsible for its processing, with the exception of evidence collected specifically for an internal administrative review.
 - h. No immediate written report or detailed interview will be required of the involved deputy or on-scene deputies. Those directly involved will be given sufficient time to be physically well rested.
 - i. The investigating agency will have first access to the involved deputy/deputies for an interview after the deputy has a reasonable opportunity to contact and consult with an attorney.
 - j. If the deputy invokes their rights, the interview will be terminated. The investigator will then notify the internal administrative review investigator.
2. Internal Administrative Review (reference [Policy 3.03 Disciplinary Action](#))
- a. If the review is referred to the Internal Affairs function, incident investigators will not have access to internal or civil investigator files. Internal Affairs investigators will not share information with investigators conducting the incident investigation.
 - b. The investigator conducting the internal administrative review and other investigators, if necessary, will be designated by the Sheriff. This team will be responsible for the Internal Administrative Review investigation. The purpose of this portion of the investigation is to determine if Sheriff's Office policies and procedures were followed during the incident, and to evaluate member and agency performance related to the incident.
 - c. In the event of an Internal Affairs investigation, the Internal Affairs team will interview the involved deputy after the investigating agency interview. This interview should be delayed until a decision is made by the District Attorney's Office about the possibility of criminal prosecution resulting from the investigation of the incident.

3. Miranda Rights and Garrity Advisement

The Internal Affairs investigator will ascertain from the incident investigator if Miranda Rights were read and whether they were waived or invoked.

If the deputy invoked his Miranda Rights, the Internal Review Deputy will give the involved deputy the Garrity Advisement.

"You have been read your Miranda Rights and have chosen not to speak with an Incident Investigator at this time. I am the Internal Review Investigator assigned to this incident, and I wish to advise you that you are being questioned as a part of an official investigation of the Sheriff's Office. You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and the constitution of this state and the Constitution of the United States, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to agency charges which could result in your termination from the Sheriff's Office. If you do answer, neither your statement nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent agency charges."

- a. Statements taken under Garrity Advisement are for Internal Affairs purposes only. There will be no information sharing between Internal Affairs, the investigating agency, and civil investigators. Additionally, the investigating agency will not have access to Internal Affairs investigative files.
 - 1) If the involved deputy refuses to give an Internal Affairs interview after the Garrity Advisement, the Sheriff will be notified immediately.
 - 2) An Internal Affairs file will be prepared on the incident.
 - 3) Internal Affairs investigators will report their findings only to the Sheriff or his designee.

V. ADMINISTRATIVE LEAVE

Members involved in a use of force situation that results in, or could have resulted in, the death or serious physical injury of another person shall be placed on Administrative Leave pending the completion of any investigations and agency reviews. During this period, the member(s), and family members, if necessary, will be afforded assistance as determined appropriate by the Sheriff.

VI. MANDATORY FOLLOW-UP

A Sheriff's Office critique of the incident will convene as soon as practical after the incident and grand jury is complete. The Sheriff will designate a person responsible for scheduling and chairing the critique.

- A. All personnel involved in the incident will be included in the critique.
- B. Any interested agency personnel may voluntarily attend the critique.
- C. The critique will consider, but will not be limited to:
 - 1. The effectiveness of the performance of the Sheriff's Office and its members;
 - 2. The use of resources;
 - 3. Potential problems;
 - 4. Recommendations for any needed changes in agency policies or procedures; and
 - 5. The effectiveness of the performance of other agencies and their personnel (e.g., 9-1-1 Dispatch, EMS, etc.).
- D. The agency shall collect at least the following information relating to incidents in which a deputy's use of deadly physical force resulted in the death of a person:
 - 1. The name, gender, race, ethnicity and age of the decedent.
 - 2. The date, time and location of the incident.
 - 3. A brief description of the circumstances surrounding the incident.

VII. POST-INCIDENT PROCEDURES

Involved members shall be removed from line duties pending evaluation but shall remain available for any necessary administrative investigations.

Involved deputy is defined as a deputy whose official conduct, or official order to use deadly physical force, was a cause in fact of, or could have caused, the death of a person. As used in this paragraph, "order to use deadly physical force" means an order issued to another deputy to use deadly physical force in a specific incident or an order or directive establishing rules of engagement for the use of deadly physical force for a specific incident.

Involved deputy also includes a deputy whose official conduct was not a cause in fact of the death of a person but whose official involvement in an incident in which the use of deadly physical force by a deputy or law enforcement officer resulted in the death of a person and began before or during the use of the deadly physical force; and was reasonably likely to have exposed the law enforcement officer to greater stresses or trauma than other law enforcement officers experienced as a result of their involvement in the incident before or during the use of the deadly physical force. ORS-181A.790

- A. All deputies directly involved in the incident shall be required to contact an agency-designated specialist for counseling and evaluation as soon as practical after the incident. Involved members should also be encouraged to contact such specialists after an incident in which the use of force by a deputy has resulted in, or could have resulted in, serious physical injury or death to a person. Involved deputies and members shall attend at least one counseling session within six months of the use of force incident. The agency shall pay the costs of at least two counseling sessions with a mental health professional.
- B. After the counseling sessions, the specialist shall advise the agency:
 - 1) whether it would be in the deputy's best interest to be placed on administrative leave or light duty, and for how long;
 - 2) if deputies were relieved of their duty weapons after an incident, at what point the weapons should be returned;
 - 3) what will be the best continued course of counseling. The agency strongly encourages the families of the involved deputies to take advantage of available counseling services.
- C. The Detective Captain will brief other agency members concerning the incident so that rumors are kept to a minimum. Agency members are encouraged to show the involved deputies their concerns for the well-being of those deputies.
- D. All members involved in an incident which results, or could have resulted, in the serious physical injury or death of a person will be advised that they are not permitted to speak with the media about the incident. Deputies shall refer inquiries from the media to a designated agency spokesperson, unless otherwise authorized to release a statement pertaining to the incident.
- E. To protect against prank or abusive calls, deputies should be advised to have phone calls answered by another person for several days if their names are released to the public.
- F. Weapons will be examined by armorers and test-fired prior to return.
- G. Deputies directly involved in a shooting incident shall be required to requalify as soon as practical.
- H. Daily Stress Recognition
 - 1. Since post-traumatic stress disorders may not arise immediately or the deputies may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of unit members for symptoms of the disorder.
 - 2. A supervisor may order a deputy to seek assistance or counseling from a mental health specialist upon a reasonable belief that stress may be disrupting the deputy's job performance.

VIII. Training

- A. The agency shall provide employees with training pertaining to post-traumatic stress disorders and the uniform procedures contained in this policy on a regular basis.
- B. Supervisors are responsible to make information about the agency's Peer Support Team, COPC, and mental health services available to their team members.