



**OFFICE OF THE DIRECTOR OF POLICE  
THE UNIVERSITY OF TEXAS SYSTEM  
POLICY AND PROCEDURE MANUAL**



Subject <b>ADMINISTRATIVE INVESTIGATIONS OF/RESPONSE TO CRITICAL INCIDENTS INCLUDING USE OF DEADLY FORCE AND OFFICER-INVOLVED DEATHS</b>			Policy Number <b>605</b>
Effective Date September 17, 2012	Revision Date April 22, 2021	Reevaluation Date Annually	Number of Pages 12
Reference Standards TPCA: CALEA: 4.2.1, 4.2.2, 4.2.3, 11.3.4 IACLEA: <i>TEXAS CODE OF CRIMINAL PROCEDURE</i> , Sec. 1.Chap. 2, Att. 2.139 and 2.1395 as amended by HB 1036, 84 <sup>th</sup> Tex. Leg. Session		Rescinds or Amends Policy Number	

**I. PURPOSE AND PHILOSOPHY**

The use of deadly force by a police officer is the most serious exercise of law enforcement authority in which an officer may engage. The impact and consequences of such encounters are profound, indefinite in nature and demand a rigorous and objective review. It is both a moral and legal imperative that there be a comprehensive investigation of the circumstances and a clear understanding of what has occurred.

This investigation must be factual, thorough, complete, accurate and chronological from the precipitating event to the conclusion of the encounter and yield a complete understanding of the event. Similarly, the investigation at all times must be objective and impartial. The community, the agency and the involved officers deserve no less.

**II. POLICY**

It is the policy of the University of Texas System Police (UTSP) to investigate all incidents involving the use of deadly force or officer involved deaths with the utmost thoroughness, professionalism, and impartiality to determine if an officer's actions conform to the law and the UTSP/ODOP Policy 601, Use of Force and UTSP/ODOP Policy 604, Firearms, Less Lethal Weapons and Ammunition.

### III. DEFINITIONS

- A. "Critical Incident" - for purposes of administrative investigations, the term "critical incident" shall have the following meaning:

An alleged use of force or deadly force by a University of Texas System Police officer that is intended or known by the officer to cause, or in the manner of its use or intended use is known to be capable of causing death or serious bodily injury. (Texas Penal Code 1.07 (8)). This shall include:

1. An officer involved shooting, where an officer discharges a firearm and the discharge resulted in the death or injury to any person; or
2. Any incident in which an officer uses deadly force against
3. another or deadly force is used against an officer, which results in death or serious bodily injury to any person; or
4. Any incident in which an officer discharges a firearm at an individual or vehicle regardless of whether an intended target is hit.

- B. "Custodial Death" - for purposes of administrative investigations the term "custodial death" shall have the following meaning:

The death of an individual who is in the custody of a peace officer or who dies as a result of a peace officer's use of force. A person is considered to be "in the custody of a peace officer" if the person is under arrest or under the physical control or restraint of a peace officer.

- C. "Deadly Force Encounters" - Any occurrence stemming from the action of University of Texas System Police (UTSP) personnel or as the result of activities in which they are involved, which result in the serious bodily injury or death of another person. This includes, but is not limited to:

1. Vehicle pursuits;
2. An officer's use of force;
3. Traffic crashes resulting in a fatality or serious bodily injury; or
4. Circumstances in which death may be attributed to the negligence of a UTSP officer.

- D. "Major Crimes Team" means a team of UTSP commissioned officers who are selected by and ultimately report directly to the Director of Police but are guided at the scene of the event by the institution police department Chief of Police. The Team is exclusively responsible for conducting administrative investigations into all critical incidents, custodial deaths, and officer-involved shootings which result in bodily injury or death. All such investigations shall be led by a police inspector designated within the Office of the Director of Police. Major Crimes Team members shall work in support of and under the direction of this police inspector.

- E. "Garrity Related Materials" - Garrity related materials are the result of an administrative order requiring an employee to give evidence or statements as a condition of continued employment. This includes, but is not limited to:
  - 1. Sworn statements provided by the accused employee.
  - 2. The results of an institution police department ordered polygraph.
  - 3. The results of an institution police department ordered blood and/or breath test or other scientific examination.
- F. "Accident" - an unintended, unforeseen, and undesirable event taking place without exception, especially one that causes harm, injury, damage or loss.
- G. "Reasonable" - a fair, proper, and due degree of care and activity, measured with reference to the particular circumstances; such diligence, care, or attention as might be expected from a person of ordinary prudence and activity.
- H. "Negligence" - failure to use reasonable care to avoid consequences that threaten the safety of the public and that are the foreseeable outcome of acting in a particular manner.

#### **IV. COMMAND RESPONSIBILITIES**

The Office of Director of Police of the University of Texas System shall conduct an administrative investigation of all critical incidents including officer involved deadly force encounters and officer involved deaths. The administrative investigation will be parallel to but independent of any criminal investigation also being conducted (i.e. bifurcated). The criminal investigation shall be conducted by the local Office of the District Attorney, the Texas Rangers, or the most appropriate local jurisdiction investigative body. Although not all inclusive, the administrative investigative effort shall determine:

- A. Whether the use of force/incident was:
  - 1. lawful;
  - 2. within (consistent with) policy requirements;
  - 3. outside (not consistent with) policy requirements;
  - 4. reasonable;
  - 5. accidental or negligent.
- B. Whether there are considerations for:
  - 1. Improving or modifying training or policy for departmental personnel; and
  - 2. Implications regarding supervision at the time of the occurrence.

#### **V. INSTITUTION POLICE DEPARTMENT CHIEF OF POLICE RESPONSIBILITIES**

- A. The institution police department Chief of Police will be responsible for immediately notifying the Office of Director of Police in the event of a critical incident occurring within his or her jurisdiction.
- B. The Chief of Police shall assign his or her department's internal affairs supervisor or investigator to the Major Crimes Team to act as a liaison in the coordination of the administrative investigation. The liaison will assist in assembling criminal investigative reports, documentation of evidence, recordings, and forensic examination findings to the Major Crimes Team.

- C. The institution police department Chief of Police may remove personnel from line-duty when they are involved in serious, critical, or traumatic incident, pending an administrative review (Refer to UTSP/ODOP Policy 601, Use of Force); likewise, the institution Chief of Police shall ensure that employee assistance services are provided and that the appropriate incident de-briefings are conducted (also refer to UTSP/ODOP Policy 601, Use of Force)
- D. The institution police department Chief of Police shall, as a matter of mandatory practice, direct that the involved officer(s) submit to a urinalysis, breathalyzer, blood screen or other toxicology examination to determine the presence or absence of alcohol, unlawful controlled substances or medication prescribed for and intended to be used by someone other than the officer(s). This shall be a required and directed practice and shall be preceded by the administration of the Garrity Warning.
- E. The involved institution police department's Chief of Police shall make every effort to ensure that a thorough and impartial criminal investigation of the incident is conducted. Institution police department Chiefs of Police may consult with the District Attorney in their respective jurisdiction for the proper protocol for the criminal investigations of these critical incidents involving law enforcement officers.
  - 1. For the purpose of the criminal investigation of a deadly force encounter, in-custody death, or fatal vehicle crash, the institution police department Chief of Police shall request the assistance of the Texas Department of Safety - Texas Rangers Division, a neighboring police or sheriff's department, or an investigative unit of the appropriate District Attorney's office. If the critical incident is an officer involved shooting, it is highly recommended that this criminal investigation be conducted by investigative personnel who have received specific training for these types of investigations. It is highly recommended that coordination of such support/response be established prior to an event being investigated through an understanding, formal or otherwise, with the agency selected.
  - 2. The Criminal Investigation Division (CID) supervisor of the institution police department will be responsible for securing and maintaining the integrity of the crime scene prior to the arrival of the criminal and administrative investigation teams.
  - 3. The CID supervisor shall be responsible for the coordination or completion of the following tasks for both criminal and administrative investigations in the order deemed necessary and appropriate.
    - a) Providing a general briefing and walk-through by the supervisory officer regarding the circumstances surrounding the shooting.
    - b) Obtaining information and preliminary basic facts for the Director of Police and the institution police department Chief of Police.
    - c) Verifying that the overall scene and evidentiary items are photographed, videotaped, and properly documented/secured. Color photographs of the officer as he/she appears at the scene shall be taken, to include any injuries sustained and damage to the officer's uniform or equipment; relevant in-car video or body-worn camera video shall be secured as evidence.

- d) Overseeing a thorough inspection of the scene and proper collection or coordination of collection of all items and substances of evidentiary value; this includes the collection or coordination of collection of evidence from the involved officer(s) which may occur at the scene of the event, at the hospital (if officer injured) or elsewhere (e.g. ambulance) dependent upon the circumstances; should the involved officer(s) firearm require seizure for evidentiary purposes, this too shall be coordinated and a replacement firearm shall be provided immediately by the institution police department.
  - e) Obtaining recorded statements from the suspects.
  - f) Coordinating and confirming that notification is provided to family members of injured or deceased suspects.
  - g) Locating and identifying witnesses and conducting initial and follow-up recorded interviews.
  - h) Confirming that statements are obtained from fire department personnel, emergency medical service providers and other first responders to the scene.
  - i) Substantiating that separate recorded interviews are conducted with each officer involved.
    - (1) Interviews should be conducted in a private location away from sight and hearing of agency members and others who do not have a need to be present or a right to the information.
    - (2) All personnel should be cognizant of symptoms of post-traumatic stress, to include time and space distortions, confusion, hearing and visual distortion and emotional impairment, including shock. Tape-recorded interviews shall be deferred if these symptoms are evident.
  - j) In those instances, involving an officer death, the CID supervisor shall verify that the policy and procedures established by this agency for line-of-duty deaths, and death notification are followed.
  - k) Ensure that Major Crimes Team investigative personnel attend any autopsy conducted by the appropriate medical examiner's office related to the event under investigation. The purpose shall be for investigators to be present during the autopsy as the pathologist examines and documents injuries, wounds and trauma; determines the identification of the decedent; collects trace or physical evidence; establishes/determines the cause, manner and circumstances of the death; and collects and interprets toxicological evidence.
  - l) Obtain and execute search warrants as necessary.
- F. The institution police department Chief of Police or his designee, including the incident commander or senior supervisor at the scene of the event, shall ensure a companion officer is assigned immediately to the involved officer including during transport to the hospital should the involved officer require medical treatment.

- G. The Chief of Police or designee is responsible for the initial and subsequent media releases provided to the institution's communication department. The Institution's communications department is responsible for releasing the information to the general public.
  - 1. The Chief of Police or designee shall provide a public information plan for all agencies and organizations involved in the investigation, ensuring that the information released is consistent, appropriate, and factual.
  - 2. The Chief of Police or designee shall approve media releases prior to dissemination to ensure the integrity of the investigation is not compromised.
  - 3. If the employee critical incident occurs in another jurisdiction external to the agency's jurisdiction, the Chief of Police or designee will coordinate with the institutional communication department and the other jurisdiction's public information division to establish the primary public information officer and coordinate release of appropriate and factual information.

**VI. CONCURRENT CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS**

- A. The Director of Police, in consultation with the institution police department Chief of Police, will determine when an administrative investigation is initiated and /or if disciplinary action is to proceed prior to the final (legal) disposition of any criminal investigation into a critical incident. The Director of Police and the institution police department Chief of Police will consult with the District Attorney's office of the jurisdiction as well as the Office of General Counsel as required or necessary.
- B. The supervisor (police inspector) of the Major Crimes Team shall coordinate with the institution police department's criminal investigators and make a joint determination as to whether the involved officer(s) and witnesses should be initially interviewed by administrative investigators or criminal investigators.
- C. During the course of an administrative investigation, members of the Major Crime Team will not be present during any criminal interview of a UTSP employee.
- D. When possible, interviews of officers involved should be conducted during their normal work hours. Off-duty interviews should only be conducted where time is of the essence.
- E. The Major Crimes Team supervisor (police inspector) or his designee shall coordinate the procuring/sharing of all evidence obtained during the criminal investigation to the extent allowed bylaw.
- F. Except as provided herein, Garrity related materials obtained during the administrative investigation shall not be provided to a criminal investigator and/or prosecutor unless:
  - 1. The employee who is the subject of the administrative investigation authorizes its release.
  - 2. The evidence relates to a false statement, given under oath by the officer, which may constitute perjury or aggravated perjury.
  - 3. In response to a lawful subpoena.

## VII. ADMINISTRATIVE INVESTIGATION RESPONSIBILITIES

- A. The Major Crimes Team Supervisor (police inspector) will assign an adequate number of team investigators to conduct a thorough and expeditious administrative investigation with assistance from the Internal Affairs investigator from the institutional police. The investigative team should be conscious of the potential legal implications of the administrative investigation in relation to the completion of the criminal investigation and prosecutorial evaluation.
- B. Administrative investigators should be cognizant of the state of mind of the involved officer(s) with regard to his or her assessment of the threat or circumstances which were encountered. There are a number of factors that are critical in determining the objective reasonableness of the use of force decision(s) made in response to the perceived threat or circumstances encountered. These factors include, but are not limited to:
1. The conduct of the individual being encountered (subject) as reasonably perceived by the officer at the time.
  2. Officer/subject factors such as age, size, relative strength, fitness level, injuries present, level of exhaustion and number of officers present versus subjects encountered.
  3. Influence of drugs/alcohol or mental impairment present.
  4. Proximity of available weapons to the subject/possession of weapons by the subject/brandishing of weapons by the subject and the nature of the weapon(s) involved.
  5. The degree to which the subject has been effectively restrained and his/her ability to resist or engage in aggressive or physically threatening behavior despite being restrained.
  6. The availability of other options and resources reasonably available to the officer under the circumstances.
  7. Training and experience of the officer.
  8. Potential for injury to citizens/bystanders, officers and the subject involved.
  9. Risk and implications/consequences of escape by the subject encountered.
  10. Whether the conduct of the subject reasonably posed an imminent threat to the officer or others.
  11. The active or enduring threat presented by the subject including verbalizations by the subject as to his/her intent to do harm to the involved officers or others.
  12. Any actions of the subject which tend to substantiate the threats manifested in Paragraph 11 above.
  13. The offense(s) or behavior for which the subject is being contacted.
  14. The immediate past behavior or sustained ongoing behavior of the subject encountered.
  15. The subject's criminal history and propensity for violence if known by the officers.
  16. The subject's past history of assaultive behavior against police officers if known by the officer.

C. Investigative Duties

1. Upon notification, the Major Crimes Team shall promptly respond to the scene or other location as required.
2. Upon arrival, the Major Crimes Team will receive a general briefing and walk-through by the scene supervisor regarding the circumstances surrounding the use of force.
3. In dealing with involved personnel, team members should be cognizant of the symptoms of post-traumatic stress including time and space distortions, confusion, hearing and visual distortion, and shock.
4. If an autopsy is ordered in relation to the incident, a Major Crimes Team Investigator will be assigned in advance to attend.
5. Prior to interviews, sworn officers will be read and provided their Garrity warning. The warning shall be acknowledged by their signature. Copies of the document will be provided to officers. The Major Crimes Team will be responsible for conducting the formal administrative interview of the officer(s) involved in the use of force. The interviews shall be recorded.
6. An officer's state of mind during the interview can be as relevant and as important as his state of mind at the time the critical incident occurred. The officer may have experienced the normal perceptual distortions that commonly occur during moments of peak stress which could affect his or her recall. As a result, an interview of the involved officer(s) should not normally be conducted within the first 48 hours following the incident unless the officer so insists.
7. A walk-through is required for the events covered by this policy and the subsequent administrative investigation. It shall be conducted immediately at the scene by the involved officer unless he/she is physically incapacitated. In those cases, the walk-through shall be conducted as soon as the officer is physically able. A "walk-through" is defined as an investigative tool where investigators and/or supervisors have the officer re-trace his/her actions in an officer-involved shooting, critical incident, and/or in custody death accompanied by a public safety statement as referenced in Paragraph 8 below.
8. Paragraph 7 above is not intended to relieve the involved officer(s) of the additional responsibility to briefly relate and summarize in writing what has occurred so that the involved investigators have sufficient basic information to begin an assessment of what has occurred. This summary can be made to the patrol supervisor on the scene or to the investigators who respond. While more than one such explanation may be necessary simply as a matter of logistics, the involved officer(s) shall not be required to repeatedly explain what occurred. The exception to this responsibility of the involved officer is if he or she is incapacitated.
9. Upon completion of the administrative interview process with the involved officer(s), the involved personnel will submit their Use of Force Report (Form DP#54) to the investigators. The form will be made part of the administrative investigation.



10. The interview will be limited to questions which are specifically and directly related to the incident. An officer may be questioned about off-duty conduct if it relates to the incident.
11. An officer can be disciplined for refusing to participate in an internal investigation interview.
12. An officer's request for the presence of legal counsel shall be accommodated to the extent that such requests are reasonable and consistent with the law.

### **VIII. IN CUSTODY DEATHS**

The Major Crimes Team will conduct an administrative investigation if a person:

- A. Dies while in the custody of a University of Texas System Police officer.
- B. Dies within 24 hours after being detained or arrested by UTSP.
- C. Dies within 24 hours of being the subject of some reportable use of force by a UTSP officer.
- D. Dies as the result of the officer's use of force.

Article 49.18 of the Texas Code of Criminal Procedure requires the director of a law enforcement agency investigate the death and to submit a written report to the Attorney General of the State of Texas, no later than the 30th day after the date on which the person in custody has died. A "Custodial Death Report" form can be obtained from the Office of the Attorney General of the State of Texas.

### **IX. REPORTS REQUIRED FOR THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF TEXAS**

#### **A. Reports Required for Officer Involved Injuries of Deaths**

The Texas Code of Criminal Procedure (Section 1., Chapter 2, Articles 2.139) requires the reporting of an incident during which a peace officer discharges a firearm causing injury or death to another. As a result, within thirty (30) days after such an officer involved incident, the Office of Director of Police of the University of Texas System Police, is required to submit a report in writing or electronic form to the Office of the Texas Attorney General, which shall include:

1. The date on which the incident occurred;
2. The location where the incident occurred;
3. The age, gender, and race or ethnicity of each peace officer involved in the incident;
4. If known, the age, gender, and race or ethnicity of each injured or deceased person involved in the incident;
5. Whether the person was injured or died as a result of the incident;
6. Whether each injured or deceased person used, exhibited, or was carrying a deadly weapon during the incident;
7. Whether each peace officer involved in the incident was on duty during the incident;

8. Whether each peace officer involved in the incident was responding to an emergency call or a request for assistance and, if so, whether the officer responded to that call or request with one or more other peace officers; and
9. Whether the incident occurred during or as a result of:
  - a. The execution of a warrant; or
  - b. A hostage, barricade, or other emergency situation.

This statute also requires that the Office of the Director of Police post a copy of the report on the agency's website within thirty (30) days of the incident.

**B. Reports Required for Certain Injuries to or Deaths of Peace Officer**

The Texas Code of Criminal Procedure (Section 1., Chapter 2, Articles 2.1395) requires a law enforcement agency to submit a written or electronic report to the Office of the Texas Attorney General for incidents in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer. This report will be submitted by the Office of the Director of Police and is required to include the following:

The information provided by the Office of the Director of Police to the Office of the Attorney General shall include:

1. The date on which the incident occurred;
2. The location where the incident occurred
3. The age, gender, and race or ethnicity of each injured or deceased peace officer involved in the incident;
4. If known, the age, gender, and race or ethnicity of each person who discharged a firearm and caused injury or death to a peace officer involved in the incident; and
5. Whether the officer or any other person was injured or died as a result of the incident.

This statute also requires that the Office of the Director of Police post a copy of the report on the agency's website within thirty (30) days of the incident.

**X. ADMINISTRATIVE FINDINGS**

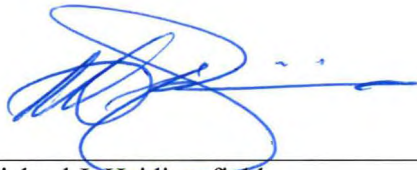
At the conclusion of the investigation, the Major Crime Team shall:

- A. Document their findings in an effort to determine:
  1. Whether the use of force was reasonable and lawful.
  2. Whether the actions of the officer(s) were in accordance with department policy.
  3. Whether any training, tactical awareness, equipment, or policy modifications are necessary.
  4. Whether policy failure or training failure contributed materially to the outcome of the incident.
  5. Whether supervision, command or control or the absence thereof contributed materially to the outcome of the incident.

6. Whether extraordinary or exigent circumstances or force majeure contributed to the outcome of the incident.
- B. After completion of the criminal investigation and the determination of findings of a grand jury, the Major Crimes Unit supervisor (police inspector), or his designee, shall submit a written report of the administrative investigation to the institution police department Chief of Police and the Director of Police within 30 days. The final investigative report will be assigned an ODOP case number and retained by the Office of the Director of Police.
  - C. The involved officer(s) shall be kept fully informed as to the progress, stages and findings of the investigation as shall the institution police department Chief of Police.

## **XI. TRAINING**

- A. Personnel responsible for managing an officer-involved death investigation shall receive training on both the criminal investigation process and administrative investigation process. The training should include review of this policy with particular attention to IV. Command Responsibility and VII. Roles Related to Administrative Investigation.
- B. Command Staff should monitor all employees impacted by the officer involved critical incident to determine if a need for appropriate crisis intervention training, awareness training, or post-traumatic stress training is necessary.



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Michael J. Heidingsfield  
Director of Police

Changes/Amendments since last publication:

Our thanks to the University of Texas at Arlington Police Department, the University of Texas at Austin Police Department, the University of Texas at San Antonio Police Department and the University of Texas - Houston Police Department for their Commission on Accreditation for Law Enforcement (CALEA), subject matter expert advice and recommendations, all of which are incorporated in this newest policy publication.

Addition of Paragraph V. G. assigning responsibility for media releases to the institution communication's department, which is responsible for releasing information to the general public. April 20, 2021

Addition of Paragraph XI. Which outlines requirements of training those involved in death investigations. April 20, 2021

Addition of new Section IX. Reports Required for the Office of the Attorney General of the State of Texas. September 15, 2015

Based on our post-investigation reviews/lessons learned following the UTSP officer-involved shooting in 2014 and the nationally recognized guiding principles and best practices associated with law enforcement use of deadly force and associated inquiries which have been re-examined within the profession over the past year, we have made modifications within our policy which include: clarification of the underlying philosophy when we undertake such investigations; our commitment to officer support and assistance; clarification of evidence collection responsibilities; addressing firearm replacement for the involved officer and clarification of first response investigative responsibilities. Material or substantive changes include these specific paragraphs:

Paragraph I- Restatement of the investigative obligation, purpose and philosophy. Paragraph II - Clarifies that the policy covers all officer involved deadly encounters. Paragraph III-Adds and defines the term "Deadly Encounters".

Paragraph IV - Clarifies methodology and objectives of the investigation.

Paragraph V - Clarifies responsibilities of the institution police department Chief of Police, institution police department criminal investigators and Major Crime Team.

Paragraph VII - Clarifies the administrative investigation objectives, elements and steps. February 1, 2015

Addition of Paragraph V.D requiring the Chief to direct involved officer to submit to toxicology examination.

Revision of Paragraph VII.C.7., requiring a walk-through with the involved officer immediately unless he/she is physically incapacitated.

Deletion of Paragraph VII.C.9 which prohibited the compelling of an officer to participate in a walk-through without legal counsel and that such walk-throughs shall not be videotaped.

April 1, 2013