



Athens-Clarke County

Police Department

Directive 6.07



EMPLOYEE ACTION RESULTING IN DEATH/SERIOUS INJURY

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6.07.01 POLICY/PURPOSE

It is the policy of the Athens-Clarke County Police Department to recognize both the constitutional and administrative rights and responsibilities of its employees. This directive attempts to balance the rights of the individual with the needs of the Department and society at large.

The nature of the criminal investigation is to determine if any laws were violated, and to identify the person(s) responsible for the violation. This holds true whether that person is a police employee or someone else. In most cases where police officers use lethal force, it is they who are the victim or witness to a criminal offense.

When police lethal force is used, the focus of the investigation is to apprehend the criminal(s) involved.

The trauma that can be involved in police lethal force, actions by an employee that causes death or serious injury, or in-custody death incidents must be recognized. We must treat the involved employee with concern and compassion, while still meeting the needs of the appropriate incident investigation.

The purpose of this directive is to establish guidelines for the investigation of incidents involving the police use of lethal force, actions by an employee that causes death or serious injury, or in-custody deaths of arrestees.

6.07.02 AUTHORITY

O.C.G.A. 17-4-20 addresses the use of force by police officers. The Code of Georgia does not provide guideline for the investigations of this use of force, but Federal Court decisions and law enforcement best practices have given police agencies authority and guidance to establish standards of conduct in this area.

6.07.03 DEFINITIONS

Administrative Investigation: An employer's administrative review of actions or incidents involving its employees for compliance with County and Department rules, regulations, or for identifying potential training or equipment issues.

Administrative Liaison Officer: An officer assigned during the initial investigative process to accompany another officer involved in an incident where an employee's actions or their use of force resulted in death or serious injury, or an in-custody death incident.

Criminal Investigation: A criminal investigation of actions or incidents involving anyone for potential violations of federal, state or county code.

Directly Involved Employee: The employee(s), whose actions or use of force caused serious injury or death, or in the case of an in-custody death, had actual custody of the deceased detainee.

Firearm: A lethal force weapon from which a lead/metallic projectile is fired.

In Custody Death: Any death of an arrested or detained person which occurs between the times an officer announces or formulates his/her intent to arrest and the time an individual is transferred to another agency's custody (i.e. the Sheriff's Department, hospital, another jurisdiction, etc.) or released.

Lethal Force: Force that is intended and likely to result in serious physical injury or death.

Serious Physical Injury: An injury that creates a substantial risk of death, or which causes serious and protracted disfigurement, or impairment of the function of any bodily organ or limb.

6.07.04 GARRITY AND CONSTITUTIONAL PROTECTIONS

- A. Since most uses of lethal force will necessitate both an administrative investigation and a criminal investigation, involved employees may find themselves faced with conflicting legal duties or responsibilities. For example, in an administrative review, an employee can be required to give a statement about what occurred. However, in the context of a criminal investigation, an employee has a 5th Amendment right to decline to provide a statement. The seminal authority on the interplay between an administrative review and a criminal investigation is the United States Supreme Court Case, *Garrity v. New Jersey*, 385 U.S. 493 (1967).
- B. The Department is committed to ensuring that employees understand the legal distinctions between administrative reviews and criminal investigations, and that the legal rights and due process protections of employees are respected in both contexts.
- C. Police employees enjoy the same protections as any other citizen against being coerced into self-incrimination in a criminal investigation. Police employees have the free choice to provide or not to provide information to criminal investigators at their own discretion, if such information could incriminate them in a criminal act. No adverse job-related threats are appropriate or permitted.
- D. Police employees are required to respond truthfully, completely, and without omission to any questions put to them by a supervisor conducting an administrative investigation for their employer. An employee can be compelled to respond and failure to do so is subject to disciplinary action up to and including termination.
- E. If the administrative investigation statement is considered compelled, the information contained therein cannot be used in a criminal investigation or prosecution of the interviewee absent a grant of immunity, although it may be used in the criminal investigation or prosecution of another person. Generally, the information is considered privileged and the employer cannot relay or convey it in any way that would result in the information being brought to the attention of criminal investigators or to anyone with access or involvement in a criminal investigation.
- F. An administrative investigation investigator will have access to all investigative and criminal interviews. Anyone who is involved in a criminal

investigation cannot have access to information from an administratively compelled statement that contains or likely could contain self-incriminating information, unless the District Attorney is willing to grant immunity related to the information.

- G. This administrative protection only applies to police department employees, and then only if the revealed information is criminally self-incriminating. It does not apply to other citizens, witnesses, etc.
- H. In any criminal investigation or administrative investigation interview of a police department employee, the interviewer will clearly state whether the interview is criminal or administrative in nature.

6.07.06 PROCEDURES

- A. An application of police lethal force, an action by an employee that causes death or serious injury, or an in-custody death incident will be handled preliminarily as a criminal investigation as noted above. Accordingly, commanders/supervisors/officers will be responsible for the initial incident command and scene management.

B. INITIAL RESPONSE

The Shift Commander or designee will immediately address the following:

1. Identify any remaining threats to life or public safety and take necessary action to address them;
2. Ensure all persons requiring medical attention are identified and needed medical resources are requested;
[CLE 4.1.5] and [SC 1.12]
3. Begin to secure inner and outer perimeters and establish crime scene security;
4. Question the directly involved officer(s) to obtain a public safety statement. Such questioning may be conducted by a commander, supervisor, or officer designated by the Shift Commander. The scope of the questioning should be limited to the following exigent and public safety needs:
 - a. Whether the directly involved officer(s) needs medical attention;
 - b. Whether anyone else needs medical attention;
[CLE 4.1.5] and [SC 1.12]
 - c. Whether there is any lookout information on suspects and/or vehicles (if applicable);
 - d. The description and location of known witnesses;
 - e. The direction of weapon discharges for purposes of location of other victims;

- f. Any other information necessary to ensure officer and public safety and to assist in the apprehension of at-large suspects;
- g. Whether a firearm was discharged, the number and direction of discharges;
- h. The type of force or other weapons, if any, used; and
- i. Determining the location of the officer(s)' firearm or any other instrument used.

The directly involved officer(s) will not be compelled to answer questions, write supplements, or complete a use of force report at this point in the investigation.

All personnel will thoroughly document any information obtained during the initial response.

- 5. Contact the Criminal Investigations Division (CID) Commander and inform them of the incident involving a police in-custody death, an action by an employee that causes death or serious injury, or a police involved application of lethal force. The Criminal Investigations Division Commander, after consultation with the Chief of Police or his designee, will then contact the Georgia Bureau of Investigations and request that they respond. The Criminal Investigations Division Commander will also contact the District Attorney and ask that they respond. The Shift Commander may request additional resources or specialized personnel needed to complete the tasks required in the initial response.
- 6. Immediately isolate the directly involved officer(s)/employee(s) and any police department witnesses and have them removed from the scene and kept separated until they are interviewed by Georgia Bureau of Investigations personnel. These persons should be transported to Police Headquarters or other appropriate police facility as soon as practical after obtaining the public safety statement and receiving any needed medical care.
 - a. Prior to being transported to Police Headquarters, the involved officer(s)/employee(s) should be photographed/video recorded to document how they appeared on the scene, to include any injuries sustained. Attempts to document an officer's /employee's appearance must not interfere with the receipt of medical care.
 - b. Unless otherwise authorized by Georgia Bureau of Investigations investigators, only the Chief of Police or his designee, Administration Liaison Officer, Critical Incident Stress Management (CISM) personnel, and CID supervisor designated by the CID Commander will have access to the involved officer(s)/employee(s). The designated CID

supervisor will serve as the initial liaison with the Georgia Bureau of Investigations.

- c. If the involved officer uses a firearm as lethal force, it should remain with the involved officer until turned over directly to the Georgia Bureau of Investigations investigator or other personnel at the direction of the CID Commander. Barring evidentiary or safety concerns, the firearm should not be reloaded, unloaded, manipulated or handled without authorization from a Georgia Bureau of Investigations Investigator.
 - d. The CID Commander will ensure that once the involved officer's firearm is taken, the involved officer will not be left unattended without a firearm and that a replacement firearm is issued promptly.
- 7. Seek to preserve all potential evidence on scene by ensuring that the crime scene is roped off, ensuring that access is restricted and ensuring that the names of all persons entering the crime scene are recorded.
 - 8. Identify potential witnesses and attempt to have them remain on scene. If a witness is unwilling to remain on scene until the arrival of personnel conducting the criminal investigation, an attempt should be made to obtain an initial statement and contact information from the witness.
 - 9. Provide briefing to arriving Georgia Bureau of Investigations personnel and turn over crime scene to them when ready.
 - 10. Ensure sufficient Athens-Clarke County Police personnel remain on scene to support the Georgia Bureau of Investigations investigation.

C. ADMINISTRATIVE LIAISON OFFICER

The Shift Commander or designee will assign an Administrative Liaison Officer not directly involved in the incident or the subsequent investigation to accompany the involved officer/employee. If there are multiple involved officers, they should be separated and assigned individual Administration Liaison Officers. Administration Liaison Officers will:

- 1. Provide support for the involved officer/employee prior to the arrival of CISM personnel.
- 2. Refrain from talking about the details of the incident. Any information disseminated by the involved officer/employee to the Administrative Liaison Officer is subject to disclosure as part of the criminal investigation.

3. Serve as part of the chain of custody for potential evidence to be collected from the involved officer/employee, if directed.
4. Remind the involved officer/employee that he/she should not discuss the incident with anyone other than personnel assigned as criminal investigators or the Office of Professional Responsibility.
5. Submit a written supplement documenting their actions as an administrative liaison officer.

D. CRIMINAL INVESTIGATION

If the incident involves a police in-custody death, an action by an employee that causes death or serious injury, or a police involved application of lethal force, the Georgia Bureau of Investigation will conduct the criminal investigation. In incidents involving motor vehicles the Georgia State Patrol may be used to conduct the investigation.

[CLE 11.3.4 a]

1. The Georgia Bureau of Investigations will determine all facts, identify all available evidence, and ultimately present its findings directly to the District Attorney. All facts, evidence, and findings will also be presented to the Commander of the Office of Professional Responsibility.

[CLE 11.3.4 c]

2. A member of the Georgia Bureau of Investigations and the Commander of the Office of Professional Responsibility, or their designees, will meet with the involved officer(s)/employee(s) at the beginning of the criminal investigation to explain the investigative process.
3. Each time a directly involved officer/employee is interviewed they will be clearly and appropriately advised as to whether the interview is part of the criminal investigation or the administrative investigation. If the interview is for the criminal investigation, the directly involved officer(s)/employee(s) will not be compelled to answer questions, write supplements, or complete a use of force report. If the interview is part of the administrative investigation the directly involved officer(s)/employee(s) will be expected to accurately and truthfully respond to all questions.
4. The Georgia Bureau of Investigations has the discretion of determining when the directly involved officer(s)/employee(s) will be interviewed.
5. Department employees are expected to participate as requested by the investigating agency subject to any protections afforded by their constitutional rights.

6. After reviewing the finding of the Georgia Bureau of Investigations, the District Attorney will determine whether or not to present the facts, evidence, and findings to a Grand Jury pursuant to O.C.G.A. 17-7-52.
[CLE 11.3.4 c]

E. ADMINISTRATIVE INVESTIGATION

The Office of Professional Responsibility is responsible for completing an independent administrative investigation. The administrative investigation will seek to determine whether the involved officer(s)/employee(s) actions were in accordance with Department policy, procedures, and training.
[CLE 11.3.4 b]

1. Unless otherwise directed by the Chief of Police, the administrative investigation will include:
 - a. A review of the findings of the criminal investigative file and findings provided by the outside investigative agency;
 - b. A review of all interviews, documents, recordings, and videos related to the incident;
 - c. A review and analysis of all applicable policies and procedures; and
 - d. Additional interviews or other investigative steps, if needed.
2. The Office Professional Responsibility will complete an administrative investigative report with administrative recommendations and provide it directly to the Chief of Police.
3. The combination of the criminal investigation and administrative investigation reports will serve as the overall use of force report narrative for submission to the Chief of Police.

[CLE 4.2.1 b] and [SC 1.14 b]

F. INCIDENTS OCCURRING OUTSIDE ATHENS

1. Incident command and criminal investigation are the responsibility of the jurisdiction where the incident occurred.
2. Involved officer(s)/employee(s) will be advised that the criminal investigation is handled by the jurisdiction where the incident occurred and that they will still be afforded all their constitutional rights.
3. Personnel from the Office of Professional Responsibility will respond to the scene and contact the investigating jurisdiction. The Office of Professional Responsibility will conduct an administrative investigation as described in Section E above.

4. Provided that the jurisdiction with authority has no objection, the involved officer(s)/employee(s) will be provided an Administrative Liaison Officer throughout the process. The Administrative Liaison Officer will remain with the officer/employee while in another jurisdiction.
5. The Department will provide the involved officer(s) department-issued firearm and/or any department-issued property to the investigating jurisdiction upon request. However, in cases where the officer(s) firearm and/or property is not department-issued but is the personal property of the officer(s), the department will defer to the investigating jurisdiction concerning the collection/seizure of any evidence.
6. Department employees are expected to participate as requested by the investigating jurisdiction subject to any protections afforded by their constitutional rights.

G. OFFICER / EMPLOYEE DUTY STATUS

[CLE 4.2.3], [CLE 26.3.7], [SC 1.17]

1. The involved officer/employee will immediately be removed from operational assignments pending a preliminary review of the incident. The Chief of Police will determine duty status of the involved officer and may elect to place them on administrative leave or assign them to administrative duties.

[CLE 22.1.2 a] and [CC 3.2.2 a]
2. After a preliminary review of the facts it is the discretion of the Chief of Police when to return the officer(s)/employee(s) to full duty.
3. Prior to returning to full duty, the involved officer/employee will undergo a psychological evaluation which will be reviewed by the Chief of Police as part of the determination to return the involved officer/employee to full duty.
4. Six months after returning to full duty, a second psychological evaluation will be completed, and the results forwarded to the Chief of Police for review.

H. DISPOSITION OF FIREARM

1. Officers who have their firearm or other equipment seized, as a result of a **criminal investigation**, must receive written authorization from the Georgia Bureau of Investigations and the Office of Professional Responsibility before their firearm/equipment is released.

2. Officers who have their firearm or their equipment seized, as a result of an **administrative investigation**, must receive written authorization from the Commander of the Office of Professional Responsibility before their firearm/equipment is released.

6.07.07 CRITICAL INCIDENT STRESS MANAGEMENT (CISM ISSUES)

- A. A Critical Incident Stress Management Team (CISM) debriefer from the Georgia Department of Public Safety should be made available to assist involved officers in dealing with the emotional stress brought on by these events. In some circumstances, a debriefer from CISM may actually speak to the involved officer(s)/employee(s) before an official criminal or administrative interview is conducted. However, CISM debriefers must realize that the investigation takes priority over the debriefing and they will not begin debriefing without approval from the investigating agency.
- B. When an incident occurs involving the use of lethal force by police, actions by an employee that causes death or serious injury, or an in-custody death, the Department will make every effort to contact a CISM team member from the Georgia Department of Public Safety to conduct a debriefing with the involved officer(s). CISM debriefers are afforded patient/client confidentiality in their relationships with the involved officer(s)/employee(s) per O.C.G.A. 24-5-510.
- C. In the event an officer is used as a debriefer, he/she will not be interviewed or compelled to provide written statement about their discussions with the involved officer(s)/employee(s) by personnel from the Georgia Bureau of Investigation or the Office of Professional Responsibility. However, pursuant to O.C.G.A. 24-5-510, privileged communications between the involved officer and officers acting as CISM debriefers does not apply when criminal activity or information that would indicate that the involved officer/employee pose a threat to themselves or others is revealed.
- D. If information that is exempt from privileged communications is received by the debriefer, it will be promptly reported to the Georgia Bureau of Investigations investigators. The debriefer may then be subjected to further interview by the Georgia Bureau of Investigation or the Office of Professional Responsibility and may be compelled to write statements about their discussions with the involved officer(s)/employee(s).

6.07.08 PUBLIC INFORMATION PLAN

Generally, it is best for the department, the investigative authority, and the prosecutor's office to collectively present public information on these types of events. This ensures early coordination of activities and prevents varying opinions on critical public

confidence matters which could potentially detract from the quality and effectiveness of the investigation. Press releases should be approved by the department, along with the investigative and prosecutorial authorities. The department will coordinate with all involved organizations to provide public information through a singular source or authority.

[CLE 11.3.4 d]

6.07.09 TRAINING

- A. Agency personnel responsible for managing these types of incidents will receive training on the processes to follow.

[CLE 11.3.4 e]

- B. Lieutenants will be responsible for conducting awareness training of this policy for all personnel, within their work unit, that could potentially be impacted by these types of incidents.

[CLE 11.3.4 f]

By Authority of:

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