

## Protocol for Law Enforcement Incidents

### Cases:

The Law Enforcement Incident Team (LEIT) of the Tarrant County Criminal District Attorney's Office will review the following, when sent by the Law Enforcement Agency:

- All in-custody deaths in which a person dies while in the custody or under the control of a law enforcement officer or agency.
- Any in-custody death that does not meet the criteria below for presentation to the Grand Jury and no cognizable criminal offense occurred will be closed without presentation to the Grand Jury. A memorandum reflecting the LEIT Team's review, findings, and conclusions will be forwarded to the law enforcement agency.
- Any Law Enforcement related incident assigned at the discretion of the Criminal District Attorney.

The Law Enforcement Incident Team (LEIT) of the Tarrant County Criminal District Attorney's Office will present the following to the Tarrant County Grand Jury after conducting an independent investigation:

- Law enforcement involved shootings that result in serious bodily injury or death to an individual.
- Law enforcement-civilian encounters in which a person sustains serious bodily injury or death by a deadly weapon or a disabling device, e.g. Taser.
- In-custody deaths in which a person dies while in the custody or under the control of a law enforcement officer or agency, and a medical examiner determines (1) that the manner of death is homicide, or (2) that the manner of death is a suicide, accident, undetermined or natural and the facts indicate the officer's action or inaction was a significant contributing factor in the person's death.

### Procedures for Law Enforcement Agencies:

In order to ensure a thorough review, the CDA-LEIT requests the following procedures be followed.

- Law enforcement personnel are requested to contact the LEIT chief immediately upon receiving notice of an incident fitting the criteria described above. An Assistant Criminal District Attorney (ACDA) and a Criminal District Attorney investigator will attend the scene to act solely as observers. The ACDA and CDA investigator will not interfere with the investigation. LEIT will not be present during questioning of subject law enforcement officers. They will, however, provide guidance or assistance if the investigating officer requests it.

- The law enforcement agency should inform the LEIT chief who or what agency will be responsible for investigating the above described incidents – i.e. some agencies investigate their own incidents while others use the Texas Rangers or another agency.
- Law enforcement personnel should have a face-to-face meeting with LEIT within ten (10) business days of the incident to provide preliminary overview of the case and to discuss any additional assistance the agency may need, e.g. grand jury subpoenas or assistance making contact with civilian witnesses who are represented by counsel.
- Upon completion of their investigation, law enforcement personnel should arrange a meeting to submit the case to LEIT for review and presentation to a grand jury. Absent compelling circumstances the completed investigation should be presented to the LEIT for review not more than 90 days after the incident. A complete investigation should include the following:
  - (1) A final autopsy report (if applicable) including manner and cause of death,
  - (2) A final ballistic/firearms report (if applicable),
  - (3) Submitted requests for any other forensic analysis, e.g. DNA, trace, gunshot residue, latent prints) and
  - (4) All digital media evidence (DME), including, but not limited to: in-car videos, body cameras, recorded interviews, surveillance videos, social media, photos/videos provided by civilians/eyewitnesses, photos taken by any officer at the scene with personal cell phones, 911 calls, and radio traffic.
- If criminal charges are sought against any civilian involved in an above-described incident, the law enforcement agency should consult with LEIT and file the charges with the LEIT chief no later than 30 days after the incident.

**Procedures for CDA Law Enforcement Incident Team investigation:**

- Upon receipt of completed law enforcement agency investigation, LEIT will review the case as presented and conduct any additional investigation as deemed necessary to ensure a thorough inquiry into the incident. This may include, but is not limited to, requesting additional testing, seeking additional witnesses, or consulting with experts within or outside of the law enforcement agency.
- Within three (3) business days after receiving the case, LEIT will contact the attorney(s) for the involved officer(s) and the attorney(s) for the decedent or injured person to inform them of receipt of the case.
- LEIT will promptly respond to any requests for status updates from the attorneys and will notify the attorneys of any changes in the status of the case.
- On cases involving in-custody deaths in which a medical examiner has ruled death in a manner other than homicide, LEIT chief will review the case and determine if the case should proceed to a grand jury presentation. If the LEIT chief determines that no criminal action should be taken, then the chief will send a letter to the law enforcement agency informing it of that determination.

- When a case is ready for docketing with the grand jury, LEIT will contact the attorneys and law enforcement agency to inform them of the upcoming grand jury presentation date.
- Before Grand Jury presentation, attorneys for the officer(s) and for the decedent or injured person, upon request, will have the opportunity to make a presentation to the Criminal District Attorney, the Chief of the Criminal Division, and the chief of LEIT.
- Attorneys for the involved officer(s) will have an opportunity to make a presentation to the grand jury. The names of any witnesses the attorneys wish to testify should be submitted to LEIT ten (10) days prior to the scheduled presentation.
- Attorneys for the decedent or injured person will not be allowed to make a presentation to the grand jury, pursuant to Art. 20.04, CODE OF CRIMINAL PROCEDURE.
- LEIT will not make a recommendation to the grand jury about whether or not to seek criminal charges in any LEIT case.
- LEIT will present all cases thoroughly and neutrally through witness testimony, photos, videos, and any other manner necessary to ensure that the grand jury has all the facts and law needed to reach a just decision. LEIT will also procure or attempt to procure any additional information that the grand jury requests during the course of the presentation.
- LEIT will also present to the grand jury any criminal case against a civilian stemming from acts committed during the law enforcement-civilian encounter. In the event of an indictment in that case, the decision as to whether that case remains with LEIT will be made on a case-by-case basis.