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| | SUBJECT POLICE ACTION DEATH INVESTIGATIONS | | EFFECTIVE DATE 01/29/2019 |
| | | | OVERSIGHT Prof. Standards |
| DISTRIBUTION ALL MANUALS | AMENDS/SUPERSEDES/CANCELS P&P # 537 Use of Deadly Force dated 02/05/14, | | |

I. PURPOSE:

Establish Hampton Police Division’s policy and provide guidance to its officers on the Use of Deadly Force, and to establish the Criminal and Administrative investigative responsibilities whenever a Police Officer uses such force in the line of duty to cause death or serious bodily injury to another person. This policy shall include a public information plan to include all organizations involved.

II. POLICY:

It is the policy of the Hampton Police Division to fully investigate and document all relevant facts surrounding officer-involved shootings or any actions by police officers resulting in serious physical injury or death to another person.

The use of deadly force is justified only when it is used:

- A. In defense of the officer against death or serious physical injury; or
- B. In defense of another against death or serious physical injury; or
- C. To apprehend or prevent the escape of a fleeing felon, only when and if all the following conditions are met:
 - 1. The officer has probable cause to believe that a serious violent felony has been committed, or is about to be committed, and the fleeing suspect had committed the felony as well as that the suspect had previously demonstrated a threat to, or wanton disregard for human life and meets the requirements in "A" and "B" above; and
 - 2. the officer has identified himself as a police officer, and given notice of the intention to arrest, and some verbal warning given time and circumstances permitting; and
 - 3. the officer reasonably believes that the person whose arrest is sought will cause death or serious physical injury to the officer or others if apprehension is delayed; and

APPROVED:
CHIEF OF POLICE



4. the officer has taken all reasonable precaution to ensure that innocent persons will not be endangered by the use of deadly force.
- D. The destruction of vicious animals should be guided by the same rules set forth for self-defense and the defense and safety of others. The killing of an animal is justified when one of the following conditions exist:
1. for self-defense; or
 2. to prevent physical harm to the officer or another person.

If anyone sustained a bite from the vicious animal, the carcass will be the responsibility of the Hampton Health Department. The health department is responsible for ensuring that it is tested for rabies and distemper.

NOTE: See P&P 554 “Animal Control” for euthanizing injured animals.

- E. Officers will not discharge a firearm from or at a moving vehicle, unless use of lethal force is justified by something other than the threat from the moving vehicle; officers will not intentionally place themselves in the path of or reach inside a moving vehicle; and, where possible, officers will attempt to move out of the path of a moving vehicle.

III. DISCUSSION:

Competent and responsible use of force investigations are critical for maintaining the public’s confidence in law enforcement agencies. This is especially true when the police action results in death or serious injury or has significance within the broader community. Furthermore, investigations into the circumstances and facts surrounding such events should not solely rely on the general criminal investigative process but should include a thorough Criminal and Internal investigation. Preferably, detailed plans should be constructed and available for the management of these critical incidents.

IV. DEFINITIONS:

- A. Deadly Force – that force which is intended to cause death or grave injury or which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or grave injury.
- B. Reasonable Belief – when facts or circumstances the officer knows are such to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
- C. Serious Physical Injury – a bodily injury that creates a substantial risk of death; or results in long-term loss or impairment of the function of bodily member or organ.

III. PROCEDURE:

A. Self-defense and imminent threat shall be the only guideline for employing deadly force.

B. INVOLVED EMPLOYEE(S)

1. Employees involved in Police Action death (or serious injury) incidents have access to the City of Hampton's Employee Assistance Program and the Division's Critical Incident and Stress Management (CISM) Process (P&P 539) for peer support.
2. The involved employee(s) weapon will be seized by the supervisor on scene. Another weapon will be issued as soon as possible by the Training Unit upon qualification with that weapon.
3. The involved employee(s) will be required to take a blood test to determine the alcohol or drug content of their blood.
4. Questioning by the Criminal Investigations team. The officer may have counsel present for this questioning. Counsel will not be provided by the City or HPD for these purposes.
5. An Internal Investigation will be conducted separate from the Criminal Investigation.
6. The involved employee(s) may be placed on Administrative Duties / Administrative Leave with pay pending the conclusion of the investigation at the discretion of the Chief of Police.

C. ON-SCENE SUPERVISOR RESPONSIBILITIES

1. Assign another officer or supervisor to remain with each involved Officer until turned over to investigative personnel. This person shall not discuss the incident with the involved officer.
2. Confiscate the involved officer's weapon(s) and treat as evidence.
3. Make necessary notifications to Division Personnel (See Section L of this policy).
4. Transport involved Officer(s) for blood test at medical facility.

D. CRIMINAL INVESTIGATION

1. The initial and follow-up criminal investigation will be handled by an Investigative Services supervisor with senior management oversight.

2. At the discretion of the Chief of Police, the Virginia State Police may be requested to conduct the investigation.
3. Investigators assigned to a Police Action Death Investigation shall have received Training for such investigations, whenever possible.
4. The lead investigator shall keep his/her Chain of Command routinely informed on the status of the Criminal Investigation.

E. INTERNAL INVESTIGATION

1. The Commander of Professional Standards (or his designee) shall be notified immediately upon verification of a Police involved death or serious physical injury involving a citizen.
2. The Internal Investigation shall be handled totally separate from the Criminal Investigation.
3. The Chief of Police shall be briefed on the progress of the internal investigation.

F. PROSECUTORIAL

1. The Hampton Commonwealth Attorney's Office will make all prosecutorial decisions.
 - a. If the criminal case is worked by HPD the case will be reviewed with the Chief of Police prior to being presented to the Hampton Commonwealth Attorney.
 - b. If the criminal case is worked by the Virginia State Police, they shall present the case directly to the Hampton Commonwealth Attorney.

G. PUBLIC INFORMATION

1. The Hampton Police Public Information Office shall release all information to the media at the direction of the Chief of Police.
2. Press releases approved by the Chief of Police may be included in Criminal and Internal Investigative files.
3. If an incident involves more than one police agency, the involved agencies will work together in making any media releases with the agency having overall control of the operation making the release.
4. Refer to P&P 509 (Public Information/Media Relations) for additional information.

H. VIDEO

1. Any HPD video of the incident will be released only at the direction of the Chief of Police, or his designee.

I. CITIZEN POLICE ADVISORY GROUP (CPAG)

1. The Citizens Police Advisory Group (CPAG) and/or the Citizens Engagement Advisory and Review Commission (CEARC) shall be available to the Chief of Police as a tool for such investigations.

J. MOTOR VEHICLE CRASHES

1. The same procedures outlined above shall be utilized if a motor vehicle crash involves a Hampton Police vehicle and results in a fatality.
2. The Traffic Unit Sergeant shall be notified and the Fatality Accident Investigation Team shall respond to investigate the accident.

K. IN CUSTODY DEATH

1. An in custody death may or may not be the result of a Use of Force incident. All in custody death's shall be investigated the same as a Use of Force death.

L. NOTIFICATIONS

1. When an officer is involved in a critical incident resulting in serious injury or death, the Shift or Watch Commander will ensure through Communications that the required personnel or units have been notified to respond to the scene. This can be done via an Incident Page sent by Communications.
2. The Watch Commander will notify the Chief of Police by telephone, as soon as possible. The Chief of Police will be notified prior to any family notifications made to any party engaged in an officer involved critical incident.
3. The CISM Team shall be notified for peer support as soon as possible. A Peer Support member will be assigned to each officer involved.

M. WITNESSES

1. As with any criminal investigation witnesses shall remain on the scene until statements can be taken by Officers.
2. Witness officers shall remain on the scene, and adhere to the following guidelines:
 - a. Render appropriate aid to injured persons,
 - b. Provide scene security and maintain the integrity of the scene,

- c. Do not discuss the incident specifics unless the information is to identify/locate additional suspect(s) or victim(s).
- d. Separate the involved officer from the scene and do not allow anyone to talk to him other than the peer support officer or the investigators.

N. TRAINING

- 1. Supervisors shall receive training on the handling of Police Action Death Investigations.
- 2. Investigative personnel shall receive training in conducting Criminal Investigations of Police Action death investigations, as necessary.
- 3. Internal Affairs Investigators shall receive training on the Administrative Investigation of Police Action death investigations.

O. REPORTS

- 1. See Policy and Procedure 533 and 538 for reporting requirements for incidents involving the use of deadly force.

NOTE - For additional information see Policy and Procedure 533 – Use of Force and Related Equipment, Policy and Procedure 538 – Reporting Procedures for Discharge of Firearms, Policy and Procedure 539 – Critical Incident and Stress Management.

