

Deadly Force/Fatal Incidents

304.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of other action of a deputy.

304.2 POLICY

The policy of the Sheriff's Office is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

- A. Cooperation: The Sheriff's Office will fully cooperate with an investigation completed by the Colorado Springs Police Department Deadly Force Investigation Team (DFIT), when a member of the Sheriff's Office acts with deadly force. The Sheriff's Office is committed to this process because it allows for a neutral, transparent investigation and assessment of the actions of the Sheriff's Office deputy. The cooperation is necessary in order to assess the deputy's actions and apply the actions to law as established by the U.S. Constitution and the Colorado State Constitution. No inference should be made about the deputy's conduct simply because an investigation occurs. Investigation is mandated by C.R.S. 16-2.5-301.
- B. Subject Matter of Investigation: The Colorado Springs DFIT will investigate matters where, either in the line of duty or not, a deputy;
 - 1. Intentionally discharges a firearm and the discharge causes either bodily injury, serious bodily injury or death to another person or
 - 2. Uses other deadly force and causes either serious bodily injury or death to another person or;
 - 3. Intentionally shoots at and misses a suspect.
- C. Incidental Matters of Investigation: Should there be ancillary investigations, such as, but not limited to, an on-going investigation outside of the deadly force incident, that investigation shall remain with the original investigating agency. The DFIT will investigate and gather facts only about the deadly force incident, to include the preceding events of the incident.
- D. Matters discretionary for investigation: Shots discharged by accident causing no property damage or injury will be investigated by the deputy's chain of command or the Professional Standards Unit. However, if the accidental discharge results in serious bodily injury or death to an individual the CSPD DFIT will be the investigating agency.

304.3 DEFINITIONS

Objectively Reasonable Use of Force: A deputy is entitled to use objectively reasonable use of force depending on the circumstances at the time of the use of force. The totality of the circumstances include: the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of deputies

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or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight. Decisions about objectively reasonable use of force will take into consideration the analysis and factors as outlined in Graham v. Connor to include the fact that law enforcement officers are often forced to make split second judgments about the amount of force that is necessary in a particular situation, in circumstances that are tense, uncertain and rapidly evolving, and that the reasonableness of the law enforcement officer's belief as to appropriate level of force must be judged from an on scene perspective and not through the use of 20/20 hindsight.

Deadly Force: Intentional use of force which can cause death or serious bodily injury or which creates a degree of risk that a reasonable and prudent person would consider likely to cause death or serious bodily injury. It includes, but is not limited to, use of firearms, choke holds, and intentional intervention with a vehicle (forcible stops or ramming).

Deputy Support Team: Team of Sheriff's Office employees, to include, but not limited to the staff psychologist and a member of the involved deputy's chain of command.

Deadly Force Investigation Team (DFIT): Team of law enforcement officers trained in the investigation of deadly force incidents. When referred to in this policy, the DFIT team is comprised of individuals from the Colorado Springs Police Department, under the command of a CSPD Investigations Lieutenant.

First Responder: A responding deputy who is first on scene after a deadly force incident.

Involved Deputy: A deputy who has intentionally discharged a firearm or acted with use of force upon another person or persons.

Liasion DFIT (LDFIT): Team made up of detectives from the Sheriff's Office. The team shall include, but not be limited to, Investigations Lieutenant, Investigations Sergeant, and at least one detective. The Sheriff's Office Use of Force expert may also be a member of this team. The LDFIT acts as a support element under the DFIT, providing administrative, logistical, and investigative coordination with the DFIT.

Public Safety Statement: Statement made by the involved deputy to a responding scene supervisor designed to ensure the safety of the deputies and the community.

Serious Bodily Injury: Bodily injury which, either at the time of the actual injury or at a later time involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or weapon impairment of the function of any part or organ of the body, or breaks, fractures or burns of the second or third degree.

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Weapon: The firearm or other weapon used by the involved deputy(s).

304.4 INVESTIGATIONS

304.4.1 NOTIFICATION OF DFIT

The DFIT will be summoned as soon as possible after the knowledge that a use of deadly force incident has occurred. For those matters involving use of force, but not involving the discharge of a weapon, the DFIT will be summoned only upon order of the Commander, a Bureau Chief, the Undersheriff or the Sheriff. If the coroner is needed, the DFIT lieutenant will summon the coroner.

1. Members of the DFIT are identified by the Commander of the Investigations Division. The DFIT commander (Investigations Lieutenant) shall keep a current list of the members of the DFIT, to include all phone numbers. This list shall be shared with all members of the DFIT.
2. The DFIT commander shall be notified by the agency needing the investigation. The DFIT commander will typically be notified through the Sheriff's Office Communications Center but other direct means of notification (LDFIT commander, command staff personnel, other investigations personnel, etc.) are acceptable.
3. The DFIT commander shall then notify the members of the DFIT that are on call. The DFIT commander shall coordinate the response of the DFIT.
4. The DFIT commander shall coordinate notification of the Office of the District Attorney. The Office of the District Attorney may, at their discretion, respond to the incident. Generally, the response of the Office of the District Attorney will consist of the Chief Investigator and/or designee and a Deputy District Attorney.
5. The DFIT commander shall notify Professional Standards.

304.4.2 NOTIFICATION OF OTHERS

Notification shall be made to the following persons or agencies: Sheriff, Undersheriff, Bureau Chief of deputy, Commander of deputy, Professional Standards Unit Lieutenant, County Attorney assigned to the Sheriff's Office, Staff Psychologist, Director of Information, DA's Office. A notification list of names and phone numbers shall be maintained and attached.

304.4.3 DUTIES OF FIRST RESPONDERS

Prior to the arrival of the DFIT, the first responder shall act to ensure community safety, officer safety, preservation of evidence, and preservation of the scene. Initial responding law enforcement personnel, regardless of their assignment, are subject to the operational control and direction of the DFIT commander or his/her designee either directly or via correspondence through the LDFIT. This is to ensure the timely preservation of evidence.

First uninvolved deputy who arrives on scene will be the deputy in charge and will assume the responsibilities of a supervisor until properly relieved. Primary function of this deputy is to direct first responder intervention in order to preserve human life, evaluate for on-going safety concerns, and establish a perimeter.

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304.4.4 AUTHORITY OF THE DFIT

1. The Lieutenant the DFIT will be responsible for conducting an impartial investigation into all cases arising under this policy. The DFIT Lieutenant will direct the investigation.
2. The Lieutenant of the DFIT will coordinate, as needed, with the LDFIT to facilitate contact with witnesses who are Sheriff's Office employees, in order to achieve an efficient and thorough investigation.

304.4.5 DUTIES OF THE DFIT

1. Ensure a thorough and impartial investigation of all incidents within the scope of the DFIT's responsibilities, in accordance with applicable laws, standards of procedure, and policies.
2. Ensure that the DFIT and the Office of the District Attorney share information and collaborate on decisions regarding, but not limited to, release of evidence, witness identification, witness interviews and other significant legal matters.
3. Provide, as soon as possible, a confidential briefing to the LDFIT, and to the Sheriff's Office command staff, as requested regarding the use of force incident. Provide updates to the LDFIT as needed, or reasonably requested.
4. Ensure that proper investigation procedures are followed, evidence is collected and preserved, and reports are generated in a timely manner.
5. Refer the completed investigation to the Office of the District Attorney for legal review. The LDFIT and the Sheriff shall be notified at the time the investigation is presented.
6. Prepare and coordinate with the LDFIT any necessary documents needed to provide a timely briefing to the Sheriff.
7. Ensure that any Brady material, or Rule 16 material is preserved, and communicated, as appropriate, to the Office of the District Attorney.
8. At the conclusion of the investigation, and finding by the District Attorney, provide any requested documents to the Professional Standards Unit, in order to complete a Critical Incident Review Book. Participate in any critical incident review meetings, as requested.

304.4.6 DUTIES OF THE DFIT LIEUTENANT

1. Ensure that notification to all appropriate parties has been accomplished.
2. Ensure that the deputy's weapon that was used (to include leather gear) has been preserved and placed into evidence. The weapon shall not be opened, unloaded, or tampered with in any manner except to render the weapon safe for transportation.
3. Direct Involved Deputies.
4. Ensure that witnesses are detained until witnesses have given identification, contact information, and an on-scene statement, if necessary. Ensure that additional follow up, when necessary, with respect to witness statements is conducted.
5. Assign a CSPD Detective, member of the DFIT to conduct the interview of the involved Deputy(s).

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6. Make decisions about release of evidence, after consultation with the Office of the District Attorney.

304.4.7 DUTIES OF THE DFIT COMMANDER

1. The DFIT Lieutenant shall act as Commander of the Investigation.
2. The DFIT commander shall coordinate and direct the involved deputy(s) as follows:
 - A. Non-Injured Deputy:
 - (a) Ensure that the involved deputy(s) has provided a public safety statement. Once the statement has been made, direct the involved deputy(s) to leave the scene and respond to the Office of the Sheriff, or another location as directed by the DFIT commander.
 - (b) The involved deputy(s) will be removed from the scene prior to participating in any interviews, or a walk-through of the scene, with DFIT members. The involved deputy(s) may later return to the scene if deemed necessary for investigative reasons by the DFIT Commander. The involved officer will retain the utilized weapon until it is requested by a member of the DFIT or Metro Crime Lab personnel.
 - (c) If more than one deputy is involved, the deputies will be separated, in order to preserve the integrity of the investigation.
 - (d) Typically the deputy will be transported to the Investigations Division at the Office of the Sheriff, by an involved agency supervisor who could serve as a liaison supervisor to the involved deputy(s). When practical, the responding field supervisor will consult (by phone) with the responding DFIT or LDFIT supervisor prior to removing the officer from the scene. This will allow the DFIT supervisor to be fully appraised of the location of the involved deputy(s).
 - (e) The supervisor will remain with the officer at least until all necessary evidence has been collected and the deputy has been contacted by an investigator with the DFIT.
 - (f) For safety reasons, no deputy having used deadly force should be allowed to drive themselves from the scene.
 - (g) Further questioning of the involved deputy(s) should not occur at this point as an in depth interview will take place at a scheduled time with DFIT investigators in the manner outlined below.
 - B. Injured Deputy:
 - (a) The LDFIT commander shall keep the DFIT commander informed of the status and location of the deputy(s).
 - (b) To the extent possible or practical, and only when safe for the injured deputy, the responding supervisor or LDFIT commander shall obtain a public safety statement from the injured deputy.

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- (c) Only the agency of the injured involved deputy shall release any details with respect to the health status of the involved deputy. Release of this information shall be coordinated with the DFIT commander.

304.5 RESPONSIBILITIES OF INVOLVED DEPUTY (NO PHYSICAL INJURY)

304.5.1 WEAPON SURRENDER

The weapon used shall be surrendered to a member of the Metro Crime Lab . The weapon should not be altered in any manner prior to surrender. The involved deputy shall retain his weapon until it is safe to surrender it.

304.5.2 ON SCENE SAFETY STATEMENT

The Deputy shall give a brief statement to first uninvolved deputy on scene, and then to DFIT commander or designee. This statement is intended to provide enough information to provide for community safety and to begin the investigation. It is not intended to be an interrogation of the deputy. On scene safety statement shall include, but not be limited to: (a) brief synopsis of events (b) initial description of involved parties to assist in efforts to locate the suspect, or assure all suspects are detained (c) possible location of critical evidence (d) define the scope of the scene to include direction of possible rounds fired to account for public safety, and (e) location and identity of any known witnesses.

304.5.3 SEPARATION FROM THE SCENE AND FROM THE PUBLIC

1. When safe, the involved deputy shall be separated from the scene and placed/transported to a location where he/she can be contacted. Care shall be taken to prevent media access to the deputy. The LDFIT will facilitate this and provided transportation.
2. The involved deputy shall be treated with respect and give access to ongoing information, as requested, if it does not hamper the investigation.

304.5.4 ADVISEMENT OF THE DEPUTY

The LDFIT will advise the deputy that his/her legal representative has been contacted and will facilitate the deputy speak with the lawyer.

304.5.5 INTERVIEW OF THE DEPUTY

1. The deputy shall have adequate time to consult with his/her legal representative, in a private secure area.
2. Barring unusual circumstances, the formal interview with the directly involved deputy(s) will not occur until after the deputy has been removed from the incident scene and a sufficient period of time has passed to allow the deputy to begin recovering from the stress of the incident. When possible, the interview will occur within 48 hours of the incident.
3. Taking into account a rest period, and the requests of the involved deputy and his/her attorney, the DFIT will determine a time and place for the interview to be

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conducted. The interview will not be attempted until the investigation of the event is substantially complete. This allows investigators time to gather the necessary facts prior to questioning an involved deputy.

4. Typically the comprehensive interview of involved deputies will not occur until a sufficient rest period has passed and the deputies have had time to collect themselves following the incident. This is to allow the deputy time to recover from the immediate effects of traumatic stress associated with a deadly force incident prior to comprehensive questioning. The decision about the timing of the interview will be the result of discussion with the DFIT, the LDFIT supervisors and the involved deputy(s) and their attorney if applicable. This policy at no time supersedes the deputy's responsibility to provide the brief public safety statement and any other details that may be needed to complete a thorough investigation.
5. The interview with the deputy shall be recorded and the recording shall be placed into evidence.
6. The deputy may request that his/her legal representative be present in the room during the interview. One assigned detective from the DFIT will conduct the interview. Other personnel, as determined by the DFIT, may observe the interview remotely. Those personnel may include Sheriff's Office officials, Sheriff's Office Professional Standards representatives, District Attorney's Office personnel and others as determined by the DFIT team.

304.5.6 DEPUTY SUPPORT TEAM

Member(s) of the support team will facilitate communication with the involved deputy's family, legal representation, psychological support and other matters critical to the deputy. The member(s) will:

1. Act as a liaison with the deputy's family
2. Act as a Liaison with deputy's legal representative
3. Perform other duties as necessary and as directed by the deputy or the LDFIT

304.6 PROCESS OF INVOLVED DEPUTY WHO IS INJURED

- A. The LDFIT, and/or the support team, will notify the deputy's family as soon as possible and in person when possible. Notification will include location of medical care for deputy.
- B. The Deputy Support Team will facilitate transportation for the family members, as appropriate, to the location of medical care.
- C. The Deputy Support team will provide basic background information to the family members. Family members will be cautioned to not speak to media, or engage in social media about the incident. Family members will also be cautioned that they should not ask questions about the incident, as any statements made by an involved deputy to family members may not be covered by privilege.

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304.7 PROFESSIONAL STANDARDS RESPONSIBILITIES

1. Observe the investigation, ensure compliance with Department policy, and report observations to agency head as requested.
2. Request questions be asked through the LDFIT supervisor. This process is in place to ensure there is a bifurcation of the administrative and criminal investigation.
3. Facilitate the timely replacement of duty weapons and issued equipment collected as evidence from involved deputies.
4. Facilitate an initial contact between involved deputy and involved agency psychologist.
5. Facilitate/Begin a Professional Standards Investigation, if appropriate under the facts and circumstances.
6. Accumulate information as needed/requested for a Critical Incident Review Board or similar process, as directed by agency head.
7. Collect statistical information and maintain for reporting purposes as required by C.R.S. 24-33.5-517.

304.8 DEPARTMENT DEPUTY RESPONSIBILITIES

Deputies who are witnesses to the incident, but not directly involved, shall dictate or submit a report regarding the incident, prior to going off shift that day, unless an exception is granted by the LDFIT supervisor or assigned Sheriff's Office DFIT Detective. Submission of a report does not preclude an interview or request for additional information from a member of the DFIT team. The DFIT may choose to interview a Sheriff's Office deputy who is a witness. Sheriff's Office deputy(s) are directed to cooperate. These interviews shall be recorded. The LDFIT team will coordinate the interviews.

304.9 COLLECTION OF EVIDENCE

304.9.1 HANDLING OF INVOLVED WEAPONS

- A. The weapon, holster, duty belt (and accessories), a spare ammunition and any auxiliary firearms in the possession of the officer directly involved in the use of deadly force may be taken under the control of a DFIT member. This will take place at a location determined by the DFIT. Typically, the involved deputy will be taken to their home headquarters building to be met by Metro Crime Lab personnel and DFIT/LDFIT detectives. However, unusual circumstances may require the involved weapon or other items to be collected in the field.
- B. If the weapon is a rifle or shotgun, it shall be retained by the involved officer until it can be given directly to a member of the DFIT or Lab Personnel.
- C. For safety purposes, supervisors should avoid disarming deputies in the field, but shall take immediate action to ensure that involved weapons and equipment are not changed or tampered with prior to being placed into evidence. This may include ensuring that the weapon is holstered and not handled further unless necessary.

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Whenever possible, the deputy's weapon and equipment shall be collected inside a police facility; if this is not possible then inside a cruiser or other place which is safe and out of public view.

- D. Field supervisors will coordinate with on scene supervisors of the involved agency LDFIT, and the DFIT, regarding the collection of other items of property and equipment, such as personally owned flashlights, handcuffs, clothing, etc. The involved weapon(s) will not be opened, unloaded or tampered with, in any manner, except as necessary to render the weapon safe. The supervisor obtaining the involved weapon and related equipment will be responsible for its preservation until he/she personally places it into evidence or personally turns it over to a detective from the Deadly Force Investigation team or a Technician of the Metro Crime Lab for placement into evidence. All requests for further processing of this equipment will be the responsibility of assigned DFIT members.

304.9.2 OTHER ITEMS OF EVIDENCE

- A. All items evidence collected by the DFIT or Metro Crime Lab will be stored and maintained by the Sheriff's Office. Involved agency officers who have collected items of evidence will place the evidence according to typical involved agency procedure. Members of the involved agency LDFIT will facilitate the movement of those items of evidence to the Sheriff's Office evidence facility.
- B. All video/audio recordings of interviews shall be maintained by the Sheriff's Office and placed into evidence at the Sheriff's Office.
- C. All surveillance video, or body camera video, shall be collected, preserved and maintained by the Sheriff's Office. These items shall be placed into evidence at the Sheriff's Office.
- D. Initial responding law enforcement personnel, regardless of their assignment, are subject to operational control and direction of the DFIT commander or his/her designee either directly or via correspondence through the LDFIT. This is to ensure the timely preservation of evidence.

304.9.3 RELEASE OF EVIDENCE

- A. No items of evidence placed as a result of a deadly force investigation will be released without the approval of the Office of the District Attorney, and the DFIT commander.
- B. Upon receiving approval from the District Attorney's Office and the Sheriff's Office DFIT commander, the LDFIT commander or designee shall coordinate the release from evidence of firearms and other equipment collected during the investigation. This shall include facilitating coordination between the involved officer and the respective Professional Standards Unit regarding exchange or retention of any replacement firearms issued, and with Fiscal Services regarding exchange or retention of other duty equipment. The LDFIT commander will also coordinate the return of personally owned property to the deputy from whom it was collected. If the department funded the replacement of a privately owned auxiliary weapon or other personal items of

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equipment, the disposition of the weapon and/ or equipment previously held as evidence will be at the sole discretion of the involved agency.

- C. Under most circumstances, evidence placed as a result of a deadly force investigation will be held for a minimum 6 month time period. During this time frame, the items will be evaluated for release taking into account considerations such as pending civil litigation, pending criminal charges, court orders, etc.

304.10 INTERVIEW OF THE INVOLVED DEPUTY

304.10.1 SCOPE OF INTERVIEW

The interviewer should review the attached addendum entitled "Officer Interview Guidelines and Potential Questions."

304.10.2 ATTENDANCE OF INTERVIEW

Only the following persons will be present during the questioning:

1. One assigned DFIT Detective
2. The involved deputy
3. The involved deputy's attorney at the discretion of the officer.

304.10.3 VIEWING SCENE OR VIDEO OF INCIDENT BY INVOLVED DEPUTY

- A. Scene: If determined to be beneficial to the investigation, or if requested by the deputy or his attorney, the involved officer may be brought to the scene in order to complete a walkthrough at the direction of the DFIT. This walkthrough will only occur after evidentiary items have been recovered and removed and prior to comprehensive questioning. The walkthrough may assist the deputy in remembering more accurately and fully what occurred and be beneficial to the investigation. The determination regarding the need and timing of this walkthrough will be made through discussion with the DFIT and the LDFIT supervisors, members of the District Attorney's Office and the involved deputy and their attorney if applicable. The DFIT commander retains the right to deny the request for investigative reasons.

- B. Video of Incident:

1. Involved deputies shall not review any video body camera footage prior to an interview. This allows the deputy to provide a statement of what the officer perceived at the time of the event.
2. Following the interview, if requested by the deputy, the deputy may review available video footage. After review, the deputy may choose to make additional statements.

304.10.4 INTERVIEW OF INVOLVED DEPUTY

- A. Recording: The interview shall be recorded and the recording placed into evidence.
- B. Observing the interview: The DFIT may allow, within their discretion, the following personnel to remotely observe the interview:

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1. Professional Standards Unit representative
 2. District Attorney representative
 3. LDFIT representative
 4. Any others as determined by the DFIT
- C. In most circumstances, the deputy will not be detained or placed into the custody prior to the interview. The deputy will retain the ability to stop the interview or to leave the interview. Should the deputy be detained and placed in custody, appropriate Constitutional advisement shall be given.
- D. No involved deputy shall be required to submit a written report of the incident. The deputy must cooperate fully with the investigative personnel.

304.11 RELEASE OF INFORMATION

The on-scene release of information will be determined by the following factors:

- A. Decision about information to be released to the public at the time of the incident, about the incident, rests solely with the DFIT Commander, in consultation with the LDFIT Commander and the DFIT Chain of Command. Priority shall be given to those facts that immediately impact public safety.
- B. The Sheriff's Office Manager of Public Information shall release no information, unless consent is given by the DFIT Commander.
- C. No names of involved deputies, medical status of involved deputies, or photos of involved deputies will be released by the DFIT agency. This release of information is solely within the discretion of the involved agency and the agency head.

304.11.1 DFIT RESPONSIBILITIES

- A. Set a staging area for media, where media is safe and cannot compromise the investigation
- B. Decide on information that will be disseminated about the incident and the investigation. The DFIT will coordinate with the Sheriff's Office Media Relations Manager.
- C. Manage media requests and CORA requests regarding the incident and the investigation.
- D. The DFIT shall not release the identity of the involved deputy(s).

304.11.2 LDFIT RESPONSIBILITIES

- A. Coordinate with the Manager of Public Information assigned to the Sheriff's Office and CSPD.
- B. Disseminate information, as permitted by deputy or family. Care should be taken to not release any private information, or identifying information, without consent of the Deputy and the consent of the Investigations Unit Commander or the Sheriff.

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- C. The names of the involved deputy(s) may only be released with permission of the LDFIT Lieutenant, Commander, Bureau Chief, Undersheriff or Sheriff. The Deputy(s) shall be personally notified that the names are going to be released. After notification, the names of the involved deputy(s) shall be released pursuant to the Colorado Criminal Justice Records Act. Photos of the involved deputy(s) may be released at that time, provided there are no safety concerns regarding the release of the photos.

304.12 RELEASE OF SURVEILLANCE VIDEO OR BODY CAMERA FOOTAGE

Surveillance video, or body camera footage may not be released without the consent of the DFIT commander who shall consider the effect of the proposed release on the investigation, and the requirements of the Colorado Criminal Justice Record Act.

Prior to any decision to release the surveillance video or body camera footage of a deadly force incident, consultations by the DFIT Commander must occur with the involved agency head, the LDFIT supervisor, the Sheriff's Office chain of command, the involved agency legal advisor and the legal advisor for the Sheriff's Office and the District Attorney's Office.

If the decision is made to release surveillance video or body camera footage, the involved deputy(s) shall be notified prior to the release.

304.13 CONCLUSION OF THE INVESTIGATION

- A. Upon completion of the investigation, the reports will be forwarded to the Office of the District Attorney. The District Attorney will review the reports and render a written decision.
- B. Once the decision is in writing, the DFIT and the LDFIT will be notified and given a copy of the decision. The LDFIT will notify the involved deputy(s) and give a copy of the decision to the deputy(s). The manager of media relations shall also receive a copy for information purposes. The manager of media relations will refer any questions about the findings to the Office of the District Attorney.
- C. The Office of the District Attorney will release the decision to the media. Care should be taken to provide notification to the involved deputy(s) prior to release of the media.