

Effective 5/14/2019

Superseded 5/5/2021

76-2-408 Peace officer use of force -- Investigations.

(1) As used in this section:

- (a) "Dangerous weapon" means a firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury to a person.
- (b) "Deadly force" means a force that creates or is likely to create, or that the person using the force intends to create, a substantial likelihood of death or serious bodily injury to a person.
- (c) "In custody" means in the legal custody of a state prison, county jail, or other correctional facility, including custody that results from:
 - (i) a detention to secure attendance as a witness in a criminal case;
 - (ii) an arrest for or charging with a crime and committing for trial;
 - (iii) committing for contempt, upon civil process, or by other authority of law; or
 - (iv) sentencing to imprisonment on conviction of a crime.
- (d) "Investigating agency" means a law enforcement agency, the county or district attorney's office, or an interagency task force composed of officers from multiple law enforcement agencies.
- (e) "Officer" means the same as the term "law enforcement officer" as that term is defined in Section 53-13-103.
- (f) "Officer-involved critical incident" means any of the following:
 - (i) an officer's use of deadly force;
 - (ii) an officer's use of a dangerous weapon against a person that causes injury to any person;
 - (iii) death or serious bodily injury to any person, other than the officer, resulting from an officer's:
 - (A) use of a motor vehicle while the officer is on duty; or
 - (B) use of a government vehicle while the officer is off duty;
 - (iv) the death of a person who is in custody, but excluding a death that is the result of disease, natural causes, or conditions that have been medically diagnosed prior to the person's death; or
 - (v) the death of or serious bodily injury to a person not in custody, other than an officer, resulting from an officer's attempt to prevent a person's escape from custody, to make an arrest, or otherwise to gain physical control of a person.
- (g) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.

(2) When an officer-involved critical incident occurs:

- (a) upon receiving notice of the officer-involved critical incident, the law enforcement agency having jurisdiction where the incident occurred shall, as soon as practical, notify the county or district attorney having jurisdiction where the incident occurred; and
- (b) the chief executive of the law enforcement agency and the county or district attorney having jurisdiction where the incident occurred shall:
 - (i) jointly designate an investigating agency for the officer-involved critical incident; and
 - (ii) designate which agency is the lead investigative agency if the officer-involved critical incident involves multiple investigations.

(3) The investigating agency under Subsection (2) may not be the law enforcement agency employing the officer who is alleged to have caused or contributed to the officer-involved critical incident.

(4) This section does not preclude the law enforcement agency employing an officer alleged to have caused or contributed to the officer-involved critical incident from conducting an internal administrative investigation.

- (5) Each law enforcement agency that is part of or administered by the state or any of its political subdivisions shall, by December 31, 2015, adopt and post on its publicly accessible website:
- (a) the policies and procedures the agency has adopted to select the investigating agency if an officer-involved critical incident occurs in its jurisdiction and one of its officers is alleged to have caused or contributed to the officer-involved incident; and
 - (b) the protocols the agency has adopted to ensure that any investigation of officer-involved incidents occurring in its jurisdiction are conducted professionally, thoroughly, and impartially.