

26 **76-2-404. Peace officer's use of deadly force.**

27 (1) A peace officer, or any [person] individual acting by the officer's command in
28 providing aid and assistance, is justified in using deadly force when:

29 (a) the officer is acting in obedience to and in accordance with the judgment of a
30 competent court in executing a penalty of death under Subsection 77-18-5.5(2), (3), or (4);

31 (b) effecting an arrest or preventing an escape from custody following an arrest, where
32 the officer reasonably believes that deadly force is necessary to prevent the arrest from being
33 defeated by escape; and

34 (i) the officer has probable cause to believe that the suspect has committed a felony
35 offense involving the infliction ~~of~~ [f] or threatened infliction [f] ~~of~~ death ~~of~~ [f] or
35a **serious bodily injury [f] ~~of~~** ; or

36 (ii) the officer has probable cause to believe the suspect poses a threat of death or
37 serious bodily injury to the officer or to [others] an individual other than the suspect if
38 apprehension is delayed; or

39 (c) the officer reasonably believes that the use of deadly force is necessary to prevent
40 death or serious bodily injury to the officer or [another person] an individual other than the
41 suspect.

42 (2) If feasible, [~~a verbal warning should be given by the officer~~] prior to any use of
43 deadly force [~~under Subsection (1)(b) or (1)(c).~~], a peace officer should identify himself or
44 herself as a peace officer and give a clear oral warning of his or her intent to use a firearm or
45 other physical force.

46 Section 2. Section **76-2-408** is amended to read:

47 **76-2-408. Peace officer use of force -- Investigations.**

48 (1) As used in this section:

49 (a) "Dangerous weapon" means a firearm or an object that in the manner of its use or
50 intended use is capable of causing death or serious bodily injury to [~~a person~~] an individual.

51 (b) "Deadly force" means a force that creates or is likely to create, or that the [~~person~~]
52 individual using the force intends to create, a substantial likelihood of death or serious bodily
53 injury to [~~a person~~] an individual.

54 (c) "In custody" means in the legal custody of a state prison, county jail, or other
55 correctional facility, including custody that results from:

56 (i) a detention to secure attendance as a witness in a criminal case;

88 and

89 (ii) designate which agency is the lead investigative agency if the officer-involved
90 critical incident involves multiple investigations.

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

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

97 (5) Each law enforcement agency that is part of or administered by the state or any of
98 its political subdivisions shall~~[, by December 31, 2015,]~~ adopt and post on its publicly
99 accessible website:

100 (a) the policies and procedures the agency has adopted to select the investigating
101 agency if an officer-involved critical incident occurs in its jurisdiction and one of its officers is
102 alleged to have caused or contributed to the officer-involved incident; and

103 (b) the protocols the agency has adopted to ensure that any investigation of
104 officer-involved incidents occurring in its jurisdiction are conducted professionally,
105 thoroughly, and impartially.

106 (6) Once a criminal investigation is turned over from law enforcement, all
107 investigations into an officer's use of force shall be completed within ~~§~~ [120] 180 ~~←~~§ days ~~§~~
107a of the incident occurring ~~←~~§ ~~H~~→ [of the incident
108 occurring] ~~←~~§ ~~H~~ . If an investigation is not completed within ~~§~~ [120] 180 ~~←~~§ days, the county or
108a district attorney

109 shall post a public statement on the county or district attorney's website stating a reasonable
110 estimate when the investigation will be complete and the reason for the delay.

111 (7) ~~§~~ [A#] **Subject to the requirements of Title 63G, Chapter 2, Government Records**
111a **Access and Management Act, ~~←~~§ investigative reports and any resulting findings or analyses shall**
111b **be published**
112 **on the county or district attorney's website within five business days of completion.**