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DATE: January 9, 2015
TO: Dakota County Sheriff and Chiefs of Police
FROM: James C. Backstrom, Dakota County Attorney *JCB*
SUBJECT: Law Enforcement Officer Shootings and Related Investigations

In 1990, at the request of the Dakota County Police Chiefs Association, my Office created guidelines for investigation of use of deadly force by a Dakota County law enforcement officer. The guidelines were intended to be applicable to situations in which an officer during the course of duty kills or seriously injures another person by shooting or any other means. Set forth below is an updated copy of these guidelines incorporating reference to Dakota County's current Medical Examiner and making several other changes. The changes to these guidelines were reviewed and approved at the Dakota County Police Chiefs Association meeting on January 9, 2015.

GUIDELINES

1. Where a Dakota County law enforcement officer during the course of duty discharges a firearm and seriously injures or kills another person or where another person is killed or seriously injured by a law enforcement officer during the course of duty by means other than shooting, the law enforcement agency supervising the officer involved in the incident shall notify the following parties of the incident as soon as possible: The Chief of Police of the law enforcement agency employing the officer(s) involved in the incident, the Chief of Police of the jurisdiction where the incident occurred (assuming the incident occurs outside of the involved officer's jurisdiction), the County Sheriff or independent law enforcement agency designated to conduct the investigation, the County Attorney, and, in the event a death occurs, the Hennepin County Medical Examiner's Office¹ (hereafter Medical Examiner).
2. To insure public confidence that the incident is investigated thoroughly, fairly and impartially, the investigation shall be done by a law enforcement agency other than the agency or agencies involved in the incident, such as the Dakota County Sheriff's Office or the Minnesota Bureau of Criminal Apprehension. The decision as to what investigative agency is to be in charge of the investigation shall be made as soon as possible by the head of the law enforcement agency where the incident occurred. Notification of this decision shall be forwarded as soon as possible to the County Attorney, the County Sheriff, any other affected Chief of Police, and the Medical Examiner (in the event a death occurs). The designated investigative agency (hereinafter referred to as the lead investigative agency) shall be in charge of all aspects of the investigation and shall conduct the investigation in consultation with the Dakota County Attorney's Office (or a special prosecutor, if one is appointed).

¹ The Hennepin County Medical Examiner's Office serves Dakota County under contractual agreement.

3. The scene of the incident shall be preserved undisturbed and secured until the lead investigative agency arrives and processes the scene. Until such time as the lead investigative agency arrives at the scene, the head of the law enforcement agency where the incident occurred shall be in charge of preserving the scene or shall designate another law enforcement agency to do the same. All law enforcement officers at the scene shall be instructed to:
 - a. Request necessary medical aid;
 - b. Render first aid to any injured party;
 - c. Notify their dispatch of the existing circumstances;
 - d. Remain at the scene until released by a supervisor of their agency, unless their continued presence is unsafe or their departure is necessary to pursue or apprehend additional perpetrators; and
 - e. Not discuss the incident with anyone except the lead investigative agency, a supervisor within their law enforcement agency, the County Attorney (or special prosecutor), their city attorney, the Medical Examiner, a psychologist, psychiatrist or other medical consultant, their clergy, their immediate family, their private attorney or others authorized by their commanding officer.*
4. The lead investigative agency shall make reasonable efforts to obtain a statement as soon as possible from any officer who discharged his/her firearm or otherwise caused the death or injury. Prior to taking the statement the officer should be advised of the following: "YOU ARE NOT OBLIGATED TO GIVE A STATEMENT CONCERNING YOUR INVOLVEMENT IN THIS INCIDENT. IF YOU ELECT TO DO SO, SUCH STATEMENT CAN BE USED AGAINST YOU IN EITHER DISCIPLINARY OR CRIMINAL PROCEEDINGS OR BOTH."*
5. The firearm discharged by the officer(s) in question shall be submitted to the lead investigative agency for evidentiary purposes as soon as possible. Such weapon(s) will be returned upon completion of all aspects of the investigation and court proceedings.
6. The Medical Examiner having jurisdiction over the situation shall notify the next-of-kin of any deceased individual(s) as soon as possible. The lead investigative agency shall verify that this has occurred and also notify the immediate family or appropriate relatives of any injured individual(s) as soon as possible.
7. The County Sheriff and the affected Chief of Police shall render reasonable assistance to the lead investigative agency and County Attorney (or special prosecutor) in all phases of the investigation and court proceedings upon request.
8. The lead investigative agency, after consultation with the County Attorney (or special prosecutor), and the head of the law enforcement agency employing the officer involved in the incident, shall respond to all media requests for information concerning the incident until the case is submitted to the County Attorney (or special prosecutor). After a case has been submitted to the County Attorney (or special

*In accordance with the decisions of the U.S. Supreme Court found in Garrity v. New Jersey, 385 U.S. 493, 17 L. Ed 2d 562, 87 S. Ct. 616 (1967) and Gardner v. Broderick Police Department, 392 U.S. 273, 20 L. Ed 2d 1082, 88 S. Ct. 1913 (1968), an officer may not be forced to choose between forfeiting his/her job or self-incrimination. Therefore, any statement compelled as a condition of employment, or the fruits of the statement, cannot be used in any criminal proceedings against the employee, except in cases of alleged perjury where the criminal charge is based on the falsity of the given statement. Consequently, only a voluntary statement shall be requested from such officer.

prosecutor), it is recommended that the law enforcement agency employing the officer(s) involved in the incident limit public comments to departmental policy, departmental response, and the identity of personnel involved and their medical condition. It is recommended that all other media requests for information concerning the incident be referred to the County Attorney (or special prosecutor). The head of the law enforcement agency employing the officer(s) involved in the incident shall be consulted prior to issuance of all news releases and invited to attend all news conferences convened by the County Attorney (or special prosecutor). Should the law enforcement agency employing the officer(s) involved in the incident or lead investigative agency believe there is a need to disclose additional information or make additional public comments, the agency should make reasonable efforts to consult with the County Attorney (or special prosecutor) and the agency's attorney prior to providing additional information or public comment.

9. The lead investigative agency and County Attorney (or special prosecutor) shall keep the head of the law enforcement agency employing the officer(s) involved in the incident fully informed of all developments in the case as they occur. Completed investigation files shall be forwarded to the County Attorney (or special prosecutor) as soon as possible, with a copy to the affected law enforcement agency head.
10. The County Attorney (or a special prosecutor) will present all cases involving shootings by law enforcement officers in the course of duty which result in death to the Dakota County Grand Jury as soon as possible following completion of the investigation. The County Attorney (or special prosecutor) will review all cases involving shootings by law enforcement officers in the course of duty resulting in injury and all cases involving death or serious injury caused by a law enforcement officer in the course of duty by means other than shooting to determine an appropriate disposition. Such cases may be presented to the Grand Jury if deemed appropriate by the County Attorney (or special prosecutor).
11. The County Attorney may appoint a special prosecutor to handle the types of cases referred to in these guidelines if deemed appropriate.

I believe that conforming to these guidelines will lead to public trust and confidence that matters of this nature are investigated thoroughly, fairly and impartially.

JCB/gk

c: Hennepin County Medical Examiner