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FOREWORD / MISSION STATEMENT

The investigation of officer-involved shootings, uses of force or other incidents where there is a death or near-fatal outcome presents a unique set of circumstances which can make them more complex than routine investigations.

This protocol was designed and implemented to provide the Fort Morgan Police Department and Morgan County Sheriff's Office with guidelines in investigations of such incidents involving members of those agencies, and/or incidents within unincorporated Morgan County or within the city limits of Fort Morgan involving officers/employees from other law enforcement agencies.

It is the intention of this protocol to make these investigations less traumatic for all member agencies. The utilization of resources involved with this protocol will hopefully make these manpower-intensive situations less draining for each individual agency. The talent and experience of all those involved will serve to make a complete and thorough investigation to the benefit of all members.

This protocol should be considered a guideline. Concerning investigative techniques, this guideline is intended to be used as an aid to add continuity to our investigations. It is not the intent of this protocol to mandate any action that would be contrary to any policy or procedure of any member agency.

When activated, the Morgan County Major Crimes Investigative Team will respond, investigate, and present factual information in the most expeditious manner possible. The hope is that this entity will be viewed by both the member agencies and the public as being a professional and unbiased fact-finding team, working together to resolve challenging situations.

PART ONE

PURPOSE, POLICY and DEFINITIONS

1-1. PURPOSE

- A. It is the consensus of these law enforcement agencies that a team of investigators, made up of personnel from participating law enforcement agencies, the District Attorney's Office and the Morgan County Coroner's Office, be formed to assist in the investigation of incidents which involve the use of force by law enforcement personnel where a death occurs or there is a substantial risk of death, deaths of persons in the custody of law enforcement or those confined or held within any jail, prison or detention center, or other incidents which may occur during law enforcement duties or operations where a death occurs or there is a substantial risk of death.
- B. The goal of such a team is to conduct a complete and thorough investigation to determine if a violation of Colorado criminal statute(s) was committed by a law enforcement agency employee during the incident.
- C. Such a team will be able to provide a thorough and impartial investigation of such incidents without causing a sizeable depletion on any one department's resources.
- D. Thus the Morgan County Major Crimes Investigative Team, hereafter referred to as "the team," is hereby formed and will be available to any participating agency investigating any incidents as outlined above.

1-2. POLICY

- A. It shall be the policy of the Morgan County Major Crimes Investigative Team to conduct criminal investigations into incidents which include, but are not limited to: law enforcement uses of force, vehicular collisions, deaths of persons in the custody of law enforcement or those confined or held within any jail, prison or detention center, or other incidents which may occur during law enforcement duties or operations, which result in death or the substantial risk of death.
- B. These investigations shall be impartial, unbiased, thorough and detailed with all facts, information and evidence thoroughly examined, documented and followed through.
- C. All investigative facts, information and evidence resulting from this investigation shall ultimately be submitted to the proper authorities according to the procedures in this document.
- D. Morgan County Major Crimes Investigative Team members, when investigating a Law Enforcement Incident, will not conduct any administrative investigations for any agency.

1-2. POLICY (continued)

- E. Findings of the criminal investigations will be turned over to the agency(ies) involved so they may conduct such an investigation.
- F. Investigations by the team shall follow the rules of law which apply to all criminal proceedings including constitutional, statutory, and case law requirements.

1-3. DEFINITIONS

A. OFFICER-INVOLVED INCIDENT is defined as an event occurring in the venue of participating agency involving two or more people in which a law enforcement agency officer or a law enforcement employee is involved as an actor, victim, or custodial officer, where a fatal injury or an injury where a substantial risk of death occurs. Such “incidents” include but are not limited to the following:

1. Intentional or unintentional discharge of any firearm during enforcement actions or in the course of official duties, including law enforcement tactical incidents involving specialized response teams;
2. Intentional or unintentional use of any other law enforcement defensive weapon, dangerous or deadly weapon, including any less than lethal munitions discharged from a firearm;
3. Assaults resulting in death or a substantial risk of death upon law enforcement officers, assaults on other law enforcement employees who are on duty or are acting for a law enforcement purpose;
4. Intentional and unintentional use of any other dangerous or deadly weapon;
5. Attempts by law enforcement employees to make arrests or to otherwise gain physical control for a law enforcement purpose;
6. Any fatal or serious bodily injury of persons in the custody of law enforcement, or those confined or held within any jail, prison or detention center.

B. LAW ENFORCEMENT EMPLOYEE

1. This protocol applies to law enforcement officers and agency employees affiliated with a law enforcement agency who are members of this protocol agreement:
 - a) Colorado P.O.S.T.-certified peace officers, whether full-time, part-time or reserve, whether on duty or off duty, including off-duty assignment/employment, who are engaged in an official law enforcement function or duty while representing their agency at the time of the incident;

1-3. DEFINITIONS (continued)

- b) Non-P.O.S.T.-certified deputy sheriffs, detention officers (per C.R.S. 16-2.5-103) whether on duty or off duty, engaged in a law enforcement function, including off-duty assignment/employment, representing their agency;

- c) Volunteer law enforcement officers who are on duty or who are otherwise acting on behalf of, or at the request of, a law enforcement agency at the time of the incident;
 - d) Temporary employees and volunteers, whether paid or unpaid, who are on duty in a law enforcement capacity for a member agency.
2. This protocol also applies to any law enforcement employee as defined above, who are not employed by or representing a member agency, but are involved in a law enforcement incident while outside of their jurisdiction and within unincorporated Morgan County or within the City of Fort Morgan.

C. TEAM COORDINATORS

Two persons from the member agencies will be chosen by the Agency CEO to coordinate team activities and responses.

D. PROXIMATE CAUSE

A cause that, in a natural and continuous sequence, produces a fatal injury or an injury that constitutes a substantial risk of death, without which cause the injury would not have occurred. Reasonable foreseeability of the fatal injury is not a factor relevant to this definition.

E. DEADLY PHYSICAL FORCE

Deadly physical force, as defined in Title 18 of Colorado Revised Statutes, means force, the intended, natural, and probable consequences of which is to produce death, and which does, in fact, produce death.

F. SERIOUS BODILY INJURY

An injury that poses substantial risk of death, as defined in Title 18 of Colorado Revised Statutes.

G. VENUE AGENCY

Any law enforcement agency employing and/or appointing law enforcement personnel who has primary jurisdiction to provide statutory law enforcement duties, responsibilities and services to the municipality or county where a Law Enforcement Incident has occurred.

H. EMPLOYER AGENCY

The agency which either employs, or appoints, the involved law enforcement officer or employee.

1-3. DEFINITIONS (continued)

I. CRIMINAL INVESTIGATORS

Those investigators assigned by the venue agency or agencies, the employer agency or agencies, the Colorado State Patrol (when applicable), the Morgan County Coroner's Office, the Colorado Bureau of Investigation (when applicable), and the District Attorney's Office to assist with the criminal investigation of the incident.

J. ADMINISTRATIVE INVESTIGATORS

Those investigators assigned by the employer agency to conduct the administrative investigation of the incident.

K. MEMBER AGENCIES

Those law enforcement agencies who are members of this agreement.

L. AGENCY CEO

Shall be the Sheriff, Chief or Marshal of the respective member law enforcement agency, or any outside law enforcement agency and shall also include their designee.

N. USE OF FORCE

As defined in Title 18 of Colorado Revised Statutes regarding use of physical and deadly physical force.

**PART TWO
PROCEDURES**

2-1. PERSONNEL

- A. The team shall consist of peace officers and ancillary personnel designated by the Sheriff of Morgan County and the Chief of Police of the City of Fort Morgan. The team may also consist of law enforcement and auxiliary personnel, operating under the mutual provisions of Colorado law, to include agencies within, or outside of, the 13th Judicial District, who may be called to assist in a Law Enforcement Incident.

2-2. INVESTIGATIVE AGENCIES, FORMATS, AND RESPONSIBILITIES

- A. To properly recognize and accommodate the various interests and the various rules of law which may be involved in any incident, investigations of these matters must be performed under two separate investigative formats: the criminal investigation and the administrative investigation.

- B. The criminal investigation:

2-2. INVESTIGATIVE AGENCIES, FORMATS and RESPONSIBILITIES (continued)

1. The investigation is required to follow the rules of law which apply to all criminal proceedings including constitutional, statutory, and case law requirements.
2. The investigation will be conducted in a professional and unbiased manner consistent with that of a thorough, fair, and complete investigation.
3. The criminal investigation has priority over the administrative investigation and it begins immediately after an incident has occurred.
4. It is performed by the team made up of criminal investigators from other venue agencies, the employer agency (where appropriate), the Colorado State Patrol (when

applicable), the Colorado Bureau of Investigation (when applicable), and the District Attorney's Office formed into a task force for each incident. The lead investigator will be assigned from an agency other than the employer agency by the team coordinator. An employer agency investigator may assist in all other functions.

5. Any irreconcilable investigative issues that occur during an investigation shall be decided by the team coordinator and lead investigator.
 - a) If it is determined that any law enforcement officer and/or law enforcement employee violated criminal law, The lead investigator for the team will be responsible for presenting a criminal filing to the District Attorney's Office.
6. In the event it is determined that any subject other than a law enforcement officer and/or law enforcement employee committed a criminal violation, the agency having venue will be responsible for preparing and filing any criminal charges with the District Attorney's Office. Investigative materials, reports, and evidence collected during the Morgan County Major Crimes Investigative Team investigation will be turned over to the criminal investigators from the venue / employing agency so that they may prepare the necessary criminal filings.

D. Venue determination:

1. When an incident occurs in two or more jurisdictions, each of those is a venue agency.
2. When an incident occurs on the boundary of two jurisdictions or at a location where the relevant boundary is not readily ascertainable or is in dispute, the venue agency and / or agencies shall be:
 - a) The employer agency if the actor is employed by either boundary agency.
 - b) Both boundary agencies if both employ involved officers.
 - c) The agency which has the greater interest in the case by virtue of having predominant law enforcement involvement in the incident or by virtue of having had the majority of acts leading up to the law enforcement incident occurring within its jurisdiction.

E. Scene security:

Each agency has initial responsibility for immediately securing crime scene(s) within its respective jurisdiction. This responsibility includes preservation of the integrity of the scene(s) and the contents therein, access control, and the identification and sequestration of witnesses. Responsibility may be changed by mutual agreement as the investigation progresses

2-3. TEAM RESPONSIBILITIES

- A. The team will be activated only upon the request of the Agency CEO (or their designee) having the investigative jurisdiction over the incident.
- B. The team will investigate and present fact-finding reports to the requesting jurisdiction's law enforcement agency, the Morgan County Coroner's Office (if applicable), and the District Attorney's Office. This will be the sole responsibility of the team unless otherwise directed by the requesting agency's Agency CEO or their designee.

- C. All existing procedures regarding the notification of the District Attorney's Office following a law enforcement officer's use of deadly physical force shall apply and be followed precisely, as well as the notification of the Coroner's Office within the appropriate county.

2-4. TEAM NOTIFICATION & TEAM MEMBER RESPONSE

- A. Requests for the team's assistance shall be made by the Agency CEO or the designee from the agency having jurisdiction over the investigation as soon as possible, preferably no later than two (2) hours after the actual time of the incident.
- B. Any designated Team Coordinator will not act as such in any Law Enforcement Incident in which that Coordinator is directly involved in the incident. Any designated Team Coordinator will not act as such in any Law Enforcement Incident which involves their member agency, unless specifically approved and directed by Agency CEO of the member agencies.
- C. All requests for assistance shall be made to the Agency CEO or designee. The Agency CEO will then assign a Team Coordinator from their agency.
- D. The coordinator will assess the details of the incident and decide what personnel and equipment shall be needed for the investigation. Upon determination of the personnel and/or equipment needed from each member agency, the Team Coordinator shall notify the respective Agency CEO to make that request.
- E. Each agency employing Morgan County Major Crimes Investigative Team investigators maintains their own internal call out procedures, on call schedules, and agency staffing needs and requirements.
- F. In an effort to maximize call out effectiveness, the coordinator will notify all members of the Morgan County Major Crimes Investigative Team regardless of their duty status within their own employing agency. Each notified Morgan County Major Crimes Investigative Team investigator will then need to assess, in conjunction with their departmental requirements and supervisor's directive, whether or not they will be able to respond to that incident.

2-4. TEAM NOTIFICATION & TEAM MEMBER RESPONSE (continued)

- G. When the Morgan County Major Crimes Investigative Team is required to respond to an incident, the team coordinator shall notify each team member in accordance with the agreed upon call out method. Each Morgan County Major Crimes Investigative Team member is responsible for contacting the team coordinator as to whether or not they are able to respond. The coordinator can then determine which personnel will be responding.

2-5. INCIDENT SCENE RESPONSIBILITIES

- A. Until such time as a Law Enforcement Incident Scene is turned over to the Morgan County Major Crimes Investigative Team, scene security will be the responsibility of the venue agency.
- B. Once the designated Team Coordinator arrives at the Law Enforcement Incident scene, the overall authority and responsibility for that scene(s) will be turned over to the Morgan County Major Crimes Investigative Team, until such time it is turned back over to the venue agency.
- C. The Team Coordinator may utilize personnel, who are not involved in the Incident, from the venue and/or employing agency, with the authorization of the Agency CEO of that agency.
- D. Prior to final relinquishment of the scene, the Team Coordinator and Lead Investigator will provide the administrative investigators an opportunity to assess the need for further evidence processing.

2-6. INTERVIEWS

- A. It is the intent of the Morgan County Major Crimes Investigative Team to only conduct criminal investigations and not become involved in administrative review of officer-involved fatalities.
- B. Interviews of all persons directly involved in a Law Enforcement Incident, including visual or audible witnesses, should be recorded via audio and visual means, utilizing the latest available technology and best, or recommended, practices or techniques.
- C. Interviews of persons associated with offender/witness/victim/officer background, or those providing tips or investigative leads, should be recorded via audio whenever possible.
- D. Copies of all interviews shall be provided to the requesting/venue/employing agency(ies) so they may conduct any administrative review or investigation.

2-6. INTERVIEWS (continued)

E. USE OF FORCE INCIDENTS:

This section applies to any Law Enforcement Employees who have statutory powers of arrest, search and seizure and enforcement of Colorado State Statutes, whether or not POST-certified, employed, paid or volunteer, and not necessarily to those employees who have no such authority to enforce the law.

1. The Team Coordinator will work with all parties involved to determine the best time to interview the involved officer(s) with the understanding this may not occur for one or more days after the incident, depending on the circumstances.

2. Any Law Enforcement Employee being interviewed will be informed that the interview is non-custodial and that all statements are voluntary. Should there be evidence that there was any criminal intent or culpability on the part of any Law Enforcement Employee (before, during, or after the interview), the officer will be advised under Miranda.
3. Should any Law Enforcement Employee invoke his/her rights under Miranda, or refuse otherwise to give a statement or cooperate with the team, the interview shall conclude and that Employee's Agency CEO shall be notified forthwith. Following any Garrity advisement by the Employer Agency, an attempt again will be made to obtain a statement, with Miranda warnings given if applicable.
4. Any Law Enforcement Employee with statutory arrest powers who is being interviewed as part of this investigation and requests to speak with an attorney shall be given a reasonable amount of time to do so.

2-7. SUBSTANCE IMPAIRMENT TESTING

Criminal investigation – the team will not compel an involved law enforcement officer(s) or other agency employee(s) to submit to chemical testing solely based on being involved in a Law Enforcement Incident, unless there are indicators of substance impairment.

Administrative investigation – the administrative or command personnel employing the involved officer(s) will be given the opportunity to compel the officer(s) to submit to intoxicant testing under their respective departmental guidelines. The results will not be made available to the Morgan County Major Crimes Investigative Team investigators.

2-8. THE DISTRICT ATTORNEY'S OFFICE

- A. Attorneys and investigators from the District Attorney's Office have the following roles in incident investigations:
 1. Assist and advise the Morgan County Major Crimes Investigative Team on various criminal law issues which may arise, to include, but not limited to: Miranda, voluntariness, search and seizure, probable cause to arrest, detentions and releases, elements of crimes, immunity, search warrants, arrest warrants, non-testimonial applications, and legal defenses.
- B. Once the Morgan County Major Crimes Investigative Team has submitted its report to the District Attorney's Office, the District Attorney and/or his/her assigned staff will review the case file in its entirety. Ultimately, it is incumbent upon the District Attorney's Office to determine whether or not charges are filed in a case.

2-9. REPORT WRITING:

- A. All criminal investigators will write reports documenting their participation in the investigation. Each agency employing Morgan County Major Crimes Investigative Team member investigators may use their own established report writing system and format.
- B. The lead investigator has the ultimate responsibility for report writing and for collecting reports from other agencies. All reports shall be reviewed by the team coordinator (or his designee) and a team member from the District Attorney's Office before submission to the District Attorney for review.
- C. Prompt completion and distribution of reports is essential.

2-10. EQUIPMENT/PERSONNEL/EQUIPMENT COSTS

All necessary equipment shall be supplied by the requesting agency. If additional or specialized equipment is needed, the cost of obtaining such equipment shall be the responsibility of the requesting agency, upon the approval of the Agency CEO. This does not prohibit any individual team member bringing any piece of equipment deemed necessary, provided that the requesting agency has no objection.

Any specialized testing will be the responsibility of the requesting agency.

All normal personnel costs shall be the responsibility of the agency providing the members to the team, not the requesting agency.

All team members, while responding to a call out (regardless of jurisdiction) shall be deemed to be on duty and responding to a call of mutual aid as set forth in state law.

2-11. FORENSIC LABORATORY PERSONNEL

- A. Though a Law Enforcement Incident being investigated by the Morgan County Major Crimes Investigative Team will typically be processed by team investigators, the Team Coordinator may utilize laboratory personnel from the Colorado Bureau of Investigation or Northern Colorado Regional Forensic Laboratory as deemed appropriate.
- B. The investigating agency will be responsible for the care, control, custody, and processing of the sealed evidence.

2-12. AUTOPSY

- A. At least one member of the Morgan County Major Crimes Investigative Team will attend any autopsy. Laboratory personnel from CBI or NCRFL may be utilized as necessary to assist with collecting any evidence.

- B. The pathologist performing the autopsy will receive a complete briefing prior to the post mortem examination. The briefing will include all information known at that time which may be relevant to the case. Cause and manner of death will be provided by the pathologist, with the final determination to be made by the County Coroner having jurisdiction.

2-13. NEWS MEDIA RELATIONS

- A. The venue and / or the employer agency will be responsible for all news media relations.
- B. To maintain the integrity of the investigation, all media releases should be reviewed with the Team Coordinator, the lead investigator, the CEO of the venue agency and/or employer agency, along with the District Attorney's Office prior to any release to the media.
- C. Coroner's Office – release of information will follow the policy and procedure of the Morgan County Coroner's Office, as well as applicable statues contained within the Colorado Revised Statutes.

2-14. ACCESS TO REPORTS AND EVIDENCE

- A. Material which is created or collected by (or at the request or direction of) Morgan County Major Crimes Investigative Team criminal investigators (including the criminalist laboratory) will be made available in a timely manner to the law enforcement agencies that have an interest in the investigation, including the administrative investigators. The material will include:

2-14. ACCESS TO REPORTS AND EVIDENCE (continued)

1. Completed reports.
 2. Access to physical evidence.
 3. Photographs, diagrams, and video.
 4. Audio recordings.
- B. When the District Attorney's Office concludes that the physical evidence collected by the criminal investigators is no longer needed for criminal law purposes, the employer agency / requesting agency shall be notified of that decision so it can proceed with the preservation or disposition of the collected evidence consistent with their own guidelines and future needs.
 - C. Morgan County Major Crimes Investigative Team archives will be held by the District Attorney's Office. Those archives will only consist of the imaged (scanned) and / or copied documents associated with the investigation. All of the original documents, as well as the totality of the physical evidence, audio tracks, photographs, and all other physical material, will be turned over to (and maintained by) the employer / requesting agency.

2.15 DEBRIEFING

- A. At the conclusion of an investigation, there will be a debriefing and critique of actions taken. The purpose of this debriefing will be to ensure a thorough and complete investigation has taken place. This meeting shall also serve as a way to evaluate and make suggestions to improve the performance of this unique multi-jurisdictional investigative team. All attempts will be made to have the debriefing prior to submission of documents to the District Attorney's Office.
- B. The debriefing will enable the team to make additional assignments, if deemed necessary by the critique. It is important to have members from the District Attorney's Office, the venue agency, the employee agency (if different from the venue agency), the Coroner's Office, and the involved crime lab in attendance. The debriefing will be open to all critical response team members and they are encouraged to attend to help keep communications open. The debriefing will be closed to the media. All media releases will be in accordance with section 2-13 of this protocol.

MORGAN COUNTY MAJOR CRIMES INVESTIGATIVE TEAM POLICY

ADOPTED December 31, 2015

For The Fort Morgan Police Department

Darin Sagel, Chief of Police

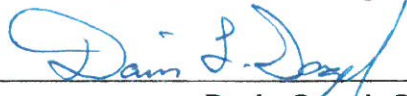
For The Morgan County Sheriff's Office

Jim Crone, County Sheriff

MORGAN COUNTY MAJOR CRIMES INVESTIGATIVE TEAM POLICY

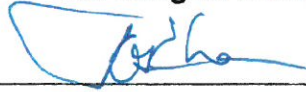
ADOPTED December 31, 2015

For The Fort Morgan Police Department



Darin Sagel, Chief of Police

For The Morgan County Sheriff's Office



Jim Crone, County Sheriff