

GEORGIA BUREAU OF INVESTIGATION



LAW ENFORCEMENT USE OF FORCE AND CUSTODIAL DEATH INVESTIGATIONS MANUAL

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LAW ENFORCEMENT USE OF FORCE AND/OR CUSTODIAL DEATH INVESTIGATIONS

This Manual is a guide for investigating the use of force by a law enforcement officer or a custodial death case. When a law enforcement officer must use force and a citizen dies or is seriously injured, the public expects a thorough investigation regarding the circumstances of the use of force. At all times during the investigation, the agent will utilize their discretion in determining whether investigative acts described in this Manual are needed depending upon the facts and circumstances of each case. Additionally, the prosecutor may expand or limit the scope of the investigation as appropriate.

It is important to understand that these investigations are criminal in nature and not administrative inquiries. The purpose of the investigation is to determine whether any criminal laws have been violated that resulted in death or injury to the person, arrestee or detainee. The person who was injured or died may have also committed crimes, such as aggravated assault or aggravated assault upon a peace officer. Consequently, the terms suspect and victim do not apply for these types of investigations, as the officer and the person may be both a suspect and a victim. Additionally, the person also may be deceased. For simplicity, this Manual will use the terms "Officer" when referring to the officer using force or having custody of the person, and "Subject" when referring to the person, arrestee or detainee upon whom force was used by the Officer.

A. AGENT RECEIVING REQUEST FOR GBI ASSISTANCE

1. Obtain basic facts from the requestor on what has occurred and attempt to determine the scope and parameters of the investigation. Attempt to determine the number of witnesses and/or leads that have to be pursued. If possible, obtain name, race, and age of subject and officer. Ensure the requestor understands that the GBI will conduct a criminal investigation and advise the requestor that the Case Agent, SAC or ASAC will follow-up with them.
2. Determine from the requesting agency if the criminal investigation will focus on the officer(s) actions or the subject(s) actions which led to the police encounter and resulting use of force. If the requesting agency wants a criminal investigation of both, separate cases should be opened. The office supervisors will determine the necessity for opening separate cases and assigning different agents to conduct the two cases.
3. Immediately notify SAC or ASAC of the regional office.

B. SAC OR ASAC RESPONSIBILITIES

1. Notify appropriate Inspector.
2. SAC / ASAC or designee will respond to the scene and create an incident command for on scene supervisor support.
3. Contact requestor and advise them that the GBI will conduct a criminal investigation independent of their department, that it will not be an internal

- investigation, and that all written reports will be submitted to the appropriate prosecutor and department head.
4. Notify Deputy Director for Investigations of the request either directly or through the appropriate Inspector or the chain of command. Assign appropriate number of regional agents to include Crime Scene Specialist to respond to the scene and provide investigative assistance.
 5. In use of force cases, the SAC/ASAC will facilitate any needs of the agents assigned, including personnel assistance from adjoining regions.
 6. Investigations of custodial deaths, including jail and prison deaths, will be conducted, reported and reviewed according to the use of force/custodial death case criteria requirements. The appropriate Inspector will be notified and kept apprised on the status of the investigation.
 7. Law enforcement shootings in which no one is injured will normally be handled by regional agents but conducted and reported in accordance with the use of force criteria in this manual.
 8. In use of force investigations, which result in death or serious injury to the subject of the investigation, SAC'S / ASAC'S will attempt to establish contact with the family of the subject as soon as possible. At a minimum, the family will be briefed on the status of the investigation. The SAC or ASAC will also update the family as appropriate during the course of the investigation. The requesting agency head will be advised of the family contact and given the opportunity to participate if they so desire. If the family retains an attorney to act as their contact, the SAC or ASAC will consult with GBI Legal Services on interaction with the family attorney.
 9. SAC/ASAC will coordinate news releases with requesting agency head and/or head of political subdivision as per GBI Policy 1020. The primary focus will remain the integrity of the investigation but as much information as possible will be released to the media regarding the circumstances of the incident and the status of the investigation. In the case of use of force investigations which result in death or serious bodily injury, the SAC / ASAC will consult with the Command Staff / PAO to prepare appropriate media releases.
 10. If the use of force involves a GBI Agent, a decision will be made per GBI Directive 10-2 as to who will conduct the investigation. Advise Regional Agents on the scene of the out of Region Agents who will be responding to scene.
 11. When an agent is involved in the use of deadly force, the agent's work unit SAC/ASAC will ensure that a Use of Force Report is completed and forwarded through the chain of command within five working days of the event. The interview of the agent(s) involved will serve as the narrative on the GBI Use of Force Report. The agent may review the interview and provide supplemental information to the interviewing agent via a memorandum which will be attached to the Use of Force Report and added to the case file.

C. INSPECTOR RESPONSIBILITIES

1. In the event of a use of force resulting in the death or an in-custody death involving a GBI Agent as the officer who used the force, an Investigative Division Inspector will respond to the scene.
2. The Inspector will assume full responsibility for investigations involving a GBI Agent as the officer in the investigation.
3. In any use of force investigation which has resulted in the death or serious injury of a subject, the Inspector will be responsible for administrative oversight along with the SAC or ASAC. Inspectors will evaluate the initially reported circumstances of each case to determine if they need to respond to the scene of the incident and provide on scene command level support.
4. The Inspector will evaluate the need for additional Agent or CSS resources with the goal being to complete the initial crime scene

D. FIRST AGENT ON THE SCENE

1. Contact person in charge at the scene and obtain briefing.
2. Establish safety at the scene, if applicable.
3. Provide medical assistance, if applicable.
4. Establish protection of crime scene.
5. Identify all witnesses and leads to include:
 - a. Crime scene and search
 - b. Officer witnesses
 - c. Civilian witnesses
 - d. EMS, ambulance, fire, and other emergency personnel
 - e. Log all individuals that have entered the scene to include those still present.
6. Brief case agent upon his/her arrival at the scene
7. If First Agent on Scene is Case Agent, assume those responsibilities.

E. CASE AGENT RESPONSIBILITIES

1. Obtain briefing from agent on scene or officer in charge.
2. Establish safety at the scene, if applicable.
3. Provide medical assistance, if applicable.
4. Attempt to establish a liaison with the requesting agency.
5. Establish protection of crime scene.
 - a. Coordinate assigning an officer to control and document scene access through single point of entry.

- b. List all persons on scene.
6. Obtain and/or ensure the issuance of a search warrant or consent to search for the crime scene when applicable.
7. Direct and coordinate the investigation by assigning leads and interviews to include subject, civilian witnesses, officer witnesses, EMS, ambulance, fire, other emergency personnel to include attending physician(s) and nurse(s), and neighborhood canvass.
8. Debrief agents for results of leads and development of additional witnesses and leads. The case agent should not get tied up initially conducting interviews but should spend his/her time coordinating the investigation.
9. Assess investigative needs and request additional personnel/resources when necessary.
10. Ensure/coordinate communications between interviewing agents/investigators, crime scene personnel, and other requested services.
11. Identify involved officer(s) and remove from scene if necessary.
12. Identify all other involved officer(s).
13. Separate all witnesses to include involved officer(s) and witness officer(s), if possible.
14. Secure all weapons that were fired, remaining ammunition in weapons, and conduct weapons traces of subject's weapon through the Department of Justice (ATF) when applicable.
15. Encourage officer(s) involved in the incident to contact their spouse and/or family. If the officer(s) are unable to do so, facilitate this action through their department's representative, as long as such contact will not be to the detriment of the investigation.
16. Every effort should be made to ensure that any statements required from officers involved in the incident are given only after the officers have been afforded reasonable time to regain their composure.
17. Interviews should be conducted one-on-one. There is usually no need for two agents on an interview unless circumstances warrant otherwise.
18. Participate in briefings with other agents and supervisor(s).
19. Ensure that all evidence is entered into evidence room and/or submitted to lab.
20. Requirement: If death related incident, ensure that autopsy has been scheduled, attend autopsy or have a representative attend autopsy. Ensure that the Medical Examiner is briefed on all case facts.
21. Ensure completion of all reports. Review all laboratory and autopsy reports.
22. Prepare investigative summaries according to GBI Case Reporting Manual.
23. Obtain needed reports from other agencies.
24. Seek input from appropriate prosecutor and/or Legal Advisor, if needed.
25. Draft any appropriate charges against subject(s).

26. Keep GBI supervisor(s) informed of developments in the investigation.
27. Monitor news media accounts for additional witnesses.
28. Obtain and review the original or copy of any audio or video media from involved police officers' and vehicles if applicable and treat such as evidence. This evidence should, when possible, be obtained prior to the vehicle(s) or recording device(s) being released back to the department. Video and audio recording devices would include but not be limited to, dash cameras, body worn microphones, and body worn cameras. If the device is portable, such as body worn cameras, consider securing the device as evidence in order to maintain the original recording. Any copy from a digital device will be considered an original recording and will be treated as evidence.
29. In all GBI related uses of deadly force, the case agent and the CSS will prepare a comprehensive post investigation briefing to the Investigative Division Command Staff prior to case submission to the District Attorney. Any documentation will be maintained in the case file.
30. Case agent shall ensure that the Crime Laboratory is advised that the evidence being submitted is in relation to a police involved shooting. Doing so will expedite the processing of evidence.

F. RELATIVES OF SUBJECT AND OFFICER

1. Ensure that the subject's/officer's family is notified by an agency representative or by GBI Personnel. Notification should occur before media accounts appear.
2. Appropriate general information should be provided about the incident after being cleared with investigators and agency heads.
3. After the investigation has been completed and the prosecutor has made a decision and/or grand jury has heard the case, the District Attorney may want to consider meeting with the subject's family and briefing them generally on the results of the investigation. The case agent is encouraged to participate in such a meeting.

G. CRIME SCENE SEARCH

1. The crime scene search should be conducted by GBI personnel when possible, preferably by a Crime Scene Specialist. The crime scene search will be conducted in accordance with specifications and guidelines outlined in the Crime Scene Specialist manual. If the crime scene search is conducted by another agency, an agent should be assigned to interview those individuals who conducted the crime scene search and to obtain copies of their reports, sketches, photographs and all pertinent information.
2. If the incident occurred on private property and involves more than an initial entry or providing of assistance to a subject, and/or if the officer has

- a reasonable expectation of privacy, a consent to search or a search warrant shall be obtained. (Case Agent Responsibility)
3. Establish preservation and security of the crime scene from the time of the incident until the Crime Scene Specialist or other processing personnel takes charge.
 4. The Crime Scene Specialist should also consider the use of privacy screening in scenes where the public and media may view the deceased while the crime scene examination is in process. In these instances, the CSS should also prioritize the examination of the deceased on the scene for the purposes of expedient removal but not to the extent that it sacrifices a thorough examination of the scene.
 5. Evidence collection will be the responsibility of the Crime Scene Specialist. Retention and submission of evidence will be the responsibility of the case agent. However, if agreeable, the Crime Scene Specialist may assume this responsibility.
 6. The Crime Scene Specialist and the Case Agent should collect evidence following proper procedures of evidence collection for later consideration of potential DNA analysis (to include the possible presence of contact DNA). Refer to Page 18-19 in this manual for further information relating to Contact DNA analysis and evidence collection.
 7. The scene shall be thoroughly documented using detailed methods of note taking, photography and sketches. Photographs should be taken of the scene using a progression of overall, medium, and close-up views of the scene. Include a scale when photographing items for comparison or when size must be determined. Photograph all items of evidence in place before collection and packaging. Video recording is permissible and advantageous. Ensure video methods do not conflict with the rules of evidence. Video recording will not be used in lieu of still photography. These photographs can be used to brief the Medical Examiner (if death related) and can also be used during interviews with witnesses, officers, and subject. If the incident occurs at night, it may be necessary to photograph the scene during daylight hours as well. Aerial photographs should be taken if possible as they may aid in the investigation.
 8. Absent exigent circumstances, on any scene where there has been a use of force which has resulted in the death or serious injury of a subject, the LEICA ScanStation System should be utilized: The CSS will deploy the Leica ScanStation to digitally record the scene. Prior to deploying the Leica, the CSS and supervisor will determine if the scene is stabilized and safe for the investigative personnel to operate and continue the scene investigation. If an issue arises where the scene cannot be scanned during the scene examination, the CSS should make arrangements to have the scene scanned at a later time. If the crime scene is located on a major highway, then through consultation with the Inspector, a CSS from another region may be requested to expedite the processing of the crime scene.

9. Prepare crime scene sketch to include measurements of and between pertinent objects, areas, and evidence. Note any relevant object, area, or evidence by item number (if applicable):
 - a. Street or road areas, outdoor areas, vehicles, buildings and houses (interior and exterior) with floor plans/diagrams
 - b. Body
 - c. Weapons
 - d. Ammunition
 - e. Projectiles, projectile holes, cartridge casings
 - f. Clothing
 - g. Blood
 - h. Handcuffs
 - i. Impact Weapons
 - j. Flashlights
 - k. Pepper spray/gas containers
 10. Record weather conditions. Photograph string line, dowel rods or laser line of fire, if possible.
 11. Photographs of officer in uniform or attire at the time incident occurred:

The officer(s) involved in the use of force should be thoroughly photographed by a CSS or the agent conducting the interview with the officer. General to specific photographs should be taken of the officer(s) uniform, dress attire and any injuries sustained by the officer(s). Agents should also consider collecting the uniform, clothing, duty gear of the officer(s) as evidence, especially in circumstances where evidence indicates close contact between the officer and subject occurred during the use of force.
 12. Using a systematic search method, search bodies, buildings, outdoor areas, streets, vehicles, and/or other relevant places or objects for items of evidentiary value.
 13. Evidence will be collected/processed giving priority to the most fragile or transient evidence. Properly collect, bag, mark, and label evidence as it applies to the investigation:
 - a. Fingerprints and palm prints
 - b. Serological evidence (blood, buccal swabs, etc.)
 - c. Hair and fiber
 - d. Clothing
 - e. Tire, foot, and shoe impressions (photographs and casts)
 - f. Identify projectile holes
 - g. Weapons and ammunition including projectiles and cartridge casings
 - h. Areas of forced entry (windows, doors, etc.)
 - i. Tool marks
 - j. Fracture matches
-

- k. Paint analysis
- l. Soil
- m. Drugs
- n. Gunshot residue hand wipings (optional)
- o. Pepper gas canister
- p. Known standards of fabrics and/or carpets (if applicable)
- q. Distraction device (if applicable)
- r. Other types of evidence

The documentation and recording of all evidence will be in accordance with the GBI Case Reporting Manual.

- 14. The Crime Scene Specialist will keep the case agent informed of any relevant findings within the crime scene that may aid in the interviewing of witnesses, etc. The case agent should also inform the Crime Scene Specialist of anything learned during the course of the investigation that will assist the processing of the crime scene.
- 15. If a death is involved, an evaluation should be made concerning the release of the crime scene prior to the performance of the autopsy.
- 16. Consideration should be given to reenacting the incident.
- 17. The return of any evidence, to include involved weapons and vehicles, must be approved by the appropriate prosecutor. If the prosecutor directs the GBI to retain another department's property, the affected agency head will be advised of the prosecutor's decision.

H. OFFICER'S WEAPON

- 1. Obtain weapon, handle as evidence, and establish chain of custody.
- 2. Note make/model, serial number, and type of ammunition.
- 3. Note if weapon is department issued or personally owned.
- 4. Verify if loaded or unloaded. If loaded, note number of fired and unfired rounds and position. Note position of hammer, safety, and/or slide. Note any weapon malfunction.
- 5. Weapon will be documented in accordance with GBI evidence procedures as outlined in the GBI Case Reporting Manual.
- 6. If the officer(s) used a Taser, then the Taser shall be downloaded by GBI personnel.
- 7. If applicable, conduct a round count of extra magazines carried by the involved officer.
- 8. Approval of the prosecutor with jurisdiction over the case shall be gained prior to returning the officer's weapon to the officer's department. If the prosecutor wishes for the weapon to be retained as possible evidence, the department head of the officer's agency will be informed.

I. SUBJECT INTERVIEW

1. It is important to document if the subject answers a question in the negative or does not know the answer.
 2. If the subject is an inpatient at the hospital, agents should obtain physician approval and list all drugs administered if applicable to determine whether the subject can freely, voluntarily consent to being interviewed.
 3. Obtain identification (ID) data on each person to include the full name, race, sex, date of birth, height, weight, social security number (optional) or driver's license number, complete address, occupation, employer, employment address and telephone number of both home and business.
 4. Normally, the subject that is not in custody will not be advised of their constitutional rights as the objective of this type of investigation is to determine if there is any criminal conduct by an officer. If the subject is in custody, the subject should either be advised of their constitutional rights before being asked to give a statement or the district attorney should be consulted about taking a statement without advising the subject of their constitutional rights.
 5. Note subject's education, mental state, or drug-alcohol influence to include prescribed medications.
 6. Obtain complete description of events leading up to the incident, noting dates and times. Go back in time as far as necessary to get accurate sequence of events, leading up to the incident, noting any previous activity that could have bearing on the incident, including dates, times, locations, and names.
 7. Obtain complete description of events during the incident noting dates and times.
 8. Obtain complete description of events after the incident noting dates and times.
 9. Describe available light.
 10. Full description of weapons possessed and type of ammunition and how loaded if applicable.
 11. Determine if subject was armed and with what type of weapon?
 - a. How many shots fired by subject
 - b. Which hand was the weapon in
 - c. Distance between officer and subject
 - d. Elapsed time between shots
 - e. Commands or dialogue between subject and officer
 - f. Movements, directions or actions by the subject
 - g. Resistance by subject
 12. Force and Weapons Used by Officer:
 - a. Which hand was the weapon in
 - b. Distance between officer and subject when weapon used
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- c. Elapsed time between shots
 - d. Number of shots fired
 - e. Commands or dialogue by the officer
 - f. Movements, directions or actions by the officer
13. If cooperative, ask subject to provide sketch, including distances, positions and movements, and attach to appropriate investigative summary describing the interview.
 14. Note in detail any dialogue by persons witnessed to or involved in incident.
 15. Any resistance subject displayed or made toward officer.
 16. How officer identified himself or herself in any commands officer gave prior to use of force.
 17. Description of officer's clothing and vehicle and use of blue lights and/or siren.
 18. Describe actions of others at scene.
 19. Prior knowledge of or contact with officer.
 20. Describe and photograph subject's injuries.
 21. Any injuries to subject prior to incident.
 22. Describe subject's activity after incident stopped.
 23. Photograph and describe damage to subject's clothing.
 24. Damage to subject's vehicle, if applicable.
 25. Subject's height and weight.
 26. How subject identifies all witnesses and how to contact same.
 27. Obtain subject's release for medical records to include mental health records.
 28. Subject's prior criminal record.
 29. Has subject previously filed complaints against law enforcement officers?
 30. Gunshot residue hand wipings, if appropriate.
 31. Blood sample for testing for alcohol and drugs with consent or search warrant (optional).
 32. If officer used pepper spray, how many times did the officer spray them, from what distance, where did the spray hit them, and what were the results of the spray?
 33. What did the officer(s) do to care for the subject after spraying the pepper spray and time lapse between spraying and subsequent care and treatment?
 34. How was subject handcuffed or restrained?
 35. What position was the subject in when transported?
 36. Did the subject advise officer(s) of any medical problems or injuries, and if so, what was done?
 37. Who seized the subject's weapon?
 38. Who does the weapon belong to? Where and when purchased?
 39. Ask the subject if there was anything else they would like to say or provide. Note answer in interview summary.
 40. Advise the case agent of any witnesses or leads developed as a result of this interview.
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41. Agents may document interview through audio/video recordings governed by GBI Case Reporting Manual.

J. WITNESS INTERVIEWS

1. Important to document if witness answers a question in the negative or does not know the answer.
 2. Obtain identification (ID) data on each person to include the full name, race, sex, date of birth, social security number (optional) or driver's license number, complete address, occupation, employer, employment address and telephone number of both home and business.
 3. Does the witness personally know the subject or officer? If so, what is their relationship?
 4. Have witness describe events leading up to the incident, noting dates and times.
 5. Obtain complete description of events during and after the incident, noting dates and times.
 6. Describe available light.
 7. Document direction, movements and dialogue of subject and officers prior to incident, during incident, and after incident.
 8. Have witness sketch scene noting locations or positions, if applicable. Have witness describe/note his/her exact location. The case agent may want to revisit the scene with the witness to further clarify the witness' vantage point.
 9. Witness' reason for being at scene.
 10. Was subject armed and with what type weapon?
 - a. How many shots fired by subject
 - b. Which hand was the weapon in
 - c. Distance between officer and subject
 - d. Elapsed time between shots
 - e. Commands or dialogue between subject and officer
 - f. Movements, directions or actions by the subject
 - g. Resistance by subject
 11. Force and Weapons Used by Officer:
 - a. Which hand was the weapon in
 - b. Distance between officer and subject when weapon used
 - c. Elapsed time between shots
 - d. Number of shots fired
 - e. Commands or dialogue by the officer
 - f. Movements, directions or actions by the officer
 12. How officer was dressed, identification displayed or given, vehicle and emergency warnings, if applicable.
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13. If officer used force prior to incident, describe kind and amount, and relevant weapon information.
14. If officer used pepper spray, how many times did the officer spray, from what distance, where did the spray hit the subject, and what were the results of the spray?
15. What did the officer(s) do to care for the subject after spraying with pepper spray and time elapse between spraying and subsequent care and treatment?
16. How was the subject handcuffed or restrained?
17. What position was the subject in when transported?
18. Did the subject advise the officer(s) of any medical problems or injuries, and if so, what was done?
19. Ask the witness if there is anything they were not asked about in this interview and if there is anything else they would like to say or provide. Note answer in investigative summary.
20. Are there any additional witnesses?

K. Law Enforcement Witnesses

1. **It is important that the officer, who witnessed the use of force incident, be advised and clearly understands that the investigation is criminal in nature and that it is not an administrative or disciplinary inquiry. The officer should also be advised that his/her cooperation is voluntary and that he/she is not being compelled in any way to make a statement to the Georgia Bureau of Investigation.**

The officer will be advised of the following:

This investigation is to determine whether any criminal laws have been violated during the use of force incident. It is not an administrative or disciplinary inquiry. You are not being compelled to give any statement or answer any questions. Your cooperation in this investigation is voluntary.

2. Provide a detailed account of the incident.
3. Describe what movements were made by both the involved officer and subject.
4. Did the officer identify themselves as law enforcement? If so, how was the identification made or did they witness the involved officer make identification?
5. If applicable, did the officer render aid or observe any other individuals render aid to the subject?
6. Did they discharge their own weapon?
7. If no, ask officer to explain why they did not discharge their weapon.
8. Did they take custody of the officer's weapon after the incident? If so, how was it loaded? Who did they give the weapon to?

9. If the subject was armed, did they or anyone other than the subject, come in contact with the weapon? If the officer did, will they be willing to submit to DNA testing (buccal swab) for elimination purposes?
10. All information obtained or made available at any briefing prior to incident:
 - a) Date, time and location of briefing
 - b) Who conducted briefing
 - c) Who was present at briefing
 - d) What assignments were made and by whom
 - e) What handouts or written information available or disseminated. Obtain copy.
 - f) Were warrants on file and what did those warrants charge
 - g) What were they told in briefing
 - h) Was the subject believed to be armed and dangerous
 - i) What was the plan of action and any alternate plan of action
 - j) Explain any mental conditions
11. Who made the decision to take action or enter, if applicable?
12. Has the officer involved been involved in other use of force or shooting cases?
13. If the witness officer was armed, describe weapon, ammunition and state whether the witness officer pulled and/or used his/her weapon in any manner or if he/she did not.
14. If the witness officer was not within his/her jurisdiction, what law enforcement jurisdiction did he/she have at the scene?
15. Ask if the witnessing officer or their vehicle are equipped with any type of video or audio recording device. This would include, but not limited to; dash cameras or body worn cameras. Ensure the original or copies of any recording related to the incident has been obtained and reviewed. Any copy from a digital device will be considered an original recording and will be treated as evidence.
16. Advise case agent of any witnesses or leads as a result of this interview.

L. INVOLVED OFFICER INTERVIEW

1. **It is important that the involved officer be advised and clearly understands that the investigation is criminal in nature and that it is not an administrative or disciplinary inquiry. The officer should also be advised that his/her cooperation is voluntary and that he/she is not being compelled in any way to make a statement to the Georgia Bureau of Investigation.**

The officer will be advised of the following:

This investigation is to determine whether any criminal laws have been violated during the use of force incident. It is not an administrative or disciplinary inquiry. You are not being compelled to give any statement or answer any questions. Your cooperation in this investigation is voluntary.

2. It is not mandatory that the officer be advised of his/her Miranda Rights unless the interview is custodial in nature.
3. If the subject of the investigation is a GBI employee, the GBI employee will also be advised of the following:

GBI employees who are subjects or witnesses in a criminal investigation are not required to answer any questions which may incriminate them and are not required to waive their Fifth Amendment right to remain silent unless such questioning is by the GBI Office of Professional Standards and the employees have been advised of their rights per Garrity v. New Jersey pursuant to GBI Policy 1046 XIII (C).

4. If the officer is agreeable to the interview but requests that his/her attorney be present, the agent will conduct the interview in the presence of the attorney.
5. When video of the use of force incident exists, the case agent shall use discretion when determining the appropriate utilization of the video during the officer interview. The case agent should attempt to conduct the interview prior to the involved officer watching the video. If the involved officer insists on watching the video prior to the interview, the case agent shall consult with the work unit supervisors, Command Staff and the District Attorney. The case agent will not allow the officer to view the video without prior approval from the Command Staff and District Attorney.
6. No law enforcement officer other than GBI agents will be present during the interview unless the officer specifically requests that another officer sit in as a witness only. If the officer requests that another officer be present during the interview, it is imperative that the agent establish and document the fact that the officer was not compelled by his/her department to have a witness present nor was the witness presence suggested by his/her department. If the other officer is a superior officer, the agent should further establish that the officer is not being compelled to answer questions by the presence of the superior officer.
7. It is important to document if the person answers a question in the negative or does not know the answer.
8. Obtain ID data on officer.
9. Law enforcement background:
 - a. Department(s)
 - b. Years employed
 - c. Rank and/or position

- d. Training record
- e. Last firearm qualification date with weapon used

10. Personal information and activities:

- a. When did officer come on duty?
- b. What was officer's assignment on the date of incident?
- c. What is officer's regular assignment and shift (if different from b)

11. If the facts and circumstances of the investigation warrant, the following questions may be asked to determine if criminal activity occurred.

- a. When did officer last sleep and how long?
- b. Is the officer taking any medication?
- c. When was the officer last under the influence of alcohol, prescription drugs, or any other drugs?
- d. Does officer have any other employment?
- e. In the event there is probable cause to believe the officer is under the influence of alcohol or drugs, either obtain consent to draw blood from the officer or obtain a search warrant.

12. Information available to officer prior to incident:

- a. Call for assistance
- b. Arrest warrants, charges
- c. Explain any mental conditions
- d. Date, time, and location of briefing (if applicable)
- e. Who conducted the briefing
- f. Who was present
- g. What assignments were made and by whom
- h. Information provided (handouts, etc.)
- i. Information regarding subject being armed and dangerous
- j. Plan of action and any alternate plans
- k. Who made the decision to take action or enter, if applicable
- l. Were any rules of engagement issued (such as hostage situation, barricaded felon, etc.), if applicable? If so, by whom and what was issued

13. How was the officer's uniform or dress and identification displayed?
Photograph officer in uniform or state of dress as they appeared at the time of the incident.

14. Officer's vehicle description and use of blue light and/or siren.

15. Did officer identify himself or herself, and how was the identification made?

16. If officer made identification, how did the subject respond?

17. Why did officer act and on what basis did officer take action?

18. Obtain a copy of any mutual aid agreement.

19. Complete description of events leading up to the incident. Go back in time as far as necessary and include all dates, times and locations.
 20. Complete description of events during the incident noting dates and times.
 21. Complete description of officer's weapon and distinguish in which hand the weapon was held.
 22. How was weapon loaded as to the amount, type and position of ammunition?
 23. Lighting conditions.
 24. Determine any force used by the subject and/or officer prior to the shooting or incident and note weapon used such as handcuffs, flashlight, nightstick, etc.
 25. Does subject have prior criminal history and was officer aware of prior history?
 26. Was subject armed? If so, what type of weapon?
 - a. If gun, did the subject discharge their weapon? If so, how many times?
 - b. Which hand was the weapon in?
 - c. What was the distance between officer and subject?
 - d. How much time elapsed between shots?
 - e. What commands or dialogue took place between subject and officer?
 - f. What were the subject's movements, directions or actions?
 - g. What resistance did the subject display?
 27. Force and Weapons Used by Officer:
 - a. What type of weapon was utilized by officer?
 - b. Which hand was the weapon in?
 - c. What was the distance between officer and subject when weapon was used?
 - d. If gun, how much time elapsed between shots?
 - e. How many shots were fired?
 - f. What commands or dialogue took place between subject and officer?
 - g. What were the officer's movements, directions or actions?
 - h. If Taser was used, in what manner was the use? (I.e. probes or drive stun)
 - i. How many cycles were used? If multiple cycles were used, describe the circumstances why subsequent cycles were utilized.
 - j. Does the department have a policy on the use of Taser? Describe policy.
 - k. Describe the training the officer received in reference to the use of the Taser.
 28. Why did the officer use force?
 29. Complete description of event after the incident, noting dates and times.
 30. Officer's and subject's actions after the shooting stopped.
 31. Subject's injuries and damage to clothing.
 32. Officer's injuries and damage to clothing.
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33. Ascertain identity, actions and dialogue of other witnesses at the scene, including officers and how they can be located.
34. Relevant information concerning subject's vehicle, if applicable.
35. Did officer know subject and/or have prior contact?
36. Officer or witness attempt to call for or render medical assistance to the subject.
37. Availability of other law enforcement assistance prior to incident, assistance requested, and assistance provided.
38. Was incident recorded, video or audio? Inquire concerning dash cameras, body worn microphones, and body worn cameras. If so, obtain recording. Ensure the originals or any copies of recording related to the incident has been obtained and reviewed. Any copy from a digital device will be considered an original recording and will be treated as evidence.
39. Who has officer given statements to?
40. Obtain release for medical records of officer, if applicable.
41. Has officer been involved in prior shootings? If so, details and outcome.
42. Has officer ever had complaints filed or been investigated for the use of force? If so, details and outcome.
43. Has officer been involved in any incidents in which the other person required medical attention? If so, details.
44. Did officer relinquish custody of his/her weapon after shooting, if so, to whom? If officer used pepper spray, brand name and percent, how many times did the officer spray the subject, from what distances, whether the spray hit the subject, and what were the results of the spray?
45. What did the officer(s) do to care for the subject after spraying the pepper spray and time lapse between spraying and subsequent care and treatment?
46. How was the subject handcuffed or restrained?
47. What position was the subject in when transported?
48. Did the subject advise officer(s) of any medical problems or injuries, and if so, what was done?
49. Explain to officer the process for reviewing the officer's personnel and/or internal affairs file for previous complaints and/or problems and disciplinary actions. (See Section S. Internal Affairs and/or Personnel File). Obtain officer's consent to review P.O.S.T. records. If refused, obtain P.O.S.T. records through Open Records Act.
50. Has officer ever been charged with a criminal offense? If so, details and outcome.
51. Gunshot residue wipings (optional).
52. Have officer prepare a diagram or sketch of the scene and events and attach to interview summary if the diagram will assist in understanding what occurred.
53. Ask the officer if there was anything they were not asked about in this interview and if there is anything else they would like to say or provide. Note answer in interview summary.
54. Review the officer's statement with the officer and note the review in the investigative summary.

55. Advise case agent of any witnesses or leads as a result of this interview.
56. Document interview per Directive and GBI Case Reporting Manual.

M. EMS/AMBULANCE/RESCUE/FIRE PERSONNEL

1. Date and time of call and arrival.
2. Obtain identification (ID) data on each person to include the full name, race, sex, date of birth, social security number (optional) or driver's license number, complete address, occupation, employer, employment address and telephone number of both home and business.
3. Observations at the scene, to include additional witnesses and/or weapons.
4. Describe injuries to subject and/or officer.
5. Was subject restrained and how?
6. Statements made by subject.
7. Statements made by officer.
8. Establish chain of custody for body, clothing, and any evidence.
9. Treatment provided.
10. If they transported subject or officer, where to?
11. State whether or not any evidence was seized by them.
12. Obtain EMS or Rescue/Fire Reports.
13. Any sign of pepper spray.

N. MEDICAL PERSONNEL (ATTENDING PHYSICIANS, NURSES, RECEIPT OF EVIDENCE)

1. Name of patient and date, time and location of interview.
2. Description and extent of injuries and location of injuries on body.
3. Location of bullet entrance and exit wounds and how determined, and stippling.
4. Medication prescribed.
5. Permission to talk with patient.
6. Statements made by subject and/or officer.
7. Any sign of pepper spray.
8. State whether or not any evidence was seized.
9. ID Data, to include medical office location and/or medical practice address.
10. Collect physical evidence recovered by medical personnel;
 - a. Projectiles and wadding
 - b. Gunshot residue hand wipings
 - c. Blood samples
 - d. Clothing, valuables and personal effects

11. Photograph injuries.
12. Reports on blood alcohol and/or blood screen.
13. Obtain medical reports with patient release or court order.
14. Obtain mental health records with patient release or court order.

O. LABORATORY SUBMISSION OF PHYSICAL EVIDENCE

Submitting agent shall inform the Crime Laboratory that the evidence being submitted is in relation to a police involved shooting. Doing so will expedite the processing of evidence. Due to the varying resources at Branch Laboratories, certain services requested may have to be performed at the Headquarters Lab. Common services requested in use of force investigations are as follows:

1. Firearms

1. Submit all weapons, projectiles, wadding, cartridge casings, shell cases (shotgun), ammunition, and clothing (evidence of stippling) involved in the incident for examination and comparison.
2. Request weapons be examined for function, alterations, and trigger pull.
3. Request muzzle to target distance test.
4. Request comparison of recovered projectiles to all weapons of the same caliber.
5. Request comparison of recovered cartridge casings and/or shell cases (shotgun) of same caliber regarding firing pins and extractor marks.
6. If shotgun involved, request size determination of recovered pellets.

2. Latent Prints

1. Determine who handled any weapons or other items of evidence.
2. Process evidentiary items for latent print development, when necessary. The Crime Scene Specialist should process evidence for latent print development and submit results to laboratory for comparison to subject, officer, and any other witnesses. The Crime Lab does offer processing services if needed.
3. Obtain and submit major case inked impressions of subject, officer, and witnesses for comparison/elimination purposes, when necessary.

3. Serological Evidence (blood)

1. Submit subject's and/or officer's clothing or other items of evidence for analysis if blood is detected or suspected.
2. Items with known or suspected blood should be properly collected, completely air dried, and packaged in paper.

3. If blood is detected or suspected on evidence items, known standards of officer's and subject's blood should be collected (in a purple stopper tube) and submitted for comparison. The collected sample of whole blood should be properly stored, preferably refrigerated.
4. Buccal swabs: Collect buccal swabs as necessary. Contact DNA Testing

Contact DNA does not provide useful information in every case as is often portrayed in television dramas. In fact, the likelihood of obtaining DNA results in this type of testing is relatively low unless the individual exerted significant pressure on the item or the individual had repeated contact with the item over an extended period of time. The GBI Crime Lab will conduct testing for contact DNA where there is a significant question in the investigation that has the potential to be answered by the testing of any article of evidence, if the evidence is suitable for testing. Not every use of force incident will produce evidence suitable for DNA testing.

A request for contact DNA testing will be made in all cases if an article exists that may contain touch DNA. Discussions with lab personnel must take place prior to evidence submission to explain the significance of the request and determine the appropriateness and feasibility of DNA testing in a specific use of force investigation.

It should be determined during involved officer and law enforcement witness interviews if any other persons came in contact with the articles being submitted for touch DNA. If articles have been in contact with other persons, their DNA should potentially be collected for elimination purposes.

Every consideration should be given to collecting any weapon that was allegedly used or possessed by the subject on whom force by a law enforcement officer was used. This would include weapons near the person or weapons discarded by the subject during pursuit. Contact DNA testing may also apply to situations where a subject struggles over an officer's weapon that resulted in a use of force incident. Due to the sensitive nature of contact DNA testing, extreme caution should be taken when handling or collecting such items to avoid the investigating officers leaving their DNA on the item(s).

5. Trace Evidence

Ensure that proper known standards are collected and submitted for comparison.

1. Hair and fiber evidence
2. Tool marks
3. Fracture matches
4. Paint analysis/comparison

5. Gunshot residue test (optional)

- a. Utilize gunshot residue kit (optional)
- b. Perform wiping of persons to be tested as soon as possible. Due to time lapse, it is recommended that wiping be performed on deceased subjects as soon as possible. Wiping can be collected by the Medical Examiner at the time of autopsy, however, the autopsy is normally performed at a much later time which decreases the accuracy of the test. If the test is to be conducted by the Medical Examiner, it is imperative that the hands of the subject be covered with paper bags as soon as possible.

5. **Toxicology (if applicable)**

1. In death cases, blood should be analyzed for blood alcohol content and presence of drugs.
2. If appropriate by facts and circumstances of investigation, in cases where the subject is living, in order to determine if the subject was under the influence of alcohol content or drugs, obtain consent to draw blood from the subject, ask consent or obtain a search warrant. Submit the blood sample to the GBI Crime Laboratory.
3. The GBI Lab routinely tests blood samples for the presence of:
 - a. Cannabinoids (marijuana);
 - b. Amphetamines;
 - c. Cocaine and cocaine metabolites;
 - d. Opiates;
 - e. Barbiturates;
 - f. Benzodiazepine (valium);

If any other drug is suspected, advise the laboratory, and tests will be conducted for specific drugs.

4. Consent by the person or a search warrant will be needed to obtain whole blood samples.
5. All whole blood samples should be collected using grey stopper test tubes and properly stored (preferably refrigerated) until submitted to the laboratory.

6. **Tire/Foot/Shoe Impressions**

1. Submit casts and/or photographs of questioned impressions along with the appropriate known standards for examination.

7. **Pepper Spray**

At the current time, the GBI Crime Laboratory is not performing examinations and tests related to pepper spray.

P. AUTOPSY

The case agent or designee will attend the autopsy and will coordinate attendance with the Medical Examiner Investigator on duty. Although the investigation may be in the early stages, the agent attending the autopsy should be prepared to provide detailed information concerning what is known about the death to the Medical Examiner performing the autopsy examination. The agent, when possible and applicable, should obtain and bring to the postmortem examination death scene photographs; medical records, hospital admission blood; clothing or other personal articles that were removed at the scene or during the course of medical intervention; and instruments, weapons or tools that may have been utilized in producing injuries. The GBI Medical Examiner's Office will collect evidence and perform anatomic examinations predicated on the circumstances and nature of the death. The case agent should discuss all known details of the death and investigation with the GBI Medical Examiner to ensure that all relevant evidence is collected. At the completion of the autopsy, the agent may obtain a computer CD disk with all of the digital autopsy photographs from the Medical Examiner's Office photographer.

When dealing with a medical examiner system outside of the GBI system, the attending agent will ensure that related tasks are relayed to the medical examiner and are completed during the autopsy when applicable based upon the facts and circumstances of the investigation:

- a. Photography
- b. Inventory clothing, collect if evidentiary in nature; valuables and other items removed from the body
- c. Obtain gunshot residue wipings, if applicable
- d. Obtain fingernail scrapings, if applicable
- e. Obtain appropriate hair samples, if applicable
- f. Collect hair, fibers, and/or other foreign material from the body noting locations where the material was obtained
- g. Note signs of pepper spray
- h. If projectiles or waddings are removed from the body by the Medical Examiner, ensure proper submission to the GBI DOFS for examination
- i. Blood specimens for toxicology and DNA
- j. Inked impressions of finger pads and palms

Upon completion of the autopsy the agent should review all of the findings with the Medical Examiner and discuss those findings within the overall context of the case. The agent may be directed to collect further information, documentation, or scene evidence by the Medical Examiner in order to clarify autopsy findings and the circumstances

surrounding the death. This may include witness statements, surveillance video recordings, video recorded reconstructions, scene photographs or any other item dictated by the nature of the death in question. It is also important that the case agent continue to keep the Medical Examiner informed of all new and relevant information as the investigation evolves.

The GBI Chief Medical Examiner or designee will review the autopsy reports in all Use of Force cases resulting in a death investigated by GBI. This review will include autopsies conducted by GBI Medical Examiners as well as those conducted by other ME offices on cases investigated by GBI.

The case supervisor will be responsible for requesting a consultation with the Chief Medical Examiner or designee through the Assistant Deputy Director for the Medical Examiner's office and the Death Investigation Specialist Supervisor. The DOFS case number and any identifying information should be provided in the request. If the autopsy was conducted by an outside Medical Examiner's office, the case supervisor should work with the ADD and DIS to obtain the required documentation for the review.

The request for consultation shall be documented in the case file and any correspondence attached to such investigative summary. Upon receipt of findings, they shall also be attached to the investigative summary.

Q. RECORDS

1. Obtain criminal history of subject.
2. Obtain criminal history of officer.
3. Obtain copies of applicable arrest warrants and/or search warrants involving the subject and/or officer related to the incident.
4. Obtain officer's latest firearm qualification record.
5. Obtain officer's training record.
6. Obtain copies of radio logs.
7. Pursuant to O.C.G.A. § 35-8-21(a), Georgia law requires that every peace officer must complete 20 hours of training each calendar year. As part of the 20 hours of training, Georgia Peace Officer Standards and Training (P.O.S.T.) Council Rule 464-50.03.1 requires a minimum of two hours of training on the Constitutional and legal limitations on the use of deadly force and the agency's policies regarding the use of deadly force, as well as a demonstration of proficiency with the officer's firearm. If the officer does not complete the mandatory 20 hours of training to include the two hours of deadly force training and firearms qualification, Georgia law, as codified at O.C.G.A. § 35-8-21(d), states that the officer loses his/her power of arrest. If the officer does not complete the required training, the officer may petition for a waiver from the P.O.S.T. Council.

Contact a P.O.S.T. Investigator via email to request the officer's P.O.S.T. records and answers to the below listed questions. The requesting agent will copy and paste the below listed questions in the email. The requesting agent will receive a timely email from P.O.S.T. with each of the following questions answered. Both the request and results will be documented in an investigative summary with a full copy of the applicable email attached. If a reply is not received from P.O.S.T. within three (3) business days, the requesting agent will initiate a follow-up email.

- a. Does the officer possess a P.O.S.T. certification and what is the status of the certification?
- b. Has the officer completed the required training for each calendar year since completing the basic course?
- c. Does the officer have power of arrest?
- d. Does the officer's P.O.S.T. record show either the required training or a waiver issued for each required calendar year?
- e. If the officer's record does not show either the required training or a waiver issued for each required calendar year, has the officer submitted all required training to P.O.S.T. to be documented on their record?
- f. Are there or have there been any prior, pending, or active P.O.S.T. investigations or complaints concerning the officer?
- g. Are there any other P.O.S.T. issues concerning the officer not addressed in the above questions?

R. COMMUNICATIONS

1. Request that the department(s) keep the original communications until the case is closed. Agents should obtain copies of all communications of the incident.
2. Agents should obtain the originals or copies of audio and video recordings from witnesses and/or officer(s) vehicles. Video/audio media from officers' or their vehicles should be obtained as soon as possible and prior to releasing the vehicles or recording device back to the department. Any copy from a digital device will be considered an original recording and will be treated as evidence.
3. Include time period leading up to the incident, during the incident, and after the incident until everyone involved has returned to the department (officers may discuss the incident on the radio after it occurs).
4. Review audio, video, or communication recordings for clarity and understanding.
5. Review with the law enforcement agency to identify persons talking and an explanation of code (10-4, etc.).
6. Transcription of tapes will be done in accordance with GBI Case Reporting Manual.

S. POLYGRAPH

1. Polygraph subject, witness, and/or officer, if warranted.
2. Conduct polygraphs according to GBI Policy.

T. INTERNAL AFFAIRS AND/OR PERSONNEL FILE

Review the officer's personnel and internal affairs files (preferably with officer's knowledge) for previous investigations, complaints and disciplinary action if it appears that the matter under current investigation may be a pattern of conduct. If investigation reflects information or evidence of the possible improper use of force by the officer in other cases, examine these incidents to determine if this is a pattern of conduct by the officer. If the case under investigation is likely to result in a criminal charge, the appropriate prosecutor should be consulted first to determine if he or she needs the records and the appropriate legal process.

Thoroughly document the review of the officer's personnel and internal affairs files. Items such as performance reviews, discipline issues, and accolades should be noted. No copies of either the personnel or internal affairs files should be placed in the case report.

U. INVOLVED DEPARTMENT'S POLICIES AND PROCEDURES

Obtain a copy of the department's policy and procedures relative to the type of incident involved, such as use of force, firing of duty weapon, etc.

Attach a copy of the policies collected to the case report.

V. CUSTODIAL DEATHS

The investigation will be thoroughly conducted and documented in the same manner as any other death investigation. This will include crime scene search, witness interviews, and other investigative acts and inquiries necessary to obtain all facts available. The investigation will satisfy criteria recommended in the Use of Force Manual.

1. Jails/Prisons

1. Obtain a copy of the jail policies and procedures that cover:
 - a. Handling of inmates who are violent, intoxicated, suicidal, or have other special needs
 - b. Cell check requirements for regular inmate population
 - c. Cell check requirements for violent, intoxicated, or suicidal inmates

2. Obtain any records of time checks or cell checks completed by jail personnel for the shift on duty prior to and up to the time of the subject inmate's death.
3. Obtain a copy of the subject inmate's jail medical records.
4. Obtain a copy of the subject inmate's jail records. In particular, document if any notation or entries were made concerning a suicide risk.
5. Obtain a copy of the institution's visitation logs, specifically noting visits made to the subject inmate.
6. Obtain copies of any video/audio surveillance footage if applicable.

2. **Positional Asphyxiation**

1. Determine how the subject was secured by law enforcement officers.
 - a. Was subject handcuffed? If so, in what position was he/she handcuffed?
 - b. Were leg irons applied?
 - c. Was the subject "hogtied"? If so, with what type of restraints? Obtain the restraints.
 - d. If restraints were used, obtain the department's policies and procedures governing the use of restraints and obtain records of any training the officer received concerning use of restraints.
2. Were any chokeholds applied to the subject? If so, determine manner of application.
3. If chokeholds were applied, obtain any departmental policies and procedures governing such holds. Also obtain the officer's training record reflecting any training concerning these type of holds.
4. Was pepper spray or mace used on the subject?
5. How was prisoner transported (i.e., lying, sitting, etc.)?
6. Inquire of any officer involved in the incident if they were equipped with any video or audio recording device. This would include but not limited to, dash cams, body worn mics, and body worn cameras. If so, obtain and review.

W. CASE REPORT

The documentation of these type investigations will be in accordance with the GBI Case Reporting Manual.

When investigating Officer Involved Use of Force cases, the name of the involved officer(s) will be documented in the narrative section of the GBI Face Sheet. It is understood that investigations of this type may contain extenuating circumstances, that in the best interest of the officers involved and/or the investigation, may necessitate the need for this information to be delayed or possibly withheld. If circumstances of this nature exist, the work unit supervisor will notify the appropriate Inspector and Deputy Director for approval.

Absent exigent circumstances as described above, the work unit supervisor should recommend to the involved agency head that they release the officer(s) name to the media as soon as practical after the incident. The affected agency head should also be told that unless exigent circumstances exist and are approved by the appropriate Inspector and Deputy Director, the officer(s) names will be contained within the narrative section of the GBI Face Sheet and will be subject to Open Records.

The work unit supervisors shall be contacted and provide approval for the release of the GBI Face Sheet. This is to ensure the Face Sheet has been reviewed by the supervisor and approved.

X. Dissemination

A paper copy shall be utilized for reviews up to final review and dissemination to prosecutor.

The case file shall be turned over to the prosecutor and requesting agency upon completion. Prior to the case file being turned over, the SAC of the office will review the case file in its entirety to ensure the case is both thorough and complete.