POLICY STATEMENT
Commonwealth of Pennsylvania • Department of Corrections

Policy Subject:		Policy Number:
Deadly or Serious Use of Force Incidents, Firearm Discharges, and Vehicular Fatalities		**14.1.1**
Date of Issue:	**Authority:**	**Effective Date:**
November 23, 2026	**Signature on File** **Dr. Laurel R. Harry**	**December 7, 2026**

I. AUTHORITY

The Authority of the Secretary of Corrections to direct the operation of the Department of Corrections is established by Sections 201, 206, 506, and 901-B of the Administrative Code of 1929, 71 P.S. §§61, 66, 186, and 310-1, Act of April 9, 1929, P.L. 177, No. 175, as amended.

II. APPLICABILITY

This policy is applicable to all facilities and offices operated under the jurisdiction of the Department of Corrections, including Central Office, State Correctional Institutions (SCIs), Community Corrections Centers (CCCs), Parole Field Services (PFS) – including agents assigned to the Fugitive Apprehension Search Team (FAST), and Bureau of Investigations and Intelligence (BII) staff.

III. POLICY

It is the policy of the Department to ensure that all uses of deadly force resulting in death or serious bodily injury, unintentional discharges of firearms, and vehicular fatalities, are investigated by the appropriate administrative or legal authorities to determine compliance with applicable law and Department policy. Involved staff shall cooperate with any criminal investigation arising from these incidents to the extent it does not impinge on the involved staff's constitutional rights. In all cases where deadly force was applied or the use of force results in death or serious bodily injury, or where firearms were unintentionally discharged and/or a vehicular fatality occurs, the Department shall complete an administrative investigation.

IV. PROCEDURES

All applicable procedures are contained in the procedures manual that accompanies this policy document.

V. SUSPENSION DURING AN EMERGENCY

In an emergency or extended disruption of normal Department operations, the Secretary/designee may suspend any provision or section of this policy for a specific period.

VI. RIGHTS UNDER THIS POLICY

This policy does not create rights in any person nor should it be interpreted or applied in such a manner as to abridge the rights of any individual. This policy should be interpreted to have sufficient flexibility to be consistent with law and to permit the accomplishment of the purpose(s) of the policies of the Department of Corrections.

VII. RELEASE OF INFORMATION AND DISSEMINATION OF POLICY

A. Release of Information

1. Policy Statement

   This Policy Statement is public information and may be released upon request.

2. Procedures Manuals, Appendixes, and Attachments (if applicable)

   The related procedures manuals, appendixes and attachments (elements) for this policy are public information and are releasable upon request unless designated by the Department as confidential. Confidential elements are not public information and shall not be released in entirety or in part, without the prior approval of the Secretary/designee. Procedures manuals or other elements which are not further restricted may be released to any Department employee on an as needed basis.

B. Distribution of Policy

1. Public and General Distribution

   Department policies that are not designated as confidential or further restricted, shall be made available to the public through the Department's public web site.

2. Distribution to Staff and Other Government Agencies

   All Department policies and related elements, that are not further restricted, shall be available to all Department members. It is the responsibility of those individuals within the Department receiving policies through general distribution, to ensure that each employee expected or required to perform the necessary procedures/duties

has access to the policy and procedures. Distribution of confidential policies or elements to other government agencies is subject to the approval of the Secretary/designee.

VIII. SUPERSEDED POLICY AND CROSS REFERENCE

A. Superseded Policy

1. Department Policy

   This document establishes policy and procedure on this subject.

2. Facility Policy and Procedures

   This document supersedes all facility policy and procedures on this subject.

B. Cross Reference(s)

1. Administrative Manuals

   a. DC-ADM 201 Use of Force

   b. BCC-ADM 002 Resident Safety

   c. 6.3.1 Facility Security

   d. 6.7.2 Special Response Teams

   e. 8.3.1 Community Corrections Security

   f. 12.4.03.08 Resistance and Control – Parole Field Services

   g. 12.4.03.09 Custody and Transportation – Parole Field Services

2. Commonwealth Policies

   Management Directive 205.6, “Defense of Suits Against Commonwealth Employees”

3. American Correctional Association (ACA) Expected Practices: None

PROCEDURES MANUAL
Commonwealth of Pennsylvania • Department of Corrections

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Procedure Development: All required procedures shall be developed in compliance with the standards set forth in this manual and/or the governing policy. These standards may be exceeded, but in all cases, these standards are the minimum standard that must be achieved. In the event a deviation or variance is required, a written request is to be submitted to the appropriate Executive Deputy Secretary/Regional Deputy Secretary and the Bureau of Standards, Audits, Assessments, and Compliance for review and approval prior to implementation. Absent such approval, all procedures set forth in this manual must be met.

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Section 1 – Incident Response Procedures

A. Purpose

1. The Department recognizes the sanctity of human life as a fundamental principle. Department staff shall use the most reasonable level of force necessary to control or neutralize the actions or resistance of an individual and protect the safety of staff and others in accordance with Department policies **DC-ADM 201, "Use of Force," BCC-ADM 002, "Resident Safety," 6.3.1, "Facility Security," 6.7.2, "Special Response Teams," 8.3.1, "Community Corrections Security,"** and **12.4.03.08, "Resistance and Control – Parole Field Services."** Any unreasonable use of force shall be immediately reported to the staff member's supervisor in writing.

2. The Department is committed to ensuring that all uses of deadly force resulting in death or serious bodily injury, unintentional discharges of firearms, and vehicular fatalities, are investigated by the appropriate administrative or legal authorities, to determine compliance with applicable law and Department policy. Involved staff shall cooperate with any criminal investigation arising from these incidents to the extent it does not impinge on the involved staff's constitutional rights. In all cases where deadly force was applied or the use of force results in death or serious bodily injury, or where firearms were unintentionally discharged and/or a vehicular fatality occurs, the Department shall complete an administrative investigation.

3. The purpose of this policy is to establish uniform policy and procedures concerning incidents identified in **Subsection B.2** below, and to protect staff well-being while preserving the interests of the public and integrity of the investigation(s).

B. Scope

1. Use of force may occur in diverse venues, including, but not limited to the following instances, but procedures may vary by the location of where force is employed.

    a. State Correctional Institutions (SCIs);

    b. Community Corrections Centers (CCCs) and Community Contract Facilities (CCFs);

    c. Parole Field Service (PFS) contacts in Department facilities and community settings;

    d. Bureau of Investigations and Intelligence (BII) law enforcement activities within Department facilities and community settings; or

    e. authorized transports and supervision of inmates and reentrants in community settings.

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2. While not exhaustive, this policy shall apply to all Department staff involved or present during incidents involving:

   a. staff intentional discharges of firearms at an individual;

   b. non-firearm uses of deadly force;

   c. uses of less lethal weapons and force resulting in death or serious bodily injury;

   d. discharges of firearms or uses of force resulting in the death or injuring of an animal;

   e. unintentional discharges of firearms, regardless of whether an individual is struck by the projectile;

   f. work-related vehicular accidents resulting in death or serious bodily injury; and

   g. being the target of deadly force exercised by an inmate, reentrant, or another person.

C. General Responsibilities

1. Involved Staff

   a. Department staff involved in the use of deadly force or use of force incidents resulting in death or serious bodily injury shall take all reasonable measures necessary and appropriate to protect their safety, the safety of others, and to preserve evidence essential for applicable investigations.

   b. Department staff are responsible for taking reasonable actions to stop and immediately report:

      (1) conduct related to clearly unreasonable uses of force; or

      (2) policy violations.

   c. Intervention may be verbal and/or physical depending on the circumstances and would depend on whether there is a reasonable and realistic opportunity to prevent another employee from engaging in an unreasonable use of force at the time of the incident.

   d. As soon as it is safe to do so, Department staff shall ensure the security of the injured person(s) and render first-aid to all persons in need, including the subject of the use of force.

e. When threats to the safety of staff and others are contained or neutralized and the involved staff is not precluded from further action by injury, staff shall notify their chain of command of the incident and complete applicable post-incident procedures contained on the checklist relevant to their classification or location where the use of force occurs. Vehicular incidents shall be addressed under the same checklist, regardless of the staff member's classification.

(1) **Response Checklist-SCI Incident (Attachment 1-A)**

(2) **Response Checklist-SCI Community Incident (Attachment 1-B)**

(3) **Response Checklist-CCC Incident (Attachment 1-C)**

(4) **Response Checklist-PFS Incident (Attachment 1-D)**

(5) **Response Checklist-BII Incident (Attachment 1-E)**

(6) **Response Checklist-Vehicular Incident (Attachment 1-F)**

f. Department staff shall provide a Safety Statement, as defined by the glossary of terms, when requested by a supervisor, Incident Manager, or responding law enforcement officer.

g. Department staff shall report all discharges of firearms to their supervisor immediately.

h. Upon request, involved staff shall surrender all involved firearm(s) to law enforcement or their supervisor pending surrender to law enforcement.

i. Department staff shall cooperate with all criminal and administrative investigations resulting from the incident. Staff maintain the right to exercise all constitutional protections available to them during criminal investigations; however, staff may be compelled to provide answers in administrative investigations, after being provided with a *Garrity Warning*.

j. Department staff shall comply with employer directed evaluations and provider-directed treatment recommendations and authorize release of information necessary to assess fitness for duty.

2. Facility Manager/Shift Commander/BCC Director/Center Director/District Director/Regional Director/BII Director/Bureau of Facility Security and Special Operations (BFSSO) Director/designee

a. Above applicable command staff shall respond to the incident scene, request medical and/or law enforcement assistance, and render aid when necessary.

b. Department staff shall defer to law enforcement's management of the incident scene and responsive actions.

c. When incidents occur in a Department facility or Department staff arrive at the scene prior to law enforcement, they shall assume the role of the Department's Incident Manager and take reasonable measures to establish safety and preserve the integrity of the incident scene until relieved by a higher authority or a law enforcement agency. Those measures include:

   (1) requesting necessary assistance to control the incident scene and establishing a perimeter around the incident scene until relieved by law enforcement;

   (2) documenting the names and contact information of all persons present at the scene; and

   (3) ensuring a Safety Statement is obtained from all involved staff.

d. Above applicable command staff shall assign staff who were not present at an incident to accompany involved staff to a secure location and remain with them to monitor their well-being.

e. Command staff shall complete or ensure completion of the applicable steps contained on the checklist relevant to the type of incident, their classification, or location where the incident occurs.

f. Above applicable command staff shall facilitate access to supportive services for involved staff, such as the State Employee Assistance Program (SEAP) and Critical Incident Stress Management (CISM).

g. Above applicable command staff shall coordinate administrative duty assignments for involved staff until they are cleared to return to full duty.

h. Above applicable command staff shall coordinate post-incident assessments, monitor applicable investigations and verify whether return to duty requirements have been met for involved personnel and provide regular status updates to the applicable Regional Deputy Secretary/Deputy Secretary.

3. The applicable Regional Deputy Secretary/Deputy Secretary shall:

   a. respond to the needs of facilities within their chain of command where a firearm was discharged or death or serious bodily injury resulted from a use of force;

   b. provide oversight and ensure facilities within their chain of command complete post-incident responses;

c. direct Information Technology staff to preserve and restrict access to records within information systems that directly pertain to involved staff, inmates, and reentrants to investigators, members of the administrative review committee, and executive staff;

d. receive and seek approval for facility resource requests necessary to maintain the safety and order of the facility;

e. monitor the progress of post-incident assessments, investigations, and completion of return to duty requirements; and

f. participate in and coordinate document and evidence availability for the incident administrative review committee. Verify that identified deficiencies are resolved at facilities within their chain of command.

4. The applicable Executive Deputy Secretary for Institutional Operations (EDSI) or Executive Deputy Secretary for Reentry, Community Corrections, and Parole Field Services (EDSC)/designee shall:

   a. respond to the facility's' needs within their chain of command where a firearm was discharged or death or serious bodily injury resulted from a use of force;

   b. brief the Secretary and the Office of Chief Counsel on known facts leading to and during the incident, as well as the Department's post-incident response;

   c. authorize resources necessary to maintain facility safety and order;

   d. approve when an involved staff member may return to full duty; and

   e. serve as chair of the incident administrative review committee, develop plans of action for improvement when necessary, and implement committee recommendations when applicable.

5. Office of Chief Counsel shall:

   a. Represent the interests of the Department. Consequently, involved staff shall be required to obtain independent legal counsel to represent their interests in applicable criminal investigations and proceedings consistent with **Title 4, Pa. Code § 39.1** and **Management Directive 205.6, "Defense of Suits Against Commonwealth Employees."**

   b. Collect and review available information throughout the process and counsel Department leadership and those people who have been given authority to act on behalf of Department leadership.

c. Participate in and provide consultation to the administrative review committee and advise Department leadership of recommended opportunities for improvement.

6. The Deputy Superintendent/Director/designee of BFSSO shall:

   a. respond to incident scenes involving special teams operators under their command;

   b. activate and deploy CISM teams, as necessary, for affected individuals; and

   c. coordinate the deployment of applicable special teams or resources necessary to maintain order and security at affected Department facilities.

7. BII shall:

   a. conduct an independent administrative investigation to determine compliance with Department policies and training, except in those instances where BII agents were actors in the incident. Such incidents shall be administratively investigated by an appointee(s) of the Secretary;

   b. respond to the incident scene, when appropriate, and gather information for the administrative investigation;

   c. monitor the status of any applicable criminal investigation; and

   d. monitor potential threats directed toward Department staff and facilities in reaction to the incident.

8. CISM Team Members shall:

   a. provide support to involved staff;

   b. offer access to SEAP services; and

   c. as requested, coordinate appointments for applicable counseling services and evaluations for involved staff.

9. The involved Staff Supervisor/Chain of Command shall:

   a. provide direction to and oversight of involved staff; and

   b. coordinate the exchange of documentation related to fitness for duty evaluations between involved staff, medical/mental health providers, the relevant management personnel within involved staff's chain of command and human resource staff.

10. The Communications/Press Office shall:

    a. respond to all media inquiries about the incident; and

    b. release a statement, consistent with **Subsection F.3.** below, to the media within 72-hours of the incident, when a use of force results in the death or serious injury of an individual, or a vehicular fatality occurs.

D. Immediate Onsite Response Procedures

1. Staff responding to or present at the scene shall ensure that any individual posing an active threat to the safety of involved staff and others is contained or neutralized before taking further action.

2. Unless involved staff are precluded by injury or need for immediate medical attention, following an incident defined within **Subsection B.2.** above, involved staff shall:

    a. render first-aid and request medical assistance when injury occurs to any person;

    b. immediately notify their respective chain of command; and

    c. complete/cooperate with applicable post-incident response checklist procedures.

3. All involved staff shall provide a Safety Statement to the first responding Department supervisory staff or law enforcement official. The intent of the Safety Statement is to:

    a. obtain critical information regarding the nature of the incident;

    b. ascertain injuries, any danger that may still exist for staff, inmates, reentrants and/or the community; and

    c. communicate essential investigative information, such as:

        (1) the status and/or location of the suspect(s);

        (2) location of evidence that needs to be protected;

        (3) the names/locations of witnesses who need to be isolated and interviewed; and

        (4) the scope/parameters of the incident scene.

4. The Safety Statement shall be taken in the immediate aftermath of the incident and:

   a. shall be obtained prior to consultation with counsel or representation;

   b. shall be taken individually with each involved person; and

   c. answers shall be accepted as given.

   NOTE: Safety Statements are required for the safety of individuals at the scene. Refusal to provide a Safety Statement may result in disciplinary action.

5. When involved staff are precluded from rendering first-aid because of injury, the first responder to the scene shall ensure that medical assistance is requested and shall render first aid to any injured individuals.

E. Incident Demobilization Procedures

1. It is the standing order of the Department that involved staff shall not discuss the incident with other involved staff or witnesses. Furthermore, involved staff shall not communicate with or share information about the incident with any of the following, without written permission from the Office of Chief Counsel:

   a. members of the media;

   b. any individuals or agents of organizations with potential adverse interests against the Department or Commonwealth, such as:

      (1) attorneys representing the subject of the incident or other plaintiffs;

      (2) private investigators; or

      (3) special interest organizations.

   c. Department staff who are not involved in the incident or investigation; and/or

   d. social media platforms.

2. If not already completed by law enforcement, the Department's Incident Manager shall direct and ensure the following are accomplished:

   a. Involved Department staff are removed from the incident scene and escorted to a secure location as quickly and discreetly as possible.

   b. The Incident Manager/managerial designee has secured weapons and equipment from involved staff in a discreet manner. Staff securing the weapons shall not manipulate the weapon in any fashion and shall maintain a chain of

custody until the weapon(s) is turned over to the law enforcement agency with primary jurisdiction over the incident and placed into evidence.

c. An uninvolved Department staff member is assigned to remain with each involved staff member, until relieved. If involved staff require medical attention, then uninvolved staff shall accompany involved staff to the medical treatment facility and remain in the vicinity of the involved staff to the extent possible.

d. The uninvolved staff shall not question the involved staff about the incident. The uninvolved staff's role includes:

   (1) monitoring the wellbeing of involved staff;

   (2) escorting the involved staff to a secure location that is apart from other involved staff. When at the secure location, the uninvolved staff may:

      (a) provide involved staff an opportunity to contact their immediate family members;

      (b) provide involved staff an opportunity to consult with bargaining unit representation; and

      (c) provide involved staff an opportunity to consult with legal counsel.

   (3) maintaining separation between involved staff and witnesses to protect the integrity of subsequent investigations.

e. Involved staff and witnesses are provided access to CISM team members.

f. If an inmate/reentrant who is in the Department's custody or is detained and is injured during the incident and transported to a community medical facility, the Department's Incident Manager shall assign uninvolved Department staff to supervise the individual and maintain custody consistent with Department policies **6.3.1, 8.3.1,** and **12.4.03.09, "Custody and Transportation – Parole Field Services"**.

g. The names and contact information for all persons present at the scene shall be recorded within an Extraordinary Occurrence Report (EOR) to account for all Department staff and to identify potential witnesses.

h. Preservation of all video or audio surveillance of the incident area and adjacent areas, when the incident occurs in a Department facility, or when a body-worn-camera/other video/audio recording device was in use. Involved staff are prohibited from viewing video footage until interviewed by law enforcement.

i. Maintaining a log of all persons entering the incident scene and actions taken, until law enforcement assumes control or clears the scene for use.

j. The incident and all known facts are reported to next highest level within the command structure as soon as possible, but no later than one-hour after the incident occurs.

k. The involved staff's bargaining unit representatives are notified of the incident, if not previously completed by the involved staff.

F. Post-Incident Procedures

1. Administrative Duty

a. Immediately following an incident consistent with **Subsection B.2.** above, the Department's Incident Manager/designee shall verbally place all involved staff on administrative duty, as defined by the glossary of terms.

b. The involved staff's supervisor, or a manager within their chain of command, shall provide written notice of administrative duty status and any special instructions relative to administrative duty assignment(s) as soon as practicable.

c. Administrative duty shall not be considered disciplinary in nature; rather, administrative duty is an administrative action relieving the involved staff from performance of inmate/reentrant care and/or field duties, while:

(1) law enforcement conducts an objective criminal investigation of the incident;

(2) involved staff receive applicable provider-directed care;

(3) evaluations for fitness to return to duty are completed; and

(4) an administrative investigation, examining compliance with Department policies is conducted.

d. During the first 72 hours following the incident or until an initial interview is conducted with law enforcement, involved staff may be temporarily assigned to the oversight of the CISM Program Manager/designee. During this period, involved staff shall not be assigned administrative duties that would interfere with:

(1) meetings with CISM representatives and participating in CISM procedures as outlined in Department policy **6.7.2**;

(2) meeting with legal counsel;

(3) participating in applicable medical/mental health care; and

(4) participating in interviews with law enforcement.

e. Following the initial 72-hour period or after an initial interview with law enforcement, involved staff shall be returned to the oversight of their previous chain of command but shall remain on administrative duty.

f. Immediate reporting requirements within Department policies **BCC-ADM 002, 6.3.1, 8.3.1,** and **12.4.03.08** are superseded and involved staff shall not be compelled to author incident/use of force reports regarding their involvement in the incident while assigned to administrative duty and subject to potential criminal prosecution. Criminal or administrative investigation reports may substitute for immediate reporting requirements within Department policies **BCC-ADM 002, DC-ADM 201, 6.3.1, 8.3.1,** and **12.4.03.08.** However, involved staff shall comply with requirements to produce written statements associated with administrative investigations into the incident, when a *Garrity Warning* is provided.

g. Administrative duty may involve work outside the scope of the involved staff's routine post/job functions. The involved staff's supervisory chain of command should meet and discuss alternative work assignments or locations with the involved staff's bargaining unit, when applicable and when practicable.

h. Administrative duty may involve the temporary reassignment of the involved staff to an alternate work location if return to the primary work location endangers the involved staff or creates the likely risk of endangering others at the work location.

i. Staff assigned to administrative duty shall be relieved of Department issued firearms and associated equipment and Department issued weapons until cleared for full duty. The employee's direct supervisor shall ensure that all weapons not secured or collected by law enforcement at the incident scene are collected from involved staff when placed on administrative duty.

j. While transferred to administrative duty, involved staff are prohibited from assignment to tasks or functions that involve the potential use of force or weapons, unless the use of weapons is specifically for retraining purposes associated with returning to full duty.

k. Involved staff shall not be released from administrative duty until the requirements within **Subsection H.** below are complete, or the involved staff is otherwise directed by their chain of command.

2. Support Services and Evaluations for Involved Staff

a. Involved staff shall be offered access to medical and mental health care, consistent with the involved staff's needs as a result of the incident. CISM staff shall assist involved staff with locating providers with law enforcement experience and scheduling appointments, unless CISM services are refused.

b. CISM staff shall continue outreach to involved staff, while involved staff remain on administrative duty and during the first three months of return to full duty.

c. Involved staff shall complete a compulsory Independent Psychiatric Evaluation (IPE) and, if applicable, an Independent Medical Examination (IME) as a pre-condition for determining fitness to return to full duty. Evaluations shall ordinarily be scheduled after the attorney for the Commonwealth has made a determination not to pursue criminal charges or a dismissal/acquittal is reached in criminal proceedings. However, an IPE or IME may be scheduled sooner when recommended by a Facility Manager, BCC Director, District Director, or Bureau Director and approved by the applicable Deputy Secretary/Regional Deputy Secretary.

d. Involved staff shall comply with all treatment recommendations contained within IPEs and IMEs as a condition of returning to full duty.

e. Communications between involved staff and their medical/mental health care providers are confidential and protected. Involved staff shall authorize the release of information from applicable care providers to enable the communication of information necessary to determine fitness for return to full duty or duty restrictions and anticipated timeframes for reevaluation of such restrictions.

f. Should an evaluation determine that an involved staff member is not cleared for administrative duty, or a return to full duty with reasonable accommodations, the involved staff shall be charged with the use of available leave until they are cleared to return to duty with reasonable accommodations or without restriction.

g. Involved staff not cleared for administrative or full duty under **Subsection F.2.f** above may be reviewed for their fitness to return to duty at 30-day intervals for the first 90-days following the initial determination and when the evaluator has not established an anticipated date of resolution for the condition preventing return to administrative or full duty. Involved staff may seek alternative provider opinions for the Department's consideration on their own volition.

3. Press Statement

a. The Communications Office shall issue a statement to the media within 72 hours of the incident, unless the Secretary in consultation with the Chief Counsel determines a statement should not be made.

b. The statement shall affirm the Department's commitment to cooperating with any investigation into the incident.

c. The statement shall not include information which could reasonably lead to the identification of involved Department staff.

d. The statement may include information relative to the involved staff's employment status (e.g., placement on administrative duty status).

4. Facility Safety and Threat Monitoring

a. The BII Analytics Division shall be notified when an incident consistent with **Subsection B.2.** occurs and shall begin monitoring for potential threats toward Department staff, Department facilities, or Department assets.

b. Reports of threats, actions that may disrupt operations, or disturbances associated with the incident shall be forwarded to executive staff and applicable Facility Managers/Center Directors/District Directors, when known.

c. At the request of the EDSI/EDSC, the BFSSO may deploy special team resources to assist with maintaining facility security.

d. Facility Managers/Center Directors/District Directors at incident locations shall:

(1) Notify staff assigned to the facility when applicable incidents occur.

(2) Advise staff of any specific known threats and warn them to remain vigilant for potential threats to their safety.

(3) Develop a plan of action to safeguard staff while onsite, while in transit to and from the facility, and while performing official duties in the community (if applicable).

(4) Notify local law enforcement of threatening behavior exhibited towards staff, unauthorized attempts to access or cause damage to Department facilities, and request additional patrol presence when appropriate.

5. Criminal Investigation

a. Criminal investigations shall be completed by an external law enforcement agency that is not under the purview of the Department.

b. Involved staff shall maintain the ability to exercise rights afforded under the United States and Pennsylvania Constitutions during the criminal investigation.

c. Involved staff shall be afforded an opportunity to consult with legal counsel of their choosing prior to a criminal investigatory interview.

d. Pursuant to the Department of Justice Community Oriented Policing Services guidance for officer involved shootings, the Department shall request that a criminal investigation interview not be scheduled within 72 hours of the incident for involved staff, unless requested by the involved staff or circumstances dictate an earlier interview. However, this matter is controlled by the criminal investigating agency.

e. Involved staff shall keep their respective chain of command informed of when criminal investigation interviews are scheduled.

6. Prosecutorial Decision

a. When an involved staff is criminally charged for actions taken during the incident, the involved staff shall be suspended pending investigation, in accordance with the Governor's Code of Conduct.

b. If the attorney for the Commonwealth determines that involved staff's actions complied with applicable statutes and legal standards and formally declines to prosecute involved staff; BII shall complete all outstanding elements of the administrative investigation precluded by the criminal investigation.

7. Administrative Investigation

a. The BII shall complete an administrative investigation in accordance with **Department Policy 6.3.1 Section 45** for all incidents consistent with **Subsection B.2**. above, except in those instances where BII agents were actors in the incident. Such incidents shall be administratively investigated by an appointee(s) of the Secretary.

b. The administrative investigation is a non-criminal investigation with the purpose of examining the incident beyond the scope of criminal culpability and to determine matters, such as:

(1) whether involved staff actions complied with Department policies and procedures;

(2) whether involved staff actions were consistent with Department training(s). Investigators may consult certified Department instructors to assist in making this determination; and

(3) whether there is a need to change policy, practice, or training techniques.

c. The administrative investigation shall commence as soon as practicable to prevent the degradation of evidence and memorialize witness accounts of the incidents.

d. Administrative investigators may review relevant Department records and communications, examine surveillance footage, interview witnesses and interview those involved staff who are no longer subject to possible criminal prosecution while criminal investigation(s) remain open for involved staff. Investigators shall confirm with the Attorney for the Commonwealth that involved staff are no longer subject to criminal prosecution prior to conducting interviews.

e. Administrative investigators shall not question involved staff subject to potential criminal prosecution about the incident and actions taken thereafter, until a decision to decline prosecution has been reached, or a disposition has been reached in criminal proceedings.

f. A *Garrity Warning* shall be provided to involved staff, when interviewed for the administrative investigation.

g. Involved staff and witnesses shall be provided access to bargaining unit representation during administrative investigation proceedings. Involved staff are not entitled to legal counsel during administrative investigations.

h. At the conclusion of the administrative investigation, the investigator shall produce a confidential preliminary investigative report that includes:

   (1) a written description of the physical, documentary and testimonial evidence;

   (2) investigative facts and findings;

   (3) a conclusion, indicating whether involved staff actions complied with Department policy, training(s), and the Code of Ethics;

   (4) identified safety concerns;

   (5) if applicable, recommendations for disciplinary action; and

   (6) a copy of evidence relied upon to reach conclusions.

i. The preliminary report and original sources of evidence relied upon shall be made available to the Department's administrative review committee, described in **Subsection G.** below.

G. Administrative Review Committee

1. Following an incident consistent with those in **Subsection B.2.** above, the Secretary may appoint an Administrative Review Committee, at their discretion. The committee serves in an advisory capacity by presenting findings and making recommendations to the Secretary.

2. When convened, the Administrative Review Committee shall supersede and assume the responsibility for completion of all use of force reviews and/or after-action reviews required by Department policies **BCC-ADM 002, DC-ADM 201, 6.3.1, 8.3.1,** and **12.4.03.08.**

3. The committee should consist of the following; however, the composition may be modified based on the specifics of the incident:

    a. EDS with oversight of agency branch where the incident occurred (Committee Chair);

    b. Chief Counsel/designee;

    c. Regional Deputy Secretary/Deputy Secretary with oversight of the incident facility;

    d. Human Resource Director/designee(s);

    e. Communications Director/designee;

    f. BII Director/designee(s);

    g. Office of Policy and Legislative Affairs Director/designee;

    h. BFSSO Deputy Superintendent/designee; and

    i. other staff designated by the Secretary.

4. The committee's objectives include:

    a. providing ongoing review of the Department's response to the incident;

    b. advising those involved in the day-to-day management of involved staff;

    c. reviewing the preliminary administrative investigation report and recommending additional investigative action, when deemed necessary;

        (1) the administrative investigation shall be finalized following review by the committee, or

(2) upon completion of all recommended investigative activity.

d. completing an after-action review of the totality of the incident; and

e. producing a final report that contains:

(1) a synopsis of the incident;

(2) a policy compliance analysis, identifying:

(a) which policies were followed;

(b) which policies were deviated from and why; and

(c) recommendations for changes to policy.

(3) a training compliance analysis, identifying:

(a) which trainings were followed;

(b) which trainings were deviated from and why;

(c) recommendations for changes to training(s); and

(d) training opportunities originating from the reviewed incident.

(4) safety concerns and mitigation strategies;

(5) exemplary actions by involved staff;

(6) any other relevant issues and recommendations; and

(7) conclusions.

5. The committee may convene as necessary while the criminal and administrative investigations remain open to:

a. examine information and developments related to the incident in real-time;

b. exchange and preserve essential information;

c. provide guidance to the direct management staff with oversight of the involved staff;

d. ensure completion of essential administrative investigative activities; and

e. ensure responsive actions maintain compliance with applicable policy, procedure, law, and collective bargaining agreements.

6. Upon conclusion of the administrative investigation and disposition of criminal charges associated with the incident, the committee shall finalize its analysis and produce the report referenced in **Subsection G.4.e. above**.

7. The report shall inform the committee's recommendations for remedial actions, when necessary.

8. Upon completion of the report, the committee chair shall present the committee's findings and recommendations to the Secretary.

9. The Secretary/designee shall make final determinations regarding whether committee recommendations should be implemented.

H. Return to Full Duty

1. The following prerequisites, when applicable, shall be met before involved staff may be considered for return to full duty:

   a. The attorney for the Commonwealth with jurisdiction has declined to file criminal charges against the involved staff, or acquittal/dismissal of charges is reached for each charged offense.

   b. The administrative investigator has completed the administrative investigation and the administrative review committee has issued its report:

      (1) concluding the use of force complied with Department policy and trainings; or

      (2) disciplinary procedures are complete.

   c. Involved staff complete retraining in uses of force, uses of defensive weapons and uses of firearms (as applicable to their position).

   d. Involved staff have complied with provider-directed care and have completed an IPE and, if applicable, an IME determining their fitness to return to full duty or full duty with reasonable accommodations.

   e. Involved staff have complied with any additional retraining requirements identified as part of the administrative review committee's examination of the incident.

2. The relevant EDS shall review all applicable documentation contained in **Subsection H.1** and make a final determination whether the staff involved may be

transitioned to full duty. The EDSI shall be responsible for determining whether an involved BII agent may be returned to full duty.

3. In consultation with Human Resources and when permissible under collective bargaining agreements, the EDS may consider authorizing reassignment of the involved staff to a new work location in the same classification when there is sufficient evidence that the involved staff would be endangered or would endanger others by returning to the facility or community where the incident occurred.

Administrative Duty – A non-disciplinary change in work assignment, relieving the involved staff from performance of inmate/reentrant care or field duties while an incident is investigated and involved staff receive provider directed care. Employees in this status may be assigned tasks outside their ordinary duties, in alternate locations/posts, and for indefinite periods.

Deadly Force – Consistent with 18 Pa. C.S. § 501, this term includes force which, under the circumstances in which it is used, that is readily capable of causing death or serious bodily injury.

Death Resulting from Use of Force – Any casualty that is objectively caused by the application of force, regardless of whether the level of force applied is classified as a non-deadly or deadly force.

Facility – Refers to all locations where Department staff may be assigned, including State Correctional Institutions, Community Corrections Centers, District Offices, Suboffices and all Central Offices.

Force – Any action within the force array or continuum by a staff member intended to compel an inmate, reentrant, or another person to act or to cease acting.

Full Duty – A status where a staff member fulfills all responsibilities contained within their position description and can perform all essential functions without restriction.

Garrity Warning – A legal protection afforded to employees, ensuring they cannot be compelled to incriminate themselves during administrative investigatory interviews conducted by their employers under the threat of job loss.

Incident – The totality of staff actions taken surrounding a use of force event, discharge of a firearm, or fatal vehicular collision. This term includes all actions taken from the initial encountering of a subject of use of force, the use of force, aid rendered following a use of force, and steps taken to secure and demobilize the scene where force was used. This term also includes actions leading up to and in response to the discharge of a firearm or vehicular collision*.*

Incident Manager – Consistent with the principles of the Incident Command System (ICS), the highest-ranking uninvolved Department staff member at the scene of an incident. The Incident Manager may change, based upon the subsequent arrival of higher-ranking Department staff. This individual is responsible for establishing safety and preserving the integrity of the incident scene until relieved by a higher authority or a law enforcement agency.

Involved Staff – Department employees who are present at the scene of a use of force event and who had a reasonable opportunity to assist with or participate in a planned or unplanned application of force against an inmate, reentrant, or person in the community. Department employees shall be included in this definition regardless of whether they were actually engaged in the application of force. This term also includes Department employees who unintentionally discharge a firearm or are involved in a vehicular collision resulting in death.

Prosecutorial Decision – A decision rendered by an individual with the authority to determine whether a use of force or vehicular collision resulting in death was justified in accordance with existing law or potentially violated criminal statutes. Typically, this decision is made by the District Attorney with jurisdiction over the incident location or the Attorney General's office.

Safety Statement – A brief factual account collected individually from involved staff to establish the level of danger that may still exist, aid the initial law enforcement response and focus the preliminary investigation.

Secure Location – Any location out of public view that affords a reasonable degree of security and privacy for Department personnel.

Serious Bodily Injury – This term is intended to be consistent with the definition within 18 Pa. C.S. § 2301 and includes bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Target of Deadly Force – This term shall include staff who have experienced serious bodily injury or gunfire, following an act of deadly force applied by an inmate, reentrant or another person, consistent with 18 Pa. C.S. § 2301.

Unintentional Discharge of a Firearm – An unplanned firing of a firearm, whether occurring while the weapon is drawn during a use of force, while holstered, or while unloading and securing the weapon. This definition includes firings of Department issued weapons occurring at a residence, clearing stations and occurring at facility practice ranges. Incidents at facility practice ranges are limited to those instances where others are either struck by projectiles or are in the direct down-range line of the discharge. Incidents involving the unplanned firing of a firearm at the Department's training academy's practice range are only applicable when an individual is struck by a projectile or is subject to a near miss. Other incidents may be subject to these procedures at the discretion of the Secretary/designee.

Use of Force – Use of force can consist of a show of force or physical contact with an inmate, reentrant or another person in a confrontational situation to control behavior and enforce order. Use of force includes use of restraints (other than for routine transportation and movement), chemical agents, and weapons.