

OVERALL RECOMMENDATIONS

Based on a thorough review of the thirty-one (31) officer involved shootings and in-custody deaths that occurred in DeKalb county in 2006 the Special Grand Jury makes the following recommendations:

1. There needs to be a state-wide reporting procedure for law enforcement Use of Deadly Force incidents and in-custody deaths. All law enforcement Use of Deadly Force incidents and in-custody deaths should be officially reported to the District Attorney's Office. The citizens of every county deserve to have a post-investigative review of all Use of Deadly Force incidents and in-custody deaths of individuals within their counties by their local District Attorney. This should not only include those committed by local or state wide jurisdictions, for example local Police Departments, local Marshal's Service, local Sheriffs, and the Georgia Bureau of Investigation (GBI), but should also include all federal agency operations that result in a Use of Deadly Force incident, for example, Alcohol Tobacco and Firearms, the U.S. Marshals Service, Immigration and Customs, etc. (Also see recommendation # 8 below.)
2. Further, all state wide law enforcement officers and all federal agents should undergo Alcohol and Drug screening immediately after a Use of Deadly Force incident.

The Special Grand Jury notes that within Georgia local and state wide law enforcement Use of Deadly Force incidents result in two separate but simultaneous investigations. One is the criminal investigation to determine if any federal or state laws were broken, and the other is an administrative investigation to determine if any departmental policies or procedures were violated. Further, the Special Grand Jury notes that some jurisdictions choose to do both of these investigations internally, and some choose to have the GBI do the criminal investigation.

With respect to the local and state wide criminal investigations, the Special Grand Jury recommends:

3. The preferred way to conduct the criminal investigation side of a Use of Deadly Force or in-custody death incident is to have the GBI conduct the investigation. This brings independence and impartiality to the investigation.

However, for those departments that choose to conduct their own internal criminal investigations of incidents, they should all follow, at a minimum, the GBI Investigative Outline. This would bring about a thoroughness and uniformity of criminal investigations across departments, and for some departments this would also bring about an improvement in their investigatory processes.

With respect to the local and state wide administrative investigations, the Special Grand Jury recommends:

4. As an administrative review, a "Best Practices" Internal Affairs (IA) Investigative Outline, similar to the GBI (criminal) Investigative Outline, should be established and all jurisdictions should be required to follow. This IA Investigative Outline should not be limited to processes and procedures to solely determine whether or not the officer's Use of Deadly Force was

justified or not justified. That is, it should not be limited to the narrow determination of whether or not the officer acted within the law. The IA Investigative Outline should also include processes and procedures to determine:

- a. Whether or not the officer used good judgment in the events that led up to the Use of Deadly Force.
 - b. Whether less lethal alternatives were considered, and if considered and rejected, why were they rejected?
 - c. The Internal Affairs investigation should also determine and identify any and all departmental policy violations that occurred.
 - d. The Internal Affairs investigation should also determine and identify any and all opportunities for improvement in officer training and education.
 - e. Finally, the Internal Affairs investigation should make recommendations for improvement in any of the above 4.a through 4.d.
5. All Internal Affairs investigators should receive formal outside training in conducting Internal Affairs interviews and Internal Affairs investigations.
 6. Internal Affairs investigations need to be completed within a specified time period so that an internal review can be completed in a timely manner.

The Special Grand Jury also notes that within DeKalb County, not all police departments have an internal review board. The procedure in some small departments is to have the Chief of Police review the Internal Affairs report and concur with the findings. For the DeKalb County Police Department the Special Grand jury notes wide variability in what the Review Board considers as its subject matter and its voting procedures.

7. The DeKalb County Police Department Review Board should be established by policy rather than by order of the Chief of Police which can fluctuate depending on who holds the office. At a minimum the Internal Review Board Policy should specify:
 - a. Meeting within a specified time period after an incident
 - b. Membership of the Review Board
 - c. Scope of Work to include, at a minimum, a review and evaluation of:
 1. All use of force incidents and in-custody deaths.
 2. Were the involved officers acting in the capacity of police officers?
 3. The involved officer's use of judgment leading up to the use of force or in-custody death.
 4. Did the officer's actions contribute to, or result in, the officer being placed in jeopardy?
 5. Whether less lethal alternatives were considered, and if considered and rejected, whether their rejection showed good judgment by the involved officer.
 6. Whether the Use of Deadly Force was justified or not
 7. Any and all departmental policy violations that occurred.
 8. Any and all opportunities for improvement in officer training and education.
 9. Any and all specific recommendations for improvement in any of the above.

- d. Voting procedures
 - e. The content of the Review Board Report to include, at a minimum, the votes (if taken), and the reasons for its decisions regarding each of the items 7.c.2. through 7.c.9 above.
8. With respect to the Federal Agency incidents in DeKalb County the Special Grand Jury notes that it did not receive any information regarding whether or not the incidents underwent an internal administrative review, whether or not any federal departmental policies or procedures were violated by the agents and marshals, and whether or not the Use of Deadly Force by the agents was found to be justified or not. The Special Grand Jury recommends that, as with its recommendations for jurisdictions within the state, that the federal agencies also provide this information to the District Attorney's Office as a matter of routine.
9. The DeKalb County 9-1-1 system needs to be improved. There were several instances where officers called 9-1-1 and got a busy signal. This is unacceptable.
10. All law enforcement officers should be equipped with tasers.
11. All law enforcement vehicles should be equipped with dash cameras and audio recording.
12. All law enforcement officers need additional training in:
- a. How to recognize and effectively interact and manage individuals with mental illness and/or developmental disabilities.
 - b. De-escalation techniques.
 - c. Recognizing and effectively managing suicide by police officer situations if possible.
13. There needs to be more direct supervision and oversight of officers on duty. While many duties are of a routine and public service oriented nature that an officer can handle by themselves, other situations that officers find themselves involved in require direction and coordination. This can be accomplished in two ways. One, if the situation is not of an immediate nature, an officers can wait until a supervisor arrives. Second, more supervisors can be hired so that they are more readily available.

On the first day of being empannelled the Special Grand Jury observed first hand Judgmental Use of Force training and use of the Firearms Training Simulator at the Georgia Public Safety Training Center in Forsyth. On the second day the Special Grand Jury observed first hand a demonstration of the state wide P.O.S.T. basic weapons qualification at the DeKalb Police Department Firing Range. In reviewing the Use of Deadly Force cases the Special Grand Jury notes the wide disparity between the basic P.O.S.T. weapons qualification expectation and the reality of how many of the Use of Deadly Force incidents actually arose and played out in the county. The Special Grand Jury does not think that the basic P.O.S.T. weapons qualification adequately prepares officers for what they are going to encounter on the street. Therefore, the Special Grand Jury makes the following four recommendations for basic officer weapons qualification and periodic re-qualification and Judgmental Use of Force:

14. With respect to basic weapons qualification and re-qualification:

- a. The criterion for accuracy in the paced exercises needs to be increased above 80 percent.
 - b. Officers need regular simulation training.
 - c. Officers need regular nighttime training.
 - d. Officers need training in firing accurately in rapidly moving situations.
15. Officers need regular training and review of Judgmental Use of Force. This is very closely related to recommendation 14. above.
 16. All law enforcement officers returning from military duty should be required to undergo a psychological screening and a review of their departmental policies on Use of Force and Judgmental Use of Force prior to returning to duty.
 17. All law enforcement officers could benefit from additional training in ground fighting and gaining physical control of a violently resisting individual.

The importance of good officer training and continuing education can not be overemphasized. Police Departments that choose to conduct their own P.O.S.T. Basic Mandate training and continuing education need top flite instructors, good curriculum materials, and facilities that fully support the training effort. Because twenty-four of the thirty-one cases reviewed involved the DeKalb Police Department the Special Grand Jury has come to have a more thorough understanding of the operation of their Police Academy than that of the City of Atlanta or other departments. Therefore, while the following recommendations are for the DeKalb Police Academy, they may also be relevant to the City of Atlanta.

18. The physical facilities at the DeKalb Police Academy are insufficient to support good officer training. For example, the Academy does not have a Gym and therefore can not do an adequate job of training officers in ground fighting techniques. The Academy will also be challenged in trying to provide P.O.S.T. Basic Mandate training for the projected 127 additional officers while at the same time providing for continuing education of established officers.
19. The Special Grand Jury questions the quality of the officer training at the DeKalb Police Academy and whether or not the officers are receiving the right training. The Special Grand Jury recommends that the DeKalb Police Academy undergo a detailed review by an outside evaluator.

The Special Purpose Grand Jury heard from a number of family members and loved ones of individuals involved in DeKalb County Police Department law enforcement incidents. Almost universally they expressed displeasure with how they were treated. And, their experiences were similar mainly involving impersonal treatment, refusal of the department to share information and a general failure to acknowledge their loss. Therefore, while the following recommendation is for the DeKalb Police Department, it may also be relevant to any and all of the other seven departments or federal agencies involved:

20. The DeKalb Police Department should constitute a Public Assistance Unit to interface between the various divisions of the Police Department and subjects of police interventions, their family

members and significant others, and involved bystanders. The role of the Public Assistance Unit would be to more sensitively respond to issues and inquiries of the involved citizens.

Finally, the Special Purpose Grand Jury heard testimony from the Medical Examiner's Office. This office is responsible for determining the manner and cause of death. For the family of the decedent, for the public, for law enforcement, and for the judicial system to have unquestioning confidence in the findings of the Medical Examiner's Office, all members of that office must conduct themselves at all times and in all ways with strict adherence to the highest levels of personal integrity, and professionalism, and to adhere to the highest ethical standards. In three of the cases the Special Grand Jury heard testimony that calls into question the integrity of the Medical Examiner's Office at the highest levels.

These three (3) cases involved suspects being shot in the back by police officers. In case S the suspect was observed inside an officer's home with a firearm in his hand. In case W the suspect fired on the officer and was being pursued in a foot chase by the officer. In case V the suspect had an unknown object in his hand, never fired on the officers, and was shot in the back multiple times while being pursued in a foot chase. All three of these cases had the potential to call into question the officer's use of judgment and whether the use of deadly force was justified.

In cases S and W, involving the deaths of Deon Studmyer and Shakir Horton-Harris, that occurred on August 3, 2006 and September 2, 2006 respectively, hereinafter referred to as case S and case W, on at least three occasions, Medical Examiner's Office Director Dewey Brown made statements of intent to help officers involved in shootings out. In case W, after making the comment, he then directed Forensic Death Investigator John Henson to "flip the body" which was inconsistent with forensic death investigation best practices. In case V, involving the death of Lorenzo Matthews that occurred on September 12, 2006, hereinafter referred to as case V, Director Brown conducted himself within the crime scene in a way that calls into question the integrity of the evidence. Because of the conduct of Director Brown in case V the Special Purpose Grand Jury could not determine whether the Medical Examiner's Office forensic death investigation and body recovery did or did not affect or taint the evidence in the case.

In case W, on two occasions, Deputy Director Paul Kelhofer conducted himself in a manner that was complicit with the statements of intent to help the officer out and supportive of the conduct of Director Brown. In cases S and W Deputy Chief Forensic Investigator Woody Hall also conducted himself in a manner that was complicit with the statements of intent to help officers out and supportive of the conduct of Director Brown. Testimony in cases V and W has shown that some of the Medical Examiner's Office Forensic Death Investigators are reluctant to call into question procedures that appear to them to be inconsistent with forensic death investigation best practices.

Most alarmingly, in case W, the Special Purpose Grand Jury heard sworn testimony from half of the Forensic Death Investigator staff that contradicts the sworn testimony of the other half of the staff as well as Director Brown, Deputy Director Kelhofer, and retired Chief Forensic Investigator Greg Greene, and current Deputy Chief Forensic Investigator Woody Hall. This contradictory testimony involves an incident during a mid-September 2006 forensic death investigators training session where Director Brown, in reference to a question regarding why the body was flipped in case W, reportedly stated "because I wanted to destroy trace evidence to help the officer."

The Special Purpose Grand Jury believes that a systemic failure of leadership has led to these outcomes and calls into question the neutrality, objectivity, and integrity of the Medical Examiner's Office. As a result of the testimony in these cases the Special Purpose Grand Jury, representing the citizens of DeKalb County, does not have complete confidence in the leadership and supervision of the Medical Examiner's Office Forensic Death Investigators. We think there has been an expressed intent to help officers out, support of this intent by the Deputy Director and Deputy Chief Investigator, and possibly the actual compromise of the evidence in at least one case.

However, before making its recommendation, the Special Grand Jury does want to go on record as being impressed with the Medical Staff of the DeKalb County Medical Examiner's Office. Chief Medical Examiner, Dr. Gerald T. Gowitt and Deputy Chief Medical Examiner Dr. Steven Frank Dunton exhibited the highest levels of professionalism and personal integrity in their testimony.

21. The Special Purpose Grand Jury recommends that the District Attorney's Office conduct a further criminal investigation regarding these matters.