

THURMONT POLICE DEPARTMENT

GENERAL GUIDELINE	Date Issued: June 5, 2015	Effective Date: June 5, 2015	Order No: Chapter 11.1
Authority: Chief of Police Gregory L. Eyer		Manual Page No:	
Subject: IN-CUSTODY DEATH (re-titled)		Replaces Page No:	
CALEA Standard: Chapter 70	Distribution: ALL	Amends: Previous Ch. 11.1 dated June 6, 2007	Number of Pages: 8
Related Documents:		Rescinds:	

This Guideline is for internal use only, and other than as contraindicated here, this does not create or enlarge this Department's, governmental entities, any of this Department's officers, and/or any other entities' civil, criminal, and/or other accountability in any way. This is not to be construed as a basis for criminal charges, the creation of a standard of safety or care in any sense, with respect to any complaint, demand for settlement, or any other form of grievance, litigation, and/or any other action. Each officer must use his/her discretion and judgment in evaluating any situation based on the facts and circumstances at the scene.

I. PURPOSE:

To provide awareness to members of this Department that “In-Custody Deaths” may occur due to “In-Custody Death Syndrome,” as outlined in the definitions, and other lawful actions requiring the restraint and neutralizations of combatants. The underlying syndrome is also known as “Excited Delirium”.

II. POLICY:

It is the policy of the Thurmont Police Department to ensure that all investigations into the circumstances surrounding In-Custody Deaths and uses of force by TPD personnel resulting in death are investigated in a fair and impartial manner. The Chief of Police will establish agreements through separate MOUs with allied agencies to have all In-Custody Deaths investigated by an agency that has no relationship to the incident.

III. DEFINITIONS:

IN-CUSTODY DEATH: Any death that occurs when a person is restrained by law enforcement personnel by means of physical restraints and / or any use of force, as defined by departmental policy; detention or confinement in a law enforcement vehicle or holding cell at police headquarters.

INVOLVED MEMBER: Member(s), who through facts that establish logical and consequential involvement, are reasonably responsible for the relevant physical restraint, detention or confinement at the time of death.

IN-CUSTODY DEATH SYNDROME or EXCITED DELIRIUM: is a category of deaths which has no apparent detectable anatomical cause which occurs while, or shortly after, a person is taken into custody. ICDS has been associated with positional asphyxia, drug-induced excited delirium, cocaine psychosis, and/or neuroleptic malignant syndrome.

ASPHYXIA: is a person's inability to move air in and out of his/her lungs, which results in death due to lack of adequate oxygenation (suffocation).

COCAINE PSYCHOSIS: is excited delirium that is produced by cocaine ingestion.

EXCITED DELIRIUM: "is an acute mental disorder characterized by impaired thinking, disorientation, visual hallucination and illusions."¹

LIKELY ICDS SUSPECT: For purposes of this directive, a person who is likely to be suffering from ICDS will be someone whom an officer has observed to be exhibiting at least two of the Primary ICDS Assessment Factors, or one Primary and two Secondary ICDS Assessment Factors.

NEUROLEPTIC MALIGNANT SYNDROME (NMS): is similar to drug-induced excited delirium and is a recognized cause of custody sudden death. NMS generally occurs in psychiatric patients who are taking antipsychotic medications. However, NMS can also occur in individuals who are not taking antipsychotic medications.

POSITIONAL ASPHYXIA (SUFFOCATION): occurs when body position interferes with respiration, resulting in asphyxia."² Positional asphyxia is the result of interference with the muscular, or mechanical, components of respiration. When a person is suffering from positional asphyxia, there are usually one or more contributing factors that restrict the person's ability to correct the problem causing the respiratory deficiency. The contributing factors can include alcohol and/or drug intoxication, head injury, entrapment, restraint, and/or some other physical disability. Positional asphyxia can be caused by:

1. Confined space
2. Obesity and/or a large stomach can interfere with respiration when placed in a prone position

¹ Wetli, C.V. and D.A. Fishbain, "Cocaine-Induced Psychosis and Sudden Death in Recreational Cocaine Users." *Journal of Forensic Sciences*, 30 (3): 873-880, 1985.

² Reay, D.T., C.L. Fligner, A.D. Stilwell and J. Arnold. "Positional Asphyxia during Law Enforcement Transport." *The American Journal of Forensic Medicine and Pathology*, 1992, 13 (2); 90-97.

3. Contour of a vehicle's floor - if the person's abdomen is pressed against the floor or the drive shaft hump of the vehicle.

IV. PROCEDURE:

A. IN-CUSTODY DEATH SYNDROME (ICDS) ASSESSMENT FACTORS:

The following factors will only be considered if KNOWN (observed) by the Officer AND if NOT APPROPRIATE, to the totality of the circumstances:

1. Primary ICDS/Excited Delirium Assessment Factors:
 - a. Bizarre behaviors. Including, but not limited to:
 - 1) Inappropriate nudity;
 - 2) Extreme aggression and attraction towards objects - particularly glass;
 - 3) Self-inflicted injuries; and/or
 - 4) Violent resistance or physical struggling with officers.
2. Bizarre communications:
 - a. Incoherent screaming/yelling.
3. Physical observations (observed by, or reported to the officer):
 - a. Uncontrollable shaking.
 - b. Abnormal skin tone and coloration.
 - c. Extraordinary strength.
 - d. Inability to breathe.
 - e. Seizures, and/or
 - f. Unconsciousness.

4. Secondary ICDS Assessment Factors:

a. Bizarre behaviors:

- 1) Paranoia (hiding behind bushes, trees, cars, etc.).
- 2) Hallucinations.
- 3) Hearing voices, and/or
- 4) Hyperactivity prior to officer contact.

b. Bizarre communications:

- 1) Talking incoherently, and/or
- 2) Speaking to imaginary people and/or things.

c. Physical symptoms:

- 1) Hyperthermia (excessive body temperature).
- 2) Profuse sweating.
- 3) Foaming at the mouth, and/or
- 4) Dilated pupils.

B. AN OFFICER WILL NOT:

1. Hogtie a person. This does NOT mean that an officer is prohibited from binding a person's legs and/or feet, provided that it is reasonable and appears to be medically safe.
2. Intentionally place a person in a position which significantly restricts the person's ability to breathe. In order to avoid this, a person may be placed on his/her side or be seated upright in a seat, etc.
3. When an officer observes sufficient ICDS Assessment Factors to believe that the person observed is likely to suffer ICDS he/she should attempt the following:

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- a. During the confrontation - when reasonable and tactically sound, an officer should attempt to limit the type and duration of physical exertion by the ICDS sufferer. Prolonged struggling or exertion may increase the likelihood of death.
- b. After the person is controlled (voluntarily or involuntarily): the officer should absent emergency or credible threat to the safety of the officers or the public:
 - 1) Attempt to calm the person - as reasonable time and circumstances permit.
 - 2) Place the person in a position that does not knowingly and significantly restrict breathing, e.g., place the person on his/her side, seat the person in an upright position, etc.
 - 3) Closely monitor the person's apparent, or suspected, medical needs (within the officer's medical training and expertise-as reasonable circumstances permit).
- c. Medical attention: (the principle objectives of this section are to arrange for a potential ICDS sufferer to be assisted by emergency medical personnel and to arrange for the person to be transported to an emergency medical facility as soon as practicable.) An officer shall:
 - 1) Arrange for medical personnel (which can include first responders, paramedics, nurses, doctors, or other emergency medical response units) to aid the individual who may be suffering from Excited Delirium. This medical attention will be requested, summoned, and/or provided as soon as reasonable after the officer observes the ICDS Assessment Factors.
 - 2) Arrange for the person to be transported, via ambulance to an emergency medical center.
 - 3) Inform the medical personnel of your concerns and observations as soon as practicable after the medical personnel make contact with the suspect.
- d. Scene and Preservation of Evidence:
 - 1) All officers on the scene of an incident in which an in-custody death has occurred or may be the result of an in-custody incident in the officer's reasonable judgment, will immediately notify a Supervisor, Deputy Chief of Police, and the Chief of Police.
 - 2) All officers will treat the scene as a death investigation and protect the scene, preserve evidence, and identify witnesses. Each officer will prepare an ILEADS report, excluding incriminating statements and information until the officer(s) is afforded legal representation.

C. Reporting:

A. An officer involved with an at-risk individual will prepare a detailed written Incident Report and a Use of Force Report (if applicable). In addition to routine Incident Report details, this report will include:

- 1) The Officer's observations and assessment of the ICDS Assessment Factors.
- 2) The Officer's actions in attempting to reasonably limit the confrontation and its duration.
- 3) The Officer's actions in attempting to restrain, and/or in restraining the person (including all force levels used).
- 4) The Officer's actions while waiting for medical personnel to arrive.
- 5) The Officer's statements to medical personnel regarding the individual's ICDS Assessment Factors.

D. Investigation:

Upon notification of any incident in which; an in-custody death has occurred or may be the result of an in-custody incident; a use of force by TPD personnel that has resulted in or may be likely to result in a death; or any other death in which TPD personnel are directly involved, the Chief of Police, or his designee, will ensure that preliminary investigative steps have been taken.

1. The Chief of Police, or his designee, will notify the Mayor and Board of Commissioners of the Town of Thurmont, and the Town's attorney, and the Frederick County State's Attorney Office, of the incident.
2. The Chief of Police, or his designee, will ensure that all preliminary reports have been completed by all officers involved, while extending the officers protections afforded to them by their Law Enforcement Officer Bill of Rights.
3. The Chief of Police, or his designee, will request an allied agency with no relationship to the incident to conduct a Criminal and Internal Investigation into the incident. All preliminary reports, TPD Policies and Procedures, and Training Records will be forwarded to the investigating agency.
4. This investigation will be made available for review by Federal Bureau of Investigations upon the recommendation of the Frederick County State's Attorney Office.

E. Investigative Findings:

1. A completed investigative report and findings will be presented to the Frederick County State's Attorney. The Frederick County State's Attorney will determine if the incident should be presented to a Frederick County Grand Jury for investigation and/or indictment.
2. The Chief of Police, or his designee, will review the completed investigative report to determine if:
 - a. TPD Policies and Procedures were followed
 - b. TPD Policies and Procedures provided adequate direction and if there is a need to revise policies.
 - c. Supervision was adequate
 - d. Officers involved had adequate training, and if additional training to agency members would be beneficial

F. Public Disclosure:

1. The Thurmont Police Department recognizes the public's right to know about circumstances involving an in-custody death. It is the policy of the Thurmont Police Department to provide as much information as is reasonable through its public reporting process while also complying with applicable civil and criminal laws, respecting the areas where the law requires confidentiality, and preserving the integrity of ongoing investigations.
2. Upon conclusion of the investigation, or the Grand Jury proceedings and announcement of their findings, the Investigating Agency in conjunction with the Chief of Police, will provide a media release if appropriate.

ATTACHMENTS:

DOCUMENT DATES:

Amended Date: June 5, 2015

Review Date:

Review Date:

Review Date:

Rescinds:

Order Written by: Lieutenant Shawn R. Tyler

Revised by: Lt. P. A. Droneburg

Order Edited and Approved by: Chief Gregory L. Eylar