OFFICER INVOLVED SHOOTING INVESTIGATIONS

Drew Evans
Superintendent
Investigations Division
Staffing

REGIONAL OFFICES

- Homicide Unit:
  - Major Crimes Against Persons
  - Death Investigations
  - Abductions/Kidnapping/Missing Persons
  - Conflict of Interest Cases
  - Officer Involved Shootings
BCA FORENSIC SCIENCE SERVICES

St. Paul
Full Service
- Evidence Intake / Processing
- Biology/DNA
- Drug Chemistry
- Latent Prints
- Firearms and Toolmarks
- Crime Scene
- Scene reconstitucion
- Digital and Multimedia
- Trace / Chemical Testing
- Toxicology
- Calibration Laboratory

Bemidji
Targeted Service
- Evidence Intake / Processing
- Biology
- Drug Chemistry
- Latent Prints
- Firearms and Toolmarks
- Crime Scene
- Scene reconstitucion
- Digital and Multimedia

St. Cloud
Targeted Service
- Evidence Intake / Processing
- Drug Chemistry

ACCREDITATION: WHY IT IS IMPORTANT

ANAB (ANSI-ASQ National Accreditation Board)
- Legacy Accreditation – June 1994
- International Accreditation – August 2019

Total Quality Management System
Responsibility / Accountability
- Improve quality of services
- Develop and maintain criteria to assess laboratory performance and strengthen its operation
- Provides an independent review of operations

QUALITY ASSURANCE SYSTEM

Quality Assurance
CURRENT SCOPE OF ACCREDITATION

Biology
- Collection
- DNA-STR
- DNA-YSTR
- Detection/Enhancement
- DNA-Mitochondrial
- Physical Comparison
- Body Fluid Identification
- Product (Make/Model) Determination
- Relationship Testing
- Friction Ridge Collection
- Individual Characteristic Database (nuclear and mitochondrial) Enhancement
- Documentation
- Physical Comparison

Component of Testing
- Area of Origin Determination
- Individual Characteristic Database
- Bloodstain Pattern Determination
- Collection
- Scene Documentation
- Physical Determination

Crime Scene Investigation
- Enhancement
- Chemical Determination
- Collection
- Physical/Chemical Comparison
- Presumptive Testing
- Product (Make/Model) Determination
- Event Reconstruction
- Qualitative Determination
- Trajectory
- Quantitative Determination

Digital Evidence
- Preservation
- Weight Measurement
- Acquisition and Extraction
- Analysis
- Qualitative
- Authentication
- Quantitative
- Reconstruction
- Comparison

Component of Testing
- Discipline
- Category of Calibration

Firearms & Toolmarks
- Collection
- Toxicology
- Breath Alcohol Measuring Instruments
- Physical Comparison
- Determination of Functionality
- Length Measurement
- Serial Number Restoration
- Trigger Pull Force Measurement
- Qualitative Chemical Determination
- Distance Determination
- Product (Make/Model) Determination
- Individual Characteristic Database

Footwear and Tire Materials

Seized Drugs

Toxicology

Bloodstain Pattern Analysis

BCA’S ROLE

• Fact Gathering to determine what occurred.

• Two separate investigations may be going simultaneously, a decision will be made between BCA and the requesting agency as to who performs what duties.

• BCA DOES NOT determine or provide an opinion on whether force used was justified – that is always the decision of the prosecutor.

UNIQUE INVESTIGATIONS

• Interests
  - Community
  - Injured or killed person and their families
  - Involved Peace Officer(s)
  - Police Profession (18,000+ agencies in US)
  - Agency Involved (427 MN agencies + federal agencies)
  - Politicians
  - Prosecutors (87 independently elected prosecutors)

• Subject of Investigation – Peace Officer
  - Witness, suspect, victim
THREE TYPES OF INVESTIGATIONS

• Criminal
  - BCA – State (State Criminal Law Violations)
  - FBI/DOJ – Federal (Color of Law Violations)

• Administrative (Local agency)

• Civil

OIS and UOF Incidents Investigated by BCA
2015 - 2019

OIS and UOF Incidents Investigated by BCA
2019 - YTD
609.066 AUTHORIZED USE OF DEADLY FORCE BY PEACE OFFICERS

* SUBDIVISION 1. DEADLY FORCE DEFINED. For the purposes of this section, “deadly force” means force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing death or great bodily harm.
• Subd. 2. Use of deadly force.
  • Notwithstanding the provisions of section 609.06 or 609.065, the use of deadly force by a peace officer in the line of duty is justified only when necessary:
  • (1) to protect the peace officer or another from apparent death or great bodily harm;
  • (2) to effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or
  • (3) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person’s apprehension is delayed.

609.06 AUTHORIZED USE OF FORCE

Subdivision 1. When authorized.
• Except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other’s consent when the following circumstances exist or the actor reasonably believes them to exist:
  – (1) when used by a public officer or one assisting a public officer under the public officer’s direction:
    – (a) in effecting a lawful arrest; or
    – (b) in the execution of legal process; or
    – (c) in enforcing an order of the court; or
    – (d) in executing any other duty imposed upon the public officer by law;

CRIMINAL INVESTIGATION

• Request for assistance from local agency.
• Case Agent determines if BCA Crime Scene Team will respond.
  (Agents will ALWAYS respond if requested)
• Case Agent talks with crime scene team leader.
• Case Agent will determine number of Agents needed.
FIRST STEPS

• Agency is asked to designate a contact person from the agency to liaison with the BCA. This person should be able to provide the BCA case agent with specific details. This information will assist in determining personnel needs and assignments.

• Requesting agency to secure the scene and all evidence, providing protection as required by weather conditions until BCA can assume scene. All evidence will go to a BCA Agent or preferably crime scene team.

• Local agency identify and, if possible, provide for a secure place for all witnesses to the incident to be interviewed.

OFFICER DESIGNATED TO OVERSEE THE INVOLVED OFFICERS

• All involved officers should be removed from the scene to their agency or other secure area.
• Ensure security of all duty weapons involved. Do not remove/unload the firearm.
• Inform the officers about the procedures which will follow.
• Assist in obtaining any information which may be needed to preserve evidence and witnesses. This information should not be obtained through a formal statement.
• Preserve officer’s clothing and equipment as evidence if necessary.
• Make sure officers do not change clothing prior to initial meeting with BCA.
• Request that the officers do not discuss the incident between themselves prior to BCA interview.

OFFICER PICTURES
Two mobile units
- St. Paul and Bemidji
- Homicides, attempted homicides, abductions, officer involved shootings, clandestine grave body recoveries.
WHAT DO OUR CRIME SCENE TEAMS DO?

- Advise requesting agency on securing the scene.
- Documenting the scene with photography, video, and diagrams.
- Ensure proper identification, handling, collection and packaging of physical evidence found at the scene.
- Perform specialty examinations which aid in reconstructing the events of the crime.

PROCESS OF IDENTIFYING EVIDENCE

- Find physical evidence that may have information that can be linked to a person.
- Find physical evidence that tells a story.
  - Bloodstain patterns.
  - Bullet holes.
  - Document locations of items through diagramming.
    - May have minimal forensic value, but location of an item may be relevant.
  - Collect fleeting evidence quickly.
  - Wind, rain, easily moved evidence (hairs, cigarette butts outside).

WE CAN’T COLLECT EVERYTHING

- Based on briefing information and scene context, we collect probative evidence.
  - Blood, other body fluids, handler DNA, weapons, firearms, ammunition components, etc.
  - Example: unless probative, we won’t DNA swab and fingerprint dust every surface.
- We also evaluate for investigative evidence (agent collection).
  - Photo IDs, documents, etc.
SHOOTING SCENE RECONSTRUCTION

- Determination of the travel of a projectile at a scene
  - Aids in understanding where a bullet originated from and traveled to.
- Process
  - Observe defects at a scene.
  - Evaluate the characteristics of the defects to determine direction of a projectile, possible size, any other trace materials present (fabric, tissue, etc.).
  - Place rods, when supported, to show the path of a projectile.
BLOODSTAIN PATTERN ANALYSIS

• Evaluation of bloodstain patterns at a crime scene or on evidence to determine the mechanisms that put the blood in that location.
• Determination of locations of different events, including impacts (blunt force).
• Confirm or refute statements.

FIREARMS SECTION

• Determine if ammunition components (typically bullets, cartridge cases) were fired in a particular firearm.
• Other additional duties:
  – Function Testing of Firearms.
  – Muzzle-to-target distance determination.
  – Serial Number Restoration.
  – Toolmark Examinations.
  – NIBIN Database inquiries.
Comparison work with two bullets—one found at a crime scene and one test fired in the lab.

OFFICER FIREARMS
- Function testing
  - Ensure safety on gun is functioning
  - Trigger pull
  - Any malfunctions will be investigated
  - Test firing for known specimens and function

GUNSHOT RESIDUE DISTANCE DETERMINATION
- Estimation of Distance of Firearm to Target
- Based on PATTERN of GSR or Shot
- Shot Patterns can be Documented at Scene
- We Need Suspected Firearm and Same Ammo

https://www.crime-scene-investigator.net/how-far-will-shooting-distance-determination-take-your-case.html
LATENT PRINTS SECTION
- Process evidence to develop latent prints.
- Examiners attempt to identify the latent prints to individuals that may be connected to a crime scene.
  - If prints cannot be identified, they can be searched using the Midwest Automated Fingerprint Identification Network (AFIS).
- Work with Medical Examiners throughout the state to assist in identifying the unknown.

BIOLOGY SECTION
- Serology
- Nuclear DNA
- Mitochondrial DNA
- Databasing (CODIS)
- Bloodstain Pattern Analysis

SEROLOGY
- The identification of bodily fluids is known as serology.
- Currently, BCA serology includes: blood, semen, saliva, sweat, and urine identification.
EXAMPLES OF EVIDENCE FOUND AT CRIME SCENES FROM WHICH DNA CAN BE OBTAINED...

- Skin cells from weapons
- Body fluids (blood, semen, or saliva) from clothing
- Saliva from envelopes, cigarette butts & beverage containers

DIGITAL MULTIMEDIA EVIDENCE

- Work on digital evidence:
  - Computer
  - Cell phones
  - Hard drives
  - Memory sticks
  - Video Systems
- Search for illegal content:
  - Typically inappropriate images of kids, etc.

CRIMINAL INVESTIGATION

- Assure that all clothing and evidence at the hospital is preserved.
- Request that hospital personnel draw a blood sample prior to any transfusions for all subjects.
- To enhance the process of an independent investigation, we request agencies do not take a formal statement from the officers involved. A formal statement will be taken by a BCA agent. The BCA agent will review legal issues with the involved officers regarding providing a statement and giving of blood for the criminal investigation.
- Refrain from providing any press releases until it can be determined what information should be made public while the case is under investigation.
INVESTIGATION

- Meet with officer involved.
  - (Pictures, Toxicology Blood Draw)
- Interview and record statements from all witnesses involved.
- Neighborhood canvass.
- 911 audio and logs.
- Radio traffic audio and logs.
- Video (bodycam/dash cam/businesses/homes, cell, etc.).
- Pictures of officers involved.
- Social Media/Mainstream Media.
- Digital Evidence.
- Non-forensic evidence – Search Wt.’s & Subpoenas.
- Training Records.
- Notification of next of kin.
STATEMENT OF OFFICER

- **Timing.**
- Union/attorney representation.
- Criminal investigation warning.
- Recorded statement.
- Officers explain their use of force.
- Are actions consistent authorized force in outlined in Minn. Stat. § 609.066?
- Why was deadly force used?
- Reasonable beliefs of the peace officer at the time of the shooting.

- Gather a truthful and complete statement.
- Hand drawn diagram – not to scale.
- Request medical information release.
- Statements will act as their report.
- Video – L.E. recorded (bodycam/squad camera)
- Follow-up Interview.
FOLLOWING THE INVESTIGATION

- Case File Turned Over to County Attorney.
  - County Attorney:
    - Decision to Charge
    - Decision not to Charge (Letter of Finding)
    - Grand Jury
    - Hybrid Approach
  - After Adjudication – Complete Case File to Agency

PROCESS IMPROVEMENTS

- New policy on investigative process.
- Video and video analysis.
- Audit Process.
- Training.
  - Bias training for all agents (cultural and investigative bias).
  - Training for all agents on OIS investigations.
- 60 day goal for investigation completion.
- Immediate contact with prosecutors.
- No longer utilizing local agencies for portions of the investigation.

CURRENT ISSUES

- Viewing of body cam / dash cam video by officers.
- Timing of voluntary statements.
- Release of video to the public.
- Video Analysis and review.
  - Average case file is now 50-60 GB of information (previously 5 GB).
- Use of outside experts.
RELEASE OF DATA

- High demand for OIS case files
  - BCA works to make data available as soon as possible.
  - Must redact case file consistent with Minnesota Data Practices Act.
  - Provide public link to available public data.
  - Common redactions:
    - Undercover Officers / data that would create a safety danger to officers.
    - 911 callers in certain situations.
    - Photos and video offensive to the common sensibilities
    - Body Camera video.

OPPORTUNITIES FOR CONSIDERATION

- Standard Broad Statewide Prosecutor-Investigative Agency Protocol Agreement
- Victim-Witness Coordinator Position
- Broader Awareness
  - BCA Website
    - Public Link to Case Files
    - Video outlining BCA process
    - Policy Access

QUESTIONS