



OFFICE OF THE HENNEPIN COUNTY ATTORNEY

MICHAEL O. FREEMAN COUNTY ATTORNEY

August 17, 2019

**RE: STATEMENT OF MICHAEL O. FREEMAN, HENNEPIN COUNTY ATTORNEY  
ON OFFICER INVOLVED SHOOTINGS**

My name is Mike Freeman and I am the elected County Attorney in Hennepin County, the largest jurisdiction in Minnesota. Our office consists of over 200 lawyers and 200 staff with an annual budget of \$60 million. We commend Minnesota Commissioner of Public Safety John Harrington and Minnesota Attorney General Keith Ellison for establishing this Commission on officer involved shootings and want to share our thoughts. Attached to these opening remarks is a detailed protocol concerning handling officer involved shootings cases based on our experience working with both the Bureau of Criminal Apprehension (BCA) and the Hennepin County Sheriff's office on a number of cases since 2015. We begin with some general goals and principals.

We know that officer involved shootings cases are some of the most difficult cases we face as a society and as professionals, each with intense public interest. We share these remarks with a profound commitment to deal fairly, transparently and professionally as we can on each case. We assign our most experienced people and allocate all the resources necessary to reach justice. We suggest the following principals and procedures:

1. We urge the County Attorney or Attorney General handling these cases to make the charging decision themselves without using the Grand Jury to make the charging decision, which previously has been the practice in many jurisdictions including Hennepin County. I changed that policy three years ago here in Hennepin County. Hereafter we in the prosecutor's office make the decision ourselves, as we do in other cases. Making the decisions within the office makes the process more transparent and accountable. It enables us to release key facts much sooner and more completely in cases where charges will not be brought, so that all can decide for themselves if the right decision was made. It is also more accountable as everyone knows exactly who made the final decision avoiding all the privacy practices that surround Grand Juries.
2. The investigation should not be performed by the same department that employs the officers directly involved in the shooting. A properly trained outside independent agency, such as the BCA or a qualified Sheriff's office must be the lead investigators. The outside agency must take over the investigation as soon after the incident takes place as possible.
3. The ultimate decisions in the investigation including what steps must be taken should be arrived at collaboratively. As the charging decision is ultimately made by the prosecutor, she or he must have final authority.

4. The investigation must be as thorough and complete as possible. Every theory must be explored and every fact examined as expeditiously as justice permits with a recognition that all of evidence and steps taken to obtain it will ultimately be, and should be, made available to the public at the conclusion of the case.
5. Key video evidence, an appropriate subject for the public, must be carefully preserved and facts surrounding it must be promptly investigated. Key video must be made available to the public for viewing by the investigating agency as soon as practicable and no later than 45 days, similar to the law in California. The investigating agency must have control of the video and make the final decision about its release.
6. We encourage the legislature and rules committees to reexamine the laws governing when and how officers may use deadly force. Clarifying these statutes and jury instructions will promote fairness and consistency in how officer involved shootings are handled in the courts. We must also ensure that police officers across the state are uniformly trained in these legal standards.
7. Victim family concerns are critical, and all efforts must be taken to keep the family up to date with the status of the investigation and the timing of the ultimate decision about charging.
8. The Constitutional rights of all witnesses including police officers must be strictly adhered to. All witnesses shall be strongly urged to cooperate as completely as possible so a full understand of all the facts concerning the actual incident are known to the investigators and prosecutors.
9. The investigation and the prosecutorial decision must be completed as expeditiously as justice permits. The public is urged to give these professionals the time to do their job as professionally as they can.