Sub: Guide lines in the investigation of encounter death cases- Directions- Regarding

Ref: D. O. No. NHRC-46(I)/2016-INV dated 11/8/2016 of Secretary General, NHRC

Based on the analysis of the encounter death cases NHRC has observed some major pitfalls in the investigation of such encounter death cases. In view of this, the following instructions have been issued by NHRC for investigation of death in Police Operations/Encounters:

1. The death caused in an encounter if not justified would amount to an offence of culpable homicide.

2. The burden of proof of exercising the legitimate right of private defence within the limitation and restraint as imposed under Section 96-106 IPC is on the person who is claiming this exception.

3. Without proper investigation, the police officer cannot say that causing of death in the encounter was not an offence, either because it was done in exercise of private defence or was done in legitimate exercise of the power conferred by Section 46 of CrPC. It is, therefore in the public interest that conduct of the police/security force involved in such cases is subjected to proper scrutiny by investigation.

**General Principles.**

a. The investigation should be prompt, effective and thorough, independent, impartial and transparent.

b. The investigators should to the extent possible collect, collate and triangulate all testimonials, documentary and physical evidences.

c. Investigation shall be carried out diligently using scientific aids and in accordance with good practices of investigation.
d. Investigation should establish all the facts related to the death, such as the identity of the deceased, cause, manner, place, time and circumstances leading to the death and the extent of involvement of all those implicated in the death.

e. The conclusion of investigation must be based on objective criteria and must not be tainted by any bias or prejudice.

f. An independent investigation into the incident of encounter shall be conducted by the State CBCID or Police Team of another PS under the supervision of a senior officer.

The Specific Steps/Standard Protocol to Investigate and a Check memo, a ready reckoner for investigation of encounter death cases are enclosed as Annexure A and Annexure B for strict compliance.

To:
All Additional Directors General of Police/Inspectors General of Police/District Police Chiefs/ Superintendents of Police

Loknath Behera IPS
State Police Chief