

OFFICER INVOLVED DEADLY FORCE INCIDENT INVESTIGATIONS

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OFFICER-INVOLVED USE OF DEADLY FORCE INVESTIGATIONS

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I. GENERAL CONSIDERATIONS AND GUIDELINES

It is the purpose of this policy to provide guidelines for the investigation of officer-involved use of deadly force incidents.

Although, thankfully, very few officers become involved in deadly force situations, all officers should have an understanding of steps that must be taken following such an event and the impact it will have on those officers involved. The initial response of the involved officers and the steps taken thereafter by first responders, supervisory and investigative personnel may be critical in conducting an accurate and complete investigation.

The reputation and career of involved officers and the agency's reputation within the community depend upon a full and accurate investigation to determine the circumstances that precipitated the event and the manner in which it unfolded. The critical nature of these investigations is also underscored by the frequency with which these incidents result in civil litigation.

Failure to take appropriate measures can lead to the loss of indispensable evidence, inaccurate investigative findings, inappropriate assignment of responsibility or

culpability for wrongdoing, and even the filing of criminal charges against officers who acted responsibly and lawfully.

II. POLICY

It is the policy of this department to investigate officer-involved deadly force incidents with the utmost thoroughness, professionalism and impartiality to determine if an officer's actions conform to the law and this agency's policy on use of force.

III. PROCEDURES

A. On-Scene Responsibilities

1. GENERALLY

For officers involved in a deadly force situation, there are four general areas of concern that should be addressed after the initial confrontation has been quelled:

The welfare of officers, innocents, and others at the scene;

The apprehension of suspects;

The preservation of evidence; and

The identification of witnesses.

The safety and well-being of the officer(s) and any innocent bystanders is the first priority.

2. ACTIONS IMMEDIATELY FOLLOWING AN OFFICER INVOLVED DEADLY FORCE INCIDENT

Eliminate Hostile Threats: Initially, the officer should ensure that the threat from the suspect has been terminated.

This includes but is not limited to handcuffing or otherwise securing the suspect.

If not handcuffed or otherwise secured during the application of emergency first aid, an armed officer must be present at all times and tasked with overseeing the security of the suspect and safety of emergency service providers.

One should never assume that because a suspect has been shot or otherwise incapacitated that he or she is unable to take aggressive action.

Secure and separate suspects.

Conduct a protective sweep of the scene.

Remove the suspect and others from the immediate crime scene;

If the suspect cannot be immediately removed and firearms or other weapons are in the

vicinity of the suspect, they should be collected and secured.

Obtain Additional Assistance: Request a supervisor, additional back-up, and any other assistance required immediately.

Provide for Medical Attention to the Injured

If injured, administer emergency first aid to ones self first, if possible.

Administer basic first aid to suspects and others, as necessary, pending arrival of emergency medical assistance.

Summons medical assistance.

3. APPREHEND SUSPECTS: Relay information on fleeing suspects to the dispatch center and other field units and work with them to establish a containment area or locate and arrest suspects.

4. PRESERVE EVIDENCE

Assess the Situation: Take note of the time, survey the entire area for relevant facts, individuals who are present and who departed the scene, witnesses, potential suspects and suspect vehicles.

Firearms: Holster any involved handguns or secure them in place as evidence. Secure long guns in the prescribed manner or in place as evidence. Do not open, reload, remove shell casings or in any other manner tamper with involved firearms.

Secure the scene, establish a crime scene perimeter and limit access to authorized persons necessary to investigate the shooting and assist the injured.

Protect evidence from loss, destruction or damage that is likely to occur. Ensure that evidentiary items are not moved or, if moved, note the original location and position of persons, weapons, and other relevant objects and evidence.

For further information, see the department policy on ***Preliminary Investigations***.

5. IDENTIFY WITNESSES: Record the names, addresses and phone numbers of all witnesses and other persons present at the shooting scene and request that they remain on hand in order to make a brief statement whether or not they say they saw the incident.

B. Supervisory Responsibilities at the Scene

1. OFFICE-IN-CHARGE

The first supervisor to arrive at the scene of an officer-involved deadly force incident will normally be designated as the officer-in-charge (OIC) until such time as he/she is relieved from this responsibility by an investigator or other appropriate senior officer.

A superior officer shall be notified and shall assume overall command of the incident.

This duty may be assumed by the Chief of Police.

An investigation supervisor shall respond to supervise the agency's investigative efforts and coordinate with outside investigative entities (District Attorney's Office, Medical Examiner, etc.).

A patrol supervisor, if available, shall coordinate patrol support of the investigation.

2. IMMEDIATE ACTIONS

Ensure that the scene is safe and secure from other hostile persons.

Determine the condition of officers and others at the scene.

Ensure that emergency medical care has been summoned if necessary and emergency first aid is being provided if needed in the interim.

Ensure that the crime scene has been protected and, to the degree possible, that it is kept intact and undisturbed until criminal investigators arrive.

Ensure that staffing is adequate to handle the incident and conduct the investigation. The supervisor may consider calling in off duty personnel or mutual aid, including additional dispatchers.

Ensure that those issues ordinarily addressed by patrol officers, if such officers at the scene were not able to do so, have been addressed.

Broadcast lookouts for suspects;

Request backup and related support services;

Identify persons who may have been at or within close proximity to the scene of the incident, as well as identify witnesses and request their cooperation.

3. NOTIFICATIONS: The on scene supervisor shall ensure that notifications are made as appropriate:

Shift Commander

Investigations Supervisor;

Patrol Commander

Chief of Police;

District Attorney's Office: The District Attorney or his/her representative shall have the authority to direct and control the criminal investigation of a death;

Internal investigations;

Chaplain or police advocate;

Legal advisor, if applicable.

Officer(s) Family: If a police officer has been shot or severely injured, the officer's family shall be notified. For further information, see the department policy regarding ***Line of Duty Death's and Serious Injuries***;

4. CARE OF INVOLVED OFFICERS

Officer Injuries

If an officer has been shot or severely injured, ensure that another officer accompanies the injured officer to the hospital and remains with the officer until relieved.

The accompanying officer shall be responsible for ensuring that the clothing and other personal effects of the injured officer are recovered and turned over to the police department as evidence.

Officers not Injured

Officer(s) should be moved away from the immediate shooting scene and placed in the company of a fellow officer, preferably a peer counselor, if available.

Ensure that all necessary steps are taken consistent with this agency's policy on ***Post-Traumatic Stress Procedures***.

5. INCIDENT COMMAND: Establish command and control.

Establish a command post if necessary.

Appoint command Post Staff.

Designate a recorder to make a chronological record of activities at the scene, to include:

persons present,

actions taken by police personnel; and

the identity of any personnel who entered the incident/crime scene, to include emergency medical and fire personnel.

For further information, see the department's ***All Hazard Plan***.

6. PRELIMINARY INVESTIGATION

Ensure that the incident scene has been secured and the size of the secure area is adequate for the investigation. Make necessary adjustments.

Begin a preliminary investigation. For further information, see the department policy regarding ***Preliminary Investigations***.

Create a preliminary diagram of the scene and photograph it if a camera is available.

Note the location of and ammunition casings.

Locate the suspect's weapon(s), ammunition and expended cartridges.

Do not disturb weapons, ammunition, or the crime scene pending the arrival of investigators.

Collect information about the suspect, including name, physical description, domicile and other pertinent information.

Locate and secure as evidence any clothing that may have been removed from the suspect by emergency medical personnel or others.

Determine the original position of the officer(s) and the suspect at time of shooting.

7. CHIEF OF POLICE

If the Chief of Police is not the officer-in-charge of the incident scene, **[Chief may delegate and perform other functions related to the incident]** the chief should be briefed on the incident. The briefing should include:

Status of police employees;

Status of suspect(s);

Status of any involved innocents;

Any arrests;

Circumstances surrounding the incident; and

Any other pertinent information.

The officer-in-charge of the incident scene shall provide the Chief of Police with periodic updates and keep the chief apprised of all developments.

8. MEDIA

The Chief should ensure that a press release or media statement is prepared outlining basic facts of the incident. See **Investigation Supervisor** in this policy.

Basic information concerning the incident should be provided to the press as soon as possible if it will not inhibit or undermine the department's investigative process.

Timely release of such information will serve to discourage the press from speculation or uninformed or misdirected commentary that could be harmful to the officers and the department.

The Chief may consider a review of the statement by the District Attorney's Office prior to release, particularly in the event that a death has resulted.

For further information, see the department policy regarding **Police Media Relations**.

C. Investigation Supervisor's Responsibilities

1. INVESTIGATIONS SUPERVISOR: Investigation of officer-involved deadly force incidents shall be the responsibility of this agency's investigations unit or as designated by Chief of Police
2. GENERAL RESPONSIBILITIES: The investigation Supervisor shall be responsible for:

Keeping the Chief of Police apprised of all developments and providing period updates, particularly during the early stages of the investigation;

Ensuring that the investigation is conducted in a careful and methodical manner;

Requesting adequate investigative resources including, as deemed necessary or required by law:

Additional department investigators;

Regional investigative personnel and specialists;

The District Attorney's Office;

Office of the Medical Examiner;

Crime Scene Services;

Forensic Chemists;

Crime Scene Mapping Personnel; and

Federal Bureau of Investigation.

Develop a statement of preliminary basic facts for the media to be delivered by the agency spokesperson in conformance with this agency's policy on media relations.

3. INVOLVED EMPLOYEES

Although the investigation of police involved deadly force incident is essential, for the employees directly involved, the investigation can be one of the more stress-provoking activities following such an incident.

Officers involved in these situations are acutely aware of how they are perceived, and the manner in which such investigations are conducted can heighten or diminish feelings of alienation and isolation.

Complete and professional investigation can be conducted while also showing consideration for an employee's emotional well-being.

It is not necessary to subject an officer to insensitive, non-supportive, or impersonal treatment.

4. UPON ARRIVAL AT THE INCIDENT SCENE

The investigations supervisor shall:

Be briefed by the supervisory officer regarding:

The nature of the incident;

Actions taken thus far;

Evidence located; and

Recommendations for actions yet to be taken;

Conduct a walk-through of the scene;

Assess the need for any search warrants;

Consult with assistant district attorneys as necessary;

Prepare a plan to process the crime scene and conduct the investigation; and

Assign investigators to investigative tasks and functions.

The investigation supervisor shall determine when and ensure that notification is provided to next-of-kin of injured or deceased suspects.

5. INCIDENT SCENE PROCESSING

Guidance for crime scene processing is available in the department policies regarding ***Follow-Up Investigations, Collection and Preservation of Evidence, Search Warrant Affidavits, and Executing Search Warrants.***

Prior to entering the scene, investigators should consider the need for a search warrant for searches of vehicles, containers and homes.

Investigators may take precautions to prevent contamination of DNA or trace evidence through the use of protective gloves, clothing, face masks and protective foot coverings.

The overall scene should be video recorded, if feasible, and photographed prior to being processed.

Any bodies should be video recorded and/or photographed and should not be moved until the area in which they are located is processed.

A diagram of the incident scene should be produced.

Evidentiary items should be identified, photographed in place, collected, packaged and documented in accordance with the department policy on ***Collection and Preservation of Evidence.***

6. POLICE WEAPONS

Secure officers firearms or other weapons if the use of such a weapon was involved.

Locate and secure loose weapons;

Collect involved officers' firearms and replace them with other firearms if feasible. Be sure to record the serial number of each firearm collected and the name of the officer from whom the firearm was collected; or

Order officers to secure firearms in their holsters and not to remove them unless :

Instructed to do so by a supervisor;

Instructed by an investigator tasked with inspecting the firearms; or

If needed for another deadly force situation.

Conduct an inspection of firearms only if it is not feasible to wait for the arrival of a ballistics investigator. In such a case a supervisor and an armorer, firearms instructor, or other designated person should conduct the inspection jointly and record:

The serial number, make, model and caliber of each firearm;

The officer having possession of the firearm;

The officer who had possession of the firearm during the incident;

The firearm status including:

Whether the firearm is cocked or un-cocked;

The position of any safety (on, off, burst, full-auto, etc).

If the slide is closed or locked open;

If the firearm was jammed, and if so, how;

Whether a magazine is present or not. If present, the number of rounds remaining in the magazine;

Whether a live round is in the chamber. In the case of a revolver, the cylinder should be opened carefully and a diagram made, if necessary, to show the location of live and fired rounds in relation to the position of the cartridge which was under the hammer when the cylinder was closed. This can be easily done by viewing the status of the primer in each cartridge, noting dented or undented primers.

Extra magazines, speed loaders, or other ammunition storage devices carried by the officer should be inspected and the number of live rounds noted.

If a firearm is known to have been discharged in the incident, or if it is believed to have been discharged, the firearm shall be seized as evidence and a replacement provided to the officer as quickly as possible, unless circumstances dictate otherwise.

7. CONDUCTING INTERVIEW AND INTERROGATIONS OF WITNESSES AND SUSPECTS

Guidance for these tasks is available from the following department policies:
Interviewing Victims and Witnesses, Interrogating Suspects and Arrestees, Electronic Recording of Interrogations, Internal Affairs, and Eyewitness Identification.

Obtain recorded statements from suspects.

Locate and identify witnesses.

Method of Documentation

An initial audio recorded interview is the preferred method, whenever possible.

Investigators may obtain a written statement or take notes if necessary, but all witnesses should have an opportunity to provide their version of the events as soon as possible.

If a witness states that he or she did not witness anything, that fact should be documented through recording or a written statement.

Interview Setting

It is preferable to transport eyewitnesses to the station where they can be interviewed by investigators.

Normally, detailed interviews with witnesses should not be conducted by supervisory personnel at the scene.

If witnesses are unwilling or unable to go to the station to make a statement, the general scope of their knowledge of the incident should be established and recorded together with a record of their identification for future contact by investigators.

First Responder Interviews: Record interviews with fire department personnel, emergency medical service providers and other first responders to the scene.

Employee Interviews:

Conduct a separate, recorded interview with each employee involved at the scene who was not immediately involved in the deadly force encounter.

A brief interview of the employee(s) immediately involved in the deadly force encounter may be conducted to obtain basic facts. A more detailed, recorded interview should be conducted later at an arranged time.

Be cognizant of symptoms of post-traumatic stress, particularly for those immediately involved in the deadly force encounter. Symptoms of post-traumatic stress include:

Time and space distortions;

Post-incident amnesia: This may result in the failure to remember the majority of the information observed in the incident;

Confusion;

Hearing and visual distortion; and

Emotional impairment, including shock.

Defer conducting audio recorded, in depth interviews if these symptoms are evident. A brief interview may be conducted to obtain basic facts. The employee will be better able to participate in a detailed interview after a healthy nights sleep.

Conduct the interview in a private location away from sight and hearing of agency members and others who do not have a need and a right to the information.

Advise the employees not to discuss the incident with anyone except his or her personal attorney, a department attorney, union representative or departmental investigator until the conclusion of the preliminary investigation.

8. INVESTIGATOR REPORTS

The investigation supervisor shall ensure that a final report is completed for presentation to the District Attorney's Office.

The final report should include reports of officers involved, investigators, laboratory analysis, evidence examinations, statements, interviews, photos and evidence from this department and other investigating agencies.

D. Check-list of individual's responsibilities

1. PATROL OFFICERS CHECKLIST

Eliminate Hostile Threats

Secure Suspects

Protective sweep of incident scene

Request back-up

Additional patrols

Supervisor

Detectives

Administer first aid to yourself and others

Request emergency medical assistance

Broadcast B.O.L.O.'s

Secure your firearm

Secure the scene

Set up crime scene inner perimeter

Set up crime scene outer perimeter

Implement Crime Scene Access Log

Protect evidence

Identify persons at or leaving the scene

Identify witnesses and request cooperation

2. OFFICER IN CHARGE CHECKLIST

Ensure the scene is safe and secure from hostile persons.

Determine condition of officer and others

Ensure that medical support has been notified as necessary.

Ensure the crime scene is being protected and the perimeter is adequate.

Obtain additional staffing, as necessary

Patrol Officers

Additional Dispatchers

Ensure witnesses have been identified or detained.

Notify command/specialized units or personnel as appropriate:

Shift Commander

Investigations Supervisor

Patrol Commander

Chief of Police

District Attorney's Office

Internal Investigations

Chaplain or police advocate

Legal Advisor

Injured or Deceased Officer's Family.

Notify officer's family

Assign officer to family

If officer is shot, transport to hospital with support officer.

Collect officer's clothing and equipment as evidence

Move immediately involved officers away from the area

Don't release officer's name

Establish command post if required

Appoint a recorder to document police actions at the scene.

Appoint command post staff

Brief personnel

Investigations Supervisor

Chief of Police

Preliminary diagram and photograph overall scene

Locate and secure officer's weapons

Begin gathering information on incident

3. INVESTIGATOR'S CHECKLIST

Preliminary Assessment

On-Scene Supervisors Briefing

Nature of the incident

Actions taken thus far.

Evidence located

Recommendations for investigative action.

Incident scene walk-through.

Notifications

Additional department investigators

Regional investigative personnel and specialists

District Attorney's Office (Mandatory for Deaths)

Medical Examiner

Crime Scene Services

Forensic Chemists

Incident Scene Mapping

Federal Bureau of Investigation

Investigation

Assess need for search warrants
Consult with District Attorney's Office
Identify all police and emergency services personnel who were or are at the scene
Identify and interview witnesses and suspects
Interview employees and advise not to make public statements or discuss the incident
Formulate preliminary statement of facts
Establish chronology and conditions
Date and time call received
Names and rank of officers involved
Current assignment and detail
Uniform or plainclothes
Types of vehicles
Weather, lighting conditions
Describe and diagram scene including background
Position of officer(s)
Position of suspect(s)
Position of witnesses
Path of bullets fired
Scene Processing
Need for DNA or Trace Evidence Protective Clothing, gloves, mask.
Overall scene video or photographing
Video and or photographing of bodies
Incident scene diagram
Ensure location, photographing, collection, and documentation of evidence
Color photograph officer and injuries
Take involved officer weapon(s) into custody
Photographs and/or videotape items of evidence
Officer firearms and ammunition
Firearm: serial number, make, model, caliber, type holster

Ammunition: type, manufacturer, number of rounds fired

Suspect firearms and ammunition

Firearm: serial number, make, model, caliber, type holster

Ammunition: type, manufacturer, number of rounds fired

Collect expended bullets and cartridge casings

Suspect information

Description

Prior record

Parole/probation and related information

Complaint taker and dispatcher voice and data transmissions

MDT logs

Officer's and suspect's clothing

Vehicles

Description

Evidence booked

Post Investigation

Disposition, e.g. impound

Autopsy results

Brief prosecutor's office

Debrief senior staff