

## **2.6.4 OFFICER INVOLVED SHOOTINGS, IN-CUSTODY DEATHS, AND SERIOUS USES OF FORCE.**

### **I. PURPOSE**

It is the purpose of this policy to provide guidelines for the investigation of officer-involved shootings. The policy also provides guidance for investigation of in-custody deaths and other serious uses of force.

### **II. POLICY**

It is the policy of this department that officer-involved shootings, whether on or off duty, be investigated so as to determine whether officer actions conform with law and this department's policy, procedures, rules, and training. This policy may also apply to the investigation of situations in which a person dies while in police custody or while an officer is attempting to effect custody and other serious uses of force.

### **III. DEFINITIONS**

*Companion Officer:* An officer assigned to another officer to provide emotional support and assistance following a critical incident, such as an officer-involved shooting. The assigned officer is normally a member of the department's peer support program but may also be another officer who has had a similar experience, a close friend, or both.

*Critical Incident:* An incident that is unusual, is violent, and involves perceived threat to, or actual loss of, human life. The incident is a significant emotional event that breaks through an individual's normal coping mechanisms and may cause extreme psychological distress.

*In-Custody Death:* The death of an individual while in custody or while attempts to effect custody are being made.

*Involved Officers:* Unless otherwise indicated, refers to those sworn personnel in on-duty or off-duty status who discharge their firearm in a hostile situation or by accident; arrest or are in the process of arresting an individual who subsequently dies; engage in other serious uses of force; and are direct witnesses to such events.

*Officer-Involved Shooting:* A discharge of a service weapon by an officer during a hostile encounter or an accidental discharge, while on-duty or off-duty, irrespective of injuries to suspects, officers, or third parties.

*Serious Use of Force:* Any use of force that results, or is reasonably likely to result, in death, permanent or substantial injury, loss of any body part or function, or permanent disfigurement. Also included are situations where a person is **admitted** to a medical facility for treatment that is the result of police use of force.

#### IV. PROCEDURES

- A. Officers shall be thoroughly familiar with this department's policies on Post-Shooting Personnel Support and Critical Incident Stress Management. Awareness of and attempts to mitigate the potential effects of critical incident stress, combined with professionally accepted investigative procedures provide the best opportunity for establishing an accurate record of events surrounding officer-involved shootings.
- B. Officers involved in a shooting incident shall, to the degree reasonably possible, take initial steps to protect their safety and to preserve evidence.
- C. Incident Command Responsibilities

The ranking officer at the scene shall serve as incident commander (IC) and brief superior officers of investigation status when turning over IC responsibility. The IC shall assign responsibility for completion of the following tasks as appropriate and in the order deemed necessary.

1. Identify any remaining threats and take necessary action.
2. Determine the physical condition of officers, suspects, and third parties; provide emergency first aid if necessary; and ensure that emergency medical assistance has been summoned.
3. Ensure that a brief statement is collected individually from the involved officer(s), covering only information necessary to focus initial police response and direct the preliminary investigation. This includes information on

- a. type of force used
  - b. direction and approximate number of shots fired by officers and suspects
  - c. location of injured persons
  - d. description of at-large suspects and their direction of travel, time elapsed since the suspects were last seen, and any suspect weapons
  - e. description and location of any known victims or witnesses
  - f. description and location of any known evidence
  - g. any other information necessary to ensure officer and public safety and to assist in the apprehension of at-large suspects.
4. Ensure the adequacy of the inner perimeter. Direct that an outer perimeter be established to prevent all from entering except those who have a specific function to perform. Ensure the names of all those who enter the perimeter are recorded.
  5. Locate and secure—or secure in place—the officers' weapon(s) and mark expended ammunition casings. Physically check the firearms and other weapons of all officers who were present during the incident for evidence of a discharge. Weapons that were fired shall be secured as evidence, and primary service firearms shall be replaced by a similar firearm as soon as reasonably possible.
  6. Locate and secure in place weapons, ammunition, and expended cartridges used by the suspect.
  7. Collect information available about the suspect from anyone at the scene.
  8. Ensure that all potential witnesses have been identified and separated and ask that they remain on hand to provide a statement. If witnesses wish to leave, obtain their contact information for future communications.

9. Locate and secure as evidence any clothing or other personal items that may have been discarded or removed from suspects or officers by medical personnel.
10. Determine and mark the position(s) of the officers and the suspects at the time of the shooting.
11. Separate and remove all involved officers from the immediate scene. Ensure that a companion officer is assigned to each officer prior to returning to the Public Safety Building.
12. Direct all involved officers not to discuss any aspects of the shooting among themselves or with others with the exception of their attorney, a qualified mental health professional, or the President of the Fraternal Order of Police Lodge 86 or his designee. Discussions with authorized investigative personnel should only occur to the extent outlined in paragraph (C)(3) of this directive. Under no circumstances shall personnel provide written or recorded statements while at the scene.
13. If an officer is transported to the hospital, ensure that the companion officer accompanies or meets him or her there.
  - a. The companion officer should provide all reasonable support to the involved officer and act as liaison between the officer and the hospital.
  - b. If the officer is incapable of calling, the companion officer shall notify or ensure that another department member notifies his or her immediate family as soon as possible and in person, whenever reasonably possible. The notification shall provide the family members with basic information on the status of the officer and when and where they will be able to see him or her. At this time the companion officer shall arrange for their transportation to the hospital or other location as required. In the case of serious injury or death, notifications shall be conducted in conformance with the department's Death Notification policy.
  - c. Notifications involving serious injury or death shall be made in person by a ranking member of the Administration and a designated officer

who has been previously identified by the involved officer. Under no circumstances shall a notification of serious injury or death be made over the phone.

14. Whenever possible, photograph officers as they appear at the scene, to include any injuries sustained.
15. Offer a peer support counselor to the involved officer's family for security, support, and management of media inquiries and visitors.
16. Ensure all necessary department notifications have been made, such as those to the following:
  - Chief of police
  - Captain of Police Operations
  - Captain of Police Administration
  - Coroner
  - District Attorney's Office
  - Pennsylvania State Police
  - The President of FOP Lodge 86 or his designee
  - Department chaplain, police advocate, qualified mental health professional, or peer support program coordinator
17. Establish a command post when it appears that an extended on-site investigation will be necessary.
18. Appoint an officer to serve as a "recorder," with responsibility for making a chronological record of activities at the scene, to include persons present and those who have been at the scene and actions taken by police, EMTs, or other personnel.
19. If equipment is available, ensure that video recordings are made of the entire crime scene and those present, including witnesses and bystanders. Determine if video recordings were made by in-car cameras, electronic control weapons, or surveillance cameras and secure them as evidence as soon as reasonably possible.
20. Ensure that a media staging area is established beyond the outer perimeter and that it is appropriately staffed.

21. Place officers who discharged their weapons on mandatory administrative leave with pay.
22. The agency shall facilitate contact with, and involved officers will make themselves available to meet with, the department's designated qualified mental health provider within 24 hours of the incident, as prescribed by this department's policies on Post-Shooting Personnel Support and Critical Incident Stress Management.

#### D. In-Custody Death Investigations

Facts that are germane to investigations of in-custody deaths include, but are not limited to, the following:

1. Information noted by the dispatcher from background noises during the call, as well as information provided by the reporting party that may be related to the subject's behavior, use of drugs or alcohol, previous law enforcement encounters, presence of weapons, and mental health concerns.
2. Officer observations of the subject's behavior in the course of making the arrest, for example, was the person
  - a. calm or emotionally charged
  - b. rational or confused
  - c. able to communicate or difficult to engage in conversation
  - d. experiencing hallucinations or delusions
  - e. perspiring heavily
  - f. wearing inappropriate clothing or in a state of undress
  - g. exhibiting a high tolerance for pain
  - h. engaging in a protracted physical encounter with officers?
3. Whether family or friends indicate that the subject had been drinking heavily, using drugs, or both; whether the subject had been involved with the police on prior occasions; any other relevant information provided; and whether the subject was threatening anyone or in possession of a weapon.
4. Whether the subject was visibly injured in any way when the police arrived and what, if any injuries were sustained prior to death.
5. What measures the officer(s) took to gain control and custody, such as

- a. attempting to calmly “talk the person down”
- b. maintaining distance
- c. reducing noise by turning off sirens
- d. reassuring the subject
- e. buying time
- f. asking simple questions to determine the subject’s level of coherence
- g. attempting to deescalate the situation or other actions
- h. directing others at the scene to move away

6. Whether custody was required.
7. The length of time it took to gain control of the subject. Whether there was a protracted struggle or the subject was subdued quickly.
8. The means used to restrain the subject.
9. When in custody, where and how the individual was situated (e.g., placed facedown on the ground, in a seated position, in a police vehicle sitting or lying down).
10. The physical reactions of the subject once arrested. For example, did he or she become calm or continue to struggle and act physically and verbally combative?
11. Whether EMS was called and, if so, at what point during the confrontation.
12. Whether the subject’s condition (such as breathing and consciousness) was monitored after arrest. Whether the subject became unresponsive, who was present at the time, and what steps were taken by the officer(s).
13. When death was pronounced and by whom and the results of the autopsy.
14. The information provided in the subject’s medical history and lifestyle.
15. If the subject did not die but was seriously injured or admitted to a medical facility, discover the answers to these questions:

- a. What were the nature and severity of the injuries?
- b. Were the injuries consistent with the use of force described by the officer(s)?

#### E. Serious Injury

Where serious injury is reported, investigators shall gather relevant information and take actions deemed appropriate from the foregoing section of this policy in addition to collecting information on the following:

1. Conduct and behavior of the subject being confronted as perceived by the officer at the time of the incident
2. The relative age, size, strength, and physical ability of the officer to the subject
3. Experience of the officer
4. The number of officers present
5. Potential influence of alcohol or drugs
6. Subject's proximity to weapons
7. Weapons used or threatened to be used by the subject
8. Force options available to the officer
9. Seriousness of the offense, basis for subject contact, and information known about the subject by the officer
10. Potential for injury to the public, officer, or subject
11. Risk of escape
12. Degree of subject resistance
13. Use of restraints

## 14. Other exigent circumstances

### F. Investigator's Responsibilities

1. The lead homicide investigator whenever possible shall do the following:
  - a. Receive a briefing from the IC including details of the incident as available, a summary of all actions completed or in progress as noted in items B. and C. of this policy and be provided a walk-through of the incident scene.
  - b. Ensure that all items of potential evidentiary value are identified and properly collected.
  - c. Obtain audio-taped preliminary statements from suspects and witnesses.
  - d. Ensure that efforts are under way to collect and compile information on the suspect(s).
2. Consult with the coroner or medical examiner at the scene and at, or subsequent to, the autopsy, and compile information as available, such as, entrance and exit wounds, estimates of shooters' positions, the presence of alcohol or controlled substances in the suspect's body, and any other facts that may be deemed relevant.
3. Canvas the immediate area for potential witnesses who have not come forth and obtain information or statements as available.
4. Obtain search warrants for any vehicles, containers, homes, or vehicles as may be necessary.
5. Where possible, tape record interviews with EMTs, fire department personnel, and first responding officers regarding conditions at the shooting scene when they arrived to include any action that may have been taken to move or otherwise alter persons or objects of potential evidentiary value.
6. Develop a summary of preliminary information concerning the shooting for the chief executive officer.

## G. Investigative Process

The investigation of officer-involved shootings shall normally be conducted in two separate parts and by separate authorities—a criminal investigation and an administrative investigation. The criminal investigation is normally completed by homicide investigators prior to the administrative investigation, which is most often conducted by the department's internal affairs authority, although circumstances may dictate that concurrent investigations be undertaken.

### 1. Criminal Investigation Phase

The lead homicide investigator shall manage the criminal investigation unless, by interagency agreement, the lead is passed to another investigative authority. Parallel or sequential criminal investigations, one investigation related to state offenses and the other by federal authorities relating to offenses under federal law, may be undertaken but are not typical. Upon completion of the criminal investigation, findings shall be submitted to the department's chief executive officers and the office of the district attorney or the appropriate prosecuting agency.

### 2. Administrative Investigation Phase

This investigation, undertaken by the department's internal affairs authority, must be kept separate and apart from the criminal investigation. It is intended to determine whether violations of departmental policy, procedures, rules, or training have occurred and, if so, whether disciplinary action should be recommended or modifications to policy, procedures, or training considered.

3. Criminal investigators may not be present during internal affairs questioning nor may information gained as a result of administrative interviews be shared with criminal investigators.
4. All interviews shall be audio- and videotaped in order to provide evidentiary record of statements.
5. Investigators shall be cognizant of symptoms of post-traumatic stress during officer interviews, such as time and space distortions, confusion,

hearing and visual distortions associated with recalling details of the incident, as well as emotional impairment during questioning.

6. Officers shall file individual use of force reports. The OIC shall prepare a separate overall use of force report and attach the individual reports for submission to the chief executive officers and the office of the district attorney.

Effective Date: 09/27/2018

By Order Of:

A handwritten signature in black ink, appearing to read "Robert F. Johnson". The signature is written in a cursive, flowing style.

Robert F. Johnson  
Chief of Police