

# Investigations of Officer Involved Shootings and Incidents Where Death or Serious Likelihood of Death Results

## 307.1 POLICY

The following procedures shall be followed when a member of this Department, whether on or off duty, or any member of any law enforcement agency, uses, or attempts to use, deadly force through the intentional or accidental use of a firearm or any other instrument in the performance of his/her duties or is otherwise involved as a principal in an incident where death or serious likelihood of death results. A member is considered a principal for the purposes of this policy if he/she participates in and/or is otherwise physically involved in the incident. Such incidents include, but are not limited to:

- (a) Intentional and accidental shootings;
- (b) Intentional and accidental use of any other deadly or dangerous weapon;
- (c) Attempts to affect an arrest or otherwise gain physical control over a person for a law enforcement purpose; and,
- (d) Deaths of persons while in police custody or under police control following a use of force.

## 307.2 PROCEDURES

- (a) Whenever an employee of this Department uses, or attempts to use, deadly force through the intentional or accidental use of a firearm or any other instrument in the performance of his/her duties, or is otherwise involved in an incident where death or serious likelihood of death results as defined above, he/she shall immediately notify his/her supervising officer.
- (b) The supervisor shall notify the Watch Commander without unreasonable delay.
- (c) The Watch Commander shall notify the on-call Centralized Investigations Sergeant. The on-call Centralized Investigations Sergeant shall notify the Centralized Investigations Lieutenant (or Captain in his/her absence). The Centralized Investigations Lieutenant will determine if a response by the Officer Involved Shooting Team (OIS Team) is necessary. If so, the Centralized Investigations Lieutenant will notify the Robbery/Homicide Sergeant who will respond the OIS Team.
- (d) If an employee discharges a firearm, or uses other deadly force, or is otherwise involved in an incident where death or serious likelihood of death results outside the Riverside City limits, the employee shall immediately notify the local law enforcement agency having jurisdiction where the incident occurred. As soon as possible, the employee shall notify the Riverside Police Department Watch Commander. The Watch Commander will notify the on-call Centralized Investigations Sergeant and other personnel as designated in this policy. The on-call Centralized Investigations Sergeant shall make the notification as above in B3. If the incident occurs within Riverside County, the use of deadly force shall be investigated pursuant to the Riverside County Law Enforcement Administrator's protocol. In those cases outside the City of Riverside, the involved employee shall notify the Riverside

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Police Department Watch Commander as soon as possible and a written memorandum shall be filed with the Watch Commander without delay.

#### **307.3 ROLES AND RESPONSIBILITIES**

Personnel responding to an officer involved shooting or other deadly use of force incident or officer involved incident where death or serious likelihood of death results should recognize and adhere to the roles and responsibilities as listed below.

##### **307.3.1 ROLES**

- (a) The Centralized Investigations Bureau will focus on all criminal aspects of the incident.
- (b) The Riverside County District Attorney may be present to oversee the focus on all criminal aspects of the investigation and may conduct a parallel investigation.
- (c) The Riverside Police Office of Internal Affairs may be present to review training, procedural, and policy matters connected with the incident.
- (d) The Riverside City Attorney may respond to the scene to review the case with regard to any potential civil liability to the City of Riverside and its officers.
- (e) Peer Support Officers shall be called to provide employee(s) support and assistance in understanding the investigative process and to attend to the officer(s)' personal needs. The Watch Commander or Centralized Investigations Lieutenant will determine the appropriate time and place for peer support to respond. Although confidentiality within the Peer Support Program is provided under the Evidence Code, and the Riverside Police Department will not require Peer Support Officers to reveal confidential conversations with involved employees, Peer Support Officers are cautioned that a court may determine no privilege exists regarding immunity or communication between the Peer Support Counselor and the involved employee(s).
- (f) Psychological Services shall be called to assist the employee(s) involved with information on coping with psychological changes which can occur as a result of being involved in a critical incident. A licensed mental health professional afforded psychotherapist-patient privilege under the Evidence Code shall interview the officers involved. The Watch Commander or Centralized Investigations Lieutenant will determine the appropriate time and place for post-incident psychological counseling. Involved employees may decline to discuss the specific facts of the critical incident with the psychological counselor.
- (g) The Press Information Officer shall be summoned to the scene if necessary to act as a single source of information to the news media. The Investigations Lieutenant or his/her designee will brief the PIO as to information deemed appropriate for release. The PIO shall provide regular updates and a written press release to the news media when appropriate.
- (h) The Riverside Police Officers Association (RPOA) shall be notified of the critical incident whenever the ensuing investigation is handled by this department and the incident involves a member of the RPOA. In such cases, notification will be made by the Centralized Investigations Sergeant at the following RPOA telephone number: (951) 403-4657. Representative(s) of the RPOA will be permitted access to the involved officers at the scene and at the Centralized Investigations Bureau. RPOA will designate which representative(s) will respond. RPOA Representatives on duty shall be relieved of further duty with pay unless

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they are witnesses to or directly involved in the critical incident. RPOA Representatives will not unreasonably be denied access to the officers they are representing. No report will be required of RPOA Representatives. While the Police Department will not require RPOA Representatives to reveal communications with member officers they are representing, a court may determine that no privilege exists in criminal matters. Accordingly, officers are encouraged to obtain legal representation.

#### 307.3.2 RESPONSIBILITIES

(a) Involved/Witnessing Employee Shall:

1. Provide care for all injured persons.
2. Request supervision and suitable assistance.
3. Secure the scene of the incident and protect it from alteration and contamination.
4. Apprehend offenders.
5. Brief the responding supervisor, providing a public safety statement to assist in identifying and/or locating the suspect, number of rounds fired, trajectory of rounds fired, information necessary to protect the crime scene, or information to protect the public and other officers from continuing harm of a fleeing suspect.
6. Ensure witnesses and/or other involved persons (including police personnel) do not discuss the incident prior to being interviewed by the OIS Team.
7. Prepare an accurate and complete police report of the incident and have it approved by a supervisor. The report may be prepared by the involved employee(s) by dictating the report for transcription, furnishing a complete and accurate statement to police investigators, or by submitting a complete and accurate written report. Such report should be prepared as soon as possible after the incident unless the employee is injured or emotionally unable to promptly make a police report. The Investigations Lieutenant will determine when the report will be prepared or the employee interviewed. When making their reports, involved officers shall not be considered as having waived their rights under the Public Safety Officers Procedural Bill of Rights Act, the federal and California Constitutions, and other relevant statutory protections.
8. Unless approval is granted by the Chief of Police or his/her designee, the involved employee(s) shall not talk to the news media or anyone else regarding the incident or investigation until the entire criminal investigation is completed. Exceptions are: the interviewing detective and/or supervision from the OIS Team, legal representatives, RPOA representative, Peer Counselor, a member of the clergy, or a psychological services provider.
9. Involved employee(s) will provide a blood sample, when in accordance with law, when administratively compelled, or when in compliance with the department's alcohol and drug testing policy.

(b) Field Supervision Shall:

1. Provide medical aid to any injured parties.

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2. Take immediate charge of the scene. Establish a crime scene perimeter with a single point of entry and exit. Assign an officer to restrict access only to necessary police and/or medical personnel and to maintain a log of persons entering and exiting the crime scene.
3. Ensure preservation of the scene for investigators. Supervise Field Operations personnel and ensure they carry out assigned duties.
4. Make immediate inquiry into issues of public safety and scene security, i.e., including number of rounds fired, trajectories of rounds after discharge, and the description, location, or direction of travel of any outstanding suspects. No further questions will be asked of the involved employee(s).
5. Ensure that no items of evidence are handled or moved unless contamination or loss of evidence is imminent. If contamination or loss of evidence is likely, notation (or preferably a photograph) must be made of its location and condition before it is moved. Photographs will only be taken upon the express direction of a member of the shooting team or the Field Supervisor.
6. Assign an officer to accompany any injured persons to the hospital to:
  - (a) Recover and secure any item of physical evidence.
  - (b) Place suspect in custody if appropriate.
  - (c) Record any spontaneous or other unsolicited statements.
  - (d) Record information regarding medical condition and personnel treating the injured person.
7. Notify the Watch Commander.
8. Establish an appropriate command post.
9. Ensure that the weapons used are not handled by anyone at the scene. Safety should be paramount. Weapons in possession of the involved employee(s) should be left with the employee(s) until requested by the OIS Team.
10. Transportation of the involved employee(s) from the scene to the Investigations station shall be arranged using uninvolved, on-duty personnel or peer counselors.
11. Assign an on-duty, non-involved officer to accompany the involved and/or witness employee(s) to the station to ensure that they are not allowed to discuss the incident with other officers or employees. Involved officer(s) shall be sequestered until such time as they meet with the assigned detectives and/or supervisors assigned to the OIS Team for the purposes of providing an interview. Exceptions are: legal representatives, RPOA representative, Peer Counselor, a member of the clergy, or a psychological services provider.
12. All witnesses should be located and documented, including hostile witnesses.
13. Ensure that each employee present, excluding those directly involved in the incident, peer officers and RPOA representatives, completes a supplemental report before the end of shift. The report should include the employee's name, identification number,

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unit number, and specific actions at the scene. The completed report is to be submitted directly to the Officer Involved Shooting Team Supervisor.

14. Brief the responding OIS Team.
15. Notify the Press Information Officer if necessary. Provide an initial press release to the news media present if necessary. The information released shall be brief and generalized with absolutely no names released or confirmed. The PIO shall also prepare a written press release covering the same information previously released. Any subsequent media contact shall be the responsibility of the PIO or Investigations Lieutenant or his/her designee.

(c) Watch Commander Shall:

1. Notify the Centralized Investigations on-call Sergeant.
2. Notify the employee's Division Commander.
3. Notify the Deputy Chief of Operations
4. Notify on-call Peer Support personnel and RPOA representative, and coordinate the response of the Psychological Services provider with the Centralized Investigations Lieutenant.
5. Ensure the presence of sufficient personnel to control the scene and to allow adequate police services for the remainder of the city.
6. Maintain or cause to be maintained an accurate account of police personnel involved in the incident and any employee(s) called to assist in providing basic police services.
7. Unless directed otherwise, conduct a debriefing of the incident and prepare the after action report as required by Riverside Police Department Debriefing of Critical Incidents Policy.
8. Ensure that the necessary reports are completed in compliance with Riverside Police Department Use of Force Policy.

(d) Centralized Investigations Lieutenant Shall:

1. Notify and assign Robbery/Homicide Sergeant(s) to the investigation.
2. Notify the Investigations Division Commander of the investigation.
3. Notify the City Attorney.
4. Notify the Internal Affairs Lieutenant or appropriate Internal Affairs Sergeant in his/her absence.
5. Respond to the scene to assume command of the investigation and serve as liaison with Area Commanders, Division Commanders, Office of Internal Affairs, City Attorney, and the District Attorney's Office.
6. Provide the Press Information Officer with updated information that can be released to the media. In the absence of the PIO, the Investigations Lieutenant or his/her designee shall be the single release point for all press information and be responsible for preparing and distributing the written press release.

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7. Ensure that public information concerning the findings and conclusions of the criminal investigation are not disclosed until the involved employee(s) have been first notified.
  8. Schedule a debriefing at the conclusion of the initial investigation to ensure all aspects have been covered and to discuss considerations for improvement.
  9. Submit the completed investigation to the District Attorney's Office and attend the DA staffing of the investigation with the OIS Sergeant and the case agent.
  10. Ensure that the involved employee(s) meets with the Psychological Services provider.
  11. Ensure that the OIS Team, including supervisors, complies with this Policy and that involved officers are afforded their procedural rights under the Public Safety Officers Procedural Bill of Rights and related laws.
- (e) Officer Involved Shooting Team Shall:
1. Conduct a thorough and accurate criminal investigation of the incident, including:
    - (a) Documenting, photographing, and collecting all evidence at the scene. Photographs taken after the arrival of the shooting team will be at their direction only.
    - (b) Interviewing all victims, witnesses, suspects, or other involved persons. All interviews will be tape recorded unless impractical or the circumstances prevent it.
    - (c) Advise the involved employee(s) of their Constitutional rights if there is a possibility of a criminal violation on the part of the employee(s) and when it is anticipated the case will be submitted to the District Attorney's Office for filing. Rights advisals are not required for employees who are solely witnesses and criminal prosecution will not occur.
    - (d) If the involved employee(s) is advised of his/her Constitutional rights prior to writing or dictating a report or being questioned, and the employee declines to waive those rights, no further questioning will occur.
    - (e) Advise the involved or witness employee(s) that they may consult with a department representative or attorney prior to the interview taking place, and this department representative or attorney may be present during the interview.
    - (f) No administratively compelled statement(s) will be provided to any criminal investigators.
    - (g) Involved employee(s) may be ordered to provide samples of blood when objective symptoms consistent with the use of alcohol, a drug or narcotic are exhibited by the involved employee(s), or when reasonable suspicion exists to believe an employee(s) is under the influence of alcohol, a drug or narcotic. All blood samples will be retained by the Riverside Police Department. All blood results will be sent directly to the Centralized Investigations Sergeant overseeing the OIS Team. Blood results will then be forwarded to the OIS case agent.

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- (h) Interviews or questioning of involved officers shall whenever possible take place in an office or room not regularly used to interview suspects or civilian witnesses. Officers shall not be interviewed in a suspect interview room or a room equipped to remotely monitor (audio and/or video) interviews. Injured officers shall not be interviewed at a hospital or medical care center unless circumstances require an emergency interview before the officer is released.
  - (i) Notify and consult with the Deputy District Attorney concerning legal issues connected to the investigation.
  - (j) Ensure all reports have been written and submitted in a timely manner.
  - (k) Take custody of involved employee's weapon(s) for submission to DOJ and range inspection.
  - (l) Ensure involved employee(s) have replacement weapons.
  - (m) The Officer Involved Shooting Team Sergeant will complete a synopsis of the incident, forwarding a copy to the affected Division Commander and Chief of Police within twenty-four hours of the incident.
  - (n) Ensure the investigation is completed in a timely manner and submitted to the Centralized Investigations Lieutenant for review.
  - (o) Attend the District Attorney's Office staffing of the investigation with the OIS Sergeant and Centralized Investigations Lieutenant. Staffing to be arranged by the Lieutenant.
  - (p) The OIS case agent and investigations supervisor will be responsible for the collection of all police reports and related documents. These documents will remain under their control until the investigation concludes and is submitted to the Centralized Investigations Lieutenant.
  - (q) Prior to the conclusion of the investigation, police reports, photographs, and other related documents will be released only with the approval of the Centralized Investigations Lieutenant.
2. No employee shall ever threaten, coerce, intimidate, or harass an involved officer or his representative for: 1) exercising their rights under this Policy, the Public Safety Officers Procedural Bill of Rights Act, and any other protections afforded peace officers under the law; or 2) choosing to write or dictate a report rather than being interviewed. Violations of such rights or failing to comply with or afford the officer his rights and elections under this Policy shall be grounds for disciplinary action.
- (f) Internal Affairs Shall:
- 1. The Internal Affairs Lieutenant shall be responsible for conducting an independent administrative investigation.
  - 2. Inform the Chief of Police or his/her designee with regard to the information obtained in the course of their investigation.

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3. All Internal Affairs Investigations shall be separate from the investigation conducted by the Officer Involved Shooting Team. Information obtained from the Officer Involved Shooting Team will be used to aid the Internal Affairs investigation. No information obtained from a compelled interview will be disclosed to the Officer Involved Shooting Team.
  4. Interviews with witnesses, suspect(s) or involved employee(s) will not be conducted until after they have been interviewed by the Officer Involved Shooting Team, or a determination made that the officer will not be interviewed, or the officer declines to make a voluntary statement.
- (g) Public Information Officer and Press Releases:
1. Refer to the Riverside Police Department News Release and Media Relations and Access Policy.

#### **307.4 RELIEF FROM DUTY**

- (a) In the best interest of the community, the Department and the involved employee(s), the employee(s) shall, as soon as practical, be relieved from active duty by the Watch or Division Commander. The involved employee(s) may be placed on paid Administrative Leave status for a minimum of one day, during which time he/she shall be provided full salary and benefits. The involved employee(s) shall not be returned to full duty until such time as the Personnel Services Bureau has received a "clearance for return to full duty" from the department's contracted psychological services provider. Once the clearance notification is received, the Personnel Services Bureau Lieutenant shall communicate this information to the Bureau Commander overseeing the employee's bureau or assignment.
- (b) At the discretion of the Chief of Police or his/her designee, those employees who witnessed the traumatic incident or otherwise assisted the involved employee(s) may also be placed on paid Administrative Leave status as described above.