



Effective: 05/17/2019
Revised 12/02/2019

**CSU FULLERTON POLICE DEPARTMENT
GENERAL ORDER
NUMBER 2-22**

OFFICER-INVOLVED SHOOTING

SUBJECT: Officer-Involved Shooting Procedures

PURPOSE: To establish policy and procedures for the investigation of an incident in which a person is injured as the result of a police shooting; and to ensure that such incidents be investigated in a fair and impartial manner.

POLICY: It is the policy of this Department to conduct and participate in all investigations resulting from an officer-involved shooting in a fair, impartial and expedite manner and to comply with CALEA Standards 1.3.8. This Department conforms to the Orange County Chiefs' of Police and Sheriff's Association protocol for investigating officer-involved shootings. (See protocol attached as addendum to this policy.)

PROCEDURE:

I. Types of Investigations

- A.** Officer-involved shootings involve several separate investigations. The investigations may include:
1. A criminal investigation of the incident by the agency having jurisdiction where the incident occurred. This Department may relinquish its criminal investigation to an outside agency with the approval of the Chief of Police;
 2. A criminal investigation of the involved officer(s) conducted by an outside agency;
 3. An administrative investigation conducted by the involved officer's agency, to determine if there were any violations of Department policy.

II. Jurisdiction

- A.** Jurisdiction is determined by the location of the shooting and the agency employing the involved officer(s). The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings.

III. CSU Fullerton Police Department Officer Within This Jurisdiction

- A. The CSU Fullerton Police Department is responsible for the criminal investigation of the subject's actions, the civil investigation, and the administrative investigation. The criminal investigation of the officer-involved shooting will be conducted by the District Attorney's Office.

IV. Allied Agency's Officer Within This Jurisdiction

- A. The CSU Fullerton Police Department is responsible for the criminal investigation of the suspect's actions. The criminal investigation of the officer-involved shooting will be conducted by the District Attorney's Office. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

V. CSU Fullerton Police Department Officer in Another Jurisdiction

- A. The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The CSU Fullerton Police Department will conduct timely civil and/or administrative investigations.

VI. Investigation Responsibility Matrix

- A. The following table identifies the possible scenarios and responsibilities for the investigation of officer-involved shootings:

VII. The Investigation Process

- A. The following procedures are guidelines used in the investigation of an officer-involved shooting.

B. Duties of Initial On Scene Supervisor

1. Upon arrival at the scene of an officer-involved shooting, the first uninvolved Supervisor (Sergeant, Corporal, OIC) should:
 - a. Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals;
 - b. Attempt to obtain a brief overview of the situation from any non-shooter officer(s);
 - c. In the event that there are no non-shooter officers, the Supervisor should attempt to obtain a brief voluntary overview from one shooter officer;
 - d. If necessary, the Supervisor may administratively order any officer from this Department to immediately provide public safety information necessary to secure the scene and pursue suspects. Public safety information shall be limited to such things as outstanding suspect information, number and

direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information;

- e. Absent a voluntary statement from any officer(s), the initial on scene Supervisor should not attempt to order any officer to provide other than public safety information;
- f. Provide all available information to Communications. If feasible, sensitive information should be communicated over secure networks;
- g. Take command of and secure the incident scene with additional personnel until relieved;
- h. Initiate notifications to the Command Staff;
- i. As soon as practical, shooter officers should respond or be transported (separately, if feasible) to the station for further direction;
 - 1. Each involved officer should be given an administrative order not to discuss the incident with other involved officers pending further direction from a Supervisor;
 - 2. When an officer's weapon is taken or left at the scene (e.g., evidence), the officer will be provided with a comparable replacement weapon or transported to the station by other officers.

VIII. Notifications

A. The following person(s) shall be notified as soon as practical:

- 1. Chief of Police;
- 2. Command Staff;
- 3. District Attorney OIS call-out team; 949-830-3890 or contact UPD Dispatch
- 4. Peer Support Team;
- 5. Coroner (if necessary);
- 6. Officer Representative; contact UPD Dispatch
- 7. Public Information Officer (PIO).

B. The Command Staff at the direction of the Chief of Police will make additional campus notifications.

IX. Media Relations

A. A single press release shall be prepared with input and concurrence from the Supervisor and agency representative responsible for each phase of the investigation. This release will be available to the Watch Commander, Command Staff, university Strategic Communications and Public Information Officer in the event of inquiries from the media.

- B. It will be the policy of this Department to not release the identities of involved officers absent their consent or as required by law. Moreover, no involved officer shall be subjected to contact from the media (Government Code § 3303(e)) and no involved officer shall make any comments to the press unless authorized by the Chief of Police.
- C. Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

X. Involved Officers

- A. Once the involved officer(s) have arrived at the station, the Watch Commander should admonish each officer that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officer:
 - 1. Any request for Department or legal representation will be accommodated however, no involved officer shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report (Government Code § 3303(i));
 - 2. Discussions with licensed attorneys will be considered privileged as attorney-client communications;
 - 3. Discussions with Departmental representatives (e.g. employee association) will be privileged only as to the discussion of non-criminal information;
 - 4. A licensed psychologist, psychiatrist, or other qualified mental health practitioner shall be provided by the Department to each involved officer, or any officer upon request:
 - a. Interviews with a licensed professional will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.
 - b. An interview or session with a licensed professional may take place prior to the involved officer providing a formal interview or report; but the involved officers shall not be permitted to consult or meet collectively or in a group with a licensed professional prior to providing a formal interview or report.
 - 5. Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such and peer counselors are

cautioned against discussing the facts of any incident with an involved or witness officer.

6. Care should be taken to preserve the integrity of any physical evidence present on the officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

7. Detectives shall make reasonable accommodations to the officer's physical and emotional needs (Government Code § 3303(d)).

8. Each involved officer shall be given reasonable paid administrative leave following an officer-involved shooting. It shall be the responsibility of the Watch Commander to make schedule adjustments to accommodate such leave.

XI. The Shooting Incident Criminal Investigation

A. Detective Personnel

1. Once notified of an officer-involved shooting, it shall be the responsibility of the Detective Bureau Sergeant to assign appropriate detective personnel to handle the investigation of related crimes. Detectives will be assigned to work with investigators from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.
2. All related Departmental reports, except administrative and/or privileged reports, will be forwarded to the designated Detective Sergeant for approval. Privileged reports shall be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the appropriate Support Services Captain.

XII. Criminal Investigation

- A. It shall be the policy of this Department to utilize the District Attorney's Office to conduct an independent criminal investigation into the circumstances of any officer-involved shooting involving injury or death.
- B. If available, detective personnel from this Department may be assigned to partner with investigators from the District Attorney's Office so as to not duplicate efforts in related criminal investigations.
- C. Once public safety issues have been addressed, criminal investigators will be given the next opportunity to interview involved officers in order to provide them with an

opportunity to give a voluntary statement. The following shall be considered for the involved officer:

1. Supervisors should not participate directly in any voluntary interview of officers. This will not prohibit such personnel from monitoring such interviews or indirectly providing areas for inquiry;
2. If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney, prior to speaking with criminal investigator. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed;
3. Any voluntary statement provided by the officer(s) will be made available for inclusion in the administrative or other related investigations;
4. Absent consent from the involved officer or as required by law, no administratively coerced statement(s) will be provided to any criminal investigators.

XIII. Reports by Involved Officers

- A. In the event that suspects remain outstanding or subject to prosecution for related offenses, this Department shall retain the authority to require involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals (Government Code § 3304(a)).
- B. While the involved officer may write the report, it is generally recommended that such reports be completed by assigned investigators who should interview involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by involved suspects. Care should be taken not to duplicate information provided by involved officers in other reports.
- C. Nothing in this section shall be construed to deprive an involved officer of the right to consult with legal counsel prior to completing any such criminal report.
- D. Reports related to the prosecution of criminal suspects will be processed according to normal procedures, but should also be included for reference in the investigation of the officer-involved shooting.

XIV. Witness Identification and Interviews

- A. Because potential witnesses to an officer-involved shooting or other major incident may become unavailable or the integrity of their statements compromised with the passage of time, a Supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available personnel for the following:
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- B. Identify all persons present at the scene and in the immediate area;
 - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a Department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- C. Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by Department personnel;
 - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a Department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- D. Assign available personnel to promptly contact the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to contact with officers.

XV. Administrative Investigation

- A. In addition to all other investigations associated with an officer-involved shooting, this Department will conduct an internal administrative investigation to determine conformance with Department policy. This investigation will be conducted under the supervision of the Support Services Captain and will be considered a confidential peace officer personnel file.
 - 1. Any officer involved in a shooting may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency;

2. If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interview(s) (Government Code § 3303(g)).

B. In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information:

1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer(s) physical and psychological needs have been addressed before commencing the interview;
2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview (Government Code § 3303(i)). However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed;
3. Administrative interview(s) should be recorded by the investigator (the officer may also record the interview) Government Code § 3303 (g));
4. The officer shall be informed of all constitutional Miranda rights (Government Code § 3303(h)) and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions (Government Code § 3303(e)). The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The Lybarger or Garrity admonishment);
5. The administrative interview shall be considered part of the officer's confidential personnel file;
6. The Support Services Captain shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies;
7. The completed administrative investigation shall be submitted to the Shooting Review Board. The Board will be comprised of law enforcement and/or legal professionals selected by the Chief of Police for their expertise in Officer-Involved Shooting incidents. Board members may include personnel from other Agencies. The Board will restrict its findings as to whether there was compliance with the Department use of deadly force policy;
8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures G.O. 2-2.

XVI. Audio and Video Recordings

- A. Any officer involved in an incident may be permitted to review their own video or audio recordings prior to providing a recorded statement or completing reports. Officers will not be allowed to view or listen to other officer's recordings. The Chief of Police has the discretion to prohibit or allow the review of any recordings by department employees if it is determined, in the Chief's sole discretion, that it is in the best interest of the Police Department or the University.
- B. Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available video or audio recordings with approval of the Chief of Police in accordance with G.O. 4-14.
- C. Any video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the District Attorney.

Addendum:

The following addendum is the current protocol from the Orange County Chiefs of Police and Sheriff's Association for officer-involved shootings. The CSU Fullerton Police Department agrees and complies with the protocol as written and adopted.

Orange County Chiefs of Police and Sheriff's Association

Operational & Procedural

Protocol

Subject: ESTABLISH PROTOCOL

Number: 105

FOR OFFICER INVOLVED SHOOTING

Effective Date: XX/XX/XX

1. Purpose. To establish recommended uniform guidelines for the investigation of officer involved shootings resulting in death or injury.
2. Adoption. The operating protocol contained herein was officially adopted by the Orange County Chiefs of Police and Sheriff's Association.
3. Application. While the operating protocol and procedures contained herein are generally recommended for the use by all Orange County law enforcement agencies, each individual agency retains the discretion to adopt, reject, or modify any portion of these guidelines in accordance with existing rules and regulations of that agency.

Nothing contained herein is intended to increase, modify, or in any way affect the current legal standards nor shall any deviation from these guidelines be considered a breach of any legal standard.

4. Protocol. Since officer involved shootings generally involve multiple considerations, it is recognized that several separate, but parallel and often overlapping investigations may be conducted.

4.1 Jurisdiction. The agency (hereinafter “primary agency”), having original jurisdiction over the location of the shooting should have primary authority over the investigation. While cooperation among involved agencies is critical, control of the investigation should remain with the agency with jurisdiction over the location, unless voluntarily relinquished in whole or in part.

A. Primary Agency. Once the area has been secured to the extent that there no longer appears to be a threat to immediate safety, a supervisor from the primary agency should make a preliminary inquiry to each involved officer separately in an attempt to ascertain the circumstances surrounding the shooting.

1. In accordance with primary agency procedures, internal and supplemental resources should be requested as soon as practicable.

a. The primary agency shall request immediate investigation by an uninvolved agency to determine the criminal culpability, if any, of those involved.

b. The primary agency may wish to conduct its own parallel criminal investigation. (This is often necessary for the prosecution of any suspects involved in related crimes.)

c. Each agency with officer(s) involved should be responsible for its own internal/administrative investigation of the conduct of its own officer(s).

d. Additional resources such as psychological counselors and civil liability response teams may be requested by any involved agency and should be accommodated to the extent reasonably practicable.

B. Uninvolved Agency Investigation. The uninvolved agency will respond by request to the scene of any police shooting. The uninvolved agency will conduct an independent investigation and seek legal review of the incident for the exclusive purpose of determining if there is criminal action on the part of any person(s) involved in the shooting incident.

(1) It is not the duty of nor should the uninvolved agency be expected to conduct the requesting agency’s internal administrative or potential civil liability investigations.

(2) Whenever the uninvolved agency finds it necessary to focus on the conduct of any involved officer, that officer’s legal rights will be honored.

a. It is recognized that there are times when officer(s) legal counsel will advise against making a voluntary statement. Instead, customarily, the police officers’ legal counsel will

offer an involuntary statement “coerced” by virtue of an administrative order by a superior officer.

b. If it becomes necessary, in an individual case to instigate procedures to seek a conditional (coerced) statement, it is the policy of the uninvolved agency to secure the interview through administrative order only, with the concurrence of the witness (officer) and his/her counsel.

c. The uninvolved agency will be furnished with all departmental reports other than administrative reports.

(3) Upon conclusion of the investigation, those agencies whose officer(s) were directly involved in the shooting will be given a complete copy of the uninvolved agency’s investigation file.

a. Prior to the release of any information from the shooting investigation file to other than involved law enforcement agencies, the uninvolved agency will give timely notice to each involved agency. Each agency will then have the opportunity to raise appropriate objections and, if necessary, litigate for the protection of privileged information.

b. Prior to any public dissemination, the prosecuting agency will advise the involved agency of the intent to file any criminal charges, and, to the extent legal and practicable, the results of any grand jury investigation.

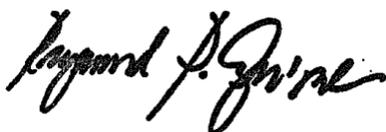
C. Departmental Internal/Administrative Investigations. Each involved agency will be individually responsible for conducting its own internal investigation to evaluate its officer(s) conduct with respect to departmental policy.

4.2 Media Releases and Information Requests. Unless otherwise agreed, press releases should be made by the primary agency with jurisdiction over the shooting with contribution, as appropriate, from other involved agencies.

A. Any separate press releases will be mutually coordinated with the agency of the primary jurisdiction and the uninvolved investigative agency.

B. Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions will direct those inquiries to the primary agency.

APPROVED:

A handwritten signature in black ink, appearing to read "Raymund Aguirre". The signature is written in a cursive, flowing style.

Raymund Aguirre
Chief of Police

ATTACHMENTS:

OIS Shell Page

Shooting Incident Report