

THE RALEIGH POLICE DEPARTMENT

1105-03

OFFICER-INVOLVED SHOOTINGS AND IN-CUSTODY DEATHS

PURPOSE

To establish guidelines detailing responsibilities of all Raleigh Police Department personnel responding to any police shooting incidents or in-custody deaths and the subsequent criminal and administrative investigations.

VALUES REFLECTED

This directive reflects our values of *Preservation of Life, Integrity, Accountability and Fairness*. Through this directive we recognize that we have high standards for our performance and that we must strive to always maintain the trust of the public and of each other through comprehensive, fair, and unbiased investigations involving Departmental personnel.

UNITS AFFECTED

All Divisions/Sworn Personnel

REFERENCES/FORMS

DOI 1105-02 "Internal Affairs Investigations"
DOI 1110-01 "Initial Investigation of Major Crimes"
SOP 300-16 Personnel Records
SBI Memorandum of Understanding, August 1, 2005
GS 160A-168 Personnel Laws
Attachment A: Officer Involved Shooting Checklist

GENERAL POLICIES

The State Bureau of Investigation (SBI) will assume the responsibility of conducting all criminal investigations of in-custody deaths and officer-involved shootings resulting in death or personal injuries that occur in the City of Raleigh. The Internal Affairs Unit (IAU) will conduct an administrative investigation separate from the criminal investigation. An investigation of the incident that led up to the use of force shall be conducted by the Department's Major Crimes Unit or other unit designated by the Deputy Chief.

IAU will conduct a criminal investigation of an intentional shooting by an officer where no personal injuries occur. IAU will also investigate any shooting involving a domesticated animal. The SBI will not investigate such incidents unless requested by the Chief of Police.

IAU will conduct an administrative investigation of a police involved accidental shooting where no personal injuries occur. The SBI will not conduct an investigation unless requested by the Chief of Police.

NOTIFICATION PROCEDURES

The first supervisor on scene will immediately notify the Watch Commander of an in-custody death or of an officer-involved shooting. The Watch Commander will contact IAU and the Duty Major. The Duty Major will ensure that the appropriate command staff and support personnel are notified.

CRIME SCENE MANAGEMENT

Patrol Responsibilities and Investigative Procedures

• Initial Responding Officer

The initial officer responding to the scene will assume command of the incident until the arrival of the first supervisor. The initial officer will manage the scene with the following goals in mind:

- Scene security and integrity.
- Identification and separation of witnesses. All witnesses will be asked to remain on the scene unless otherwise directed by a supervisor.
- Assignment of officer(s) to accompany anyone transported to the hospital.
- Establish a staging area.
- Notification of CCBI.
- Notification of appropriate Department personnel.

- First Supervisor on Scene

Upon arrival, the first supervisor on the scene will follow the Major Crime Scene Duties checklist to manage the initial investigation and will:

- Separate the involved officer(s) and make officer(s) comfortable.
- Assign a supervisor to stay with the involved officer(s).
- Attempt to identify any individual(s) with potential gunshot residue and take the appropriate steps to secure a gunshot residue test (GSR) from those individuals. Any individual(s) transported from the scene by EMS must have their hands “bagged” to preserve any gunshot residue.
- Duty weapons will not be taken from the officer(s) at the scene unless absolutely necessary for safety reasons; however, the officer(s) must be supervised at all times.
- Ensure that only a member of IAU seizes MVR media of the incident.
- Provide IAU with a list of names of all employees who responded to the scene. Officers and supervisors directly involved in the investigation who responded to the scene must complete a detailed supplement prior to ending their tour of duty.

Involved Officer(s) Action after Shooting

Officer safety is paramount in any officer involved shooting incident. Nothing in this protocol shall preclude an officer from taking reasonable actions to ensure the safety of the officers, public at large, and the scene.

When the initial incident is stabilized and the scene is safe, the officer(s) involved in the discharge of their firearm will do the following:

- The involved officer(s) will request EMS for any injured person and notify a police supervisor.
- The involved officer(s) will not remove, collect or alter items, including weapons, radios, cap stun, batons, vehicles, etc., from their original resting place unless a safety concern is present. In that case, clearly document the location from which any item was moved.
- The involved officer(s) firearm will not be handled by anyone after the shooting unless there is a safety concern. The involved officer(s) should be prepared to articulate their actions, i.e., reloading after the shooting. CCBI will take photographs of the officer, firearm, magazines, and gun belt. CCBI will take custody of the firearm or any other weapon used in the incident after authorized by IAU.
- In the event that the involved officer(s) firearm is handled by responding officers, the firearm will remain in the custody of the officer who first took possession of said firearm until it is turned over to CCBI. This is to include extra weapons, gun belts, and any magazines.
- The involved officer(s) will be transported to Headquarters. The officer(s) will not be allowed to wash their hands until after GSR testing is complete. At no time will any employee of

the Raleigh Police Department attempt to conduct a formal interview with the involved officer(s) for any reason prior to the SBI interviewing the officer(s). Inquiries by officers or supervisors at the scene concerning location of crime scenes, description of suspect(s), and type of weapon used by the suspect are appropriate and should be answered to the best of the involved officer's ability so that a thorough and accurate investigation can be conducted without compromising an involved officer's personal legal protection.

- The involved officer(s) should not be isolated. A member of the Critical Incident Stress Management (CISM) team (if available) will be made available to each involved officer. In addition to or instead of, an involved officer will be able to have a peer-support person or friend of their choice who was not involved in the shooting available to them, as quickly as possible after the incident. Any employee involved in these support roles must not be of a higher rank than the involved officer and should not be given any duties beyond providing companionship and support. The peer-support person, officer or friend may be interviewed; therefore, the involved officer(s) should not discuss details of the event until after they have given their official statements.
- The involved officer may request the assistance of an attorney and will be provided with a private location on site to meet with their attorney. Communication with a private attorney is privileged.

Non-shooter officers involved in the incident, as well as supervisors and command staff who might have been present during the shooting will be afforded the same considerations and support, if desired.

Internal Affairs Unit (IAU) Responsibilities

- IAU will respond to any officer-involved shootings or in-custody deaths and will supervise specific aspects of the investigation as directed.
- Upon notification of a police-related shooting or in-custody death, the IAU Captain will make contact with the Watch Commander to determine the location, number of officers, victims, witnesses, and crime scenes related to the incident.
- The IAU Captain will contact the SBI, give details of the incident, and request SBI's Shooting Investigative Team.
- The IAU Captain will then coordinate the response and assign specific tasks to the IAU staff. At least one IAU member will remain at the scene at all times.
- The IAU Captain will assign one member of the unit as the case agent and will ensure the Detective Division and SBI is aware of this assignment.
- IAU will coordinate with the Watch Commander to contact and transport the officer's family to their location. A change of clothes for the involved officer, if necessary, should be arranged with the family or the police quartermaster.

- The IAU staff will proceed with their administrative investigation in such a manner so as not to jeopardize the criminal investigation being conducted by the SBI or Major Crimes Unit.
- The IAU case agent will obtain two copies of all radio traffic tapes, 911 tapes, MVR tapes, and EMS/Fire Communications tapes and have each tape transcribed. One copy each will be provided to the IAU case agent and the SBI's shooting investigative team.
- The IAU case agent will prepare a timeline leading up to and detailing the actual event.
- The IAU case agent will maintain a complete and enduring task list and evidence log and will be responsible for follow-up of all leads as well as examination of all evidence.

SBI Responsibilities

Internal Affairs will notify the SBI and request that they conduct a criminal investigation of the incident. A team of agents will respond to investigate matters involving the actions of the law enforcement officer(s) involved in an in-custody death or a shooting that resulted in personal injury or death. The SBI's objective in an in-custody death case or a police shooting is to obtain all of the facts in order that the District Attorney can make a determination of criminal liability (if any) on the part of a law enforcement officer.

The SBI will:

- Obtain all search warrants related to the incident and request an autopsy, if appropriate.
- Be briefed by IAU and CCBI prior to conducting interviews.
- Communicate interview information to CCBI as it relates to processing of the scene.
- Assign a SBI crime scene agent as a liaison with CCBI as it relates to processing of the scene.

SBI interview with the involved officer(s):

- The SBI, as part of their criminal investigation, will interview the involved officer(s) and advise them of their Miranda rights. Involved officers will be given a written copy of these rights. The involved officer is not mandated to speak to the SBI agents. The officer can choose to have an attorney present. If the officer refuses to answer SBI interview questions, the officer will not be disciplined. These actions are taken to ensure that the involved officer understands it is a criminal investigation; that the involved officer has the same constitutional rights as all citizens; and to ensure separation between the criminal investigation and any type of administrative, departmental inquiry.
- The SBI will also conduct interviews with other responding officers, victims, suspects, and witnesses. The SBI is not responsible for charging the suspect(s) for any criminal wrongdoing prior to the incident which led to the use of force. The Detective Division's Major Crimes Unit or other unit designated by the Deputy Chief will investigate all specific criminal offenses committed by the suspect at the time of an in-custody death or police shooting, and will make the appropriate charges after consulting with the District Attorney's Office.

- The SBI will not normally permit RPD personnel or others to be present in the room when an involved officer is being interviewed. Any such request by RPD should be made prior to the interview and the SBI will consider each request on a case by case basis.

CCBI Responsibilities

- Once notified, a CCBI agent and supervisor will respond to the scene of an in-custody death or officer-involved shooting that resulted in personal injury or death.
- CCBI will process the scene and all associated locations. CCBI will collect all evidence.
- CCBI will take custody of the firearm or any other weapon used in the incident after authorized by IAU.
- After being briefed on the circumstances surrounding the incident, CCBI will begin processing the scene unless the SBI requests to view the scene before processing begins.
- CCBI will communicate findings from the scene to the SBI that may assist them in the interview process.
- CCBI will create an investigative report of their findings and submit the report along with copies of photographs, video tape(s), etc., to the SBI, IAU and the Detective Division for inclusion with their reports.

Detective Division Responsibilities

The Detective Division's Major Crimes Unit or other unit designated by the Deputy Chief will investigate the specific criminal offense that the suspect was committing at the time of the in-custody death or police shooting.

The Detective Division will, if needed, perform the following duties:

- Obtain search warrants not directly related to the in-custody death or officer-involved shooting.
- Conduct witness interviews.
- Conduct suspect interviews.
- Conduct involved officer(s) interviews. These interviews should only be conducted after the SBI has completed their interviews. Since this is a criminal investigation, during the interview, the officer(s) will be advised of their Miranda rights for a criminal investigation even if not in custody. The officer(s) is not mandated to speak to any member of the Detective Division. The officer(s) can choose to have an attorney present.
- Conduct neighborhood canvasses.
- Conduct crime scene searches.

Post Shooting and In-Custody Death Guidelines and Procedures

(This section does not apply to the shooting of domesticated animals.)

- In the event of an in-custody death or officer-involved shooting, the Director of Psychological Services (DPS) will be notified and given the location of the involved officer(s). The involved officer(s) will be informed that the DPS has been notified and is available if needed. It is not mandatory that the DPS respond unless a request is made by the involved officer(s). Communications between the involved officer and the DPS are confidential unless the DPS is required to share information to prevent a suicide, to prevent injury to another person, or as ordered by a court.
- An Incident report, Supplements, Use of Force report and a Discharge of Firearm report (if applicable) must be completed by the involved officer(s) after the completion of interviews with the SBI, IAU and Detective Division.
- The involved officer(s) will be placed on administrative duty. The officer(s) will remain on administrative duty until authorized by the Deputy Chief to return to their regular assignment.
- The Public Information Officer will prepare, with the assistance of the Police Attorney, an initial release to the news media. The name of the officer(s) and any injured parties will only be released after family members have been notified.
- The SBI is prohibited by law and departmental policy from providing a copy of their investigative report to anyone but the District Attorney's Office.
- The District Attorney's Office is prohibited from obtaining a copy of IAU's administrative investigation.
- The SBI case agent may brief the Chief's Office on the criminal case but will not provide a copy of the investigation.
- The Police Attorney will prepare a brief written report of the incident for the Chief to send to the City Manager within five business days after the shooting or in-custody death.
- The FBI may choose to conduct a civil rights investigation related to the shooting or in-custody death incident. The Department will provide information as allowed by law, to include: public information, protected information released by the involved officer, or as ordered by the court.
- The SBI is not allowed access to a personnel file without the consent of the officer. The SBI must obtain a court order for personnel information that is not released voluntarily.
- Upon completion of the investigation, the SBI will submit a complete written report to the District Attorney for review and decision. The SBI does not make conclusions and recommendations.

- Upon completion of the SBI's investigation, the IAU case agent will forward the internal investigation to the involved officer's Captain for conclusions and recommendations.

The Information Systems Manager will restrict access to Raleigh Police KOPS reports associated with these cases. Access to this information will be decided on a case by case basis at the direction of the Chief of Police, or designee.

Officer-Involved Shooting Investigation Checklist

Involved Officers

- Control threats to safety
- Administer first aid to self and others
- Request emergency medical assistance
- Request backup and related support services □
- Broadcast lookouts
- Notify supervisor and communications
- Secure your firearm
- Secure the perimeter and protect evidence
- Identify persons at or leaving the scene
- Identify witnesses and request cooperation

Supervisory Responsibilities

- Determine condition of officer and others
- Determine status of above actions
- Notify command/specialized units or personnel:
 - District Commander - PIO
 - CCBI - Hostage Negotiator
 - Chaplain - Detective Division
 - Victim Advocate - SEU
 - Police Attorney - K-9
- Ensure area is contained and perimeter established
- Protect evidence
- Move officers away from the area
- Separate officers and provide peer counselors
- If the officer is injured, transport to hospital with supervisor
 - Don't release officer's name
 - Notify officer's family
 - Assign officer to family
 - Collect officer's clothing and equipment as evidence
- Establish command post if required
 - Appoint command post staff
 - Appoint a recorder
 - Brief personnel
 - Maintain/establish perimeter security
 - Press Relations
- Locate and secure officer's weapon
- Check all officers' firearms for discharge
- Begin gathering information on incident
- Neighborhood canvass

Detective's Responsibilities

- Identify all police and emergency services personnel who were or are at the scene
 - Name, rank, code number and current assignment
 - Name of first supervisor at the scene
 - Other related persons, e.g. EMS personnel
- Ensure location, photographing, collection of evidence
 - Color photograph officer and injuries
- Interview witnesses (tape record)
- Conduct and tape record officer interviews in private
 - Advise not to discuss incident with other officers
 - Take involved officer weapon(s) into custody
- Formulate preliminary statement of facts
- Establish Chronology and Conditions
 - Date and time call received
 - Names, serial number 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

Evidence

- Photographs and videotape of scene and 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
- CAD logs
- Officer's and suspect's clothing
- Vehicles
 - Description
 - Evidence booked
 - Disposition, e.g. impound
- Autopsy results
- Brief District Attorney's Office