

3.03-5

DAYTON POLICE DEPARTMENT GENERAL ORDER OFFICER INVOLVED SHOOTING / CRITICAL INCIDENTS



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POLICY STATEMENT

It is the policy of the Dayton Police Department that officer-involved shootings or other critical incidents (e.g., in-custody death), whether on or off duty, be transparently investigated by an outside agency so as to determine whether officer actions conform to applicable laws. A separate, internal administrative investigation will be conducted to ensure officer actions are consistent with department policies, procedures, rules, and training.

Rapidly evolving situations and exigent circumstances may require an officer to respond using force options readily at hand, in addition to or in place of firearms, other tools or other means. Any reference to firearms use in this policy is to be construed to include any means of deadly force response. Uses of force will be in accordance with the Policy Statement and the objective reasonableness standard as defined in General Order 3.03-2 Use of Force.

It is recognized that in unique circumstances, exceptions to the following procedures may be approved by the Director and Chief of Police or their designee. Every use of Deadly Force will be reviewed on a case-by-case basis to determine the reasonableness of the officer's actions.

DEFINITIONS

Critical Incident - An incident that is unusual or violent, and/or 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.

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 - Anytime an officer discharges a firearm at another person, regardless of whether that person is struck by the projectile, and regardless of whether the officer is on or off duty.

Accidental Discharge – Any unintentional discharge of an officer's firearm. See General Order 3.03-2 Section II.A.2.

Firearms Discharge Involving Animals - Anytime an officer discharges a firearm to kill a dangerous animal or one so badly injured that humaneness requires an immediate end its suffering. See General Order 3.03-6.

In-Custody Death/Life-Threatening Injury-When a person has received injuries determined to be life-threatening or fatal while either detained, under arrest, in the process of being arrested, and/or enroute to be incarcerated.

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I. PROCEDURES

- A. Officers shall be thoroughly familiar with General Order 3.03-7 Post-Critical Incident Personnel Support. Efforts 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 or other critical incidents.



- B. Officers involved, to the degree reasonably possible, will 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 supervisors of the investigation status when turning over IC responsibility. The IC shall assign responsibility for the 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 the adequacy of the inner perimeter (Crime Scene). 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 inner perimeter are recorded.
 4. Involved officer weapons will remain with the officer(s) involved until the weapon can be exchanged at the Safety Building, or after consulting with the investigating supervisor, at another appropriate location.
 5. Ensure that involved officers are separated and that a supervisor completes a brief Public Safety Form for each of 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; and
 - g. any other information necessary to ensure officer and public safety and to assist in the apprehension of at-large suspects.
 6. After the completion of a public safety form, involved officers should be directed to end their BWC recording, remain separated, removed from the scene, and as soon as practical, transported to the Safety Building. If available, a peer support officer will stay with them until they are transported to the Safety Building to meet with their attorney. Involved officer body-worn cameras and any other equipment will remain with the involved officer until the investigating agency determines they should be removed.
 7. 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 authorized investigative personnel. Peer Support representatives may offer support to the involved officer(s), as those discussions are legally protected and immune from disclosure.
 8. After the investigating agency processes the involved officer's weapon and equipment, they will be transported to a testing facility for chemical testing at the direction of Professional Standards Bureau personnel. Once chemical testing has been completed, the involved officer shall be transported back to the Safety Building. Peer support should remain with the involved officer until legal counsel arrives. If peer support is not immediately available, a designated supervisor or their designee should remain with the involved officer until peer support or legal counsel arrives. Contact with those not directly involved in the investigation should be avoided. The supervisor or peer support personnel should explain the investigative and post-shooting process to the involved officer.
 9. Per General Order 3.02-7 In-Car Digital Video Recording Equipment, at any critical incident scene, a supervisor can approve the deactivation of in-car cameras once the scene has been stabilized and there is likely no additional enforcement action to be taken.
 10. Determine which on-scene body-worn cameras (BWCs) should stop recording and which ones should stay recording, following General Order 3.01-4 Body Worn Camera.



11. Locate and secure in place weapons, ammunition, and expended cartridges used by the suspect.
12. Collect information available about the suspect from anyone at the scene.
13. 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, and attempt to obtain a written statement.
14. 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.
15. Determine and mark the position(s) of the officers and the suspects at the time of the shooting.
16. If an officer is transported to the hospital, ensure that a designated supervisor or peer support personnel accompanies or meets them there.
 - a. The designated supervisor or peer support member 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 designated supervisor or peer support 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 designated supervisor 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.
17. Offer a peer support counselor to the involved officer's family for security, support, and management of media inquiries and visitors.
18. The Homicide Unit Supervisor and/or Violent Crimes Bureau Commander will be contacted as soon as possible so notifications can be made to the investigating agency. The Homicide Unit Supervisor will respond with two (2) Homicide detectives. One detective will serve as a liaison to the investigating agency at the scene and the other will assist the investigating agency with any technical needs.
19. Ensure all necessary department notifications have been made, per General Order 1.07-1 Communications.
20. Establish a command post when it appears that an extended on-site investigation will be necessary.
21. Appoint an officer to serve as a "recorder," with responsibility for making a chronological record of activities at the scene, including persons present and those who have been at the scene and actions taken by police, EMTs, or other personnel.
22. Ensure that a media staging area is established beyond the outer perimeter and that it is appropriately staffed.
23. After participating in the criminal and initial administrative investigations, place officers who discharged their weapons on administrative leave with pay.

II. ON-DUTY OFFICER'S RESPONSIBILITIES

- A. Whenever an on-duty officer discharges a firearm, except on an approved target, or becomes aware of information concerning the discharge of a firearm by another officer or allegations that they or another officer have discharged a firearm under such circumstances, they must immediately notify an on-duty supervisor. If a supervisory officer is involved in a use of firearms incident, a supervisor of higher rank will be notified of the incident.
- B. Unless hostile conditions or serious injuries dictate otherwise, officers should remain on the scene of the discharge of firearms with suspects and witnesses until the arrival of the investigating supervisor.



- C. As soon as safely possible, officers must assess the scene to determine the extent of injuries to officers and/or others, and immediately request appropriate medical assistance.
- D. When the investigating supervisor arrives, the officer(s) involved in the incident will provide information for a public safety form regarding the incident.
- E. Unless a person has received a gunshot wound or other serious injury requiring removal, all suspects and witnesses should be detained at the scene until the arrival of the investigating supervisor and agency. Witnesses and suspects should be separated to prevent them from discussing the incident. If that is not immediately possible, responding officers should maintain visual and auditory contact and instruct all persons that they are not to discuss the incident other than with identified investigatory personnel.
 - 1. If immediate medical attention is required, removal of a person shot by an officer to a hospital should be made by conveyance other than the involved officer(s), if possible.
 - 2. Every attempt should be made to contact and identify witnesses to the incident and to request that they remain on the scene until the investigating supervisor arrives.
- F. Any on-duty officer who witnesses a discharge of firearms by another officer, has knowledge concerning or becomes aware of allegations of discharge of firearms by another officer will ensure that an on-duty supervisor is aware of the incident.

III. OFF-DUTY OFFICERS' RESPONSIBILITIES

- A. Whenever an off-duty officer discharges a firearm in the performance of police duty or becomes aware of allegations of discharge of firearms against them in the performance of police duty, they must notify the Regional Dispatch Center (RDC) of the incident as soon as possible and also request contact with an on-duty supervisor as specified in Section II. of this policy to respond to the scene to investigate the incident. Investigating supervisors will follow the procedures established in section II. A-D.
- B. If an off-duty officer discharges a firearm in the performance of police duty outside the corporate limits of the City of Dayton, the officer involved will ensure the appropriate local police jurisdiction is notified and requested to respond to the scene in addition to contacting the RDC and an on-duty supervisor. The on-duty supervisor will contact Professional Standards immediately. After consideration of the circumstances, the Professional Standards Commander may request that the on-duty supervisor be dispatched to the scene to initiate the investigation pending the response of Professional Standards personnel. Department notifications per General Order 1.07-1 Communications are also required.
- C. Off-duty officers that have an accidental firearms discharge will refer to General Order 3.03-2 Section II.A.3.
- D. Off-duty officers that have a firearms discharge involving animals will refer to General Order 3.03-6.

IV. INVESTIGATION BY SUPERVISORS, SPECIALIZED UNITS, OR OTHER COMMAND OFFICERS

- A. Supervisors who are notified of a discharge of firearms have particular responsibilities to protect the scene, secure evidence, identify and isolate witnesses and involved police personnel. Supervisors that initially respond to the scene will institute the procedure outlined in Section I of this policy.
- B. Professional Standards will conduct an independent investigation of **ALL** instances where an officer discharges a weapon other than under circumstances described in General Order 3.03-2 Sections II.A.1.b.(4). or II.A.1.d. or accidental discharges where recklessness or risk of injury to another person did not occur.

The Violent Crimes Bureau Commander will be immediately contacted to investigate any incident within the corporate limits of the City of Dayton in which an officer has shot or intentionally shot at another person or has been shot by another person.

- C. Supervisors are to follow the steps in Section I.C.4. and I.C.5. of this policy.



1. Once a supervisor from the Montgomery County Sheriff's Office, or agency conducting the investigations, arrives on scene, that supervisor will assume command of the scene and maintain the integrity of the incident scene. No one will be permitted within the incident scene without the permission of the investigating supervisor and without being escorted by the supervisor or their designee.
2. Professional Standards will transport the involved officer to the designated medical provider for the required administrative chemical test. The officer will then be transported to the Homicide Unit prior to being released.
3. Investigators will conduct a formal interview with the involved officer(s). Interviews beyond the Public Safety Form may be affected by the ability of investigators to be properly prepared to conduct the interview. Factors influencing the timing of the formal interview could include the investigators need to interview other witnesses, the officer's functional ability to participate in the interview, and the specific circumstances of the incident being investigated.

D. PROFESSIONAL STANDARDS BUREAU INVESTIGATOR'S RESPONSIBILITIES

1. Auxiliary Glock ammunition and Glock firearms are retained by Professional Standards. The Professional Standards Bureau will be responsible for supplying replacement weapons and ammunition to officers involved in a shooting.
2. The Professional Standards Bureau will conduct their investigation concurrently but separately from any criminal investigation which is required by any investigative unit, or another law enforcement agency. Completion of the criminal investigation will necessarily take precedence over the administrative investigation.
3. The Professional Standards Bureau or other investigating agency may collect uniform items and/or equipment from an officer involved in a shooting or other serious incident. When the officer returns to duty, the range and the property room may have some replacement items available. The Professional Standards Bureau Commander must approve the purchase of any other replacement items.

E. FIREARMS DISCHARGES OR OTHER CRITICAL INCIDENTS RESULTING IN INJURY OR DEATH

1. Any officer whose discharge of a firearm or other critical incident that results in the injury or death of another person will be placed on short-term Administrative Leave of up to three workdays. Other critical incidents may necessitate the use of Administrative Leave and should be evaluated on a case-by-case basis by the Chief or his designee.
2. Placing the officer on Administrative Leave is intended to serve two purposes:
 - a. Give the Command Staff enough time to conduct an administrative review of the incident based on briefings from Professional Standards and/or other units assigned to investigate the incident.
 - b. To ensure that no psychological trauma exists, from the incident, sufficient to impair the officer's ability to exercise normal police duties.
3. The length of this leave will be determined, in part, by incident circumstances revealed in the administrative review and, in part, by the initial evaluation of the officer's psychological condition as determined by the counselor provided under the Stress Counseling Program, by subsequent counseling help, either through the city sponsored program or of the officer's own choosing, and by the Director and Chief of Police or designee. The Director and Chief of Police or designee may authorize Administrative Leave for up to 80 work hours if deemed necessary. Any leave beyond that period would be subject to the sick leave policy and contractual restrictions to personal leave.
4. It will be the responsibility of the officer's commander to schedule, within 24 hours, one initial and one follow up counseling session with a professional counselor as provided in the Stress Counseling policy General Order 1.02-17. Attendance at this session is mandatory. Officers seeking private counsel may do so subsequent to the initial session but may bear the expense. Officers are encouraged to consult a Peer Counselor for individual details.



5. Should additional counseling be necessary, it will be provided as part or all of the officer's regular tour of duty. The officer's work time is to be adjusted to allow the counseling process to take place.
6. Pending court appearances may be rescheduled at the discretion of the Division Commander while the officer is on Administrative Leave.
7. When an officer receives approval to return to duty, the Director and Chief of Police or designee will consider the assignment of the officer using the following criteria:
 - a. Community attitudes are such that confrontations are likely. Therefore, assignment to another Division/Bureau or assignment to a function in the department where contact with the public is minimal may be necessary.
 - b. The Critical Incident Review Committee has recommended disciplinary action and the officer may face criminal and/or administrative action.
 - c. The incident was of such a nature that no special assignment of the officer is necessary.
8. Sworn personnel who are on Administrative Leave or temporarily reassigned shall not work any off-duty employment utilizing their arrest authority or overtime assignments that involve responding to calls for service or there is a reasonable likelihood of taking enforcement action (for example, patrol backfill or special events). At no time will sworn personnel be compensated for time not actually worked.

V. IN-CUSTODY DEATHS/LIFE-THREATENING INJURIES

- A. Whenever a person has received injuries determined to be life-threatening or fatal while either detained, under arrest, in the process of being arrested, and/or enroute to be incarcerated, the Homicide Unit Supervisor and/or Violent Crimes Bureau Commander will be contacted as soon as possible so notifications can be made to the investigating agency and any other needed specialized unit.
- B. Depending on the circumstances regarding the incident, the department and investigating agency may use a procedure that mirrors or is similar to, the procedure utilized for Officer Involved Shootings.

VI. CRITICAL INCIDENT REVIEW COMMITTEE

- A. The Critical Incident Review Committee (CIRC) reviews the circumstances surrounding each incident where an officer has discharged a weapon except at a target range, certain discharges involving animals, discharge of less-lethal munitions when the projectile does not penetrate the body, and other critical incidents. Unique circumstances may negate the necessity of a CIRC meeting. The Chief of Police will determine whether a CIRC is necessary. Members of the CIRC are chosen to enable an objective ruling.

The voting members of the Critical Incident Review Committee are:

- The Assistant Chief, or their designee, as Chairperson.
- One Division Commander from a division other than that of the involved officer.
- One Lieutenant of a higher rank, from a unit other than that of the involved officer.

Non-voting members of the Critical Incident Review Committee are:

- The Supervisor of Training or a subject matter expert on the type of critical incident will be notified and may attend as a non-voting member to clarify training or equipment related issues.
- The General Counsel will attend all Hearings in an advisory capacity but will be a non-voting member.
- The involved officer's Division Commander, Lieutenant, or immediate supervisor may testify at the hearing; however, they do **not** have voting privileges.



The members of the Critical Incident Review Committee might be altered if the involved officer has a rank of Lieutenant or above. The Assistant Chief will determine the members of any Critical Incident Review Committee with the approval of the Chief of Police.

- B. The majority vote will be the rule in determining the outcome of the hearing. Dissenting views may be presented in separate reports.
- C. Professional Standards will make the necessary notifications of the date, time and location of the hearing.
- D. The Chairperson will convene the committee when they have **all** available investigative reports. The Professional Standards Bureau should share the investigative report with the Critical Incident Review Committee at least a week in advance.
- E. Hearing
 - 1. The Professional Standards Bureau Commander will open the hearing by identifying those persons present and giving a short statement concerning the critical incident. The duties of the voting members will also be explained.
 - 2. The assigned case detective from Professional Standards will prepare and present the case to the Committee.
- F. Authority of the Committee
 - 1. The Committee is authorized to review the circumstances involved in each discharge of a firearm or critical incident for which it is convened. All investigative reports reviewed and conversations by the committee should be kept confidential until the investigation has been finalized.
 - 2. The purpose of this review is to determine if any of the following recommendations are to be made to the Chief of Police:
 - a. A violation of any portion of this policy has occurred.
 - b. There is a need for a change in the procedural or legal wording of the policy.
 - c. There is a need for a change in the current method of training.
 - d. There is a need for additional individual training of the officers who are the subject of the review.
 - e. The committee will also make any recommendations necessary for violations of this policy.
- G. The recommendations and conclusions of the Critical Incident Review Committee will be forwarded to the Chief of Police for their review and disposition. They will be submitted in the form of a Special Report and will become a part of the record of the hearing.