

Officer-Involved Shootings and Deaths

305.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of another action of an officer.

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

305.2 POLICY

The policy of the Garden Grove Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner. This policy will cover officer-involved shootings resulting in injury or death, custodial (holding cell) death or serious injury, and unusual death or serious injury cases. This policy will cover officer-involved shootings resulting in injury or death, custodial (holding cell) death or serious injury, and unusual death or serious injury cases.

305.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

305.4 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Garden Grove Police Department would control the investigation if the suspect's crime occurred in Garden Grove.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The

Garden Grove Police Department

Policy Manual

Officer-Involved Shootings and Deaths

investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

305.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

305.5 INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting or death. The District Attorney's Investigators will collect and package all reports from all investigation sources and be responsible for maintaining the master case file on the incident. The investigators will be responsible for initiating the official written report of all interviews. The police department's joint investigation will be documented in police reports and memorandums, as necessary.

A copy of the completed investigative package will be delivered to the Chief of Police or their designee. These reports will ultimately be filed by the Internal Affairs Unit Sergeant.

305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved GGPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

305.5.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved GGPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.

Garden Grove Police Department

Policy Manual

Officer-Involved Shootings and Deaths

1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any GGPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Division Lieutenant and Communications. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional GGPD members until properly relieved by another supervisor or other assigned personnel or investigator. Ensure that appropriate action is being taken to: provide first aid to the injured; detain suspects; identify witnesses; and secure evidence. The field supervisor will "freeze" the crime scene pending the arrival of Garden Grove Police Department Investigators and Orange County District Attorney's Office Investigators.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 1. Each involved GGPD officer should be given an administrative order not to discuss the incident with other involved officers or GGPD members pending further direction from a supervisor.
 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.
 3. The field supervisor or a ranking member of the department must assess the physical and emotional condition of the officers involved, if they are uninjured. Post-incident shock may occur. If the discharge of a weapon results in the death of a person, the officer(s) involved should be removed from the scene as soon as possible. If the incident results in injury, the officer may remain at the scene to assist investigators in "reenacting" the incident. In either case, the officer(s) should not be left alone. If the mental or emotional state of the officers suggests the need for medical attention, the on-duty Division Lieutenant shall make such arrangements.
 4. All collection of evidence from the involved officer(s) shall be completed in a timely and professional manner. The ranking member of the department must ensure that the officer is treated with dignity by outside-agency investigators.

Garden Grove Police Department

Policy Manual

Officer-Involved Shootings and Deaths

305.5.3 DIVISION LIEUTENANT RESPONSIBILITIES

If the discharge of a firearm involves death or injury, the on-duty Division Lieutenant will notify the Internal Affairs Sergeant, the Crimes Against Persons Sergeant, the officer's unit or Division Commander, the Bureau Commander, the Chief of Police, and the assigned Duty Chief (if applicable). If the discharge does not involve injury, the Internal Affairs Sergeant and the Unit or Division Commander will be notified and other notifications will be made at the Unit or Division Commander's direction.

If an officer is injured, the Division Lieutenant will make arrangements for the notification of the officer's family and their transportation to the hospital. The notification should be made in person, and if possible, by a supervisor.

All outside inquiries about the incident shall be directed to the Division Lieutenant.

305.5.4 NOTIFICATIONS

The following person(s) shall be notified as soon as practicable:

- Chief of Police
- Investigations Division Commander
- Officer Involved Shooting Protocol rollout team
- Outside agency investigator (if appropriate)
- Internal Affairs Unit supervisor
- Civil liability response team
- Psychological/peer support personnel
- Chaplain
- Coroner (if necessary and if not done by OCDA Investigators)
- Orange County Sheriff's Department Forensic Science Department (if not done by OCDA Investigators)
- Involved officer's agency representative (if requested)
- Public Information Officer

The Crime Against Persons (CAP) Sergeant will notify the District Attorney's Investigators utilizing the call-out roster provided by them. If the Crimes Against Property Sergeant is handling the incident in lieu of the CAP Sergeant, then they will notify the District Attorney's Investigators utilizing the call-out roster provided by them. The notifying investigative Sergeant will provide the following information:

- (a) Type of incident
- (b) Time of incident
- (c) Location
- (d) Extent of injuries or deaths

Garden Grove Police Department

Policy Manual

Officer-Involved Shootings and Deaths

- (e) Number of witnesses or officers involved
- (f) Agencies involved
- (g) Official in charge of the scene

305.5.5 NOTIFICATION TO DEPARTMENT OF JUSTICE

The California Department of Justice (DOJ) is required to investigate an officer-involved shooting resulting in the death of an unarmed civilian. The District Attorney's Office shooting team should promptly notify the DOJ in all incidents involving an officer-involved shooting resulting in the death of an unarmed civilian, including where it is undetermined if the civilian was unarmed.

For purposes of notification, "unarmed civilian" means anyone who is not in possession of a deadly weapon (Government Code § 12525.3).

305.5.6 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
 - 1. Involved GGPd officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 - 2. Requests from involved non-GGPd officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
- (d) A licensed psychotherapist shall be provided by the Department to each involved GGPd officer. A licensed psychotherapist may also be provided to any other affected GGPd members, upon request.
 - 1. Interviews with a licensed psychotherapist will be considered privileged.
 - 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 - 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Communications between the involved officer and a peer support member are addressed in the Peer Support policy.

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

Garden Grove Police Department

Policy Manual

Officer-Involved Shootings and Deaths

Each involved GGPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Division Lieutenant to make schedule adjustments to accommodate such leave.

If the shooting involves injury or death to a person, the involved officer(s) will be placed on ADMINISTRATIVE LEAVE WITH PAY pending a mandatory interview with a department-recognized psychologist. If the psychologist is not called out or is unavailable at the time of the incident, the involved officer's Unit or Division Commander will request that the Training Manager arrange an appointment with the psychologist. The officer's Unit or Division Commander will ensure that a City of Garden Grove Personnel Action Form is completed to document the administrative leave with pay.

All officers who may have fired their weapons during the incident under investigation WILL BE REQUIRED TO SUBMIT THEIR WEAPONS FOR EXAMINATION AND TESTING BY RANGE AND/OR CRIME LABORATORY PERSONNEL. Officers will also turn in ALL expended ammunition and ALL ammunition carried by the officer for use in the weapon in question.

305.6 CRIMINAL INVESTIGATION

The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the District Attorney's Office to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) GGPD supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of GGPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of the officer's choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally, or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

Garden Grove Police Department

Policy Manual

Officer-Involved Shootings and Deaths

305.6.1 REPORTS BY INVOLVED GGPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved GGPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals (Government Code § 3304(a)).

While the involved GGPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all 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 suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved GGPD officer of the right to consult with legal counsel prior to completing any such criminal report.

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 or death.

305.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death 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:

- (a) Identification of all persons present at the scene and in the immediate area.
 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) 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 a member of the Department.
 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

Garden Grove Police Department

Policy Manual

Officer-Involved Shootings and Deaths

- (c) Promptly contacting 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 the incident.

305.6.2 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Investigations Division supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators 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.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Investigations Division supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Bureau Commander.

305.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of GGPd officers to determine conformance with department policy. The investigation will be conducted under the supervision of the Internal Affairs Unit and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws (see the Personnel Complaints Policy).

- (a) Any officer involved in a shooting or death may be requested or 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.
- (b) 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.
 - 1. 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/her prior statement before proceeding with any subsequent interviews.
- (c) 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.

Garden Grove Police Department

Policy Manual

Officer-Involved Shootings and Deaths

2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. 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 (Government Code § 3303(i)).
3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).
4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
5. The Internal Affairs Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

305.8 CIVIL LIABILITY RESPONSE

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

305.9 IN-CAR VIDEO SYSTEM (IVS) AND BODY-WORN CAMERA (BWC)

Any officer involved in a shooting or death may be permitted to review available In-Car Video System (IVS), Body-Worn Camera (BWC), or other video or audio recordings prior to providing a recorded statement or completing reports.

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 IVS, BCW, or other video or audio recordings with approval of assigned investigators or a supervisor.

Any IVS, BWC and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or City Attorney's Office, as appropriate.

Garden Grove Police Department

Policy Manual

Officer-Involved Shootings and Deaths

305.10 DEBRIEFING

Following an officer-involved shooting or death, the Garden Grove Police Department should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Peer Support Team Policy for guidance on Critical Incident Stress Debriefings.

305.10.1 TACTICAL DEBRIEFING

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

305.11 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Division Lieutenant, Investigations Division Bureau Commander and Public Information Officer in the event of inquiries from the media.

The Department shall not subject any involved GGPD officer to visits by the media (Government Code § 3303(e)). No involved GGPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Bureau Commander. Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

The District Attorney's Office will request that the police department limit the content of any media release to the following information:

- (a) Information that is contained in public record
- (b) That an investigation is in progress
- (c) The general scope of the investigation, including a description of the offense
- (d) A request for public assistance in apprehending a suspect or in any other matters relating to the incident

305.12 REPORTING

If the death of an individual occurs in the Garden Grove Police Department jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Community Policing Bureau Commander will ensure that the Records Manager is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).