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OAKLAND

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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Howard A. Jordan
Chief of Police

SUBJECT: Officer-Involved Shooting Protocols

DATE: October 23, 2012

City Administrator
Approval

Date

11/3/12

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the Council accepts this informational report providing a summary of the protocols for Officer-Involved Shootings (OIS) and the Department's overall response to the officers involved and the community. The OIS protocols are codified in the existing Department policy.

OUTCOME

This report provides the Council with the investigative and administrative protocols regarding an Officer-Involved Shooting.

BACKGROUND

Whenever there is an OIS, two Departmental investigative teams are dispatched to the scene to investigate the circumstances surrounding the OIS. The Major Crime Section and the Internal Affairs Division conduct separate, but equally important investigations. In addition to the dual investigative teams, the incident commander (sergeant or above) supervises the preliminary investigation at the scene and directs the activities pertaining to the management of the incident.

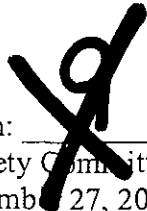
The Alameda County District Attorney's Office also conducts a concurrent, but independent and impartial investigation. The court appointed Monitor has the authority to review all OISs.

DATA

Preliminary Investigation:

At the scene of an OIS, the sergeant or commander assumes the role of the incident commander. Their primary duties are as follows:

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- Ensure that the scene is secured, stabilized and cordoned off;
- Verify that medical attention has been summoned and is being provided;
- Elicit a Public Safety Statement to help determine the general circumstances of the OIS;
- Direct the activities of the non-involved officers;
- Ensure that all officers present prepare a supplemental report documenting his/her actions at the scene;
- Ensure that the involved and witness officers are separated;
- Ensure that all known witnesses are identified and interviewed;
- Ensure that a canvass of the area is conducted;
- Ensure that the scene is processed by a crime scene technician;
- Ensure that the required notifications are made to the Department's Executive Team, District Attorney, City Attorney, City Officials, Federal Monitor, Public Information Officer (PIO), and the Department's investigative teams;
- Fully brief the Major Crime Section Investigative Team.

Major Crime Section Investigative Team:

Its primary function is to determine if there is any criminal misconduct associated with the shooting. The team members respond to the scene, consult with the incident commander, review statements, ensure that a thorough preliminary investigation was conducted, conduct a videotaped "walkthrough" and subsequently conduct a detailed interview of the officers involved in the actual shooting. The interviews occur in the presence of the involved officers' legal representative.

Internal Affairs Division Investigative Team:

Its function is similar to the Major Crime Section Investigative Team, but the team members' primary focus is administrative in nature to determine if there were any violations of Departmental rules, policies, and practices. They "listen in" on the interviews between the Major Crime Section Investigative Team and the involved officers, but they do not participate. They eventually conduct their own investigation including conducting administrative interviews of the involved officers and witnesses.

Notification to Next of Kin:

Pursuant to California Government Code Section 27491.2, the Alameda County Coroner's Office bears the responsibility of notifying the next of kin if the OIS involves a fatality. Once the next of kin has been identified and notified by the Coroner's Office, that individual is deemed to be the sole point of contact for OPD investigators for all inquiries/follow-ups pertaining to the investigation. In the case of an OIS, the Major Crimes Section Commander or designee, in addition to explaining limited factual information concerning the incident, shall

explain to the next of kin the separate investigations that will be conducted and their anticipated timelines.

Moving the Decedent's Body:

Pursuant to California Government Code Section 27491.2, only the coroner can move the decedent's body unless exigent circumstances exist. In addition, only the coroner can search the body to retrieve any identification and to recover personal property.

Critical Incident Stress Debriefing:

Officers involved in OISs are placed on three (3) days mandatory leave. Additional days may be granted to the involved officers. Further, the involved officers are required to attend employee assistance and counseling services provided by the City prior to his/her return to normal duties. If needed, officers who witnessed the incidents may also be referred to counseling services. The Department's Peer Support Group also responds to all OISs to provide support and comfort for the officers. If the family members of the decedent are identified at the scene, a faith member is summoned from the Volunteer Chaplaincy Program to provide comfort and counseling.

Executive Force Review Board:

Executive Force Review Board (EFRB) members are convened to evaluate Level 1 force investigations, in-custody death or vehicle pursuit-related death investigations and any related administrative or criminal investigations. The Board shall determine whether the force used was in compliance with Departmental policies and procedures and will identify any policy revision, training, tactical or other issues related to the use of force. After the investigations are completed by the Major Crimes Section and Internal Affairs Division investigative teams, the EFRB is convened. The investigative teams present the facts to the board and then the board deliberates. The board's findings and recommendations are submitted to the Chief of Police for a final decision. The City Attorney participates in the board's deliberations.

Membership of the EFRB:

The voting membership of the EFRB consists of the Assistant Chief and two Deputy Chiefs. On some occasions, if the Deputy Chiefs are unavailable, a Captain may sit on the board.

Commission on Accreditation for Law Enforcement Agencies Guidelines:

There are no specific Commission on Accreditation for Law Enforcement Agencies (CALEA) guidelines regarding the investigation of an OIS. However, CALEA requires that the Department have a written standard that governs force related concepts; training, reporting,

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using, tracking, reviewing, investigating, and temporarily removing the involved officers from duty. The Department's written standard for force related issues meets or exceeds the CALEA standards. In addition, the Department has received feedback from the court appointed Monitor regarding our force policies.

PUBLIC OUTREACH/INTEREST

This item did not require any public outreach. However, realizing the impact that an OIS can have on the community and the Department, and coupled with the need for transparency, the Department has embraced the Nixie alert system to inform the community and media when an OIS has occurred.

In addition, the Department has created on its website a link to OISs that provides a summary of the incident and of the investigative process. The applicable policies that pertain to OISs are also posted on the website.

Additionally, the Department's (PIO) is briefed on the incident and is prepared to provide a statement to the media without compromising the integrity of the case. These outreach methods allow the Department to keep the community informed about OISs.

Once the District Attorney's Office has completed their investigation, the report is made available to the public.

COORDINATION

City Attorney and Budget Offices were consulted in preparation of this report.

COST SUMMARY/IMPLICATIONS

There are no expenses associated with this agenda report.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities.

Environmental: There are no environmental opportunities.

Social Equity: There are no social equity opportunities.

For questions regarding this report, please contact Assistant Chief Anthony Toribio at (510) 238-3958.

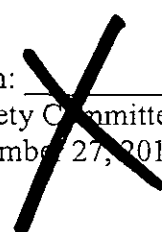
Respectfully submitted,



hon _____
Howard A. Jordan
Chief of Police

Prepared by:
Steven R. Tull
Captain of Police
Office of Inspector General

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ATTACHMENTS:

- A - Departmental General Order K-3: Use of Force
- B - Departmental General Order K-4: Reporting and Investigation Use of Force
- C - Departmental General Order K-4.1: Force Review Boards
- D - Training Bulletin V-O: Officer Involved Shooting
- E - Bureau of Investigation Homicide Section 01: Lethal Force/In-Custody Death Investigations
- F - Bureau of Investigation Homicide Section 02: Officer Involved Shooting Interview
- G - Criminal Investigation Division Policy 12-01: Notification/Release of Information - Next of Kin
- H - Internal Affairs Policy and Procedure 05-04: Procedures for Force and Death Investigations
- I - Internal Affairs Level I Incident Checklist
- J - CALEA Standards re Force
- K - Cahfomia Government Code Section 27491.2

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ATTACHMENT "A"

Oakland Police Department



Use of Force Policy Handbook

Effective Date
1 Aug 07

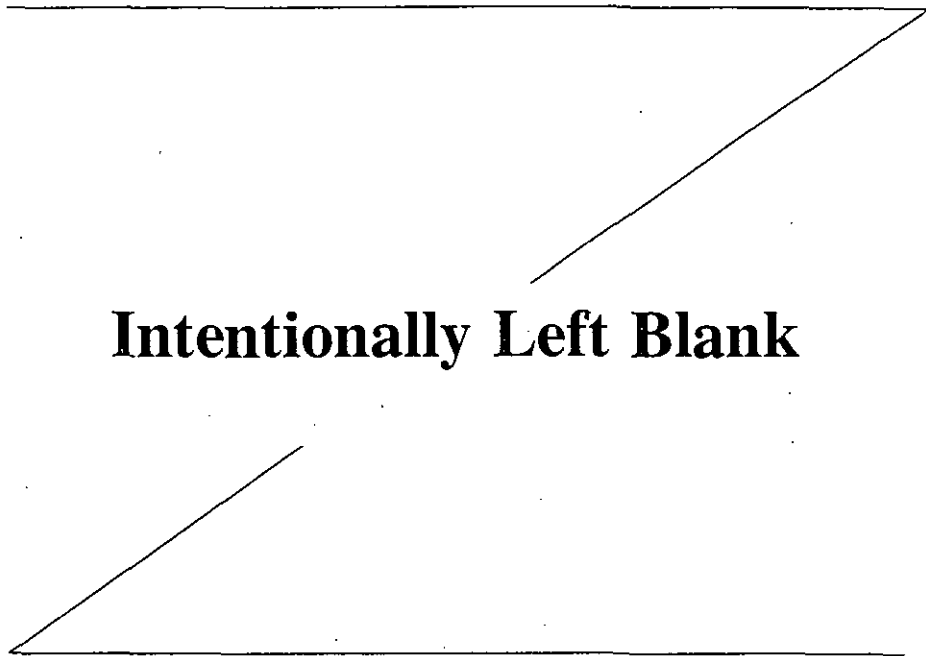
**Handbook
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DGO K-3
USE OF FORCE

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Use of Force Policy

USE OF FORCE

The purpose of this order is to set forth Departmental policy and procedures for the use of force by Department personnel.

The Oakland Police Department values the protection and sanctity of human life. This policy prohibits personnel from using unreasonable force. It also prohibits personnel from using force as a means of interrogation or punishment. This policy requires personnel to intervene in situations where they reasonably believe, based on the totality of the circumstances, that other personnel are subjecting a person to unreasonable force. This policy is more restrictive than state or federal laws that govern the use of force, and members are required to accomplish the police mission by adhering to this policy.

Personnel who use unreasonable force are subject to discipline for violating Departmental policy. Federal and state laws also provide for civil liability and possible criminal sanctions against personnel who use unreasonable force.

I. DEFINITIONS AND TERMINOLOGY (Alphabetical Order)

A. Employee

The term "employee" includes all non-sworn Oakland Police personnel.

NOTE: Although the use of force is primarily intended for members, various employee job classifications include Departmental training in specific force options normally reserved for members. Employees are held to the same standard as members for the application of these authorized force options. All employees shall maintain their right to self-defense by any objectively reasonable means.

B. Firearm Discharge

The act of discharging a firearm loaded with lethal ammunition. Firearm discharges are classified as follows:

1. Lethal - An intentional firearm discharge at a person, regardless of injury.

2. Discharge at an Animal – A firearm discharge for the purpose of dispatching an injured or vicious animal.
3. Unintentional – A firearm discharge that occurred as a result of an unintentional trigger pull or other unexpected external cause.
4. Other Firearm Discharges – No use of force investigation is required for any of the following:
 - a. An intentional discharge while at a range facility;
 - b. A discharge while engaged in a lawful recreational activity, such as hunting or target practice;
 - c. A discharge by Criminalistics Division personnel for the purpose of scientific examination; and
 - d. A discharge at an object (e.g., street light, alarm box, door lock or vehicle tire) to accomplish a tactical police purpose that does not result in injury.

C. Hand Held Impact Weapons

Any object that is used, or designed to be used, to apply force to an individual by coming into physical contact with that individual. Hand Held Impact Weapons include the long baton, short baton, crowd control baton, and expandable baton (Asp®), and may include impromptu weapons.

D. Imminent Threat

“Imminent Threat” refers to an impending threat or resistance that a member or employee reasonably believes will occur, based on the totality of circumstances. Imminent is not limited to “immediate” or “instantaneous.” A person may pose an imminent threat even if that person is not pointing a weapon at the member or employee. A person is an imminent threat if the person is reasonably perceived by a member or employee to have the present intent, means, opportunity, and ability to complete the threat, regardless of whether the threatened action has been initiated.

1. Intent: The subject’s apparent desire, which can be indicated by words, body language, or actions.

2. **Means:** The instrument, mechanical or physical, that may be used to cause injury.
3. **Opportunity:** The time and/or place which allows the subject to use the means to cause injury.
4. **Ability:** The subject has the capability to carry out the action or threat.

E. **Involved Personnel**

A member or employee who uses force or directs the use of force. This includes a supervisor or commander who orders the application of force.

F. **Less-Lethal Force**

Any use of force, other than lethal force, which by design and application is less likely to cause serious bodily injury or death. However, the possibility of an unintended lethal outcome, although very rare, exists. Less-lethal force includes the application of chemical munitions.

G. **Lethal Ammunition**

Ammunition that is, by design and application, intended to cause serious bodily injury or death.

H. **Lethal Force**

That force which creates a substantial risk of causing death or serious bodily injury, as such terms are defined by prevailing law.

I. **Medical Treatment**

1. **First Aid**

First aid includes, but is not limited to, the mere cleaning of a scrape or cut, applying a bandage, flushing of the eyes with water, or providing an ice pack. First aid may be administered by OPD personnel or a medical professional.

2. Emergency Medical Treatment

Any treatment beyond first-aid, including Cardio-Pulmonary Resuscitation (CPR) and rescue breathing, administered by OPD personnel or a medical professional including the following: physicians, physician assistants, nurses (RN and LVN) paramedics, emergency medical technicians (EMT), Fire Department Personnel.

3. Hospital Admittance

Admittance to a hospital for the treatment of injuries as a result of any use of force.

J. Member

For the purpose of this order, the term "member" includes Oakland Police Officers, Oakland Police Rangers, and Oakland Police Reserve Officers, regardless of rank.

K. Reasonable Force

Force that is objectively reasonable based upon the totality of the circumstances.

The standard used to determine objectively reasonable force is articulated in the United States Supreme Court decision, Graham v. Conner, 490 U.S. 386 (1989). The Graham decision holds that the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, without regard to the officer's underlying intent or motivation. The determination of reasonableness must be based on the totality of circumstances and must include a consideration that police officers are often forced to make split second decisions in circumstances which are tense, uncertain, and rapidly evolving. The determination of reasonableness is not based on the 20/20 vision of hindsight.

Personnel are not required to use the least assertive option and shall consider the following criteria when determining which level of force to use:

1. The objectively reasonable perception of a threat to the member, employee or third party;

2. Imminence of the threat to the member, employee, or third party;
3. Physical differences (e.g., age, size, relative strength, skill level, injuries, exhaustion, number of members/employees verses subjects);
4. Influence of drugs or alcohol on the subject;
5. Proximity of weapons to the subject;
6. Availability of other options;
7. Seriousness of the suspected offense(s);
8. Training and experience level of the member or employee;
9. Potential for injury to member, employee, third party, or the subject;
10. Risk of escape; and
11. Other exigent circumstances.

L. Serious Bodily Injury¹

A serious impairment of physical condition, such as:

1. Loss of consciousness;
2. Concussion;
3. Bone fracture;
4. Protracted loss, impairment, serious disfigurement, or function of any bodily member or organ (includes paralysis); or
5. Wound requiring extensive suturing.

¹ As defined by prevailing law.

M. Specialty Impact Munitions

Intermediate or long range less-lethal force options which may be hand-delivered or propelled from specialized launching devices or firearms, which by design and application are intended to immobilize, incapacitate, or stun a human being without causing serious bodily injury or death.

N. Subject

The singular term “subject” is used, but it is understood that “subject” can refer to a single person, multiple individuals, or a crowd.

O. Use of Force

Any physical or mechanical intervention used by a member or employee to defend, control, overpower, restrain, or overcome the resistance of an individual.

P. Verbal Persuasion

A technique to control a subject’s action or behavior with words.

Q. Violent Felony

Any felony which involves:

1. The use of lethal force;
2. Force which creates a substantial risk of death or serious bodily injury; or
3. The threatened use of lethal force coupled with the apparent ability to complete the threat.

R. Weaponless Defense Techniques:

A series of techniques an officer performs using body movement and strength to defend against or control a resisting subject.

II. USE OF FORCE POLICY

Departmental policy requires personnel to use only a force option that is objectively reasonable based on the totality of circumstances confronting them.

A. Lethal Force

1. Lethal Force is authorized to defend the member or a third person from what the member reasonably believes is an imminent threat of lethal force or force likely to cause serious bodily injury; **OR**
2. To apprehend or arrest a person whom the member reasonably believes has committed or is committing a violent felony which involves the use, or threatened use coupled with the apparent ability to carry out the use of lethal force or force likely to cause serious bodily injury; **AND**
 - a. The person indicates by his or her conduct or by any other means that he or she presents an imminent danger of death or serious bodily injury to the member or a third person if not immediately apprehended, **AND**
 - b. All other reasonably available means of apprehending the person have failed, are inadequate, or are immediately unavailable.
3. In life-threatening situation, the use of an impromptu weapon or any weapon of necessity is justified as lethal force when reasonable alternatives have been exhausted, are unavailable, or are impractical.
4. Whenever possible, a verbal warning to submit to police authority shall be given prior to using lethal force and only if to do so would not increase the danger to the member or others.
5. The use of lethal force against the occupant of a motor vehicle is only authorized when it is reasonably necessary to :
 - a. Defend the member or another person against the vehicle occupant's imminent threat of death or serious bodily injury, by means other than the vehicle; **OR**

- b. Defend the member or another person against the vehicle operator's use of the vehicle to cause death or serious bodily injury and the member or other person has no reasonable avenue of protection or escape.
 - 1) Members shall be prohibited from positioning themselves in a location vulnerable to vehicular attack;
 - 2) Whenever possible, members shall move out of the way of the vehicle, instead of discharging his or her firearm at the operator;
 - 3) Members shall not discharge a firearm at the operator of the vehicle when the vehicle has passed and is attempting to escape.
 - c. Members must consider whether the threat to the member or other persons is increased by incapacitating the operator with lethal force, considering that if the operator is incapacitated, the vehicle may still be a threat to anyone in the vehicle's path. This threat must be weighed against the threat posed by the suspect continuing in control of the vehicle.
6. Firearms shall not be discharged under the following circumstances:
 - a. As a warning;
 - b. At a moving vehicle except as defined in Part II, A, 5, of this order; or
 - c. From a moving vehicle.
 7. Lethal force is prohibited when its sole purpose is to prevent a subject from escaping and the subject does not present an imminent danger of death or serious bodily injury.

B. Less-Lethal Force

Personnel may use less-lethal force when that force is objectively reasonable to:

1. Make a lawful detention or an arrest;
2. Overcome the use or threatened use of physical force directed against any person; or
3. Prevent a subject from escaping custody.

NOTE: The Department places additional restrictions on the use of less-lethal force during incidents involving Crowd Control and Crowd Management as outlined in TB III-G, OPD CROWD CONTROL AND CROWD MANAGEMENT POLICY.

C. Firearms, Safety Equipment, and Control Devices

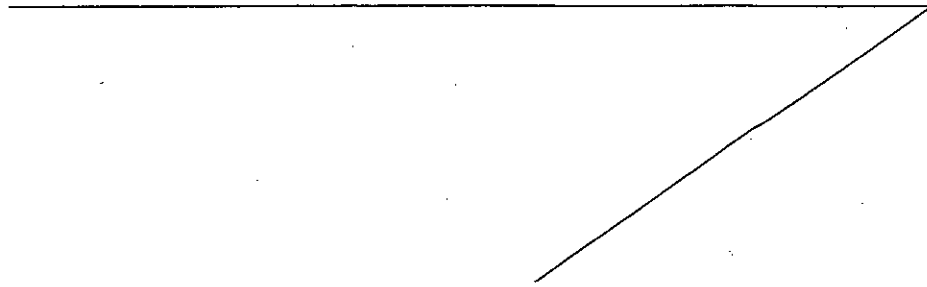
While on duty, personnel shall only carry firearms, safety equipment and control devices that have been specifically approved in Departmental General Order C-4, SAFETY EQUIPMENT or by Special Order, and have successfully completed training.

D. Display of Weapons

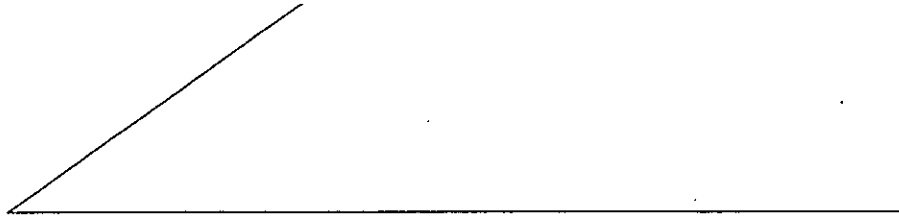
Members and employees shall not display any weapon in a threatening or intimidating fashion unless it is objectively reasonable to accomplish a lawful police objective.

E. Providing First Aid or Medical Treatment

Members shall ensure that when necessary, or upon complaint of injury, medical first aid is provided and/or professional medical assistance is summoned as soon as practical for any subject upon whom force has been used.



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III. FORCE OPTIONS

Personnel shall use a force option that is objectively reasonable to overcome the resistance of the subject, to meet the threat posed by the subject, and to gain control of the situation. Consistent with the law, this policy requires that the force option used is reasonably objective and not that the least assertive option be used. What is objectively reasonable under the totality of the circumstances of each case determines the appropriate force option.

Personnel shall de-escalate force to a lesser level when the officer reasonably believes the lesser level of force becomes appropriate.

A. Lethal Force

1. Discharge of a firearm with lethal ammunition.
2. Any force which creates a substantial risk of causing death or serious bodily injury, to include:
 - a. Carotid restraint; and
 - b. Intentional impact weapon strike to the head.

B. Less-Lethal Force

Additional information on the specific use and application for less-lethal force options are found in individual Departmental publications specified in Part VI, REFERENCES.

1. Police Patrol Canine;
2. Impact Weapons (other than intentional strikes to the head);
 - a. Long baton;
 - b. Short baton;
 - c. Crowd control baton;
 - d. Asp®;
 - e. Specialty impact munitions (Flexible baton); and
 - f. Any other object used as an impact weapon;
3. Taser®;

4. Weaponless Defense Techniques:
 - a. Personal weapons:
 - 1) Hand/palm/elbow strikes; and
 - 2) Kicks;
 - b. Take-downs:
 - 1) Takedown from the rear;
 - 2) Leg sweep; and
 - 3) Arm-bar takedown.
 - c. Control holds:
 - 1) Escort (elbow);
 - 2) Bent wrist;
 - 3) Twist lock; and
 - 4) Arm-bar hammerlock;
5. Oleoresin Capsicum or other chemical agent;
6. Intentionally pointing a firearm at a person;
7. Handcuffing;
8. Verbal persuasion; and
9. Officer presence.

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IV. ADMINISTRATIVE LEAVE

Any personnel involved in a lethal use of force shall be placed on paid administrative leave for a period of not less than three (3) days, unless otherwise directed by the Chief of Police. The Incident Commander may recommend other personnel to be placed on paid administrative leave to the Chief of Police. The assignment to administrative leave shall not be interpreted to imply or indicate the member acted improperly. While on administrative leave, members shall remain available at all times for official Departmental business, including interviews and statements regarding the incident.

V. COUNSELING SERVICES

In all incidents where a person is seriously injured or killed as a result of a member's use of force; the involved member shall attend employee assistance and counseling services provided by the City prior to his/her return to normal duties. Command officers shall ensure involved members are advised of the services available and shall direct their attendance. As needed, members and employees who witness such incidents may also be referred to counseling services.

VI. REFERENCES

- A. DGO C-4, SAFETY EQUIPMENT;
- B. DGO K-9, DEPARTMENT CANINE PROGRAM;
- C. TB III-H, SPECIALTY IMPACT MUNITIONS;
- D. TB III-H.1, USE OF THE TASER®;
- E. TB III-H.2, HAND-HELD IMPACT WEAPONS;
- F. TB III-I.1, WEAPONLESS DEFENSE;
- G. TB III-X, LETHAL FORCE AND VEHICLES;
- H. TB V-F.2, CHEMICAL AGENTS; and
- I. TB V-G, USE OF POLICE CANINES.

By Order of

Wayne G. Tucker
Chief of Police

Date Signed: _____



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1 Aug 07

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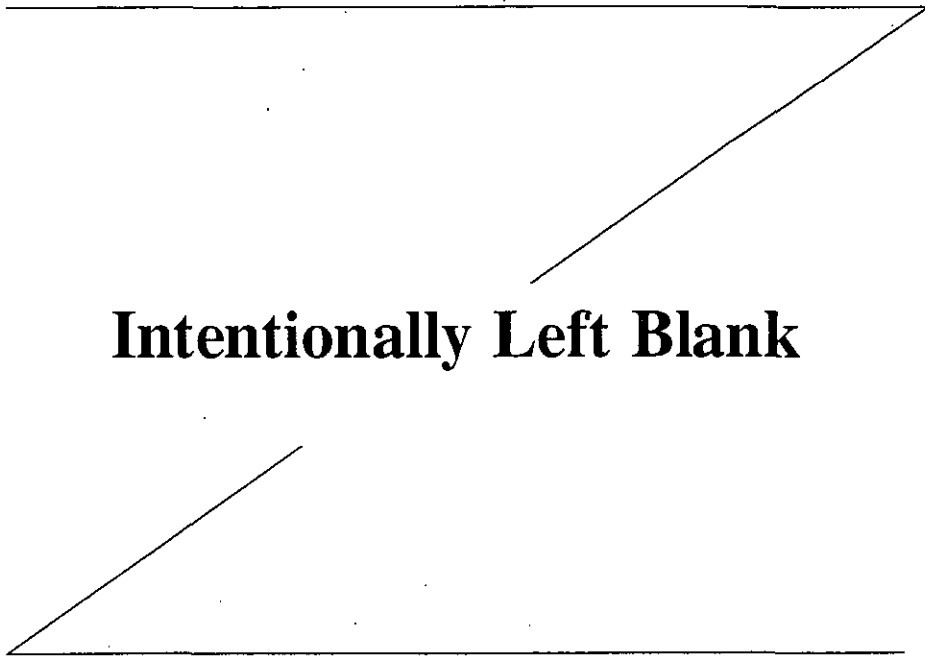
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REPORTING AND INVESTIGATING THE USE OF FORCE

The purpose of this order is to set forth Departmental policy and procedures for reporting, investigating, reviewing, and managing use of force incidents involving Departmental personnel.

I. POLICY

- A. Commanders, investigators and supervisors shall complete a Department approved training course for the Departmental use of force policy (DGO K-3) and reporting and investigating use of force incidents (DGO K-4) prior to conducting any use of force investigation. The training course shall include provisions of the Public Safety Officers' Procedural Bill of Rights (POBR), Departmental General Order (DGO) M-3, RECEIVING AND PROCESSING COMPLAINTS AGAINST DEPARTMENT PERSONNEL OR PROCEDURES and DGO M-4.1, CRIMINAL INVESTIGATIONS INVOLVING ACTIVE LAW ENFORCEMENT, OR A MEMBER OR EMPLOYEE OF THE DEPARTMENT.
- B. Personnel shall notify his/her supervisor immediately or as soon as practical, of any use of force, allegation of a use of force, or an allegation of unreasonable force.
1. When notified of a Level 1, 2, or 3 use of force, the supervisor or commander shall respond to the scene and conduct the appropriate force investigation.
 2. When notified of an allegation of a use of force and the member/employee denies using force, the supervisor or commander shall respond to the scene and conduct a preliminary investigation into the use of force allegation.
 3. When a subject who has incurred an injury requiring more than basic first-aid and the injury did not occur as a result of a member's use of force and there is no allegation of force by the subject; or

4. When there is a discharge at an object (e.g., street light, alarm box, door lock or vehicle tire) by a member to accomplish a tactical police purpose that does not result in injury.
- C. If any force investigation indicates misconduct, the supervisor or commander shall conduct, at a minimum, a Level 2 force investigation and additionally initiate an internal investigation in accordance with the provisions of DGO M-3. Document the date the IAD was notified in the Use of Force Report (TF-967).
- D. If any force investigation indicates criminal misconduct, the supervisor or commander shall conduct, at a minimum, a Level 2 force investigation and additionally make the proper notifications in accordance with the provisions of DGO M-4.1. Document the date the CID was notified in the Use of Force Report.
- E. Personnel shall request medical service without delay when a subject has visible injuries or the subject has a complaint of injury.
- F. Supervisors and commanders shall be held accountable for the timely, accurate, and thorough documentation of all use of force incidents.
- G. Reports shall not contain "boilerplate" or "pat" language (e.g., "furtive movement" or "fighting stance," etc.) without descriptive or explanatory details of the action."
- H. Supervisors and commanders have the discretion to elevate any level of force investigation in order to conduct a more thorough investigation of the incident. The Watch Commander shall approve elevating a force investigation to a Level 1.
- L. A supervisor or commander involved in a use of force shall not investigate the incident or review for approval the Use of Force Report.
 1. In the event personnel working a tour of duty in the Patrol Division, of the rank of sergeant or above, are involved in a Level 2 or 3 use of force incident, the Watch Commander shall assign an investigator to conduct the investigation.

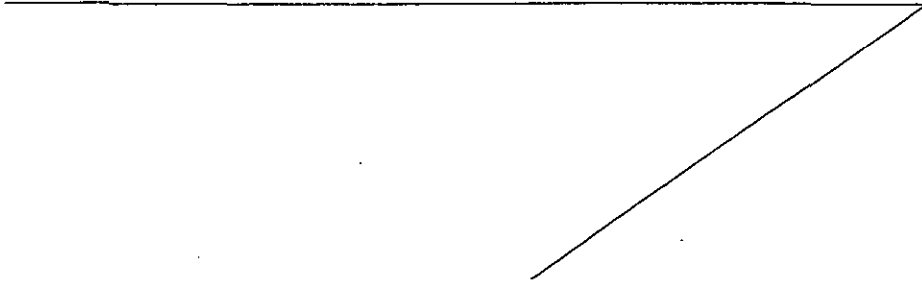
2. In the event personnel working a tour of duty in any division other than Patrol, of the rank of sergeant or above is involved in a Level 2 or 3 use of force incident, the unit commander shall assign an investigator to conduct the investigation with the approval of the division commander and, if unavailable, the Watch Commander¹.
3. The Watch Commander may approve a supervisor or commander to investigate, a Level 2 or 3 use of force with their own self-reported Level 4 use of force when they occur in the same incident.

- J. In the event multiple members use the same level of force in a single incident, the reporting member shall prepare only one Use of Force Report listing all involved personnel.

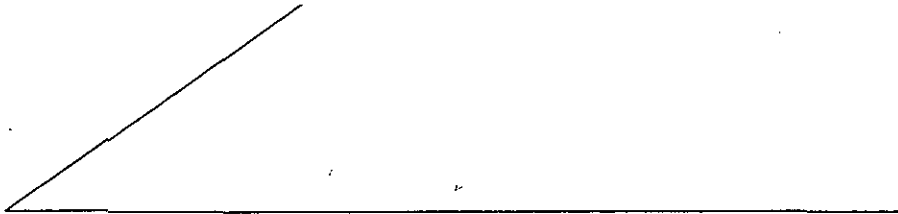
In the event multiple members use different levels of force in a single incident, the reporting member shall prepare only one Use of Force Report listing all involved personnel. An investigation shall be conducted at the highest level when multiple force options are used.

- K. Supervisors and commanders shall identify Department or individual training and tactical issues and make recommendations for corrective action, when appropriate and document the recommendations in the Use of Force Report.
- L. Supervisors and commanders shall ensure the provisions of POBR are properly applied.
- M. Personnel may delay compliance with the provisions of this order if the scene is unstable, there is community unrest, or other conditions make immediate compliance impracticable. The protection of Department personnel and the public, and the maintenance of public safety shall remain the priority. The approving supervisor or commander shall ensure the reason for the delay is documented in the Use of Force Report. Such compliance delays are subject to review by the appropriate review board.
- N. Injured or killed animals shall be handled and/or properly disposed of in accordance with the provisions of DGO A-5, ANIMAL CONTROL PROCEDURES.

¹ When a member is assigned to investigate a use of force incident involving another member of equal rank and an arrest is made requiring approval, the provisions of DGO M-18, ARREST APPROVAL shall be followed.



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II. FORCE LEVELS

Force options enumerated in DGO K-3 are grouped in the following force levels for reporting and investigating purposes only.

A. Level 1

1. Any use of force resulting in death;
2. Any intentional firearm discharge at a person, regardless of injury;
3. Any force which creates a substantial risk of causing death;
4. Serious bodily injuries, to include:
 - a. Any use of force resulting in the loss of consciousness; and
 - b. Protracted loss, impairment, serious disfigurement, or function of any bodily member or organ (includes paralysis).
5. Any unintentional firearms discharge:
 - a. If a person is injured as a result of the discharge; or
 - b. As directed by the BOI Deputy Chief.
6. Any intentional impact weapon strike to the head.
7. Any use of force investigation that is elevated to a Level 1 approved by a Watch Commander.

B. Level 2

1. Any strike to the head (except for an intentional strike with an impact weapon);
2. Carotid restraint is applied that does not result in the loss of consciousness;
3. Use of impact weapons, including specialty impact munitions or any other object, to strike a subject and contact is made, regardless of injury.
4. Any unintentional firearms discharge that does not result in injury;

5. A police canine bites the clothing or the skin of a subject, or otherwise injures a subject.
6. Any use of force which results in injuries to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance.

Note: For the purposes of this order, an evaluation by a medical professional to assess a complaint of injury is not emergency medical treatment.

C. Level 3

1. Oleoresin Capsicum (OC/Pepper Spray) or other chemical agent is applied to a person;
2. The use of a Taser® involving any of the following circumstances;
 - a. When one or more probes impacts or penetrates the subject's clothing or skin;
 - b. When the push stun arc touches the subject's clothing or skin;
or
 - c. A Taser® is fired at a person, but misses.
3. Any impact weapon, including specialty impact munitions, or any other instrument is used in an attempt to strike another person but no contact is made; or
4. The baton is used for a non-striking purpose (e.g., prying limbs, moving or controlling a person);
5. A Weaponless Defense Technique other than control holds, excluding strikes to the head. Examples include;
 - a. Hand/palm/elbow strikes;
 - b. Kicks;
 - c. Leg sweeps; and
 - d. Takedowns.
6. An on-duty firearm discharge at an animal other than to dispatch an injured animal.

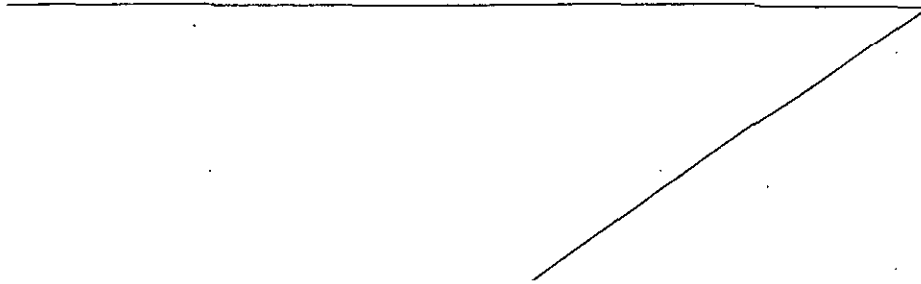
D. Level 4

1. A firearm is intentionally pointed at a person;
2. A Weaponless Defense Technique is applied to a Vulnerable Area, excluding strikes (e.g., Hair grab, pressure to mastoid or jaw line; and shoulder muscle grab).
3. An on-duty firearm discharge to dispatch an injured animal; or
4. A Weaponless Defense Technique Control Hold is applied:
 - a. Escort (elbow);
 - b. Twist lock;
 - c. Arm-bar; or
 - d. Bent-wrist.

A Weaponless Defense Technique Control Hold applied for the purpose of handcuffing or escorts that do not result in injury or a complaint of injury are NOT reportable uses of force.



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III. LEVEL 1 FORCE OR IN-CUSTODY DEATH INCIDENTS

These incidents require concurrent investigations conducted by the Homicide Section and the Internal Affairs Division.

A. Involved personnel and personnel witnessing the use of force responsibilities:

1. Notify and brief their supervisor immediately, or as soon as practical. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified.
2. Every member or employee who uses or is a witness to a Level 1 use of force shall not discuss the incident with others and limit any discussion of the incident to information required:
 - a. For a Public Safety Statement;
 - b. To assist in the investigations; or
 - c. To lead to the apprehension of the suspect.

B. Uninvolved personnel who did not witness the use of force shall perform the following, as directed by a supervisor or commander:

1. Conduct a reasonable canvas in an effort to identify and obtain statements from witnesses in the proximity of the use of force incident.
2. Witnesses to a use of force shall be identified to the extent that it is reasonable and listed in a Supplemental Report (536-937) or Victim/Witness Report (536-935). Statements shall be taken, when practical, and included in the Use of Force or In-Custody Death Report packet. The following criteria shall be used when listing witnesses:

a. Outside Agency Personnel

Outside agency personnel at the scene of a use of force incident, whether they witnessed the use of force or not, shall be identified as follows:

- 1) Name;
- 2) Rank/Title;
- 3) Serial number; and
- 4) Agency affiliation.

b. Private Person Witnesses

Private persons at the scene of a use of force incident, whether they witnessed the use of force or not, shall be identified, when possible, as follows:

- 1) Name;
 - 2) Sex, Race, DOB;
 - 3) Contact number(s); and
 - 4) Home address.
3. Document, in the appropriate report, why witness information was not obtained in situations where it was unsafe or impractical to obtain, (e.g., hostile crowd, public safety concerns, insufficient police resources), when the witness refused to remain at the scene, or is uncooperative.
 4. Members shall not detain or delay a witness who refuses to remain at the scene; however the witness' physical description, license plate, comments, or other identifiers shall be obtained when available and documented in the appropriate report.
 5. Members shall summon a supervisor to the scene in the event a witness refuses to give a statement or provide identification information.
 6. Offense/Supplemental Reports shall be prepared independently without discussing the details of the incident with other personnel on scene. Group reporting is prohibited.
 7. Personnel on scene at the time of the use of force incident, but not involved in or a witness to the use of force, shall be separately interviewed by the investigating supervisor, prior to clearing from the incident. Any relevant information revealed in the interview shall be included in the member or employee's Supplemental Report. Group interviewing is prohibited.

C. Supervisor Responsibilities

1. Respond to the location of the incident unless community unrest or other conditions make such response impracticable. In such instances, an alternate safe location shall be arranged.

2. Scene security:
 - a. Ensure a Crime Scene Security Log is maintained to record the time and identifying information of all persons entering and exiting the scene, to include:
 - 1) Department personnel;
 - 2) Medical personnel;
 - 3) Fire Department unit number and personnel; and
 - 4) Other persons.
 - b. Ensure the Crime Scene Security Log is delivered to the Homicide Section investigator for inclusion in the investigative case file.
3. Manage the scene, until relieved by the Incident Commander.
4. Ensure the Watch Commander has been notified and briefed of the incident.
5. Manage the scene, until relieved by the Incident Commander.
6. Attempt to obtain and document a Public Safety Statement, to include:
 - a. A verbal account from involved personnel to help determine the general circumstances of the incident;;
 - b. Assess the need for resources and notifications;
 - c. Help set the perimeter;
 - d. Locate injured persons;
 - e. Determine the namre of the evidence to seek;
 - f. Identify the number of suspects involved;
 - g. Identify the number of suspects outstanding; and
 - h. The number and direction of shots fired, if any.

The supervisor shall not ask the involved personnel to provide a step-by-step narrative of the Level 1 (lethal force) incident or to provide a motive for their actions.

7. Coordinate the apprehension of the suspect, if still outstanding.
8. Coordinate the preliminary investigation with the IAD and Homicide investigators, to include but not limited to:
 - a. Identifying involved and witness personnel;
 - b. Designating a reporting officer;
 - c. Ensuring the preservation of evidence;
 - d. Identifying other witnesses in accordance with the provisions of Part III, B; and
 - e. Assisting investigators to ensure statements are taken.
9. Respond to the location of a witness who has declined to give a statement or has refused to give witness identification information when requested by a member or employee. The outcome shall be documented in the member's Supplemental Report after the supervisor has talked to the witness.
10. Separate and prohibit communication between involved personnel and witnesses.
11. Ensure involved personnel limit any discussion of the incident to information necessary:
 - a. For a Public Safety Statement;
 - b. Required to assist in the investigations; or
 - c. Leading to the apprehension of the suspect.
12. Ensure personnel complete a Supplemental Report who were on scene at the time of the incident (not including involved or witness personnel) or were assigned to assist at the scene.

Offense/Supplemental Reports shall be prepared independently without discussing the details of the incident with other personnel on scene. Group reporting and interviewing is prohibited.

13. Document the reason in a Supplemental Report when personnel are directed not to complete a required report.

14. Contact and provide the IAD investigator with the complaint information if notified of an allegation of unreasonable force.

D. Follow-up Investigators Responsibilities

1. Homicide Section

The Homicide Section shall conduct a follow-up investigation and prepare and forward a Follow-up Investigation Report (336-201) to the IAD for review in accordance with the provisions of Homicide Section Policy and Procedure 01, LEVEL 1/IN-CUSTODY DEATH INVESTIGATIONS within 45 calendar days, unless extended by the BOI Deputy Chief

2. District Attorney's (DA) Office Standby Team

- a. The DA's Office will respond with their on-call shooting team to all fatal officer-involved shootings and other incidents as they deem necessary.
- b. In the event of an officer-involved shooting in which a person is struck, and when a conflict of interest exists, the Bureau of Investigation Deputy Chief shall confer with the DA's Office to determine the most appropriate agency or investigative body to conduct the investigation.

3. Internal Affairs Division

The IAD shall conduct a concurrent but independent use of force investigation and prepare a Use of Force/In-Custody Death Report in accordance with the provisions of RWM Insert U-1 and IAD Policy and Procedure 05-04 within 60 calendar days, unless extended by the COP.

E. The Watch Commander or Designee Responsibilities

1. Respond to the scene and take command of the incident.
2. Monitor the incident to ensure good scene management and ensure the assigned supervisor coordinates and assists with a thorough and proper preliminary investigation.

3. Ensure the following notifications are made as soon as possible unless conditions at the scene make such notification impractical:
 - a. The Homicide Section Commander and Homicide Call-Out Team;
 - b. Internal Affairs Division Investigative Section Commander and IAD Call-Out Team;
 - c. Chief of Staff (OCOP);
 - d. Chief of Police (COP);
 - e. Alameda County District Attorney's Office Standby Team for force incidents resulting in death or injury likely to result in death;
 - f. Office of the City Attorney (OCA);
 - g. Office of Inspector General (OIG);
 - h. City Administrator;
 - i. Bureau of Field Operations (BFO) and Bureau of Investigations (BOI) Deputy Chiefs;
 - j. Division commander of the involved member or employee.



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IV. LEVEL 2 FORCE INCIDENTS

A use of force investigation conducted by a supervisor or commander.

Responsibilities

- A. Involved or witness personnel to the use of force shall:
1. Notify and brief their supervisor immediately or as soon as practical. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified.
 2. Complete and submit for review the appropriate Offense/ Supplemental Report prior to the end of tour of duty, unless extended by the Watch Commander. The member or employee who uses force shall include the following minimum information regarding the use of force incident in their Offense or Supplemental Report:
 - a. The original reason for police presence on the scene;
 - b. The circumstances that resulted in the use of force; and
 - c. A detailed description of the force used.
 3. Ensure the subject is transported to a medical facility for medical evaluation if a carotid restraint is applied. Document a refusal for medical treatment.
- B. Uninvolved personnel who did not witness the use of force shall perform the following, when directed by a supervisor or commander:
1. Conduct a reasonable canvas in an effort to identify and obtain statements from other witnesses in the proximity of the use of force incident, commensurate with the availability of resources and the conditions of the event.
 2. Witnesses to a use of force shall be identified to the extent that it is reasonable and listed in a Supplemental Report (536-937) or Victim/Witness Report (536-935). Statements shall be taken from outside agency personnel or private person witnesses, when practical. The following criteria shall be used when listing witnesses:

a. Outside Agency Personnel

Outside agency personnel at the scene of a use of force incident, whether they witnessed the use of force or not, shall be identified as follows:

- 1) Name;
- 2) Rank/Tide;
- 3) Serial number; and
- 4) Department affiliation.

b. Private Person Witnesses

Private persons at the scene of a use of force incident whether they witnessed the use of force or not, shall be identified, when possible, as follows:

- 1) Name;
- 2) Sex, Race, DOB;
- 3) Contact number(s); and
- 4) Home address.

3. Document in the appropriate report why witness information was not obtained in situations where it was unsafe or impractical to obtain, (e.g., hostile crowd, insufficient police resources), the witness refused to remain at the scene, or is uncooperative.
4. Members shall not detain or delay a witness who refuses to remain at the scene; however the witness' physical description, license plate, comments, or other identifiers shall be obtained when available and documented in the appropriate report.
5. Members shall summon a supervisor to the scene in the event a witness refuses to give a statement or provide identification information.
6. Complete a Supplemental Report without discussing the details of the incident with other personnel on scene. Group reporting is prohibited.

7. Personnel on scene at the time of the use of force incident, but not involved in or a witness to the use of force, shall be separately interviewed by the investigating supervisor, prior to clearing from the incident. Any relevant information revealed in the interview shall be included in the member or employee's Supplemental Report.

C. Supervisor Responsibilities

1. Respond to the location of the incident unless community unrest or other conditions make such response impracticable. In such instances, an alternate safe location shall be arranged;

In the event the Watch Commander is involved in the use of force incident, he/she shall contact his/her immediate superior officer. The superior officer has the discretion to respond to the scene to conduct the investigation or assign another investigator.

2. Secure and manage the scene.
3. Coordinate the apprehension of the suspect, if still outstanding.
4. Ensure the subject is transported to a medical facility for medical evaluation when a carotid restraint is applied.
5. Contact the Communications Division before the end of tour of duty and advise the Communications Division Shift Supervisor to enter the use of force incident into the Daily IAD Incident Log.
6. When the situation has been stabilized and it can be accomplished safely:
 - a. Advise the Watch Commander or commander of the operation of the incident;
 - b. Ensure involved personnel and witnesses, outside agency personnel, and private person witnesses are identified in accordance with the provisions of RWM Insert U-1.
 - c. Ensure involved personnel and witnesses have been separated and advised that communication regarding the incident is prohibited.

7. Conduct an investigation in a timely manner to include, but not limited to, the following:
 - a. A separate, personal interview with involved and witness personnel including, if necessary, a written or recorded statement.
 - b. Personnel on scene at the time of the use of force incident, but not involved in or a witness to the use of force, shall be separately interviewed by the investigating supervisor, prior to clearing from the incident. Any relevant information revealed in the interview shall be included in the member or employee's Supplemental Report. Group interviewing is prohibited.
 - c. A personal interview with the subject(s) upon whom the use of force was used to include a written or recorded statement, when possible.
 - d. Contact medical personnel, when practical, who evaluated and/or provided treatment to the subject for available information on the subject's injuries and condition.
 - e. Ensure photographs are taken of
 - 1) The physical condition of the subject and involved personnel, to record the presence or lack of injuries;
 - 2) The location of the use of force incident; and
 - 3) Other relevant evidence.

Document the reason why photographs were not taken.
 - f. Ensure digital photographs or film are submitted and processed utilizing one of the following procedures:
 - 1) Digital - Copy digital files to a compact disk, handle and submit as evidence, and list as evidence in the Use of Force Report; or

- 2) Film – Submit film for processing utilizing a Photo Evidence Card (536-317). Complete the appropriate boxes on the card. Additionally, ensure the following information is on the card:
 - a) Comments box – Indicate “Use of Force” & RD No. & “Put on CD”;
 - b) Send To box – “To IAD Administrative Supervisor.”
8. Respond to the location of a witness who has declined to give a statement or has refused to give witness identification information when requested by a member or employee. The outcome shall be documented in the member’s Supplemental Report after the supervisor has talked to the witness.
9. Ensure personnel who were on scene at the time of the incident or were assigned to assist at the scene complete the appropriate report.
10. Offense/Supplemental Reports shall be prepared independently without discussing the details of the incident with other personnel on scene. Group reporting is prohibited.
11. When a supervisor, commander or investigator directs personnel not to complete a required report, the reason shall be documented in the Use of Force Report.
12. Conduct a thorough review of all documents to be included in the Use of Force Report packet to ensure completeness, accuracy, and quality.
13. Ensure the appropriate Offense or Supplemental Report contains the following minimum information regarding the use of force incident:
 - a. The original reason for police presence on the scene;
 - b. The circumstances that resulted in the use of force; and
 - c. A detailed description of the force used.
14. Incomplete or inadequate reports shall be returned for additional details or clarification.

15. Prepare a Use of Force Report (TF-967) in accordance with the provisions of RWM Insert U-1, USE OF FORCE REPORT, unless otherwise directed by a commander or investigator.
16. Ensure the Use of Force Report packet contains:
 - a. The original Use of Force Report to include a Chronological Activity Log and Use of Force Checklist;;
 - b. A copy of the appropriate report (e.g., Offense Report or field contact card); and
 - c. Copies of ancillary documents, if necessary (e.g., statements (if any), Supplemental Reports, Technician Reports, Detail, CAD purge, available medical information obtained, and photographs, if available).
17. Email only the Use of Force Report face sheet (page 1) to the following, prior to the end of tour of duty:
 - a. opdiad@oaklandnet.com;
 - b. bfoadmin@oaklandnet.com;
 - c. Involved member or employee's Division Commander; and
 - d. Involved member or employee's Bureau Deputy Chief/Director.
18. Ensure the original Offense Report and ancillary documents are deposited in the Report Writing Receptacle in an In-Custody or Case Envelope.
19. Retain an electronic copy of the Use of Force Report until documented in the member/employee's annual performance appraisal.
20. Complete and forward the Use of Force Report packet, within seven (7) calendar days, through the appropriate chain-of-review². The due date may be extended with the approval of the reviewing Division Commander and shall be documented in the Chronological Activity Log.

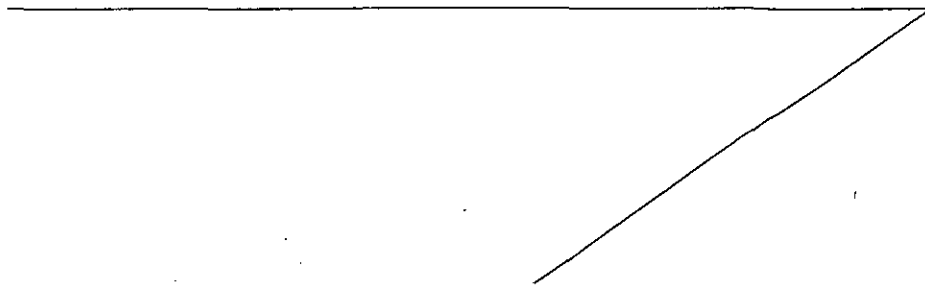
² For the purpose of this order, the appropriate chain-of-review refers to the chain-of-command under which the involved member was working during that tour of duty when the force incident occurred.

- D. Watch Commander or Commander of the Operation Incident Scene Responsibilities
1. Respond to the scene and take Incident Command when advised the incident involves significant Department resources or is likely to generate unusual public interest.
 2. Monitor and ensure the use of force investigation is conducted in a thorough, methodical, and efficient manner.

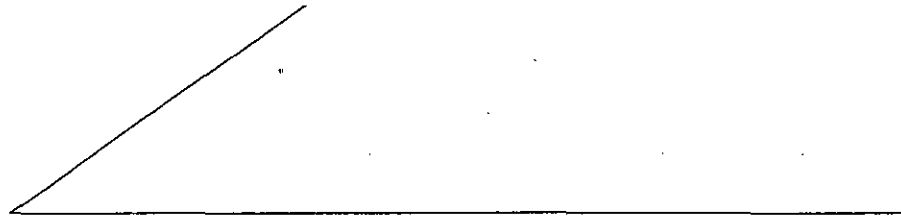


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V. LEVEL 3 FORCE INCIDENTS

A review of a Level 3 force incident conducted by a supervisor or commander to assess the appropriate reporting level.

A. Involved or witness personnel to the use of force shall:

1. Notify and brief their supervisor immediately or as soon as practical. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified.
2. Every member or employee who uses or witnesses a level of force requiring a Level 3 investigation shall independently complete the appropriate Offense or Supplemental Report;

The member or employee who uses force shall include the following minimum information regarding the use of force incident in their Offense or Supplemental Report:

- a. The original reason for police presence on the scene;
 - b. The circumstances that resulted in the use of force; and
 - c. A detailed description of the force used.
3. Personnel who are assigned to assist at the scene shall complete a Supplemental Report if directed by a supervisor, commander or investigator.

B. Supervisor/Commander Responsibilities

Respond to the location of the incident unless community unrest or other conditions make such response impracticable. In such instances, an alternate safe location shall be arranged; and

1. Secure the scene, if necessary;
2. Coordinate the apprehension of the suspect, if still outstanding;
3. Discuss the general circumstances of the incident with the involved personnel and witnesses to assess the appropriate reporting level, the need for resources, and to assess whether injuries, if present, are consistent with the force applied;

4. Conduct a personal interview with the subject(s) upon whom the use of force was used to include a written or recorded statement, when possible.
5. The responding on-scene supervisor or commander may authorize a Level 3 use of force incidents to be reported as a Level 4 when there is no injury to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance, allegation of misconduct, and no indication the use of force was out of policy. Affirmative approval shall be made by signing the approval box on the Use of Force Report - Part 3a. The following Level 3 use of force incidents may be considered:
 - a. A Taser® is fired at a person, but misses;
 - b. Oleoresin Capsicum (OC/Pepper Spray) or other chemical agent applied to a person;
 - c. Any impact weapon, including specialty impact munitions, or any other instrument is used in an attempt to strike another person but no contact is made;
 - d. A baton used for a non-striking purpose (e.g., prying limbs, moving or controlling a person); or
 - e. A Weaponless Defense Technique other than control holds, excluding strikes to the head, to include:
 - 1) Hand/palm/elbow strikes;
 - 2) Kicks;
 - 3) Leg sweeps; and
 - 4) Takedowns.

In the event the Watch Commander is involved in a Level 3 use of force incident enumerated above in Part V, B, 5, a-e, he/she shall contact his/her immediate superior officer to determine the appropriate level of reporting. If a Level 3 investigation is determined, the superior officer has the discretion to respond to the scene to conduct the investigation or assign another investigator.

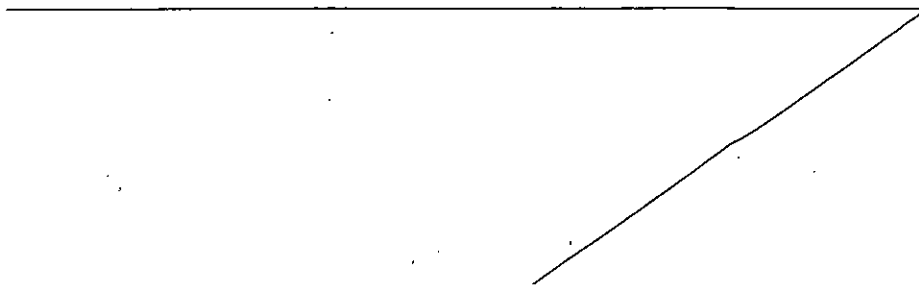
6. Level 3 reporting shall include documentation of the following:
 - a. The absence of injuries to the subject;
 - b. A description of the injury not requiring emergency medical treatment or hospital admittance; or
 - c. Any injury to OPD personnel and any medical care or treatment provided.
7. Assess any complaint of injury and consider it as a factor toward elevating the Level 3 force to a Level 2 force investigation.
8. Ensure photographs are taken of the subject and involved member/employee to record the presence or absence of injuries, the location of the incident, and other relevant evidence. Document the reason why photographs were not taken.
9. Ensure digital photographs or film are submitted and processed utilizing one of the following procedures:
 - a. Digital – Copy digital files to a compact disk, handle and submit as evidence, and list as evidence in the Use of Force Report; or
 - b. Film – Submit film for processing utilizing a Photo Evidence Card (536-317). Complete the appropriate boxes on the card. Additionally, ensure the following information is on the card:
 - 1) Comments box – Indicate “Use of Force” & RD No. & “Put on CD”;
 - 2) Send To box – “To IAD Administrative Supervisor.”
10. Interview available witnesses at the scene.

NOTE: Written/recorded statements are not required for a Level 3 force incident.
11. Contact Communications Division and advise the Communications Supervisor, or in his/her absence, the on-duty Police Communications Supervisor, to enter the use of force into the Daily IAD Incident Log.

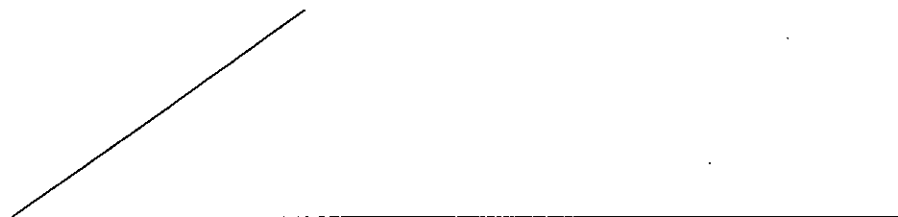
12. Ensure personnel complete a Supplemental Report who were witnesses to a Level 3 force incident or were assigned to assist at the scene.
13. When a supervisor, commander or investigator directs personnel not to complete a required report, the reason shall be documented in the Use of Force Report.
14. Conduct a thorough review of all documents to be included in the Use of Force Report packet to ensure completeness, accuracy, and quality.
15. Ensure the appropriate Offense or Supplemental Report contains the following minimum information regarding the use of force incident:
 - a. The original reason for police presence on the scene;
 - b. The circumstances that resulted in the use of force;
 - c. A detailed description of the force used; and
 - d. Document the number of bursts, duration of each burst, the approximate distance from the subject, and the location of spray contact, when OC is used.
16. Incomplete or inadequate reports shall be returned for additional details or clarification.
17. Prepare a Use of Force Report (TF-967) in accordance with the provisions of RWM Insert U-1, USE OF FORCE REPORT, unless otherwise directed by a commander or investigator.
18. Ensure the Use of Force Report packet contains:
 - a. The original Use of Force Report to include a Chronological Activity Log and Use of Force Checklist;
 - b. A copy of the appropriate report (e.g., Offense Report or field contact card); and
 - c. Copies of ancillary documents, if necessary (e.g., statements (if any), Supplemental Reports, Technician Reports, Detail, CAD purge, available medical information obtained, and photographs, if available).

19. Email only the face sheet of the Use of Force Report to the following, prior to the end of tour of duty:
 - a. opdiad@oaklandnet.com;
 - b. bfoadmin@oaklandnet.com;
 - c. Involved member or employee's Division Commander; and
 - d. Involved member or employee's Bureau Deputy Chief/Director.
20. Ensure the original Offense Report and ancillary documents are deposited in the Report Writing Receptacle in an In-Custody or Case Envelope.
21. If notified of an allegation of unreasonable force, the supervisor shall conduct a preliminary investigation.
 - a. If there is corroborating evidence that unreasonable use of force occurred, the supervisor shall conduct a Level 2 force investigation and initiate an internal investigation.
 - b. If there is no corroborating evidence that unreasonable use of force occurred, the supervisor shall document the results of the preliminary complaint investigation in the narrative of the Use of Force Report.
22. Retain an electronic copy of the Use of Force Report until documented in the member/employee's annual performance appraisal.
23. Complete and forward the Use of Force Report packet, within seven (7) calendar days, through the appropriate chain-of-review³. The due date may be extended with the approval of the reviewing Division Commander and shall be documented in the Chronological Activity Log.

³ For the purpose of this order, the appropriate chain-of-review refers to the chain-of-command under which the involved member was working during that tour of duty when the force incident occurred.



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VI. LEVEL 4 FORCE INCIDENTS

A self-reported use of force.

A. Involved Personnel Responsibilities

1. Notify and brief their supervisor immediately or as soon as practical. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified.
2. Complete a Use of Force Report (TF-967) in accordance with the provisions of RWM Insert U-1, USE OF FORCE REPORT or when authorized by a supervisor or commander.

A narrative shall be included in the Use of Force Report if no other required Offense or Supplemental Report is completed.

3. The member or employee who uses force shall include the following minimum information regarding the use of force incident in their Offense, Supplemental, or Use of Force Report:
 - a. The original reason for police presence on the scene;
 - b. The circumstances that resulted in the use of force; and
 - c. A detailed description of the force used.
4. Place the original Use of Force Report and, if applicable, the appropriate Offense Report and ancillary documents in an In-Custody/Case Envelope and deliver to his/her immediate supervisor or, if unavailable, to an on-duty supervisor for review prior to the end of tour of duty.

B. Supervisor/Commander Responsibilities

1. When contacted by involved personnel, supervisors shall review the general circumstances of the incident with the involved personnel as necessary, and ensure the facts are consistent with the reporting level. Supervisors are not required to respond to the incident.

2. Prior to reducing a Level 3 use of force incident to a Level 4, the approving supervisor shall ensure there is no injury to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance, allegation of misconduct, and there is no indication the use of force was out of policy. Affirmative approval shall be made by the supervisor by signing the appropriate box on the Use of Force Report - Part 3a.
3. If notified of an allegation of unreasonable force, the supervisor shall conduct a preliminary investigation.
 - a. If there is corroborating evidence that unreasonable use of force occurred, the supervisor shall conduct a **Level 2** force investigation and initiate an internal investigation.
 - b. If there is no corroborating evidence that unreasonable use of force occurred, the supervisor shall document the results of the preliminary complaint investigation in a Risk Management Memorandum if no Use of Force Report is completed.
4. **Level 4** incidents do not require witness identification.



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VII. LEVEL 1 FORCE INCIDENTS INVOLVING AN OUTSIDE AGENCY

- A. A Level 1 force incident occurring outside the City of Oakland
1. Upon notification, the Watch Commander shall:
 - a. Send an on-duty supervisor to the jurisdiction in which the incident occurred unless the distance makes it impractical. The supervisor shall remain with the member(s) during the investigation by the outside agency;
 - b. Notify the BOI Deputy Chief who shall determine if Homicide investigators are to be called-out; and
 - c. Notify the IAD Commander who shall determine if IAD investigators are to be called-out.
 2. The law enforcement agency which has jurisdiction, in which the incident occurred, shall have incident command and primary criminal investigation responsibility. The Homicide Section shall only assume primary criminal investigation responsibility upon the request of the outside agency.
 3. Homicide Section investigators shall request to attend the interview of OPD personnel, unless the distance involved makes this impractical.
 4. IAD investigators shall request to monitor the interview of OPD personnel, unless the distance involved makes this impractical.
- B. A Level 1 force incident involving outside agency personnel within the City of Oakland
1. The Homicide Section shall conduct the criminal investigation for the following incidents:
 - a. Any use of force resulting in death;
 - b. Any intentional firearm discharge at a person regardless of injury;
 - c. Any force which creates a substantial risk of causing death;

- d. Any unintentional firearms discharge if a person is injured as a result of the discharge; or
 - e. Any use of force incident referred by a Watch Commander.
2. The outside agency may assist at the discretion of the BOI Deputy Chief.



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VIII. COMMAND REVIEW AND ENDORSEMENT

A. Ah reviewers shall:

1. Review the Use of Force Report packet and evaluate the Use of Force Report and ancillary documents for completeness, accuracy, and quality and ensure reports do not contain "Boilerplate" or "Pat" language without descriptive or explanatory details of the action. Return any reports that are incomplete or inadequate and ensure corrections are made;
2. Order further investigation or additional investigative resources when necessary;
3. Evaluate and document whether the use of force was in compliance with Departmental policy and comment on any training and tactical issues, when appropriate; and
4. Document extension approvals by the reviewing Division Commander on the Use of Force Chronological Activity Log. The Division Commander shall ensure the IAD and BFO Administrative Unit are notified of any approved extensions.
5. Complete, endorse, and sign a Use of Force Report Signature Page (TF-967c) and forward the Use of Force Report packet within four (4) calendar days.

B. Level 1 Force Review Responsibilities

1. The Homicide Section Commander shall:
 - a. Ensure a follow-up investigation is conducted and the assigned Homicide investigator prepares a Follow-up Investigation Report (336-201) in accordance with the provisions of Homicide Section Policy and Procedure 01, LEVEL 1/IN-CUSTODY DEATH INVESTIGATIONS.
 - b. Review and forward the approved Follow-up Investigation Report to the IAD within 45 calendar days of the incident, unless extended by the BOI Deputy Chief in accordance with the provisions of Homicide Section Policy and Procedure 01.

2. The IAD Commander shall:
 - a. Ensure IAD investigators have conducted a concurrent use of force investigation and prepared a Use of Force or In-Custody Death Report in accordance with the provisions of RWM Insert U-1 and IAD Policy and Procedure 05-04 within **60** calendar days of the incident, unless extended by the Chief of Police.
 - b. Review and forward the approved Use of Force or In-Custody Death Report packet to the BOS Deputy Chief and Chief of Staff, within **15** calendar days from receipt, unless extended by the COP in accordance with the provisions of IAD Policy and Procedure 05-04.
 - c. Provide an oral report to the COP within 24 hours of the incident.
3. Chief of Staff (COS)
 - a. Enter data from the Use of Force/In-Custody Death Report face sheet into a log upon receipt;
 - b. Track the Use of Force/In-Custody Death Report due date to ensure the timeliness of the investigation, and ensure the BOS Deputy Chief has received the Use of Force Report packet and information necessary to conduct the EFRB. Contact the IAD Commander and ascertain the delay if not received within **76** calendar days of the incident and notify the COP of the delay.

C. Level 2 and 3 Force Review Responsibilities

1. Reviewing Commanders shall:
 - a. Review and forward all approved Use of Force Report packets through the Division Commander to BFO Administration Unit.

NOTE: BFO Administration Unit shall receive and track ALL Use of Force Report packets, regardless of originating unit.

- b. If a training issue arises from a Level 3 incident, the Division Commander shall ensure training is conducted and a Training Memorandum is completed and forwarded to the Training Division for input into the Training Management System (TMS).

AND/OR

- c. Training is requested from the Training Division, through a Training Memorandum, when it cannot be accomplished at the division level. Training Division personnel shall input completed training in the TMS.
- d. If a Department-related service recommendation (e.g., policy revision, equipment evaluation, new Department publication) arises from a Level 3 incident, the Division Commander shall prepare and forward a recommendation memorandum through the chain-of-command to the Chief of Police.

2. BFO Administrative Unit shall:

- a. Notify the appropriate commander if the Use of Force Report packet has not been received within **16** calendar days of the incident.
- b. Review the Use of Force Report;
- c. If the Use of Force Report is remrned for additional follow-up or clarification, the due date may be extended, as needed, by the BFO Administrative Supervisor and documented in the Chronological Activity Log.
- d. Forward completed Use of Force Report packet to the IAD, within four (**4**) calendar days of receipt of a completed packet.

D. Level 4 Force Review Responsibilities

1. Reviewing supervisor:

- a. Conduct a thorough review of all documents to ensure completeness, accuracy, and quality.

- b. Ensure the appropriate Offense, Supplemental, or Use of Force Report contains the following minimum information regarding the use of force incident:
 - 1) The original reason for police presence on the scene;
 - 2) The circumstances that resulted in the use of force; and
 - 3) A detailed description of the force used.
 - c. Incomplete or inadequate reports shall be returned for additional details or clarification.
 - d. Ensure the Use of Force Report has an Incident number. Advise the Communications Division Shift Supervisor to enter the use of force into the Daily IAD Incident Log.
 - e. Ensure the original Offense Report and ancillary documents are deposited in the Report Writing Receptacle in an In-Custody or Case Envelope.
 - f. Upon approval, sign the appropriate Level 4 Reviewer box on the Use of Force Report; and
 - g. Ensure the Use of Force Report packet contains:
 - 1) The original Use of Force Report (No Chronological Activity Log or Use of Force Checklist is required);
 - 2) A copy of the appropriate report (e.g., Offense/Supplemental Report or field contact card); and
 - 3) Copies of statements (if any).
 - h. Forward the original Use of Force Report packet to the first-level commander for review, prior to the end of tour of duty.
2. The first-level commander shall:
- a. Review the original Use of Force Report packet. If the Use of Force Report is returned for additional follow-up or clarification, the due date may be extended, as needed, and documented in the Chronological Activity Log.

- b. Upon approval, sign the appropriate Level 4 Reviewer box on the Use of Force Report; and
- c. Forward approved Use of Force packet to the BFO Administrative Unit within four (4) calendar days of approval.

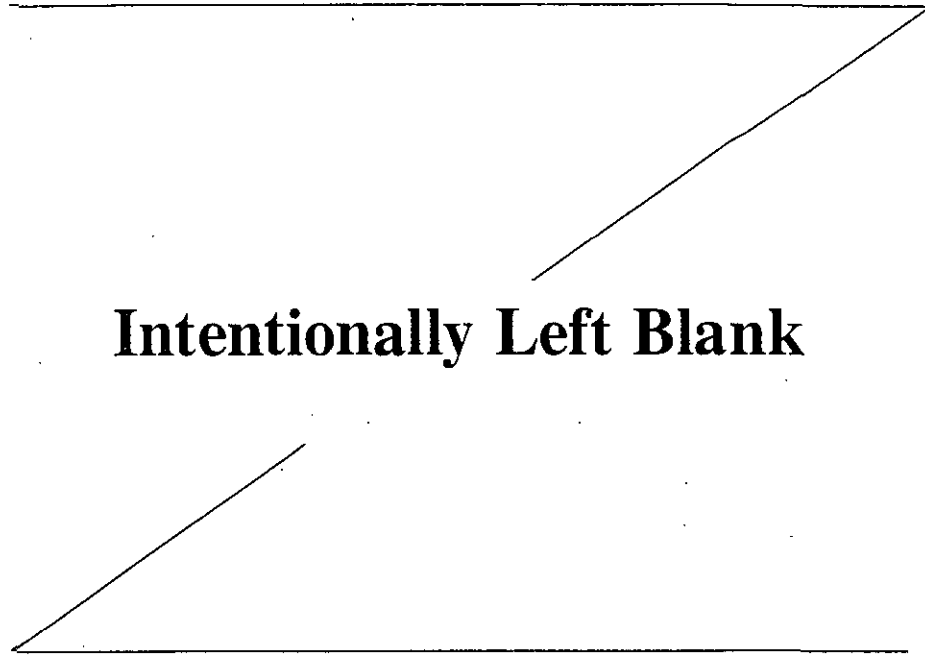
In the event the Watch Commander prepares a Level 4 Use of Force Report, he/she shall forward the report to the BFO Administrative Unit.

E. IAD

Upon receipt of a Level 2-4 Use of Force Report, IAD shall assign a Use of Force Tracking Number to and enter the Use of Force Report information into the appropriate database, and scan the file into electronic format. IAD shall retain a hardcopy and an electronic file of the Use of Force Report packet.

Additionally, IAD shall forward the entire electronic file of Level 2 Use of Force Report packets, via email or appropriate media, to the Training Division Commander and the Chief of Staff within four (4) calendar days of receipt.

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IX. RISK MANAGEMENT

The purpose of documenting risk management issues is to ensure a proper preliminary investigation is conducted and notification of the incident is made to the IAD (for units outside of the IAD) when any of the incidents enumerated in Part I, B, 2-4 occur.

The supervisor shall:

- A. Respond to the scene;
- B. Ensure the involved member documents the circumstances of the incident in the appropriate report;
- C. Obtain an Incident Number from the Communications Division;
- D. Conduct a preliminary investigation;
 1. If the preliminary investigation reveals corroborating evidence that the use of force occurred, the supervisor or commander shall conduct a Level 2 force investigation⁴, initiate an internal investigation in accordance with the provisions of DGO M-3, and notify the Watch Commander;
 2. The Watch Commander shall contact the IAD to determine if a call-out is warranted;
 3. If the preliminary investigation reveals no corroborating evidence that the alleged use of force occurred, the supervisor or commander shall document the results of the preliminary complaint investigation in the narrative of the Use of Force Narrative Report (Level 2-4) or a Risk Management Memorandum if no Use of Force Report is completed.
- E. Risk management documentation shall include:
 1. A summary of the incident;
 2. Written or recorded statement(s) from the complainant, injured person, and witnesses, if practical;

⁴ The IAD shall include risk management documentation in a Level 1/In-Custody Death Report.

3. Indicate complainant was:
 - a. Advised of their right to file a complaint with CPRB;
 - b. Provided with a Complaint Packet (TF-3208); and
 - c. Provided with the Incident Number.
 4. Photographs;
 5. Documentation of evidence collected or reason why evidence was not collected.
 6. Offense or Supplemental Report(s) from involved personnel; and
 7. Other pertinent documents (if available).
- F. Contact the Communications Division Shift Supervisor, at the conclusion of the preliminary investigation, and provide the following information:
1. Complainant's name (for verification);
 2. Time contact made with complainant;
 3. Name of Watch Commander/Unit Commander notified; and
 4. Disposition of complaint.
- G. If a Level 2-4 Use of Force Report is being prepared, check the "Risk Management Advisement" box on the Use of Force face sheet
- For Level 4 force incidents only:
1. The officer who used the force shall prepare a Use of Force Report.
 2. The notified supervisor shall prepare a Use of Force Narrative Report to include the required elements enumerated in Part IX, A-F.
 3. Include in the Use of Force Report packet.

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- H. When no Use of Force Report is required, the notified supervisor shall prepare a Risk Management Memorandum to include the required elements enumerated in Part IX, A-F.
- I. Forward the Use of Force Report packet or the Risk Management Memorandum with documentation, through the appropriate chain-of-review to the IAD.

By order of

Wayne G. Tucker
Chief of Police

Date Signed: _____



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FORCE REVIEW BOARDS

The purpose of this order is to set forth Departmental policy and procedures for police boards to review Level 1 and 2 force investigations, in-custody death, and vehicle pursuit-related death incidents. The Department convenes two distinct force review boards to accomplish this objective.

I. FORCE REVIEW BOARDS

Force Review Boards are convened to evaluate force investigations, in-custody death, or vehicle pursuit-related death investigations, and any related administrative or criminal investigation. The Board shall determine whether the force used was in compliance with Departmental policies and procedures and will identify any policy revision, training, tactical or other issues related to the use of force. The Chief of Police may direct a Board to review any use of force incident.

A. Force Review Board (FRB)

The FRB is convened to review the factual circumstances surrounding Level 2 Force incidents.

B. Executive Force Review Board (EFRB)

The EFRB is convened to review the factual circumstances surrounding any Level 1 force, in-custody death, or vehicle pursuit-related death incidents. A firearm discharge at an animal shall be reviewed by the EFRB only at the direction of the Chief of Police.

C. Authority of Force Review Boards

Force Review Boards shall have the authority to:

1. Direct Department personnel to appear before the Board;
2. Request any private person to appear as a witness;

3. Access all relevant documents, records, recordings including any video, audio, and text messages and/or transcripts of interviews of all involved personnel on the scene, including private person witnesses, as provided by law; and
4. Recommend findings by majority vote and refer sustained findings to the Discipline Officer.

D. Board Member Training

The Training Division Cominander shall ensure that all permanent board members receive continuing professional training as described below.

1. Force Review Board
 - a. Departmental force policies, force application, and practices including demonstrations of the proper techniques;
 - b. Departmental force investigation procedures;
 - c. Criminal and administrative investigation techniques, practices, and standards presented by the Internal Affairs Division (IAD) and Crhninal Investigations Division (CID) Commanders; and
 - d. Legal updates on force case law presented by representatives from the Office of the City Attorney (OCA) and District Attorney's Office.
2. Executive Force Review Board
 - a. All training required for the FRB; and
 - b. Officer-involved shootings, vehicle pursuit-related publications, and in-custody death investigations.

II. CONVENING FORCE REVIEW BOARDS

The Force Review Boards are convened to review all Level 1 and 2 force, in-custody death, and vehicle pursuit-related death investigations.

Review boards shall not be convened if any use of force incident is being investigated by the IAD (for unnecessary force) until the internal investigation is completed.

- A. IAD shall provide the investigative files listed below, within four (4) calendar days of receipt or IAD approval for a Level 1 investigation, to the following:
1. Chief of Staff (COS) (ocop@oaklandnet.com) – The Use of Force (UOF), In-Custody Death (ICD), or Vehicle Pursuit-Related Death (VPRD) Report packet;
 2. FRB Chairperson (Training Division Commander) – Use of Force Report packet; or
 3. EFRB Chairperson (Bureau of Services (BOS) Deputy Chief) – UOF, ICD, VPRD Report packet.
- B. Board Chairpersons
1. The FRB Chairperson shall convene a FRB within 90 days of receipt of the Use of Force Report packet from the IAD;
 2. The EFRB Chairperson shall convene a EFRB within 45 days of receipt of the UOF/ICD/VPRD Report from the IAD.
- C. The COS shall track the stams of all force review boards to include:
1. Date of the board;
 2. Date the Force Review Board Report is submitted to the Chief of Police; and
 3. Findings and recommendations of the Board.
 4. Implementation of the approved recommendations in accordance with the provisions in Part V of this order.



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III. FRB and EFRB MEMBERSHIP

A. The FRB is comprised of the following participants¹:

1. Voting Board Members
 - a. Training Division Commander (Serves as Chairperson and is responsible for the Force Review Board Report);
 - b. Bureau of Field Operations Deputy Chief; and
 - c. Use of force policy expert.
2. Non-voting Board Members
 - a. Appropriate subject matter expert;
 - b. Deputy City Attorney;
 - c. A member of the Field Training Officer program;
 - d. Department Safety Coordinator; and
 - e. An uninvolved Patrol Division Sergeant designated by the BFO Deputy Chief (replaced at least annually).
3. Presenters
 - a. Preparer of the Use of Force Report;
 - b. Involved personnel, as directed by the Chairperson; and
 - c. Other personnel, as directed by the Chairperson.

B. The EFRB is comprised of the following participants:

1. Voting Board Members:
 - a. Bureau of Services Deputy Chief (Chairperson and responsible for the Force Review Board Report);
 - b. Bureau of Field Operations Deputy Chief; and
 - c. Bureau of Investigations Deputy Chief
2. Non-voting Board Members:
 - a. Discipline Officer;
 - b. Deputy City Attorney;
 - c. Use of force policy expert;

¹ Any member unable to attend shall designate an appropriate replacement.

- d. Appropriate subject matter expert;
 - e. Training Division member; and
 - f. Division commander/manager of subject.
3. Required Presenters
- a. IAD representative;
 - b. Homicide Section representative; and/or
 - c. Traffic investigator (if VPRD).
4. Additional Personnel

The Chairperson may direct additional personnel to participate in the EFRB, as necessary, as non-voting members.



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IV. FRB and EFRB RESPONSIBILITIES

A. Review Board Preparation

1. EFRB

The EFRB Chairperson shall ensure each voting member receives the following information within seven (7) calendar days of the Board.

a. Executive Force Review Board Binder

- 1) Use of Force, In-Custody Death, or Vehicle Pursuit-Related Death Report;
- 2) Homicide Follow-Up Investigation, when appropriate; and
- 3) Vehicle Pursuit Report, when appropriate.

b. Electronic Copies

- 1) Appropriate offense report;
- 2) Ancillary documents:
 - a) Vehicle Collision Report, when appropriate;
 - b) Follow-up investigation;
 - c) Supplemental Reports;
 - d) Technician Reports; and
 - e) Written statements;
- 3) Transcripts of recorded statements;
- 4) Daily Detail of involved personnel;
- 5) Communications Division audio tape;
- 6) In-car data capture system electronic file, if available;
- 7) CAD purge;
- 8) Medical/Coroner reports;

- 9) Scene diagram;
 - 10) Photographs;
 - 11) Training and use of force history of involved personnel; and
 - 12) Applicable Department policies and publications;
- c. Additionally, the EFRB Chairperson shall ensure all documents/information enumerated in Part IV, A, 1, a-b, are provided electronically to non-voting members within seven (7) calendar days of the Board.

2. **FRB**

The FRB Chairperson shall contact the IAD within 24 hours of the scheduled Board to ascertain whether a force complaint is pending. If a force complaint is pending, the FRB Chairperson shall notify the COS and reschedule the Board after the completion of the internal investigation.

The FRB Chairperson shall ensure FRB voting members are provided electronic copies of the following within seven (7) calendar days of the Board:

- a. The Use of Force Report;
- b. A copy of the appropriate offense report;
- c. Ancillary documents:
 - 1) Supplemental Reports;
 - 2) Technician Reports; and
 - 3) Written statements;
- d. Detail of involved personnel;
- e. Communications Division audio tape, if necessary;

- f. In-car video management system electronic file, if available;
 - g. CAD purge;
 - h. Medical reports, if available;
 - i. Photographs;
 - j. Training and use of force records of involved personnel;
 - k. Applicable Department policies and publications; and
3. The FRB and EFRB Chairperson shall ensure all persons participating in the FRB or EFRB sign a confidentiality agreement.

B. Force Review Board Procedures and Responsibilities

The FRB Chairperson shall preside over the review of the use of force incident, to include but not limited to, the following:

1. A presentation and review of the use of force investigation report and all relevant documents and materials;
2. A discussion regarding:
 - a. Applicable policy;
 - b. Relevant tactics;
 - c. Current practices and training;
 - d. Additional follow-up by the investigating supervisor or the IAD; and
 - e. Questions from Board members.
3. If additional follow-up is required, the FRB shall advise and direct the investigating supervisor or the IAD of the specific issues to be addressed and assign a due date not to exceed 30 calendar days.

The FRB shall be re-convened for a vote upon completion of the follow-up investigation.

4. Deliberate whether the use of force was in compliance with Departmental policy and/or whether other policy violations occurred and the need for:
 - a. Policy revision or the promulgation of new directives;
 - b. New or updated equipment;
 - c. Any recommendation for commendations or awards as a result of exemplary conduct during the incident under review; and
 - d. Additional training:
 - 1) Individual (non-disciplinary corrective measures);
 - 2) Specialized including training for use of force investigators; and
 - 3) Departmental-wide.
5. A vote regarding policy compliance:
 - a. If a majority vote for non-compliance is reached, the Board shall identify the violation and *MOR* section and determine whether it is a Class I or Class II violation;
 - b. If the violation is a Class I offense or a Class II offense that demonstrates a pattern of misconduct, or a single Class II offense which threatens the rights of private persons and/or the well-being and reputation of Departmental personnel and/or the Department, the Board shall recommend and forward a sustained finding for the applicable *MOR* section and to the Discipline Officer
 - c. A Discipline Conference shall be scheduled within 30 days by the Discipline Office to determine the appropriate disciplinary action to be taken.
6. Follow-up of Board recommendations shall be accomplished in accordance with the provisions of Part V of this order;
7. Any referral to CID, if criminal misconduct is discovered; and

8. The need for a referral to IAD of any additional allegations of misconduct that were identified during the review that cannot be resolved without further investigation.

C. Executive Force Review Board Procedures and Responsibilities

The EFRB Chairperson shall preside over a review of the use of force, in-custody death, vehicle pursuit-related incident, to include but not limited to, the following:

1. Presentations by the IAD, Homicide Section and/or Traffic Investigation Section regarding the Use of Force or Vehicle Collision Report and follow-up investigation. The presentations may include scene diagrams, scene videos, and photographs;
2. A discussion regarding:
 - a. Applicable policy;
 - b. Relevant tactics;
 - c. Current practices and training; and
 - d. Questions from Board members.
3. Deliberate whether the use of force was in compliance with Departmental policy and/or whether other policy violations occurred and the need for:
 - a. Policy revision or the promulgation of new directives;
 - b. New or updated equipment;
 - c. Any recommendation for commendations or awards as a result of exemplary conduct during the incident under review; and

- d. Additional training:
 - 1) Individual (non-disciplinary corrective measures);
 - 2) Specialized including training for use of force investigators; and
 - 3) Departmental-wide.
4. A vote regarding policy compliance:
 - a. If a majority vote for non-compliance is reached, the Board shall identify the specific violation and *MOR* section and determine whether it is a Class I or Class II violation;
 - b. If the violation is a Class I offense or a Class II offense that demonstrates a pattern of misconduct, or a single Class II offense which threatens the rights of private persons and/or the well-being and reputation of Departmental personnel and/or the Department, the Board shall recommend and forward a sustained finding for the applicable *MOR* section to the Discipline Officer.
 - c. The Discipline Officer shall conduct a Discipline Conference in accordance with the provisions of Training Bulletin V-T, DEPARTMENTAL DISCIPLINE POLICY, immediately following the Board review to determine the appropriate disciplinary action.
 - d. In the event the chain-of-command of the subject wishes to present mitigating or aggravating circumstances to the Discipline Officer, they must attend the Discipline Conference.
5. Follow-up of Board recommendations shall be accomplished in accordance with the provisions of Part V of this order; and
6. The need for a referral to IAD of any additional allegations of misconduct that were identified during the review that cannot be resolved without further investigation.

D. Force Review Board Report (FRB and EFRB)

1. The Chairpersons shall ensure a Force Review Board Report is prepared and hand deliver the original to the Office of the Chief of Police within 30 calendar days after the Board adjourns.
2. The Force Review Board Report shall contain the following:
 - a. Summary of the incident;
 - b. Summary of Board's deliberations;
 - c. One of the following recommended findings to the Chief of Police regarding the use of force:
 - 1) Compliant with policy; or
 - 2) Not Compliant with policy.
 - d. Misconduct identified or discovered during the review;
 - e. Non-disciplinary corrective measures to be taken;
 - f. Whether proper tactics were used;
 - g. A determination as to whether the incident (including any follow up) was properly supervised, investigated and documented;
 - h. A draft Departmental publication summarizing the incident and, if appropriate, identifying training or equipment issues (ex; Officer Safety or Information Bulletin);
 - i. Recognition of superior tactics or techniques;
 - j. Recommendations to acquire new equipment; and
 - k. Recommendations to develop or revise Departmental policy and procedures.

3. The Chief of Police shall review each Force Review Board Report and endorse each report. If the Chief of Police disagrees with the Board's findings or recommendations the basis for such disagreement shall be documented.
4. Upon endorsement by the Chief of Police, the COS shall distribute copies of the Force Review Board Report with the appropriate redactions to:
 - a. Bureau Deputy Chiefs/Director;
 - b. Chain-of-Command of involved member or employee;
 - c. Each involved member or employee;
 - d. Office of Inspector General;
 - e. IAD; and
 - f. Training Division Commander.
5. The Office of the Chief of Police shall forward the endorsed original Force Review Board Report to the IAD who shall enter the findings of the specific Board, make adjustments, as necessary to the database, and maintain a copy of the Force Review Board Report.



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V. BOARD RECOMMENDATION FOLLOW-UP

- A. If the Force Review Board Report contains approved recommendations for non-disciplinary corrective measures for specific personnel (e.g., training, referral to counseling) it shall be assigned to the appropriate Deputy Chief by the Chief of Police.

The assigned Deputy Chief shall ensure the approved recommendations are implemented. Prepare and forward a memorandum documenting the completion of the recommendations to the Board, and COS within 60 calendar days of receipt, unless extended by the Chief of Police. Training recommendations require a Training Memorandum indicating the successful completion of training and shall be forwarded to the Training Division for input into the Training Management System (TMS).

- B. If the report contains approved Department-related service recommendations (e.g., policy revision, equipment evaluation, new Training Bulletin) such tasks shall be assigned to the Bureau of Services (BOS) Deputy Chief by the Chief of Police.

The BOS Deputy Chief shall implement the approved recommendations and present a status update to the command staff on an on-going basis at Management Assessment Program meetings. Recommendations shall be placed on the agenda as deliverables until completed.

- C. The COS shall monitor and document (and advise the COP of the status of) the implementation of Board recommendations and advise the COP when:

1. Implementation is completed;
2. An extension has been requested and the reason for the extension request; or
3. Implementation has not been completed within 60 calendar days and no extension has been requested.

VI. RECORDS RETENTION AND REPORTING

- A. The IAD shall merge the original FRB and EFRB Reports and additional documents/material placed in the Force Review Binder or packet with the Control File. IAD shall retain the file consistent with its records retention policy.
- B. The IAD shall conduct periodic use of force activity review and analysis in accordance with the provisions of IAD Policy and Procedure 05-01.
- C. The FRB and EFRB shall conduct an annual review and analysis of all uses of force and in-custody death investigations examined in the prior year to identify any patterns and practices that may have policy or training implications.

The Board Chairperson shall prepare and distribute the annual analysis report by the end of the first quarter of the following year to the Chief of Police and Bureau Deputy Chiefs.

- D. The IAD shall serve as the custodian of records for the original Use of Force, In-Custody Death, or Vehicle Pursuit-Related Death Report packet and original Force Review Board Report, where appropriate.

By order of

Wayne G. Tucker
Chief of Police

Date Signed: _____

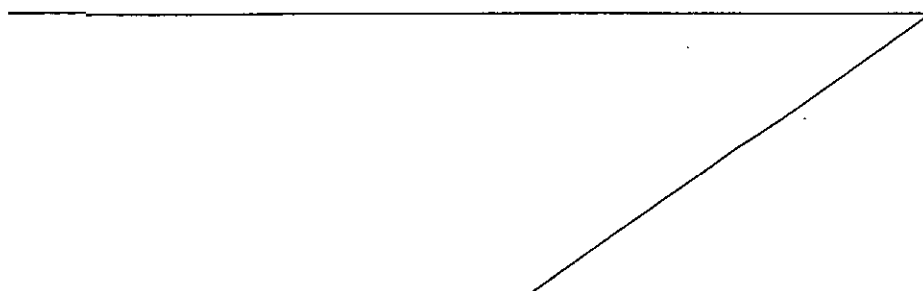
REVISION RECORD

The page numbering format has been revised to facilitate updating and tracking revisions to publications contained in this Handbook.

When a minor revision is made to a publication, the 'Revision Number' will be indicated on the Special Order and shall be accompanied by the updated page(s). The 'Revision Date' and 'Reference Page Number(s)' shall be recorded in the appropriate box on the same line as the indicated 'Revision Number'. Ensure that all pages that are provided are replaced since reformatting may occur to accommodate revision(s)


When it is necessary to make major policy or content revision, the publication shall be rewritten in its entirety. The 'Revision Number' and 'Revision Date' shall be indicated on the new order. The 'Revision Date' shall be recorded in the appropriate box on the same line as the indicated 'Revision Number'. The term 'NEW' shall be recorded in the 'Reference Page Number(s)' box to indicate the promulgation of a new order.

Revision Number	Revision Date	Reference Page Number(s)	Revision Number	Revision Date	Reference Page Number(s)
1	1 Aug 07	NEW	16		
2			17		
3			18		
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5			20		
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TRAINING		BULLETIN
Date of Issue / Revision: 18/Aug/03		Index Number: V-0 Alpha Index: Officer Involved Shooting
<i>"Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy."</i>		

Officer Involved Shooting

Introduction

An Officer Involved Shooting (OIS) occurs when the following criteria are met:

- An on or off-duty officer purposely discharges a firearm at another person.
- An on or off-duty officer purposely discharges a firearm and, through some misadventure, the discharge causes the death or injury of another person.

For example, an OIS occurs if an officer discharges his or her firearm at a deranged animal, and the slug ricochets and injures or kills a bystander.

- An on or off-duty officer accidentally discharges a firearm, and the discharge causes the death or injury of another person.

The discharge of a firearm at an approved range or while an officer is engaged in lawful recreational or hunting activities requires no investigation.

The discharge of a firearm under conditions which do not meet the criteria for an OIS but which are not included in the exceptions listed in the preceding paragraph are investigated by a Watch Commander or Unit Commander for review by the Chief of Police.

The discharge of a firearm under conditions which meet the criteria for an OIS is the subject of this Training Bulletin. All OIS incidents are investigated by the Homicide Section for review by the Chief of Police.



Officer Involved Shootings are rare but can have significant consequences, which include the loss of life, risk to an officer's career, the City's exposure to civil suits, strained police-community relations, and the economic and social crises that attend civil disturbances. Because of these potential ramifications, the circumstances surrounding an OIS must be determined in a timely manner and with the utmost concern for thoroughness, accuracy, procedural consistency, and the individual rights of all persons concerned.

When an officer discharges a firearm, the Department must ensure that the firearm was fired within the constraints of the law and within Department guidelines as articulated in General Order K-3, *Use of Force*, and Training Bulletin III-X, *Deadly Force and Vehicles*. Any violation of pertinent laws or rules undermines the public support and credibility that the Oakland Police Department needs to function effectively.

The investigation of an Officer Involved Shooting, fatal or not, places extraordinary demands upon the individuals involved and upon the Department. An OIS attracts considerable media and public interest. Some citizens will express doubt about the propriety of the Department conducting an investigation of injuries or fatalities whose occurrence involved its own officers. The Department must balance the public's right to know with investigative necessity, the right to privacy, and the right to a fair hearing or trial. Officers can expect civil action to arise from an OIS with such issues prominently presented.

When an officer acts within the law, an OIS investigation that is above reproach protects the officer and the City from unwarranted criticism and from adverse decisions in civil actions.

The OIS investigation is also the instrument for filing charges against a surviving criminal. Equally important, the OIS investigation is included in the documentation used to discipline, terminate, or charge an officer who violates a Department General Order or the law in the discharge of his or her weapon.



Overall Description

"Involved" Officer

An officer at the scene when an OIS occurs is considered an "involved officer" if he/she discharges a firearm or directly participates in the action that results in the discharge of a firearm.

An officer, supervisor, or command officer can be an "involved" officer without discharging a firearm. A supervisor or command officer is an "involved officer" if he or she orders an officer to discharge a firearm or sets in motion some tactical condition(s) that, once achieved, authorizes an officer to discharge a firearm.

An officer at a security post or on the perimeter of an OIS scene is not considered an "involved officer" unless he/she meets the criteria identified above.

Any "involved officer" will be relieved of his/her OIS scene duties as soon as it is tactically and logistically feasible.

To thoroughly and accurately determine the circumstances of an OIS, Department staff treat all involved officers identically, regardless of which officer actually discharged a firearm.

When members or employees investigate an OIS, the rules of evidence and Miranda considerations apply. Because the investigation is not administrative, the Peace Officers Bill of Rights does not apply. (The Peace Officers Bill of Rights is applicable during the Firearm Discharge Board of Review. See Department General Order K—4, *Reporting and Investigating the Use of Force.*)

Justifiable Homicide

California Penal Code Section 196 defines justifiable homicide by public officers and states the following:

Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance, either:

1. In obedience to any judgement of a competent court, or
2. When necessarily committed in overcoming actual resistance to the execution of some legal process or in the discharge of any legal duty, or
3. When necessarily committed in retaking felons who have been rescued or have escaped or when necessarily committed in arresting persons charged with a felony and who are fleeing from justice or resisting such arrest.



Protection of Human Life

At any scene involving personal injury, performing life-saving measures is of the highest priority if those measures can be performed in a manner which is tactically sound and does not endanger officers or others.

The Oakland Police Department believes that the value of human life is immeasurable. ~~The apprehension of criminal offenders and the protection of property must at all times~~ be subordinate to the protection of life. An officer's responsibility for protecting life includes protecting his or her own.

Steps in this Training Bulletin are listed under the staff person or unit responsible for the step's completion. Depending upon OIS circumstances, the sequence in which steps are completed may vary.

Communications Division

Communications Division personnel shall summon required personnel to the OIS scene and broadcast a description of outstanding suspects, vehicles, and / or witnesses.

1. Upon notification of an OIS, Communications Division personnel shall summon a Police Service Area (PSA) Sergeant, preferably for the PSA in which the OIS occurred, and two patrol units to the scene. Additional units may be assigned if circumstances indicate the need. If someone is injured, Communications Division shall summon medical response units and the Fire Department to the scene.
2. Upon notification of an OIS, Communications Division shall inform the Watch Commander.
3. As requested by the PSA Sergeant or an officer at the OIS scene, Communications Division shall broadcast a description of any outstanding suspects, vehicles, and / or possible witnesses.
4. As requested by the PSA Sergeant, Communications Division shall summon additional officers, technicians, and/or special units to the OIS scene.
5. Communications Division shall save the digital video recording (DVD) which records all calls and radio traffic related to the OIS.

Upon approval of the City Attorney and District Attorney, investigators shall instruct the Communications Division to release the DVD recording for continued storage.



Police Service Area (PSA) Sergeant

The PSA Sergeant is the primary scene supervisor. If the PSA Sergeant is not available, the Watch Commander shall assign another sergeant to supervise the OIS.

Although circumstances may require the PSA Sergeant to delegate to other officers some of the duties listed below, the PSA Sergeant remains responsible for seeing that all assigned duties are completed.

1. Upon arrival, the PSA Sergeant requests information about the OIS from officers at the scene. The officer's(s') physical and emotional well being is important.
2. If there is any question that an officer is injured, the PSA Sergeant shall arrange for the officer's transport to the appropriate medical facility.

An officer uninvolved in the shooting shall accompany the involved officer. They shall not discuss the OIS. The PSA Sergeant shall direct the uninvolved officer to request a copy of the involved officer's medical treatment record for the investigadon packet. The involved officer's permission shall be requested in order to obtain the medical treatment record.

3. The PSA Sergeant shall request a Public Safety Statement from the officer(s) involved in the shooting.

A Public Safety Statement is a verbal statement elicited to help determine the general circumstances of the shooting; assess the need for resources and notificadons; and to help set the perimeter, locate injured persons, and determine the nature of the evidence to seek.

The Public Safety Statement identifies the number of suspects involved in the incident, the number of suspects outstanding, and the number and direction of shots fired. The PSA Sergeant does not ask the involved officer(s) to provide a step-by-step narrative of the OIS or to provide a motive for his/her actions.

4. The PSA Sergeant requests the Communications Division to broadcast a description of any outstanding suspects, vehicles, and/or possible witnesses.

When communicating with Department personnel about issues other than the requisition of resources, the PSA Sergeant—or his/her designee—may use a cellular telephone or the patrol vehicle's Mobile Data Terminal.

Police radio broadcasts are often monitored by the press, suspects, and other interested parties. Cellular telephone transmissions may be monitored. The Mobile Data Terminal is a secure means of communication. However, Mobile Data Terminal transmissions are subject to discovery pursuant to the Pubhc Records Act.



5. The PSA Sergeant shall appoint an officer to be the reporting officer for the OIS.
6. The PSA Sergeant ensures that the scene is secure and entry is restricted.

If possible, the Sergeant assigns personnel to keep a log recording all persons entering and exiting the scene. The log also records identifying information of responding ambulances, medical units, and fire department vehicles, including the names of each unit's crew members.

When work at the scene is completed, the log is delivered to the responding investigators for inclusion in the investigative packet.

7. With consideration for the involved officer's safety, the PSA Sergeant shall separate any officer(s) involved in the shooting and request him/her not to discuss the incident until contacted by the assigned investigators.

If possible, the officer(s) involved in an OIS should remain at the scene until the arrival of the investigators.

If the officer(s) involved in the OIS does not require treatment, but bystanders are directing hostile actions toward him/her, the Sergeant may direct an uninvolved officer to immediately transport the involved officer(s) to the Police Administration Building (PAB), Criminal Investigation Division.

8. The PSA Sergeant shall inform the Watch Commander whether anyone was struck at the OIS.

So informed, the Watch Commander shall request Homicide Investigators to the OIS scene. If any person was struck, the Watch Commander shall request Internal Affairs Division (IAD) Investigators to the OIS scene.

9. As needed, the PSA Sergeant shall request Communications Division to summon additional officers to help with witnesses, scene control, and/or hospital follow-up; technicians to record and collect evidence; and/or special support units.



10. As additional personnel arrive, the PSA Sergeant—or his/her designee—briefs all officers, technicians, and investigators of their scene assignments.

Officers, technicians, and investigators can better protect the site from contamination by paramedic, fire, and other police personnel if the officers, technicians, and investigators are informed of the incident's circumstances.

The PSA Sergeant directs all police personnel responding to the OIS to turn in a Supplemental Report and all other related reports to the reporting officer before the end of the shift.

If a suspect is injured, the PSA Sergeant arranges for a technician to recover any of the injured suspect's clothing. The clothing may be at the OIS site and/or at a hospital.

If a suspect is hospitalized, the PSA Sergeant assigns an officer to accompany the suspect to the hospital and monitor the suspect and document any spontaneous or unsolicited statements the suspect makes.

11. The PSA Sergeant ensures the officer's vehicle and his/her personal property within the vehicle is secured.

The PSA Sergeant ensures that the involved officer's car is not moved or disturbed until the technician and/or investigators determine the car's evidentiary value.

12. The PSA Sergeant directs the taking of statements from all potential, civilian witnesses.

To the extent resources allow, officers shall take signed statements from all persons at the scene, whether or not the person(s) heard or saw anything.

Officers shall deliver completed, signed statements to the reporting officer

An officer uninvolved in the OIS transports to the CID witnesses identified by the PSA Sergeant or investigators as having significant information about the OIS. Witnesses can refuse to cooperate with the investigation and must consent to be transported to another location (See Point of View, Winter 2003, *Detaining Witnesses*).



13. Using the following guidelines, the PSA Sergeant directs a search for evidence at the OIS site:

- a. Officers may search the scene for other victims, witnesses, or suspects.
- b. Officers may search the scene with consent of the individual having the legal standing to authorize the search.

c. Officers may search the scene if the victim is a fatality and is the sole occupant of the residence at which the shooting occurred.

d. Officers may search the scene under the authority of a search warrant.

If a scene is secure, officers leave any discarded weapons in place for collection by a technician. If a shooting officer still has his/her gun, leave the gun in its holster for transfer at the PAB to a technician. Officers should take care not to disturb the condition of any trace evidence that may be present.

14. When investigators have completed a review of the scene, the PSA Sergeant assigns an officer uninvolved in the OIS to transport to CID the officer(s) involved in the OIS.

The driver uses a car other than the car of the involved officer. The driver shall not talk with the involved officer(s) about the OIS. In particular, the driver neither congratulates nor criticizes the involved officer on the use of force.

15. Before going off duty, the PSA Sergeant shall turn in a Supplemental Report to the reporting officer



Technician

The Technician records and collects evidence at the site of the OIS and at the PAB. The Technician's duties and responsibilities include those listed below:

1. As instructed by the PSA Sergeant, the Technician recovers any of an injured suspect's clothing, either at the OIS scene and/or at the hospital (except when death has occurred and the Coroner's Office has custody of the body).
2. The Technician collects discarded firearms at the OIS scene.
3. The Technician draws a chalk circle around the location of the officer at the location where the discharge occurred and an arrow out from the circle to indicate the direction(s) the round(s) travelled.
4. Upon initially entering the OIS scene, the Technician conducts a standard scene assessment and shall be responsible for fulfilling all the needed functions appropriate to scene processing.

These functions consist of, but are not limited to, those listed below:

- a. Overall scene photographs including all involved officers and designated significant witnesses.
 - b. A scene walk-through with all appropriate documentation.
 - c. Dehneauon and documentation of all items with potential physical evidence value.
 - d. Appropriate collection techniques for all indicated items of physical evidence.
 - e. A comprehensive and scaled scene diagram that shall include all bullet trajectory paths, if more than one shot was fired, as well as accurately illustrating the location of all items of interest.
5. The Technician photographs all involved officers in uniform or other clothing worn by the officer at the time of the incident.
 6. The Technician takes photographs from the location of each significant witness at the time of the incident to validate what the witnesses say they could or could not see. If at all possible, these photographs are taken under the same conditions as were present at the time of the OIS incident.
 7. The Technician tags, packages, and transports to the Property and Evidence Unit all appropriate evidence.



8. At the PAB, the Technician takes possession of the involved officer's weapon(s).

The Technician informs the officer(s) that the weapon(s) is required as evidence.

The officer is issued another weapon before he/she returns to duty.

9. As reports are completed, the Technician shall turn in the original of each Technician's Report to Records Division and a copy to investigators for inclusion in the investigative packet.
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Watch Commanders

The duties in this section are the responsibility of the on-duty Watch Commander

The Watch Commander supervises the PSA Sergeant and ensures the OIS scene is secured, supervised, and staffed in accordance with Department policy. Although circumstances may require the Watch Commander to delegate to other officers some of the duties listed below, the Watch Commander remains responsible for seeing that all assigned duties are completed. The Watch Commander shall complete the tasks listed below:

1. Based on information received from the PSA Sergeant, the Watch Commander shall request Homicide Investigators for any OIS and IAD Investigators if any person was struck during the OIS.

If a fatality occurs or is expected to occur as a result of the OIS, the Watch Commander notifies the Alameda County District Attorney's Office and the Department's City Attorney representative (OCA). Whether to respond to the incident or not is at the discretion of the City Attorney's representative.

The Watch Commander confers with the Homicide Section Commander regarding the number of investigators required to staff the investigation.

2. The Watch Commander shall visit the OIS scene.
3. The Watch Commander shall make notification of the OIS to the Chief of Police; the City Manager; the Deputy Chief, Bureau of Field Operations; the Deputy Chief, Bureau of Investigation; the Patrol Division Commander; and the PSA Commander for the geographic location.



Homicide Section Investigators

Homicide Section Investigators investigate the circumstances of the OIS. Homicide Investigators shall complete the following tasks:

1. Upon arrival at the OIS scene—
 - a. Investigators meet with the Homicide Section Commander in order to perform a complete and impartial review of the scene.
 - b. Investigators observe the scene, review the evidence, consult with the PSA Sergeant, review statements taken, consult with the technician(s), and/or conduct preliminary interviews of witnesses.
 - c. Investigators select significant witnesses and obtain the witnesses' consent to be taken to the PAB. Investigators determine the evidentiary value of the officer's car and authorize its release or removal for further processing.
2. At the PAB, investigators interview and tape-record significant witnesses.
3. At the PAB, investigators separate the involved officer(s).

If a peer support officer has been summoned, the peer support officer can accompany the involved officer.

The investigator shall ask the officer if he/she wants the representation of a private attorney or an attorney provided by the bargaining unit's Legal Defense Fund (LDF).

If the officer wants legal representation, the officer may call an attorney or LDF. If the officer requests a private attorney, the attorney is expected to reach the PAB within two hours.

Since the involved officer(s) may be one of the last persons to be interviewed, he/she can expect some delay before the interview begins. If the officer is capable, he/she is expected to give a statement about the OIS before going off-duty.



4. Investigators interview the officer(s) involved in the shooting.

At the start of the interview, the investigator advises the officer of his/her Miranda rights. The interview is tape recorded. The Homicide Section Commander participates in the interview.

If the OIS involves a fatality or an expected fatality, the District Attorney's Shooting Team is ~~present and participates during the interview.~~

If, on the advice of his/her attorney, the officer refuses to give a statement about the OIS, the officer turns in a Crime Report about the pre-shooting crime before going off duty—or supplies the information to a Reporting Officer so a report can be completed. The officer may consult his/her attorney before turning in the Crime Report about the pre-shooting crime.

If an officer is unable to give a statement at the time of the OIS, the officer is expected to give a statement within 48 hours of the OIS unless medical conditions prevent him/her from doing so.

5. Homicide investigators shall not participate in any statement when the subject officer is given a Lybarger Warning or a representative of Internal Affairs Division or the Office of the City Attorney is present.

(Lybarger v. City of Los Angeles (1985) 40 Cal. 3d 822, 221 Cal. Rptr. 529.) A peace officer may be questioned by his Department about suspected misconduct even if he is also suspected of criminal misconduct; however, he may not be charged with insubordination for remaining silent in the interrogation unless he is warned (1) that he must cooperate with the interrogation or face disciplinary action and (2) that his statements given in response to this warning may not be used in criminal proceedings against him; Sec. 3303 (h) of the Government Code.)

6. At the interview's completion, investigators advise the officer for his/her own well being not to discuss the OIS with anyone except Department personnel assigned to the investigation; personnel from the Alameda County District Attorney's Office; and the officer's private attorney, psychologist, chosen clergy, and/or immediate family.
7. Investigators compile the investigative packet.



8. When the investigation is complete, investigators present the circumstances of the OIS to a representative of the Alameda County District Attorney's Office.

The District Attorney's Office determines if there is any criminal involvement on the part of any of the parties involved in the shooting.

At a later date, the Firearms Discharge Board of Review determines whether the shooting was Justifiable, Non-Justifiable, or Accidental.

9. Investigators complete a Follow Up Report detailing the investigation and deliver the report to the Section Commander
10. The Homicide Section Investigators shall provide a duplicate copy of all evidentiary materials to the Alameda County District Attorney's Office, the Internal Affairs Division, and the City Attorney's Office at the first available opportunity and within 72 hours.
11. The Homicide Section Investigators shall not solicit or receive any information or evidentiary materials from IAD or any other party responsible or involved in the administrative investigation of the OIS.



Internal Affairs Division Investigators

Whenever any party is struck by gun fire during an incident, the IAD investigators shall conduct a separate administrative investigation of the OIS. IAD investigators shall complete the following tasks:

1. Upon arrival at the scene, IAD investigators shall meet with the Homicide Section ~~Commander, who is their liaison for the OIS incident.~~

2. IAD investigators shall conduct a complete and impartial administrative investigation of the OIS.

The IAD investigation is conducted simultaneously, but not jointly, with the investigation of the Homicide Section and the Office of the District Attorney.

3. IAD investigators may receive information from the Homicide Section investigators or the District Attorney's staff, but IAD shall provide no information to either investigative function except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code (832.7 (a) P.C. Confidentiality of Peace Officer Personnel Records).
4. IAD shall provide investigative information concerning the conduct of police officers involved or present at the OIS or the Department to the Alameda County Grand Jury, the Alameda County District Attorney's Office, or the California State Attorney General's Office (832.7 (a) RC.).
5. IAD investigators may elect to interview witnesses, including witness officers, only after the Homicide Section and the Office of the District Attorney have completed their interviews of these persons.
6. IAD investigators shall receive a duplicate copy of all evidentiary materials in the possession of the Homicide Section relating to the OIS.
7. The IAD Liaison Officer is the point of contact for any administrative investigative body that seeks information on the OIS.



Homicide Section Commander

The Homicide Section Commander supervises the section investigators.

1. The Homicide Section Commander consults with the Watch Commander regarding the number of investigators required at the OIS scene.
2. The Homicide Section Commander is the contact person for IAD investigators and the Office of City Attorney (OCA) Representative.
3. The Homicide Section Commander shall participate in the interview at the PAB of the officer(s) involved in the shooting. He or she decides which investigators and which other command officer(s), if any, are involved in these interview(s).
4. The Homicide Section Commander shall place the involved officer(s) on Administrative Leave for up to three days if the OIS results in the serious injury or death of any person.

The Commander may also place the involved officer(s) on Administrative Leave if the OIS results in minor or no injuries to any person.

5. By the end of the second business day after the OIS, the Homicide Commander shall prepare an OIS (K-4) Memorandum, informing the Chief of Police of the facts, observations, and statement information about the OIS to date. The OIS Memorandum is delivered to the Office of the Chief of Police.
6. The Homicide Section Commander shall review and sign the Follow Up Report prepared by the investigators.

The Commander directs the original report be delivered to the Records Division and a copy placed in the investigative packet.

Reporting Officer

The reporting officer is responsible for completing the OIS Crime Report.

1. The reporting officer shall complete the Crime Report.

The Crime Report includes all Supplemental Reports completed by officers responding to the OIS.

2. The reporting officer shall deliver the original Crime Report to the Records Division and a copy of the Crime Report to investigators for inclusion in the investigative packet.



Addendum: Consequences of an OIS

Any officer involved in an OIS which results in the serious injury or death of any person will be placed on Administrative Leave for a minimum of three working days except under circumstances for which the Chief of Police deems some other assignment or duty status is in the officer's best interest (G.O. K-3, Section VI, Administrative Leave).

~~All other Administrative Leave is at the discretion of the officer's commander.~~

The Administrative Leave shall be without loss of pay or benefits and is not intended to imply or indicate that the officer acted improperly.

While on Administrative Leave, the officer must remain available at all times for official Department interviews and statements regarding the shooting and is subject to recall to duty at any time.

The Homicide Section will complete a Department Criminal Case Information Report (CCI) on the occasion of the OIS. The CCI usually identifies the officer involved in the shooting (*New York Times Company v. Superior Court (Thomas)* (1997) 52 Cal.App.4th 97, 103-04, 60 Cal.Rptr.2d 410, 413). The officer's photograph is not included in the CCI. The Department PIO may assist in handling news media inquiries.

Before returning to work, the involved officer shall be directed to attend counseling through Managed Health Network. Arrangements for this assistance shall be made by the Personnel Section Supervisor (G.O. K-3, Section VII, Counseling Services).

The Chief of Police may require an involved officer to submit to a Fitness for Duty examination before his/her return to full duty.

ATTACHMENT "E"

Oakland Police Department
Bureau of Investigation

Homicide Section - Policy & Procedure - HS - 01
Lethal Force/In-Custody Death Investigations

13 May 06

Index as: Lethal Force/In-Custody Death Investigations

I. PURPOSE

The purpose of this directive is to set forth Homicide Section policy and procedures for investigating any of the following Level 1 force or in-custody death incidents:

- A. Any use of force resulting in death;
 - B. Any lethal firearms discharge regardless of injury, except at a range when no injury occurs;;
 - C. Any force which creates a substantial risk of causing death;
 - D. Serious bodily injury, to include:
 - 1. Any use of force resulting in the loss of consciousness; and
 - 2. Protracted loss, impairment, serious disfigurement, or function of any bodily member or organ (includes paralysis).
 - E. Any intentional impact weapon strike to the head;
 - F. Any in-custody death; or
- Note: When an in-custody death occurs after a subject has left OPD custody, the Bureau of Investigations (BOI) Deputy Chief shall decide if an immediate callout shall be made.
- G. Any investigation elevated to a Level 1 or In-Custody Death by the Watch Commander.

II. MISCONDUCT

- A. If misconduct is discovered during Homicide's follow-up investigation, the person discovering the misconduct shall notify their supervisor and initiate an internal investigation in accordance with the provisions of Departmental General Order (DGO) M-3.

- B. If there is reasonable suspicion of criminal misconduct, the investigator shall continue the investigation and make the proper notifications in accordance with the provisions of DGO M-4.1.

III. CALL-OUT AND NOTIFICATION PROCEDURES

- A. Upon notification by the Watch Commander, the Homicide Section call-out team shall respond to the scene and make the appropriate notifications in accordance with the provisions of BOI Policy and Procedure 00-03, CALL OUT PROCEDURES.

- B. Additionally, a Homicide investigator shall make the following notifications for all Level 1 force and in-custody death incidents:

- 1. District Attorney's (DA) Office Standby Team

NOTE: The DA's Office will respond with their on-call shooting team to all fatal officer-involved shootings and other incidents as they deem necessary.

- 2. Office of the City Attorney (OCA);

NOTE: While on-scene, the responding City Attorney shall serve only in an advisory capacity to the Department and shall communicate only with the Incident Commander or his/her designee.

IV. ON-SCENE INVESTIGATIVE TEAMS

In addition to the Homicide Call-out team, the following investigative teams may be present at the scene:

- A. IAD Call-Out Team - Conducts an independent and concurrent administrative investigation. This investigation evaluates whether the use of lethal force or the in-custody death involved misconduct, evaluates compliance with Departmental policies, procedures, training and tactics, and risk management issues.

Additionally, the investigation shall cover any other misconduct associated with or resulting from the incident.

- B. The DA Call-Out Team - Conducts a parallel, but independent criminal investigation. The investigations are conducted in partnership with the DA; however, the appropriateness and extent of the joint investigations is solely up to the DA. The District Attorney's Office takes several months to complete their investigation and prepare a final report which determines whether the officer's actions were justified under the law.

V. SCENE RESPONSIBILITIES

- A. The Homicide Section Commander shall:
 - 1. Respond to the scene and take investigative command of the criminal investigation;
 - 2. Review the circumstances attendant to the incident for criminal misconduct;
 - 3. Meet with all members of the three investigative teams in order to conduct a briefing of the incident and a walk-through of the scene; and
 - 4. Ascertain from the on-scene supervisor that they have separated the involved and witness personnel, and other witnesses, and arranged for their transportation to CID or other appropriate location and has made arrangements to keep them separated until they have been interviewed.
- B. The assigned Homicide investigator(s) shall:
 - 1. Respond to the incident scene;
 - 2. Conduct a scene walk-through with the involved personnel (if still on-scene) and the investigative team members;
 - 3. Complete all investigative steps and document the investigation in a Follow-Up Investigation (FUI) Report (336-201) within 45 calendar days unless extended by the BOI Commander;
 - 4. Retain primary criminal jurisdiction over the case and shall cooperate fully with the assigned Deputy DA and other investigator(s), as appropriate.

5. Duplicate and provide all completed reports and documents to the DA's Office, the OCA, and the IAD, as necessary or upon request.
 6. Conduct a joint interview with appropriate staff from the DA's Office of the involved member(s), as necessary.
 7. Allow the member or employee, at their request, to have representation present during interviews.
- C. Be knowledgeable with the provisions of Miranda, Public Safety Officers' Procedural Bill of Rights (POBR), and Lybarger.

VI. FUI REPORT PREPARATION

- A. The FUI Report shall include, but not be limited to, the following information:
1. Date;
 2. Day;
 3. Time;
 4. Location;
 5. Beat;
 6. Incident number;
 7. RD number;
 8. Offense(s) involved;
 9. Member(s) involved;
 10. Weapons involved, if applicable;
 11. Type of force applied;
 12. Number of shots and distance of shots, if applicable;
 13. Results of shots (i.e., number of misses, number of wounds, or number of strikes resulting in death, if applicable);
 14. Other police equipment involved (i.e., vehicles, less-lethal, etc.);
 15. General information on the officer(s) involved (i.e., clothing and equipment);
 16. Suspect information;
 17. Suspect's weapon, if applicable;
 18. Supervisor on scene;
 19. Assigned investigator;
 20. Other officer(s) present;
 21. Witness(es) information;
 22. Recordings and/or transcripts of member and witness interviews;
 23. Videos, including any video-recorded witness statements;
 24. Cell phone records during relevant timeframes;

25. Forensics information, if available;
 26. Crime scene photographs;
 27. Coroner's report and/or medical reports, if available; and
 28. Scale drawings and diagrams of crime scenes, including maps of detailed area; direction and trajectory of discharged rounds; identification of which rounds from which weapons struck subjects; verifying background information on involved officer(s)
- B. Summary of the incident.
1. From whom statements were taken;
 2. Chronological Summary of the incident;
 3. Summarize the details of individual statements if they differ from the sequence of events provided in the summary; and
 4. Identify and resolve, when possible, all discrepancies between member(s) and employee(s) statements, witness statements, subject statements, evidence, and reports filed. If unable to resolve, document the discrepancy as an unsolved issue for the reviewer.
- C. Ensure the FUI Report packet contains the following:
1. The original FUI Report (w/cover letter);
 2. A copy of the appropriate offense report; and
 3. Copies of ancillary documents, if available (e.g., statements/transcriptions, if available, Details, CAD purge, available medical information obtained, and photographs).
- D. Ensure all requests for investigative materials are provided to the DA, OCA, and the IAD.
- E. Forward the completed FUI Report packet to the Homicide Commander for review.

VII. FUI REPORT REVIEW

- A. The Homicide Section Commander shall:
1. Prepare a cover letter to accompany the completed follow-up investigation to include an evaluation of whether the use of force or the in-custody death involved criminal misconduct; and

2. Direct investigators to have a copy of recorded statements, taken in a Level 1 force or an in-custody death investigation, forwarded to BOS Administrative staff for transcription and inclusion in the Force Review Board Binder.
 3. Duplicate and forward a copy of the FUI Report packet (to include the Homicide Section Commander's cover letter) to the Criminal Investigation Division (CID) Commander for review within 45 calendar days of the incident.
- B. The CID Commander shall review, endorse, and forward the FUI Report packet to the BOI Commander within three (3) calendar days of receipt.
- C. The BOI Commander shall review, endorse, and forward the FUI Report packet to the IAD within three (3) calendar days of receipt.

VIII. EXECUTIVE FORCE REVIEW BOARD PRESENTATION

The Homicide Section Commander or designee shall coordinate with the IAD Commander regarding presentation of the follow-up investigative findings to the Executive Force Review Board.

IX. REFERENCES

- A. TB V-O, Officer-Involved Shootings;
- B. DGO K-3; Use of Force Policy;
- C. DGO K-4; Reporting and Investigating the Use of Force;
- D. DGO K-4.1; Force Review Boards; and
- E. IAD P&P 05-04, Lethal Force/In-Custody Death Investigations.

Prepared by:

Approved by:

Jim Emery
Lieutenant of Police
Homicide Section Commander

Jeffrey A. Loman
Captain of Police
Criminal Investigation Division Commander

ATTACHMENT "F"

Oakland Police Department
Bureau of Investigation

Homicide Section Policy and Procedure 02
Officer Involved Shooting Interview

13 May 06

Index as: Officer Involved Shooting Interview

I. PURPOSE

To set forth standards and procedures for interviewing involved or witness members or employees in an Officer Involved Shooting (OIS) or In-Custody Death (ICD) investigation.

II. APPLICABILITY

This policy is applicable to all personnel assigned to the Homicide Section and will be provided to other Departmental personnel where criminal investigation of an officer or employee's actions are involved, and to use as a reference and training material.

III. RESPONSIBILITY

The Homicide Section Commander is responsible for ensuring that standards, procedures, and investigative inquiries in this policy are addressed, followed, and memorialized.

IV. THE INTERVIEW PROCEDURE

A. The Homicide Section Commander is in command of interviewing percipient witnesses, witness officers, and involved officers in an OIS or ICD investigation. The Homicide Section Commander shall designate which investigator is the primary investigator to lead the interview and who may participate in the interview process. The Homicide Section Commander shall ensure notes are taken during the interview, and ensure all OIS and ICD interviews are recorded.

B. The participants in the OIS interview may include:

1. The involved or witness officer or employee as the subject of the interview;

2. The Legal Defense Fund (LDF) Attorney or other representative for the involved officer or employee;
3. The primary investigator;
4. The secondary investigator;
5. The Deputy District Attorney from the Alameda County District Attorney's Office Shooting Team;
6. The Inspector from the Alameda County District Attorney's Office Shooting Team;
7. The Homicide Section Commander; and
8. The interview may be remotely monitored by an IAD investigator.

C. The OIS interview duties of the primary investigator are as follows:

1. The primary investigator shall introduce all of the people in the interview room to the officer.
2. The primary investigator shall explain the procedures involved in an OIS investigation to the officer and the LDF Attorney. The OIS incident is not discussed at this point. The primary investigator explains that one person at a time will question the subject. Also, the completed investigation will be reviewed by the Alameda County District Attorney's Office.
3. The primary investigator shall have a 'rough' diagram of the OIS scene. The 'rough' diagram displays the physical scene and depicts nothing that would influence the statement of the member or employee. This will enable the subject officer to describe and document their movements during the incident. The diagram is an official documentation of the investigation. A new or 'clean' diagram shall be used for each officer or witness interviewed. At the end of the interview the member or employee shall sign and date the diagram. The information on a completed diagram shall not be shared with other involved officers, employees, or witnesses to the OIS.

4. The primary investigator shall begin the interview by turning on the digital recorder and prepare to take notes. The primary investigator shall be responsible for monitoring the recorder and ensuring the entire interview is digitally recorded.
 5. The primary investigator will advise the involved officer or employee that their statement and cooperation into this criminal investigation is voluntary and that we are not compelling their testimony.
 6. The primary investigator shall be the lead questioner in the interviewing of the officer or subject. The primary investigator shall ask the mandatory questions noted in Section VI at the start of the interview to Department members or outside law enforcement officers being interviewed. The primary investigator shall then obtain information on the OIS or ICD incident.
 7. This is the officer or employee's statement. Investigators ask the questions to factually understand what took place at the OIS or ICD incident. Investigators shall avoid asking leading questions or providing information on what the 'right' response should be. Investigators shall never attempt to impact an officer or employee's statement based on the investigator's own opinion or preconceived opinions of what took place in the OIS or ICD incident.
 8. The primary investigator shall identify, consider, and resolve discrepancies in interviews and/or statements, if any, between members and employees, witnesses, subjects, and reports filed. If unable to resolve, document the discrepancy as an unresolved issue.
 9. After the primary investigator has questioned the person, he/she shall turn the questioning over to each person at the table, one at a time. The order should be the secondary investigator, the Homicide Lieutenant, the Deputy District Attorney, the District Attorney's Inspector, and then the LDF Attorney.
 10. The primary investigator shall ensure that there are no additional questions after the questioning is completed. The primary investigator shall afford the officer or employee an opportunity to add any pertinent information. The interview will be concluded and the recorder turned off. The digital recording shall be copied to a CD/DVD and becomes official documentation of the investigation.
- D. The secondary investigator shall take notes during the interview and aid the primary investigator in his/her assigned duties. It is acknowledged that the

complexity of this process necessitates a back-up investigator to aid in capturing and processing information quickly.

V. KEY INVESTIGATIVE POINTS

This investigation will be used by the Alameda County District Attorney's Office to decide if any subject involved in the incident has criminal liability.

- A. The following material addresses points that an investigator shall look for in the statement of an officer or employee.

For the purposes of this directive, the term officer is used and understood to mean officer or employee in an OIS.

1. Did the shooting or force application violate the law?
2. What brought the person(s) or situation to the officer's attention in the very beginning? Validate the reason for the first contact. One could be faced with a defense of life or a justifiable shooting situation, but it stemmed from an illegal stop or contact. In summary:
 - a. Address the legal validity, or lack thereof, of the core transaction. The reason the officer contacted the involved subject.
 - b. Proportionality of force used. Was the force reasonable and necessary?
 - c. Actions or a circumstance that would affect the subjective evaluation of this incident by witnesses, the District Attorney, and the courts.
3. Why did the officer fire the shot(s)? The important point here is the officer's STATE OF MIND.
 - a. Consider the objective legal standard: was the amount of force used reasonably necessary in light of the circumstances confronting the officer?
 - b. The statement that one was afraid for one's life is not enough. Why was the officer afraid? The officer should describe why he/she was afraid. The officer should paint a mental picture of why they feared for their safety if that was the reason the shots were fired.

- c. Was it reasonable for the officer to perceive the type of danger that he/she did?

Can the officer explain his/her decision to use deadly force or in an ICD, force that may have contributed to a death? The definition of when the authority to use deadly force is enumerated in Departmental DGO K-3, Use of Force.

4. Officer's Drawing of the Weapon.

- a. Was it necessary?
- b. Was it premature?
- c. Was it reasonable for the officer to believe that the situation called for him/her to draw the weapon?

VI. MANDATORY QUESTIONS

The checklist of mandatory questions (Appendix) shall be asked during the interview(s) of the involved subject officer(s) or subject employee and witness officer(s) or witness employee(s) in an OIS or ICD interview.

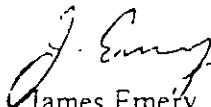
These questions will help structure the interview so the information is presented in a logical order and grouped by the subject matter. Knowledge from these questions provides background information and factors surrounding the shooting or force incident that are important.

The term officer is used in these questions and is understood to mean officer or employee in an OIS, which would likely involve just sworn members/officers, but an ICD could involve both members and employees.

VII. AFTER THE INTERVIEW IS COMPLETED

- A. The primary investigator shall advise the officer that their firearm will be taken for testing and advise the officer that their gun will be fired to make sure it is in proper working order and within specifications. The officer(s) shall be provided with a replacement gun, if necessary.
- B. Any personnel involved in a lethal use of force shall be placed on paid administrative leave for a period of not less than three (3) days, unless otherwise directed by the Chief of Police. The Incident Commander may recommend other personnel to be placed on paid administrative leave to the Chief of Police. The assignment to administrative leave shall not be interpreted to imply or indicate the member acted improperly. While on administrative leave, members shall remain available at all times for official Departmental business, including interviews and statements regarding the incident.
- C. The officer's commander/supervisor shall be notified by the primary investigator.
- D. It is mandatory that the subject officer schedule an appointment with an approved psychologist before returning to work. Appointments may be made through the Managed Health Network or through the Personnel Division.

Approved by


James Emery
Lieutenant of Police
Homicide Section

APPENDIX
Officer Involved Shooting Interview Checklist

Starting Interview

- Introduce all parties in interview to officer or employee.
- Have 'rough' scene diagram.
- Digitally record entire interview.
- One person at a time questions the officer or employee.
- Everyone at table will be allowed to ask questions.
- No leading or suggestive questioning.
- Follow-up questions on all inconsistent response(s).

Information Pertaining to the Officer

- The officer's name and serial number;
- The officer's age;
- Date of the officer's hire at OPD or employing agency, if an Outside Agency OIS;
- Other law enforcement experience, length of service, and which agency.
- Unit designation during the involved shift (Radio call sign).
- PSA/beat assigned during this shift and time period on PSA or beat.
- The officer's normal shift hours? Was he/she working OTW or an additional shift?
- Who is the officer's supervisor? Was it the same supervisor at the time of this incident?
- What training has the officer received that might be relevant to the OIS or ICD incident?
- Which is the officer's dominant hand; right, left, or is he/she ambidextrous?

Information on the Officer's Condition

- Any significant events in his/her shift occurring before the OIS or ICD incident?
- What was the last shift the officer worked prior to the shift on which the OIS or ICD took place?
- Any second jobs, schooling, or extended hours worked prior to the OIS or ICD shift?
- List any prescription and non-prescription drugs taken by the officer. When was the drug taken and the dosage?
- Were any alcoholic beverage consumed in the past 24 hours? List the beverage(s) and how much.
- Was there any medical condition that might have impacted the officer's judgment or physical abilities?

APPENDIX
Officer Involved Shooting Interview Checklist

- When was the last time the officer slept? How long and what hours?
- Did the officer receive any injuries during this incident? What are the injuries? Were they photographed and did a physician evaluate them? Does OPD have a copy of the medical treatment records?
- Does the officer wear glasses or contacts and were the items being worn during the OIS or ICD incident? Other vision problems?

The Officer's Uniform

- Full uniform description and confirm photographs were taken of the officer.
- Detail the equipment worn: full gun belt oleoresin capsicum spray, baton, flashlight, badge, uniform markings (wool or utility uniform), hat, and any special equipment.
- Was there any damage to the uniform or the equipment during the incident?
- The officer's holster is worn on which side of the body?
- In incidents of a gun taken away, do investigators have possession of the officer's holster and gun belt?
- In incidents of an ICD, do investigators have possession of the involved impact item(s), if any?

The Officer's Vehicle

- Vehicle number, make, and model?
- Vehicle markings (light, siren, painted, & etc.)?
- Does the officer normally drive this vehicle?
- "Lincoln" or "Adam" unit at the time of the OIS incident? Name of the other officer?
- This area should be expanded if the interview involves a pursuit by referring to Homicide Section Policy and Procedure 03, The Officer Involved Pursuit Interview.

APPENDIX
Officer Involved Shooting Interview Checklist

The Officer's Weapon

- Make, model and color of the officer's gun? Was it issued by the Department (OPD issues the Glock .40 Caliber, model 22). Was this the firearm fired by the officer?
- The caliber of the weapon?
- Any special modifications to the gun or equipment?
- Ammunition used in the officer's gun, caliber, type, and is it Department issue?
- Number of live rounds with which the weapon was loaded, including the chamber? This should be the same as the weapon's capacity (Glock Model 22 holds 15 in the magazine and 1 in the chamber, total 16).
- Was the officer trained in the use of an automatic pistol in the academy or by transition training? Other training if the weapon is a shotgun or rifle, etc.
- The date of the transitional training by the officer to the automatic pistol, if he/she remembers?
- Last qualification date for the officer (OPD qualifies with handguns twice a year)?
- Was the officer carrying any other firearm? If so, was the weapon fired?
- If the officer had a second weapon, repeat the questions that document that firearm (Make sure the technician also takes this weapon).
- The applicable questions shall be repeated for the involved weapon if other than a firearm discharge or if the incident is an ICD.

Officer's Communications

- Does the officer have a cellular telephone or other electronic communications device?
- What is the telephone number and/or E-mail address of the device?
NOTE: If it is a personally owned device, do not record this information during the interview, rather place it in the notes.
- Did the officer discuss the incident with others following the OIS?
- Was the discussion limited to information required:
 - o For a Public Safety Statement;
 - o To assist in the investigations; or
 - o To lead to the apprehension of the suspect?
- If so, to whom and by what means?

APPENDIX
Officer Involved Shooting Interview Checklist

Scene Conditions

- Location of the OIS?
- Weather conditions at the time of the shooting?
- Lighting condition at the time of the shooting?

QUESTIONS COVERING THE USE OF DEADLY FORCE

These questions shall be addressed during the interview of the involved subject officer(s) or witness officer(s). The questions may be asked directly or the information may be provided in the person's responses to previous or additional questions.

- Have the officer or employee sets the scene, time, date, location, and parties involved.
- Did the officer have any prior knowledge of the situation before the OIS or ICD took place?
- What brought the person or situation to the attention of the officer or employee? Validate the reason for the first contact.
- Did the officer have prior knowledge of the suspect(s) or witnesses?
- Did the officer have prior contact with any of the suspect(s) or witnesses?
- The officer's state of mind, what was he/she thinking?
- Can the officer articulate the imminent danger to himself/herself or another person?
- When did the officer draw his/her weapon, why?
- Could the officer have retreated to a position of cover?
- Why did the officer fire his/her weapon?
- How many shots did the officer fire and from how far away?
- Were the shots fired double or single action (a Clock is double action)?
- Were the shots fired with one hand, which one, or with two hands?
- What was the backdrop of the OIS? _____
- Were there any other alternatives to the officer before the use of deadly force, if so, when were they exhausted or seen as inappropriate?
- Which is the officer's dominant hand, right, left, or is the officer ambidextrous?
- Who relieved the officer of his/her weapon after the OIS incident?

APPENDIX
Officer Involved Shooting Interview Checklist

Ending the interview

The following two questions shall be addressed to the subject at the closing of the interview.

- is there anything that the officer thinks we need to know that has not been asked?
- Does the officer have any questions?
- End the interview, secure the digital recording.
- Have the officer or employee sign and date the 'rough' scene diagram.
- Copy the digital recording to CD/DVD. The recording, diagram, and notes become official documentation of the investigation.

Oakland Police Department
Criminal Investigation Division

Criminal Investigation Division Policy and Procedure 12-01

Date: 8 Jun12

Index as: Major Crimes Sections 1
Notification and Release of Information – Next of Kin

I. PURPOSE

The purpose of this directive is to set forth Section Policy and Procedures to ensure timely notification regarding the release of information to the next of kin of a subject involved in an Officer-Involved Shooting (OIS) or a victim of a murder.

II. POLICY

- A. The next of kin is determined by the Alameda County Sheriff's Office Coroner's Bureau and shall serve as the single point of contact for all communication originating from the assigned investigator.
- B. As soon as possible, investigators shall contact in person (if practical) the subject's next of kin and supply limited information on the facts surrounding the incident.
- C. The investigator shall provide his/her name, contact number, Report Number (RD), and the name of the secondary investigator to the next of kin.

The MCS 1 Commander or designee shall explain to the next of kin limited factual information concerning the incident and the separate investigations that will be conducted.

In the event of an OIS, the MCS 1 Commander or designee may, if appropriate, utilize the volunteer chaplaincy program to liaison with family members in appropriate cases contemporaneous with an incident.

III. PROCEDURE

- A. General requirements

The lead investigator(s) or his/her designee shall:

- 1. Contact the Alameda County Sheriff's Department's Coroner's Bureau to determine the subject's next of kin.
- 2. Contact the next of kin as soon as reasonably possible and request to meet him/her in person to discuss the case. In the event that the Coroner's

Bureau cannot determine the next of kin, the lead investigator shall make an earnest attempt to locate the next of kin.

If the next of kin cannot be determined and there are competing next of kin, the lead investigator, based on all known facts and with the concurrence of the Major Crimes Section Homicide Commander, shall make the determination.

3. Meet with the next of kin in person (if possible) and provide him/her with facts known to the investigator and which will not jeopardize the investigation.
4. I. In the case of an OIS , the MCS 1 Commander or designee , in addition to explaining limited factual information concerning the incident, shall make clear to the next of kin the separate investigations that will be conducted and their anticipated timelines:
 - a. Homicide investigation (criminal/OIS);
 - b. Alameda County District Attorney's Office (criminal/OIS);
 - c. Internal Affair Division (administrative/OIS); and
 - d. Executive Force Review Board (EFRB) process.

Approved by
Anthony K. Rachal
Captain of Police
Criminal Investigation Division

ATTACHMENT "H"

Oakland Police Department
Internal Affairs Division
Internal Affairs Policy and Procedure Manual

Policy 05-04

Date: 16 Jm 06

Procedures for Force and Death Investigations

Index as: Level 1 Force Investigations
In-Custody Death Investigations

I. PURPOSE

The purpose of this directive is to set forth IAD policy and procedures for investigating and reviewing incidents involving Level 1 force or an in-custody death.

II. POLICY

Designated IAD personnel shall respond to the following incidents:

- A. Any use of force resulting in death;
- B. Any intentional lethal firearm discharge at a person, regardless of injury;
- C. Any force that creates a substantial risk of causing death;
- D. Any force that causes the following serious bodily injuries:
 - 1. Loss of consciousness; or
 - 2. Protracted loss, impairment, serious disfigurement, or function of any bodily member or organ (includes paralysis).
- E. Any other firearm discharge incident at the direction of the Watch Commander;
- F. Any intentional impact weapon strike to the head; and
- G. Any in-custody death.

III. CRIMINAL MISCONDUCT

If any IAD personnel have a reasonable suspicion that a member or employee of the Department is involved in criminal misconduct, they shall advise the IAD Conunander who shall notify the Bureau of Investigations Commander in accordance with the provisions of DGO M-4.1, COORDINATION OF CRIMINAL INVESTIGATIONS INVOLVING ACTIVE LAW ENFORCEMENT, OR A MEMBER OR EMPLOYEE OF THE DEPARTMENT.

IV. CALL-OUT PROCEDURES

Upon notification by the Watch Commander, the IAD investigative call-out team shall respond to the scene and make the appropriate notifications in accordance with the provisions of IAD Policy and Procedures 05-01.

V. ON-SCENE INVESTIGATIVE TEAMS

In addition to the IAD Call-out team, the following investigative teams may be present at the scene:

- A. Homicide Section Call-Out Team - Conducts the criminal investigation. This investigation evaluates whether the use of lethal force involved criminal misconduct. Additionally, the investigation shall cover any crimes committed by the suspect leading up to the incident. The results of the investigation shall be presented to the District Attorney's Office for review.
- B. The District Attorney's (DA) Call-Out Team – May conduct a parallel, but independent criminal investigation. The investigation is conducted in parnership with the DA; however, the extent of the DA's role is solely up to the DA. The District Attorney's Office prepares a final report which determines whether the officer's actions were justified under the law. The Homicide Section investigators shall ensure the DA Call-Out Team is notified.

VI. SCENE RESPONSIBILITIES

- A. The IAD Investigation Section Commander shall:
1. Notify and brief the IAD Commander;
 2. Respond to the scene and command the on-scene administrative investigation;
 3. Meet with all members of the investigative teams at the scene in order to review the circumstances surrounding the incident and to coordinate a briefing of the incident and participate in a walk-through of the scene;
 4. Ensure that the involved personnel and witnesses have been separated and transportation has been arranged for them to be taken to the Criminal Investigation Division (CID) or other appropriate location consistent with respecting officer's rights and maintaining the integrity and impartiality of the investigation and kept separate until they have been interviewed; and
 5. Monitor the follow-up investigation and ensure the Level 1 Incident Checklist (TF-967f) and appropriate reports are completed and reviewed in a timely manner.
- B. The assigned IAD investigator(s) shall respond to the incident scene and conduct the appropriate investigation to include the following:
1. Ensure that involved personnel and witnesses have been separated and have been advised not to discuss the incident.
 2. Confer with the Homicide Section Commander and/or Homicide investigators regarding:
 - a. Scene security;
 - b. Crime scene processing plan;
 - c. Canvass for additional witnesses, as necessary; and
 - d. The completion of all other necessary investigative steps.
 3. Participate in a briefing and walk-through with the Homicide Commander and/or Homicide investigators.

4. Conduct a preliminary investigation with assistance from the Homicide investigators and Patrol Division, to include but not limited to:
 - a. Identifying involved and witness personnel;
 - b. Identifying the reporting officer;
 - c. Ensuring the preservation of evidence;
 - d. Identifying witnesses.
 - e. Identifying training and tactical issues;
 - f. Risk management issues; and
 - g. Compliance with Department policy.
5. Conduct a thorough review of all documents to be included in the Use of Force or In-Custody Death Report packet to ensure completeness, accuracy, and quality.

Reports should not contain "boilerplate" or "pat language" (e.g., "furtive movement" or "fighting stance," etc.).
6. Ensure the appropriate Offense or Supplemental Report contains the following minimum information regarding the use of force incident:
 - a. The original reason for police presence on the scene;
 - b. The circumstances that resulted in the use of force;
 - c. The precipitating act(s) leading to the use of force; and
 - d. A detailed description of the force used.
7. Incomplete or inadequate reports shall be returned for additional details or clarification.
8. Cooperate fully with the assigned Deputy District Attorney and other investigator(s), as appropriate.
9. Interviews
 - a. Monitor the interview of the involved member(s) and witnesses, as appropriate by the Homicide Section investigators. IAD investigators shall not participate in the Homicide Section interviews of involved personnel.

- b. IAD investigators shall ensure the Homicide Section investigators comply with the provisions of Homicide Section Policy and Procedure 02, OFFICER-INVOLVED SHOOTING INTERVIEW and obtain answers to ALL questions in the Officer-Involved Shooting Interview Checklist (HS-02, Appendix).
 - c. Non-compliance shall be immediately reported to the Homicide Section Commander.
 - d. Complete the Level 1 Incident Checklist.
 - e. Conduct follow-up interviews, as necessary to complete the investigation.
 - f. Investigators shall consult with the CID Commander prior to interviewing a suspect in a homicide, or serious violent felony.
- C. The Watch Commander shall resolve any investigative conflicts between any on-scene investigators.
- D. The IAD investigator assigned to a Level 1 use of force or in-custody death incident shall meet with the IAD Investigation Section Commander on the next business day after the incident to discuss:
- 1. The circumstances of the incident;
 - 2. Use of Force/In-Custody Death Report preparation; and
 - 3. Any concerns or issues that were observed.

VII. REPORT PREPARATION AND REVIEW

- A. The assigned IAD investigator shall:
- 1. Prepare a Use of Force (UOF) (TF-967) or In-Custody Death (ICD) (TF-3265) Report in accordance with the provisions of Report Writing Manual Insert U-1.

2. Assemble the appropriate report packet to contain:
 - a. A copy of the Homicide Section Follow-Up Investigation Report (336-201), if completed; AND
 - b. The Report of Investigation (ROI) shall include the items identified in the Level 1 Incident Checklist (TF-967f);
 - c. All appropriate Review and Signamre Pages (from all reviewers);
 - d. A printed Chronological Activity Log as entered in the IAD database;
 - e. The appropriate investigative checklist;
 - f. A copy of the appropriate Offense Report, if prepared; and
 - g. Copies of ancillary documents, if available (e.g., statements, Details, CAD purge, available medical information obtained, and photographs).
3. Email the UOF/ICD Report face sheet only (page 1 only) to the Chief of Staff in the Office of the Chief of Police at ocop@oaklandnet.com for tracking purposes within **24** hours of the incident.
4. Ensure all recorded statements from involved persormel, witnesses, and the subject of the use of force, taken by IAD investigators, in a UOF/ICD investigation are transcribed and included in the investigative file.
5. Submit the UOF/ICD Report packet for review through the IAD chain-of-command to the IAD Commander and the Office of the City Attorney (OCA) within **60** days of the incident, unless extended by the COP.

B. IAD Command Review

The IAD chain-of-command shall review and endorse the UOF/ICD Report packet within 15 calendar days of the completion of the investigation.

1. Report packets shall be reviewed for completeness, accuracy, and quality, and return any reports that are incomplete or inadequate;
2. Order further investigation or additional investigative resources when necessary;
3. Evaluate and document, when appropriate, whether the use of force was in compliance with Departmental policy and comment on any training, tactical, and other risk management issues; and
4. Complete and endorse the appropriate Review and Signature Page and forward the report packet to the next level of review, unless extended by the IAD Commander. Extension approvals shall be documented in the narrative of the appropriate Review and Signature Page and include the reason for the extension and a new completion due date.

C. IAD Administration Staff shall:

1. Enter the UOF/ICD Report information into the appropriate databases.
2. Scan and forward the electronic file of the UOF/ICD Report packet, as identified, to the following units/persons or as directed by the IAD Commander:
 - a. Chief of Staff in the Office of Chief of Police – Report of Investigation **ONLY**;
 - b. Office of Inspector General – Report of Investigation **ONLY**; and
 - c. BOS Deputy Chief (to prepare for the Executive Force Review Board) – Entire Packet.

- D. The IAD Investigation Section Commander shall:
1. Update the IAD Commander and Chief of Police on the status of all Level 1 investigations on a weekly basis; and
 2. Designate a presenter of the IAD UOF/ICD Report investigation and coordinate the Executive Force Review Board presentation with the Homicide Section.

VIII. ADDITIONAL REFERENCES

- A. DGO K-4, Reporting and Investigating the Use of Force.
- B. DGO K-4.1, Force Review Boards.
- C. Homicide Section Policy and Procedure 01, LETHAL FORCE/IN-CUSTODY DEATH INVESTIGATIONS.
- D. IAD Policy and Procedure 05-01, IAD GENERAL OPERATING PROCEDURES.

Approved by

Jeffrey H. Israel
Deputy Chief of Police
Internal Affairs Division Deputy Chief

ATTACHMENT "1"

LEVEL 1 INCIDENT CHECKLIST
For IAD Investigations Only
Oakland Police Department
TF-967f (6/06)



Date of Incident	CAD No./RD No.		
Subject Member/Employee	Serial No.	Investigating Supervisor	Serial No.

Complete in lieu of the Use of Force Checklist (TF-967d) and attach to the front of the investigative case file.

This checklist is to be used as a tool for IAD investigators and is not a comprehensive list for investigating and reporting.

The investigator shall check the appropriate box to indicate a "Task" has been addressed and documented in the Report of Investigation or included in an appropriate report, statement, or ancillary document. If a "Task" is not applicable, write "N/A" over the check box.

A. On-Scene Investigative Tasks

1.	<input type="checkbox"/> Respond to scene.
2.	<input type="checkbox"/> Ensure scene is secure – Double tape the scene (inner/outer perimeters).
3.	<input type="checkbox"/> Meet with Incident Commander and assigned Homicide investigators.
4.	<input type="checkbox"/> Review and assess overall conduct and behavior of personnel at the scene.
5.	<input type="checkbox"/> Ensure proper notifications are made to DA, OIG, OCA, IAD Commander.
6.	<input type="checkbox"/> Identify involved and witness members and employees: <input type="checkbox"/> a. Meet with involved and witness personnel on scene or as soon as practical to explain the investigative process. <input type="checkbox"/> b. Ensure involved personnel and (when appropriate) witnesses are transported to CID or other appropriate location; <input type="checkbox"/> c. Transported to CID or other appropriate location; <input type="checkbox"/> d. Ensure involved and witness personnel and other parties are separated. <input type="checkbox"/> e. Identify when and where they relocated to.
7.	<input type="checkbox"/> Identify suspect and current location (i.e., police car, CID, ACH, etc.).
8.	<input type="checkbox"/> Identify other witnesses and current location (i.e., police car, CID, ACH, etc.).
9.	<input type="checkbox"/> Identify reporting officer (uninvolved and not a witness) and current location (i.e., police car, CID, ACH, etc.).
10.	<input type="checkbox"/> Identify involved vehicles and location.
11.	<input type="checkbox"/> Ensure that all weapons involved are located and secured.
12.	<input checked="" type="checkbox"/> Ensure a reasonable canvass has been conducted for witnesses.
13.	<input type="checkbox"/> Participate in video recorded scene walk through.
14.	<input type="checkbox"/> Participate in a non-video recorded scene walk through with the technician.
15.	Become familiar with the scene to include: <input type="checkbox"/> a. Weather, temperature, and lighting conditions; <input type="checkbox"/> b. Backdrop at time of each discharge; <input type="checkbox"/> c. Location of all involved and witness members and employees, and other witnesses on scene at the time of each discharge or use of force; <input type="checkbox"/> d. Available cover and concealment for suspect and involved member or employee; <input type="checkbox"/> e. Description of structures and whether inhabited.
16.	<input type="checkbox"/> Ensure a Crime Scene Security Log is prepared.

B. Evidence and Technical Information – Ensure these tasks are performed by the Evidence Technician.

1.	<input type="checkbox"/> a. Ensure evidence technician is assigned to the scene and completes, at a minimum, the following: <input type="checkbox"/> 1. Prepare scale drawings and diagrams of crime scene to include the direction and trajectory of each discharged round, and identification of which rounds from which weapons struck subjects; <input type="checkbox"/> 2. Technician report; <input type="checkbox"/> 3. Identification of cars parked within the scene; <input type="checkbox"/> 4. Determine distances between suspect and involved officers at the time of each discharge.
2.	If involving a firearm discharge: <input type="checkbox"/> a. Results of shots (i.e., number of misses, number of hits); <input type="checkbox"/> b. Suspect's body position, if deceased at scene (position of head, hands, and feet); <input type="checkbox"/> c. Number of shots and distance between point of discharge and point of contact; <input type="checkbox"/> d. Location of bullet holes and strike marks; <input type="checkbox"/> e. Location of casings and magazines.
3.	<input type="checkbox"/> a. Ensure firearms and magazines of involved personnel are inspected and collected at CID; <input type="checkbox"/> b. Inspect and describe condition of firearms and magazine (e.g., ammunition left in magazine, damaged firearm and/or magazine, jammed round, safety on, if applicable); <input type="checkbox"/> c. Describe weapons (Suspect and officer);
4.	Evidence collected: <input type="checkbox"/> a. Document location of evidence; <input type="checkbox"/> 1. Suspect weapon recovered. <input type="checkbox"/> b. Photos taken: <input type="checkbox"/> 1. Suspect photos; <input type="checkbox"/> 2. Clothing of suspect, officer(s), victim, if necessary; <input type="checkbox"/> 3. Crime Scene (including body position); <input type="checkbox"/> 4. Nearby security camera – audio/video. <input type="checkbox"/> 5. Aerial; <input type="checkbox"/> 6. From perspective of involved personnel and witnesses, if necessary; <input type="checkbox"/> 7. Injuries or absence of injuries; <input type="checkbox"/> 8. Document reason if photos not taken. <input type="checkbox"/> c. Ensure a GSR test is performed, if appropriate. <input type="checkbox"/> d. Recover spent casings and bullets.
5.	<input type="checkbox"/> a. Collect entire gun belt at CID; AND <input type="checkbox"/> b. When taken, replace firearm w/ plainclothes holster.

C. Subject Officer Interview – Initial interviews are conducted by Homicide investigators.

1.	<p>Monitor & Review Homicide interviews</p> <ul style="list-style-type: none"> <input type="checkbox"/> a. Conduct follow-up interview, if necessary. <input type="checkbox"/> b. Identify and document (in ROI) leading questions by Homicide investigators.. <input type="checkbox"/> c. Identify and document (in ROI) bias or subjective investigative circumstances by Homicide and IAD investigators. (Ensure recusal letters are completed and included.)
2.	<p>Information pertaining to subject officer</p> <ul style="list-style-type: none"> <input type="checkbox"/> a. Name and serial number? <input type="checkbox"/> b. Age? <input type="checkbox"/> c. Date of sworn or Date of hire (if employee)? <input type="checkbox"/> d. Other law enforcement experience, if O/A, name of agency, length of service? <input type="checkbox"/> e. Current assignment? <input type="checkbox"/> f. Normal days off? /normal shift hours? <input type="checkbox"/> g. PSA and beat assigned/unit designation (call sign): <ul style="list-style-type: none"> <input type="checkbox"/> 1. Name of the passenger, if applicable? <input type="checkbox"/> h. Date and duty hours of this shift?. <input type="checkbox"/> i. Supervisor at time of incident? <input type="checkbox"/> j. OTW or extension of shift? <input type="checkbox"/> k. Regular supervisor? <input type="checkbox"/> l. Identify any relevant or special training, or expertise of subject officer?
3.	<p>Information on Officer's Condition</p> <ul style="list-style-type: none"> <input type="checkbox"/> a. Determine if any significant events in officer's shift occurred before the incident. <input type="checkbox"/> b. Determine the last shift the officer worked prior to the shift on which the incident occurred. <input type="checkbox"/> c. Last medication taken prior to the incident, or within the last 24 hours <input type="checkbox"/> d. Determine if any alcoholic beverage consumed in the past 24 hours. <ul style="list-style-type: none"> <input type="checkbox"/> 1. List the beverages(s) and how much. <input type="checkbox"/> e. Determine if any medical condition existed that might have impacted the officer's judgment or physical abilities? <input type="checkbox"/> f. Determine the last time the officer slept. <ul style="list-style-type: none"> <input type="checkbox"/> 1. Number of hours of sleep before start of current shift. <input type="checkbox"/> g. Determine whether the officer was injured during the incident. <ul style="list-style-type: none"> <input type="checkbox"/> 1. Describe the injuries; <input type="checkbox"/> 2. Obtain photographs; <input type="checkbox"/> 3. Ascertain if a physician or medical professional examined/evaluated the injuries; <input type="checkbox"/> 4. Obtain medical release, if necessary; <input type="checkbox"/> 5. Obtain medical records. <input type="checkbox"/> h. Need for corrective lenses – Yes/No?: <ul style="list-style-type: none"> <input type="checkbox"/> 1. Determine if corrective lenses were worn at the time of the incident. <input type="checkbox"/> i. Verify answers to the questions in Section 3 a-h, whenever possible.

C. Subject Officer Interview – Initial interviews are conducted by Homicide investigators.

4.	<p>Officer's Uniform and Equipment</p> <ul style="list-style-type: none"> <input type="checkbox"/> a. Full uniform description and confirm photographs were taken of the officer. <input type="checkbox"/> b. Detail the equipment worn: full gun belt, oleoresin capsicum spray, baton, flashlight, star, uniform markings (wool or utility uniform), patch, hat, ballistic vest and any special equipment. <input type="checkbox"/> c. Describe other police equipment involved (i.e., baton, asp, flashlight, less-lethal, etc.). <input type="checkbox"/> d. Describe any damage to the uniform or the equipment during the incident. <input type="checkbox"/> e. Determine which side of the body the officer's holster is worn on. <input type="checkbox"/> f. If the incident involved a gun taken away, the investigators shall ensure the officer's holster and gun belt are recovered, if necessary. <input type="checkbox"/> g. For Level 1 incidents, not involving a firearm, do investigators have possession of the involved impact item(s), if any? <input type="checkbox"/> h. Did the officer have a digital recorder and was it activated?
5.	<p>Officer's Vehicle</p> <ul style="list-style-type: none"> <input type="checkbox"/> a. Vehicle number, make, year, and model? <input type="checkbox"/> b. Vehicle markings (marked, unmarked, covert) <input type="checkbox"/> c. Is emergency equipment operational (light, siren, and emergency radio button.)? <input type="checkbox"/> d. Does the vehicle have a video camera and was it activated? <ul style="list-style-type: none"> <input type="checkbox"/> 1. Has the digital recording been recovered? <input type="checkbox"/> e. Does the officer normally drive this vehicle?
6.	<p>Officer's Weapon</p> <ul style="list-style-type: none"> <input type="checkbox"/> a. Make, model and color of the officer's gun? <ul style="list-style-type: none"> <input type="checkbox"/> 1. Was it issued by the Department (OPD issues the Glock .40 Caliber, model 22)? <input type="checkbox"/> 2. Was this the firearm fired by the officer? <input type="checkbox"/> 3. From what position was the firearm fired (point shoulder, hip, prone, kneeling, etc.) <input type="checkbox"/> b. The caliber of the weapon? <input type="checkbox"/> c. Any special modifications to the gun or equipment? If so, what modification and when approved? <input type="checkbox"/> d. Ammunition used in the officer's gun, caliber, type, and was it Departmental issue? <input type="checkbox"/> e. Number of live rounds with which the weapon was loaded, including the chamber? (Should be the same as the weapon's capacity (Glock Model 22 holds 15 in the magazine and 1 in the chamber, total 16). <input type="checkbox"/> f. Was the officer trained in the use of an automatic pistol in the academy or by transition training? Other training if the weapon is a shotgun or rifle, etc. <input type="checkbox"/> g. The date of the transitional training by the officer to the automatic pistol, if he/she remembers? <input type="checkbox"/> h. Last qualification date for the officer (OPD qualifies with handguns twice a year)? <input type="checkbox"/> i. Was the officer carrying any other firearm? If so, was the weapon fired? <input type="checkbox"/> j. If the officer had a second weapon, repeat the questions that document that firearm (Make sure the technician also recovers this weapon, if it was discharged). <input type="checkbox"/> k. For incidents involving weapons other than firearms appropriate questions shall be asked regarding the involved weapon.

C. Subject Officer Interview – Initial interviews are conducted by Homicide investigators.

7.	<p>Officer's Actions/Perception at time of incident</p> <ul style="list-style-type: none"> <input type="checkbox"/> a. Have all involved officers prepare a scene sketch placing all parties position/location at each discharge or UOF. <input type="checkbox"/> b. What other people was the officer aware of? <ul style="list-style-type: none"> <input type="checkbox"/> 1. Their specific location and movement? <input type="checkbox"/> c. Was a warning given? If no warning, why not? <input type="checkbox"/> d. Response to warning? <input type="checkbox"/> e. Time between warning and discharge? <input type="checkbox"/> f. Order to surrender or comply? Response?
8.	<p>Questions covering the use of lethal force (May be addressed directly in the interview or may have been provided in other questions)</p> <ul style="list-style-type: none"> <input type="checkbox"/> a. Have the officer or employee describe the scene, time, date, location, and parties involved. <input type="checkbox"/> b. What did the officer know prior to the situation before the OIS or UOF took place? <ul style="list-style-type: none"> <input type="checkbox"/> 1. Detailed description of what officer heard and saw prior to the discharge, including radio communications, suspect actions, and their or other officers' actions. <input type="checkbox"/> c. What brought the person or situation to the attention of the officer or employee? <ul style="list-style-type: none"> <input type="checkbox"/> 1. Explain the reason for the first contact. <input type="checkbox"/> 2. Specific facts articulated by officer that led up to the use of lethal force. <input type="checkbox"/> d. Did the officer have prior knowledge of the suspect(s) or witnesses? <input type="checkbox"/> e. Did the officer have prior contact with any of the suspect(s) or witnesses? <input type="checkbox"/> f. The officer's state of mind: What were his/her thoughts leading up to the UOF AND at the time of the UOF? <input type="checkbox"/> g. Why did the officer draw his/her weapon, when? <input type="checkbox"/> h. Describe backdrop at time of each discharge. <ul style="list-style-type: none"> <input type="checkbox"/> 1. Assessment of crossfire conditions. <input type="checkbox"/> i. Was cover reasonably available for suspect and officer? <input type="checkbox"/> j. Why did the officer use lethal force (i.e., each firearm discharge or baton strike)? (Can the officer articulate the reasons?) <input type="checkbox"/> k. How many shots did the officer fire, from how far away, and how quickly? <input type="checkbox"/> l. Did the officer reload? How? <input type="checkbox"/> m. Were the shots fired double or single action (a Glock is double action)? <input type="checkbox"/> n. Were the shots fired with one hand, which one, or with two hands? <input type="checkbox"/> o. What was the target? <input type="checkbox"/> p. What was the backdrop? <input type="checkbox"/> q. Did the officer consider or use any other force option prior to the use of lethal force? <ul style="list-style-type: none"> <input type="checkbox"/> 1. If so, describe other force option? <input type="checkbox"/> r. Which is the officer's dominant hand, right, left, or is the officer ambidextrous? <input type="checkbox"/> s. Who relieved the officer of his/her weapon? Where?

C. Subject Officer Interview – Initial interviews are conducted by Homicide investigators.

9.	<p>Officer's Post Incident Communication</p> <ul style="list-style-type: none"> <input type="checkbox"/> a. Does the officer have a cellular telephone or other electronic communications device? <input type="checkbox"/> b. What is the telephone number and/or E-mail address of the device? NOTE: If it is a personally owned device, do not record this information during the interview, rather place it in the notes. <input type="checkbox"/> c. Did the officer discuss the incident with others following the OIS? If so, to whom and by what means? <ul style="list-style-type: none"> <input type="checkbox"/> 1. What was the content of the discussion? <input type="checkbox"/> 2. Was the discussion limited to information: <ul style="list-style-type: none"> <input type="checkbox"/> i. For a Public Safety Statement; <input type="checkbox"/> ii. To assist in the investigation; or <input type="checkbox"/> iii. To lead to the apprehension of the suspect?
10.	<p>Ending the interview</p> <ul style="list-style-type: none"> <input type="checkbox"/> a. Ask if there is anything that the officer thinks we need to know that has not been asked? <input type="checkbox"/> b. Ask if the officer has any questions? <input type="checkbox"/> c. End the interview, secure the digital recording. <input type="checkbox"/> d. Have the officer or employee sign and date the 'rough' scene diagram. <input type="checkbox"/> e. Copy the digital recording to a CD/DVD/hard drive. The recording, diagram, and notes become official documentation of the investigation. <input type="checkbox"/> f. Obtain all necessary contact information for involved and witness personnel and their representatives. <input type="checkbox"/> g. Estimated date of return from Administrative Leave, vacation, days-off, etc. <input type="checkbox"/> h. Remind involved personnel or other personnel that prior to returning to duty, he/she shall: <ul style="list-style-type: none"> <input type="checkbox"/> 1. Make an appointment for mental health counseling per DGO K-3; AND <input type="checkbox"/> 2. Contact Personnel Division and advise of estimated date of return.

D. Report of Investigation – To be completed by IAD investigator

1.	<input type="checkbox"/> Ensure all appropriate questions have been answered in the Subject Officer Interview (Part C).
2.	<input type="checkbox"/> Identify medical care provided to OPD personnel/subject/witness (AMR/ACH, etc.). <input type="checkbox"/> a. Medical reports. <input type="checkbox"/> b. Describe injuries. <input type="checkbox"/> c. Medical Examiner's Report, if applicable. <input type="checkbox"/> d. Toxicology Report. <input type="checkbox"/> e. Obtain other relevant reports.
3.	<input type="checkbox"/> Identify investigators (IAD, CID, DA, FAST, other).
4.	Identify involved and witness personnel: <input type="checkbox"/> a. Assignment; and <input type="checkbox"/> b. Date of sworn or Date of hire (if employee).
5.	Identify other witnesses.
6.	a. Suspect/Decedent Information: <input type="checkbox"/> 1. Previous convictions and/or arrests; <input type="checkbox"/> 2. Probation or parole status; <input type="checkbox"/> 3. Warrants; <input type="checkbox"/> 4. Mental history; and <input type="checkbox"/> 5. Action and words preceding use of force, if applicable.
7.	<input type="checkbox"/> Violation leading to police contact.
8.	<input type="checkbox"/> Violation during police contact.
9.	<input type="checkbox"/> a. Description of scene: <input type="checkbox"/> b. Detailed maps of area.
10.	<input type="checkbox"/> Timeline/Sequence of events.
11.	<input type="checkbox"/> Subject officer statements.
12.	<input type="checkbox"/> Police witness statements.
13.	<input type="checkbox"/> Civilian witness statements.
14.	<input type="checkbox"/> Subject officer's statement transcribed.
15.	<input type="checkbox"/> Were required Offense/Supplemental Reports and ancillary documents submitted and reviewed by Homicide for completeness, accuracy, and quality? (Use Crime Scene Security Log to determine the appropriate number of Supplemental Reports.)
16.	<input type="checkbox"/> Describe evidence and firearms recovered.
17.	<input type="checkbox"/> Ensure Technician's report was prepared, submitted, and included in UOF packet.
18.	<input type="checkbox"/> Suspect's body position (position of head, hands, and feet) and physical location at each use of force.
19.	<input type="checkbox"/> Vehicles involved.
20.	<input type="checkbox"/> Document the original reason for police presence on the scene documented?
21.	<input type="checkbox"/> Document the circumstances that resulted in the use of force documented?
22.	<input type="checkbox"/> Describe the use of force in detail.

D. Report of Investigation – To be completed by IAD investigator

23.	<input type="checkbox"/> Was the subject restrained? (WRAP, handcuffs, control hold)
24.	<input type="checkbox"/> Describe the actions of all involved parties contemporaneous with the incident.
25.	<input type="checkbox"/> Ensure all injuries are described in the Offense Report.
26.	<input type="checkbox"/> Describe all injuries in the UOF Report.
27.	<input type="checkbox"/> Ensure the arrest approval has been properly documented in the Offense Report and CAR, if appropriate.
28.	<input type="checkbox"/> Identify and analyze whether each force option used was objectively reasonable under the circumstances. The reasonableness of each use of force must be evaluated based on the criteria set forth in DGO K-3.
29.	<input type="checkbox"/> Identify discrepancies between statements and physical evidence: <input type="checkbox"/> a. Assess credibility of all parties; <input type="checkbox"/> b. Chart discrepancies; and <input type="checkbox"/> c. Resolve discrepancies, if possible.
30.	Recommendations, findings, and conclusions: <input type="checkbox"/> a. Identify allegations of misconduct; <input type="checkbox"/> b. Identify MOR violations; <input type="checkbox"/> c. Recommended findings; <input type="checkbox"/> d. Identify training issues; <input type="checkbox"/> e. Identify tactical issues; <input type="checkbox"/> f. Identify officer safety issues; <input type="checkbox"/> g. Identify risk management issues; <input type="checkbox"/> h. Identify equipment Issues; <input type="checkbox"/> i. Identify communication issues; <input type="checkbox"/> j. Identify other supervisory issues; and <input type="checkbox"/> k. Identify additional considerations and issues.
31.	<input type="checkbox"/> a. Did a supervisor respond to scene? <input type="checkbox"/> b. Evaluate scene supervisor's actions (acts and omissions).
32.	<input type="checkbox"/> Evaluate overall supervision of incident.
33.	<input type="checkbox"/> Records of cell phone, MDT, pager, and Blackberry transmissions.
34.	<input type="checkbox"/> Contact the Communications Supervisor to add the incident to the IAD Daily Incident Log.
35.	<input type="checkbox"/> Obtain Communications Division CAD purge and tape.
36.	<input type="checkbox"/> Order transcripts.
37.	Obtain suspect DMV printouts: <input type="checkbox"/> a. CDT; and <input type="checkbox"/> b. Vehicle registration.
38.	<input type="checkbox"/> Obtain CRIMS, CII, NCIC of suspect.
39.	<input type="checkbox"/> Obtain weapon inspection report from the Training Division (Rangemaster).
40.	<input type="checkbox"/> Vehicle releases.
41.	<input type="checkbox"/> Obtain training records of involved members.
42.	<input type="checkbox"/> Involved officer's use of force history.
43.	<input type="checkbox"/> Relevant policies.

D. Report of Investigation – To be completed by IAD investigator

44.	<input type="checkbox"/> CID Follow-up investigation.
45.	<input type="checkbox"/> Obtain DA Letter of Declination, if appropriate.
46.	<input type="checkbox"/> Daily Detail.
47.	<input type="checkbox"/> Relevant newspaper articles and news coverage video.
48.	<input type="checkbox"/> Attach a Chronological Activity Log.
49.	<input type="checkbox"/> Ensure ALL boxes on the UOF Report and Checklist have been properly completed.

Council on Accreditation For Law Enforcement Agencies (CALEA)

1.3.1(M M M M) (LE1) Use of Reasonable Force

- A written directive states personnel will use reasonable force when force is used to accomplish lawful objectives.
- Commentary
- None. (M M M M) (LE1) - Change Notice 5.5 (March 20, 2009)

1.3.2(M M M M) (LE1) Use of Deadly Force

- A written directive states that an officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious physical injury. Definitions of conditional terms, such as those for reasonable belief, serious physical injury, or similarly used terms that are used to qualify the directive, shall be included.
- Commentary
- The intent of this standard is to establish a clear-cut agency policy on the use of deadly force that provides officers with guidance in the use of force in life-and-death situations and to prevent unnecessary loss of life. (M M M M) (LE1)

1.3.3(M M M M) (LE1) Warning Shots

- A written directive governs the discharge of "warning" shots.
- Commentary
- Generally, warning shots should be prohibited due to the potential for harm. If permitted, the circumstances under which they are utilized should be narrowly defined. (M M M M) (LE1)

1.3.4(M M M M) (LE1) Use of Authorized Less Lethal Weapons

- A written directive governs the use of authorized less lethal weapons by agency personnel.
- Commentary
- None. (M M M M) (LE1)

1.3.5(M M M M) (LE1) Rendering Aid After Use of Weapons

- A written directive specifies procedures for ensuring the provision of appropriate medical aid after use of lethal or less lethal weapons, and other use of force incidents as defined by the agency.
- Commentary

- o the intent of this standard is to minimize the severity posed by obvious injuries or non-visible trauma commonly associated with some weaponless or hand-to-hand tactics. Such tactics may include neck holds, hard punches to the head, heart, or other vital organs, or restricting respiratory function. "Appropriate medical aid" does not place the burden on the agency to have each injured person immediately evaluated at a medical facility. "Appropriate medical aid" may include increased observation to detect obvious *changes* in condition, flushing *chemical agents* from the e, applying first aid, evaluation by paramedics, or for more serious or life threatening incidents, immediate aid by medical professionals. "Other use of force incidents as defined by the agency" may include procedures for the provision of medical aid to a person injured prior to contact with the agency, but the scope of this standard is limited to actions taken by agency personnel causing, or likely to cause injury. (M M M M) (LE1)

1.3.6(M M M M) (LE1) Reporting Uses of Force

- A written report is submitted whenever an employee:
 - a. *discharges a firearm, for other than training or recreational purposes;*
 - b. *takes an action that results in, or is alleged to have resulted in, injury or death of another person;*
 - c. *applies force through the use of lethal or less lethal weapons; or*
 - d. *applies weaponless physical force at a level as defined by the agency.*
- Commentary
- the intent of this standard is to establish use of force or response to resistance reporting systems within the agency for effective review and analysis (see standards 1.3.7 and 1.3.13). The reporting systems should help identify trends, improve training and employee safety, and provide timely information for the agency addressing use of force issues with the public. Early and accurate reporting helps establish agency credibility.
- Software programs may be used to generate the necessary reporting elements of this standard or the agency may choose to use a variety of reporting methods to document use of force or response to resistance incidents, based on severity or other established criteria.
- This standard could include documenting the *pointing of weapons* or using *weaponless, hand-to-hand control techniques*. These techniques include, but are not limited to: physical touching, gripping or holding, frisking, pain compliance measures, pressure point application, come-alongs, handcuffing, or other custodial procedures. It should be noted that some agencies have had success documenting this type of information, using a standard checklist report format associated with the arrest or incident report.
- in deciding the threshold of when to generate a use of *force* or *response to resistance* report and how extensive the report needs to be, the agency should carefully examine all incidents wherein its

employees have caused, or are alleged to have caused death or injury to another, have accidentally or intentionally discharged a firearm, or have applied weaponless force upon another to the extent it is likely to cause or lead to unforeseen injury, claim of injury, or allegations of excessive force, e.g., the use of neck holds, four point restraints (commonly referred to as the hog-tie restraint), punches, or kicks, the agency should also consider who is required to write reports when multiple employees were engaged in the same use of force incident.

- If physically able, the primary employee involved should be required to verbally report his/her involvement within a specified time period. The verbal report should be committed to writing as soon as practical, thereafter. Written procedures should state by whom, when, and how the report will be submitted. The standard is not intended to document the display of weapons by employees or actions taken to euthanize animals. (M M M M) (LE1)

1.3.7(M M M M) (LE1) Reviewing Reports of 1.3.6

- The agency has a written procedure for an administrative review of each report required by standard 1.3.6.
- Commentary
- None. (M M M M) (LE1)

1.3.8(M M M M) (LE1) Removal from Line of Duty Assignment, Use of Force

- A written directive requires that any employee, whose action(s) or use of force in an official capacity results in death or serious physical injury, be removed from line-duty assignment pending an administrative review.
- Commentary
- The purpose of this standard is twofold: to protect the community's interest when employees may have exceeded the scope of their authority in their actions or in their use of force and to shield employees who have not exceeded the scope of their authority from possible confrontations with the community.
- The agency should consider removing from duty status all employees involved in a critical or traumatic incident, not limited to shootings, and may include incidents such as a fatal motor vehicle collision involving the employee. During the period of administrative leave or reassignment, the agency should consider provisions for post-incident debriefing or counseling for those employees involved. In some critical incidents, the employee's family may also require assistance.
- The removal process may have a detrimental effect on employees involved. Agencies may wish to routinely include a review of these procedures during in-service training sessions (see standard 1.3.11) to enhance understanding of this procedure. (M M M M) (LE1)

- **1.3.9**(M M M M) (LE1) Authorization: Weapons and Ammunition

- o A written directive requires that only weapons and ammunition authorized by the agency be used by agency personnel in the performance of their responsibilities. The directive shall apply to weapons and ammunition carried both on and off duty, and must address:
 - a. *the types and specifications of all lethal and less lethal weapons approved for use, including those weapons used by members of tactical teams or other specialized personnel;*
 - b. *the types and specifications of ammunition approved for use, including ammunition used in specialized weapons for members of tactical teams or other specialized personnel;*
 - c. *the procedure for review, inspection, and approval of all weapons intended for use by each employee in the performance of duty, prior to carrying, by a qualified weapons instructor or armorer;*
 - d. *a process to remove unsafe weapons;*
 - e. *the procedure for maintaining a record on each weapon approved by the agency for official use; and*
 - f. *guidelines for the safe and proper storage of agency authorized firearms.*

o Commentary

- o The intent of this standard is to establish strict agency control over all firearms, weapons, and ammunition it allows members to carry and use in the performance of their official duties, both on and/or off duty. Clear guidelines should be established for exact types and specifications of each category of weapon, including specialized weapons used by members of tactical teams or other specialized personnel. Written directives and the guidance provided through specific job descriptions should clearly describe the authority to carry and use weapons within the rules, regulations and laws established by local, regional, tribal, provincial, state or federal authority.
- o For firearms, the agency should establish an approval process. Each firearm should be identified, meet the agency's established criteria and be safe and in good working order. The user should demonstrate his or her proficiency in using the firearm on an approved qualifying course before being approved, in writing, by the agency, to carry and use the firearm. A certified firearms instructor or armorer should inspect and approve the firearm and oversee the proficiency testing.
- o A complete record of all weapons approved by the agency should be maintained. For firearms, the record should list the type, description, identifying model, and serial numbers of each firearm, as well as the identity of the owner or assignee. The record should also include the name of the official making the approval, the date of approval, the course fired, and all scores used to qualify the user on the demonstration of proficiency. All approvals should be conditional upon periodic requalification pursuant to procedures established to comply with standard 1.3.11. (M M M M) (LE1) - Change Notice 5.5 (March 20, 2009)

13.10(M M M M) (LE1) Demonstrating Proficiency with Weapons

- A written directive requires that only agency personnel demonstrating proficiency in the use of agency-authorized weapons be approved to carry such weapons.
- Commentary
- The intent of this standard is to cover the carrying and use, both on and off duty, of all weapons, such as handguns, shotguns, chemical sprays, or striking weapons (see standard 1.3.9). Demonstrated proficiency includes achieving minimum qualifying scores on a prescribed course; attaining and demonstrating a knowledge of the laws concerning the use of authorized weapons and knowledge of agency policy(s) on the use of force, escalating force, and deadly force; and being familiar with recognized safe-handling procedures for the use of these weapons. The instruction on and qualification with all weapons should be provided by a certified weapons instructor. (M M M M) (LE1)
- **1**(M M M M) (LE1) Annual/Biennial Proficiency Training
 - o At least annually, all agency personnel authorized to carry weapons are required to receive in-service training on the agency's use of force policies and demonstrate proficiency with all approved lethal weapons and electronic controlled weapons that the employee is authorized to use. In-service training for other less lethal weapons and weaponless control techniques shall occur at least biennially. In addition:
 - a. *proficiency training must be monitored by a certified weapons or tactics instructor;*
 - b. *training and proficiency must be documented; and*
 - c. *the agency must have procedures for remedial training for those employees who are unable to qualify with an authorized weapon prior to resuming official duties.*
 - o Commentary
 - o annual and biennial in-service use of force refresher training need not be as formal as entry level or recruit training. Use of force retraining can be accomplished through a combination of methods; for example, during shift briefing training sessions, reviewing legal updates on use of force issues, or conducting written or skills tests on use of force and less than lethal weapons during annual firearms qualifications courses. Proficiency levels should be established by the agency with input from certified weapons instructors or others in the agency that can validate the criteria. Demonstrated proficiency with less lethal weapons may consist of the same criteria used at entry level, or the course may be modified to either abbreviate or extend the training, based on the agency's experience with the weapon in the field.

- The intent of bullet (c) is to ensure that remedial measures are provided, and that an employee failing to demonstrate proficiency with a weapon is not returned to duty with that weapon until such time as proficiency is demonstrated and documented.
- Unless they are applied properly, neck restraints and other similar compliance techniques that rely on cutting off the flow of oxygen to the brain have the potential to cause serious injury or death. Therefore, any agency that authorizes the use of such techniques should ensure that its personnel are properly trained in the use of these techniques so that the possibility of injury is minimized. In addition to the initial training, the agency should also provide biennial refresher training to ensure that the skills required for proper application are maintained.
- See also standard 33.5.1. Training should be commensurate with the limits and scope of the employees' job responsibilities, e.g., an agency property guard having no arrest authority may be issued a baton and chemical agent, but training proficiency need only cover defensive moves. The curriculum for sworn officers would be more extensive based on the scope of their authority to use force in making arrests. (M M M M) (LE1)

1.3.12(M M M M) (LE1) Issuing Written Directives

- A written directive requires that all agency personnel authorized to carry lethal and less lethal weapons be issued copies of and be instructed in the policies described in standards 1.3.1 through 1.3.5 before being authorized to carry a weapon. The issuance and instruction shall be documented.
- Commentary
- None. (M M M M) (LE1)

1.3.13(M M M M) (LE1) Analyze Reports from 1.3.6

- The agency conducts a documented annual analysis of those reports required by standard 1.3.6.
- Commentary
- A review of incidents of force may reveal patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications. (M M M M) (LE1)

**GOVERNMENT CODE
SECTION 27490-91**

27490. The coroner shall hold inquests pursuant to this article.

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (e) of Section 1746 of the Health and Safety Code in the 20 days before death; deaths related to or following known or suspected self-induced or criminal abortion; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape or crime against nature; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state mental hospitals serving the mentally disabled and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under such circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

In any case in which the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of his or her report to the state agency responsible for the state hospital.

The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

Any funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. Any person who does not notify the coroner as required by this section is guilty of a misdemeanor.

27491.1. In all cases in which a person has died under circumstances that afford a reasonable ground to suspect that the person's death has been occasioned by the act of another by criminal means, the coroner, upon determining that those reasonable grounds exist, shall immediately notify the law enforcement agency having jurisdiction over the criminal investigation. Notification shall be made by the most direct communication available. The report shall state the name of the deceased person, if known, the location of the remains, and other information received by the coroner relating to the death, including any medical information of the decedent that is directly related to the death. The report shall not include any information contained in the decedent's medical records regarding any other person unless that information is relevant and directly related to the decedent's death.

27491.2. (a) The coroner or the coroner's appointed deputy, on being informed of a death and finding it to fall into the classification of deaths requiring his or her inquiry, may immediately proceed to where the body lies, examine the body, make identification, make inquiry into the circumstances, manner, and means of death, and, as circumstances warrant, either order its removal for further investigation or disposition or release the body to the next of kin.

(b) For purposes of inquiry, the body of one who is known to be dead from any of the causes or under any of the circumstances described in Section 27491 shall not be disturbed or moved from the position or place of death without permission of the coroner or the coroner's appointed deputy. Any violation of this subdivision is a misdemeanor.

27491.3. (a) In any death into which the coroner is to inquire, the coroner may take charge of any and all personal effects, valuables, and property of the deceased at the scene of death or related to the inquiry and hold or safeguard them until lawful disposition thereof can be made. The coroner may lock the premises and apply a seal to the door or doors prohibiting entrance to the premises, pending arrival of a legally authorized representative of the deceased. However, this shall not be done in such a manner as to interfere with the investigation being conducted by other law enforcement agencies.

Any costs arising from the premises being locked or sealed while occupied by property of the deceased may be a proper and legal charge against the estate of the deceased. Unless expressly permitted by law, any person who enters any premises or tampers with or removes any lock or seal in violation of this section is guilty of a misdemeanor.

(b) Any property or evidence related to the investigation or prosecution of any known or suspected criminal death may, with knowledge of the coroner, be delivered to a law enforcement agency or district attorney, receipt for which shall be acknowledged.

(c) Except as otherwise provided in subdivision (d), any person who searches for or removes any papers, moneys, valuable property or weapons constituting the estate of the deceased from the person of the deceased or from the premises, prior to arrival of the coroner or without the permission of the coroner, is guilty of a misdemeanor. At the scene of any death, when it is immediately apparent or when it has not been previously recognized and the coroner's examination reveals that police investigation or criminal prosecution may ensue, the coroner

shall not further disturb the body or any related evidence until the law enforcement agency has had reasonable opportunity to respond to the scene, if their purposes so require and they so request. Custody and control of the body shall remain with the coroner at all times. Reasonable time at the scene shall be allowed by the coroner for criminal investigation by other law enforcement agencies, with the time and location of removal of the remains to a convenient place to be determined at the discretion of the coroner.

(d) A peace officer may search the person or property on or about the person of the deceased, whose death is due to a traffic accident, for a driver's license or identification card to determine if an anatomical donor card is attached. If a peace officer locates such an anatomical donor card which indicates that the deceased is an anatomical donor, the peace officer shall immediately furnish such information to the coroner having jurisdiction.

"Peace officer," as used in this subdivision, mean only those persons designated in Sections 830.1 and 830.2 of the Penal Code.

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